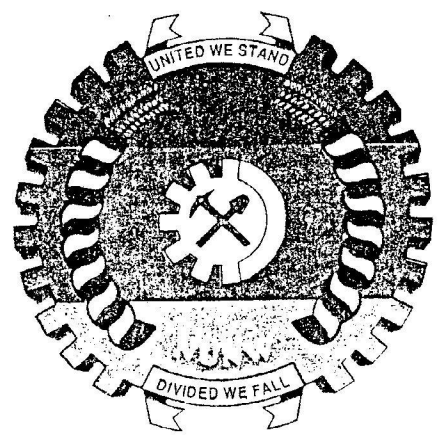


NATIONAL UNION OF NAMIBIAN WORKERS

POSITION ON LAND AND LABOUR

1991



THIS DOCUMENT IS BASED ON THE PROPOSALS AND DISCUSSIONS
BY WORKERS ATTENDING
THE NINE CONSULTATIVE CONFERENCE ON LAND REFORM,
18 MAY 1991 - 19 MAY 1991.

1 INTRODUCTION:

1.1 OUTLINING THE PROBLEM:

The present land ownership patterns and relations have been a necessary condition that ensured that the white minority became the economic social and political beneficiaries of land and the production off it. Historically, the land in Namibia has been the primary cause of social injustice and the exploitation and domination of the working class. The majority of workers will only be able to benefit from this national resource, if a democratic transformation of land relations is effected. The importance of having transformation enacted through a participatory process as opposed to the imposed process of a colonial power cannot be overemphasised and must be achieved by involving all Namibians through a process of empowerment through social groupings.

The anti-colonial struggle had as its basic premise, the return of the land to the Namibian people. Namibian workers have severely been discriminated against by the colonial policies of Apartheid in the terms of their rights as workers and as such

* Namibians had no access to the land and land credit facilities.

The inequalities in the ownership of land are considerable.

* There are roughly 4 000 commercial farmers in Namibia who make up less than 1% of the total population,

* they, however, own 45% of the total land area.

* They also own 75% of all the land which is suitable for farming.

* On top of this the Landbank have been giving vast amounts of capital to these white farmers in the form of subsidies, soft loans and other forms of financial assistance.

* Even, unproductive farms were heavily subsidised to maintain white farmers on them, with the sole purpose of making them unavailable to black farmers.

Black farmers, in contrast, were forced into ever shrinking reserves which in itself were overcrowded and of little agricultural value for subsistence farmers. The sole purpose of these rural farms were to keep reservoirs of cheap labour, to assist the labour needs of the commercial farms and cities.

1.1.1 THE AIM:

The Trade Union Movement feels strongly that while the Land Policies of the Apartheid regime, formed the very basis of the oppression and racial discrimination characterising South Africa's policies - the issue of Land Reform is a burning issue which should be one of the first priorities to be addressed in terms of Affirmative Action. The aim of the Colonial Land Policies was not only to rob black people of their wealth, but more important-

ly to ensure that they had no access to any means of making a dignified living other than selling themselves as cheap labour slaves. Unemployment is the basis of industrial exploitation.

Any discussion on the land question and attempts to formulate a land reform policy should be located within the historical context of land theft and the blatant dispossession of the indigenous people off their land by foreigners. It should bear in mind the worst impact of such colonial land dispossession policies on the majority of the Namibian people. It should look at appropriate affirmative action and measures that are historically necessitated in order to ensure that the people's political rights to land, and their right to live and work on the land are guaranteed.

1.1.2 THE SOLUTION:

Namibia is currently experiencing a very high unemployment rate. The Trade Union Movement remains convinced that the settlement of the land question will positively influence the innumerable problems that the workers are currently experiencing, by removing the fundamentals of the Apartheid Regime. The remedy to this problem is to distribute the land in such a way to make land accessible to the people and in particular to workers that are currently unemployed and to protect those currently employed on commercial farms. A more favourable balance needs to be established between the allocation of Land, Knowledge and Aid to im-

improve the lot of our own people on the one hand and for encouraging foreign exchange on the other. One calls for better local markets and improved nutrition and quality of life for all Namibians, while the other calls for an export quality that will meet world wide competition.

Land is a common resource, which should be allocated and used to the benefit of the Namibian people according to a system which is just and equitable. It is clear the land allocation and use in Namibia is neither just nor equitable; but that these criteria are the ones that should be used to evaluate possible alternative to the present system.

There are two basic aspects that need to be addressed in connection with the land issue:

- * The first is the question of ownership, and
- * the second the question of redistribution of land.

1.1.3 OWNERSHIP:

In Namibia the Constitution makes provision for different types of ownership: public, private, joint public-private, co-operative, co-ownership and small-scale family. Presently there are three predominant types of ownership, the so-called private ownership, public ownership and the communal ownership. Neither of these present systems can be considered either just or equitable. There is a need to reevaluate the definition of ownership

to ensure that the systems of ownership meets the needs of the Namibian people (both the present and the future generations) in an Independent Namibia. It is clear that production on the private land holdings is geared towards the export market while communal land plays a role in the survival of the rural poor and the supply of the local market. The imbalance between these two aspects are clear, and Namibia has often been labelled as the country "that produces what it does not consume, and consumes what it does not produce". To address this problem it is obvious that a shift in balance towards local self sufficiency is important. This would mean improved nutrition and quality of life for all Namibians, rather than further development of an export quality to satisfy the export market.

1.1.4 COMMUNAL LANDS:

Even though the Trade Union Movement is sensitive to the role that communal land played in the exploitation of our people, it is conscious of the fact that any future policy will have to grow from and develop out of the present situation. It is felt that if communal, or public lands were properly developed it could be used to address some of the social problems faced by Namibians in this early stage of our Independence. To workers communal land represent a minimum social security net which, even though it is hopelessly inadequate, will cause even worse suffering if removed. Under the Apartheid Regime, Black people were denied proper access to pensions and other forms of social security. It is in this light that communal lands should be restructured and developed, until such time as the funds are available to provide

more conventional means of social security, for all Namibians. To the Labour Movement agricultural reform implies that more emphasis in balance between the allocation of land, knowledge and aid is placed on improving the lot of our own people in terms of nutrition and quality of life for all Namibians, rather than towards meeting the needs of the export market.

The labour movement envisages an initial phase in which two types of land allocation will be maintained - the Commercial farm land geared towards commercial agriculture and the Public Lands (Presently Communal and State owned lands) which is developed to ensure the survival and improved quality of life for the rural poor. On the Public Lands individual land holdings should be purely for subsistence purposes and the production of limited excesses for the improvement of the quality of life.

If it is developed in this way communal lands would contribute towards the social reconstruction of our people, decrease unemployment and crime and also erode the power of Industrialists to exploit our people. It will imply a better use of resources, increase the physical production off the land and ensure that production is orientated to the needs of the country, rather than solely for the export market. Given the right technologies and access to markets: small holders produce just as much and usually more than large commercial farms that leave vast tracts of land unproductive. Communal lands should be valued in social progress, a better and healthier life for the people, rather than the foreign exchange it may generate.

1.1.5 AFFIRMATIVE ACTION:

As far as commercial land is concerned, present allocation and use has the clear print of apartheid embedded in the system. Once a system has become distorted to such an extent, it is clear that it will not suffice to remove discriminatory legislation and practices. Some forms of positive and active affirmative action will be required to address the inequalities of land ownership in this area.

1.1.6 CONCLUSION:

Although this report deals in detail with how the Trade Union Movement sees the issue of land to be resolved, it should be kept in mind that whatever the Conference decides it should result in the workers of Namibia being given greater and fair access to land.

The basic claim of the workers can be summed up in the words: "We want Land". Without the resolution of the present land problem, so as to redress the racial and social inequalities that exist in ownership access to land in Namibia, the struggle of the Namibian workers for liberation will be incomplete.

2 LEGAL BACKGROUND:

The following articles of the Constitution deals with Land Issues:

2.1 Article 16(1), which states: "All persons shall have the right in any part of Namibia to acquire, own and dispose of all forms of immovable and movable property individually or in association with others and to bequeath their property to their heirs or legatees: provided that Parliament may by legislation prohibit or regulate as it deems expedient the right to acquire property by persons who are not Namibian citizens."

2.2 Article 16(2), which states: "The State or a competent body or organ authorized by law expropriate property in the public interest subject to the payment of just compensation, in accordance with requirements and procedures to be determined by Act of Parliament."

Compensation remains a very difficult issue to comprehend, the land was forcefully taken from the indigenous people and they fought to return the land to the original landowners.

What just compensation constitutes remains a question unanswered. Despite the terms of this section we can only give our views without subscribing to the principle of paying compensation for land unlawfully taken. Workers feel bitter that land that was once occupied by the Namibian people and seized violently from them, cannot be expropriated without

full compensation. This does not make sense morally, politically and economically. In our view compensation should only be paid on the infrastructure and development of the farm (in other words only for construction brought on the farm). The land should not be an object of sale. Since the Namibian people are already the owners of the Land, as such. There are many other Namibians who could also demand to be compensated and their original position restored to them. Land taxes should be introduced on the potential of the land, which should progressively increase with the size of the landholding, to discourage individuals or companies to hang on to large tracts of land that is not in productive use. The income generated by these taxes should be used to obtain further land for redistribution and to develop land. Without this the current market prices for land are so tremendously high and that it would be difficult for the government to get money to buy sufficient land for redistribution.

2.3 Article 23 on Affirmative Action has the objective to redress past colonial and discriminatory practices. The unequal distribution of wealth and land in Namibia is a direct consequence of such practices, thus the Government constitutionally cannot be stopped by anything in article 10 of the Constitution to redress this abnormal situation of land distribution in Namibia. The demand of the Union that land be made available to those in need of land.

2.4 Article 95(1) on natural resources, which dictates policies for the "maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilisation of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future: ...": which recognises the responsibility to protect common resources - including land - for the benefit of both present and future generations.

2.6 Article 98(2), which states: " The economic order of Namibia shall be based, *inter alia*, on the following forms of ownership:

- (a) public,
- (b) private;
- (c) joint public-private;
- (d) co-operative
- (e) co-ownership;
- (f) small-scale family.

In Namibia the Constitution makes provision for different types of ownership, however, there is three predominant types of ownership, the so-called private ownership, public ownership and the communal ownership. The definitions of these types of ownership is, however, very confused. There is a need to reevaluate the definition of ownership.

2.6 Article 100, which states: "Land, water and natural resources below and above the continental shelf and within the territorial waters and the exclusive economic zone of Namibia shall belong to the State if they are not otherwise lawfully owned.":

The Union feels that the last part of Article 100 which reads "... if they are not otherwise lawfully owned." should be changed to read: "...to allocate and be used to the benefit of the Namibian people." It is felt that the only legal owner of land in Namibia is the Namibian people.

THE FUNDAMENTAL QUESTION IS TO MAKE LAND AVAILABLE TO THE PEOPLE.

3 RECOMMENDATIONS ON OWNERSHIP

It should be recognised that Land is not only an economic asset, it is far more than that. Land is a political resource that defines the power relations in society. Without power over land there is no power in terms of socio-economic and political terms. In Namibia the Constitution makes provision for different types of ownership: public, private, joint public-private, co-operative, co-ownership and small-scale family. Presently there is three predominant types of ownership, the so-called private ownership, public ownership and the communal ownership. Neither of these present systems can be considered either just or equitable. There is a need to reevaluate the definition of ownership to ensure that the systems of ownership meets the needs of the Namibian people (both the present and the future generations) in an Independent Namibia. There is also a need for State intervention so shift the balance in ownership forms towards systems based on larger social units for the empowerment of rural communities to make their livelihood more sustainable and economically viable.

3.1 PRIVATE OWNERSHIP:

Private ownership in Namibia, by virtue of the specific definition of this type of ownership is problematic as it gives the individual unlimited rights over "his" lands often to the detriment of the common interest. The individual obtains the right to overgraze, to destroy, to pollute and maintain the land in an

unproductive state. Private ownership needs to be redefined so that when an individual is given the rights to the land, the rights are defined and limited to those activities that are beneficial in terms of production and the protection of the land.

3.2 THE LAND MARKET:

The present form of the land market does not promote equity or production. Land is a common resource, but by virtue of the limited nature of the resource private ownership of undeveloped land has an built in danger of increasing inequality, and of benefiting the 'haves' to the detriment of the 'have not's'. The fact that an individual can acquire land, leave it unused or even misuse the land and then still sell it at a profit does not promote either development or productivity of the land. The value of the land is then determined simply by the limited nature of the resource; and as such it benefits land owners to exclude others from the land and increase inequality of ownership, as this increases the limited value of the land and the profit that could be made from just owning the land. The existence of a land market in this form should be discouraged and substituted for a market in development. This means that individuals will be encouraged to develop land and invest in development rather than in land per say.

3.3 COMMUNAL AND STATE OWNED LANDS:

On the so-called communal and state owned lands, land has become

the property of the Colonial State -

* here the allocation of land by the State bears witness to the cold imposed policies of a colonial power, rather than the type of interactive relationship one would expect of an elected government.

* Communal lands are not presently communally owned, it is allocated on a basis of favouritism, mainly to the richer individuals.

* On communal lands the State owns and controls everything and it is not recognised that the individual occupying the land, who is working the land and supposed to develop the potential of the land also has rights - and with these rights responsibilities. Because it is only through rights that responsibility can be expected.

* The way the system was implemented does not recognise that the State is an organ of the people, not to dictate but to represent the collective interest in this tripartite relationship.

3.2 LAND TENURE:

The system of land tenure in "communal lands" has to give more protection to the right of groups or individuals having access to the land-use. To encourage the development of communal land some form of providing security of land tenure must be implemented to allow the legal ratification of

- * group and/or
- * individual land and
- * grazing rights.

The legal ratification of group and individual rights is the only acceptable incentive for social change and improved land-use. The form of this ratification can take can be through titles, grazing associations, grazing licence or corporate organisations, which are not transferable and are only valid as long as the individual forms part of the social organisation on a local level. On this basis a measure of flexibility is maintained for the State to intervene for the collective good - but on the other hand a degree of permanence is provided for the individual which is necessary to promote productivity, investment and the development of the area.

All State land, including municipal land around towns, should be recognised as common resources to be used primarily to the benefit of the poor. All State owned land should be subject to varying degrees of communal use.

3.5 CONCLUSION:

In conclusion, the Unions are demanding a redefining of the rights of ownership to recognize that the Land belongs to the State on behalf of the people of Namibia. To give people in communal land a degree of permanence and to recognize their traditional and other rights. To ensure that the rights of private ownership is limited to those rights which promote production and protection of our common resource - the Land.

4 WORKER'S RECOMMENDATIONS ON COMMUNAL PROPERTY/ PUBLIC LANDS

All State land, including municipal land around towns, should be recognised as common resources to be used primarily to the benefit of the poor. All State owned land should be subject to varying degrees of communal use. The allocation of land by the State should not bear witness to the cold imposed policies of a colonial power, rather than the type of interactive relationship one would expect of an elected government. The way the system is implemented should recognise that the State is an organ of the people, not to dictate but to represent the collective interest.

4.1 THE ROLE OF COMMUNAL LANDS:

Even though communal land holdings were established as a method of creating labour reservoirs, if properly developed it could be used to address some of the social problems faced by Namibians in this early state of our Independence. To workers communal land represent a minimum social security net which, even though it is hopelessly inadequate, will cause even worse suffering if removed. It is in this light that communal lands should be re-structured and developed, until such time as the funds are available to provide more conventional means of social security, especially for the urban poor.

The aim should be to provide the means of survival for the poor. This should not, however exclude the production of agricultural excesses (particularly on a community basis) for long term stability and the upliftment of the quality of life in the rural areas. If it is developed in this way communal lands would contribute towards the social reconstruction of our people, decrease unemployment and crime and also erode the power of industrialists to exploit our people. It will imply a better use of resources, increase the physical production off the land and ensure that production is orientated to the needs of the country, rather than solely for the export market.

Given the right technologies and access to markets small holders produce just as much and usually more than large commercial farms that leave vast tracts of land unproductive. Communal lands should be valued in social progress, a better and healthier life for the people, rather than the foreign exchange it may generate.

4.1.1 TO ENHANCE THIS ROLE COMMUNAL LAND HOLDINGS:

* should be increased and should remain the property of the State;

* be allocated to ensure equitable access to land.

4.2 PROBLEMS:

Presently a number of problems have to be addressed to achieve this ultimate goal.

- + Communal lands are hopelessly overcrowded and
- + consists mainly of unproductive land.
- + The allocation of land presently rests entirely with the local chiefs, resulting in
- + unfair practices and
- + excessive land been given to rich individuals based on a
- + system of favouritism.

4.2.1 INDIVIDUAL COMMERCIAL EXPLOITATION:

One of the problems of communal land is that, while communal lands are already overcrowded, individuals lay claim to the land and fence large tracts of land for individual commercial purposes. While the allocation of land to individuals for use for subsistence purposes is not opposed - for this allocation to be fair and equitable -

- + individual land holdings should be purely for subsistence purposes and the production of limited excesses for the improvement of the quality of life.
- + Individual land holdings should be in proportion to land holdings of others in the area.
- + Communal land should be accessible to all Namibians that do not

own property, and are over 18 years of age.

- * Land holdings should not be linked to size of family as this would encourage people to use children to obtain more land.

4.2.2 OVERCROWDING

If we accept that the initial function of communal lands is to ensure survival of the poor, the problem of overcrowding could be addressed in a number of ways:-

- * Communal land holdings should be established throughout the country where ever small communities will be able to make productive use of land; particularly in the South where people face severe social exploitation.
- * Land that is already communal must remain, while additional land must be added or acquired.
- * All state owned property should be subject to communal land ownership and must allow various levels of communal activity without directly effecting the primary function for which the land was acquired. In this way municipal land around towns should be used for communal food production.

Overcrowding could also be addressed by increasing access to existing communal lands by

- * increasing productive capabilities by broadening the base for sustaining a livelihood and

4.2.2.2 developing suitable infrastructure (such as roads and bore holes) to ensure a more uniform distribution of people.

4.2.3 BROADENING THE BASE OF SUSTAINABLE LIVELIHOOD:

Broadening the base of sustainable living in communal areas is essential for the development of these areas. At present 90% of the people in communal areas are dependent on agriculture for a livelihood, while cattle remains a largely unproductive resource.

4.3.2.1 THE ROLE OF CATTLE:

Given the erratic rainfall pattern of Namibia a more diversified view of development will soften the blow during drought periods. To achieve this would involve a change in value systems in order to get subsistence farmers to take a predominantly monetary attitude towards their cattle. Presently cattle is a standard and a store of value. Cattle function as a guaranteed insurance against the ravages of famine and old age. Only once proven alternatives have been established can we hope to move cattle in communal areas from a store of value to a productive resource.

4.3.2.2 DEVELOPING A CATTLE INDUSTRY:

There is a need for a price incentive to allow more intensive development of the cattle industry. This could be provided by selling the product on the more lucrative overseas markets, but

for the fact that export into these markets is prevented by the present endemic disease situation. The removal of this barrier could have a significant effect on the economy of Communal areas and the general attitude towards cattle. It is only through the selective and aggressive attack on endemic diseases that the so-called "red-line" had been moved north to its present position. In this process many of our people had to sacrifice their cattle and livelihood to achieve this ultimate aim. The exclusion of the majority of our people from the benefits of this campaign is unacceptable and a similarly aggressive campaign should be implemented to allow the phased shifting of the "red-line" providing the Northern Communal areas access to these markets.

4.2.3.3 EMPOWERMENT THROUGH SOCIAL GROUPINGS:

The valid starting point for attempts at broad fronted development strategies is territorial - i.e. what constitutes a practical unit - tribal, family or other. It is essential to tie people, their livelihood and their land together in social units and to deal with the smallest unit that could be efficiently and economically developed. In this way very small units based on individual family units would be discouraged in favour of more effective social groupings.

4.2.3.4 PRODUCTION

The productive capabilities of communal land can be increased by

- * concentrating on the total concept of development and
- * removing present legislation restricting the development of small scale industries.

Production and support systems have for years been the exclusive right of commercial farming areas, and should now be used as an expression of affirmative action to reduce imbalances between rich and poor. In this way these systems will have major benefits for the biggest number of Namibians.

- * The development and practical application of appropriate technology, the development of a financial support stems (through loans and subsidies).
- * the provision of training, the development of markets and the expansion of existing infrastructure should all be targeted at these areas, ensuring a shift in the balance of power.

4.2.3.5 THE ORGANISATIONAL SUPPORT

The lack of organisational support in the communal areas has been one of the overriding reasons for the lack of development. Special attention needs to be given to these aspects to rectify

the situation. The establishment of municipalities, development of industry and mining should be encouraged in those areas.

The development and organisation of communal property must be undertaken to ensure that the living standards of the people in communal areas improve. This should be done

- † through state owned financial institutions and
- † the granting of loans.

Industrial and mining activities in communal lands must, however, be carefully controlled by the state to ensure that

- † the rights of the rural population is not violated or exploited in those areas;
- † that the resident people are adequately compensated for the loss of agricultural potential and the environmental damage done during the development.

Before the start of any major industrial or mining operation an environmental reconstruction and human resettlement fund should be created that will ensure the reconstruction of the area and the resettlement of the people dependent on the mine/industry after it had closed down.

4.2.3.6 GAME AND TOURISM:

Part of the process of broadening the basis of sustainable livelihood in communal areas must include:

- † the return game rights on a community level.
- † Restrictions on the movements of game and the fencing in of migrant game must be restricted.

- 4 Game should be recognised as a common resource of critical importance for the rural communities.
- 5 Proper utilisation and distribution of game meat to the poorer communities could yield direct benefits in resorting marginally inadequate protein diets.
- 6 Tourist and Mining Concessionaires must be regulated and the requirements to be met by concessionaires should be set by each community individually.
- 7 It should be recognised that returns from tourism does very little to raise the standard of living of subsistence people.

4.2.3.7 PRIVATE INVESTMENTS:

The organisation of communal communities will play an important role in the guaranteeing of the development of small and under developed areas. While it is important that communal land will be owned by the state on behalf of the people, the principal that the development belongs to the individual should be respected, within the context of our mixed economy. When a person leaves the Land individual belongings could be removed but the Land will remain with the community, or allocated to another by the State. The individual will be compensated for the infrastructure built on the land either by the local community, the State or the individual taking over the land.

4.2.3.8 UNEQUAL HUMAN DISTRIBUTION:

Much of the overcrowding in Communal Areas are caused by the concentration of people around water points and areas with properly developed infrastructure. The development of suitable infrastructure will make a larger portion of communal land available for the development of rural communities. This process should include:

- * The development of suitable infrastructure, such as roads, waterpoints and small-scale industries
- * Developing markets and providing marketing incentives.
- * the lifting of restrictions on predator control. The right of communal farmers to protect their livestock against predator damage has been effectively restricted by tying these rights to land ownership. This has contributed towards not only making large tracts of land unsuitable for grazing, but also restricting the development of more productive agricultural systems that can actively compete with the agricultural systems on commercial land where these restrictions are not imposed.

To ensure equitable access to land measures must be taken to

- * ensure that only communities and individuals that are not able to acquire commercial land are allocated communal land, other than municipal land.

This can, however, only be achieved if access to commercial land for the richer communal land farmers are increased. The more successful commercial farmers and those groups organised along productive lines must be encouraged through loans and subsidies to acquire commercial lands.

4.2.4 CONTROL & ADMINISTRATION

Control and administration of the land, especially on communal lands, needs to be democratised. Where chiefs have acquired power over land allocation this power should be developed to form part of the communal organisation. State control must be entrusted in the hands of the State, the traditional authorities and people elected by the community. Their role should be developed to play a significant role in advising the President and assisting the administration of the land and land related issues.

* Communal land must be controlled in such a way that chiefs are only given authority, through appropriately formulated and controlled state institutions with elected representatives, over certain land and common resources - such as boreholes.

4.5 PROTECTION OF COMMUNAL LAND:

- * The state must provide legal protection to ensure that state owned communal land is not misused by the rich elite.
- * The poor communal farmers should not be able to sell land or long term land rights to the rich.
- * Affirmative action as enshrined in the constitution must also apply to the issue of land, particularly to production and support in communal land.

5 WORKER'S RECOMMENDATIONS ON LAND CLAIMS

There is a need to define the criteria that would be used for redistribution and to approach the problem from a holistic perspective to ensure that the results after redistribution contribute towards economic production, rather than towards the problem of further destroying the already limited resources. Land claims should be based on need and history. The organised Labour Movement is fundamentally opposed to any attempt that regards the market as a mechanism for distributing land from the privileged propertied minority to the landless minority. We are also convinced that the process of land redistribution and acquisition should not be confined to the existing racial disparities alone, but should be done in the interest of social equity and justice. It should consider the national, class and gender issues in a way that will prevent the formulation and implementation of a land policy that seeks to maintain the existing privileges of the few and the exploitation of the majority of our people.

5.1 TITLE DEEDS:

In the search for a solution, the existence of Title Deeds should not be seen as a major obstacle, as it never presented an obstacle to Land Theft in the past. Title deeds are only a mechanism of protection. If we respect title deeds, we cannot redistribute land. Historically and morally we cannot accept Title Deeds as it is purely a method of underwriting the "legality" of the past

land theft and actions. It should be viewed within the same historical and moral framework that land theft was viewed. Land was forcibly taken, so Land Titles were forcibly acquired. Many of the Title Deeds can rather be considered as spoils from the war.

5.2 PRIORITIES

Land claims should be considered within the framework of Affirmative action, historic background and the need for production and development. Priority should be given to the landless the unemployed, the peasant farmers and the Historically dispossessed. If a "Land Claims Commission" is established, it should:

- * make recommendations for changing laws that contribute to the unbalanced situation.
- * make recommendations for the introduction of more equitable legislation, and the
- * implementing affirmative action with regard to land ownership and then
- * evaluate land claims in terms of the Historical Background and the potential contribution to the Overall Productivity of the country.

It should be pointed out that a Lands Claim Commission is a long term solution, and that the workers consider the land issue a burning issue for which immediate solutions should be found. Those aspects that can be implemented immediately should be considered National Priorities. These should include access

the reality of lack of housing and necessary services. Fourth unemployed workers. These workers are immediately confronted by

Currently we are experiencing an influx to the urban areas of those sectors of the community that could not qualify due to lack political discrimination, should receive support.

A special emphasis needs to be placed on the unemployed in particular to those people who endeavour to organize themselves of productive lines. These should be encouraged to produce on the land with the necessary government assistance and support.

Those sectors of the community that could not qualify due to lack political discrimination, should receive support. Fundamentally go to Hamblans, and

The particular to those people who endeavour to organize themselves of productive lines. These should be encouraged to produce on the land with the necessary government assistance and support. The Trade Union Movement feels that land should be prioritized which people should be provided with land as a

Redistribution of land will decrease unemployment, minimize poverty and increase the productivity of the land. Limiting individual estate ownership on communal lands, changing the basis for loan and subsidy allocations and assistance for successful communal farmers to obtain communal land.

Limiting the size of land holdings in communal lands, limiting of restrictions on the subdivision of communal farms to State and vacant municipal land for communal crop production.

development and the provision of job opportunities in rural areas should have special place in a realistic development strategy. In this regard the provision of land to the urban poor should occupy a special place.

WORKERS RECOMMENDATIONS ON LAND ACQUISITION

It should be acknowledged that, even after Independence, there is still a migrant labour system in place. A person should always be guaranteed the right to have his family settle with him when he moves. Land access should at least be guaranteed to that level.

To provide equitable access to land the aim should be a ceiling of one farm (municipal land excluded) per person to be owned either directly or indirectly. Legislation should give the government the right to redistribute land and expropriate some of the assets. Although public ownership of land is not a total solution to the land question in Namibia, we are convinced that it is an essential step in carrying out a meaningful land reform. Compensation cannot be justified either morally, politically or economically especially when it relates to land. Land belongs to the Namibian people, and they cannot pay compensation for their own land. Even though some case could be made for the payment of compensation for infrastructure and development this is not always applicable, especially not where these assets were illegally acquired, or acquired as part of the war effort. Immediate action should be effected to correct this historical injustices. What is rather crucial here is the fact that land reform should be aimed at benefiting those that are in need, the landless and the unemployed, rather than those that are better off.

6.1 PRIORITIES:

In order of priority land targeted for redistribution should be:

- * Farmers with a heavy debt load
- * Absent landlords
- * Unused productive land
- * Mis-used land
- * Under-utilised land
- * Portions of company farms

There is no justification for absentee landlords to continue to be allowed to own some of the productive land in our country, this amounts to foreign occupation. Particularly not while the Namibian people are landless. Immediate action should be effected to correct this historical injustice. Although there is concern that the redistribution of land from absent landlords could influence the tourist industry, this would only apply to those having hunting farms in Namibia. Trophy hunting is one of the most exploitative industries in Namibia and therefore the tour would be in the common interest.

There can also be no justification that some farmers continue to own land that is either under-developed or under-utilised. This situation has to be corrected as well.

6.2 COMPENSATION:

The payment of compensation to those that had previously stolen our land from us is a bitter pill to swallow for the workers of

Namibia. If compensation has to be paid in terms of the Constitution on the basis of being just compensation, the question still remains what is just compensation. Workers feel bitter that the land which was previously occupied by the Namibian people and seized violently from them, cannot be expropriated without compensation. This does not make sense morally, politically and economically. The only form of compensation that could in any way be justified is compensation for infrastructure and development. This principal should be entrenched in the "land market", to guide future activities. An Individual must acquire the right to land and the right to develop the land. When the individual leaves the land rights should revert back to the State, subject to the payment of "just compensation" for infrastructure and development. Only when the State does not want to take back the land, should the person have the right to sell the infrastructure and development to a third person.

Once compensation is decided upon the Unions should have an input in what compensation should be paid and the form that this takes, i.e. financial, government, industrial bonds or whatever. No compensation should be paid in foreign currency.

7 WORKER'S RECOMMENDATIONS ON LABOUR AND GENDER RIGHTS

7.1 GENDER RIGHTS:

7.1.1 The Constitution states as follows :

Article 10 Equality and Freedom from Discrimination

(1) All persons shall be equal before the law.

(2) No persons may be discriminated against on the grounds of sex, race, colour, ethnic origin, deed or social or economic status read together with article 14 (3) "The family is the natural and fundamental group unit of society and is entitled to protection by society and state".

7.1.2 WOMEN:

The experiences of women from the colonial administrative laws and traditional practices are such that it denies them the necessary protection in relation to property. This is true in relation to loans, unfair taxation, access to real property and land in the cities and commercial farming areas. In the communal areas the chief has the prerogative to decide who will be granted land. In most cases women suffer as they are not entitled to land. When the husband passes away women often have to return the land back to the chief, leave the material assets to the family of the husband and consequently remain with no resources to sustain life and family. The protection accorded by the constitution should be utilised by these vulnerable sections of the community.

7.1.3 The proposals of the union are thus that:-

- * single women should be entitled to land,
- * not be expelled from land after the death of spouse,
- * woman should be able to register and contract in her own name,
- * wives of migrant workers should be entitled to reside with their spouses when employed on farms, industrial complexes and mines,
- * the family should be able to have houses erected for them on such places where ownership titles becomes theirs,
- * divorcees and widows should be entitled to all rights of property and ownership of land.

7.2 LABOUR RIGHTS

7.2.1 FARMWORKERS

Legal protection is needed for farm workers. The exploitation of farm workers is just another method of subsidising white commercial farmers at the expense of the country as a whole. On the farms and communal areas we have a form of super exploitation system, almost comparable to a feudal form of agricultural organisation of production.

Those suffering most under this state of affairs are the farm

labourers on the commercial farms and rural workers in the communal areas due to the lack of employment in the rural areas and the lack of organisation of this section of the labour force. Presently there are no corrective and affirmative interventions from the society despite a liberal constitution. This state of affairs is being exploited by the agrarian bourgeoisie. Rights of farm workers should be linked to all forms of State assistance, and should be a necessary condition for loans, subsidies or any form of State assistance.

7.2.1.1 THE LABOUR CODE

The Union feels that the labour code should be implemented to assist these workers and restore their dignity and rights as dictated by the Constitution. The terms and conditions of employment of workers has to be subjected to negotiations between the farmer, the workers and the Trade Unions. The right of workers to belong to trade unions and the right of freedom of association has to be restored. In order to respect the rights of the farm workers, the right to private property have to be interpreted in such a manner to ensure that it does not impede the rights of workers by allowing farmers to use this as an excuse to refuse Trade Union officials to meet with them or to refuse workers the right to meet other workers in the same industry. No victimisation should be practised against workers because of union membership or negotiations conducted by the Trade Unions on their own behalf.

7.2.1.2 DISPUTES

It is government policy that labour issues and disputes should be resolved through collective bargaining. This demand necessitates a certain level of education and comprehension of the instrument in question, thus the government should take an active part in correcting these wrongs and restore these workers rights.

7.2.1.3 RESIDENTIAL RIGHTS

Employment on a farm has to guarantee a farm worker and his family residential rights. These rights should include the right to a sustainable piece of land, which also includes the right to water. Farmers should not be entitled to evict these workers without a tripartite board, hearing the reasons for such eviction. Farm workers should have a recognised claim to the residential plot he occupies on a farm in such a way that his rights on the farm are secured. The farm workers should be entitled to limited grazing rights, for which money is not deducted from his salary. This should not be an act of goodwill but these rights should be a term of the employment contract negotiated between the farm worker or his Union, the State and the employers.

7.2.3 MINE AND OTHER WORKERS

All workers should have the same rights as farm workers to have their family live with them at the place of employment and provide a livelihood on the land adjacent to the mine or near the place of employment. Employment opportunities for wives and families should be a priority in remote areas. Workers should be assisted to acquire plots which are conducive for human habitation and agricultural production and which can become theirs.

7.2.4 CHILDREN'S RIGHTS

On these farms we find that children's rights are flagrantly violated for a number of reasons: racism, exploitation of child labour, ignorance of workers of their children rights, lack of instruments and institutions to protect, monitor and report abuses of these rights, education, health services etc. The Namibian Constitution is very clear about the rights of the child, yet no one yet been appointed to enforce the Constitution in this regard.

The Ministry of Health and Social Services together with the organised farm worker should be linked up to assist and protect the children rights on these farms. Inform the farm workers of their and their children rights. The right to compulsory educa-

tion should be effected. There is a serious disregard for the health and safety rights of the workers on these farms. There is no proper housing, medical care, proper food stuff. Health officials and social workers should be entitled to monitor and investigate these living conditions. Labour and Veterinary inspectors from the government should be tasked to monitor and investigate health and safety risks in the work place.

7.2.4 DEBT BONDAGE

The trade union feels that farm workers should be entitled to receive their wages in cash and not in kind, as that leads to a great deal of dissatisfaction. The issue of debt bondage should receive serious attention, as well as the rights of farm worker's and their families to have regular social contact with other workers.

RECOMMENDATIONS ON PRODUCTION AND SUPPORT SYSTEMS

Production and support policies should be devised within the framework of the system of land ownership and the principals of a mixed economy. There is a need to restructure agriculture to make it equitable, economically viable and sustainable. It is our considered view that a democratic and equitable redistribution of land is not incompatible with agricultural efficiency and production. It should be recognised that commercial land is profit orientated while communal lands are survival orientated, but that both systems are subject to a wider social responsibility towards the Namibian people to develop the country for the benefit of all Namibians.

The present balance between the allocation of Land, knowledge and aid to subsistence people on the one hand and for encouraging foreign exchange on the other needs reevaluation. One calls for better local markets and improved nutrition all Namibians, while the other calls for an export quality that will meet world wide competition. To achieve this:

4. Production and support policies should give expression to affirmative action as enshrined in the constitution for increased equity rather than increasing the imbalances between rich and poor and should be directed to developing a sustainable agriculture.

* It should support factories and enterprises that create products locally, reduce foreign dependence and increase "self-sufficiency" for Namibia.

* The state should undertake an industry study of the trade in animal byproducts with particular reference to procurement, processing, and manufacturing of speciality articles to permit orderly development of the industry and maximum use of limited resources.

8.1 THE LAND MARKET:

The land market, by virtue of the limited nature of the resource has an built in danger of increasing inequality, and of benefiting the 'haves' to the detriment of the 'have not's'. The existence of a land market as such should be discouraged and substituted for a market in development. This means that individuals will be encouraged to develop land and invest in development rather than in land per say. This can best be achieved by an

* increased and progressive land tax based on the size and potential of the land.

* tax rebates on development and

* the selective allocation of loans.

8.2 EMPOWERMENT

It should however, be recognised that this in itself cannot fully address the problems of inequality as it approaches the problem with the rich as a point of departure. Development of the poor should also be undertaken through a policy of empowerment. Empowerment involves the development of people on a community or co-operative basis, by focusing on and solving some of the practical problems that confront their everyday life. Our people have been subjected to a system in which their hold on survival was slowly being torn from their hands. People are crushed by the struggle for day-to-day survival and gradually develop an acceptance of their fate as being beyond their own control, losing their self image and ability to think and plan for themselves. It is only once people start to work together in a structured way that they become aware that they are not alone in their suffering and develop an increased awareness of self worth. In a group people see that they can actually change their own position, no matter how limited the extent of change. In the colonial period community based organisations were actively discouraged by the occupying forces who were well aware of their ability to empower and contribute towards the development of the rural poor. They were afraid that once people regain their hold on survival these structures could be used to mobilise people against them. Grouping the rural poor into community structures increases the collective bargaining power of the individuals involved. Funding in communal areas should be directed primarily at communities and co-operatives to further encourage the process of community

development.

8.3 DEVELOPMENT BIAS

The provision of services and infrastructure should be directed at the poor.

* The government should take steps to improve farming and non-formal business opportunities, for example by

- * providing more boreholes,
- * better agricultural advice and support,
- * helping with the creation of markets and
- * directing funding.

It should be recognised that the growth of the formal business sector is too slow to address the problem of unemployment and that the cost of developing this sector is relatively high. Unemployment can only be addressed through the increased provision of land to the landless and the stimulation of the more flexible and less costly informal business sector.

8.4 MEAT MARKETING

A large potential market for game and livestock meat exists among the communal people themselves. This market also needs developing with incentives and subsidies because of the shortage of animal protein in the average Namibians diet.

There is a need for a price incentive to turn cattle in Communal Areas into a productive resource. This could be provided by

selling on the more lucrative overseas markets, but for the fact that export into these markets is prevented by the present endemic disease situation. The removal of this barrier could have a significant effect on the economic viability of these areas. It was only through the selective and aggressive attack on these endemic diseases that the so-called "red-line" has been moved North to its present position. The exclusion of the majority of our people from the benefits of this campaign is totally unacceptable and a similarly aggressive campaign should be implemented to allow the phased shifting of the "red-line" allowing people in the Northern Communal areas access to these markets.

8.5 LAND TENURE AND DEVELOPMENT

To encourage the development of communal land some form of

- * providing security of land tenure must be implemented to allow the legal ratification of group and/or individual land and grazing rights.

- † The importance of larger social units in developing rural areas must be reflected in the systems of land tenure. These rights should, however, not be transferable and should be protected from resale.

Giving individuals tenure would tempt them to sell their holdings and become destitute once the money received runs out. Land tenure system would have to recognise that a degree of nomadism is important, to a more or lesser degree.

as dictated for by the aridity of the environment.

- * Soft loans for acquiring land should be directed at helping successful communal farmers and co-operatives to make the transition from communal land to farming commercial land communally.
- * Soft loans for development should be replaced by state funded projects (possibly linked to the development brigade?) which develops under productive land and then makes this available as commercial land to co-operatives on the basis of rental or crop sharing. The occupier could be required to pay a nominal rent for the first five years and thereafter the rental could increase steadily to pay for the development. The State should be responsible for the development of water, fencing and access roads while the farmer is responsible for the internal organisation of the land holding.
- * Improvements and the betterment of living standards requires some infusion of capital which is normally beyond the means of the subsistence farmer to meet from his own resources. The financing of development is particularly difficult as with any new enterprise as it is several years before a steady cash return can be anticipated. On public lands livestock should be put forward as collateral for loans.
- * Security, or the lack of it, is a major disincentive to the adoption of progressive farming methods on Public Lands. Not only can security of tenure and security from predation be mentioned but also security from theft and rustling. The whole question of rural stability has to be considered when

drawing up development plans. Not only are cattle and domestic stock lost, but any detachable piece of equipment would disappear, rendering fences, boreholes and water storage facilities of little value.

* All soft loans given to commercial farmers by the old Land Bank should be reviewed to ensure that only those farms that are commercially viable will be allowed to continue and that a new set of criteria should be formulated for these loans to ensure that principals of affirmative action is implemented. Soft loans should be available to a person on a once off basis and no-one should be entitled to soft loans when a sale involves members of the same family (i.e father "sells" to sons etc.).

* The problems of alcoholism and social abuse needs to be addressed, but not by introducing further restrictions on trade of small scale entrepreneurs to the advantage of large business interest.

* To broaden access to land, all restrictions on the subdivision of agricultural land should be lifted. Even though Namibia is a desert country, mainly suitable for grazing, there is throughout the country smaller pockets of highly productive land that could be used for crop production. By lifting the restriction on sub-division of land - not only will more persons obtain access to land, but it would encourage the more productive and intensive use and development of these smaller pockets of land.

* The state should recognise the role that the government's housing scheme plays in the creation of wealth for its employees. As one of the biggest employers, the government should - as a matter of urgency - address the structure and access of employees to the housing scheme. The restrictions on investments to existing municipalities should be removed as well as the definition of what constitutes a home improvement. The housing scheme should allow the lowest paid workers greater access, and should recognise that the salaries provided are insufficient to allow workers to resettle their families at their place of employment. Workers should therefore be allowed to use the housing loan to build a house in the communal areas for their families and in preparation of their own retirement and to bring about basic improvements that will enable them to be in a better position to survive once they leave government employment.

* All vacant municipal land should be made available to the urban poor for food production, even if most of the production will be rain irrigated crops. A system of registration should be developed and people making use of this land should be given a period of, not less than three but preferably six, months notice of any definite development plans for the land.

- * All agricultural support, such as loans, subsidies and assistance should be linked to the rights and treatment of farm workers.

- * Private sector companies and churches who own large lands must make these available to workers for housing, recreation and other purposes, especially land that is situated near the work places.

- * Special assistance must be given to non-government community based organisations and non-profit making structures that are interested in utilising land for community development programmes.

- * State intervention is required in the process to enable workers to acquire land for housing, or that will ensure workers' access to subsidised housing.