

PART II

GOVERNMENT OF THE REPUBLIC OF NAMIBIA

OFFICE OF THE PRIME MINISTER

WINDHOEK, 1991

---

Prepared by the Namibian Economic Policy Research Unit  
on behalf of  
the Office of the Prime Minister

the subsistence of some 120,000 families. Most of the population is concentrated in densely inhabited, heavily cultivated and grazed areas, where poverty is the norm. These populations are increasing at a rate of 3 to 4 per cent per annum (doubling in 20 to 25 years). Land pressure is already acute and is rising. Until the modern sector of the economy can provide most of the households presently using communal land with an income, it will be the primary means of people's survival. A major effort will be required to improve the productivity and the accessibility of the Communal Areas for small farmers. The enclosure of communal land for private purposes needs urgent attention.

#### *Evacuating the larger Communal Area farmers*

3. The view is widely held that, where there is very little usable land which is not already occupied, the farmers with large herds and flocks should be persuaded (or compelled) to move to commercial farms. The level of demand for freehold farms by large Communal Area stock owners will clearly depend on the credit terms available. At current rates (18%), demand is expected to remain negligible. If the Land Bank is able to provide low interest loans, demand would undoubtedly increase. The problem will be to target the larger farmers in the Communal Areas and minimise applications from businessmen and officials. It is reasonable to expect a marked reluctance on the part of the larger stock owners to move their herds entirely from the Communal Areas while they enjoy free grazing, water, drought relief and various services, without having to pay income tax.

4. A programme of assistance for Communal Area farmers to buy commercial farms would reach only a fairly small number. It would provide only temporary and partial relief to the crowded Communal Areas, where the environmental benefits of the programme would be difficult to detect. Nonetheless, their acquisition of commercial farms should be encouraged rather than allow them to enclose communal land.

with aspirations for farms of their own. They are not supported by the majority of poor farmers.

6. The economic viability of the "commercial farms", even with above average levels of management, is doubtful. Their condition indicates that standards of management are generally not high and not very different from those prevailing outside the fence on communal land. More information is needed on their performance and whether this method of using communal land is meeting the objectives of the immediate beneficiaries and those of the community at large. It is not clear that money invested in these farms is being used in the public interest.

#### *Fencing in Communal Areas*

7. Individuals have for some years been camping off tracts of land, ranging from a few hundred to several thousand hectares, for their exclusive use. The administration has no effective control on self-allocation of land by people with the means to fence it. The small farmers, who do not have the means are generally powerless to prevent others from doing so, even when they are directly affected. The process of spontaneous fencing of Communal Areas is regarded by some as progress towards commercialisation. However, several important questions need to be answered regarding the legality, control and administration of the process of land enclosure.

#### *Economic Units*

8. Namaland and Damaraland were virtually doubled in size after the Odendaal Commission in 1964 by the addition of commercial farms. These were settled initially with one and later several families on each borehole. Living conditions deteriorated with the condition of the veld. Management of livestock and of grazing has become increasingly difficult and many officials and local farmers have virtually abandoned hope of bringing about any improvements in farming and living standards in these areas.

reason it is unlikely to be feasible.

10. From time to time, there have been proposals to introduce a system of cooperative land ownership in Communal Areas, but they have rarely passed beyond theories. One important exception is the Nyae Nyae Farmers Cooperative (see Working Paper No. 1, Land issues in Nyae Nyae; a Communal Areas example). These would be economic units large enough to accommodate whole rural communities, whose members would have joint rights to the land in the form of undivided shares. The "economic units" proposed in this latter context are specifically intended for the benefit of all Communal Area dwellers.

#### *Alternative approaches to Communal Area development*

11. There are two possibilities for Communal Area development: a) to intensify efforts to improve the socio-economic and agricultural conditions of rural households and communities on the land they now occupy; and b) to make land and water available in areas not previously accessible. Neither idea is new. What is needed is a different approach to planning and implementation.

12. Development plans were produced for most of the Communal Areas during the colonial period, but little attention was given to the institutional means of carrying them through. A "top down" approach has been inherited by the new administration, which has yet to develop the organizational capacity to reach down to local level. If there is one recipe for success, it is to involve the local people in the planning and the implementation of the actions necessary to satisfy their needs.

#### *Development of the unutilized parts of the Communal Areas*

13. Rather than allocating large areas of under-utilized communal land to individual large farmers, there is a case to be made for opening such areas to communities of small farmers from overcrowded land in the same district. Ovamboland and Kavango,

some areas there is no room for commercial holdings and the only way is to help those who want to farm commercially to move. In other areas, where there are large tracts of land which are lightly used, it may be possible to establish commercial blocks for temporary occupation by larger farmers moving towards full commercial production. This would avoid permanently alienating communal land.

#### *Resettlement in the commercial farming area*

15. The technical and socio-economic problems of settling poor families, landless people, farm labourers, returnees and prosperous Communal Area livestock owners on commercial farms are different in each case. Each requires a different type of assistance and support; different farming systems will be appropriate in each case; some may be financially viable, others not, though they may be socially and/or politically desirable.

16. The settlement, as farmers, of peasants from overcrowded Communal Areas, on previously commercial ranches, raises a number of practical issues. The most densely settled Communal Areas (Owamboland, Kavango and Eastern Caprivi) lie to the north, in regions of higher rainfall. The farmers are mainly engaged in mixed livestock and arable farming. Resettlement is unlikely to have any significant impact on land pressure in these areas. Namibia has very limited areas of commercial land which are suitable for mixed farming. Most of this land is already within the northern Communal Areas.

#### *Pastoralists*

17. Most of the Communal Areas to the east, south and west are suitable only for raising livestock. These areas are also heavily over-populated in relation to the carrying capacity of the natural resources and space will have to be found on the commercial farms. In the light of experience with pastoral settlement schemes elsewhere in Africa, and even in Namibia itself, the options are limited:

a communal system of grazing. This is not necessarily a bad thing in itself, but on a confined space, such as a ranch, it tends to be more environmentally damaging than in most Communal Areas. Communal grazing systems have many virtues, which are often ignored, but the more they are confined in space the more destructive they become. Efforts to improve communal grazing systems by camping communal land, or by transferring herds from communal land to camps on commercial farms, have the almost inevitable result of accelerating the rate of environmental degradation, even if stock numbers are not increased.

### *Resettlement*

19. The history of agricultural settlement schemes in Africa provides ample warning of the risks for the settlers, for the agencies responsible and for the environments in which settlement takes place. These failures are usually attended by very high costs, by severe depletion of natural resources and by political disaffection of the settlers. The pitfalls do not, of course, constitute a general condemnation of the process. They should be read as a caution against over-optimistic assumptions concerning the costs and benefits of moving people to new places.

few with too much of it to the landless majority". While this will be a focus of political attention, it should not obscure the need to develop the Communal Areas for the long-term benefit of the entire community; not just for the short-term benefit of a minority.

1.3 The land reform debate will be conducted on at least three levels:

- (a) The restitution of historic land rights.
- (b) Production versus equity: where should the balance lie between maximising production from the land, and facilitating access to it by peasant families?
- (c) How could communal and acquired commercial land be used by small farmers and stock keepers, while maintaining its productivity?

The first level is a predominantly political concern, and as such it is not addressed here. The second also has a political dimension, but has many important socio-economic, environmental and institutional aspects which, together with the third level, form the subject of this and other papers in this series.

## **A. THE COMMUNAL AREAS**

### **2. Current Ideas on the Communal Areas**

2.1 Official thinking on the development of the Communal Areas has for many years been characterised by a particular approach to land use, derived from the commercial farming sector. Agricultural progress, as envisaged by many officials and some of the larger farmers, has been confined to the idea of transforming traditional stock keepers into commercial farmers and replacing customary forms of land tenure with freehold or leasehold title.

years, the Land Bank has assisted some 40 Communal Area farmers to buy properties. These farmers were not compelled to leave the Communal Areas, either by the authorities or, as far as is known, by public pressure, but went of their own accord. With few exceptions, they have made a satisfactory transition to commercial farming. An important factor in their success has been the practical assistance and help they have had from established neighbours<sup>1</sup>. Other factors were: careful selection procedures, fairly stringent borrowing conditions and intensive supervision of the new enterprises, especially in the early years. The Land Bank is currently considering a method of providing low interest loans to bona-fide farmers from Communal Areas wanting to buy a farm.

2.4 The former second tier authorities also helped aspiring commercial farmers with loans, although with less supervision and on less favourable terms than those offered by the Land Bank. It is reported, for example, that some farmers from Damaraland were settled in Outjo, but that, due to difficulties with loan repayments, they were obliged to rent out grazing to their neighbours who severely overstocked it, having no interest in its future productivity.

2.5 The level of demand for freehold farms by Communal Area stock owners will clearly depend on the financial terms available. At current rates (18%), demand is expected to remain low. On the other hand, if the Land Bank is able to provide loans at 4% (with capitalization of the initial two years' interest payments), demand for loans would undoubtedly soar. The problem will be to target the larger bona fide farmers in the Communal Areas. It could be expected that, with such cheap credit, many applications would come from businessmen and officials interested in acquiring land.



a major issue in Botswana and Zimbabwe.

2.7 It is doubtful if the range and the smaller herd owners would significantly benefit from the removal of the larger herds. In Namaland, for example, officials and headmen estimated that no more than about ten out of 1300 to 1400 farmers would have enough stock to warrant their moving to a commercial farm. Although their departure from the commonage would create some relief, it would be short-lived, as small-stock have the capacity to increase rapidly to take up any surplus capacity in the forage supply.

2.8 The experience in Botswana, where the same argument was used to justify the creation of commercial ranches for the larger Communal Area farmers, was that the space created by their departure was filled within a few years by the expansion of the herds left behind. Research workers could detect no measurable improvements in the communal grazing, or in the economic position of small farmers, after the larger herds had moved out.<sup>2</sup>

2.9 It has been suggested in some Communal Areas that the local authorities should take charge of the grazing areas vacated by those moving to commercial farms with the purpose of rehabilitating the veld. If this were attempted on a significant scale, it would encounter serious problems. An unusually high degree of public commitment is needed if degraded veld is to be restored. There are no indications that this would be forthcoming. Without draconian powers, the authorities would therefore be unable to exert the necessary degree of control.

2.10 In conclusion, it can be said that facilitating the acquisition of commercial farms by the larger Communal Area stock owners is expected to be a relatively straightforward process, which, in any case began many years ago and has a fairly good

be difficult to detect. Nonetheless, there is an interest in commercial farming among communal area stock owners. This should be encouraged rather by facilitating their acquisition of commercial farms than by alienating communal land. It therefore warrants positive action by government and financing institutions.

#### *Establishment of Commercial Farms on Communal Areas*

2.12 In Owamboland, Kavango and Hereroland there are large tracts of undeveloped land. Boreholes and water pipelines have recently enabled the authorities to open up some of these areas, where land has been leased to stock owners with an interest in commercial farming.

2.13 Some of the more enthusiastic exponents of this approach foresee that eventually the entire area of communal land will be converted to privately held holdings. This process could be linked to the translocation of the Red Line. As fenced farms are developed along the cordon fence and as their management standards improve to meet veterinary requirements for disease control, these farms would be incorporated into the disease free zone. This has already taken place on a limited scale in the Mangetti area of southern Owamboland and Kavango.

2.14 As this process moved northwards and eastwards, it would gradually absorb communal land and traditional land holdings, giving way to modern individually held farms. It is anticipated, in this scenario, that the Communal Areas would diminish in size and eventually disappear. Thus, all farming in Namibia would ultimately be "commercial".

2.15 This formula for the development of the Communal Areas is based on the assumption that "traditional" agriculture and forms of land tenure are inimical to progress and that improvements in husbandry and land management can only be achieved on fenced

and needs careful investigation before public funds are invested in them.

2.17 The condition of the range on some existing farms of this kind in Owamboland and Hereroland indicates that standards of management are generally not high and not very different from those on the Communal Areas which have not been developed in this way. Some of the ranches established in Hereroland West have been divided into several farms, with a group of families living in each camp with their livestock. The farms are said to be overstocked by a factor of two; many of the fences are down; some have been removed and the materials sold.

2.18 In Botswana, many of the farms established on communal land are used as grazing reserves for the exclusive use of the owner. During the rains he grazes his cattle on the communal land while his own farm rests. When grass becomes scarce on the communal range, he moves his stock back on to his own farm. This is an eminently rational grazing strategy, and conserves the grazing on the farm, but it is hardly in the best interests of those who depend on the communal grazing year-round. This system of "dual grazing rights", as it is known in Botswana, is widely practised and it is believed to have contributed significantly to the enrichment of the larger stock owners at the expense of the poor.

2.19 The demarcation of large portions of certain Communal Areas for the exclusive use of a small number of wealthy stock owners and businessmen could pre-empt the future use of that land as a communal resource. In the longer term, this could be detrimental to the welfare of the population. Unless opportunities were to be created at a rate matching the natural population increase and the loss of livelihoods through displacement from the Communal Areas, there would be widespread unemployment and increased rural to urban drift.

- the extent to which farms have been developed, by whom and what infrastructure (e.g. fencing, water) is in place and being maintained;
- the condition of the veld, water sources, etc. in relation to stocking densities and management practices;
- the production record of the farms and their financial performance;
- other resources (e.g. game, wood) on the farm used by the "owner" and the community;
- the extent to which the benefits of the farm are distributed within the community;
- the social, economic and environmental effects on the Communal Area vacated following the removal of stock to the new farm;
- the potential for mixed game/cattle grazing systems and use of other natural veld resources .

2.22 This information should contribute towards an understanding of whether this method of using communal land is meeting the objectives of the immediate beneficiaries and those of the community at large. It should also show whether the public money invested in these farms is being used in the best public interest.

allocated. This applies especially to the remoter areas. In this way substantial areas of communal land are being alienated from the community.

2.25 This is an inevitable result of a system of land administration which has no effective control on self-allocation of land by people with the means to fence it. Once this process of enclosure has begun in an area, it tends to gain momentum. Those who have not yet fenced off a farm of their own, but who can afford to do so, cannot afford to delay. The small farmers, who do not have the means to take land in this way, are generally powerless to prevent others from doing so, even when they are directly affected. In one instance a community in Kavango discovered to its dismay that their ancestral village, fields and grazing land had become a private farm. In most areas, the traditional authorities do not have the power or the will to stop this process.

2.26 Some officials regard the process of spontaneous fencing of Communal Areas as evidence of progress towards commercialisation. The point is debateable. Clearly the land itself is being converted from a communally owned asset to the physical semblance of a commercial farm. Whether the use to which the land is put conforms to modern farming practice is less certain. Few such farms have internal fencing and multiple water supplies. Their uncertain legal status is a disincentive to investment or to the sacrifice of short-term gains for long-term stability.

2.27 Several important questions need to be answered:

- a) Should those farms already in existence be legally recognised in some way and title granted?

2.28 There seems little option but to accept that self-allocated farms are an established fact and that legally recognised rights in them are a precondition to their development as economically and agriculturally viable operations. It is likely, however, that many of these farms are no longer, and perhaps never were, viable as farming enterprises. Some, like the leasehold farms (paras. 2.17-2.18) appear to be used as grazing reserves in conjunction with the adjacent communal land. These factors need to be investigated, along the same lines as those suggested in paragraph 2.21, before a decision can be reached on which farms to register and which to recommend for reincorporation into the Communal Area or for amalgamation into larger holdings.

#### *Economic Units*

2.29 Namaland and Damaraland were virtually doubled in size after the Odendaal Commission in 1964 by the addition of blocks of commercial farms. These were settled initially with one and later several families and their livestock on each borehole. The camps of the original farms became farms in themselves before the fences fell down. Some were occupied by up to 20 families. Living conditions deteriorated with the condition of the veld. Management of livestock and of grazing became increasingly difficult and many officials and local farmers virtually abandoned hope of bringing about any improvements in the farming and living standards in these areas.

2.30 The only idea for the revival of these Communal Areas to have gained currency is that of conversion to "economic units". These are conceived as fenced holdings, large enough to support a modest but viable farming enterprise. They are a scaled-down version of a commercial farm. The size of the proposed units varies according to the carrying capacity of each area and according to the assessments made from time to time of the minimum income acceptable to farmers in that area. In some Communal Areas, the economic units were envisaged for the larger

commercialisation of the Communal Areas (paras. 2.12-2.22). It is, however, more comprehensive in that the economic units are intended largely for the more numerous class of middle-sized Communal Area farmers, in order to bring about a more rapid and sweeping change in land use. The underlying rationale is that communal land tenure and the land use systems that go with it are obsolete and impervious to change. The only way to reverse the rapid degradation, believed to be caused by traditional forms of land use, is to transform the system into a facsimile of the commercial farming system.

2.33 The main objective of the economic units is conservation; saving the Communal Areas from the people and their profligate livestock. It is not a welfare programme. In Namaland, for example, it has been estimated that 270 units could be accommodated. The area now barely sustains 1300 to 1400 families, most of them living in chronic poverty.

2.34 The economic units address specifically technical, not social or broader economic issues. For this reason they are unlikely to be feasible.

#### *Cooperative land ownership*

2.35 There have also been proposals to introduce a system of cooperative land ownership in Communal Areas. These would be economic units large enough to accommodate whole rural communities, whose members would have joint rights to the land in the form of undivided shares.

2.36 A similar proposal was made for the Communal Areas in Zimbabwe in 1981, but was not implemented. It nevertheless generated considerable interest as a means of providing ordinary Communal Area residents with a proprietary interest in the land. With shares in the land, a specified number of grazing rights were to be allocated which would allow each cooperative member to graze a specified number of animals on the communal veld.

1 1 1  
but would not exclude those who moved too slowly in this direction.

### 3. Observations on Commercialisation

3.1 The conversion of communal land into commercial farms has a number of important implications:

- The Communal Areas are believed to provide a home and a contribution towards the subsistence of some 120 000 families; the commercial areas are occupied by 4 000 to 5 000 families and 33 000 employees and their dependents.
- Most of the Communal Area populations are concentrated in densely inhabited, heavily cultivated and grazed areas, where poverty is the norm. These populations are increasing at a rate of 3 to 4 per cent per annum (doubling in 20 to 25 years). Land pressure is already acute and is rising.
- As communal land passes into private hands the pressure on the remaining land increases.

3.2 Three possible responses to these pressures are:

- (a) Increase production from those parts of the communal land which are most heavily used. Several government and NGO research institutions (e.g. in Owamboland, The Rossing Foundation's centre at Okashana, the government research station at Mahanenene) are trying to develop improved crop varieties and cultural methods. The Directorate of Veterinary Services is working to reduce the incidence of animal disease and parasitic infestations, apparently with some success, especially in Eastern Caprivi. There are, however, severe limitations to this kind of work when the condition of the soil and the grazing is as poor as it is in many Communal Areas.



- (c) Ensure that communal land remains accessible to small farmers and is developed for communal, not private, use. This approach raises the controversial issue of whether the Communal Areas should be developed primarily for the purpose of production rather than of welfare. The official view has long been that production and conservation values are paramount and that the subsistence requirements of individual households are secondary. The 1985 Development Plan for Owambo<sup>4</sup>, for example, envisages about half the district eventually being developed for various types of commercial livestock production. The other, most densely settled, part is reserved for subsistence agriculture. The implicit assumption of this plan is that in the latter area palliative measures and some improvement in social services are possible, but that agricultural and economic development is conceivable only in the area designated for commercial production. An alternative view is that the Communal Areas are now, and are likely to remain for many years, a resource of inestimable value to a great many rural families, as well as to those who lose their foothold in the urban economy and need a place to return, where they can at least survive in familiar surroundings.

3.3 The uses to which subsistence farmers put their livestock and their land resources are significantly different to those of commercial farmers. To regard the farming systems of the Communal Areas as undeveloped or distorted versions of commercial farming systems is to misunderstand their objectives and functions. Traditional farming systems are geared largely towards self-sufficiency, a strategy which makes a great deal of sense when cash income is scarce and unreliable and markets for agricultural produce inaccessible. If these systems are judged by the standards of commercial farming they appear deficient, but

required to improve the productivity and the accessibility of the present Communal Areas for the benefit of small farmers. In particular, the appropriation of communal land for private purposes needs urgent attention.

#### 4. ~~Alternative Approaches to Development~~

4.1 There are two broad approaches to Communal Area development:

- to intensify efforts to improve the socio-economic and agricultural conditions of rural households and communities on the land they now occupy;
- and to make land and water available in areas not previously accessible to households in the Communal Areas.

4.2 Throughout the colonial period there was a conspicuous neglect of the first approach, although large sums of money were spent in various unproductive ways in the Communal Areas. The attention of many officials and larger Communal Area farmers is now focussed on the second approach - that of acquiring or opening up more land.

4.3 The current preoccupation with land acquisition takes three main directions:

- (a) encouraging and assisting stock owners with commercial inclinations to buy farms;
- (b) enabling the larger stock owners to fence off commercial farms in the Communal Areas; and
- (c) acquiring commercial farms for the resettlement of poor or landless rural households and returnees.

given to the institutional aspects of development.

4.6 Development planning for Communal Areas can be initiated and carried through only at the local level. The primary requirement is for the institutional means of locally generating a plan and carrying it through. This is not merely an ideological viewpoint, but a basic precondition for plans which are socially, economically, and environmentally viable. There are innumerable blueprints for Communal Area development which meet the theoretical requirements of veld conservation, for example, but which are not feasible because there is no institution capable of implementing them in the face of public indifference or resistance.

4.7 There is no simple formula for generating effective rural institutions. However, if government acknowledges their importance and devotes resources to help them evolve and if approved NGOs are enlisted to help, institutions appropriate to the needs and capabilities of each locality will gradually appear. They may be newly created bodies, such as cooperatives or farmers' associations, or adaptations of existing ones, like traditional councils.

4.8 The most effective stimulus to agricultural development is improved access to markets for produce. Most farmers are reluctant to invest in an enterprise which does not yield cash returns. Attention to economic incentives to Communal Area agriculture is essential. This is not to recommend the wholesale commercialisation of agriculture in the Communal Areas, but to acknowledge that access to markets is one important factor, among others, for opening the way to improving the production and income of small farmers.

4.10 Rather than alienating large areas of common land to individual large farmers, therefore, there is a case to be made for opening such areas to communities of small farmers from overcrowded land in the same district.

4.11 The two most populous districts of Namibia, Owamboland and Kavango, contain between them more than half of the country's population. Both districts have large tracts of lightly settled land. If Government is to develop these areas by making water available, it has the opportunity to introduce certain new measures for regulating the use of natural resources, in addition to any traditional procedures which may still be in effect.

4.12 These cannot be examined here in any detail, but they include a number of practical planning principles.

- a) Prior to settlement, environmental assessment of land resources and possible alternative land uses.
- b) The careful spacing of boreholes to allow the livestock at each a sufficient grazing area without overlapping too greatly on adjacent borehole grazing areas: In Botswana, for example, this distance is 8 km, throughout the country. A country-wide formula has the advantage of being easily understood by local officials everywhere, and it does not discriminate against those areas where carrying capacity is low. On the other hand it ignores the wide range of veld types and conditions. Whatever its shortcomings it is far better than no rule at all for borehole spacing.
- c) The regulation of maximum water yields from boreholes in order to limit the number of animals that can be watered, and therefore graze there: The need for regulation arises when a borehole yields water in quantities which will support a larger number of livestock than the grazing

could allow excessive concentrations of livestock, can be connected to a reticulation system to distribute the water and the grazing pressure over a much wider area.<sup>5</sup>

- d) **Substitute tractors for oxen:** Where it is possible to find sufficient arable land in one locality to warrant tractor hire, it might be possible to introduce tractors for the initial cultivation. This would be more feasible the closer the arable area was to a source of tractors, such as commercial farms. Tractor hire services are likely to be viable only where substantial areas are to be ploughed at once. The advantages of tractor ploughing are especially great to families without draft animals; it also reduces the need to retain large numbers of oxen for ploughing, and thus enables stock owners to increase the marketed offtake from their herds; this, in turn, reduces grazing pressure.
- e) **Involving the local people in the planning and the implementation; incentives to new settlers to practice appropriate types of land use:** Most of these, and other measures for the promotion of sustainable production on newly occupied land, can be implemented only with the full cooperation of local institutions. They are a necessary, but not sufficient, condition for the development of sustainable systems of land use.

4.13 The growing interest among communal area farmers in commercial farming is a natural trend. It needs to be encouraged and directed into ways which are beneficial to the emerging commercial farmers and which are not detrimental to the smaller farmers on the Communal Areas, nor to the land.

would require the holder to develop the farm with boreholes, fences, etc., to a certain standard and within a specified period. The lease would contain good husbandry clauses, with the threat of termination if the land is mismanaged. The land authority would reclaim the land and purchase the improvements at discounted cost when the lease expires. If the land were not needed for communal occupation at the expiry of the lease, it could be renewed.

4.16 This would provide a half-way stage for Communal Area farmers moving towards full commercial operation, but who lack the means to buy a farm of their own. It would give them the opportunity to build up their farm capital to the point where they could afford their own farms on the commercial block when the lease expires. It would, however, avoid permanently alienating communal land, while making it available to the more ambitious farmers until such time as it is needed for communal use. A necessary condition for this approach to work is that the land be handed back to the land authority with the veld in good condition and with some useful farm infrastructure, especially water supplies.

4.17 Enforcement of the terms of such a lease is far from simple. It is one thing to write conditions of use into a legal agreement, and quite another to ensure that they are implemented. There is a real risk with this approach that leaseholders would not develop their farms as required, would overstock them, would continue to exercise 'dual grazing rights', etc. The difficulties of enforcement are usually magnified by the status of leasehold farmers: they are frequently both wealthy, influential and well capable of defending themselves against officials trying to enforce agreements. A further problem is that actions such as 'misuse of the veld' are extremely difficult to define in objective terms, and are therefore in practice often impossible to stop through legal intervention.

different farming systems will be appropriate in each case; some may be financially viable, others not, though they may be socially and/or politically desirable.

### **Resettlement of Rural Households**

5.2 The settlement, as farmers, of peasants from overcrowded Communal Areas, on previously commercial ranches, raises a number of practical issues.

### *Land Settlement of Agro-pastoralists*

5.3 Relatively small parts of Namibia's commercial farming area (i.e. the Otavi, Grootfontein, Tsumeb triangle) are suited to arable agriculture and then only marginally so. The most densely settled Communal Areas (Owamboland, Kavango and Eastern Caprivi) lie to the north, in regions of higher rainfall. The farmers are mainly engaged in mixed livestock and arable farming. Were they to be resettled on commercial farms bought for that purpose, they would probably want to continue with this type of agriculture. The requirements for their successful resettlement would include:

- that the land allocated them was suitable for mixed agriculture;
- that the number of settlers and their livestock did not exceed the carrying capacity of the farm, and that effective measures were instituted to ensure that the populations, of both people and animals, remained in balance with the natural resources;
- that provision be made to help the settlers over the first season, with food to last until the first harvest, with seed and possibly with assistance in land clearing and first cultivation;

- that they have access to the usual social services and amenities, such as schools, clinics, public transport, etc.<sup>6</sup>

5.4 These requirements are similar to Zimbabwe's Model A settlement system. They are expensive and demanding of manpower with special skills, which are in very short supply since the previous government did not give high priority to supporting and servicing the small farmers in the Communal Areas and hence did not train the staff for this purpose.

5.5 Resettlement is unlikely to have any significant impact on the more densely populated Communal Areas. A recent report on Zimbabwe's massive resettlement programme indicates that its effects on relief of overcrowding would be overtaken within four years by population growth. Namibia has very limited areas of commercial land which are suitable for mixed farming and most of this land is already within the Communal Areas. The scope for the relief of overcrowding by resettlement is consequently even less than in Zimbabwe.

#### *Pastoralists*

5.6 Most of the Communal Areas are suitable only for raising livestock. These areas are also heavily over-populated in relation to the carrying capacity of the natural resources. In several of these districts, such as Damaraland, Hereroland and Namaland there are demands for the return of ancestral lands taken by the Whites. Under what agricultural production system could these prospective settlers be resettled on this land?

5.7 In the light of experience with pastoral settlement schemes elsewhere in Africa, and even in Namibia itself, the options are limited:



poorer stock owners, who feel acutely constrained in their access to grazing. They are often hemmed in by the boundaries of the Communal Area themselves, the proximity of their neighbours, the illegal fences of the opportunists and their grazing movements are restricted by lack of water. For the poor, there is no substitute, in their experience, for space to move in. The adoption of this solution would depend on the acquisition of a number of adjacent farms, adjoining the Communal Area.

(c) **Group Ranching:** This requires the establishment of a group of Communal Area stock owners on one or more ranches, which are then farmed as a single unit. Experience has shown that the main difficulty lies in getting the members of the group to make corporate management decisions and then to abide by them, or to delegate management to a single person. Group ranching has been tried in many African countries over several decades, and very few examples have survived.<sup>7</sup> There is a strong tendency for the members to retain as much control over their individual herds as possible, and this often results in the original ranch or ranches being divided up into as many farms as there are members or boreholes. This subdivision is invariably highly destructive to the soils and vegetation, boreholes break down and are not repaired, fences collapse or are not erected.

(d) **Cooperative ranching:** One of the more successful ventures into cooperative ranching is the Yatta B Cooperative ranch in Kenya. Cooperative members initially contributed cattle to the cooperative, but these were translated into shares and the separate herds were merged into a single management unit under the control of a paid manager. Members surrendered control over their own cattle once they had entered the ranch and received dividends from time to time in proportion to their share holdings. In

benefits they receive from their livestock will be in cash. If they can no longer plough with their cattle, or milk them, or use them to meet social obligations, many of the most important advantages of owning cattle in a rural community are lost. For these reasons, the cooperative ranch, as represented by Yatta B, is likely to have a limited appeal to Communal Area farmers. It could have a greater attraction for people with other sources of income, such as civil servants, who are interested in farming but cannot tend to their animals themselves.

- (e) **Sub-division of Purchased Farms into Family Units:** Most commercial ranches are made up of a number of camps, each with access to water. One approach to the settlement of such a ranch, which is current in the thinking of several government departments, would be to install one household, or herd management unit (e.g. a kraal), on each camp, where it would have exclusive grazing rights. Depending on the physical development of the ranch each camp would have its own borehole or would share one with a neighbouring camp. Responsibility for operating and maintaining these installations would be handed over gradually to the users. This concept has yet to be applied, but the following observations can be made in the light of experience with other attempts to apply it:

The costs of settlement are likely to be high and the returns low. The following calculation illustrates the point:

sufficient to cover operating and depreciation costs, including borehole, fencing, veterinary supplies, etc. If the land is to be leased from the State, if the farmer is to invest in its further development, build himself a house, and allow himself a modest personal income, the enterprise could hardly be viable.

Alternative assumptions could be made, but the basic conclusion would remain unchanged, namely that the cost of settling small-scale livestock farmers would be very high and the economic return almost certainly negative. The financial viability (from the farmer's point of view) would depend on government providing the land and services (borehole maintenance and fuel) free.

Clearly, the settlement of a significant number of households, even at a very modest level, would be extremely costly. To this would have to be added the cost of providing basic social services, such as schools and clinics.

In addition to the economic consequences of sub-division there are likely to be far-reaching environmental effects. Small herds, of 50 to 100 head of cattle, are difficult to manage as commercial units. Offtake is likely to be much lower, (less than half) than from a commercial herd. Initially, herd growth rates would be fast, assisted by good grazing relative to that on most Communal Areas and by low offtake. In the narrow confines of the camp, grazing pressure would be intense and continuous, to the detriment of the herbage and, in some areas, of the soils.

The one-camp-per-family, or one-borehole-per-family, settlement model was used initially in Damaraland and Namaland after the Odendaal Commission. It soon became necessary, on account of the large numbers of families applying for resettlement and the limited number of boreholes or camps, to settle several families in the same

the upland regime, it should be possible to learn from the dynamics of the economic and environmental processes which were then set in motion and to avoid replicating them.

These strictures on the sub-division of farms could be eased by the use of sophisticated veld management methods, which have been shown to increase the carrying capacity of the range by a significant factor. Experience with these methods has shown that farmers who are not used to rotational grazing and rigorous herd management find them difficult to adopt. If they are to be applied to the resettlement of Communal Area pastoralists an organised programme of assistance to the settlers would be needed. Commercial farmers who are themselves practising these methods on their farms could contribute to this programme, and appear to be willing to do so.

this approach are that it spreads the benefits of resettlement over a larger number of stock owners than would be the case if the purchased ranch were resettled in the normal way; it allows for the regeneration and redevelopment of the Communal Area itself; and it does not encourage the use of unsuitable land for cropping.

So far there is little experience to draw upon in evaluating this approach to resettlement, for only one pilot project has been attempted. Some of the difficulties experienced were:

- the cattle numbers in the Communal Area were greater than could be held on the purchased ranch without the danger of overstocking.

- no agreement could be reached with the stock owners on the maximum number of livestock the Communal Area and the farm could sustain. It is probable that access to improved grazing and water supplies would accelerate the increase in stock numbers, and that owners would still be unwilling to impose a limit on their herd sizes.

- some cattle owners were reluctant to leave the ranch and take their cattle back to the Communal Area, where the grazing was in worse condition than on the farm.

- the scheme only benefits households with cattle; those with no cattle therefore refuse to participate in the resettlement part of the programme.

Model D would work best when the purchased land is adjacent, or at least very close, to the Communal Area. The further away it is the more difficult would it become to operate this model.

5.8 Certain parallels can be drawn between the Zimbabwean Model D and the commercial ranches bought at various times by the second tier authorities in SWA/Namibia to ease the grazing shortage in times of drought. Communal area stock owners were allowed to take their animals to these ranches until the grazing on the home range had recovered. Some owners, however, refused to remove their stock from the ranches, and are believed to have settled there. Since these ranches are now grazed continuously, they are in poor condition and can no longer be used as a drought reserve. They have become, in effect, communal areas in miniature, detached from their parent districts.

5.9 These approaches to the resettlement of pastoralists have in common the tendency, once the intended management system begins to break down, that they revert to a communal system of grazing. This is not necessarily a bad thing in itself, but on a confined space, such as a ranch, it tends to be more environmentally damaging than in most Communal Areas, where there is at least some opportunity for the animals to avoid the most devastated and least productive areas.

5.10 It may be indicative of the difficulty of resettling pastoralists that ten years after the Zimbabwe resettlement programme began only a single example of Model D exists, and that clearly has a number of unresolved problems.

5.11 Communal grazing systems have many virtues, which are often ignored, but the more they are confined in space the more destructive they become. Efforts to improve communal grazing systems by camping communal areas, or by transferring herds from communal areas to camps on commercial farms, have the almost inevitable result of accelerating the rate of environmental degradation, even if stock numbers are not increased.

#### *Resettlement of Returnees*

5.12 There are some 40 000 returnees to Namibia, following independence. Many of these are young people who have spent much of their lives outside their country, and who have little direct experience of farming. To settle them on agricultural holdings is no simple task, for not only will farming

### *Resettlement of San*

5.14 According to the Ministry of Lands there are many thousands of landless and destitute San in urgent need of assistance, including resettlement. The San have lost most of their ancestral lands to commercial farms, Communal Area cattle posts, and game reserves. Many have become serfs or low paid servants of the cattle keepers who occupied their land; others have become dependent on the government. Resettlement of San has already begun at Bagani in Western Caprivi and in Western Bushmanland.

5.15 The problem for San throughout southern Africa has been the continuous erosion of their traditional land rights and their subsequent displacement and destitution. Their situation today is in many respects no better than it has been for the last century or more, and some ways it is worse, for they now have a small fraction of their original land left to them. Even this is subject to continual threats from cattle owners wanting more land for grazing.

5.16 So long as the dispossession and displacement of San continues and is not redressed, increasing numbers of San will be rendered destitute and costly resettlement programmes will continue to be necessary. This is a curious anomaly: that private and relatively wealthy cattle owners displace the San, and Government, with public funds is then obliged to acquire and develop more land in order to resettle them.

5.17 This paradoxical situation indicates the need for serious attention to land policy in the Communal Areas, most urgently in respect of the protection of communal rights to land by the poorer and weaker sections of the community.

inappropriateness of their particular farming experience to their new situation;

- the settlement in one place of households who have no previous kinship or community ties, or association with a single traditional authority;

- the settlement in one place of groups of people with age, sex or role distributions which differ substantially from the rural norm for that area. This creates difficulties in the evolution of autonomous, stable and self-regulating communities, and applies especially to settlements consisting largely, for example, of young or of old people;

- the magnitude of the difference between the settlers former lifestyle, social organisation and ways of making a living, and their new situation; the greater their need to adapt to fundamentally new ways, the higher chances of failure.

5.19 These failures are usually attended by very high costs for infrastructure and external management, by severe depletion of natural resources and by political disaffection of the settlers.

5.20 The pitfalls of resettlement mentioned above do not, of course, constitute a general condemnation of the process. They should be read as a caution against over optimistic assumptions concerning the costs and benefits of moving people to new places.



government programme usually expect a higher standard of services than most Communal Area residents.

7. See *Group Ranches in Africa* by Clare Oxby, Pastoral Network Paper 13d, Overseas Development Institute, London, 1982; *Botswana's First Livestock Development Project and Its Future Implications*, National Institute of Research, University College of Botswana, Gaborone, June 1982; *Management of Pastoral Development in the Third World*, by Stephen Sandford, Wiley, New York and ODI, London, 1983.

2. The increasing incidence of illegal enclosure and related land disputes have been ascribed to the recent break down of the traditional leadership. However, today's difficulties are, no doubt, a continuation of the struggle between chiefs, families, individuals and the state for control over land.

3. The position regarding the legal ownership of land in the Communal Area has changed repeatedly over the last century. Control over the land passed backwards and forwards between the colonial government and the Legislative Assembly in Windhoek. In 1964, the Odendaal recommendations to grant self-government to the "homelands" provided for the transfer of all land to the respective ethnic legislative assemblies "in trust for the population". It was not until 1980 that the *Representative Authorities Proclamation* ("AG8") enabled "second tier authorities" to become the trustees of land in the homelands, although ownership continued to rest with Central Government. With independence, the *Proclamation* was repealed and the powers to allocate, sell or lease communal land once again reverted to the Central Government.

4. Until independence, these constitutional and legal changes by the colonial regime did not materially affect the lives of ordinary people. With the exception of Rehoboth, land tenure has generally remained communal, that is "communal ownership with household user rights". All applications for land were customarily directed through chiefs and headman.

5. Two factors have led to the erosion of their customary authority in matters of land administration. First, as the population has increased, the scope for allocating and reallocating arable land has diminished, except in Ovambo, where land could not be automatically inherited. Secondly, with the dissolution of the ethnic authorities and the emergence of new

customary procedures are reduced.

7. In Rehoboth, where private ownership is the norm, a very different situation prevails. Here farm sizes have been steadily reduced due to the practice of sub-division on inheritance. Even since this was prohibited by law in 1981 informal sub-division has continued. Since independence, with the transfer of the powers of the Kaptein and the Raad to Central Government, there has been no effective authority to regulate these processes. In Damaraland and Namaland, there is a continuous flow of people asking the authorities to resettle them. In these districts there is no authority to regulate the pressure on the land.

*Policy framework for the administration of land resources*

8. In each area, the deficiencies in land administration and resource management are different, but in all cases there is an urgent need for solutions to be found. There can be no "national" solution to these diverse land questions. Each locality has its own unique set of inherited and current problems. Further, many of the solutions to these highly specific land issues can be generated only at the local level. On the other hand, local solutions have to be in accordance with a national policy on land use and rights of access to land and natural resources.

9. For communal management to succeed it must be provided with policy. Typically such a policy would consist of the following essential elements:

a) Devolution of decision making to community organizations is essential, if decisions over land allocation and use are to be respected. While outside regional and central authorities may well provide guidance and support, intervention should take place

authority and power to raise local revenues from users of communal resources. When local communities have responsibility for, and authority over, their natural resources, they will begin to develop the capacity to manage them.

e) **Traditional land managers:** From times long past these have had a customary role in land administration. In the rural areas today there are no other sources of authority over land. It is therefore essential that they continue to have a voice, though not an exclusive one, in the administration of land.

#### *Local Government and Land Boards*

10. In the Communal Areas, new local government institutions will have to be created. They should be based on residence, not on ethnicity, and be empowered to allocate communal land and water for farming, to manage and develop communal resources and protect the environment.

11. It is not yet clear what the lowest level of local government will be. In the meantime there is need for a local institution, which has the respect of the people and the support of government, to undertake the administration of land and natural resources. It should combine local knowledge and tradition with the principles and techniques of modern land use planning. Its decisions must respect the needs, aspirations and past land claims of the people it serves and they must have the legal authority to implement and enforce its decisions.

12. It is generally accepted that "land boards", along Botswana lines, would meet the above requirements. Although they feature in the organizational diagram of the Ministry of Lands, Resettlement and Rehabilitation, details of the powers, responsibilities and relationships of land boards have yet to be formulated.

Parastatals have greater flexibility than government departments in carrying out the often complex resettlement task.

c) Non-governmental organisations are often involved, as subcontractors to governmental or parastatal agencies, in implementing resettlement projects.

14. Depending on the responsibilities it is ultimately called upon to undertake, the resettlement agency might have to be both large and versatile. Some of its functions could be contracted out to other organisations, including NGOs. Moyo and Nyoni, in a paper on land reform experiences in Zimbabwe, prepared for the Conference, have set out a typology of roles under the heading of land reform administration (see Table 1).

Table 1 The scope of land reform administration  
Organisations                      Roles and responsibilities

A. Government

- |                        |   |
|------------------------|---|
| 1. Finance             | budgeting   |
| 2. Economic Planning   | macro-economic targets  |
| 3. Agriculture         | technical/physical planning, extension, marketing, credit, etc. |
| 4. Local Government    | local area administration, land allocation, local planning      |
| 5. Social Services     | health, education, water, housing                               |
| 6. Lands               | land registration, survey, etc                                  |
| 7. Social Mobilization | groups, community and coops                                     |
| 8. Others              | information, research, etc.                                     |

B. NGOs

Various support services                      finance, training, community development, specialist services

C. Research Institutions

monitoring, data processing, evaluation and policy evolution

D. Farmers' Organisations

problem articulation and lobbying

(technical/physical planning, budgeting, land allocation, civil works, water supply, agriculture, education, health, etc). The necessity to coordinate the work of many diverse organisations for the implementation of a specific programme creates difficulties for a normal government department, which is more accustomed to the maintenance of routine work programmes. Depending on the scale of resettlement, a specialised settlement agency may be required.

1.3 Namibia's neighbours, particularly Zimbabwe and Botswana, have been through these processes. Fortunately the lessons of success and failure in these countries have been well documented, and the results are therefore available for others to learn from.

#### *Land and Resource Administration in the Communal Areas<sup>2</sup>*

1.4 The increasing incidence of illegal enclosure and related land disputes now being encountered in the Communal Areas have been ascribed to the break down of the traditional leadership following independence. However, recent studies in Namibia<sup>3</sup> and elsewhere in Southern Africa<sup>4</sup> have pointed out that popularly held views on the egalitarian nature of communal land tenure are far from the reality. What was presented by the colonial administration as "communal tenure" or "traditional tenure" was largely a colonial construct, part of an effort to build an effective basis for indirect rule and control land resources through the chiefs. The model of chiefs, impartially administering ancestral lands for the long-term benefit of their people, does not stand up to examination of actual patterns of land access. Today's difficulties with self-allocation are, no doubt, a continuation of the struggle between chiefs, families, individuals and the state for control over land.

Proclamation ("AG8") enabled ethnic "second tier authorities" to become the trustees of land in the homelands, although ownership continued to rest with Central Government. They were able to allocate, sell or lease communal land under their authority and give out concessions (e.g. tourism), subject to an endorsement by the Cabinet that the land in question was not required for public or official purposes.<sup>5</sup> Under AG8, all rights to live and farm in the Communal Areas, or "homelands", were issued by the administration in the form of identity cards that assigned specific ethnic classifications. People with the proper classification could live in their "homeland". The ethnic Second Tier Authorities were given the power to sell or subdivide communal lands for private use. Some ethnic officials and their families were enriched in the process. Many Namibians were dispossessed.

1.7 On several occasions in the 1980s, Namibian courts were able to assert the right of people with appropriate classifications to live and farm in their "homelands". The courts held that the Second Tier Authorities could not summarily revoke people's land rights for political reasons or private gain.

1.8 With independence, the Representative Authorities Proclamation was repealed and the powers to allocate, sell or lease communal land once again reverted to the Central Government. Under the Namibian Constitution, the courts would have difficulty defending a person's right of residence in a Communal Area, or preventing communal land from being expropriated by the Central Government.

1.9 Until independence, these constitutional and legal changes by the colonial regime did not materially affect land tenure in the Communal Areas, where, with the exception of Rehoboth, land tenure has generally remained communal. In the northern Communal

except in Ovambo, where land could not be automatically inherited. Community control over access to farm land, relatively loose when a resource is plentiful, tends to tighten as the resource becomes scarce, then falls away (or is transformed into a dispute settlement role) once there is no more arable land remaining to be allocated.

1.11 Secondly, with the dissolution of the Second Tier Authorities and the emergence of new political alignments, the traditional leaders have, in many cases, been left powerless. In some areas the traditional leadership has not been corrupted by colonial rule (e.g. the Kaokoveld and Caprivi). Their leadership role is one of coordination rather than decision-making. Leaders call meetings and listen to what people have to say about land rights. However, these seem to be the exception.

1.12 The new post-independence district authorities, which are in any case provisionally constituted, have not been able to take over the customary land administration functions. They neither have the staff, the local knowledge<sup>6</sup> nor the legal mandate to deal with land disputes and land allotment, nor to monitor land use. In Ovambo for example, there is increasingly widespread self-allocation of arable and grazing land. This takes several forms. Wealthy and influential people are "camping" large areas of grazing land without the authorisation either of the administration or of the traditional leaders. Returning soldiers and exiles by-pass the chiefs and allocate themselves holdings of land without paying the customary fee to the traditional leader, claiming that they fought for the land and it is now theirs. Others who already have land, allocated to them in the traditional manner, unilaterally extend their boundaries.



has been no effective authority to regulate these processes.

1.15 In the Communal Areas of the Damara and Nama, there is a continuous flow of people from the commercial farms asking the authorities to resettle them. Although most of the water points in these districts are heavily overcrowded and the veld in the vicinity is degraded, the district authorities feel they cannot turn away these applicants. Thus, overcrowding and overgrazing are perpetuated and magnified. In these districts there is no authority competent or empowered either to regulate the pressure on the land, or to institute the processes to ameliorate it.

1.16 These problems of the management of resources in the Communal Areas extend beyond land and grazing resources to include other natural resources: wildlife, firewood, fencing and building poles, material for basket work, veld foods, etc.

*Policy framework for the administration of land resources*

1.17 In each Communal Area the institutional deficiencies in land administration and resource management are different, but in all cases there is an urgent need for solutions to be found. There can be no "national" solution to these diverse land questions. Each locality has its own unique set of inherited and current problems. Further, many of the solutions to these highly specific land issues can be generated only at the local level. On the other hand, local solutions have to be in accordance with a national policy on land use and rights of access to land and natural resources.

1.18 For communal management to succeed it must be provided with policy support appropriate to the task at hand.<sup>7</sup> Typically such a policy would consist of the following essential elements:

commissions where necessary, -  
establish such security in most communal areas.<sup>8</sup>

- (c) **Land use planning:** While most communities have intuitive concepts of land use planning, they generally require assistance in formalising, rationalising and strengthening their planning functions for improved communal land management.<sup>9</sup>
- (d) **Local revenue raising:** Communities should be given the authority and power to raise local revenues (e.g. from grazing fees, tourism fees, tourism, trophy hunting and licence fees) from users of communal resources. When local communities have responsibility for, and authority over their natural resources, they will begin to understand the limits of those resources and develop the capacity to manage them in sound equitable and management terms.
- (e) **Traditional land managers:**<sup>10</sup> From times long past these have had a customary role in land administration. There are in the rural areas today no other sources of authority over land. It is therefore essential that they continue to have a voice, though not an exclusive voice, in the allocation and administration of land.<sup>11</sup>

2.2 It is not yet clear what the lowest level of local government will be. Several years may elapse before it becomes clear. In the meantime there is need for a local institution, which has the respect of the people and the support of government, to undertake the administration of land and natural resources. It should combine local knowledge and tradition with the principles and techniques of modern land use planning. Its decisions must respect the needs, aspirations and past land claims of the people it serves and they must have the legal authority to implement and enforce its decisions. Initially, the simplest solution may be to base the institution on the existing tribal administration, as has been done in Kavango with the "land allocation advisory committees", and to reinforce the tribal authorities with both elected and professional appointees.<sup>13</sup>

2.3 It is generally accepted that "land boards", along Botswana lines, would meet the above requirements. Although they feature in the organizational diagram of the Ministry of Lands, Resettlement and Rehabilitation, details of the powers, responsibilities and relationships of land boards have yet to be formulated. This briefing paper sets out the general requirements for land boards in Namibia drawing on experience from Botswana (see Appendix 1).

2.4 It is important though that the Botswana experience with land boards should be very carefully considered for every element that Namibia wants to adopt. Not all Botswana's experiences are positive. There are problems with overgrazing, enforcement of land management regulations, equitable access to land (e.g. the desperate plight of the Bushman communities) and the politization of land boards. In Namibia, there is a far greater diversity of land tenure systems and these have to be taken into account when moulding Botswana's experience to fit Namibian conditions.

For example, a majority of residents might feel that absentee "cattle barons" living in Windhoek should not be able to run vast herds on communal land, treating the water and resources like a cost free private farm and exhausting the grazing, simply because they are members of an ethnic group. A local government/land board might require all cattle to be branded and registered and limit the number of cattle an individual can graze. Such rules could impel owners of large herds to acquire commercial farms in the freehold areas.

2.7 Under a land board system based on residence, many Bushmen who live in Communal Areas where they have no right to reside, plough or keep animals, would have the same rights to farm and support themselves as other residents. All the residents, whatever their ethnicity, who most depend on the grazing and water should be able to control the exploitation of their communal resources through their elected representatives.

2.8 The land board should be given legal recognition as custodian of the land and natural resources (excluding minerals) within its area of jurisdiction. It should therefore have the statutory authority to allocate land and regulate access to natural resources, such as ground water, trees, game, etc., together with the responsibility to ensure that these communal assets are used for the public benefit and are not misappropriated or misused for private gain.

2.9 There are certain types of land which must be set aside in the national interest. Examples are national roads, airports, national parks, large dams, etc. It is therefore necessary that decisions taken by the local land boards comply also with the provisions of the Constitution and national priorities. The same applies to decisions regarding the use of important rivers and aquifers.

relating to the possibility of opening up little used areas to settlement may involve some or all of these ministries or departments. The panel would meet regularly to discuss land-related issues and requests from the Land Board for technical advice and would report directly to it.

2.12 The responsible Ministry could usefully appoint in each district a fully trained and experienced Land Use Planning Officer, to serve as chairman of the technical panel. If the example of Botswana were followed, it is likely that these specialist officers would initially have to be recruited internationally.

2.13 One of the responsibilities of the Land Use Planning Officer would be to draw up a district land use plan. This would be done in collaboration with the land board and the various government ministries concerned. Drawing up a district land use plan is an iterative process; it has to be developed and refined continuously. It would serve as both a reflection of and a guide to the land requirements and development programmes of the district and of the nation insofar as its plans involve the land in that district.

### **3. Actions Which Could Be Taken**

3.1 As the pressures on land increase, disputes over land become more frequent, and generally more acrimonious. There is also an increasing tendency for the wealthier and more influential land holders to expand their holdings at the expense of the poorer and weaker farmers. If these processes were allowed to continue unchecked, economic and social divisions within rural society would widen and increasing numbers of impoverished rural people would be forced into the towns in search of work. It would,

### *Ajudication, Demarcation and Registration*

3.3 The priority in many of the Communal Areas would be to control the unauthorised appropriation of land. To achieve control, legislation could be enacted requiring the adjudication of all land claims by the land board responsible for the communal land in question and as a condition for the granting of leasehold titles. A set of criteria for the validation of claims to land and water resources could be drawn up by a body specially appointed by the Ministries of Lands, Resettlement and Rehabilitation and the Ministry of Local Government and Housing. The criteria might vary from one district to another, depending on the land allocation procedures and traditions in each (see para 3.6).

3.4 The process of adjudication could start with the largest and/or those land claims which were disputed by the local community. Thus an important part of the adjudication process would be to consider any competing claims and to weigh each according to the accepted criteria. Contested land claims, for which there were no legal or sound basis, would be rejected and any improvements (e.g. pumps and engines) either removed by the owner or revert to the land board.

3.5 Adjudication could be carried out by the land board; demarcation by the Land Use Planning Officer assisted by a surveyor from the Surveyor General's office; registration and issuing of leases would be the land board's responsibility.

### *Land administration Task Force*

3.6 In order to speedily initiate the necessary actions the Ministries of Lands and of Local Government could jointly establish a national Task Force with the following responsibilities:

- (d) to examine the need for sub-land boards in each sub-district, and to make recommendations accordingly;
- (e) to investigate the land and resource rights and needs of minority groups and to propose ways of safeguarding them, including the establishment of sub-land boards to represent their interests.
- (f) in cooperation with respected persons from each district, to draw up a set of criteria for the validation of claims to land and natural resources.

3.7 In setting up a new land administration system, it would be necessary to exercise considerable flexibility in addressing the conditions as they arise in each district. The Task Force might therefore have to spend some time in each district working with the administration and traditional authorities to establish an interim land board capable of dealing with the priority land issues and to return thereafter from time to time to advise and guide them.

3.8 It is evident that the Task Force would need experienced and knowledgeable members drawn from Namibia itself and from an international circle of people with appropriate experience in the practical aspects of land administration.

3.9 Once the interim land authorities had begun to come to grips with the immediate and urgent land issues in their districts, the Task Force could turn its attention to the creation of permanent land boards. Before these were established, the following actions might be taken:

- (a) The rural population would be informed of the nature and functions of a land board and of the duties of land board members.

follow through and monitor the implementation of any decisions reached by the land board; to assist the chairman in fixing dates and times for land board meetings, site visits, etc.

- (e) Procurement of suitable premises for the land board the secretary and supporting staff (e.g. clerk, driver) together with the necessary equipment would be set in train.

3.10 Each district would progress towards the establishment of a permanent land board at its own rate, depending largely on the availability of suitably qualified and experienced people. Some districts already have a considerable degree of experience in the allocation and administration of land. For example, in Kavango there are 'land allocation advisory committees' in each of the chiefdoms, which have taken on many of the functions of land boards; in Bushmanland, the Nyae Nyae Farmers' Cooperative have drawn up rules and regulations for the allocation of land and grazing rights. In West Caprivi, a group of elected traditional leaders take on this role.

3.11 Land boards in the various districts therefore would cater for all forms of land use ranging from residential to arable through pastoral to hunting and gathering. They would seek to ensure that no group of land users is disadvantaged or dispossessed by other more powerful groups.

#### *Sub Land Boards*

3.12 The districts with Communal Areas are in many cases far too large to be managed by a single land board. It might therefore be necessary in most districts to have sub land boards to deal with routine land allocations, resolve local disputes and



#### 4. Resettlement Agency

4.1 The scope of Namibia's resettlement programme has yet to be determined. It is clear that there are now several thousands of landless people living in extreme poverty, especially in the east and north east of the country. There are unknown numbers of "squatters", people who live on commercial farms without the permission of the owner; and there are returnees, some of whom may want to farm. There are up to 40 000 Herero now living in Botswana, who may return to Namibia to be resettled.<sup>14</sup> There is widespread land hunger in the overcrowded Communal Areas inhabited by the Damara and Nama speaking people. These demands are likely to exceed the present capacity of the Division of Resettlement of the Ministry. It will then become necessary to examine the institutional options in the light of Namibia's own experience of resettlement and that of other countries, especially in Zimbabwe.

4.2 The institution responsible for resettlement could take one of several forms, depending largely on the magnitude of the resettlement programme and its intended duration.

- (a) A ministry or department of resettlement (such as that which now exists in the Ministry of Lands, Resettlement and Rehabilitation) would be necessary if the anticipated programme involved large scale land acquisition and population movements. Such a body would formulate resettlement policy and administer the budget for the programme. It might also have the staff and other resources to implement resettlement schemes itself, with the assistance of other departments. This is the case in Zimbabwe, which has a very large and protracted resettlement programme.

by the Minister responsible for resettlement. Parastatals have greater flexibility than government departments in carrying out the often complex resettlement task. Flexibility is particularly valuable in implementing a programme to a schedule and budget; it facilitates the recruitment, management and laying-off of staff, according to the demands of the job rather than to government working procedures and hours. Subcontracting can also be easier for a parastatal than a government department.

- (c) Non-governmental organisations are often involved, as subcontractors to governmental or parastatal agencies, in implementing resettlement projects. Normally, they can be relied upon to be committed to the welfare of the settlers and, in some cases, they may have previous experience of resettlement programmes.

#### *Resettlement Functions*

4.3 At the time of writing the government's resettlement programme is still being formulated. It is not yet clear who will qualify for resettlement, where they will be settled, under what conditions, or what organisations will actually implement the programme. It appears, however, that the following groups are under active consideration as potential settlers: (a) displaced and destitute San (Bushmen); (b) Ex-soldiers; (c) Returnees; (d) Displaced people; (e) The landless people; (f) War victims and disabled people.

4.4 The most urgent attention is being given to the plight of the San for whom settlement schemes have already been established, though many more have yet to be offered the opportunity to be resettled. There are several other small schemes for returnees, ex-soldiers and landless people in the Communal Areas, but as yet there is no single implementing agency for these various schemes.

4.7 There will inevitably be different types of settlement scheme in each agro-ecological zone. In the north of the country, relatively intensive mixed farming schemes may be possible, while in the centre and south only livestock schemes are feasible. The organisational and technical requirements of each type of scheme will be different.

4.8 It is therefore evident that there are many possible combinations of type of settler and type of farming system. Equally, the resettlement programme may be fairly modest in scale or it may be very great. Should large proportions of the 40 000 or so returnees, and some 40 000 Herero from Botswana, and several thousand San, in addition to other landless, displaced and disabled people need resettling an extremely diverse and complex set of functions would have to be performed.

4.9 Depending on the responsibilities it is ultimately called upon to undertake, the resettlement agency might therefore have to be both large and versatile. Some of its functions could be contracted out to other organisations, including NGOs. Moyo and Nyoni, in a paper on land reform experiences in Zimbabwe, prepared for the Conference, have set out a typology of roles under the heading of land reform administration (see Table 1),

- |                                  |   |
|----------------------------------|---|
| 7. Social Mobilization           | groups, community, ...  |
| 8. Others                        | information, research, etc.                                   |
|                                  |   |
| B. <u>NGOs</u>                   |   |
| Various support services         | finance, training, community development, specialist services |
| C. <u>Research Institutions</u>  | monitoring, data processing, evaluation and policy evolution  |
| D. <u>Farmers' Organisations</u> | problem articulation and lobbying                             |

#### *Farmers Organisations*

4.10 A common feature of resettlement schemes is a lack of cohesion and organisation among the settlers. It is unusual for them to arrive on the settlement as a community, with leadership structure intact, or as a voluntary organisation whose members are united in a common endeavour. This is the inevitable result of the process by which settlers are usually selected. They are often landless or displaced people, returning refugees, very poor people with limited economic prospects, or those who for various reasons do not have strong ties to the land they have been occupying or the community they have been associated with. They tend to arrive at their chosen destination disoriented and disorganised and disposed to depend heavily on the resettlement agency for support.

4.11 These characteristics may become entrenched without steps being taken to foster the emergence of a social structure which is conducive to strong but democratic leadership and to economic independence.

4.12 These processes can be assisted through the regeneration of traditional institutions, such as the headmanship and customs of mutual help in agriculture, herding, etc. and also through

movement, such as that found in Botswana and Zimbabwe, which is accessible to ordinary rural households.

4.14 Cooperatives are able to undertake a wide range of activities, including land-related functions. The Nyae Nyae Farmers Cooperative, for example, serves as the mouthpiece of local residents in issues concerning land, water, livestock, etc.

4.15 Cooperatives can serve many useful purposes on a settlement scheme including input supply, produce marketing and fostering credit unions. Producer cooperatives are seldom successful as the natural production unit in most communities is the family.

#### *Farmers' Associations*

4.16 The Namibian Agricultural Union is making a determined effort to stimulate farmers' associations in Communal Areas. The broad objective of the associations is to enable farmers to resolve their common production and marketing problems through joint action. This could be of potential benefit to farmers arriving on a settlement scheme with no existing relationship on which to base their cooperation and mutual assistance.

#### NOTES:

1. State-owned Communal Areas, hereinafter referred to as Communal Areas.
2. This briefing paper assumes that communal land tenure will continue in Namibia for the foreseeable future. Conventional wisdom has long held that communal tenure is an obstacle to development. However, students of African land tenure have become increasingly skeptical about assertions of insecurity under customary land tenure and its consequences. Recent research suggests that these systems tend to evolve towards fuller and more secure individual tenure rights in response to growing population and commercialization of agriculture. This raises questions about the priority which should be accorded to expensive interventions intended to force the pace of tenure

two countries therefore share some of the same institutional requirements for land administration.

1.2 Botswana's first president, Sir Seretse Khama, set out the aims of his government with great clarity:

"Unless we introduce clear and consistent policies which provide for social justice, development will enrich a minority of our citizens and leave the lives of the majority practically untouched. Our development must be planned so that the people of Botswana - and I mean all the people of Botswana - benefit from it. They must benefit from the creation of jobs, from the reinvestment of the revenues in rural development, and from policies which ensure that development benefits the least privileged."

1.3 He also foresaw the practical difficulties of achieving these high ideals:

"We cannot afford to permit individual tenure in the tribal (communal) areas, since that would risk alienating the majority of the people from their means of production - the land. Equally, we cannot afford to permit the traditional methods to continue because under the pressure of an expanding human and animal population, they are ruining the land and the pasture which represents the only livelihood for most of our people"

"It will not help Botswana if we increase agricultural productivity at the cost of driving the majority of our people from the rural areas to the towns where they will simply swell the numbers of the unemployed".

5. Adams, P. and Weiner, W. *The Dama 1990 in Namibia: The Heritage, Environment Institute for Social and Economic Research, University of Namibia, Windhoek, 1990.*

6. The role of local knowledge cannot be emphasised enough. For example, boundaries of individual plots and communal grazings, rights to trees, water and wildlife are all recorded in the memories of local people. Not only chiefs are important repositories of knowledge in this respect, but also kraalheads and women, as individual field managers.

7. Odell, M.J. *Local Institutions and Management of Communal Resources; Lessons from Africa and Asia*, Pastoral Network Paper, 14e, Overseas Development Institute, London, 1982.

8. In most cases, the communities concerned have a clear understanding, based on traditional usufruct rights, of where boundaries are located and of what constitutes membership of their community, but these will often require clarification, arbitration and registration before serious consideration is given to management issues.

9. Wood, A. *Beyond Land Use Planning: Towards a Participatory Approach to Land Use Planning and Husbandry Development for Improved Natural Resource Use*. IUCN World Conservation Union, Sahel Programme. IUCN 18th Session, Perth, Australia, 1990.

10. This includes chiefs, headmen, but also a lower level of customary land managers (at least in the case of Ovamboland).

11. There are numerous examples of unsuccessful attempts by post colonial governments to exclude the traditional leaders from control over land and grazing rights.

12. See Chapter 12, *The Constitution of the Republic of Namibia*.

13. It has been argued that the seven "district" units within Ovambo are too big for the purpose of land administration. The lowest level of land allocation is the ward, traditionally headed by the subheadmen. People are accustomed to settling differences at this level first, before appealing to the headman or chief.

14. Parliamentary debate, 1 March 1991.

acknowledged and rectified.

1.6 For many years Botswana has had a deliberate policy of decentralisation. It has established planning units in several ministries and has assigned planning officers to the districts. Land allocation and much land use planning is performed at the district or even sub-district level. This is not only a reflection of the political ethos of the country, but has been found to be a practical necessity. There is nevertheless an essential role for central government to play in guiding and stimulating land use planning, and in providing a national framework within which district planning is carried out.

1.7 Despite the proclaimed intention to decentralise there have been continuous complaints, both at the centre and in the districts, that government has not made nearly enough resources available to the districts to enable them to carry out the responsibilities given them. The resulting inefficiencies have confirmed some officials and politicians in their view that the districts cannot handle more responsibility, and the centre needs to hold on to power.

1.8 There follows a brief description of the land use planning and administration functions performed by central government and district institutions.

## 2. Central Government Institutions

2.1 The Ministry of Local Government and Lands (MLGL) has the main responsibility for land use planning and administration, but it is not itself a user of land, and thus is technically neutral in carrying out its task of formulating national land use policy. The same ministry is responsible for the various agencies of

---

[1] von Kaufmann, 1978. "Proceedings of the Symposium on Drought in Botswana"



Works and Communications (Roads, airports), and Mineral Resources and Water Affairs. A system of interministerial committees helps coordinate policy on specific issues. The following committees, among others, have responsibilities relating to land use:

The Land Development Committee (LDC) is concerned with all matters relating to land development planning and implementation. On these matters it reviews, receives reports and makes recommendations to the responsible agencies. The LDC is also concerned with the proper functioning of the land boards.

The Agricultural Resources Board (ARB) is a statutory body charged with the implementation of the Agricultural Resources Conservation Act. The Act requires the ARB to enforce the provisions relating to the prevention of overgrazing and environmental degradation. The ARB has never, in the course of its many years of existence, made a serious effort to enforce the Act. Intervention in communal area grazing practices and stocking rates is generally considered too sensitive a political issue to enforce legally.

The National Conservation Board (NCB) was recently established, and is responsible for the implementation of the National Conservation Strategy. The NCB will supersede the ARB.

### 3 District Level Institutions

#### *The Land Boards*

3.1 It was apparent at Botswana's independence that the scale and complexity of land allocation and administration had outstripped the capacity of the traditional authorities. There were many complaints from the rural community of delays in decisions on land applications, of conflicting allocations, and

3.3 Since their inception government, supported by many local people, has tried to keep the land boards out of politics. Local politicians have tried equally hard to politicise them. The struggle continues, with successes on both sides. It is generally felt that the principle of apolitical land boards is important to uphold, but difficult to achieve fully.

3.4 For each land holding granted by the land boards under customary law a 'certificate of grant' is issued. The land board may also issue leasehold titles, especially where applications are made for the exclusive use of large blocks of land for grazing purposes. These leases apply particularly to the 'commercial ranches' established under the Tribal Grazing Land Policy (TGLP) described in a separate briefing paper.

3.5 The land boards have ten members each. Five are elected in public meetings (kgotlas) where all adults in the district are entitled to vote, and five are appointed by the Minister of Local Government and Lands. The chairman has a casting vote. Until recently the traditional authority of the district, the chief, had an ex-officio position on the land board, and could also appoint one member to the board. This is now no longer the case.

3.6 As the volume and complexity of land board business increased demands on the members became heavier. Minimum educational standards were then required of candidates, age limits were imposed and newly elected land board members received a period of training in their duties.

3.7 Land board membership makes heavy demands on members' time. There are not only the regular meetings, but informal consultations and site visits, which can mean spending several nights away. It was found that active and capable people who might be eligible for land board membership were unwilling to serve unless they were compensated at a rate equivalent to the

Land board permission is required for sinking a borehole or digging a well. In order to avoid crowding of boreholes, and therefore of settlements and cattle posts, a general rule of 8 kilometers between boreholes is applied throughout the country. Borehole siting is a complex task, which has to reconcile the wishes of the applicant to drill in a certain place, the technical feasibility of finding potable water at a reasonable depth, the presence of sufficient unutilised land to allow the '8 km rule' to be applied, and the absence of counter claims to that land.

3.9 Some of the same complexities arise where blocks of grazing land are applied for, and have to be inspected and demarcated.

3.10 When a land or borehole application is received the land board has to make a site visit, and does this in the company of the District Officer (Lands), who is nowadays equipped with a device such as a satellite navigator, to enable him to locate each site accurately. Without these means site-location is extremely time-consuming.

3.11 An important function of the land board is the keeping of accurate records of all land allocations and decisions. Without these rival land claims and disputes can be difficult to resolve.

3.12 Central government provides each land board with a trained secretary, a small office staff, an office building, a vehicle, and its operating costs. These include the allowances for land board members. Land boards get some income from application fees and land rent, but apart from these very small amounts they generate very little revenue of their own.

preserves one of the most important characteristics of the land allocating body - its local knowledge and understanding of the peoples' need for land and their of traditional rights to it.

#### *District Planning Units (DLUPUs)*

3.15 Land boards have a range of social, legal, spatial and technical issues to address. The composition of their membership clearly does not allow them to do this unaided. They are assisted, especially in the technical and spatial aspects of their work, by a District Land Use Planning Unit.

3.16 Another important function of the DLUPU is to draw up a district land use plan which will integrate the development plans of the various government departments, the District Development Committee, the District Council and the Land Board, within the overall framework of land use zoning provided by the Ministry of Local Government and Lands.

3.17 The DLUPU is convened and 'coordinated' by the District Officer (Lands). The unit has a core group consisting of District Officer (Development), the Land Board Secretary, the Land Utilization Officer (Ministry of Agriculture), the Regional or District Agricultural Officer, the District Council Planning Officer, and the District Physical Planning Officer. The frequency of meetings varies greatly between districts, depending largely on the coordinator. Some have weekly, very short and businesslike meetings where brief progress reports are given and tasks are assigned; others have infrequent but lengthy discussions on the problems and reach few decisions.

3.18 The DLUPUs are an important institution for land use planning, but their effectiveness depends much on the way they are managed.

care, domestic (i.e. not livestock) water supplies, construction and maintenance of non-gazetted roads and the social and community development programme.

3.21 The District Council gives policy directives on land issues to the land board. The responsibility for land allocation, however, remains with the land board.

3.22 District councils generate a small proportion of their own recurrent expenditure and rely heavily on central government for deficit grants.

#### *District Administration*

3.23 This is headed by the District Commissioner (DC), who is responsible to the Ministry of Local Government and Lands. He is the senior representative of central government in his district. He is also designated as the 'development coordinator' of the district.

3.24 Two District Officers work under the DC. The District Officer (Development) helps coordinate the work of central government agencies; the District Officer (Lands) coordinates land use planning in the district.

3.25 The decision has recently been made to create the new post of District Environment Officer, whose task will be to implement the National Conservation Strategy at district level and to ensure effective coordination between the conservation of natural resources and sustainable development.

and under leasehold. There are also designated blocks which occupy 5 per cent of the country's area. The land boards allocate arable and residential land under customary law and leasehold rights to certain areas of grazing land under common law.

4.2 The Presidential Commission on Land Tenure of 1983 found no reason to recommend any change in the tenure of arable and grazing land. Following wide consultations with rural land users they found no general desire for a change. The Commission found that most families in the rural areas associate access to land with security and fear that changes in land tenure towards a more individualised system would be to the detriment of the poorer people: "This sort of security is particularly important to those with few resources". Consequently it advised against tenure change "which could produce landlessness before other economic opportunities are available."

4.3 The Commission also found that the banks did not regard the lack of individual title to land as their main restriction on lending. Thus, changes in tenure towards freehold or long term leasehold would not improve the availability of commercial credit in the communal areas.

## **5. The evolution of the land administration system**

5.1 The land boards got off to a slow start. Since they were new institutions their members, even the traditional authorities, were unfamiliar with their functions. It took many years, and substantial efforts to train and guide the members, before they were familiar with their duties. One problem was that many of the people most knowledgeable on local land matters were illiterate; conversely, many of the better educated people knew little about the land, being better acquainted with urban issues; another was that many of the land boards were dominated by influential 'cattle barons', who tended to favour their own kind in the

and government intervention in land administration. The land board has the statutory right to allocate land in the manner in which it sees fit. On the other hand, the State has the right, and the obligation, to ensure that a just and equitable balance is maintained in access to communal land by rich and poor, by those who have traditional rights to an area and those who do not, and that land is not misused in such a way that its resources are unduly wasted.

5.4 The state also has its own land requirements, for national parks, research stations, roads, large dams, etc. Although the land board has the statutory right to refuse to allocate land, an application by the government will normally be accommodated. If this involves the displacement of existing land holders the land board has until recently allocated them equivalent land elsewhere, while the government has paid compensation for fixed improvements. As good quality land becomes scarcer alternative compensation arrangements have had to be made.

5.5 One of the most frequently heard complaints against the land boards is that they allocate land inequitably, that they favour those with influence and many cattle, and ignore the land claims of those who are politically inarticulate and have few animals. There is some evidence, however, that these biases are even greater in some of the government offices which deal with land, and that the land boards and district councils, both locally representative bodies, have a clearer perception of the needs of the poor than do most civil servants and are more responsive to them.

5.6 As custodians of a communal asset, land boards have the responsibility both for allocation and for the wise use of the land. The rights they issue are only those of use, not of outright ownership. When leases are issued for large areas of grazing the applicant signs an agreement which contains several

allocated. The concept of overstocking, or having too many livestock for the veld to carry, is alien to most stock owners. The problem is not that there are too many animals, but that there is too little land, or too little rain. The majority of officials also subscribe unofficially to this view, even though they may in public deplore the mismanagement of the range. The land boards have consequently never exercised their function as 'land managers', but have confined themselves to the less controversial role of land administrators. Once they have allocated land they do not intervene in its subsequent use.

5.8 The loss of effective control over land once allocated or leased affects not only land boards but the state also. There are ranches on what used to be State Land which are held under lease from the Ministry of Agriculture. Despite provisions in the lease agreement regulating the maximum stocking rates these have never been enforced and no serious attempt has ever been made to do so.

5.9 Botswana's experience has been that neither law nor public institutions are effective in controlling the use of land once it has been allocated. This realisation has given rise in some official circles to a disillusionment over the future of communal land rights. At the same time there is growing awareness among civil servants and other salaried people that land for ranching is running out and there has been a move among those who can afford it to legalise the fencing of communal land.

5.10 Opinions on the enclosure of communal grazing are divided. Those in favour of it hold that:

- only by fencing can land be brought under some form of management;



- land is a scarce and precious resource and should be used mainly by those who have the means to produce, not merely to subsist on it. This would be in the interests of 'food security'.

There are the contrary arguments that:

- under the Tribal Grazing Land Policy between three and four hundred 'commercial ranches' were demarcated on communal land and leased to individuals, partnerships or groups under clearly specified conditions of land management, stock rates, etc. It is now acknowledged that the great majority of these TGLP ranches have been used as extensions of the communal area, being no more than enclosed cattle posts. Many have been subjected to severe overstocking with consequent degradation of the grazing. The experience with the 'Ncojane Ranches', established in the mid-1970s, was the same. They are more severely degraded now than most of the unfenced communal areas in western Botswana. The assumption that communal areas can be converted into commercial farms by fencing them has been disproved on many occasions. To bring about this transformation profound changes in economic orientation, animal husbandry and even in respect of social and cultural life are required.
- there is no evidence that communal area fencing induces a realisation of finite grazing resources and hence of the necessity to adjust stock numbers to forage reserves. On the contrary, occupation of fenced ranches in Botswana has often encouraged stocking rates far higher than those normal for communal areas. When this causes the rapid depletion of the grazing on the ranch the owners drive their cattle back onto the communal range. The protests

government to drill through ...  
areas, thus avoiding the necessity of adjusting stock  
numbers to the forage resources within the fence.

- The TGLP ranches were to be sited on 'unoccupied areas' of communal land. Even fifteen years ago there was very little such land and the ranches were often sited on places where Basarwa (Bushmen) had ancient land rights. In this way some of the poorest of Botswana's poor were dispossessed. Further enclosure would inevitably dispossess other poor people with communal land rights.
- The history of group or community ranching enterprises has been one of unmitigated failure in Botswana. There is no reason to believe that a new formula for making such arrangements work in the future has been found.
- There is no evidence that communal land becomes more productive when it is fenced. Nor does fencing promote food security, since it deprives the poor of access to the land on which to produce their own food.



bound up with reciprocal exchange relationships entered into by inter-marrying families.

- c. The proceeds of production and accumulated property, during and after marriage, do not accrue to women directly (with the exception of women in southern regions), but to the males of both families who control and contribute to the exchange arrangements through the release of women, and their labour and fertility contribution, on the one hand, and the release of "brideprice" (*lobola*) on the other.
- d. Whilst rapid cultural change has significantly altered these exchange processes, it has largely been to the detriment of women, with few compensatory mechanisms.
- e. Neither customary nor civil legal protections or avenues are readily available to women, to ensure individual access to property or income. Customary law, which applies to the majority of Namibian women, directly negates women's rights to inherit property and land.

2. In combination, these represent a complex and wide-ranging set of issues, where concerns relating to equity, equality of opportunity and individual rights for women are clearly posed.

3. Experience of land reform in Zimbabwe is discussed in order to demonstrate the need to maintain a gender focus during the debate, and into policy planning and programme development. This has been largely lacking in Zimbabwe, and has resulted in women producers experiencing little direct improvement in their situation. Indeed, the move towards cash cropping in the communal areas, high levels of insecurity of tenure for women on resettlement schemes and limited development of appropriate support services has meant that for many women, their situation has deteriorated.

equality of access. ~~where necessary~~  
condition for changes in access and control, they are not in themselves sufficient, particularly where they lead to contradictions where dual systems of law exist.

5. A number of guidelines are suggested, to ensure that women's access to land, resources and services may be equalised and safeguarded in the Namibian context. These include:

a) *Fundamental land reform policy issues:*

- Gender awareness should remain a central component of all policy formulation, and programme planning, development, implementation and monitoring.
- Methods to achieve the maintenance of a gender focus include:
  - on-going gender awareness training for all staff and officials involved, at all levels;
  - use of techniques such as gender based analysis and gender planning in programme planning and design;
  - on-going collection of gender disaggregated data on land and agriculture related issues at the national level, and the establishment of effective systems through which data and statistics are fed through to policy makers;
  - ensuring that gender-aware women are represented in sufficient numbers at national policy and decision making levels;

- Usufruct rights to land for the household should be held jointly by the husband and wife where both are present.
  - Single women should be eligible to obtain usufruct rights to land under the same conditions as single men or male headed households.
  - Where women obtain land as a group for production activities, contracts should be drawn up between the group members and the allocator/donor to ensure rights of access and use in the long term.
  - Changes in both customary and civil law may have to be made in order to secure women's rights to land and property in communal areas. Legislative changes must be made in such a way that legal contradictions and anomalies are neither entrenched nor increased. Consultative processes at community level should proceed any alterations to legislation, which must be followed up by wide-spread education campaigns for both men and women, to facilitate understanding, acceptance and take-up of any new rights and obligations.
- c) *Access to land for women in any resettlement/redistribution programme:*
- Rights to land for resettled households should be held jointly by the husband and wife where both are present.
  - Single women should be eligible to obtain rights to resettlement land under the same conditions as single men or male headed households.

- Recognition should be given to the role of women in land allocation amongst the traditional leadership, which was suppressed by the colonial regime.
- Women involved in institutions for land reform should be given priority for take-up of key positions such as secretary or administrator.
- All members of institutions for land reform should undertake gender-awareness training on an on-going basis.

e) *Enhancing women's role as producers:*

- The primary focus should be on assisting women to enhance their role in household food security. In most cases, this will mean providing services and inputs to women on an individual basis. Promotion of group based production should be pragmatic, and implemented only as a response to requests for support from existing groups, rather than imposed on communities from above.
- The package of services required will vary amongst the different regions of Namibia, but will typically include access to credit, appropriate technologies, draft power, inputs, veterinary and agricultural extension services and training, marketing facilities and water. Whether or not to set up separate services or facilities for women may also vary from area to area, and decisions of this nature should be based on thorough investigation of individual circumstances. It will be important to involve women in data collection and planning, in order to develop appropriate responses.





1.2 Whilst women constitute the majority of the rural population, as a result of the migrant labour system, and the bulk of peasant farmers, they have, prior to independence, received insufficient assistance to carry out their multiple tasks, and in many cases have barely managed to sustain the family.<sup>1</sup> The breakdown of community and family based support systems has further increased the burden of rural women, yet these systems have rarely been replaced by structures which enable women to take control of decision-making and income distribution within the household. Women's access to and control over productive resources is still largely dependent upon relationships with men, and is, thus, insecure and alienable. This is particularly the case with respect to access to land and livestock.

1.3 Gender inequality is, therefore, a significant aspect of the land question. The following sections of this paper highlight some of the major gender issues surrounding land reform. These include:

- the nature and extent of women's contributions to agricultural production;
- the types of socio-cultural and "traditional" norms which surround women's roles in production and their access to productive resources, particularly in respect of inheritance;
- legal issues relating to women's access to land and property;
- the particular situation of women in commercial farming areas;
- the experience of women and land reform in Zimbabwe;

the family fields. They had control of the disposal of the produce grown on the plot, which was used primarily for subsistence purposes. In livestock producing areas, men had sole responsibility for herding and cattle management, although women played a role in related food production such as milking cows and processing other dairy products. Such activities were directly related to women's roles in providing food for the family group in general and child-rearing in particular. Women were also responsible for gathering veld foods.

2.2 The impact of colonialism on the prevailing sexual division of labour was far-reaching. As able-bodied men left the rural areas in increasing numbers for contract work on commercial farms, mines and in the urban industrial centres, women took on more and more of the tasks associated with livestock and crop production. These tasks were added to existing domestic responsibilities, in an environment characterised by increasing degradation of available natural resources (water, fuelwood, veld foods and grazing and arable land). Whilst rural women became dependent on cash remittances from migrant workers for household subsistence, incomes obtained were meagre, and seldom adequate to allow for investment in labour-saving technologies or improvements to the family farm.

2.3 At the same time, women's access to services for sustaining, much less developing, agricultural production, was extremely limited during the colonial period. In part, this was because such services were simply not provided to rural areas, but arose also because those which were available were largely inappropriate for women. Agricultural and veterinary extension services were targeted at male farmers, and staffed almost exclusively by male extension workers. Credit facilities were similarly extended only to men, and carried collateral requirements which were beyond the means of most rural women. Similarly, the limited marketing and supply avenues which were

in agriculture has changed, however, their control over the production process and necessary resource inputs has not. The imposition of colonial domination in a situation where women were already regarded as subordinate to men has further reduced their socio-economic status, and entrenched discriminatory socio-cultural norms.

### *Socio-cultural aspects of women's productive roles<sup>2</sup>*

2.5 Access to resources such as land, livestock, water and fuelwood is determined for women in most of the cultural groups in Namibia by virtue of marriage arrangements and settlements. Women's contributions to such relationships revolves around both production (labour) and reproduction (fertility). Women thus play an important role in family exchange relationships.

2.6 These socio-cultural roles are most clearly typified within the matrilineal kinship system of the Ovambo peoples. Married women provide labour for their husband's land, and have usufruct rights to only a small independent portion of such land. Produce from this plot is used for family subsistence, which may include the provision of food for a number of relatives from the husband's family, residing at the homestead for lengthy periods at any one time. Produce from the husband's fields is stored separately, and functions as a reserve stock during poor harvests, but most frequently as a symbol of the man's wealth and social status. Permission must be sought from the husband or his male relatives before this grain may be utilised for subsistence needs by the wife.

2.7 In exchange for providing the labour contribution of a wife, her natal family retains the children of their marriage (and their labour contribution). Descent is traced through the maternal line; thus fathers view their children as their own, but not as part of their family. Women and their children are effectively, then, perpetual outsiders of the husband's clan.

to become migrant workers and have subsequently been forced to withdraw or reduce support to their married sisters. In such circumstances, women's access to support mechanisms has been severely reduced, whilst their obligations to their husbands' families have not changed.

2.9 For Herero women, the situation is somewhat different, being based on a patrilineal kinship system, but is hardly less precarious. At marriage, the labour and fertility contribution of the wife coming into the husband's family is exchanged for cattle as part of "brideprice" or *lobola*. Whilst women and their children do thus become members of the husband's clan, they are subject to the decision-making of the husband's male relatives, particularly his brothers. These relatives gain such authority by virtue of having provided the cattle for the *lobola* payment. Ownership, management and control of livestock reside with men, whilst the sexual division of labour demands considerable contributions from women in herding and dairy processing.

2.10 In Ovambo and Herero societies, thus, women become producers as part of complex kin structures. They do not themselves directly benefit from the proceeds of production, over and above the extent to which they are enabled to provide for the basic needs of themselves and their children. Any surplus benefits accrue primarily to the wider kinship groups from which they descend, and into which they marry. And within these wider kinship groups, it is principally male relatives who retain control and ownership of such benefits. What is notable in contemporary Namibian society is the extent to which the norms and values of reciprocal relationships which benefit men have been retained. This is even though the extreme social dislocation resulting from colonialism has all but eroded many of the other socio-cultural norms which may previously have served as support mechanisms for women.

2.12 Evidence relating to the contemporary situation of Nama/Damara women in southern areas of Namibia highlights the manner in which a different set of traditional norms may be advantageous to women. In Nama/Damara society, the exchange of gifts for women at marriage is negligible, in common with other societies where small stock provides the major means of subsistence. The focus of production and reproduction within marriage is on the well-being and prosperity of the individual or nuclear family. It is not extended to obligations for such amongst the wider family group of either husband or wife. Whilst women retain responsibility for domestic tasks, there is a less marked division of labour in respect of tasks associated with livestock management and control. Disposal of income within the household accruing from production is more clearly based on joint decision-making, although "ownership" of assets and resources rests with husbands.

2.13 The foregoing is but an impressionistic picture of the contemporary situation of the majority of Namibian women producers. Much remains to be investigated in relationship to the changing balance of forces within familial relationships. This process is continual and has been influenced profoundly by colonialism and the liberation struggle, as well as by the expectations of national independence and its immediate outcomes since 1990. Similarly, the picture does not include information on the roles and status of women in smaller population groups, such as those in Himba and Bushman society.<sup>4</sup> For the majority of rural Namibian women who are married, however, the situation would appear to be characterised by tensions and insecurities, particularly where the breakdown of extended family systems has only partly given way to the emergence of individualistic or more nucleated family structures. In these family structures, women's claims to assets and resources are negotiated principally with husbands, not with males of the wider kinship group.

widely, in respect of their claims to assets and resources for production, depending upon the social arrangements which surround the disbursement of property in the event of the dissolution of a marriage. Typically, though, female headed households experience critical labour shortages for subsistence production. Correspondingly, they have limited ability to enter informal or formal sector income generating activities in order to diversify the economic base of the household. The situation of women who have never married is particularly problematic, however, especially where there are social sanctions which are enforceable against women or girls who become pregnant before or outside of marriage.<sup>5</sup> Where married women may obtain some usufruct rights and privileges through the marriage exchange, such opportunities are not available to unmarried women. The latter remain dependent on their fathers, brothers and uncles, etc, and can provide little compensation for their dependency, apart from labour contributions.

2.16 In all areas, it was reported that female heads of households and single mothers experienced significant difficulties in obtaining land in their own right. A primary obstacle, particularly in the north, is the requirement to pay for communal land. With current prices quoted at approximately R400 for an "average" size plot (probably about 1-2 ha), few landless women now living (squatting) in the peri-urban areas around Oshakati and Ondangwa could conceive of ever obtaining sufficient capital to make such a purchase. Whilst previously unworked land is apparently available more cheaply, it is also more likely to be exhausted land. The labour shortages experienced in female headed households preclude them from taking up land which is in need of extensive clearance and ploughing.

... been ploughing and livestock grazing were similar to those of men, as expressed in the attitudinal survey. Between 86-89% of both required more land for these purposes. Similar numbers of men and women (71%) wanted to farm in Communal Areas, rather than in commercial areas. Women who wanted more land more frequently (70%) preferred this to be in their home area than men (63%), but again, similar proportions of both sexes (56%) said they would be prepared to take new land far away. Whilst 72% of women interviewed indicated they would join a collective if it had rights to good agricultural land, only 66% of men said they would do this.

2.19 It was clear from the discussion groups held with women in all areas that joining production groups for the purposes of gaining employment and income was a priority for them. Access to land for livestock grazing in the south and east, and for agricultural production in the north, was considered important in this respect, as well as for individual women, but it was frequently noted that land was only one amongst a number of resources which women sought to have access to. For most peri-urban women, the issue revolved around matters of choice. Women wanted access to a range of resources, facilities and skills for production, up to now denied to them, in order to be able to make informed choices about what would be most feasible and profitable in their particular situation. Whilst women thus required equality of access to land to the extent that it was enjoyed by men, it was viewed as one component of the sometimes interlinked "package" of resources which they considered should be made available to them.

2.20 Thus, women in Aroab, a small settlement in Keetmanshoop district, felt that small-scale home-based sewing projects might be the best starting place, as such activities would not create conflicts with childcare. Women were aware of the demanding nature of small livestock raising, particularly in circumstances

2.21 Women in the squatter settlements of Oshakati already had linkages with rural farms operated by their parents or relatives. Because of low crop output, however, they had to alternate their time between informal sector activities in the peri-urban area, with periodic visits to the rural home to contribute labour. The demand here was for services to increase agricultural productivity, in addition to appropriate marketing facilities in Oshakati and Ondangwa where produce could be sold.

### *Inheritance*

2.22 Patterns of property inheritance are directly related to the reciprocal exchange relationships which surround marital arrangements.<sup>6</sup> In Ovambo society, thus, all property reverts to the husbands' family in the event of his death. The wife and the children of the marriage return to the wife's family, unless older children elect to stay with paternal relatives. Wives may in some instances take with them any existing stored grain produced in their own plot, clothes, kitchen utensils and other small items. In other cases, these items remain in the husband's family, and are inherited directly by his sisters. This situation creates a particular tension amongst Ovambo women, for whilst they may lose out in the distribution of property as widows, they do stand to gain as sisters.

2.23 Widows may retain access to land utilised during marriage by paying the headman for such rights. The Ministry of Lands, Resettlement and Rehabilitation is mediating in a number of cases in the north and north-eastern areas, however, where widows have been required by relatives, with the complicity of traditional leaders, to vacate the property, despite having put forward the purchase price required. In practice, a widow has no automatic right to remain on the land used by herself and her husband during marriage. Where the husband's family is particularly in need of additional land, they have every (customary) right to gain access to the land by sending the widow back to her family.



In the patrilineal system, particularly cattle - remains vested in the deceased husband's male relatives. Whether the widow is allowed to retain the marital home and access to its associated grazing lands is again not guaranteed but conditional upon the decision of these male relatives. In instances where the widow is required to return to her natal family, she may or may not additionally be permitted to take with her any cattle owned by her during the marriage.

2.26 The underlying principle in both the Ovambo and Herero traditions is that the property and land accumulated during marriage is subsequently available, in the first instance, to the parties within the wider kinship group which contributed towards its establishment. As these traditions undergo change and adaptation, the ensuing tension in gender relationships surrounding competition for scarce resources is highlighted. It would seem to be the pattern that the process of transformation increasingly disadvantages women, primarily as a result of the ability of men to entrench, and indeed manipulate, notions of "culture" within the household and within the community to their own advantage.

2.27 Amongst the Nama/Damara, where more individualistic marriage patterns prevail, widows have relatively greater access to the deceased's estate. Livestock and grazing cards, legalising rights to use grazing land and marketing facilities, almost always revert to the widow, in addition to any immovable property. A male relative from her own or her husband's family may be nominated to assist her to manage such properties and livestock. Relatives from both families expect no more than token gifts as a form of bequest from the deceased's personal goods. Land shortage is particularly acute in the Nama/Damara regions, however, and whilst relatives may not attempt directly to remove a widow from the land previously utilised with her husband, there are a range of more indirect pressures which are

land when her husband died. The majority of both sexes (90% of males and 81% of females) thought that the land should be retained by the nuclear family. It is notable that 16% of the women interviewed, compared to only 6% of men, thought that the government should intervene to change traditional laws on this issue. It is also clear that the threat of loss of land is a deterrent for women producers; 67% of women said that the possibility of their land being taken away stopped them from trying to improve it, compared to 49% of men.

### 3. The Legal Context<sup>7</sup>

3.1 The issue of inheritance provides a prime example of the inequitable position of women in relation to customary law. Whilst there are a number of difficulties associated with establishing what precisely customary law was or is,<sup>8</sup> it is of importance to note that it is the tenets of such a body of law, however ill-defined, which are applied directly to the rights and responsibilities of the majority of Namibian women throughout their lives.

3.2 The Constitution of the Republic of Namibia incorporates important protections for women as part of the fundamental rights and freedoms entrenched against repeal or amendment (Article 131), and outlaws discrimination on the basis of, *inter alia*, sex (Article 10 (1) and (2)). In addition, it is stated that:

"Both the customary law and the common law of Namibia in force on the date of Independence shall remain valid to the extent to which such customary or common law does not conflict with this Constitution or any other statutory law" (Article 66 (1)).

3.4 Hence, for women in customary law, majority of rural women, rights and responsibilities are determined by customary law. In practice, the wife has a legal position similar to that of a minor; she cannot sell any household property without her husband's consent, and cannot enter into contractual agreements on her own.

3.5 It is notable, however, that the rules regarding civil marriage are almost equally disadvantageous to women. The husband is the legal head of the family in all civil marriages, is deemed always to be the sole or primary breadwinner, and the wife's status is again similar to that of a minor. A particular anomaly ensues for women who may be eligible for housing loans by virtue of their employment: whilst the loan may be made out in the women's name, and repayments be enforceable against her, the property deed must be signed by her husband. Unless an antenuptial agreement is signed before marriage stating otherwise, civil marriages are in community of property and the husband has "marital power" over the wife. In combination, this means that the husband has control over all the joint property of the couple, and his consent must be obtained before property is bought or sold, or joint assets are pledged as security for credit.

#### **4. Women in Commercial Farming Areas**

4.1 The situation of African women living on commercial farming areas is characterised by extreme vulnerability and insecurity. Whilst male and female farm workers and dependents are amongst the most disadvantaged population groups in Namibia, females experience specific additional problems, particularly when widowed. In terms of marital relationships, their situation is little different from that of the majority of rural women. Where they are employed on the farm, typically in domestic work, they may be responsible for sending remittances to members of the extended family living elsewhere, in the same manner as male migrant workers. Especially in the southern commercial areas,

in the event of the death of the husband, the widow and any children would be evicted from the farm by the owner, to make way for a new employee and his family. Moreover, cases were mentioned where the farm owner claimed that the smallstock owned by the labourer's family were due to him as payment for outstanding "debts" or "loans", and would be confiscated. Widows, most of whom have lost linkages with any rural land or homestead, or were dispossessed of such during the expropriation of land in the Nama region, are forced to move to the squatter settlements of the small urban centres in the region, virtually destitute and with no prospects of informal or formal sector employment.

4.3 For younger women in the south, seasonal work on farms is the major employment opportunity open to them. They become locked into a perpetual cycle of insecurity and family dislocation. Older daughters or grandmothers have to take responsibility for child-care in the urban home whilst the woman is away on contract work, and sending children away to boarding schools as early as possible is the norm, where financial resources permit this. Wives and children join the husbands as permanent dependents on the farm as a last resort, in the face of absolute collapse in alternative production capacity. It is only in very rare cases, when "generous" commercial farmers provide labourers with smallstock or other forms of movable property instead of or in addition to cash payment, that wives take up residence on farms with the specific intention of utilising an opportunity to re-capitalise or establish the family's economic base.

- marrying families;
- the proceeds of production and accumulated property, during and after marriage, do not accrue to women directly (with the exception of women in southern regions), but to the males of both families who control and contribute to the exchange arrangements through the release of women, and their labour and fertility contribution, on the one hand, and the release of "brideprice" on the other;
  - whilst rapid cultural change has significantly altered these exchange processes, it has largely been to the detriment of women, with few compensatory mechanisms;
  - neither customary nor civil legal protections or avenues are readily available to women, to ensure individual access to property or income.

5.2 In combination, these represent a complex and wide-ranging set of issues, where concerns relating to equity, equality of opportunity and individual rights are clearly posed. Before moving on to a consideration of options for addressing these concerns in Namibia, this section highlights the experience of women in Zimbabwe in respect of land reform. There are useful lessons which may be drawn from the Zimbabwean situation, particularly as there are many similarities in the position of women in the two countries.

5.3 At the time of independence in 1980, Zimbabwe inherited an economy characterised by the same types of structural inequalities found in Namibia. The distribution of land, capital and income was heavily skewed in favour of whites. The under-developed peasant farming sector existed side-by-side with a highly capitalised and subsidised commercial agricultural sector, which contributed to both employment and foreign exchange

because gender issues have not been considered. In the land reform debate, the situation of women producers has in some cases hardly changed at all, whilst in others it has deteriorated. These changes are discussed below in relation to the four main classifications of agricultural production: communal areas, small-scale commercial farming areas, large-scale commercial farming areas and agricultural collective co-operatives.

#### *Communal Areas*

5.5 In communal areas, women constitute some 70% of the population, and hence the majority of peasant farmers. Traditionally, land in the communal area was allocated by the chiefs, who controlled the land on behalf of the ancestral spirits. Newly married men were allocated grazing rights for cattle and goats, and a piece of arable land for the household, within which they would normally provide a separate plot for their wives. Crops for feeding the household would be grown on this plot. Thus both men and women had usufruct rights to land, but in common with the situation for the majority of Namibian women, married women's rights to land were mediated through their husbands. Single women had access to land only through male relatives. In their role as heads of household, men also had control over cattle and other livestock. Women could own only those cattle, and their offspring, which were given to them when their sons married, or on some ceremonial occasions.

5.6 The traditional method of communal land allocation has not been altered in Zimbabwe since independence, although such allocation is now the responsibility of the District Councils (less than one-third of councillors are women), in collaboration with the Village Development Committees (VIDCOs). Chiefs have lost their role in this sphere, as in other traditional functions, with the bureaucratisation of development planning at the local level. For women, the change has made virtually no

take up considerable time for women producers, which was previously devoted to subsistence maize cropping. Yet the emphasis on agricultural development in the communal areas has been to promote cash crops, via the expansion of existing parastatal marketing and credit facilities (through the Agricultural Finance Corporation (AFC)) and an extension training service which promotes the purchase of inputs through credit.

5.8 These services are not responsive to women's needs. The extension service is still largely staffed by men, and their willingness to develop or provide information about labour-saving technologies has been limited. The AFC credit system has been adapted from one previously only available to commercial farmers - it is inappropriate for the majority of women farmers, who typically need small amounts of periodic credit, which they can repay in instalments. The annual payment for marketed crops is made by cheque, after debts to the AFC have been deducted. It is only recently that cheques have been payable to women, and there is concern that this system is now being abused in some instances. Loans are taken out in the husband's name, whilst the crops are marketed in the wife's name, in order to avoid loan repayments.

5.9 The result of agricultural development in the communal areas has been an enormous increase in the sector's contribution to national cash crops output. It is estimated that only some 20% of communal farmers have benefitted in real terms from this increase, however. This has led to increased economic differentiation among peasant farmers, marginalising a large number of producers, particularly those who cannot diversify the economic base of the household through off-farm employment and/or remittances. In the absence of gender-disaggregated data,<sup>12</sup> it is difficult to estimate the extent to which women producers have been marginalised through this process. Given the inappropriateness of agricultural services for female farmers,

and applies in the first instance to all marital issues involving men and women married under customary law. This would include some 80% of women in Zimbabwe. Customary law upholds the negation of women's rights to inherit property and land - indeed, the widow is considered part of the deceased's estate, and may also be inherited by male relatives.

5.11 For women in communal areas, then, little progress has been achieved in extending access to land, whilst their labour burden has increased as cash crops have been promoted. At the same time, no real economic benefits have accrued to women producers in their own right. The result is increasing pressure for women. Many have to neglect producing subsistence crops for household food security, and contribute increasing amounts of labour to cash cropping, in the hope that some of the income obtained will be channelled back by their husbands into the household for basic needs and farm investment.<sup>13</sup>

5.12 Information from one area north of Harare, particularly suitable for vegetable production, indicates that child malnutrition rose as women devoted more time to highly profitable tomato production. Long hours in the field gave less time to cook for and feed children, and the money earned was not spent on nutritious foods, which were anyway generally unavailable in the small local rural stores.<sup>14</sup>

5.13 Direct efforts, within both government and NGO programmes, to increase women's access to land and other resources have focussed on their participation in income-generating groups. There is now ample evidence that few of these groups have actually generated any long-term or meaningful income for their members. Yet the organisation of women in groups is assumed to have strengthened their position in lobbying for access to resources. Indeed, land has been given to women's groups involved in agricultural and horticultural activities and small



groups and apply for loans to purchase their own shares from the national marketing board.

5.14 In sum, access to productive resources may have improved somewhat under the group participation strategy, but often at the expense of women's already considerable workload. Most importantly, however, control over resources has rarely accompanied any increase in access.

#### *Small-scale Commercial Farming Areas*

5.15 In small-scale commercial farming areas, farmers own land originally purchased from the colonial regime. Plots are generally large (in excess of 60 ha), but low levels of capitalisation prevents most farmers from using all but a portion of the land. Both prior to and after independence, these areas have been very much left to their own devices. Extension services are available, but have had limited impact. There is little community level organisation, as farms are often widely spaced, and farmers are drawn from all over the country and do not necessarily have a common background. Attempts by AFC to introduce group lending have met with strong resistance.

5.16 In combination, these factors have particular implications for women. Lack of community-based support, together with limited ownership of draft power and other technologies, means that wives and children provide the major source of labour. As a consequence, polygamy is more frequent in these areas than elsewhere in Zimbabwe. As polygamy is permitted only under customary law, traditional inheritance and other practices prevail, to women's disadvantage. Very few households in these areas are female headed - women rarely have access to enough capital to purchase land - and similarly rarely inherit it when their husband's die. In most instances, they remain on the farm, but control falls to sons and other male relatives.

Department of Community Medicine, University of Zimbabwe, has highlighted the particular effects of these circumstances for women and children on the farms. Together, they constitute the population group with the highest risk of, and also frequently, presentation of, malnutrition. Women's health is severely compromised by the combination of excessive workload and limited access to services and income.

#### *Resettlement Areas*

5.18 It is on to former large-scale commercial farms that the majority of the beneficiaries of the resettlement scheme have been moved. Up to now, families have been allocated 5 ha of land and rights to common grazing areas if they are landless or living in areas of extreme over-population. Wage-earners are excluded from obtaining permits for resettlement land - people in the 25 to 50 age group who are married or widowed with dependents - sufficient to cultivate the land - are preferred. In theory, joint ownership permits for married couples are available. In practice, permits are issued by the (male) officials in the husband's name alone, and only some 7% of permits are recorded as issued to divorced, widowed or single parents. Evidence suggests that single women are frequently allocated smaller and/or less viable plots than families with male heads.

5.19 Women face a number of insecurities in the resettlement areas, and are indeed often more insecure than those in communal areas. Women lose all rights to the land in the event of divorce, and if the permit holder contravenes the terms of the permit, or commits a crime, the whole family is evicted. In addition, since they are not permit holders, women cannot obtain credit or services in their own name. Widows are allowed to stay on the family plot at the discretion of the resettlement officers. They are usually permitted to do so as long as the household has enough labour to farm the land. Labour constraints

### *Agricultural Collective Co-operatives*

5.21 Collective producer co-operatives have been promoted in Zimbabwe partly as a platform for socialist transformation, and partly as a solution to the unemployment crisis, particularly amongst youth and school leavers. Verbal support has not been matched by practical assistance, however. Limited capitalisation and lack of effective technical and managerial support has left most of the co-operatives, particularly the agricultural societies, in a position of weakness. Productive capacity is limited and return to members are typically low, and below the legislated minimum wage.

5.22 The position of women in these co-operatives is significantly worse than those in other production sectors.<sup>17</sup> Male dominance has been perpetuated in respect of access to skills training, technical expertise and management functions. Men have been able to impose the patriarchal relationships of the family on the production unit of the co-operative as a whole. In such circumstances, it becomes an increasingly rational decision on the part of female members to retain control over the domestic sphere and limit participation in production activities. Women remain marginalised within the co-operative, but have usually broken rural family ties in order to join their husbands as members, and cannot leave to find alternative activities. Some societies encourage female members to set up their own "projects", such as sewing or knitting, which again remove them from the main production activities of the co-operative.

5.23 The land reform question in Zimbabwe has been a major issue of debate since independence. Very rarely in the discussion, however, have the special needs of women been raised or identified. This lack of gender awareness has given rise to many of the problems now being experienced by women producers, as

exist.

## 6. Addressing the Gender Issues in Land Reform

6.1 The points outlined below are suggested for use as a set of guidelines for ensuring that gender issues are taken into consideration in the formulation and implementation of land reform policy. They arise from the investigation of the current situation of women in Namibia, which has been described in earlier sections of this paper. The aim is not to provide a definitive answer to the complex question of how access to land, resources and services may be equalised and safeguarded for women, but to highlight the issues which must be considered before such a question may satisfactorily be answered, to the benefit of the majority of Namibian women.

### 6.2 Fundamental land reform policy issues:

- Gender-awareness should remain a central component of all policy formulation, and programme planning, development, implementation and monitoring.
- Methods to achieve the maintenance of a gender focus include:
  - on-going gender-awareness training for all staff and officials involved, at all levels,
  - use of techniques such as gender-based analysis and gender planning in programme planning and design;<sup>18</sup>
  - on-going collection of gender disaggregated data on land and agriculture related issues at the national level, and the establishment of effective systems through which data and statistics are fed through to policy makers;

6.3 *Access to land for women under the present communal tenure system:*

- Usufruct rights to land for the household should be held jointly by the husband and wife where both are present.
- Single women should be eligible to obtain usufruct rights to land under the same conditions as single men or male headed households.
- Where women obtain land as a group for production activities, contracts should be drawn up between the group members and the allocator/donor to ensure rights of access and use in the long-term.
- Changes in both customary and civil law may have to be made in order to secure women's rights to land and property in communal areas. Legislative changes must be made in such a way that legal contradictions and anomalies are neither entrenched nor increased. Consultative processes at community level should proceed any alterations to legislation, which must be followed up by wide-spread education campaigns for both men and women, to facilitate understanding, acceptance and take-up of any new rights and obligations.

6.4 *Access to land for women in any resettlement/redistribution programme:*

- Rights to land for resettled households should be held jointly by the husband and wife where both are present.

- Recognition should be given to the previous role of women in land allocation amongst the traditional leadership, which was suppressed by the colonial regime.
- Women involved in institutions for land reform should be given priority for take-up of key positions such as secretary or administrator.
- All members of institutions for land reform should undertake gender-awareness training on an on-going basis.

#### *6.6 Enhancing women's role as producers:*

- The primary focus should be on assisting women to enhance their role in household food security. In most cases, this will mean providing services and inputs to women on an individual basis. Promotion of group based production should be pragmatic, and implemented only as a response to requests for support from existing groups, rather than imposed on communities from above.
- The package of services required will vary amongst the different regions of Namibia, but will typically include access to credit, appropriate technologies, draft power, inputs, veterinary and agricultural extension services and training, marketing facilities and water. Whether or not to set up separate services or facilities for women may also vary from area to area, and decisions of this nature should be based on thorough investigation of individual circumstances. It will be important to involve women in data collection and planning, in order to develop appropriate responses.

2. Hishongwa, N. (1983) *Women of Namibia*, Vimerby, and SWAPO Women's Council Namibian women in production in Wood, B (ed) (1984) *Namibia 1884 - 1984: Readings on Namibia's history and society*, UNIN, Luseka.
3. Information discussed in this and following sections of the paper was obtained from a series of discussion meetings held with rural and peri-urban women in various areas of Namibia (Keetmanshoop, Aroab, Mariental, Gobabis, Leonardville, Okakarara, Oshakati), and with key informants in Windhoek, in May 1991.
4. As the cultural traditions of the Herero are derived from those of Himba society, it may be assumed that the situation of Himba women is similar to that of Herero women, particularly in respect of access to livestock. Gender relationships appear to be much more equitable amongst the Bushman peoples - see NEPRU Working Paper No.1: *Land Issues in Nyae Nyae: A Communal Areas Example*, June 1991.
5. As described in Iipinge, M. (1989) *The Impact of Gender Beliefs in Housing and Human Settlements: Women Experience, Policy Issues, Lessons and Strategies for Post Independent Namibia*, ISS, The Hague, p.50: "... unmarried mothers did not exist in that society. Pre-marriage pregnancy was a taboo in some clans; the punishment was death penalty. Especially the Kwambis among the Ovambos. Any girl who became pregnant before marriage was burnt to death with fire". The existence of such penalties was also reported by discussion group participants in Oshakati. Informants with knowledge of practices in the south indicated that girls who became pregnant before marriage - and their parents - would be called to account for the situation before a board meeting comprised of Church and traditional elders.
6. Inheritance is discussed in this section only in relation to the situation of widows. It may be noted that when a women pre-deceases her husband, it is normal practice for the widower to re-marry fairly soon. The deceased wife's clothes and other personal property, including small kitchen utensils, etc, are returned to her family. It is the age of the children and related needs for childcare which determine whether they remain with the father or go to live with female relatives.
7. Information discussed in this section is drawn primarily from Hubbard, D. (1991) *Women and Children in Namibia: The Legal Context*, NISER Discussion Paper No.3, University of Namibia, Windhoek.

economic factors relating to the land reform strategy as a whole.

11. World Bank (1991) *Zimbabwe: Strategy for Women and Development*, p.15.
12. It is of grave consequence that women farmers are still not recognised as such in national statistics produced by the Central Statistical Office. It is therefore worth noting the important step which has been made in respect of the Census to be held in Namibia in late 1991, where classification of both women producers and female heads of households has been provided for.
13. See Pankhurst, D. (1990) *Constraints and Incentives in "Successful" Zimbabwean Peasant Agriculture - The Interaction between Gender and Class Through the Relations of Production and Reproduction*, Review of African Political Economy, forthcoming.
14. Information obtained from Zimbabwe Women's Bureau fieldworker, Chinamora area, Mashonaland Central, 1988.
15. See various studies by R Loewenson and colleagues.
16. See Chimedza, R. (1988) *Women's Access to and Control over Land: the Case of Zimbabwe*, Department of Agricultural Economics and Extension, Working Paper AEE 10/88, University of Zimbabwe, Harare, and World Bank (1991), *op.cit.*
17. See Chinemana, F. (1987) *Women and the Co-operative Movement in Zimbabwe*, prepared for the Ministry of Co-operative Development, Harare.
18. As described, for example, by Tibaijuka A. K. and Feldstein H. S. *Gender Analysis Framework for Food Security*, in *Symposium on Household Food Security and the Role of Women: Collected Papers*, Harare, Zimbabwe, January 21-24, 1990.





economically active population (7,5%) they represent just under 1/5th (19,45%) of people in 'formal' sector employment. Thus, a significant proportion of waged workers look to commercial agriculture to provide them with their living, especially in conditions of structural unemployment. About another 200,000 people are largely dependent on these workers for their existence.

4. The predominant form of commercial agriculture in Namibia is livestock farming. This leads to very a very low concentration of workers with the number of workers (and workers' families) on each farm ranging from as few as one or three to 11 or 12. Larger concentrations of workers are found in arable production, but these are only in small pockets in the north and the south of the country.

5. There is both un- and under-employment on commercial farms.

6. There is a large number of workers who were born on or in the district of the farm where they are currently employed. Some farm workers are migrants, others have returned from the towns. Many workers change farms often to try and break often intolerable conditions.

7. All farm workers are black, drawn from every racial and ethnic group. Being black is important to the terms of exploitation on commercial farms, and although some farmers try to use ethnic divisions, it would seem that the only ethnic group which is systematically discriminated against are the "bushmen".

8. In general, most workers are in full-time employment and these workers are almost exclusively male and adult. Women make up a sizeable proportion of the part-time, seasonal, casual and domestic workforce. Thus, there is a gender hierarchy which both restricts and down grades women's employment in the sector.

the forms that pay them -  
paid in cash and in kind. The two main forms of payment in kind are the right to run livestock and rations. Most farmers restrict the number of animals a worker may keep and rarely do rations meet the monthly food requirements of workers. Workers live on a spare diet which is nutritionally deficient.

12. Housing, clean water and access to sanitation cannot be considered a payment in kind where the worker is obliged by his employer to live on his employer's premises. Nor does clothing or transport represent a payment in kind of any significance.

13. Payments in kind are important to workers' income and standard of living, but it is very difficult to give a cash value to this form of payment. Farmers who pay in kind tend to base the value of non-cash payments on urban retail market prices (and they include items in their calculations which are not payments in kind). According to their calculations, non-cash payment represented between 55 and 64 per cent of the average worker's monthly wage.

14. An estimated 20 - 30% of farmers pay in cash only.

15. Few farmers use any formalised procedure to determine wages. Most farmers set the wage according to "the going rate". This method also means that it is rare for workers' pay rates to come under regular review. Also few farmers use incentives and a progressive wage scale to encourage productivity and stimulate initiative.

16. Piece rates are particularly widespread in determining seasonal and casual workers' wages. Generally they work to the disadvantage of farm workers because, amongst other things, workers do not know what money they will get at the end of the work period or task.

all. This can include adult men in full-time employment, and particularly it affects women, children, sentenced prisoners and "bushmen". 90% of workers who do receive a cash wage, earn R300 or less a month and the average cash wage is between R130 and R150 /month.

20. Pay levels in the sector are lower than every other waged sector in Namibian society, and average household income is just under half that of the Communal Areas. Farm workers and their families, who represent a significant proportion of people employed in waged labour, live in relative and absolute poverty.

21. Farm workers work long and unsociable hours, often without mid-day or weekend breaks. Annual leave is a very recent development and is still a "privilege" of the few. Housing varies, but it is often self-built. Health care is only available for emergencies, and then often only after considerable struggle by farm workers. There is extensive illiteracy amongst farm workers and even fewer workers have any chance of acquiring formal technical skills training.

22. Farm workers are continuously ordered about and verbally abused. Many are still physically abused. Moreover, farmers often exercise strict control over the presence of "strangers" on their property. This often does include children. Few workers have written contracts which means that workers are generally subject to the arbitrary and authoritarian dictates of the farm owner or manager who hire, fire and punish at will.

23. Farm workers have no trade unions and most farmers obstruct organisation, eventhough the Namibian Agricultural Union, for example, does not oppose trade union organisation "in principle". A farm worker's union has yet to be organised, which under existing conditions will be very difficult to establish.

the labour force. The shift to cash wages (and possibly, in overall pay levels) which further erodes the physical well being and sense of worth of farm workers and their families. For many, the cash wage received becomes their total source of sustenance.

27. There is a deep sense of grievance, considerable frustration and an overwhelming sense of powerlessness amongst farm workers. Their overriding concern is that they be assured basic rights and security. In the absence of a living wage, tenure rights and the right to run livestock become essential stepping stones towards their greater aspiration of a decent standard of living and a secure place.

28. The state needs to intervene to protect and defend farm workers so that they can develop the necessary countervailing strength to bring about a more equitable and just order in commercial agriculture. This can be created by enacting appropriate legislation and applied through existing national structures as well as regional and local authorities which have yet to be effectively established.

rightlessness and relative powerlessness of farm workers. Yet farm workers are an essential part of the production equation in agriculture. A change in their social condition is as important for the development of the economy as a whole as it is for the development of the sector.

1.3 The facts that have been teased out of a weak and uneven data base reveal an almost unbroken, universal experience of poverty, oppression and exploitation. Despite this picture, some argue very strongly that it is wrong to lump the good employers together with the bad. No doubt there are some "good" farmers. But the "goodness" or otherwise of individuals notwithstanding, what the data reveals is a systemic condition of injustice, exploitation and inequality that is structural. In other words, it is not simply a question of changing attitudes or relying on individual goodwill. As much as individual behaviour is at issue, what needs to be reviewed are the structural conditions which set the terms in which farmers operate and act.

## **2. Employment**

### ***Numbers***

2.1 It is difficult to establish the exact number of workers in commercial agriculture<sup>1</sup>. In 1988, it was estimated that there were some 36,000<sup>2</sup> people engaged in the sector. This number, however, covers farm workers, domestic workers and white management. Perhaps a greater problem is that it excludes an unknown (and not necessarily small) category of labourers who are not recognised as workers because they are "relatives" or are "working for food". There has also been a change in the absolute number of farm workers in the intervening 4 years since the data was compiled. Farmers report that whereas, over the past 20 years the workforce has been relatively constant, there has been a significant shedding/exodus of labour during the past 6 - 8 months, even leading to a labour shortage in the south of the

especially in conditions of structural unemployment<sup>5</sup>.

2.3 The predominant form of commercial agriculture in Namibia is livestock farming. 4,251 farming units covering just over 35,8 million hectares are devoted to cattle, and cattle & sheep farming. With an average farm size of about 8,500 ha the average size of the workforce is 8-10 workers. A 1990 survey on central district farms found that there were on average 6 farm workers and 2,5 domestic/garden workers, for example<sup>6</sup>. The size of the workforce increases in arable production with a theoretical potential of 10 workers per 100 ha. However, arable production is limited to some 320,000 ha and only a very small proportion of this is located in commercial farming districts. In the Otavi highlands 153 farmers produce maize, wheat and sunflowers by dryland cultivation on just over 23,000 ha. Irrigation farming is concentrated at Hardap (1,900 ha) and along the Orange River in the south (900 ha)<sup>7</sup>. The theoretical employment level in agronomic production outside the communal areas is between 2,500 and 3,000 people.

2.4 There is both un- and under-employment on the commercial farms (see para: 2.6) although it is impossible to quantify the scale of either.

#### *Composition*

2.5 "I was born here, my father was born here. I want my children to feel this land is theirs."<sup>8</sup> A large proportion of farm workers are born on or in the district of the farm where they are currently employed. In the National Survey, for example, 31% of respondents were born and grew up on commercial farms<sup>9</sup>. Some workers have been on their farm of current employment for 20, 30 and 50 years. Farm labourers often change farms to try and break from intolerable conditions, but they often remain in the same district and even return repeatedly to the same

ally poor conditions". However, it would seem that as an ethnic group "Bushmen"<sup>11</sup> are at the very bottom of the labour hierarchy. The "common knowledge" is that "these people don't use money" and therefore they don't need to be paid any cash<sup>12</sup>.

2.7 The sexual division of labour is largely shaped by the division between full-time and part-time (casual and seasonal) work. Full-time employment is almost exclusively male and adult. Of the 107 farm worker households interviewed in the National Survey, 95% were male headed and the primary earners were invariably men<sup>13</sup>. On cattle farms (the main stock farming and agricultural activity), for example, full-time workers are male household heads who live with their families or male breadwinners who live on their own but who invariably have social and economic responsibilities to people/families living in the communal areas. Other than domestic work in the farm owner's or manager's house, full-time work opportunities for women are very few in number.

2.8 Whilst women make up a sizeable proportion of the part-time, seasonal or casual workforce, they compete with men and children for work. Rationalisation on the southern sheep farms in the early 1970's, for example, reduced full-time and considerably expanded casual employment. Moorsom points out that "(b)y 1970/71 over 30% of workers were casual, in employment on average for only about a third of the year"<sup>14</sup>. Casual or seasonal workers are either drawn from the one or two full-time farm worker families resident on the sheep farms or from the pool of unemployed concentrated in the small towns in the region<sup>15</sup>. Sheep shearing (a major form of casual work) is exclusively male, which means that women compete with men and children for herding or any available piece work. In arable production part-time work is mostly seasonal (harvesting of cotton, groundnuts etc.) and casual (weeding). Usually this means occasional employment for women, children and some men.



work to assist "casual" workers meet piece-work targets and sometimes they are hired as individual "free" labourers<sup>17</sup>. They are expected to work as long and as hard and often under even more disadvantageous terms than adult farm workers.

2.11 Commercial agriculture in Namibia uses prison labour. At the state-owned Hardap Experimental Farm, for example, an irrigation worker reported that part of his work was to supervise 19 prisoners. He wasn't paid for this "extra responsibility", although he had been promised R260 a month. "The work is very risky as I am held responsible if the 'bandiete' go on strike or escape. Last time one of them escaped they deducted R100 from my pay." Private farmers in the area are also known to use prison labour. Research has yet to reveal the extent of its use, but as a labour form it is quite compatible with the sector's colonial legacy of contract, cheap and rightless labour. Some farms are also reported to have their own prisons.

2.12 There is evidence of the emergence of a skill and authority hierarchy in Namibian commercial agriculture but it is largely unacknowledged. The backwardness of relations in the sector coupled with the extensively favourable terms under which the state has historically subsidised capitalisation has meant that farm workers are expected to do skilled work - including driving vehicles (tractors, lorries, pick-ups, graders), constructing dams, fences and houses or maintaining and repairing pumps and other engines<sup>18</sup> - without training, without financial reward, without promotion and without leverage (certified qualifications) in the job market.

2.13 Similarly, the sector relies extensively on farm workers to see to the daily management of the enterprises. Whilst it is safe to assume that all lower and middle management functions are carried out by black workers, the same is not the case for senior management. Whether higher level management is black or white

### 3 Wages

3.1 It is difficult to establish a wage value for work in Namibian commercial agriculture. This is not only because of an absence of data on a national scale but also because wage levels are complicated by the forms the wage takes and the methods of payment. These three dimensions (forms, methods and levels) which establish the real wage value are further complicated by an absence of standardisation in the sector. The only "standard" that is set is the "standard of minimum"<sup>22</sup> so that the variation that exists centres around this minimum. What is described below is drawn from the data that is available.

#### *Wage Forms*

3.2 By wage forms is meant the material form in which the worker is paid. It is normally presumed that "wages" means cash in conditions of commercial production. This is often not the case in commercial agriculture and it is certainly not the case in Namibia. Wages are paid in cash and in kind. While cash payment is relatively unproblematic, the same is not true for payment in kind. There are problems both with defining the content of wages in kind and determining their value.

#### Defining Payment in Kind

3.3 At present there are two main items which are generally paid as the in-kind wage. The one is the right to run livestock. This seems to be a right inherited from an earlier period when farmers made little or no cash payment. Many farm workers report that they are allowed to keep livestock. In the National Survey, for example, 43% of farm worker households kept stock on the farm where they worked and 21% had livestock kept for them by people living in communal areas or elsewhere.

... and sheep had an average of 3 animals and the 25% who had horses and donkeys an average of 4 animals. Most workers have acquired their stock as part of their inheritance, as part of their dowry, or through outright purchase. Rarely are workers given stock as part of their bonus.

3.5 It appears that whilst some farm workers still retain the right to keep animals, they are increasingly forced to pay "grazing and water fees"<sup>27</sup>. This alters the terms from one of payment to the worker to one of payment by worker. Under these conditions, the right to run stock ceases to be a payment in kind.

3.6 Rations are the other main kind of non-monetary payment to farm workers. The amount and content of rations are determined in a completely arbitrary (and irrational) manner<sup>28</sup>. They neither take account of family size nor of the dietary needs of workers. Mealie meal, sugar and tobacco are standard. There is a general absence of fresh vegetables or fruit. Many workers don't get fresh milk. On one farm it was withdrawn because allegedly workers "spent more time worrying about getting milk than doing their work". Milk was only for the whites and their dogs. Meat rations often include a lot of fat and bone so that the quantity "given" is deceptive. Moreover, in the absence of variety the quantity and quality of these staples becomes even more important.

3.7 Where rations are given, some workers receive none. This includes wives and children of farm workers who do domestic or seasonal work "because their husbands/fathers get". Sometimes workers only get half rations because they are considered to be either "young and single" or "old". In general, all workers reported that the rations they received were too little to keep themselves and their families for the month and that they spend most of their cash wage on food.

3.9 However, the second and more important point that the draft Labour Code will make clear<sup>30</sup>, is that housing, clean water and access to sanitation cannot be considered a payment in kind where the worker is obliged by his employer (and by the nature of the work) to live on his employer's land or premises. It is a necessary provision of the terms of employment. Ironically, this fact is clearly understood by employers when it comes to attracting white management. For them housing, water and electricity "are free".

3.10 Other items mentioned by farmers as part of the payment in kind they make to workers include clothing and transport to town. Both of these items are highly dubious "payments". Many workers report that they have to buy the farmer's second hand clothes and shoes and if they do get "clothing", they get one overall and even more infrequently, a pair of boots/shoes a year. On a company farm, for example, where management included R14/month for clothing in its in-kind break down, workers received one overall a year. If they left or were fired they had to return the overall to management<sup>31</sup>. Equally and despite farmers' claims to the contrary, farm workers' children are rarely transported to and from school and workers seldom get any special transport assistance - and then only in cases of extreme emergency and much dispute. Workers reported that usually they could only get a ride to town when transport was going anyway. Many workers are forced to travel by foot or to use their own transport. The main means of rural carriage for farm workers are donkey carts<sup>32</sup>. Some workers also have bicycles. In general, neither clothing nor transport constitute a payment in kind of any significance.

in bulk. The wholesale or actual price paid for the ration is therefore invariably not the same as the retail price used in their calculations.

3.12 Given the general unwillingness of organised agriculture to release data from its 1990 survey of wages, it is difficult to establish a general picture of the proportion of the overall wage that farmers attribute to payment in kind. From one survey of farmers in central Namibia, for example, non-cash payments represented 64% of the average wage<sup>33</sup>. This high proportion is probably quite general as it is in keeping with conditions where cash wages are very low and labour costs are tax deductible<sup>34</sup>. In other words, farmers are trying to make a double saving by limiting direct capital outlay (paying higher wages) and by boosting the amount they declare as labour expenses.

3.13 It is against this background that some sense can be made of the Nambian Agricultural Union's calculation that wages make up 20-27% of commercial farmers' total expenditure. In this regard, the FNDC<sup>35</sup> estimation of labour costs (excluding management) as a percentage of the total cost of its labour intensive agronomy projects ranges from 3,80% (Shitemo) to 5,7% (Shadigongoro). This is far more in keeping with the low wages and conditions of poverty which permeate the sector.

3.14 At present about 20-30% of commercial farmers pay in cash only. This trend, which is strongly advocated by the Nambian Agricultural Union<sup>36</sup>, is slow and far from generalised. Whilst paying wages in cash is generally to be welcomed, the significance of this trend has to be evaluated against both the method of payment and the fact that it can and often does mean a reduction in wages. Moreover, in the absence of any standard practice amongst or control over employers in the sector it doesn't make much difference to the general well-being of

mining wages. The FNDC parastatal, for example, uses the Peromnes Job Evaluation System which has a 19 scale ranking order. This is rare and is likely to be confined to state or company farms. Most farmers tend to set pay based on "the going rate" in their area. Some devise crude and arbitrarily determined hierarchies. Often, these are based more on the willingness of a person to do any job demanded of him under any condition than on his skill or competence. The absence of any formal system of setting wage rates also means that it is rare for pay rates to come under regular review. Many workers report that the money they get has been the same since they began working on a particular establishment - which sometimes means for years.

3.17 Full-time farm workers tend to be paid on a fixed rate basis. Many also get an annual bonus (a xmas box) usually at year end. Sometimes this is in cash but often it is in kind (food and old clothing). In the survey of central district farms, for example, 86% of farmers gave bonuses and these were equivalent to 13% of the average monthly cash wage<sup>38</sup>. Bonuses are also used as incentives to control poaching and predators. On one farm<sup>39</sup>, for example, management said that workers who identified and reported on thieves were paid between R300 and R500 i.e. between two and five times their monthly cash wage. In other instances, whilst workers may be paid bonuses for killing predators they also face pay penalties if stock are attacked. Shepherds and postmen report working into the night to care for stock. In general, few farmers use incentives and a progressive wage scale to encourage productivity and to stimulate initiative.

3.18 Piece rates are particularly widespread in determining seasonal and casual workers' wages. Piece rates are set in two ways. Either a quota is fixed at a given rate, i.e. workers

are said to use children to assist them picking cotton or lifting ground nuts at the FNDC agronomy projects suggests that all these constraints may be at play there.

3.19 The trend to pay wages in cash has begun to alter the intervals at which workers are paid. Most farm workers are paid at month end. However, with cash only payments farmers are increasingly paying wages out every week or fortnight. This change reflects both the low level of and a possible cut<sup>41</sup> in farm worker wages which accompanies the shift to cash only payment. Farmers have adopted this solution as a measure to counter the pressure from workers for loans to see them through to the next pay day. As one explained, "by paying weekly they manage their money better with much less shortfall".

3.20 A further, related problem is how and even whether workers actually receive their cash. In the first instance, most workers are not paid their wage in a proper pay envelope (which stipulates the amount due plus any deductions and which should also contain a detailed breakdown of the deducted amounts). Secondly, as most farmers run farm shops from which workers buy their supply (whether they receive rations or not) and most (possibly all) farm workers are forced to live on credit, the actual money workers receive is invariably minus deductions. Workers often only begin the next working month with R15, R20 or R50 cash in hand. Moreover, they have no control over deductions, which may also include penalties. In some instances workers actually never even get to touch their pay. Thus, for example, "the money is a problem. You don't know how the money is used up, because we are only using the money for food. When we are paid the money is put into glass jars and is kept in his store and you only use the money while it is kept there. No one can take out his or her money from the shop. They don't want us to take money home. You see, since the money is our hard work we must be allowed to buy the things we want and to take the rest

reasons which are arbitrarily determined by the employer. Farmers feel themselves to be morally and socially justified in applying wage sanctions to discipline and control workers on grounds of both class and colour. They believe they have the right and the duty to assert magisterial power over black people present (in whatever capacity) on their property.

3.23 Farmers sanction workers in relation to work performance. At FNDC projects, for example, if a worker is caught stealing s/he is summarily dismissed and if a worker is drunk s/he is sent home for the day and loses that day's pay. Stockmen and shepherds often lose pay because of fines. There are many examples. In one instance a small stock farmer carries out "spot checks" and if an animal is found outside the pen, the worker is fined R10 (9% of his monthly wage).

3.24 Farmers also withhold pay from workers to underline and reaffirm power relations on the farms. Nothing evokes disciplinary reaction amongst farmers more than absenteeism (very broadly defined). Workers' absence without the farmer's permission because of health, family or social obligations or the general lack of free time is invariably perceived by farmers as an act of defiance and a challenge to their authority. Not only are workers abused verbally and sometimes physically, but they are also often fined - i.e. they lose some of their pay.

#### *Wage Levels*

3.25 Given the difficulties of translating the value of payments in kind into a cash equivalent and the fact that many workers don't receive a non-cash wage (48% in the National Survey), wage levels will be discussed here in terms of cash wages only<sup>43</sup>.



3.28 It appears that a number of farmers are assisting old people apply for state pensions. Given that the pension is paid by cheque, that many farm workers live in isolated places and therefore have to rely on their employer's postal address and that they are illiterate, the pension cheque often goes directly or indirectly to the employer. In some instances, farm workers reported that they stopped being paid when the farmer knew they were receiving a pension - they were just working for a place to stay. Sometimes, when the farmer received the money directly, he deducted rations and items bought on credit and paid the worker the difference.

3.29 The "common knowledge" that "bushmen" don't use money, means that they are often not paid. Farm worker, Mr Narugue eloquently reveals the plight of workers without pay. "He is useless. He doesn't pay me. He is just wasting me, absolutely wasting me. He doesn't pay me. He gives me nothing. He just feeds me like his child. He doesn't give me anything so that I can give it to my child. I am just living like a bird."<sup>45</sup>

#### Full-time workers

3.30 According to the National Survey, the average wage of full-time farm workers was R131.66 a month. Only 14% earned R200 or more a month and 4% earned between R260 and R290. More than 1/3 of the sample (37%) of the sample earned R100 or less. Farmers in the central district survey conducted in 1990 reported paying an average cash wage of R156 a month, plus an annual cash bonus of R288. Random interviews tend to confirm the average levels and the range. Many workers said they earned R50, R60 or R80 a month.

### Seasonal or "casual" workers

3.32 There is no data on seasonal or "casual" wage rates, aside from data provided for FNDC projects. These pay an average of R4.64 per man-day worked, which on a 28 day working month gives a pay of R130. It cannot be assumed, however, that workers work every day or every month of the year. At peak employment times the Musese project employs 80 people (Dec - March), the Shitemo project employs between 104 and 210 (Jan - August) and the Shadigongoro project 120 and 223 (Dec - March) and 134 and 207 (May - July). But employment levels drop to as low as 9 and 10 workers out of season. Moreover, it cannot be assumed that the same people work every day for the whole season, as this depends on how they are recruited. And although these are an indicator of average wages for some seasonal workers, it would be inaccurate to generalise from them to the sector as a whole, given the significant difference of wage rates already observed for full-time employment.

### Comparative Incomes

3.33 The National Survey found that the average monthly cash income (from all sources) for farm workers' households was R181.48 or 48% of that of the average household in the communal areas. 90% of farm worker household incomes ranged from R50 to R350 a month. In a survey of Katutura in 1988-9<sup>47</sup> only 23% of African households had incomes of less than R400 a month. The median monthly household income was between R600 - R700. Moreover the National Survey also noted the narrow range of income sources in commercial agriculture, i.e. the albeit complete dependence of farm workers on cash wages. It is clear why one of the primary grievances farm workers have is over pay.

4.1 Farm workers work long and unsociable hours. Many work seven days a week from sun up to after sun down. Sometimes they have a mid-day break, sometimes they don't. Rarely do they get annual leave, and for the few who do, it is only very recent. Nor are there any structured arrangements for sick leave or to attend to personal matters. Hence, workers have very little free time. Whilst considerable overtime is common paying overtime is exceptional. One farmer, for example, said that he didn't pay overtime, but gave workers more time off. The workers, however, reported that without exception they worked "the normal day" whether they had been working overtime or not.

4.2 Housing varies. Many workers have built their own houses from zinc sheeting. Some farmers have built housing for workers, with and without state assistance. Sometimes water is close by, sometimes it is not. Almost no housing for farm labourers have electricity, even when farms have their own generators. It is rare for workers to have any kind of ablution facilities. In general, there is an absence of adequate housing and elementary services.

4.3 Health care is often absent. Mobile clinics rarely visit most farms and workers are almost wholly dependent on the willingness of the farmer to take them to get medical attention. Farm workers report a general negligence on the part of employers which often has left them unattended for days and has resulted in both long term disability and death<sup>49</sup>!

4.4 "Ek will leer om te skryf om te weet". There is extensive illiteracy (47% of the National Survey, for example) and a general absence of adult education for farm workers. The very limited skills training facilities available are provided by the NAU which began "technical skills training for farmers and their employees" in 1984. In the period 1985-1990 some 1,758 people

agriculture. Older people report being chained and beaten, having salt rubbed in their wounds and then being beaten again if they lost stock or committed other breaches of the Masters' and Servants' Act (repealed in 1977). Presently, there are still some farmers who physically assault or threaten workers. On one farm, for example, the farmer, his wife and their son walk around with pistols. They shoot into the air or at workers' feet to hurry them up or just to intimidate them. In another instance, a worker's leg was permanently injured after his employer struck him for not loading a vehicle fast enough in the rain.<sup>51</sup>

4.7 Farmers generally control the presence of "strangers" on the farms. On some farms, they do not even allow the children of farm workers to visit. In other instances, workers have to report visitors and how long they will stay. In one case, for example, visitors were only allowed to stay 5 minutes and their visits were monitored by the farm owner.

4.8 Few workers have written contracts. In the small survey of farmers in central Namibia, for example, only 31% had formal contractual arrangements with their workers. Most are employed by verbal agreement between themselves and their employers. The NAU reports that there is a slow trend towards formalising the terms of employment. This leads to many abuses, for instances, most workers are subjected to summary dismissal. Frequently, they are driven off the farm with their belongings and dumped at the side of the road.

4.9 Although the NAU is not opposed to farm worker organisation "in principle" (and it opposed the exclusion of domestic and farm workers from labour legislation) "we are not going to organise farm workers". In practice, most farmers obstruct organisation and restrict farm worker participation in the political arena. Trade union organisers have to overcome enormous obstacles just

5.1 A land reform programme designed to tackle issues of development and growth in Namibia has to address some of the consequences of relations and conditions in present-day commercial agriculture. In the next section we will look at some key issues which need urgent attention.

5.2 Commercial agriculture employs a significant proportion (+1/5) of the formal sector workforce. A sizeable proportion of the population, therefore, depend directly on the sector for their livelihood. As relations in the sector are presently constructed, commercial agriculture fails to meet their basic needs. A reform which is built on the existing order will perpetuate and expand these conditions of gross poverty, exploitation and rightlessness.

5.3 Many farm workers have established lower order tenure rights through birth and/or long service. They are conscious of these rights and expect a land reform programme to codify and protect them. Most farm workers, however, are without any land and many of these seek some security on the land. In the words of a black manager on a southern sheep farm, "sometimes I feel as if it is my own farm, but I know better. If only I could be given a place to live my life and stop being dependent on someone else's goodwill".

5.4 The sector uses racial, ethnic and gender inequalities to lower wages and depress the terms of employment. Child and prison labour (both forms of forced labour which violate basic human rights) act to force these down even further making work on the farms highly undesirable and "akin to slavery".

5.5 These labour forms also inhibit the emergence of a properly trained and adequately rewarded skill and authority hierarchy which is essential for the development of more sustainable and evenly developed commercial farming.

their sense of worth.

5.8 In the absence of any realistic alternatives to supplement their incomes, the cash wage received becomes their total source of sustenance. Rarely has this been raised to meet basic needs. Thus, for many farm workers, the shift to cash means they live under as harsh if not worse constraints<sup>53</sup>.

5.9 Indebtedness is endemic. Invariably, workers are indebted to their employers since they are often obliged by distance and/or direct compulsion to buy at the farmer's shop. Although farmers are generally adamant that these are non-profit making, many workers report that prices are higher at their employers' than at those in the nearest towns. Thus, petty exploitation goes hand in hand with debt bondage. Their pay "just ends in the air".

5.10 Conditions of work leave farm workers with little free time. They are also extremely isolated. This is not only a matter of physical distance but also arises from an absence (or generally low level) of education, extremely limited resources (which means that many don't have radios), and perhaps most important of all, the feudal-like authority vested in the farm owning establishment. Employers believe they can intrude into and exercise control over every aspect of farm workers' lives. This is contrary to the Namibian Constitution and is a violation of their fundamental human rights<sup>54</sup>.

5.11 Pay and conditions in Namibian commercial agriculture also destabilise the labour force as farm workers tirelessly try to improve their lot by moving from farm to farm. Most employers, however, are reluctant to acknowledge that they even have a high labour turnover, let alone recognise the causes which force workers to leave.<sup>55</sup>

assured basic rights and security. In the absence of a living wage, "lower order" tenure rights (rights of generational occupation of the land where they live and work), and the right to run livestock become essential stepping stones towards their greater aspiration of a decent standard of living and a secure place.

5.15 If these conditions (uniform poverty, arbitrary power and general rightlessness) are what the free market dictates, as some have argued, then the state needs to intervene to protect and defend farm labour so that it can develop the necessary countervailing strength to bring about a more equitable and just order in the sector. This requires creating a legal framework to establish basic conditions of employment (the Labour Code) and perhaps more significantly, providing mechanisms to monitor and ensure that these rights are upheld. This is particularly important given the poor state and difficult conditions of trade union organisation on the farms. The state has several institutions in place which can be directed to addressing these problems. In particular the Ministry of Labour and Manpower Development has begun to establish labour relations offices where officers are trained to advise workers and employers of the conditions of the Labour code, handle complaints and carry out inspections at the work place. At least in the initial period, however, this ministry is not likely to have sufficient personnel or resources to systematically attend to farm workers. It is conceivable that extension and other field officers of the Ministry of Agriculture, Water and Rural Development could assist in the monitoring of labour conditions on the farms. Both the Directorate of Rural Development and the Directorate of Agricultural Training would also need to look at farm workers' needs and how they could be integrated into their spheres of operation. Where state loans or drought relief are involved, for example, a clause on ensuring basic conditions and fair labour practice and could be added to the conditionality of loans

1. This paper does not deal with the position of domestic workers in commercial agriculture. Although their terms of employment are intimately linked to those of farm workers, since they are invariably their wives and daughters, there is almost no data available at present to deal with the issue. In the National Survey, for instance, many of the people described as "second earners" were women in domestic employment. When they were paid, their wages ranged from between R20 and R110 a month. Workers reported having to work very long hours, without overtime, 7 days a week.

1. The reasons for these difficulties are several. The first is the general absence of census data. Notwithstanding the problem that farmers complete the detail of surveys' the last agricultural census was conducted in 1976. In 1989/1990 affiliates of the Namibian Agricultural Union (NAU) conducted wage surveys amongst their members to establish average wage levels. It seems that the results are so bad that they have been withheld for fear of a public outcry.

2. ILO (1991:23) Namibia: report of the ILO employment advisory and training policy mission ILO Geneva. This estimate is based on a 1988 Manpower Survey. The ILO report (28) observes that " it is likely that the figures for workers in commercial agriculture were unreliable on account of the large proportion of employers (about 30%) in this sector who were not actually interviewed for the 1984 and 1988 survey but (were) enumerated on the basis of estimates considered to be a "close approximation" of the real situation."

3. Interview with Mr A J Mouton, President NAU 20.4.1991

4. Interview with Mr Sylvester Gawaseb (National Organiser) and Mr Gabriel Nunyango (Coordinator) of the NUNW (National Union of Namibian Workers) 22.5.1991 and *ibid*.

5. It is worth quoting in full from N E Wiehahn (Chairman) (1989) Report of the Commission of Inquiry into Labour Matters in Namibia. Para:5.2.1.5. reads: "It is important to note that unemployment in Namibia is essentially of a structural nature, i.e. the structure of the economic activity and the increase in such activity, on the one hand, and the demand for labour, on the other, are irreconcilable, irrespective of the state of the economy. Typically first world capital intensive economic development cannot be reconciled with a rapidly growing workforce of unskilled workers."



more control and "less trouble", whilst others hold that they like to "mix" their workers to prevent worker solidarity.

11. In the absence of any satisfactory alternative, the term "bushmen" is used in inverted commas to draw attention to the inappropriateness of this notion which has its origins in colonial conquest and racial oppression.

12. Interview with Mr Richard Pakleppa (22.5.1991)

13. National Survey of Socio-economic Conditions and Attitudes to the Land Question in Namibia (1991) Section "Farm Workers: socio-economic conditions." NEPRU (Subsequently referred to as National Survey)

14. Moorsom R (1982:33) Agriculture: transforming a wasted land  
IDAF London

15. Chinamana F., Field trip, May 1991.

16. Interview with Mr A J Mouton (20.4.1991)

17. Interview with farm worker at Erindi, Omaruru (28.5.1991), interview with farm worker, Mariental (22.5.1991), interview with G O van Dyk, FNDC (29.5.1991) and data gathered from the National Survey. The latter did not specifically ask if children worked on the farms, but data on child labour was gleaned indirectly from information on household income.

18. National Survey (op.cit)

19. Adams F. et al., (op cit:70). This figure does not necessarily reflect the level of owner absenteeism. The Department of Agriculture and Rural Development paper ( op.cit. 30) reports that in 1991 just under 20% of individual owners did not live on their farms/businesses. Of these, only 28,5% stayed in towns in the district of their farm. The rest lived in another district (396 or 49%) or overseas (251 or 31%). The 55 company farms are also most likely to be run by white management. However all part-time/ absentee farmers do not necessarily employ managers. It seems probably that the proximity of their domicile to the farm and the size of the farming establishment are determining factors. This is a matter which needs further research.

cattle and was presently under pressure to sell off his goats. why, he asks, should he not have milk for his coffee or slaughter a goat to celebrate the birth of his grandchild? (Interview with Mr Richard Pakleppa, 22.5.1991).

24. For example, in an interview with Mr Simon Skrywer, farm worker in Hochland (February, 1991) researchers were told that "We are forced to auction our goats, and some of us refused, but others didn't. That was ordered by the owner of the farm. We were told to buy cattle instead. (We) were really against that and decided to look for other places for my small stock." Asked why he couldn't buy cattle if the farmer allowed workers to do so, he replied : "with what money can we buy cattle, because even the workers whose goats were auctioned didn't get their money back. Only some got money and others are still waiting."

25. For example, at a farm in Omaruru district, the manager said workers could keep 5 large stock units (LSU) (cattle, donkey and horses) and about 50 small stock units (SMU) (goats and sheep). On an Otjimbuka farm the ceiling for LSUs was 8. (Interviews)

26. This average seems high and may be upwardly distorted given the small size of the sample who had cattle on the farms.

27. One farm worker reported having to pay R19 for grazing for his horse. On another farm workers' are given a heifer after 5 years service, but they have to pay for its up keep. A farmer said that he charged workers "half the market rate" for grazing, lick and water supply. "I shouldn't do this, because its patronising. I should charge them in full. But I do." (Interviews)

28. At a large company farm, for example, the standard ration was made up of 14 items including mealie meal (3 buckets), flour (1 bucket), sugar (2kg), 2 flat tins of sardines, tea (1pkt), coffee (1 small tin), 250g fat, Cremora (1 pkt), meat (approx. 16kg), a packet of matches, tobacco (about 25g), body soap (1 bar) and washing powder (1 small packet). A farm worker in the Rehoboth district reported that he only got ten "blikkies" (jam tins) of mealie meal a month. (Interviews) A Vital Household Product Distributors advert in The Times (29.5.1991) advertised a "Farmers - Labour Hamper" for R25. (See Appendix 1.)

32. It is unclear whether it is possible to assume that the 29% of farm workers found by the National Survey to have donkeys and horses all had donkey carts as well.
33. Interview
34. NEPRU Briefing Paper No.5 (1991:??)
35. Information provided by Mr G C Van Dyk, General Manager, First National Development Corporation, 29.5.1991
36. The reason they give for this is that non-cash payments are patronising. Notwithstanding that some farmers are trying to break from the paternalist mould of colonial relations, the main pressures to shift to cash only payment are the rationalisation and cost saving effects it carries.
37. Interview (27.5.1991)
38. Interview
39. Interview with Mr H Kriel, Manager, Erindi.
40. The FNDC cotton project, for example, also sets an additional target bonus (R50/40/30/20/20) which is paid to the 5 most productive cotton pickers at the end of the season.
41. One worker observed, "we don't get food rations any more, since the fortnight system was introduced. When we were working for a month we did get rations and could actually save money. Although we had some debts we got some money back at the end of the month." (Interview)
42. Interview with Mr Uirab, Hochland.
43. This is not to suggest that non-cash payments are unimportant to farm worker households. On the contrary, they contribute significantly to household living levels in conditions of generalised (and often absolute) poverty.

48. For example, Mr Paul Smit, Chairman, Agricultural Employer's Association. (Interview)

49. Interviews

50. NAU paper "Production Training in the Developing Areas" (14.06.1990) and Interview with Mr Mouton. The NAU reports that its courses are heavily over-subscribed and they are not able to meet demand.

51. Interviews

52. Interview. Mariental Sheep Show (22.5.1991)

53. A farm worker employed in Otjipewa expresses his plight thus: "With this R40,00 I buy sugar, tobacco and soap. This means with this R40,00 there is nothing else to buy except the three I have mentioned. I can't buy shoes, trousers and a shirt. So to me this money has got no use."

54. This is most immediately evident in their insistence on being called "baas" not "mister". As an old farm worker cynically observed "if you call him "mister" he says you're a Russian".

55. Whilst most employers attribute the continual changing of jobs to the alleged racial or ethnic attributes of farm workers, if they cared to listen to the workers, they would soon understand why they frequently change jobs. To wit: "This R50 can't help me at all. That's why we always jump from place to place looking for better paying jobs." And "While I was working with cattle, I was told to carry a bag full of salt. Then I asked myself, while there are machines that can do that, am I going to carry it myself? That is not possible. So I decided to leave. That white man, my employer, told me that I must fuck off from his place and that he will not give me the money that he owes me, i.e. the money I'd saved as well as the my pay for the month." (Interviews)



Lesser items were drought assistance and subsidies to the meat industry, probably less than R5m, and veterinary spending (R5m).

3. Farmers benefit from a number of tax concessions which non-farmers do not enjoy. In 1988/9 they saved some R23 million (in current Rands) by using so-called "standard values" in place of market prices to value their livestock, some R14m by averaging their tax rates over the previous five years, and some R10m from the exemption from GST on machinery repairs and parts.

4. Combining subsidies and tax concessions results in a negative net contribution by commercial agriculture to the exchequer. For example, in 1988/9 the tax paid on farm income was R10m (current Rands), the tax saved by deducting farm losses from nonfarm income was R19m, and subsidies were R38m, leaving a net contribution of  $R10 - 19 - 38 = \text{minus } R47\text{m}$ .

5. This situation is both inefficient and inequitable. It is inefficient because the subsidies and tax concessions encourage excessive investment in commercial agriculture and inhibit the deployment of these resources elsewhere in the economy where they would be more productively used. It is inequitable because the beneficiaries, commercial farmers, are better off than the average Namibian.

6. If the subsidies and tax concessions were removed, the state could channel the increased cash resources to development projects aimed at the least well off. Commercial farmland prices would fall. The adjustment to the new non-interventionist environment would be painful for the commercial farm community. It would accelerate the trend towards larger farms as less efficient operators are forced out of business and the remaining farmers exploit economies of scale.

non-distortionary level. The advantage should not be overemphasized, since without the subsidies and tax concessions the overall environment would be more challenging.

9. Careful examination of the practical difficulties of introducing a land tax suggests that this cannot be viewed as a major tool of agrarian reform.

10. Four recommendations follow:

- (a) The investment environment should be clarified and stabilized as soon as possible.
- (b) The subsidies and tax concessions should be removed over a period of, say, three to five years. Some of the direct subsidies have already been removed. The rest of these, together with the subsidies implicit in the low-interest loans from the Land Bank, can be removed without legal difficulties. User charges can be required for veterinary services. It appears that the largest single subsidy item, concessionary finance from the Agricultural Credit Board, cannot be removed because the contracts fixed the interest rate.
- (c) For equity's sake, a stock slaughter tax should be levied on all farmers, "communal" farmers included, with full rebates for those who pay income tax.
- (d) The activities of the Land Bank should be redirected to "communal" farmers and to supporting carefully conceived development projects.

the so-called communal sector  
3 attempts to quantify the value to the commercial farming community of the tax concessions which they enjoy and which other sectors do not. This will help legislators select a "short list" of tax concessions and subsidies whose removal would most quickly, and with the least collateral damage, advance their land reform objectives. Section 4 examines the capacity of a land tax to achieve various land reform objectives. Conclusions and recommendations are presented in section 5.

## 2. Subsidization

2.1 This section attempts to quantify state spending on both the commercial and the communal sector over the period 1981/2 to 1989/90. It then proceeds to theorize on the effects on the viability of the commercial sector of the removal of the subsidies.

2.2 The three different kinds of subsidies - concessionary finance, direct subsidies, and veterinary services<sup>2</sup> - are dealt with in decreasing order of importance. The largest item in 1989/90 was the subsidy implicit in the concessionary finance to individual farmers from the Land Bank and the Agricultural Credit Board. Direct subsidies, include for example drought relief. Attempts are made to divide up the spending of the veterinary directorate of the Department of Agriculture and Nature Conservation into the components that benefit the commercial and the 'communal' sector. All the above items, together with the administration costs of the various agriculture departments, are brought together in an overall perspective of state spending on agriculture in Namibia. Finally, the likely effects of sweeping away the commercial farming subsidies and/or requiring user charges on such items as veterinary assistance are considered.



2.5 Due to the substantial subsidies, the real value of the Land Bank's own funds, in constant October 1990 Rands, fell from R288m in March 1980 to R123m in March 1990. The Bank was borrowing short-term from commercial sources at commercial rates and lending long-term at substantially lower rates. The subsidies, which were between R8m and R25 million annually, were bound to reduce the size of the institution's funds. At the present rate of subsidy, and without further capital infusions from the state, the Land Bank would practically cease to exist after another decade.

2.6 The interest rates on Land Bank loans were variable, and those on A.C.B. loans were fixed. It appears that the subsidy element in the A.C.B. loans cannot be withdrawn. That on the Land Bank loans can be. There are three arguments for doing so. First, the subsidies drive up the price of land, making it more difficult for potential new farmers to enter the industry. This is probably one of the reasons for the snail's pace of the movement of "communal" farmers into the commercial region since legal discrimination in the land market was removed in 1978. The land price rises in response to the increased profitability that accompanies subsidization because the land price is determined solely within the agricultural sector and of all the factors, land has the least supply flexibility<sup>4</sup>.

2.7 Second, the arrangement is inequitable in two ways: Namibian commercial farmers have a higher level of income than the average Namibian, and the distribution of income within commercial agriculture is highly skewed<sup>5</sup>. Third, it encourages excessive investment in the commercial agricultural sector. It would be more efficient in terms of output and probably also employment to have similar incentive structures across all sectors of the

11  
their jobs.

2.9 This view is open to criticism. The proponents of concessionary finance fail to consider the reasons for low profitability. Even at times when output prices have been on the rise, profitability, measured as  $[\text{revenues} - \text{costs}] / [\text{farm value including land}]$  is low. One of the reasons for this is that these calculations ignore the increase in the value of the farmer's assets as subsidies are capitalized into land prices. If the calculations were done properly, profitability averaged over the long term (though not necessarily in each year) would be higher and would probably be similar to non-agricultural profitability.

2.10 Proponents of concessionary finance ignore the vast differences between individual farmers. It is true that the average level of indebtedness is high (Laubscher, 1990). For some farmers, debt to equity ratios are high and for others low; and for farmers with the same debt to equity ratios, the more efficient ones have taken account of their risk profile and are confident of being able to repay, while the less efficient are threatened with liquidation if interest rates rise or demand or output prices fall. These differences are crucial. Abolition of the subsidies would result in resources moving into the hands of more prudent and more efficient farmers. This would spell disaster for some individuals, particularly for those who failed to foresee the end of white minority rule and those who ignored the warning signs in South Africa and elsewhere in the world that governments are tending to favour market processes over direct state intervention. It would not mean the collapse of the sector<sup>7</sup>. In the long term, the sector would be healthier in the sense of being less dependent on government assistance, and new markets would arise, e.g. capital markets and farmer insurance markets.

depress output prices and ~~smaller~~ under financial pressure. This provides the 'push' factor<sup>9</sup> out of commercial agriculture. The 'pull' factor<sup>9</sup> is given by the rising salaries in middle-class nonfarm occupations to which the offspring of farm families have access due to their superior educational achievements. Frequently smaller farmers who are not benefiting from economies of scale and who see little chance of purchasing contiguous land will persuade their children to seek nonfarm occupations and the farm business is eventually wound up.

2.13 Subsidization of the commercial agricultural sector strongly influences the growth process. Subsidization raises land prices, and also temporarily raises the current incomes of incumbent farmers. The smaller farmer referred to above, who under normal circumstances would see better income prospects for his offspring outside agriculture, might be emboldened by cheap loans, drought assistance, tax concessions and the like to seek to keep the farm in the family name. Thus subsidies and tax concessions tend to freeze the farmland distribution. They do not arrest, but only postpone the inevitable march towards a larger farming structure in a growing market economy<sup>10</sup>.

2.14 The corollary is that if subsidies and tax concessions are suddenly stripped away, the less efficient farmers who have been dammed up in the sector will suffer severe financial pressure and leave. Probably smaller operations would be prominent among these, but there may also be some larger operations which have become dependent upon state assistance. Some younger farmers with high indebtedness would also be placed under unanticipated pressure.

#### *Direct subsidies*

2.15 The central Department of Agriculture and the second-tier Administration for Whites granted direct subsidies, typically in

The largest component by far in the period 1981/2 to 1985/6 was drought relief. Drought relief grants dropped from R22.8m in 1985/6 to R1.5m in 1986/7, reflecting both improving climatic conditions and the (central) Department of Agriculture's policy switch from drought relief grants to loans.

2.17 Some of the direct subsidies were discontinued de facto during 1990, the year of independence. This includes those for bush encroachment, soil conservation, and boreholes. The occupation allowance had already lost its raison d'être well before independence. The subsidies that remain are drought relief and the low-interest outstanding loans to the karakul and meat industries, and the loans to SWAMEAT Corporation. The total direct subsidy of R12.7m in 1988/9, spread among some 4000 farmers<sup>11</sup>, amounted to R3200 each, not an enormous amount on average. There may be difficulties in withdrawing the subsidy element in some of the loans if the interest rates are fixed. However, if the remainder of the direct subsidies were removed as part of a new non-interventionist policy stance, the commercial sector would not be greatly affected.

#### *Veterinary assistance*

2.18 Officials<sup>12</sup> of the veterinary directorate of the Department of Agriculture estimated that 47% of the efforts of this directorate were expended on the commercial sector and 53% on the "communal" sector (see Appendix 3). Between 1984/5 and 1989/90 the state's spending on veterinary work in the commercial sector remained approximately constant in real terms at around R6m annually. The bulk of the efforts of the veterinary directorate in the commercial sector takes the form of stock inspections and administration directed at maintaining animal health standards to comply with the export requirements of the EC.

2.20 Some of the largest farmers would be sorely affected by the introduction of user charges, since the charges would presumably be in proportion to their sales. On average, however, the effect of requiring user charges would not be great. The sum of R6m spread among 4000 farmers amounts to approximately R1500 each.

*Overall state spending on agriculture*

2.21 We now proceed to sum all the above-mentioned subsidies, taking care this time to add in the state's total outlay, in terms of administrators' salaries and buildings, which is essential to monitor the subsidies and administer the services (see Appendix 4 for details).

2.22 Total spending on the "communal" region remained roughly constant at about R40m between 1984/5 and 1988/9 (in 1990 Rands). Owing to the widespread corruption in the second tier authorities, which prevented the Auditor-General from compiling several annual reports, these numbers should not be taken as a measure of the benefits actually received by smallholders in these regions.

2.23 Meanwhile total spending on the commercial sector declined greatly, from R115m in 1984/5 to R69m in 1989/90 (in 1990 Rands). This is largely attributable to the decline in drought assistance from the White authority and the Central authority over this period.

2.24 The largest spending item on the commercial sector as of 1989/90 was the implicit subsidy from the Land Bank and the Agricultural Credit Board. This varied between R26m and R46m.

even roughly estimate how many of the farmers would remain in commercial agriculture, because even if the rich data sets which would be needed were available, the crucial factor is the farmer's ability to adapt to the new environment, which depends upon motivations, skills, and incentives which are unmeasurable.

2.26 During the late 1980s, government spending on agriculture in South Africa was greatly reduced and many services were turned over to the private sector. The number of farmers continued to decrease, as it had since the late 1950s, but there was no collapse in sight. It can be expected that the removal of subsidies in Namibia would have much the same result: an acceleration of the trend towards larger farms, but without instability in the system as a whole.

2.27 There are already signs that a rationalization is under way. We do not have accurate data for the number of commercial farmers over the past decade, since no census has been taken since 1975 and estimates by other bodies do not provide consistency over time. One rough indication for the period 1986/7 to 1988/9 is given by the number of people and companies with farming incomes in their tax returns. By this measure, the number of white farmers fell by 2.0% from 4810 in financial year 1987 to 4715 in 1988, and then by 9.7% to 4259 in 1989. The number of farmers other than white who were registered for tax purposes rose from 494 in 1987 to 514 in 1988 and then fell to 478 in 1989<sup>14</sup>. The number of companies rose from 122 in 1987 to 125 in 1988, falling to 119 in 1989<sup>15</sup>.

2.28 Hence it appears that pressures on commercial farming have already resulted in a decrease in the total number of farmers. The commercial farming system of Namibia is under pressure owing to poor climatic conditions, falling livestock prices, and uncertainties about the future of commercial agriculture related

2.29 Interviews with farmers, Department of Agriculture officials, and private sector business people connected with farming revealed that farmers perceived themselves to be operating in a highly uncertain environment during 1990. They were unsure what policies the government of the newly independent Namibia would adopt, particularly in respect of land reform. Even though the constitution of Namibia excludes confiscation through its 'willing-seller-willing-buyer' arrangements, it was feared that other ways would be found to remove white farmers and replace them with farmers from the 'communal' areas. A signal of the new mood was given to the commercial farming sector when the Land Bank, at the urging of the new government, raised its interest rates on new loans to 18% in April 1990.

2.30 The uncertain mood, combined with falling export prices, resulted in a dramatic fall in land prices during 1990 of between 20% and 70% (see Appendix 5).

2.31 The state can prevent a total collapse of expectations by phasing in the changes over a period of time, say three years. If the conditions under which commercial farmers operate - respecting services, subsidies, taxes, output markets, etc. - were clarified by the government so that farmers felt they were again operating in a stable policy environment, the withdrawal of subsidies (and tax concessions) would not induce an economy-wide crisis.

deductibility rule for machinery are considered. Finally, it is explained why income tax is not collected in the communal areas.

### *Tax law in Namibia*

3.2 The major tax provisions which apply to both farmers and other taxpayers are the following.

- (a) Tax rate: A person with some income derived from farming may pay tax as an individual or register as a company. Individuals simply add the income earned from farming to all other income in order to establish the tax rate. Individuals are taxed at progressive marginal rates ranging from 12% to 42%, the maximum being reached at a taxable income of R40 000. The basic tax rate applied to all income of non-mining companies is 40% plus a surcharge of 5% of this, making 42%. Mining companies are taxed at non-mining company rates on non-mining income (including farming income), and are taxed at special rates on mining income.
- (b) Machinery: In order to encourage investment, costs of machinery and plant as well as their installation are fully tax-deductible in the year of purchase.
- (c) Capital gains: There is no capital gains tax.
- (d) Interest: Interest incurred in the production of income is tax-deductible.
- (e) Aggregation: The taxpayer may aggregate profits and losses on any number of business in arriving at taxable income. The only exception to this rule is for farmers. Farmers' fixed improvement expenses can be written off only against



### *Agricultural tax concessions*

3.3 The major differences in the treatment of farming income and other income are the following.

- (a) Capital expenses other than machinery: Here distinctions are drawn between mines, non-mining businesses, and farmers. Non-mining businesses may deduct 20% of the cost of the erection of buildings in the first year and 4% each year thereafter for 19 years. Mines may deduct capital expenditures in full in the first year. Farmers may deduct most development and improvement costs, e.g. dipping tanks, dams, irrigation systems, soil conservation works, fences, buildings used in connection with farming operations, roads, bridges, and planting of trees. These fixed improvement expenses can be written off only against farm income, and cannot be consolidated with other income sources.

No data are available to calculate the precise value of this concession. We can, however, be sure that it was less than R10m, and rough calculations suggest a figure of R7m (see details in Appendix 6).

- (b) General sales tax (GST): Farmers are exempt from GST on stock feed, veterinary supplies, repairs to machinery and machinery parts, fertilizers, pesticides, packing and wrapping materials, livestock, paraffin, coal, gas, pest control services. In respect of most of these items, the treatment of the farmer is no different from that of other businesses. The principle involved is that the business pays GST only if it is the "end user". In the case of all of the above-mentioned items but machinery repairs, farmers are not the "end user" and accordingly are relieved of GST. In the case of machinery repairs,

Tax returns. (b) The total repair expenses was calculated from the Department of Agriculture's Mail-In Record System. Multiplying (a) and (b) gives the total repair expenses in the commercial agricultural sector, some R100m in 1989/90, after rounding. The tax saving was of the order of R10m.

- (c) Fuel: Through the so-called Equalization Fund, mining companies, farmers, and certain transport operators, though not non-mining companies, are awarded reductions in the prices they pay for petrol and diesel.

In 1990 the reduction granted by the Equalization Fund was R0.211 per litre for farmers, R0.186 for certain professional or public transport contractors, and R0.12 for mining and construction companies. In December 1990, the pump price of petrol was R1.44, giving the farming community a price advantage of about 15%. The total sum claimed by farmers from the Equalization Fund in 1990 was some R5.022 million<sup>20</sup>.

- (d) Increment in the value of livestock: The difference between the value of livestock at the beginning and the end of the year is taxable. The laws suggest, but do not prescribe, "standard values" for pricing of livestock which are much lower than market values. The standard values which have been in existence since 1982 were, very roughly, about 10% to 20% of December 1990 market values, because they were lower than cost to start with and were not adjusted for inflation (see details in Appendix 7).

at current market prices... suitable rule could be selected - for instance, the standard values could be updated annually and be set equal to, say, 80% of the market price at the start of the financial year.

- (e) Livestock sales due to drought: If a farmer (individual or company) can demonstrate to the Secretary of Finance that he sold livestock owing to drought, stock disease or damage to grazing by fire or plague and has within four years after that year bought livestock in replacement, he can choose to subtract those stock purchases from the earlier year instead of the current year. The tax payable is then recomputed and the farmer may be refunded for any excess<sup>22</sup>.

Fewer than 0.1% of farmers make use of this concession per annum<sup>23</sup>. Thus the tax saving is negligible.

- (f) Averaging: An individual farmer may elect to be taxed on the basis of average income over a five-year period. Such election is binding in perpetuity. Companies with interests in farming may not average; like all companies, they are taxed at 42% of profits.

Farmers' incomes fluctuate from year to year. Averaging protects them from paying abnormally high rates of tax in years when their cash income is high (there are also other effects, see Appendix 9). Farmers feel this is fair in view of the high risk of agriculture; comparing themselves with employees, whose incomes fluctuate little and who are not faced with occasional abnormally high tax rates, they feel they deserve the right of averaging<sup>24</sup>.

- (g) Subsidies: With a few exceptions, subsidies are taxable. In the case of farmers, the only non-taxable subsidy was the occupation allowance granted in terms of the "Promotion of the Density of Population in Designated Areas Act". The occupation allowance was granted as an anti-insurgency method when the South African Defence Force was attempting to prevent SWAPO from gaining control of rural areas. The allowances ran to a total of R600,000 to R700,000 between 1982/3 and 1986/7. Assuming a 15% effective median marginal tax rate, the tax saving due to exemption of this allowance from taxable income was about R200,000 per year during the mid-eighties, reckoned in terms of real October 1990 Rands. After independence the subsidy was abolished<sup>25</sup>.

3.4 To summarize, the farming tax concessions yielded substantial tax savings for farmers in 1989. The major breaks were low standard values (R23m), tax rate averaging (R14m), exemption from GST on machinery repairs and parts (R10m), full deductibility for development and improvements (roughly R7m), and fuel price reductions (R5m). Together, the value of the tax concessions exceeds the value of the subsidies implicit in concessionary finance (R29m in 1988/9, R39m in 1990/1).

#### *Agricultural tax performance*

3.5 It is widely thought in Namibia that commercial farmers pay little tax due to generous write-off provisions. Calculations indicate that about 61% of individual farmers pay tax in any year, while about 83% of non-farmers do. Also, farmers record much larger income losses than non-farmers do. Similarly only 14% of farming companies pay tax in any year, while 32% of

are falsely exaggerated by the special deductions that only farmers may make. Summing these two, the net tax on commercial farm income in 1988/9 was about -R9m (current) or -R11m (real). Finally, item (c), the subsidy element in 1988/9, was about -R38m (current) or -R48m (real). Summing, the net contribution of the commercial sector to the exchequer in 1988/9 was about -R47m (current) or -R59m (real; see details in Appendix 11).

3.7 These comparisons are of course unfair because many nonfarm individuals are employees, whose incomes are stable, and farming may be simply a riskier industry than most. Better is to compare farming with another risky industry, construction. If builders, despite the risk they face, pay tax more often and carry over fewer losses, then we can conclude that it is the farming tax concessions that reduce farmers' tax obligations, not financial risk. It turns out that my analysis is inconclusive as far as individual farmers and builders are concerned. However, it is clear that farming companies pay tax less frequently and carry forward greater losses each year than do construction companies (see details in Appendix 12). Hence there is considerable scope for reform of the tax law in such a way as to bring agriculture in on the same footing as other sectors.

*Discussion: efficiency effects of the removal of tax concessions*

3.8 There is no reason why any sector should make a negative contribution to the exchequer, as the commercial farm sector does. Resources are wasted when the size of any particular sector is increased by tax breaks and subsidies in this way. If incentives were not distorted by the state, resources would be transferred from commercial agriculture to other parts of the economy where they would be more productively used.

3.9 Scrapping the farming tax concessions would force land prices downwards, reduce total investment in the commercial agricultural sector, and reduce the total output of the sector. This is

assistance would find their livelihoods under pressure and might be induced to leave the sector.

3.11 In the long run, eliminating the farming tax concessions would make for a more efficient economy overall and *ceteris paribus* clear the way for superior GDP growth performance and improved employment.

*Effects of machinery write-off provisions on labour use*

3.12 Machinery purchases are fully deductible in the first year in all sectors, including agriculture. It has become popular to call for this rule to be scrapped because it is felt to give undue incentives to machinery-intensive production and to discourage employment<sup>26</sup>. The notion is that machinery should be subject to annual depreciation rather than immediate write-off.

3.13 It is shown (see details in Appendix 13) that if there is a "distortion", it is opposite to that of the popular view. The essential intuition is that if farmers can deduct labour costs when the labour is purchased, they ought also to be able to deduct machinery costs when machines are bought. Whereas if one introduces a depreciation system, so that the machinery expense is written off over several years, the value of the deductions in future years is greatly reduced by inflation. This in turn makes machinery more expensive than otherwise - by anything between 6% to 30% in 1990, depending on the marginal tax rate of the tax-payer.

3.14 Pushing up machinery prices by introducing a depreciation system is not particularly helpful to labour. There would be some increase in employment, but there would also be other unintended substitution effects. It would be more effective to help farm employees directly by, for instance, housing subsidies,

incomes were subject to income tax, the rate applicable to those earning less than R5000 being 12%. In practice the Department of Finance does not require people earning less than R8000 per year to submit income tax returns<sup>28</sup>. Agricultural officials claim that there are many more farmers earning more than this amount in cash annually than are registered as taxpayers. Some observers claim to have seen "communal" farmers at cattle auctions selling off hundreds of head of cattle at once.

3.17 One reason for low registration rates is that very few "communal" farmers keep written records of their stock. Illiteracy is common, but perhaps more important is that written records facilitate inspections which lead to taxation. Officials indicated that there would be resistance to registration drives, and in any case there would not be enough inspectors to count the number of cattle physically. Owners could easily provide false information about their cattle holdings because, except in Hereroland, cattle are rarely brand marked<sup>29</sup>.

3.18 If the tax regime for commercial farmers is overhauled so as to ensure horizontal equity, i.e. similar treatment of income in agriculture and industry, then it would be fair also to ensure equity as between commercial and "communal" agriculture. Commercial sector operators would perceive any effort to raise commercial farming tax recoveries as grossly unfair unless some tax efforts were undertaken in the "communal" areas.

3.19 Income taxation and registration in the "communal" regions is infeasible. One nondiscriminatory alternative is to tax all stock sales at abattoirs and auctions, in the commercial and "communal" regions, and to grant, at the end of the tax year, 100% rebates on these taxes to farmers who submit satisfactory tax returns. For long-term effectiveness a tax regime has to be

#### 4. Land tax

4.1 This section examines the capacity of land taxes, possibly progressive ones, to achieve two land reform objectives: helping erstwhile "communal" farmers into the commercial farm economy while relying on the market mechanism, and state-funded resettlement of "communal" farmers in the commercial farming region. It has been suggested that land taxes, preferably progressive ones, might further these land reform ideals through four different sub-objectives. They might substitute for the currently seive-like tax legislation as a revenue earner. To the extent that they were progressive, they would stimulate the acquisition of land by potential small farmers. They would depress land prices, facilitating state intervention in buying land and redistributing it. Finally, they would encourage more rational and more conservationist use of the land.

4.2 In the following sections, each one of these four sub-objectives is discussed in turn and consideration is given to whether these are best pursued through a land tax or through alternative means.

#### *Land taxes as a substitute for ineffectual income tax legislation*

4.3 Namibian commercial farmers pay little tax. Hence it might be argued that a land tax, imposed on the known base of registered land hectarages or periodic valuations of the same, would be a stable and predictable revenue source and would frustrate the evasive tactics of tax lawyers.

4.4 This view is open to criticism. If the objective is to obtain substantial revenues for the central government, the least costly approach would be to reduce subsidies. This could be done by fiat, without formulating complex new legislation or establishing new valuation and inspection procedures. The next simplest method of obtaining revenue would be to eliminate the discrepancies between the tax laws applying to farmers and to



Some farmers lose much more than others, rendering an undifferentiated hectare tax politically difficult. This is probably the reason why, despite the popularity of Henry George's "single tax" concept in the last century<sup>30</sup>, it was never applied seriously, e.g. in the case of Australia very light rates of tax were imposed. Similarly, a Zimbabwean commission<sup>31</sup> recommended that the Zimbabwean land tax be kept at low levels in order to ensure that the tax did not exceed rents, and to protect farmers in case of errors of valuation.

4.6 If the objective is to draw substantial revenues from land taxes, the only recourse is to periodic land valuations. It would not be sufficient to use LANDSAT images or other short-cuts to assess potential or developed land values, for this would likewise be perceived as arbitrary. The Department of Finance would not be able to avoid interminable court cases which would eventually emerge in a Supreme Court injunction to develop a fairer system. Land valuations would have to be undertaken by competent officials. They would have to be performed periodically to account for erosion and land price fluctuations due to product price changes. This is costly.

4.7 It would make sense to introduce a land tax only after implementing the other alternatives. Even then it is an open question whether it would be cheaper and easier simply to raise the economy-wide income tax rate.

4.8 If the two superior alternatives have been exploited for revenue purposes, a mild rate of land tax could be introduced for the smaller revenue needs of local authorities, as has been suggested for Zimbabwe<sup>32</sup>. If the two superior alternatives have not yet been exploited, it would be cheapest and simplest to make grants to local authorities by pursuing one of them.

Act, No. 70 of 1970) to prevent subdivision or sales to nominees. The resultant freezing of the land ownership distribution constitutes an inefficiency but probably not a large one, since land can still be exchanged and multiple holdings can be held so as to accommodate expanding farmers.<sup>33</sup> The land distribution was frozen for some years after the radical land-to-the-tiller reforms in South Korea and in Japan, with no apparent ill effects.

4.11 If the tax were not progressive, i.e. if it were proportional to the value of the land, potential new farmers would find it easier to enter the farming industry to the extent that their bonds would be smaller, but would find it more difficult because the tax would have to be paid from the first year on. This puts them in much the same overall position as before the land tax.

4.12 Even a progressive tax alone would not change the position of the potential small or medium-sized farmer. The per hectare price of land in large holdings would fall rapidly, while that of land in small or medium-sized holdings would stay the same. Therefore the financial position of the potential small farmer who wishes to purchase land held currently in a small or medium-sized holding remains unchanged. If farmers with large holdings wished to sell off small bits of their land, they would sell them off at the pre-tax market price because, as smaller bits, they would be free of land taxes.

4.13 Therefore the only way in which progressive land taxes could facilitate the entrance of potential small or medium-sized farmers into agriculture is through control of the land market by the state. The state would have to simultaneously impose the tax, forbid all subdivision except by the state, and claim the

4.14 Land taxes, proportional or progressive, would depress land prices permanently. This would cheapen the initial land purchase costs of a state-sponsored resettlement scheme, and the revenue from the tax could help to defray these expenses. Using land taxes as opposed to income or company taxes for resettlement bears the advantage of economic efficiency: the land tax falls upon owners and does not have the labour disincentives implicit in income and company taxes. Even so, the benefits for state resettlement should not be overestimated, since the lion's share of the cost of effective land resettlement programmes is not in the land cost but in setting up new institutions, schools, villages, credit facilities, marketing facilities, operating capital, training, and the like. It would be unwise to embark on a land-tax financed resettlement scheme unless the extra funds for training and institution-building were available.

4.15 The benefits of cheapened land settlement costs must be weighed against the costs of the increased state controls: prohibition of all subdivision and reservation of the right to first purchase. It bears repeating that while there is some efficiency cost attaching to regulating and slowing down the land market, these controls do not close the land market down altogether. They freeze the land distribution and enable the state to intervene in the land market without raising prices, but still permit farmers to buy, sell and rent land. Of course the cost is indeterminable.

*Land taxes, underutilization and conservation*

4.16 It is sometimes asserted that land taxes will reduce "underutilization". The underlying idea appears to be that land is lying unutilized because there is no cost to the farmer of holding land, or because farmers are not profit maximizers. Under these circumstances, so the argument runs, a land tax would force the farmer to use the land productively. Similarly, it is

land owner's wealth by reducing the land price, while keeping labour and other incentives unchanged. Hence a land tax will change neither farmers' preferences to "satisfice" nor their conservation practices as long as the original farmers stay put.<sup>35</sup> Some of them might not, however. It is possible that a land tax might put some inefficient or unlucky farmers in a cash flow crisis and force them to sell up in favour of the more efficient. Then, if it is the case that more efficient farmers are less inclined to "satisfice", utilization will improve. However, the reasons for "satisficing" are unknown, and it is far from clear that the new purchasers will "satisfice" less. Also, if it is the case that more efficient farmers are more inclined to protect their soil than inefficient farmers because their time horizon is longer, then conservation practices would improve. This point, too, is highly speculative because little is known about the determinants of conservation behaviour in Namibia. It would be unwise to introduce land taxes in the hope of intensifying land utilization or improving conservation practices.

#### *Land taxes: conclusions*

4.19 Up to 1974, farmers in South West Africa had a light land tax, so a precedent is available if a land tax is to be considered again (see details in Appendix 15). However, some of the alleged advantages of land taxes are imaginary. As a source of revenue, land taxes are inferior to a policy of reducing subsidies and eliminating farmers' tax concessions. Merely imposing a land tax, even a progressive tax with a prohibition on subdivision, would not assist potential small or medium-sized farmers to set up businesses in agriculture. This is because, from the perspective of the potential land purchaser, the total price of access to land is identical before and after the imposition of a land tax, for the land tax drives down the land price by precisely the capitalized value of the annual tax. Finally, there seems little basis for believing that land taxes would improve conservation practices or increase land utilization.

4.21 Recall that the sole beneficiaries from the land tax are people to whom the state sells land at low prices, which it in turn purchased from farmers with large-scale holdings. By counting the heads of the beneficiaries, we can obtain a rough measure of the total value of the land tax. At the one end of the spectrum, if the state intends to resettle only a few hundred settlers in a state-run scheme, then only these few hundred benefit from low land prices, and the overall benefit of the land tax is small compared with the political cost of wealth confiscation. The land tax is then little more than a revenue collection device; but, as we have seen above, there are cheaper and easier methods of revenue collection. So if the state aims at a small land reform, like that in south Italy in the early 1950s which benefited 1% of the rural population, it would be cheaper to jettison land taxes in favour of entering the market directly to purchase land for new settlers. In South Africa and the USA approximately 5% of all commercial farmland is sold each year. In Namibia probably a similar amount is sold annually. Thus there is no problem with land availability, though if the state were over-hasty it could drive prices up. Even so, the added cost of a small amount of land at above-market prices could be less than the political disruption caused by a substantial wealth confiscation.

4.22 At the other end of the spectrum, if the state seriously intends, over a period of several years, to transfer a large proportion of commercial sector land to "communal" sector farmers, then the total number of potential beneficiaries is huge and the their saving from lowered land prices is correspondingly great. Now the overall benefit of the land tax may well be large compared to the political cost of wealth confiscation. It should be borne in mind that this benefit will be realized only if the

## 5. Conclusions and Recommendations

5.1 This paper has argued for a sweeping reform of the policy environment of the commercial farm sector in Namibia. This perspective is based on the critique that the sectors' net contribution to the exchequer is a substantial negative, implying both inefficiency and inequity.

5.2 The main quantitative findings respecting subsidies and taxes may be summarized briefly. On the subsidy side, the largest items as of early 1991 were the implicit subsidies on low-interest loans from the Land Bank (R16m) and the Agricultural Credit Board (R23m), direct subsidies such as drought assistance and grants to the meat industry (less than R5m), and veterinary spending (R5m). On the tax side, in 1988/9 farmers saved some R23 million (in current Rands) by using so-called "standard values" in place of market prices to value their livestock, some R14m by averaging their tax rates over the previous five years, and some R10m from the exemption from GST on machinery repairs and parts.

5.3 Summing the value of subsidies and tax concessions results in a negative net contribution by commercial agriculture to the exchequer. For example, in 1988/9 the tax paid on farm income by individuals and companies was R10m (current Rands), the tax saved by deducting farm losses from nonfarm income was R19m, and subsidies were R38m, leaving a net contribution of  $R10 - 19 - 38 =$  minus R47m.

5.4 This situation is both inefficient and inequitable. It is inefficient in three respects. First, the subsidies and tax concessions attract productive investment away from other sectors into commercial agriculture, so that efficiency gains could be had by placing agriculture under the same tax regime as other

5.6 Hence it appears that, in the long run, efficiency and equity goals could be pursued simultaneously by placing commercial agriculture on the same tax and subsidy basis as other sectors.

5.7 It is likewise inequitable that the incomes of "communal" farmers are hardly taxed at all. There are substantial numbers of farmers in the "communal" areas whose incomes are well above the R8 000/year level at which urban employees are required to submit tax returns. In order to pursue both horizontal equity and revenue objectives, it would be well to levy a stock slaughter tax in both the commercial and the "communal" areas, permitting full rebates for those who pay income tax. This would have the additional advantage of encouraging proper registration for income tax purposes. Also for equity reasons, consideration should be given to imposing lower rates for farmers north of the cordon who do not benefit from cattle exports.

5.8 If the subsidies and tax concessions were removed, the state could channel the increased cash resources to small-farm development. It was not part of the terms of reference of this paper to examine how best to improve the situation of "communal" farmers, or potential entrants into the commercial sector. However, it should be stressed that thorough research, combined with a pilot project approach, is necessary before embarking on a strategy of rural upliftment.

5.9 Careful study is urged due to the following three considerations. First, it is well known that many government-funded rural development projects turn out to be inequalitarian despite their intention to help the poorest.<sup>36</sup> The people who are worst off are frequently also the least educated and least articulate and are less skilled in working the bureaucracy in order to secure the benefits.

at all. The problem is one of access to loans, not the inability to service them. The state's loan finance stretches furthest, and with the least distortion in favour of better-off farmers, when it charges market interest rates on loans and subsidizes the personnel and office expenses involved in administering large numbers of small loans.

5.12 Eliminating subsidies and tax concessions would hold some advantage for "communal" farmers who wish to purchase land in the commercial area, since land prices would fall to a lower, non-distortionary level. The advantage should not be overemphasized, since without the subsidies and tax concessions the overall environment would be more financially strained.

5.13 The suggested rationalization would force down land prices in the commercial sector. The adjustment to the new non-interventionist environment would be painful. Farmers who would be particularly affected are those farmers of, usually, medium size who have recently taken large loans with the Land Bank and who did not anticipate that the interest rates might be raised in accordance with the new Namibian government's different agricultural objectives. Among these farmers would be some young farmers who have made substantial land purchases. Another group is the farmers in the south whose markets, particularly karakul, are already drying up and are forcing farm sizes upwards. It is unlikely that the removal of subsidies and tax concessions would induce a generalized crisis. Rather its effect would be to accelerate the trend which is already under way due to falling real output prices, namely, the trend towards larger farms as less efficient operators are forced out of business and the remaining farmers exploit economies of scale.



to number in the hundreds of thousands.

5.15 It appears that a land tax cannot become major tool of agrarian reform. The main difficulty is that a progressive land tax does not, on its own, alter the financial situation of small farmers or potential land purchasers. The only way in which a land tax can benefit these groups is if the state simultaneously (a) imposes a progressive land tax so as to depress the price of land in large holdings, (b) forbids all subdivision, (c) reserves the right of first purchase, (d) purchases land held in large holdings, and (e) sells it at that low price to the beneficiaries. One assumes that the state's objective is a redistributivist one, i.e. the intention is to improve the incomes of the landless or indigent farmers in the "communal" areas. If so, merely selling them land is not enough, due to the need for training, working capital, housing, roads etc. There might also be a concern about the environmental implications of moving large numbers of untrained farmers onto ecologically sensitive soils. The land expense of most well-organized land resettlement programmes is less than half the total expense.

5.16 Hence the land tax can help reduce at most one component, and not the main one, of a land resettlement programme - at the financial cost of a considerable collection expense, and the political cost of a major expropriation of the commercial farm community. A land tax is not a short cut or a quick fix. Since it is unlikely that the state will obtain the very substantial resources for a major resettlement programme, a land tax is not recommended.

5.17 Four recommendations follow. (a) The investment environment should be clarified and stabilized as soon as possible. (b) The subsidies and tax concessions should be removed over a period of, say, three to five years. Some of the direct subsidies have already been removed. The rest of these,

Adams, Fiona and Wolfgang Werner, 1990. *The land issue in Namibia: An Inquiry*. Windhoek: University of Namibia, Namibia Institute for Social and Economic Research. With contributions from Peter Vale. 186 pages.

Administration for Owambos, various years. *Annual Reports*. Windhoek.

Estimate of Expenditure, [relevant authority], year], viz. Administration for [relevant authority]. *Estimate of Expenditure to be defrayed from the Revenue Fund during the year ended 31 March [year]*. Windhoek.

Administration for Whites, various years. *Annual Reports*. Windhoek.

Anonymous, undated. *The agricultural situation in Rehoboth, 1990*. Windhoek. Mimeo, 5 pages.

Auditor-General ([Relevant second-tier authority, date]), viz. *Report of the Auditor-General on the accounts of the [Relevant second-tier authority] for the financial year [date]*. Windhoek.

Centro de Estudos Africanos, 1990. "On the instrument and the capital for land reform in Namibia". Universidade Eduardo Mondlane, Maputo. Code 62.75. Mimeo, 17 pages. No author stated.

Department of Agricultural and Nature Conservation, various years. *Annual Reports*. Windhoek.

Garland, J.M., 1935. The incidence of a progressive land tax. *Economic Record* 11: 145-156.

Hallett, G., 1960. *The economics of agricultural land tenure*. London: Land Books.

Harrison, J.E., 1983. *Proposals for the restoration of profitability of farming in S.W.A./Namibia*. Stellenbosch: Institute of Agricultural Economics, University of Stellenbosch. Mimeo, 146 pages.

Hudson, D.J., n.d. (about 1981). The taxation of income from cattle farming. *Botswana Notes & Records* 12: 49-65.

Hughes, D.W., 1984. Subsidized credit and investment in agriculture: the special case of farm real estate. *American Journal of Agricultural Economics* 66: 755-760.

Interessengemeinschaft Deutschsprachiger Suedwester, (Association of German-Speaking South West Africans), 1989. "Gedanken zum Thema Bodenreform in Namibia nach der Unabhængigkeit" (Thoughts about land reform in Namibia after independence). Mimeo, 6 pages, 15 May.

Land and Agricultural Bank of South West Africa, various years. *Annual Report*. Windhoek.

Laubscher, J.A.M., 'n *Loodsondersoek na die invloed van 'n verandering in rentekoerse op die kommersiele landbou sektor*. Windhoek: Namibia Landbou Unie Onderzoek, 1990. Werksdokument, namens die Loodskomitee. Mimeo, 40 pages.

Levy, F., 1982. *Brazil: a review of agricultural policies*. Washington, D.C.: World Bank.

National Planning Commission, 1990. *Statistical News Release: Consumer Price Index*. Windhoek, October. Mimeo, 4 pages.

Nieuwoudt, W.L., 1986. "Taxing agricultural land". Paper presented to the Agricultural Economic Association of South West Africa-Namibia, November 28, 1990. 16 pages.

Old Mutual, 1989. *S.W.A./Namibia income tax guide 1989*. Windhoek: Old Mutual and Deloitte, Haskins and Sells. 108 pages.

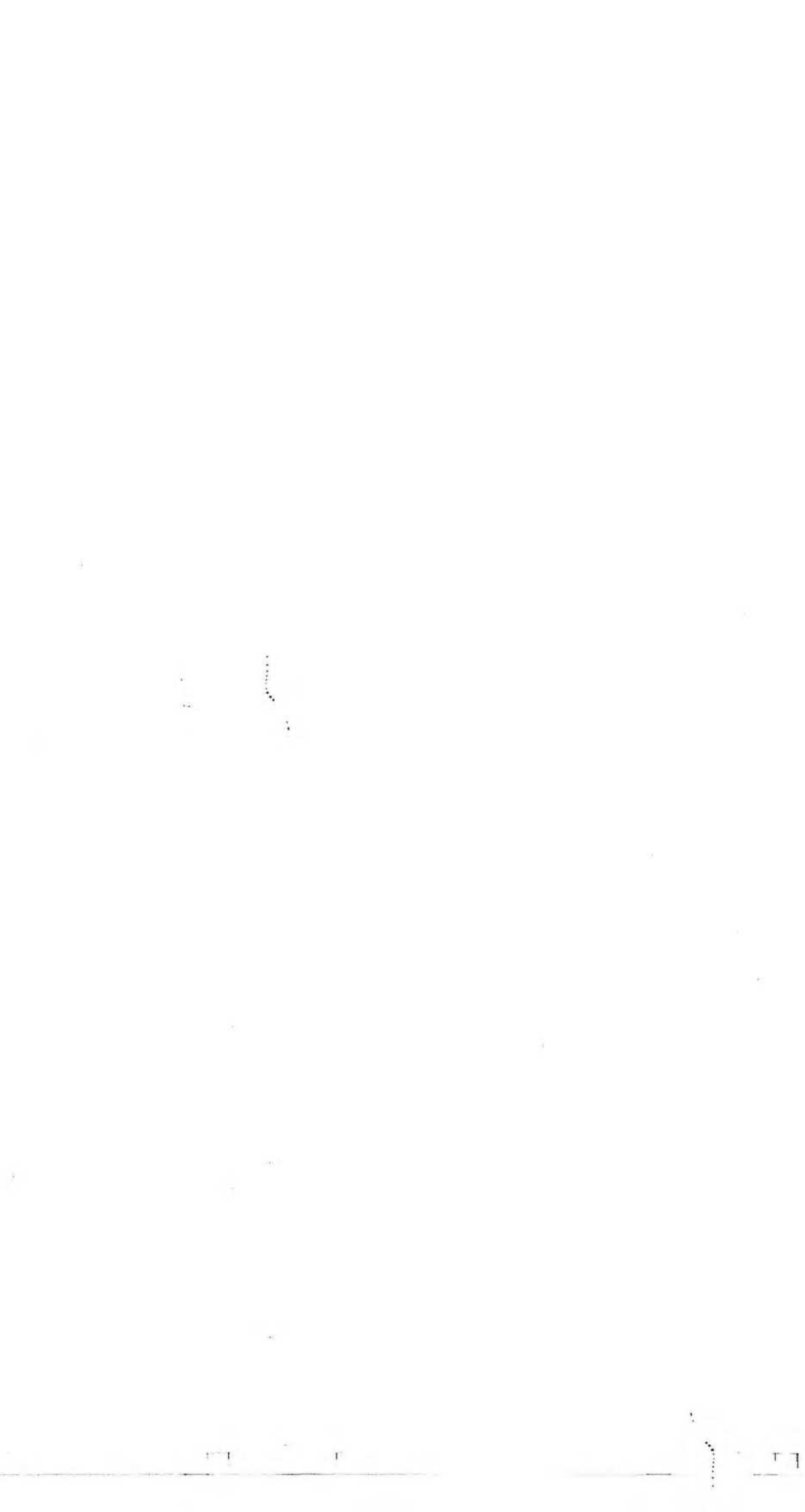
Peek, Peter, 1988. How equitable are rural development projects? *International Labour Review* 127/1: 73-89.

Shrand, David, 1971. *Studies in income tax*. Cape Town: Legal & Financial Publishing Company. 279 pages. Especially Chapter 8: "Income tax as it affects the farmer".

SWA Agricultural Union, 1989. Proposed agricultural policy for SWA/Namibia. Windhoek. Dok. M 507/89. May. 14 pages.

SWA Landbou-Unie (South West African Agricultural Union, since 1990 Namibian Agricultural Union), 1985. "Die finansiële posisie van boere in Suidwes-Afrika, 1983" (The financial position of farmers in South West Africa). Windhoek. Dok. M 423/85. Mimeo, 62 pages.

United Nations Institute for Namibia, 1986 and 1988. *Namibia: perspectives for national reconstruction and development*. Lusaka: UNIN. 1008 pages. Chapter 3: Agriculture, pp. 106-152.



2. Subsidies implicit in state-financed road networks and water resources are not discussed because appropriate data were not readily available.
3. The Land Bank, as of January 1991, did not provide loans to farmers without collateral in the form of land held in freehold.
4. Hughes (1984) finds, in USA agriculture, that a one percentage point subsidy on farm debt yields a long-run increase in farm land prices of 2%. Although he feels that "government credit has not had a large impact on farm real estate markets", he concludes that over the longer run, government credit programmes have increased farm sector wealth by tens of billions of dollars by increasing the prices of farm land.
5. For example, in South Africa in 1980 the Gini of white male employees was 0.37, while the Gini of white male farmers was 0.60.
6. This argument is based upon the principle of diminishing returns.
7. Of course a generalized crisis could be induced if the state's pronouncements or actions produce uncertainty about the security of farmers' investments. However, it is assumed here that the state's intention is to stabilize the investment environment for commercial farming, as it has already done for sectors other than farming.
8. See Moll (1989) for a treatment of the South African case.
9. The terms from F.A.H. Wilson, 'Farming'. In: M. Hunter and L. Thompson, The Oxford History of South Africa.
10. The mean farm area might decrease, at least for some years, if the state made efforts to move "communal" farmers into the commercial region. However, the pressures upon already established farmers to expand their farms and exploit the economies of scale would nevertheless continue unabated. And the same pressures would eventually force farm sizes upward in the land reform sector too - consider the contemporary increases in farm size in Japan, years after the land reform of 1946.
11. Mr. Andries Mouton, head of the Namibian Agricultural Union, said that there were between 3900 and 4200 commercial farmers in early 1991. These rough figures exclude very small farms (e.g. some smallholdings and some part-time farmers) and individuals and companies with dividends that arise from farming sources. Data from the Department of Finance suggest that there were some 4700 individuals and 120 companies with a farming interest in f.y. 1989.
12. Dr. J. Shaw and Dr. A. Norval.



18. Tax evasion is not dealt with in this paper because there is no way to measure it. It is easy for farmers to evade tax (as indeed it is easy for any individual or company to do so). For instance, farmers are supposed to distinguish between personal use and business use of fuel. Fuel for personal use should be purchased at the normal price at the petrol pump, while fuel for business purposes may be purchased in bulk at prices reduced by the Equalization Fund. There is no way to monitor farmers' observance of this distinction, nor is it possible to quantify the farmers' saving from this arrangement.

19. See the discussion in the subsection below.

20. Private communication, Mr. M. von Jeney, Ministry of Mines.

21. See similar conclusions respecting Botswana in Hudson (1981).

22. This concession has the effect of postponing taxation. The farmer who sells livestock in desperation due to drought records a high taxable income in, say, year X and pays a large amount of tax. The purchase of replacement stock N years later reduces taxable income and reduces the total tax paid in year X+N. Thus the farmer afflicted by drought has in effect shifted a portion of his tax obligation from year X+N to year X. The legal concession reverses the situation, enabling him to shift that portion of his tax forward to year X+N again.

23. Personal communication, Mr. H. Kruger, Department of Finance.

24. See similar arguments in Hudson (1981).

25. There is no mention of it in the Annual Report of the Department of Agriculture for 1989/90.

26. van der Linden (1990: 105, 109). On page 114 she states: "The incentives Namibia offers to companies are heavily weighted in favour of capital intensive production processes. The relative price of capital is changed and therefore labour intensive technologies are discriminated against, whereas Namibia with its surplus of unskilled labour needs labour intensive activities.

27. Source: Mr. T. Rowntree's printout RECINCSTATS9.

28. Personal communication, Mr. H. Kruger, Department of Finance.

29. Personal communication from Dr. J. Shaw, head of Veterinary Services, Department of Agriculture.





...ensuring an absolute maximum price for land prices (due to large farmers selling up) and cheapened land for state purchase.

34. Some way would have to be found to prevent sellers from pretending to sell to a nominee at a price well above the post-tax market price, in the hope of inducing the state to purchase. One way of ensuring that the state gets the best price is to reserve the right to purchase a farm from the new buyer, within a specified period after the sale, at the same price as the buyer paid plus GST plus a nominal percentage for compensation. This would have the effect of slowing down the operation of the land market.

35. Note the Chelliah commission's similar view.

36. See Peek (1988) for examples.



2 Option A : Communal Area Expansion: This involves the expansion of existing communally managed grazing areas. Of all the options considered, it carries the lowest budgetary cost per hectare and per participating household since investment could be limited to essential water development.

3 The option would produce the widest spread of benefits provided small livestock owners were not crowded out by the big cattle owners. The vast majority of livestock owners in the northern Communal Areas are small (i.e. have less than 20 LSU equivalents). Option A may be seen as less attractive in productivity terms than Option B, especially when the benefits from subsistence production are not taken into account. Though marketed production may be lower, it is important to recognise that in terms of inputs and outputs, the communal grazing system is not necessarily less efficient than the commercial or semi-commercial systems.

4 Option B: Commercial Development on Communal Areas: This option involves the fencing of communal land for ranching. Because of the cost of fencing, farm roads and buildings, as well as water development, this is a high cost option. The benefits will depend very much on the management system adopted on the farms. Usually the level of management of farms on enclosed communal land is not greatly different from that outside the fence. This raises questions about the wisdom of investing in fencing and other farm infrastructure. There is a need to investigate intermediate investment strategies.

5 Benefits are unlikely to be widely distributed. There could be transient gains from the reduction of grazing pressure on the Communal Areas where large farmers evacuate their cattle. Experience with group, cooperative and syndicate management on commercial ranches elsewhere has generally been poor.

purchase of adjacent freehold farms. As with Option A, the spread of benefits to the community would be wide, although it is relatively more costly as it involves the purchase of land. It is probably the only option likely to be of direct benefit to small livestock owners in Hereroland, Damaraland and Namaland. The impact on beef exports would be negative, although the overall impact on biomass production may be less significant. The calculation of this cost requires an examination of net, rather than gross production from the two types of farming systems (commercial and traditional).

8 Option E: Settlement of Stock Farmers: This option would involve allocating individual user rights to Communal Area farmers on freehold farms. As with Option D, it is likely to be costly. On financial grounds, the minimum viable holding size for cattle would appear to be 1,250 hectares in the cattle areas and 2,250 hectares or more in the sheep areas. The numbers of participating households (160 per 100,000 hectares) would be small and the spread of benefits relatively narrow.

9 Option F: Settlement of Small Farmers and Landless: This would require settling people in an area suitable for dryland cropping and small-scale stock keeping (e.g. Otavi-Tsumeb-Grootfontein triangle). It would be the most absorptive and intensive of the systems considered, enabling 2,000 households i.e. 10,000 - 12,000 persons to be settled per 100,000 hectares. Settlement costs and benefits per household would be comparable with other options. In terms of equity, its benefits are likely to be high since it would cater for relatively large numbers of poor farmers.

10 Option G: Purchase of freehold farms by individual Communal Area farmers: At current rates of interest, there is little financial incentive for large farmers from the Communal Areas to purchase freehold farms. Under this option, such farmers would

the same proportion, but at different rates of implementation, low, medium and high. For example, Option A, Communal Area expansion, under the low level would cover 100,000 hectares; under the medium level it would cover 200,000 hectares and under the high level it would cover 400,000 hectares in the first five years; Option B, Communal Area commercial development under the various levels would cover the same extent of land as Option A; etc.

12 The low level scenario would embrace a total of 500,000 hectares, the medium level would involve one million hectares and the high level would cover two million hectares over five years.

13 The estimated annual budgetary cost of the various scenarios over the five year period would be:

low level:	R12,658,000
medium level	R25,316,000
high level	R50,632,000

14 The high level scenario, costing fifty million rand per year would represent about ten per cent of Namibia's capital budget in 1991.

in more detail in NEPRU Working Paper 3, Economic Analysis of Land Reform Options, are as follows:

#### Communal Areas

- Option A: Expansion of Communal Area grazing
- Option B: Commercial development in Communal Areas
- Option C: Community-based wildlife utilization

#### Commercial Areas

- Option D: Purchase of farms for Communal Area expansion
- Option E: Purchase of farms for allocation to Communal Area stock farmers
- Option F: Purchase of farms for settlement by small farmers and landless
- Option G: Purchase of farms by individual Communal Area farmers.

1.3 The order in which these options are described does not imply any order of preference or priority. For ease of reference, the paper uses the geographical names of the former "homeland" areas in the present absence of other useful alternatives.

1.4 The paper considers only livestock farming and mixed stock and rainfed cropping systems. It does not attempt to cover irrigated farming, which can provide the means of accommodating large numbers of settlers on small land areas. Some areas suitable for irrigation have already been identified by MAWARD and UNDP/FAO<sup>2</sup>. The latter for example in 1989 identified potential irrigated areas suitable for settlement of 7,000ha in Ovambo, 10,000ha in Kavango, and 2,000ha in Caprivi, mostly in already rainfed farming areas close to perennial water supplies. It is not clear, however, that sufficient water is available for

suitable for settlement is due to two main factors. First, extensive areas have been allocated for fenced ranches since the MAWARD estimates were prepared. Secondly extensive underutilised areas of Hereroland and south central and western Ovambo are considered unsuitable for development in the foreseeable future because of the lack of suitable groundwater and the very high costs of conveying water into these areas by pipeline. However, to illustrate the high costs of groundwater development, some examples for Hereroland are included in the subsequent analysis.

2.3 The area formerly called eastern Bushmanland is not considered to be available for settlement as it is occupied by a community of some 4000 people practising mixed farming and harvesting veld foods. Western Bushmanland has groundwater problems and a high incidence of "gifblaar" and is therefore unsuitable for livestock development.

Table 1 Estimates of underutilised land and that suitable for development in the Communal Areas (in millions of hectares)

	Total Area	MAWARD estimate	NEPRU estimate	Suitable for development
Ovambo	5.6	3.2	2.2	
Central south		(1.2)	(1.0)	
Eastern		(2.0)	(1.2)	1.2
Kavango	4.8	2.0	1.7	1.7
Hereroland	6.0	2.7	2.0	
Bushmanland	1.8	1.0	1.0	
Total	18.2	8.9	6.9	2.9

Source: NEPRU Working Paper 3, Economic Analysis of Land Reform Options, 6 June 1991.



probability of finding water. Unit drilling costs are currently in the range of R250-400 per metre. The likely cost of opening up a 100,000 hectare block comprising 20 boreholes is summarised in Table 2. The costs per household assume eight households per borehole.

Table 2 Capital costs per 100,000 hectare communal grazing scheme (in millions of Rand)

	Eastern Ovambo	Central Kavango	Southern Kavango	Hereroland
Boreholes & pumps	1.85	1.55	1.9	5.9
Roads (140 km)	0.14	0.23	0.23	0.14
Housing	2.8	2.8	2.8	2.8
Total	4.79	4.58	4.93	8.84

Cost per household (Rand)

Boreholes & pumps and roads	12,430	11,150	13,300	38,000
Including housing	29,930	28,650	30,800	55,530

Source: NEPRU Working Paper 3, Economic Analysis of Land Reform Options, 6 June 1991.

2.6 Estimated annual financial returns to communal graziers are summarised in Table 3. They assume an offtake of 10 per cent per annum for large stock. The results indicate that the scheme would not be financially attractive if farmers were expected to cover both fixed and operating costs. However, if capital costs were covered by government, participants should be able to pay for pump operating costs and obtain a reasonable level of income.

### *Option B: Commercial development in Communal Areas*

2.7 This envisages the opening up of underutilised grazing land in the northern Communal Areas (as identified in Table 1) by the construction of fenced and paddocked ranches for commercial production. In theory, such ranches could be allocated to groups as well as individuals, although herd management is likely to succeed only when placed under one manager.

2.8 This approach has already been widely used in the Communal Areas. In the south east of Ovambo, there are 100 units of 1,200 hectares allocated under a formal government scheme. There are some 50 privately fenced ranches in the same area, varying from 2,000 to 5,000 hectares in size. In Kavango there are some 30 fenced farms of 5,000 hectares and in Hereroland there are about 50 fenced farms of 5,000 hectares. No systematic surveys of the performance of these farms have been carried out, although it is generally reported that they have been accompanied by serious management and financial difficulties.

2.9 The capital cost of developing a 5,000 hectare commercial unit in eastern Ovambo and central and southern Kavango is between R440,000 to R480,000 for eight paddocks. The major cost items are borehole installation, cut lines, fencing, buildings and roads. The total capital costs of developing a 100,000 hectare block of 20 units would be between R8.9 and R9.7 million, more than four times the cost of extending the grazing on communal land.

Table 4 Annual Cash Flows from 5,000 hectare communal areas in Northern Communal Areas.

	Eastern Ovambo	Central Kavango	Southern Kavango
Net Revenue After Loan Repayments			
-----			
At 18% over 15 years	-29,020	-23,200	-29,930
At 18% over 25 years	-22,630	-17,200	-23,470
At 6% over 15 years	15,260	18,310	14,790
At 6% over 25 years	26,960	29,280	26,600
With 50% capital subsidy			
-----			
At 18% over 15 years	17,490	20,400	17,030
At 18% over 25 years	20,690	23,400	20,260

Source: NEPRU Working Paper 3, Economic Analysis of Land Reform Options, 6 June 1991.

2.11 The figures clearly show that private commercial development of communal land, using the standard 5,000 hectare farm model, is not financially viable at the current rate of interest. Either interest rate or capital subsidies, of the same order as those available in the past for commercial areas, would be necessary to produce reasonable levels of income. Since the beneficiaries are likely to be large farmers, there would be little social justification for such a subsidy programme.

2.12 However, Table 4 is based on the assumption that the real burden of debt service will continue at the same level throughout the life of the loan. In reality, the real value of loan repayments is likely to be eroded by inflation which in recent years has been running at around 12 per cent annually. The declining real burden of debt service is reflected in Table 5 based on the assumption of a 10 percent annual rate of

	Eastern Ovambo	Central Kavango	Southern Kavango
Net Revenue After Loan Repayments -----			
Year 1			
At 18% over 15 years	-29,020	-23,200	-29,930
At 18% over 25 years	-22,630	-17,200	-23,470
Year 5			
At 18% over 15 years	460	4,440	-160
At 18% over 25 years	4,830	8,540	4,250
Year 10			
At 18% over 15 years	24,550	27,020	24,170
At 18% over 25 years	27,260	29,560	26,900

Source: Appendix A, Table A9.1.

2.13 If all farm development costs were borne by government rather than the private sector, the appropriate level of annual rental to recoup the capital outlay would need to be in the region of R57,000 per unit or around R11 per hectare, assuming an interest rate of 12 per cent (similar to the rate of inflation).

2.14 It is sometimes argued that such schemes have indirect benefits stemming from the removal of animals from over-grazed communal land, thus allowing it to recover. However, there is evidence that stock owners retain rights in the original area and stocking levels are never significantly reduced.

2.16 Five main opportunities for wildlife utilisation projects appropriate to communal land have been identified<sup>4</sup>:

- small scale game harvesting
- game cropping
- game ranching
- trophy hunting
- photographic safaris and ecotours.

2.17 The first three involve progressively more intensive forms of harvesting and investment. Game ranching for meat and hides requires fencing. It may also include sport hunting and photographic tours. Hunting safaris, which typically entail killing very few high quality trophy animals, require minimal physical development in the hunting area but high investment in vehicles, equipment, and marketing. Photographic safaris require similar levels of inputs with additional investments needed in tourist accommodation and roads.

2.18 The highest levels of income are obtained from hunting and tourism. However, the investment and management requirements are generally beyond the reach of rural communities without major efforts being made to help them develop their own cooperatives or companies at the village level. Such developments have yet to occur in Namibia.

2.19 Participatory land-use planning approaches are being developed by the Ministry, in order to help local communities to plan and manage projects and reap the benefits. The most advanced scheme so far is in West Caprivi, where a plan for the development of the area is currently awaiting Cabinet approval. It is expected to benefit some 3,000-4,000 people resident in the West Caprivi Game Park. Based on the potential wildlife resources of the area, some indicative estimates of the gross revenues accruing to the community from the plan have been made.

recruited and paid, possibly by an NGO. Specialist assistance would be required to support the process of community participation and management.

2.21 According to the Ministry, some employment would be generated by the project for local inhabitants. However, the main benefits would be in the form of revenue, meat and other material, the proceeds of which would be deposited in a community fund, administered by a local committee. Details of how such a system would be administered have yet to be finalised. Like most schemes of this nature, obtaining full community involvement is likely to be the most challenging aspect.

### 3. Freehold Areas

3.1 There are 4,200 commercial farm businesses on 6,300 farms<sup>5</sup> on the freehold areas of central and southern Namibia. The farms occupy an area of 36 million hectares, equally divided between cattle and smallstock. There are about fifty game farms. Some 22,000 hectares suitable for dryland crop production are located in the Otavi-Tsumeb-Grootfontein triangle.

#### *Option D: Freehold Farm Purchase for Communal Area Expansion*

3.2 This scenario involves the simple extension of communal area grazing through the purchase of adjacent farms. Infrastructural development costs would be low since water supplies are likely to be already in place. The approach would be relevant on the borders of Hereroland, Namaland and Damaraland.

3.3 The main cost would be the compensation of farm owners. Current market prices for freehold land in the northern and eastern cattle areas (e.g. adjacent to Hereroland) are generally in the region of R100 per hectare, though lower (R60 per hectare) in the drier western transition areas next to Damaraland<sup>6</sup>. In

Cost per Household:

8 graziers/5000 ha                      62,500              37,500              18,750-43,750

Source: NEPRU Working Paper 3, Economic Analysis of Land Reform Options, 6 June 1991.

3.4 It should be noted that farm prices dropped by between 20 and 70 percent in 1990, having risen quite sharply in the years leading up to independence. The fall in market prices in 1990 was due to a combination of uncertainty on the land reform front, reductions in the export prices for livestock products and the rise in interest rates. Land prices still appear to be higher than current financial returns would seem to justify.

3.5 Assuming that resettlement would be spontaneous and would not require government support, development costs per 100,000 hectares would be between R3.0 to 10.0 million depending on location. Cost per household, assuming eight graziers per 5,000 hectares, each with the equivalent of 50 LSUs, would be in the range R18,750 to R62,500.

3.6 An economic cost of land reform in the freehold areas may be in the form of output foregone as a result of changes in production levels. However, the estimation of the opportunity costs involved is not straightforward since it requires the calculation of net, not gross, returns per hectare which cannot be reliably calculated at this stage.

3.7 Financial returns to participant graziers are indicated in Table 7. It is assumed that farmers would not be required to repay farm purchase costs though they would be expected to take over the costs of operating water points. Livestock farmers in the south and east are reported to be more commercially oriented than farmers in the north. Thus, offtake rates of 15 percent for the cattle farmers of Hereroland and Damaraland, and 35 percent for the smallstock farmers of Namaland have been assumed.

R6,000 for Damaraland and Hereroland farmers respectively. Where windmills are suitable, water point costs would be lower and incomes higher.

Table 7 Annual financial returns to communal graziers on freehold areas (5,000 Ha, Two Boreholes, Eight Graziers)

	Hereroland	Damaraland	Namaland
	400 LSU	340 LSU	1250 SSU
Stocking Rate	1 LSU:12.5ha	1 LSU:15ha	1 SSU:4ha
Net Returns:	29,920	23,170	9,670
Net Returns/ Grazier	3,740	2,900	1,210
% return on Livestock Equity	9	9	13
Fixed Costs Excluded:			
Net Returns:	39,800	33,050	19,550
Net Returns/ Grazier	4,970	4,130	2,440
% return on Livestock Equity	12	12	26

Source: NEPRU Working Paper 3, Economic Analysis of Land Reform Options, 6 June 1991.

*Option E: Purchase of farms for allocation to Communal Area stock farmers*

3.9 This option would involve the purchase of farms in the commercial cattle and smallstock zones for allocation to Communal Area farmers. Settlers would be encouraged to continue to operate and manage the farms as fenced commercial units. Because of the low carrying capacities and the extensive nature of stock raising, settlement would be scattered. No significant



to be relatively commercial in their outlook. In the farm budgets for this option, offtakes of 20 per cent and 40 per cent have been assumed for cattle and smallstock respectively.

3.12 Where individual usage rights are granted, a critical issue is that of the size of holding needed for the viability of the herds and flocks and an acceptable income for the owner. The viability of various farm sizes and stocking rates under different agro-ecological conditions have been evaluated in financial terms.<sup>7</sup> Holdings of 2,500, 1,250 and 675 hectares have been tested together with stocking rates of 1 LSU to 12.5, 15, 24 and 36 hectares.

Fixed Costs Excluded:

Net Returns:	15,880	12,160	3,930	-30
Net Returns - Windmill	19,080	14,830	5,690	1,250
Net Returns - 1,250ha unit	7,940	6,080	1,960	-15
Net Returns - 625ha unit	3,970	3,040	982	-8

Source: NEPRU Working Paper 3, Economic Analysis of Land Reform Options, 6 June 1991.

3.13 The results indicate that settlers would be unable to pay for fixed as well as operating costs. If fixed cost recovery is excluded, acceptable levels of income would be available from the commercial cattle areas of the north on both 2,250 and 1,250 hectare units. At these farm sizes, it would be possible to consider some partial fixed cost recovery. For cattle owners with 40-50 LSUs in the north of the country, 625 ha units would be just viable, especially where windmills were used.

3.14 For dorper sheep farmers in the south, the minimum viable farm size (assuming no charge for fixed costs) would be a 2,500 hectare unit which, at a stocking rate of 4 hectares per SSU, would provide an income of R3,900. This would increase to R5,700 if windmills instead of engines were used for pumping. In the areas of the south west where carrying capacities of 6 hectares per SSU and more apply, the results are extremely marginal and subdivision for settlement should not be contemplated.

arable land in the Omani triangle are very much higher than in the livestock zones. Current market prices are about R1,500 per hectare for cleared arable land.<sup>8</sup> There has been a recent case of land being sold at twice that price. Uncleared fertile land sells for around R200 per hectare. Land clearing costs are in the region of R700 per hectare.

3.17 Smallholder settlement would also require the provision of grazing land for settlers' livestock for subsistence, sale and for draft power. For costing purposes, it is assumed that each settler family would have the equivalent of 8-10 LSUs. Cash and kind income from livestock would be an important and necessary constituent of settler family income<sup>9</sup>. At a carrying capacity of 1 LSU:10 hectares, provision would need to be made for 80-100 hectares of grazing per settler household. Thus 10,000 hectares of arable would need to be accompanied by 90,000 hectares of grazing.

Source: NEPRU Working Paper 3, Economic Analysis of Land Reform Options, 6 June 1991.

3.18 The overall initial development costs of this option are summarised in Table 9<sup>10</sup>. Provision would need to be made, not only for the cost of land purchase, but also for crop production inputs, livestock purchase (for those settlers with no or few livestock), extension and other supporting services and housing. Compared with other options, costs per household are not high.

3.19 Estimates of subsistence and cash incomes for settlers are indicated in Table 10. The estimates assume primary cultivation and planting of maize by tractor. A system relying on animal draft could be equally appropriate especially if levels of management and yields were low.

3.20 The importance of achieving yield levels of about 1.5 tonnes per hectare is evident from Table 10. The net value of production (i.e. R1,430) at this yield level, assuming 4 hectares harvested per household, is double that at the 1 tonne per hectare level (i.e. R766). Yield levels under the existing farming system in the northern Communal Areas are only 200-300 kg per hectare of millet, equivalent to about 500 kg of maize grown under the same system. Commercial farmers expect to get at least 1.5 tonnes. Settlers are not expected to achieve this level until after several years.

Source: NEPRU Working Paper 3, Economic Analysis of Land Reform Options, 6 June 1991.

3.21 Combined with cash and kind income from livestock of R1,850, mixed farming based on the 1.5 tonne per hectare maize yield would provide an annual household income of R3,150 which is roughly comparable to that available from unskilled urban labour. For some families, labour is likely to be a constraint if 4 hectares per household are to be weeded by hand.

3.22 The opportunity cost of this option would depend very much on the levels of production achieved by the settlers. If yields of 1.5 tonne per hectare were achieved, then the costs would be low. In this respect, there is some encouraging experience from elsewhere. Some smallholder settlement regions of Zimbabwe have regularly achieved over 2 tonnes of maize per hectare, though under better growing conditions than are likely to be found under rainfed conditions in Namibia.

3.23 This option is the most land intensive of the options examined. At 5 hectares of cleared arable land per household, some 2,000 settler households or in the region of 10,000-12,000 persons could be resettled per 100,000 hectares.

*Option G: Subsidised purchase of freehold farms by individual Communal Area farmers*

3.24 Large farmers from the Communal Areas have been slowly moving into the commercial areas for the last nine years with the help of subsidised loans provided by the Land Bank and second tier authorities. This support has now been suspended. Under Option G the loans would once again be made available.

examined in Table 11 all result in negative returns. Only with the 6 per cent rate of interest, or alternatively a 50 percent purchase price subsidy, would annual net incomes reach the R15,000 - R30,000 range. It must be stressed that it is only possible here to review Option G in indicative and general terms.

Table 11: Annual cash flows for individual farmers (Rand)

	north/ north east	north west	south east	south west
Net revenue after loan repayments				
-----				
At 18%, 25 years	-21,050	-14,490	-25,450	-10,870
At 6%, 25 years	31,300	27,390	26,900	20,540
With 50% subsidy				
-----				
At 18%, 25 years	24,680	22,090	20,280	16,570
With 30% subsidy				
-----				
At 18%, 25 years	5,390	7,460	1,990	5,600

Source: NEPRU Working Paper 3, Economic Analysis of Land Reform Options, 6 June 1991.

3.27 Because the main beneficiaries would be a few already wealthy individuals, the case for government providing such subsidies for this purpose is not strong.

4.3 Option A : Communal Area Expansion: This involves the expansion of existing communally managed grazing areas. Of all the options considered, it carries the lowest budgetary cost per hectare and per participating household since investment could be limited to essential water development.

4.4 The option would produce the widest spread of benefits provided small livestock owners were not crowded out by the big cattle owners. The vast majority of livestock owners in the northern Communal Areas are small (i.e. have less than 20 LSU equivalents). Option A may be seen as less attractive in productivity terms than Option B, especially when the benefits from subsistence production are not taken into account. In input-output terms, the communal grazing system is not necessarily less efficient than the commercial or semi-commercial systems.<sup>11</sup>

Option B: Commercial Development on Communal Areas: This option involves the fencing of communal land for ranching. Because of the cost of fencing, farm roads and buildings, as well as water development, this is a high cost option. The benefits will depend very much on the management system adopted on the farms. Usually the level of management of farms on enclosed communal land is not greatly different from that outside the fence. This raises questions about the wisdom of investing in fencing and other farm infrastructure. There is a need to investigate intermediate investment strategies.

4.6 Benefits are unlikely to be widely distributed. There could be transient gains in grazing pressure reduction on the Communal Areas where large farmers evacuate their cattle. Experience with group, cooperative and syndicate management on commercial ranches elsewhere has generally been poor.

is relatively more costly as it involves the purchase of land. It is probably the only option likely to be of direct benefit to small livestock owners in Hereroland, Damaraland and Namaland. The impact on beef exports would be negative, although the overall impact on biomass production may be less significant. The calculation of this cost requires an examination of net, rather than gross production from the two types of farming systems (commercial and traditional).

4.9 Option E: Settlement of Stock Farmers: This option would involve allocating individual user rights to Communal Area farmers on freehold farms. As with Option D, it is likely to be costly. On financial grounds, the minimum viable holding size for cattle would appear to be 1,250 hectares in the cattle areas and 2,250 hectares or more in the sheep areas. The numbers of participating households (160 per 100,000) would be small and the spread of benefits relatively narrow.

4.10 Option F: Settlement of Small Farmers and Landless: This would require settling people in an area suitable for dryland cropping and small-scale stock keeping (e.g. Otavi-Tsumeb-Grootfontein triangle). It would be the most absorptive and intensive of the systems considered, enabling 2,000 households, i.e. 10,000 - 12,000 persons, to be settled per 100,000 hectares. Settlement costs and benefits per household would be comparable with other options. In terms of equity, its benefits are likely to be high since it would cater for relatively large numbers of the poor farmers.

4.11 Option G: Purchase of freehold farms by individual Communal Area farmers: At current rates of interest, there is little financial incentive for large farmers from the Communal Areas to purchase freehold farms. Under this option, such farmers would be encouraged to apply for subsidised loans or capital grants. Finance would be available from the Land Bank and commercial



in the same proportion, but at different rates of implementation; low, medium and high. For example, Option A, Communal Area expansion, under the low level would cover 100,000 hectares; under the medium level it would cover 200,000 hectares and under the high level it would cover 400,000 hectares in the first five years; Option B, Communal Area commercial development under the various levels would cover the same extent of land as Option A; etc.

5.3 The low level scenario would embrace a total of 500,000 hectares, the medium level would involve one million hectares and the high level would cover two million hectares over five years.

5.4 From Table 13, it can be seen that the estimated annual budgetary cost of the various scenarios over the five year period would be:

low level:	R12,658,000
medium level	R25,316,000
high level	R50,632,000

5.5 The high level scenario, costing fifty million rand per year would represent about ten per cent of Namibia's capital budget in 1991.

Community based wildlife utilisation	n.a.	N.A.	High	N.A.
Option D :				
Commercial farm purchase for communal area expansion	30-100_4/	18,750-62,500_2/	High	Low
Option E :				
Settlement of stock farmers on commercial farms	30-100_4/	125,000_3/	Low	Low
Option F :				
Settlement of small farmers and landless on commercial farms	770	38,500	High	Medium
Option G :				
Purchase of commercial farms by communal area farmers_5/	n.a.	n.a.	Low	Medium

n.a. - not applicable.

N.A. - Not Available.

\_1/ 5,000 ha unit.

\_2/ Assuming 8 households per 5000 ha.

\_3/ Based on minimum viable cattle unit of 1,250 ha.

\_4/ Depending on carrying capacity.

\_5/ Costs to government would depend on subsidy policy.

\_6/ See text for Option specification.

				N.A	N.A	N.A
Community based wildlife utilisation						
Option D :						
Commercial farm purchase for communal area expansion_1/	100	200	400	6,500	13,000	26,000
Option E :						
Settlement of stock farmers on commercial farms_1/	100	200	400	6,500	13,000	26,000
Option F :						
Settlement of small farmers and on commercial farms	50	100	200	38,500	77,000	154,000
Option G :						
Purchase of commercial farms by communal area farmers_2/	50	100	200	390	780	1,560
Total	500	1000	2000	63,290	126,580	253,160
Cost per year over 5 years				12,658	25,316	50,632

\_1/ At mid-range price.

\_2/ Cost to government assumed to be interest rate subsidy based on the difference between 18 and 6% interest rates.

#### NOTES:

1. This work is based on detailed calculations elaborated in a NEPRU Working Paper, available from the Namibian Economic Policy Research Unit.
2. Agricultural Mission : Namibia, UNDP/FAO, Sept. 1989.
3. It must be cautioned that irrigation in Africa generally and in northern Namibia in particular has proved very costly and financially unviable. FNDC has been operating four irrigation based schemes in Kavango at a loss for a number of years. Smallholder schemes, especially where farmers have been traditionally accustomed to land and labour extensive production systems, as is the case in Ovambo and Kavango, are likely to encounter serious problems. The establishment of such schemes requires careful and detailed technical and

the range management point of view and could infringe legislation relating to subdivision of farms.

8. Source: AGRA and MAWARD.

9. See NEPRU Working Paper 3, Appendix D.

10. Details are provided in NEPRU Working Paper 3, Table A14 of Appendix A.

11. NEPRU Working Paper 3, Appendix D contains a note on the role and importance of non-cash sources income to small livestock owners in the northern Communal Areas and on the efficiency of Communal Area production systems.



## 2. Resource Allocations in the 1980s

2.1 Estimates of state agricultural spending on the commercial and communal areas between 1984/5 and 1989/90 are presented in Table 1. Prior to independence, government resource flows were strongly biased in favour of the commercial farming sector, which was regarded as the engine of growth and production in agriculture. In the mid 1980s, 74 per cent of government budgetary resources for supporting farming were directed to the commercial sector. During the period 1984/5 to 1989/90, however, resource flows to agriculture as a whole declined by 33 per cent in real terms, from R115 million in 1984/5 to R62 million in 1989/90 (in constant 1990 Rands). This was largely due to the reduction after 1985/6 in drought assistance and other subsidies to the commercial sector.

2.2 For the commercial farms, Table 1 shows that the most significant component of expenditure was the subsidy on interest rate support for medium and long term loans provided by the Land Bank and by government under the Agricultural Credit Act. Other significant expenditure items were the direct subsidies for soil conservation structures, water development and fencing made available from the Second Tier Authority for Whites and from the central authority to the commercial sector.

2.3 Due to the decline in resource flows to the commercial sector, the relative share of the Communal Areas in overall expenditures increased from 26 to 40 percent. Total spending on the 110,000-120,000 households of the Communal Areas, however, remained roughly constant at around R40 million (in 1990 constant prices). Due to financial mismanagement by the second tier authorities, the benefits received by communal area households were considerably less than the stated figures.<sup>1</sup>

Central Auths	25	18	16	14	11	10
Credit_4/	46	43	32	26	29	35
Meat Industries_5/	9	20	12	9	10	7
Sub Total	116	100	60	59	50	52
Total	156	148	121	103	104	105
Communal as % of Total	26	26	37	42	41	40

\_1/ Ovambo, Caprivi, Okavango, Coloured, Damaras, Hereros, Namas, Rehoboth and Tswanas.

\_2/ Omitting sea fisheries and nature conservation directorates, communal accounts for 53% of veterinary directorate and 20% of agricultural directorate.

\_3/ i.e. Whites.

\_4/ Land Bank and Agricultural Credit Bank, interest rate subsidies.

\_5/ Loans and grants from the agricultural directorate.

Source: Subsidization, Taxation and Viability of the Commercial Agricultural Sector, NEPRU, 1991.

2.4 The spending pattern of the Department of Agriculture in the "homelands" was heavily geared to the provision, operation and maintenance of water supplies. Around 50 per cent of the budgetary and staff resources of the Department were committed to this item. Effective government research, development and extension programmes for smallholders in the homelands were virtually non-existent.

### 3. Current Developments and Activities

3.1 Independence marked the watershed in policy towards the provision of agricultural services. It is now the explicitly stated policy of the Ministry of Agriculture, Water and Rural Development (MAWARD) to give much increased emphasis to the provision of resources and services to the populations of the Communal Areas. It has not been possible to track this shift in policy from government accounts since the previous breakdown by Second Tier Authority has been replaced by a composite MAWARD budget, which is not disaggregated by region in the official

3.3 A main indicator of the increased emphasis on the Communal Areas has been the establishment of the new Directorate of Rural Development in MAWARD in 1990. The Directorate, once fully established, will provide a wide range of services to the Communal Areas.

3.4 The Rural Supportive Services Division has taken over the Rural Water Supply Section from the former Department of Agriculture. This constitutes a major component of the work programme of the new Directorate. Capital projects for earth dam construction and borehole drilling and installation (predominantly for the Communal Areas) with a total cost of R10 million (out of a total ministry budget of R61 million), have been approved for the current financial year.

3.5 The feasibility of transferring the responsibility for borehole drilling and installation to the Department of Water Affairs is currently under review. Such a move would reduce the work load of the Rural Development Division to that of overseeing the operation and maintenance of rural water supplies. The removal of the onerous technical task of drilling and the supervision of contractors would allow the Directorate to concentrate on their extension role and on the implementation of the policy of devolving operation and maintenance to the communities concerned and the training of water point management committees.

3.6 In addition, the MAWARD through the Rural Development Directorate launched a series of innovative services to rural communities. These initiatives have been based on awareness of the following:

- the importance of the role of NGOs particularly religious organisations in the development of the Communal Areas;



at the forefront of village level rural extension work.

3.8 The Rural Industries Development Division was established in 1991. Its interests will encompass cottage industries, rural agro-industries and rural energy supplies. The Appropriate Technology Section has prepared and submitted a project proposal concerned with developing activities which reduce the time burden of rural women's activities.

3.9 The Rural Development Directorate will also be responsible for supporting input supply, credit and marketing in rural areas.

#### *The Directorate of Agriculture*

3.10 The extension and advisory services of the Directorate of Agriculture continue to be made available to the farmers of the commercial sector. However, administrative work associated with the direct subsidies programmes (preparation of farm and physical plans, schedules and works inspection) which formerly occupied around 50 percent of agricultural officers' time has been sharply reduced. According to MAWARD, no staff redeployment from the commercial areas to the Communal Areas has taken place. Instead, efforts are being made to improve the effectiveness of extension work within the commercial sector.

3.11 It is also reported that, in the Communal Areas, the provision of posts for trained agricultural personnel has increased substantially since independence. However, administrative bottlenecks in personnel recruitment are reducing the pace of staff deployment.

ploughing will be offered where considered appropriate. It is also intended to supply farm inputs, credit and marketing services from the ADCs, though the details have yet to be worked out.

3.14 Other projects in the Communal Areas include the "Sustainable Agricultural Development Project for Northern Namibia" (R4 million), which aims to carry out applied research (millet variety testing) and staff training mainly focused on crop production. Important donor financed (off-budget) projects which are intended to serve the Communal Areas are the project for "Sustainable Livestock Production in Less Developed Areas of Namibia" (supported by Germany), which is due to commence in 1991, and the Training for Namibia Agricultural Sector Personnel (supported by the EC).

#### *The Directorate of Veterinary Services*

3.15 According to the estimates of the veterinary directorate, 47 per cent of departmental expenditures are expended on the commercial sector and 53 percent on the communal areas. Between 1984/5 and 1989/90, state spending on veterinary work in the commercial sector remained approximately constant in real terms at just under R5 million annually.<sup>4</sup>

3.16 The bulk of the efforts of the Directorate in the commercial sector relate to stock inspections and administration required for maintaining animal health standards to comply with the import requirements of the European Community (EC). In recent years, the incidence of these inspections in the commercial areas has been halved as a result of budget constraints.

#### 4 Issues

4.1 Positive moves have been made to increase the provision of facilities and agricultural staff in the Communal Areas. However, restructuring is still in its early stages and much has to be done before effective agricultural development services are in place. There remain some major issues which need attention, the most important one being the lack of a coherent agricultural development strategy.

4.2 There is at the moment no overall policy framework, even in outline, which sets out policies and associated strategies, objectives and methods to be used in future agricultural development in Namibia. In this sense, agriculture is perhaps a microcosm of the national planning situation.

4.3 Four themes pervade official pronouncements on agricultural development policy: a) increasing agriculture's contribution to GDP; b) increasing food production; c) increasing employment; and d) correcting previous imbalances in resource allocation by switching resources to the northern Communal Areas. The relative priority to be accorded to each remains unclear. There appears to be a confusion of aims.

#### *Agriculture's contribution to GDP*

4.4 A major plank of the government's agricultural development strategy is to increase agriculture's contribution to gross domestic product (GDP), currently stated to be "only 10 per cent - while the majority of Namibia's people lived in the rural areas and derived their livelihood directly or indirectly from agriculture".<sup>5</sup> It is well known that the subsistence production of about 120,000 households in the Communal Areas (about R200 million) is not taken into account in the calculation

### *Food self-sufficiency*

4.6 Another major plank in the national agricultural development strategy is national self-sufficiency in grain production, a policy which has been discarded by other dry countries in Africa in favour of the exploitation of comparative advantage. In view of the fact that rainfed cropping potential is mainly in the north of the country, a more efficient alternative may be a greater emphasis on the production of high value crops, especially oilseeds. These are more likely to have a comparative advantage than grain, because the costs of transporting inputs and outputs would represent a smaller share of total production costs.

4.7 The adoption of a food self-sufficiency goal is a potential source of economic inefficiency, low productivity and therefore low personal income in that it competes with promotion of the national economic base. Arable production in arid and semiarid lands also carries with it real dangers of degradation, especially when it is mechanised over large areas on light sandy soils. Namibia has a comparative advantage in livestock production, and wildlife utilization and management. Limited areas are also suitable for dryland crop production and, in those places where irrigation sources are available, for horticultural crops.

4.8 While it is clearly valid to expand food production by improving support services to small farmers, particularly extension, credit, input supply and marketing, it makes no sense to promote food self-sufficiency at all cost.

construction of such projects (e.g. mechanical bush clearing).

#### *Duplication*

4.10 The goal should not be simply to spend more money in the Communal Areas than the past regime, but rather to spend it more wisely. There is a clear danger of duplicating functions, both of other ministries and departments and the private sector.

4.11 While the energy and motivation of the Directorate of Rural Development is praiseworthy, it is not going to help in the long term to produce a cadre of Rural Extension Officers who duplicate the terms of reference of other extension staff, for example those of the Ministry of Health and Social Services, and the Ministry of Local Government and Housing.

4.12 Prior to independence, government spent large sums on water supplies, the operating costs of which constitute a major recurrent burden for the new administration. A question which arises here is the extent to which government should become directly involved in the physical implementation of what should be farmers' cooperative or private sector functions, e.g. tractor hire, input supply and marketing. Where no services exist, there is inevitably pressure for government to step in. By doing so, government services can undermine fledgling private sector activity.

4.13 It is in a similar context that the operations of FNDC's Agricultural Division is also open to criticism. For while the FNDC crop production farms in the northern Communal Areas contribute towards food production and some limited employment generation (albeit at considerable financial loss) they have had little or no impact on the development of smallholder, self-employed agriculture.

large investments (or say more than the minimum, minimum) to detailed technical and economic feasibility studies. In attempting to take decisive action, large investments in agriculture are taking place with little or inadequate appraisal.

#### *Administration*

4.16 Administrative bottlenecks, outside the control of MAWARD, are reported to be delaying the establishment of enhanced services. For example, there are long delays in staff recruitment. The Directorate of Training has 30 posts at the professional level, only one of which has been filled since independence. Similarly, with the procurement of goods and services, long delays are reported. Under existing government procedures, the acquisition of a computer can take a year to process. These rigidities are paradoxically partly a result of the dissolution of the Second Tier Authorities (STA). Under the STA system, the administration of a major portion of government expenditures was decentralised, not requiring central government sanction. Nowadays, the procurement and expenditure process is highly centralised and leads to long delays. While such a centralised system has benefits in terms of financial management and control, there can be losses in efficiency. Some moves to decentralise government procedures would appear to be appropriate at this stage.

#### NOTES:

1. Subsidies, taxation and viability of the commercial sector, NEPRU Briefing Paper 5.
2. Windhoek Advertiser, 15 June 1991.
3. Minister of Finance, Budget Speech, 1991



Section 5

MRPRU Working Papers on Land Tenure





*Traditional vs emergent Leadership and land Use in Nyae Nyae: the Nyae Nyae Farmers Cooperative*

Instead of hereditary chiefs and headmen Bushman groups have leaders who are identified by a combination of personal qualities and genealogical ties to n!oresi, which are traditional resource areas with sufficient food and water to sustain a hunting-gathering group of 30-50 people.

Oral history and archaeology indicate that Bushman peoples lived in Nyae Nyae at least 1,000 years ago. During the 1950s, about 1,200 Ju/'hoan people in the Nyae Nyae region were the only people in Southern Africa who were still supporting themselves solely by hunting and gathering. From the 1950s to the 1970s, however, over 900 Ju/'hoansi came to live at Tjum!kui (Tsumkwe) as a result of promised wage labour, agricultural training and medical care. The catastrophic results were the decimation of local food resources, social disintegration, dependency, alcoholism and crime.

In 1970, the Ju/'hoansi lost 70% of their previous foraging territory in Namibia and all but one of their permanent waters as large portions of Nyae Nyae were incorporated into Hereroland East, Kavango and the Kaudom Nature Reserve. Only about 6,000 square kilometres remained, enough to support only a small number of residents by hunting and gathering. By the late 1970s, Ju/'hoan groups in Tjum!kui were realising that they must return to their land if they hoped to keep it, and that they would have to develop a more intensive form of economy in order to survive on a reduced land area. From 1980 to 1990, some 500 Ju/'hoansi left Tjum!kui to reestablish n!oresi in Nyae Nyae, with the help of a Namibian NGO, the Ju/wa (Ju/'hoan) Bushman Development Foundation, which provided cattle, boreholes, training and advice.

Executive Committee composed of one representative from each quarter of Nyae Nyae and a Chairperson, all of whom are elected by the Council. The NNFC as a whole acts as an information-disseminating body and has provided a forum for the discussion of many relevant regional issues. The emergence of the NNFC has produced increased experience in participatory development and decision-making processes.

Although the NNFC recognises the right of any Namibian to settle anywhere in Namibia, it recommends that the health of the land can best be served by agreed community limitation of livestock numbers and responsible resource management. It advocates democratic principles of land allocation based on long-term habitation and land use patterns, and the right of local people to speak for themselves about the use of their environment and its products. It also recognises that control of resources implies control of the land, responsible stewardship of land resources, and security against threats of dispossession.

#### *The legal background*

In legal terms, Nyae Nyae was part of the area reserved for "the sole use and occupation of Natives" in 1969 and then set aside for members of the "Bushman Nation" in 1976. The colonial administration classified over 30 000 persons as "Bushmen", including several distinct cultural and linguistic groups of Bushman peoples, as well as a number of poor and dispossessed people who did not readily fit into any of the other "population groups". Approximately 7-8 000 of the people classified as "Bushmen" are Ju/'hoan, members of the cultural and linguistic group which originally inhabited the Nyae Nyae region.

### *Traditional concepts of land tenure in Eastern Bushmanland*

There are two key concepts of land tenure and land use in the Ju/'hoan tradition: the n!ore right and the right of the kxa/ho.

A n!ore is a named place containing various natural resources. Some n!oresi are residential while others are used only for hunting and gathering. The right to reside permanently in a n!ore is inherited by individuals from their parents. Subsidiary rights in other n!oresi are acquired through marriage and name relationship. N!ore rights cannot be sold, given away or willed to anyone. A person who has inherited the right to reside permanently in a n!ore is called the n!ore steward. A person or a group may travel through another person's n!ore, but no one may settle in a n!ore without the permission of the n!ore steward.

The kxa/ho is all of the land traditionally inhabited by the Ju/'hoansi and all of its natural resources. The right of the kxa/ho is a limited communal right to all of these resources which is acquired by individuals by descent.

If land in Nyae Nyae is allocated in accordance with these traditional concepts of ownership, conflicts can be avoided and any disputes which do arise can be resolved according to rules and principles which the people understand and accept. Furthermore, these traditional concepts of land tenure are conducive to good land management and environmental stewardship.

### *Possibilities for a future approach to land tenure*

The key principles used to guide the allocation of land in Nyae Nyae should be:

One mechanism which could be used to meet the needs of Nyae Nyae would be to allow for the allocation of n!oresi to small cooperatives, with membership based on the n!oresi rights derived from inheritance, marriage and name relationships. Such a cooperative concept could also be used in other of Namibia, where there is no convenient legal definition of the appropriate group which should be allocated land, or where individuals or families wish to combine their landholdings to create more economic agricultural units.

Another approach would be to implement a national plan with room for regional variation. National guidelines could be given different articulation in different areas by a Land Board which takes into account the various traditional forms of land tenure.

Particularly vulnerable groups such as the Ju/'hoansi may qualify for special action to redress the social and economic injustices of the past under the affirmative action provisions of the Namibian Constitution.

#### *Conclusions and recommendations*

The success of developmental projects in the communal areas will be dependent on the existence and involvement of local institutions such as the Nyae Nyae Farmers' cooperative, which has played a role that should be recognised and encouraged.

Any land law which is enacted should make provision for local concepts of land tenure, such as n!ore rights and the rights of the kxa/ho, which are at variance with the concept of ownership as it is understood in Western terms. Throughout Namibia, protection of communal rights through thoughtful attention to long-term land use patterns will be the key to a truly democratic land reform.

land was administered by a government department (Governmental Affairs or Owerheidsake) established to oversee the affairs of a people then deemed incapable of direction by any sort of chief, their own or an appointed one.

1.3 At the time of the 1981 census, 70% of Namibia's population lived in the communal areas, and this proportion has probably not changed significantly in the intervening ten years. New policies of communal land tenure have yet to be defined for this majority; the related functions of regional and local government bodies also remain to be defined, as well as policies relating to resettlement. All three of these considerations will have an impact on the land rights and economic situation of a very large number of Namibian citizens.

1.4 While economic and social conditions differ greatly from area to area, the principle that communal land rights must be protected as fully as freehold rights is crucial for all the communal areas. Secure land tenure on communal lands is important to Namibia for a number of reasons.

- Firstly, for the foreseeable future, most Namibians will continue to support themselves by means of a "mixed economy" which combines subsistence farming and wage work. If either the subsistence leg or the wage work leg is removed, survival is threatened. This is likely to remain the case for years to come, as even a rapidly expanding economy cannot provide enough jobs for all, or high enough wages to make subsistence farming unnecessary as a supplement.
- = Secondly, in the past the communal lands were ignored and marginalized by the national economy. However, communal land areas have tremendous potential, and the sale of surplus food produced on communal lands can enliven the

- There will be a number of pressures on state-owned communal lands. Commercial farming interests will push for larger tracts of land for livestock and high-income crops, and the tourist industry will lobby for increased areas for game farms and nature reserves. Pressure to use communal lands for commercial development will also come from banks and foreign investors. The government's own need for revenue to fund services such as health care, education, and water supply may also be a factor favouring land use that produces the highest returns on capital investment. Residents from one communal area may be tempted to encroach upon another, given the problem of overcrowding in so many of the communal areas.

Against this background, it will be vital to implement clear forms of legal entitlement to protect the right to occupy and to use communal land.

1.5 Land issues in Nyae Nyae provide some constructive examples of issues which are also found in other communal areas. These issues fall under two large headings:

- (1) traditional vs emergent leadership as related to traditional vs emergent patterns of land use; and
- (2) the transition from previous policies implemented under an apartheid system to "free and democratic" land distribution policies which will be in line with the Namibian Constitution.

This briefing paper examines these areas of concern as they apply to Nyae Nyae. It goes on to look at the legal history of land allocation there and the traditional concepts of land tenure among the Ju/'hoansi. It sets forth a few suggestions which

lead by virtue of a combination of:

- 1) personal qualities which may arise unexpectedly in individuals and are not necessarily passed on to heirs, and
- 2) clearly defined genealogical ties to resource areas. In the case of Nyae Nyae, where Ju/'hoan people (unlike all other Bushman peoples in Namibia) have NOT been entirely dispossessed and scattered on farms belonging to others or around the towns, leadership has been tied to stewardship by a core group of siblings of traditional areas known as n!oresi

2.2 N!ores are roughly circular areas of land with undefended borders, each of which provides wild food and animal resources, along with a water source or sources sufficient to sustain a traditional hunting-gathering group of 30 - 50 people.

2.3 The n!ore system has considerable time depth in Nyae Nyae. This is known by both oral history evidence and archaeology. Archaeologists have shown that Bushman peoples, probably the ancestors of the present Ju/'hoansi, lived in Nyae Nyae at least 1 000 years ago. The earliest recorded date of human occupation in Nyae Nyae is +/- 20 000 years BP. No evidence of permanent occupation by any people other than hunter-gatherers has been found in Nyae Nyae.

2.4 In recent times, Chief Moremi of the BaTawana in Ngamiland expropriated part of the Nyae Nyae Region in what is now Botswana and granted the land to several members of his court. The grants enabled Herero refugees from the German/Herero war of 1904 to settle at several permanent waterholes in the Nyae Nyae Region



Nyae Region in "South West Africa" and Botswana (see map, Annexure 1) were the only people still supporting themselves solely by hunting and gathering in Southern Africa. Hunting-gathering in this area requires approximately 37 square kilometres per person to support a stable population. It also requires that people live in small, widely scattered groups in order not to rapidly exhaust local resources of bushfoods. Hunting supplied about 20% and gathering about 80% of the diet. The Ju/'hoan groups in Eastern Bushmanland were among the fortunate few hunter-gatherers in Southern Africa who retained the option to continue their way of life into the middle of the twentieth century.

2.6 From the 1950s to the 1970s, however, Ju/'hoansi came to live at the administrative centre, Tjum!kui (Tsumkwe) as a result of promised wage labour, agricultural training, and medical care. Over 900 people migrated to Tjum!kui, where they were given a school, a clinic, a church, a jail and a few jobs. The result was catastrophic for Ju/'hoan life as decimation of local food resources, social disintegration, dependency, alcoholism and crime set in. Worse, as the Ju/'hoansi were no longer occupying their land, it became the target of attempts by the Directorate of Nature Conservation to set it aside as a game reserve from which human habitation -- except for a few tourist guides in skins -- would be excluded.

2.7 In 1970, following the work of the Odendaal Commission, Ju/'hoansi lost 70% of their previous foraging territory in Namibia and all but one of their permanent waters. Over 30 000 sq km of Southern Nyae Nyae, where only Ju/'hoansi and the one Tawana/Herero family lived, were expropriated by the SWA Administration and given to the Herero as Hereroland East. Over 13 000 sq km of Northern Nyae Nyae, where only Ju/'hoansi and the three Kavango families lived, were incorporated into Kavango. About 4 000 sq km were later proclaimed the Kaudum (!Aodom) Game

This time marked the transition between traditional and emergent new patterns of leadership to match the transition between traditional and new approaches to economy and land use.

2.9. The period 1980 to 1986 in Nyae Nyae "paralleled the "Outstation Movement" in Australia. It saw the departure of the first three n!ore groups (/Aotcha, N=anemh, and N=aqmtjoha) for their traditional areas and a life with a hope of a self-sufficient future. Over the next six years some 500 Ju/'hoansi left Tjuniikui to reestablish n!ores in Nyae Nyae, setting up in extended family groups with the help of a Namibian NGO, the Ju/wa (Ju/'hoan) Bushman Development Foundation. This NGO has been able to provide key inputs in terms of cattle, boreholes, training, and advice on establishing broadly-based rural communities, but the entire labour input has come from the people themselves.

2.10 The setting up of a grassroots movement in 1986 called the Ju/wa (Ju/'hoan) Farmers' Union, later re-named the Nyae Nyae Farmers' Cooperative, marked the decisive moment of change in emergent leadership in Nyae Nyae. Recognising that the land available had been made much smaller in 1970 with the work of the Odendaal Commission and that many of the old n!ores were closed off in what was now Kavango and Hereroland East, several leaders at the new communities proposed a new incarnation of the n!ore system. This organisation was to represent the communities which had gone back to hold on to their land, and to enable dispossessed groups to settle on available land along the old n!ore lines of settlement and resource use.

2.12 The NNFC as a whole deliberates upon regional matters like the applications of new groups, such as those from the ex-Army posts and from the Gobabis area who were "blackbirded" to work on white farms there in the 1950's, for more waterpoints and materials to build infrastructure. The Council meets for at least three days at least once every six months, and usually more often to meet ad hoc situations arising. It acts generally as an information-disseminating body and has provided a forum for discussion of many issues relevant to land and life in Nyae Nyae.

2.13 The operational mode of the NNFC between meetings is generally informational trips through all the farming communities conducted by the Chairperson and his/her Secretary, accompanied by the Council representatives appropriate to the issue or area quarter in question.

2.14 The emergence of the Nyae Nyae Farmers Cooperative has been a major step forward in grassroots development for the Ju/'hoansi. Experience in participatory development and its necessary decision-making processes has been vital for a people without formal governing structures larger than extended-family bands. Political awareness and organisational experience have grown hand in hand, as the people's awareness of their own situation and needs has increased enormously. At present the NNFC functions on its own, after some years of organisational support from the NGO, JBDF, and has fashioned itself into an effective, flexible body for both internal communication and external representation.

2.15 Established in 1986, the NNFC spent its first years exploring concepts of representation in the context of a dispersed, non-hierarchical society. Members of the council learned how to participate in an orderly meeting, how to use an

contains only 30 communities, and further communities and groups have contacted the NNFC about membership.

2.17 True to the ideas of the society from which it springs, the NNFC conceives of resource control as having greater priority than ownership of land per se. Yet it feels that control of resources implies control of land in a deep sense. Transcripts from meetings both before and after Independence reveal a long-standing concern with the health of the land and an awareness that control of resources implies responsible stewardship of them. Along with this concern has come the knowledge that land dispossession is a very real threat to economic livelihood, one which has deprived other Bushman peoples of almost all of their options.

2.18 The threat of competing land use patterns which might be brought into Nyae Nyae is very present in NNFC awareness. Though their constitutional document makes explicit recognition of the right of any Namibian to settle anywhere in Namibia, it makes recommendations that the health of the land can best be served by agreed community limitation of livestock numbers and responsible resource management. It sees something like a cooperative local body as the logical way to administer such a programme, in conjunction with informed scientific opinion. In fact, the NNFC has recently (January, 1991) taken part in a ten-day resource planning exercise for the area, and such community representation and input to planning will be vital to the success of the recommendations.

2.19 In general, democratic principles of land allocation based on long-term habitation and land use patterns, and local peoples' rights to speak for themselves about the use of their environment and its products, characterise the deeply held goals of the Nyae Nyae Farmers Cooperative.

2.21 Secondly, there has already been some land allocation in Western Bushmanland in the communities on the border between west and east, where 5 ha plots were allocated to male heads of household. When contacted in January 1991, residents of Aasvoelnes, a former Army community most of whose original nlores were in the !Aodom and other parts of Kavango, were not aware that these lands allocated were anything more than garden plots. They did not know that this was their final allocation. Such an allocation policy will not be viable in the sand veld and may not be sustainable even in such fertile arable areas as the riversides to the north. Such a small area cannot produce a subsistence for a family given the difficulties of agriculture in the area. Also, the traditional social organisation of sharing among Ju/'hoan extended family groups will not mesh well with a subsistence organised by households.

### 3. The Legal Background

3.1 In legal terms, the area which has been called "Bushmanland" was "set apart and reserved for the sole use and occupation of Natives" by the Administrator of South West Africa in 1969.<sup>3</sup> "Bushmanland" was specifically defined in 1970 by a Government Notice which created a magisterial district of Bushmanland.<sup>4</sup> In 1976, it was set aside for the exclusive use and occupation of members of the "Bushman Nation" by the State President of South Africa.<sup>5</sup>

3.2 The "population group" called "Bushman" was used by the colonial administration as a sort of dumping ground; many people with no traditional relationship to either "Bushmanland" or its residents were classified as "Bushmen". Today there are over 30 000 persons who were classified as "Bushmen" by the SWA Government, including several distinct cultural and linguistic groups of Bushman peoples, as well as a number of poor and dispossessed people who did not readily fit into any of the other "population groups". Approximately 7 - 8 000 of the people

jurisdiction over the occupation and possession of communal land and the power to establish and empower tribal, community and regional authorities in respect of "tribes or other communities" on communal land.<sup>6</sup> However, this did not affect Bushmanland, as no representative authority was ever established there.

3.5 There are two pieces of legislation relating to the administration of lands set aside as native reserves and both these laws are still in force. They are the Native Administration Proclamation, 1922 (Proc. 11/1922); and the Native Administration Proclamation, 1928 (Proc. 15/1928). Proclamation 11/1922 is the authority for the US Native Reserve Regulations (G.N. 68 of 1924) which are also still in force.<sup>7</sup> Under these Regulations, the Magistrate has "general control" of all native reserves established within his district.<sup>8</sup> The Superintendent of the district is given "the duty of making allotments of land, collecting taxes, supervising sanitation, branding native stock and generally controlling the reserve."<sup>9</sup> According to the regulations, no new

homesteads or buildings can be erected without the prior consent of the Superintendent. The Superintendent is also given control over the introduction of livestock into the reserve and the collection of grazing fees.<sup>10</sup> The Magistrate has the power to perform all the duties which are assigned to the Superintendent of a Reserve, and all Superintendents and other officers appointed in connection with the Reserves must carry out the instructions of the Magistrate in regard to the administration of the Reserves.<sup>11</sup>

3.6 Proclamation 15/1928 gives the "Administrator of South West Africa" (and thus now the President of Namibia<sup>12</sup>) the power to appoint Superintendents to assist in the control and supervision

Commissioners acting under the direction of the Department of Governmental Affairs Superintendent, Mr J M Swanepoel, who was based in Windhoek. Mr Swanepoel and the Commissioner set up a "council" of Bushmen in Tjum!kui which had no authority whatsoever and was rarely consulted on matters of consequence (such as the proposed Game Reserve). The most recent "Acting" Commissioner (a junior clerk under the direct control of the Superintendent) departed in December 1989.

#### 4. Traditional Concepts of Land Tenure in Nyae Nyae

4.1 It is an established legal principle that customary law can give rise to valid rights in land, even where that land is covered by a statutory scheme, so long as there is not a direct overlap between the principle of customary law and the statutory authority.<sup>15</sup> In Nyae Nyae, there are strong traditional concepts of land use and rights of residence which are still fully operational today.

4.2 There are two key concepts of land tenure and land use in the Ju/'hoan tradition:

##### a) N!ore rights

A n!ore is a named place containing various natural resources. Some n!oresi (this is the plural of n!ore) are residential while others are used only for hunting and gathering. The right to reside permanently in a n!ore is inherited by individuals from their parents. Siblings share this right equally. This right cannot be sold, given away or willed to anyone. A person who has inherited the right to reside permanently in a n!ore is called the n!ore steward. A person or a group may travel through another person's n!ore, but no one may settle in a n!ore without the permission of the n!ore steward.

added dimension of kin-relatedness provides subsidiary ties to further possible n!ores. It reflects the need to have several options open during lifetimes which may be characterised by shifting n!ore residence in response to environmental pressures such as scattered rainfall and variable local resources, or social pressure such as group incompatibility. This flexibility is subsumed within a pattern which, to all accounts, has high social agreement and low conflict.

The rights of n!ore owners are understood to include the right of permanent, exclusive possession; the right to raise livestock on the n!ore and to develop any necessary infrastructure; the right to cultivate the n!ore; the right to gather all bushfoods in the n!ore (except for major bushfoods such as tsi beans and mangetti nuts which are traditionally shared); and the exclusive right to trap game in the n!ore.

The n!ore right is subject to the underlying right of the USkxa/hoUE (which is explained below). However, the n!ore right is stronger than the right of the USkxa/hoUE.

Most of the individual n!oresi in Eastern Bushmanland have been surveyed by the JBDF and a map of the results is available to guide the development of an appropriate land tenure policy for the area (see Annexure 3). This map and accompanying information has been submitted to the Ministry of Lands by the NNFC.



- the right to drink the waters of the land, particularly, in times of drought;
- the right to travel freely through the land, and to drink water, hunt and gather while on the journey;
- the right to shoot and follow wounded game anywhere in the land; and
- the right to gather key bushfoods, such as USdshinUE beans and mangetti nuts.

Today, so many Ju/'hoansi possess the right of the kxa/ho that anyone who speaks Ju/'hoan and refers to him- or herself as Ju/'hoan is assumed to possess the right of the kxa/ho.

4.3 According to the Nyae Nyae Farmers Cooperative statutes, the n!ore right and the right of the kxa/ho "have kept the peace among us and served us well". There is not a single known instance of death as the result of a dispute over territory in Nyae Nyae in over 100 years.

Many Ju/'hoansi have already lost their n!oresi through the progressive dispossession imposed on them by the SWA administration. Any land policy implemented in the future in Nyae Nyae must respect the traditional Ju/'hoan concepts of land rights if it is to be successful.

4.4 Article 66 of the Namibian Constitution provides that existing customary law and common law shall both remain in force after independence, to the extent that they do not conflict with the Constitution or with any statutory law. However, Parliament is also given the power to repeal or modify customary law, or to

One reason that the nlore system has worked so well is precisely that it is not based on an atomised aggregate of land-using groups, but rather an interlocking, interco-operating entity, socially and environmentally. Some nloresi have bushfoods or animal resources not found in others, and reciprocal access by kin and other sorts of extended land use rights has been necessary to ensure a well-rounded and adequate food supply.

4.6 As the concept of environmental health through interco-operating nlores becomes extended to include stockfarming and other sorts of agriculture, it is easy to see that not every parcel of land will be suitable for gardening or cattle raising. For instance, where soils are saline, it may make more sense to rely on the production of indigenous game animals rather than cattle, either as a meat source or as the basis for photographic tourism. Thus, a mosaic, regional view of the resources of an entire natural area -- such as that already encompassed in the existing concept of the nlore system -- will make sense environmentally and provide social benefits by giving different groups of people access to the varied products of a mixed economy.

4.7 One example of such regional environmental sensitivity already in operation can be found in the NNFC Statutes, which give the Council elected by the various farming communities in Eastern Bushmanland the authority to conserve bushfoods and grazing throughout the area, the authority to limit or prohibit the hunting of certain species of game in Nyae Nyae, and the authority to limit the number of cattle and other livestock in the area so long as the limitations are fairly and equally imposed (Article 20, NNFC Statutes). These voluntarily-imposed restraints show an existing consciousness of the need to incorporate conservation of the environment within the concept of land tenure for the benefit of all.

4.9 The key seems to be attention to land use patterns of the past which have substantial time-depth in specific areas, augmented where possible with the development of additional options to create a mixed economy. Clearly, local knowledge is a vital input to these kinds of decisions, and local input a logical part of any truly democratic strategy.

## 5. Possibilities for a Future Approach to Land Tenure

5.1 Nyae Nyae is a special case which is not protected by the Namibian Constitution in the same way as other areas because of its unique history and social structure. Article 102(5) of the Namibian Constitution requires the establishment of a Council of Traditional Leaders which shall advise the President on "the control and utilisation of communal land". However, the Ju/'hoansi have historically functioned without "traditional" leaders and, as discussed above, new concepts of democratic leadership are emerging. Therefore, some other form of representation for the Ju/'hoansi of Eastern Bushmanland must be substituted for the "traditional leaders" contemplated by this Constitutional provision, to ensure that the particular needs of the Ju/'hoansi are not overlooked.

5.2 The key principles used to guide the allocation of land in Nyae Nyae should be:

- a) the allocation of arable communal land to extended family groups for permanent residence and farming on the basis of the nlore system of land rights, taking into account the traditional principles of land tenure recognised by the Ju/'hoansi (inheritance, marriage and name relationship, as outlined above); and

and to their offspring; second priority to relatives of Ju/'hoan residents; third priority to Ju/'hoansi dispossessed from Hereroland East, Kavango and the Kaudom Game Reserve; fourth priority to all other Ju/'hoansi; and fifth priority to other Namibians (NNFC Statutes, Article 15). Such a concept of priority, rather than one of exclusion, could be similarly incorporated into a land tenure scheme for Nyae Nyae.

5.4 It may also be necessary to adjust the boundaries of some of the n!oresi in order to make them suitable for various economic activities. However, the traditional idea of the n!ore right must be the starting point and guideline for any land tenure scheme in Nyae Nyae.

5.5 Any land tenure policy which allocates communal land to "heads of households" or "breadwinners" would not make sense in Ju/'hoansi communities, where there is a traditional social organisation based on sharing among the various extended family groups to ensure the survival of the entire community. Similarly, the common concepts of "family" do not include all those persons who have a right to residence in a particular n!ore according to Ju/'hoan tradition.

5.6 As a result, to avoid discrimination against the residents of Nyae Nyae, any national land tenure policy or statute must include a mechanism for the allocation of land which is broad enough to encompass the existing Ju/'hoan social structure.

5.7 There are several legal techniques which could be used separately or in combination to achieve the aim of providing sufficient flexibility to be appropriate for conditions in the different communal areas of Namibia. What follows are some brief suggestions for further consideration and discussion.

of disagreement among the members on the utilisation of the land. The Ministry of Lands, or a Land Board established by the Ministry, could provide model constitutions for such cooperative ventures, or it could reserve the right to approve the constitutions of any such cooperatives before they qualify for land tenure. The Land Boards, or the relevant regional or local government authority, could also establish a mediating body to resolve disputes within such cooperatives.

5.10 There is support in the Namibian Constitution for the idea of cooperative action. Article 16 states that all persons shall have the right to acquire, own and dispose of property in any part of Namibia individually or in association with others. Article 98(2) states that the Namibian economy shall be based on the following forms of ownership: public, private, joint public-private, co-operative, co-ownership and small-scale family ownership. Even though these provisions refer to ownership rather than tenure of communal land, the idea of economic activity by a cooperative is clearly endorsed at a national level.<sup>18</sup>

5.11 The cooperative concept could also be used in other parts of Namibia, in any situation where there was no convenient legal definition of the appropriate group which should be allocated land in a given area -- or in situations where individuals or families wished to combine their landholdings to create more economic agricultural units. The cooperative concept could be one of a range of options for identifying persons and groups which are eligible for the allocation of communal land.

5.12 Small cooperatives in communal areas could be linked to each other within a larger land use area concept, such as that which is currently being explored and defined by the Delimitation Commission. Thus, the environmental health of the larger land

divisions of a Land Board, or to the democratically elected regional governments, which would be obligated to implement the national policy with reference to traditional forms of land tenure within the region. This could be done in consultation with the Council of Traditional Leaders -- which, as noted above, must be structured in such a way as to include representation from the Ju/'hoan community, despite the absence of recognised "chiefs" or "headmen" in the Ju/'hoan social system.

5.14 In order to ensure fair treatment nation-wide, the law could require that all regional recommendations be ratified by the Ministry of Lands, or a national Land Board established under the auspices of this Ministry; this sort of national supervision could help to guard against the possibility of regional flexibility becoming a disguise for discrimination.

5.15 A structure which allowed for a degree of regional variation would be far more fair than a rigid concept of "head of household" or "breadwinner" or even "extended family" in a country with such diverse and complex social structures as Namibia. It would also ensure that decisions, or at least recommendations, regarding land allocation are made at a level of government which is as accessible as possible to the people who are directly affected. Furthermore, a regional perspective on appropriate local land use would promote a sensible allocation of resources which would encourage respect for the ecology of the region.

5.16 However, a workable regionally-based system would depend upon a regional delimitation which corresponds to traditional land use areas. For example, one proposal which was submitted to the Delimitation Commission suggested the inclusion of the Tjum!kui area with the Otjinene area; such a delimitation would combine areas with completely different land use patterns and

vulnerable groups in Namibia will need careful consideration by Government. It may be that Article 23(2) of the Constitution, concerning "Affirmative Action", will provide a way of approaching the problem.

5.18 Article 23(2) makes it clear that the Constitutional requirement of equality and freedom from discrimination shall not prohibit Parliament "from enacting legislation providing directly or indirectly for the advancement of persons within Namibia who have been socially, economically or educationally disadvantaged by past discriminatory laws or practices, or for the implementation of policies and programmes aimed at redressing social, economic or educational imbalances in the Namibian society arising out of past discriminatory laws or practices...."

5.19 The administration of land use in Eastern Bushmanland under the previous government clearly created social and economic disadvantages for the Ju/'hoansi which deserve to be redressed, as did the land policies which were previously applied to other parts of Namibia. Thus, the concept of affirmative action should be incorporated into any future approach to land tenure in the communal lands, as an overarching principle which helps to shape policy formulation.

## 6. Conclusions and Recommendations

6.1 In this paper the writers have to the best of their endeavours acknowledged both past and present realities. They have referred to the fact that the Bushmen generally can be considered the original inhabitants of the land and the Ju/'hoansi represent a privileged portion of Namibia's Bushman population in that they have not been entirely dispossessed.

6.4 From the paper it has become clear that the reasoning of the former colonial administrators that the Bushman are not capable of managing their own affairs is incorrect. The success of developmental projects in communal land areas will be dependent on the existence of established local institutions. In many of the other communal areas where second tier authorities did exist, there are no institutions such as the Nyae Nyae Farmers Cooperative. A reference to their statutes clearly reveals the extent to which they, in the absence of an imposed second tier authority, have assumed a governing role themselves. The writers believe that this process should be encouraged rather than stifled. The writers also believe that should the Ministry of Lands, Resettlement and Rehabilitation elect to establish Land Boards for the various areas in Namibia, they should recognize the role that the Nyae Nyae Farmers Cooperative has played to date, and ensure that members of the cooperative are represented on the Land Board. In this way the Land Board would gain legitimacy amongst the peoples inhabiting the area and would be in a position to make effective and informed decisions which would benefit both the peoples and the area itself.

6.5 A problem with thinking relating to the communal land issue is of trying to use Western concepts to describe the reality that exists on the ground. The most in famous concept in this regard is of course ownership. The writers do not believe it appropriate to attempt to equate !ore rights or the Rights of the Kxa/ho with ownership as is understood in Western terms. We suggest rather that any land act make provision for local concepts which are variance with Western concepts. In this way a person's interest in the land (which is more dependent on



severely jeopardized.

6.7 Nyae Nyae is fortunate in that it has not suffered the environmental degradation that many of the other communal land areas in Namibia have experienced as a result of overcrowding. The pristine beauty of Nyae Nyae, with its rich veld and natural resources, should be maintained. The inhabitants of Nyae Nyae should receive our accolades for having maintained the area as they have, and should not be dispossessed. Though in many particulars Nyae Nyae may differ from other communal areas in Namibia, including Western Bushmanland, many of its land issues can be seen as relevant to those of other areas. Wherever people's subsistence depends on their access to communal land, protection of communal rights through thoughtful attention to long term land use patterns will be the best key to a truly democratic land reform.

#### NOTES:

1. The term Ju/'hoan (plural Ju/'hoansi) shall be used to refer to Namibian persons who speak "Ju/'hoansi" whether they reside in Nyae Nyae or not. The generic term Bushman is used in preference to the term San, despite the latter's general academic acceptance. San has a pejorative meaning in Nama, a major language of Namibia. Though Bushman has also come to have pejorative meaning, there is not another generic term, covering all the language groups, in current use.

2. This paper only addresses the land issue in what was once known as Eastern Bushmanland, as defined by legislation. Reference to the Nyae Nyae Region is reference to the original lands occupied by the Ju/'hoansi before the process of dispossession started. Nyae Nyae, the area of the N!loaql'ae pans, is the term currently applied by the Ju/'hoansi to what was known as Eastern Bushmanland. The Nyae Nyae Region (see Annexure 1.), in contrast, covered large areas of adjoining Botswana as well as what were briefly known as Kavango and Hereroland East.

Western Bushmanland's name remains unchanged for purposes of this paper. This area is understood to consist of all that part of what was once "Bushmanland" west of a surveyed line 5 km west of the Aasvoelnes-N!loqma road.

This paper does not, except in passing, cover Western Bushmanland, which has completely different needs dictated by the characteristics of its land. For example, Western Bushmanland is covered in deep sand; the water table lies between 150 and 1 000 meters below the surface, meaning that boreholes are

LITTLE game or bush woods  
Potential for forestry  
Aid programs new since 1989  
Work teams organizable due  
to army experience

Potential for tourism  
Integrated aid program since 1981  
Lack of organizing experience  
but real leaders emerging

It is to be hoped that 1991 may see a new initiative in bringing together information and resource planning efforts from the two areas. Study and consultation should be undertaken with a view to arriving at an integrated set of solutions and land use proposals which would make sense for both areas and for the region as a whole.

3. Proclamation 84/1969, Schedule, Unsurveyed State Land (Districts of Gobabis and Grootfontein). The Authority for the Proclamation is derived from section 1 of the Reservation of State Land for Natives Ordinance, 1967 (Ord. 35/1967), which states:

The Administrator may from time to time by proclamation in the Official Gazette set apart and reserve for the sole use and occupation of Natives any state land set out in the schedule to this ordinance or any portion of such land as may be specified in any such proclamation.

(The "Unsurveyed State Land" which includes that referred to in Proclamation 84/1969 was added to the Schedule of Ordinance 35/1967 by Ordinance 5/1969.)

4. Government Notice No. 1196, dated 31 July 1970 (Schedule C), issued pursuant to the Magistrates' Courts Ordinance, 1963 (Ord. 29/1963).

5. SA Proclamation R.208 of 8 October 1976, section 2. the authority for this Proclamation was derived from section 2(g) of the Development of Self-Government for Native Nations in South West Africa Act, No. 54 of 1968, which was repealed in most parts of Namibia by section 52 of the Representative Authorities Proclamation, 1980 (AG. 8/1980). AG. 8/1980 specified that the repeal of the Act would be effective in Hereroland, Kaokoland, the Eastern Caprivi and Owambo when representative authorities for those areas came into operation and "in any other part of the territory, on a date to be determined by the Administrator-General by Proclamation in the Official Gazette: Provided that different proclamations and different dates may be issued or determined under this paragraph in respect of different parts of the territory" (section 52(2)(e)). However, as there was never any representative authority for Bushmanland, and as the South African Act was never repealed in respect of Bushmanland by Proclamation, it technically remains in force there.

6. Representative Authorities Proclamation (AG. 8/1980), Schedule, Items 1 and 8.

7. These regulations have been amended by G.N. 238/1930, G.N. 49/1934, G.N. 169/1935, G.N. 179/1935, G.N. 124/1937, G.N. 20/1938, G.N. 129/1938, G.N. 107/1939, G.N. 118/1940, G.N. 29/1941, G.N. 62/1941, G.N. 252/1948, G.N. 267/1949, G.N. 216/1951, G.N. 395/1951, G.N. 121/1952, G.N. 175/1954, SA G.N. 1564/1957, SA G.N. 799/1962, AG. 5/1975, G.N. 1/1985 (Hereros only) and G.N. 2/1988 (Hereros only).

According to Regulation 1 and Regulation 35, the Regulations apply to all Reserves established pursuant to section 16 of Proclamation 11/1922. Section 16 of Proclamation 11/1922 reads in part as follows:

The Administrator may whenever he deems it desirable set aside areas as native reserves for the sole occupation of natives generally or of any race or tribe of natives in particular and the inhabitants thereof shall be subject to such restrictions and to such regulations as he may prescribe.

10. Regulations 20, 22, 23.

11. Regulation 1. The Regulations also give every resident of a Reserve "the right to appeal to the Magistrate against any act, omission or order of the Superintendent or any Headman and after due inquiry the Magistrate may make such order as he may deem fit." Regulation 33.

According to the Regulations, headmen do not have the power to allocate sites or to allow anyone to reside in the reserve without the Superintendent's consent. Regulation 9(c) and (f).

12. See Article 140 of the Namibian Constitution.

13. Sections 1 and 4. Section 2 directs that the Administrator's exercise of powers under the Proclamation shall not be subject to any court law, and section 6 provides that no individual member or members of a tribe may bring any "legal proceeding in regard to the ownership, occupation or acquisition of land by a native tribe" against the chief of the tribe or against the tribe itself without the written approval of the Administrator.

14. Regulations Prescribing the Duties, Powers and Privileges of Chiefs and Headmen, G.N. 60/1930, regulation 9 (promulgated in terms of section 1(a) of Proclamation 15/1928).

15. See, for example, Kaputuaza and Another v Executive Committee of the Administration for the Hereros and Others 1984 (4) SA 295 (SWA) at 318C - E, 319D. In this case, the applicants were found to have committed a criminal offence by moving their residence within the Herero Reserve from one place to another without the consent of the superintendent of the reserve as required by Regulation 11 of G.N. 68/1924. However, because the applicants were the first persons to farm the site, they were found to have superior grazing rights to the area under Herero customary law; Herero custom required that other residents who wished to farm there had to acquire the permission of the applicants before moving cattle into the area. The court relied on these customary law rights in issuing an order for the removal of a fence that interfered with the applicants' ability to graze and water their cattle.

16. The !Kung San: Men, Women and Work in a Foraging Society, Cambridge University Press, Cambridge, England, 1979 p. 61.

17. This is a concept which is also relevant in other areas of Namibia. For example, in the Caprivi, "each adult member of the Mafwe and Masubiya is entitled under traditional law to a residential plot, an arable allotment, and access to communal land for grazing, wood and thatch collecting". Adams and Werner, The Land Issue in Namibia: An Inquiry, (University of Namibia, 1990), 131.

18. The existing legislation relating to cooperatives, the Cooperative Societies Ordinance, Ord. 15/1946, is under review at the time of writing; therefore, new legislation regarding the formation of cooperatives could be conveniently coordinated with a policy which allowed for the allocation of communal land to cooperatives.

Direktoraat Natuurbewaring en Ontspanningsoorde. n.d.  
"Meesterplan: Boesmanland Nasionale Park". Windhoek.

Gordon, R. 1984. "The San in Transition: Part II. - What Future for the Ju/wasi of Nyae Nyae?" Cultural Survival Quarterly, vol. 13, Cambridge, Mass.

Heinz, H.J. 1979. "The Nexus Complex among the !Xo of Botswana", Anthropos 74.

Lee, R.B. 1979. The !Kung San: Men, Women, and Work in a Foraging Society. Cambridge University Press: Cambridge, England.

Marais, Francois et al. 1984 Ondersoek na die Boesmanbevolkingsgroep in S.W.A. Direktoraat Ontwikkelingskoördinerig. Windhoek, Namibia.

Marais, F. 1984. (Translation of) Survey of the Bushman Population Group in S.W.A. JBDF. Windhoek, Namibia.

Marshall, J. 1984. (Review of) Survey of the Bushman Population Group in S.W.A. JBDF. Windhoek, Namibia.

Marshall, J. 1989. "The Constitution and Communal Lands in Namibia". JBDF. Windhoek, Namibia.

Marshall, J. 1989a. "Report on the Development of Cooperatives in Eastern Bushmanland". JBDF. Windhoek, Namibia.

Marshall, J. and C. Ritchie. 1984. Where are the Ju/wasi of Nyae Nyae? Changes in a Bushman Society, 1958 - 1981. Communication 9, Centre for African Studies, University of Cape Town.

Marshall, J. and C. Hartung. 1986. Ju/wa Bushman Development Project. JBDF. Windhoek, Namibia.

Marshall, L. 1976. The !Kung of Nyae Nyae. Harvard University Press. Cambridge, Mass.

Moll, E. and G. Moll. 1989. "Natural Resource Utilization Alternatives in Bushmanland". JBDF. Windhoek, Namibia.

*Annexures referred to in the text are available in the NEPRU library*

distorted in several ways that blur the underlying nature of land tenure arrangements. First, colonial administrators and academic researchers created an image of a static, primordial, and uniform system of land tenure in Ovamboland. The image legitimized and served colonial and Apartheid policies. The land tenure system as it was present during the advent of colonial occupation, however, underwent important changes. In addition, the colonial claim of the existence of a uniform "Ovambo" system of land tenure is as much a colonial creation as is the making of an "Ovambo tribal identity." The substantial local variations that characterize different aspects of land tenure among communities in Ovamboland cannot be attributed to "primordial ethnic divisions;" rather, they reflect variations in ecology and historical experience.

2. Secondly, within the framework of Indirect Rule, the colonial administration pursued a conscious policy of augmenting the powers of chief and headmen in land issues. In contrast to colonial claims, chiefs and headmen were not "owners" of the land, the people, and all their possessions. Rather, chiefs and headmen allocated arable land in the settled areas of Ovamboland, and they constituted the highest level managers of all the communal land, inside and outside of the inhabited (settled) zones of Ovamboland.

3. Thirdly, although this may have been a more unconscious process, colonial and Apartheid policies undermined the position of women in land matters. Although most of the agricultural labour and knowledge was supplied by women, their access to land and their security to land tenure became increasingly limited.

4. Two sets of concepts formed the cornerstones of land tenure systems in Ovamboland. The first set consists of the distinction made between the inhabited (i.e. settled) parts of Ovamboland and the uninhabited zones (the unsettled areas to the East and South, i.e. the Ondonga Flats, the Oshimpoloveld, and the Omaheke).

from plots with kraals and fields, was supervised by field managers. The field managers channeled access, coordinated maintenance, and guarded against overexploitation. They undertook the latter function in their own interest, as they had the right of first access.

7. Key to all access to resources, including land, was the intensity of use and the extent of improvement effected by the resource manager. In general, the more intense the exploitation and the greater the investment in the resource, the greater the exclusivity of the manager's claim, and the more secure the tenure.

- b. The role of Chiefs and Headmen in land issues
- c. The interrelationship between rights to land, water and vegetation (trees and grazing)

## 2. Traditional Land Tenure: The Myth and the Reality

### *The Colonial Myth*

2.1 Rights to local renewable natural resources (land, water, vegetation, animals) in the former "Tribal Reserves" or "Homelands" of pre-independent Namibia were based on "Tribal" or "Traditional" Law. Traditional law was and is seen as god-given, static, primitive, and backward. Traditional law and traditional land tenure are seen as the opposites of modern law; modern law rules in what was formerly known as the "White" areas of Namibia. Both the interpretation of "traditional" and the label "traditional law," however, are themselves creations of Namibia's colonial past.

### *The Local Reality*

2.2 "Traditional law," especially as pertaining to land, woody vegetation, and water, is dynamic, alive, and real. To distinguish it from its Apartheid and colonial prerogatives, it may be better to speak of "common law" (following the British legal system). This common law has some peculiar traits, however:

- a) It is localized;
- b) It operates at two levels, a formal level (official rules) and an informal level, although the two levels interact, reflecting local power distributions; and changes therein;
- c) Much of this local customary law is uncodified and/or exists only in oral form, which contributes further to its dynamic



dynamics, nature and contents of local common law (or "traditional" law) pertaining to these crucial and scarce resources in order to arrive at a codification of tenure arrangements that is legitimate, equitable, and acceptable to local communities. Further research in Ovamboland and the whole of Namibia should be undertaken to analyze local systems of common land law and land use.

2.3 This paper does not recommend that, as such, these local systems of natural resource tenure should be codified, but that they should be analyzed. Only then can good and useful elements from existing formal and informal local systems of land tenure be identified, to serve as building blocks, while weak elements can be discarded. To mention two weak bricks in the existing systems: women have limited access to land, although they do most of the cultivating; there is an inflated and unchecked grip of "traditional authorities" on land in the inhabited zones. These and other elements of land tenure should be closely analyzed.

2.4 It is the prerogative of the Namibian legislature and government to decide on the systems of tenure to adopt after the Land Conference and further consultations of specific interest groups and the population at large. An historical analysis of the local common law systems in Namibia offers a base for discussion as well as providing insights into possible consequences of changes in the local common law tenure systems on the population (and groups and individuals therein), the environment, and (sustainable) production potentials.

#### *Land and Lines: Divide and Rule*

2.5 C.L. Hahn, Native Commissioner for Ovamboland, was for decades the major authority on Ovamboland. In an article published in 1928, he concluded: "All the Ovambo chiefs exercise autocratic rule over their subjects. The chief's rule is supreme. The land, people and all other property nominally belong to him."<sup>1</sup> Hahn and other students of Ovamboland and its

for injuring another person why does the chief not say -- who does it generally go to, the person injured? explain, explain, explain." <sup>2</sup> A handwritten manuscript by Hahn on land tenure, based primarily on testimony from chiefs and headmen ends with a comment that seems to express reservations about the information he received: "We do of course not interfere with the Chiefs and while the land is no doubt regarded as communal, the Chiefs presumably allots [sic] land to the various members of the tribe." <sup>3</sup>

2.7 In addition, the picture drawn of the system of land ownership is too uniform. In his publications, Hahn described "Ovambo customs," as though all communities living in Ovamboland have a uniform culture, and a uniform system of land tenure. Again, however, such uniformity is contradicted by data from his notebooks and drafts. One of the manuscripts, for example, contains the following note: "Everything peoples, stock etc. belong [sic] to Chiefs - not Ukuanyama. Thompson will explain in his notes." <sup>4</sup>

2.8 Bearing in mind that the available data are filtered through colonial eyes, close analysis and comparison of colonial observations nevertheless make it possible to reconstruct a picture of land tenure rules and practices in colonial Ovamboland. The picture exposes clear differences in rules to land tenure and land use within Ovamboland. In short, depictions of a unitary system of "Ovambo tribal" land tenure are as much a colonial construct as Ovambo ethnicity. The same qualifications can be made regarding other ethnic labels applied to Ovamboland, i.e. Kwanyama. These identities are not "natural;" rather they are historical constructs, strengthened and exploited by colonial administrators in a divide and rule policy. Historical data indicate, for example, that, especially in the 1920s and 1930s, the Kwanyama-speaking area received numerous immigrants from the Ukuambi area and from Angola (from

Ipumbu, he became an important headman in the Kwanyama area. After the deposal of King Ipumbu, in 1932, Festus Hango returned to Ukuambi, and became the leading headman there.<sup>6</sup>

2.10 If the need arose and water and pasturage were not in short supply, grazing lands and water resources in the communal areas in the uninhabited zones were also shared between the communities in Ovamboland. The management responsibility in such cases remained in the hands of the community who "owned" the territory on which the resources were located. In the Annual Report for 1940, the Native Commissioner for Ovamboland reports that inhabitants from the Kwanyama and Ondonga areas give each other access to grazing and water.<sup>7</sup>

2.11 Given the colonial administrations' propensity to stereotype and to categorize people in "tribes" confined to clearly delimited "tribal territories," increased population pressure resulted in access to land becoming based on "ethnic" exclusivity. In the 1940s, under pressure of the colonial administration, Angolan immigrants' access to land in Ovamboland, especially Ukwanyama, was severely limited. The 1940 Annual Report for Ovamboland concluded: "Because of the limited space left for this kind of settlement, headmen have refused many applications for fields etc. It is felt that these must be reserved for the requirements of our own natives."<sup>8</sup>

2.12 Where conflicts about grazing rights arose between Ovamboland's communities, they tended to be fought increasingly along ethnic lines. The annual report for 1941 describes frequent conflicts over access to grazing and water between inhabitants of Ombalantu and Ukualuthi, Ombalantu and Ongandjera, Ongandjera and Ukualuthi and Ukwanyama and Ondonga.<sup>9</sup>

but the fee for a large plot was one head of cattle (1920s). In other areas, payment varied, depending upon the size of the plot, from two goats or sheep to three or four Pounds Sterling in Ukualuthi (in the 1920s) to one or two head of cattle in Ondonga (in the 1920s). The source for the land prices for Ondonga adds: "In some other tribes the price is much lower."<sup>10</sup> Around 1948, an Andreas Kalomo offered a sub-headman in the Kwanyama area "A big heifer with five shillings; or ten shillings; or a donkey," for a vacant kraal.<sup>11</sup> In 1981, a schoolteacher in the Ukuambi area paid a fee of R200 for a kraal of 0,5 ha. With the improvements she and her husband added, she estimates that the fee at present would be R400-500.<sup>12</sup>

2.15 Fees and their fluctuating value reflected pressures on land. Demand for land was lower in the smaller northwestern communities, but increased steadily in the central areas, including Ondonga and Ukwanyama. A significant indicator for the increasing pressure on land in the Kwanyama area is that by the late 1940s, a mission teacher had to pay one shilling to a sub-headman to set up a kraal on vacant land, i.e. in the uninhabited zone. Earlier, fees were only required for plots in the inhabited areas of Ukwanyama. No payments had been required to clear land in the uninhabited zones.<sup>13</sup>

2.16 Within the inhabited areas of Ovamboland, the boundaries of the plots, which consisted of a kraal and fields, were fixed. These boundaries were known to all members of the local community, and could not be altered. There were two potential options for individuals who could convince a sub-headman or headman that he or she had the intention and the means to cultivate more land than he or she had available. Either the person applied for a larger plot, if one was available, or, he or she could be allocated a second plot. In the latter case, however, the two plots, even if they were adjacent, remained two separate plots. Upon the death, eviction, or migration of the

supported by the colonial administration, settlement and cultivation in the uninhabited areas. The annual report of 1941, for example, lists six cases of "illegal" settlement in the uninhabited areas of Ukuambi and Ukualuthi. The colonial administration supported the Chiefs in removing such kraals. The expansion of kraals in unsettled land also fell under increased control of chiefs and headmen. In 1948, the Assistant Native Commissioner of Ovamboland wrote to his superior: "I want to mention here that the practice and custom in Ukuanyama is that a man can extend his arable land freely in all directions if such ground is available (...) It is not clear why Andreas should have to get the permission of the sub-headman."<sup>16</sup>

2.19 Succession to kraals/plots also changed. In the early colonial period, upon the death of the kraalhead, his or her legal heir would usually be allocated the kraal. The latter used to be the rule in Ongandjera: "Formerly the heir inherited kraal and field. Today [the] Chief puts in when he likes and who he thinks most suitable but he expects usual payment from new occupant." In Ukualuthi the heirs had preference in the reallocation of a deceased kraalhead. In Okolonkathi and Eunda, the heir was usually the brother, but women relatives could also succeed the kraal head.<sup>17</sup>

2.20 Access of women to land was limited, although women Chiefs and headmen were not unknown in Ovamboland. The "Chieftainess," the mother of the Chief, occupied a very important place in the Ovamboland communities and generally controlled a district or at least a large kraal. Women could inherit kraals, but only when they were related to the deceased. Since inheritance in Ovamboland used to be matrilinear, the wife of a deceased kraalhead could not inherit her husband's kraal. The kraal could be allocated to her by the chief or headman upon the death of the kraalhead; however, the widow had to pay the allocation fee. It

(...) "see that the woman received her rights." Ultimately, the tribal council, presided over by the Assistant Native Commissioner of Ovamboland, imposed a fine of two head of cattle on Namuenye.

2.22 The harvested crop from the women's fields was controlled by the women who "owned" and cultivated the fields. In a case of horses having destroyed standing crops, women were explicitly indicated as "owners" of the grain by Chief Kambonde of the Ondonga area: "Paulus Elifas's horses (...) destroyed the grain belonging to Monika Indongo (...) Joel Amokali, the husband of Monika, when [he] chased the horses from the his land, he drove them into Paul Elifas's grain-keeping-place. Then they destroyed Paulus's wife's grain." Apparently, it is also women who controlled the harvested millet. In any case, it was women who were trading millet in 1916 when complaints were made against headman Hamkoto (Kwanyama area) that, "he was continually robbing women of their corn [i.e. millet] and other food when they go out trading."<sup>19</sup>

2.23 The nature of the rights given to a person who was allocated a kraal and fields (plot) in Ovamboland was very different from the concepts familiar to any of the Westerners residing in Ovamboland. In one sense, the responsibilities of a kraalhead for the land allocated to him or her were identical with Western concepts of land ownership. In some respects, these responsibilities went even beyond them. In yet other respects, the rights of a kraalhead fell short of the title deed of a landowner in Europe or in the U.S.A.

2.24 The allocation of land in Ovamboland conferred upon the kraalhead full rights and responsibilities for the plot, short of alienation of the piece of land. In other words, a kraalhead did not have the right to allocate the right to the plot to

claim parts of the fruit harvested from this tree, used to prepare a much prized alcoholic beverage.<sup>21</sup>

2.25 Allocation of a plot of land not only conferred rights, but also full responsibilities. In fact, the responsibilities accruing to a kraalhead for a plot far surpassed responsibilities of a landowner in Western land law. Not only was the kraalhead responsible for actively protecting the kraal, land, water, tree, and other resources on his plot against damage, but, in some cases, he or she was also expected to prevent such resources from causing damage to others. The extent of the responsibilities of a kraalhead for his or her land was so far-reaching and alien to colonial administrators in Ovamboland that the administrators tried to limit kraalheads' responsibilities. Major C.H.L. Hahn stated that he changed a number of laws that made the "owner" of fruit trees and wells fully responsible for accidents befalling to children playing in or around them. That is, if a child fell into a well belonging to another kraal, the "owner" of the well was responsible for damages. Likewise, if children climbed into fruit trees and fell, hurting themselves, the "owner" was responsible for any damages, i.e. he or she had to pay damages in case of accident or death of a child.<sup>22</sup>

2.26 In addition, a kraalhead shared responsibility with a herdsman (and not the owner) for damages caused by cattle straying into his or her fields and destroying crops. It was considered to be as much the responsibility of the kraalhead as the herdsman to keep animals out of fields under crop. Kraalheads could inflict corporal punishment upon a careless herdsman, but under normal circumstances could not sue the owner of the livestock for damages. Here again, the colonial administrators undertook vigorous attempts to eradicate the practice.<sup>23</sup>

2.27 In 1953, under strong pressure of the colonial administration, the Chief and the headmen of the Ondonga area

right was transferred to the headmen. In Ombalantu, such a practice predated the imposition of colonial rule. In the Kwanyama area, the same change took place after the death of King Mandume in 1917, who was killed by South African troops, and in the Ukuambi area it occurred upon the deposal of King Ipumbu by the colonial administration in 1932.

2.29 The transferral of the ultimate right of land allocation from the level of the Chief or King to the level of the headmen, however, significantly affected land tenure in the communities involved, for the roles of the Kings and the headmen were different in respect to land. The Chief/King was not simply a decision maker about land allocation at a different levels than headmen, but the Chief was the ultimate allocator of the land. The Chief/King "possessed" land in a similar way as a kraal head did, but there was no authority above the Chief who could evict him or her. The Chief or King could only be deposed from his or her function and the area by an uprising, a not uncommon occurrence in Ovamboland's pre-colonial history.

2.30 Depending upon sheer power relations, the headmen could not only be evicted by the Chief, but they could also be allocated another district. Parallel with practices at the level of kraalheads, the headman's heir did not necessarily inherit the very kraal and district of the deceased (nor was the heir of an headman necessarily nominated to become a headman). Rather, the new allocation was dependent upon the availability of other districts and the seniority of the applicant. Also reminiscent of practices at the level of kraalheads, the headman had to pay a one-time fee, and the boundaries of headmen's district remained fixed and well-known.

2.31 Thus, unlike the Chief, a headman was not bound to a territory. Indeed, a headman could apply for another district if a headman with a better or a bigger district died or was



During the heyday of colonial Indirect Rule, the headman was the main allocator of land within his or her district, limited in his or her powers in this respect only by a Chief and/or the colonial administration,<sup>25</sup>.....

2.32 It can also be gleaned from the historical record that subsequent to colonial and Apartheid administration policies, earlier rules limiting Chiefs' and headmen's land allocation powers in the early colonial period were brushed aside. For example, in a manuscript on Land Tenure, it appears as though, at least in Okolonkathi and Eunda, the headman did not make decisions on land allocation by him or herself: "When occupier [of a kraal] dies it general(ly) follows that his brother or relative (even woman relatives) takes his kraal & field after crop ceremony when estate is paid up. [Then follows a part that has been crossed out: "*but a meeting is usually called of the people and the question as (?) to [which, or: if?] relative is suitable to take place (...) Formerly to intent and purposes each kraal head was considered the independent owner of the property or land occupied by him. There were no headmen or Chiefs in these tribes ...*"<sup>26</sup> (Italics mine.)

2.33 In Ombalantu, the powers of the headmen in land matters were increased by the colonial administration: "Natives now (since death last chief) practically own fields themselves from whom no other but Government can eject them. Headmen have no power to do this on their own, although they been placed there [to] keep order because each individual native, after Chief[s'] death, was trying to expand his possession and property with the consequence that absolute chaos prevailed in Ombalantu."<sup>27</sup>

2.34 The control of headmen over land matters in the Kwanyama area was also strengthened through colonial administrative support: according to the colonial "government": "the soil belongs to the chief in his capacity as head of the tribe. It

land: "headmen cannot allot ground nor can they eject. A subject must represent his application through elengas [headmen] to chief after he (subject) has elected under which elenga he wishes to reside. Payment is received by chief according to size of field. Powers of chief in NW more autocratic than elsewhere in Ovamboland."<sup>29</sup>

2.36 The personal grip of the Chief on land allocation also increased under colonial rule in Ongandjera: "Formerly he [or: the?] heir inherited kraal and field. Today Chief puts in when he likes and who he thinks most suitable but he expects usual payment from new occupant."<sup>30</sup>

2.37 Allocation was not only dependent upon the position and rights of the allocator (Chief or headman), but was also dependent upon the seniority, influence, and social status of the applicant and his or her clan. This applied equally to the levels of headmen applying to districts, sub-headmen applying to sub-districts, and kraalheads applying for kraalplots. For example, when the sub-headman Haidua of Onghala [Kwanyama area] died in 1947, William Mifima applied for the sub-headman's big kraal to Headman Nehemia. When in the Onamutai area a certain Shalipo's garden became vacant, Petrus Nandi and Paulos Nakapunda both applied for Shalipo's kraal and fields. Yet, because "They were great friends and as the endeavours of each to obtain this field threatened to disrupt their friendship, they both withdrew their application for it."<sup>31</sup> Young married men who wanted a kraal had to wait until one became available before they could apply to a headman for a kraal. Until then, they had to live in a relative's kraal.<sup>32</sup>

2.38 The allocating authority also had the power to evict kraalheads from plots. In some areas, eviction was a prerogative solely exercised by the Chief. In the Ukuambi area, the headmen were specifically denied the right to evict people from kraals during the reign of King Ipumbu. In the early colonial period,

rule, they were allowed to harvest their crop."

### 3. The Relationship between Land Tenure and Access to other Renewable Natural Resources

#### *Land Tenure and Water Tenure*

2.39 That rights to land and water are closely connected is especially important in Ovamboland, where land - as elsewhere in Namibia - is abundant, but water is scarce. The relationship between land and water rights is often very complicated. Two elements were important in determining access to water resources: first, the position of a well or waterhole, and, second, who built the well or waterhole, and for whose benefit?

2.40 The position of the well or waterhole determined the "ownership," or rather, the manager of the water resource. Within the inhabited areas of Ovamboland, wells and waterholes situated within a cultivated field or close to it followed the "ownership" of the plot containing the kraal and fields. In other words, such wells and waterholes were controlled by the "owner" of the plot.<sup>35</sup>

2.41 There were some exceptions to this rule. In some communities in Ovamboland, waterholes on plots had to be separately acquired. In the 1920s, a small number of very large waterholes in Western Ovamboland were managed by the chief: "In Western tribes there are some very ladge [sic: large] water holes which are under (the) supervision of the Chief. The ownership of a water hole in Ondonga follows the field to which it belongs. In some other districts the waterhole must be separately acquired."<sup>36</sup>

Waterholes in these dry areas were far and between. And, not only was the digging of waterholes very labor-intensive, but so was the yearly maintenance. Wells and waterholes mostly were situated in the flood channels and had no lining. Floods and rain thus made wells and waterholes fill with silt. Maintenance of existing waterholes and many wells, as well as the digging of new wells and waterholes, was done by communal labor. If chiefs, headmen or sub-headmen mobilized communal labor to dig a waterhole, the chief, headman or sub-headman concerned controlled the waterhole as long as he or she served in that office. The waterhole, however, was "owned" by the officeholder. Upon the death of the chief, headman or sub-headman, the successor in the office, and not the headman's relatives, inherited control over the waterhole. If an individual had a waterhole dug with "private" resources, he or she was the sole manager of the waterhole, and relatives inherited the waterhole upon his or her death.<sup>38</sup>

#### *Land Tenure and Tree Tenure*

2.44 Woody vegetation is and was an essential basic resource for Ovamboland's population. Trees and their products make a major contribution to food production (firewood and fruit). In addition, they are crucial as a fodderbank for cattle in the dry season, and they are the major source for building material and utensils.

2.45 Trees situated outside of Ovamboland's inhabited areas were freely accessible to the community. Most of the trees within the inhabited parts of Ovamboland, however, were not, and its user rights were restricted to individuals and/or families. During the preparations for the expedition against the Kwanyama King Mandume in 1916, the Resident Commissioner for Ovamboland warned: "Practically all trees in such areas [the inhabited parts of

### *Game and Fishing Resources*

2.47 It was often the boys, who herded livestock and guarded the standing crops against animals, who hunted small game. It seems that smaller game, like springhares, could be hunted freely. The situation differed with larger game. During the early colonial period, inhabitants had to petition the chiefs and headmen for permission to hunt the larger game in the unsettled areas. The chiefs and headmen usually controlled access to firearms, putting them at the hunters' disposal. In return, the chiefs and headmen received a part of the killed game. Colonial administrators successfully employed the chiefs and headmen to reduce the hunting of larger game in the Etosha Reserve. Poaching, however, was never completely contained, especially not where the uninhabited Ondanga area abutted the northern boundary of the Etosha game reserve.<sup>42</sup>

2.48 It is important to emphasize that since the kraals and fields were usually on the higher ground, most of the fish and frogs were to be found on communal land, in the oshanas. As with game, these communal resources were managed by the Chiefs and headmen. Fish and frogs were carried by the floods into Ovamboland in large quantities, where they were caught by women and children. Frogs and the smaller fish were dried in the sun and served as a dry season food reserve. As with large game, given their capacity as the highest level manager and allocator of rights to natural resources, chiefs may have had partial rights to fish in communal waters (for example, rights of first use, as was the case with the fruit of the marula trees).

2.49 The digging by individuals of waterholes in oshanas (which indicated a higher intensity of use, and thus a superior right of access) may have interfered with chiefs' rights to fish. For example, in 1922, the digging of waterholes by a Kwanyama resident in an oshana which functioned as the boundary between

gender, and age), and, an often overlooked factor, the repositories of knowledge regarding the natural resources (what individuals or groups control and/or have access to knowledge about the use and the exploitation of natural resources within the local context [both ecological and cultural]). The knowledge factor is especially important with regard to the use and selection of cultivars and tree species adapted to the local environment. Historical data indicate that local species of crops and trees, and cattle produced optimum returns under the semi-arid and often erratic weather and climatic conditions in Ovamboland. Knowledge is also a critical factor in assessing the gender-based division of labor in Ovamboland. Cultivation of crops was traditionally, and is still, the responsibility of women; the raising of cattle was and is mainly a male occupation. Thence knowledge about cultivation is more the domain of women, although their access to land, is limited, while knowledge about cattle (and water and grazing resources in the uninhabited communal areas) is more a male domain.

3.2 The resilience of local traditional institutions and systems of local knowledge is not in conflict with their dynamic nature. Rather, institutions evolve, combining new and old: they do not simply evaporate. Although the Border War and the War for Independence had grave effects in the north, local communities and their institutions are highly flexible, and in effect, land and agriculture were comparatively little affected by the wars. In other words, the wars did not make all previous institutions, practices and knowledge irrelevant, and particularly not in respect to land. The wars did not lead to structural changes in land use or land ownership. They did have temporary effects; for example, during the wars, much of the border zone between Namibia and Angola lay in disuse. Now, however, much of this land is again being used. Another demonstration of the resilience of land tenure arrangements is that the allocation of land continues to be in the hands of Ovambolands' chiefs and

20. Bruwer claims that a plot was allocated by a ...  
J.P. Bruwer, "The Kuanyama of South West Africa," (Thesis, University of Stellenbosch, s.a.), pp. 67-68;  
but cf. NAN, A450, vol. 6, D6, Land Tenure, where it is stated that a kraalhead could only temporarily  
sub-allocate a field or portion of his or her plot to another person.

21. NAN, A450, vol. 23, D6, Land Tenure.

22. NAN, A450, file 3/21/5, SWA Commission: Minutes of Evidence, vol. 11, sitting at Ukualuthi, Aug. 12,  
1935, evidence Major C.H.L. Hahn, pp. 632-33.

23. NAN, RCO vol. 10, file 15/1916/1, R. Bray (Office Resident Commissioner Ondonga to Lt. G.K.  
Mackenzie, Supply Officer Ondonga, Ondonga Feb. 9, 1917; "If a cattle herd [in the Kwanyama area] allows  
cattle to enter a corn field and cause damage to growing crops and is caught by the owner of the field  
within the fence the owner may chastise him," NAN, A450, vol. 9, file 2/38, manuscript "Assault."

24. NAN, NAO vol. 71, file 32/7, Native Commissioner Ovamboland to Chief Kamonde, Ondangua May 11, 1953;  
NAN, NAO vol. 71, file 32/7, Native Commissioner, Ovamboland to Chief Kamonde, Ondangua Feb. 6, 1950;  
ibid., Chief Kamonde Okoroko to the Native Commissioner Ovamboland, Ondonga, July 29, 1952; ibid,  
Native Commissioner Ovamboland to Chief Kamonde, Ondangua, July 30, 1952.

25. See, for example, NAN, A450, vol. 9, file 2/38, Property Rights; NAN, A450, vol. 23, D6, Land Tenure;  
cf. J.P. Bruwer, "The Kuanyama of South West Africa," (Thesis University of Stellenbosch, s.a.), pp. 64-  
69.

26. NAN, A450, vol. 23, D6, Land Tenure.

27. Ibid.

28. NAN, A450, vol. 9, file 2/38, manuscript "Property Rights."

29. NAN, A450, vol. 23, D6, Land Tenure.

30. Ibid.

31. NAN, NAO, vol. 71, file 32/7, Assistant Native Commissioner, Ovamboland to Native Commissioner  
Ovamboland, Oshikango, Jan. 19, 1948.

32. NAN, NAO, vol. 71, file 32/7, Assistant Native Commissioner, Ovamboland to Native Commissioner  
Ovamboland, Oshikango, Jan. 19, 1948.

33. NAN, A450, vol. 23, D6, Land Tenure.

34. NAN, A450, vol. 23, D6, Land Tenure.

35. Cf. "Permanent waterholes [in the inhabited areas of Ovamboland] all belong to adjoining kraals," NAN,  
RCO vol. 10, file 15/1916/1, Preliminary Memorandum for Expeditionary Force by Resident Commissioner  
C.N. Manning and Lt. Hahn [1916]; according to a report on the work of the Angola-Ovamboland Boundary  
Commission written by Dr. Kanthack, Director of Irrigation S.W.A., all waterholes in Ovamboland were  
man-made, NAN, A450, vol. 12, file 3/21/1, D67, Memorandum regarding Professor Schwarz's Irrigation  
Scheme, Windhoek, Sept. 26, 1921.

the exception to the rule, see, NAN, A450, vol. 9, file 2/35, Ovambo Customs (1926) [author seems to be a Finnish missionary stationed in Ondonga area].

42. On game, see, for example, NAN, A450, vol. 14, file 4/1, manuscript Big Game in Ovamboland; NAN, RCO, file 2/1916/2, letters RCO to O/C 1st SAMR Namutoni, Ondongua, Sept. 25, 1916 and, ibid Sept. 17, 1916; NAN, NAO, vol. 103, file 51/2 (vol. 2), Native Commissioner to Chief Native Commissioner Windhoek, Ondangua, Aug. 26, 1954.

43. See pp. 6-7, NAN, RCO, vol. 4, file 3/1919, Chief Ipumbu, Native Commissioner C.N. Manning's memo regarding Ipumbu, Dec. 19, 1921 [sic: 1922]; on fish in general, see, for example, NAN, A450, vol. 6, file 2/11, Report on Ovamboland; p. 112, K. Angebauer, Ovambo: 15 Jahre unter Kaffern, Bushleute und Bezirksamtännern (Berlin, 1927)





Section 6

Comparative Experience of Land Reform

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

# THE SOCIO-ECONOMIC AND POLITICAL DIMENSIONS IN THE MANAGEMENT OF LAND IN KENYA

by

E. H. Nthia Njeru  
Department of Sociology  
University of Nairobi, Kenya.

(Abridged Version)

## 1. A PHYSICAL INTRODUCTION TO KENYA

The Republic of Kenya covers an area of 564,162 km<sup>2</sup> and can be divided roughly into four climatic zones:

1. The Coastal Plain: This is a strip of about 40 miles wide along the Indian Ocean which seldom rises beyond 300 m above sea level. The strip runs from Tanzania through Kenya to the Somalia border.
2. The Semi-arid Low Plateau: This extends inland from the Coastal Plain. Except for the Wundanyi area where the Taita Hills rise to about 1,500 m, much of this region lies at an altitude of between 300 - 1,000 m above sea level.
3. The Highland Region: This lies on either side of the Rift Valley. This highland region has an altitude of between 1,300 - 2,000 m and commands some of the areas of highest agricultural potential in the country.
4. The Arid Low Plateau: This lies in the northern and the north-eastern parts of the country. It forms the driest region and has the lowest agricultural potential.

In summary, out of the total land area in Kenya, only 20% is made up of medium and high potential land, with annual rainfall averaging 850 mm or more. The rest of the country is classified as arid and semi-arid land.

## 2. DEMOGRAPHIC OVERVIEW

By 1979, the country's population stood at 15.3 million. Of this population, Kenyan Africans constituted about 98.5 per cent leaving only 1.5 per cent to non-Africans - the Europeans, Asians and Arabs. To date, the country's population is 21.4 millions with an annual growth rate of 4.1 per cent. Over the years, the percentage of non-African population has been decreasing steadily as depicted by the fact that they constituted 2.9 per cent in 1948 but only 1.5 per cent in 1979.

With a land area of 564,162 km<sup>2</sup>, the country has an average density of 29 persons per square kilometre. However, 7 out of the 41 districts had a population density of over 200 persons per square kilometre by 1979.

### 3. PRE-AMBLE TO COLONIAL ONSET

Less than a century ago, Kenya consisted of more or less autonomous semi-isolated ethnic societies. A subsistence economy supported a stable or slowly growing population. This situation held even for the early part of the colonial era up to around 1930s. By 1930, colonialism had introduced a new economic system based on capitalism. This destabilized the prior modes of production. The self-sufficient subsistence economy was forced to adapt to the wider market economy. Meanwhile, the colonizing forces rigorously implemented a policy of appropriation and alienation of the most fertile lands formerly held by the Africans.

This culminated in a bitter struggle between the indigenous Africans and the colonial government. The struggle was directed primarily at the restoration of political and civil liberties that had been taken away by the imperial power and the repossession of the land which had been appropriated by the colonial establishment (Republic of Kenya 1989:1; Sorrenson 1967).

It should be noted that even before 1963, when Kenya attained its independence, the government made several attempts to formulate a land policy that would bring about stability - for it was quite clear that the central issue in the various tribal revolts was land.

### 4. THE EVOLUTION OF LAND TENURE SYSTEM IN KENYA

#### 4.1 *The Pre-Colonial Land Tenure*

It is now generally agreed among contemporary scholars that African peoples had an elaborate land tenure system before the intrusion of colonialism and the process of Westernization, which was later to have a devastating effect on indigenous land tenure institutions. Kimani and Kuria (1977) for example, present evidence of the existence of a customary land tenure system in Kenya which emphasized communal ownership of land.

In spite of the fact that the African continent is characterized by multi-ethnicity, there is some consensus that African land tenure systems were characteristically communally oriented. It was in agreement with this tendency that Nyerere argued that:

"..... to us in Africa land was always recognized as belonging to the community" (Nyerere 1968:7).

Other scholars subscribing to this view (Njeru 1978:2; Hertz 1974:14 and Manore 1984:9) seem to agree that land was a communal property under clan ownership and leadership, and that every member of the community had the right of use while at the same time there were clear restrictions against alienation and misuse.

Indigenous African land tenure systems also served positive functions in the community, forming an integral part of the social structure. These customary land tenure systems enshrined the group's security and identity. They were seen to be adjusted to the physical and biological environments under which they evolved and in equilibrium with the ecological conditions (West, 1982).

Despite the explicit collective nature of the customary land tenure systems in Africa, Manore (1984) argues that it was always possible to identify individual possessory interests in a particular piece of land either in respect to cultivation, livestock grazing or hunting rights. Manore described the customary land tenure system in Africa as a form of communal ownership coupled with personal participation in the society (Ibid:11).

Cultivation rights, for example, were generally allocated and controlled at the family level, while grazing rights were controlled at a much wider societal level. The system had its own in built mechanisms of control against alienation and landlessness. If one had land that exceeded the needs of the family, for example, other members of the community with none or with less land could ask for use of unused land. Denial of access to and use of such land was traditionally unacceptable (Friis-Hansen 1987).

As with all other human social relationships, however, conflicts and disputes were not completely absent in the indigenous African land tenure systems. When such disputes and conflicts arose, they were resolved by clan elders who were well versed in customary land tenure. The traditional land tenure systems were therefore comprehensive and encompassed all essential aspects.

#### 4.2 *The Farming Systems in Pre-Colonial Kenya*

The indigenous African farming systems usually embodied more than one field system or micro-environment which were located at

varying distances from each other and from the homestead. In each of such fields, there were variations in the types of commodities produced, the number of individuals involved, and the timing and intensity of the activities. This applied to both crop farming and livestock rearing.

There existed various farming systems which to a great extent were determined by the physiographic and socio-ecological environments. In Kenya, for instance, farming systems corresponded to the five physiographic regions. Due to the restrictions imposed by the conditions in these regions, crop farming was limited to the coastal region, the lowlands of the Lake Region and the Kenya Highlands. On the other hand, indigenous livestock rearing was widespread in the northern plains and the Nyika Plateau. The Nyika Plateau, a semi-arid region, could also support a modicum of crop farming (especially among the Kamba) based on drought resistant crops combined with cattle rearing.

In the Northern Plains the climatic conditions are harsh. This region could support only a low density of nomadic pastoralists. Livelihood was based on animal products derived from cattle, camels, donkeys, sheep and goats. Herds and flocks were kept at different places to minimize the risk of death especially during times of disaster which were quite frequent.

In the highland region, mixed farming was practised in fertile, well-watered areas cleared from the forest. This took the form of bush fallowing or shifting cultivation to allow soil fertility to recover. The climatic conditions permitted the production of two crops per year. Crops produced included sorghum, various types of millet, beans, pigeon peas, sweet potatoes, bananas, arrow roots and yams. These people also kept some animals, primarily for cultural reasons.

In summary, there existed two basic systems of farming in Kenya during the pre-colonial days namely: livestock rearing and mixed farming. The two types operated at subsistence level as they were geared to meet the basic needs of the family, the basic social unit that was also economically self-reliant especially in food production and consumption.

#### 4.3 *The Onset of Colonialism - Its Impact on Land Tenure Systems in Kenya.*

In 1902 the famous railway line from Mombasa to Kisumu was completed with the purpose of opening the "White Highlands" for settlement. At the same time, Asian settlement was encouraged

in other productive regions of the country. The settlement of the foreigners, especially in the highlands, created the first land problem especially for the Kikuyu - whose land the Europeans took.

By 1910, the land problem had generated sufficient friction between the indigenous Africans and the foreigners to warrant an inquiry into the problem. This was followed by a series of commissions culminating in the Carter Commission of 1933 which finally defined the boundaries of the "White Highlands". The alienation of the "White Highlands" meant that arable land became a scarce resource in Kenya. Africans were severely disadvantaged as huge tracts of productive land were alienated from actual or potential occupation and use.

African ownership rights to land were denied on the grounds that customary tenure did not constitute ownership as per the British definition of the concept (Breen 1976:20). As Okoth-Ogendo explains, the British saw African land rights to be in the nature of usufruct only - meaning that the rights and interests lasted only as long as the land was in use (Okoth-Ogendo 1975:44). This was used to justify the European occupation of some of the physically unoccupied land which was considered as being held by the then sovereign colonial power which was free to grant it.

There is enough evidence to show that many Africans were alienated from their land, even the land they were occupying and cultivating. As documented by Breen (1976:21), a supreme court justice dismissed a case in 1921 involving Kikuyu claims to a piece of land in Kiambu (in the Kenya Highlands) on the grounds that under the existing law all African occupied land was the property of the British Crown and that the African "tenants were at the will of the Crown".

However, land pressure was mounting due to a rapidly growing African population. This led to more agitation especially during the decades following the Second World War. The British started to think in terms of an African mode of land tenure based on a capitalist theory of law, land ownership and development. By the end of World War II, the situation in some parts of the country was deplorable and the need for measures to increase land productivity and provide security of tenure became even more pressing. This culminated in the Ingham Committee of 1949, which aimed at devising a better title to land in the native land areas.



Its recommendations were never implemented. In 1953, the Mau Mau rebellion again led the colonial government to consider private land holding as a political expediency. This move culminated in the famous Swynnerton Plan of 1954. The plan, among other things, was expected to diffuse the Mau Mau uprising by creating a stable class of relatively wealthy farmers (Okoth-Ogendo 1975:89). By the end of the emergency, an immense amount of work had been done in the form of adjudication, consolidation and registration in Central Province, which provided registered ownership and security of title to land for the Africans concerned. By 1958, a Working Party was appointed to examine and recommend necessary measures to enable the introduction of a system of tenure capable of application to all tribal areas in Kenya. The report of this Working Party led to what was termed the "necessary legislation under which the reforms permitted the measures to be applied to all the tribal agricultural areas of Kenya". Such measures included adjudication, registration and consolidation and were meant to facilitate the growing of cash-crops and use of new farming techniques.

It has been argued that one effect of these reforms was the transformation of land into a commodity that could be owned - initially by clans, then families and eventually by individuals and could then be sold (alienated) without consultation. This in turn led to a landless class and reduced the number of people who could own land (Kimani 1978:5).

Okoth-Ogendo (1975,1978) contends that the land tenure reforms resulted in a significant amount of land accumulation. The colonial land reforms were planned and imposed without regard to the customary land tenure system. Land reforms weakened rural social structures by destroying the role of land as an economic base. The functions of many such structures were taken over by the state. In pastoral areas, land reforms resulted in changes in the pattern of land use. Pastoralists were forced to adopt a sedentary mode of life to which they were unaccustomed.

By the end of the colonial era, a free enterprise economy rooted in individualism had already been established. This new economy affected different communities in different ways. For example, while the Maasai were pushed into the dry margins, the Kikuyu were obliged to depend on the sale of their labour to the White settlers.

At independence, one of the main challenges for the new government was to institute a smooth transfer of land from foreign to indigenous hands and effect the Africanisation of

agriculture. Further, the government emphasised maximum utilization of the land to increase production. The latter was not a new goal. Indeed the Swynnerton Plan of 1954 remained a blue print. The land tenure reforms advocated in this plan such as adjudication, registration and consolidation, which had only been successfully implemented in the Central Province by 1963, were extended countrywide.

Mbithi (1974) argues that adjudication, consolidation and registration were seen as necessary and were therefore implemented even after independence since they facilitated agricultural development through:

- (a) eliminating fragmentation via consolidation
- (b) reducing wastage of time and labour
- (c) boosting the creditworthiness of farmers
- (d) facilitating the introduction of appropriate systems of land use and farm planning
- (e) reducing the incidence of land disputes, and
- (f) increasing investment in land by individual owners.

These were considered to be the economic benefits of the new land reforms which had replaced the customary land tenure system. In addition the same measures were seen as necessary due to the fact that:

- (a) Kenya inherited a largely rural economy based on subsistence, and
- (b) it was important to institute market oriented agricultural production, essential for national economic growth in a economy whose mainstay was agriculture.

These ideas are expounded as official government policy as stated in the second Development Plan (Republic of Kenya, 1970:194).

#### *4.4 Land Reform and Agricultural Development: Government Policy Since 1960*

In addition to the aforementioned land reforms including land adjudication, registration and consolidation, the Kenya Government also implemented other land reform related programmes. The latter included settlement schemes, irrigation and land reclamation schemes.

Of importance among the various settlement programmes that were implemented was the "One Million Acre Settlement Scheme". Through this scheme, the Kenya Government assisted citizens to

purchase large tracts of land, formerly occupied by the White settlers. Additional sources of finance to finance this programme came from the British Government, among other overseas sources. The scheme was to settle 34,000 families on 135 settlement schemes covering about 500,000 hectares.

Of the 135 schemes, 35 were scheduled to be low density schemes where the average farm size was to be 15 hectares; while 84 were to be high density schemes with an average farm size of 11 hectares; and 16 were large scale cooperative farms or ranches. By 1968 the government had spent Kenya 25 million on this programme.

As mentioned earlier, the new land tenure system - popularly known as English tenure - gave rise to a class of landless people. Many such people earned their livelihoods as squatters in the large plantations. By the time Kenya attained her independence, the problem of squatters required urgent attention by the government. In an attempt to alleviate it, the so-called "squatter settlement schemes" were started in 1965. The squatters were settled in schemes in Central, Coast, Eastern and Rift Valley Provinces. Unlike in the "One Million Acre Scheme", the average size of holding in settlements for squatters was 4.5 hectares as compared to 15 and 11 hectares in the former. The former squatters were also given small loans to enable them to start crop production using family labour.

The government also encouraged Kenyans to join hands to start the so called "harambee settlement schemes" in which members pooled resources to buy farms for sub-division into smallholdings. This movement should not be confused with cooperative farms or ranches which were were bought by groups but continued to be managed on a cooperative basis.

In addition, the government also started various irrigation schemes where squatters were settled. Examples were the Mwea-Tebere Irrigation Scheme in Kirinyaga, Pekerra in Baringo and Galole in Tana River Districts.

Initially land tenure reform resulted in a fall in agricultural production, though it later picked up later. Further, the African settlers faced problems with loan repayments. The government also faced administrative and supervision problems in the implementation of the schemes. Subsequently it became clear that substantial amounts of money were used for land purchase rather than on programmes to increase agricultural productivity. Indeed, during the period of the second development plan (1970-

74), the government indicated its intention to reduce its expenditure on land transfers (Republic of Kenya 1970)

#### 4.5 *Impact of Land Tenure Reform on Agricultural Development*

The Government of Kenya implemented the various land tenure reforms as a way of accelerating the rate of agricultural development. Land adjudication, consolidation and registration measures were introduced in Kenya before and after the country attained its independence. Various arguments were offered in support of the process; for example to facilitate borrowing for farm development (Njeru 1978, Shipton 1988). It was expected that farmers would be in a position to use their farm title as a collateral in negotiating with financial institutions. It was argued that land titles, by providing security of tenure, would act as an incentive for farmers to invest in their holdings. The issuing of titles would also be expected to reduce costly litigation, particularly in the densely settled areas. By facilitating land transactions, the titles were expected to pave the way for ambitious individuals to own and profitably utilize land. This, it was argued, would eventually increase productivity.

However, counter arguments have been raised with respect to land reform in Kenya. It has been noted that adjudication, registration and consolidation have led to landlessness on the one hand and the development of large unutilized holdings on the other. The land reforms in Kenya also gave rise to deep-seated disputes and conflicts some of which are costly and time consuming (Njeru 1978; Shipton 1988). Some people, for instance, have been forced to sell their undisputed pieces of land to generate funds to finance the settlement of other land disputes. Many of the conflicts and disputes referred to above have in fact threatened social integration at both the community and national levels. Family feuds and loss of lives are common concomitants of the land reforms. In general, the privatization of land ownership gave rise to landlessness and alienation as the land acquired a commodity status. Other consequences of the land reforms include inequality arising from the unequal distribution of land. The rich bought land over and above their normal allocations at the time of adjudication. This led to the concentration of the best land in very few hands. Quite often too, and in contradiction of expectations, smallholders failed to raise credit from public and private lenders for the development of their farms.

Land reform in Kenya, as it favoured men against women, also downplayed the status and role of women as the actual utilizers of land. It should also be noted that land tenure reform in Kenya only suited a sedentary mode of agriculture. It served to marginalize pastoral communities which lost access to key land resources during droughts.

The foregoing arguments tend to question the assumption that land reform has brought about agricultural development in Kenya. It is apparent that land reform has the potential both to retard and to accelerate development, both within and outside the agricultural sector. In the circumstances, policy makers and planners should be cautious about a full-scale and unqualified implementation of land tenure reforms that are modelled on the Western system.

#### 5. Recommendations and lessons from the Kenyan Experience

- (a) Land tenure reform should take into account the social and economic circumstances of the various population groups. In Kenya, land reform has worked against the interests of pastoralists and women.
- (b) Land tenure reform is a slow process, often costly and creates the need for external finance and expert advice.
- (c) Countries that have had a history of colonial domination, should weigh their options carefully before adopting and implementing land tenure systems that are rooted in foreign cultural institutions. Land reform should comprehensively incorporate customary land tenure systems to minimise the subsequent social and economic costs.
- (d) To protect the poor from exploitation by the rich, the authorities should control land sales. Where sales must take place, prices should be subject to some form of control.
- (e) Measures should be instituted to effectively discourage sales that leave the sellers landless, thereby triggering a series of other socio-economic and political problems.
- (f) In the absence of the necessary supporting services for smallholder agriculture, land adjudication, registration and consolidation achieved little on their own. Security of individual land title is not a sufficient incentive for the development of land and agriculture.

- (g) National land reforms should avoid radically novel and disruptive consequences vis-a-vis the existing social structures and kinship institutions. The latter should be recognized and adequately harnessed to reduce the risk of landlessness and facilitate a smooth transition and the resolution of emerging conflicts.
- (h) Attempts at national land reform should be made within the context of the country's wider policy objectives on development.
- (i) Prior consultation between the policy making and implementing bodies and the target populations are prerequisites for the success of land reform. Paternalistic approaches and the imposition of reforms generate resentment. Lack of compliance still remains an unresolved problem in the pastoral areas of Kenya.
- (j) Concerted efforts still need to be made to rehabilitate the victims of the imposed land reforms. Such efforts could take the form of improved access to appropriate income-generating activities and or re-settlement.
- (k) In Kenya the traditional attitudes have not been completely displaced. The problem of fragmentation, for example, continues to recur even after consolidation. This is due to the belief that a son must inherit land from the father.
- (l) Individualization of land does not necessarily lead to increased utilization of land. Among other factors such as lack of capital and access to credit facilities, there is a tendency to hold large tracts of land solely for speculative purposes.

#### BIBLIOGRAPHY

- Breen, R. M. 1976. The Politics of Land: The Kenya Land Commission (1932-33) and its Effects on Land Policy in Kenya Ph.D. Thesis - Michigan State University.
- Breen, R.M. 1972. The Kenya Land Commission (1932-33) and Dorobo Land Issues. Seminar Paper, Dept. of History University of Nairobi, Kenya.

- Friis-Hansen E. 1986. Changes in Land Tenure and Land Use Since Villagization and their Impact. Center for Development Research, Copenhagen.
- Hertz, Barbara Knapp 1974. Demographic Pressure and Economic Development. The Case of Kenyan Land Reforms Ph.D. Thesis, Yale University.
- Kimani Njeri, 1978: The Land Control Act of 1967 with Special Reference to Kandara Division. LLB. Dissertation, University of Nairobi.
- Kimani, N. and Kuria, Kamau, 1977. The Role of Customary Land Tenure in Rural Development in Kenya. Paper presented to the Seminar on Law and Development. Sunset Hotel, Kisumu, July 1977.
- Manore M. A. 1984. A Critique of the Legal Mechanisms for Land Acquisition in Colonial Kenya. LLM Thesis, University of Nairobi.
- Moock, Joyce L. 1986. Understanding Africa's Rural Households and Farming Systems. Princeton: Westview: Boulder, Colorado.
- Mbithi P. M. 1974. Rural Sociology and rural Development: Its Application in Kenya. Nairobi: East African Literature Bureau.
- Mbithi P. M. and Barnes C. 1975. Spontaneous Settlement Problem in Kenya, Nairobi: East African Literature Bureau.
- Njeru, E. H. Nthia. 1978. Land Adjudication and Its Implications for the Social Organization of the Mbeere. Land Tenure Center, University of Wisconsin - Madison, Research Paper No. 73, Nov. 1978.
- Nyerere J. 1968. Ujamaa: Essays on Socialism Oxford University Press.
- H. W. O. Okoth-Ogendo 1975 "Property Theory and Land Use Analysis: A Theoretical Framework" In Were S. G. and Mutiso, G.C.M. (eds.). Journal of Eastern African Research and Development Vol.5, No.1, 1975; Nairobi: East African Literature Bureau.

H.W.O. Okoth-Ogendo The Perils of Land Tenure Reform: The Case of Kenya. Dept. of Public Law, Faculty of Law, University of Nairobi.

H.W.O. Okoth-Ogendo, 1978. The Political Economy of Land Law: An Essay in the Legal Organization of Underdevelopment in Kenya. 1895 - 1974. Ph.D. thesis, Yale University.

Republic of Kenya, 1970-74 Second Development Plan, Nairobi Government Printer.

Shipton, Parker, 1988. "The Kenyan Land Tenure Reform: Misunderstandings in the Public Creation of Private Property". In Downs, R.E and Reyna, S.P. (eds) Land and Society in Contemporary Africa. London: University Press of New England.

Sorrenson M. P. K. 1967. Land Reform in the Kikuyu Country. London: Oxford University Press.

West, Christopher et al. 1982. Concise Land Legislation Practice. London: Sweet & Maxwell.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

**LAND TENURE REFORMS IN BOTSWANA:  
A CASE STUDY WITH SPECIAL REFERENCE TO THE  
TRIBAL GRAZING LAND POLICY.**

By

**E.M. SEGOSEBE**

Department of Environmental Science  
University of Botswana

**SUMMARY**

Botswana has two broad farming systems, namely, subsistence farming and commercial farming. Subsistence farming is the most widespread system, while commercial farming was, until the mid-eighties, limited to freehold areas.

Botswana is predominantly livestock country. Frequent dry spells make arable farming rather precarious. Many Batswana in rural areas depend on livestock in one way or another. Livestock production in the small farm sector is characterized by traditional methods of husbandry with little input other than provision of water, and occasional livestock vaccination programmes carried out by government veterinary teams.

Land in Botswana is divided into three tenure forms, namely Tribal Land, Freehold Land, and State Land. These forms of tenure existed before independence and are still in place. However, there have been some gradual reforms since independence to allow development of land tenure forms that will comply with the present needs of land use.

Tribal land comprises 71% of the total land area. It is land owned by the different tribes around the country, and it is communally owned. In the past such land was controlled by the chief who held such land in trust for the tribe. The role of the chief in this respect was that of a custodian. Land was allocated in blocks to wards (groups of tribesmen who traced the same kinship relationship and falling under the jurisdiction of one headman or sub-chief). Each headman was responsible to the chief for distribution of land so allocated to his subjects.

Under the traditional tenure system each ward member is entitled to three land holdings. These include a residential plot, a ploughing field at the "lands" and a cattle post in the grazing land if he happens to own cattle. Residential and ploughing land is owned by individuals whilst grazing land is held as a communal resource. Once allocated these land holdings could be acquired by heirs through inheritance. The recipient is therefore secure for a lifetime.

Freehold land covers only about 5% of land area. It originated in the colonial period and offered the only exclusive rights of use to land in Botswana. State land constitutes 24% of the total land area of Botswana and it is held under the possession of the state. It is used in a number of ways such as communal grazing in certain areas, national needs such as National Parks and Forests (and lately Wildlife Management Areas) and leasehold rights given to individuals or groups over certain fenced areas.

#### Land Reforms

After independence the government of Botswana undertook a gradual process of land reform aimed at achieving a balance between a traditional rural economy and that of a rural economy in transformation. This approach was an attempt to accommodate the old need such as the security of tenure in the land and the new need to use land as collateral to acquire capital for investment in new opportunities.

#### Tribal Land

The Tribal Land Act of 1968 transferred the authority over land from the chiefs to Tribal Land Boards. The main purpose of this transfer was to remove discrimination and ensure an equitable distribution and one that would not recognise ethnic differences. Previously, under the authority of the chiefs people belonging to certain ethnic groups had been discriminated against in land allocation. Allocation of land by the Land Boards led to a decline in the importance of the ward.

#### Tribal Grazing Land Policy (TGLP)

In the past water availability and cattle disease had been limiting factors of livestock populations. This situation changed when veterinary services were introduced by the colonial government. Then the increased availability of deep well technologies in the 1930s opened up new areas for grazing thus raising the land carrying capacity. This coupled with socio-economic factors such as limited markets and generally low off-take rates led to rapid growth of cattle numbers.

This development led to three broad concerns or problems related to land use in Botswana:

- the deterioration of Botswana's rangeland conditions,
- the land grab based on the ability to acquire deep boreholes in virgin pasture areas, and
- the need for an alternative form of tenure and management that would supposedly benefit both the rich and the poor.

The rapid growth of livestock began to show adverse effects on the environment and led to growing concern in government quarters about the future of Botswana's rangelands. It was felt that the rapid growth of cattle and the subsequent overgrazing coupled with poor management under the old system of grazing was responsible for the accelerated deterioration of the pastures in the Communal Areas. It was argued that when resources were held in common their management was poor and they were liable to abuse as nobody felt responsible for them. Private ownership was equated with better management.

The Policy aimed at stopping overgrazing and the deterioration of the rangeland, and at promoting growth and commercialisation of livestock production on a sustained basis. Rich farmers were to obtain exclusive rights to fenced blocks of land, which would facilitate better management such as rotational grazing, weaning of calves, and disease control, all of which would bring about increased productivity. Benefits for those remaining in the Communal Areas would be realized through decrease in livestock numbers and thus decreased grazing pressure. The poor would therefore be given room to develop their own livestock and increase productivity.

Thus the Tribal Land Grazing Policy had two broad objectives:

- to ensure grazing control, better management and increased productivity through the fencing of land;
- to safeguard the interests of small owners of livestock and those who own no livestock, and the right of every tribesman to have as much land as he needed to sustain himself.

The assumptions underlying the TGLP were as follows:

- that the old system of grazing had led to lower productivity due to land degradation;
- that the old system only favoured the rich and had no room for improvement;
- that simple management techniques could double productivity. That is, individual and group ranches would double carrying capacity if properly run;
- that giving individuals or groups exclusive rights over their grazing areas would help them to secure loans and to invest in the land. This would provide them with the incentive to safeguard their grazing land;
- that stocking rates would be decreased in Communal Areas by moving big farmers to ranches;

- that farmers would be compelled to adhere to compulsory stocking rates;
- that large empty areas of grazing existed and that some could be reserved for the future.
- that legislation and sanctions would be enforced on violaters.

The TGLP was supposed to subdivide the tribal land into three categories, namely, Commercial, Communal and Reserved. In the commercial areas individual farmers or groups of farmers would be given exclusive grazing rights in fenced ranches through payment of leases. Preference would be given to small farmers and to groups rather than individuals. In the Communal Areas (near villages) the traditional system would remain unchanged but better management would be encouraged. The Land Boards would be given the authority to determine how many cattle ought to be kept per area. Those with more cattle would be compelled to move into commercial areas.

The tribal Land Boards were entrusted with the responsibility to carry out the policy by zoning, allocation, and granting leases. Central government would give guidance and Land Boards would implement policy as local conditions allowed.

#### **Socio-Economic Effects**

The policy provided some portions of the population with opportunities for improving their livestock, at least in terms of reducing the numbers lost through straying, and providing minimum protection against contagious diseases, if not through basic management. The policy also managed to raise awareness of alternative ways of increasing livestock production through better management.

But in most ways TGLP not only failed to achieve its objectives but it also worsened the case of the poor. Even though the policy proclaimed increased access to as much land as required by every person to sustain his/her family, this did not occur. Instead it has helped those with financial capability to develop ranches and to acquire exclusive grazing rights in fenced ranches. It maintains what it was supposed to correct: "land acquisition by the rich".

Comparisons of production between TGLP ranches and large cattle posts do not point to any increased production in the ranches, nor to any increases in employment.

After the zoning of the land into Commercial and Communal Areas it was found that there were groups of people living in areas zoned commercial. The fate of these people has still not been decided. They have long established residential, grazing, and arable rights in their current places of residence. Particularly affected by commercial zoning were the Remote Area Dwellers (RADs, who are mostly San people) whose land has been encroached upon by the land zoning for TGLP farms. With their nomadic life as hunters and gatherers, they need large areas of land to subsist. Hunting was not mentioned as a land use in the legislation.

#### **Environmental Effects**

TGLP has not solved the problem of overstocking and overgrazing. The land use system can best be described as fenced cattle posts. Farms are often so overstocked that when drought strikes farmers have no choice but to open their ranches to allow their cattle to graze in the Communal Areas. This way overgrazing is transferred from the fenced ranches to the communal grazing areas, thus exacerbating the degradation that the creation of the ranches was supposed to alleviate. This problem is referred to in Botswana as the "dual grazing rights" issue. Government has been unwilling to enforce legislation to make beneficiaries of the programme give up their rights to grazing in the Communal Areas. (Many of the ranch owners are influential persons and politicians.)

TGLP has not relieved pressure on grazing in Communal Areas. Instead it only provided a temporary stop-gap whilst cattle were still building up in ranches during years with good rainfall. When drought came overstocking in farms spilled back into Communal Areas.

It was assumed that the profit motive would override "traditional values" and stimulate ranchers to go for quality rather than quantity. It was expected that farmers would try to reduce their cattle numbers and practice modern livestock management. Instead, farmers were able to continue using their low input, low cost, low risk grazing systems, because they could continue to rely on the advantages of their previous system: of moving cattle out of the ranch when they needed to, and by lending cattle to others (the *mafisa* system) when they needed, to diversify their risks even more. There was no economic incentive for them to move to a system considered more "modern" by others, and certainly more risky.

## 1. INTRODUCTION

### Principal Ecological Zones

1.1 Botswana occupies a predominantly flat landscape with very minimal contrast. Distinct ecological zones based on land elevations are not common, if not completely absent. Such distinct areas are more marked in countries with contrasting highlands and lowlands like Zimbabwe. Generally there is not much talk about ecological regions in Botswana probably due to lack of studies in the country that looked into the subject matter on a broad national level. However, broad ecological zones largely defined by rainfall patterns and distribution may be observed.

1.2 The largest areas of contrast include the eastern hardveld, the sandveld, the forest and wetland areas of the north.

- (a) The hardveld located in the east of the country enjoys better rains, relatively fertile soils, and is therefore the most developed part of the country with high population concentrations.
- (b) The sandveld is found to the west of the hardveld. It is dry and as the name suggests is covered with an overburden of the Kalahari sand. The sand covered areas accounts for two-thirds of Botswana's total land area. In the extreme south-west of the country typical desert conditions occur, but the rest of the sandveld can best be described as semi-desert.
- (c) Northern Botswana also forms another distinct ecological area. Here are found the only perennial wetlands and thick forest areas in the whole country. Northern Botswana is also the wettest part of the country and this explains the contrast in vegetation (forests) in this part of the country and the rest of the country (tree and shrub savanna). However, the wetlands of the north which include swamps derive their water from sources outside the country.
- (d) Influenced by rainfall patterns over the country vegetation occurrence also appears to display distinct zones. The quality of vegetation diminishes from north to south and from east to west. From the north to south there are three gradations of vegetation namely, Deciduous Forest, Tree Savanna and Shrub Savanna. In the east the common vegetation is tree savanna while in the west it is shrub savanna.

### **Farming Systems**

1.3 Botswana like many third world countries has two broad farming systems, namely, subsistence farming and commercial farming. Subsistence farming is the most common and widespread of the two systems, while commercial farming has, until the mid-eighties, been limited to freehold areas.

- (a) *Arable Farming* is concentrated in the eastern part of the country where there are better rains and soils. Other cultivated areas are found to the north and south of the country. Cultivation is very limited in western Botswana due to scarcity of rainfall. In those parts of Botswana where crop cultivation is practised the majority of farmers do it for subsistence. Large-scale commercial farming is found in the freehold areas, in the south (Barolong farms near the border with South Africa), and in the north (Pandamatenga farms). Most crop cultivation is rainfed and this includes the commercial farms of the north and the farming areas of the south. Irrigated agriculture is confined to freehold areas such as the Tuliblock in the east of the country.
  
- (b) *Pastoral Farming*: The dictates of the climate make Botswana a predominantly livestock country. Frequent dry spells make life under arable farming rather precarious. The result of this is that many Botswana in rural areas depend on livestock in one way or another. This is because the latter can resist drought better than crops. As in arable farming the majority of people who own cattle are subsistent farmers. Production here is characterized by traditional methods of livestock husbandry with little input other than provision of water, and occasional livestock vaccination against contagious diseases carried out by government veterinary teams. Again commercial farming is more developed in the freehold farms. These are found in blocks scattered around the country e.g. east, north-east, south and west.
  
- (c) *Mixed Farming*: In some places particularly in eastern Botswana (hardveld) mixed farming is practised. Farmers combine the rearing of livestock with crop cultivation. Livestock are very important in mixed farming because they provide essential draught power. Livestock also provide a buffer particularly against drought when crop failures are common.



## 2. LAND TENURE

2.1 Land in Botswana is divided into three tenure forms, namely; Tribal Land, Freehold Land, and State Land. These types of tenure existed before independence and are still in place today. However, there have been some gradual reforms since independence to allow development of land tenure forms that will comply with the present needs of land use.

### Tribal Land

2.2 Tribal land comprises 71% of the total land area of Botswana. It is land owned by the different tribes around the country, or as it is commonly expressed the land is communally owned. In the past such land was controlled by the chief who held such land in trust for the tribe. The role of the chief in this respect was that of a custodian. Land was allocated in blocks to wards (groups of tribesmen who traced the same kinship relationship and falling under the jurisdiction of one headman or sub-chief). Each headman was responsible to the chief for distribution of land so allocated to his subjects. If the land allocated to the ward ran out then the ward would get another allocation which would be allocated by descent (Field, 1978).

2.3 Under the traditional tenure system each ward member is entitled to three land holdings. These include a residential plot, a ploughing field at the "lands" and a cattle post in the grazing land if he happens to own cattle. Residential and ploughing land is owned by individuals whilst grazing land is held as a communal resource. Once allocated these land holdings could be acquired by heirs through inheritance. The recipient is therefore secure for a lifetime.

### Freehold Land

2.4 Land here is privately owned by individuals or groups of people who have exclusive rights over its use. It covers only about 5% of the total land area of Botswana. Therefore access to such land is limited. Freehold land finds its origins in the colonial period where tracts of land were set aside for expatriate use. Even though the overall area of freehold land was limited it offered the only exclusive rights of use to land provided by Botswana's tenure system. Title received on such land does not expire and the land is inheritable, registrable and freely transferable without obtaining permission from the state (Field, 1978). It is also readily hypothecated. Most of freehold land was allocated to agricultural farms or wildlife farms.

### State Land

2.5 This land constitutes 24% of the total land area of Botswana and it is held under the possession of the state. It is used in a number of ways such as communal grazing in certain areas, national needs such as National Parks and Forests (and lately Wildlife Management Areas) and leasehold rights given to individuals or groups over certain fenced areas (Field, 1978).

### 3. LAND REFORMS

3.1 After independence the government of Botswana undertook a gradual process of land reform aimed at achieving a balance between a traditional rural economy and that of a rural economy in transformation. Government also undertook reforms in urban areas aimed at meeting the high demands of rapid urbanization and economic growth. The Presidential Commission (1983) saw this approach as an attempt to accommodate the old need such as the security of tenure in the land and the new need to use land as collateral to acquire capital for investment in new opportunities.

### Tribal Land

3.2 The Tribal Land Act of 1968 transferred the authority over land from the chiefs to Tribal Land Boards. The main purpose of this transfer was to remove discrimination and ensure an equitable distribution and one that will not recognise ethnic differences. Under the authority of the chiefs people belonging to certain ethnic groups were discriminated against when land was allocated. Allocation of land under the Land Boards led to the decline of the importance of the ward. The new system of land allocation does not recognise ward boundaries, if at all, it pays little attention to them. People choose where they want to leave as long as unoccupied land exists for that purpose.

3.3 The Tribal Land Act also introduced the Common Lease in commercial and industrial plots of tribal land. A lease with a duration of 50 years (renewable) is issued for which rental is paid to the local authorities. Common law lease also ensures automatic right of inheritance during the duration of the lease period. It further allows land to be used as security to obtain loans from creditors. However, customary rules have not been tampered with by the Act in as far as residential and agricultural land is concerned. Common law lease was left optional for residential areas. A lease running for 99 years is made available on request and it carries with it automatic inheritance. In as far as agricultural areas are concerned there is no change of tenure for arable land because such land has no sufficient land value (Presidential Commission, 1983). But

common law lease has been extended to grazing areas designated commercial under the Tribal Land Grazing Policy (TGLP) to facilitate ranching operations. Leases issued to farm owners run for 50 years after which they are renewable. The last section of this paper turns back to the land reforms under TGLP and highlights their political, economic, and social outcomes.

#### **Urban Areas**

3.4 Several types of private tenure exist in urban land, namely; Freehold, Leasehold, Fixed Period State Grant (FPSG), and Certificate of Rights (COR).

- (a) *Freehold:* Conditions of land tenure are similar to those of agricultural areas. For example, the tenure provides a lifetime title which is easily and freely exchangeable. It also originated in the colonial period where land was set aside for expatriates. However, at independence it was extended to citizens as a government strategy to encourage individuals to participate in the development of the new capital.
- (b) *Leasehold:* This tenure form temporarily passes possession from the owner to a second person. It confers on the second person temporary right to hold and utilize immovable property for a specified period of time in return for rent paid to the owner. Long-term leases running for more than 10 years are registrable and readily hypothecated, and may even be transferable to a third party without the owner's consent.
- (c) *Fixed Period State Grant:* Fixed Period State Grant is a one time lease. Developed first in the 1960s and applied to the Selibi-Phikwe mining town, it was later transferred to other towns of Botswana. Rent is paid at the commencement of the lease and not periodically over the lifetime of the lease. At the end of the lease such land together with any development carried out on it reverts to the state without compensation. Such land is registrable and freely transferable for the remaining period of the grant. However, it is not transferable when not developed according to agreement.
- (d) *Certificate of Rights:* Land was made available to urban squatters under this tenure. It started in the 1970s when housing demands by low income groups went out of control. The tenure provides secure tenure for urban squatters and new plot holder under the Self House Helping Authority

(SHHA) Scheme. It is essentially meant for the urban poor with a convertible period of 99 years. The occupants have the right of use of the land while the government retains the ultimate right of ownership. But it is secure, perpetual and inheritable. It may also be pledged and transferable with the consent of the town council.

#### 4. EFFECTS OF LAND TENURE REFORMS

4.1 It would appear from Section 3 that,

"The Land tenure policy which has been pursued by government may be responding to particular needs with specific tenure innovations." (Presidential Commission, 1983, pp. 3, 1.06).

4.2 However, there have been successes and limitations in the government programme of land reform. On the positive side the government has responded timeously to the economic need for land reforms. For example, the extension of lease to land where it did not exist before enabled more people particularly citizens to earn credit from banks and thus made a welcome contribution to the economic welfare of citizens. This has increased the range of investments by citizens. There has also been increased access to land by the poor or under privileged groups, particularly those discriminated against under the traditional system due to their ethnic origin, and the urban poor.

4.3 The bleak side of things shows that problems still exist and in some cases the new solutions have given rise to new problems. For example, the failure of government to provide enough serviced land in urban areas to meet needs in the 1980s is still providing problems. The urban poor have been hardest hit, though it does not only affect them. Problems of land shortage are experienced by urban dwellers in all income groups. High demand for serviced land has led to escalation of land prices and construction costs, and subsequently sky-rocketing house rentals. The poor holding CORs are selling their properties or undeveloped plots to higher income peoples. There is a real threat that a new group of urban homeless may emerge in Botswana's urban centres.

4.4 It appears for the moment that lack of serviced land undermines the good intentions of tenure reforms such as the CORs. The situation seems to underline the need for economic diversification to curtail rapid urbanization which apparently is the underlying force working against well intended land tenure reforms. Even though the government of Botswana has just undertaken a programme of accelerated land servicing, it remains

to be seen whether it will solve the problem. If economic investment is equitably distributed in all urban areas alongside land servicing we may be heading for some solution. However, if land servicing is not accompanied by an equitable distribution of investment we may find ourselves still treading the old difficult path.

## 5. TRIBAL LAND GRAZING POLICY (TGLP)

5.1 As the name suggests TGLP is a programme that was introduced to bring about a new tenure form in the tribal areas. It represents one of the largest land reforms ever undertaken by the Botswana government affecting tribal land. A programme as massive as TGLP required extensive consultations to be undertaken. It also called for studies to determine the disadvantages of the old system and benefits that a new system would bring to the majority of the population. Planning for logistics had to be undertaken to pave a way for implementation.

### The Origin of TGLP

5.2 Botswana has been a pastoral country for many years before independence. There have been reports of severe droughts in the past that affected cattle numbers. Cattle increased in good rainfall years and declined in those years with poor rainfall conditions. Thus this phenomenon controlled the increase in cattle numbers. One of the limiting factors of livestock populations was limited water availability. Another was cattle diseases. This situation changed when veterinary services were introduced during the colonial government to control cattle disease. It was reinforced by the availability of deep well technologies in the 1930s that opened up new areas for grazing which had hitherto not been open to grazing thus raising the land carrying capacity. This coupled with socio-economic factors such as limited markets and generally low off-take rates led to rapid growth of cattle numbers. For example, cattle numbers increased from about 1.4 million in 1965 to nearly 3.0 million in 1982 at the onset of the most recent long drought. This development led to three broad concerns or problems related to land use in Botswana.

- (a) the deterioration of Botswana's rangeland conditions.
- (b) the land grab based on the ability to acquire deep boreholes in virgin pasture areas, and
- (c) the need for an alternative form of tenure and management that would supposedly benefit both the rich and the poor.

5.3 The rapid growth of livestock began to show adverse effects on the environment and led to growing concern in government quarters about the future of Botswana's rangelands. It was felt that the rapid growth of cattle and the subsequent overgrazing coupled with poor management under the old system of grazing was responsible for the accelerated deterioration of the pastures in the Communal Areas (Chambers and Feldman, 1973; White Paper, 1975). The solution that was later to take the form of TGLP was largely based on the thesis of the "Common's Debate" by Garrett Hardin (1968). The thesis suggested on the one hand that when resources are held in common then their management is poor and therefore they are liable to abuse as nobody feels responsible for them. On the other hand it associates private ownership with better management. Influence of the thesis of the Commons in the TGLP finds its expression in the following statements:

"... Under our communal grazing system it is in no one individual's interest to limit the number of his livestock. If one man takes his cattle off someone moves his own cattle in. Unless livestock numbers are somehow tied to specific grazing areas no one has an incentive to control grazing." (A speech from the late President Kgama when addressing the Botswana Democratic Party 14th Annual Conference in 1975.

5.4 Expression of the same sentiment is found in Chambers and Feldman (1973) who in fact could be called the founding fathers of TGLP.

"Only when individuals and groups have definite and exclusive rights to land surfaces is it feasible to introduce persuasion, incentives, and as necessary regulation of stock numbers, required for conservation, pasture improvement, and higher incomes." (p. 125 subsection 41.19).

5.5 It was under these circumstances that TGLP was conceived and targeted for the Communal Areas. The Policy aimed at stopping overgrazing and the deterioration of the rangeland, and at promoting growth and commercialisation of the livestock on a sustained basis.

5.6 The availability of the deep well technology led to new problems of land acquisition. It was hoped that the adoption of TGLP will lead to equitable land distribution and thus deter land grabbing. This is because only the rich people could afford to drill boreholes in virgin land. The Land Board requirement to locate wells at least eight (8) kilometres (km) apart was the

only restriction and gave the owners of boreholes not only water rights but de facto grazing rights in the areas adjacent to their boreholes. Even though everybody was free to graze their livestock in the area surrounding the boreholes they could not do so without water. The new concern was to prevent the rich from grabbing all the grazing land for themselves by virtue of being able to drill boreholes. A disturbing feature of this new development is that the majority, who are the poor, remained in the village areas with no room for improvement. As human populations and livestock numbers increased grazing became more and more limited in the village areas. The way was clear for the rich to grow richer while the poor would grow poorer.

5.7 Land degradation from uncontrolled grazing and the seemingly land grab that followed the acquisition of deep wells led to the need for an alternative form of land tenure and management that would supposedly benefit both the rich and the poor. This finds expression in the Botswana Government White Paper of 1975:

"If we can remove the limitations of the communal grazing system, everyone will benefit." (P. 4.)

5.8 The envisaged benefits would encompass, for the rich farmers, exclusive rights to fenced blocks of land, which would facilitate better management such as rotational grazing, weaning of calves, and disease control, all of which would bring about increased productivity. Benefits for those remaining in the Communal Areas would be realized through decrease in livestock numbers and thus decreased grazing pressure. Poor people would therefore be given room to develop their own livestock and increase productivity.

#### **Original Objectives and Underlying Assumptions**

5.9 When it was first conceived the Tribal Land Grazing Policy had two broad objectives, namely:

- (a) to ensure grazing control, better management and increased productivity to the level possible through the fencing of the land.
- (b) to safeguard the interests of small owners of livestock and those of people who own no livestock, and the right of every tribesman to have as much land as he needs to sustain himself.

5.10 The assumptions underlying the TGLP were succinctly summarized by Sandford (1980) as follows:

- (a) that the old system of grazing has led to lower productivity due to consequences of erosion.
- (b) that the old system only favoured the rich and has no room for improvement.
- (c) that simple management techniques can more than double productivity. That is, individual and group ranches would double carrying capacity if properly run.
- (d) that giving individuals or groups exclusive rights over their grazing areas would help them to secure loans and to invest in the land. This would provide them with the incentive to safeguard their grazing land.
- (e) that stocking rates would be decreased in Communal Areas by moving big farmers to ranches.
- (f) that farmers would be compelled to adhere to compulsory stocking rates.
- (g) that large empty areas of grazing existed and that some could be reserved for the future.
- (h) to this list could be added, the assumption that legislation or regulations would be enforceable on violaters.

#### **Land Categories Under TGLP**

5.11 The TGLP originally intended to subdivide the tribal land into three categories, namely, Commercial, Communal and Reserved. In the commercial areas individual farmers or groups of farmers would be given exclusive grazing rights in fenced ranches. Ranches would have a defined number of hectares. Commercial ranches would be offered on a 50 year lease and rental paid to the local authorities. According to the White Paper (1975) preference would be given to small farmers and to groups rather than individuals. In the Communal Areas (areas near villages) the traditional system would remain unchanged. However, better management would be encouraged. Local authorities (Land Boards) would be given the authority to determine how many cattle ought to be kept per area. Those with more cattle would be compelled to move into commercial areas. However, small farmers would be encouraged to form groups for ranch allocation. Finally, some land would be reserved for future use by young people or those



adults who owned no cattle at the present time but intended to do so in the future. Some of the reserved land was to be made available for other land uses such as wildlife, mining, or cultivation.

#### **Planning for TGLP**

5.12 One of the most important features of the TGLP was the massive consultation process that was launched by the government to elicit the views of the nation on the proposed tenure. The consultation process began with a nationwide tour by the state president and ministers whereupon they addressed "Kgotla" (traditional meeting place of the tribe) meetings on the subject. These meetings were aimed at explaining the new policy to the nation, that is, what it is all about, why it was essential and the benefits expected thereof.

5.13 The round of addresses by the president and ministers to the nation was followed by a year-long consultation process organised around radio learning groups. According to Odell (1977) a total of 3,500 learning groups were involved nationwide. These groups were taught particularly about the operation of group ranches and how they could be run to benefit members more than the present system of grazing land management can provide. Odell reported that feedback from the radio learning groups generated responses and questions from people on different aspects of the policy through nearly 25,000 Questionnaires. The information derived from consultation helped in shaping the new national policy on tribal grazing land.

#### **Costs of Consultation**

5.14 The costs of the consultation campaign as is to be expected were high. In a report prepared by the Evaluation unit of the Botswana Extension College (BEC 1977), the following estimates of the cost of the campaign were made. A total time of 888 person-months were spent on the campaign bringing the total financial cost of the campaign to an estimated P416,000. The financial costs resulted from Direct Cost, Indirect Costs, and Hidden Costs. These were broken down as follows:

- |              |   |                                    |
|--------------|---|------------------------------------|
| Direct Costs | - | Coordination                       |
|              | - | Fieldwork training                 |
|              | - | Teaching materials                 |
|              | - | Hardware                           |
|              | - | Consultation                       |
|              | - | Evaluation                         |
|              | - | Transport to support direct costs. |

- Indirect Costs - Field Support
  - Senior staff support
  - Overheads to senior staff
  - Radio air-time
  - Transport to support indirect costs.
- Hidden Costs - e.g. Postage.

5.15 The following table shows the total cost of the campaign by sector. It shows clearly that a large chunk of the campaign budget went into fieldwork, training and distribution followed by materials production, printing and broadcasting.

	Cost (Pula)	%
Fieldwork, training and distribution	209 900	50.4
Materials' production, printing and broadcasting	85 100	20.4
Hardware	54 100	13.0
Consultation	23 400	5.6
Co-ordination	23 000	5.5
Evaluation	20 900	5.0
<b>Total</b>	<b>416-400</b>	<b>99.9</b>

Source: MLGL and BEC, 1977.

5.16 Several agencies play a supporting role in the implementation of the TGLP ranch programme. These include the Ministry of Local Government and Lands (MLGL), the Land Boards, the Ministry of Agriculture (MoA ranch extension), and the National Development Bank (NDB). The MLGL is the Ministry responsible for all issues dealing with land. Land Boards are the local authorities responsible for land allocation and are responsible to the MLGL. The ranch extension of the MoA provides technical advice on ranch management, while the NDB provides financial support for nationwide agricultural development.

5.17 The tribal Land Boards are entrusted with the responsibility to carry out the policy by zoning, allocation, and granting leases within each zone. The central government gives guidance and Land Boards implement policy as local conditions allow. However, the demarcation of farms is done by the MoA team in each zone. The Land Boards then do the allocation. Ideally there are certain criteria that guide the allocation of farms such as technical and non-technical factors. Technical factors include management capability (e.g. ability to hire a manager or being resident in the farm most of the time), sufficient herd size (e.g. 300 Livestock Units in hand for a 400 LSU ranch), grazing conditions at home and accesses to capital for development. Non-technical factors include preference for groups or syndicates and limited access to grazing.

5.18 However, management practices have not changed much. Borehole owners were allocated ranches at their original cattle posts (McGowan, 1988) and life continued as it would normally under cattle post conditions. There was no extra effort on management input, because there was no incentive for farmers to move to higher input, higher cost, higher risk, "modern" methods. They moved their cattle back to the Communal Areas when the ranch might become degraded, due to high stocking rates, and they continued to lend cattle to others to move to different areas, to diversify their risks, even further (the *mafisa* system).

#### Implementation of TGLP

5.19 Implementation of TGLP began with the Livestock Development Project I (LDP1) in Ncojane. LDP1 provided ranches already equipped with boreholes and fences to encourage large herd owners to move out of the overcrowded village areas. The purpose of this was to create the incentive for modern commercial ranching.

5.20 Under LDP2 which began in 1977 and ended in 1985 finance and management assistance was offered to both commercial and communal stock owners. LDP2 included the following components:

- a) Provision of credit for development of 100 ranches under TGLP through the Agricultural Credit Division of the National Development Bank (NDB).
- b) Funds for grazing cells (established by the Animal Production Research Unit) in Communal Areas.
- c) Credit through NDB for the establishment of Agricultural Management Associations.
- d) Funds for the development of trek routes, rail handling facilities, and small stock holding grounds.

- e) Support for livestock related research.
- f) Funds for the Ranch Management Centre at Ramatlabama.

5.21 Carl Bro International (1982) reported progress only in component four and five above and partial progress in component six. Today component one could be added to the list since some progress has been made. However, there has been little progress in components two and three if at all. Sandford suggested in 1980 that the progress of TGLP was not fast enough. He attributed the slow pace of implementation to the fact that the duties and responsibilities of different organisations and parts of government were not well defined. Any development achieved was attributed to an individual response to perceived gains.

5.22 To date, the overall development of TGLP ranches has continued to be slow. For example, McGowan (1988) reported that out of a total of 424 ranches demarcated by the Ministry of Agriculture, 236 were allocated and only 179 leases had been signed. The Ministry itself reported in 1989 that a total of 312 ranches had been allocated indicating an increase of 76 allocations nationwide over a two year period.

5.23 It should be pointed out that the developments in the commercial ranching areas have not been matched in the Communal Areas. The communal TGLP is at best lagging behind and at worst hardly attempted. For example, development of Agricultural Management Areas and Communal Grazing Cells have been minimal. However, development in the commercial areas has not been smooth either. It is evident from several reports that development in the commercial areas has been partially attained for the most part. There are reports of TGLP farms lacking in one or more of the following developments: fencing, fire breaks, boreholes, reservoirs, water reticulation and many other developments essential for modern farm management (Ministry of Agriculture, 1989; Carl Bro International 1982; McGowan International, 1982).

#### *Constraints of Implementation*

5.24 Implementation of TGLP has obviously suffered constraints from its inception to the present, as indicated by the slow rate of development. Some of the constraints include the need to raise capital for investment, and to secure fence poles and fencing materials and water supply. Where these have been achieved lack of management skills have always presented problems, especially where the owners have neither hired a manager nor been resident at the farm. Drought is one phenomenon that the farmers have blamed for lack of development in farms.

5.25 The TGLP in Communal Areas was very prolematic for, in addition to the constraints cited above, it had a major problem inherent in its constitution: the group approach. There tended to be a lack of cooperation among members of syndicates. The need for contribution toward farm development always led to withdrawals from the syndicate. There were also problems in solving management difficulties. This led to group ranches being run on an individual basis with a disregard for group interests (MOA, 1989). Similar problems were experienced with Agricultural Management Areas; for example, few people participated in meetings, there were ad hoc withdrawals, and an unwillingness to pay toward ranch development costs.

#### *Implementation Costs*

5.26 The most recent study to evaluate the implementation costs of the TGLP was carried out in 1988 by McGowan International. The study showed that by March 1987, 424 ranches had been demarcated by the Ministry of Agriculture. Out of this 236 had been allocated and leases had been signed for 179. In March 1988, 187 loans had been allocated for 139 ranches with a total of Pula 4,735,614 disbursed, averaging Pula 34,069 per ranch (approx Rand 47,000). The amount outstanding at the time stood at Pula 6,121,760 showing substantial arrears. This may be indicative of slow farm development which makes it difficult for farmers to raise the required amounts to service their loans.

#### *Effects of TGLP*

5.27 The effects of the TGLP are numerous and diverse. They can be divided into socio-economic, political, and environmental.

#### *Socio-Economic Effects*

5.28 The successes of the TGLP have at best been minimal but they are worth noting. Overall TGLP has managed to introduce a modern ranching system in the tribal lands. Even though it was pointed out earlier that where successful implementation occurred it was due to individual initiative, the overall move in this direction resulted from the policy. The policy provided some portions of the population with opportunities for improving their livestock, at least in terms of reducing the numbers lost through straying, and providing minimum protection against contagious diseases, if not through basic management. Finally the policy also managed to raise awareness of alternative ways of increasing livestock production through better management.

5.29 On the down side, TGLP has not only failed to achieve its objectives but it has also worsened the case of the poorer members of the society. Even though the policy proclaimed

increased access to as much land as required by every person to sustain his/her family, this does not seem to be the case. Instead it has helped those with financial capability (the rich) to develop ranches and to acquire exclusive grazing rights in fenced ranches. It maintains what it was supposed to correct: "land acquisition by the rich". Consequently the notion of equitable distribution of land is at stake. Access now appears to be based on credit worthiness rather than the need to subsist.

5.30 Comparisons of production between TGLP ranches and large cattle posts do not point to any increased production in the ranches. Therefore employment creation has been little affected. Hence it could be argued that TGLP has not brought any improvement into the lives of the Batswana either through increased production or increased employment. After the zoning of the land into Commercial and Communal Areas it was found that there were groups of people living in areas zoned commercial (Carl Bro International, 1982). The fate of these people has not yet been decided. This is because if all borehole owners in commercial areas are obliged to take ranch leases many people with no homes, no land and no water but with some cattle may be forced to move. Yet these people would have long established residential, grazing, and arable rights in their current places of residence. One suggested solution would provide communal enclaves within commercial areas. Given that some of these people own no livestock of their own it is not clear how they will earn an independent living when they had always relied on large cattle owners. For those who have small stock holdings the big problem will come when their livestock numbers increase and they need more space.

5.31 Particularly affected by commercial zoning were the Remote Area Dwellers (RADS, who are mostly San people). The land that was used by the RADS has been encroached upon by the land zoning for TGLP farms. With their a nomadic life as hunters and gatherers, they need large areas of land to subsist. Thus the original objectives of the TGLP that were explained to the people have not been achieved. One of the objectives was to help the poor and not to make them worse off. Another was to recognise existing land use. But, according to Willy (1981), hunting was not mentioned as a land use or as an alternative. Consequently TGLP did not recognise some land use rights. Willy reported that dispossession was already evident in Ghanzi farms with about 5000 squatters on and around the farms. Several years ago the government faced problems due to its policy of removing the RADS from the Central Kgalagadi Game Reserve. Currently the future of the RADS on three farms acquired by NGOs in the Ghanzi

District on behalf of the RADs is a subject of debate. It could therefore be argued that from a socio-economic point of view TGLP has earned itself more criticism than praise. The gap between the rich and the poor has been widened.

#### *Political Effects*

5.32 TGLP is to a large extent influenced by political forces. This is evident in the fact that all good intentions have been by-passed without mention. To take a few examples, none of the regulations that would provide a government watch dog for development of ranches has been enforced. These included the Agricultural Resources Conservation Act. If it had been enforced it would have curtailed abuse or waste of agricultural land. Politics is now so entrenched into TGLP that no more radical changes can be expected in terms of changing the policy to address its original objective of equitable distribution of grazing resources. This does not come as a big surprise because some big political figures and influential senior government officials are among ranch owners. It can be expected that any future development would tread on a tricky path, irrespective of the direction of reform.

#### *Environmental Effects*

5.33 In the view of many TGLP has not solved the problem of overstocking and overgrazing. Instead Odell (1986) stated that it had merely provided a land use system that can best be described as fenced cattle posts. Farms are often so overstocked that when drought strikes farmers have no choice but to open their ranches to allow their cattle to graze in the Communal Areas (Botswana Government, 1983). Such cases are known to have occurred in the Ngamiland and Ngwaketsi District. It is likely that other districts were affected in the same way. This way overgrazing is transferred from the fenced ranches to the communal grazing areas, thus exacerbating the degradation that the creation of the ranches was supposed to alleviate. This problem is referred to in Botswana as the "dual grazing rights" issue, and exists because government has been unwilling to enforce legislation to make beneficiaries of the programme give up their rights to grazing in the Communal Areas.

5.34 Another area where adverse impact may have been inflicted on the environment is with respect to felling of trees to provide fencing poles for the farms. I am not aware of a study that was carried out to assess this problem, but it may be there.

5.35 In some areas such as the Ncojane farms blocks of fenced farms are known to have caused misery to wildlife by blocking their migration paths. The result was that animals tried to jump over the fences whereupon they were trapped and killed. It is not clear whether similar incidents occurred elsewhere in TGLP ranches.

5.36 It is therefore clear that TGLP has not relieved pressure on grazing in Communal Areas. Instead it only provided a temporary stop-gap whilst cattle were still building up in ranches during years with good rainfall. When drought came overstocking in farms spilled back into Communal Areas.

#### Omissions in the TGLP

5.37 The current outcome of limited success in the TGLP could be attributed to omissions in the implementation or wrongly conceived assumptions during its conception. Of the assumptions identified at the beginning of this paper three were very instrumental in reducing the achievement of TGLP. Firstly, TGLP planning overestimated the amount of vacant land available for commercial zoning. It promised to give as much land to every Motswana as he/she required to maintain his/her family. It also promised to set aside land for future use. Secondly, TGLP assumed that the profit motive would override "traditional values" and stimulate ranchers to go for quality rather than quantity. It was expected that in pursuance of this farmers would try to reduce their cattle numbers and practice modern livestock management. Instead, farmers were able to continue using their low input, low cost, low risk grazing systems, because they could continue to rely on the advantages of their previous system: of moving cattle out of the ranch when they needed to, and by lending cattle to others (the *mafisa* system) when they needed to diversify their risks even more. There was no economic incentive for them to move to a system considered more "modern" by others, and certainly more risky.

5.38 Finally, and above all, that "all that is needed is some fencing and some piping of water". (White Paper, p. 5). Time has revealed that TGLP was based on wrong assumptions. It became clear instead that the opposite was true.

5.39 As if this was not enough during its implementation a number of omissions were observable during the first decade of TGLP implementation. This either happened inadvertently or was strategically carried out. Following is a list of omissions that were critical to the successes or failures of TGLP:



- (a) Implementation of TGLP shows that it lacked legislative back up or to be more precise law enforcement. So, those who did not play the game according to the rules were not brought to book. In some cases lack of proper legislation cultivated an environment for those with means to benefit from the system better than their poorer counterparts, as reflected in the dual grazing rights. No legislation was enacted to revoke the traditional grazing rights of ranchers in the tribal lands when they moved into TGLP ranches. That provided them with the opportunity to continue grazing in the Communal Areas when they had exclusive rights in the ranches. Another omission is the absence of legislation for compensating loss of traditional rights to commercialization.
- (b) TGLP overlooked some of the existing land uses or it simply did not recognise them. One such land use is hunting as carried out by the Remote Area Dwellers (RADs). If subsistence hunting had been recognised as a land use probably the land occupied by the RADs would not have been zoned commercial.
- (c) TGLP also effectively failed to set aside land for future use as was initially promised. If this was the case the fate of people in areas zoned commercial and who possess small livestock holdings or those with none at all would not have so much at stake.
- (d) Research was not made an important part of the consultation process. For example, the model of farming that would be developed for the commercial areas was clear. This model would be derived from freehold farms and LDPI blocks. However, the development model for Communal Areas was unclear, particularly since the Communal Areas were characterised by seasonal land use patterns and historical claims. These needed further investigations to resolve them. Since consultation time was limited further investigation would have delayed the zoning. So some areas had to be left unzoned due to unresolved claims for certain areas by more than one group of people or villages.

### **The Future of TGLP**

5.40 As a result of wrong assumptions, the lack of supportive legislation, the increasing gap between the rich and poor in terms of access to land and the subsequent growing dissatisfaction among some people about the effects of TGLP, the policy appeared destined for a dead end. However, the recently formulated agricultural policy, which has been adopted by the government, has as part of its recommendations a reformed TGLP.

5.41 Even though the new policy does not directly bear the brand of the TGLP but that of a modified TGLP it is clear that it is in fact a continuation of TGLP. The same arguments used for TGLP are also used in the new agricultural policy. For example the policy recommendations assert that it is difficult to apportion the cost of range degradation to individual farmers with communal grazing. It appears that the new policy still views fencing as synonymous with better management.

5.42 The Ministry of Agriculture asserts that,

"Although TGLP ranches have performed below expectations, generally fenced livestock areas have had higher production coefficients such as calving percentage and off-take rates." (Ministry of Agriculture 1989, p. 41),

5.43 It is not clear, however, how the new policy will overcome the constraints that made the performance of TGLP ranches fall below expectations. This remains to be seen. Problems such as enforcement of legislation, dual rights, questions of equity, lack of management skills, financial limitations, drought, and water scarcity remain stumbling blocks in the new policy, just as they were in the old policy. It is further not clear how the new policy will achieve better management through fencing when all indications are that the same was not realized through fenced TGLP ranches. What is needed is a detailed appraisal of the TGLP to identify the real sources of the problem and start modification at that point.

### **Lessons of the TGLP**

5.44 Several lessons can be learned from the Botswana experience by new nations such as the Republic of Namibia. While some of the lessons drawn here may be unique to Botswana, others may be universal to developing countries.

5.45 Firstly, a gradualist approach, as seen in the introduction of the lease tenure in the Botswana land use system, is essential in that it responds to needs. A radical transformation in land

tenure may result in problems of conflicting use or to say the least it may leave a large majority of the population confused.

5.46 Secondly, investment in a few geographical locations may lead to insurmountable problems of lack of serviced land and undesirable consequences particularly in urban areas. Rather than working on the supply side all the time, experience shows that there is need for developing countries to start working on the demand side of the equation of land issues. A good example would be to try, as part of the solution to urban land shortage, equitable distribution of investment away from major urban centres.

5.47 Thirdly, the question of unused land in developing countries needs to be approached rather cautiously in land use planning. Close investigations are essential to ensure that existing uses and claims on the land are resolved in a fair way. Admittedly this may be time-consuming as it will require detailed studies of all areas likely to be affected. Yet it is essential for successful land use planning. Otherwise, the rights of people in areas zoned for new uses could be threatened as was the case in the case of the RADs in the areas zoned commercial in Botswana. Since Namibia's population like that of Botswana includes RADs the government of Namibia should particularly be cautious about this point.

5.48 Fourthly, land use programmes need constant monitoring and reviews to ensure compliance and to assess performance.

5.49 Fifthly, a lesson that could be learnt from the Botswana experience is the importance of consultation with those people whose life is tied to the land (e.g. the rural poor). But what is even more important is that education should be made a continuing part of the consultation process. One of the flaws in the TGLP consultation process may be limited information. For example, Carl Bro International (1982) reported that the understanding of TGLP was low reflecting that people were not well informed about TGLP except on commercial aspects. As a result it was largely rich farmers who acquired ranches while the poor were unconcerned. They simply saw TGLP as a programme of fencing.

5.50 Finally, land use packages must recognise that development needs may differ from one area to another. Models of development for the modern sector are usually clear as in the case of commercial ranching in Botswana. But the same does not hold true

for rural or Communal Areas. Rural areas tend to display more contrast than urban areas. For example in rural areas are found the rich and the poor, cultivation and pastoralism, and high potential and low potential land all mixed up. Above all equity is at least as important a factor as resource conservation and increased production.

#### REFERENCES

Botswana Government. 1975. National Policy on Tribal Grazing Land. Government Paper No. 2. Gaborone.

Botswana Government. 1983. Report of the Presidential Commission on Land Tenure. Gaborone.

Carl Bro International. 1982. An Evaluation of Livestock Management and Production in Botswana: with special reference to Communal Areas. Volumes I, II and III. Final Report. Ministry of Agriculture.

Chambers, R. and D. Feldman. 1973. Report on Rural Development. Ministry of Agriculture. Gaborone.

Field, D.I. 1978. A Handbook of Basic Ecology for Range Management in Botswana. Second Edition. Land Utilisation Division. Ministry of Agriculture. Gaborone.

Hardin, G. 1968. "The Tragedy of the Commons" in Science. Vol. 162.

McGowan International. 1988. Study of the National Development Bank: Tribal Grazing Land Policy Ranch Portfolio. Final Report. Gaborone.

Ministry of Agriculture. 1989. Botswana's Agricultural Policy: Critical Sectoral Issues and Future Strategy for Development. Gaborone.

Ministry of Agriculture. 1989. National Management and Livestock Project: monitoring and project report. Gaborone.

Ministry of Local Government and Lands and Botswana Extension College. 1977. Technical Note No. 4 on the Tribal Grazing Land Policy Radio Learning Group Consultation Campaign: the costs of the campaign. Gaborone.

Odell, M.J. 1977. Senior Officer's Workshop: group formation under the TGLP. Ministry of Agriculture. Gaborone.

Sandford, S. 1980. Keeping an Eye on TGLP. NIR Working Paper No. 31. University College of Botswana. Gaborone.

Wily, L. 1981. The TGLP and Hunter Gatherers: a case study in land politics. NIR Working Paper No. 33.

the maximum herd size for each is set according to the ecological region (86% of settlers). A variant of the model is used on irrigation schemes. Model B schemes are run as production co-operatives (13% of settlers). Model C schemes have a central core estate run by a parastatal and outgrowers who supply some labour to the estate in return for services such as mechanical tillage (2% of settlers).

3. Model D is designed for the drier areas of the country where livestock form the major farm enterprise (these areas to the commercial areas of Namibia). There are no settlers. Commercial ranches are purchased, and made available for grazing to wards (of approx. 1,000 people) in the adjoining Communal Areas on a rotational basis, in order to rest their own grazing lands. It was also envisaged that while the livestock were out of the Communal Area, there could be re-organisation of the Communal Area itself, so that grazing areas were properly demarcated, and arable lands separated, and placed together near the residential areas.

4. At the same time as the resettlement programme, there have been development programmes in the Communal Areas. These have included: a livestock improvement programme; the promotion of commercial dairy production; a series of measures which greatly raised grain output and sales from Communal Areas; and a Communal Area Reorganisation Programme, which was designed to rationalise land use. The measures to raise grain sales included the provision of infrastructure (eg, grain collection depots), expanded short term credit facilities, a progressive pricing policy, especially affecting maize, and an increase in the number of extension officers.

5. In addition, there have been specific dryland initiatives. The first of these is the CAMPFIRE project (Communal Areas Management Programme for Indigenous Resources). This successful venture ensures that rural communities benefit directly from the

7. Resettlement Areas made up 8% of the total land surface of Zimbabwe by 1988. However, the removal of 51,000 households hardly reduced population pressure in the Communal Areas since this was swamped by the natural increase in the population there, which reached 5.1 million in 1988. Land shortage remains acute.

8. The most significant structural change in the large farm sector since 1980 has been in the way factors of production are used in agriculture, especially land. There has been a considerable shift away from maize production to industrial or horticultural crops and the substitution of capital (in the form of machinery) for labour following the introduction of minimum wage legislation. Conversely, the Communal Areas have filled in the gap by increasing their share of marketed maize and cotton, using the improved accessibility of commercial marketing channels and the greater availability of hybrid maize varieties. In total, there has been no significant reduction in crop production in the country as a whole..

9. Yields in Resettlement Areas are higher than those in Communal Areas, partly due to the better endowment of the lands. Incomes to the households have surpassed target incomes in average years. However, some households have failed to meet the targets, especially in the drier regions, because, being the poor, they did not arrive with sufficient cattle, and there was no credit programme to help make up this deficiency, unlike the credit available for crop production.

#### **Lessons to be learned**

i) There is need for institutional consolidation of land valuation, surveying and farm planning skills and systems for use in assessment of land prices, taxes and incomes.

ii) There is need to formulate an effective real land tax system and rates, capital gains taxation and agricultural income tax review.

vi) A pervasive problem is the conflicting demand for land for housing versus land for agricultural production. Land policy needs to ensure that an effective urban land transfer programme for housing is instituted in order to meet such needs. Moreover, there is need to regulate the impact of high urban land prices which rule out low-cost housing schemes in peri-urban areas.

vii) In terms of administration, the main issue is to prevent potential. Some roles which need definition include:

<u>Organisations</u>	<u>Roles and responsibilities</u>
A. <u>Government</u>	
1. Finance	budgeting
2. Economic Planning	macro-economic targets
3. Agriculture	technical/physical planning, extension, marketing, credit, etc.
4. Local Government	local area administration, land allocation, local planning
5. Social Services	health, education, water, housing
6. Lands	land registration, survey, etc
7. Social Mobilization	groups, community and coops
8. Others	information, research, etc.
B. <u>NGOs</u>	
Various support services	finance, training, community development, specialist services
C. <u>Research Institutions</u>	monitoring, data processing, evaluation and policy evolution
D. <u>Farmers' Organisations</u>	problem articulation and lobbying



in order to maximise potential productivity and output. The establishment, operation and maintenance of resettlement and the accomplishment of intended targets require at least five average seasons. Appropriate planning horizons should be developed for the realisation of output levels once the full settler farm establishments are in place.

x) The process of land reform should not be based solely on autonomous, rational, state policy formulation, but on adequate consideration of popular expectations among various classes (including influential middle classes) through a deliberate consultative process throughout the various phases of the programme. Issues such as land tenure, rights, financing, the pricing of land for acquisition, arbitration of disputes over land sales, settler selection and the purposes of land reform require thorough debate and consultation with various power structures and organisations.

**NOTE:**

1. Full paper (40 pages, including statistical tables) available in NEPRU library.