

Land Reform in Namibia

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Introduction

Namibia is situated in the southwest corner of Africa and covers an area of 824 295 square kilometers with a population of approximately 1,8 million people. It shares long boundaries with Angola to the north and Botswana to the east. In the northeastern part is a peculiar colonial anomaly – the Caprivi Strip – which touches Zambia, Zimbabwe and Botswana. The Republic of South Africa in the south and the Atlantic Ocean in the west border Namibia. Its natural boundaries are the Kunene, Kavango and Zambezi river systems in the north, Kwando/Linyanti/Chobe river system in the northeast and the Orange River in the south, which are also its only perennial rivers.

Topographically, Namibia is divided into three main regions: the Namib Desert, the Central Plateau and the Kalahari Desert.

Historical Perspective

Formal colonial rule began in 1884. By the early 1890s eight concession companies had acquired rights to virtually all the land utilised by pastoralist communities. It was not until after the *rinderpest* of 1897, however, that the acquisition of land by settlers started in all earnest. By 1902 only 38% of the total land area remained in black hands.

The rapid loss of land contributed to the Nama and Herero war of resistance against the German colonial forces in 1904, which led to the large-scale extermination of Herero and Nama pastoralists. Regulations enacted in 1906 and 1907 empowered the German colonial authorities to expropriate nearly all land of the Herero and Nama. As a result, German settlers owned 1331 farms and some 90% of all livestock in the Police Zone by 1913.

At the outbreak of World War 1, troops from the Union of South Africa conquered the German colonial forces in South West Africa. The new colonial regime continued with the establishment of white farms in the Police Zone after 1915. By the early 1950s the process of white settlement had largely been concluded. The total number of farms established by then was 5214.

Simultaneously with the process of white settlement, the South African colonial government began to set aside land for the exclusive use of dispossessed, black communities. These areas became known as 'native reserves', and by 1926 16 such reserves covering 2,4 million hectares had been established. While these reserves reversed the German imposed total ban on land possession by blacks, most reserves were established in arid areas.

South African reserve policies culminated in the mid-1960s in proposals put forward by the *Commission of Enquiry into South West Africa Affairs* to consolidate existing native reserves into tribally based 'homelands'. In time, these homelands were to obtain some measure of autonomy through the establishment of tribally based legislative assemblies and executive committees. The recommendations of the *Odendaal Commission* completed the system of racially structured access to land in Namibia.

The dispossession of indigenous communities of their land was one of the issues that fuelled resistance to colonial rule and lent legitimacy to the armed struggle for liberation. Consequently, a solution of the land question in Namibia through broadening access to land by previously disadvantaged people was part and parcel of the political programme of the ruling party, SWAPO of Namibia. During the last ten years the party has been guided by its election manifesto of 1989 and its economic policy which states that the new government led by SWAPO is 'committed to land reform in order to redress the imbalance created by the colonial policies of land allocation on racial basis'.

The need for land reform

Inequality of access to and ownership of land in Namibia is widely regarded as having contributed to widespread poverty in the country. Namibia has one of the highest income inequalities in the world. In 1990, approximately 36,2 million hectares representing 44% of the total land area or 52% of agriculturally utilisable land was held under freehold title by just over 4,000 landowners. This land is commonly referred to as the commercial farming sector. Under previous apartheid policies, access to this

land was reserved for white farmers, so that the freehold farming sector is still dominated by white landowners. The sector employs approximately 35,000 wage labourers. Together with their dependants, the total number of people deriving some form of subsistence from commercial farming amounts to about 150,000 people.

By contrast, former reserves referred to today as communal areas, comprise about 33,4 million hectares, representing 41% to total land area or 48% of agricultural land. These areas support more than 50% of the Namibian population or close to one million people. However, these aggregate figures overstate the agriculturally usable land in communal areas, as large tracts of communal land are situated in semi-desert areas, with mean annual rainfall ranging between 50-100mm, or are rendered unusable for agricultural purposes due to the absence of exploitable ground water. If these factors are taken into consideration, the commercial farming sector (36 million ha.) comprises 57% of agriculturally usable land, and communal areas only 43% or 27 million ha. Land in the communal areas cannot be owned under freehold title. Access to such land is still largely determined by customary land tenure systems.

It is estimated that more than 70% of Namibia's population depend on the agricultural sector one way or another. The vast majority of this percentage live and subsist in the non-title or communal areas of the country.

Given the correlation between high income inequalities and the unequal ownership of land, it is not surprising that land reform in Namibia is regarded by many as a prerequisite for rural development and poverty alleviation.

The Land Question in Namibia

Against this background of racially structured access to land, it was to be expected that the land question would loom large in independent Namibia. In developing strategies to address the imbalances of the past, government was guided by two important principles:

- the Constitution of the Republic of Namibia; and
- the policy of national reconciliation.

Article 16(1) of the Constitution stipulates

All persons shall have the right in any part of Namibia to acquire, own and dispose of all forms of immovable and moveable property individually or in association with others and to bequeath their property to their heirs or legatees...

In Article 16(2) provision is made for the expropriation of property in the public interest subject to the payment of just compensation.

Since Article 16 forms part of Chapter Three on *Fundamental Human Rights and Freedoms*, it cannot be amended in so far as such an amendment would diminish or detract from fundamental rights and freedoms as defined in Chapter Three.

The policy of national reconciliation was devised and implemented to help citizens of Namibia overcome the hatred and mistrust which was bred by many years of colonial rule. It is regarded as the only realistic policy for cultivating a national ethos in a society that was racially and ethnically stratified for over a century.

Within this framework government devised three broad strategies to address the land question in Namibia:

- redistributive land reform;
- the Affirmative Action Loan Scheme; and
- the development of unutilised non-title or communal land

Legal Framework for Land Reform

Soon after independence in 1990, a number of legislative documents were adopted to facilitate the process of land reform. These include: National Land Policy, Agricultural (Commercial) Land Reform Act, 1995 (Act #6 of 1995), National Land-Use Policy, Land Tax Regulations, Resettlement Policy, Communal Land Act, etc.

The Purpose of the Agricultural Land Reform Act was to provide for the acquisition of agricultural land by the State for the purposes of land reform and for the allocation of such land to Namibian citizens who do not own or otherwise have the use of any or of adequate agricultural land.

The Act provides for the establishment of the Land Reform Advisory Commission (LRAC), which advises the Minister on matters pertaining to land and a Land Tribunal that intervenes when there is no price agreement between the farm owner and the buyer.

The Act gives preferent right to the government to purchase agricultural land. It should be mentioned that government has adopted a policy of willing seller willing buyer.

Process of Land Acquisition

- Offer of sale comes to the Ministry (preferent right)
- Assessment by Land Use Planners
- Accept or Reject
- Valuation by Valuer General
- Price Negotiation with Farmer
- LRAC
- Purchase
- Allotment Plans by Land Use Planners
- Subdivision Surveys
- Lease Agreement_Registration –Deeds Office
- Etc.

The Role of the Surveyor in Land Reform

The Directorate of Survey and Mapping (DSM) is playing a significant role in the process of land reform by providing a geo-spatial database of all farms including an attribute database that is linked into a Cadastral Information System.

The DSM has also established a zero-order National Reference Geodetic Framework that is connected to the ITRF system and is in the process of breaking this down to lower orders for ease of use by the cadastral surveyors.

In addition, the complete 1: 50000 topographic maps of the country are being digitized and updated.

Concluding Remarks

It has been established that about 9 million hectares of Agricultural land would be required for the land reform programme in the next ten years. So far, 110 farms have been bought amounting to 480 000 hectares.

The willing seller willing buyer strategy seems not to be working speedily enough to the satisfaction of the general populace. The government is therefore looking at other options including the development of communal land.