

Records management for transparency and accountability on land allocation at the Nkambeni Tribal Authority in Mpumalanga province of South Africa

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Abstract

Proper records management practices are central to principles of good governance, such as accountability and transparency. This study investigated the impact of records management practices on land allocation in the Nkambeni Tribal Authority in Mpumalanga. The study was guided by the records life cycle model to track the phases through which the land allocation records in the Nkambeni Tribal Authority go from the time they were created to the time they were disposed. A qualitative research approach was used to collect data through interviews with community members that were conveniently sampled for the study. Secondly, the researcher observed how land registrations were handled during visits that were made when seeking permission to conduct the study and subsequently during interviews that were conducted for the study. The data was analysed thematically according to the key objectives of the study. The results suggested that records were in a bad state and were still managed manually. Furthermore, officials managing records did not have the proper records management skills or qualifications required to manage such important records. Furthermore, the study revealed that there were constant disputes and court cases created by land grabbers due to poor records management. The study concluded that records related to land allocation at the Nkambeni Tribal Authority office were in a bad state and were not properly managed. The current records management practices at the tribal office are negatively affecting the life span of the records. This will negatively impact future use of these records, which will potentially put future generations on collision courses due to a lack of records that may be needed to solve land disputes. The tribal authority office needs to employ people with proper records management skills and qualifications to take care of these important records throughout their life cycle.

Keywords: Indigenous people, land distributions, land reform, records management, traditional authority, South Africa

1. Introduction and background to the study

Proper records management practices are necessary to promote organisational efficiency to ensure transparency and accountability in public organisations (Sundqvist & Svärd 2015). Records management can be defined as a systematic control of the creation, receipt,

maintenance, use and disposition of records, for public accountability of those tasked with managing public goods (Svärd 2017). A record is a byproduct of a transaction, which is something that can never be underestimated. Records related to land allocation are of significant value because the livelihood of people depends on them.

For many years, the issue of land has been a very pertinent and emotional topic in South Africa. Historically, black South Africans lost their land to the British and Afrikaners who invaded the interior of South Africa from Cape Town and spread throughout the country, dispossessing African communities in the process (South African History Online (SAHO) 2021). Despite black South Africans being in the majority, in 1913, the apartheid government passed into law the Native Land Act (No. 27 of 1913), which limited land ownership of black South Africans (Mokwena, Motsepe, Maluleke & Shandu 2020). The Bantu Homelands Act was also passed to forcefully relocate black people to homelands (Bantu Homelands Act No. 26 of 1970). By default, this gave ownership of the land to the white minority group while the majority of the country's population was not allowed to own or rent land. The Native Land Act forbade black South Africans from owning or renting land in white designated areas, and certain regions were designated for black people to occupy where they were not allowed to mingle with their white counterparts.

According to Bantu Homelands Act (No. 26 of 1970), the South African indigenous people were forcefully pushed to homelands. Traditional authorities oversaw these homelands, which were divided and governed along ethnic and tribal lines. South Africa comprises different indigenous groups, which are differentiated or identified by the Constitution by their language, including Xhosa, Zulu, Swazi, Venda, Sotho, Tswana, Ndebele and Tsonga, the Khoisan (SAHO 2021). Traditional leaders in each group were made caretakers of the land (Mokwena et al, 2020).

In 1994, South Africa held its first democratic elections, where the new Constitution was adopted as the supreme law of the country, which outlines civil, political, social, economic and cultural human rights (Republic of South Africa 1996). With the new laws, blacks were allowed to own land. As part of redressing historical injustices and reforming society, the South African government established and implemented the Restitution of Land Rights Act (No. 22 of 1994). The goal of the land restitution programme was to help black people who were forcibly removed from their land during the apartheid era get their land back (Republic of South Africa 1994). Davies (2020) describes land redistribution as the process of transferring ownership or usage rights of the land from the existing owners or users to the new owners. Because previous laws favoured white people, black South Africans lacked title deeds or proof of ownership of their land. However, land reform programmes in the new South Africa allowed communities to testify to land dispossessions that were never documented, and oral evidence became more important in land restitution (Thompson 2017). In situations where there are opportunities, there will always be those who want to take advantage. Various groups would claim ownership of the same land. The situation sparked conflict in communities because traditional leaders allocated land to their rural communities but did not offer citizens with title deeds documents or proof of ownership, and some did not keep records of such allocations, which exposed the community to land grabs and invasions (Mokwena et al. 2020). Land administration is still one of the duties listed in the Traditional Leadership and Governance Framework Act (No. 41 of 2003), as it was before the apartheid era in South Africa (Republic of South Africa 2003). The community of the Nkambeni Tribal Authority in Mpumalanga province of South Africa is one of those communities where traditional leaders are tasked with the allocation of land. The Traditional Leadership and Governance Framework Act gives the Nkambeni tribal office the

responsibility to control and allocate land to different families and communities that fall within their jurisdiction. After the land has been allocated, the tribal office is expected to issue a title deed as proof of ownership. Due to several litigations known to the researchers over land going on in that area, the investigators explored the impact of records management of land allocation in the Nkambeni Tribal Authority in Mpumalanga.

Ideally, there should be records that are properly preserved to ensure transparency and accountability (Sundqvist & Svärd 2015) when facing disputes over land that was awarded to various groups. Land administration is one of the duties listed in the Traditional Leadership and Governance Framework Act (No. 41 of 2003), and the community of Nkambeni Tribal Authority in the Mpumalanga province of South Africa is one such community where the traditional leaders are tasked with the job of allocating land.

However, there are several litigations known to the researchers over land going on in the Nkambeni Tribal Authority in the Mpumalanga province of South Africa. Some of these cases were even taken to court because they could not be solved by the tribal office due to a lack of records to resolve them. Therefore, the researchers investigated the impact of records management on land allocation in the Nkambeni Tribal Authority in Mpumalanga.

2. Purpose of the study

This study investigated records management for transparency and accountability on land allocation in the Nkambeni Tribal Authority in Mpumalanga.

3. Problem statement

Land ownership has been a very pertinent and emotional topic in South Africa for many years. For decades, the apartheid government legislation such as the Bantu Homelands Act (No. 26 of 1970), and the Native Land Act (No. 27 of 1913) have forcefully removed black South Africans from their land. The then government further forbade blacks from owning or renting land in certain areas within the Republic of South Africa (Mokwena et al. 2020; Republic of South Africa 1913; Sundqvist & Svärd 2015).

The dawn of democracy brought with it the new Constitution, which, among other things, changed laws around land ownership. With the new laws, blacks were allowed to own land. The Restitution of Land Rights Act was established to redress historical injustices and to help black people who were forcibly removed from their land during the apartheid era get their land back (Republic of South Africa 1994). Communities were allowed to testify to land dispossessions that were never documented, and oral evidence became more important (Thompson 2017). The situation created many problems because various groups would claim ownership of the same land. The situation was compounded by the fact that traditional leaders allocated land to their rural communities but did not issue citizens with title deeds or proof of ownership (Mokwena et al. 2020).

Ideally, there should be records that are properly preserved to ensure transparency and accountability (Sundqvist & Svärd 2015) when faced with disputes over land that was awarded to various groups. Land administration is one of the duties listed in the Traditional Leadership and Governance Framework Act (No. 41 of 2003), and the community of Nkambeni Tribal Authority in Mpumalanga province of South Africa is one such community where the traditional leaders are tasked with the job of allocating land.

However, there are several litigations known to the researchers over land allocation and ownership disputes in the Nkambeni Tribal Authority in the Mpumalanga province of South Africa. Some of these cases were even taken to court because they could not be solved by the tribal office due to lack of records to resolve them. Therefore, the researchers investigated explored the records management practices in the Nkambeni Tribal Authority in Mpumalanga and their impact on land allocations.

4. Objectives of the study

The specific objectives of the study were to:

- Assess the status of records linked to land allocation at the Nkambeni Tribal Authority.
- Determine how land allocation is documented at the Nkambeni Tribal Authority.
- Establish hindrances associated with land allocation documentation at the Nkambeni Tribal Authority.
- Suggest strategies that may be used for effective management of land allocation records.

5. Literature review

This section presents a brief literature review of the study with an aim to connect readers to key areas of existing knowledge. The literature review for this study was guided by the main themes of the study.

5.1 Records management for land allocations

Research suggests that there are two types of records management systems: traditional paper records management systems and electronic records management systems (Tagbotor, Adzido & Agbanu 2015; Maseh 2016). The traditional paper-based records management system relies on internal filing cabinets and is best suited for smaller organisations with fewer records to maintain (Mtui 2017). The problem with paper-based records is the fact that they require a high level of maintenance in a climate-controlled environment for them to survive. On the contrary, electronic records cannot be physically held and do not need any form of physical maintenance, are easily assessable, easy to reproduce and distribute (Lemieux 2019).

5.2 Documentation of land allocations

The importance of records management when allocating land can never be overemphasised. Whether paper based or in electronic format, one is required to properly organise and manage records for future use and long-term preservation. During the land reform in China, the Rural Land Contracting Law required that evidence of land rights in the form of written contracts be issued to those being allocated land (Li 2003). In addition, the law required that government issue land right certificates to those farmers who were allocated land. The lack of formal property rights to land may limit the scope for investment and development (Deininger & Feder 2009). According to Schellnack-Kelly (2014), accurate land records management methods improve land audits. This view is supported by Makgahlela (2021) who emphasise that there is a need for clear titles and records of titles that should serve as evidence of such transactions. Mabapa and Ngoepe (2023) emphasise that relying on memory is problematic, as it is a frail source of evidence.

5.3 Land allocation recording hinderances

Communities depend on land for their socio-economic needs; however, owning land remains a challenge for most people in the third-world countries. Xaba (2022) highlights that research has proven that when land reform projects lack systematic post-settlement support in terms of irrigation, electricity, markets, credit and technologies, especially if there is poor coordination among the related stakeholders, they often fail. Mwetulundila (2022), argues that land rights in Africa, just like elsewhere, remain a stronghold of male power and privilege, leaving women in a marginalised position in society. Mosweu and Rakemane (2020) highlight that a lack of evidence of tribal land allocations can lead to conflicts, disputes and poor land management in rural communities, affecting planning and economic progress and potentially enabling fraud and corruption by powerful individuals or organisations. Makgahlela (2021) also highlights poor records management practices with records often being misplaced and having people without the necessary qualifications handling records.

5.4 Land allocation records management strategies

Ngoepe and Van der Walt (2010) argue that proper records management programmes were common in most South African government departments, including COGTA, before 1994, and there were often well-trained and experienced registry staff. The same study further highlights that to establish an effective records management programme, public servants at all levels must understand the following (Ngoepe & Van der Walt 2010:102):

- The importance of records and recognition of the need for a records management programme (policies, systems and standards for capturing and maintaining records).
- Records professionals who know how to develop, implement and maintain the records management programme.

6. Research methodology

This study employed a qualitative research approach to explore the records management practices during land allocations by the staff at Nkambeni tribal office. Creswell and Creswell (2018) highlight that qualitative researchers seek to understand the context or setting of the participants through visiting this context and gathering information personally. The study population consisted of staff members dealing with the day-to-day operations at the Nkambeni Tribal Authority office as well as local community members. In total, the Nkambeni Tribal Authority comprises 11 staff members –the chief, two secretaries (one of whom manages day-to-day operations), one driver, three security personnel (one day guard and two night guards), two general workers (one for the yard and one for inside) and two (2) assistants to the chief. There were also headmen (six per village, who are not regarded as part of the staff members) responsible for four villages (Mahushu, Sandriver, Shabalala and Numbi) as well as 15 council members per village (also not regarded as staff).

Community members who were involved in disputes were also conveniently added to the study population. Interviews with three staff members employed at the Nkambeni tribal office were conducted. The three were selected on the basis that they were responsible for running the day-to-day operations of the tribal authority, including the handling of files, storing of documents and maintaining of land allocation records. Additionally, four community members who were involved in a land dispute were interviewed. The researchers tried to also involve headmen and

council members in the study, but only one headman agreed to be interviewed. All the interviews were conducted in isiSwati and translated verbatim to English for further analysis. The translation was done by one of the study researchers who is a native isiSwati speaker and studied isiSwati as the first language in school. To ensure authenticity and accuracy of the data captured, and also to check that the correct translations were made, the researchers went back to the participants to verify and check what was captured with them and adjustments made where necessary.

The researchers also attended council proceedings where observations were conducted. Furthermore, several visits were made to see how land allocations were handled and how created records were managed. Prior to these observations, a checklist was prepared as guided by the study objectives to observe how records were created, handled, stored and preserved.

7. Ethical considerations

To ensure ethical standards, the study obtained an ethical clearance from the University of South Africa's Research Ethics Review Committee (reference number CA4_23092021_CREC-CHS_2021). Informed consent was sought from all participants, who were made aware of the study's purpose, their rights to withdraw at any time and the measures in place to protect their confidentiality. Additionally, permission to conduct this study was obtained from the Department of Cooperative Governance and Traditional affairs in Mpumalanga (reference number 2/7/5/1/2).

8. Data analysis and presentation

The data collected was analysed and presented thematically. Thematic analysis can be descriptive, explanatory and/or critical in nature (Lochmiller 2021). As a descriptive tool, thematic analysis enables scholars to define and describe what the participants reality is by using their own written or spoken words; as an explanatory tool, thematic analysis can be used to infer meaning about experiences, perspectives or belief systems, while as a critical analytic tool, thematic analysis can be used to identify persistent gaps in the reported experiences of participants (Lochmiller 2021). For this study, a descriptive thematic analysis was conducted to capture the respondents' reality in their own words. The researcher assigned the quotes (CMM for responses from community members and TOS for responses from tribal office staff. Furthermore, the data set from the interviews was computed using the WordItOut online software to generate word clouds for analysis.

8.1 The status of land allocation records

The researchers aimed to determine the status of records linked to land allocation in the Nkambeni Tribal Authority. As a result, employees of the Nkambeni Tribal Authority who were directly involved with the day-to-day running of the office were interviewed to determine the status of the records in their office. The common themes that emerged from the responses that were obtained from the responded are presented in Figure 1.

registered”, and an example of the cash register used is presented in Figure 4. CCM-2 agreed with CCM 1 and said that “*We as residents get allocated land by the headmen*” (which confirmed what TOS 1 and TOS 2 highlighted) “*then we go to the tribal office, pay the levy and have the stand allocated. We then erect the fence to secure the land allocated.*”

Figure 4: Cash register (Captured: 11 October 2021)

CCM-3 confirmed the entire process and further indicated that “*After allocation, the resident will receive residential stand owner registration, also known as permission to occupy.*” CCM-4 indicated that “*as farmers, they pay once-off fee for the registration of the farm*” (see Figure 5 for the residential ownership form completed).

NKAMBENI TRIBAL AUTHORITY COUNCIL
RESIDENTIAL STAND OWNER
REGISTRATION OF RESIDENT'S OWNERSHIP 6694

Area: _____ Stand No.(OLD) _____
 New: _____

This is to certify that the under mentioned family portfolio are the bonafide owners of above residential address.
 (S/N: _____)

1. Family Name (Surname): _____
2. Ownership Name: _____
3. I.D Number _____
4. Postal Address: _____

5. Tel/ Cell Number: _____
6. Marital Status, Sigle/Married/ Window: _____
7. Spouse Name: _____
8. Spouse I.D No: _____
9. Size of the site 30 mx 30m.
- 9.1 Intended to start operation within three months.
10. N.B: Residential stands are transferable to some one only Through your local Induna
11. The information supplied is true and accurate.

Signature (owner) _____	Nduna _____
Date _____	Date: _____
NB Complied by: _____	Date: _____
Recommended by _____	Date: _____

OFFICE STAMP

Cheruya Signs & Printing 072 518 2133

Figure 5: Residential ownership form (Captured: 11 October 2021)

8.3 Land allocation hindrances

To establish hindrances that are experienced during land allocation at the tribal office, the responses from the respondents were computed and the themes that emerged are depicted in Figure 6. The themes worth mentioning include snatching, conflicts, destroyed, ledgers and land being the obvious common feature. TOS-1 reported that *“When the ledgers are full, they are destroyed and not archived. There also a possibility of the books being destroyed because some are stored close to the window.”* TOS-2 added that *“We don't have a working computer with internet access to generate electronic records; we can't refer to old ledgers since they're sometimes destroyed, especially if someone loses their proof of occupancy.”* TOS-3 highlighted *“Residents snatching land not allotted to them; while others would stretch beyond the space allocated to them, snatching land from their immediate neighbours.* TOS-1 further highlighted that *“there are no stand or file numbers to refer to”*, while TOS-3 expressed that *“Land conflicts account for half of the complaints made at the tribal office each week”*. TOS-2 also indicated that payments are a problem and to track who paid and who did not pay, yearly payment levies they *“rely on the resident to bring the previous receipt when that is how we identify the occupier, if they come without it, we have no records to refer to.”*

When looking at hindrances experienced by community members, CMM-1 indicated that there are summons that locals receive in which they struggle over land. CMM-2 spoke of historical land that is seized, resulting in legal actions. CMM-3 highlighted that one of the difficulties that they are now dealing with as citizens is land grabbing. Community members interviewed agreed that they were not fully assisted by the office of the chief, hence the matters end up being referred to the court. Furthermore, it was mentioned that there are often conflicts between different traditional offices across the region and across the jurisdiction in some of the cases we received. CMM-4 is of the view that the “*rural land become an issue, as residents are given permission to occupy the land but does not have full ownership.*”

8.4 Land allocation records management strategies

When respondents were asked to suggest strategies that may be used for effective management of records, TOS-1 stated “*A ledger can keep track of the land that has been allocated.*” TOS-2 and TOS-3 indicated that a different records management system is required by saying “*A database system is required and a need for a records management system to keep track of who has permission to occupy an area*”. TOS-2 further said that the introduction of a new record-keeping system will also require that they be trained as well. TOS-3 also highlighted the need for access to the internet as well as a computer connection. Furthermore, TOS-3 indicated the need for training for headmen and made a plea for assistance from COGTA.

9. Discussion of the findings

This section discusses findings of the study as guided by the objectives of the study.

9.1 The status of land allocation records

Tagbotor et al. (2015) and Maseh (2016) discuss two records management systems that one can expect when it comes to the management of records in general, that is, the traditional paper-based records management system and the electronic records management system. The researchers observed that records at the Nkambeni Tribal Authority were mainly paper based. This was also confirmed by the tribal office staff members who highlighted that records are kept in the form of a ledger and there was no filing system in place. This confirms the poor state these important records are in. Paper-based records require a high level of maintenance in a climate-controlled environment for them to survive. However, at Nkambeni Tribal Authority files were poorly stored and exposed to sunlight. On the other hand, electronic records do not need any form of physical maintenance and are easily assessable, (Lemieux 2019). Despite receiving a computer from the Cooperative Governance and Traditional Affairs, the Nkambeni Tribal Authority could not use the electronic records management system due to a lack of internet connection and a lack of skills.

9.2 Documentation of land allocation

Records management, and its importance when it comes to land allocations, is something the research community highlighted. Both paper-based and electronic records formats require proper organisation and management for future use and long-term preservation. At the Nkambeni Tribal Authority, headmen are responsible for distributing land. The community relies on the headmen to ensure that stands are not duplicated. This can potentially cause problems, as suggested by Mabapa and Ngoepe (2023), who state that relying on memory is problematic, as it is a frail source of evidence. Clear titles and records of titles should serve as

evidence of such transactions (Makgahlela 2021). The model of China can be adopted where the Rural Land Contracting Law requires that evidence of land rights in the form of written contracts be issued to those being allocated land (Li, 2003), and that the government should issue land right certificates to those who were allocated land. The current methods being used in Nkambeni Tribal Authority have a high risk of having the same land being allocated to more than one owner, which always results in disputes.

9.3 Land allocation recording hindrances

Land ownership is key for socio-economic needs; however, owning land remains a challenge for most people in third-world countries. Research has proven that when land reform projects lack systematic post-settlement support, they often fail (Xaba 2022). At the Nkambeni Tribal Authority, records of enduring value are destroyed due to a lack of a proper records management system. This confirms the argument by Makgahlela (2021) that poor records management practices result in records that are often misplaced. The tribal authorities heavily rely on residents keeping receipts, which is not sustainable. This results in land grabs and community members having to solve their land problems through the courts.

9.4 Land allocation records management strategies

Ngoepe and van der Walt (2010) highlight that to establish an effective records management programme, public servants at all levels must understand the importance of records and recognition of the need for a records management programme (policies, systems and standards for capturing and maintaining records). The same study further highlights that records professionals who know how to develop, implement and maintain the records management programme are central to the whole process. The personnel of the Nkambeni Tribal Authority also believe that a proper records management system is needed in the area. The headmen should be trained and assisted by skilled personnel who understand the fundamentals of records management.

10. Conclusions and recommendations

The study concluded that the Nkambeni tribal office used the traditional paper-based records management style and their records were not properly managed. Paper-based records require proper maintenance in climate-controlled environments for long-term preservation; however, records at the Nkambeni tribal office are poorly kept in one filing cabinet that is nearly full, with several ledgers stacked on top of one another close to the window, which allowed light in, thus shortening the life span of the records. Different ledgers were used to document land allocated by headmen and the payments received for those allocations, respectively. The tribal chief makes notes of the stand allocated, and once payment is received, the community members are given permission to occupy the land. This is different from how other countries have successfully implemented land reforms, like China, where certificates of ownership are issued. Residents are constantly taking each other to court due to land grabs and disputes that result from poor records management related to land allocation. The study recommends that an effective records management system be implemented to keep track of who has permission to occupy land to avoid conflicts among citizens. The computer that was provided by COGTA should be put to good use for the purposes of records management. Training of records officials and headmen is of great importance to ensure that they acquire skills required for the proper management of such important records for future use and preservation.

Declaration

The authors declare that:

- The manuscript has not been previously published and is not under consideration for publication with any other journal or copyrighted publishing platform of any kind.
- Permission was granted for collection and publication of the presented identifiable data from target organisation.
- Unlawful statements that infringe any existing copyrights were avoided in the manuscript.
- We sought permission for copyright from third parties by obtaining the necessary permission from the copyright holder/s to reproduce their materials in different media in the article, such as tables, diagrams and photographs owned by them.
- Manuscript and study meet all the ethical requirements of the journal and that of our institutions or companies, as well as legal requirements of the study country.
- There is no potential conflict of interest for the research.
- All authors are familiar with the content of this manuscript and gave consent to co-publish.
- All authors contributed to the writing of the article manuscript.
- Authors take responsibility to keep participants information confidential as required by legislations including Protection of personal information Act.
- Author(s) gives consent to the Journal of South African Society of Archivist to publish the manuscript.

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