

**PAPER ON LAND REFORM  
AND THE  
LAND QUESTION**

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REFORM AND THE LAND QUESTION  
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## LAND REFORM

### 1.0 Introduction

The Namibian Government deserves to be congratulated with its decision to tackle the thorny question of land reform. Action National Settlement (ANS) welcomes this opportunity because, since its inception as an organisation working towards development and reconciliation, it has consistently pleaded for the addressing of the problem of poverty and the erosion of backlogs among the different sectors of the national community. We believe that this initiative offers the opportunity to penetrate fearlessly to the crux of the matter and to seek solutions on a realistic basis.

The very nature of the subject, compels one to go into its historical background. We appreciate - to our regret - that Namibian history is a controversial subject. Since we do not want to get involved in a debate about history we wish to emphasise that we will confine ourselves to the subject of land tenure only; in other words we are going to refer to the history only in so far as it has had an influence on land settlement patterns in our country. We will not concern ourselves with the various perceptions and interpretations which exist in regard to indisputable historical facts.

We realise that there is a wide spectrum of approaches to this extremely sensitive matter. One can anticipate that there will be those contenders who will proclaim that their land had been stolen and that it must be returned - without delay.

On the other hand we are aware of those who will maintain that the status quo be retained.

Both of these views are in our opinion not only extremist but also highly unrealistic and to say the least of it sectionalistic because it addresses only a part of the national problem.

We are aware of the fact that the matter can be approached on an ethnic, tribal, racist or even political basis. It will be easy to whip up emotions by linking the country's problems to past inequities. The implications of such an approach can be far-reaching and, in the long run, catastrophic.

We wish to dissociate, ourselves from any of the above approaches.

We shall try to allow the National Interest of our country to be our guiding light. That will be our paramount goal. In the course of this approach we shall try to be as clinical as possible. National interest dictates that the subject shall be viewed in terms of factors such as productivity, employment, foreign currency, etc.

Another factor that we dare not lose sight of, is National Reconciliation bearing in mind that this is a two-way traffic and that we cannot change or rewrite the history of the land.

## 2.0 Historical Background

History has left its tracks very clearly on the face of our country. Settlement has proved to be rather dynamic - especially during the previous century. Divergent factors were responsible for this process. To illustrate this point it is only necessary to look at a graphic reproduction of the population distribution at specific points in time.

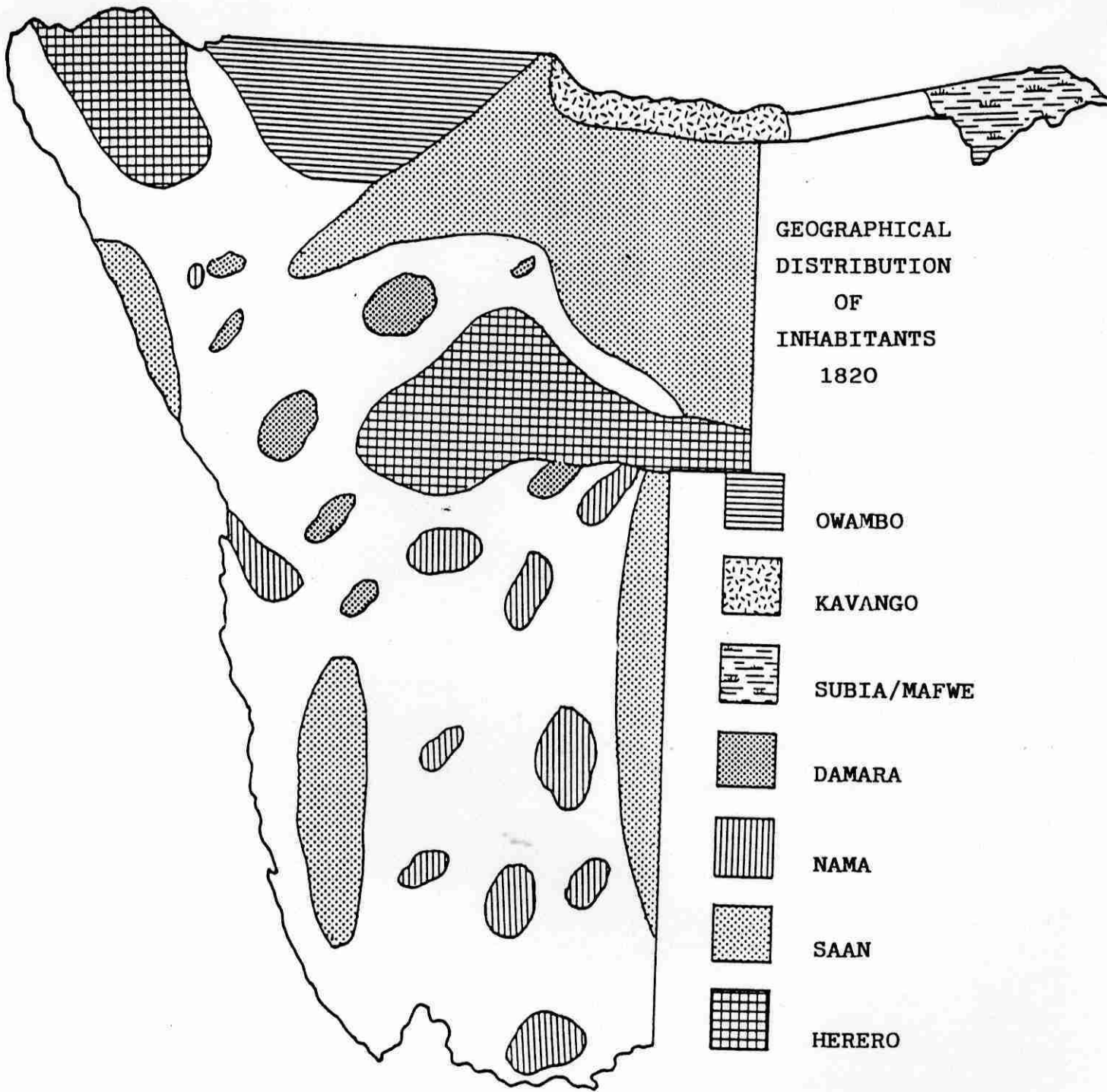
2.1 Map 1 (on page 3) gives a fairly reliable picture of the geographic distribution of the inhabitants round about the year 1820.

2.2. The middle of the 19th century witnessed the presence of about 200 traders so that one can infer that contact had been established with the outside world. (a)

The second half of the previous century was a period of great historical events;

- numerous Nama/Herero wars raged during the period 1840 - 1870 with its inevitable affect on land occupation
- it was during this period that the Basters made their appearance, ultimately to settle during the early 1870's in the Rehoboth Territory

MAP 1



- apart from traders and discoverers, certain companies started buying up land in terms of agreements entered into with local headmen (Annexure "A" is a typical example of this) (b)
- a process of colonization was started by Germany in 1884 which resulted inter alia in certain indigenous groups placing themselves under the protection of the German Government (the Herero as early as 1885).

Although the above historic events do not represent an exhaustive list of all the factors having an influence on the changing map of the country that became known as Deutsch-Südwestafrika, they offer a reliable overview of relevant geo-political developments during the latter half of the previous century.

Up to this point in history there had been no single physical or political entity but a number of scattered settlements and vast stretches of unoccupied land.

Certain geographic areas were occupied by certain indigenous tribes without proclaiming their title over either these territories or the unoccupied territories in their proximity. (c) It was only after the tripartite agreement entered into by the relevant Colonial Powers that a political entity with international boundaries came into existence. With minor adaptations, this colonial arrangement has remained in force up to the present day. Moreover, it formed the geographic basis for defining the borders of the modern independent state of Namibia. This approach (viz not to tamper with international boundaries) was also in compliance with a practice that has been established all over Africa during the post Colonial era.

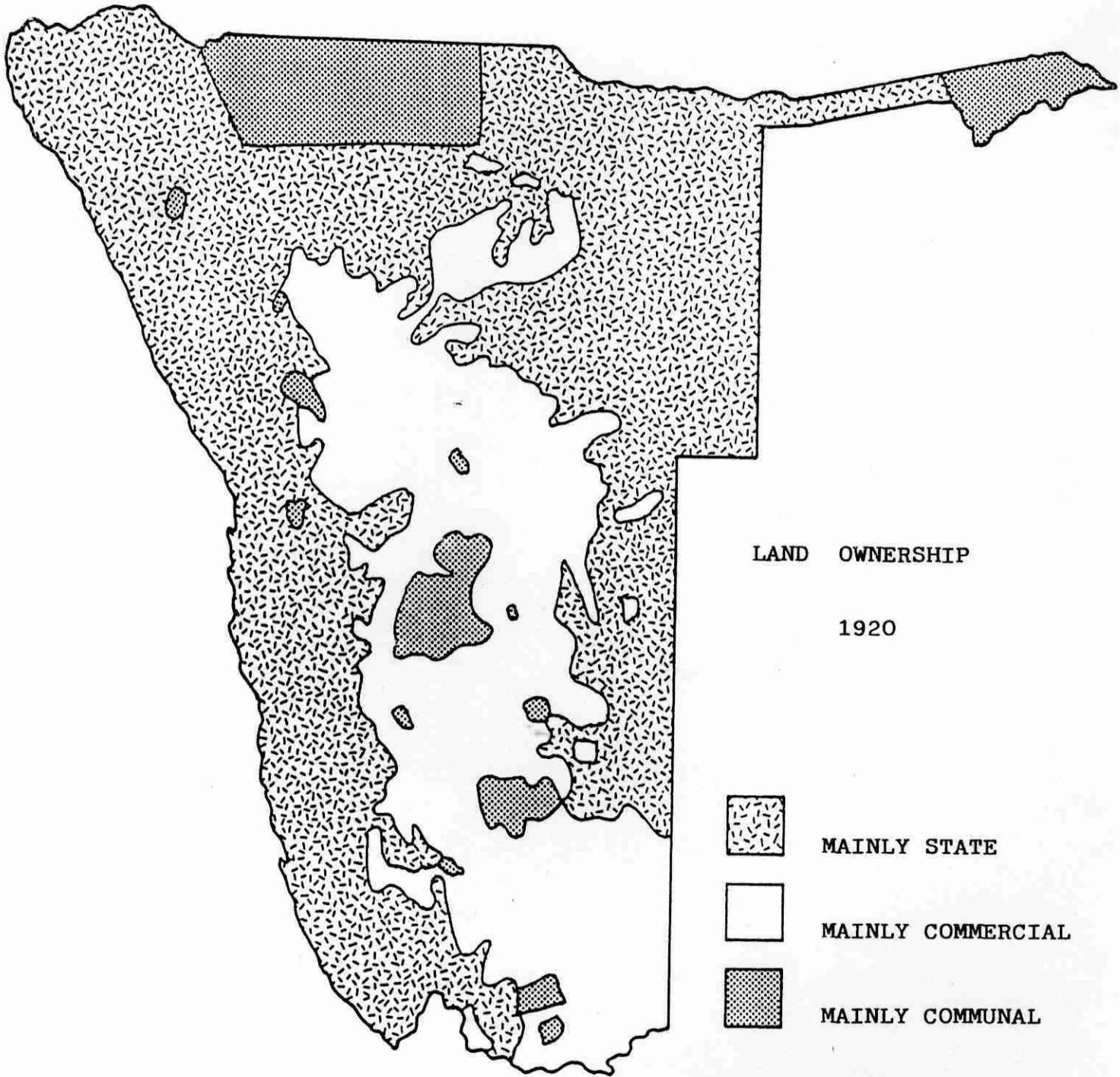
2.3 Map 11 (on page 5) represents the position as it existed in 1920, signalling the beginning of mandatory rule. The period 1900 -1920 witnessed the following significant events;

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(b) The following land sales were reported in 1873 when the Nama chief of Warmbad sold the farm Haruchas to Rittmann and the farm Tsawisis, Holoog and Groendoorn to the trader, Hill.

(c) The Damaras and Bushmen were driven from their abodes (dispossessed) especially during and after the 1829 - 1830 drought when the Herero finally moved southwards from Kaokoland. No boundaries existed or were established. On the contrary! The Nama claims were expressed in the idiom: "Where a hunter's footprint was impressed in the sand, know that to be part of Namaland". The Herero's claims were based on another foundation: "Wherever our cattle have come to graze and to drink, know that to be part of Hereroland". These claims were on a communal basis within "assumed boundaries". It was only in 1876 that boundaries for the Herero were defined in terms of a treaty and a territory was presented by Maherero to the Cape Government. See Annexure "B".

MAP 2



- the German/Herero war (resulting in the expropriation of the Herero's land while the latter fled the country, starting to return after a number of years so that by 1920 large numbers were present again)
- the Bondelswarts Nama uprising in 1903
- a world war terminating the German protectorate
- South African military occupation and subsequent "military" rule between 1915 and 1920
- the allocation of private farms to individual farmers (this process had started already during the last years of the previous century)
- Schutzverträge concluded earlier became institutionalized in the form of so-called reserves
- vacant land was proclaimed as crown lands. (d)

2.4 Map III (on page 7) shows the picture as at 1946 signalling the end of mandatory rule in the sense of the word that the League of Nations (the mandator) was terminated on 18 April 1946 after a new world body (The United Nations Organisation) had come into existence. (e) With the knowledge and implied approval of the Permanent Mandates Commission, an organ of the league, South Africa encouraged farmers to settle in the then South West Africa to enhance the social and economic development of the indigenous people (vide article 2 of mandate). The land that was subdivided into farming units during this period was almost exclusively unoccupied land - in other words Crown Land. A Land and Agricultural Board and a Land Settlement Board were inter alia, created during this period. The result of these actions were that there was a marked increase in the number of farming units during this period.

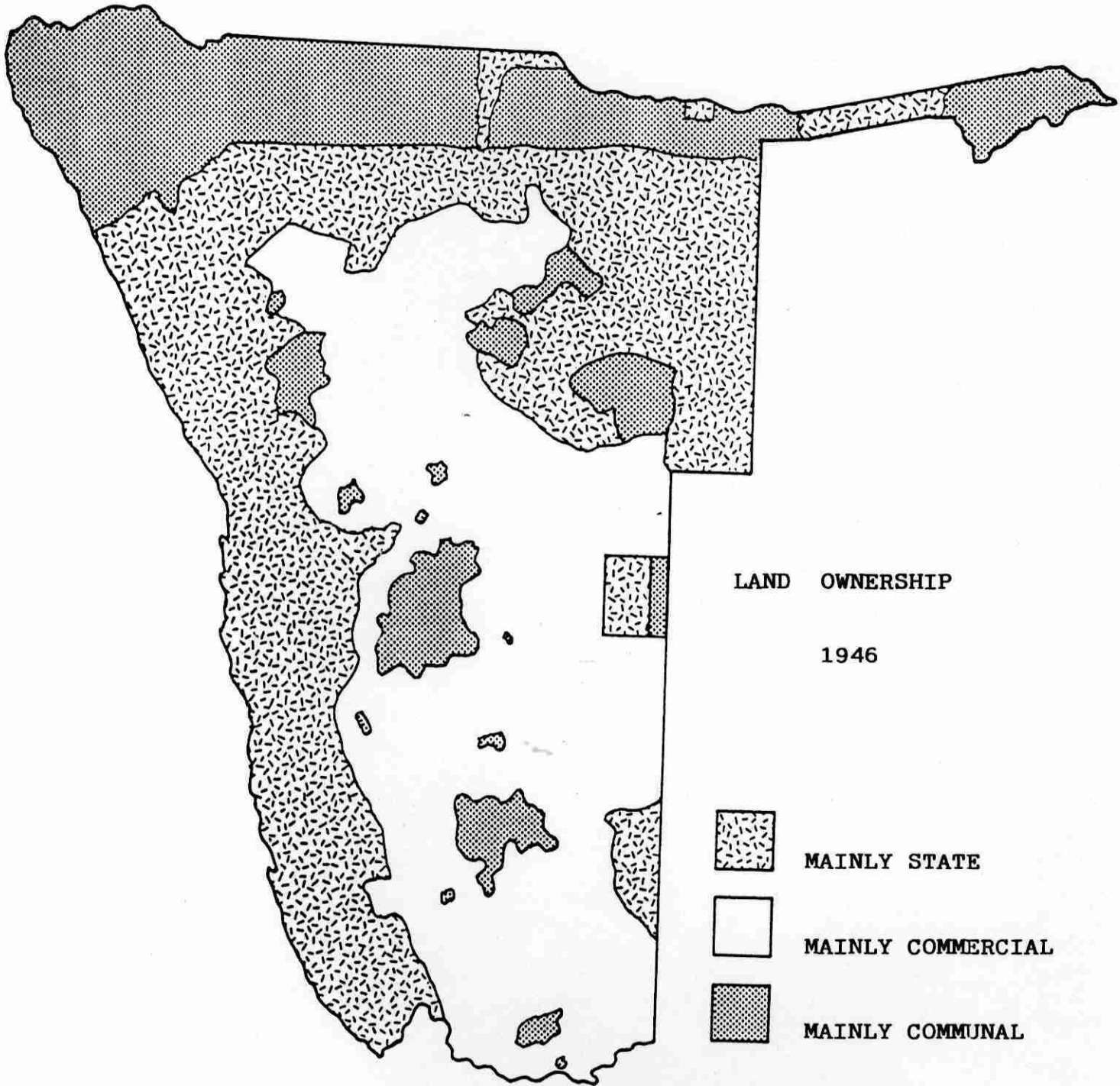
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(d) The schedule to proclamation 13 of 1920 gives a definition of "crown lands", it means: "All unalienated land within the protectorate of South West Africa however acquired which was lately the property of the German Government.....". Vide also: H. Hesse: Die Landfrage und die Frage der Rechtsgültigkeit der Konzessionen in S.W.A.: Die Deutsche Kolonial Gesetzgebung, Part 9 and 11 and H. Bley: S.W.A. under German Rule.

(e) The Peace Treaty of Versailles stipulated that a mandate should be conferred on his Britanic Majesty to be exercised on its behalf by the government of the Union of South Africa....."An annual report was to be made .....indicating the measures taken to carry out the obligations assumed under articles 2,3,4 and 5" (of the mandate).



MAP 3



2.5

1946 - 1990

By 1950 the settlement of persons and communities had, to a large extent, stabilized. Apart from the so-called Odendaal Plan, not very much took place during this period having an influence on the demographic picture in the country. In terms of the Odendaal Plan farming units had been purchased and consolidated with existing reserves. Of course there was "a trek" to the urban areas after the abolition of the pass laws in 1977, but this is not of so much importance for the purpose of the matter under discussion. Despite the fact that S.W.A. was a South African mandated territory, the Group areas Act of South Africa had never been applied in South West Africa. On the contrary, since 1920 everybody was free to buy fixed property wherever he wished outside the reserves and certain urban areas. The last mentioned restriction was also repealed by act 3 of 1979. (The latter, of course, had an effect only on urban residence and is not relevant for the present discussion).

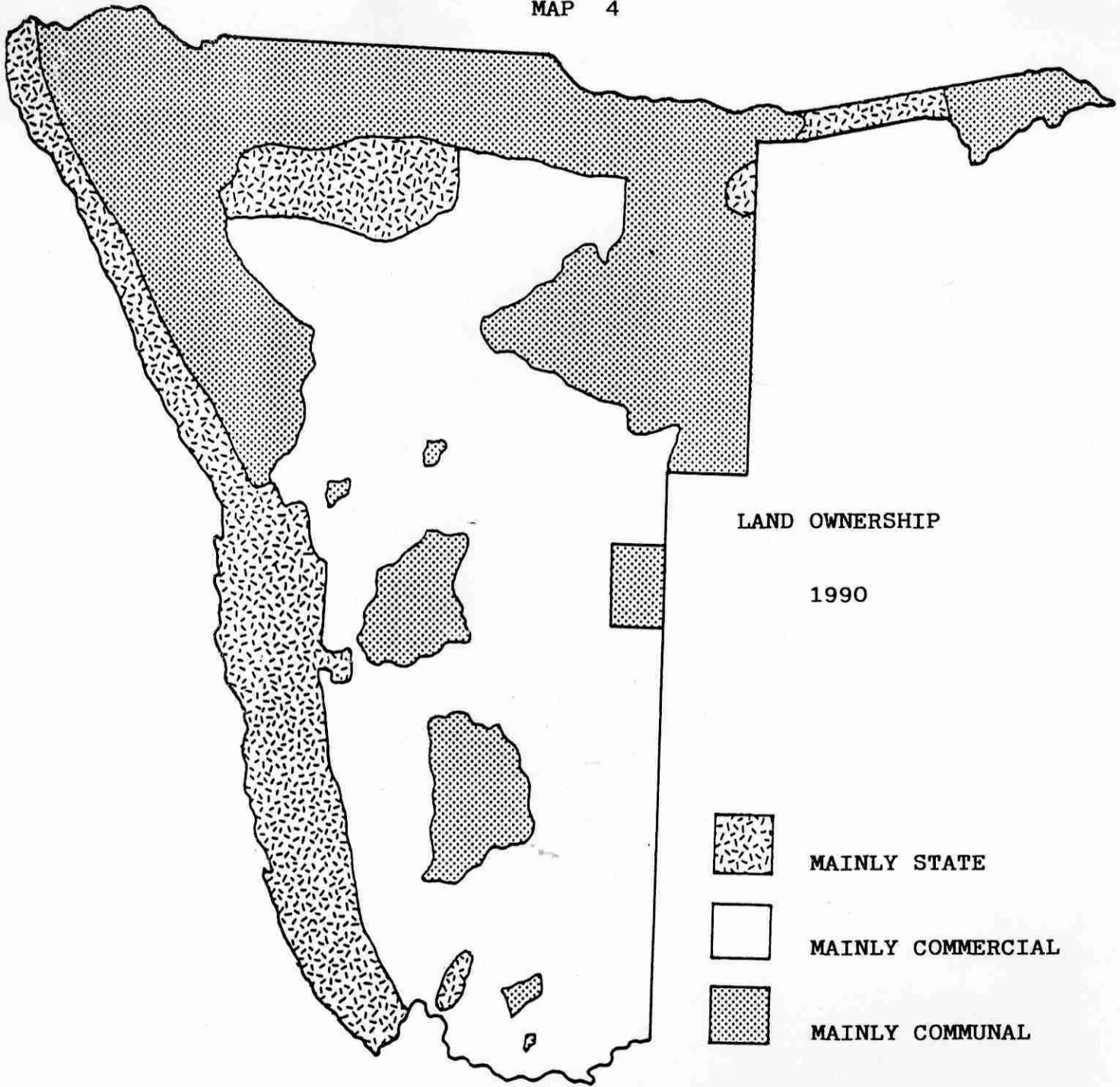
Map IV (on page 9) shows the position as on March 21, 1990.

2.6

Conclusions

What are the conclusions that can be drawn from the historical events over the past two centuries? We submit that the following is a fair summary of the relevant facts:

- (a) A "State" only came into existence during the late 1880's when a German Protectorate, known as Deutsch-Südwestafrika, was proclaimed. From now on there was an identifiable territory with internationally recognized boundaries.
- (b) Up to this stage various parts of the territory were occupied by various tribes comprising an aggregate total number of people which could be accepted to be in the order of 230 000 - 250 000 by the year 1900.
- (c) Even before German Colonial Rule large stretches of land were sold to farming companies in the same way as a piece of land was also sold to the Baster Community.



- (d) Vast areas were unoccupied. These areas were subsequently (during German Rule) proclaimed as Crown Lands.
- (e) Certain areas were reserved for occupation by their original inhabitants only.
- (f) Unoccupied Crown Land was subdivided into reserves and commercial farms.
- (g) Statutory restrictions on the acquisition of Land existed in respect of the so-called reserves and certain urban areas.
- (h) Between 1920 and 1946 S.W.A. was administered by South Africa under the supervision of the League of Nations as a result of which it can be stated that the international community was fully informed about and approved of the actions taken by South Africa in the mandated territory during this period. (f)
- (i) During the period 1920 - 1990 large areas were proclaimed as reserves for the sole use and occupation of its black inhabitants. A survey shows that the total area of land set aside for black inhabitants by 1990 was more than the total area of land occupied by the black inhabitants of 1885.

	Hectares 1885	Hectares 1990
Caprivi	1 153 387	1 153 387
Kavango	3 299 617	4 170 500
Ovambo	4 201 000	5 607 200
Herero	12 326 000	11 834 914
Nama	2 392 137	2 501 581
Damara	485 217	4 432 833
Baster	1 300 000	1 479 429
Saan	-	1 805 000
Tswana	-	155 400
	25 157 358	33 140 244

### 3.0 Rectification

In the light of the foregoing, the question must be put: Is there room or a need for affirmative action in terms of article 23 of the Constitution for the "advancement" of persons "disadvantaged" by "discriminatory laws or practices" and/or to "redress imbalances in the Namibian society" as a result of such "discriminatory laws or practices?".

### 3.1 Caution

It is only human for a newly independent nation to view the non-free past with a measure of emotion. It is only natural that once free, one would be anxious to undo the past, to rectify, to redress, to restore the balance - to settle "outstanding debts". -

This is the one side of the coin! We fully understand and have great sympathy for that.

What is the other side?

Civilized standards and criteria, respect for bona fide vested rights, rational interpretation of and adherence to the Constitution and the law of the land. We submit that there should be similar sympathy for this as well.

In the following sub-paragraphs we shall try to establish a balanced approach to this sensitive and far-reaching matter.

#### 3.1.1. The Disadvantaged: Who are They?

Let us assume that certain parties were disadvantaged. Once we have done that, these parties will have to be identified. Who are/were they? Are/were they individuals or communities? Who is going to prove who was disadvantaged? How is it going to be proved? Against whom is redress going to be taken? In other words: who are the accusers? Who are the accused? Who are the victims?

For 105 years the country had been administered by Germany and South Africa respectively. They were the lawgivers, the policy makers and the administrators. As far as land tenure is concerned, they were the parties who decided which areas were to be reserved for the "sole use and occupation of the natives" and which areas were to be set aside for commercial farming. It was in terms of an economic and political system brought about by S.A. that persons bought farms (e.g.) in a competitive market paying a market price and spending large sums on the improvement thereof.

If S.A. did not act in accordance with the letter or the spirit of the mandate (sacred trust), then they will have to be the accused and not those people who purchased these properties bona fide. Can it be justified in terms of the Constitution that these owners may now be prejudiced to restore a "balance" that was not disturbed by them?

By acting in this manner, a new "imbalance" will be created making victims and scapegoats of people having made a large contribution to the development of the country.

This is only an example of the type of question that may arise.

### 3.1.2 Factual Justification

Everybody was free to buy rural property outside the reserves. No discrimination! But was everybody entitled to cheap loans? No! Discrimination. (g)

The implication of this is that, at least in theory, there were no equal opportunities. Prima facie this gives a picture of imbalance. But again there is another side to this coin: Certain people (non-natives) were not entitled to acquire property in the reserves. Discrimination! Imbalance! The only difference is that the shoe is now on the other foot.

Now we have identified two groups of persons who have been discriminated against in terms of the same "apartheid laws". Who is now going to accuse who? If the one imbalance is to be put straight, then surely the other one must also be addressed!

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(g)

Since 1.9.1979 cheap loans were available to all. Between 1.9.1979 and 31.12.1990 a total of 85 applications were received by Land Bank from applicants other than whites. Of this total number, 61 applications were granted. In other words an average of 5 p.a.

The further one goes with this, the more it assumes the character of an inquisition. A never-ending process of national confrontation instead of national reconciliation will be set in motion by such persecution.

### 3.1.3 Historic Clock

Inherent in an investigation into past "laws and/or practices" causing imbalance or disadvantage, is the restoration of the situation as it revealed itself at a certain historic juncture. Say back to 1920, 1900, 1850 etc.

Claims will arise and fall away as one travels back into history. New tension will be created among communities. One can foresee that people will litigate until deep into the next century.

A choice will have to be made between two options:

- Accept the present situation as given and use it as the departure point for development and optimalization.

or

- Reject the present situation and put history in reverse.

We submit that the alternative option will lead to tension, uncertainty, loss of confidence, confrontation and ultimate chaos.

### 3.1.4 Redistribution of Wealth

Affirmative Action is positive. We submit that the gist thereof is not to take away from somebody but to give to the less advanced.

If the subject of redistribution of wealth is not approached in the correct way the result will be the redistribution of property. We will explain:

If wealth is taken away from A and given to B, the total wealth of the country is going to remain the same. It is even quite possible that it can diminish as a result of the fact that B may not be equipped to manage his new wealth. Redistribution of poverty!

But: If new wealth is created then we are dealing with a completely different kettle of fish, because;

- nothing is taken away from anybody
- the total wealth is increased
- there is no danger of spreading poverty
- the generators of the new wealth will be trained and equipped to maintain and develop their wealth
- people will realise that they will have to work for their prosperity and that they are not entitled to handouts.

### 3.2 Conclusion

In the premises our conclusion is that there is no room or need for affirmative action and that government intervention in the settlement patterns as they developed over the years will not serve the national interest. At the same time we are equally convinced that the status quo can not be maintained as will become clearer as we proceed with our argument.

The wiser approach would be to take the present situation as departure point and to allow matters to develop spontaneously in accordance with people's fundamental rights to settle where they wish. The task of the government of the day is to ensure this possibility by eliminating any possible obstacles and to make positive contributions to stimulate growth and economic development. (See our proposals).

### 4.0 The Present Scenario

In the following paragraphs we shall attempt to give an analyses of the situation pertaining to agricultural land in Namibia at the present juncture.

#### The Dual Farming System

In broad terms it can be said that the rural community can be divided into two main sectors: The subsistence farmers and the commercial farmers. At the present juncture the two components represent themselves in terms of land as follows:

- |                      |                 |
|----------------------|-----------------|
| - Commercial sector: | 35 000 000 ha * |
| - Communal sector:   | 33 000 000 ha*  |

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\* These are round figures. For exact figures see Annexure "C". The 35 m ha does not include commercial land belonging to the Government, local authorities and churches.



4.1 Commercial Farming

4.1.1 A few statistics may be revealing:

-	Number of Farms	:	6 292
-	Number of Farmers	:	4 064
-	Number of persons living from these farms	:	280 000 - 310 000
-	Extent of area	:	36 164 880
-	Gross Domestic Product (GDP)	:	10-12%
-	Estimated Contribution to Treasury	:	R16 Million on a taxable amount of R62 M (1989)
-	Estimated Production value*	:	R680 000 000

4.1.2 Productive Use

But what is productive use?

That the national interest dictates the productive use of agricultural land is an axiom that requires no proof or explanation.

Our submission is that there is only one formula that meets all the requirements for the proper use of agricultural land and that is optimal utilization and optimal conservation.

The number of people is ever increasing, but the available land remains the same. The Constitution provides, quite rightly, that any person is entitled to acquire property. But all persons cannot be farmers - for obvious reasons.

It is therefor necessary that a criterion should be found for the effective use of agricultural land in order to distinguish between farmers and non-farmers. With a growing population, one cannot afford to make mistakes with regard to one's most precious natural resource. We can no longer afford either under-utilization or over-utilization - irrespective of whether it concerns commercial or communal land. Although we will discuss this matter more fully in another context (see paragraph 5.0), it will be necessary, in this particular connection, to make a few relevant remarks.

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\* Calculated on LSU

First and foremost: It is crucial to distinguish between maximal and optimal utilization. There are too many shocking examples of maximal use in our country. One has merely to think of one direct result of this practice, viz bush encroachment in certain commercial areas, and over-utilization in certain communal areas, to be convinced that maximal use is tantamount to a criminal act and should be halted with the greatest possible speed.

The founding fathers of our Constitution realized their duty in this regard by providing in art 95 (1) for the "maintenance of ecosystems.....".

There are commercial farms where the above criterion is not observed; in other words those farms are either being under-utilized or over-utilized. Our conviction is that such a practice can neither be afforded nor be tolerated and we shall, therefore, make appropriate proposals in this regard.

Optimal use and optimal conservation is a two-edged sword: Optimal utilization is only possible under conditions of optimal conservation and vice versa.

#### 4.1.3 Benefits received from State

One most basic observation should, however, be made in this context and that is : People outside agriculture tend to loose sight of the fact that;

- on the production side, farmers are subject to erratic climatic conditions for 365 days of the year, something which is completely outside their control
- on the marketing side, our Namibian farmers are dependent on foreign markets which are completely outside their control, leaving them with no bargaining power whatsoever
- on the agricultural input side, (wages, animal licks, fuel, machinery, fencing material, etc) prices are forever escalating being equally completely beyond the control of the farmer

- commercial farmers are aided all over the world by their respective governments.  
(See paragraph 5.7 below and footnote (h) ).

#### 4.1.4 Conclusions

- (a) A large contribution is made by the commercial farming sector to the provision of employment and a livelihood for more than 20% of the total population.
- (b) A substantial contribution is made to the Gross National Income. Should this fall away or be reduced it can result in a national catastrophe.
- (c) To instill confidence in the farming industry, to earn essential foreign currency, to relieve the farmers lack of bargaining power, to alleviate the effect of erratic climatic conditions and to build a happy, prosperous and stable rural community, the principle of government assistance to the farming industry should be reaffirmed and maintained.

#### 4.2 Subsistence Farming

##### 4.2.1 The following relevant facts are revealing:

- Extent of area concerned : 33 140 244 hectares
- Number of occupants : 850 000
- Gross Domestic Product :  $\pm$  2%
- Estimated Contribution to treasury : R315 000 on a taxable amount of R1,3 M
- Estimated Production value of land\* : R840 000 000

##### 4.2.2 Productive Use

The communal system is a system in terms of which a piece of land belongs collectively to a group of persons. The property rights are being disposed of by the traditional leaders on behalf of the tribe.

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\* Calculated on LSU (The production value should be much higher if calculated in agronomy produce).

Subsistence economy is a system in terms of which production is limited to providing in personal needs.

Inherent in the communal-cum-subsistence farming system as practised in our country, is;

- compulsive and eternal poverty
- over-utilization of natural resources
- under-utilization (and no utilization)
- destruction of the ecology
- unemployment
- non-development of the human being.
- desertification.

Although the above is not an exhaustive list of the negative characteristics of the system it nevertheless represents a fair summary. This is not the occasion to discuss the full implications of this system for the future of our country. Suffice to say: As long as the system is being practised in its present form, it will be impossible to develop a democracy and a modern market orientated economy - two conditions that the international community insist should be met.

On the other hand: To abolish a system overnight which has embedded itself over centuries in the lives and the culture of a community, is to play with fire. We can not recommend such a step. But at the same time it must be realized that the system in its present form can not be continued with.

This poses a dilemma.

We submit however, that there is a way out: Up-grade and modernize the system.

A land upgrading scheme will succeed if it includes the following essential elements;

- provision of economic farming units
- provision of the necessary capital for the development of the land
- selection and training of farming entrepreneurs
- extension services
- fulfilment of land conservation requirements
- marketing of produce
- availability of farming necessities.

Since we do not consider this occasion as the appropriate opportunity to submit detailed schemes in terms of which communal land and subsistence farmers can be converted into modern settlements and prosperous entrepreneurs, we are not going to make any proposals in this direction. We would, however, be anxious to make our contributions should the opportunity arise.

#### 4.2.3 Conclusions

From the above the following clear conclusions can be drawn:

- (a) Certain areas are over-populated and over-utilized.
- (b) Large areas are not utilized or populated at all.
- (c) Upgrading of traditional farming practices is an urgent necessity.
- (d) An upgrading strategy should include the essential elements referred to in par. 4.2.2.
- (e) A large contribution can be made in this way to alleviate the problem of unemployment and poverty and to develop in the direction of self provision in respect of food supply (see also par. 5.2 and 5.3).

#### 5.0 Criterion

As indicated in paragraph 4.1.2 above it would be essential to determine what an acceptable criterion for the productive use of agricultural land can be. In that paragraph we came to the prima facie conclusion that there can be only one responsible and realistic approach to the use of agricultural land, and that is optimal utilization and optimal conservation. We shall now discuss in more detail the application of such a test (criterion) for the use of agricultural land.

#### 5.1 Precious Asset

Agricultural land is one of our most precious resources and a misuse of this asset can no longer be tolerated - be it commercial or communal land. As we tried to indicate there is misuse (abuse?) in both fields. It is inconceivable and indefensible that a person can be allowed to qualify as a farmer merely on the strength of his race, tribe, colour or language.

5.2 Food supply

It is the primary duty of every country in the world to attempt to be self-providing as far as food supply is concerned. We feel convinced that apart from exotic foods, Namibia has the potential of providing it's own people with food and to export, provided proper use of agricultural land is made.

5.3 Employment

Commercial farming in this country has proved that the farming industry is the largest employer (4 000 farmers providing a livelihood to 300 000 people). It stands to reason, therefore, that if the agricultural potential can be expanded to its full capacity, it can mean the end of our unemployment problems. If the grazing reclaim scheme in terms of which bush encroachment is combated, is revived, large employment opportunities can be created.

It will be difficult to find a more practical and striking example of optimal use/optimal conservation.

5.4 Soil Conservation

This matter has already been referred to in par. 4.1.2 quoting Art. 95 of the Constitution. The cardinal importance of this aspect in the context of agricultural land use cannot be exaggerated - irrespective of whether we are talking of communal or commercial land. The application of soil conservation measures can no longer be postponed - otherwise we are heading for disaster. It is difficult to perceive the application of the optimal-rule if a strict policy of soil conservation is not observed.

5.5 Economic Units

Economic units is the basis of a sound and healthy agricultural policy and the creation of wealth. It is a sine qua non for optimal utilization and conservation. Inherent in the principle of economic units is the fact that a natural limit is placed on the quantity of land (number of farms) that can be properly managed in accordance with the criterion of optimal use/optimal conservation.

5.6 Training and Extension Services

Nobody is permitted to drive a motor vehicle unless he is qualified to do so and has satisfied the official concerned of his qualifications, who will then certify that the particular person is qualified to operate a motor vehicle or even a motor cycle. But when it comes to our most precious possession, we allow any person to experiment with and destroy our soil. Incredible! Training and extension services are prerequisites for the establishment of a generation of farmers farming according to the principle of optimal use/conservation.

5.7 Supportive Measures

As we pointed out in par. 4.1.3 it is necessary to support the farming industry to alleviate the tax of the built-in disadvantages inherent in the industry. This fact is duly appreciated in E.C.-countries and North America where farmers are supported heavily by their respective governments. (h)

5.8 Conclusion

We submit that one indisputable conclusion can be drawn from the above, and that is that there can be only one objective criterion viz optimal utilization and optimal conservation of agricultural land.

No government worth it's salt, will allow this principle to be clouded by unrealistic aspirations or nostalgic and idyllic emotions of a rustic existence.

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(h) **Tabel 1**  
**Persentasie produsentesubsidies in die VSA en EG op 'n vergelykbare basis vir 1988:**

<u>Produk</u>	<u>EG</u>	<u>VSA</u>
Growwe graan (mielies en sorghum)	35	38
Sojabone	50	19
Koring	36	37
Suiker	71	57
Melk	66	59
Beesvleis	59	35
Varkvleis	7	8
Skaapvleis	66	12
Hoendervleis	27	12
Eiers	11	13
Wol	-	42

Bron: Agricultural and Research Quarterly 1990, Australian Bureau of Agricultural and Resource Economics. (Vide Landbouweekblad of 25.1.91 on page 14).

6.0

Discussion

Before making our proposals, a brief discussion of the importance of the conclusions that we have arrived at, can be useful.

In paragraphs 2 and 3 above we came to the conclusion that to start a heresy hunt because a person or a group feels that history has not dealt him a fair deal, will be to unleash a process that will lead to conflict and confrontation and will reverse agricultural development.

In subsequent paragraphs we concluded that the more prudent and pragmatic approach would be to accept the present set-up as a given fact and to use that as one's departure point. We now wish to pursue this point a bit further.

I think we can make bold to say that the land is there for the people and not the people for the land. But in order to achieve a state where the land can be put to the most effective use for the people, we will have to forget about the people for a while and take a closer look at what we have at our disposal in terms of land.

And this, we think, is crucial. We must realise where we are situated. Our country is not in a high rainfall area. Large stretches are either desert or arid or semi-arid areas. Therefore it is imperative that the most effective use is made of what nature has given us, and to remember that we cannot afford to be prodigal with our national assets. When the world population was only a few hundred million and great parts of our planet were uninhabited, it could be afforded that every person could be permitted to be an agriculturalist. This was during the dark ages when there were no alternatives - in any event. But with a global population of more than 5 000 million it can no longer be afforded to approach the land question on the premises that everybody is entitled to a farm holding. This is simply not true!

What is the potential of our land in terms of agricultural production? This, we submit, is the first question that must be asked. The second question is; how can we make optimal use of our agricultural potential for the common good of all the inhabitants?



If we approach the answer to this question clinically, objectively and without emotion, one can only come to the conclusions to which we have come above. We are at the cross roads. History is pressing us to make a choice between productivity and poverty.

If we take this approach one logical step further, we find that the primary and urgent national need is not for "the re-distribution of land", but for the further development of our commercial and communal lands. Let us be thankful for the level of development that has already been achieved, in the national interest in terms of commercial farming. Let us apply this as an incentive for optimalization and development, thereby making positive use of past achievements. On the other hand; we can also make negative use of the same achievements by turning our realms of achievement into a Naboth's vineyard.

It would be wrong to say that the commercial farming sector has reached a state of perfection. There is ample room for improvement.

Similarly it would be wrong to say that we have inherited the traditional subsistence/communal farming system, that it will cause dissatisfaction if it is abolished and therefore must be left as it is. As we pointed out earlier, there is a way, namely to upgrade the system and to guide it in the direction of commercial farming.

We have put aside the people for a while. Let us now bring them back on the stage.

If our doctrine is that the land is there for the people (and not vice versa), then our doctrine should also be that this does not empower a person or a group or a government to destroy the land by the application of malpractices. Therefore certain criteria should be applicable and strictly enforced (vide par. 5).

If these criteria are applied, Namibia will be en route to a destination of optimal utilization and optimal conservation of all it's agricultural land in the interest of all it's people. Then the land will bear it's fruit hundred fold, as the Bible says. Then the land will carry it's people - in particular the farmers and their workers. Then, and only then, will we be able to solve our unemployment problem.

Against this background we can now proceed to formulating our proposals.

7.0 Proposals

7.1 That

- the present dual system of land tenure
- the prevailing distribution of persons and communities and
- the rights vested in terms of past legitimate systems

be recognized and protected and that this situation be accepted as the departure point.

7.2 The Commercial System

7.2.1 That the criterion (vide par. 5) and the various points raised thereunder be accepted as the supreme agricultural goal.

7.2.2 That the principle that borrowing facilities will be made available for developmental purposes be accepted with specific reference to;

- cultivated grazing
- bush encroachment
- provision of water and camps
- capital loans for the acquisition of a first economic holding.

7.2.3 That the Government will accept and fulfil it's responsibility in respect of;

- the necessary progressive legislation
- the provision of funds where necessary
- assistance in regard to marketing where necessary
- extension services
- research
- training.

7.2.4 That ad hoc qualified land inspectors be appointed and that all commercial farms be inspected for the purpose of determining whether the criterion of optimal utilization/optimal conservation is duly observed and applied, bearing in mind the principle of economic units as set out in par. 5.5.

- 7.2.5 That all farms where the said criterion is not complied with, be listed.
- 7.2.6 That all non-compliants be put on terms by giving them a specific reasonable time in which to remedy the defects whilst ensuring that all reasonable aid required for upgrading their farming enterprises be put at their disposal where necessary.
- 7.2.7 That, if a person has not complied with the requirements of the criterion after the lapse of a reasonable time, provided the necessary assistance had been available to him, his property will be subject to expropriation in the public interest and in accordance with the Constitution.
- 7.2.8 That the principle of selfsufficiency be accepted as a national goal and that a panel of experts be appointed to work out a strategy in terms of which such a goal can be achieved.
- 7.3 The Communal/Subsistence System
- 7.3.1 That the communal system be guided in the direction of private ownership.
- 7.3.2 That an immediate start be made with the upgrading of the communal system with a strict application of the criterion and all the relevant principles set out in par. 5, in particular the implementation of said conservation practices.
- 7.3.3 That the Government accept and fulfil it's responsibility with regard to;
- legislation
  - financial aid
  - extension services
  - marketing of products.
- 7.3.4 That a utility company be formed representing i.a. community leaders and experts; the said company to act as the government agent assuming comprehensive responsibility for carrying out the decisions and policies in regard to the development of land and people.
- 7.3.5 That the proposals made in respect of the commercial sector apply mutatis mutandis to the communal and subsistence farming system.

(1)

Durch Vertrag vom 3. April 1885 haben die Begründer der Deutschen Kolonial-Gesellschaft für Südwest-Afrika von Herrn F. A. E. Lüderitz in Bremen die sämtlichen Ländereien und Grundrechte angekauft, welche diese Firma bereits erworben hatte oder durch die damals ausgesendeten und noch in Tätigkeit befindlichen Expeditionen zu erwerben im Begriffe stand. In die durch den Vertrag vom 4. April 1885 begründeten Rechte und Pflichten der Käufer ist die Kolonial-Gesellschaft laut Übereinkunft vom 10. Oktober 1885 eingetreten.

Die Verträge, durch welche Herr F. A. E. Lüderitz bezw. die Kolonial-Gesellschaft Landbesitz und sonstige Rechte von den eingeborenen Häuptlingen erworben haben, sind im einzelnen folgende:

## I.

## Verträge mit dem Kapitän Josef Fredricks von Bethanien.

1. Durch Vertrag am 1. Mai 1883 verkauft Josef Fredricks an die Firma F. A. E. Lüderitz in Bremen die Bucht von Angra Pequena und das angrenzende Land in der Ausdehnung von 5 Meilen für den Betrag von 100 Pfund Sterling und 200 Gewehre.

2. Unter dem 25. August 1883 wird unter denselben Parteien ein weiterer Vertrag abgeschlossen, wodurch Kapitän Fredricks die Küste von der Mündung des Orangefflusses ab bis zum 26. Grad südlicher Breite mit Inbegriff aller Häfen und Buchten (wozu die Bucht von Angra Pequena gehört) und das angrenzende Land bis zu 20 geographischen Meilen landeinwärts gegen 60 Gewehre und 500 Pfund Sterling verkauft.

3. Die vorstehend erwähnten beiden Verträge haben eine Anerkennung gefunden in den folgenden Artikeln 4 und 5 des zwischen Generalkonsul Dr. Nachtigal, im Namen des Deutschen Reichs und dem Kapitän Fredricks von Bethanien unter dem 28. Oktober 1884 abgeschlossenen Schutz- und Freundschaftsvertrags.

## Artikel 4 dieses Vertrages lautet:

„Der Kapitän hat durch Kaufverträge vom 1. Mai und 25. August 1883 das zwischen dem 26. Grad südlicher Breite und dem Orangeffluss gelegene und sich 20 Meilen landeinwärts erstreckende Küstengebiet seines Landes dem deutschen Reichsangehörigen F. A. E. Lüderitz in Bremen mit allen daran haftenden Rechten abgetreten.“

(2)

## Artikel 5:

„Seine Majestät der Deutsche Kaiser anerkennt diese Landesabtretung, unterstellt das betreffende Gebiet dem Schutz des deutschen Reiches und übernimmt die Oberhoheit über dasselbe.“

4. Durch Artikel 6 des unter 3 erwähnten Schutz- und Freundschaftsvertrages hat ferner der Kapitän J. Fredricks „ein für alle Mal für den Kapitän Josef Fredricks und dem Herrn F. A. E. Lüderitz bezw. einer von diesem zu bildenden Gesellschaft“ das ausschliessliche Recht übertragen, Wege, Eisenbahnen und Telegraphen zu bauen und zu verwalten, Minen zu graben und auszubeuten, und überhaupt alle öffentlichen Arbeiten auszuführen gegen die jährliche Entrichtung einer Summe von 60 Pfund Sterling. In Artikel 7 übernimmt Seine Majestät der Deutsche Kaiser die Überwachung und den Schutz des zwischen dem Kapitän und dem deutschen Reichsangehörigen F. A. E. Lüderitz bezw. einer von diesem gebildeten Gesellschaft sich aus dem Artikel 6 ergebenden Verhältnisses. Wenn Meinungsverschiedenheiten oder Streitigkeiten zwischen dem Kapitän Josef Fredricks und dem Herrn F. A. E. Lüderitz, bezw. einer von diesem gebildeten Gesellschaft über die beiderseitigen, aus dem im Artikel 6 entwickelten Verhältnisse sich ergebenden Rechte und Pflichten eintreten sollten, so soll, nach Artikel 8 des gedachten Schutz- und Freundschaftsvertrages, die Entscheidung der Kaiserlich deutschen Regierung zusehen.

5. Durch eine Erklärung vom 26. November 1883 hat der Kapitän Josef Fredricks dem Herrn F. A. E. Lüderitz gegenüber anerkannt, dass das von ihm an F. A. E. Lüderitz verkaufte Küstengebiet sich 20 geographische Meilen landeinwärts erstreckt. Später hat jedoch der Kapitän behauptet, das von ihm verkaufte Land erstrecke sich nur 20 englische Meilen landeinwärts.

Über diesen Streitpunkt ist eine endgültige Entscheidung noch nicht getroffen. Es handelt sich dabei hauptsächlich um den durch Wasser und Weidegebiet wichtigen Platz Aus, der ungefähr 112 km oder 15 geographische Meilen von der Meeresküste bei Lüderitzbucht (Angra Pequena) entfernt ist. In einem Briefe an den Vorstand der Kolonialgesellschaft vom 29. April 1886 hat Herr F. A. E. Lüderitz angegeben, dass er in Aus und Kubub Vieh halten könne und er habe s. Zt. von Josef Fredricks die Berechtigung erhalten, sein Vieh zu halten und seine Hirten wohnen zu lassen, wo er Gras und Wasser finde.

Der Kaiserliche Kommissar für das südwestafrikanische Schutzgebiet, welcher auf Antrag der Gesellschaft mit der Feststellung der Grenzen des der Gesellschaft gehörigen Gebietes beauftragt ist, hat den Vorschlag gemacht, vor definitiver Entscheidung noch verschiedene Zeugen zu vernehmen. Eine solche Vernehmung hat noch nicht stattgefunden.