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**NATIONAL CONFERENCE**  
**ON**  
**LAND REFORM AND THE LAND QUESTION**



**DOCUMENTATION**

**PREPARED AND PRESENTED**

**BY THE**

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## 1. EXECUTIVE SUMMARY

### 1.1. HISTORICAL BACKGROUND

Namibia was occupied and settled by her indigenous people organised into formerly independent tribal groupings during the early Bantu migrations and settlement movement from Central Africa southward and to the south west of the continent of Africa.

During this early period of settlement, the southern part consisted of Great Namaqualand or Namaland. The central part consisted of Hereroland and Damaraland and of late, the coloured groups. The northern part consisted of Kaokoland, Ovamboland and the Okavango. The far north east belonged to the middle Zambesi Bantus (Central Southern Africa), which consisted of the Masubiya (Bekuhane), Yei (Koba), Mambukushu (ha-Mbukushu) as major groups, and later a tribe known as the Mafwe (Fwe).

Despite the coastal desert belt which served as a shield, preventing early slave trade and early foreign invasion, Namibia was invaded by foreigners during the early 1760s. This early foreign invasion was reflected in the partitioning of Africa during the 1880s, which brought about the formal colonisation of the African continent, including Namibia, can be summarised as follows:

- (1) From the time of occupation by the indigenous people up to 1884 and 1890, Namibia was under rule by independent tribes.
- (2) From 1884 / 1890 to 1915 this country was a colony of Germany.
- (3) From 1915 to 1920 the country was under military occupation by the forces of the Union of South Africa, and
- (4) From 1920 onwards the country was ruled as a Mandated Territory by the colonial government of the Union of South Africa and in 1961 by the colonial government of the Republic of South Africa, until 1990 when the last colony in Africa attained its independence.

During this tragic and unfortunate period, the main objective of the colonisers was seizure of the land for themselves.

When this process of dispossession could no longer be tolerated the Namibian people, as owners of the land, put up resistance.

First it was the Nama people in 1892 who had to go to war to defend the land but they were defeated and dispossessed.

From 1904 to 1907, the Herero people also had no alternative but to fight for the remaining land and about 25,000 to 35,000 people were killed.

Today, history has it that "the reward of those colonial fighters (forces) against our people was to obtain attractive land free of charge."

## 1.2. GENERAL REMARKS

The historical background to the theft of Namibian land by foreign settlers from the 1860s until the time of formal colonisation, ending with South African occupation, warrants serious consideration of land reform by the legitimate Namibian government today.

The current socio-economic imbalances within our societies are the result of this land theft by foreign settlers.

The last phase in the Namibian people's resistance to this was the liberation war that hit the northern and far eastern parts of the country hardest.

Taken together, all these developments had an influence on the traditional structures of communal land tenure amongst the indigenous Namibian communities.

Today, most of the farms on fertile land are occupied by the sons and daughters of former settlers who happen to be Namibians today, constituting the 'haves' in the Namibian economic structure. The 'have-nots' are today those who were defeated and ultimately dispossessed of their land, namely, the blacks.

It is also important to note that the early land alienation process in the form of land concessions and prospecting rights by the successive colonial regimes did not seriously affect the areas in the north and far northeast.

The general opinion across the country is that the question of land rights and property rights be redressed by the government. Some demand that part of their expropriated land be returned to them. Some reject the idea of resettlement of other communities to areas in which they cannot claim ancestral rights. Others insist on maintaining the status quo which safeguarded their inherited communal land rights.

In all of this, there is a need for a solution to a problem. Some people are still suspended between the borders inherited from colonialism, while their parents have already crossed the Orange River, where they are now attempting to correct the political errors of the past seven decades of Apartheid.

Furthermore, in anticipation, we hope the Namibian Economic Policy Research Unit will provide us with proper data pertaining to various sectors of the present socio-economic order in our country.

Although we know that development related to proper land utilisation and management are still subject to the outcome of surveys and feasibility studies being carried out at present in most communal areas, we hope that the result of this Conference will lead to a long term solution to land poverty and the safeguarding of the right to land resources.

Our land is vast, and we cannot continue to import even the simplest common essential commodities from South Africa or elsewhere.

### 1.3. CONCLUSIONS

- (1) The current land structure in the communal as well as commercial areas, based on the acquisition of land through dubious means, or purchased, developed and commercialised, is indeed subject to reform in general, but with the policy of National Reconciliation in mind.
- (2) Namibia is a diversified society and because of this, land management and utilisation will vary. Land reform therefore would require different approaches to resolving the land question.
- (3) The land reform process, transformation of old management and ownership structures into sound management, practised and equitable distribution of such land if necessary, shall have to take into consideration the regional factors whereby very special attention shall have to be paid to the most remote communities whose economic life wholly depends on subsistence farming on their inherited communal land.
- (4) Any equitable solution to the land question shall have to seek the full participation of and genuine agreement or consent by those who wholly make their living from the land.
- (5) Any proper management and utilisation of land shall have to be supported by very well planned and sound land utilisation policies.
- (6) The UDF would not propose a policy that would disrupt the production process or be seen to result in general dissatisfaction amongst land owners; nor which, through implementation, would leave our people worse off than during the colonial era in terms of the respect for property rights - be they traditional communal land rights or the rights to farmland purchased. In other words, we should not resolve our problems by replacing them with new problems.

- (7) Worthy experiences from other African countries with land problems more or less similar to those in Namibia should be incorporated in developing an approach to the land question in Namibia.

#### 1.4. RECOMMENDATIONS

##### (a) Communal land:

That

- (1) Although the State is guardian over the whole Namibian sovereignty, the chiefs, as the original trustees of land of their respective tribes before modern states were formed, should continue to have the rights and powers to allocate all communal land (approximately the Zambian policy).
- (2) The chiefs as trustees and custodians of all communal land, in this process of reform, should be allocated with specific land for individual ownership.
- (3) The State shall acquire unused and/or underutilised communal land through the king's or paramount chief's institutions.
- (4) The kings and paramount chiefs shall redistribute or re-allocate idle land in the communal areas to persons who have been victims of land theft or victims of unfair land allotment by former chiefs during the colonial era.
- (5) The communal land owners shall have no ancestral claim to title of any portion of grazing land.
- (6) The communal land owners shall not claim automatic right to repossess commercial farmland or state land.
- (7) The State shall also not claim automatic right over communal land. This, however, should not be interpreted to mean that the State shall have no role to play in the communal areas.

The management of these lands and the people is in the hands of traditional authorities who at the same time form the link between the government and the communal people.

- (8) The nature and the status of Caprivi's land calls for the continuation of the status quo with a number of well-planned modifications.

- (9) If an investor needs land in the communal areas for farming purposes, the State, in consultation with the particular king or paramount chief where such land is identified, shall determine the size of such land considering the financial capabilities of the particular prospective investor.

NOTE: For various reasons, subjective and objective, land utilisation and management in the communal areas leaves much to be desired. It is for this reason that we feel that a land reform programme in Namibia must include a clear definition of the powers of the traditional authorities as well as a programme of improving management systems and practices.

#### (B) STATE LAND / COMMERCIAL FARM LAND

- (1) The State devise measures to discourage farmers from owning more than two economical units of agricultural land (about 20,000 ha. depending on the carrying capacity of the land).

One such measure is the levying of a progressive tax from the third unit onwards. Those farmers who have more than the suggested two units and who are not prepared to pay the additional tax should sell the land under compulsion.

- (2) Land will be redistributed to persons who shall prove to be capable of developing such idle land and those landless persons who have been victims of land theft by foreign settlers within their respective communal land areas.
- (3) The state should assist the land owners and farmers who can buy land in communal areas or in commercial areas, who by certain conditions have failed to meet the required productivity of land resources, as a way of rehabilitating the land and to prevent an environmental catastrophe imminent in most of the communal areas where there is evidence of overstocking and overgrazing.
- (4) Farm lands which were acquired free of charge (if there are any) and are now developed and commercialised, may be redistributed to persons from whom such land was acquired by way of compensation, by the State, which returns the right to repossess such land as the Trustee of the Namibian land on behalf of the people, or
- (5) The State should have the right to repurchase unproductive farmland at a price to be fixed by the State unilaterally and not according to current market prices. Having acquired these farms the State shall then sell them to those communal farmers who by the number of animals would qualify for a farm.

We propose the following formula: The farmer should own approximately 1,500 head of small stock or an equivalent number of cattle, or refer to the relevant sections of Proclamation 310 of 1927, published in the Official Gazette Number 577 of 28 June 1934 and the subsequent amendments as set out in the schedule promulgated for that purpose, or Proclamation Number 18 of 1934 with the relevant sections as amended.

(6) The State should not make a bid for those farmlands that are currently productive. The target area for such purchases by the State should rather be:

- (a) all idle farmlands, whether State or privately owned;
- (b) underutilised farms - mostly inherited by people with no interest in farming and;
- (c) those farms owned by persons domiciled in foreign countries.

NOTE: These lands should be subject to compulsory repurchase by the government.

(7) The State should repeal all criminal land acts in order to create an atmosphere that would rapidly improve access to land by those in need of land.

(8) Lastly, we recommend the establishment of a permanent Land Advisory Board or Commission to deal with land related matters and implement the land reform programme, subject to an Act of parliament. This Commission shall not only implement the government's land reform policy but shall recommend to government on appropriate measures. These measures should however, enjoy popular support and should refrain from imposing unpopular measures.

In conclusion, the rest of this document catalogues the entire process of land alienation in all its facets. This includes dates, procedures, population resettlements, dispossessed, laws regulating colonial settlement and land acquisition as well as the size of land and areas affected.



## 2. LAND REFORM AND THE LAND QUESTION

### PART 1: HISTORICAL BACKGROUND

#### PHASE 1: EARLY OCCUPATION BY INDIGENOUS GROUPS

Namibia was occupied and settled by her indigenous people organised into tribal groupings during the early Bantu migrations and settlement movement from Central Africa to then South. The Northern part consisted of Ovamboland, the Okavango and Kaokoveld. The Central part consisted of Hereroland and Damaraland. The Southern part consisted of Great Namaqualand or Namaland. The far Northeast belonged to the Middle Zambezi Bantus (Central Southern Africa), consisted of the ma-Subiya, ba-Yeyi and Ma-Mbukushu as major groups.

#### PHASE 2: EARLY FOREIGN INVASION AND EARLY LAND SETTLEMENT BY GERMAN SETTLERS

Despite the coastal sand belt which served as a shield by presenting early slave trade and early foreign invasion, Namibia was invaded during 1760's.

On 30th June 1761 the Colonial Government at Cape Colony authorised an expedition to examine the Namibian inland. This expedition was led by Hendrik Hop.

By August 1779 Colonel Gooden with Lieut. Paterson travelled from Cape Town and went up to the Orange and beyond up to Keetmanshoop.

In 1796, Captain Alexander authorised Hendrik Jacob Wikar to examine the west coast northward and met the Bondelswarts, the red nation of Hoachanas and the Veldskoendraers, the cattle Damaras and Berg Damaras.

#### PHASE 3: FORMAL FOREIGN COLONISATION SUMMARY

1. From the time of occupation by the indigenous people up to 1884, Namibia was under the rule of independent tribes.
2. From 1884 to 1915, this country was a colony of Germany.
3. From 1915 to 1929, the country was under military occupation of colonial forces of the Union of South Africa and
4. From 1920 onwards, the country was ruled as a Mandate Territory by the government of the Union of South Africa and in 1961 by the Republic of South Africa until 1990, when it attained independence.

PHASE 4: LAND ALIENATION PROCESS 1870's - 1913

1. In October 1890 Von Francois occupied Windhoek with 35 German soldiers together with locally recruited auxiliaries.
2. Their first mission and task was to carry out the forced land alienation process, thus immediately affecting the old traditional communal land tenure system of some Namibian communities, especially the Herero people and the Southerners.
3. It was during this same year, 1890, when the Colonial Government introduced a land alienation policy, that German settlers were brought in to occupy land formerly belonging to the indigenous people of Namibia.
4. Resistance by the owners of land immediately followed, starting from the south by Kaptein Witbooi in 1892. During this period land concessions and prospecting rights by German settlers were further introduced.
5. In 1892, a proclamation was passed for 'Land Settlement', to settle specific land stretching from Windhoek in the direction of Hoachanas and Gobabis under the authority of Theodor Leutwein. This name is associated with Namibian land theft and is only important to former colonisers.
6. By July 1892, the first party of settlers arrived from Germany and were duly settled in the upper parts of Klein Windhoek valley. They were 25 families, numbering 55 persons, together with 18 ex-soldiers were given farmsteads and plots for cultivation.
7. The same year, 1892, the then SWA Company applied for a 'Damaraland Concession' to develop the mineral resources in the Otavi area. About 13,000 sq km of land was readily granted by the colonial government. The same year the colonial government granted a concession of 50,000 sq km on condition that the company builds a railway line from Lüderitz to the interior. This obligation was not met. The company was thus given only 12,000 sq km of land to be selected by the company for sale as farms.  
  
Other concessions to the German settlement company amounting to 20,000 sq km of Crown Land were situated to the north and southeast of Windhoek. 10,000 sq km of land belonging formerly to the Khausas Hottentots was given to the Hanseatic Land Company, a concern of SWA Company.
8. In 1893, 50 prospective settlers were brought to Windhoek by the Company. This same year, other reinforcements arrived from Germany and the number rose to 250 German troops, with two batteries of Artillery to defend land theft.

9. On 15th September 1894 Kaptein Witbooi was defeated and the so-called peace was restored in the South. White settlement then proceeded peacefully. It extended to the large Southern areas and in the North up to Grootfontein and Outjo. The first line of agreement in the central midland area, 'no man's land', to the south of Windhoek between Leutwein and Samuel Maherero (described as a chief who lacked respect for tribal tradition and custom of the Herero people), extended from Otjimbingwe in the west to Barmen on the Swakop River, and then eastwards along the upper White Nossob River to its south bend, and then eastwards to the north of Gobabis.
10. In August 1901 the fertile pastures at Okatumba on the white Nossob River were forcibly taken away from the Herero by German settlers. This act angered the Herero so much that they started to launch a rebellion.
11. Before this rebellion, in 1896, there was a large influx of Boer families from the defunct Upingtonia Republic and from Angola. Some settled at Omaruru from Humpata in Angola and some at Gobabis.
12. Early in 1902 the German colonial government decided on a policy that was to regulate all future land settlement in the Territory.
13. By July 1902, there were 43 German farmers and 248 others, mostly Boers in the south at Gibeon.
14. (a) At the end of 1903, before the Herero rebellion, Namibian land was divided approximately between four main owners as follows:
- |                             |                 |
|-----------------------------|-----------------|
| (1) African Natives         | = 31,400,000 ha |
| (2) Concession Companies    | = 29,175,500 ha |
| (3) Government (Crown Land) | = 19,250,000 ha |
| (4) Settlers                | = 3,684,500 ha  |
| TOTAL                       | = 83,500,000 ha |
- (b) By early January 1904, before the rebellion, the Government had sold 148 Crown Land farms to settlers and leased one farm with a land area of 1,200,000 ha. The concession Company sold 37 farms plus 50 garden farms (of about one and a half hectares each). They leased farms with an area of about 2,800.00 ha. A further approximate 800,000 ha of Native land was sold to settlers, constituting about 220 farms sold and seven leased. So about 458 farms in total had been bought or leased by settlers before the rebellion.
15. Now the Herero people were left with no alternative but to fight for their remaining land. On 12th January 1904, war broke out between German troops and the Herero over land confiscation by settlers.

16. On 14th February 1905, another mass emigration of Boers from South Africa arrived in South West Africa.
17. On 28th May 1905, the SA Land Settlement Laws were extended to then SWA. In this pact, Boers and ex-members of the forces during the Herero war became farmers.
18. REQUIREMENTS OF LAND SETTLEMENT LAWS WERE AS FOLLOWS:
- (1) That the purchaser had to live on and manage the farm personally,
  - (2) That 10 percent of the purchase price had to be paid on the date of sale, the following five (5) years were to be free of payment, and thereafter the balance was to be paid by annual installments.
  - (3) That before the expiry of ten years the farm could not be disposed of without the consent of the Government and
  - (4) That farming had to commence within six months of the conclusion of the contract,
  - (5) Under this provision, the ex-forces obtained attractive land free of charge.
19. After the rebellion, the whole of Hereroland belonged to the Government and abundant land was available for White settlement.
20. In 1907, an imperial commission was appointed to investigate the pernicious stranglehold of companies. The commission advised the negotiations of contracts for government repurchase of land rights from companies. The agreement reached with companies was as follows:
- (1) An assurance that settlers should be able to buy company land at normal current prices;
  - (2) The companies should pay back the Treasury a portion of the increased value of their land sale taxes, and
  - (3) The acceptance of measures to ensure the interests of the community by increased ground taxes on unused land.
21. After this confiscation of Native land and agreement with concession companies the government found itself in possession of some 46 million ha of land, unencumbered and free for disposal to settlers, including 100 million ha land of all Nama tribes who took part in the 1904 - 1907 Hottentot rebellion.

22. After the war of 1906 - 1907 a further 17 farms were immediately sold by government with a total area of some 90,000 ha.
23. During 1907 - 1909 German settlers increased from 8,200 at the beginning of 1907 to 14,000 at the end of 1909.
24. Between May 1907 to April 1909 the number of farms sold to new settlers went up to 383 in addition to leasing of 33 farms.

Thus the area occupied went up to 3,650,000 ha. Most of the land taken in 1907 was situated in the northern districts of Omaruru, Windhoek, Okahandja and Grootfontein.

25. In 1909 - 1910 White migration decreased.
26. Between 1910 and 1913, the annual sale of farms averaged 98 percent with leased land at 42 while the number of settler farmers increasing in these years from 1,389 to 1,587.
27. By April 1913, the total number of farms sold to private owners was 1,223 with 108 leased farms, totaling an area of 13,400,000 ha. In addition, there were 517 smallholdings comprising of 4,445 ha. The largest of these sold and leased farms were situated in the following districts:
- |     |              |       |
|-----|--------------|-------|
| (a) | Omaruru      | = 175 |
| (b) | Grootfontein | = 173 |
| (c) | Windhoek     | = 138 |
| (d) | Gobabis      | = 108 |
| (e) | Rehoboth     | = 108 |
| (f) | Okahandja    | = 103 |

The smallest numbers were in Namib districts:

(g)	Lüderitz	= 16 (22,000 ha)
(h)	Swakopmund	= 6 ( 8,600 ha)

Note: 4 of the 16 in the Lüderitz and 2 in the Swakopmund district were occupied.

(a)	Windhoek	= 1.6 million ha
(b)	Keetmanshoop	= 1.2 million ha
(c)	Gibeon	= 1.2 million ha
(d)	Warmbad	= 1.1 million ha
(e)	Omaruru	= 1.1 million ha

28. In 1914 and 1915, during the First World War, the whole process of land theft was disrupted for some time.
29. Under the rule of the colonial government of the Union of South Africa two laws were immediately passed. These were:

- (a) Land Acquisition for settlement by Boer settlers. This law was brought into force by Proclamation 310 of 1927, which amended and consolidated the Union Land Settlement Laws which were to apply to the Mandated Territory of SWA.

This law interpreted our land as 'Acquired Land' from German settlers or the late German Government.

The second was an Ordinance entitled:

- (b) Farms Special Relief Proc. no. 18 of 1934, published in Government Gazette no. 567 of 28th June 1934.

This ordinance provided that certain debts owing to the Administration of the Territory by holders of land under the laws relating to Land Settlement be written off as a necessary measure of relief to settlers who, owing to unfavourable economic conditions, have been unable to make the payments concerned.

30. In 1934, a land settlement commission was established. In March to July 1934 and December 1934 to 1935 a survey was carried out.

#### PART 2: IDENTIFICATION OF SUCH AFFECTED LAND

1. These history records show us that during the early foreign invasion, the early land settlement and early land alienation process by German settlers from 1870's to 1907, the areas in the north (Ovamboland), Okavango and the far northeast (Caprivi region) were not affected.
2. Land theft concentrated much in the southern and the central parts of Namibia and as a result the Herero, Damara, Baster and the Nama people were ruthlessly stripped of their fertile land.
3. The 1934 Land Settlement Commission recorded the following areas as having been given to settlers: Aroab, Bethanie, Gibeon, Gobabis, Grootfontein, Karibib, Keetmanshoop, Lüderitz, Maltahöhe, Okahandja, Omaruru, Otjiwarongo, Outjo, Rehoboth, Swakopmund, Warmbad and Windhoek.
4. The current nature of ownership of this land should be subjected to further research work.
5. The ultimate solution to finding an answer to this state of affairs would be to obtain an official census of all registered farm lands and plots from the Ministry of Agriculture and Rural Development.

### PART 3: REFORM OF THE AFFECTED LAND

1. Namibia is a diversified society. Land Reform therefore would require different approaches of resolving the land question.
2. Land theft by settlers did not take place in some parts of Namibia and as a result, land management and land utilization differ.
3. Therefore, the transformation of the old structure into effective utilization and equitable distribution of such land shall have to take into consideration the regional factors, whereby very special attention shall have to be paid to the most remote communities whose economic life wholly depends on subsistence farming of their inherited communal land.
4. Any equitable solution to the land question must seek full participation and full, genuine agreement by those who wholly make their living from such land.
5. Any equitable solution, proper management of land shall have to be supported by highly well planned and sound land utilization policies, for which Namibia will not fail with such proper and well designed and worked out approach.
6. As for those farmlands acquired through dubious means, purchased, developed and commercialised, these would need thorough investigation as to the nature and position of current ownership. The report of such a commission should recommend to Government on appropriate measures. These measures should be popular ones, should get a mandate through the Land Reform Advisory Board.

## APPENDIX

### 1. EXPERIENCES FROM OTHER AFRICAN COUNTRIES AND OTHER RECOMMENDATIONS OF RECOGNISED ORGANISATIONS AND AGENCIES

- (a) A close study of Zimbabwe, Zambia and Botswana would be advisable.
- (b) A close study of FAO's Recommendation on 'Conservation and Rehabilitation of African Lands' an international scheme, would also help.

### 2. CASE STUDIES: ZIMBABWE

The Republic of Zimbabwe experienced a land theft process by foreign settlers who forcibly occupied fertile land at the cost of the indigenous people more or less like Namibia. After independence in 1980, the Government took steps to rehabilitate and reform the land so that the former owners of such land would also eventually benefit from it.

An extract from the FAO document on 'The Conservation and Rehabilitation of African lands; an international scheme' - ARC/90/4, reveals the following: "That a new programme, the Communal Areas Management Programme for Indigenous Resources (CAMPFIRE) is being developed in Zimbabwe to help ease the transition from communal ownership of land to more formal structures. Initially, CAMPFIRE will set up an institutional structure to enable local cooperatives to develop management schemes for land use, wildlife, forestry, grazing and water in specific areas, and to maximise returns from them. Voluntary community-based cooperatives will be formed to manage these resources and establish a more equitable allocation of profits than previously existed. Target areas for the programme are remote communal lands on the periphery of Zimbabwe where rainfall is low and soils are poor. The project's aims are to make the communities living under harsh environmental constraints less vulnerable and more self-reliant." The question of equitable distribution of land is not mentioned as against compensation of purchased commercialized farm lands.

NOTE: This paper is limited by the time constraints and lack of resources at our disposal with which conduct in depth research.

B. FAO Recommendation on 'The Conservation and Rehabilitation of African Lands - an international scheme'.

NOTE: See attached foreword by the Director-General, FAO, UN and its Executive Summary of the Recommendation.

NOTE: This study, too, was not completed due to time constraints and lack of resources.

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