THE IMPLICATIONS OF INCOMPLETE RESTORATIVE JUSTICE IN SOUTH AFRICAN LAND RESTITUTION: LESSONS FROM THE MOLETELE CASE.

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Abstract

Since 2005, South Africa's post-apartheid state has opted to impose inclusive business model arrangements between land claimant communities and private sector partners to ensure the 'successful' resolution of land restitution claims in the country. The inclusive business model approach was therefore deemed compatible in achieving both, social justice imperatives and capacitation or entrepreneurial objectives framed by the country's Black economic empowerment (BEE) objectives. In this context however, I argue that the role of the state and private agribusiness partners are substantial but also recalibrated, with private partners and communal land holding institutions increasingly being tasked with functions that have historically been linked to the public sector. Findings from the analyses to date, raises questions regarding the potential of these types of partnerships arrangements to achieve acceptable levels of restorative justice imperatives whilst the entrepreneurial/capacitation potential of these types of partnership arrangements seems equally questionable.

Key Words: South African land reform, inclusive business models, Moletele Restitution, restorative justice.

Introduction

Joint venture arrangements, also known as inclusive business models, are often promoted as viable avenues for the insertion of the rural poor into profitable global value chains. In the post-apartheid restitution scenario, strategic - and community private partnerships (CPP's), are designed to ensure the transfer of ownership of the land back to restitution communities, whilst production regimes on the land acquired are retained. Ownership of the land is therefore transferred to the claimant community, but they are not allowed to move back onto the land. Instead, claimant communities enter into agreements with agri-business partners who commit themselves to manage the land on their behalf with the contractual understanding that benefits are shared between the partners (DLA, 2008). This approach has been particularly prominent in Limpopo where large areas of high-value agricultural land and infrastructure are being transferred to community groups. In theory, the model should respond to a demand from claimant communities for technical and financial assistance in managing large agricultural enterprises. More importantly, the establishment of these types of partnership arrangements in the South African land restitution programme signalled a decisive policy shift in emphasis from land *access* by claimants, towards the *maintenance of agricultural productivity* through retention of existing farming systems and enterprises (Derman, Lahiff & Sjaastad, 2006).

Some observers warn that strategic partnerships negotiated in terms of the restitution programme can create opportunities for existing actors in the commercial agri-food sector to gain access to valuable land and water resources, better control of upstream and downstream processes and to lucrative government grants (Derman et al., 2007; Spierenburg et al., 2012). In instances where these types of partnership arrangements have been negotiated, as in the cases of Zebedele, Levubu and Moletele, production on the land has continued (Lahiff et al., 2012). In the case of the Moletele there is in fact evidence of production and export activities expanding (Davis, 2014), thus demonstrating the potential of these business arrangements to maintain the agricultural integrity on newly transferred land. What is less apparent is the extent to which *real* benefits or *effective control* of the land and the production activities are being transferred to the nominal owners of the land - the restitution communities. I therefore set out to understand the structure and nature of agreements applicable to the partnership arrangements on Moletele land and deployed an ethnographic approach to consider outcomes of the partnerships in terms of the expectations of community members regarding what they wanted to do with the land, measured against the actual opportunities created through the claim/partnerships. In the final part of the paper I reflect on the implications of these business models and its outcomes in the context of broader agrarian reform imperatives aimed at transforming the existing dualism in the South African agrarian structure.

Methodological approach

The discussion in this paper is based on the findings from eighty semi-structured and open-ended interviews I conducted with a purposively selected (based on demographic characteristics) range of Moletele community members at their homesteads. The open-ended questionnaires were designed to gain an understanding of respondents' expectations and awareness of the Moletele claim; and to gain insights into their level of awareness and understanding of the functions and purpose of the MCPA structure. I also used the opportunity to ask respondents what they knew about the partnership arrangements in place on their newly acquired land and interrogated them about the strategies/structures they would use to "voice" their concerns or interests regarding the management of their land. During the interview process I engaged with respondents about the types of benefits they anticipated with the settling of the claim (trying to gauge their expectations), compared to what they eventually received (their level of contentment, ambivalence, disillusionment or disappointment). The idea with the questionnaire was also to gauge the level of respondents' willingness to move back to the land and their general aspirations about farming. The urgency from some of the respondents for me to record their recollections were quite striking, and for some households where younger members sat in on the interviews, the process of recollection about their claimed land presented the interviewees with an opportunity to engage with younger members about issues, (according to them), not generally discussed.

I also encountered two distinct groupings of people (representing between 120-150 Moletele members) who had bi-weekly meetings to discuss land matters. These two Moletele sub-groupings conducted separate meetings to articulate their visions and expectations about the settlement of the remainder of the land claim and both groupings denied the legitimacy of the MCPA. I realised that these groupings formed a crucial part of this research process as they articulated a clear resentment towards the MCPA and selected their own leadership structure to negotiate on their behalf with the Department of Rural Development and Land Reform. I conducted four focus group interviews with members from both these groupings.

Conceptual Framework: A political economy approach to partnership arrangements.

Vorley *et al*. (2009:187) define inclusive business models as models in which "the voices and needs of those actors in rural areas in developing countries are recognised". Franco and Borras (2010:11) warn that these notions of partnerships are usually based on "a depoliticised and unrealistic vision of engagement between various actors that strips them of possibly conflicting interests and attempts to place them on equal footing". They caution "imagining equal footing and complementary interests where none exist is more likely than not, to lead to the poor losing out" (Franco & Borras, 2010:11). In the agrarian political economy literature dealing with partnership or contractual arrangements, the very notion of partnership deals between two "equal partners" is therefore often questioned (e.g. Lahiff, 2008; Vermeulen and Cotula, 2010 and Franco and Borras 2010). These scholars are concerned with underlying structural dynamics and focus on the limited autonomy and leverage available to the "less powerful" contract partner, compared to the potentially higher levels of autonomy and control of the more dominant partner (e.g. Derman, *et al.* 2006, Bolwig *et al*. 2010, Spierenburg *et al.* 2012). This literature also reveals a focus on the contrasting pressures and motivations of different partners as well as of sub-groupings *within* contracting partners (Oya, 2012, Lahiff, *et al.,* 2012, Spierenburg, *et al*. 2012).

In addition to interrogating power dynamic between contracting partners, agrarian political economy literature is also concerned with the accumulative and structurally transformative implications of institutions impacting on land property relations. For example, for the Marxist perspective, the notion of "*primitive accumulation*" is a primary concern. Akram-Lodhi and Kay (2010:180) define *"primitive accumulation"* as the historical process of divorcing the producer from the means of production to create a class of workers that are 'free' (through their release from ownership of the means of production) to sell their labour power. David Harvey (2003) re-conceptualised the notion of "*primitive accumulation*" as '*accumulation by dispossession'* and highlights the importance of understanding how historic structures and processes of accumulation inform present-day processes of agrarian change. Tania Li (2009:59) contributes to this debate and observes the spatial and temporal unevenness of capital investment in the context of agrarian reform. She refers to the intensification of processes allowing capital to incorporate some places and peoples, and eject or reject others. Li (2009:60) warns, as capital "hops" along, there is another dynamic that is potentially more lethal: one in which places (or their resources) are in fact useful, but the people are not, so that accumulation is detached from any prospect of labour absorption. This could lead to what Li (2005) terms "*detached accumulation*", where "the land is needed, but the people are not needed for the global capitalist system" (Li, 2009).

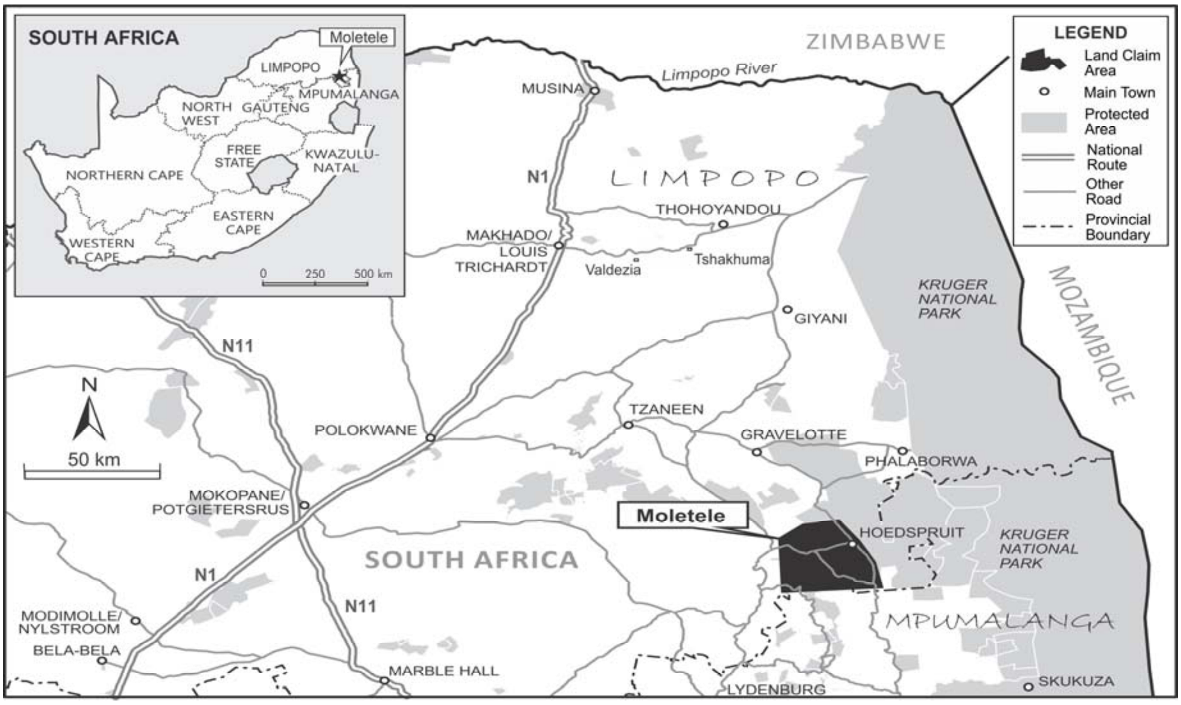
In this paper I suggest that partnership initiatives in the context of land restitution could promote a form of "*detached accumulation*" where agribusinesses do not need to own the means of production to control the direction and frequency of benefits or profits derived from the newly acquired land and where they are allowed to deploy rigorous accumulation strategies that are completely 'detached' from community interests/aspirations. I postulate that confirming the restitution community as owners of the land does not automatically translate into the ability for them to benefit from their land. These inclusive business models are thus seemingly structured or brokered in a way that allows agri-business partners to accumulate without the need to *dispossess* the newly restituted community. The resolution of restitution cases by means of joint venture arrangements on parcels of prime commercial land could thus result in communities being given formal ownership status to the newly acquired land, while agribusiness is allowed to move in and produce and profit at maximum capacity. In theory, the partnership arrangements should generate clear benefit streams in terms of employment, skills development and capacity building for the restitution community while the risks of the investment should be carried by the agribusiness partner. In reality however (as I am hoping to illustrate in the following discussion), large agribusiness partners could also be guilty of having no intention/or the willingness to absorb the restitution community *i.e* the “surplus labour” (Li, 2009:60). The partnership restitution model could thus promote a scenario where agribusiness requires the land, but not the labour; a “detached accumulation” where the restitution community, for the most part, are still left marginalised with unfulfilled expectations thus translating into a form of incomplete restrorative justice.

The Moletele Restitution Case

The Moletele community is a large group of mainly Sepedi (Northern Sotho) speaking people originating from the South African lowveld. The community has claimed a vast area of land, in the order of 78,791 hectares, from which they were removed between the 1920s and the 1970s. According to the validation report issued by the Land Claims Commission’s office, the Moletele people were dispossessed of their rights in land in terms of the racially discriminatory law and practices of the Native Land Act of 1913 (Act 27 of 1913) which allowed white people the right to own the land on which the Moletele already had customary rights thus forcing many of the Moletele to become farm labourers or be removed from the land. In terms of the provisions of the Native Trust Land Act of 1936 (Act 18 of 1936) there is proof that the Moletele people were evicted from farms in the Hoedspruit areas and some of the Moletele were also removed from farms in terms of Section 12 and 14 of the Group Areas Act of 1950. Their removal of Moletele from Portion 8 of the farm Antioch 240KT, Berlin 209KT, Welverdiend 243KT and Happyland 241KT was the result of the establishment and extension of the peri-urban area in Hoedspruit. Finally, the construction of the Blyde River dam was also used to remove people from what is currently known as the Swadini/Mariepskop area.

Currently, the claimed land predominantly situated around the small town of Hoedspruit, is the centre of a large subtropical fruit economy, supplied with irrigation water from the Blyde River (Figure 1). Land that is not under cultivation is generally used for game farming, cattle ranching, hunting and wildlife tourism.

Figure 1: Orientation map of the study area



Map produced by Ingrid Booysen University of Pretoria, Cartographic Unit, 2011

Leaders of the community made various efforts over the years to regain their land, culminating in the lodgement of numerous claims under the Restitution of Land Rights Act between 1995 and 1998. These claims were eventually merged into a single Moletele Community Land Claim in 2003. The Commission on Restitution of Land Rights accepted the validity of the claim in 2004 and from 2007 a total of 7,652 ha of prime agricultural land was restored to 1,615 households organized under the Moletele Communal Property Association (MCPA). Claims were initially lodged on 28 farms, with 14 more added as part of the investigation process that followed (78,791 hectares in total). To date, merely 10% (a total of 7,652 hectares of the claimed land) has been returned to the community. The transferred land has been grouped into four blocks, comprising 42 distinct portions of the original farms claimed and the total cost of land acquisition thus far is estimated at R 194 million (Regional Land Claims Commission Annual Report, 2013). To enable the claimant communities to operate the newly acquired farms, the government has implemented a number of grants. In the case of Moletele land, the government committed to pay R35.2 million as a Development Assistance Grant, R4.8 million as the Restitution Development Grant and R2.3 million in the form of a Settlement Planning Grant (MCPA, Annual Report 2013)[1].

[1] At the time of writing this paper, the Development Assistance grant (R 35,2 million) has not been paid.

Apart from the challenging nature of the claim due to competing claims from other tribal communities, the conflicting nature of the Moletele land claim was also evident in terms of the internal community dynamics that had surfaced during the land claim process. The claim was initially headed by Nduna Enos Chiloane. A number of decisions made and agreements signed by *Nduna* Chiloane, during the interim phase of the claim, in his capacity as 'care taker' and legal custodian, were however deemed highly controversial. This resulted in the expulsion of *Nduna* Chiloane from the traditional council. He was denounced as "the one who sold out the right of the community" because he signed an agreement for financial compensation in regards to some of the land under claim, currently owned by Swadini Aventura Forever Resort. As a consequence of his actions, the Moletele Traditional Council decided that his title and privileges as *nduna* of the Moletele should be revoked. Despite being stripped of his title, Chiloane established a rather vocal group of devoted followers, who decided to "leave" with him. Chiloane and his group of followers asserted, that they were being ostracized from traditional council matters, and group members maintained that only Mr Chiloane could act on their behalf.

During the course of this research (2009-2014), the subgroup of the Moletele under the leadership of Mr Enos Chiloane still conducted bi-weekly meetings to talk about progress with the land claim (I conceptualised this sub-grouping as "dissident group 1"). They articulated their interests and expectations in terms of a desired outcome where they are all allowed to return to their land

Overview of partnership initiatives on Moletele land

The original vision to set up joint ventures on Moletele land came from the Department of Rural Development and Land Reform who had concerns about the scale of the proposed land transfer and the ability of the community to cope with its new responsibilities. The potential impact that the "inadequate" management of newly restored land would have on the local economy was a key motivator to consider private sector involvement. Shared equity with a partner with experience in commercial fruit farming was therefore considered as a pre-requisite for ensuring the successful operation of the newly acquired farms. It was assumed that a joint venture arrangement would allow the commercial partner to directly benefit from the income of the farm whilst at the same time it would reduce the risk of the community who were mostly unfamiliar with commercial farming activities and related decision-making. Stakeholders involved in the Moletele claim were aware of this new drive from the state and even before the claims were finalised, community leaders, landowners and local public representatives were discussing possible collaboration through the local forum called the Moletele-Hoedspruit Land Initiative (Moletele Bulletin, 2008). It is thus interesting to note that negotiations with the former owners of Moletele land started in 2005, while transfer of the first land parcels only commenced in 2007.

After a tender and screening process in which the MCPA was assisted by MABEDI, three groups of local farm owners (or former owners) emerged as strategic partners for the Moletele CPA: Strategic Farm Management (SFM Pty) Ltd, Chestnet (Pty) Ltd, and the Boyes Group. A lengthy negotiation process ensued, supported by the Business Trust-MABEDI and the European Union-funded Limpopo Local Economic Development programme. At the end of the negotiation processes shareholding - and lease agreements, as well as management contracts were signed between the CPA and the respective strategic partners to form: New Dawn Farming Enterprise (Pty) Ltd, Dinaledi Farming Entreprise (Pty) Ltd and Batau Farming Enterprise (Pty) Ltd. The Batau partnership has subsequently collapsed and due to the community's unhappiness with the design of the strategic partnership model, the Moletele opted to introduce two community private partnerships on the Richmond and the previous 'Batau' farms.

Table 1: Summary of Moletele partnerships

Joint Venture Company	**Total Ha managed**	**Current ha under production**	**Production**	**Employment created**
New Dawn Farming Enterprise	1019 ha	405 ha	Citrus, mango, guava, and paw-paw	123 permanent and 390 seasonal
Dinaledi Farming Enterprise	686 ha	355 ha	Lemons, grapefruit, and Valencia oranges	150 permanent and 350 seasonal
Batau Farming Enterprise	855 ha	157 ha	Mango, citrus, litchi, and vegetables	72 (permanent and seasonal)
Richmond Estate	2434 ha	590 ha	Grapefruit, Valencia and mango	135 permanent and 440 seasonal

Source: Minutes of the Annual General Meeting of the MCPA (2014)

The New Dawn, Dinaledi and (the initial) Batau settlement agreement indicate that the claimants represented by the MCPA entered into a combined shareholding and lease agreement with selected strategic partners. In terms of these arrangements, suitable strategic partners with the capacity to attract operational capital and the entrepreneurial expertise to enter into the partnership arrangement with the MCPA were identified and selected. An operating company was established with the MCPA and the strategic partners as the shareholders. The operating company then entered into a lease agreement with the MCPA, which was determined at an agreed market-related rental cost. It is important to note that the settlement and lease agreements stipulated that land can only be leased by the operating company and can therefore not be used as collateral to obtain loans. The signed stipulations specified that the MCPA would act on behalf of the claimant "community in forming part of the operating companies with the strategic partner. In terms of these arrangements, the allocation of shares varied, but the claimant community in all instances was the majority shareholder. As part of the strategic partnership contract agreement, skills were to be transferred to the MCPA and farm workers. It was also agreed that the shareholder proportions of the companies would depend on the equity contributions of each of the shareholders, thus what could be considered a "conventional" partnership" where risks, investment and dividends would be allocated in terms of each partner's share in the company.

Stipulated in all of the Moletele shareholders' agreements is the fact that dividends that the operating company declares will be paid to the shareholders proportional to their shares. In the case of New Dawn, the MCPA currently holds 52% of the shares and the strategic partner holds 48% of the shares. In terms of the original Batau shareholders' agreement, once again, the strategic partner, Chester, held 48% of the shares and the MCPA held 52%, with no shares reserved for a workers' trust. The Dinaledi partnership agreement entails a 51% MCPA and a 49% Boyes Group shareholders' agreement. The absence of shares reserved for a workers' trust in all the updated shareholders' agreements is strikingly evident.

The shareholders' agreements also stipulate that in addition to shares in the company, claimant communities should receive rental payments for the use of their land from the operating company. The shareholders' agreements that are still in place for the New Dawn and Dinaledi partnerships indicate that the rent for the land is set at 1.25% of the land purchase price (transfer value of the land) and is supposed to be paid on an annual, monthly and even quarterly basis. The New Dawn and Dinaledi operating companies are thus owned jointly by the claimants and the strategic partners, but the day-to-day operations and management of the company are vested in the hands of the strategic partner, who has full control of financial and operational matters. Although the directors of the operating companies also include members selected from the MCPA, for now, the experience and knowledge of the market conditions of the strategic partners make them de facto decision-makers in the partnership. For this responsibility, the strategic partner then charges the operating company administrative fees. In terms of the New Dawn and Dinaledi shareholders' agreements, this fee, when combined with the salaries of key managers provided by the strategic partner, should not exceed 8% of the turnover of these operating companies. The strategic partners are also tasked with obtaining machinery and all the necessary equipment on behalf of the operating company.

In April 2009, the farm Richmond, as a full portion, was transferred to the Moletele community. At the time of transfer, the 2 434 ha farm was valued at R63 million. On 22 June 2010, a lease agreement was signed with Global Citrus Frontier (GFC), based on a business model negotiated along the line of what has been called a community private partnership. The chairperson of the MCPA explained that the MCPA, on behalf of the community, decided to rather sign community private partnership agreements due to the general unhappiness amongst community members about the lack of benefits transmitted back to them and the limited decision-making afforded to them in terms of strategic partnership arrangements. The signing of these community private partnership agreements have resulted in a high level of expectation among some of the members of the MCPA. The Moletele CPA chairperson explained that the new CPP model shifts the focus to signing an agreement with a private partner with the ability to farm profitably, provide for the development of the farms, and train prospective MCPA members in farming while no additional funding is required from the restitution community (similar to a management contract).

Summary of the outcomes of the partnerships.

Currently, there are two strategic partnership initiatives still operative on Moletele land: New Dawn (a partnership with Strategic Farm Management) and Dinaledi (with the Boyes Group). In addition to these two strategic partnerships, there are also two community-private partnerships (CPP) in effect on the Moletele land (on the Richmond farm and the former Batau farms). The design of the strategic partnerships was conceptualized as a "conventional partnership", where joint ventures were established between the MCPA and different strategic partners in the form of operating companies. It was anticipated that "the state", on behalf of the Moletele as the majority shareholder, would make the largest investment in the company, in the form of restitution discretionary grants. This payment was supposed to be matched by contributions from the respective strategic partners into the accounts of the operating companies. Problems emerged fairly soon when the envisaged grant payments from the state failed to materialize due to budgetary constraints; while contributions from the strategic partner to ensure production activities on the land, continued. This implied that the majority shareholder (the MCPA) was unable to match the contributions of its business partner. This had devastating impacts on the envisaged benefit streams to the "community". Land rentals that were supposed to be paid by the operating company into the MCPA account have generally not been paid, and where some payments have been made, they have been intermittent and partial. Income statements for the MCPA up until 2012 reflect no rental income for 2007 and 2008. The management fees that were supposed to be paid to strategic partners also failed to materialize. Additionally, by the end of 2014, dividends have not been declared and therefore nothing has been paid out to the community.

The envisaged benefits in terms of employment opportunities for Moletele people turned out to be grossly overestimated. As in the case of the broader citrus industry, an informalisation or casualization of labour (Barrientos and Visser, 2012) is also evident in the export-oriented citrus production activities taking place on Moletele land. The lack of extensive formal employment opportunities, in tandem with the long distances that community members would need to commute if they were employed on these farms, has invariably limited the number and types of employment opportunities available to Moletele members. Added to these constraints is the fact that the farms were transferred to the Moletele as "going concerns", *i.e.* the Moletele inherited non-Moletele workers already on the farms. According to the MCPA chairperson (Mr Mashile) and two of the strategic partners, these limitations on employment opportunities for Moletele members are exacerbated by their own "fussiness", with members preferring employment in the pack houses as opposed to "working on the land". According to Mr Mashile all these facts have translated into a scenario where less than 30% of the fairly unimpressive employment figures provided in Table 1, represents actual Moletele labourers.

Production on Moletele land is continuing, but there is increasing tension between the strategic partners and the MCPA regarding the flow of benefits and the long-term prospects of continuing the partnership. The flow of benefits from the strategic partnerships to claimants has been fairly limited to date (as summarised in table 2 below), causing a great deal of unhappiness amongst Moletele members. The 'limited', (and according to many respondents 'preferential') flow of benefits back to the community is a recurring issue in all of the MCPA AGM reports. The strategic partners also acknowledge that "the community might not have benefitted to the extent originally envisaged with these arrangements"[2]. Members of the MCPA executive committee insist that the Moletele are "running out of patience" with the lack of benefits coming from the two remaining strategic partnership initiatives.

The strategic partners on the other hand, warn that the 'profits' they are consistently being accused of capturing are in fact quite "marginal". In their view, benefits transmitted back to the community has been limited because restitution communities are being inserted into agricultural value chains as producers; the most profit-constrained node within the value chain. The strategic partners also blame the model for imposing such a high level of dependence on state funding while most of the risks of the farming activities on the land are being carried by them, the strategic partners. The New Dawn strategic partner in particular, has been facing great difficulty in sourcing a loan from the Development Bank Southern Africa (DBSA). Based on my analysis of these models, findings to date thus suggests that the design of the strategic partnership model ultimately culminated into an

[2] Interview conducted with Strategic Farm Management Director, July 2012.

overreliance on external (state) funding which has created a degree of vulnerability for both the strategic partners and the “community” The design of the model also seemingly casts the strategic partners and communities into adversarial roles where each entity apparently need to compete for access to “state” resources.

In response to the poor performance of strategic partnership arrangements, the community opted to sign two CPP agreements. The CPP arrangement is in effect a management contract between the community and an agri-business partner who would be able to shoulder all the risks and investments required for production and export on the land, thus nullifying the reliance on funding from the state. In terms of these agreements, the chairperson of the MCPA in 2011 asserted:

“At least the pretence of community involvement is abolished, while the community is able to benefit more in terms of profit sharing and higher rental income”.

The interest of “the state” to break the reliance of strategic partnership initiatives’ dependence on state funding by providing the restitution communities with the type of commercial partner that would be able to shoulder the risks and investment required to ensure continued production on the land, thus clearly converged with agri-business interest looking for opportunities to expand, consolidate and integrate their production activities. The ability of agri-businesses to “hop” in and benefit from the most productive parcels of land in the country without the remotest concern to re-invest in the capacities of the rural community who owns the land, thus allows some version of the dualism in the inherited agrarian structure to persist. The transformative potential of these models is therefore highly questionable, because communities are **not allowed to:** (1) move on to the land, (2) use or subdivide unused or ‘open’ land for other small-scale productive purposes or (3) take full effective control of productive activities on their land. From the outcomes of the partnerships on Moletele land to date the convergence between “state -” and agribusiness interest in terms of these models is thus very noticeable, but it does raise questions about the extent to which the models are able to accommodate the land claimants’ expectations and aspirations.

Expectations articulated

The initial expectations regarding the restitution of Moletele land on the part of the state were articulated by the then Minister for Agriculture and Land Affairs, Ms Lulama Xingwana at the land handover ceremony to the Moletele community[3]. The Minister framed a vision for the Moletele people asserting:

[3]Speech for the land handover celebration for the Moletele community claim delivered by the Minister for Agriculture and Land Affairs Ms Lulama Xingwana, Limpopo ,1 July 2007

"This land that we are restoring today has some of the best oranges and mangos this country has ever produced. As from today, the people of Moletele are now exporters. You are going to be operating from the well-equipped pack-houses that we have included in the purchase of this land. … This deal will also accelerate value-adding in the produce coming from this land of milk and honey. This will ensure participation of the Moletele Community in the entire value-chain. …These partnerships give credence to economic empowerment because the community will not only receive hand-outs in the form of lease rentals but will be participating in the day-to-day management of the farms."

In reality, the intention to turn the Moletele community into exporters did not materialise. The transfer of the land and pack houses did not automatically translate into the community becoming exporters of the fruit being produced on their land. Branding the community as a "producer" in the value chain is however equally questionable, given their limited involvement in the day to day running and management of the farms.

Expectations articulated by Moletele sub-groupings

Focus group discussions with members of the dissident groupings and a content analysis of the 80 semi-structured interviews helped me to identify the following key trends in terms of expectations from the community's perspective.

The majority (n=20, 80%) of older male (older than 60 and n=25 interviewed) respondents, indicated that they would have preferred the option of moving back on to their land. Two of these older male respondents felt that they needed to return back to the land in order to "reconnect with their ancestors and their heritage". They complained that the partnership model does not make provision for the issue of ancestral reconnection. Moletele members who aspired to move back onto the land for ancestral reconnection were therefore left fairly disillusioned in terms of their expectations.

All of the older male respondents interviewed maintained that there should be enough land for both commercial - and community-managed farming activities. For example, twenty of these respondents highlighted the need for more land to engage in cattle farming specifically. These respondents did not view commercial farming production and community-organised cattle farming activities as mutually exclusive and thought the initiative at Scotia was proof of this sentiment. They all insisted however that the procedure for members to gain access to the land for cattle farming should be 'opened up', because they complained that not all the Moletele knew about the procedures to gain access to grazing land. Respondents seemed inclined to believe that only Moletele members with close linkages to the *kgoshi* were the ones able to gain access to grazing land on the newly transferred land parcels. Simon, a 70 year old Buffelshoek resident stated:

"Cattle farming is a common practice in our community. Members can engage profitably in cattle farming without the help of a commercial partner. Why should all the Moletele land be used for commercial farming? We will always need a commercial partner... But, cattle farming we can do on our own and we can be profitable on our own. The MCPA only dance to the tune of the partners! It should not matter who you are, or who you know, if you are a Moletele and need land, there should be options available".

During an interview conducted in November 2011, Mr Enos Chiloane, one of the leaders of the dissident groups shared a similar perspective:

"Right at the start of this process, we were very clear about what we wanted to see on the land. We told them, we want to move back on to the land. Even while production is happening! Now we just hear about some people who have been allowed to move their cattle on to Scotia Farm. We hear about some who have received payments. But us, the rightful beneficiaries of the land, are not receiving anything, while those so-called partners and community members with linkages and connections are benefitting".

During my interviews with these older male Moletele members (both those forming part of the dissident groupings and those not part of the groupings) my overriding impression was that these were the individuals mostly concerned with Moletele land matters. This subgrouping of individuals felt they had the most to gain from the restitution process because they experienced the relocation first hand and they were involved in initiating the claim. Ultimately, most of these members feel disillusioned by the outcomes of the partnerships to date. They maintain that they do not mind commercial production happening on the land, but they do ask why additional (*i.e.* open) parcels of land cannot be made more available to everyone in the community, especially for cattle farming or other activities.

When I questioned older female respondents (n=30) about their expectations regarding the claim, the possibility of returning to the land also surfaced. These older female respondents expressed grave reservations about the possibility of moving back onto Moletele land. Many of these older women (aged 60 and older) explained that their reservations about moving back onto the land stemmed from a range of factors, but some common themes emerged. They all mentioned: (1) they would not want to disrupt their church and broader community ties ("*stokvel*" and funeral societies amongst others are mentioned); (2) challenges in terms of their grandchildren, who might not be able to accompany them should they relocate; (3) their "comfortable" houses, often wondering where they will stay should they decide to move; and (4) concerns about their age and their health should they opt to leave Buffelshoek. When I asked them what they expected from the actual claim, many of these women (60%, n=18) said that they would be happy to remain where they were, if only some cash payments could reach them at some time. For many of these older women, their expectations have been left unfulfilled.

The responses from younger women (the 25-59 years age group, n=15 interviewed) were somewhat mixed. Most of these women (n=12) seemed less concerned about severing family -, church -, and community ties and said that they would have welcomed the option of moving back to their land. The majority of the women in this category (n=10) suggested that they would have liked to engage in food garden types of production, yet the model seemingly did not make provision for these activities. Two interviewees mentioned that the prospect of new houses closer to the town of Hoedspruit was mentioned. They said that new residences closer to Hoedspruit would have improved their (and people like them) job prospects significantly, but they were informed that the houses being planned at Scotia was going to be "estate type houses". Pina, a 40 year old unmarried mother of two wanted to know, "who made the decision to build expensive houses when so many Moletele could not even afford to live there?"

The adult men (aged 25-59, n=10) on the other hand, all indicated that they expected to gain access to land for commercial agricultural purposes. This grouping of respondents were less inclined to get involved in small scale farming production and actually acknowledged the importance of continued commercial farming on the land with the help of more established white farmers. All these respondents expressed the desire to eventually also engage in the management of these farms, but in the meantime, they would be far happier with the activities on their land if they were kept more informed, saw more job opportunities and received some cash payments.

From the interviews I realised that the expectations articulated by Moletele members ranged from highly-charged and expansive sets of expectations infused with notions of material wealth and symbolic restoration, to more delimited and perhaps more realistically framed expectations. For the most part however, expectations amongst the Moletele have been left unfulfilled. For the majority of the Moletele, very little has changed in their lives since the transfer of land back to them. This part of the research thus highlighted the disjuncture between the expectations regarding the land restitution process in contrast to what the partnership model has been able to deliver in terms of articulated land use, access and benefits. Despite expectations to return to the land of "milk and honey" (as mentioned to them by the then Minster of Land Affairs in her speech at the land handover ceremony) the majority of the Moletele are still trapped on the dry and barren land of the former Gazankulu and Lebowa reserves where they eke out a rather desperate living, in stark contrast to conditions on the profitable and lavish fruit-bearing commercial land they now own. Also, the interviews revealed that these beneficiaries wanted different things from the restitution process depending on where they are situated and the kinds of relations and networks they have managed to form a part of. A very revelatory finding from the interviews is also the fact that people did not necessarily want to be absorbed into the capitalist circuits! They wanted access to land for various purposes, not all of which included their absorption into commercial farming production or even farming purposes.

Partnerships and the "voice' of the community?

The voice or the interest of the "community" is supposed to be represented by members of the MCPA executive committee who attend monthly board meetings with strategic partners. Some crucial constraints should be noted in this regard. A significant number of Moletele admitted that they do not attend MCPA or tribal council meetings, so very often the range of diverse interests, needs and expectations of community members are not even noted at the MCPA meetings. In the second instance, even those members attending meetings seem to feel marginalised. Older male (older than 60) respondents (n=25 interviewed), who all said they attended both the traditional council meetings and the MCPA Annual General Meetings confessed that they still only had a vague idea about these initiatives. Simon, a 70 year old Buffelshoek resident in November 2012 explained "*only those members that can speak commercial farming are the ones that can talk at the AGM's… we remain quiet."* From all the women interviewed, 93% said that they have no idea what is currently happening on their land, they do not know what the role of the CPA is and they have only heard 'rumours' about some types of partnerships that have been established. The younger women were also seemingly less inclined to attend any form of meeting about land matters. One of the Buffelshoek respondents, Paulina a 40 year old, unemployed mother of four complained:

"*We don't have time to go and sit in meetings because we are too busy … who will feed the kids, cook and clean the house if we sit in meetings all day?.*

Perspectives like these, as raised by the beneficiaries thus highlights the need to for a continued interrogation of the extent to which the MCPA could be "voicing' the interests of a communal Moletele community.

Finally, despite efforts by MABEDI (now Vumelana) to capacitate these community representatives sitting on the MCPA structure, the reality is that "community" members join commercial partners at a boardroom table and are expected to make sure that their *de jure* (legal) rights are protected and translated into “effective rights” in a power-differentiated context using a discourse and a setting they are not familiar with. Both the MCPA representatives and the strategic partners I interviewed, thus conceded that these meetings were fairly frustrating encounters. The strategic partners complained that they felt as if they were required to “help community members catch up” while community representatives felt as if they were only there to “rubber stamp” decisions already made. It is thus clear that the discourse used to articulate and enforce rights, and the lack of business acumen amongst the community representatives in this predominantly agri-business arena, is likely to sway the *cumulative outcomes* from these encounters (i.e. struggles) in favour of the agribusiness partners leaving the community fairly “voiceless” to a certain extent.

Discussion

It is clear that the continued introduction of partnership models to settle rural restitution claims would have far-reaching implications for the South African agrarian structure. The perceived ease with which these CPP models (management contract arrangements) can be negotiated could also contribute to an increase in the number of settled rural restitution cases. This would definitely effect a change in the racial profile of ownership of commercial farm land in South Africa. Hall (2004) refers to this process as the “blackening of the landownership structure”. At the same time, however, the model signals a distinct move away from actual involvement in the farming activities by the restitution communities. By implication, restitution communities could be reduced to becoming very remote and fairly marginalised landlords or rent collectors with very little control over activities or production on their own land while agri-business interests is allowed to “hop in” and accumulate from their land without constraining attachments or obligations – i.e. a variation of Li’s (2009) “detached accumulation”. Land claimants might therefore be able to call themselves landowners who have been “incorporated” into value chains, but they might end up with no decision-making or orientation power based on the business model being used. The level of congruence between “state” -, agribusiness - and community interests achieved by these models is therefore fairly questionable.

Furthermore, from the interviews with respondents it is clear that the “voices” of subgroupings *within* communities is also being drowned out, especially in instances where these subgroupings might be calling for access to land for non-commercial farming purposes. Expectations articulated beyond the scope of commercial farming production have been left unfulfilled for the most part and the interviews revealed that beneficiaries wanted different things depending on their positionality and the nature of their social relations. In some instances, some sub-groupings in fact did not even want to be absorbed into capitalist production circuits, thus demonstrating the need for restitution policy makers to acknowledge that the land question is broader than the agrarian question.

Conclusion

The theoretic 'inclusion' of a restitution community into the global value chain via inclusive business model arrangements, particularly in the case of the Moletele community seems to have resulted in (what can only be labelled as) ambiguous outcomes. The MCPA seems to be committed to ensure continued production on the land, but until they come up with viable strategies of distributing benefits from the production and other value chain related activities to the communities; their efforts only seem to be promoting corporate interest, rather than community interests. From the Moletele case it is thus clear, after more than 20 years of democracy, the need to introduce innovative and community responsive partnership arrangements in the restitution context, can no longer be ignored. For more than twenty years we have been grappling with the legacies of apartheid. Yet, at the same time we have been reproducing institutions that continue to meet only the interests of capital. I would thus like to end off saying that we need the type of innovative models that acknowledges and responds to the diverse nature of restitution beneficiaries with their divergent needs and aspirations. Models that allow people access to land and the opportunity to have their "voices" heard.

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