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**Gordon Institute  
of Business Science**  
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The importance of property rights in economic development

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A research project submitted to the Gordon Institute of Business Science, University of Pretoria, in partial fulfilment of the requirements for the degree of Master of Business Administration.

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## **Abstract**

The purpose of this study was to discover a more effective method of administering and securing property rights for land that is currently under the customary land system, in order to encourage investment and improve the livelihood of the rural communities. This study was restricted to rural land property rights through an exploratory analysis based on nine interviews with experts who have an in-depth understanding of the relationship between secure property rights and the distribution and use of resources in rural communities.

The results confirmed the need for formal property rights to be instituted in rural communities. The findings showed that a hybrid method that is not only designed to try and identify a single process for all areas but also recognise the diversity in suitability and competencies of different areas would be suitable for administering and securing property rights. The method should yield stronger potential for success in nurturing communal lands towards more productive economic endeavour.

The findings suggest that there are layers of overlapping concerns that need to be specifically addressed in order to attain a comprehensive solution to communal land ownership and economic development. However, to implement procedures for allocation of land, government will need to play an instrumental role in not only shaping investment attracting policy structures but also directly injecting capital towards programs that private capital tends to avoid.

## **Keywords**

Secure property rights

Communal land structures

Individual property rights

Communal rights

Economic advancement

## Declaration

I declare that this research project is my own work. It is submitted in partial fulfilment of the requirements for the degree of Master of Business Administration at the Gordon Institute of Business Science, University of Pretoria. It has not been submitted before for any degree or examination in any other University. I further declare that I have obtained the necessary authorisation and consent to carry out this research.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

Date: 14 January 2014

## Acknowledgments

What an expedition!

I thank the Almighty for being the light to my path and the lamp to my feet and giving me the strength to see this to the end.

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## Dedication

I dedicate this study to AmaGebe who died fighting for the land that was forcefully taken away from them. Their blood stains are now what are used as boundaries demarcating our pieces of land. A special dedication goes to my late father Nkosi Magudu (Ah! Dalulxolo, uNkom' ayikhab' iyakhahlela ngekuyisenge,), son of William (Ah! Bazindlovu, iNdlov' emncwele yakuloNozizingqi), son of Holomisa, (uMpondo zibazile zimhlab'owasegoqweni kutak'ithole), son of Mdunyelwa, (uMdudum'oduduma njengezulu), son of Ngwityi (uTye libuthelezi lakuloNyelisa), son of Ngaleka, (uMadib' ombaxa), son of Mkhasela (uMkhasela kaNotshinga, otshin'adanagob'axel' inkovane), son of Phangweni, (uMalamb'angangazidla, angangazinyakathisa), son of Mbelu (uBhelukaz' oluncokazi olwathundenkundleni kwaMyeki), (son of Ngobe (uMabhinqel' elesangweni), son of Ndala, son of Gebe (uNanko-nanko namhl' angenzanganto) of Mbasana (umalala nentomb' ivuk' ithi bhuti ndizeke), who never had higher education but had always encouraged his children to study and obtain higher education.

When he did not have money to send us to school he would sell a cow or two to be able to pay for our school fees. It is for this reason that today I seek to find a method that would be more effective in administering and securing rural property rights.

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# CHAPTER 1: INTRODUCTION TO RESEARCH PROBLEM

## 1.1 Introduction

Many economists argue that the basic economic problem arises due to scarce resources, namely land, labour and capital (Coase, 1960; Gordon, 1954), of all which are recognised as factors that shape the economic well-being of a country. Economic theorists further purport that financial security hinges on the efficient and equitable allocation and utilisation of these value creating assets. Mises (1920) argued that equitable allocation of factors of production leads to price mechanisms that facilitate the emergence of a system for profits and losses. Thus, prices serve as signals to owners about the most profitable use of elements.

Land plays a defining role in economic development processes by helping to improve the allocation of resources in the contexts where production factors and management capacities are evenly distributed (Colin, 2013). Saruchera (2004) posited that land provides the basis upon which planners predicate their strategies of development and, in this regard, it is the most crucial factor of production, a resource and a focal point of social identity and solidarity.

Galiani and Schargrodsy (2010) argued that land is one asset, among excludable assets, for which ownership rights are not clearly defined, in particular in developing countries. The scholars further argue that efficient resource allocation can be influenced through possession of land titles which may enhance investment incentives by limiting the risk of expropriation of land. This argument is advanced further to say that land titling may facilitate transferability and therefore stimulate trade and enhance credit transactions through collateralisation. Similarly, Besley and Ghatak (2009) argued that having assets managed by those who can use them productively will enhance economic efficiency.

The allocation of resources is particularly challenging in rural communities, where assets are not efficient enough to meet all needs and fewer alternatives exist to resolve conflicts between competing needs (Simpson, 1976). A crucial element of property rights, which is the focus of this paper is secure land ownership through the conferring of secured rights. Securing property rights refers to legally authorising primary land entitlement to named individuals or families, of land that is currently in

the jurisdiction of informal lineage or community land ownership and hence informally recognised by government and local communities, (Simpson, 1976). North's (1990) theoretical framework suggests that the establishment and enforcement of ownership rights is crucial to a country's economic development. The framework states that land is one of the most prevalent factors of production and relatively ample asset in many developing countries. This framework further states that land property rights are important in that they lend themselves to be used as wealth and collateral.

## **1.2 Background of Study**

The approach to land ownership and access in South Africa is at official level, exclusively premised on Roman Dutch Law and other European Legal Systems. This is mainly because, until 1994, 87% of the local land was legally administered and managed almost exclusively for the white race whilst the remaining 13% was left to black people. Therefore historically, black people have, for all practical purposes, been land owners like any other landowner. The only difference is that their rights were by practice as opposed to law, treated as personal rights and thus not registered in the deeds office (Ngwenya, 2014).

The 1913 Natives Land Act and the 1936 Trust and Land Act restricted black land ownership to 13% of land in South Africa with only customary tenure being permitted and not freehold (Clover & Eriksen, 2009). The best agricultural areas were largely assigned to Afrikaner commercial farmers whilst the dispossessed rural population were confined to ecologically marginal and over-crowded land under communal areas. Segregation existed even within this 13% where Blacks who spoke different languages and had to live separately in specific places.

The South African Development Trust imposed further restrictive conditions, including a requirement for Blacks to seek permits before they occupied land (Obeng-Odoom, 2012). According to Ntsebeza (2005), within the 13%, traditional chiefs were used by the Apartheid State to perpetuate unequal land ownership within the customary land system. The authority of the traditional chiefs who disagreed with the Apartheid State was undermined and in areas where there were no chiefs, the Apartheid State created chiefs who complied with its requirements (Ntsebeza, 2005).

Several land reform programmes have been implemented since 1994 in an attempt to remedy the inequities in the distribution of land ownership. The primary concerns were to correct inequalities by stressing the values of redistribution and restitution. However, by 2005, eleven years post the abolishment of Apartheid State and its laws, the reforms were yet to correct these inequities (Sihlongwane, 2005). The inability of the land reform programmes to address the extreme inequalities in South Africa has partly been blamed for the migration of poor people from the former homelands into the overcrowded squatter camps around big cities such as Johannesburg and Cape Town (Thwala & Khoza, 2008). This movement of people resulted in the Premier of the Western Cape, Helen Zille, labelling the people who move from the Eastern Cape to the Western Cape in search of better education as refugees (Mail & Guardian, 2012).

The skewed land distribution, with the exception of the Royal Bafokeng Nation and the Ingonyama Trust Board which administers the land under the Zulu Kingdom, constitutes a threat to the livelihood of rural communities and results in human uncertainty in terms of incapacity to secure economic options and thus poverty. This study seeks to identify options for an approach to formalising property rights over the 13% land, currently under the customary land system, in order to encourage investment and improve the livelihood of the rural communities.

## **1.3 Research Motivation**

### **1.3.1 Problem Statement**

Currently, in South African rural community land is accessed through customary law and various clans have their internal rules regarding allocation of land to members or new members of the community, with some rules universal to all clans. When a prospective applicant has identified a piece of land, a traditional leader is the first point of call. He or she conducts the interview of the prospective member of the community, as opposed to prospective buyer. The applicant needs to declare from whence he comes, the reason for leaving his area, any references to character he can produce, marital status and whether he has any children and the reason why he has chosen that particular area. Once the traditional leader has been satisfied with the information and answers provided, he/she will advise the applicant of any requirements the applicant has to comply with.

Because the application is oral, it is then presented to the traditional council. This is done without the applicant being present. The traditional leader will not put forward an application he or she does not support or if the requirements are not met. Once the application has been approved by the traditional council, the people in the neighbourhood are notified and the applicant formally introduced to the new neighbours and welcomed. On the day of introduction, there is a community celebration and an affiliation fee is paid by the successful applicant to the traditional council through the traditional leader. The ceremony is hosted at the expense of the applicant who henceforth takes ownership of the land and may proceed to utilise it as desired. The applicant then becomes a member of this clan and must abide by the rules of the clan in all material respect.

In most African countries land is the foundation for social and economic life as they rely heavily on agriculture and natural resources for national food needs, employment and export revenue (Toulmin, 2009). Feder and Nashio (1998) maintain that many developing countries consider land registration to have a high priority in their quest to develop their economics. Further, investment in systems by which matters concerning ownership, possession or other rights in land can be recorded to provide evidence of title, facilitate transactions, prevent unlawful disposal and are fundamental to resolving some of the basic economic issues such as gains in agricultural productivity that a country might attain.

The significant power shifts that have taken place in political transformation in South Africa, have not yet been played out fully with regards to economic transformation. Whites, as a minority group which previously held absolute power, still have the most economic and organisational management power. Moreover, even though the Blacks have power in the political supra-systems, they have not yet benefited from the allocation of scarce resources (Booyesen, 2007). South Africa is still faced with challenges of ensuring that all those who live in it have equal opportunities, regardless of their background.



### 1.3.2 Why Property Rights

Besley and Ghatak (2009) defined a property right as an owner's right to use a good or asset for consumption and/or income generation. Furthermore, it can include the right to transfer title to another party, in the form of a sale, gift or bequest. Typically, such also conveys the right to contract with other parties by renting, pledging, or mortgaging a good or asset, or by allowing other parties to use it, for example, in an employment relationship.

Well defined property rights create incentives to allocate and maintain resources efficiently because owners are held accountable and bear any losses that may arise as a result of mismanagement of these resources (Mises, 1920). Similarly, Kerekes (2011) argued that the absence or uncertainty of land ownership rights affects the utilisation and allocation of natural resources because a clear assignment of resources is a precondition for economically efficient resource utilisation. Land is an ideal form of collateral in market transactions because of its immobility, however, to realise this potential land property rights must be secure, clearly defined and easily transferrable (Bromley, 1991).

Insecure property rights weaken the incentive for owners to make long-term capital investments and hinder the ability of owners to use their property as collateral to secure loans and finance capital investment. It is further argued that amongst the benefits of formalised property rights is the ability to fix the economic potential of assets (De Soto, 2000). This argument has been confirmed by Kerekes and Williamson (2008) who posited that secure property rights have the ability to protect transactions involving investment of long-term capital, however, in the absence of property rights individuals have no option but to hold short-term inventories rather than the more stable long-term investments in the form of immovable property.

Secure and clearly defined property rights are a prerequisite for a market economy to function and their existence will promote efficiency and growth (Kennedy, 2011). Kennedy (2011) goes on to say that secure property rights provide property entitlement and influence the development path of society by strengthening its capacity for growth. At times, however, it is necessary to destroy entitlements that inhibit growth subject to the choice of economic development direction. Thus, economic direction will make sense if it is supplemented by powerful rationalisation

for the growth potential to be unleashed by what will be an effective redistribution of wealth.

#### **1.4 Research Scope**

This study was restricted to land property rights through an exploratory analysis based on nine interviews with two academics, one church leader, two government officials, two property rights lawyers and two traditional leaders who have a view on the relationship between secure property rights and the distribution and use of resources in rural communities. The interviewed participants are experts in this field of study.

The study seek to develop a complete assessment of how rural communities are affected by the lack of ownership of resources in gathering their livelihoods and what would be a more effective method of administering and securing property rights, currently under customary land system, as a means of encouraging investment and improving the livelihood of the rural communities.

## CHAPTER TWO: LITERATURE REVIEW

### 2.1 Introduction

Property rights are not about the link between a person and an object of property but rather fundamentally about the relations between people and what benefits could be generated through the use of such property (Meinzen-Dick & Mwangi, 2008). Williamson (2005) defined property rights as a system that determines the success of an economy by promoting specialisation and the division of labour through voluntary exchange. Property rights are considered to be systems that adapt to changes in costs and benefits of production (Sikor & Müller, 2009). Consequently, the principle of property rights to land is that their valuation changes in reaction to shifts in productive land values.

Well-defined property rights have been fundamental to the efficient and effective utilisation of assets and market efficiency (Miceli, Munneke, Sirmans & Turnbull, 2011). Miceli *et al.*, (2011) argued that documented property rights resolve competing claims to ownership of an asset hence it is important to implement a titling system. Such a scheme allocates the current property holder title in the event that a competing claim arises. In concurrence, with Miceli *et al.*, (2011), Africa (1989) purported that titling ensures that future disputes from competing claimants are minimised or eliminated and that individual's productive resources are protected and are not used for rent seeking.

According to Muthoo (2004), for property rights to be secure, they must be self-enforcing and must promote a self-motivated standpoint because in the absence of secure property rights value enhancing investments may fail to occur. On the other hand Clague, Keefer, Knack & Olson (2010) argued that in societies where property rights are secure and well defined, even transactions that are heavily reliant on outside enforcement can be advantageous because lenders have access to secured rights to mortgaged assets in the event that borrowers default. Demsetz (1967) argued that the benefits of formal property rights materialise when the gains exceed the costs.

## **2.2 Advantages of Secure Property Rights**

Besley and Ghatak (2009) argued that secure property rights provide a foundation of freedom to those who hold them and allows owners to decide what they would like to do with them subject to any legal or technical constraints. In addition, secure property rights encourage owners to invest in enhancing the value of an asset, as well as those of others who might also have contractual rights to use the asset.

Advocates of property rights consider secure property rights as a precondition for agricultural development because when land is registered it gives secure occupancy for the owners and helps resolve land disputes (Sikor, 2006). Thus registration of land is necessary for agricultural investments and may produce the needed collateral for agricultural credit. Sikor (2006) argued that agriculture has fostered the development of land markets and facilitated an efficient allocation of land, for example by reducing land fragmentation. Further, property rights create beneficial effects in stable political economic contexts characterised by commercialised agriculture and consolidated state authority.

The security of ownership of land has been shown to generate employment and facilitate economic growth through investments in housing, industry, agriculture and services sectors of the economy (World Bank, 2003). However, Berry (1993) claimed that property rights have been ineffective and counterproductive in areas with subsistence-oriented agriculture if they limit rural people's ability to react to larger economic and political uncertainties afforded by the flexibility of indigenous land occupancy. Thus property rights therefore turn out not to be the presumed precondition for agricultural development but the benefits of property rights are influenced by broader agrarian relations.

## **2.3 Disadvantages of Insecure Property Rights**

Smith (1981) argued that where property rights have been insecure, there has been risk of expropriation which has led to individuals failing to realise the fruits of their investments and efforts. Consequently, individuals have incurred costs in trying to defend their property affecting productivity. A dynamic economy requires assets to be used by those who can do so productively. Property owners have failed to facilitate gains from trade where property rights were not protected (Besley & Ghatak, 2009). Thus property rights enable an asset's mobility as a factor of production.

This paper advances two arguments with the intention of unearthing a more effective method of going about administering and securing property rights. The researcher noted two schools of thought regarding the process of securing property rights, being the individualised property rights and the communal property rights. Some authors have advocated for the registration of property under individuals whilst others argued that property rights should be registered as communal property.

## **2.4 Individualised Property Rights**

Property rights economists have argued that private property rights are a key feature of being able to legally exclude others from using a good or asset (Besley & Ghatak, 2009). Therefore by excluding others, the incentives on resource allocation are modelled around individuals to carry out productive activities involving the use of a good or asset and undertake investments that improve the value of the said good or asset's value.

Demsetz (1967) positioned understanding of private ownership as that when a community recognises the right of the owner to exclude others from exercising the owner's private rights. Smith (1981) argued that property rights are better individualised because if a single person has ownership rights, the owner will attempt to maximise the property's present value by taking into account alternative future time streams of benefits and costs.

Obeng-Odoom (2012) posited that where people have not had an individual interest in a resource they have been noted to have higher propensity to act irresponsibly and in a manner that injures common good rendering communal property rights

inefficient. Similarly, Locke (2013) believed that individual ownership has been the only suitable process for ensuring security of property rights and that individual property rights have provided means to promote development, equitable growth, social welfare and political engagement.

When property rights are individually titled, individuals holding those rights have had incentive to invest in capital and use their assets as collateral for capital formation and economic growth (Kerekes & Williamson, 2008). Individualised property rights make individuals accountable and benefit from many aspects including the ability to resolve the economic potential of assets and protect transactions (De Soto, 2000). In agreement, Williamson (2005) stated that individualised property rights have been shown to stimulate an environment of entrepreneurship driving economic prosperity and development.

Obeng-Odoom (2012) argued that poor people could be taken out of poverty through the use of formalised individual property rights to secure credit. This argument is advanced further by Parsa, Nakendo, McCluskey & Page (2011) that without access to credit and investment in productive assets, capital formation and economic growth are hindered. Individually registered property rights have the potential to unlock value and make it easier for property owners to have access to lending facilities (Parsa *et al.*, 2011).

Properly documented individual land rights transform land to a credible and tradable asset (Obeng-Odoom, 2012). Communal land rights only give access to use of a resource and do not give command and power to individuals for decision making over a particular resource to derive fullest benefits (Lastarria-Cornhiel, 1997). Ho and Spoor (2006) argued that property rights schools have written literature providing for the legitimisation of private property in particular land, as the only best efficient and secure institutional arrangement for registration of property rights.

There has been general concern that indigenous land ownership arrangements have stifled agricultural development and farm productivity and that there is a requirement to change to formal individual land rights to create incentives for effective and efficient farm productivity (Atwood, 1990). Equally, Lastarria-Cornhiel (1997) argued that generally, investments in agricultural developments and production are constrained by communal land systems.

Economists who support the free market system where producers are free to decide on what to produce and for whom, believe that until such time that land property rights are registered and owned by private individuals there will be no motivation to put them to productive use. There needs to be continued emphasise towards the recognition that people are driven by egocentricity and that this is the only driver that makes them productive (Obeng-Odoom, 2012).

Donors who support formalisation of property rights have continually advised policy makers to endorse a policy of individualised land titling because customary rights do not provide a sound platform for agricultural development (Clover & Eriksen, 2009). The World Bank (2003) argued that in order to reduce conflict in land ownership and land use, individual land rights should be chosen over community land rights. Thus providing secure land titles in both urban and rural areas.

#### **2.4.1 Advantages of Individualised Property Rights**

Individual property rights have followed the classical conception of property rights which is premised on the notion that property rights identify a private owner who has title to a set of valued resources with a presumption of authoritative control over these resources (Singer, 1996). Van Gelder (2010) argued that once an owner is convinced that his/her property claims can be enforced and the fruits of an investment are safe, he/she also has an incentive to invest in property improvement.

Van Gelder's (2010) argument is advanced further by Demsetz (1967) that private ownership of land internalises many of the external costs associated with communal ownership based on the fact that the owner's powers to exclude others can generally count on realising the rewards associated with the development of land. The concentration of benefits and costs on owners generates appetite for owners to utilise resources more efficiently and the development of private rights permits owners to economise on the use of those resources from which he/she has the right to exclude others (Demsetz, 1967).

Smith (1981) argued that private ownership permits the owner to appreciate the full capital value of the resource, and self-interest and economic incentive drive the owner to maintain its long-term capital value. Thus the owner of the resource who

wants to enjoy the benefits of the resource now and in the future and has been noted to strive to manage it in a more sustainable manner.

Bowles and Choi (2013) argued that where property is individually owned, there has been no ambiguity over the possession of land and livestock when compared to food sources that are hunted or gathered. In contrast to labour productivity, the productivity of land was enhanced by early agriculture resulting in smaller, richer areas becoming essential means to a livelihood, facilitating the defence of individual ownership.

#### **2.4.2 Disadvantages of Individualised Property Rights**

By contrast to what has been found by some advocates of property rights, Joireman (2008) found that individual titling is only possible for areas in which land is in high demand, but in rural areas where land is in abundance, individualised titling has been ineffective due to transaction costs. Similarly, Meinzen-Dick and Mwangi (2009) argued that the costs of technical surveys, registration and mapping of individual rights have only favoured those who could afford and excluded the rights of the poor people.

Tucker (1999) claimed that individual property owners are able to act as agents and thus their wealth relies on how well they take cognisance of the compelling claims of the present and the future. With communal rights however, the claims of the present generation are given dominance in determining the intensity with which the land is utilised.

#### **2.4.3 Process of Individualising Property Rights and Corruption**

Clover and Eriksen (2009) argued that the introduction of individualised titles has been known to promote corrupt activities that benefit the interests of powerful individuals. Further, the introduction of individualised titles opens up opportunities for land grab by the wealthy and other elites.

Benjaminsen *et al.*, (2009) argued that policies governing individualisation of land titles have tended to favour private sector led developments within macroeconomic agendas due to political interests taking priority over developments that will benefit the poor. According to Benjaminsen and Sjaastad (2008) individual titling in



communal land may be problematic when access is required to communal assets surrounded by individual properties and may be subjected to an unnoticeable privatisation of communal properties situated within private properties.

#### **2.4.4 Individualised Property Rights and Discrimination**

It has thus far been established that secure property rights are a key determinant of economic development, however, if allocation is individualised certain individuals may be discriminated against because allocation is typically not random but based on individuals' characteristics such as economic wealth and individuals' histories of investment (Galiani & Schargrotsky, 2010). Thus, the likelihood that lenders would loan money to individuals who have no history of investment has historically been minimal as, in the event of default, lenders would have little chance of legally evicting these individuals or recovering legal costs as the market value of their properties may be too low. According to Benjaminsen *et al.*, (2009), individualisation of indigenous properties and transforming them into private ownership may tend to strengthen the element of exclusivity and benefit a few individuals at the expense of others.

Obeng-Odoom (2012) argued that individualised property rights ignore traditional values, and marginalise rather than empower women, whilst communal land rights are sensitive to gender relations and promote equality. That is, when land is communal owned women celebrate being part of a community and not discriminated against in terms of land rights because communal rights entail mutual rights and obligations between genders. Community members are able to provide that support to women which formal individual institutions may not be able to provide (Yngstrom, 2002).

In developing economies men have been known to leave their villages in great numbers in search of work as migrant labourers relegating agricultural production and management responsibilities to women (Lemel, 1988). Consequently, the situation has been especially severe where land is registered in the husband's name and there is no evidence of marriage and yet women have had de facto control over cultivation with no security. Many women in Southern Africa are granted usufructuary rights through their husbands or fathers in order to have access to land as land ownership passes through the male line (House & Mutangadura, 2004).

Another view about how to ensure that traditional values are respected on securing property rights is based on the concept of social capital (Coleman, 1988). Coleman (1988) describes social capital as the advantages individuals derive from their social networks made up of clan members and usually arising from a conglomerate of expectations, obligations and trust among a group of people. The argument is further advanced by the view that individuals benefit from social capital through several advantages such as negotiations for investments which would otherwise have not been possible if individuals were to negotiate on their own rather than as a collective.

Meinzen-Dick and Mwangi (2009) edify what Coleman (1998) says about communal land systems that most rural areas encompass a network of relationships between the community that are characterised by various forms of privileges and obligations. Community members have responded with determined resistance because individual property rights disinherit the community members. During the transition from the communal system to the private property system, women have found themselves at a disadvantage because their access to land is generally dependant on a male relative and therefore find themselves with no rights (Lastarria-Cornhiel, 1997).

The argument advanced against securing rights through private titling is that this process can generate conflict and can increase the level of inequality in society, both of which can retard growth, particularly pro-poor growth. For example, in Latin America a large proportion of income is derived from property rentals without generating much contribution to society in the form of growth and innovation (Easterly, 2001). Some evidence suggests that individual titling brings inequality between genders because the inequality faced by women is embedded in social structures, law and economy (Obeng-Odoom, 2012). Therefore rights to communal resources may be critical for gender equity issues because loss of communal resources to individual resources may fall disproportionately upon women and children especially in areas where customary law does not allow women to own land such as in South Africa, Botswana and Lesotho (Agarwal, 1997). House and Mutangadura (2004) argued that laws favouring male ownership of property disadvantages women's rights to own land. Consequently, if property ownership is individualised women would be traditionally excluded from property and land ownership on the grounds of gender thereby compromising their economic and physical security.

In Kenya, whilst the customary tenure provides wives with strong use and management rights to plots allocated by the household head, women have no decision making over the resource because the titling programs uphold the registration of land under the name of the male head of the household (Meinzen-Dick & Mwangi, 2009). Consequently, women's use rights have remained insecure because the title holder does not require the woman's consent to sell the asset.

## **2.5 Communal Property Rights**

Bishop and Ciriacy-Wantrup (1973) defined common property rights as the distribution of ownership entitlement in resources in which a number of owners are co-equal in their rights to use the resource. Thus common property is not everybody's property, meaning that potential resource users who are not members of a group of co-equal owners are excluded. On the other hand Krier (2009) defined common property rights as rights which can be exercised by all members of the community and where community members can deny the state or individual citizens the right to interfere with any person's exercise of communally-owned rights.

Bromley (1991) argued that a common property resource is one for which the group of co-owners is well-defined and for which the co-owners have established a management regime for determining use rates. Thus common property is a management regime that closely resembles private property for a group of co-owners and the management group has a right to exclude non-members and non-members have a duty to abide by exclusion. Individual members of the management group have both rights and duties with respect to use rules and maintenance of the resource owned.

Securing communal land rights seeks to achieve several objectives towards sustainable development, participation, empowerment, decentralisation, and sustainable resource use and improved livelihoods (Clarke 2009). Securing communal right of access and usage is therefore crucial to the effectiveness of any scheme which empowers communities to manage communal land. Clarke (2009) purported that communal property regimes may have individual use and access rights, but retain an element of collective rights to allocate and transfer the land. Similarly, Meinzen-Dick and Mwangi (2009) noted the importance of communal rights

over individualised rights as a way of ensuring that community norms are not compromised by individual self-interest.

### **2.5.1 Advantages of Communal Property Rights**

One way to think about communal property rights is that they maximise joint surplus because consumption is shared among members of the community (Besley & Ghatak, 2009). A fundamental condition for common property is that users perceive its benefits to outweigh its costs and the resource is held as shared private property (McKean, 1992). Similarly, Bromley (1991) indicated that a jointly owned property is effectively and efficiently managed and the owners define the boundaries of their resource, restrict non-members' access and develop mechanisms to govern the resource.

McKean (1992) argued that the potential of common property owners to distribute resources more equitably amongst themselves is a critical aspect for economic development. Similarly, McCay and Acheson (1987) found that sharing of resources is of particular importance for poorer populations that often depend on communal resources for their survival. Of the same view is Ostrom (1990), who indicated that common property can provide important benefits particularly for impoverished or minority groups who lack economic alternatives and opportunities to gain private property rights.

From the study conducted by Krier (2009), resources in a common property system are governed by rules whose point is to make them available for use by all or any members of the society. The study found that common land is used by everyone in the community for example, for grazing cattle or gathering food. In such a community system, the community as whole determines how resources are to be used in a manner that benefits the entire community. Further, these decisions are made collectively by the community members on the basis of social interest (Krier (2009).

Tucker (1999) argued that common property is more advantageous in comparison to private property. To demonstrate these assertions, Tucker (1999) used the analogy that if a given resource is mobile (for example, wild animals) or dispersed and variable (for example, certain plants), a common property arrangement can provide all users access. A larger consolidated area in which to seek far flung supply enables a greater

chance of success than if the resource habitats were subdivided into private parcels needed to maintain a private property system.

Tucker (1999) goes on to say that the advantages of a common property system are that where there are restrictions on use of a common resource, the aim of any such restriction has been simply to secure fair access for all and to prevent anyone from using the common resource in a way that would preclude its use by others. By contrast, rules in a private property system, are designed around the idea that various contested resources are assigned to the decisional authority of particular individuals.

In a common property system where a resource is held in common by all, any commoner benefits from exploiting the resource whereas the costs for the resource spill over onto all members of the community. In contrast, in an individual rights system, where each member of the community has a right to exclude other members, manages costs and focuses on creating constructive incentives (Krier, 2009).

Clarke (2009) argued that where resources are communally owned, each community member has an interest in ongoing use of resources and there is a significant incentive to ensure that the resources are not degraded and environmentally harmful projects are less likely to be implemented. In the rural African context community members generally promote preservation of resources for future generations for the right to access and sustainable exploitation (Clarke, 2009). Additionally, the exercise of common property rights can be essential to the identity and livelihood of indigenous populations and loss of these rights can threaten cultural survival (Tucker, 1999).

## 2.5.2 Disadvantages of Communal Property Rights

Hardin (1968) argued that when a resource is physically and legally accessible to more than one resource user, users compete with one another for a greater share of the resource to the extent that their actions result in misusing the resource and affecting the entire society. Bishop and Ciriacy-Wantrup (1973) recorded that most economists propose that common property resources are to be made private property of individual resource users because individuals will manage the resources in society's best interests via the invisible hand. The suggestion is made that the forces that drive a market will pacify social ills and maximise wealth without the need for outside regulation.

These economists blame common use of resources for a number of pressing community resource problems including resource depletion, pollution, dissipation of economic surplus, poverty among resource users and the misallocation of labour and capital. It is argued that hunters and gatherers have weaknesses in adjusting to contact the market therefore they overuse their resources in order to acquire market products. For example, overgrazing and overfishing are day to day problems which prove that communal resource use is an inadequate tool to resolve such problems (Bishop & Ciriacy-Wantrup, 1973).

In the study conducted by Tucker (1999) on Private Versus Common Property Forests in Honduras it seems that although common resource users effectively exclude outsiders from exploiting their common property, they have placed few restrictions on their own use. For example, no limits exist on the number of cattle that may be grazed in the grazing land or the amount of firewood that can be cut from a forest for household use as a result, the common property forests receive little protection from overexploitation. Equally, Banana and Gombya-Ssembajwe (1996) in their study on Successful Forest Management in Uganda found that owners of private forests usually limit tree cutting and restrict access which result in privately held forests to be likely in a better condition than common property forests where access is not restricted.

According to Demsetz (1967), when a resource is held in common by all, everybody has to negotiate with everybody else which increases transaction costs whilst an individual resource owner, economises on these transactions. This is because only the affected neighbours that he/she would need to negotiate with. Wherever there is

public use or ownership of resources, there is overuse, waste, and extinction, but private ownership results in sustained-yield use and preservation (Smith, 1981). Similarly, Ostrom (1999) argued that common property is used by everyone and owned by no one, therefore no one has an incentive to maintain or preserve it. Since everyone uses a resource the only way for users to capture value is to exploit the resource rapidly before anyone does.

Ostrom and Hess (2008) noted that where property is communally owned, no one has exclusive rights to the resource nor can anyone prevent others from using it for either the same purpose or non-compatible use. As it happens, because no one has the benefits of the resources until they have been captured, everyone engages in an unproductive race to capture the resources before others do. Accordingly, if a person wants to maximise the value of his/her communal right, he/she will tend to overwork the resource because some of the costs of his/her doing are borne by others. If communal owners were to try and devise means to reduce the over exploitation of resources by others, they would be expected to incur high transaction and enforcement costs making it difficult to stop the overuse of resources (Demsetz, 1967).

According to Besley and Ghatak (2009) communal property rights are best thought of as joint-ownership and due to this arrangement if there is a disagreement at the bargaining stage, then the use of resources or production cannot go ahead. North (1990) presented similar views that where property is communally owned, productivity is slow because no one has an incentive to work hard in order to increase their private returns whereas private property owners have a direct and immediate incentive for working hard.

Harding (1968) maintained that the tragedy of commons is the inability to manage their own property or to prevent the public from overusing the resources held in the public domain. Consequently as population increases, unclear ownership of common resources will unavoidably result in overexploitation and degradation as each community member acts in selfishness to maximise their personal benefits. Equally, Clarke (2009) argued that in times of crisis or contexts of low social capital, if resources are under communal management some community members may prioritise short-term gains over long-term sustainable use of resources.

## 2.6 Insights from Other Parts of the World

Evidence from other parts of the world appears to show that land property rights can have major impacts on investment and productivity (Toulmin, 2009). Data presented in Feder's (2002) study from Thailand, Indonesia, and Brazil, as cited in Toulmin (2009), showed that there was a 30% to 80% increase in land values following land titling. Investment levels increased from 40% to 115% in Brazil, Thailand and Honduras, with credit access swelling by 200% to 350% in Brazil and Thailand. Besley and Ghatak (2009) argued that modern market economies rely on collateral to support a variety of financial market transactions and improving property rights may increase productivity by enhancing such possibilities.

In Tanzania, for example, the land rights are held in trust by the president on behalf of the citizens. Both rural and urban dwellers hold long-term use rights which can be registered, titled, and subsequently traded. In other African countries such as Senegal, Mali and Burkina Faso, land is owned by government and customary occupants are given use rights for as long as the land is for customary use and not for any other purposes. Similarly, the government of Ethiopia claims ultimate ownership of all land, with long-term use rights held by citizens (Toulmin, 2009). By contrast, in Ghana 80% of land is privately owned through the trusteeship of customary chiefs, who are charged with managing these lands for the benefit of their people with the remainder owned by the state (Kasanga & Kotey, 2001). However, even with this process in place, there is still a long-standing struggle between government and customary chiefs over how this asset is actually managed or used. For example the government of Nkrumah used its powers to acquire certain lands bestowing them in the hands of government and thus providing land for development of cities and ports (Kasanga & Kotey, 2001).

In South Africa, the constitution protects the rights of private property owners and yet the ownership of land remains a major political subject due to the unequal design of land rights inherited from the former white apartheid regime. The 1913 Natives Land Act and the 1936 Trust and Land Act restricted black land ownership to 13% of land in South Africa and only customary occupancy was permitted and not freehold (Clover & Eriksen, 2009). The South African Development Trust imposed further restrictive conditions including a request for Blacks to seek permits before they occupied the land (Obeng-Odoom, 2012). Traditional chiefs who disagreed with the



Apartheid State were disempowered and the Apartheid State created chiefs who complied with its requirements (Ntsebeza, 2005).

Hardin's (1968) handling of the tragedy of the commons suggested that the only way to avoid a similar tragedy in natural resources is to end the common property system by creating a system of private property rights. Similarly, de Soto's work in Lima, Peru also showed that titling of land assets of poor people has proved to be productive in securing their rights and supporting subsequent economic growth and development. By contrast, Ho and Spoor (2006) argued that private land ownership has not proven essential for the effective functioning of the rural economy nor for an undeveloped land market. In particular, when comparing the experience of China and Vietnam with the former Soviet Union countries such as Albania, Armenia and Kyrgyzstan, which opted for the outright privatisation of land resources in order to stimulate a land market.

The individualisation of property rights may however complicate and weaken women's position and claims to the property supposedly owned by their husbands due to abandoned wives and undocumented marriages. Colombia has taken steps to resolve this issue by giving women priority to be property beneficiaries in cases where husbands have been absent for protracted periods or if the husband dies (Lemel, 1988). In South Africa women still lack independent access to land rights and the lack of independence discriminates against women who are seeking sustainable livelihood in the face of rising poverty from owning a basic asset because the rules of inheritance favour men over women (House & Mutangadura, 2004).

## 2.7 Summary of the Literature Review

Advocates of private property ownership have viewed individual ownership as an optimal occupancy arrangement for achieving sustainable management of natural resources and common property ownership has been widely interpreted as archaic in its thinking and construct (Demsetz, 1967; Hardin, 1968; Smith, 1981). By contrast, the promoters of communal property ownership argued that community members have had an ongoing interest on the use of resources and there has been a significant incentive to ensure that the resources are not degraded (Clarke, 2009; Krier, 2009; Tucker 1999). It is pointed out that private property ownership has not guaranteed efficient and sufficient resource management since owners may not place importance on a resource's future value.

There is however, evidence from both individual versus common property schools of thought to suggest that governments have a legitimate role in regulating and administering land rights due to the significance of land in the economy, people's livelihoods and the stability of nations. However, to do this, procedures are required to allow the allocation of land. The degree and method of intervention must be measured against the costs imposed on those using or seeking the land whilst the design of such interventions and procedures must minimise the risk of corruption (Toulmin, 2009).

According to Peters (2009), as early as 2003 the World Bank, an advocate of individual property ownership, had accepted the advantages of communal over formal individual land titling based on cost effectiveness and equity. Hence, the World Bank (2003) agreed that for titling to be successful and effective a range of other conditions are needed, such as access to capital and credit. Peters (2009) cautioned the state-led intervention in land titling systems and suggested the possibility of building on existing systems rather than bringing new systems of formalising and securing property rights.

Property rights advocates such as Sikor (2006) and Berry (1993) argued that agricultural endeavour has fostered the development of land markets facilitating efficient allocation of land, for example by reducing land fragmentation. Similarly, Bowles and Choi (2013) argued that individual property rights preceded agriculture for successful agriculture required secure individual rights. Thus, where there were no secure property rights, agriculture has not flourished. Clover and Eriksen (2009) also found that donors who support formalisation of property rights have advised policy makers to endorse a policy of individualised land titling because customary rights have not provided an effective platform for agricultural development.

Both communal and individual property rights have however, been vigorously deliberated on both processes, there are limitations of little evidence of how property rights are registered for communal rights and how transaction costs for technical surveys and mapping for individual rights are managed especially in the rural areas where poor people are mostly affected. The researcher seeks to add to this body of knowledge by putting forth arguments that may assist to find a solution to these limitations for both processes.

## **CHAPTER 3: RESEARCH QUESTIONS**

### **3.1 Introduction**

The previous chapter reviewed the existing literature on property rights to help develop the research questions stated below. Guided by the literature, the researcher has noted that there are two differing views regarding the administration of property rights with some authors arguing that property rights must be individualised whilst others argue that property rights must be registered as communal property. The two views emerged as constructs that could help explore the best method of securing and registering property rights. This chapter will lay out the questions that will shape the primary investigations of this study.

### **3.2 Research Questions**

Security of tenure is widely acknowledged as critical for people's rights and livelihood, for gaining access to credit, for intensifying agricultural production and as a powerful incentive for sustainable land management practices and investments (Mutangura, 2004). Firmin-Sellers and Sellers (1999) argued that land titling provides a foundation for economic development through long-term capital investment, availability of capital and the development of land and labour markets. Secure property rights encourage people to invest their resources and protect their investments against expropriation. Bauer (2000) also argued that property rights provide incentives, facilitate production exchange and lead to increased capital accumulation, investment, technological innovation, and entrepreneurship.

Gonzalez (2005) maintained that poorly defined property rights pose a major obstacle to economic development. Di Tella, Giliani, and Schargrodsky, (2012) purported that in order for countries to develop, property rights over productive assets should be effectively assigned and properly enforced. Economic growth will occur only if property rights make it worthwhile to undertake socially productive activities (North, 1991). The economic case for secure property rights is that growth depends on investment, however, investors do not invest if there is a risk of land being expropriated (Besley and Ghatak 2009). This theory is also confirmed by (Kerekes & Williamson, 2008) who identified a strong, positive relationship between secure property rights and investment.

Although the economic viability of land registration depends on certain requirements to be considered such as social aspects, it is evident that registered property rights lead to better access to formal credit, higher land values and higher investments in land (Feder & Nishio, 1998). Based on the above arguments and the literature reviewed in the previous chapter, the following questions emerged for address referencing the South African history and economic advancement aspiration context.

**Research Question 1:**

Is it important to have secure property rights? (Besley & Ghatak, 2009; Bromley, 1991; Feder & Neshio, 1998; Kennedy, 2011).

**Research Question 2**

What are the key determinants of property rights in a rural communities?  
(Pienaar, 2009)

**Research Question 3:**

What is a better approach towards establishing formal property rights and what are its likely advantages and disadvantages? (Bromley, 1991; Clarke, 2009; Krier, 2009; Tucker, 1999)

**Research Question 4:**

Would formalisation of property rights improve the livelihood of the rural communities through investment opportunities? (Firmin-Sellers & Sellers, 1999; Gonzalez, 2005; Muthoo, 2004; Mutangadura, 2004; & Sikor & Muller, 2009).

**Research Question 5:**

Could secure property rights be used as a collateral to secure credit? (Clague, Keefer, Knack & Olson, 2010; De Soto, 2000; Kerekes & Williamson, 2008; North, 1990; Obeng-Odoom, 2012).

**Research Question 6:**

Is there a relationship between efficient allocation of resources and productivity?  
(Bauer, 2000; Di Tella, Giliani, and Schargrotsky, 2012).

**Research Question 7:**

What structures are recommended that would advance the formalisation of property rights such that those who are affected can benefit from the economic activities taking place on the land in which they own?

## **CHAPTER 4: RESEARCH METHOD**

### **4.1 Introduction**

In examining the questions in Chapter 3, the researcher attempted to answer them by conducting semi-structured individual interviews with academics, property rights lawyers, government officials, church leaders and traditional leaders. Because the researcher seeks depth and breadth of information, a qualitative research design was chosen as an appropriate method to get first-hand experience and intensity of detail through one on one interviewing. According to Chipp (2014) a qualitative approach, which is typically exploratory, may be selected when a researcher is looking for verifiable insights.

The strength of a qualitative method is its ability to provide complex textual descriptions of how people experience a given phenomenon and thus it can provide rich information about the human side of issues (Barnard, 1995). Barnard (1995) further submitted that qualitative methodology gives the researcher the flexibility to probe the participants' responses and probing gives participants an opportunity to respond in their own words rather than forcing them to choose from fixed responses.

### **4.2 Research Design**

For contextual meaning to emerge, direct engagement between the researcher and participants was necessary in understanding participant's views on the topic under study. Semi-structured interviewing was chosen to facilitate data gathering as an appropriate technique enabling intense individual interaction with participants exploring perspectives on the topic under study (Boyce & Naele, 2006).

The process permitted the researcher to reflect through seeking input from participants during the process of data analysis and producing the research report and allowed for sharing and dialoguing on research findings with participants. "Through the reflection process, participants can react, agree, or find problems with the research" (Tracy, 2010, p.844). The process provided participants with opportunities for questions and feedback, and even collaboration on findings. The researcher got an opportunity to learn whether the participants find the study comprehensible and meaningful.

### 4.3 Rational for Selection

The researcher had considered different types of methods available for a qualitative research and because of the variety of disciplines of participants the researcher elected the in depth face to face interviews. The rational for selecting the interview process is that a qualitative study that is based on interaction with participants will look quite different from a method of obtaining knowledge form large samples restricted to using fixed responses (Morrow, 2005). Similarly, Ryan and Bernard (2000) suggested that qualitative research allows research participants to talk about a topic in their own words, free of the constraints imposed by fixed-response questions that are generally seen in quantitative studies.

The interview process provided the researcher with different kinds of knowledge privileges in finding categories of meaning from the individuals being interviewed. In contrast, a quantitate method would have focused on standardised methods of obtaining knowledge from large samples using categories taken from existing theory and operationalised by the researcher (Morrow & Smith, 2000).

In this study, the researcher applied triangulation as part of the data analysis to probe into responses of participants to obtain more detailed descriptions and explanations of experiences, behaviors and beliefs of participants (Patton, 2002). This allowed the researcher to create a description that is rich, has depth and informs the overall study. In contrast, a set of survey questions in which responses are fixed in categories would have not allowed for probing since surveys are not suitable for building a profound personal knowledge on the topic being investigated.

The interview process comprised multiple standards of quality, legitimacy and consistency. Thus, the godness of a consensual qualitative research investigation was assessed on the basis of typical foundations of the topic being studied (Morrow & Smith, 2000). Consequently, triangulation was applied in the form of comparing and contrasting the experiences of participants based on the different roles they play in society. During interviews, a researcher has a greater chance of getting unanticipated information.

The interview process provided the researcher additional advantage of face validity as responses were not constrained into predetermined answers whilst the survey questioning is an unchallengeable scripted process. Qualitative questioning allowed the interviewer flexibility to ask questions in a different way to ensure that respective participants understood the questions well whilst in survey questioning the data collectors are restricted in repeating the question verbatim if a participant does not understand the question (Marshall, 1996).

The design helped the researcher in managing subjectivity and making his implicit assumptions evident to himself and others especially that the researcher is an insider to the topic being investigated (Ryan & Bernard, 2000). It further provided the researcher with a number of strategy options to pursue during the data gathering process seeking clarification and exploring more deeply into the meanings of participants whilst striving to represent participants' realities. These strategies also assisted the researcher to be fair and equitable in representing participant's view points and avoid skewed interpretations that represent biases (Ryan & Bernard, 2000).

In contrast to data collection through aggregate evidence, in concurrence with Ambert, Adler, Adler, & Detzner (1995) the study perused depth over breadth and attempted to absorb delicate nuances of life experiences of participants. This is supported by Whitemore, Chase, & Mandle (2001) that qualitative studies probe beneath the surface to explore tacit knowledge of participants and issues that are contained as are part of participants' common and perhaps expert knowledge. Thus the study represented the aims, needs and desires of all stakeholders affected by the topic under study, including law makers (Ellingson, 2008).



#### **4.4 Population and Unit of Analysis**

The population for this paper consisted of rural communities in South Africa. The ownership of land and other natural resources within a community's geographical area is entrusted to the community, however, communities without knowledge find themselves displaced with no benefits from the economic activities on their land (Lastarria-Cornhiel, 1997). The land reform programmes meant to redress inequalities have remained exclusive and insensitive to the rural communities without education and little understanding of the impact of these programmes in the changing social environment (Saruchera, 2004). The lack of inclusion negatively affects the opportunities available in changing the livelihoods of the rural communities. The population was chosen in an attempt to develop a complete assessment of how rural communities are affected by the lack of ownership of resources in advancing their livelihoods (Tlhoale, 2012).

#### **4.5 Sampling Method and Size**

Judgement sampling was selected as an appropriate method for the study. It is also known as purposeful sampling and is the most common sampling technique for exploratory research (Wenger, 2012). The aim of this sampling approach was to draw a representative sample from a pool of experts who have an informed analytical perspective of the issues rather than a lived reality view (Marshall, 1996). This sampling method allowed flexibility to be built into the research design itself by using a theoretical sampling strategy in which the researcher adjusted the sampling procedures during the data collection process based on incoming data. This perspective was based on the idea that qualitative research efforts are concerned with revealing multi realities as opposed to searching for a certain objective reality (Ryan & Bernard, 2000).

Sample members were chosen from church leaders, government officials, traditional leaders, academics and property rights lawyers. A sample size of sixteen was identified, however only nine were ultimately completed. Sample members were selected to conform to a certain criterion and most productive sample was selected to answer the research questions. The sample members were stratified according to known public attitudes and beliefs.

## 4.6 Data Collection

The researcher's aim was to find out if securing and formalising property rights has the ability to encourage investment and lead to better livelihood of the rural communities. The interview process was used to drive interpretations, not facts or laws, from participant understanding of the topic under study (Gabrium & Holstein, 2001). Nine participants were interviewed from different backgrounds, culture and gender. Participants were interviewed at their offices, place of residence and restaurants.

The interviews were recorded and transcribed in order to capture all the details. The process entailed interactive conversation with the researcher asking guiding questions and listening whilst participants answered. The interview questions were short, however, they gathered correspondingly long answers and clarifications of questions during the interview process and resulted in natural and rich answers (Kvale, 1996). Interview participants were directly engaged in the interview process and shared their experiences and thus were not passive conduits for retrieving information from an existing vessel of answers.

The primary advantage of the interview process was that it provided more detailed information than what could be provided through other data collection methods, such as surveys (Marshall, 1996). The interaction with participants provided a more relaxed atmosphere for data collection because participants felt more comfortable in having a conversation about the topic than filling out surveys. Another typical feature of the interviews was that the questions were open ended and could be followed up with probes in response to participants' replies.

## **4.7 Data Analysis**

Face to face depth interviews were conducted by the researcher during data collection. Each interview participant was given a consent letter and the interview schedule prior to conducting the interviews. The interview schedule was used as a guide to ensure consistency and the sequence of questions from one interview to the other. To ensure accuracy of data, the interviews were recorded on an electronic device and were later transcribed *verbatim*.

ATLAS.ti programme was used for data analysis. This was done by coding related responses into different themes that came out of the interview process. Microsoft excel was further used to structure the content of the narrative analysis.

## **4.8 Data Validity, Rigor and Credibility**

### **4.8.1 Validity**

The research process had a critical element in challenging existing conditions of the research topic and involved a deeper self-reflection requiring compassionate understanding by the researcher while working with participants (Morse, Barrett, Mayan, Olson, & Spiers, 2002). This argument is advanced further by Cho and Trent (2009) that when conducting qualitative studies, the researcher must use techniques which are seen as a medium to insure an accurate reflection of reality. Participants' responses were played back throughout the data collection process to check for accuracy and reactions of participants and misunderstandings were adjusted and thus fixed.

In many instances participants engaged in making sure that responses corresponded with the interpretations brought forth by the researcher. The requirement to demonstrate the value of multiple perspectives, the applicability of findings in a broader context and the freedom from bias were identified as validity issues to be addressed in the research process (Whittemore *et al.*, 2001). Indeed participants' feedback enhanced the credibility of the research through the provision of deeper and richer analyses (Patton, 2002).

### **4.8.2 Rigor**

To maintain the high quality of the research process the researcher had to ensure that the research was rigorous because without rigor the research is worthless and loses its value (Tracy, 2010). The research was noticeable by a rich complexity of descriptions and explanations that were abundantly provided by participants. The researcher approached the research process have conducted broad investigation into the underlying theories on the subject under study and was hence well prepared to see nuance and complexity. This foundation also guided the making of critical choices about samples and contexts that were appropriate to study specific issues (Morse *et al.*, 2002). The interviews ranged between thirty minutes and an hour long. The interview length and the sample demonstrated thoroughness, appropriateness and breadth given the goals of the study and the types of questions asked.

### **4.8.3 Credibility**

The differences in race, class, gender, age and sexuality was identified as an important basis from which to reveal the different interpretations towards the topic under study (Tracy, 2010). The researcher was well aware of cultural differences between him and participants and hence attended to participants' viewpoints rather than put words in participants' mouths. Hence the results of the study reflected the experiences of participants in a believable way (Whittemore *et al.*, 2001).

The use of different independent sources for data collection within one study provided assurance that the data discloses the credible information (Saunders & Lewis, 2012). The data was sorted through collating similar codes into different themes across participants. As a result, the researcher was comfortable that the results analysis was correct.

## **4.9 Research Limitations**

The difficulty with this type of study was that it required not only collecting the data but also transcribing, coding and interpreting the data which was time consuming. For example, some of the interviewees responded in their languages, which added extra step of translation in the analysis process. A sample of sixteen was identified, however, only nine were ultimately completed. On two occasions, the interview process took place at a restaurant and due to high noise levels on the background, the recordings were not clear and therefore could not be transcribed. Given the sensitivity surrounding the topic, two participants refused to have the interviews recorded whilst another two interviews could not be used for the purposes of this research.

Because the sample was small, statistical generalisation was not possible and the ability to claim a representative sample was therefore weakened and similarly it was difficult to statistically measure variation of responses. However, it should be noted that because the same issues on the topic under study emerged from different participants, data saturation was reached and therefore a representative sample size was attained (Ryan & Bernard, 2000). In contrast to quantitative research, data gathering and the process of data analysis is grounded in subjectivity.

Other factors that affected the collection and interpretation of data were presumptions formed from literature review. The researcher's emotional involvement with the research topic and the interaction with research participants. However, to deal with these assumptions and biases that were a reflection of the researcher's life experiences or interactions with participants, the researcher endeavoured to re-contextualise the interviews based on data collected (Morrow & Smith, 1995). The researcher was self-aware of his experiences, biases and any assumptions that emerged from the inception to the conclusion of the research.

## **Appendices**

Appendix 1: Interview questionnaire

Appendix 2: Informed consent letter

## CHAPTER 5: RESULTS

### 5.1 Introduction

The previous chapter outlined the research strategy and the data gathering methodology employed in gathering data from a sample of expert participants. The investigation sought to capture rich descriptive reflection on the key considerations surrounding the issue of the land rights concerns for Black South Africans with particular interest in the role these play in advancing broad based economic participation. This chapter details the primary findings. Emphasis is placed on outlining the storyline as expressed by verbatim quotations by the nine in-depth interview informants concluding with summary comments on the emergent findings.

### 5.2 Profiles of Participants

This section details the demographic profile of the sample of seasoned informants whose were captured for the study.

**Table 1: Participant Profiles**

<b>Participant</b>	<b>Gender</b>	<b>Position</b>	<b>Race</b>	<b>Province</b>
P1	Male	Traditional Leader and Cabinet Minister	Black	Eastern Cape
P2	Male	Retired High Court Judge and Traditional Leader	Black	KwaZulu Natal
P3	Male	Academic and Property Rights Lawyer	White	Gauteng
P4	Male	Member of Parliament	Black	Western Cape
P5	Male	Human Rights Activist	Black	Western Cape
P6	Male	Professor and Author	Black	Eastern Cape
P7	Male	Professor and Business School Dean	White	Gauteng
P8	Female	Academic and Property Rights Activist	White	Western Cape
P9	Male	Archbishop and Church Leader	Black	North West

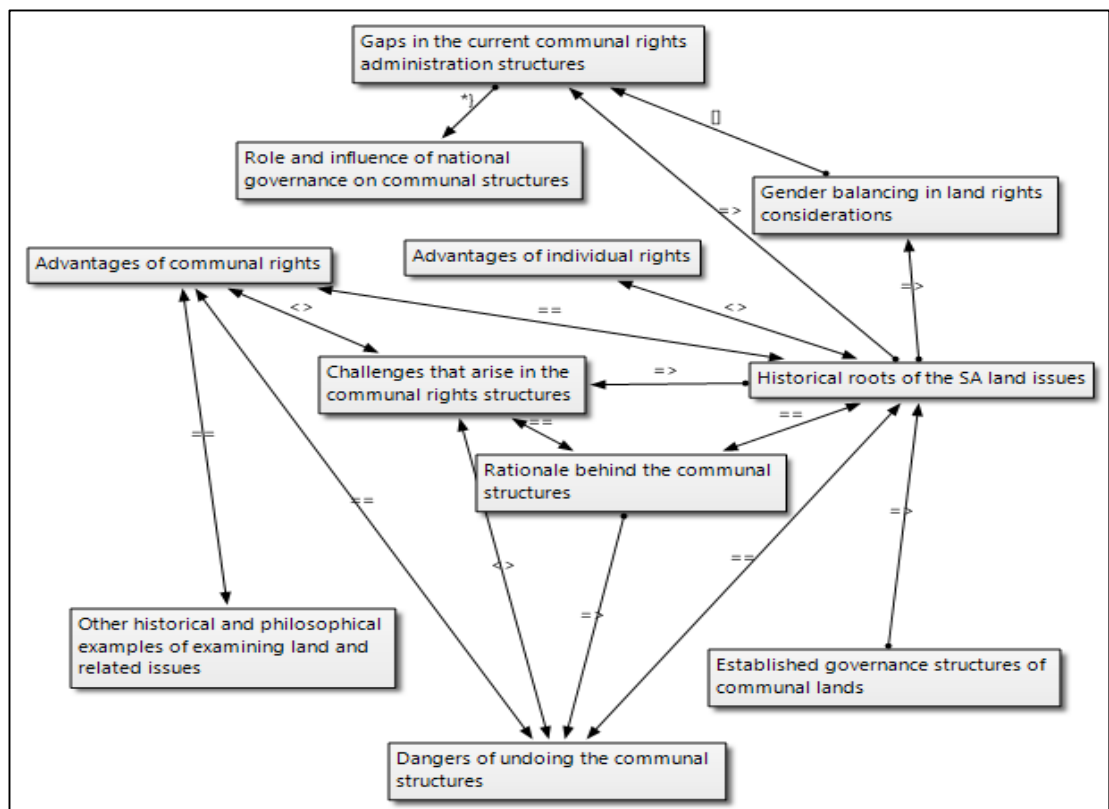
### 5.3 Historical Roots of South African Land Issues

Although the historical roots of South African land issues were not part of the scope of the research questioning, Six of the participants felt that the enduring influence of its complex characteristics, were too important to overlook. In fact, to first understand the origins of the issues is an essential precursor to heeding the depth and scope of the dynamics faced by the people of South Africa when it comes to the ownership of land. Historical events were described dating back from 1744 giving insight into the trajectory of events.

<b>P2:</b>	<i>“Around 1744, during the Frontier Wars, the Fish River was a border between the Xhosa and the British colony at that time. However, as the British were hungry for more land they then jumped the Fish River and settled in Grahamstown. People were pushed from their areas like the Nguni group came and migrated eastwards and they were split during the territorial wars with others pushed further south. As they moved further south than the white settlers started coming from the Western Cape where there were those frontier wars”.</i>
<b>P7:</b>	<i>“Historically, the communal property system was established within the colonial framework. The colonial legal system gave property rights to the Fingoes, and those rights were constituted communal property rights by law. The same applied near Kimberley, people had farms that they owned, and the same in Bophutatswana and all these were in the colonial legal system of property rights. In Kwazulu Natal, just before the first general elections, it could be argued that rights were removed from people by putting land in trust for the king therefore people have a right in the land claims”.</i>
<b>P8:</b>	<i>“In the 1860’s, particularly in the Boer Republic, Black people were not allowed to own land and a group of people collected money and purchased land through missionaries and was held in trust for them. After they stopped using missionaries to buy land on their behalf, the government insisted that the land would be held in a trust administered by the government on their behalf. A gentlemen by the name of Tsoa went to the Native Appeal Court and said ‘why cannot I or all black buyers own it in our own name ourselves?’ He won the case but the department of Native Affairs kept on insisting that land bought by Africans be held in Trust on their behalf. This is where the rule called the Six Native Rule was started in the 1860s and was finally enacted in 1936 in the Development Trust and Land Act. It said that a group of more than six black people who bought land had to affiliate with a tribe or form a tribe”.</i>
<b>P1:</b>	<i>“In 1906 there were boundaries that were demarcated for each administrative areas under traditional community land. For example, in the Eastern Cape, particularly the old Transkei, the initial areas have demarcated boundaries and combined they constitute land that belongs to what is now called traditional councils which were previously known as tribal authorities. There is now a perception or an idea that because traditional councils were created and formalised under apartheid they are therefore tainted institutions and are undemocratic”.</i>

<b>P2:</b>	“When there was the Group Areas Act, people were forcefully removed from their birth areas to areas exclusively created for certain races. Interestingly, when a person of other race were to go to a Group area which was exclusively for another, the same process currently practised in rural communities was applicable.
<b>P6:</b>	“What happened in the past is that if a particular community ventured into virgin land, virgin in that not only has it not been worked on but nobody can legitimately put a claim to that, as a result those people were then historically thought to be the owners of that land purely by accident of them having been there first. At the same time you would find a group who would still be able to own land which is excised by the dominant group, the group that is there already for various reasons – political, economic or even military”.
<b>P8:</b>	“For example, in the North West a lot of people can show that it was their great great grandparents or great grandparents that bought the land, that they weren’t Bafokeng at the time of buying but they were forced to affiliate with the Bafokeng in order to be able to have the land, or own the land. Also, there was a lot of land purchased by black people in Natal to an extent that after 1913 a Bomine Commission was set up where whites argued for the Land Act because they were being outbid by Black Syndicates. People can also show that they own the land”.

Figure 1: Impact of Historical Influences on SA Rural Land Structures



== Is associated with... [] Is part of... => Is cause of... <> Contradicts...  
 \*} Is property of...



This overarching context surfaced issues of significant migration; forced displacements; administrative custodianships and discriminatory policy enforcements that are responsible for deep divisions, uncertainty and loss of entitlement clarity that still plague governance structures today. Further, the deliberate exclusion of the black majority created repercussions that ran deep into the very fabric of their dignity as a community. As one participant aptly observed,

**P4:** *“It’s because when South African Africans lost their land through various forms of removal, their dignity was impaired. So that is the first thing that restoration of property rights will achieve, and that is their dignity will be restored.”*

It appears that the removal of black people from their places of origin did not only start after the 1913 Land Act but during the Colonial Rule. At the same time there seems to have remained a level of acceptance that whoever was first to occupy a certain piece of land had and still has a legitimate claim against that piece of land that is recognised through the traditional council structures. Of concern however is the threat of steadily declining institutional memory of such structures whose traditional way has been to maintain records through transfer across living memories rather than documented records. However the natural demise of informed elders coupled with the unnatural high volume of rural to urban migration of their offspring has steadily created knowledge voids with some communities being more affected than others.

## 5.4 Other Historical & Philosophical Examples of Indigenous Land Issues

Further to the South African historical land issues, three participants provided insights on experiences of other countries with regards to land issues. It can therefore be noted that land issues are not only a South African story to be told but other countries have their fair share of stories to be told. The value of this insight further extends into examples of possible approaches towards addressing land ownership structures with the added benefit of advantages and disadvantages of respective approaches being already matured and apparent for reflective consideration.

P7:	<i>“If you study American history in the 1880’s there was a thing called the Hatchet law or the Axe law. What happened in American frontiers as people spread there were multiple claimants to land, because in the real wild west you rode your horse, you cut a tree, you rode and cut another tree, and that was your property. And it took them 30 years of legal reform to settle who the real owner is. And it was where the courts had to establish who the rightful owner is in fact, because in many bits of land there were three or four claimants. All frontier people who had dispossessed the Indians, but they were multiple claimants for land, so it is an interesting case study.”</i>
P7:	<i>“Then what the world argues is the great American model of individualism is the greatest success story and I say ‘no’, an axon of geography, where a vast rich land mass was conquered by very few people that were highly individualistic, has led to a constitutional democracy in the space of individual rights”.</i>
P7:	<i>“And India also, very complex as to who owns the land. So when I go to Lesotho for example where land rights are communal, I see huge dysfunctionality.”</i>
P7:	<i>“If you take the Irish farmers, the farms were passed to the sons, in Ireland, and this led to a crisis, because over six generations the farms got smaller and smaller and smaller until they were uneconomic. So it is a very big issue as to how you divide communal land. Communal life, there is a great attraction to me, for managing development, that can be communal and economic. I am sure you are aware of the Kibbutz movement in Israel. Because the first Israelis were socialists in the 20th century and they formed cooperative farms and cooperative factories.”</i>
P7:	<i>“This is why in principle I have no objections to the idea of communism, it is just in practice it very seldom works. I certainly believe this, that communism as an ideal way of everyone is equal and we all make the decisions, doesn’t work in most countries. It works in China to a point, it worked in Cuba within reason.”</i>
P7:	<i>“If it slows it [the economy] down like it did in Japan, the communal decision making slowed Japan down, and Japan has not been able to take the big leap forward in the last 20 years – then I prefer the American system.”</i>
P7:	<i>“The western idea was focused on the individual and individual rights, and enforceable individual rights of property and other things, and so that is the western notion. Whereas many other countries like China, that is not the notion – nor in India, nor in Japan – maybe a mix. So what is right for the people and owners of property? I do not know how to answer that because I think you can make the argument each way.”</i>

The input from the participants suggests that in their extreme forms, communal and exclusive individual ownership structures have been demonstrated to bring inherent weaknesses. Progressively, nations have been seeking to balance access to both rich and poor whilst continuing to stimulate economic advancement.

<p><b>P8:</b></p>	<p><i>“A professor at Stellenbosch, he is an NRF professor in property law, and he basically has looked at how in the sort of mid nineteenth century in Europe there was this idea of exclusive ownership, where ownership really enabled you to exclude all others. And that was the idea of ownership at a specific time, that historically it had been much more flexible, lots of rights of way, servitudes, the British system not surveying as strictly as our system, you know shared, overlapping rights.”</i></p> <p><i>“He has looked at [more recent] developments in Europe which have really moved away from that idea of exclusive ownership towards much more balancing of the needs of the poor, the rich –much more regulation.”</i></p>
<p><b>P9:</b></p>	<p><i>“In a sense, if you look at where property systems in the west are going to, they are going to much more nuanced systems that acknowledge that if you own a big housing block in a time when there is a terrible land shortage, you do not have the right not to lease it, you must lease it. So property rights are subject to regulation in the public interest.”</i></p>
<p><b>P9:</b></p>	<p><i>“I think Mozambique. Mozambique nobody owns the land, the land belongs to the state and then people can develop it but they lease it from the state.”</i></p>

## Summary

The data give the impression that the land issue does not only affect how people live and interact with each other but has instrumental impact on a country’s economic system and a country’s economic performance. In navigating structural options however, there is no one size fits all. What worked in America has not necessarily been implemented in China or in Britain. Each economic system needs to be looked at for its own merits; with some impact insights being transferrable.

## 5.5 Evaluating the Importance of Property Rights

As a point of departure before embarking on the journey of exploring approaches to framing rights, it was important to establish whether having formalised and secure property rights is important and why. Consensus emerged that some form of according ownership rights was essential particularly when seeking to drive individual and ultimately national economic advancement.

**P4:** *“...when you have got an absolute right on land, you can use it any which way you want to, it gives you flexibility - subject to the laws of course of the country, like regulations of a municipality, you would be guided by that. Thirdly, you have got an asset that you can use to leverage for accessing – I do not want to say funds, but for accessing a whole lot of other assets if you like, just because you have a property on which you have got an absolute right.”*

**P5:** *“Most definitely, and I would actually word it in even stricter and emphatic terms and that is we need secure private property rights in this country. It is of paramount importance. Rights to property are very important, however, what is more important is what you do with the property to make improvements to your life.”*

**P9:** *“I think that I do believe that there should be secure property rights because it gives a lot of confidence and national stability within every country but having said that one recognises the fact that property rights are designed to support a particular economic system.”*

For South Africa specifically, the issue of rights was equally emphasised as essential albeit clouded with complex and costly challenges that need to be overcome before intended benefits can be realised.

**P7:** *“We are a modern state so I would argue that not only is it the principle and the type of property right, it is the efficiency that is really where I am starting – and that is absolutely critical.” .....I mean the first point for me is to whether they are communal or individual rights, the clarity of the rule of law and the efficiency of the rule of law about establishing property rights and enforcing property rights is key.”*

**P8:** *“I think we should have secure, recorded property rights, I think they are essential. I think the fact that people are using PTOs [permission to occupy permits], you know old outdated PTOs and calling those title deeds and they are still being issued even though they are invalid in many areas, it just shows the extent to which people do need recorded, registered confirmation of their property rights. So I believe that one of the real crises that is facing us is the complete breakdown of a land administration system and no secure rights. I do believe that we need to have a system where people have recorded rights, as a measure of tenure security that can prove their security of tenure.”*

**P3:** *“It will be an expensive process which needs to be worked out. And if it’s going to be done, and the constitution requires it to be done; it needs to be done....I suppose it cannot just be a blanket solution for all. I mean I would have thought that individual stands and ploughing fields must be subject to the requirements of customary law in terms of the law of succession and so on.”*

## **Summary**

There was consensus from all participants that there needs to be certainty as to who owns what piece of land and this must be documented so that there are no disputes. However, there were differing views on why and how these rights would be formalised and registered. The data indicated that having a right provides security of tenure, gives confidence, stability and dignity. It further suggests that secure property rights could be used as leverage for accessing other assets.

## 5.6 Key Determinants of Property Rights in Rural Communities

Having confirmed that property rights were indeed important for a variety of reasons, the questioning turned towards determining what would constitute secure rights for property ownership in rural communities. At the core of the enquiry was a need to determine who should ideally take title of land and if and how the right of individuals should be balanced against those of the community at large. Participants were quite varied in their views, however what emerged as surprising was the strong advocacy for the retention of a communal access interface that would enable community access to shared parcels of land and thus protect poorer members of the community from complete disenfranchisement.

**P1:** *“The land belongs to the entire community. Each and every individual is entitled to a piece of land for purposes of having a home and for purposes of cultivating food and for purposes of grazing his livestock, and even these days for purposes of setting up your own business.”*

**P4:** *“There should not be a difference on how property rights are treated between rural and urban setups because that could be seen as undermining rural people in the sense that it could be viewed as saying that they do not deserve in having an absolute right to property. A right to a property brings an element of dignity and that helps to stabilise communities.”*

**P2:** *“In a communal setup, your rights are known and accepted by all who live in that community. Your rights will always be protected even if you are far away for years, the community will look after your property and will never be allocated to someone else. As long as you are accepted in that community that is the most important thing, in any cluster community, be it rural or be it urbanised, because let’s take it this way: in a rural set up if your right is recognised by the authorities that it is in place, it is therefore known.”*

### Summary

The data demonstrated that in rural areas ownership of land is governed by common law and that is known and accepted by all who live in communal owned land. Whilst there are no documents to prove individual ownership, individual rights are protected.

## 5.7 Formalising Secure Property Rights in Communal Areas.

The research participants were then asked about a method which they believed would be more effective in administering and securing property rights in a rural set up. The participants shared their views on preferred methods and provided reasons to support their views. At the same time they acknowledged that there were disadvantages and challenges for each method.

First, before they stated the advantages and disadvantages of their preferred methods, participants defined what a right to property means and what it means to have a right to a property.

**P2:** *“By definition a property right must be secured, whether property or not, must be secured, there are no two ways about it. The strength of security of rights can only be tested against encroachment by the state. A right is not strong because you have a document as far as the state is concerned because even on the face of a document, confirming your rights, the state has got power to nullify those rights. The advantage of any right to be properly secured is to protect you against anybody else, against encroachment.”*

**P9:** *“I think more than the title deed we need to have some form of a written or verbal thing or create a system that where a particular family stayed in a rural complex for a very long time, there should be a place where those are recorded not only by the deeds office but by the tribal head. But, the tribal head also needs to have keys or have powers defined such that the family do not live within security that if we do not tow the line of the tribal head we may lose our property.”*

**P6:** *“Unknown to many people there are also sacrificial acquisitions of land as far as I know just for instance at the time when the land became scarce, you would find that there is a tribe or even a fairly small family that could not find land due it being scarce they then go to another tribe and perform certain ritual, like iNgcubhe (where the head of that encroaching tribe would agree or would allow himself to be beheaded and his skull would be used as a container for the purposes of washing by the Chief of the encroached tribe so that it could have dignity) in order to obtain land.”*

### 5.7.1 Advantages and Disadvantages of Communal Rights

The data suggest that where people have got a collective say, it helps communities to work together when they have a common ownership of a given piece of land because there is a sense of identity. Decisions are consensus and are made for the benefit of the entire community. Communal owners protect and use land productively and use it in the manner that addresses the concerns of the majority. In a communal set-up then the logical thing is that your protection is the community itself. Below are the disadvantages of the current communal structures highlighted by the participants.

The data gathered give the impression that no one takes responsibility and takes long to make decisions in the current structures. Communal resources such as indigenous forests and grazing land are getting depleted because every person has a claim to it and there is no one enforcing the laws.

The insights gathered further suggested that there are people that will never own land or have security of ownership unless the land is communally owned. In some instances, community development suffers when communities cannot reach a consensus. The data further suggest that it is not easy to dispose of your assets when you are part of a communal set-up because of the consultation processes.

<b>Advantages</b>	<b>Disadvantages</b>
<p><b>P1:</b> <i>“For centuries, people have been living within the parameters of communal system and it works very well. In a communal system there is no likelihood of the community or individual members of the community losing ownership or entitlement to that land because it cannot be sold, it cannot be alienated, it cannot be used as collateral in the sense that it might end up getting into the hands of other people. In the communal areas you do not find people living in shacks like you will find in the urban areas.”</i></p>	<p><b>P1:</b> <i>“In a communal land system unmarried men and women are not entitled to ownership of land because they belong to their families. In certain instances traditional leaders abuse their power and arbitrarily evict a person from a land that has been allocated to him/her as a member of the family and that is a violation of rights. The disadvantage is obviously the one where a person who is in a position to pay up his loan and he wants to use his property as collateral to secure a loan then he cannot really do that using the land because it is not conducive or permissible for you to use it as such.”</i></p>



<p><b>P2:</b> <i>“Economically it is best because they club together all their land, therefore they could have a stronger institutional and financial influence, if they want money. There will be cross-subsidisation even if one is poorer than the other as you can always amalgamate that because it is only through one trust. I think that is an advantage.”</i></p>	<p><b>P2:</b> <i>“The disadvantage about a communal setup is that if you want to dispose of your interests there you need to first get the consent of the traditional counsel or the community. You need to inform everybody that you are selling your rights and they need also to confirm and accept the person that is coming in, with whom you are exchanging the rights for money.”</i></p>
<p><b>P5:</b> <i>“The good thing about communal ownership is that decisions are consensus driven. Once there is a resolution, everybody has bought into that, everybody takes ownership of that resolution, all these minds individually would have been applied to that issue and people would have looked at what would have been in the best interests of the village, meaning they being individual members of the village and that is the good thing about this.”</i></p>	<p><b>P5:</b> <i>“Where you have seen communally owned land, you do not see much progress, if you see progress at all”. In communal ownership discussions could take forever and decision making could be prolonged almost forever or even indefinitely. It might be one issue that is under discussion but could take the whole day, a couple of days or even a week.”</i></p>
<p><b>P8:</b> <i>“In communal land systems people use the land more productively. Two famous anthropologists, John and Jim Komorov have written a book and they have found by a huge margin that with the communal tenure people were using land most productively. And that was because the system was more flexible and people could use any tiny little bit of land.”</i></p>	<p><b>P6:</b> <i>“Communal ownership has its own disadvantages, with all systems of the world, a custodian never really quite makes in his mind the difference between custodianship and ownership. Secondly, because the land belongs to the community, no one wants to take responsibility for upbringing or improvement. For instance you will find that even the grazing lands have been eroded. So it’s got this thing of not knowing how to pin point responsibility for all the things that must take place in order to enrich communal life in general.”</i></p>

## 5.7.2 Advantages and Disadvantages of Individual Rights

Although there were participants who were opposed to individual rights in rural communities, they acknowledged that there were some advantages to individual ownership. Participant P2, who is an advocate of communal rights acknowledge that where rights are individually owned, decisions are easy to make because no permission is required from other community members. Further, the suggestion was made that where there is individual title, people are more inclined to take good care of their assets and use them to maximise their well-being.

Contrasting views proffered highlighted that where land is individually owned there are generally no restrictions on what the owner can do with the land which in a communal setting is a cause for concern. Rural communities could end up losing their land to rich individuals. The data also show that it would be costly to cut pieces of communal owned land to small individual pieces. Identity and values that unify communities will be lost.

Advantages	Disadvantages
<p><b>P4:</b> <i>“Now the other side of the coin is entitlement individually: I would go for that! ...it helps to stabilise individual families, they can now develop you know? So I would say let everybody have because each person has got a responsibility to develop and have their own future economically and socially.”</i></p>	<p><b>P1:</b> <i>“You do not want a situation where you find that there are people that are destitute because the land on which they used to live is no longer there and has been alienated by a person who happens to have a title deed.”</i></p>
<p><b>P2:</b> <i>“So I would say there is no valid reason to treat the rural people in a manner that is inferior to those in town. Not at all. If anything people who are in town, especially those in the township, should have got a lesson or two to learn from the people in the rural areas.”</i></p>	<p><b>P3:</b> <i>“But I would be quite hesitant about untrammelled titles in the name of individuals for land used by households for subsistence which is the traditional way of living..... If one was to just not give the protections which customary law gives and just to individualise it completely I think one could be opening up a can of worms. If people began to borrow money and could not pay it back and the properties are sold in execution and you are evicted.”</i></p>
<p><b>P6:</b> <i>“With a freehold title the advantages are that you’ve got non-factored rights within your prescribed area and that you are free to do what you want to do. Free in a very limited sense in that there will be a principality whether it’s a municipality or a sectional title owner or even the national government who will in any case will really have to interfere with</i></p>	<p><b>P3:</b> <i>“To issue a title deed for every single occupied piece of land in those areas, I think you will need to do that, would be an incredibly expensive exercise, an incredibly intensive exercise. I just think if you concentrate on title deeds and put all that money into title deeds it is going to be a massive exercise, at the end of the day you might not have achieved</i></p>

<p><i>your freehold so to speak. Of course the biggest advantages individualised by freehold title is that because it is your thing just like your shirt you can always use it as some kind of collateral when you are trying to maximise your worth.”</i></p>	<p><i>very much and if the title deeds do not have proper conditions of title you might end up just enriching the rich.”</i></p>
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### 5.7.3 Combining the Approaches

Having examined the extremes of communal versus individual right and surfacing concerns of sufficiency of either option as a singular approach, four participants presented a mediating view that both options should ideally be jointly practiced on a case by case. This perspective stemmed from the belief that no single method could be suitable for all the situational nuances that characterise South African communal land concerns.

**P4:** *“I would say look at it originally because there is no one size fits all, and in a sense whether one likes it or not you have got to admit that as Africans we are at the stage where we have to admit that we are experimenting as it were – if you look at our past. So I am saying look at the customs of a given area and if you feel that there is respect for traditional authority and they are transparent and there to benefit the people instead of taking everything to themselves, in those areas let the traditional authority have it. But if you are looking at it in an area where the people feel that they do not actually need the traditional authority, they want to take things and administer things for themselves, by themselves – then let that be the case; let the people in a given area decide.”*

**P9:** *“I think for me I am still arguing from a communal right in the rural areas but really what I call a refined communal right says that in a communal right the individual families are defined within that system. So it’s a hybrid system of individual rights and a communal right because the practice of a communal right, where I come from in Magobaskloof for example, we had received one of the massive land restitution but we call that as the community and we established a trust on behalf of the community. If the communal right within that system was so specified that the relationships of the community and the individual is spelled out like individuals can also benefit from within the system of the communal right.”*

**P8:** *“I think that if you give ownership just to the individual, and he can say ‘to hell with the group’, or just to the group, and the group can say ‘to hell with the individual’ you are really creating and entrenching a whole series of problems. So our idea then was to transfer rights to groups with strong protections for the individual.”*

**P6:** *“My view has always been the middle quote. The middle quote that says we need a component of both, individualised property rights by which I suppose you mean a freehold title not even leasehold title on the one hand and communal rights where there is ownership by the community of properties. Now why I have always had a view that there surely can be a middle course is this with a freehold title the advantages are that you’ve got non-factored rights within your prescribed area and that you are free to do what you want to do. Free in a very limited sense in that there will be a principality whether it’s a municipality or a sectional title owner or even the national government who will in any case will really have to interfere with your freehold so to speak. So I am saying this bearing in mind that free is ne... can never be free but it’s free in this sense that relative to the next guy only you have got your free title.”*

The clear emergent recommendation was that whilst rural communities should not be treated differently from urban areas, their unique characteristics require particular cognisance. There should be a marriage between the private individualised entitlements with communal interfaces. Such a system would need to give due recognition to what is personally owned by an individual or more preferably and individual family versus what is owned collectively as a community. With time, there should ideally be aspiration towards a situation where the boundaries between communal and freehold are so similar that they cease to exist.

## 5.8 Economic Activities to Attract Investment towards Rural Areas

At the heart of this study was a driving concern to understand to what extent secure property rights would have an impact on economic development of rural communities. Participants were asked for their views on what they believed would be the most practically viable economic activities that would attract investment in such areas in order to improve livelihoods. As thus far consistently indicated, the uniqueness of different regions emerged as a point of critical departure from framing summary solutions. In this instance the source of difference was geographic characteristics. Different regions have distinctive sources of potential, with some it is various forms of agriculture whilst others with mineral endowments mining developments become feasible options.

**P7:** *“So in terms of economic activity I think the question is a prior question, before you say ‘which form’ – is ‘what will work?’ What are people’s values, what are people’s relationships?”*

**P1:** *“In the first place you need to look at the resources that are at the peoples’ disposal. One of them are the forests. One of them are the grass that is used for roof thatching which is valuable and can be used for the building of homesteads. They can even produce food for the urban area.”*

**P2:** *“Let’s put it this way, in the Eastern Cape despite the fact that they do not have as much natural resources and is more farming, you can use the potential optimally. Like maize meal and livestock, there is a huge shortage of red meat and there is a large market for meat. ....and I know there is a huge market in the Eastern Cape on sheep, because the sheep are pricey because they have got the people in the Eastern Cape prefer it as opposed to the people in KZN who prefer goat. So I think that is where again, because with goat meat you can even export it, there is a huge export market to the middle-east.”*

An additional dimension that surfaced was the opportunity to attract external interest in the form of investment and expertise to introduce more value added solutions for rural communities. This would have the added advantage of creating much needed employment for local communities.

**P2:** *“...they want to go and buy food from a given supermarket. If you were to bring those services to the rural set up now that is what an investor would do, he has got the capital, he can negotiate and that is the other option you could use that communally owned land for. And say the day we find an investor this site close to this beautiful road could be used to open up some kind of a shopping centre.”*

**P5:** *“And the thing is if you set up a supermarket, first of all people would be interested in supplying you with some of the vegetables, and so they could start considering selling or cultivating cabbages, carrots, beetroots. In some areas this is what is going on, there would be greater impetus in terms of expanding that range of products and so on.”*

*“Well I was thinking about villages that lie on the banks of fairly sizable rivers, because it costs quite a lot of money to take water from the river and bring it back to the land to water the plants. So someone could very well invest in there and it is something that government has to encourage because people will be getting fresh vegies on a daily basis, right on their doorsteps.”*

**P4:** *“People in the rural areas you will find that the reason why the taxi industry is so busy and ever-growing is because every day people in the rural areas have got one reason or the other to want to go to town. And the flow of traffic is always towards town on a given day. What are they looking for? You know its services that you would find, social development, home affairs, doctors and so on.”*

*“And so it would be easy, it would be a case of somebody going there and looking around, looking at the potential, looking at what people want, looking at what people are doing or producing or trying to produce. That would inform to some extent the sort of basis you want to start with.”*

## Summary

The participants concurred that given the vast land assets that rural communities own and control, they should be more economically productive and self-sufficient than they have been. Community members need to earn an income and prosper. At the face value, there appears to be no reason why people buy horticultural produce and other staple grains when they have land for agricultural production or need to travel to the city hubs for meat produce when there are cattle. Besides subsistence self-sufficiency, the opportunity for commercial levels of participation are equally apparent. Different areas hold arguably attainable potential to leverage their natural endowments towards national economic contribution and advancement.

### 5.9 Communal Property as Collateral Assets

Economic advancement in any context is inextricably intertwined with some level of financial supplementation from resourcing faculties. Typically, such institutions need to not only be convinced of the viability of potential projects but also of some risk mitigating security to recoup potential losses or default. In individual title scenarios, land assets are a preferred and easily positioned form of collateral security.

Consequently, the land assets of rural environments should similarly be considered for securing access to funding to drive programs in rural settings. The findings revealed divergent opinion on the wisdom of using communal assets as collateral to secure loans with the majority of participants being largely opposed to the idea due to the complexities of the implications in the event of any default causing lenders to seek redress.

**P2:** *“With regards to property there could be additional benefits that you can commoditise the right to property, by pledging it to an institution against that institution advancing you money, with the condition that if you fail it will be the one that has the first correlate instrument. So therefore it enables you to have access to commerce in that sense, as against therefore an unrecorded right being weak – it is unrecorded but known to the people around, where you cannot physically demonstrate to a financial institution that the right is yours.”*

Whilst those opposed were equally strong in their concerns of the risk of the destabilisation of the delicate communal well-being balance.

**P1:** *“We do not encourage that, especially if it means that if you are unable to fulfil your conditions it means that when that land now has to be resorted to... because it has been used as collateral it has to be taken away complete to the extent that the person you owe can even sell it to somebody else. You do not want a situation like that because most of these people that live under these conditions are poor. It would be easy for them to use their land in order to secure loans which they might not be able to pay.”*

**P3:** *“I am not so sure that those rights should be...maybe I do not know as collateral for loans, housing rights in those areas that could lead to evictions in the long run in those areas which one would not want. But I mean that does not mean to say that there are not some areas of land in those areas that cannot be carved out and treated on a commercial basis but in terms of borrowing money against them etc., one would have to ...I would think one would have to have community resolutions to that affect, to say we will carve out this piece of land in order to have a bond registered over it, on that land we are going to create an irrigation scheme and have investors in it and we are going to invest, to make that possible, in order to attract the capital needed if it was necessary, that could be done, but then one would need to have a community decision about that.”*

**P4:** *“You do not want to put it up as security, and banks anyway are normally loath, they do not normally see much economic value.”*

**P6:** *“The biggest advantages individualised by freehold title is that because it is your thing just like your shirt you can always use it as some kind of collateral when you are trying to maximise your worth” ....In a communal set-up it's not possible, the reason is that in the event of closing in on the bond they cannot take from you that which is not yours, that's their problem, nor can they then say alright we are moving into your shoes into your stand because then they cannot be the subjects of that community.”*

**P7:** *“The great tragedy of communal property rights is no-one can leverage their value.”*



Where land is individually owned, it is easy to use title a collateral however where land is communally owned there a great fear that lenders may be reluctant due to the fact that they cannot put value to it.

## 5.10 Evaluating the Relationship between Resources and Productivity

Land is one of the scarce resources that shapes the economic well-being of a country. Financial security hinges on the efficient and equitable allocation and utilisation of these resources. The researcher seeks to find out where land has been properly allocated if whether is used productively versus where there is no recorded ownership.

<b>P2:</b>	<i>“Look there is a difference, like you made reference to Tongaat Hulett for instance, it has used its land for sugar production and in fact they have gone to housing. As a result we have an agreement with them where large part of our land they take leases from us and in return they lease the land back to the community and help the community to upgrade their sugar plantation skills. And we have seen a massive improvement on sugar plantation levels, because Tongaat Hulett has come up with skills, they have also come up with a micro lending scheme which does not bear interest – that is of course a government scheme that is now managed by them. So that itself has made huge changes.”</i>
<b>P4:</b>	<i>“My answer to that could very well be disappointing because there is this dependence syndrome on the part of so many African South Africans, that they will rather pay royalty to somebody who owns the factory as it were, and be sure of getting their salary. And so you find that that factory is very stable as long as people know that they are going to get their salaries and to an extent their rights, their basic rights are going to be respected by the employer. When they own it [communally] they think they have got the right to also not turn up for work, to question each other’s authority, ‘who are you to tell me that I am late for work, I am also a co-owner here’.”</i>
<b>P5:</b>	<i>“Africans are still battling terribly unfortunately, when it comes to running their own businesses as either cooperatives or any form of grouping. They still battle on how to co-manage and that, and there is all the evidence out there you know. You speak to the Department of Trade and Industry, the Department of Small business, they will tell you the same story. 2012 study that was released by DTI revealed that beyond any doubt the South African Africans are still battling when it comes to managing assets that they own.”</i>
<b>P9:</b>	<i>“I think the people will be much more productive because it will incentivise them to say if I put this effort I am protected not only in terms of land but in terms of what I am producing. Even in terms of monetary value I’m not looking at huge sums of money but even if it is shares. When people say that these are your shares but the shares are not mutual and after this period of time the shares will be yours. So we need the system and I think people might be motivated but the other thing is in being a spiritual leader, I think intrinsic motivation goes a long way rather than external incentivising of people so one may need to strike that balance.”</i>
<b>P8:</b>	<i>“So at the moment the big driver of change is mining, but mining that is being done in a way that really just doesn’t benefit most people, and pretty much ruins</i>

<p><i>the land. But other activities are agricultural ... people sort of ignore the small commercial farmers, so on a lot of the irrigation schemes people are actually producing pretty well. And selling. But I mean in many areas I think betterment, rehabilitation basically killed agriculture, because if you look at aerial photographs pre-betterment and then look at them post-betterment, the agricultural production just plummeted and that is partly got to do with the distance of fields away from people's houses, levels of theft, big problems too with cattle farming."</i></p>
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## **Summary**

Participant 4 and 7 had differing views from other participants regarding human behaviour on resource allocation. They asserted that people still believed in being managed and are not capable of getting things done on their own whilst the other participants' opposing view was that people are much more productive when they know there are attainable incentives for their efforts. The discussion also highlighted the difficulties encountered in attempting to measure individual input within communal systems. When resources are communally owned there is a lack of accountability as people tend to first look at how they stand to gain before extending any contribution.

## 5.11 Balancing Property Rights with Communal Economic Beneficiation

As a concluding challenge participants were asked to recommend a structure that would advance the processes that they were advocating for in ensuring that those who are affected by communal contexts and processes benefitted from the economic activities taking place on the land in which they jointly own. The recommended process needed to ensure the attraction of investment into these rural communities. The question assumed that they had all the powers and resources they needed to implement their recommendations. A number of distinct themes emerged from the responses.

- 1- an active role for government and its organs to drive programs and avail funding was a strong theme that emerged in the responses to formalisation of rights structures;

	<i>"Well as I say it is the responsibility of a traditional leader like myself to approach institutions that have the resources like Government, Rural Development Department especially, and Depart of Agriculture and any other department in Department of Environmental Affairs. To call on them to come and invest in the development of these communities."</i>
	<i>"That's why initially government as investor would be the one that could drive rural economic development because if you bring in investors that are just wanting hard core fiscal returns is going to be very difficult. The turnover is going to be low in the short term so it must be an investor that knows that I'm going to invest long term and once this economy or rural place starts making it that is when I will benefit financially."</i>
<b>P5:</b>	<i>"And so here first of all the government's role ought to be that looking at these role areas that are economically marginalized, they should say to themselves 'what sort of policies have to be enacted by the government in order to attract investment to those areas. One of them might be for example in the rural areas they should be tax free zones for any business that comes to operate, maybe for a particular period or maybe even indefinitely – just make it a tax free zone."</i>
<b>P5:</b>	<i>"And also there should be no existing labour laws applied or implemented in those areas. Once you implement laws like minimum wage in those areas, with any businesses that are going to be established there, you are going to make it difficult for any people who are unskilled, who are young especially, and those people who are mature and looking for work, also unskilled and not well educated. You are going to make it difficult for them to be employed at the low income entry level in the labour market in those areas. In other words you want to make them free market zones or special economic zones which is almost synonymous with free market."</i>
	<i>"The thing is you make the environment, the economic policy environment attractive competitively, even within the country, so that those businesses can come away from the metropolitan areas or expand out towards – not within the metropolitan areas but that expansion extending to beyond that and reaching out to the rural areas. That is what needs to be done, that is the role of the government, just simply having the right policy environment. And then things will just happen"</i>

- 2- there appears to be a need to face the complexity of options and processes to formalise the structuring of land rights in alignment with the communal context;

<b>P1:</b>	<i>“What is missing is the demarcation of the traditional authority boundaries. If you have a traditional authority or traditional council it is a structure that combines the head men that administer the administrative areas. Nonetheless what is required is for the allocation of land parcels to be properly demarcated and for documents to be issues.”</i>
<b>P4:</b>	<i>“It should be registered under the name of that given community, whether they form themselves into a community property association or whether it is under a given traditional authority. I think it comes down to the way that either institution be it CPAs or traditional authority, actually manages the land. If the decisions are taken in a transparent manner.”</i>
<b>P3:</b>	<i>“My advice would be to either have a general piece of legislation which protects the rights of all occupiers, there is a policy in place and it says they can’t be...it’s almost a right of occupation in terms of custom or in terms of a trust relationship or in a beneficial occupation of more than 10 years or so. People have worked out their customs in how they occupy land, either one is going to reduce that system to writing and issuing of title deeds and in the title deeds.”</i>
	<i>“If the families and communities change those codes there must be provision for the codes to be changed and the title deeds because that is how customary law works, it’s not static, it does change, things change. However you want to tweak them to make them more compliant with the constitution, you will basically have to keep them there, the question is – do you keep them there in a registered form or in their current form? With a clear legislative underpinning that these are rights, they are real rights and are enforceable.”</i>
	<i>“What I have seen is that – it’s been dealt with on a case to case basis. There is not a one size fit’s all, it depends on how that community has organised things and who do they see as representative and how do they have their meetings. Maybe they have created a trust because some of them do and then you would be dealing with the trustees of that specific trust or with a minister if he is acting as the superior trustee acting on behalf of the communal land.”</i>
	<i>But to me right now there is a customary law in place, it does operate, it needs to be given room to operate, it needs to be given legislative and institutional support to make it operate and I am not therefore saying it makes chiefs incompetent at all. I just think if you concentrate on title deeds and put all that money into title deeds it is going to be a massive exercise, at the end of the day you might not have achieved very much and if the title deeds don’t have proper conditions of title you might end up just enriching the rich.”</i>

- 3- advancing economically progressive considerations that are cognisant of the unique nuances of communal communities.

<b>P9:</b>	<i>“One they’ve got the land and two they’ve got the cattle and three they’ve got in most cases the rivers, ravines and the mountains, the bees and the rest of those. One could actually say how they do, almost like a system of bartering, how can they devalue cash and value what they have more where the one could share with the one that has got grass to feed the cattle. So we start valuing the things that they have.”</i>
<b>P9:</b>	<i>“I think that as an investor your returns must not only be pegged in monetary terms. That’s where investor education is going to say as an investor, what is your responsibility towards developing human kind and those that have very little. The returns and the happiness that you’ve improved rural livelihood and the returns must also be the fact that you’ve gone somewhere where you are not only exploiting the environments for personal gain but you are exploiting the environment in order to benefit the livelihoods of many people.”</i>
<b>P9:</b>	<i>“But the point is you make it easy for business, to set up business, to go and operate in those areas and so on. That way then the rural areas will attract investment away from the metropolitan areas and start to compete with the metropolitan areas on the basis of which areas are attractive to investment.”</i>

### **Summary**

The data indicate that there are layers of overlapping concerns that need to be specifically addressed in order to attain a comprehensive solution to communal land ownership and economic development. The two aspects are conjoined but not necessarily sequential. Establishing secure rights will not necessarily lead to equitable economic progression. Government will need to play an instrumental role in not only shaping investment attracting policy structures but also directly injecting seed capital towards programs that will be better positioned to withstand the long range returns outlook that private capital tends to avoid.

### **5.12 Summary**

This chapter has presented the findings that emerged from the primary data gathering processes, synthesising the contributions of nine expert participants. The findings outlined views and recommendations concerning the formalisation of property rights in communal areas with the aim of extending constitutionally and hence legally recognised title to rural village residents. The dichotomous tensions of upholding the essence of rural life on the one hand whilst on the other introducing accepted free market assurances that are essential to attract new levels of economic activity into these environments were examined at length. The next chapter will examine these findings in light of the scholarly insight established earlier in chapter two of this report.

## CHAPTER 6: ANALYSIS OF RESULTS

### 6.1 Introduction

Thus far, this report has outlined the purpose, approach and preliminary findings for the study's investigation into options to address the land ownership imbalances that plague rural communities across South Africa. These have been responsible for the limited progress in economic development of such territories. This chapter presents a critical examination of some of the reported findings as presented in Chapter 5. Reference is made to the scholarly opinion detailed in Chapter 2 to provide a comparative lens from which to assess the local findings and thus guide the grounding of perspective on the South African subtleties.

### 6.2 The Importance of Property Rights

A pertinent entry point into the study was to start by establishing whether there was justifiable concern over the need to tackle the clarification of property rights for South African rural communities. Broader experience has highlighted that secured property rights have been instrumental in not only correcting the imbalances of the past (Sikor, 2006) but also essential in paving the way for economic growth in communal areas (Locke, 2013). As one participant, a traditional Chief of one of the local communal areas pointed out with reference to SA communities,

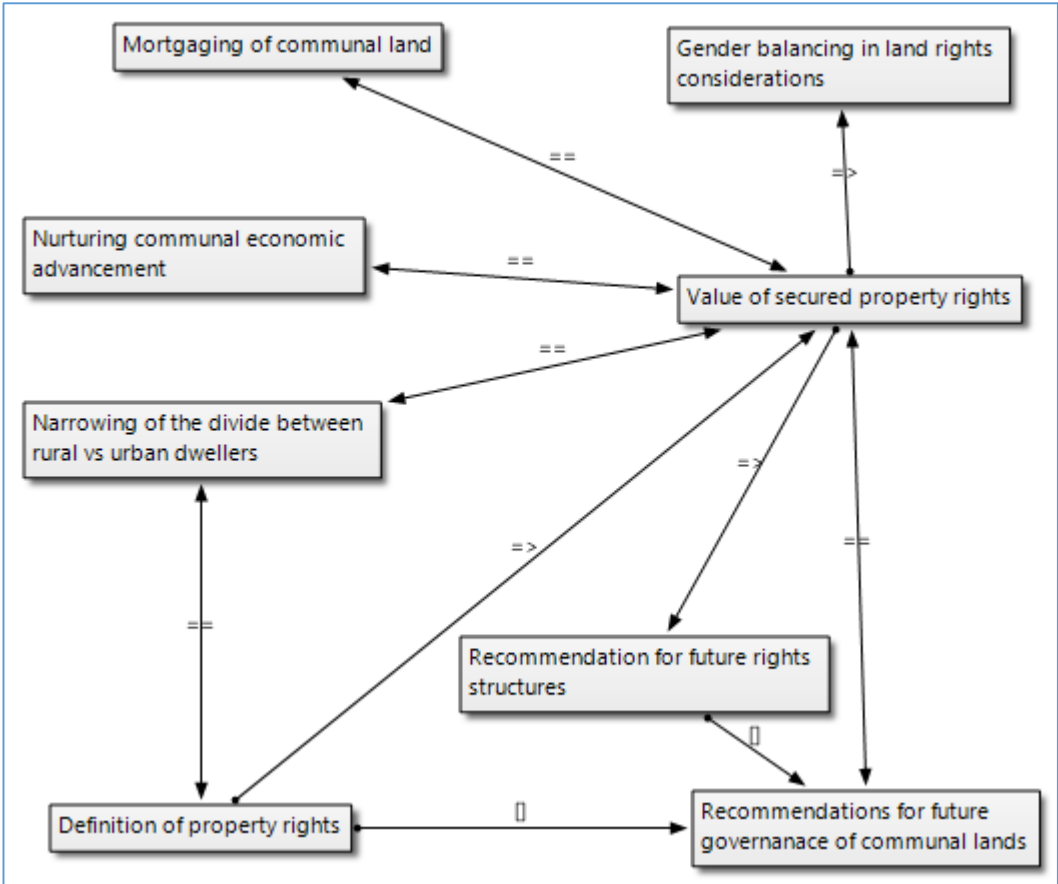
*P1: "The idea is that people must prosper. Members of the community must earn an income. They must be independent and self-sufficient through the property that they have."*

As an overarching outcome, the study confirmed the value of having secure property rights with all participants presenting a shared view that confirmed entitlement could be used as leverage for accessing funding or other economic value enhancing assets. The discussions revealed that when someone holds private right over a piece of property, it has an emotionally uplifting psychological effect such that they tend to add value to it. This was consistent with the comments from Besley and Ghatak (2009) who spoke of the sense of freedom that is associated with private land ownership.

The primary disadvantages of not having secure and recorded rights however, is that you cannot pledge it to an institution against the advancing of money with the condition of the lender being able to retain some kind of risk mitigating collateral. Second, the continued prevalence of clouded structures over issues of ownership are believed to be the central reason why communal lands have remained under developed and the source of political tensions at multiple levels being domestic, communal and national.

Threading the findings together, Figure 2 maps the themes that emerged in response to this line of discussion indicating associational linkages. The arrows show the directional flow of the relationships with core themes being highlighted by the concentration of arrows pointing into them.

**Figure 2: Value of Securing Property Rights**



The following subsections explain the key elements of the diagram in some detail.

### 6.2.1 Nurturing Economic Development

Similar to the views expressed in literature, the study revealed that tackling the property rights debate is indeed an important concern in addressing entitlement recognition in modern South Africa similar to other global societies. In fact, the lack of such clarity was pinpointed as primarily responsible for the limited economic development that has taken place in rural areas despite their generous endowment in land and other natural physical assets.

Miceli *et al.*, (2011) noted that well-defined property rights have been fundamental for the efficient and effective utilisation of assets and in driving market efficiency. In contrast, urban areas that have well defined and enforceable entitlement structures albeit with access to far less land assets, have attracted significantly more economic advancement and entrepreneurial initiative in line with the views expressed by Williamson (2005) who linked entrepreneurial propensity to the existence of clear entitlement structures.

### 6.2.2 Balancing Pervasive Cultural Influences

In communal structures people embrace their cultural values emotionally as fondly remembered sources of cohesion and practically, as often unquestioned standards and practices. These memories and values have long been cherished for their role in promoting family life. Generations have evolved knowing that regardless of the absence of any documented evidence, when they come of age they will have their individual homesteads and look forward to replicating what forefathers showed them as the way to live and their responsibility in shaping their own future both socially and economically. As one participant expressed:

**P4:** *“Already people in the rural areas feel they are entitled! I live on my great grandfather’s property, I have never even bothered to go and look for the title deed, and I do not even know what it looks like. But, the whole community in my village respects that property where this gentleman lives, he inherited it from his late grandfather because he was the first born of the first born of the grandfather. That is a custom that is respected. I have never even bothered and nobody has ever disputed it. Not at all.”*



Whilst on the one hand these legacy structures have been a source of comforting identity and predictability, on the other, they have also been the source of some retrogressive institutionalised persuasions. For instance, a dominant force is the strong paternalistic influence under which communal rights are administered. This has resulted in women remaining unrecognised as legible land owners within communal structures as confirmed by the work done by House and Mutangadura, (2004) examining this phenomenon.

Further, moralistic influences that can be argued to actually infringe basic human and constitutional rights such as the right to freedom of association have been upheld (Tlhoale, 2012). This was evidenced by the finding that unmarried women are not permitted to bring partners to cohabit on land that is under their father's title, being the only title access that women are accorded as single heads of households with offspring dependents. In effect, female members of the community continue to be regarded as minors that as they mature in years, are handed over for care from one male member being a father or brother onto another usually a husband. One participant was particularly afflicted by the realities of this practise.

**P9:** *“Lastly how does the communal right property ownership affect women in the rural areas? That’s a painful question, I come from a royal family and I’ve got a son and a daughter. My daughter clearly loves what is happening back at home and the royal intricacies and the land. My son, I can see he is going to be a party animal and evidently he is not interested at all in what is happening there but so far there, it is known that if anything should happen, the property that is mine in the rural areas will go to my son. There are even jokes that he is going to marry some other person from some other tribe and then who owns the land, it’s just as if my daughter doesn’t exist.”*

Consequently, the opportunity to rebalance gender based inequalities and position women in equal regard as men for property ownership entitlement emerged as a strong theme that any solution seeking to confer ownership rights will need to be cognisant of resolving. This essential intervention would serve to align rural structures with modern societies and thus further strengthen the case for broad based economic participation.

### **6.2.3 Closing the Urban versus Rural Advancement Gap**

Recognition of the yawning development gap between urban and rural communities can in part be positioned as the central spur to question why rural areas are not developing at a faster pace. Why are investors more drawn to the already crowded metropolitan hubs and not seeing the vast virgin land infrastructure abundantly available in rural areas as appealing investable assets? Scholarly perspective is aligned in the argument that where property rights are well defined and enforceable, economic development is accelerated as the conditions become more attractive for individuals to seek to maximise the long term economic value of their individually owned assets (Smith, 1991; Williamson, 2005; Van Gelder, 2010).

The direct suggestion being that property rights are an indisputable precondition for the attraction of entrepreneurial individuals to drive asset value maximising activity and hence economic growth. Thus for rural communities to start to see advancement that is akin to that of metropolitan areas, the issue of facilitating rural residents in securing validated property rights that will enable them to transact needs resolve.

### **6.2.4 Addressing the Fragmented Governance Structures of Communal Lands**

The point was made that there is not only variation at a provincial level in terms of the governance of South African communal lands but this extends down to a chieftainship level where even though neighbouring chiefs may be related, their governance structures may be similar but are autonomous of each other. This has challenging implications for any attempts towards establishing a national solution towards harmonised regulatory guidelines.

These challenges are similar to those experienced by the Yen Chau district in Vietnam, inhabited by Black Thai, where the entire rural community relies on agriculture as the dominant source of livelihood. To overcome these challenges, the government, during collective agriculture and de-collectivisation, reviewed and implemented land tenure policies to help describe land registration guidelines and their implementation (Sikor, 2006).

The findings revealed two distinct schools of thought being those that felt that the government under the leadership of the president as the most eminent chief should leverage this position to drive legislation that would seek to harmonise the national down to local governance frameworks.

**P3:** *“My advice would be to either have a general piece of legislation which protects the rights of all occupiers, there is a policy in place and ...it’s almost a right of occupation in terms of custom or in terms of a trust relationship or in a beneficial occupation of more than ten years or so. People have worked out their customs in how they occupy land, either one is going to reduce that system to writing and issuing of title deeds.”*

The opposing view was predicated on a deep reluctance to summarily dismiss the traditional structures without due consultation and reflection on what aspects still hold value and hence should be retained. There was acknowledgement that this latter approach would be time consuming and costly and would only serve to further delay any hope of expediency in the implementation of measures to boost economic attractiveness. This view has been echoed by Mooya and Cloete (2010) that high transaction costs associated with the transfer, caption and protection of property rights account for the underdevelopment of most developing countries.

Further, retaining a high level of structural control at a local level would in some instances result in the continuance of the under-defined communal land ownership structures and hence perpetuate the risk of low development incentive. Obeng-Odoom (2012) noted that when individual interest on a resource is low, human nature was prone to acting irresponsibly in ways that actually harm the common good.

### 6.2.5 Mortgaging of Communal Land Assets

In literature, Clague *et al.*, (2010) presented the argument that in societies where property rights are secure and well defined, lenders are more likely to be participative in extending financial facilities on the strength of secured rights to mortgaged assets for risk mitigation against potential borrower default. This concept has worked well in advancing urban communities where individual title is dominant. In communal settings however, the data suggests that customised solutions may be required.

Although land assets are abundant and logically should then be easily accessible for mortgaging to raise finance, the implementation realities are not so clear or alignable with established standard practise (Benjaminsen *et al.*, 2009). For instance, the distinctive role of communal land as a means of stabilising quality of life for both rich and poor families was highlighted as a characteristic that needs to be preserved to avoid the social ills of homelessness that are evident in urban areas.

### 6.2.6 Dignity as a cognitive link with property rights

The findings confirmed the enduring strong sentiment that for the majority black populous the issue of property rights extends beyond merely assigning ownership of pieces of land. Rather because of the South African history of rampant displacements, is inextricably linked with the very dignity of previously disenfranchised black tribes and families.

In addition to the illustrated arguments and in many ways even more pertinent for the majority indigenous black South Africans, more sentimental rationale for the need for land rights clarity was emphasised as essential in ensuring necessary redress of the enduring consequences of historical disenfranchisement. In concurrence, Johnson (2009) found that the lack of clarity on property rights in rural communities does not only impact on their quality of life but also on their dignity. As one participant pointed out, the issue is actually the restoration of national dignity.

**P4:** *“It’s because when South African Africans lost their land through various forms of removal, their dignity was impaired. So that is the first thing that restoration of property rights will achieve, and that is their dignity will be restored.”*

In summary, the convergent views of the study findings and of literature are aligned in their perspective that secure property rights enable people to plan, do investments and improve their livelihoods. Secure property rights give the comfort that family generations can occupy or use a given piece of land without fearing that some other individuals or authorities can easily lay counter claim to it. They give a sense of confidence and contribute to a country's economy and national stability.

However, participants acknowledged that the process of registering property rights is very costly and may lead to dodgy deals and unscrupulous self-enrichment by the shrewd and should be carefully weighed versus alternative options particularly in rural communal contexts where other governance structures have effectively prevailed for centuries. This assessment has been echoed by Toulmin (2009) who cautioned that the degree and form of intervention when formulating governance structures must be balanced against the costs of owning or using land and must be designed such that they minimise the risk of corruption. As one participant pensively pointed out,

**P3:** *“A title deed system, I do wonder if it's optimal in these circumstances, where you do have a functioning system of customary law. Whether in fact you want to impose title deeds and whether you should have legislative and policy instruments to sort of buttress that system rather than just kind of turn it into a title deeds system and then frankly God only knows what is actually going to happen in the long run.”*

### **6.3 Addressing Property Rights for Rural SA - Individual versus Communal**

In keeping with the literature the findings revealed that the property rights debate expediently advances from a discussion confirming the need to institutionalise property rights into one that seeks to clarify the preferred model to establish as the applicable standard. A distinctive aspect of the study findings was the depth of controversy that surrounds this issue when considering the South African rural context.

None of the nine expert participants was comfortable to present an unqualified singular stance to the direct invitation to express a preference. Whilst there was unanimous agreement that individualising entitlement has the proven effect of attracting optimal individual effort to advance asset value and grow net worth, in concurrence with Benjaminsen and Sjaastad (2008), a distinct point of departure emerged on communal assets. This was founded on the need to preserve certain communal protections that have been the mainstay of rural communities and enabled all community members to freely access communal assets.

*P8: “So what I am saying really kind of rests on a different idea of what rights are, because the western idea is that rights give you protection and barriers against a hostile world. But there are a whole lot of writers who say that actually you have got to look at what rights do in practice, and they structure relationships between people. People are inter-dependent, and so rights really are about the terms of interaction, not exclusion, boundaries, the individual as opposed to the group.”*

#### **6.3.1 Suitability of Individual Rights Structures for Rural Communities**

The literature review presented evidence that in free market contexts there is strong preference towards assigning individual rights being those rights that confer right of ownership and control onto one individual at the specific exclusion of all others (Singer 1996). However, Meinzen-Dick and Mwangi (2009) echo Joireman (2008) in finding that a system of individual title is only effective in a situation of scarcity in which demand exceeds supply hence creating capacity for absorbing the typically high administrative costs associated with managing such a system.

In rural settings where land is in abundance however, the high transactional costs of this system become unjustifiably expensive and may actually serve to inhibit investment attractiveness. Similar sentiments emerged from the study findings. One participant who was well versed with the administrative ground work required to effect individual ownerships structures warned of both the cost and the timeframe implications of choosing this course of action in dealing with the vast communal landscapes of rural South Africa. Further, indication was made that whilst there was a majority preference in favour of individual rights as the optimal long term solution, participants were quick to qualify this recommendation. Particularly in the rural context, consideration of the cost and effort required versus the likely benefits that would accrue from instigating a national exercise to define and confer individual title was presented as the prime concern.

**P3:** *“If you are going to have a system of back to back title deeds I think you are inviting an administrative monster of such proportions the world has never seen.”*

### **6.3.2 Effectiveness of Retaining Communal Rights Systems in Rural SA**

The intended commercial use of land was highlighted to have a bearing on the suitability of the rights structure. For instance, where land is to be used for agricultural purposes, both the literature and the study findings were congruent in asserting that individual title is not necessarily the optimal ideal. Berry (1993) claimed that concerns over clarifying property rights had actually been counter-productive to agricultural initiative particularly in subsistence contexts. In a contradictory vein however, Lastarria-Cornhiel (1997) presented a separate argument that even communal right structures had the effect of constraining agricultural investment. In essence the literature was inconclusive in providing directive guidance on preferred land right structures for rural based agrarian optimisation.

From another tangent, in support of communal rights, a provocative contrarian view by Obeng-Odoom (2012) asserts that individual rights are actually responsible for the continued marginalisation of women and rather, it is communal structures that extend due consideration for the access rights of women. This view was partly echoed by one participant in the study, his stance however was founded on the view that the communal approach paid appropriate but not necessarily equal regard to female

entitlement. The majority sway however recognises individual title as the preferred approach for balancing not only gender differences but also to some degree address sibling hierarchy concerns.

#### **6.4 Evolving towards a Vision for the Future**

A perhaps not so surprising degree of complexity emerged in thoughts and recommendations of how to reconcile historical influences with emerging communal advancement needs. Anecdotal references to other countries' histories and policies and their present day outcomes potentially hold important insight into future options and how these would possibly unfold based on the benefit of the hindsight now afforded. However, the unique density of cultural permutations has effectively ensured that no single comparative solution may be easily transferrable and replicable in addressing the apparent weaknesses of what is in effect, a matrix of highly fragmented property ownership recognition systems that span across rural South Africa. A senior religious leader in the participant pool captured the essence of a hybrid solution:

**P9:** *“I think for me I am still arguing for a communal right in the rural areas but really what I call a refined communal right says that in a communal right the individual families are defined within that system. So it's a hybrid system of individual rights and a communal right because the practice of a communal right, where I come from in Magoboskloof for example, we had received one of the massive land restitution but we call that as the community and we established a trust on behalf of the community.”*

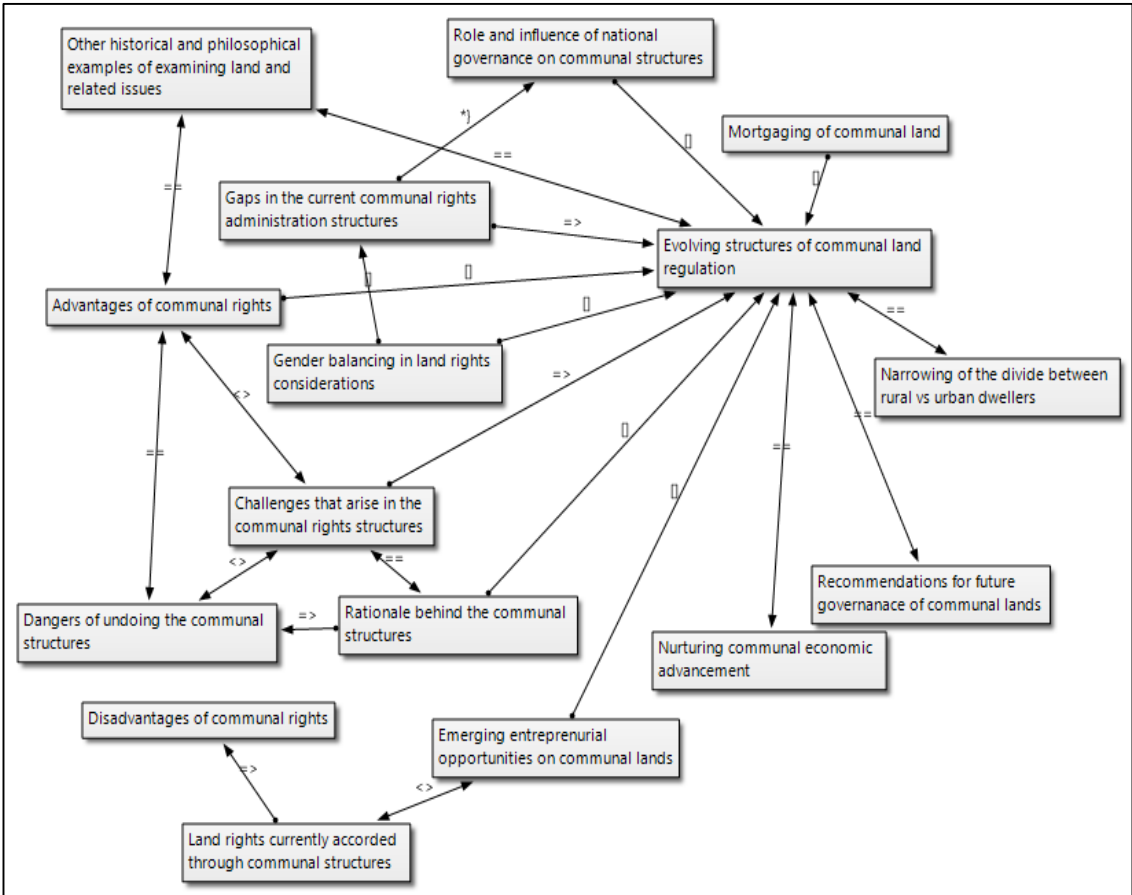
In fact the argument was presented that even in urban areas this hybrid approach is essentially already in effect even though it is not commonly recognised as such.

**P2:** *“The difference people make and therefore confuse is the following, within a communal set up, communal means you jointly are bound by certain shared rules or common rules. But, as against one another you each have protected individual rights, just like anybody who is in an urban environment who think it is not communal because his neighbour does not need his consent for him to plan his property and so on – but he is in communal, because he shares the road, the municipal servitudes.”*



Figure 3 presents a pictorial representation of factors that are influencing and informing the evolving shape of communal communities. The data clearly represented the reality that much has already started to change driven by steadily advancing influences as practised in urban areas.

**Figure 3: Factors Influencing the Evolving Communal Land Structures**



The findings were candid about the realities of what effecting formalisation structures would entail. Simultaneously, they were contextually pragmatic in giving input on possible navigational options and likely outcomes in designing and implementing mediations towards necessary paradigm shifts for South African communities. Cognisance of the rural way of life, institutionalised value systems, beliefs and established practises was highly recommended as necessary aspects to be retained by whatever solution the prevailing political will ultimately dictates. As Conning and Robinson (2007) observe, based on insights from the impact of 1949 India constitutional reform, “property rights are the endogenous outcome of collective

political choices” (p. 419) which then translates into land policy and relevant legal constructs as land laws (Bruce, 2012). In the Indian case, the approach taken saw the allocation of the responsibility of land reform away from central government to democratically appointed state legislature. In effect, this allowed the development of local models resulting in great heterogeneity across states. A participant expressed some guiding perspective as follows:

**P8:** *“So you know what I am saying really kind of rests on a different idea of what rights are. The western idea is that rights give you protection and barriers against a hostile world. But, there are a whole lot of writers who say that actually you have got to look at what rights do in practice. They structure relationships between people; people are inter-dependent, and so rights really are about the terms of interaction, not exclusion, boundaries for the individual as opposed to the group”.*

## **6.5 Propensity for Rural Land to Qualify as Collateral**

Attracting sources of funding by using physical assets as security is a well-established free market feature that is highly supportive of economic advancement but has long eluded communities where land entitlement structures have not been sufficiently formalised. Through their findings, Kerekes and Williamson (2008) also confirmed that property rights have been particularly effective at wealth creation where these have been acceptable as collateral to secure investor confidence.

Of grave concern is the potential implication that the emergent recommendation to retain communal right structures may result in South African rural communities continuing to be deprived of this source of economic growth support.

Collateral security implies the presence of two forms of assurance. Firstly, evidenced potential to service loan structures typically through anticipated earnings from planned commercial initiative. Secondly, the existence of legitimate capacity to handover secured asset rights in the event of a default in this case being specifically land rights (Growitsch & Wein, 2005).

Evidently, whilst land rights may play an instrumental role, on their own they may be insufficient to bridge business acumen alone will not be sufficient to address capacity to repay loans (Parsa *et al.*, 2011). As highlighted earlier, the strategic acumen is to

identify and attract viable economic initiative through either local or desirable external entrepreneurial actors who can effectively partner with the community.

Notably, the strongly upheld recommendation from this study to allow rural communities to maintain communal structures is at odds with the required parameters for collateral and thus runs the real risk of not enabling the desired goal of driving rural socioeconomic progress. Some additional intervention may be required. Participants recognised this potentially crippling limitation and thus spoke of the unavoidable imperative of some level of direct government intervention to not only bridge such shortcomings (Zhang, Wang, Li, & Ye, 2014) but also avail the kind of long range slow return commitment that only fiscal structures are likely to be able to sustain

## **6.6 Communal structures as a Springboard for Entrepreneurship**

Currently, establishing a business on communal land is permitted for approved or accepted individuals who are either existing members of the generational lineage or have gained access through application and approval by the village headman. There is a significant cost benefit from using this land as only a once off "token of appreciation" fee seems to be payable to the community through its leadership structures.

*P1: "Well it depends on who is running the business. In certain places the only thing you have to pay... in fact traditionally or conventionally the only thing you do when you go and apply for a piece of land to run a business is to give the tribute... to pay tribute to the traditional leader. There is a nominal amount of money that is paid. It is not market related price of the land. It is a once off payment given to the traditional leaders, a token of appreciation."*

This latter model has been fraught with challenges ranging from corrupt dealings according preferential access to individuals without necessary capacity and or good will to introduce optimal investment solutions or establish value adding opportunities for the benefit of the local community (Clover & Eriksen, 2009). The absence of any home-grown strategic advancement clarity may be a currently under appreciated source of advancement restraint. Adherence to a communal value system albeit criticised for slow overly consultative decision making, does not preclude the ability to shape a cohesive progress agenda that optimises an area's natural endowments,

similar to that highlighted by one participant as having been attained by the Bafokeng under the leadership of their monarchy.

## **6.7 Danger of Undoing Communal Structures**

There seems to be some validity to the concern over the potentially negative impact of either an accelerated under defined transition or a national executive decision for formalisation of individual property rights that is overly removed from the communal granularities. The reality of the variations of means amongst communal families and the generally high levels of widespread poverty are set to exaggerate the disparities of access if communal franchise is dissolved in favour of individual ownership (Pienaar, 2009).

Urban capitalist tendencies are poised to take root and amplify the poverty challenges that are already a recognised and enduring challenge in modern individualistic societies. This is set to be counter intuitive to the underlying poverty alleviation motivation that has drawn attention to the issue of land ownership formalisation in a bid to confer appreciable asset value status to rural property.

Whilst it is well established that individual rights have been shown to be most effective in connecting with natural human self-interest and thus motivating initiative towards value enhancement endeavour (Obeng-Odoom, 2012; Williamson, 2005; Smith, 1991), this is not without its limitations. The findings suggested that in the face of established communal structures, this ideal optimal may be better considered as a future progression option rather than an expediently implementable choice.

## **6.8 Summary**

This chapter has critically examined the findings that emerged from the data as reported in Chapter 5. Key themes that not only address the research questions posed in Chapter 3 but that also align the findings with scholarly perspective as detailed in Chapter 2 were extrapolated and used to build a revealing discussion on the SA rural land reform challenge.

## **CHAPTER 7: CONCLUSION**

### **7.1 Introduction**

This chapter will summarise the findings of the study in relation to the research questions posed in Chapter 3 and in line with the literature. It will further review whether the objectives and aims of the study have been met and if the findings of the research contribute to the body of knowledge. The research limitations and implications of the findings will also be discussed. Recommendations for further research will be presented and the chapter will end with an overarching conclusion to the study.

### **7.2 Summary of Findings**

The data confirmed the need for formal property rights to be instituted in rural communities. It also indicated the unquestionable imperative for rural communities to be gradually transitioned towards more active economic participation for both local and national gain. The deep disparities between the advancements of rural versus urban communities can only be gradually rebalanced through deliberately designed uplifting interventions for rural communities.

In recognising and realising potential, government will need to play an instrumental role starting with the shaping of progressive but communally palatable policy interventions before advancing to become a critical facilitator of implementation to drive sustainable change. Such commitment and active behavioural leadership is anticipated to be an important signal and instigator of attracting expanding entrepreneurial interest.

## **7.3 Recommendations**

### **7.3.1 Towards a Hybrid Communal Framework**

As a standpoint, it became apparent that the overriding persuasion that ultimately emerged from the findings was to favour the retention of the conceptual constructs of some kind of communal ownership structuring as being preferable over individual property rights for rural South African communities. This was however couched by cautious requirements recognising the well appreciated weaknesses of singularly pursuing the communal rights approach. A pragmatic option is needed that should result in pliable structures that serve the nuances of the South African context

Alongside the human interaction considerations, the physical capabilities and or limitations were another source of caution against any solution that would potentially attempt to identify a homogenous approach for all areas. Recognition of the geographical diversity in suitability and competency of different areas for strategic economic development focus is likely to yield stronger propensity for success in nurturing communal lands towards more productive economic endeavour. For example it was highlighted that Eastern Cape is well known for sheep farming whilst KwaZulu Natal is more suitable for goat rearing; whilst maize and other cash crops can be implemented in the Free State.

This approach towards considered specialisation would also serve to bring necessary diversification of focus and improve the competitive potential of respective regions in capturing markets for their outputs. For optimal effectiveness, communal communities ideally need to be empowered to elevate their long established mechanisms of collaborative decision making to drive the targeting of preferred investment rather than awaiting potential investors.

As evidenced earlier in the data, the issue of overcoming the reduced impetus for productivity rears its head as a concern with any mention of communal access and would need to be specifically countered. The argument was made for activity driving punitive measures such as possible tax like structures to be imposed on non-productive occupants and thus increase the likelihood for rural economies to start to thrive.

Additionally, recommendation emerged that land that is going to be used in such a manner so as to address the general concerns of the community should be registered in the name of a community. Where there is due respect for communal ownership and benevolent administrative transparency, communities stand to gain and retain the age old balances of access that disregard disparities of individual economic means and hence maintain an acceptable quality of life for all members.

On the contrary, however, in areas where such communal connectivity is no longer required, flexibility to embrace contrarian views and practical requirements should see such areas being allowed to adopt frameworks that are more inclined towards individual entitlement. As one participant poignantly summarised the recommendation, “whatever can be best done by an individual should be left to an individual and give to the community what can be best done by the community, and if people have the wisdom to know the difference so that neither take all the power then you have a good system” (Participant 7).

Emerging from the thoughts and recommendations of how to reconcile historical influences with the communal future advancement requirements, government, a major stakeholder in the process, was noted as needing to play a pivotal role in addressing the prevailing rights imbalances. The government leadership is required in shaping the future policies to accord legitimacy to the value of property rights through the inclusion of pertinent stakeholders such as rural communities, individual members of society, lenders, investors and entrepreneurs.

The results revealed that there is a strong need of having secure property rights and formalised property rights with a shred view that property rights could be commoditised or used to leverage for accessing commerce or other assets. Well defined and secured property rights were highlighted as instrumental in not only correcting the imbalances of the past but also paving the way for economic growth in communal areas.

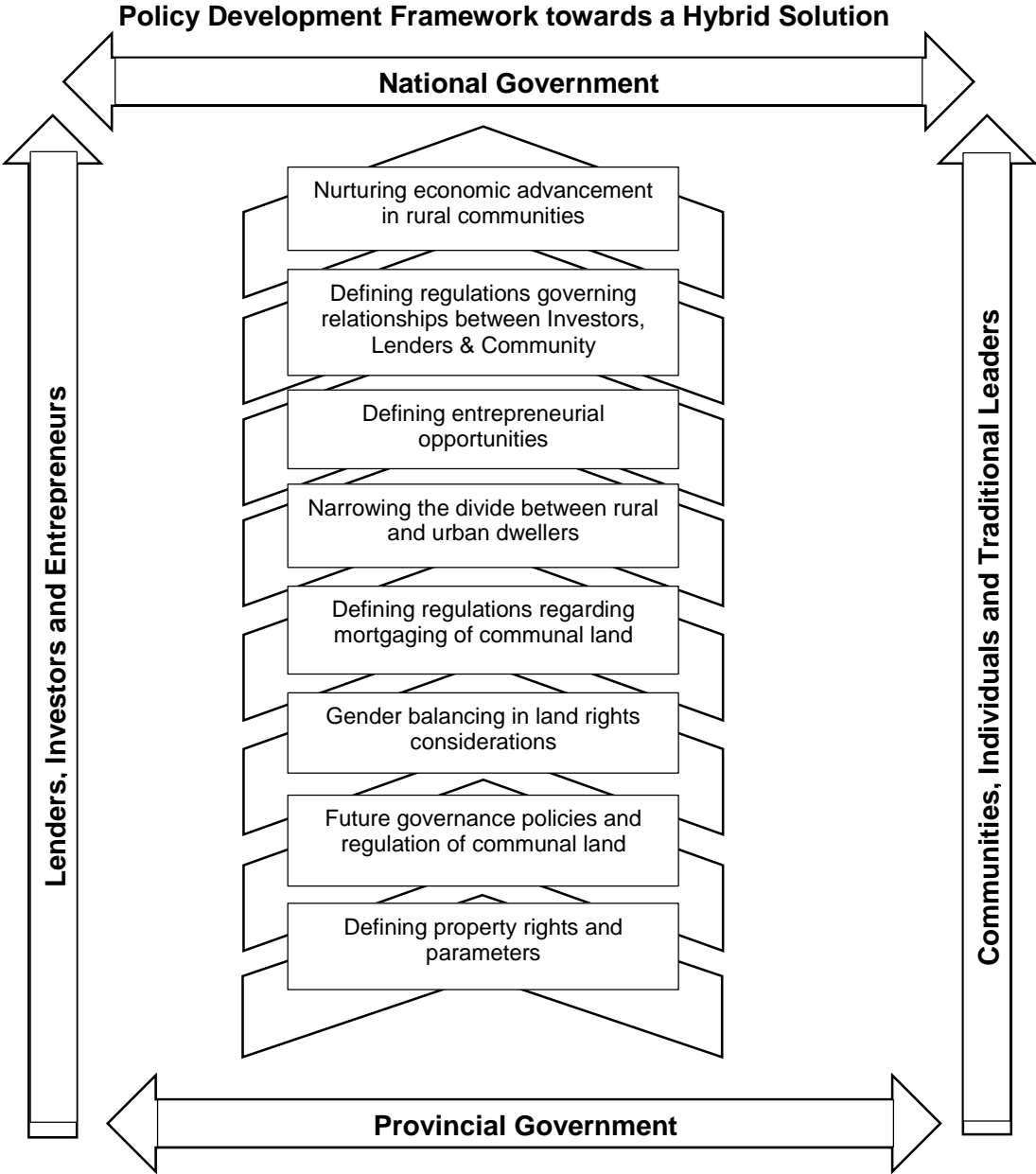
Thoughts around the ideal future vision resulted in a number of areas of essential consideration. The eight primary considerations include:

- i. defining property rights and parameters;
- i. future governance policies and regulation of communal land;
- ii. gender balancing in land rights considerations
- iii. conferring stronger commercial credibility to communal lands for access to mortgages;
- iv. harmonising rural and urban land ownership experiences and advantages
- v. Defining entrepreneurial opportunities;
- vi. defining regulations governing relationships between Investors, Lenders & Community; and
- vii. nurturing of rural economic advancement.

Figure 4 consolidates a summary of the breadth of perspective that emerged from exploratory discussion that sought to verbalise and thus formulate a descriptive framework of the central themes which predicate the rural reform challenge.



**Figure 4: Modelling the Hybrid Land Rights Approach**



### **7.3.2 Economic Advancement Motivation for Rural Land Reform**

With the quest to stimulate economic development being positioned as a prime motivation for reform, communities need to be encouraged to not only be cognisant of the local but also broader global surrounds of rapidly changing times. Regardless of which land rights option that is embraced and traditional or communal views observed, established market fundamentals of competitiveness will invariably come to bear down on the possibility of succeeding in any strategic economic endeavour and hence need to be broadly anticipated.

In spite of the traditional views and communal views which work in many cases, achievement of any medium to long run outcome along a path of modernisation needs to balance consultative inclusion with the infusion of game changing perspective that may be unfamiliar to current rural mind-sets due to limited exposure. A number of such perspectives emerged from the data and are discussed below.

### **7.3.3 Progressive Legal and Administrative Frameworks**

In congruence with the assertions from Bruce (2012), the findings identified that it is insufficient to merely grapple with formulating political perspective on a preferred rights structure. Any decision taken needs to be given effect through supporting legislation and governance supporting administrative structures. These constructs should not only be a congruent extension of the desired property rights structures, but should also serve to facilitate operational implementation that is accessible to the common man.

As further pointed out by a legal expert on the study participant panel, law makers need to bring the law in line with reality. In this instance, rather than just contorting what people are doing to comply with the requirements of adopted foreign laws, the challenge to constructively and pragmatically frame legal structures that not only align with local values but can also withstand exogenous scrutiny for investment confidence assurances.

### **7.3.4 Gender Balancing**

It emerged that at the moment there are practises that discriminate against women. There is that subtle and sometimes not so subtle practice where women are treated as minors even if they are older, are mature and have much more experience in handling traditional land affairs.

Participants confirmed these practices, reasoning in part that communally the intention may have been motivated by the deeply engrained instinct on the part of male members of the community to be responsible for the households providing for and protecting their families. The indication from the data was that this comes from the fact that the father would bequeath the property to the son who would in turn continue the clan leadership role and protect the family name.

The issue that presents itself now, however, is how to reconcile this past with the evolved modern realities that fully acknowledge gender equality and diversity not only in legal capacity to own land but also to inherit. Women as part of the mainstream economy are fully engaged in driving economic growth and similarly needing to access and leverage land assets.

## 7.4 Research Limitations

Consistent with defined research executions, a series of choices had to be made in framing the design and analytical approach taken to execute this project. These whilst facilitating structured and substantiated progress, also resulted in some notable process and outcome limitations. Listed here are a number of these.

First, the population for the study was limited to South African rural communities which were affected by the Land Act of 1913. Whilst the research findings may be useful to other areas, a broader sample covering rural communities in other countries would have been preferable. The location of the researcher was also the reason for choosing South Africa as a country to study.

Second, the chosen participant population consisted of high profile individuals including traditional leaders and government representatives who were interviewed to gather insights on the topic under study. These participants are notoriously difficult to access and convince to participate in such investigations. This resulted in some potential participants not being captured to provide supporting input into the study. Still others directly declined citing confidentiality concerns.

Third, four out of the nine interviewees were academics and were rightfully, very cautious in providing definitive answers. None of the nine expert participants was comfortable to present an unqualified singular stance to the direct invitation to express a preference. For this reason, the framework produced by this study is an expression of the perceptions and views of the final cohort of interviewees.

## 7.5 Future Research

This study was by design, intended to explore the range of considerations that authoritative local figures deemed to be most pertinent in progressing the debate on how to tackle rural land reform and position these communities to become more economically productive. Consequently the study resulted in indicative rather than conclusive outcomes of the possibilities. Future research opportunities that are set to contribute to deeper understanding were identified in a number of areas and are outlined in the following points.

First, the results from the research questions provided useful insights in determining a more effective method of registering and administering property rights. However, the study did not examine the design and implementation of this method. For this reason, it is recommended that a study focusing on the design and implementation of the hybrid method be conducted to examine the framework presented in this study.

Second, the data gathering for this study focussed on contributions from expert informants for considered opinion on the issues. An essential additional step would be to engage with the rural communities themselves directly and gather input to formulate more practical perspective on granular considerations that must be embraced to enhance comprehension of the change requirements.

Third, several participants highlighted the fact that land formalisation challenges are not unique to South Africa, other countries have grappled with similar concerns. As per the well-established practises of shared learning, examining other countries and contexts, further afield will serve to help identify comparable scenarios, the interventions that have been effected and how these have evolved. Such investigation is set to expand the range of approach options that can be taken with the added value of hindsight from the practical experiences and outcomes that have been achieved by others.

Fourth, a qualitative design by nature gives variety rather than confirmed validity of findings. A quantitative study that uses these indicative insights from this study as a basis to test their validity across the vast diversity of South African rural communities, will help to further refine information and distinguish generic factors for broad based considerations from novelties that are specific to niche situations.

To realise full economic potential of rural communities, the following questions illustrate some of the complexities that would need to be addressed in implementing the recommended hybrid system.

- i. How do lenders assuredly work around the multi-owner interface to define functionally executable security structures that are replicable across communal communities and legally recognised for enforceable execution?
- ii. Who should be recognised as the authorised executor on behalf of the communities for the execution of such transactions?
- iii. How do you prevent corrupt individual influences from permeating and overriding the will of the less educated and hence likely to be less contractually savvy members?
- iv. Who would be responsible for monitoring necessary protections from such risks and in the event of any corrupt activity surfacing, how would the interests of the lenders be protected?
- v. Last, in the event of a community defaulting, what would be the practical realities of lenders effecting execution of claim on secured communal assets and disposing of them to other external interested parties to recover trapped funds as per the standard practise by financial institutions when encountering such turn of events?

## **7.6 Conclusion**

The research suggests that there is a need for a solution that is not only designed to try and identify a single silver bullet for all areas but also recognises the diversity in competencies and aspirations of different areas. This hybrid solution is supported by the literature reviewed in the study which revealed that there are advantages in both individual and communal ownership, however, the decision lies in where and how to implement a chosen path.

The research findings affirm that the issue of property rights extends beyond merely assigning ownership of pieces of land. Rather because of South African history, it is intricately linked with the very dignity and social identity of the previously disenfranchised black communities.

## References

- Africa, S.S. (1989). From crisis to sustainable growth. *Washington, DC: The World Bank.*
- Agarwal, B. (1997). Environmental action, gender equity and women's participation. *Development and change, 28*(1), 1-44.
- Ambert, A.M., Adler, P.A., Adler, P., & Detzner, D.F. (1995). Understanding and evaluating qualitative research. *Journal of Marriage and the Family, 879-893.*
- wood, D.A. (1990). Land registration in Africa: The impact on agricultural production. *World Development, 18*(5), 659–671.
- Banana, A., and Gombya-Ssembajjwe, W. (1996). Successful Forest Management: The Importance of Security of Tenure and Rule Enforcement in Ugandan Forests. In Gibson, C., McKean, M., and Ostrom, E. (eds.), *Explaining Deforestation: The Role of Local Institutions.* FAO Rome.
- Bauer, L.P.T. (2004). *From subsistence to exchange and other essays.* Princeton University Press.
- Benjaminsen, T.A., Holden, S., Lund, C., & Sjaastad, E. (2009). Formalisation of land rights: Some empirical evidence from Mali, Niger and South Africa. *Land Use Policy, 26*(1), 28–35.
- Benjaminsen, T.A., & Sjaastad, E. (2008). Where to draw the line: Mapping of land rights in a South African commons. *Political Geography, 27*(3), 263-279.
- Bernard, H.R. (1995). *Research Methods in Anthropology, Second Edition.* London: Sage Publications.
- Besley, T., & Ghatak, M. (2009). Property rights and economic development: D. Rodrik and M. Rosenzweig, eds., *Handbook of Development Economics. Elsevier, 4525–4595.*
- Berry, S. (1993). *No condition is permanent: The social dynamics of agrarian change in sub-Saharan Africa.* University of Wisconsin Press.
- Bishop, R.C., & Ciriacy-Wantrup, S.V. (1973). Common property as a concept in natural resources policy. *Nat. Resources J., 15, 713.*
- Booyesen, L. (2007). Societal power shifts and changing social identities in South Africa: workplace implications: management. *South African Journal of Economic and Management Sciences Suid-Afrikaanse Tydskrif vir Ekonomiese en Bestuurswetenskappe, 10*(1), 1-20.
- Bowles, S., & Choi, J.K. (2013). Coevolution of farming and private property during the early Holocene. *Proceedings of the National Academy of Sciences, 110*(22), 8830-8835.



- Boyce, C., & Neale, P. (2006). *Conducting in-depth interviews: A guide for designing and conducting in-depth interviews for evaluation input* (3-7). Watertown, MA: Pathfinder International.
- Bromley, D.W. (1991). Testing for common versus private property: comment. *Journal of Environmental Economics and Management*, 21(1), 92-96.
- Bruce, J.W. (2012). Simple Solutions to Complex Problems: Land Formalization as a 'Silver Bullet' at pp. 31-56 of Jan Michiel Otto and André Hoekema (eds.) *Fair land governance. How to legalize land rights for rural development*. Leiden, Netherlands: Leiden University Press (2012).
- Cho, J., & Trent, A. (2009). Validity criteria for performance-related qualitative work: Toward a reflexive, evaluative, and coconstructive framework for performance in/as qualitative inquiry. *Qualitative Inquiry*.
- Clarke, R. A. (2009). Securing Communal Land Rights to Achieve Sustainable Development in Sub-Saharan Africa: Critical Analysis and Policy Implications. *Law, Environment and Development Journal*, 5, 130.
- Coase, R.H., (1960). The problem of social cost. *Journal of Law and Economics*, 3, 1-44.
- Clague, C., Keefer, S., Knack, S., & Olson, M (2010). Contract Intensive Money: Contract Enforcement, Property Rights, and Economic Performance. *odi.org*.
- Chipp, K. (2014). Research Methodology. GIBS MBA 2014\_15 session 6 class notes.
- Clover, J., & Eriksen, S. (2009). The effects of land tenure change on sustainability: human security and environmental change in southern African savannas. *Environmental Science & Policy*, 12(1), 53-70.
- Coleman, J.S. (1988). Social capital in the creation of human capital. *American journal of sociology*, 95-120.
- Colin, J.P. (2013). Securing rural land transactions in Africa. An Ivorian perspective. *Land Use Policy*, 31, 430-440.
- Conning, J.H., & Robinson, J.A. (2007). Property rights and the political organization of agriculture. *Journal of Development Economics*, 82(2), 416-447.
- Demsetz, H. (1967). Toward a theory of property rights. *The American economic review*, 347-359.
- De Soto, Hernando. (2000). *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. New York: Basic Books.
- Di Tella, R., Galiani, S., & Schargrodsky, E. (2012). Reality versus propaganda in the formation of beliefs about privatization. *Journal of Public Economics*, 96(5), 553-567.

- Easterly, W. (2001). Can Institutions Resolve Ethnic Conflict? *Economic Development and Cultural Change*, 49(4), 687–706.
- Ellingson, L.L. (Ed.). (2008). *Engaging crystallization in qualitative research: An introduction*. Sage.
- Feder, G., & Nishio, A. (1998). The benefits of land registration and titling: Economic and social perspectives. *Land Use Policy*, 15(1), 25–43.
- Firmin-Sellers, K., & Sellers, P. (1999). Expected failures and unexpected successes of land titling in Africa. *World Development*, 27(7), 1115–1128.
- Galiani, S., & Schargrotsky, E. (2010). Property rights for the poor: Effects of land titling. *Journal of Public Economics*, 94(9-10), 700–729.
- Gonzalez, F.M. (2007). Effective property rights, conflict and growth. *Journal of Economic Theory*, 137(1), 127-139.
- Gordon, H.S. (1954). The economics of a common property resource: the fishery. *Journal of Political Economy*, 62, 124–142.
- Growitsch, C., & Wein, T. (2005). Network access charges, vertical integration, and property rights structure experiences from the German electricity markets. *Energy Economics*, 27(2), 257–278.
- Gubrium, J.F., & Holstein, J.A. (2001). *Handbook of interview research: Context and method*. Sage Publications.
- Hardin, G. (1968). The tragedy of the commons. *science*, 162(3859), 1243-1248.
- Ho, P., & Spoor, M. (2006). Whose land? The political economy of land titling in transitional economies. *Land use policy*, 23(4), 580-587.
- House, C., & Mutangadura, G. (2004). Land in Africa: Market Asset or Secure Livelihood? Women and Land Tenure Rights in Southern Africa: *A human rights-based approach*, 1–16.
- Joireman, S.F. (2008). The mystery of capital formation in Sub-Saharan Africa: women, property rights and customary law. *World Development*, 36(7), 1233-1246.
- Kasanga, K., & Kotey, N.A. (2001). Land Management in Ghana: Building on Traditional Authority. *International Institute for Environment and Development (IIED), Land Tenure and Resource Access Series*. London: IIED.
- Kerekes, C.B. (2011). Property Rights and Environmental Quality; A Cross-County Study. *Cato Journal*, 31, 315.
- Kerekes, C.B., & Williamson, C.R. (2008). Unveiling de Soto's mystery: property rights, capital formation, and development. *Journal of Institutional Economics*, 4(3), 299.
- Krier, J.E. (2009). Evolutionary theory and the origin of property rights. *Cornell L. Rev.*, 95, 139.

- Kvale, S. (1996). *Interviews: An Introduction to Qualitative Research Interviewing*. London: Sage Publications, Chapter 7: The Interview Situation, 124-135.
- Lastarria-Cornhiel, S. (1997). Impact of privatization on gender and property rights in Africa. *World Development*, 25(8), 1317–1333.
- Lemel, H. (1988). Land titling: conceptual, empirical and policy issues. *Land Use Policy*, 5(3), 273-290.
- Locke, A. (2013). Property rights and development briefing. *odi.org*. Retrieved from: <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8513.pdf>
- Marshall, M.N. (1996). Sampling for qualitative research. *Family Practice*, 13(6), 522–525.
- McCay, B.J., & Acheson, J.M. (1987). *The question of the commons: The culture and ecology of communal resources*. University of Arizona Press.
- McKean, M. (1992). Success on the Commons: A comparative examination of institutions for common property resource management. *Journal of Theoretical politics*, 4(3), 247-282.
- Meinzen-Dick, R., & Mwangi, E. (2009). Cutting the web of interests: Pitfalls of formalizing property rights. *Land Use Policy*, 26(1), 36–43.
- Miceli, T.J., Munneke, H.J., Sirmans, C.F., & Turnbull, G.K. (2011). A question of title: Property rights and asset values. *Regional Science and Urban Economics*, 41(6), 499–507.
- Mises, L. (1920). *Economic Calculation in the Socialist Commonwealth*. In F.A. Hayek (ed.) *Collectivist Economic Planning*. London: Routledge & Kegan Paul.
- Mooya, M.M., & Cloete, C.E. (2010). Property rights, real estate markets and poverty alleviation in Namibia's urban low income settlements. *Habitat International*, 34(4), 436–445.
- Morrow, S.L. (2005). Quality and Trustworthiness in Qualitative Research in Counseling Psychology. *Journal of Counseling Psychology*, 52(2), 250–260.
- Morrow, S.L., & Smith, M.L. (2000). Qualitative research for counseling psychology. In S.D. Brown & R.W. Lent (Eds.), *Handbook of counseling psychology* (3rd ed., 199–230). New York: Wiley.
- Morrow, S.L., & Smith, M.L. (1995). Constructions of survival and coping by women who have survived childhood sexual abuse. *Journal of Counseling Psychology*, 42(1), 24.
- Morse, J.M., Barrett, M., Mayan, M., Olson, K., & Spiers, J. (2002). Verification strategies for establishing reliability and validity in qualitative research. *International journal of qualitative methods*, 1(2), 13-22.

- Muthoo, A. (2004). A model of the origins of basic property rights. *Games and Economic Behavior*, 49(2), 288–312.
- Mutangadura, G. (2004). Women and Land Tenure Rights in Southern Africa: A human rights-based approach. In Presentation at Land in Africa: Market Asset or Secure Livelihood Conference, London, UK.
- Ngwenya, S. (2014, September). Text: Getting South Africans Talk about Land Tenure. Paper presented at National Land Tenure Summit, Johannesburg, South Africa.
- North, D.C. (1991). Institutions: *The Journal of Economic Perspectives*, 5(1), 97–112.
- North, D.C. (1990). *Institutions, Institutional Change and Economic Performance*. Cambridge University Press, Cambridge.
- Ntsebeza, L. (2005). *Democracy compromised: Chiefs and the politics of the land in South Africa*. Boston: Brill Leiden.
- Obeng-Odoom, F. (2012). Land reforms in Africa: Theory, practice, and outcome. *Habitat International*, 36(1), 161–170.
- Ostrom, E., & Hess, C. (2008). Private and Common Property Rights. *Encyclopedia of Law & Economics*. Northampton. Retrieved from: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1304699](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1304699)
- Ostrom, E. (1999). Social capital: A fad or a fundamental concept. In: Dasgupta, P., Serageldin, I. (Eds.), *Social Capital: A Multifaceted Perspective*. World Bank, Washington DC, USA.
- Ostrom, E. (1990). *Governing the Commons: The Evolution of Institutions for Collective Action*, New York: Cambridge University Press.
- Parsa, A., Nakendo, F., McCluskey, W.J., & Page, M.W. (2011). Impact of formalisation of property rights in informal settlements: Evidence from Dar es Salaam city. *Land Use Policy*, 28(4), 695–705.
- Patton, M.Q. (2002). *Qualitative research & evaluation methods* (3rd Ed.). London: SAGE Publications Inc.
- Peters, P.E. (2009). Challenges in Land Tenure and Land Reform in Africa: Anthropological Contributions. *World Development*, 37(8), 1317–1325.
- Pienaar, G. (2009). Aspects Of Land Administration In The Context Of Good Governance. *Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad*, 12(2).
- Ryan, G., & Bernard, R. (2000). Data management and analysis methods. In N. Denzin & Y. Lincoln (Eds.), *Handbook of Qualitative Research* (769–802). Thousand Oaks, CA: Sage.
- Saruchera, M. (2004). *Securing Land and Resource Rights in Africa: Pan-African Perspective*. The Programme for Land and Agrarian Studies, School of Government, University of Western Cape.

- Saunders, M., & Lewis, P. (2012). *Doing research in business & management: An essential guide to planning your project*. London: Pearson Education Limited.
- Sikor, T. (2006). Politics of rural land registration in post-socialist societies: Contested titling in villages of Northwest Vietnam. *Land Use Policy*, 23(4), 617–628.
- Sikor, T., & Müller, D. (2009). The Limits of State-Led Land Reform: An Introduction. *World Development*, 37(8), 1307–1316.
- Smith, R.J. (1981). Resolving the tragedy of the commons by creating private property rights in wildlife. *Cato J.*, 1, 439.
- Sihlongonyane, M. (2005). Land occupations in South Africa. In S. Moyo, & P. Yeros (Eds.), *Reclaiming the land: The resurgence of rural movements in Africa, Asia and Latin America* (142-164). London and New York: Zed Books.
- Simpson, S. R. (1976). *Land law and registration* (37-8). Cambridge: Cambridge University Press.
- Singer, J.W. (1996). Property and social relations: From title to entitlement. In: Van Maanen, G.E., Van der Walt, A.J. (Eds.), *Property Law on the Threshold of the 21st Century*. MAKLU, Antwerp.
- Thwala, W.D., & Khosa, M. (2008). Land and sustainable development in South Africa. In: Amanor, K.S., Moyo, S. (Eds.), *Land and Sustainable Development in Africa*. Zed Books, London and New York, 33–54.
- Tlhoale, C.T. (2012). *The interface between traditional leadership in shared rural local governance*. Doctoral dissertation, University of Johannesburg.
- Toulmin, C. (2009). Securing land and property rights in sub-Saharan Africa: The role of local institutions. *Land Use Policy*, 26(1), 10–19.
- Tracy, S.J. (2010). Qualitative quality: Eight “big-tent” criteria for excellent qualitative research. *Qualitative inquiry*, 16(10), 837-851.
- Tucker, C.M. (1999). Private versus common property forests: forest conditions and tenure in a Honduran community. *Human Ecology*, 27(2), 201-230.
- Van Gelder, J.L. (2010). What tenure security? The case for a tripartite view. *Land Use Policy*, 27(2), 449-456.
- Wenger, T. (2012). *Applied Business Statistics: Methods and Excel-Based Applications*, Third Edition. Juta and Company.
- Whittemore, R., Chase, S.K., & Mandle, C.L. (2001). Validity in qualitative research. *Qualitative health research*, 11(4), 522-537.
- Williamson, C.R. (2005). The two sides of de Soto: property rights, land titling, and development. *The annual proceedings of the wealth and well-being of nations*, 95-108.

World Bank, (2003). Project appraisal document on a proposed credit in the amount of SDR 15.1 million (US\$20.5 million equivalent) to the Republic of Ghana for a Land Administration Project. The World Bank. Report no. 25913.

Yngstrom, I. (2002). Women, Wives and Land Rights in Africa: Situating Gender Beyond the Household in the Debate Over Land Policy and Changing Tenure Systems. *Oxford Development Studies*, 30(1), 21-40.

Zhang, W., Wang, W., Li, X., & Ye, F. (2014). Economic development and farmland protection: An assessment of rewarded land conversion quotas trading in Zhejiang, China. *Land Use Policy*, 38, 467–476.

Zille, H. (2012, April 24). Refugees in Western Cape Province. *Mail & Guardian*, pp. 2.

## **Appendices**

### **Appendix 1: Interview questionnaire**

#### **Question 1:**

Is it important to have secure property rights?

#### **Question 2**

What are the key determinants of property rights in a rural communities?

#### **Question 3:**

What is a better approach towards establishing formal property rights and what are its likely advantages and disadvantages?

#### **Question 4:**

Would formalisation of property rights improve the livelihood of the rural communities through investment opportunities?

#### **Question 5:**

Could secure property rights be used as a collateral to secure credit?

#### **Question 6:**

Is there a relationship between efficient allocation of resources and productivity?

#### **Question 7:**

What structures are recommended that would advance the formalisation of property rights such that those who are affected can benefit from the economic activities taking place on the land in which they own.

## Appendix 2: Informed consent letter

Consent letter

I am conducting research on the importance of secure property rights in economic development and I am trying to find out the best method of going about administering property rights. I have noted that there are two differing views regarding the administration of property rights. Some authors argue that property rights must be individualised whilst others argue that property rights must be registered as communal property.

Our interview is expected to last about one hour, and will help me understand how traditional leaders, rural community members, academics and government officials from property rights institutions view the process of property rights administration. **Your participation is voluntary and you can withdraw at any time without penalty.** Of course, all data will be kept confidential. If you have any concerns, please contact me or my supervisor. Our details are provided below.

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**Date:** \_\_\_\_\_

**Signature of researcher:** \_\_\_\_\_

**Date:** \_\_\_\_\_