

ARCHIVES AS A TOOL TO SUPPORT LAND RESTITUTION IN SOUTH AFRICA

By

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Submitted in accordance with the requirements for the degree of

MASTER OF INFORMATION SCIENCE

at the

UNIVERSITY OF SOUTH AFRICA

SUPERVISOR: PROF M NGOEPE

NOVEMBER 2021

ABSTRACT

Archives have become acceptable evidence in the context of land restitution to prove events that occurred in the past during land dispossessions. Although researchers agree that archives are not always available and accessible when restitution claimants seek them due to loss, restrictions, and lack of intellectual control. In South Africa, the National Archives and Records Service of South Africa (NARSSA) is legally required to collect archives from governmental bodies in order to preserve the country's documentary heritage for future use. For example, the NARSSA Act (Act No. 43 of 1996), as amended, states that "public records identified in a disposal authority as having enduring value shall be transferred to an archives repository when they have been in existence for 20 years." The purpose of this study was to explore the use of archives as a tool to support the land restitution in South Africa with the view to establish whether the Commission on Restitution of Land Rights (CRLR) was sourcing evidence on land claims in accordance with the legal and policy framework. Snowball sampling was used to select restitution claimants, while purposive sampling was used to select CRLR project officers and NARSSA archivists. Interviews and document analysis were used to collect qualitative data from oral testimony. The findings indicate that South Africa's legal and policy framework for sourcing evidence for land claims fails to provide the public with effective and efficient access to and use of available archives in the NARSSA holdings. This is because archival legislation, such as the NARSSA Act, as well as other pieces of legislation and policy guidelines, are deafeningly silent on the use of archives as evidence. As a result, there are a large number of unresolved land claims to redress land dispossession injustices caused by missing information, language barriers, and archive restrictions. Therefore, the study concludes that if archives are not transferred to an archive repository for safekeeping and future use, and oral histories from marginalised communities are not collected and documented, project officials may dispute the validity of the land claims. As a result, South African citizens' land rights will be denied, as land grabbers will believe they are entitled to land that does not belong to them. While developing a legal and policy framework for the use of archives as evidence in land restitution, the NARSSA should consider digitising land restitution collections and making them freely accessible online.

Key words: Archives, oral history, oral testimony, archival institutions, archival legislation, apartheid, South Africa, NARSSA, land rights, justice, land dispossession, land restitution, and land claims

ACKNOWLEDGEMENTS

First and foremost, I thank God for spiritual wisdom, for opening doors to the university for me, and for protecting me during the COVID-19 epidemic. "Give thanks in all circumstances," I advise, quoting 1 Thessalonians 5:18, "for this is God's will for you in Jesus Christ." I would also like to express my gratitude to my mother, my beloved daughter, and my younger sister for their unwavering support and presence as I faced life's challenges. They have been a pillar of stability. Throughout the writing of my dissertation, they were a constant source of inspiration and a pillar of strength.

It has been an enlightening experience for me from the beginning to the end of my master's dissertation. I would not have been able to complete my journey of wisdom gathering and knowledge discovery without the efforts and contributions of a number of people who deserve to be mentioned. To be sure, many people and organisations were involved in this effort, either directly or indirectly, and it would be impossible to list them all.

- I would like to thank Professor Mpho Ngoepe, who was instrumental in the development of my dissertation. His informative and sometimes harsh remarks inspired me to refine my ideas and improve the quality of my work. His unwavering support and encouragement to persevere in the face of adversity cannot be overstated.
- Mr Gerrit Wagener (National Archives and Records Service of South Africa) greatly contributed to my research by showing me the land restitution collection and teaching me about archival services in the reading room available to restitution claimants, and project officers to support land claims.
- Dr Lefose Makgahlela (University of Limpopo), Ms Erna-Marie Pretorius, Isaac Salemane, Thulisile Lemekoana, Alexio Motsi, Khanyi Ngcobo, Adv Dennis Maake, and Lucas Thulare (National Archives and Records Service of South Africa), Professor Jan Maluleka, Dr Mashilo Modiba, Mr Makutla Mojapelo and Mr Joseph Matshotshwane (University of South Africa), Mr Emanuel Matlala and Mr Mbongeni Tembe (University of KwaZulu-Natal), Ms Maite Manganye (Limpopo Provincial Archives), Mr Pheko Khatlake (Air Traffic and Navigation Services), Mr Thembinkosi Jiyane and Mr Bonginkosi Zulu (Department of Agriculture, Land Reform and Rural Development), Mr Thami Mdontswa, Mrs

Francinah Ramphele, and Ms Carlifonia Ngobeni deserve special mention because they saw potential in me and remained by my side throughout my journey.

- I would like to express my gratitude to Ms Noko Mokwasha Ngoepe (National Archives and Records Service of South Africa), a co-worker and peer student. We worked all night on our studies, helped each other in times of need, and went to the UNISA library to get access to current and relevant library materials.
- I would like to express my gratitude to the Commission of Restitution on Land Rights and the National Archives and Records Services of South Africa for granting me a permission to undertake my study in their institutions. Participants from both institutions should be thanked as well. I could not have successfully completed the study if they had not shared their knowledge and experience with archives in land restitution. This research would not have been possible without their cooperation.
- Mr Moses Moreroa, the language editor of this dissertation, whose work improved its readability by refining the language element.
- Participants in this study included all restitution claimants.

DEDICATION

This dissertation is dedicated to the untold stories of South African citizens who were affected by land dispossessions in the past. The NARSSA and the CRLR staff who used archives, oral testimony, and other documentary evidence to restore land ownership to restitution claimants, an achievement that went unnoticed.

DECLARATION

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Archives as a tool to support land restitution in South Africa

I, Lyborn Mabapa, declare that the above dissertation is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references. I take responsibility for errors, omissions and interpretation of the data presented in this work.



SIGNATURE
(MS L MABAPA)

November 2021

DATE

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LIST OF ABBREVIATIONS

CRLR - Commission on Restitution of Land Rights

DRDLR - Department of Rural Development and Land Reform

DSAC - Department of Sport, Arts and Culture

ERMS - Electronic Records Management System

ESARBICA - Eastern and Southern Africa Regional Branch of the International Archives

MISS - Minimum Information Security Standard

MMR - Mixed Methods Research

NAN - National Archives of Nigeria

NAAIRS - National Automated Archival Information Retrieval System

NARSSA - National Archives and Records Service of South Africa

NAT - National Archives of Tanzania

NAZ - National Archives of Zimbabwe

ICA - International Council on Archives

ICT – Information and Communications Technology

PAIA - Promotion of Access to Information Act

PAJA - Promotion of Administrative Justice Act

PIA - Protection of Information Act

POPI - Protection of Personal Information Act

SPLUM - Spatial Planning and Land Use Management

TCA - Thematic Content Analysis

TRC - Truth and Reconciliation Commission

UNISA - University of South Africa

WHO - World Health Organization

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CHAPTER ONE

INTRODUCTION: SETTING THE SCENE

1.1 Introduction and background to the study

Archives play a role in many facets of society, such as auditing (Ngoepe 2012; Mosweu & Ngoepe 2019), administration of justice (Ngoepe & Makhubela 2015; Motsaathebe & Mnjama 2009), human rights (Harris 2007) and health (Katu 2015a; Marutha & Ngoepe 2017) to mention just a few. Archives, according to Millar (2017:67), are an important source of documentary evidence that individuals, organisations, and society use as proof to validate historical events and substantiate accusations. Archives illuminate indigenous communities' stories, histories, and heritage through manuscripts, photographs, maps, and rock art paintings, as well as oral evidence. They can also be helpful in land restitution.

According to Harris (2000a), the South African state applied racially biased laws and apartheid policies to systematically remove the citizens from their land. After 1994, the Commission on Restitution of Land Rights (CRLR), which is responsible for registering and researching land claims, encouraged individuals, families, and communities to file land claims. Following that, the Land Claims Court ensures that all lodged land claims are resolved. According to Harris (2000a), from 1998 to 1999, the National Archives and Records Service of South Africa (NARSSA) and the then-Department of Land Affairs launched a joint operation to locate, protect, and inventory records stored in both archives and government offices for use as evidence during the land restitution process. Several archives essential or required for the restitution process are currently in the custody of the NARSSA. In accordance with the NARSSA Act No. 43 of 1996, the NARSSA makes land restitution archives available for use. This demonstrates that the NARSSA and the CRLR place a high value on the role of archives in land restitution. Otherwise, a lack of information or access to archives would severely limit or compromise land rights.

According to Saba (2018:13), the South African Department of Rural Development and Land Reform (DRDLR) receives a large number of land claims as part of land restitution every year. Because of South Africa's long history of land dispossession and forced removals, archives are critical for validating historical ownership claims.

As reported by Saunders (2003), the validity of land claims is determined by field researchers at an archival institution, such as the NARSSA, to ensure that each claim is historically relevant and correct. Furthermore, the field researchers visit the towns and areas where the claimants live to verify the claim's validity.

The point is emphasised strongly in Sebina (2004), who highlights the value of archives in land restitution. Because archives were unavailable, the Department of Land Affairs in Botswana relied on the former director's oral testimony to process land claims (Sebina 2004). For example, a community claiming historical ownership of a piece of land, or those facing eviction or dispossession, or those threatened over their land, the court requires detailed information or documentary evidence to give more weight to the claim. In this regard, archives play a critical role in providing documentary evidence and information about issues pertaining to the legality and authenticity of citizenship, which are ordinarily required.

In legal proceedings, documentary evidence is regarded as more credible than oral accounts because it provides reliable and accurate proof of past events (Caswell & Punzalan 2016:289). In some cases, ancestral graves can also serve as proof of a person's previous residence (James 2007). Thompson and Bornat (2017:27), on the other hand, believe that oral evidence has become more important for land restitution because low-income social groups such as the urban poor, travelling communities, and isolated country people can provide testimony to land dispossessions that were never documented. Ngoepe (2019) states that written records and oral evidence can complement each other. Due to their rarity and uniqueness, it is critical to make archives available to the public, as they contain historical, legal, evidential, and administrative value that promotes human rights and good governance in the public sector (Pereira 2017:35; Mhlanga 2015:4). As a result, archives are essential to the viability of land restitution.

Scholars have generally encouraged the use of archives as evidence for land dispossessions. As reported by Mkuwira (2015), archival institutions play an important role in using the country's documentary heritage to help future generations understand the past. Sibanda (2017:1) is of the view that the use of archives contributes to the improvement of the country's economy. Furthermore, Chaterera (2017:7) maintains that, archival institutions continue to provide an efficient service by encouraging the

public to use a variety of documentary heritage to meet their needs. However, Sebina (2004:11) claims that when records were needed to settle land disputes in Botswana, they could not be provided. As a result, commissioners were forced to rely on testimony from the former Director of Land Affairs. According to Ngoepe (2008), if the decision is based on memory, which is fraught with elusiveness and frailty, disadvantaged claimants may struggle to retain their land. When institutions charged with the responsibility of preserving and managing archival information and heritage fail, the consequences are dire, with the potential to not only impede but even halt meaningful progress toward land restitution, ultimately denying rightful owners of their land. Based on that, this study investigated the use of archives as a tool to support land restitution in South Africa.

1.1.1 Contextual setting

As part of redressing past injustices and transforming society, the South African government has implemented a three-pronged land reform programme that includes land redistribution, land restitution, and land tenure reform (Du Plessis 2006:20). The goal of the land restitution programme is to promote the restoration of land to black people who were forcibly removed from their land during the colonial and apartheid regimes. The Restitution of Land Rights Act (Act No. 22 of 1994) requires members of the public who have been evicted from their land to file restitution claims with the CRLR. The CRLR is in charge of investigating these claims and issuing recommendations based on their resolution. Archives are one method of proving the legitimacy of land claims. To investigate and settle land claims, the CRLR, like all government institutions in South Africa responsible for investigations, requires archives and documentary evidence. The public has the right to access a wide range of governmental and public archives, allowing them to root out corruption, promote accountability and transparency, and enable efficient service delivery (Chaterera 2016:166). According to Chaterera (2017:1), national archival institutions allow the public to access and use archives. As a result, restitution claimants rely on the archives to validate their land restitution claims.

Land dispossession of black people in South Africa during colonialism and apartheid resulted in community segregation and, as a result, poor living conditions for a large

portion of the country's population. To address these long-standing inequalities, the Republic of South Africa's Constitution of 1996 provides for the right to restitution for persons or communities who were evicted from their land after June 19, 1913, as a result of previous racially discriminatory laws or practices. Parliament passed the Restitution of Land Rights Act (Act No. 22 of 1994) to give substance to the right to restitution and to repeal the Native Land Act of 1913, which gave white people preferential treatment in land ownership. For dispossessions before 19 June 1913, the 1996 Constitution requires the state to take reasonable legislative and other measures to foster conditions that will enable citizens to gain access to land on an equitable basis, but within the available resources. The 1996 Constitution anticipated that it would be relatively easy to prove dispossession that had taken place in the twentieth century, whereas there would be problems of an evidential nature if there is a requirement for similar evidence to land that had been taken during colonialism.

1.1.2 Conceptual setting

A conceptual framework was adopted for the current study. As shown in Figure 1.1, the constructs that guided the current study on archives as a tool to support land restitution are the legal framework and policy, availability of archives, accessibility of archives, and user experience with archives (Archival Platform 2015). According to Ngulube (2020), the conceptual framework incorporates concepts from the extant literature. Despite this, Ngulube (2020) emphasises that the theoretical and conceptual frameworks guide the study and are also used as analytical tools in the research process. Ngulube (2020) adds that the theoretical and conceptual frameworks in a research project take different paths.

Other tools exist to support land claims, but this study focuses solely on archives. As a result, the researcher seeks to answer the following questions: what legislative and policy frameworks govern the source of evidence in land claims; are these archives available and accessible; and what are the users' experiences with using archives. In addition to oral evidence, archives must be properly organised and used to support land claims. At this stage, documentation from archival institutions such as maps, title deeds or death certificates, or archives relating to land dispossession may be required to support the land claims of restitution claimants.

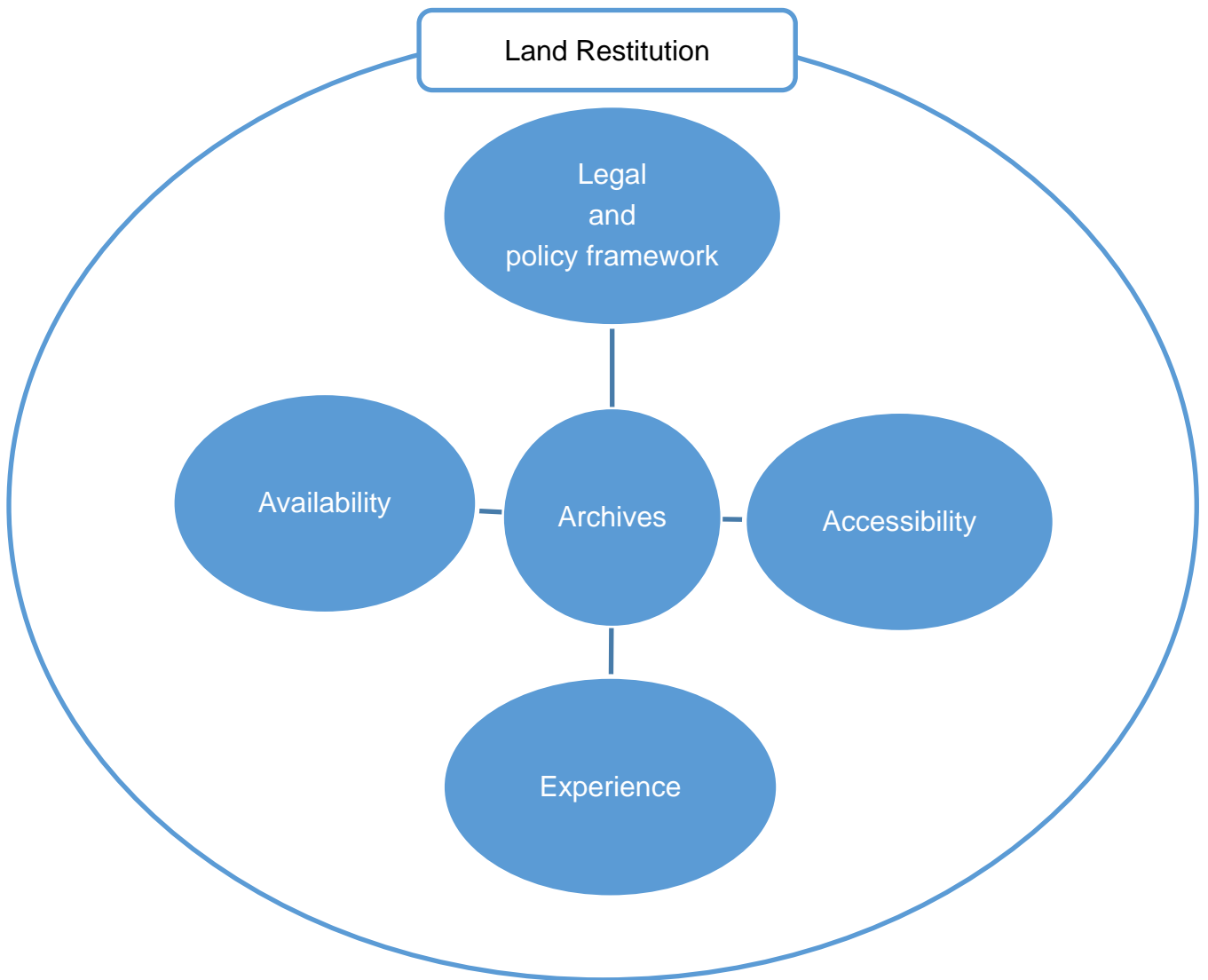


Figure 1.1: Conceptual framework (Researcher 2021)

The legal and policy framework, availability, accessibility, and experience with archives are all used to explain the conceptual framework.

1.1.2.1 Legal and policy framework

In the context of the current study, legal and policy frameworks refer to sets of legal and policy frameworks developed to support and implement land restitution. The source of evidence for land claims can be guided by legislation. The Constitution of the Republic of South Africa Act (Act No. 108 of 1996), the Promotion of Access to

Information Act (PAIA) (Act No. 2 of 2000), the Restitution of Land Rights Act (Act No. 22 of 1994), the NARSSA Act (Act No. 43 of 1996), and the Promotion of Administrative Justice Act (PAJA) (Act No. 3 of 2000) should ordinarily provide guidance on what can be used as evidence when restitution claimants request legal access to land. Such frameworks are critical because they provide clarity and establish the procedure for granting or denying access to archives in their custody. The Restitution of Land Rights Act clarifies what evidence (archives) is acceptable or relevant to support land claims.

1.1.2.2 Availability

Records protect citizens' rights, such as their rights to land ownership, which are documented through land registration records (Ngoepe 2008). When restitution claimants decide to lodge a land claim with the CRLR without all of the necessary information for submission, the process can be difficult. According to Ngoepe (2008), land rights may be denied or compromised as a result of incorrect or missing authentic records, or failure to retrieve records. Archival institutions must make records available to both the CRLR and the claimants in order to properly facilitate the land restitution process. In the case of land claims in Botswana, for example, Sebina (2004) emphasises that land rights may be denied or compromised as a result of incorrect or lack of authentic records, or failure to retrieve records.

1.1.2.3 Accessibility

According to Archival Platform (2015), accessibility here refers to how archives must be easily and readily accessible to users. Archives go through a period when they have historical value and are regularly used or consulted by users. Archival institutions should make records accessible and timely. The International Council on Archives (ICA) has a set of principles for access to archives (See Appendix A). This is done through physical and intellectual control; that is, arrangements and descriptions. If archival records are not organised, it will be difficult for users to access such records.

1.1.2.4 Experience

One of the concepts that guided this study was the personal experience of the users concerning the use of archives. At this stage, users may have used the archives from the archival institution and are determined to share their experience on how they have been useful in supporting land claims lodged in terms of the Restitution of Land Rights Act (Act No. 22 of 1994). Because of the nature of archival institutions, some of the users may have negative results as archives were not available to validate their claims.

1.2 Problem statement

Despite the importance of archives in land reform, they are not always available and accessible when claimants seek them for a variety of reasons, including loss, restrictions, and theft (Sebina 2004). The success of land restitution in South Africa cannot be guaranteed because the legal framework, as well as the availability and accessibility of archives to resolve the land issue, remain major challenges. Ngulube (2006; 2019:20) went on to say that the use of archives is extremely low due to a lack of quality controls, as well as insufficient financial and other resources. According to Archival Platform (2015), there have been numerous cases of records disappearing in the public sector. As a result, this becomes a very difficult issue because the lack of evidence will make land-grabbers believe they are entitled to ownership in the land restitution programme (Turyamureeba 2017:52). In many ways, the loss, restrictions, and theft of archives prevent them from being used to provide evidence of past land dispossession injustices. Users of archival institutions must have a basic understanding of archival services in order to effectively use archives to support their land dispossession claims (Waiser 2015), or they will avoid interacting with archivists altogether (Johnson 2008). The importance of archives will not bear fruit, and restitution claimants will be denied or delayed in receiving the justice they deserve in the land dispute (Ngoepe & Makhubela 2015).

1.3 Research purpose and objectives

The overarching purpose of this research was to explore archives as a tool to support land restitution in South Africa. The specific objectives are to:

- i. analyse legal and policy framework for the source of evidence in land claims in South Africa.
- ii. determine the usage of archives for the restitution claimants in South Africa.
- iii. determine the availability and accessibility of archives to support land claims in South Africa.
- iv. ascertain the experiences of the users in the use of archives for land claims in South Africa.
- v. make recommendations on the use of archives to enhance the land restitution programme in South Africa.

1.4 Research questions

- i. What is the legal and policy framework on acceptable evidence for land claims?
- ii. What is the use of archives by the restitution claimants in South Africa?
- iii. What processes are employed to make archives accessible?
- iv. Which archives are made available to support land claims?
- v. What are the user's experiences in the use of archives for land claims in South Africa?
- vi. What recommendations can be made to use archives as a tool in the land restitution programme in South Africa?

1.5 Significance of the study

According to Marshall and Rossman (2006:34), the significance of the study allows the researcher to unpack how the study is likely to contribute to policy, practice, theory, or addressing social issues. According to Creswell (2003:149), the study should also

indicate how and why it will help improve policies and practices. The current study is significant in several ways, the most important of which is that it suggests meaningful ways in which archives can be preserved and used to strengthen South Africa's land restitution process. The study also contributes to the understanding of how legal and policy frameworks can be strengthened to address the inherent challenges and systemic weaknesses. Furthermore, there is little research in South Africa on the contribution of archival data to accelerating the restitution process, despite the fact that these archives are central to the land restitution programme. According to the study, the CRLR as it currently stands does not clarify the use of archives during the processing of land claims. As a result, this study provided a foundation for developing or improving policies, rules, and regulations governing the use of archives as evidence for land claims in South Africa.

1.6. Scope and delimitation of the study

Land reform and restitution is a large project with many facets, including, among other things, the importance of land, access, and social inclusion. All of these factors interact to affect the long-term viability of land reform initiatives. The current study did not broaden its scope to address these concerns. This research focuses on archives as a tool for land restitution in South Africa. Due to the nature of their mandate and responsibility of fostering improved livelihoods of poor rural communities, tenure security to farmworkers and farm dwellers, and access to land, the current study was limited to land redistribution and land tenure reform. While acknowledging that successful land restitution is dependent on a number of factors, the scope of this study did not allow for an exhaustive examination of those issues because it would have been unmanageable.

1.7 Definition of keywords

The current section provides operational definitions of concepts used in the study. As Saurombe (2015:42) echoes that the concepts used in a study are more understandable when their definitions are provided. This means that the context in

which a concept is used brings meaning to eradicate ambiguity. The identified keywords are archives, records, access to archives, and land restitution.

1.7.1 Archives

Literature shows that an archive may be defined as a place to store archival materials or documents in the field of Information Science. Archives are created by individuals, communities, or organisations (public or private) and are no longer used for administration purposes but have enduring value (Senturk 2013:108). Archives are maintained to reflect activities of the past for future use by researchers. Archives are unique and rare because most of them cannot be found anywhere in the world. Examples include photographs, family tree books, title deeds, and death certificates. Ketelaar (2001) and Schmidt (2011) describe archives as repositories of historical materials and places used to store historical materials and to make them available to the public for use. Equally, the National Archives of Australia (2016) refers to the term 'archives' as a collection of records or documents selected for permanent preservation based on their value as evidence or as a source for historical or other research. In the context of this study, the term "archive" has three different meanings. It might refer to a building or a location where historical documents or records are kept. It might also refer to valuable documents of the past with an enduring value based on their cultural, historical, or evidential significance as archives. It could mean an institution which is the NARSSA, that gathers historical documents or records from individuals, families, and government institutions.

1.7.2 Record

In a records and archives environment, a record is defined by Millar (2009:34) as documentary evidence, created, received, maintained and used by an organization (public or private) or an individual in fulfillment of legal obligations or the transaction of business. Records are created and received to support the activities of governments, businesses and/or individuals. They enable individuals or organisations to make informed decisions about their actions.

NARSSA (2007) refers to a record as “recorded information, in any form, created and maintained by an organisation or person in pursuance of legal obligations or the transaction of business, and kept as evidence of such activity.” As for an investigation, a record provides information with meaning and context to the activity to serve as evidence to prove what was decided upon in the past. Records may be textual, electronic and may not be stored permanently. Examples of records include emails, photographs or maps, letters, and diaries which should be preserved as evidence.

1.7.3 Access to archives

According to ICA (2012), access to archives refers to the ability of the public to use available archives held by archival institutions based on existing legislative frameworks and finding aids. The provision of access to archives enables restitution claimants to use them to support their land claims. Accessibility is the characteristic of being easily reached or used with minimal barriers (Pearce-Moses 2005:3). Access to archives is the ability to make archives easily and readily accessible to the public (Archival Platform 2015). McCausland (1993:272) notes that adequate management of access to archives begins with the establishment of procedures that legislative requirements and donor agreements are upheld, and that involve the protection of archives from theft, damage, or rearrangement.

1.7.4 Land restitution

Land restitution refers to individuals or communities who were deprived of their rights of access to land as a result of land dispossessions and have lodged their land claims with the CRLR. According to Naidoo (2015:6), the land restitution has a mandate to correct the wrongs of the past through the lodgment of the land claims that allows the citizens to ensure that their rights on land ownership are protected by the government.

1.8 Preliminary literature review

Rowley and Slack (2004:31) describe a literature review as “a summary of a subject field that supports the identification of specific research questions.” Rowley and Slack (2004:31) further explain that, besides the review of literature in assisting an individual

to explore what research has already been conducted on a particular topic, it can essentially help to find relevant documents and bibliographic databases through a literature search. It involves writing notes and building a bibliography. According to Kiteley and Stogdon (2014:6), the literature review is vital when conducting a study in the sense that it provides ideas, issues, approaches, and research findings that have already been published on a specific topic. Leedy and Ormrod (2010) add that the review of literature helps researchers to avoid duplication of topics that have been published, thereby ensuring that there is a solid formulation of new ideas and revealing necessary sources of information used by the researcher. The literature search rests with the use of various sources of information, which include academic and professional journal articles, web-based resources and books. A literature search was undertaken for both local and international sources. Different books, journals, dissertations and theses on the use of archives as a tool to support land restitution, as well as the national policy and guideline documents were consulted.

The literature review for this study outlines the major debates related to the research topic being studied. The literature review is mainly concerned with an overview of the current knowledge of what has been said about the topic. This is done through reading the most relevant and significant publication by scholars to bring new ideas, identify debates, conflicts and contradictions and fill the gaps in the available literature on legal and policy framework for the source of evidence in land claims, the use of archives to support land restitution, availability and accessibility of archives, users experience on archives and recommendations on the use of archives to enhance land restitution. Chapter Two will review related studies on archives as a tool to support land restitution.

1.9 Research methodology

Research methodology is a set of rules and guidelines to guide a study (Miller & Brewer 2003:192). Kothari (2004) defines research methodology as a solution to the research problem. On the other hand, McMillan and Schumacher (2001:9) refer to research methodology as the way the researcher collects and analyses data. Jonker and Pennink (2010:21) further assert that the principle of the methodology is planning the action per the questions at hand to generate the desired answers. To get the

relevant answers to the main research questions and sub-questions of this study, it is crucial to employ an effective and appropriate research methodology. Research methodology provides specifications on the types of research designs and research methods that may be employed to enhance knowledge about a particular phenomenon (Ngulube 2015). Therefore, the purpose of this section is to provide a clear discussion of the methodology chosen based on the research objectives of the study, followed by research design and data collection (see Chapter Three for a detailed discussion on research methodology).

The current study adopted a qualitative approach to analyse data collected through interviews and document analysis. McMillan and Schumacher (2001:398) describe qualitative research as a means to investigate an in-depth group to better understand the social phenomenon from the participant's perspective. Jootun, McGhee and Marland (2009:44) maintain that the qualitative research approach describes people's lived experiences as close to their indigenous constructions of social reality. It means that the research has a platform to closely engage with the people to listen and record their lived experiences or real stories; as a result, the researcher will obtain in-depth responses to the research questions about the topic. In this study, a qualitative study offers the researcher a platform to determine participants' use of archives and whether archives are available and accessible to ensure that such archives are used to support land claims and to solicit users' views about their experience in the use of archives.

The study is guided by an interpretive worldview, which focuses mainly on the policy and legal framework, use, availability and accessibility and personal experiences of the participants regarding archives in land restitution, which according to Thanh and Thanh (2015:24), guides the researcher to construct and interpret collected data using the knowledge and experience from the participants. The units of data are the project officers, restitution claimants and archivists in South Africa with the primary goal of understanding archives in the restoration of the land.

This study employed a triangulation of oral history and archival science research methods to obtain facts or information of people's lived testimony about their own experiences in the processes of land claims. Similarly, evidence was also extracted from archives stored at archival institutions such as the NARSSA. This study employed both methods (oral history and archival science research) to understand how archives

were used to validate land claims. Moreover, oral history was adopted in the current study because it is “the method of getting historical facts or information through interviews which have been used in the past to be used for writing theory” (Yap & Barsaga 2018).

The population of this study comprises project officers from the CRLR and archivists from the NARSSA, who were chosen purposively based on their historical knowledge and experience about archives to support land claims in South Africa. The snowball sampling technique was also employed to restitution claimants because of the small population being studied (Creswell 2009) and it was difficult to locate them in South Africa. Data from restitution claimants were collected from oral testimony through interviews and analysis of documents that were held by the project officers, restitution claimants and archivists to provide an in-depth understanding of the historical events and experiences that had a profound impact on the land restitution processes. For detailed research methodology, the reader is referred to Chapter Three of this study.

1.10 Ethical considerations

Cooper and Schindler (2008) argue that academics and research projects should consider research ethics compliance. The University of South Africa (UNISA) has an ethics code that researchers must follow. In this regard, the researcher applied for ethical clearance in accordance with UNISA's research ethics policy to ensure that data collection, reporting of findings, and ethical standards are followed. UNISA granted the researcher ethical approval (See Appendix B). Furthermore, the researcher declares that the participants' anonymity, confidentiality, and informed consent were all taken into account throughout the study in accordance with research ethics (Babbie 2014). Permission letters from both the CRLR and the NARSSA, as well as consent forms, were obtained, along with a clear outline of the study's purpose and the participants' permission to withdraw at any time (See Appendices E, F and G). To ensure the participants' anonymity, the researcher assigned them codes to avoid disclosing personal or identifiable information during the study. Turnitin, a similarity index software, was also used to reduce plagiarism. All sources used were cited using

the Harvard Referencing Technique, which is promoted by the University of South Africa's Department of Information Science.

1.11 Structure of the dissertation

This study is organised into six chapters as follows:

Chapter One

Chapter One establishes the context for this study by providing an introduction and background information. The study's context and location – land restitution in South Africa – are presented. The current study's conceptual framework is also discussed in detail. The following elements are also thoroughly discussed: problem statement, research purpose and objectives, problem statement, research questions, the significance of the study, scope and delimitation of the study, and term definition. Aside from all of the previously mentioned topics, this explains how other chapters are organised.

Chapter Two

Chapter Two presents a review of the literature as the current state of knowledge and theoretical basis for the current study. This study focuses on a literature review in order to achieve the following study objectives: a legal and policy framework for the use of archives as a source of evidence in land claims, the use of archives to support land restitution, the availability and accessibility of archives, user experiences with archives, and recommendations on how to use archives to improve land restitution.

Chapter Three

This chapter discusses research methodology in detail, including the research paradigm, research approach, research design, population and sampling, data collection instruments, data quality, data analysis and presentation, ethical considerations, and research methodology evaluation.

Chapter Four

In accordance with the study's objectives, Chapter Four presents data analysis and presentation of interviews and document analysis.

Chapter Five

This chapter offers the interpretation and discussion of the results.

Chapter Six

Chapter Six contains a summary of the findings, a conclusion, recommendations, suggestions for future research, and implications for theory and practice. The conclusions are based on a review of the literature as well as primary data gathered through interviews and document analysis.

1.12 Summary

This chapter provided the study's background and introduction. The conceptual framework, problem statement, research purpose and objectives, research questions, study significance, scope and delimitation, definition of terms, research methodology, and ethical considerations were all presented. The following chapter examines the literature on the legal and policy framework for the use of archives as a source of evidence in land claims, the use of archives to support land restitution, the availability and accessibility of archives, user experiences with archives, and recommendations on how to use archives to improve land restitution.

CHAPTER TWO

LITERATURE REVIEW: ARCHIVES IN SUPPORT OF LAND RESTITUTION

2.1 Introduction

The previous chapter endeavoured to gain perspective on archives as a tool to support land restitution by putting forward the introduction and background to the study, contextual and conceptual setting, problem statement, research purpose and objectives, research questions, the significance of the study, scope and delimitation of the study, the definition of terms, research methodology and ethical considerations. The current chapter reviews the existing literature related to using archives to support land restitution in South Africa. The researcher also studied relevant studies undertaken in archival institutions to highlight the use of archives for research purposes. The literature intends at legal and policy frameworks for the source of evidence in land claims, the use of archives to support land restitution, availability and accessibility of archives, and users' experience of archives. It will enable the researcher to overview the study into the use of archives, especially land restitution.

A literature review is a systematic examination of the scholarly literature on one's topic (Efron & Ravid 2018:2). Besides, literature reviews familiarise the researcher with the latest developments to acquire knowledge through an immense search of the published papers, electronic sources and resources that already exist concerning the study or the related areas (Hart 2018:3). Kumar (2005:30) points out several functions that assist researchers, which are to:

- bring clarity and focus to your research problem;
- broaden the knowledge base in your research area;
- improve your methodology; and
- contextualise findings.

The purpose of this literature review is to review other studies related to several components of archives, namely legal and policy framework, use, availability, accessibility, experience, and recommendations. Hence, the study reviewed the literature according to the objectives of the study, under the following themes: a legal

and policy framework for the source of evidence in land claims, the use of archives to support land restitution, availability and accessibility of archives, users experience on archives and recommendations on the use of archives to enhance land restitution.

2. 2 Legal and policy framework for the source of evidence in land claims

Legislation and policy framework can play an important role in land claim processes, particularly in guiding project officers on which evidence is acceptable. The legislative requirements would be viable only if proper legal and policy frameworks for the source of acceptable evidence for land claims were in place.

2.2.1 Legal framework

Parer (2001) observes that archival legislation is a key vehicle for the government to enforce the proper management and preservation of archives for accountability and historical purposes. Equally, public servants are supposed to be held accountable for their actions. At the same time, the government has a necessary obligation to protect citizens' rights and land rights. In this respect, the government must implement legislation to ensure that archives are made available or accessible for use to protect the land rights of a person or community disposed of their property through restitution of that property or equitable redress. As such, archival legislation legalises the operations of the archival institutions serving the public. It also includes the duties of the heads of public offices and those of the Director of the archival institution or the National Archivist (Barata, Piers & Routledge 2001). It implies that archival institutions are mandated by law for the proper management, care, preservation and use of archives.

Archives legislation is defined by the ICA (2004:5) as:

a legal and administrative base that allocates functions, power and responsibilities among accountable bodies within the country and expresses rights and expectations of citizens with respect to recorded information and documentary heritage. Archives legislation provides the mandate of the archival authority, sets out the rules for its operation, defines what part of the

collective memory of the country should be retained and preserved and for whom and what conditions the preserved records could be made available.

Various scholars, including Ngoepe and Ngulube (2009:4), Keakopa (2007:79), Kemoni and Ngulube (2007:123), and Mnjama (2005:459), believe that South Africa has legislation for archives and records services, but that implementation is difficult due to the following issues:

- lack of proper implementation of archival policies and legislation;
- outdated archival legislation;
- the placement of national archival institution within government department or ministries;
- national archives not playing a meaningful pre-archival role;
- lack of resources to execute the mandate of the national archives; and
- invisibility and lack of understanding of the role of archives.

Ngoepe and Keakopa (2011:154) concur that archival systems in South Africa have inadequate resources to offer archival services to the public. As a result, archival institutions are losing the most trained staff because of inadequate resources and affecting daily operations and long-term strategies. Ngoepe and Ngulube (2009:10) add that archival institutions have a poor public outreach programme to market and raise awareness about services to the users, which results in a lack of access to information and minimal use of archives. As a result, archival institutions are unknown to those who can benefit through access to archives to support land claims.

Ngoepe and Saurombe (2016:24) state that archival legislation provides the essential framework that enables the national records and archives service to operate with authority in its dealings with other organs of state. Meaning that archival institutions are mandated to use the archival legislation to ensure that archives are managed and preserved properly for accountability and transparency.

Khumalo and Baloyi (2017:6) agree with Seles (2016:213) when asserting that outdated archival legislation at the National Archives of Tanzania (NAT) regarding

digital records management and preservation hinders their operations as the legislation is not in line with access and preservation of archives objectives. Hence, archival legislation has also been enacted in Tanzania and Uganda to permit the national archival services to manage records from their creation to ultimate disposal (Mnjama 2005:465). In South Africa, the NARSSA is regulated by the NARSSA Act, No. 43 of 1996, as amended to properly manage and care for archives belonging to governmental bodies and preserve them for future use. As a government body, the CRLR should comply with this regulation in terms of Section 11(2), which states public records identified by a disposal authority as having enduring value shall be transferred to an archives repository when they have been in existence for 20 years.

However, scholars such as Khumalo and Baloyi (2017), Ngoepe and Saurombe (2016), Asogwa (2012) and Mnjama (2005) looked at archival legislation that continues to play a crucial role in the provision of a legal framework for the public sector and the national archives but excluded legislation in support of land claims in South Africa. It can be argued that archival legislation is the cornerstone of access to documentary evidence and recorded oral history in South Africa. In compliance with the legislation, the NARSSA is expected to develop and implement a policy on archives to support land restitution. The policy should be per the NARSSA Act and link up with the CRLR's directives and objectives. The policy will provide both the NARSSA and the CRLR to make a declaration to access and use archives as evidence for land claims without restrictions. It is evident that the implementation of policy regarding archives to support land restitution ensures the protection of land rights for restitution claimants.

Archival institutions are faced with inadequate funding which makes it difficult to implement archival legislation successfully (Netshakhuma 2019a:218; Ngoepe & Saurombe 2016). An, Bai, Deng, Sun, Zhong and Dong (2017:26) argue that majority of archival institutions still fail to provide access to archives for use by the public. Hence, South African has several acts, regulations and policies which provide a legal framework for land claims. Pieces of legislation that are relevant to this study in the context of South Africa include the Constitution of the Republic of South Africa Act (Act No. 108 of 1996), the PAIA Act (Act No. 2 of 2000), the NARSSA (Act No. 43 of 1996),

the Restitution of Land Rights Act (Act No. 22 of 1994) and the PAJA (Act No. 3 of 2000).

2.2.1.1 The Constitution of the Republic of South Africa Act (Act No. 108 of 1996)

The Bill of Rights, as provided in section 32 of the Constitution, permits everyone access to any information held by the state, as well as any information held by another person that is necessary for the exercise or protection of any rights (Nsibirwa 2007:16). The Constitution allows the use of records management centres within the public sector and the NARSSA. The Constitution fosters efficient use of the records for transparency and accountability as national legislation. Furthermore, the information provided upon request should be accurate and reliable. Several scholars such as Ngoepe and Saurombe (2016:33), Archival Platform (2015:53) and Ngoepe and Jiyane (2015:68) state that Schedule 5 of the Constitution of South Africa of 1996 provides for the establishment of a new archives and records management system in South Africa and archives other than the national archives are functional areas of exclusive provincial legislative competence. As a result, every single province should promulgate its legislation on archives and records service and archival infrastructure (Venter 2007:24). In South Africa, the NARSSA and all the provincial archives are subordinate directorates within the Department of Sport, Arts and Culture (DSAC). As a result, the NARSSA has a responsibility to focus mainly on national records and operate differently from the provincial archival services. The different structure in the NARSSA and provincial archives hinders the required support to land claims because some of the provinces are more resourced than others (Ngoepe & Keakopa 2011). For instance, there are few archivists at the Mpumalanga Provincial Archives responsible for the entire province while Free State Provincial Archives has sufficient staff (Netshakhuma 2019b). Therefore, archival institutions might not retrieve all the necessary archives to the restitution claimants as some of the information might be available but not accessible.

2.2.1.2 Promotion of Access to Information Act (Act No. 2 of 2000)

Access to information is the fundamental basic and socio-economic human right and it is stipulated in section 32 of the 1996 Constitution. PAIA (Act No. 2 of 2000), on the other hand, deals with the right of the public to access information mainly in the form of archives (Archival Platform 2015:123; Sebina 2009:149; Arko-Cobbah 2008:184). The main purpose of the PAIA is:

to give effect to the constitutional right of access to any information including archival records held by the state and any information that is held by another person and that is required for the exercise or protection of any rights (South Africa 2000).

The purpose of this Act is to assist both public and private organisations in becoming accountable and transparent concerning every record they hold. McKinley (2003:5) highlights that the PAIA is legislation that deals with access to information in South Africa and the good part about the legislation are that it is one of the few pieces of legislation applicable to both public and private bodies including records that should be accessed without consideration of the date when a record was created. In essence, the function of proper records and archives management by the NARSSA is of paramount importance to enforce accountability and transparency.

Sebina (2009:152) stipulates that the use of both the PAIA and the NARSSA Act allows for viable, variable and comprehensive access to the information in South Africa. In contrast, there is no Freedom of information or data act in Namibia (Nengomasha & Nyanga 2015). While literature shows that access to reliable archives about human rights assists the public in tracking the activities of their government and partaking in the decision-making process. The Act allows the public to scrutinize archives on land dispossession to understand the history of the country and those of their families. This may not yield results because Ngulube, Sibanda and Makoni (2013:136) argue that the archivists are still failing to make archives available on occasion where legal authority to access information is not available.

According to the Act, members of the public can access and use the information so long as it is managed properly. However, various conditions restrict access to archives: protection of personal information, protection of the states' interest and security, protection of copyright laws and economic interests (Valge & Kibal 2008). In essence, citizens who fail to substantiate their claims due to lack of evidence are in a bad position to raise their concerns of inefficiency and corruption in the public sector. Therefore, legislative prescripts revisions are required to emphasise the need of providing access to and use of land restitution archives so that restitution claimants' restoration of land rights is not affected.

2.2.1.3 National Archives and Records Service of South Africa Act (Act No. 43 of 1996)

Ngoepe (2017) states that the archival system in South Africa comprises ten distinctive, independent and interrelated entities. Archives are deemed acceptable as demonstrated in the NARSSA Act (Act No. 43 of 1996), as shall be outlined as follows:

The NARSSA Act was promulgated for the NARSSA to provide guidelines to the provision of access to information held by the archival institutions and government departments (Archival platform 2015:123). It does so through the establishment of comprehensive practices and procedures for the management of records and archives. It is significant in ensuring that the non-public and public records containing historical, administrative, legal, fiscal and informational value are deposited to the archival repository in South Africa and are made accessible to the public (Archival Platform 2015). Mckinley (2003:7) further notes that the NARSSA Act permits “only archival information that is more than twenty years old should be made automatically accessible to the public, but provides the National Archivist with the power to identify records that might be made accessible earlier with consideration for protection of privacy.” The responsibility of ensuring that all records that are regarded to be of enduring value are not kept in the custody of a private person or an institution lies with the National Archivist. As the legislation will enable the public to use the available resources of the country, which will ensure that there are transparency and accountability in the public sector. For instance, the NARSSA Act is in existence to

ensure the proper management and care of documentary heritage. The core functions of the NARSSA includes:

- preserve public and non-public records with enduring value for use by the public and the state;
- make such records accessible and promote their use by the public;
- promote awareness of archives and records management and encourage archival and records management activities; and
- generally promote the preservation and use of national archival heritage.

Hamooya, Mulauzi and Njobvu (2011) add that the NARSSA Act includes electronic records. This indicates that project officers, restitution claimants and archivists will be able to access electronic records as addressed by the legislation. On the contrary, the National Archives of Zambia Act, Cap 175 of 1995 does not reflect the technological aspect to preserve and facilitate access to electronic records (Dube 2011). Kumar (2011:69) posits that most archival legislation needs to be reviewed and updated by most African nations to incorporate the following:

- electronic records management;
- electronic keeping principles, particularly the records continuum concept;
- freedom of information, privacy and archives legislation to accommodate the sharing of information across organisations; and
- rapid administrative changes resulting from modern management practice and the need for stricter accountability.

2.2.1.4 The Restitution of Land Rights Act (Act No. 22 of 1994)

The Restitution of Land Rights Act (Act No. 22 of 1994) came into effect to assist in redressing the injustices of the past on South African citizens who were dispossessed of their land. The purpose of this Act is to protect and promote the land rights of persons or communities who were unfairly discriminated against. The Act also permits restitution claimants to submit land claims for land restitution within the period of 19 June 1913 and later. The CRLR is given the power to investigate and make necessary recommendations on the resolution of land claims based on their validity. According to the Restitution Act, the CRLR is mandated to resolve land claims to restore land

rights to persons or communities who did not enjoy their equitable rights. Members of the public who were dispossessed of their land are required to lodge their claims for restitution with the CRLR. Archives offer a critical means of proving the validity of a land claim. Like all government institutions in South Africa that are responsible for investigations, the CRLR requires archival information to support the investigations and processing of land claims. As part of the restitution process, the CRLR may resolve the land claims through the following avenues: restoration of the original land to its lawful or rightful owners, offering financial compensation to ensure that justice is served and providing anything that will be beneficial as some of the communities are given agricultural land for development (Saunders 2003).

2.2.1.5 The Promotion of Administrative Justice Act (Act No. 3 of 2000)

The PAJA (Act No.3 of 2000) was introduced to give provisions to ensure that there are reasonable laws and fair administrative justice in the public service about proper documentation. The Act gives the right to the public to request reasons for administrative actions through written response (Ngoepe & Makhubela 2015:292). What the Act seeks to achieve is that if an administrative action was taken against someone, that person has every right to request for reasons in writing and failure to provide the reasons would mean that such action was taken for no reason. Moreover, if the reasons are not provided, it would create an assumption that the action was indeed prejudicial and unlawful. Similarly, the government has failed to document the information due to poor records management or the information may have been destroyed without authorisation (Marutha & Ngulube 2010:11). However, the public is welcome to hold those in charge to account through legal action.

This is contrary to the NARSSA Act (Act No. 43 of 1996), as amended, that the government is not permitted to destroy records without consulting the National Archivist. Also, an act to destroy information can be considered as a deliberate attempt to tamper with evidence (Ngoepe & Makhubela 2015:300). Nsibirwa (2012:73) notes that archival institutions are bound to protect archives through preventative measures to ensure accessibility, operation and geographic location of the archival repository. The preservation of archives is key to prolonging the lifespan of archives for the public to access and use them indefinitely (Ngulube 2007:45).

2.2.2 Policy

A policy, according to Koopman (2002:23), is a statement from a higher authority, particularly in government, that includes a set of plans on how organisations should operate legally. Furthermore, Menou (1991:50) defines policy as a set of principles that guide a consistent course of action. Menou (1991:50) adds that a policy is made up of:

- an image of the desired state of affairs, as a goal or set of goals, which are to be achieved or perused;
- specific means by which the realisation of the goal is to be brought about;
- the assignment of responsibilities for implementing the means; and
- a set of rules or guidelines regulating the implementation of the means.

In the context of this study, an archival policy is defined by Olson (2010:149) as a policy statement that stipulates the way the flow of data into and out of the archival institution is to be managed. Millar (2017:62) states that “archival policies may be developed to govern various aspects of operations.” An archival policy aims to define the scope and responsibilities of archival institutions (Millar 2017:63). Moreover, Williams (2006:210) emphasises that an archival policy comprises an archive’s mission, aims and objectives. Scholars such as Mnjama and Wamukoya (2004) and Ngulube and Tafor (2006) reveal that formal written policy is the root cause of archival underdevelopment in Africa. Furthermore, Schwirtlich (1993:26) indicates that an archives policy was developed to accomplish the following:

- it is a public statement of purpose and objectives of the programme;
- it defines the scope of the archives collection and establishes general conditions for access to them;
- it provides a legal and authoritative basis for the archivist to exercise all of the powers and perform all the responsibilities and functions with which she or he invested by the governing body of the parent institution; and
- it facilitates consistency, uniformity and impartiality in the procedures and conditions adopted for the management and use of archives.

Therefore, Olson (2010:159) cautions that an archive policy should be correct in all details to avoid loss of information. Since adequate storage rules may lead to destroying archives before the expected period. On the other hand, Netshakhuma (2019a:218) reveals that there is no proper, written and clear policy regarding electronic records management in most archival institutions. This statement is supported by (Ngulube 2003:286) when stating that the unavailability of a written mission statement makes it impossible to effectively execute the archival institution's main mandates. A study conducted by Kemoni, Wamukoya and Kpilang'at (2003) allude that archival institutions are confronted with obstacles in the identification of suitable hardware and software and untrained staff in the Information Communication and Technology (ICT). To show democracy and accountability, archival institutions need to formulate laws and policies that assure the citizens of the right to access information held by the government (Mnjama 2005:465). As Netshakhuma (2019a:218) exposes that there are no policies regarding open access to archives in most of Southern Africa, except for the NARSSA and Botswana.

2.3 The use of archives to support land restitution

Archival institutions are places where the source of information in history can be retrieved and used. Traditionally, history and historical research were identified as the only disciplines related to the use of archives (Suarez & Suarez 2007:1). Onyeneke (2016) posits that archival institutions have made it possible for people to use archives for scientific, research, cultural, educational, historical, publishing and journalistic purposes globally. Hence, the assumption of the use of archives for history and historical research only does not hold in the current archival practices because different people have different goals for the archives they need. A study conducted by Mukwevho (2017:17) mentions the benefits that emanate from the increased use of archives:

- the demand for archive resources as a result of archival programmes that connect archival records to the current needs (such as university fees and land issues) of those in power and the community would enable the deficiencies in the archival institutions to become more visible;

- increased usage of archives helps to justify the existence of archival repositories; and
- increased usage may also help archivists uncover deficiencies in important areas of archival management such as appraisal, description and preservation.

As such, Maher (1998:262) points out that “we should hold fast the luxury that our goal is to manage the documentary record for use by others who will form their own opinion and picture of the past.” However, archivists need to preserve and manage the archives effectively, arrange and describe them accurately and the results are for society. Archivists should make sure archives are used and should always consider how the underutilisation of archives may affect society and reflect on themselves as the main sources of historical information. The same sentiments are resonated by Cannon (2009:17) by indicating that when archives are not used, they lose their value. For example, the more restitution claimants, project officers and archivists use archives to back up or authenticate land claims, the more benefits they will get from them. It can be seen by Bhebhe and Mosweu (2019:164) who reveal that researchers in Botswana and Zimbabwe rarely use oral testimony because some of them still have trust in documentary evidence rather than oral history.

Bhebhe and Mosweu (2019:164) while noting the use of archives explain that archival institutions in southern Africa are currently using oral history to fill the gaps in the archival holdings. South Africa is putting more effort into the promotion of community archives. Archivists ensure the use of valuable archives in an attempt to achieve the archival goal (Harris 2000a:24). However, Ngoepe (2020) argues that oral histories of marginalised communities are almost unavailable or incorrectly recorded to give evidence of what transpired in the past. It is also supported by Bhebhe and Ngoepe (2021a, 2021b, 2021c) that very often when previously marginalised communities want to access archives, their voices are often not represented. It may be that even archives of the communities whose lands were confiscated by the apartheid regime are not in the repositories. Elsewhere, in the United States, for instance, the Ellis Island staff preserved oral testimonies in the archival institution from immigrants who passed through Ellis Island to ensure that researchers use them. It is assumed that because the recorded and transcribed information was obtained through an interview

conducted by the staff, therefore the procedure is more reliable (Suarez & Suarez 2007:17).

However, there has been a concern about users who have little knowledge about archival practices (Onyeneke 2016). On the other hand, the working hours limit the users from consulting the archivists and using the archives in their holdings. The statement is further supported by Suarez and Suarez (2007:3) who highlight that usually, users do not know what exactly they are looking for or they have a lot amount of information which makes it difficult to find information. Harris (2000a) argues that the operating hours in the reading room should be extended to permit the users to satisfy their needs. Often, it is the responsibility of an archivist with the expertise and knowledge of the contents of the archival institution for archives will be made readily available to the users to use.

Restitution processes on land claims depend significantly on archives in the custody of the NARSSA and can also be used by the public who need the information to support their land claims (Mukwevho & Ngoepe 2018). Many studies have shown a positive relationship between the use of archival institutions and the success of claimants in land restitution. For instance, if the Department of Land Affairs failed to use archives to support the land claims, such land claims would have not been settled (Sebina 2004). In Canada, Cameron (2001) reports that the Supreme Court of Canada made oral history admissible as legal evidence to support the land claim of Gitksan and Wet'suwet'en. Archives play a significant role in the government sphere to resolve disputes between landowners and communities. In the past, chieftainship was more of a custom to administer the land and manage disputes among the residents, rather than merely a status in the community (Landman 2013a). As a result, the national archival system should ensure that the evidence made available to the public can be used in a court of law to help determine the outcome of land restitution or chieftainship claims.

To improve the processing of land claims, archival institutions considered common ways to accelerate the mandate of land restitution (Sebina 2004). Archives are preserved and made accessible for use because they are considered as substantial evidence of the injustices of the past (Archival Platform 2015). They are made available to provide proof of historical accounts and recollect human memory by the

archival institutions (Ngoepe 2020; Mukwevho & Ngoepe 2018; Mahajan 2011). One would argue that the increasing number of land disputes has led to the widespread use of archival evidence and people are, as a consequence, able to use archives from various archival institutions.

Archival institutions around the globe have made huge strides to enable the public to use archives to meet their needs. The lack of archives, on the other hand, has a negative impact on the settlement of some individuals or communities' land claims. However, Webster (2016) and Oldenburg (1990) maintain that both oral and documentary evidence must be used together to provide more accurate and reliable information on historical events. Harris (2000a) suggests that oral evidence is a reliable source of evidence to uncover hidden secrets of the past. However, despite the use of archives for land claims, there are issues relating to the information contained in the document because of the errors and omitted information when transcribing from tape recordings (Gray 1998:261). It can be argued that the use of both archives and oral evidence can provide a critical institution for justice in post-conflict societies. Therefore, archives can play a deciding role in facilitating or inhibiting restitution claims in South Africa.

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 to make use of archives. Ngoepe (2020:151) contends that failure to use archives effectively has consequences that extend beyond the archival holdings, which 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 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) supplements that the use of archives is determined by accessibility, to fulfill citizens' needs of staking land claims. In a study conducted by Thobela (2011), it appears that documentary evidence could not be used in the land claim case of Mount Frere land as archives were not available to give more weight to the claim due to unclear laws. According to Olson (2010), the unavailability of archives might be due to theft, damage and corruption.

- **Theft**

The deliberate theft of an archive or even the making of copies of the contents in need. Furthermore, there is a trend of stealing laptops, servers, tapes, and hard drives in order to gain unauthorised access to information. Mampe and Kalusopa (2012) discovered that due to a lack of records management personnel at the Department of Corporate Services in Botswana, action officers had direct access to file retrieval, leading them to tamper with or steal valuable material. As a result, it is critical for archival institutions to ensure that archives are protected from theft (Mojapelo 2021). It can be achieved or mitigated by placing skilled security personnel at entry points as well as storage areas where archives are stored. Regardless of security personnel's responsibilities, cameras should be installed in the reading rooms and throughout the archival building (Ngulube 2003). When archivists are finished retrieving or placing archives, they are required to lock storage areas. It is well known that researchers can purposefully fail to return the archives they have requested. As a result, leave them to use for their own purposes. As a result, it is critical for both staff and users to check-in and check-out in order to track who was in the building when a specific archive went missing. For example, Section 16(1)(b) of the NARSSA Act, anybody who removes, destroys, or erases a record commits an offense and is subject to a fine, imprisonment for a period not exceeding two years, or both fine and imprisonment. As a result, one strategy to deter thieves from taking archives is to impose penalties on persons or users suspected of theft.

- **Damage**

Organisations face the threat of their computer systems being hacked in order to change or delete information stored on them. This means that if the information is deleted or changed, the CRLR will face difficulties in restoring the land right to the rightful restitution claimants. The Transkei Archives Repository in the Bhunga Building was looted and damaged, according to Archival Platform (2015:59). Jones (2014:23), on the other hand, claims that unprocessed braille collections are lost and forgotten, and that they suffer physical damage as a result of fluctuating temperature and

humidity. However, Dewah and Mnjama (2013:56) advise that “archival center buildings need to provide adequate facilities for the protection of documents against damage or deterioration, care and maintenance and manuscripts.”

- **Corruption**

In terms of PAIA, it is illegal to destroy archives while an investigation is underway. Furthermore, those in positions of power will not put their careers or leadership in jeopardy. As a result, some political figures or employees attempt to alter or destroy archives stored at archival institutions while an investigation is underway. Harris (2000b:1) clarifies that during South Africa's apartheid regime, public records were routinely destroyed in order to conceal the process. Archives are destroyed because it is difficult to remember and narrate all of the incidents that occurred when there is no documentary evidence to back up the claim.

In addition, even though archives did not suffice in the Case of Mount Frere land, oral evidence became useful during the Truth and Reconciliation Commission (TRC) to provide more accurate information or uncover hidden secrets of the country's heritage through capturing voices of the people who were silenced during apartheid (Harris 2000b). While oral evidence was used as evidence, maps, family trees, and spiritual tradition records were used by the Aboriginal community as a source of evidence for their land claim (Bentley 2008:32). Mahajan (2011:282) argues that oral testimonies in India were acknowledged to have substantial evidence besides written records. Similarly, Ngoepe and Makhubela (2015) observe that in South Africa, oral evidence was highly used as opposed to documentary evidence. On the contrary, the Consolidation Officer at the UP High Court used both written and oral testimony in the case of a dispute about a title (Oldenburg 1990:186). As such, it is evident that evidence from an oral history rather than archival documents did allow justice to be obtained for restitution claimants.

However, oral history must be used to validate the evidence gathered from written and physical records. Ngoepe (2020) and Landman (2013a) stresses that oral history can catalyse to provide the necessary information to supplement archives or documentary evidence for under-documented individuals or communities. As Webster (2016:256)

attests that oral evidence was previously used to supplement documentary evidence on prominent people and institutions, hence its continuous relevance in archival institutions or archives management. Furthermore, the same sentiments were raised by Manungo (2012), which maintains that the National Archives of Zimbabwe (NAZ) used oral history to supplement and complement the documentary evidence in the archival holdings. The role of oral history is to contribute to the collection building of archives at public archival institutions (Ngulube 2016:1675).

Chaterera and Mutsagondo (2015:702) indicate that public archives relied mainly on written records. Typically, oral history came into existence but can fill the gap in the documentary evidence (Ngoepe 2020:310). It is important to use oral history because it restores the dignity of the marginalised and underdocumented communities and breaks the cycle of injustices to the apartheid era regarding land disputes. Besides, oral history allows the people to raise their historical experiences and events which were never documented. Therefore, one can argue that to resolve the land issue, documentary evidence cannot be used without oral history to fill the gaps through firsthand information from the society that might have been excluded from the archival collection. This will ensure accountability in government activities. However, Mahajan (2011:286) cautions that the people are empowered through oral history as a means to remember their past and not only to document the histories.

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. However, Maher (1986:16) disputes that most administrators and decision-makers are not fully knowledgeable about investing more in managing archival institutions, which will benefit the institutions through the use of archives to support their activities or processes and advancing policies. One would agree that the NARSSA Act is based on the notion of collaboration with the custodians of public and non-public archives to promote the use of the country's documentary heritage. Maidabino (2010) states that the use of archives to support land claims can play a transformational role for individuals and society at large.

2.4 Availability and accessibility of archives

Mukwevho (2017:24) defines accessibility as citizens' ability or right to easily access public archives with minimal barriers, which is the ultimate goal of any archive policy. Loewen (2008:164) defines access as "the ability and opportunity to discover, use, and comprehend" a nation's documentary evidence. Making archives accessible is a difficult task. Scholars such as Wamukoya (2012:121), Ngulube, Sibanda, and Makoni (2013:135), and Arko-Cobbah (2008:181) identified advantages of public archive accessibility:

- enhance an institution's image;
- generate knowledge and understanding;
- enhance citizen participation in decision-making;
- facilitate research and education;
- enhance service delivery to citizens and other stakeholders;
- promote the exchange of ideas and economic growth; and
- foster accountability and promote transparency and justice.

As a result, accessibility necessitates the application of the legislative framework that governs access to archives in organisations. According to Wamukoya (2012:121), access to archives is primarily determined by the quality of information provided to citizens and the quality of archives used for decision-making. According to Arko-Cobbah (2008:181), the refusal to grant access to information undermines democracy. Mason (2016:1) contends that "in a democratic, information-based society, there exists a basic social right to equitable and free access to archival services" and that "archival services must restructure their services to respond to this right." Blais (1995:23) state that there are three main principles for a user to gain access to archives:

- archives must be committed to equal terms of access;
- access conditions must be clear to all concerned (i.e. disclosing records containing highly sensitive information to the public after 20 years); and
- the citizens' rights to privacy should be strictly adhered to.

Also, the Constitution of the Republic of South Africa emphasises the right to access information held by the state which is complemented by the PAIA. This means that the archival institutions have the mandate to ensure unrestricted access to archives in their custody which have been preserved or stored for more than twenty years. Ngulube, Sibanda and Makoni (2013:136) are of the view that the promotion of access to archives is the most fundamental element of a service-oriented society. Thus, the Protection of State Information Bill (2012) and other legislation in South Africa require the archival institutions to act within the limitations on access to information (Archival Platform 2014:124; Wamukoya 2012).

Ngulube and Tafor (2006:76) highlight that archival institutions are expected to ensure that the citizens' right to access archives and other information in their responsibility is promoted. As a result, the public has the right to request access to the archives to ensure there are transparency and accountability in South Africa. Scholars view access to information as the fundamental cornerstone for justice to prevail. This statement is further seconded by Stever (2017:7) who indicates that in the United States, the archivists prioritised the preservation of archives for the benefit of the community. Even though the Bill of Rights does not put more emphasis on protecting the right to access information by the public, but Americans are at the advancement stage of documenting national history.

According to the NARSSA Act, archivists have the responsibility to ensure that they provide access to the archives held by the governmental bodies either public or non-public in the custody of the NARSSA. Even so, the archivists are faced with severe constraints regarding familiar restrictions to the Protection of Personal Information (POPI). According to Onyeneke (2016), the restrictions include the following:

- where records are in fragile condition and unrestricted access to them may lead to their total disintegration and loss;
- the need to protect the privacy of the individual donors;
- the obligation to comply with donor-imposed conditions; and
- the protection of national defence and security.

While noting the POPI Act as a barrier to access archives, a study conducted by Onyeneke (2016) reveals that most of the records which were supposed to be preserved by the National Archives of Nigeria (NAN) were not selected. One would argue that if this issue is not addressed by the NAN who have the responsibility to ensure that records with archival value are transferred, public access will deliberately be denied to the public as the archives would not be available. Onyeneke (2016) underscores that archives are likely to be damaged if a natural disaster such as fire, flood, earthquake, or tornado occurs. The archival institution affected may close its operations until the matter has been resolved.

In most cases, the public will be denied access to archives as the disaster recovery might be very difficult and time-consuming before the users are granted access to archives. On the contrary, this will give the archival institution a chance to offer the duplicates, retrieve information from the off-site storage or backup. But Olson (2010) cautions that the location of the archival building is an important factor to be as safe as possible to avoid natural disaster risks that are unexpected. Lack of preservation and limited facilities in archival institutions makes archives to be inaccessible (Wales 2014:36). A study conducted by Bhebhe and Mosweu (2019:172) demonstrates that in Zimbabwe there is still a challenge of lack of access to historical collections. Bhebhe and Mosweu (2019:164) allude to the fact that the NAZ did not provide access to oral history collection because there is a lack of staff to transcribe the oral evidence and causing a backlog instead.

The driver to access lies with the preservation of archives of organisations and the public to protect historical documents and prolong their lifespan (Forde 2007; Ngulube 2003). Proper preservation of archives informs the continuity of long-term access to archival collections. Archives play a fundamental role in the provision of reliable evidence of what transpired in the past, together with the knowledge and expertise of societies (Oweru & Mnjama 2014:138). The government's mandate to restore the land rights of the citizens and give the land to the rightful owners could be negatively affected if the principle of accessibility of archives is not applied.

According to Mukwevho and Ngoepe (2018), the accessibility of archives remains fundamental in archival service and the public at large. On the matters regarding

physical access of archives, archival institutions are public spaces and have the mandate to cater to people of all ages (Melville & Malao 2005:31). Nevertheless, there is a concern by scholars that few people are familiar with the existence and accessibility of archival institutions in eastern and southern Africa (Archival platform 2015:131; Saurombe 2015:149; Venson, Ngoepe & Ngulube 2014; Ngoepe & Ngulube 2011).

In many countries, government departments are faced with the centralisation of not directing expenditures to archival institutions, which leads to inequalities in a country because of poor management of archives (Mhlanga 2015:27). Indeed, Archival Platform (2015:131) concludes that there are failures to fulfill the obligation to make archives accessible to the public in South Africa's national archival system. As Harris (2000a) and Dube (2011:285) attest, archival institutions are slow and unreliable in the provision of access to their collections and meeting the needs of the public.

Saurombe (2015:72) contends that archival institutions serve as a catalyst in addressing people's needs through archives. In essence, it is critical to make archives accessible to the public and to ensure that access to the collections is properly facilitated. According to Harris (2000a:26), the possibility of ensuring that archives are available heavily relies on archivists who have the responsibility of knowing their users and effectively responding to their needs through exit interviews.

ICA (2012) points out that the public has the right to access public or private archives. Similarly, the PAIA stipulates that all archival institutions should adhere to one of the vital roles of making archives available for use. Gray (1998:261) also indicates that the principle of making information freely available to everyone is valued by the Anglo-Australian legal system. In some instances, transcripts may be available and accessible as documentary evidence for lawyers to make a decision. But since transcripts emanate from tape recordings which lawyers use as available evidence for decision-making, it is unlikely for the information not to have discrepancies of errors and omitted information (Gray 1998:261).

As a consequence, a study conducted by Suarez and Suarez (2007:11) shows that there are cases in countries like Spain where archives are unavailable regarding the

immigration of the incoming communities. Moabelo (2007:13) stresses that rural communities' lack of access to archival materials such as death certificates, birth certificates, maps and family trees pose a challenge for the land restitution programme to settle land claims. Kwatsha (2010:36) also observes that this poses a threat to the NARSSA that has to preserve the collective memory of the country for easy access to those records in the future. The inability to produce archives and lack of documentation of the restitution claimants leads to distress and uncertainty for the lawful owners. However, what matters most is that archival institutions play a fundamental role in making archives on land dispossession accessible for public use, which is of critical importance for the land restitution programme to execute its mandate on land restitution. As a result, ensuring that government institutions preserve archives to avoid loss of government information which may lead to the preservation of social and institutional memory and therefore accountability (Ndenje-Sichalwe 2010:87). Heeks (2000:197) also points out that the notion of access to archives is crucial, because, without archival institutions, the government departments cannot carry out their mandates.

According to Sebina (2004), without archives, government and organisations are unable to manage the current operations effectively due to the little ability to use the experience of the past for guidance. Hence, the restitution process is dependent on the management of archives and other archival information that are valid and sufficient to execute land rights. Thus, the underutilisation and inaccessibility of archives mean those project officers, restitution claimants and archivists cannot prove the injustices of the past to land removals. Barata, Cain and Thurston (2000:9) further show that to alleviate legal matters such as land and property registration, the evidence of archives is relied upon. Therefore, activities of the past should be accompanied by archival evidence and oral history (Ngoepe 2020).

Despite this, according to Archival Platform (2015), in the era of open democracy which saw the promulgation of PAIA, the public is still denied information upon request based on restrictions placed on certain archives. This can be seen by the fact that several researchers reported that public institutions did not make information available because the country might be at risk (Archival Platform 2015). The issue of access and availability is also underlined by Ngulube (2006:143) when he stresses that legal rights to public archives cannot be guaranteed as physical access to historical

manuscripts or documentary evidence is given restrictions by the donors. Hence, there is a need to review the access policy which allows donors to place restrictions on certain archives to underscore the fact that users should have access to archives, especially land records to use to provide evidence to the injustices of the past.

Ngulube (2006:143) maintains that working hours of service and the availability of documentary evidence for consultation by users are two factors affecting physical access to archives. While it is true that archival preservation promotes access, one could argue that the legislative framework provides ineffective access. To that end, archival institutions involved in land restitution must assume responsibility for ensuring that archives and oral histories are available and accessible for use as evidence in court.

Besides the issue of access to archives, Thobela (2011:55) claims that land reform programmes in the former Transkei homeland have little or no evidence that relates to the owners of the land. It would seem that the failure to resolve land claims originates from relying on documentary evidence only, which is usually unavailable or distorted, rather than using oral history to supplement or authenticate the records. This stems in part from the bias that information recorded in documents contains the truth, though oral history can also be used to access the in-depth knowledge of the past directly from the affected individuals or communities.

2.5 Users experience on archives

Archival Platform (2015) investigated user perceptions of archives and discovered that users are dissatisfied with archival institutions. Furthermore, users are well aware of and satisfied with the PAIA and the NARSSA Act in terms of ensuring that archives are made available for public use. From the perspective of a professional historian who has used archival services for over four decades, Waiser (2015) contends that users must be literate about the services provided by archival institutions in order to use them efficiently and effectively. But user education may not yield results; as Blais and Enns (1990) and Freeman (1985) maintain that users continue to address their issues or fulfill their imagination without visiting the archival institution to use archives.

On the other hand, Archival Platform (2015) claims that some of the knowledgeable users, such as researchers and historians, strive to use archives but are denied access, or the archives are unavailable or lost (Sebina 2004). Similarly, a study conducted by Nalwoga (2018:1) found that Post Bank Uganda Limited was rendering poor services to users as records were misplaced and there were delays in accessing the files. Another study conducted by Garaba (2005) concurs that users complained about the inaccessibility of archives was another big challenge because archives were not processed. Ngulube (2006) indicates that archives are not accessible in many countries in Africa because of unprocessed archives. Archives that need immediate processing are not attended to promptly, and users are denied the right to information.

Wilson (1991:97) further stresses that inadequate access to archives was yet another problem. Restricted office hours, inability to render services to physically challenged users, discriminative outreach programmes, language barriers, and technology were among the factors limiting access. Murambiwa and Ngulube (2011) concur that people with disabilities encounter challenges relating to access to archives. A study conducted by Ngulube, Sibanda and Makoni (2013) on access and use of archives reveals that disabled people are starved of archival services. They further revealed that blind people could not access archives and the archival building could not cater for wheelchairs as well. Persons with disabilities continue to face barriers that prevent them from enjoying their right to information. Therefore, it implies that staff members in the reading room were not prepared to make appropriate decisions to meet the needs of persons with disabilities. In short, all the privileges of granting other people should be on an equitable basis to disabled people as well.

It means that there is a need for well-trained and skilled staff in archival institutions to effectively provide information to disabled people without any difficulties, be knowledgeable in communicating with people from different cultures and have the technical skills required to access archives for the users (Ngulube 2003). Hlophe and Wamukoya (2007) agree that insufficient skilled staff in archival institutions to promote access to archives are the main reason for the decline in the use of archives by the users. Furthermore, Hlophe and Wamukoya (2007) conclude that search-room staff at the Eswatini National Archives took hours to retrieve records required by the user.

However, funds were another challenge faced by many government departments since they have inadequate funds to implement the means of accessibility. As (Jo Pugh 1992:6) argued that extension of working hours in archival institutions would allow the users to consult and copy the information contained in archives and protect archives from theft.

A review of the literature showed that most of the archival users are not well experienced with conducting archival research. This sentiment is supported by Suarez and Suarez (2007:11) who state that users are usually confused to elaborate further on what they need to the archivists. This creates a problem for the archivist who ensures that the needs of the users are met. Nevertheless, some users have an outstanding experience with the use of archives for their land claims. Existing studies also show that regardless of the users not having evidence to back up their land dispossession claims, archives were used as a source of information (Sebina 2004). A study conducted by Katuu (2015b:11) on user experience shows that users may look at individual archives to ensure that their needs are satisfied. The study continues to stress that the proper management of archives over time adds value to the outcome of the archival research. According to Johnson's (2008) study, experienced users interact with archivists for assistance, while other users find difficulty in making use of archives because of the language or script. Indeed, one would argue that all the users in the world can't be fluent in English but they are entitled to seek archives from archival institutions worldwide. As Suarez and Suarez (2007:10) show that there is an increasing number of researchers from other countries who visit the archival repository in the United States to find information from archives. This means that language must not be a barrier for users to seek information and as a result, the researchers will feel more welcome and use the archives regularly.

2.6 Recommendations on the use of archives to enhance the land restitution

Unavailability and inaccessibility of archives in land restitution is a trending issue that requires resolution. DRLR's critical understanding of land claims is based on the notions which perceive lack of documentary evidence and non-documentation as posing undue delay in properly validating a history of dispossession and restoring the land rights of the restitution claimants (DRDLR 2013). Therefore, the government

should make archives available to serve as documentary evidence to support land claims. Onyancha and Ngoepe (2011) attest to the fact that archivists should ensure that archives are made available because it is a fundamental human right. According to Thobela (2011:30) levels of illiteracy are higher as the majority of rural communities fail to produce the required documentary evidence to support their land claims. This causes restitution claimants to be denied the justice they deserve. The DRLR is not going at all odds to integrate with archival institutions despite reports that the majority of restitution claimants are still battling to get their land back. Therefore, Smart (2011) notes that access to archives should be exercised without being limited to administrative barriers, geography, or the ability to pay.

2.6.1 Overcoming systematic barriers to access archives

A study conducted by Netshakhuma (2019a:218) reveals that “the regulatory framework dealing with the management of archives are outdated.” Okello-Obura (2011) argues that the use of archives in archival institutions depends on an effective legislative framework. Most developing countries have legislation that is not operational (Okello-Obura 2011). As a result, the study conducted by Okello-Obura (2011) emphasises the need for archival institutions to have functional legal and policy provisions. In South Africa, Tanzania and Botswana, the availability of legislation and policies guide the outreach and public programming to promote the use of archives. In essence, an effective legal framework and policy will pave a way for project officers and archivists to source evidence for land claims on behalf of the restitution claimants.

There is a lack of digitisation legislation in Africa and poor preservation archives without coordination and capacity building to perform digitisation functions (Baptista & Ferreira 2007). For the use of archives to be possible, a study conducted by Netshakhuma (2019b) recommends that a policy statement, capacity building, cooperation, archival building and Electronic Records Management System (ERMS) in the archival legislation should incorporate a policy. This will ensure that there is an effective approach for the source of evidence for land claims in South Africa. A study conducted by Ceeney (2008) shows that the establishment of a legal framework and policies in archival institutions protect rights, create a community memory, record keeping and access to archives. Hence, Netshakhuma (2019a:221) recommends that the archival institutions should consider embarking on oral history as an effort to close

the gap of unheard or undocumented stories for the citizens, especially the disadvantaged Africans.

The literature also indicates that office hours, provision of services to the physically challenged, discriminatory programmes, language and technology create systematic barriers to accessing information in archival institutions. Systematic barriers can prevent users of archival institutions from exercising their right to access information held by archival institutions. As a result, Jo Pugh (1992:6) indicates that the operating hours of archival institutions should be sufficient, there should be enough space in the reading room to accommodate physically challenged people and make sure that archives are protected from theft and vandalism.

The first principle of the ICA clearly articulates that the public has the right to access to archives of public bodies and that both public and private should open their archives to the greatest extent possible. In that respect, the extension of operating hours is significant for archival institutions to achieve the goal of maximum use of archives. In South Africa, the NARSSA is open on weekdays (Monday to Friday) and closed on Sundays. As a result, people who work from Monday to Friday will have the challenge to access the archives (Murambi & Ngulube 2011). Saurombe (2020:29) is of the view that archival institutions should consider having smooth operating hours to better market their services. In response to users' needs, Botswana National Archives and Records Services expanded its opening hours to Saturdays from 9:00 am to 12:00 pm. Kemoni, Wamkoya and Kiplang'at (2003) support that archival institutions should also have sufficient reading room for users to increase the level of access to archives. In that respect, the NARSSA in Pretoria Building can accommodate 25 researchers at a time (Ngulube 2003).

There is plenty of archives available in the archival institutions for the public. However, it should be noted that physically challenged individuals may encounter inaccessibility of archives which may violate their fundamental right to information. A study conducted by Chaterera and Rodrigues (2019:91) indicates that most of the disabled people experience inaccessibility of archives at the NAZ as they are not catered for. Another study conducted by Murambiwa and Ngulube (2011) further reveals that most archives are inaccessible to blind people and people using wheelchairs have difficulties accessing the reference room tables because they do not cater for a wheelchair. The

study proposes that archival institutions should put measures in place to address the special needs of physically challenged people. Serene (2008) shares the same sentiments when advising archival institutions to be in preparation to meet and deal with various disabilities which include the restricted ability to walk, see, hear, speak, or physical coordination

In other words, the archival institution should strive for equal access to people with disabilities. This can be done in terms of the ICA's fifth principle which states that archives should be made available on equal and fair terms. Moreover, Serene (2008) proposes the following aspects with regards to physically challenged people accessing archival institutions:

- wheelchair in parking facilities, public assembly and the restroom;
- safety for people with vision impairments;
 - i. access routes that are free of debris, protrusions and other obstructions.
 - ii. floor to ceiling clearance of at least 80 inches.
- properly constructed and displayed signage whose numbers and letters should be less than 3 inches high;
- an alarm system that provides visual and audio warnings; and
- countertops and aisles that accommodate or that can be adjusted to accommodate wheelchairs.

One could argue that people with disabilities still struggle to access archives in society. It seems obvious that most archival institutions do not treat disabled people like any other individual. According to Murambiwa and Ngulube (2011), archival institutions should cater to physically challenged people to have access to archives. The study by Mtshali (2016:52) supports that disabled people need to access and use archives like any other person. As a result, archival institutions should be user-friendly for them. Chaterera and Rodrigues (2019:91) propose that the archival building should cater for wheelchairs in parking areas, emergency assembly points, restrooms and also that the reading room should have enough space to accommodate wheelchairs.

In South Africa, the language barrier is one of the contributing factors to the minimal use of archives because most of the archival institutions use English and Afrikaans as a means of effective communication (Ngoepe & Ngulube 2011:12). It is well known

that the restitution claimants, the majority of whom are from rural areas who are facing the challenge of unprocessed land claims because of a lack of archives to validate or support the claim. Ngulube (2003:179) claims that Africans who are not proficient in both Afrikaans and English could not access the archives stored in archival instructions. Nengomasha and Nyanga (2015:97) reveal that “much of our archival materials are in languages that are not understood by users.” The study shows that academic researchers did not encounter challenges when they used archives from the German colonial period as opposed to other users. Similarly, in South Africa Afrikaans was the most dominant language during the apartheid regime, thus the number of users who are fluent in that language is decreasing.

Nengomasha and Nyanga (2015:97) propose that a study should be conducted regarding languages of archives, how this impacts the researchers; as well as strategies to address the matter. Ngulube (2003:182) further advises that archives should be compiled in at least three languages to ensure that illiterate people are accommodated in accessing information. This study concurs with Nengomasha and Nyanga (2015) and Ngulube (2003) when emphasising the need to look into the issue of languages in archival institutions or an archive itself. This implies that archival institutions have been having an assumption that the dominant language used is not creating a barrier for some of the users in accessing archives. The assumption should become a reality by adding another traditional language that is used in the area.

Archival institutions have a critical obligation to safeguard archives from theft and vandalism. Failure to meet this obligation puts archival institutions in a position of hindering archives from being used as evidence of the injustices of the past on land dispossessions. Ngulube (2003:115) indicates that “one area of security of archives materials that are often overlooked is employee theft. Employee theft can lead to considerable loss of archival documents.” The study advises archival institutions to vet all their employees which includes checking criminal records by the police or the archival institution through fingerprint scanning. Equally, the qualifications and employment of the employee should be verified with the relevant officials to alleviate the theft of archives. In that respect, this study highlights the need for archival institutions to door locks, intrusions alarms and an archivist to guard the researchers when using archives; and leave their bags at the locker, windows closed at all times and one entrance or exit to monitor unauthorized access to the archival building. A

camera should be in place to monitor archivists who access the strong rooms at all times but there should be limited access to who can go to those areas.

2.6.2 The needs of the users

Saurombe (2015:312) indicates that most of the archival institutions ignore investigating the needs of existing users and this could be a path to improve archival services, or it could be an effective way of attracting more potential users such as project officers and restitution claimants to use the archives. This assertion implies that making archives available requires archivists to be familiar with who their users are and to ensure that their needs are met. Scholars such as Mukwevho and Ngoepe (2018), Saurombe (2015), Venson, Ngoepe and Ngulube (2014) and Ngoepe and Ngulube (2011) reveal that several archival institutions in South Africa have failed to take archives to the people through public programming initiatives.

Therefore, archival institutions struggle to overcome the impediment of reaching the users to ensure that the public is aware of the archival services. A study conducted by Saurombe (2016) echoes the above assertion that there is a poor outreach programme in South Africa and as a consequence, the public is not familiar with the NARSSA which preserves essential archives for the country. According to Harris (2000a:27), archival institutions are not coming up with sufficient measures to respond to their users' needs through the provision of access to their archives. Archival institutions' negligence to take archives to the people would result in the majority of the public not having direct use of the archives in the archival holdings (Harris 2007).

Typically, a small number of users will go to the archival institutions because they are aware that archives are available for use by the public. Restitution claimants could benefit from using archives, but they are not aware that the information they seek to validate land claims is stored in the archival holdings (Jo Pugh 1992). This is quite disturbing because the NARSSA should be at the forefront to ensure that South Africans are assisted in satisfying their information needs. The NARSSA is unable to ensure that the public connects with archival institutions, as a consequence, the purpose of storing archives becomes overpowered (Wilson 2005:539).

Kilasi, Maseko and Abankwah (2011) reveal that archivists are not kept from exploiting information technology to meet the user's needs. Kamatola (2011) advises that to

witness a vast increase in the use of archives, archival institutions should conduct public programming regularly. Essentially, the initiatives of public programming by archival services are there to create awareness about the use of archives by the public. Archival institutions have a mandate to educate the public about their mission and why it is important to use archives (Hackman 2011:16). This sentiment is further supported by Blais and Enns (1990) when stating that public programming can be another method for archivists to educate users about the services offered by archival institutions. Furthermore, Kamatula, Mnkeni-Saurombe and Mosweu (2013) and Liew, King and Oliver (2015) cover the strategies of public programming including advocacy, exhibitions, tours, seminars, workshops, newsletters, outreach and the use of social media platforms.

Mhlanga (2015:48) outlines that archival institutions must get respect and recognition by undertaking public programming and also partake in capturing the oral histories of the citizens. In essence, the underutilization of archives by restitution claimants in South African could be alleviated by promoting their use through public programming to redress the inequalities and imbalances of the past. As the majority of the citizens will get the opportunity to use valuable information preserved in archival institutions through public programming initiatives (Saurombe 2015; Sulej 2014; Ngoepe & Ngulube 2011; Kamatula 2011).

Weir (2004) cautions that archival institutions should not turn a blind eye to public programming initiatives. Weir (2004) continues to recommend that for programmes to be properly accomplished, there should be proper planning, implementation and evaluation. A study conducted by Ngulube and Tafor (2006), in agreement with Weir's (2004) view, points out that archival institutions have simply overlooked the issue of investigating the needs of South African society as an effective strategy to contribute towards achieving public programming initiatives. However, Saurombe (2020) stresses that some archival institutions in the Eastern and Southern Africa Regional Branch of the International Archives (ESARBICA) region planned for public programming leaving aside the information needs of the users.

Archives are beneficial to the restitution claimants as they are involved in the process of lodging their land which was dispossessed in the past and involving them in the public programming initiatives implies that they will recognise and have an advantage

from the archival evidence and their land will be restored and have a sense of identity (Van der Walt 2011). Archives can help restitution claimants improve their knowledge of the history of their community as well as their knowledge of their culture. Therefore, restitution claimants should be encouraged to use archives. According to Ngulube, Ngoepe, Chaterera and Saurombe (2017), further states that majority of the South African citizens who want to review documents for lodging land claims, investigating chieftainship, or obtaining evidence of identification benefit the use of archival holdings because they are unaware that archival institutions have archival evidence they need. It is important to note that archives will not be used if they do not reflect the diversity of the country.

2.6.3 Role of user studies in public programming initiatives

According to Mukwevho (2018), through educational programmes, people are educated and given new skills or information to employ in their profession or careers. These projects can promote public awareness about the use of archives, which are underutilized since many people do not understand how to use them. The creation of archival studies has the potential to both teach and educate students about archive management practices. Katuu (2015b) views user education and public programming as inseparable. The inseparable can be seen through their impact in increasing public awareness of the archival institutions. User education and public programming are necessary to increase the number of users relying on their information needs. A sound understanding of users' information needs is fundamental in promoting access to archives. Saurombe (2020) states that evaluation of reading room statistics and reviewing information requests and interviews were the methods employed by the national archives in ESARBICA to determine the information needs. Saurombe (2020) further mentions that archival institutions should allow users to evaluate the archival services they receive and eventually participate in the development of programs that are essential in maintaining potential users. Glefand (2013) adds that archivists should display archives with the specific target audience in mind, without dictating who will visit the exhibition. Archival institutions normally hand out brochures and leaflets to disseminate information about the archival services and activities offered (Cook 1990).

On the other hand, Kemoni (2002) notes that user education can be incorporated into archival services because it focuses on increasing public understanding, appreciation and use of archives. Katuu (2015b:448) is of the view that the public will have a better understanding and awareness of a variety of services offered by archival institutions through education programmes. The aim is to ensure that the public is well informed about policies and regulations regarding access to archives and the importance of preserving archives for the public to use. Another trend that is a challenge is that archival institutions do not have enough space, resources and instructors to teach the public on the use of archives.

Katte (2002) advises that online education courses can be adapted to allow the public to properly plan for the time they wish to study and that they can also study at their convenience. In most instances, the courses are aimed at educating the public about the historical evidence that they may have in their homes. This initiative ensures that historical evidence is well understood, recognised and appreciated. Therefore, the approach to eradicating time and space can be overcome as such interventions ensure that the archival institutions remain relevant and become visible to the public through the use of technology. Among the importance of educating the public, archivists are supposed to be well trained and qualified to promote access to archives (Saurombe 2020). Saurombe (2020) further advises that there should be an appropriate evaluation of the training and qualifications offered by the archival institutions to enhance the skills of trainees and graduates in facilitating public programming initiatives. Without trained and qualified archivists, the success of making the public aware of the archival services and promoting the use of archives cannot be guaranteed. This is because Duchein (1983) as cited in Ngulube (2003) confirms that the absence of qualified staff in developing countries created a barrier for the public to have access to archives.

2.6.4 Reaching out to users through information technologies

The need for information using technology has become widely common to a lot of people. Providing access to information in an easy and timely manner is most important especially for archival institutions. Eke, Omekwu and Odoh (2014:3) state that technology in terms of the internet paved a way for the public to communicate and access information globally. Duranti and MacNeil (1996:46) stipulate that “computer

technology makes the production, transmission, manipulation, organization, maintenance and consultation of records easier, faster and cheaper, it also represents a threat to their integrity, accessibility and preservation.” On the other hand, Kemoni, Wamkoya and Kiplang’at (2003) outline some of the factors that create barriers to the use of archival information, namely:

- non-utilisation of information technology in the management and provision of archival information;
- difficulties in the identification of appropriate hardware and software;
- inadequate numbers of archivists trained in the use of computer technology;
- difficulties in the identification of software systems that are user friendly;
- costs associated with the purchase of hardware and software; and
- protection of data from unauthorised access and destruction by viruses.

Thus, the use of Information and Communication Technologies (ICT) by archival institutions can make it possible to promote access and increased use of the archival collection. As Lu, Zhao and Wang (2010) as cited in Hajli (2014:1) show that the developments on the internet brought about new systems in business to reach customers. For instance, nowadays online communities can create and share information or participate on social media.

Samouelian (2009:47) emphasises that, unlike archival institutions, libraries are embracing the potential of Web 2.0 due to their main purpose of reaching their patrons. This is to suggest that libraries ensure that information is readily available online through an active presence on Twitter, Facebook and YouTube. In contrast, Samouelian (2009:43) continues to clarify that currently, archivists have embarked on projects to convert physical collections to digital formats and display them on their websites. In essence, archivists are responding to the call for making information accessible to researchers and users regardless of where it may be. Creating surrogate archives seems to be a creative initiative or measure to make archives available to the public without damaging them. Which is good practice in preventing, stopping, or preventing archives from deteriorating. This will assist in helping future generations to still access information in a good condition.

Hence, Mukwevho and Ngoepe (2018) conclude that archival institutions should adopt various ICTs such as social media as a means of remaining relevant and recruiting more users for their archival holdings. This implies that social media is integral to marketing archival services and assists archival institutions to get closer to the public. According to Liew, Wellington, Oliever and Perkins (2015:379), archival institutions have embraced social media as a tool to engage new online communities of users and promote archives stored in their archival holdings. Facebook, Twitter and YouTube have the highest number of users in South Africa (Mukwevho & Ngoepe 2018). With the help of social media, archival institutions can publicise videos of their workshops, conferences and outreach programmes on Facebook and Youtube or share information regarding the current trends in the field of archives management. Kamatula, Mnkeni-Saurombe and Mosweu (2013) suggest that archival institutions both in South Africa and Sub-Saharan Africa could use new technology to attract a wider audience, especially young people about the documentary heritage stored in the archival holdings.

A study conducted by Ngoepe and Ngulube (2011) indicates that national archives do not use social media to market the archives. Similarly, Kamatula, Mnkeni-Saurombe and Mosweu (2013) also share the same sentiment that NAT, South Africa and Botswana are not using Web 2.0 tools to promote documentary heritage in their holdings. While the majority of South Africans access social networks through technological devices such as computers, laptops, Ipads and smartphones, the NARSSA is not taking advantage of a social media strategy to promote the use of archives (Kamatula, Mnkeni-Saurombe and Mosweu 2013). It is evident that most people rely on social media platforms to seek information and as a result, archivists should start responding to the user's needs. KoKotler and Lee (2007) caution archivists to make sure the archival services are satisfactory to the users and conduct service evaluation to make a judgment on how well the services offered are effective and consider improving ineffective services.

It would be wise for archival institutions to use social media for marketing, increase engagement and improve communication with the public (Liew, Oliever & Watkins 2018). One can argue that social media can be used for other strategies such as obtaining feedback from users and ensuring there is regular engagement on the

services offered by the archival institutions. Also, to grow the social media use in archival institutions in South Africa, archivists should be properly trained and educated about taking advantage of social media tools to help the public access information online.

2.7 Summary

In this chapter, literature was reviewed following the objectives of the study, which comprised of legal framework and policy for the source of evidence in land claims, the use of archives to support land restitution, availability and accessibility of archives users experience on archives and recommendations on the use of archives to enhance land restitution. It was revealed that more studies are focusing on the use of archives in archival institutions. However, there are gaps in the literature regarding the use of archives to support land claims. The review established that there is no published study on archives as a tool to support land restitution in South Africa. For this reason, the researcher found it necessary to conduct this study to give a new outlook on the issue and reorient the world's thinking on the use of archives in land restitution.

The following chapter describes the research methodology, research paradigms, research approach, research design, population and sampling, and data collection instruments used to answer the research question in this study.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

The previous chapter reviewed the literature on the use of archives as a tool to support land restitution in South Africa. The objectives of the study, as determined by the conceptual framework, guided the selection of literature. Welman, Kruger, and Mitchell (2005:2) define methodology as the use of various methods, techniques, and principles to generate scientific knowledge through methods and procedures within a particular discipline. The research methodology aids in the solution of research problems by considering the logic behind the use of research methods in a study (Bhattacharyya 2006:17).

The research methodology used in this study is discussed in this chapter because it aids in the investigation of the study's challenges and core problems. According to Kumar (2005:16), research methodology is an approach to finding answers to research questions; some see it as a scientific way of learning how research is conducted (Khothari 2004). According to Mouton (2001:56), research methodology focuses on the research process and procedures, as well as data collection or study sampling.

This chapter covers research paradigms (ontology and epistemology), the approach used in the study, the research design, population and sampling, data collection tools, data quality, and data analysis and presentation, as shown in Figure 3.1. The ethical considerations and evaluation of the research methodology, as well as the validity and reliability of the research instruments, will be thoroughly discussed. According to Sarantokos (2013), the choice of methodology is guided by the underlying theoretical paradigm, research purpose, and questions. It is critical for the researcher to use research questions in order to comprehend reality.

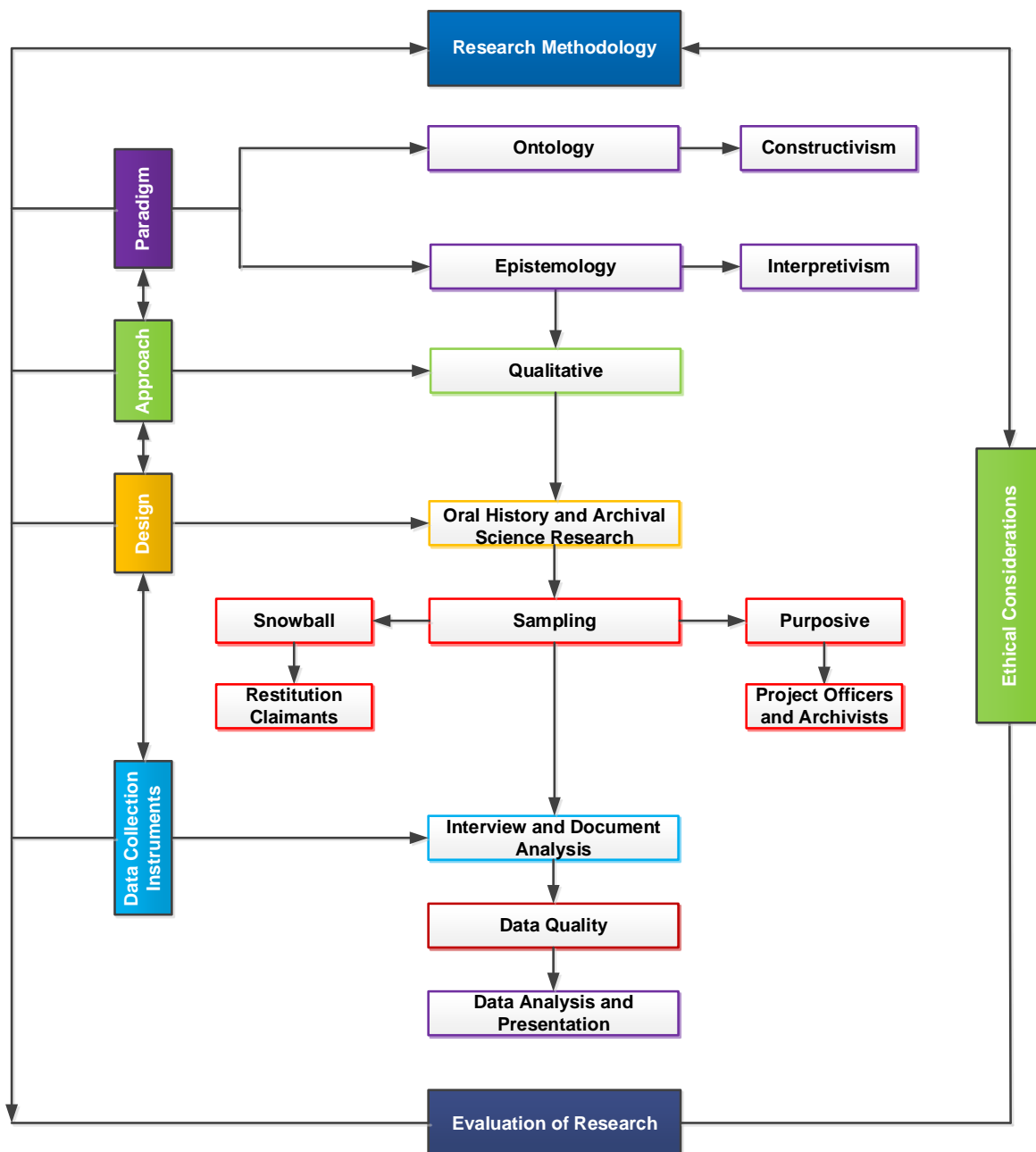


Figure 3.1: Research methodology road map for the current study (Researcher 2021)

3.2 Research paradigm

A paradigm is a broad organisational framework for social theory and empirical research (Neuman 2003:541). A paradigm clearly defines the parameters within which research is conducted:

- the kinds of questions asked;
- what can be observed or investigated;
- how data is collected; and

- how to interpret findings (Neuman 2003:541).

The research paradigm, according to Willis, Jost, and Nilakanta (2007), is a frame of reference that addresses the nature of observation and understanding. Similarly, Sarantakos (2013:30) defines a paradigm as a collection of propositions that explain how humans perceive their surroundings. According to Babbie and Mouton (2006:48), paradigms can be linked to various methodological approaches. According to Guba and Lincoln (1994), as cited in Killam (2013:9), research paradigms can be seen through their ontology (nature of reality), epistemology (nature of knowledge), and methodology (approaches and methods) due to their interrelationship, and by structuring one question, the other questions become shaped.

Ontology is a crucial research paradigm concerned with what the researcher perceives of the world and “the nature and existence of social reality” (Ngulube 2015:127). According to Crotty (2003:10), ontology refers to “the study of being” that is concerned with “what kind of world we are investigating, with the nature of existence, with the structure of reality as such.” Ontology explores the nature of social reality, what kinds of things can be said to exist, and in what ways, and ethics deal with what we ought to do (Miller & Brewer 2003:94). Having provided the definitions of ontology, it is crucial to identify the ontology of this study. This study adopted an ontology that is based on the social world of meanings. In this world, researchers make assumptions about the world they investigate in line with people who create their own beliefs, interpretations and beliefs. The current study investigated a common group of people who happen to have been dispossessed of their land during the apartheid government to interpret the restitution claimants’ opinions, feelings and inner thoughts about land claims.

According to Bhattacharya (2017) epistemology refers to what people know and understand about the world and the processes involved in determining the knowledge. Epistemology in qualitative research deals with the connection between the researcher and the phenomenon under study based on the meanings created by people based on their experiences and knowledge acquired (Killam 2013:8). The methodology is central to a paradigm because it is a way in which a researcher resolves a research problem through the gathering of knowledge about a social phenomenon being studied and obtaining answers (Ngulube 2015). A methodology

equips the researcher with a strategy and process necessary for choosing particular methods to achieve the desired results. The stance of the current study was to acquire knowledge from project officers and archivists by understanding how archives could support land claims towards addressing the injustices of the past to restitution claimants whose rights were affected.

Positivism, interpretivism and pragmatism are the three common paradigms (Babbie 2011; Creswell 2009; Newman 2014). The positivist paradigm supports quantitative methods that accept only accurate answers to the universe through observable and measurable facts (Glensne & Peshkin 1992). Babbie and Mouton (2006) also maintain that the positivist paradigm is often linked with the quantitative approach. On the contrary, scholars give the impression that the interpretivist paradigm uses qualitative methods (Ngulube 2015; Willis, Jost and Nilakanta 2007). Willis, Jost and Nilakanta (2007) maintain that interpretivists tend to put their full support on case studies and ethnography because they are categorised under a qualitative approach. Willis, Jost and Nilakanta (2007) agree with Thomas (2003) when asserting that most of the interpretivists are backing qualitative methods because the interpretivism paradigm “portrays a world in which reality is usually constructed, complex and ever-changing.” Interpretivist researchers are mainly concerned with discovering the perceptions of the participants, their background and experiences concerning the research problem (Yanow & Schwartz-shea 2011). As a result, the interpretative paradigm is appropriate for this study because the researcher sought to construct and interpret information from CRLR and NARSSA staff, restitution claimants, as well as documents in order to gain a thorough understanding of archives as a tool to support land restitution in South Africa.

According to Creswell (2009:10), pragmatism is “the philosophical underpinnings of mixed-method research.” Morgan (2014) goes further to clarify that pragmatism provides a philosophical underpinning for social science research, particularly Mixed Methods Research (MMR). In this respect, the main emphasis of pragmatism is the research problem and finding an adequate solution to address the problem at hand. Hence, the two paradigms are combined to overcome the limitations of either qualitative or quantitative. For instance, a study conducted by Mitchell (2018) used both quantitative and qualitative research which led to a better understanding of the

research problem and outstanding explanation of data. Pragmatist researchers have the privilege to utilise the best approaches to gain knowledge on the research question under study (Kivunja & Kuyini 2017). But Bryman (2006) notes an issue with the pragmatism paradigm, the main focus of pragmatism is only based on research methods to address research questions and not on the researcher's obligation to use a paradigm on which the study is based.

As such, Saunders, Lewis and Thornhill (2003:83) identify positivism, interpretivism as the most dominant in the research literature. Babbie and Mouton (2006:49) argue that an interpretivist approach is usually employed in social science studies. For this study, the researcher will employ the interpretivism paradigm. Thomas (2010) posits that the interpretive paradigm is concerned with the world's understanding as it is from the subjective experiences of the individuals. He further alludes that the interpretive paradigm is generated, altered, modified, and developed regularly through human interaction.

Saunders, Lewis and Thornhill (2003:84) add that interpretivists intend to discover the reality behind every little detail of a situation to understand the interpretation of people about the world. Whereas the positivist paradigm is concerned with personal experiences that make an impact on their understanding and knowledge about the world around us (Creswell 2014). As indicated, the current study is guided by the interpretivist worldview because the study seeks to explore archives as a tool to support land restitution based on the lived experiences of the project officers and restitution claimants who used archives at archival institutions in South Africa.

3.3 Research approach

According to Tashakkori and Teddlie (2003), research in the social and behavioural sciences has been dominated by two main traditions of research which are quantitative and qualitative research. Kothari (2004) supports this by saying that there are two basic approaches to research: the quantitative approach and the qualitative approach. Thus, to select a suitable approach for a study, Creswell (2014:5) clarifies that there are three major approaches, namely: qualitative, quantitative and mixed methods.

Qualitative research provides the researcher with an in-depth understanding of actions and events (Babbie & Mouton 2001:269). This entails the study of perception and knowledge which can be suitable within their natural setting. The goal of the qualitative approach is to determine whether the thoughts and assumptions of a particular theory are valid (Walliman 2011:3; Silverman 2010:8). In essence, qualitative research is used to have a better understanding of the research problem by way of gathering reasons, opinions and motivations. Furthermore, Tashakkori and Teddie (2009:219) point out that “qualitative research is carried out in a natural setting and involves a process of building a complex and unified understanding of the subject matter under investigation.” Qualitative research is concerned with the behaviour of human beings based on the quality or kind; investigating why people think or do a certain thing (Kothari 2004). Qualitative researchers are tasked with documenting real events through recording what people say, observing human behaviours, examining written documents and studying visual images (Neuman 2011:175). Kothari (2004) adds that it is significant for a researcher to apply qualitative research in behavioural science to uncover the underlying motives of human behaviour.

Creswell (2014:185) describes the characteristics of a qualitative study:

- natural setting: Qualitative researchers tend to collect data in the field at the site where participants experience the issue or problem under study;
- researcher as a key instrument: Qualitative researchers collect data themselves through examining documents, observing behaviour, or interviewing participants;
- multiple sources of data: Qualitative researchers typically gather multiple forms of data, such as interviews, observations, documents and audio-visual information than relying on a single data source;
- inductive and deductive data analysis. Qualitative researchers build their patterns, categories and themes from the bottom-up by organising the data into increasingly more abstract units of information;
- participants’ meanings: In the entire qualitative research process, the researcher keeps a focus on learning the meaning that the participants hold

about the problem or issue, not the meaning that the researcher brings to the research;

- emergent design: The initial plan for research cannot be tightly prescribed and some of the phases of the process may change or shift after the researcher enters the field and begins to collect data;
- reflexivity: In qualitative research, the enquirer reflects about how their role in the study and their personal background, culture and experiences hold potential for shaping their interpretations, such as the themes they advance and the meaning they ascribe to the data; and
- holistic account: Quantitative researchers try to develop a complex picture of the problem or issue under study.

Quantitative research focuses more on amounts, or quantities, or more variables of interest (Leedy & Ormrod 2009:94). He continues to maintain that quantitative research involves the generalisation and prediction of the findings based on formal instruments used such as a questionnaire (Leedy and Ormrod 2001:101). Kothari (2004) emphasises qualitative research is based on measuring the quantity or amount. The results of the data collected can be well presented through statistical information. However, Thanh and Thanh (2015:26) argue that it is unlikely for quantitative research to achieve significant results because it produces numerical data and measures instead of textual data.

Tashakkori and Teddlie (2010) are of the view that the quantitative research approach can be used in conjunction with the qualitative research approach depending on the nature of the research problem. Tashakkori and Teddlie (2010) go further to explain that MMR is a third methodological movement. Similarly, Neuman (2011) refers to MMR as a critical social science because it puts more emphasis on combating surface-level distortion, multiple levels of reality and value-based activism for human empowerment. Therefore, the combination of methods can ensure that the researcher achieves the best result while unique deficiencies are being overpowered (Hussein 2009). In essence, MMR consists of the characteristics of both qualitative and quantitative research approaches.

Also, MMR is a research approach that involves collecting, analysing and integrating quantitative and qualitative data concurrently in a study. The review of the literature advises that positivist and interpretivist paradigms have weaknesses and strengths which can be alleviated through the use of MMR. With that said, Creswell (1994:7) cautions that qualitative and qualitative methods cannot be applied in a single study because the process is not only time-consuming but inherently expensive and lengthy. However, the application of using qualitative and quantitative regardless of the most dominant research methodology helps improve the validity of the findings.

The current study employed a qualitative approach, to generate new ideas and concepts and obtain in-depth knowledge and experience of the use of archives to support the land claims by the project officers, restitution claimants and archivists. Anderson (2010) argues that the use of multiple sources of data by a researcher amounts to a large amount of data which takes a lot of time to analyse and interpret. Babbie and Mouton (2011:270) add that the ultimate intention of adopting a qualitative approach in a study is to describe and understand instead of explaining human behaviour. In line with the choice of qualitative approach, Patton and Cochran (2002) claim that the qualitative approach is mainly concerned with answering questions about the 'what', 'how' or 'why' of a phenomenon as opposed to quantitative methods which answer 'how many' or 'how much'. Creswell (2014) further states that the qualitative approach explores a phenomenon that occurs in a natural setting to make sense of and interpret a phenomenon in line with the perception and understanding of the people.

Berg (2001) notes that individuals have a misconception that scientific research involves numerical data and shows accuracy. But the current study did not opt for a quantitative approach because the in-depth understanding of use, access and availability of archives for land restitution purposes may not generate statistics that will generalise the entire population nor verify whether the hypothesis is true. As Tashakkori and Teddlie (2009:219) allude to the fact that employing a qualitative approach in a study implies that the researcher view quality as essential to understand the nature of things and can identify issues under investigation from the participant's views, interpretations and meanings. This study explores the project officers, restitution claimants and archivists in their natural setting, to gain their understanding and knowledge of the use of archives to support their land claims.

3.4 Research design

Research design is defined as a blueprint for conducting a study with maximum control over factors that may interfere with the validity of the finding (Burns & Grove 2003:195). Bhattacharjee (2012:35) adds that research design is a blueprint for empirical research aimed at answering specific research questions. According to Rosenstein (2019), "research design refers to how research is conducted, including concerning the recruitment and assignment of participants, administration of experimental procedures (if any) and data collection, analysis and interpretation." It is significant for a study to use appropriate research methods to ensure that the goals and objectives are archived. Ngulube (2015) states that in qualitative research; there are several designs:

- case study;
- ethnography;
- grounded theory;
- phenomenological; and
- narrative.

Also, oral history is relatively a research design that can be used in archival science. It is mainly used for the transformation of archival holdings. Edmundson and Macmanus (2007) highlight that depending on the aim of the study, the choice of the research design functions distinctively in different investigations.

This study used oral history and archival science design to explore the use of archives to support land restitution in South Africa. Oral history is used in human, social and health science research and recent in social research to construct the experience of the unheard voices of the people to shed light on realities that are difficult to capture. Portelli (1981) as cited in Roberts (2002) refers to oral history as an approach that is not only interested in facts but in the perception of the participants of what they view to be true. Padilha, Bellaguarda, Nelson, Maia and Costa (2017:4) define oral history as "a method to investigate and constitute sources for the study of contemporary history that emerged in the mid-20th century, after the invention of the tape recorder. It consists of holding recorded interviews with individuals who participated in or witnessed past and present events and circumstances."

Using oral history as a research design can help the researcher to view events from the perspective of the participant and capture the participants' transformational experiences and viewpoints in their daily lives (Thompson 2000; Roberts 2002). Batty (2009:113) argues that the use of oral history can reveal more unexpected evidence and introduce new issues during the study. In this study, the accounts of events that occurred in restitution claimants' life to understand how archives were used to supplement their claims in South Africa through oral testimonies. Nevertheless, oral history also involves oral tradition, which remains essential in collecting evidence emanating from stories or narratives transmitted verbally from one generation to another (Ngoepe 2020). Examples of oral tradition include songs, speech, folktales, epics, chants and so on.

3.5 Population and sampling

Welman, Kruger and Mitchell (2005) define a population as a full set of cases from which the researchers draw a sample and generalise the results of the study from the potential participants. A study population is the aggregation of elements from which the sample is selected (Babbie 2007:211). Ngulube (2005) emphasises that the study population encompasses objects, groups and organisations and human products exposed to certain conditions. Moreover, Rahi (2017:3) refers to a population as all people that the researcher intends to study and comprehend thoroughly. The study targeted restitution claimants who were selected using snowball sampling whereas project officers from the CRLR, as well as archivists from the NARSSA, were purposively chosen as they have knowledge and experience in the process of using archives to support land claims in South Africa.

Sampling consists of selecting some part of a population so that one may estimate something about the whole population (Thompson 2012:1). The sampling method is the process of selecting people from a population of interest so that by studying the sample, the researcher may fairly estimate or predict the prevalence of information regarding the population (Kumar 2014). There are two major methods of sampling, namely: probability and non-probability methods.

3.5.1 Probability sampling

Bobbie (2007) states that probability sampling is sometimes known as random sampling. According to Leedy and Ormrod (2005) probability sampling allows the researcher to decide on a sample and every element in the population is likely to either be selected to form part of the sample. Surbhi (2016) further indicates that probability sampling is a technique or procedure in which subjects of the population have the same opportunity to be selected to represent the sample to determine the accuracy of the probability. Probability sampling is based on the notion that the researcher chooses the people or events as a sample to arrive at a probability that will represent the cross-section of the people or events in the entire population being studied (Maree 2011:79).

Henry (1990:17) argues that the advantage of probability sampling is that samples can be analysed to determine whether there is a possibility of bias and error. Chaturvedi (2016:10) outlines examples of probability sampling:

- simple random sampling;
- systematic random sampling;
- stratified random sampling;
- multi-stage sampling;
- multi-phase sampling; and
- cluster sampling.

3.5.2 Non-probability sampling

Non-probability sampling is used to have a deep understanding of the social processes and meaning of a certain group of people (Babbie 2011). The current study employed non-probability sampling through selecting a sample from a population, and as a result, the researcher managed to gain more understanding from the selected participants. Mack, Woodsong, MacQueen, Guest and Namey (2005) emphasise that there are three sampling methods of non-probability sampling which are more prevalent in qualitative research: purposive sampling, quota sampling and snowball sampling.

On the other hand, Chaturvedi (2016:10) argues that the examples of non-probability sampling are:

- convenient or accidental or opportunity sampling;
- purposive or judgemental or expert opinion sampling;
- quota sampling;
- snowball sampling; and
- sequential sampling.

Although probability and non-probability sampling are the two types of sampling techniques in the social sciences, the researcher chose the non-probability method. Furthermore, the non-probability sampling method employed in this study was snowball and purposive or judgmental or expert opinion sampling. Chaturvedi (2016:12) indicates that there is not sufficient time or money for the researcher to collect information from the entire population, the goal is to focus on a representative sample. Neuman (2011) also maintains that the use of non-probability sampling procedures in qualitative research does not depend on the rules of probability theory for the researcher to worry less about the representation of the population. Ngulube and Ngulube (2017) claim that it is outstanding to focus on fewer participants when researching the lived experiences on a particular topic which is part of most qualitative methods.

Therefore, this study employed snowball and purposive sampling. In terms of snowball sampling, the researcher established contact with a restitution claimant in Limpopo province. Neuman (2006) contends that the starting point for snowball sampling is to identify participants who are then requested to provide the names of individuals who might know about the topic under study. The restitution claimant in Limpopo province referred the researcher to other restitution claimants who share similar experiences relevant to the research topic and who might be willing to participate (Bryman 2012). Snowball sampling is fundamental in this study as it consists of a small population to be studied, which is hidden and specific (Creswell 2009). The researcher established contact with the restitution claimant as a basis for the snowball.

The reason behind the use of snowball sampling in this study was exclusive because one restitution claimant has an existing network of other restitution claimants who have the experience and knowledge about land claim processes. Getting hold of one restitution claimant paved a way for the researcher to recruit more restitution claimants. This sentiment is supported by Brick (2006:136) who contends that sample size cannot be known from the onset, but that the researcher can only know the number of participants to be included in the sample when the information has reached a point of saturation. Obtaining data from participants' experiences and historical knowledge for this study because studying people's memory and connecting it with the past provides scholars with new historical information (Walker 2006). Other studies by Maluleka and Ngoepe (2018), Maluleka (2017), Sulaiman-Hill and Thompson (2011) to mention a few also employed snowball sampling to determine the population.

After interviewing restitution claimants, the researcher continued to select participants from the NARSSA and the CRLR through purposive sampling. According to Kitchie, Lewis, Nichols and Ormston (2013), purposive sampling is a technique employed by a researcher based on his or her judgment to choose participants who are capable of providing the relevant information required. The researcher also used purposive sampling because not all the people at the CRLR and the NARSSA have the expertise on archives to support land restitution processes. In this study, four project officers from the CRLR and five archivists from the NARSSA were purposively selected for interviews. The sample was chosen on the basis that the researcher was familiar with reliable professionals who would provide the detailed information required for this study. Project officers were chosen based on their expertise in the investigation and processing of land claims. Archivists were also selected because they preserve archives and make them available and accessible for use by project officers as well as restitution claimants. Data obtained from participants with diverse expertise in the field of archives and land claims added an improvement for this study because bias and untrustworthiness were prohibited. A study conducted by Magama (2017), Mojapelo (2017) and Saurombe (2016) also made use of purposive sampling.

3.6 Data collection instruments

Data collection is the process of gathering and measuring information on variables of interest, in an established systematic fashion that enables the researcher to achieve or reach the objectives of the research (Murthy 2013:25). Kumar (2005:237) adds that “the nature of information gathered by researchers largely depends on the questions that they ask information.” Thus, Ngulube, Mathipa and Gumbo (2015) maintain that questionnaires, interviews, observation and document analysis are the most commonly used data collection instruments to collect data. In most instances, the choice of the research approach by the researcher determines the instruments used in a study. Chaleunvong (2009) warns that if data were collected haphazardly, it would not be easy to answer research questions conclusively.

Therefore, data collection instruments may either yield qualitative or quantitative data. Ngulube, Mathipa and Gaumbo (2015) argue that a researcher can combine both qualitative and quantitative approaches to achieve triangulation. Thus, this study is linked to qualitative methodology and data collection instruments. It is because oral history studies insist on direct experience and knowledge of events. To achieve that outcome, this study employed interviews and document analysis such as policies and procedures, acts, annual reports and operational plans. The researcher will not observe the participants at their respective places but rather ask questions to obtain data.

3.6.1 Interviews

Oral history involves interviewing eyewitnesses (oral testimony) or those who heard from others (oral tradition). According to Punch (2014:144), interviews are the most common data collection tool in qualitative research as it allows researchers to explore people’s perceptions, meanings, define situations and assist in understanding reality. A qualitative interview is flexible, interactive and continuous where the researcher asks the participants questions and records the answers provided.

According to Bryman (2012:469), semi-structured and unstructured interviews are the two main types of interviews in qualitative research. Walsh (2001) notes that semi-structured interviews help the researcher to gain insight into the perceptions, beliefs

and experiences of the participants about a research topic or concern. Semi-structured interviews employ open-ended questions to define the area to be explored and allow the participants to provide answers in their own words and approach, thus allowing flexibility in the process.

Mack, Woodson, MacQueen, Guest and Namey (2005) contend that qualitative research allows flexibility in the interaction between the researcher and the participant to adapt and be spontaneous with some exceptions for the participants to add more information that was not covered by the researcher. The study employed semi-structured interviews to obtain answers from participants individually. The technique of interviews permits the researcher to solicit a comprehensive answer to the research question. As a result, interviews are prominent in obtaining a huge amount of data swiftly (Begum 2015). The arrangement of the interview was guided by the objectives of this study and follow-ups were asked to gather more detailed information where necessary. Mason (2002:62) maintains that qualitative interviewing or semi-structured interviewing is the interactional exchange of conversation. It comprises one-to-one interaction, larger group interviews or focus groups, face-to-face, telephonically, or over the internet (Mason 2002:62).

For this study, interviews were conducted using telephone and note-taking techniques to track key facts to return to later. Sturges and Hanrahan (2004) argue that telephone interviews are suitable for sensitive topics as this technique gives the participant a platform to disclose intimate and closely-held experiences without feeling uncomfortable. Opdenakker (2006) also maintains that like internet interviews, telephone interviews allow the participants who live at a distance with the researcher freedom to participate in the research endeavour. The telephone was considered suitable for this study because it served as an efficient way to conduct interviews and was more cost-effective. The researcher could not visit the Limpopo province due to the World Health Organisation (WHO) and South Africa's requirements on social distancing to minimise the spread of the newly discovered coronavirus disease called Coronavirus Disease of 2019 (COVID-19). However, the telephonic interview made it possible for participants with busy schedules to participate in this study. Furthermore, telephone interviews allowed the researcher to connect with the participants wherever they were. Telephone interviews worked to the advantage of the researcher as most of the participants felt more comfortable discussing the sensitive research topic.

As a primary step in the interview process, the researcher reminded the participants about the purpose and the objectives of this study, research procedures and their right to withdraw participation from the study at any time and that the information they share will remain confidential. The interviews were conducted in English. Data was then transcribed from the telephone to the document by the researcher.

3.6.2 Document analysis

Merriam (2005:17) refers to documents as a wide range of written, visual and physical material related to the research study. According to McMillan and Schumacher (2001:42), documents are records of historical events that are written or printed and include anecdotal notes, diaries, letters, maps, journals, receipts, tax records, newspapers and official minutes. Krippendorff (2004) argues that document analysis is one of the major research techniques in the social sciences. According to Bryman (2012:543), the various sources upon which document analysis is conducted are documents such as policy documents, research articles, newspaper articles. In this study, policy, pieces of legislation, strategic plans, annual plans, newspapers and other documents (title deed, identity document, maps) belonging to the restitution claimants were analysed.

Given the main objective of the study, the researcher was entitled to explore how project officers, restitution claimants and archivists used archives for land claims. Therefore, the researcher interpreted and analysed the information obtained from the documents to provide a picture of the historical events. Schram (2003) points out that document analysis gives researchers adequate time and care is provided to compile them resulting in thoughtful data. The documents were quite useful in the provision of a perspective on the policy and procedures followed to process the land claims; together with the requirements of records used to validate the land claims. According to Finn and Jacobson (2008), the method can take along problems that were distinguished through some of the data collection instruments. On the other hand, there is a likelihood of documents containing incomplete and inaccurate information (Yin 2009). One may argue that such a document may lead to biasness because of the selective survival of information.

3.7 Data quality

The trustworthiness and authenticity of data in qualitative research can be used to assess its quality. According to Bryman (2012:389), the most common characteristics in establishing and assessing the quality of qualitative research are reliability and validity.

3.7.1 Trustworthiness

In qualitative research, trustworthiness is comprised of the credibility, transferability, confirmability, and dependability of the research findings to aid in determining the validity of the findings (Anney 2014). The data collection instruments used in this study ensured the validity of the data. According to Bryman (2012:399), trustworthiness is comprised of four criteria, each of which has an equivalent in qualitative research:

- credibility – parallels internal validity and it is about ensuring that the research is carried out correctly and the results are confirmed by the population to show that the investigator understood their social world. The researcher engaged with the participants to check if the information captured was correct;
- transferability – parallels external validity and it is about producing detailed accounts of the social world rather than focusing on coverage;
- dependability – parallels reliability and is about keeping a record of all phases of the research to establish how well the proper procedure is being and been followed; and
- confirmability – parallels objectivity which is about ensuring that the researcher objective is enough and has not allowed personal feelings, values and perceptions to sway the conduct of the research and the findings thereof. The answers of the participants were recorded as they are as a confirmation that the researcher listened to the recording of what was said.

The current study ensured credibility by collecting data from credible restitution claimants who had made claims for many years. In addition, the researcher used a telephone recorder to record the conversation, and all of the recordings were properly

saved alongside the notes taken. According to Billups (2014), credibility ensures that the findings are believable, truthful, and accurately record a holistic representation of the exploration under study. To ensure credibility, the researcher did not rely solely on taking notes, but also used the recording to fill in the gaps. The study provided the researcher with a platform to network with project officers, restitution claimants, and archivists in order to have a continuous discussion about the research problem under study. The use of multiple data collection instruments yields more detailed information about the phenomenon, allowing the findings to be substantiated and a comprehensive picture of the phenomenon to be produced (Billups 2014:2). The researcher used document analysis to confirm the data collected through interviews.

3.7.2 Authenticity

Bryman (2012:393) indicates that authenticity in qualitative entails:

- fairness – the researcher should fairly represent different viewpoints of the population;
- ontological authenticity – the researcher should help the population to understand their social world;
- educational authenticity – the research should teach other members to appreciate the perspectives of other members in their social world;
- catalytic authenticity – the research should have an influence on members to the possibility of changing their circumstances; and
- tactical authenticity – the research should empower members to take action in their social world.

As a result, the researcher focused on the notion of authenticity by making a phone call to project officers, restitution claimants and archivists to update them on the information that was captured and allow them to make further comments. In essence, there were continuous discussions that gave the researcher leverage to interpret what the project officers, restitution claimants and archivists answered regarding their experiences and historical knowledge.

3.8 Data analysis and presentation

The purpose of data collection is to find a solution to the research problem, there should be the analysis of data collected thereof. According to Burns and Grove (2007), data analysis is a process that comprises of making sense from both text and image data. This study collected data through text from document analysis and recordings obtained during the telephonic interviews. Mpya (2007:15) states that data analysis is a very complex process of systematically organising and integrating bits of data to induce and deduce reasoning and also describe and make an interpretation. Data analysis and presentation include interpretation, consolidation and reduction of the answers provided by the participants and what the researcher read to come up with a meaningful process.

The researcher used Thematic Content Analysis (TCA). Hsieh and Shannon (2005:1278) define TCA as an "analysis technique for the subjective interpretation of the content of text data through the systematic classification process of coding and identifying themes or patterns." Similarly, Ngulube and Ngulube (2017) maintain that TCA is quite applicable for interpretative phenomenology and is also linked to qualitative research. The current study continuously made data analysis during the data collection process as outlined by Ngulube and Ngulube (2017):

- transcribing the interviews;
- taking note of items of interest;
- searching for themes;
- reviewing themes by mapping provisional themes;
- checking for relationships among themes; and
- defining and naming the themes.

Interviews for this study were conducted in English. Before data was analysed for reporting purposes, participants were assigned codes. The voice recordings were listened to by the researcher, who then transcribed them from the phone to paper. The notes taken during the interview helped the researcher compare the data collected from the participants, and changes were made as needed. Each theme was organised around the study's objectives. In essence, all of the responses to a specific objective

were grouped. To answer the research questions, a similar approach was used for document analysis to integrate and group data obtained from interviews.

3.9 Ethical consideration

Banks (2006) refers to ethics as moral philosophy, which entails the study of morality and the norms and standards of certain behaviour that people follow to do what is right. Coontz (2008:130) laments that research ethics means how the research is conducted and whether the researcher adheres to scientific norms. Research ethics are there to ensure that the researcher is not entitled to abuse the participants or make mistakes because of the consequences that may be faced thereof. Creswell (2007:174) adds that ethical issues are encountered by researchers when collecting data and during the analysis and dissemination of research reports in both qualitative and quantitative research. According to Leedy and Ormond (2010), ethical issues in research are protected from harm, informed consent, right to privacy and honesty with professional colleagues. Similarly, Chaleunvong (2009) adds that physical or emotional harm to participants can be caused by:

- violating informants' right to privacy by posing a sensitive question or gaining access to records that may contain personal data;
- observing the behaviour of the informants without their knowledge;
- allowing personal information to be made public which informants would want to be kept private; and
- failing to observe or respect certain cultural values and traditions or taboos valued by the participants.

Hence, the Unisa Policy on Research Ethics (2007:18) highlights that ethics must be applied to all studies conducted and there must also be the protection of all participants' rights and interests at all times. According to Unisa Policy on Research Ethics (2007:9), the examples of moral principles of the research relating to human participants are as follows:

- autonomy (research should respect the anonymity, rights and dignity of the research participants);

- beneficence (research should make a positive contribution to the welfare of the people);
- non-maleficence (research should not cause harm to the research participants in particular or the people in general); and
- justice (the benefits and risks of research should be fairly distributed among people).

Therefore, in this study, the researcher adhered to the moral principles stipulated in the Unisa Policy Research Ethics (2007). As required by UNISA Research Ethics Policy, the researcher obtained an ethical clearance to conduct the current study from the Department of Information Science Ethics Review Committee.

3.9.1 Informed consent

The researcher adhered to UNISA's policy on research ethics. The policy provides that the rights of the participants should not be violated as stipulated by the UNISA policy. Informed consent was sought from each participant before involving them in the data collection process (See Appendix G). As Neuman (2006) shows that informed consent is a written agreement to participants provided by the participants after they are knowledgeable about the research procedure. It is important to note that no one must be forced to participate it is voluntarily. Also, a letter was provided to the participants containing relevant information about the person who is conducting the study, the reasons for their participation, their participation is voluntarily (they can withdraw anytime) and that the researcher will maintain confidentiality and anonymity at all times as well as a consent form to append their signature.

3.9.2 Confidentiality

Confidentiality is the ethical protection of study participants by holding research data in confidence or keeping a secret from the public; not disclosing participant information that links specific responses to specific participants (Berg 2007; Neuman 2006). To protect the participants' privacy, the researcher informed them that their names would not be used in this study.

3.9.3 Anonymity

Wiersma and Jur (2009:438) indicate that anonymity means that all the names of the participants from whom the researcher obtained data are not known. Neuman (2006) goes further to state that the anonymity of the participant is significant in ensuring that the information obtained from the participants can in no way disclose their identity. The researcher used a voice recorder as a primary data collection instrument and explained to the participants that the recording would be kept safe and destroyed immediately after the completion of the research. Hence, the names of the participants were not written on the recording, notes and transcript. Instead of using the names of the participants, the researcher used codes to hide their identities.

This study strictly adhered to the stipulations that the researcher should not manipulate the collection of data, analysis and interpretation procedures to be in contradiction with the scientific methods or advance their agenda (Bhattacharjee 2012). It is important to note that the researcher acknowledged all the sources consulted to avoid plagiarism as per the UNISA Policy on Research ethics (2007) which states that “researchers may not commit plagiarism, piracy, falsification or the fabrication of the results at any stage of the research.”

3.10 Evaluation of research methodology

Leedy and Ormord (2010) argue that research methods are inclined to challenges and failures. The purpose of evaluating research methodology is to clarify the errors, biases and challenges that might have affected the collection of data as well as its analysis (Ngulube 2005). In this study, the researcher found it necessary to evaluate the research methodology used in conducting the study to highlight the advantages and disadvantages. As Ngulube (2005) asserts that all research methods are not perfect, and their failures create false impressions on the research findings. In that regard, the researcher needs to point out errors and difficulties encountered when collecting and analysing data.

The study employed interviews and document analysis as data collection tools. With interviews, the first participant in Limpopo province referred the researcher to other participants who were not in the same area. In most instances, some of the participants that the researcher was referred to declined to participate. But the challenge was eliminated by requesting the participant who recommended the other participants to first introduce the researcher properly. One of the potential participants feared that the decision for him to be given land through restitution could be reversed as he did not have documentation but relied on oral history to lodge the claim. So, he mistook the researcher to be making a follow up to the already processed claim. The researcher had to explain the purpose of the study for the participants to give consent.

Furthermore, the researcher encountered some challenges regarding the availability of the CRLR participants who were deemed to have the necessary knowledge and experience in the use of archives to resolve land claims. Some of the project officers in other provinces such as Western Cape, North West, KwaZulu-Natal and Free State referred to the researcher showed no interest in participating in the study. In particular, they were not responding to phone calls, even when the researcher described the nature of the study as requested by them. The researcher obtained permission letters from the CRLR and the NARSSA (See Appendices E and F). But other participants declined to be interviewed as they stated that they did not have time because of their busy schedules.

The current study was conducted in South Africa during the lockdown. As a result, the researcher was unable to visit the research sites due to regulations such as lockdown, restricted travel, travel permits, and not being permitted to visit participants' homes or invite them to the workplace during the COVID-19 pandemic, and resorted to conducting telephone interviews. Telephone interviews and document analysis were used to gather information by the researcher. One of the restitution claimants who declined to be interviewed stated that she did not want to participate in the study because her heart was still sore from a land claim that was filed a long time ago but has yet to be resolved. However, face-to-face interviews can also be used to collect data and observe the participants' body language. According to McMillan and

Schumacher (2001), face-to-face interviews provide richer information through words and in-depth verbal descriptions of the phenomenon.

Another challenge the researcher faced was when some of the participants agreed to be interviewed but were never available for a phone interview. As a result, the interview questions had to be sent via email by the researcher. Despite this, the researcher was able to collect the necessary data for data analysis and presentation.

3.11 Summary

The current study's research methodology was thoroughly discussed in this chapter. The researcher went on to explain the research paradigm and approach that were used to motivate the chosen research method. Because the research was difficult to obtain participants, the researcher used snowball sampling, as well as purposive sampling, in which the researcher chose participants who were knowledgeable about the subject being studied. Data was gathered using telephone interviews and document analysis. The population and sampling strategy used in this study were defined by the researcher. The chapter also addressed issues such as data quality, how data was analysed and presented, and ethical concerns such as participant protection, trust, and the promotion of the research findings' integrity. The following chapter presents the findings from interviews with project officers, restitution claimants, and archivists, as well as content analysis of the documents used.

CHAPTER FOUR

DATA ANALYSIS AND PRESENTATION OF THE FINDINGS OF THE STUDY

4.1 Introduction

The previous chapter discussed the research methodology used to conduct the necessary investigation to answer the study's questions. The chapter also discussed the research paradigm, research approach, research design, population and sampling, data collection instruments, data quality, data analysis and presentation, ethical considerations, and research methodology evaluation. The chapter presents and analyses the data collected through interviews and document analysis. According to Vosloo (2014), data is presented in a comprehensive and interpretable form to determine the development and relationship in accordance with the study's objectives, whereas data analysis entails assigning meaning to the research questions (Neuman 2011). Essentially, the integration of data presentation and data analysis is critical to allowing the researcher to improve the quality of the findings. In this study, data were presented in accordance with the study's objectives in order to address the research questions as well as the following themes:

- legal and policy framework for the source of evidence in land claims;
- the use of archives to support land restitution;
- availability and accessibility of archives;
- the experiences in the use of archives for land claims; and
- recommendations on the use of archives to enhance the land restitution programme.

4.2 Analysis strategy

In this study, the researcher qualitatively analysed documents as well as data from project officers, restitution claimants, and archivists. Participants were asked to fill out a consent form (See Appendix G) to confirm their participation and understanding of the nature of the procedure. The participants were also informed about the importance of anonymity and confidentiality (Refer to section 3.9). As a result, based on their availability, the participants provided the researcher with an appointment date for the

interviews, either in person or over the phone. English was used as a medium of communication during the interviews. Data were recorded through a voice recorder and note-taking. Data were presented through text, themes, pictures and tables. To supplement the data collected through interviews, document analysis was used. The researcher analysed documents such as the Constitution, the White Paper on Land Policy, the Restitution on Land Rights Act, NARSSA Act, PAIA, POPI and PAJA.

4.3 Participants' profile

The general purpose of this study was to explore archives as a tool to support land restitution in South Africa, and to encourage the use of archives to enhance land restitution. The preceding chapter highlights the sample of the study, which includes four staff members from the CRLR (project officers), four restitution claimants and five staff members from the NARSSA (archivists).

The previous chapter emphasised the use of themes to categorise the study's findings. As a result, the interviews were categorised as shown in Table 4.1:

- i. Four project officers
- ii. Four restitution claimants
- iii. Five archivists

Table 4.1: Breakdown of participants

Participant	Code	Total
Project officers from the CRLR	1A-D	4
Restitution claimants	2A-D	4
Archivists from the NARSSA	3A-E	5

As shown in Table 4.1, the researcher demonstrated how anonymity was maintained throughout the study. Instead of mentioning or revealing the names of the officials and restitution claimants, the researcher coded the data based on the participants' responses. For example, any response from the CRLR project officer will be quoted

or reflected as 1A, 1B, 1C, or 1D, restitution claimants as 1A, 1B, 1C, or 1D, and NARSSA archivists as 1A, 1B, 1C, 1D, or 1E.

The researcher attempted to divide the study into specific research questions in order to provide the necessary answers. The data collected through interviews and document analysis was used to improve the quality of the discussions. The findings are presented in accordance with the study's objectives. The presentation of the results was guided by the study's objectives, which sought to:

- i. analyse legal and policy framework for the source of evidence in land claims in South Africa.
- ii. determine the usage of archives for restitution claimants in South Africa.
- iii. determine the availability and accessibility of archives to support land claims in South Africa.
- iv. ascertain the experiences of the users in the use of archives for land claims in South Africa.
- v. make recommendations on the use of archives to enhance the land restitution programme in South Africa.

4.4 Presentation of data

The presentation of data collected from the CRLR participants, restitution claimants, and the NARSSA participants is outlined below. During the data collection process, four project officers, four restitution claimants, and five archivists were interviewed, and documents such as strategic, operational, and annual plans, as well as policies, were examined.

4.4.1 Legal and policy framework for the source of evidence in land claims

The first research objective sought to analyse the legal and policy framework for the source of evidence in land claims in South Africa. Legal and policy frameworks are fundamental for the source of evidence in land claims. Land claims are a result of the promulgation of legal and policy frameworks in the democratic government to redress the agonising history of land dispossession and forced removal of black people under

the influence of Group Areas Act (Act No. 41 of 1950) (Thobela 2011:31). Legal and policy frameworks require restitution claimants to provide evidence of the land's existence prior to dispossession (Sundnes 2013:70). As a result, rural South Africans will begin to use legal and policy frameworks to press for land claim processing. However, Ntsebeza (2003) contends that a legal and policy framework alone is insufficient to address the challenges of land restitution. The following topics were addressed in this research question:

- Key legislation;
- The use of legal and policy framework to source evidence in land claims; and
- The impact of archives on the land claims process.

4.3.1.1 Key legislation

Participants were asked to name legal instruments and policy documents that govern the gathering of evidence in land claims. Participants identified the following documents as legal and policy documents that guide the provision of evidence in land claims:

- i. The Constitution of the Republic of South Africa Act;
- ii. Restitution of Land Rights Act 22 of 1994;
- iii. White Paper on South African Land Policy, 1997;
- iv. NARSSA Act of South Africa 43 of 1996 as amended;
- v. PAIA 2 of 2000 as amended;
- vi. POPI Act 4 of 2013; and
- vii. PAJA 3 of 2000.

For example, Participant 3A indicated that:

“The Constitution of South Africa is the legal framework on which all the legislation in South Africa is based. The Constitution states that all citizens of South Africa have the right to access information. Therefore, all archives relating to land restitution should be made available to requesters. Taking into account that there are some exceptions. For instance, where a farm belonged to four people in succession the residential addresses of the three previous owners cannot be made available in terms of the POPI Act. The NARSSA Act

provides for the National Archives and Records Service; the proper management and care of governmental bodies; and the preservation and use of national archival heritage. In terms of the NARSSA Act, access must be granted to archival records that have been in existence for a period of 20 or more years. It also makes the provision for the National Archivist to provide access to records younger than 20 years. This means that all the land restitution collections at the NARSSA are accessible to researchers. In terms of PAIA and MISS, all the land restitution collections at the NARSSA are also accessible to researchers.”

Participant 1C explained that,

“The land claims in South Africa are administered and driven primarily by the Restitution Act (Act 22 of 1994) as amended. The said act serves as the guideline which legalises how the Restitution process should unfold. This is the driving force that guards against the repercussions that the restitution process might face during its implementation.”

Participant 3C also alluded that,

“All legislative framework mentioned on legal instruments and policy documents such as PAIA and NARSSA Act guide on the Access to information. The NARSSA Act is there to guide on how the access to information should be done.”

In agreement with Participants 3A and 3C, Participant 3D specified that NARSSA Act, PAIA and POPI Act are used daily to access archives depending on the collection being researched.

Participant 3E further stated that,

“The Archivists follow the Restitution of Land Rights Act when performing their duties of providing the necessary evidence required for restitution purposes. But there is a gap in the land restitution collection because the CRLR did not transfer all the records of archival value as required by the NARSSA Act. Hence, it is a challenge for the NARSSA to support some of the land claims with archival evidence.”

The Constitution, the Restitution of Land Rights Act, the NARSSA Act, and the PAIA are the major pieces of legislation that guide the sourcing of evidence in land claims, as explained by the participants above. Their responses demonstrate that the POPI Act creates a barrier to accessing archives to support land claims because archives containing personal information about the previous owners of the land are not made available to the public. The following were found to be relevant and were analysed by the researcher for this study:

The Constitution of the Republic of South Africa Act

As a result, the researcher examined and identified pieces of legislation. The Restitution of Land Rights Act gives effect to Section 25(7) of the Republic of South Africa's Constitution, which provides for the right to restitution of property for fair compensation to a person or community who was evicted from their land after June 19, 1913 as a result of apartheid discriminatory laws. Section 25(5) requires the state to enact sound legislation using available resources to ensure citizens' equitable access to land. As a result, the CRLR must be consistent with the constitution, as the constitution is the supreme law of the land in South Africa.

The White Paper on South African Land Policy, 1997

The White Paper on South African Land Policy, 1997 was promulgated to guide the injustices emanating from racially-based land dispossession, inequality in land ownership and proper sustainable use of land. The White Paper acknowledges the forceful removal of black people by the apartheid government which harmed many people's lives in South Africa. As a result, the settlement of outstanding land claims can be a way to resolve such historical injustices. The White Paper mandates the operations of the CRLR's work as far as the settlement of land claims is concerned. The White Paper gives effect to section 25(4) of the Constitution of the Republic of South Africa and the Restitution of Land Rights Act outlines the procedure for land claims: qualification criteria, forms of restitution, compensation and urban claims. The CRLR uses the White Paper to restore land and provide remedies to the restitution claimants dispossessed by racially discriminatory legislation and practice.

The document analysis also revealed that the White Paper on land restitution is a strategy used by the CRLR to promote the settlement of more land claims. With

this White Paper, the CRLR is encouraged to review the cut-off date for lodging land claims with the hope to provide equitable redress to victims of racially motivated land dispossession. Sundnes (2013:69) contends that “land restitution has become an important means to rectify South Africa’s skewed property relations after decades of racially discriminatory laws and practices”. Therefore, all activities undertaken by the CRLR as far as the White Paper is concerned are a clear indication that the CRLR promotes the settlement of land claims in South Africa.

Promotion of Access to Information Act

Apart from the constitution, there is also PAIA, which provides an additional mandate to the CRLR and the NARSSA, and the delivery of the legislation (PAIA) is dependent on the fundamental right of the public to access information (Archival Platform 2015:123). PAIA compliance has implications for the management of archives. The study mentioned several times that if there is no proper management of archives, access to information is likely to be compromised. A study by Netshakhuma (2019a) reveals that poor archives management has affected access to public archives. Hence, it is expected that the NARSSA will play a crucial role in which archives belonging to the CRLR are managed. Also, the CRLR’s independence makes it easier to give independent advice to the public as far as access to archives is concerned. The document analysis reveals that the CRLR is a joint venture with the NARSSA regarding archives management in the public sector. Makhura and Ngoepe (2006) emphasise that PAIA and the NARSSA Act share a common objective, that is, access to primary sources of information and that PAIA’s progressive implementation relies on the implementation of the NARSSA Act.

Access to information is the fundamental basic and socio-economic human right and it is stipulated in section 32 of the 1996 Constitution. PAIA (Act No. 2 of 2000), on the other hand, deals with the right of the public to access information mainly in the form of archives (Archival Platform 2015:123; Sebina 2009:149; Arko-Cobbah 2008:184).

The main purpose of the PAIA is:

to give effect to the constitutional right of access to any information including archival records held by the state and any information that is held by another person and that is required for the exercise or protection of any rights (South Africa 2000).

The purpose of this Act is to assist both public and private organisations in becoming accountable and transparent concerning every archive they hold. McKinley (2003:5) highlights that the PAIA is legislation that deals with access to information in South Africa and the good part about the legislation are that it is one of the few pieces of legislation applicable to both public and private bodies including records that should be accessed without consideration of the date when a record was created. In essence, the function of proper records and archives management by the NARSSA is of paramount importance to enforce accountability and transparency.

In contrast, Namibia does not have Freedom of Information data (Nengomasha & Nyanga 2015). While literature shows that access to accurate archives on human rights assists citizens to trace and track the activities of their government and partake in the decision-making process. PAIA allows the public to scrutinise archives on land dispossession to understand the history of the country and those of their families. According to the Act, information should be properly managed so that members of the public can access and use it to meet their needs. However, various conditions restrict access to archives: protection of personal data, protection of the interests of the state and security, protection of economic interests and copyright (Valge & Kibal 2008).

Even with the availability of PAIA, the NARSSA Act may restrict access to archives. The restriction emanates from section 12(3) which stipulates that “the National Archivist may refuse access to a record on the grounds of its fragile condition, provided that there shall be a right to appeal to the Director-General against refusal.” Access limitation poses a threat to the archivist to make archives accessible to serve as evidence to land claims because they have to abide by the NARSSA Act. Sebina (2009:152) laments that the use of the PAIA and the NARSSA Act simultaneously has brought about possible, adaptable and comprehensive access to information to hold government departments accountable for their wrongdoings in South Africa.

On the other hand, the POPI Act stipulates that access to archives should be compatible with privacy legislation to ensure that archives do not lead to a violation of privacy and that access may be denied in line with the policy at all times. As such, public archives have a responsibility by POPI Act to act within limitations on access to information in South Africa (Archival Platform 2014:124 & Wakumoya 2012:122). This may not yield results because Ngulube, Sibanda and Makoni (2013:136) argue that the archivists are still failing to make archives available on occasion where legal authority to access information is not available denying the project officers and restitution claimants the opportunity to access to archives which are of paramount importance to the land claim process.

A legislative analysis shows that there are restrictions placed on archives which lead to denied access because of the poor condition of archives which angers researchers who need to use archives (Nengomasha & Nyanga 2015:91). According to Rhee (2015:33), some of the challenges about access to archives are geographic limits, political or governmental restrictions, lack of finding aids, copyright issues and difficult-to-use formats. But archival institutions are still expected to promote the right to access archives by the public (Ngulube & Tafor 2006:76). The regulation to access information limits the public's access to archives to hold the CRLR accountable for their denied land rights. In essence, citizens who fail to substantiate their claims due to lack of evidence are in a bad position to raise their concerns about inefficiency and corruption in the public sector. Therefore, changes in legal prescripts are necessary for archives to properly provide evidence in land claims.

The National Archives and Records Service of South Africa Act

The NARSSA Act makes a provision on how archivists should make archives about land restitution accessible. This Act sought to determine whether the NARSSA would provide evidence (archives) such as title deeds, the farm register and any information about the dispossession of land to the project officers or restitution claimants. De Beer (2006:29) echoes the same sentiments when stating that the NARSSA in Pretoria provided researchers with ethnographic, archival and other information which verified the merits of a land claim.

Archives provided to researchers are a strategy used by the NARSSA to promote the preservation and use of archives. In essence, archives are crucial in protecting people's rights; hence, restitution claimants are encouraged to understand the past through archives. Archives in land restitution are a cultural and educational resource used to provide a detailed transaction of events that occurred during land dispossession. Ngoepe and Saurombe (2016:29) outline that the NARSSA act was promulgated to regulate the handling of archives with care and protect them from further deterioration. The Act goes further to allow the public to access some of the earliest archives in South Africa, which are unique, fragile and in most instances only single copies stored. Therefore, access to archives is compulsory to source evidence for land claims.

However, there is a gap of clarity in section 11 which deals with the custody and preservation of records. The NARSSA Act states that public records identified by a disposal authority as having enduring value shall be transferred to an archives repository when they have been in existence for 20 years. Yet, it does not stipulate the management of archives relating to land claims that have not been transferred to an archives repository after 20 years of existence. The NARSSA has failed to develop and implement the management of archives that are still in the governmental bodies' offices since the Act is silent on the mandate that poses a threat to access archives in South Africa. This is in contrast to the NARSSA Act, Section 11(2)(a) which stipulates that "no other Act of Parliament requires such records to be kept in the custody of a particular governmental body or person".

As a result, the weakness in the NARSSA Act, governmental bodies are still in the custody of land claim archives which are meant to be preserved at the NARSSA. For example, institutions such as the CRLR and Office of the Surveyor-General document crucial information on the history of land dispossession which occurred during the racially discriminatory government. Such archives automatically qualify a land claim because of their evidential and enduring value. Currently, the archives they store are not accessible under the NARSSA Act for researchers to support their land claims. It can be argued that the archival legislation did not make it mandatory for governmental bodies such as the CRLR to transfer all public records over 20 years. Hence, Section 16 of the NARSSA Act does not address

offences or penalties imposed on archives for land restitution which are in the custody of the CRLR but were never transferred to the NARSSA. Therefore, the creators of archives to support land claims had no obligation or enforcement with the NARSSA to transfer the archives resulting in major gaps in the land restitution collection.

The Restitution of Land Rights Act

To warrant the restoration of land to its rightful owner in democratic South Africa, a law was promulgated by Parliament in 1994. The Restitution of Land Rights Act paved the way for the establishment of the CRLR and a Land Claims Court. The CRLR uses the act to monitor and prioritise land claims lodged before the 1998 cut-off date. The Restitution of Land Rights Act provides for the new lodgement of land claims through an electronic system (National Land Restitution Register). The register comprises captured information together with the scanned supporting documents provided by the restitution claimant. In line with the Act, the lodgement system should automatically file the claim both in the system and a hard copy to ultimately generate reports. Concerning lodging of an appeal, a project officer needs to conduct research, verify, negotiate to resolve the claim, refer the claim to the Minister for approval of the settlement, or to court and transfer the land to its rightful owner or financially compensate.

Through document analysis, the researcher identified that Section 30 of the Restitution of Land Rights Act prescribes the source of anthropological and historical evidence to investigate and determine the merits of any land claim. For instance, the Restitution of Land Rights Act on the admissibility of evidence stipulates that:

(1) the court may admit any evidence, including oral evidence, which it considers relevant and cogent to the matter being heard by it, whether or not such evidence would be admissible in any other court of law.

(2) without derogating from the generality of an foregoing subsection, it shall be competent for any party before the Court to adduce –

a) hearsay evidence regarding the circumstances surrounding the dispossession of the land right or rights in question and the rules

- governing the allocation and occupation of land in question within the claimant community concerned at the time of such dispossession; and*
- b) expert evidence regarding the historical and anthropological facts relevant to any particular claim.*

The fact that the CRLR could not process some of the land claims due to missing or unavailable records which were not transferred to the NARSSA as required by the Restitution of Land Rights Act gives an impression that there is a gap in the land restitution collection at the NARSSA. As a result, there is a challenge in sourcing evidence to support land claims. This finding is similar to Netshakhuma (2019b) who found that records that were of archival value at Mpumalanga provincial archives were not transferred to the provincial archives. Hence, access to information became a challenge. Therefore, the CRLR should develop and implement a guideline to embrace all forms of evidence – particularly archives. The implementation of a guideline in line with archival legislation is imperative to reaffirm the effective sourcing of evidence for land claims. Expanding on the views of Sebina (2004) who recommends that land legislation and policies should include archives to enforce the mandate of the CRLR of protecting the land rights of the citizens and provide remedies to the affected restitution claimants as a result of racially discriminatory legislation. Both the CRLR and the NARSSA have to ensure that archives are supported by policies, procedures and guidelines to make archives available, accessible and to back up the land claim investigations.

Promotion of Administrative Justice Act

The PAJA 3 of 2000 ensures that there is a lawful, reasonable and fair administrative action and allows the public to question the administrative actions in the public sector. PAJA plays a crucial role as it exposes archivists and project officers to public scrutiny intending to execute their mandates while taking into account the right to a written response in case of poor service delivery by the public (McQuoid-Mason 2012). Should an administrator be liable for such a request that fails to provide sufficient reasons for administrative action mainly because the documented evidence is destroyed, it may be apparent that there was no good reason for the administrative action. According to Section 3(1) of the PAJA, “administrative action which materially and adversely affects or legitimate expectations of any person must be procedurally

fair.” Even though the PAJA emphasised the issue of a fair administrative action affecting any person, there is a need for the CRLR to restore or give a reward through compensation of the land is entitled to the restitution claimant. This concurs with a study conducted by Thobela (2011) which indicates that the land has not yet been restored to the restitution claimants because of destroyed or missing archives to back up the land claims.

4.4.2 The use of archives to support land restitution

Following the announcement by the Department of Land Affairs to redress the forceful removals of the victims from the land in terms of the provisions of the Restitution on Land Rights Act (Act No. 22 of 1994), new land claims were lodged by the restitution claimants. Each of the participants agreed that the CRLR opened its doors for the lodgement of claims against those whose land rights were violated in the past. However, Participants 2A, 2B, 2C, and 2D felt that it was a difficult and painful process as it takes many years for land claims to be settled. 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 3 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’s a long and painful process.”

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

“I lodged a claim in 1997 at the Department of Rural Development and Land Reform and filled a form to institute a claim that the department institute. 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’s a valid claim. A decision on the process to be followed for restitution. 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. Usually, the current landowner will accept the offer made by the Department because the offer is within the market value of the claimed property. A land claimant can either claim under the guidance Act or the Communal Property Association. I claimed under the CPA Act which is more like a company under the South African Law. If the claim is granted and the land is reinstated, the land is transferred into the CPA's name. The CPA will manage the use and control of the land. Land claims on this basis usually have monetary compensation (loss of joy money). The monetary compensation is paid over to the CPA account to be used to the benefit of the land and the CPA. 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 PAIA Act to request information from the department. It was a terrible process due to 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."

Saunders (2003:52) posits that the NARSSA is one of the most prominent archival institutions in the provision of archives for use to support land restitution, particularly to verify the historical value and the correctness of any land claim. Under the land restitution mandate, the CRLR depends on archives such as proclamations, land registers, title deeds, maps, and inspection reports to process land claims. The participants were asked what evidence they would use for a land claim.

Participants 1A and 1C stated that archives, oral and physical evidence, such as a sworn verbal declaration, are 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 conduct oral interviews with the claimant or family to determine who owned the land at the time of dispossession. To confirm the information provided, the farm register from the Deeds Office, kraal, or graves are also used.

Participant 1B stated that *“the 1st phase of 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; and
- Green on the South African land policy.

The processing of land claims varies, and some are still being investigated.

Participants 1A, 1C, and 1D stated that as evidence for land claims, the CRLR has 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 mentioned the following as well:

- Name of area or farm from where they were removed;
- Approximate date of the removal;
- Names of the persons removed; and
- The name of the Chief or Headman of the community who was removed.

As a result, archives are used to supplement the CRLR's data collection. Even though Participant 1A argued that archival information is important in some cases, it is not the only pillar of the land claim investigation. As a result, the investigation is based solely on a title deed, oral evidence, maps, and physical evidence such as graves and ruined homesteads. 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, added that "for farmworkers and their families, the graves, some of which date back to the 1800s, are their only tangible link to land that they were denied formal ownership of during apartheid." 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) help with the success of a land claim. All of 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, archives originating from the Bantu Commissioner under the Natives Act of people who were 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.*"

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 are gravesites or graveyards where their relatives are buried, as well

as an affidavit stating that they lived on the property and used it for their benefit. Participant 2A, for example, stated that there is clear evidence emanating from forefathers' graves as well as relevant documents from the National Archives. Participant 2D added that *"the land was purchased through the government gazette and it was allocated in 1960 - 1922."*

Participants were asked what archives they 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 were staying there, and deed registration documents indicating that the land was previously owned by their families. Participant 2B, on the other hand, emphasises that most claimants will have few to no records because they come from an improvised background and/or are 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 the National Archives and Records Service of South Africa, the National Library of South Africa, or the National Surveyors office."*

Participants stated that the NARSSA has worked very closely with the Department of Land Affairs 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 has also aided researchers in their land claims by granting access to archives that have 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 Department of Land Affairs, 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 still the creating offices were compiled. The complete lists were provided to the then Department of Land Affairs. 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 are available in the reading room to assist each researcher in obtaining archives. In the reading room, both manual and electronic finding aids are available to help researchers with their inquiries. It is the archivist's responsibility to provide correct information objectively and without interpretation. As a result, the archivist only provides the evidence requested by the researcher and does not reach a conclusion about who is the rightful owner of the land. The National Archives and the Land Claims Commissioner on Restitution of Land Rights have 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 provide for land claims, participants agreed on the following:

- Department of Native Affairs (this department has evidence of all interactions between the apartheid government and black people in South Africa). Department of Native Affairs, Bantu Affairs, Cooperation and Development were all the same department with different names and are the most used sources of evidence for land restitution. There are certain file series in this collection that deal with the removal of persons on an individual basis;
- Department of Community Development (which also deals with the removal of black people from certain areas);
- Office of the State Secretary (background research because this group ends before the start date for land claims);
- Local authorities (for land claims in urban areas); and
- Farm register (contains information about all the farms in the old Transvaal Province).

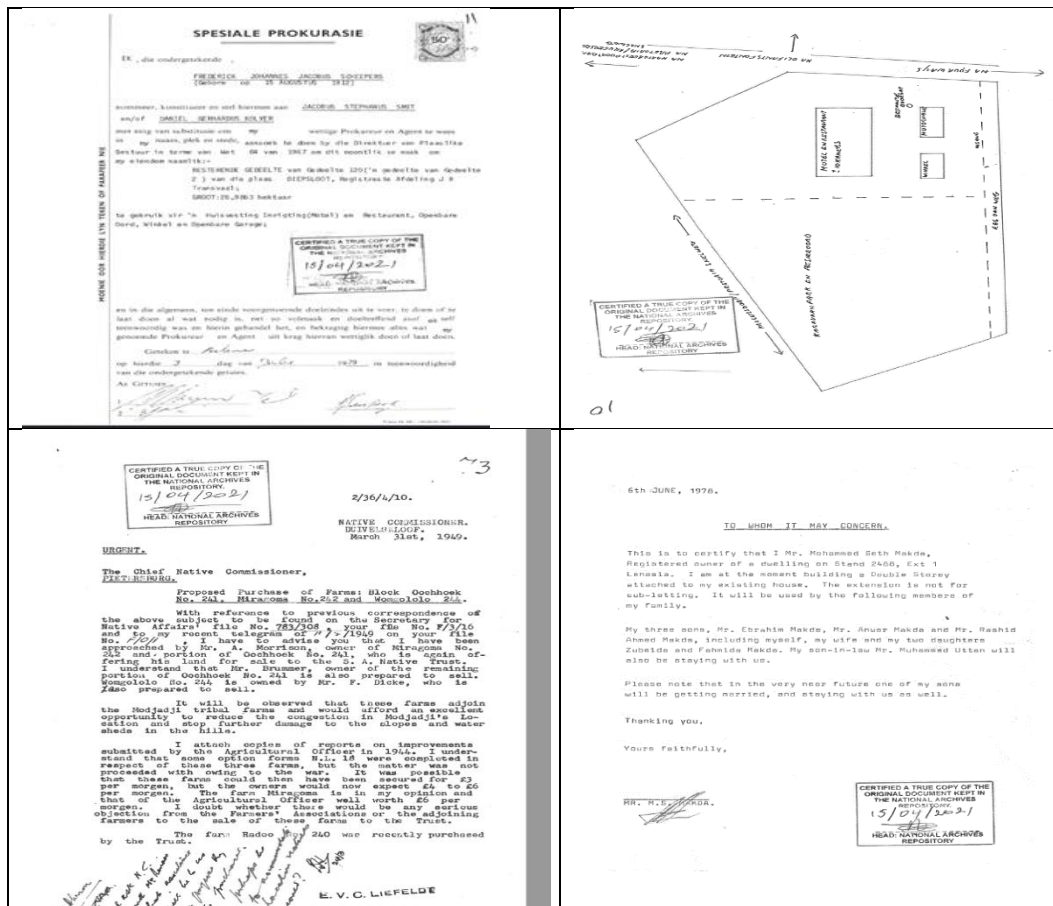


Figure 4.1: Archives presented by Archivists at the NARSSA to support land restitution in South Africa

When asked where the archives provided to project officers and restitution claimants are located, Participants 3A, 3B, 3C, 3D, and 3E stated that the NARSSA has a reading room where all South African citizens can come and conduct free research. Every weekday from 08H00 to 16H00 and every Saturday from 08H00 to 12H00, the reading room is open for research. Under the supervision of archivists, researchers have access to original archives in the reading room. There is 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.”

4.4.3 Availability and accessibility of archives

This objective aimed to determine whether archives are available and accessible to support land claims in South Africa. Mukwevho (2017:24) laments that archival institutions should ensure that archives are available and accessible to the public. The findings of the current study reveal that archival institutions such as the NARSSA, Union of South Africa, Office of the Surveyor General in Cape Town, and Africana Research Library provide access to archives for land restitution purposes. Land ownership and dispossession archives, including correspondence, reports of various government functionaries relating to the removal of people, and reports of Commissions of Enquiry, are made available to support land claims, according to Participant 1B. Participant 1C further indicated that “*there are deeds records which relate to the owners of the land even though blacks did not have title deeds before dispossession.*” As a result, the Deeds Office makes additional evidence on land claims available.

The researcher sought to know what kind of evidence participants could provide to back up their land claim. During the site inspection, Participant 1B mentioned ruins, graves, and oral history. Participants 1A, 1C, and 1D indicated that information from various proclamations such as removals of people to build a road, school, government buildings, documents on racial segregation of a group of people, permits, studies on forced removals in townships, and newspaper articles were used.

Participant 1A stated that available archival information is used to prove a restitution claimant's land ownership. Claimants can also produce the following, according to Participant 1A:

- physical evidence (gravesite with family names together with old identity document) and any endorsed documentary evidence (service payments of a church, permission to occupy, old house ruins and or dilapidated kraal);
- archival evidence; and
- deeds printout (land register and the title deed).

Participant 1D mentioned the following:

- proof of acknowledgment of claim form;
- showing of graves on the site; and
- tribal or family history.

Institutions that house archives ensure that access restrictions are clear and based on relevant legislation, while also acknowledging the right to privacy and respecting the rights of owners of private materials (ICA 2012). However, it appears that the CRLR is not currently facing any challenges regarding archival institutions in the custody of restricted archives that cannot be accessed for land restitution purposes. Participants 3A, 3B, 3C, and 3D agree that the NARSSA does not reside in restricted archives that cannot be accessed or made available for land restitution purposes.

Participant 1D, on the other hand, stated that the archival institution restricts access to records containing personal information for land restitution purposes. Participant 3E backs this up by stating that:

“The archivist may restrict access to archives that are sensitive or on the ground of its fragile condition, provided that there shall be a right of appeal to the Director-General against the restriction.”

When asked how the CRLR and the NARSSA make archives accessible, Participant 1B stated that *“the official conducts an archival search and the department pays for the required documents if they are available.”* Furthermore, Participant 1A stated that *“CRLR uses an account to request documents.”* Participant 1D described the processes outlined below:

- make sure that records are always accessible (working hours);
- always have official to assist in accessing records;
- provide procedure and standard of accessing records; and
- comply with the legal framework about records management.

Participant 3A stated that:

“The researcher would identify a file reference number and a collection by using the manual or electronic finding aid. This reference number will be given

to the Archivist in the reading room who will then retrieve the file and provide it to the researcher. The researcher can request photocopies of the file or take photographs of the documents. Researchers are also allowed to take photographs of the documents however the use of a flashlight is prohibited.”

Participant 3E also pointed out that:

“Access to public records with a period of more than 20 years since its existence may be given upon request. Non-public records in custody shall be made available for public access subject to any condition agreed upon its acquisition. The finding aids such as inventories, database and list of archivalia are provided to researchers.”

The study sought to ascertain the availability and accessibility of archives in South Africa to support land claims. The study's findings revealed that, despite the fact that archives are kept in archival institutions for public use, some restitution claimants had never visited them to retrieve archives. The project officers agreed on land restitution collection such as the Department of Community Development, Department of Native Affairs, and Bantu Administration archives that are made available for use to support land claims. Participants 3A, 3B, 3C, and 3D note that the archives that have been made available and accessible contain information or evidence on the people who have been removed from the land. For example, Participant 3A explained that:

“The land restitution collections are kept in strongrooms at the NARSSA. These strongrooms have access control, climatic control and UV control. The strongrooms are kept at between 45 percent and 55 percent humidity and around 20 degrees Celsius. The lights have UV protection and the strongrooms do not have windows. The strongrooms are also fitted with fire detection and suppression systems. all of this is done to protect and preserve the collections so that they are available to researchers upon request. All members of the public have the right to access archives as governed by the NARSSA Act and the Promotion of Access to Information Act. Hence, we provide access to archives to the researchers in the reading room with the Archivists and finding aids available to assist them.”

Participant 3A confirmed that translation services for the reading room were only provided twice, on rare occasions. This means that if restitution claimants in the reading room are unable to understand a specific language, archives made available to support their land claims will be unavailable. According to interviews, the finding aids are available in both English and Afrikaans. To make land restitution archives more accessible, they have never been translated into the other nine official languages. This implies that a lack of proficiency in English and Afrikaans is a significant barrier to accessing land restitution information contained in the NARSSA holdings that would be made available.

Access to archives at archival institutions, according to other participants, was exceptional for their land claims. Participant 2C, for example, stated that:

"I have researched my land claim at the National Archives in Pretoria. I was given a 1936 report on Black Land, 1960 and 1968 report on homelands and extension of homelands or Group Areas Act which I couldn't find anywhere. The National Library of South Africa in Pretoria was quite excellent in providing the records requested. Wits University also provided various publications regarding land, land research articles and publications. Usually, the archivist who works in the reading room will assist you to find the documents through the use of an index either in a hardcopy format and or electronic. Then you will have to go through that index and find the applicable documentation. After finding the suitable documentation you would request an archivist to help you attain copies of the original documents. And the same process applies to the National Library of South Africa, the only difference is with the librarians.

The information is usually kept in files and reports from different old government institutions, some of which do not exist anymore (institutions). For instance, the Bantu Commissioner does not exist anymore because of the nature of his appointment under the apartheid government. Most of these acts and institutions were scrapped because they were found unconstitutional and or illegal under the new Constitution post-1996. The records were made accessible through copies that were attained from the National Library of South Africa and the National Archives and Records Service of South Africa. Because individuals are not allowed to remove original documentation from

the two institutions but the staff of the two institutions will gladly make it copies of the original document.”

Participant 2D further indicated that:

“I have visited the reading room at the NARSSA on the ground floor where researchers go to request information. Some archives were accessible; it was good because the archivist assisted me to get all the information required. They retrieved all the information in time. Archives at the National Library of South Africa are very accessible.”

Participant 2B believes that the Provincial Archives in Limpopo province do not exist because land claims archives are inaccessible. Participant 2A also notes that *“it is not easy to retrieve land records from the CRLR and the Surveyor General’s Offices because they do not respond to the letters to request for information. The NARSSA in Pretoria and Union of South Africa in Cape Town managed to retrieve archives I requested to use for the land claim.”*

The researcher also wanted to know how the restitution claimants found out about archival institutions that hold land records. Participants 2C and 2D mentioned a family member who works for the NARSSA, other restitution claimants who are in the process of claiming the land, and the Office of the Surveyor-General. Participants 2C and 2D also stated that a family member’s colleague was able to advise them on where to find the necessary documents. Participant 2D, for example, stated that:

“The archivist informed me that some of the information was kept at the Land Surveyor’s office, and I don’t know where the building is because I was never given an address to go to. The archivist also referred me to Bloemfontein Archives, also no idea where is it.”

4.4.4 The experiences in the use of archives for land claims

This objective sought to ascertain the participants' perspectives on the use of archives for land claims in South Africa. The goal of archival institutions is to preserve and make accessible archives of vital evidence. Similarly, the CRLR has a nearly identical goal: to use available evidence to restore or compensate people who lost their land as a result of discriminatory practices during the apartheid regime. The purpose of this

question was to determine whether participants use available archives preserved in archival institutions to support land claims.

Participants claimed to have gone to the NARSSA to document evidence of land claims. Participants value archival services such as records, sound, and videos the most when it comes to providing original documents such as proclamations and land registers. Furthermore, Participants 1A and 1C mentioned the Deeds Office, the African Library in Kimberly, and Spatial Planning and Land Use Management (SPLUM) as places to gather more evidence pertaining to land claims.

According to Sebina (2004), archives reveal the history of land dispossessions and can also be used to verify a land claim. Because of their evidential value, the sharing of archives for land claim purposes is a necessary mandate, particularly in South Africa. Participants were asked to share their experiences with archives in order to better understand how archives are used among restitution claimants in South Africa. Participants 1A, 1C, and 1D stated that their experience with using archives for land claims has been user-friendly, useful, and informative in determining the rightful owners of the land, whereas Participant 1B expressed concern that *“there is not enough information and some document have missing pages and some are destroyed to conceal information.”* Participant 3A added that the questionnaires completed in the reading room resulted in a positive user experience with land claims archives.

When asked if the NARSSA has a positive impact on land claim processing. Despite the challenges of a lack of evidence, all participants agreed that the available archives have a positive impact on the processing of land claims because documented evidence of forced removals was mostly covered by journalists. Furthermore, Participant 1D stated that the archives aid in determining the rightful owner of the land and expediting the process of a land claim. However, it has been reported that there is a lack of equipped staff to provide archival services, or that users were unable to retrieve archives that were missing, untraceable, or inaccessible (Archival Platform 2015:66). It is critical that land claimants and project officers use the information to strengthen their claims.

Participant 3D stated that archives are accessible in their original form and are kept in a secure location with controlled temperature and relative humidity. However, Participant 3C believes that some records have yet to be transferred to the NARSSA. Participants 2A, 2B, and 2D also stated that evidence obtained from archives is important for land security and restitution. Participant 2C, on the other hand, believes *“a person should have the necessary knowledge to unlock the applicable documentation necessary to prove the land claims. Otherwise, it will take a very long time to find the applicable documentation regarding proving land claims.”*

When participants were asked which archival services they valued the most, they all agreed on reading room service. The reading room, according to the participants, is where all members of the public can make inquiries and receive assistance. The reading room has complete access to all archives and is where extensive research is carried out.

4.4.5 Recommendations on the use of archives to enhance the land restitution programme

The findings revealed a staff shortage, a lack of digitised archives in archival institutions, and other issues that should be addressed in order to strengthen the use of archives in land restitution. Participant 2D stated that *“the proper keeping and accessibility of archives are vitally important to empower the people and democracy. It is only through the proper keeping and accessibility of archives for the community and people’s rights will be protected as they would be empowered.”*

Participant 3B believes the following:

“The Covid-19 pandemic has emphasised the need to digitise. Whilst the National Archives has in the past digitised some of its collections, there is a need to accelerate the process and get more collections digitized to expand the services and provide more information or archives remotely. This will also ensure that the collections are preserved digitally as this will minimise physical contact and reduce damage and deterioration.”

Finally, the study sought to make recommendations on the use of archives to improve South Africa's land restitution programme. The CRLR's validation of land claims is

dependent on the availability and accessibility of preserved archives; the researcher believes that participants may have recommendations for how to improve South Africa's land restitution programme. Because the CRLR's mandate is compromised by the unavailability and inaccessibility of archives. The need for digitisation of archives on the National Automated Archival Information Retrieval System database (NAAIRS) was agreed upon, as some information is missing, making it difficult for the CRLR to return the land to its rightful owners. Participants also suggested that archival institutions hire qualified personnel to make archives accessible, promote the use of archives through outreach programmes, and allow outreach sections to communicate directly with users via social media platforms.

For example, Participant 1A recommended that:

“If all archival information can be scanned and digitised for easy access from a desktop, unlike now only orientations/references are available for desktop search and more than that, one must physically visit the archival offices which are very few in the country. The NARSSA uses social media platforms such as Twitter, Instagram and Facebook to reach out to users. But it is a challenge to effectively communicate with restitution claimants and project officers because the communications section within the Department of Sport, Arts and Culture updates information on behalf of the NARSSA. Therefore, it is difficult to inform users on where and how they can access archives to use for the land claims. It would be an achievement for the outreach section to be responsible or manage social media platforms to market the archival services and make sure the information reaches the relevant users.”

Participant 1B stressed that *“it’s difficult to recommend, the land claims offices depend on what is available and the required information is old which dates back from 1913 so some information is already missing which makes it difficult to be useful in that regard because you don’t get what you want.”*

Participant 1D proposes that:

- more officials should be hired at the CRLR to expedite the land claim process;
- adequate funding should be allocated to purchase land and compensate claimants; and

- the current backlog should be cleared before attempting to deal with new land claims.

Participant 2D added that:

“By digitising all records pertaining to land claims. For example, National Bantu Commissioner records from homelands like Bophuthatswana, Leboa, Transkei, Vendlan. And any further documents regarding the Land Act of 1913 were forced of removal of people happened under the auspices of the act and its regulations. All Bantu Trust Act documents, the native Administrative Act, Native Homelands Act as well.

These documents as listed from the sources above are crucial for the proof of land claims in South Africa. And digitising and changing them into digital format will make accessibility and finding these documents easier to attain for claimants and the Department of Rural Department and Land Reform. This is because the NARSSA website is fully functional and has information about library services, records management, publications and contact details. But the online database only provides the quick reference and not the actual content of archives, hence, it is mandatory for one to physically visit the NARSSA to access archives preserved in their holdings.”

Participant 2D further recommended that:

“DRDLR and CRLR will have to implement a system where the land claims and systems are kept in one place, not in different locations and the National Archives. They must appoint and train people to assist with research.”

4.5 Summary

In this chapter, data was collected through interviews and document analysis, which was then analysed in accordance with the research objectives. In summary, the current study established that archives can help with land restitution in South Africa. This is supported by data from interviews and data analysis.

The major issues affecting the CRLR's ability to carry out their mandate.

- CRLR is unable to take advantage of its influential mandate towards the restoration of land in South Africa as some of the information is unavailable and inaccessible.
- There is no documented evidence on archival institutions' websites regarding land restitution.
- CRLR relies on available information to process land claims.
- Archival institutions are not being visited by restitution claimants, especially concerning land claims.
- Some of the archives regarding land restitution are not available in archival institutions.
- Lack of digital archives in archival institutions.

Based on the findings, it is evident that archival institutions play an important role in assisting with land restitution in South Africa. However, based on the responses, it is definite that there is a lack of archives in archival institutions required for restitution purposes. While some of the available archives are missing information or pages, putting the evidence in jeopardy. Land claimants' inability to recognise their potential influence in the use of archives preserved in archival institutions is impeding the success of land claims in South Africa. The discussion and interpretation of the research findings are detailed in the next chapter.

CHAPTER FIVE

DISCUSSION AND INTERPRETATION OF RESEARCH FINDINGS

5.1 Introduction

In the previous chapter, the evidence gathered through oral history, archival science research, and document analysis was presented and analysed. This chapter will discuss and interpret the data analysis and presentation of the current study's findings from Chapter Four. Data analysis is the process of modifying, reorganising, and reviewing data in order to reach a conclusion about a situation or problem (Johnson 2012). A study, according to Nalzaró (2012:21), must include the presentation and analysis of findings so that the researcher can reduce data to an understandable and interpretable level. Furthermore, the research question may be investigated, validated, and conclusions drawn (De Vos 2011:249). The findings are consistent with the problem statement and objectives of the study. The chapter organises the findings of the interviews and document analysis. The discussion and presentation of the research findings, which are organised around the topics below, are guided by five objectives detailed in Chapter One:

- analyse legal and policy framework for the source of evidence in land claims in South Africa;
- determine the usage of archives for the restitution claimants in South Africa;
- determine the availability and accessibility of archives to support land claims in South Africa;
- ascertain the experiences of the users in the use of archives for land claims in South Africa; and
- make recommendations on the use of archives to enhance the land restitution programme in South Africa.

5.2 Legal and policy framework for the source of evidence in land claims

The rules governing the source of evidence, the right to information, the protection of national archival evidence, and access to land rights, according to the literature, all play a role in the restoration of land claims. Section 4.4.1 demonstrates that South Africa has a legal and policy framework in place that governs the source of evidence in land claims. It was critical to determine whether the CRLR is guided by a legal and policy framework that governs its responsibilities, particularly the source of evidence used to support land claims. This implies that the CRLR's adherence to a legal and policy framework in fulfilling its responsibility to return the land to its rightful owners cannot be questioned or ignored.

The Constitution, the White Paper on South African Land Policy, the Restitution of Land Rights Act, the PAIA, the NARSSA Act, and the PAJA are all cited as laws that guide the gathering of evidence for land claims by all parties. Participant 1C confirmed this, stating that legal and policy frameworks legitimise how the restitution process unfolds in order to minimise unintended consequences. This finding supports the findings of Thobela (2011), Sundes (2013), and Saunders (2003), who discovered that land restitution has legal and policy guidelines that influence the source of evidence in land claims. As a result, the Restitution of Land Rights Act mandates that the CRLR to collect evidence in order to examine and decide on the merits of land claims. The NARRSA is in charge of the country's land restitution archives. Despite the fact that the NARSSA has land restitution archives, the majority of residents are unaware of their rights to reclaim their property (Sulej 2014:19).

The main findings appear to imply that, while South African archival legislation permits access to and use of archives, the NARSSA Act is silent on the use of archives to support land claims. Similarly, no legislation addresses the use of archives as evidence in land restitution. The White Paper on South African Policy, published in 1997, was intended to address racially discriminatory land policies resulting from land dispossession injustices (Sundes 2013). The White Paper outlined the formation of a specialised task to deal exclusively with land restitution concerns under Land Reform. In addition, in response to the White Paper, the Restitution of Land Rights Act was enacted, allowing South Africans to file land claims with the CRLR. The creation of

this Act demonstrates that the CRLR has been tasked with resolving racially inequitable land issues. This necessitates a substantial amount of evidence to support the land claims. The CRLR will investigate, settle, and finalise the land claims. According to Sebina (2004), it is difficult for restitution claimants to reclaim their land because archives are unavailable and inaccessible due to loss, damage, and theft.

Policies in place demonstrate that the CRLR is doing everything possible to provide land dispossession remedies to impacted communities and individuals. Participant 1A, for example, stated that the CRLR settles land claims by heavily relying on supporting documents (from the Deeds Office, the Office of the Surveyor-General, and restitution claimants), oral testimony, and physical evidence (such as graves). In South Africa, the CRLR employs workers who are in charge of investigating and validating land claims using any available evidence. However, the CRLR's delay in settling land claims is irritated because certain records older than 20 years were not transferred to the NARSSA for future preservation and public use. This may pose a problem for restitution claimants, as the CRLR and the NARSSA lack archives required by the PAIA to prove their land claims. Archival legislation, on the other hand, restricts access to available archives. According to this study, the POPI Act restricts access to and use of land restitution archives. Unauthorised access to sensitive and confidential information, for example, is strictly prohibited. The NARSSA ensures that archives that breach the right to privacy are denied access in accordance with the POPI Act.

The mission of the CRLR is to collect evidence for land claims. Many regulations have been formulated by policymakers to serve as a guideline for locating any evidence deemed admissible in a court of law. The high proportion of unresolved land claims in land restitution, on the other hand, suggests that policymakers are working to find a way to incorporate archives into land restitution. The goal of reducing the high percentage of unresolved land claims due to a lack of evidence will remain a challenge until archival services for land restitution are made available. Despite a number of initiatives aimed at correcting land dispossession injustices, this remains the case.

The PAIA grants access to archives held by the state or any other individual in order to exercise or protect the rights of South Africans. For example, Sibanda and Makoni (2013) discovered that users were denied access to archives at an archival institution

based on their condition and restrictions. The PAIA is being implemented in accordance with the provisions made available to the NARSSA under Section 11 of the NARSSA Act. There are no provisions in the NARSSA Act that address government departments' failure to comply with the requirement to transfer documents older than 20 years to an archival repository. Despite the fact that the CRLR did not transfer the land restitution collection, the NARSSA complies with the PAIA.

5.3 The use of archives to support land restitution

The use of archives enables restitution claimants to obtain justice in the form of land restoration or monetary compensation. The use of archives is the primary reason for the existence of archival institutions, particularly the NARSSA. According to the current study, the majority of participants use archives to support their land claims (See Figure 4.1). Several restitution claimants, however, are unaware that the NARSSA preserves land restitution collections and, as a result, do not use archives. Others rely on the CRLR to conduct archival research on their behalf because they live in remote areas or lack 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 claim settlement.

The participants, according to the findings, also went to the NARSSA to conduct archival research. Others went to archival institutions such as the National Library of South Africa, Witwatersrand University, the Union of South Africans, and the Office of the Surveyor-General to access land restitution archives. Both project officials and restitution claimants believe archives are the most credible source of information, that they can help them understand the historical context of the land they are claiming, and that they can provide greater clarity on the most difficult land claims. This backs up the findings of Suarez and Suarez (2007), who discovered that the vast majority of users use archives for research purposes. This means that, because the NARSSA is supposed to assist the CRLR in reaching its goal, its land restitution process guidelines should be able to support the NARSSA's research services, allowing it to transfer more land restitution collections.

The mission of the NARSSA is to meet the needs of its users. The participants looked through archives from the Departments of Community Development, 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, a farm register, maps, official letters, and tribe 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. The discovery confirmed that the Union of British Columbia Indian Chiefs (2005) processed a land claim with the help of additional documented evidence from libraries, government offices, museums, and archives, as well as oral histories from the impacted communities. Landman (2013b) contends that when the project officers examine the evidence more closely, they will discover that many of the sources of evidence are linked, and in some cases, they may validate oral evidence to provide a picture of the past.

This demonstrates that, if the NARSSA wishes to retain project officers and restitution claimants as frequent users, the reading room should have adequate internet access. Increased numbers of land restitution collections should be digitised. Furthermore, wireless connectivity should be provided so that archives can be accessed without visiting the NARSSA. As a result, project officers and restitution claimants will be able to back up their land claims with archives.

5.4 Availability and accessibility of archives

The study investigated whether archives in South Africa were available and accessible to support land claims. To accomplish this, the researcher examined the laws governing access to and availability of archives. In terms of legislation, Section 32(1) of the Constitution guarantees that everyone has access to state archives. The PAIA gives effect to the right to information guaranteed by the Constitution. According to the findings of the interviews and document analysis, the NARSSA archives are now available for public use. However, one participant mentioned that some archives are not accessible. The following was the participant's explanation: The POPI Act makes

it difficult to gain access to archives containing personal information for the purpose of land restitution. Damaged archives, according to the NARSSA participants, are also not open to the public in order to prevent further deterioration.

Participant 1D stated that archives holding personal information are restricted from access by the archival institution for land restitution purposes. According to Forde (2005:199), "preservation still has to come before access, and it is important for archivists to balance the interests of users on the one hand, and the need to safeguard records on the other." According to the findings, there appear to be barriers to accessing archives at the NARSSA. The results of the interviews show that the CRLR and the Office of the Surveyor-General do not cooperate in providing the needed information. This is a concern to the restitution claimants who do not have any evidence. For example, Ngoepe (2015:294) claims that when information is absent or documents are not provided as needed by the courts, victims' justice will be delayed or denied.

In South Africa, land restitution is now focusing on the availability and accessibility of archives. Access to the land restitution collections is determined by user needs as well as the preservation of archives for future use. According to Reid (2010:230), "access to archives offers individuals a deeper sense of their identity, and of their position in the nation's history," On the other hand, legal requirements for archive access and privacy protection must be balanced. South African archival legislation requires that archives be transferred to an archive repository and shared with users. However, as stated in section 4.4.3, access to archives may be restricted based on legal grounds and fragile conditions. Furthermore, the availability of finding aids, protocols, and standards for accessing the archives of the land restitution collection may limit access.

The findings in Section 4.4.3 show that the researchers obtained access to archives through archival institutions such as the NARSSA and the National Library of South Africa. In South Africa, it appears that the NARSSA is making archives open and accessible in the reading room in order to verify land dispossessions. Some claimants, on the other hand, never visited archival institutions to gain access to archives. Some of the restitution claimants' lack of visits could be attributed to discriminatory outreach programmes. To determine whether the NARSSA provides the necessary archival

evidence to the appropriate researchers, it is critical to understand who uses archives for land restitution purposes. The users appear to be unaware that archives on land disposessions are available at the NARSSA. One participant, for example, stated that most people who have been evicted from their land are unaware that the NARSSA keeps archives to back up their land claims. As a result, archivists should be aware of the existence of archives, describe them, and provide appropriate guidelines for public access and use, according to Stazic (2016).

Language barriers make access to available archives difficult. Since most South African archival institutions use English and Afrikaans as a medium of communication, the language barrier is one of the factors contributing to the low use of archives (Ngoepe & Ngulube 2011). Due to a lack of archives, restitution claimants, the majority of whom are from rural areas, face the challenge of unresolved land claims. According to Ngulube (2003:179), Africans who do not speak Afrikaans or English are unable to access archival instructions. According to Nengomasha and Nyanga (2015:97), "much of our archival materials are in languages that users do not understand." According to this study, the majority of restitution claimants who attend the NARSSA are illiterate and speak a language other than English or Afrikaans at home. As a result of their lack of education and language skills, restitution claimants continue to struggle to gain access to archives in order to verify their land claims. According to the NARSSA participants, language and level of education were cited as barriers to accessing archives in the reading room. One participant, for example, stated that a lack of proficiency in English and Afrikaans made it difficult to access land restitution archives in the NARSSA holdings. Access to public archives is restricted due to language barriers and a lack of assistance in the provision of translation services (Schellnack-Kelly 2020:1). Participant 3A confirmed that there had only ever been a single time when the reading room had offered translation services. As a result, language can make it difficult for people to access archives because they may need a translation. As a result, restitution claimants in the reading room will not be able to access archives made available to support their land claims if they are unable to comprehend a certain language. The finding aids, according to the participants, are available in both Afrikaans and English. They have never been translated into any of the other nine official languages to make the land restitution archives more widely available. Suarez and Suarez (2007) suggested that archivists visit the affected communities to learn

more about their language and traditional names, which would aid in the interpretation of the data collected.

Finding aids are critical for making archived information on land dispossessions available to the public. Inventories, indexes, and the NAAIRS make it simple to access archives when they are needed. The inventories and the NAAIRS, according to the participants, are used as finding aids for all of the collections at the NARSSA. As a result, users will have easier and faster access to the land restitution archives.

Physical access is one of the pillars of archival institutions' efforts to improve or expand access to archives under their control. The first ICA principle on access to archives emphasises the public's right to access archives, which should be made available to the public to the greatest extent possible. In terms of physical accessibility, the findings indicate that the NARSSA provides facilities in the reading room to assist physically challenged users in order to meet the needs of disadvantaged users. Jimerson (2003:15) states that users need physical access (suitable facilities) to access archives in a secure environment.

The NARSSA employees in charge of providing access to the land restitution collections are highly skilled and well-trained. It is critical to have competent and experienced archivists who deal with access to archives in order to improve the archival services that would be beneficial to restitution claimants and project officials. Mukwevho (2017:183) emphasises that "mostly, archivists' lack of knowledge of archives and records management may be a problem affecting the visibility and accessibility of public archives repositories."

5.5 The experiences of the users in the use of archives for land claims in South Africa

According to the findings, the NARSSA users believe that using archives for land claims is user-friendly, beneficial, and instructive. The reading room's services are satisfactory, according to user surveys. The majority of participants praised the NARSSA's land restitution archives. One participant expressed dissatisfaction with the process due to a lack of information, missing pages, or damaged information on land

restitution collections. The majority of participants, on the other hand, believe that the NARSSA's archives are extremely useful in determining who is the rightful owner of the land. As a result, land restitution processes for resolving land claims are becoming simpler and faster. While archival institutions work hard to provide the best archival services possible to their users, protecting archival collections from theft, loss, and damage is critical (Jimerson 2003:15). Even after being granted access, a project officer discovered insufficient archival evidence. Despite the presence of cameras and attendance records, as well as secure buildings and strongrooms, the security of archives should be strengthened.

5.6 Recommendations on the use of archives to enhance the land restitution programme in South Africa

This section contains recommendations for dealing with the issues raised by the study's findings. The current study makes recommendations to improve the use of archives in South Africa's land restitution programme.

The use of archives in land restitution should be prioritised, according to the NARSSA participants. In it, they recommend that more land restitution archives be digitised in order to prevent further damage or deterioration. Participants also suggested that more staff be trained in archival services so that they can help project officers and restitution claimants use archives. The participants advocate for greater access to preserved land restitution collections in order to protect South African citizens' land rights. 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.

Saurombe (2015) points out that investigating the user's needs enables most archival institutions to improve their archival services and attract more potential users. With that being said, Harris (2000a) stresses that archival institutions have insufficient measures to meet the needs of users. The importance of investigating the needs of users has been overlooked (Ngulube & Tafor 2006). It is evident that for the NARSSA to make archives available and accessible to support the land claims, there should be an investigation to determine the needs of the project officers and restitution claimants.

Archivists would have the opportunity to fill the gaps and collect more archives to verify and settle land claims in South Africa.

The study determined that investigating the needs of the users is required to aid in the improvement of knowledge about the history of the communities and the rightful owners of the land being claimed. Participants from the CRLR also stated that archives held at the NARSSA are important in resolving land claims. As a result, without archives, the CRLR will struggle to resolve complex land claims.

The literature states that user studies and public programming are inextricably linked in terms of increasing public awareness and retaining potential users. As a result, any archival institution should raise public awareness, comprehension, appreciation, and utilisation of archives for land restitution purposes (Katuu 2015). According to ICA (2012), archival institutions in charge of archives have a responsibility to take a proactive approach to ensure that the public is aware of the archival information that has been preserved. According to the current study, the NARSSA has an outreach office that deals with outreach programmes such as "taking archives to the people," annual National Archives awareness week, oral history, friends of the archives, and National Days exhibitions. It is a positive development to learn that the NARSSA has collaborations with rural communities and the Department of Education to bring archives to the people. Participant 3B also stated that the NARSSA raises its visibility through national events, archive publications, exhibitions, and career orientation in rural schools. The study also discovered that seminars, conferences, and workshops are held in various provinces. The existence of public programming at the NARSSA demonstrates that the general public is free to learn about the archival services and archives available to support land claims. According to Saurombe (2016), outreach programmes enable archival institutions to increase the use of archives by raising public awareness.

The NARSSA provides researchers with a register and a form to fill out in order to learn what is required. This implies that the NARSSA can identify regular users of archives for land restitution and provide the necessary information to the public. Potential users will be encouraged to visit the NARSSA on a regular basis to seek archival services that meet their needs through the use of user studies (Katuu 2015b).

The use of information technologies allows archival institutions to reach out to users and keep them informed about archival services (Samouelian 2009). The NARSSA is tasked with reaching out to users, particularly restitution claimants and project officers, to encourage them to participate in archival activities and to provide updates on the location and procedures for accessing archives to support land claims. The third principle of the ICA's principle on access to archives states unequivocally that archival institutions in the custody of archives have a responsibility to implement a proactive approach to ensure that the public is aware of available archives in their holdings.

The current study discovered that the NARSSA is not in charge of the social media platforms, as the DSAC communicates with the general public on the NARSSA's behalf through the communications section. Despite the fact that archivists have the necessary skills and knowledge to directly interact with users about archival services and market the services to increase the use of archives for land restitution, this is the case. As a result, it is critical for the NARSSA to use modern social media platforms internally to directly engage users and provide updates about archival services offered to use archives for land restitution purposes.

This study also discovered that the NARSSA used the NAAIRS and the functional website for quick reference services and various information on sections such as records management and library services, but did not provide actual archive content. As a result, researchers are compelled to physically visit the NARSSA in order to access archives stored in the strongrooms. Users were required to visit archives relating to land dispossessions in South Africa on a regular basis. On the contrary, the use of information technology should be implemented with the goal of having a scanned digital object online and updating users to use archives remotely.

5.7 Summary

This chapter discussed the interpretation and discussion of the study's findings. The discussion was founded on the findings presented in Chapter Four as well as the literature reviewed in Chapter Two. The literature review was useful in substantiating

the findings of this study. Based on the objectives in Chapter One, the interpretation and discussion of the findings in this study were presented.

It has been established that the legal and policy framework, use, availability, accessibility, and experience can protect South African citizens' constitutional land rights. The CRLR should work with the NARSSA to transfer outstanding archives and create a land restitution guideline to support the NARSSA's research services. As a result, the massive collections transferred to the NARSSA will be preserved to support land claims. The easy retrieval of archival information emanates from the use of proper finding aids and adherence to archival legislation. For instance, if records older than 20 years are missing or destroyed and never transferred to the NARSSA, restitution claimants will not be able to reclaim their land because there is little or no evidence to support their claim.

The next chapter provides conclusions, a summary, and recommendations on archives as a tool for supporting land restitution in South Africa.

CHAPTER SIX

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction

This study's findings were analysed and presented in Chapter Four. The previous chapter analysed and interpreted information gathered from participants as well as studies related to the study's goals. According to Bloomberg and Volpe (2018), the final chapter of a study allows the researcher to make final comments about the study so that readers can make their own decisions. According to Rodrigo (2016), the conclusion of a study reinforces the dissertation statement and addresses the concerns in order to reach a final conclusion. This chapter summarises the findings, draws conclusions, and makes recommendations. Furthermore, recommendations for future research to improve the use of archives in land restitution are made.

The purpose of this study was to explore if archives could be used to aid in land restitution in South Africa. The current study seeks to address the issue that archives are not always available and accessible when restitution claimants seek them. Archives should be used to right the past injustices such as land evictions.

6.2 Summary of the findings

The impetus for this research stemmed from findings of a review of existing literature, which revealed that when restitution claimants in South Africa sought archives to support their land claims, archives were unavailable and inaccessible, affecting their rights (Sebina 2004; Ngulube 2019; Archival Platform 2015; Waiser 2015; Ngoepe & Makhubela 2015). Interviews with project officers, restitution claimants, and archivists, as well as oral history and document analysis, were used to gather the current study's findings. The findings were presented and analysed in Chapter Four, and the responses of the participants were quoted verbatim. Chapter Five was devoted to the interpretation and discussion of the study's findings. This section contains a summary of the findings based on the study's objectives.

6.2.1 Legal and policy framework for the source of evidence in land claims

The study primarily examined the legal and policy framework for determining the source of evidence in land claims. Analysing the legal and policy framework that governs the sourcing of evidence is a critical component of land claim processes. The CRLR relies significantly on the Constitution, the White Paper on South African Land Policy, the Restitution of Land Rights Act, the PAIA, the NARSSA Act, and the PAJA to gather evidence in land claims, according to the participants. Document analysis also revealed that there is a legal and policy framework in place that governs how land claims are handled, including the Restitution of Land Rights Act, which is also governed by the Constitution, and the NARSSA Act, which states that the CRLR must gather evidence to investigate and determine the merits of a land claim. According to Parer (2001), archival legislation is necessary in government for transparency, accountability, and historical context in order to ensure effective administration and protection of archives. Section 11(2) of the NARSSA Act, for example, states that public records identified as having enduring value should be transferred to an archives repository after 20 years of existence. The NARSSA establishes the overall records management policy framework that the CRLR adheres to.

As a result, the CRLR can use archives stored in an archive repository to back up land claims when the proof is lacking. As stated in section 5.2.1 of this study, there are existing measures in place to ensure compliance with the sourcing of archives, oral evidence, and physical evidence. This research also uncovered some issues in the literature concerning the source of evidence for land claims. The NARSSA Act allows for the transfer of archives older than 20 years, but it does not allow for the use of archives in support of South African land claims. As a result, land restitution archives are not always accessible and are often out of sight. According to Netshakhuma (2019b), documents older than 20 years that have not been moved to an archival repository, such as those held by the Mpumalanga Provincial Archives, make information access difficult. Marutha and Ngulube (2010) argue that archive legislation focuses on access to information but fails to make information available due to a lack of legal and policy framework to collect evidence for land claims.

The CRLR strategy fails to ensure long-term access to land claim archives due to a weak legal framework. The NARSSA Act establishes a legislative framework, but it does not assist the establishment of offices because it does not include provisions for managing land claim records older than 20 years. Despite being a cornerstone of openness and freedom of information, land restitution does not adhere to the requirements for access to archives. The Constitution, the Restitution of Land Rights Act, the White Paper, the NARSSA Act, the PAIA, the POPI Act, and the PAJA all require the CRLR to settle land disputes using admissible evidence. The study discovered that unorganised land restitution archives make it difficult for authorities to access supporting documents throughout the land claims process.

6.2.2 The use of archives to support land restitution

According to the findings, archives were the most commonly used source of reliable historical background or clarification by project officers and restitution claimants in order to substantiate the land being claimed. According to the literature, restitution claimants face challenges in validating their land claims, including a lack of knowledge of archives stored in archival institutions. As a result, some claimants fail to use archives as supporting evidence in their efforts to reclaim ownership. According to the findings of this study, archival groups such as the Department of Community Development, the Department of Native Affairs, the Office of the State Secretary, Local Authority, and a farm register were also used to authenticate a land claim. The findings indicated that some of the NARSSA archives were not in a fit state for use in land restitution. This is due to a scarcity of appropriate services and digitised land restitution collections in the reading room.

6.2.3 Availability and accessibility of archives

The PAIA and the NARSSA Act govern access to land restitution archives. The archival legislation required that archives transferred from the CRLR to the NARSSA be made open and accessible to the public, though they may be restricted for legal or fragile reasons. As a result of this investigation, it was discovered that land claim archives are extremely limited. The POPI Act restricts access to archives containing personal information. The language used in South Africa was regarded as a barrier to accessing land restitution collections. Similarly, low literacy and education were

identified as barriers to accessing archives made available in the reading room to restitution claimants and project officers because they were written in either English or Afrikaans. As a result, the lack of translation services makes understanding the archival evidence found in land restitution collections impossible.

In terms of access to land restitution archives, all the NARSSA participants were qualified to do their jobs. Finding aids such as inventories, indexes, and the NAAIRS aided in the easy retrieval of requested archives related to land dispossession. The NARSSA's facilities in the reading room were suitable for physically handicapped individuals. This was a significant accomplishment in terms of meeting the demand for secure and timely access to archives in order to facilitate land restitution.

6.2.4 The experiences of the users in the use of archives for land claims in South Africa

A positive user experience is especially important because it keeps users returning and encourages them to use the archival services on a regular basis. To facilitate the use of land restitution collections, the needs of restitution claimants must be met. According to the survey, the NARSSA users find the archival services provided to be user-friendly, useful, and instructive. The findings indicate that archival services are effective in providing the archives required to demonstrate land dispossession injustices. The vast majority of users were pleased with the land restitution archives, which included a land register, maps, and letters to assist them in resolving their land claims. This was demonstrated by an archivist's response, which stated that the questionnaires received positive feedback from restitution claimants and project officers in the reading room. A small number of users were also dissatisfied with the archival services due to a lack of information, missing or destroyed pages, and a lack of knowledge about how to access land restitution collections.

6.2.5 Recommendations on how to use archives to improve South Africa's land restitution programme.

The archivists provide project officers and restitution claimants with access to archives related to land restitution. However, given the fragile state of the land restitution collections, further damage deterioration will make access difficult. As a result,

digitising the archives on land dispossession will extend their lifespan through online access. More access to land restitution collections is needed to protect the rights of South African citizens who were subjected to land dispossession during apartheid. It was also determined that archives could be made available if the NARSSA trained more archivists to assist project officers and restitution claimants in the use of archives.

The findings shed light on the importance of investigating the needs of restitution claimants and project officers in order to quickly improve knowledge of the communities, history, and rightful owners of the land under investigation. The NARSSA clearly investigated the needs of the users. In addition, there are new users, particularly restitution claimants and project officers. To some extent, the findings indicated that the NARSSA's focus was on existing users, but an effort was also made to reach out to potential users of the archival service. The NARSSA gathered data for evaluation purposes in order to improve the archival service.

Public programming initiatives were a critical component of the NARSSA function. National events, archive publications, exhibitions, career orientation at rural schools, seminars, conferences, and workshops were all used to raise awareness about land restitution collection and promote its use as reliable archival evidence to validate a land claim. The Department of Education, according to archivists who participated in this study, was the most driving force in bringing archives to the people through outreach programmes such as Annual National Archives Awareness Week, oral history, Friends of the Archives, and National Days exhibitions.

The use of archives increases when information technology is not underutilised in the provision of access to them. The lack of digitised land restitution collection is a problem that was exacerbated by the fact that project officers and restitution claimants were unable to access archival evidence remotely during the lockdown. According to the findings of this study, reaching out to users via the available internet could reduce physical contact and further deterioration.

6.3 Conclusions of the study

The current study reached the following conclusions based on the completed investigation.

6.3.1 Legal and policy framework for the source of evidence in land claims

Archival legislation requires the CRLR to make land dispossession information available to South African citizens and to transfer records older than 20 years to an archival repository for continuous access and future use. The archival legislation, on the other hand, is silent on archives as a source of evidence for land claims. This is due to gaps in the source of evidence policies to accommodate archives that are still in the offices of the CRLR and were never transferred to the NARSSA, which could have hampered the provision of archival evidence to restitution claimants to support their land claims. Furthermore, restitution claimants were denied the right to information on the grounds that there were no provisions in the NARSSA Act requiring land restitution to transfer archives relating to land dispossessions. The POPI Act appeared to have been used to deny evidence containing sensitive and confidential information that could have provided proof of the incidents that led to land dispossessions.

Furthermore, the CRLR heavily relies on supporting documents, oral history, and physical evidence to provide remedial actions to restitution claimants who were forcibly removed from their land in accordance with the Constitution, the Restitution Act, and the White Paper.

6.3.2 The use of archives to support land restitution

The NARSSA is critical in assisting the CRLR in fulfilling its mission of investigating and settling land claims using archival evidence collected and preserved in their custody. This is seen as the archives are made available to restitution and project officers for use in locating required evidence to validate or verify a land claim. The use of archives is critical to the CRLR's ability to process land claims. According to the findings of this study, the majority of project officers and restitution claimants make extensive use of archives to support 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.

6.3.3 Availability and accessibility of archives

The NARSSA has land restitution archives from the CRLR that are open to the public. The archival evidence on the history of land dispossessions in the reading room was made available and accessible to restitution claimants and project officers without restriction. As a result of the reading room, it was possible to create access to archives based on the easy retrieval of land restitution collections. Some archives, however, remained inaccessible to users due to damage or contained personal information. The land restitution collection was incomplete because the CRLR did not transfer all of the archives as required by the NARSSA Act. As a result, the NARSSA holdings did not contain all of the archives requested by users.

Access to archives for land claims is hampered by the language used on archives and a lack of translation services in the reading room. This is a serious violation of the NARSSA Act and the PAIA, both of which promote access to archives in the NARSSA holdings. This study also concluded that finding aids to retrieve information easily and quickly facilitated access to archives at the NARSSA. Furthermore, the NARSSA's facilities in the reading room catered for disabled people and improved access to the land restitution collections housed there. The study also found that archivists who are in charge of making archives available and accessible to support land claims are experienced and skilled.

6.3.4 The experiences of the users in the use of archives for land claims in South Africa

The experiences of project officers, restitution claimants, and archivists in using archives to support land claims in South Africa were illuminating, particularly in determining the rightful owner who has land rights. The difficulties mentioned included a lack of information, missing information, and a lack of knowledge to unlock land restitution archives.

6.3.5 Recommendations on the use of archives to enhance the land restitution programme in South Africa

The NARSSA made an effort to gather information on user needs, particularly those of new and existing project officers and restitution claimants. Furthermore, it appeared that the accumulated archival evidence on land dispossessions was effectively used to support land claims and improve archival services. Feedback from project officers and restitution claimants via questionnaires was also taken into account in order to help the NARSSA gain more knowledge and identify land restitution collection gaps arising from their holdings.

The NARSSA had public programming initiatives to promote the use of archives to improve South Africa's land restitution programme. The findings, however, appear to indicate that public programming initiatives targeted communities and the Department of Education. The initiatives were carried out in order to raise the NARSSA's visibility and raise public awareness about archival services and archives that can be used to support land claims. The use of a register and a form was also incorporated in order for restitution claimants and project officers to know what is required. As a result, the NARSSA's public programming was ineffective because some restitution claimants were not reached to be encouraged to use archives in the NARSSA holdings for land restitution purposes.

The NARSSA has previously digitised some of its collections, but the land restitution collections have yet to be digitised and made available on the website. The archivists acknowledged that digitised archives could aid in reaching out to users, particularly project officers and restitution claimants, without them having to physically visit the NARSSA. The NARSSA identified the website as one of the forms of media used to promote access to and use of archives in their holdings. According to Liew, King, and Oliver (2015), the rate at which archival institutions accept social media that can improve their services is relatively slow.

6.4 Recommendations

The recommendations are made in the light of the study's findings, conclusions, and literature. Significant land restitution, restitution claimants, policymakers, and archives for land restitution in South Africa are among the recommendations. Based on the findings of this study, the following recommendations are made.

6.4.1 Legal and policy framework for the source of evidence in land claims

The study discovered that South African archives legislation is deficient and does not provide guidance for the use of archives as evidence in land claims. There are provisions for record management. The NARSSA Act should be drastically amended to include provisions for archives as evidence in land restitution. The specific clauses could include instructions on how to manage archives in the creating office (land restitution). The NARSSA should work with the CRLR to create a strategy for land restitution archives in order to facilitate admissible evidence in land claim processes. The NARSSA should raise awareness of the use of archives issues geared towards the CRLR and the Office of the Surveyor-General to ensure that records older than 20 years are transferred to an archival repository. The NARSSA Act should amend the penalty clause for governmental bodies to transfer archives to an archives repository.

Archival legislation should effectively address the issue regarding the use of archives in land restitution. The legislation should address measures that should be clear as to other functions such as the management of records. It is of paramount importance for the PAIA to address issues about the deterioration of archives after users have mishandled them. Oral history is used at archival institutions, particularly the NARSSA, to address gaps in existing collections and enhance archives (Bhebhe & Ngoepe 2021a; Bhebhe & Ngoepe 2021b; Bhebhe & Ngoepe 2021c; Bhebhe & Ngoepe 2020; Ngoepe 2020). As a result, archivists may encourage individuals and communities to share previously unseen experiences with land dispossession and how it affected their land rights during apartheid. This can also be done at conferences, where presenters submit papers based on raw data collected from marginalised groups whose stories have never been written down.

6.4.2 The use of archives to support land restitution

Based on user feedback, the NARSSA can improve its archival services. The collection of land restitution should be expanded to cover users who are dissatisfied with the services. Some of the NARSSA's archival groups include the Department of Community Development, the Department of Native Affairs, the Office of the State Secretary, Local Authority, and a farm register, which some restitution claimants and project officers cannot locate. Archives that have missing or destroyed pages should be revisited and another alternative implemented to ensure that users have enough archival evidence to use for land claims. The study recommends that archives in strongrooms be verified on a regular basis to identify lost pages and write down archives that require repair.

6.4.3 Availability and accessibility of archives

Archival institutions in charge of land restitution archives should place a greater emphasis on user accessibility and the right to information. According to Jo Pugh (1992:60), access policies should make provisions for prohibited information and the application on restricted archives, which describes the use of finding aids and reference services. Describe the rules that have been placed on archives to make them available for use, and develop policies to grant permission to access archives. It is the archivist's responsibility to inform users about the restrictions placed on specific archives and how they can be accessed. Archival evidence should be safeguarded against loss, damage, and unauthorised access.

6.4.4 The experiences of the users in the use of archives for land claims in South Africa

Concerning the unsatisfactory experience of users in using archives, it is suggested that a collaborative relationship be established between the NARSSA and the CRLR with the common goal of improving the measures to unlock all available archives but restitution claimants do not know how to source evidence and where to locate such evidence. A forum should be established to share new ideas and perspectives on protecting archives for land restitution from theft or loss, as well as to express concerns about unauthorised destruction of archives for land dispossession without disposal authority from the National Archivist. It will also be beneficial to request more information on the locations of all land restitution archives in South Africa. Obtaining

all pertinent information about archives for land restitution will eliminate the information gap at the NARSSA.

6.4.5 Recommendations on the use of archives to enhance the land restitution programme in South Africa

The findings of this study show that the NARSSA lags in providing access to archives for use in land restitution. The study identified several barriers to accessing archives. The difficulties stemmed from language barriers that prevented them from effectively using archives to validate their land claims. The reading room's translation services should be expanded to accommodate users who are illiterate or uneducated and cannot understand English or Afrikaans. Currently, the NARSSA only provides finding aids online, with no actual archival content. It is suggested that the NARSSA consider digitising the entire land restitution collections, which are currently only available in physical form, and making them available online. Access to land claim archives should be extended to rural communities that are unable to visit the NARSSA. Digitising archives for land restitution would allow restitution claimants and project officers to remotely access archives on the NARSSA's premises as well as anywhere in the world at any time.

According to the current study, the NARSSA has an official website. The researcher, on the other hand, suggests that the NARSSA Act broadens the level of access to land restitution collections on well-known social media platforms such as WhatsApp, Facebook, Twitter, and Instagram. Effective use of social media platforms necessitates the assignment of specific personnel to public programming and outreach programmes. Collaboration with the CRLR to improve the NARSSA's archival services and to be visible in rural communities affected by land dispossession could result in the most effective use of archival evidence.

6.5 Suggestion for future studies

The study discovered that the NARSSA does not have actual archival content online for restitution claimants and project officers to access and use. Further research into this matter could aid in the successful implementation of the digitisation of land restitution collections, allowing more restitution claimants and project officers to access archival holdings without restrictions or physically visiting the NARSSA. As a

result, policymakers will be more aware of the importance of access to and use of archives for land restitution, as well as copyright issues and security measures. Furthermore, this study was restricted to a small population of restitution claimants who were chosen through snowball sampling. In the future, studies should be conducted to document all South African land claims that were successful due to the use of archives. Given the emphasis on land restitution in this study, more research on archives to support land redistribution and land reform in South Africa should be conducted. Finally, the research discovered that the NARSSA may have control over social media platforms, allowing them to interact directly with users. More research in this area could improve interactions between the NARSSA and its users regarding archival holdings and activities.

One of the study's limitations is that it did not investigate the possibility of archives being used to conceal land claims. This could happen because those in power at the time may destroy records that could implicate them in the future. For example, Harris (2000b) describes the large-scale destruction of records on the eve of South Africa's democratic transition. The TRC also reported on this. Oral history and old newspapers can be useful in such cases. As a result, future research should consider archives as a tool for concealing evidence or discouraging land claims.

6.6 Implications on theory and practice

The findings of the current study highlighted the challenges that should be addressed in order to improve the use of archives to support land claims in South Africa. The study demonstrated that oral history, as a method and practice for supplementing archives, can be used to accelerate the land restitution process. The issues raised are directly related to the NARSSA's archival services, the CRLR, and restitution claimants. The effective implementation of the current study's recommendations could contribute to an increase in the number of settled land claims by removing obstacles such as missing information or pages, language barriers, archive restrictions, and enhancing the use of archives in the land restitution programme.

This is due to the fact that this study looked into how underutilised archives affect the processing of land claims, as well as archival services that make land restitution

collections accessible to users in order to determine or validate a claim. Of course, this is contingent on the CRLR transferring archives to the NARSSA. As a result of the loss of records, the lack of translation services in the NARSSA's reading room, and restrictions on access to archives, unresolved land claims may arise. The NARSSA may digitise all land restitution collections and publish them on their website for free access in order to successfully prolong the lives of archives and prevent loss, restrictions, damage, and theft. According to the study, the NARSSA should work with the CRLR to develop a strategy for managing land restitution archives. Overall, this study makes a significant contribution in the field of archives and records management, as it serves as a catalyst for the revision of policies and practices in the use of archives in land restitution. This research also adds to the current body of knowledge in terms of improving the use of archives as evidence for land claims. As a result of the findings and recommendations, the NARSSA and the CRLR now have a reference point for developing policy, procedures, and guidelines to make archives available to support land claims.

6.7 Final conclusions

This study accomplished its goal of investigating archives as a tool to support in land restitution in South Africa. Furthermore, the current research was divided into six chapters. Chapter One introduced the topic by setting the scene through contextual and conceptual setting (framework), providing the problem statement, research purpose and objectives, research questions, the significance of the study, scope and delimitation of the study, definition of terms, preliminary literature review, research methodology, ethical considerations, and dissertation summary.

Chapter Two consulted existing relevant studies pertaining to archives as a tool to support land restitution in order to highlight the importance of using archives to determine or validate land claims to archival research. The third chapter described the research methods used in the current study. This study used a qualitative approach to generate new ideas and concepts in order to gain in-depth knowledge and experience with the use of archives to facilitate land restitution. Oral history and archival research were used to answer the study questions. Participants in this study were restitution claimants chosen through snowball sampling, while project officers from the CRLR

and archivists from the NARSSA were specifically chosen for their knowledge and experience in using archives to support land claims in South Africa. Information was gathered through telephone interviews and document analysis. To obtain facts, the current study used oral evidence and archival research methods, and data was presented in accordance with themes derived from the objectives. Chapter Four provided data analysis and presentation based on information gathered from participants and documents. In addition, the data was analysed using Thematic Content Analysis by the researcher. The fifth chapter discussed the study's findings and provided a conclusion for each theme. In light of the findings, the research has made recommendations for future NARSSA research as well as implications for theory and practice.

The study found that the availability and accessibility of archives in land restitution remains a significant challenge when attempting to resolve land claims in South Africa due to loss, theft, and restrictions. As a result, archives must be used to support land claims by making land restitution collections accessible and available through legal and policy frameworks on the source of evidence. Reaching out to restitution claimants and project officers about the presence of archives relating to South African land dispossessions may be feasible. This should be done to ensure that restitution claimants affected by apartheid-era land dispossessions receive justice through the restoration of land rights. There are already many unprocessed or unsuccessful land claims due to a lack of evidence. Participants are not bothered by the use of archives stored in archival institutions because they lack supporting documentation to prove ownership of the dispossessed land. When their family members or parents are no longer alive, South Africans, particularly those in rural communities, will recognise the importance of visiting the NARSSA for historical information on land dispossessions. As a result, the study concluded that this is an opportunity to collect more archives on land dispossessions from the CRLR and communities via Section 11(2), which requires government departments to transfer records older than 20 years to an archival repository, as well as to embark on oral history to document unheard stories of disadvantaged Africans on land restitution issues.

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Appendix A: The International Council On Archives (ICA) Principles On Access To Archives

- i. The public has the right to access to archives of public bodies. Both public and private should open their archives to the greatest extent possible.
- ii. Institutions holding archives make known existence of the archives, including the existence of closed materials and disclose the existence of restrictions that affect access to archives.
- iii. Institutions holding archives adopt a pro-active approach to access.
- iv. Institutions holding archives ensure that restrictions on access are clear and of stated duration, are based on pertinent legislation, acknowledging the right to privacy and respect the rights of owners of private materials.
- v. Archives are made available on equal and fair terms.
- vi. Institutions holding archives ensure that victims of serious crimes under international law have access that provides evidence needed to assert their human rights and to document violations of them, even if those archives are closed to the general public.
- vii. Users have the right to appeal a denial of access.
- viii. Institutions holding archives ensure that operational constraints do not prevent access to archives.
- ix. Archivists have access to all closed archives and perform necessary work on them.
- x. Archivists participate in the decision-making process on access.

Appendix B: Ethical clearance from UNISA



DEPARTMENT OF INFORMATION SCIENCE ETHICS REVIEW COMMITTEE

9 June 2020

Dear Ms Lyborn Mabapa

Decision:
Ethics Approval from 9 June
2020 to 9 June 2024

DIS Registration #: Rec-20200609
References #: 2020-DIS-0016
Name: L Mabapa
Student #: 61133620

Researcher(s): Ms Lyborn Mabapa
61133620@mylife.unisa.ac.za
079 687 0078

Supervisor(s): Prof MS Ngoepe
ngoepms@unisa.ac.za
012 429 6792

Archives as a tool to support land restitution in South Africa.

Qualifications: Masters Study



University of South Africa
Preller Street, Muckleneuk Ridge, City of Tshwane
PO Box 392, UNISA 0003 South Africa
Telephone: +27 12 429 3111 Facsimile: +27 12 429 4150
www.unisa.ac.za

The *low risk application* was reviewed and expedited by the Department of Information Science Research Ethics Committee on 9 June 2020 in compliance with the Unisa Policy on Research Ethics and the Standards Operating Procedure on Research Ethics Risk Assessment. The proposed research may now commence with the provisions that:

1. The researcher(s) will ensure that the research project adheres to the values and principles expressed in the UNISA Policy of Research Ethics.
2. Any adverse circumstances arising in the undertaking of the research project that is relevant to the ethicality of the study should be communicated in writing to the Department of Information Science Ethics Review Committee.
3. The researcher(s) will conduct the study according to the methods and procedures set out in the approved application.
4. Any changes that can affect the study-related risks for the research participants, particularly in terms of assurances made with regards the protection of participants' privacy and the confidentiality of the data should be reported to the Committee in writing, accompanied by a progress report.
5. The researcher will ensure that the research project adheres to any applicable national legislation, professional codes of conduct, institutional guidelines and scientific standards relevant to the field of study. Adherence to the following South African legislation is important, if applicable: Protection of Personal Information Act, no. 4 of 2013; Children's Act no. 38 of 2005 and the National Health Act, no. 61 of 2003.
6. Only de-identified research data may be used for secondary research purposes in future on condition that the research objectives are similar to those of the original research. Secondary use of identifiable human research data requires additional ethics clearance.
7. Research must consider rules for engagement that are in line with observing COVID 19 regulations.
8. No field work activities may continue after the expiry date of **9 June 2024**. Submission of a completed research ethics progress report will constitute an application for renewal of Ethics Research Committee approval.

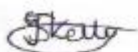
Note:

The reference number 2020-DIS-0016 should be clearly indicated on all forms of communication with the intended research participants, as well as the Committee.



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Yours sincerely



Dr Isabel Schellnack-Kelly
Department of Information Science: Ethics Committee



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Appendix C: Letter for seeking authority to conduct research at the CRLR

114 Mohwelere Street
Lotus gardens
0008
16 October 2020

Ms N Ntloko-Gobodo
Chief Land Claims Commissioner
Department of Agriculture, Land Reform and Rural Development
Centre Walk Building
266 Pretorius Street
Pretoria
0002

REQUEST FOR PERMISSION TO CONDUCT RESEARCH AT THE DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

Dear Ntloko-Gobodo

My name is Lyborn Mabapa, and I am an Information Science student at the University of South Africa (UNISA). I am currently employed by the Department of Sport, Arts and Culture as an Archivist: Records Management at the National Archives and Records Service of South Africa (NARSSA). The research I wish to conduct for my Master's dissertation is "**Archives as a tool to support land restitution in South Africa.**" This research will be conducted under the supervision of Prof M Ngoepe at the Department of Information Science, UNISA. I hereby seek your consent to approach officials in the department whose key responsibilities include land claims. I have attached a copy of my research proposal.

Upon completion of my study, I undertake to provide the department with a copy of the full research report. If you require any further information, please do not hesitate to contact me on 079 687 0078/ 078 585 7782 and Lybornm@dsac.gov.za / Lyborn.mabapa@gmail.com. Thank you for your time and consideration in this matter.

Regards,



Ms Lyborn Mabapa
16/10/2020

Appendix D: Letter for seeking authority to conduct research at the NARSSA

114 Mohwelere Street
Lotus gardens
0008
23 March 2021

Mr P Kekana
Chief Director: National Archives and Library
Private Bag X236
Pretoria
0001

REQUEST FOR PERMISSION TO CONDUCT RESEARCH AT THE NATIONAL ARCHIVES AND RECORDS SERVICE OF SOUTH AFRICA

Dear Mr Kekana

My name is Lyborn Mabapa, and I am an Information Science student at the University of South Africa (UNISA). I am currently employed by the Department of Sport, Arts and Culture as an Archivist: Records Management at the National Archives and Records Service of South Africa (NARSSA). The research I wish to conduct for my Master's dissertation is "**Archives as a tool to support land restitution in South Africa.**" This research will be conducted under the supervision of Prof M Ngoepe at the Department of Information Science, UNISA. I hereby seek your consent to approach officials in the department whose key responsibilities include provision of access and use to archives. I have attached a copy of my research proposal.

Upon completion of my study, I undertake to provide the department with a copy of the full research report. If you require any further information, please do not hesitate to contact me on 064 641 6503/ 079 687 0078 and Lybornm@dsac.gov.za/Lyborn.mabapa@gmail.com. Thank you for your time and consideration in this matter.

Regards



Ms L Mabapa

Appendix E: Permission letter to conduct research at the CRLR



OFFICE OF THE REGIONAL LAND CLAIMS COMMISSIONER: GAUTENG PROVINCE
OLD TRAFFIC AND SAFETY BUILDING, 9 BAILEY STREET,
CORNER BAILEY AND JOHANNES RAMOKHOASE STREETS, ARCADIA, PRETORIA
PRIVATE BAG X 03, ARCADIA, PRETORIA, 0007
TEL +27 (0) 12 310-6500
FAX +27 (0) 12 323-0312

Our Reference: Research Request

TO WHOM IT MAY CONCERN

This serves to confirm that the Commission on Restitution of Land Rights has granted Ms Lyborn Mabapa permission to conduct Academic Research in the Commission.

Ms L Mabapa's research topic is: **"Archives as a tool to support land restitution in South Africa"**.

Ms L Mabapa's approval is on condition that:

- a) She only collects information that is relevant to her academic research.
- b) She shares the information obtained from the Commission for academic purposes only.
- c) She maintains, upholds, and stick to strict confidentiality on all information obtained from the Commission.
- d) She should not publicly publish the findings and recommendations of the research without prior approval from the Commission. The publishing should only be limited to Academic institution's requirements.
- e) She must share her findings and recommendations of her research with the Commission.

Best regards

MR. MKHACANI MAKAMU
DIRECTOR OPERATIONS
COMMISSION ON RESTITUTION OF LAND RIGHTS: GAUTENG
DATE:

2020-11-09

Appendix F: Permission letter to conduct research at the NARSSA



NARSSA
24 Hamilton Ave
Prinshof 349-Jr
Pretoria
0084

114 Mohwelere Street
Lotus gardens
Pretoria
0008

REF: REQUEST FOR PERMISSION TO CONDUCT A RESEARCH AT THE NATIONAL ARCHIVES AND RECORDS SERVICE OF SOUTH AFRICA

I am pleased to confirm that the National Archives and Records Service of South Africa has granted Ms. Lyborn Mabapa permission to carry out an academic research on "**Archives as a tool to support land restitution in South Africa**".

Your request has been approved subject to the following conditions:

- Research information shall be used for academic purposes only.
- Confidentiality of information gathered during the research shall not be compromised.
- A copy of the final research document must be forwarded to the National Archives and Records Service of South Africa after completion.

I wish you the best in your research work.

Best regards



MR. PULENG KEKANA
CHIEF DIRECTOR; NATIONAL ARCHIVES AND LIBRARIES

DATE: 26/02/2021

Appendix G: Respondent consent form

I, (participant name), confirm that the person asking my consent to take part in this research has told me about the nature, procedure, potential benefits and anticipated inconvenience of participation.

I have read (or had explained to me) and understood the study as explained in the information sheet.

I have had sufficient opportunity to ask questions and am prepared to participate in the study.

I understand that my participation is voluntary and that I am free to withdraw at any time without penalty (if applicable).

I am aware that the findings of this study will be processed into a research report, journal publications and/or conference proceedings, but that my participation will be kept confidential unless otherwise specified.

I agree with the recording of the interview.

I have received a signed copy of the informed consent agreement.

Participant Name & Surname(please print)

Participant Signature.....Date.....

Researcher's Name & Surname.....(please print)

Researcher's signature.....Date.....

Appendix H: Interview schedule for project officers

SECTION A: LEGAL AND POLICY FRAMEWORKS

1. Which legal instruments and policy documents guide the sourcing of evidence in land claims?

2. What is your knowledge and understanding of the relevant legal and policy framework governing land claims in South Africa?

3. What is the extent of the use of legal and policy frameworks in your institution?

4. To what extent do the legal and policy frameworks meet your institution's current land restitution needs?

5. How do archives preserved in archival institutions impact you to deliver on your organisational mandate?

SECTION B: USAGE OF ARCHIVES

1. When was the land claim lodged?

2. What triggered it?

3. When did you process the claim?

4. What evidence did you use for the claim?

5. How did you know the rightful owner of the land?

6. Which archival group have you used for land restitution purposes?

7. Which records does your organisation have as evidence for land claims?

8. To what extent do you use archives to guide the processing of land claims?

9. Are you aware of available archives in archival institutions?

10. How did the archival institution(s) assist in the success of land claims?

SECTION C: ACCESS AND AVAILABILITY OF ARCHIVES

1. Does your institution have evidence that relates to the owners of the land?

2. To what extent do you use and access archives to prove the land ownership of a restitution claimant?

3. What evidence does land claimants are able produce to validate the land claim?

4. Which archives are made available to support land claims?

5. Are archival institutions in custody of restricted archives that cannot be accessed for land restitution purposes?

6. What kind of restrictions are they?

7. What processes are employed by your institution to make archives accessible?

SECTION D: USERS EXPERIENCE ON ARCHIVES

1. Which archival institutions have you visited to document the evidence of land claims?

2. Which archival services provided by archival institutions do you value the most?

3. What are the user's experiences in the use of archives for land claims?

4. What positive outcome does the use of archival institutions have on the processing of land claims?

5. In your view what recommendations can you make to increase the value of archival institutions to land restitution and restitution claimants?

Appendix I: Interview schedule for restitution claimants

1. When did you institute a land claim?

2. What prompted you to institute the claim?

3. What process did you follow?

4. What are your experiences with the land claim process?

5. How many years did it take you to complete your land claim?

0-2

3-5

6-10

11-15

16 and more

6. How did you know that the land belongs to you?

7. What records do you have to prove your land ownership?

8. Where were the records kept?

9. How did you manage to retrieve archives after 1994?

10. Which archival institution did you visit for your land claim?

11. How did you know about the archival institutions with regards to land records?

12. Give a brief description of the accessibility of archives for land restitution when you visited the archival institution.

13. What can the archival institutions do to:

- make archive available
- make archives accessible

14. What is your perception of the use of archives necessary for land claims?

15. How can the use of archives in land restitution be strengthened?

16. Any additional information

Appendix J: Interview schedule for archivists

SECTION A: A LEGAL AND POLICY FRAMEWORKS

1. Which legal instruments and policy documents guide the provision of evidence in land claims?

2. What is your knowledge and understanding of the relevant legal and policy framework governing archives in South Africa?

3. What is the extent of the use of legal and policy frameworks in your institution?

4. To what extent do the legal and policy frameworks meet your institution's current land restitution needs

5. How do archives preserve in your institutions impact you to deliver on your organisational mandate?

SECTION B: USAGE OF ARCHIVES

1. What archives do you provide for the land claims?

2. Where are the archives available to land claimants and project officers?

3. How did you assist the users to know the rightful owner of the land?

4. Which archival group have you used for land restitution purposes?

5. How did your institution assist in the success of land claims?

SECTION C: ACCESS AND AVAILABILITY OF ARCHIVES

1. Does your institution have evidence that relates to the owners of the land?

1. Do you provide access to archives for researchers to prove the land ownership?

2. What information do land claimants or project officers need to produce to assist you in providing more evidence?

3. Is your institution in the custody of restricted archives that cannot be accessed or made available for land restitution purposes?

4. What kind of restrictions are they?

6. What processes are employed by your institution to make archives available?

SECTION D: USERS EXPERIENCE ON ARCHIVES

1. Do project officers and land restitution claimants visit your institution to document the evidence of land claims?

2. Which archival services provided by archival institutions do you value the most?

3. What are the user's experiences in the use of archives for land claims?

4. What positive outcome does the use of your institution have on the processing of land claims?

5. In your view what recommendations can you make to increase the value of archival institutions to land restitution and restitution claimants?