

Chris Mabelane

LRC Oral History Project

31 July 2008

Client – Baphring community land claim

Int This is an interview with Mr. Christian Mabelane and it is Thursday, the 31st of July 2008. Mr. Mabelane, on behalf of SALS Foundation in Washington D.C. we would really like to thank you for agreeing to be part of the LRC Oral History Project. As you know we are collecting interviews to create a documented history of the organization. Now I understand that you are a client of the LRC and I wondered whether we could start at the point where, if you could talk a little bit about yourself and about the land issues, about the **Baphring** community.

CM Yes, I am Christian Mabelane, the beneficiary of the Baphring. I am the Chairperson and the Chairperson of the Land Claim community to claim the land of the Baphring. And the Baphring community is in the Rustenburg district in the town of Koster. We were removed there by then the government, the apartheid government on the 2nd of September 1971 when they were forming the homelands, the government of then. We were dumped far in the Bophutswana territory...

Int You were dumped...?

CM We were dumped...

Int So you were forcibly removed?

CM Forcibly removed, yes, forcibly removed and dumped there far from towns and everything and communication and so forth.

Int How old were you when this happened?

CM I was born in 1945 to 71 –how many years? But I was not there; it was only my parents by then.

Int So you were in your twenties and you had left by then?

CM Hmm, I was working in Jo'burg, working in Krugersdorp.

Int And so at what point did this land claim come into effect, was this post-1004 of course?

CM Well, before 1994 the government announced that the people that were removed from their land, if that land is still available, not sold to the private owner, he can claim. Then we rally around that time and in 1993, we submit a claim to Adler, we were sure that it was not sold as yet, just to find out whether it was sold, then we wait until the new government come into place, then our fight was transferred, to the new government to the new Act of 1974.

Int You say you are the beneficiary, so do you represent your community?

CM Yes

Int Okay, so how did you get to know about the Legal Resources Centre?

CM There was one member of the Baphring who was with attending meetings with other communities, then they met the Black Sash. I think that the Black Sash by then, it was working under Legal Resources or whatever, so it then took us to Legal Resources Centre, so the time we met Geoff Budlender. Then he helped us with the claim, that time they were in Prichardt Street here in Johannesburg.

Int So when you met Geoff Budlender, what were some of the problems or issues that came up with the land? As you know land redistribution is not easy, so what were some of the problems with the case?

CM Up to now?

Int Yes.

CM Up to now, the case, the farmers, the landowners, who bought the land, they were refusing, they were objecting that we can get the land back. That we were compensated, getting the big land and so forth. Then we took the case to the Land Claims Court where it is at present, whereby at the Land Claims Court, it was divided the case, our case, into, into two whereby, the farmers, the landowners wanted to object that we are not the real Baphring, because we are not staying there, we are staying somewhere else, we are staying in Johannesburg. And that was the first, we are the real people. Then the second one, it was, compensation, that we were compensated enough. The third one which we are waiting at present, is the right of the land, which we must still go to court for it.

Int Really? And who is going to representing you?

CM Who is representing us is LRC.

Int Is that Geoff Budlender still or is it Durkje Gilfillan?

- CM At present, Durkje (Gilfillan), after Geoff (Budlender) left, Durkje (Gilfillan), after Durkje (Gilfillan) left, she give us Louisa du Plessis. It is Louisa du Plessis who is at present representing us.
- Int Okay, in terms of the fact that you had to prove that you were the real Baphring, have you managed to establish that?
- CM If maybe you want a copy, of the findings of the court, I can give you a copy. Let me just, the judgement was on 9, 29 January 2002 and found as follows: The findings are here and then they just said, it makes no difference where you are, you have got rights to claim. And they were saying the Chief never submitted a claim, the judge told them that the Act does not speak of the Chief. He says one person, two person, part of the community, you have got the right, it does not speak of the Chief or the Tribal Authority or the tribe, so these people has got rights in terms of the Act to claim. Then that was the finding in 2002.
- Int In terms of the second item, it was compensation, what were the findings for the compensation?
- CM Findings was, it just said that there was no black person in the apartheid government which was fairly compensated, so this people were not fairly compensated. Makes no difference whether they were given a big land or what but that land, is a useless land, so there is no way. The Baphring community did not receive just and equitable compensation within the meaning of Section 202 of the Restitution of the Land Rights, No 22, of 1994, the plaintiffs claim this is their fault not disqualified, as a result of the provision of Section 22 of that Act.
- Int Thank you, that is most helpful. So the third item that you are waiting for is actually land rights and what are some of the difficulties with that?
- CM The last time we attended the pre-trial meeting was on the 29th November 2005.
- Int 2006 or 2005?
- CM 2005 whereby it was agreed the judge in the court he said we must, we must make a commitment to show that the community members, members of the community want to go back to their land, we must submit 400 family, families, which would relocate the old place, the old Marabastad, it is what we did. Here I have got just the draft order, what will happen at the time, then we have submitted that, now we are just waiting for the file to be given a pre-trial date and a trial. But if they are agree in the Chamber, with the farmers, because the farmers say they don't object but they will object. They don't submit any papers for objections but they will object, at the court, whereby Department of Land Affairs says no objections. Even then, Baphring can

hold two lands, there is no problem with them, so if they agree in the Chamber, they will dismiss the case and complete it there.

Int So how many of the original community will then be moved onto the land?

CM Here we submitted 400, yes, but as you know, it is a long thing, it is striking, other people are losing hope, others are coming in, we are not sure how many people are there, because at present, where we are living, it is 9000 households.

Int Where are you living now, in Krugersdorp?

CM I am living in Krugersdorp, but where they were relocated us is 900, 9000 families.

Int 9000, can the land hold that many people?

CM Yes, it can, because we were 500 families when they moved us out there, but it is not going to be all the people who are going to go back,

Int What are your plans for when you get the land and ownership, what are your plans?

CM The plans is to develop that land, in terms of farming, ploughing, agriculture and other businesses, there is a mine there, that mine, the farmers must give it back to us.

Int Do you have the rights to the mine?

CM Yes, we have got the rights to the mine. We will have the rights by then, even the judge in other pre-trials meetings, the judge make the commitment that if, if we get the land back, we must also get the minerals back.

Int The mineral rights?

CM Yes.

Int So, what is the capacity in your community in terms of agriculture, do you know, do people know how to farm, do people have equipment, capital?

CM We have got nothing, our people have those things before and by then, we were using cows, oxen by then, when we go that side, because there is nothing to do that side, that land is useless for agriculture.

- Int But as you know, it had happened for example in Zimbabwe, when land was given back or taken away by white farmers, the land couldn't be farmed adequately. Is it a concern that you might get the land back, but you might not be able to farm it properly?
- CM Yes but, the LRC what they did is , with their experts they formulated these papers that what must the government do to the community, if they go back to the land. They have set out their draft of something like 40 million, that if you get our land back, the government must subsidize us with that money, which is round about 40 000 to do crops and maize, poultry, cattle, sheeps and financial management and agriculture, those side of things, which the government must help us with. Even training, they will look for project managers, social facilities, social economic lifestyle, all those things, will be trained, that is what LRC have done and submitted to the Land Claims Court.
- Int I am also wondering Mr. Mabelane, as you mentioned earlier, you said that land claims is a very long process, so you started with Geoff Budlender you moved to Durkje Gilfillan, then you went to Louise du Plessis, has that been a problem for you, having to move from one lawyer to another lawyer, or has it been relatively okay?
- CM It was okay because there was, there was progress, although, it took long but there was a progress. The only time now which we are frustrated, is that, as from 19... 2005, up to now, that gap whereby these people are compiling these papers that is one which is worrying.
- Int Now, who do you think has taken so long from 2005 to now? Who would you blame?
- CM Well, I don't know whether this people which were appointed by LRC were the experts who were compiling all this, maybe they took their time because now and then, we contacted the LRC but definitely told us that it is huge job because they must get some funds somewhere to pay for this people.
- Int What has your relationship been like with all these lawyers you have worked with, Geoff Budlender first, then Durkje Gilfillan, and now Louise du Plessis?
- CM Oh, it was fantastic, ja, it was fantastic.
- Int Really, so you have no problems whatsoever?
- CM No, no problems.
- Int I don't work for the LRC, so you can tell me.
- CM No, no, so far, there isn't.

- Int Right, fantastic, that is great to know. What is your hope ultimately for an outcome?
- CM My hope is that we are going to get the land back. Makes no difference how long is it going to take, but we are going to get the land back.
- Int You sound pretty determined and organized by the way.
- CM Yes (laughter)
- Int I am also wondering in terms of land redistribution in this country, it seems to me that it takes a very long time, do you think it is because of the Land Claims Court, or the...where do you think the problem starts arising?
- CM I am not sure about redistribution, because I was only focusing on restitution
- Int Restitution yes.
- CM Because there are three legs, restitution, redistribution and security of tenure. I was only facing restitution, not so on redistribution.
- Int Okay, fair enough. I was wondering why is it that the land is so important to you because, I understand that you came from that community, but does it have ancestral value, what is the importance to you as a community and to you as a person, of this land?
- CM One of this is the ancestral lands, we have got graves there. We are attached to the land, so much because in that land, there is water, rain compared to that side, there is enough rain. That land is next to the economical, I don't know how can you put it, next to towns, communication is so good, nearer everything. That is why it is so important to us.
- Int I am wondering whether there is something I haven't asked you, which you think is important for this interview, is there anything that I haven't asked you that you think that you would like to talk about for the interview, about the land and the case?
- CM Well, maybe, its, I have never said what position am I... I am representing the community. I am the Chairperson of the Land Claims Committee and then we came up with a CPA, Communal Property Association Committee, where I was also elected as a Chairperson but when times goes on, because our Chief, was negative by then, he was on the side of the farmers, the white farmers, maybe they were giving him something, then Louisa make it a point with Advocate Jansen to meet with the Chief and showed him the advantage of all this. Then the Committee was reshuffled, the

Acting Chief becomes the Chairperson. Then I become the Deputy but in terms of consultation, communication, everything was coming to me, through me to them.

Int It seems to me that you have learned a lot about the law, would that be an accurate statement?

CM (Laughter) yes, in terms of the restitution, yes, I do understand restitution law, yes.

Int The LRC has...one of the things about the LRC is that it gives free legal aid to communities, what do you think is the importance of an organization like that for you as a community?

CM Well, it is a good organization for communities because communities haven't got money, they couldn't do anything, up to say for instance like ours, they couldn't do anything up to this far without the LRC, because we don't have money, so they are the best and they are best positioned to help people.

Int Now, I know that this is going to be a tough question, from Geoff Budlender, Durkje Gilfillan and Louise du Plessis, who would you say has been the most effective for you, as a community.

CM Well, Geoff (Budlender) we never worked with him long. Then comes the new government, then he was a DG for Land and Water (Land Affairs) then he left. Durkje (Gilfillan) he (she) did a good job with us, transfer the case and so forth, have meetings with the farmers and so on and also it was just a short time. Then he (she) goes to Land Claims Commission. Then the most time we were with Louise (du Plessis). Three of them they have so far, played a good part.

Int I am glad to hear that.

CM Even at the court, the first hearing, Durkje (Gilfillan) was called in, he (she) gave, a, gave a, he (she) reported at the Claims Court, presentation everything at the Land Claims Court.

Int I wondered whether we could end the interview by...if you talk about a memory you have about this land, and its importance whether it is in relation to how the LRC had helped you, something that you think is very important?

CM With the land? Well, I said that, the ground, the soil is good, the soil is good, there is water, the, the, with the soil, we can build houses, even today, even we are removed, n when negotiations started in 1960, we were 100 years in that land. That church, no, sorry, there is a church there, Lutheran Church, which at 1960 was 100 years. There was still bricks of the church there, which were made by soil, mud and was burned in the fire, they are still there, which makes it a good soil and the weather, is so good

there, it is like here in Jo'burg, it is not that hot, it is like here (laughter) and the grass also, for farming it is also good, there is enough grazing place.

Int How far back does your family go...so it is your family lived there and your grandparents lived there...?

CM Yes. My parents, my grandparents, my grandparents (great-grandparents) yes, because even the people, the grandparents now, they don't even know when the land was bought, because there was nothing to write, even in the title deed, the title deed just shows the time when the title deed was issued. Not the time, when they were, when they came to the land but I think it is somewhere in 1840 when we came there...

Int That is a long time ago...

CM Ja, they were just roaming all over there and they get this land and got this land and had 480 cattle.

Int Mr. Mabelane I want to thank you for coming and really coming here on time and taking the time and also for being so organized. I would like to have a look at the documents and thank you very much for your interview.

CM You are very welcome. If you want to make a copy....

Recording ends. Interview resumes briefly:

Int Mr. Mabelane you were telling me about the present place you stay in...

CM It is the new Marabastad, it is the land for which we were compensated. The land which we were compensated with, there is not much rain there, there is no underground water, there is not enough underground water, theft is that much, cattle theft, the theft is that much. It is a bush land, dry, far from communication, far from towns, if you want to buy electricity, you have to travel twenty kilometres to the next town, to buy only a coupon of electricity, so people there they have got no job, they are doing nothing, the only few who have got cattle, who survives, but most of the people are depending on their children who are working in the nearby towns, like Johannesburg and most of them have not yet built the houses they had, with the money they got from old Marabastad when they were moved, it was so little to buy, to build a house because they could, because in the old place, you could build this house with this mud and roof with this grass, I don't know what you call it?

Int Thatched roof

CM Yes, which was so cheap to build a house. There you pass by everything. So, it is very too hard to stay there.

Int So under apartheid this was really difficult but you were forcibly removed and then you were put into land that was inhospitable.

CM Yes...and it was so cheap that land when they buy it from the white farmers by then...you can see the difference in terms of money, how much they paid for that side and how much they bought this side. They gave us even the difference of the money, where they bought the land, where we were moved to, they gave the different money but the Chief used it for buying tractors for himself and trucks for himself. So, there is nothing that we can do with that land, even most of the people, they are not going anymore to build, they are staying in the townships in towns like Johannesburg, that like that. That is the kind of land that it is.

Int So, it is completely inhospitable...

CM Even the hospitals themselves they are so far, health...

Int Health care...

CM they are so far.

Int So it sounds like a very rural area that...

CM It is very rural area. Ja that is it.

Int Thank you.

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