

Report of the
People's Land Conference
held under the auspices of the
NGO Working Committee on Land Reform
in Mariental
4-8 September 1994

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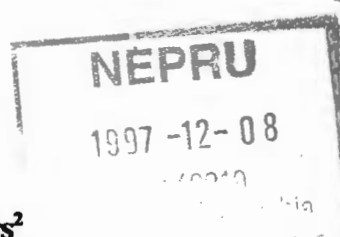
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¹ Research officers some of whom are attached to the Social Science Division of the University of Namibia submitted background papers. The latter provided framework for group discussions.

² Five guest speakers addressed the conference. They were from the following countries: (* Botswana; * South Africa; * Zimbabwe; * Kenya; and * Namibia).

Acknowledgements

Noting the lack of progress on land reform since the 1991 National Land Conference in Windhoek, a concerned group of NGOs has convened a working committee on land reform, in March 1994, in order to conduct a review of present reform measures and to provide a forum for the popular expression of opinions on the land question.

The NGO-Working Committee on Land Reform (*NGO-WCLR*) in its attempts to provide a forum utilised services from various institutions, individuals and communities. The Committee would therefore like to acknowledge these contributions.

The Committee would like to express its gratitude towards Social Sciences Division of University of Namibia (*SSD/UNAM*), Legal Assistance Centre (*LAC*) and the Desert Foundation for providing back-up support to the activities of the committee.

The Committee would further like to express its thanks towards donors for both financial as well as technical assistance rendered prior to and during the People's Land Conference.

The Committee also appreciates the contributions made by local NGOs in organising pre-conference regional workshops, pledging of financial as well as human resources towards this process.

Finally, the committee would like to express their deepest appreciation towards community leaders as well as the respective communities in the regions that participated in the regional workshops and the conference.

Thank you

CHAPTER 1: INTRODUCTION

1.1 Land in Namibia

A century of colonial rule left many Namibians dispossessed of their land and confined to live in ethnic reserves. Denied the means to earn their livelihoods, a steady stream of rural inhabitants migrated to the cities and mines to become labourers. A growing population remained in the impoverished reserves, struggling with only the minimal infrastructure, health care and education.

Today, over two-thirds of Namibia's population continue to live in the former reserves, commonly known as the communal areas. They bear the brunt of the skewed distribution of land and resources brought by colonial policies. Nearly five years after independence, access to land remains unequal and unjust. According to the report of the Technical Committee on Commercial Farmland, just over 4,000 farmers, primarily white, control 44% of agriculturally useable land. In contrast, only 41% of agricultural land lies within the communal areas. In some regions, land is available but unusable due to lack of water provision and other infrastructure.

The right to own land also differs between the commercial areas, where private ownership is recognized with a title deed, and the communal areas, where the State officially owns the land, and traditional systems of land rights, have no recognition under the law. Increasingly within the communal areas, land is not equitably distributed. Wealthy farmers are fencing off large tracts of land for their own use, while women often have little or no access to a small field of their own. A new system of land administration, involving government, traditional councils, NGOs and communities, is needed to ensure equitable access and secure rights to land for the disadvantaged majority living in the communal areas. Institutions which existed before independence, such as traditional leadership, must be brought in line with the democratic structures of the new nation, such as regional government.

The land crisis in Namibia goes beyond mere availability of land; it strikes at the heart of the health and sustenance of the environment. Many poor households rely on the forests for fuelwood, the rivers and springs for water, and the plants for food and medicine. Growing land use pressure on the communal areas, as well as the demands for water and other natural resources in the urban centres is depleting the environment, thereby threatening the very survival of rural and peri-urban people.

Unable to live by agriculture alone, many rural households must seek other sources of income. As in the past, some members travel to urban areas in search of work. Urbanization - the rate at which people migrate from rural areas to urban towns and cities - is increasing in Namibia. Almost one-third of the country's population now lives in urban areas. Here, too, colonial laws and policies have affected the ability of many newcomers to

the cities to obtain land and adequate shelter. Apartheid forced black Namibians to live in certain areas, often at a far distance from the centre. They were unable to buy land in areas reserved for whites. These laws are no longer in place, but in some urban areas, there is a shortage of affordable, serviced land for housing and economic development. A growing number of people must squat in unsafe conditions, without access to services and transportation.

1.2 Participation and Democracy

Clearly, the land problem comprises many problems, and finding solutions to these problems will be a complex and challenging process. Our Namibian Government demonstrated its commitment to redressing the maldistribution of land by organising the National Land Conference in Windhoek in June 1991. This event created awareness of the pressing need for the resolution of the land question. In addition, the 1991 Conference was an important step in establishing a process of consultation between the Government and the Namibian people.

However, little progress has been made since this landmark event, and many proposals have yet to be implemented. Moreover, there has been little formal consultation beyond the 1991 Conference. For example, the recently tabled Commercial Agricultural Land Bill was taken to Parliament before representative bodies, such as the non-governmental organizations, the churches, the trade unions and citizens at large had a chance to review it.

The democratic principles of our Constitution are built on public involvement in the governance and development of our country and on the accountability of our leaders to the people. We need to hear the concerns and ideas of the many Namibians who live with the problem of land shortages, environmental degradation and poor access to services. Co-operation and consultation between the Government and the people will help to ensure that policies on land and natural resources are democratic and equitable, and that land reform can be successfully implemented.

If we are to succeed, and to develop as a nation, all Namibians must participate in finding solutions to the crisis of land in Namibia.

1.3 The NGO Working Committee on Land Reform (NGO-WCLR)

Representative bodies, such as non-government organizations, churches, trade unions and farmers associations, serve to vocalize the priorities and concerns of people at the grassroots onto a national level, to be heard and addressed by politicians and lawmakers.

Noting that it is nearly three years since the 1991 National Land Conference in Windhoek, a concerned group of NGOs convened a working committee on land reform to conduct a review of present reform measures and to provide a forum for the popular expression of opinions on the land question. The NGO-Working Committee on Land Reform (*NGO-WCLR*) believes that there is a need for the people of Namibia (*and especially those in the rural areas*) to review the progress that has been made towards land reform.

1.3.1 Terms of reference of NGO-WCLR:

The Committee aims to facilitate a process whereby people at the grassroots put forward their recommendations and ideas to the Government of Namibia in order to consider alternative reform measures and to expedite the process of land redistribution. The land crisis in urban areas will also be addressed.

The NGO Working Committee on Land Reform (*NGO-WCLR*) believes that there is a need for the people of Namibia (*and especially those in the rural areas*) to review the progress that has been made towards land reform.

The Committee aims to facilitate a process whereby people at the grassroots put forward their recommendations and ideas to the Government of Namibia in order to consider alternative reform measures and to expedite the process of land redistribution.

The Working Committee's terms of reference is as follows:

1. The membership of the NGO-WCLR will consist of representatives of the NGOs, who will reserve the right to co-opt additional members whenever necessary. Other interested parties (NGOs, unions, community organisations, etc) who wish to join the committee will be encouraged to do so. Technical support will be provided by Legal Assistance Centre (*LAC*) and Social Sciences Division of University of Namibia (*SSD/UNAM*).
2. While the focus of the Working Committee will be on the rural areas, its mandate will also extend to urban areas and the plight of the urban poor.
3. The Working Committee will provide a platform for the NGO sector to respond to the upcoming Land Bill, and will provide a mouth piece for the expression of the popular views on the land reform.
4. The Working Committee, through its member NGOs, will undertake to inform the rural and urban population on land issues and to elicit their views on reform options and priorities. This will take place through a series of workshops and seminars to be held throughout the rural and urban areas of the country. Subject to mutual agreement, individual NGOs will assume responsibility for convening workshops in different parts of the country.

5. The Working Committee will be responsible for the organisation of a "People's Land Conference" of 400 delegates to be held in September 1994. Consideration will be given to the holding of conference at a rural venue.

6. The Working Committee will raise funds where necessary, for the activities of the Committee, including the convening of rural workshops and the People's conference.

7. The Working Committee will co-ordinate the conducting of policy reviews and research which will be of use in informing the rural poor and in broadening the options for land reform.

8. Since it is by definition a working committee, the life span of the NGO-WCLR will in the first instance be limited to the duration of 1994. However, this does not preclude the possibility that the NGO-WCLR could become a standing committee should the members of the Committee and their various constituencies so desire.

The Mariental conference of September 1994 was one of the series of events that were spearheaded by NGO-WCLR. It was preceded by series of region and or district level workshops³ which were conducted during the course of June, July and August 1994.

1.3.2 Members of NGO-WCLR:

The following are the members of the NGO - Working Committee on Land Reform:

- * Rural Institute for Social Development (*RISE*)
- * Namibia Development Trust (*NDT*)
- * Bricks Community Project
- * Saamstaan Housing Cooperative
- * Namibia Housing Action Group (*NHAG*)
- * Nyae - Nyae Development Foundation
- * Namibia National Farmers Union (*NNFU*)
- * Namibia Non-Governmental Organisations' Forum (*NANGOF*)
- * National Union of Namibian Workers (*NUNW*)
- * Council of Churches in Namibia (*CCN*)
- * Urban Trust - Namibia
- * Namibia Catholic Development Commission (*NACADEC*)

³ The regional workshops were mainly organised, financed and conducted by: NDT, RISE - Namibia, Canamco-Rundu office, and NHAG.

Office bearers within the committee: Chairman - Mr Paul Vleermuis (*RISE*), Finance committee members - Mrs Lindi Kazombaue (*NDT*) and Mr Alexander Merero (*NNFU*).

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CHAPTER 2: THE PEOPLE'S LAND CONFERENCE

To promote consultations between the government and the people, the NGO-WCLR decided to hold a national People's Land Conference.

2.1 Objectives of the People's Land Conference

The objectives of the Conference were as follows:

- * to highlight the plight of the Namibian majority who are still suffering as a consequence of unequal access to land;
- * to review present reform measures;
- * to provide a forum for debate and participation on land issues;
- * to enable the marginalised majority to assess and understand policy options on land;
- * to learn from the experiences of other Africa countries; and
- * to establish a strategy for providing inputs on the Commercial Agricultural Land Bill and other relevant legislation.

2.2 Preparations for the Conference

Members of the NGO-WCLR represent a significant segment of the poor population of Namibia. They work with farmers, workers, urban squatters, remote communities, the unemployed. Although the organizations represented in the NGO-WCLR work in different areas of the country, taken together they are involved in all 13 regions of Namibia, and they are especially active in the communal areas. Thus, the NGOs actively mobilized communities throughout Namibia in preparation for the Conference. Through special workshops and group discussions, the NGOs solicited input from groups as to their most pressing issues and their recommendations. This information shaped the structure and focus of the National Conference. Working with their constituencies, the NGOs also helped communities to put forward delegates to attend the Conference.

The Conference was also supported with research on land and natural resource management. Several research papers by the Social Sciences Division (SSD) of the Multi-disciplinary Centre of the University of Namibia were commissioned by NGO-WCLR, and yielded invaluable insights on the extent and impact of uncontrolled fencing in the Owambo regions;

the relation between range management, productivity and land administration in the Erongo and Kunene regions, and the opportunities and constraints of a commercial land tax in Namibia.

2.3 The People's Land Conference

2.3.1 The venue and programme of the Conference:

The Conference was held from Sunday, 4 September to Thursday, 8 September 1994 in Mariental. In addition to its central location and to its excellent facilities, Mariental was selected as a venue to encourage and highlight the participation of rural Namibians (*refer to Appendix A for the conference programme*).

2.3.2 The Participants:

A total of 385 people attended the conference. Delegates came from all 13 regions, and although organizations and groups based in Windhoek were represented, the vast majority came from rural areas throughout the country (*refer to list of participants in Appendix B*).

In addition to regional diversity, delegates represented various socio-economic sectors. Many came from broad interest groups such as NGOs, farmers unions, and churches. Others came from small grassroots organizations, self-help projects and other community-based groups. Members of remote communities such as the Ju/'hoansi, the Hei//om, and the Topnaars were also in attendance. Importantly, the voices of Namibian women, so often absent in these events, was heard at the Conference - nearly 30% of the delegates were women. Many traditional leaders attended, as did members of government Ministries, and local and regional councillors.

2.3.3 The conference languages:

Recognizing that many Namibians are unable to communicate in English or Afrikaans, the Conference included interpretation from English and Afrikaans into four Namibian languages: Oshiwambo, Otjiherero, Nama/Damara, and Kwangari. Delegates were asked to assist each other for interpretation in other language groups. The process of interpretation was very time-consuming and greatly slowed down the Conference. However, as a Peoples' Land Conference, the organizers felt a commitment to ensuring the voices of the poor, under represented majority of Namibians were heard and understood.

2.3.4 The Conference Chairpersons:

The Honourable Deputy Speaker, together with Ms. Rosy Namoya-Jacobs, Director of the Urban Trust - Namibia, co-chaired the Conference.

2.3.5 The Speakers at the Conference:

The following are the guests speakers that participated in the conference and the brief summary of papers presented by them:

a) The Mayor of Mariental, Ms. Kalista van Rooyen

Welcomed the delegates to Mariental, praising them for their commitment and wishing them strength and success in their work at the historic occasion of the Peoples' Land Conference.

b) The Honourable Deputy Speaker Pastor Kameeta - Namibia

The Honourable Deputy Speaker, Pastor Kameeta, opened the Conference and stressed the importance that Namibians put aside party political affiliations and come together to address the land problem in Namibia. Only through unity and cooperation will land reform be successful.

c) Dr. Wolfgang Werner, Director of Lands - Namibia

The Honourable Minister of Trade and Industry, Mr. Hidipo Hamutenya, was invited to address the Conference in his capacity as Chair of the Cabinet Committee on Land Reform. On his behalf, Dr. Wolfgang Werner, Director of Lands, presented current official thinking on issues and policies concerning communal land in particular. Because the Commercial Agricultural Land Bill was tabled on 6 September, while the Conference was under way, Dr. Werner was curiously unable to speak about the contents of that bill. However, he pointed out that an Act on Communal Land has been postponed until the Council of Traditional Leaders is appointed as outlined in the Constitution. This delay provides the Ministry with a chance to consult with the public. Dr. Werner highlighted the Ministry's consideration of four policy issues: decentralization of land administration, systems of land tenure, land use planning, and fencing of communal lands.

An important feature of the Conference was to hear about the experiences with land reform in our African neighbours. Four guest speakers addressed the Conference (*detailed summaries of the presentations of guest speakers are presented in Appendix C*).

d) Mr. Bahle Sibisi, Advisor to the Minister of Land Affairs - South Africa

Mr Sibisi spoke about the land reform process in that new nation. South Africa is planning to implement several important policies, including: the establishment of a Land Claims Commission and a Land Claims Court to address land claims; the redistribution of land through market reforms such as loans to finance land acquisition and a land tax; the redistribution of land through State assisted land acquisition programmes, including the allocation of state-owned land and assisting communities to acquire private land for settlement; and the legal recognition of the tenure rights of individuals and communities living in former black traditional rural areas.

e) Ms. B.M. Mathuba, Ministry of Local Government, Lands and Housing - Botswana

Ms Mathuba offered lessons on the Land Boards in Botswana. The Land Boards have improved land administration in the customary (*or tribal*) areas. The current system is the result of years of experience which led to important amendments in the Tribal Land Act in 1993. These amendments include the establishment of independent land tribunals for appeals and stricter punishments for those who defy the rulings of the land board. By consulting with local people, including traditional leaders, by ensuring that a proportion of board members are democratically elected, and by avoiding top-down control of customary land, the Land Boards efficiently allocate land and settle disputes.

f) Mr. Josh Nyoni, Development Advisor - Zimbabwe

Mr Nyoni discussed the strengths and weaknesses of Zimbabwe's program of Land Resettlement. Under four schemes, over 60,000 people have been resettled. A major constraint of the program was the system of "*willing seller-willing buyer*" mandated by the Constitution. This limited the amount of land available for purchase and increased land prices, making it expensive for the government to purchase land. The Government also incurred the high costs of providing infra-structural development to the resettled areas. The Government is currently emphasizing the development of commercial farming in the communal areas. The 1992 Land Bill aims to take 6.3 million hectares from the commercial farming sector to be used for state farming and for resettlement.

g) Mr. Daniel Somoire, Director, Group Ranches Education Project, Kenya

Mr Somoire discussed how pastoralism - livestock raising - has changed in Kenya. The British colonizers did not recognize communal ownership of grazing land and began to impose reforms meant to change the systems to individual use. One strategy of land reform in Kenya was the establishment of group ranches to control grazing and to increase the sale of cattle by farmers. Ownership rights were transferred from the original larger community to a smaller group of registered members. Group ranches did not live up to the expectations of members, who expected individual benefits. Many have become, in essence, individual ranches. This dividing of ranch lands is particularly problematic for the Maasai, who move around regularly, and find their traditional methods of livestock production threatened. Many

Maasai, especially those marginalized from their ancestral land, are now on the verge of poverty.

h) Ms Lindi Kazombaue a member of the NGO Working Committee on Land Reform

The Committee also addressed the Conference to explain the aims of the Committee and the objectives of the Conference. These are described above. Ms. Lindi Kazombaue, Director of the Namibia Development Trust, and Mr. Naftali Uirab, Chairperson of the Namibia NGO Forum (*NANGOF*) conducted a question and answer session during the plenary. Two central concerns were: *Why is the Conference not taking up the Commercial Agricultural Land Bill?*; and *Why are the landowners absent from this conference, as they were at the 1991 conference? The landowners are the ones who are responsible to redistribute the land.*

i) Closing Address: The Honourable Minister Kabajani, Minister of Lands, Resettlement and Rehabilitation (presented by Dr. Werner) -Namibia

The tabling of the Commercial Agricultural Land Bill also prevented the Honourable Minister of Lands, Resettlement and Rehabilitation, Dr. Richard Kabajani, from attending the Conference. His closing remarks were presented by Dr. Werner. He stressed the government's commitment to an equitable distribution of land as the only way to overcome poverty. He noted that the Commercial Agricultural Land Bill was the result of consultation at the 1991 Conference and from input to the Cabinet Committee on Land Reform. He reported that the other part of the land reform bill - the Communal Land Bill - still has to be tabled. He encouraged people to continue with debates on land and land related issues, such as the People's Land Conference, but also requested the people to give views to their elected representatives.

The Honourable Minister noted that Land Reform in Namibia would encompass concerns such as commercial and communal land administration, the use of abandoned, under-utilised and unused land, multiple farms and excessive land ownership, land owned by foreigners or by absentee landlords, state municipal and peri-urban land, and land acquisition and ownership. He again emphasized the government's commitment to redress the historical imbalances characterised by the uneven distribution of land, but cautioned that this process must be done within the policy of National Reconciliation and the provisions of our Constitution. He asked Namibian people to approach the emotional land question in a mature and sensitive manner to come up with a lasting solution.

2.3.6 Video presentation and panel discussion:

The premier showing of the video *"Living on the Edge"* took place on Tuesday evening. The video documents how the remote Topnaar community has adapted to the harsh, rugged conditions on the Namib desert. It shows how the Topnaars have slowly been moved of their lands by coastal development and by the establishment of the State park. Pressures

on the water resources in the region also threaten the livelihoods of the Topnaar. The video explores future options for the involvement of the Topnaar community in managing land use in the area.

Following the showing of the video, a panel answered questions from the audience and discussed the implications for land policy in Namibia. The panel included: Andrew Botelle and Kelly Kowalski - directors of the video; Dr. Mary Seely, - Director of the Desert Research Foundation, Chief of the Topnaar Community, and Dr. Chris Brown - Ministry of Environment and Tourism.

2.3.7 Working Groups:

Frequently, only a few, vocal, educated people have the confidence and willingness to speak to the plenary. Thus, the Committee structured the Conference so as to ensure maximum participation and input from all delegates. The Conference therefore allotted most of the time to small group sessions on specific issues. The Working Groups met around specific issues to discuss problems, to consider solutions and policy options, to put forward recommendations and to propose a plan of action for following up the Conference. Experienced trainers and development activists from NGOs facilitated the working groups.

Eight groups of 25 - 40 delegates each met for three four-hour sessions in locations around Mariental. Two groups, the Working Group on Land Administration, and the one on Land Management, combined into one group. Some groups continued working into the night, while many delegates informally exchanged ideas and experiences with newly made friends from their Working Group.

The Working Groups tackled five issues: Access to Land; Land Administration; Land Management; Enclosure; and Urban Land.

Background papers on these topics helped to identify the questions and problems to be addressed in the working groups. These are presented in Chapter Three. It must be pointed out that many problems overlap. For example, the ability of communities to manage their natural resources is related to the property rights they have over the land. Although they focused on specific issues, the working groups often looked at an issue broadly and from a variety of perspectives.

Each Working Group presented a report of their priorities and recommendations to the plenary session. Delegates had an opportunity to ask questions and make suggestions on topics such as the role of traditional leaders in the land boards, the problem of forced removals in the urban areas, the fencing of communal areas, the conversion of military bases, and the appropriation of land from foreign farmers, under utilised farmers and multiple farm owners. **Chapter Three (3) contains the Working Group Reports.**

1.4 Conference Resolutions

The NGO Working Committee consulted with the working group facilitators, drew from the recommendations in the working group reports, and utilised inputs from the plenary discussions to draw up the Conference Resolutions. These were read during an evening plenary session on the final night. The Honourable Deputy Speaker chaired the session. After a number of amendments and one addition from the floor were proposed and approved, the delegates resoundingly adopted the resolutions. The following are the resolutions and recommendations adopted at the Peoples' Land Conference:

RESOLUTIONS OF THE PEOPLES' LAND CONFERENCE

We, the participants of the People's Conference on Land, held under the auspices of the NGO Working Committee on Land, representing the landless majority, having met in Mariental from 5-7 September 1994, and having deliberated extensively and democratically, hereby resolve to put forward the following resolutions as actions to expedite the land reform process here in Namibia:

On Access to Land:

1. Government resettlement programs must take account of the different priority needs of communities for land.
2. Those who lost land through dispossession should enjoy preference whenever the State acquires land for reform, in whatever form that redistribution takes place.
3. There must be a one farmer, one farm policy. The government should acquire and redistribute land from farmers owning more than one farm.
4. "*Willing seller-willing buyer*" must be amended in the Constitution to be one option among other options to acquire land for land reform. If there is a willing seller, the State should reserve the right of option to purchase.
5. In negotiations to pay compensation or to purchase farms in the commercial areas, the government should consider the value of loans forgiven and other direct government subsidies given during the colonial era.
6. Policies must not seek to develop communal lands by converting these areas to commercial farming. Rather, policies should improve the farming opportunities of communal farmers, particularly women, through improved extension, and access to credit, markets and technology.

On Ancestral Land:

1. It is recommended that a Commission be set up to study the current situation, problems, and claims arising in relation to ancestral lands in different regions and contexts. The Commission shall also refer to, and utilize when applicable, the relevant experiences of other countries and international law in carrying out its activities.

On Women:

1. Women should be treated as equal partners with men in all aspects of development, including natural resource management and land reform, especially since they are a majority population in rural areas and are engaged in many farming activities.

On Farmworkers:

1. Farmworkers must be informed about the provisions in the Labour Act allowing them to obtain land for use rights and assisted in these efforts.

2. Farmworkers must be allowed to keep a reasonable amount of stock on a piece of land registered in their names depending on years of service.

Enclosure:

1. The current situation of unregulated fencing is contributing to land degradation and overcrowding, and is worsening the plight of those who need land. Uncontrolled fencing must be stopped immediately.

2. A Commission of Inquiry must be appointed to investigate illegal fencing on a national basis and produce policy and legislative recommendations. Future legislation must be backed with proper law enforcement.

On Land Administration/Management:

1. There must be established Regional Land Boards, through an Act of Parliament, consisting of regional government, traditional leadership, farmers unions and special interest groups, of which the majority are elected. Each Land Board must have a gender balance.

2. Regional Land Boards must have sufficient resources to function properly.

RESOLUTIONS OF THE PEOPLES' LAND CONFERENCE (cont)

3. Independent Regional Appeal Boards must be legally established to handle appeals emanating from land disputes.
4. Legislation must be passed to guarantee appropriate ownership and control over natural resources by communities.
5. Local institutions to control resources should be established, which then deal with individual tenure rights.
6. Land rights in communal areas should be inheritable and people should have security of tenure.
7. Decisions on land should follow proper Land Use Planning procedures, including consultation between government and communities and aim at sustainable use.
8. The State should collaborate with non-governmental organizations and Communities through financial and technical assistance in order to produce community-based land use plans, which will be implemented, managed and controlled by the communities. Such plans should give guidance to national land use policies.

On Urban Land:

1. There must be secure access to urban plots for all, especially women and low income households, with different possibilities of ownership and/or long-term occupancy.
2. Financial support structures should be geared towards the security of affordable urban land, such as higher payments by high income groups to subsidize low income groups and local use of Local Authority taxes.
3. When dealing with urban land, the issues and recommendations raised by the urban group consensus must be addressed, and provide for such as: healthy living environments; no removals without legal process and consultation with affected communities; and participatory land use planning

On Commercial Agricultural Land Bill:

The People's Conference on Land is convinced that the Government's commitment to bring about a more equitable and just distribution of land in Namibia is meeting the expectations of disadvantaged people; therefore, we in principle welcome the Commercial Agricultural Land Bill as tabled in the National Assembly, and look forward to thorough debate around the Bill:

RESOLUTIONS OF THE PEOPLES' LAND CONFERENCE (cont)

1. There should be a simplified version of the Bill, translated into local languages, to ensure effective input into the final draft.
2. NGOs should cooperate with Government to initiate regional processes of consultation to debate and amend the Bill. These should be followed by a national meeting of regional delegates as soon as possible before the enactment of the Bill.
3. NGOs, farmers unions and regional government must initiate direct negotiations and processes of consultation between those who need land and land owners.

On Communal Land Bill and Other Legislation on Natural Resources:

1. The government must release the layman's version of the Communal Land Bill in good time prior to the release of the legal version.
 2. NGOs and Government must cooperate to initiate regional and district consultation to ensure community inputs into all future legislation concerning land and other natural resources.
 3. A national commission consisting of regional government, traditional leaders, community-organizations and non-governmental groups be established to speed up the tabling of Bills relevant to land legislation, such as, the Traditional Leadership Act.
 4. The Namibia Non-governmental Organization Forum (*NANGOF*) should establish an NGO Standing Committee on Land Reform and Natural Resources. The Committee must ensure that the above recommendations be taken forward as a matter of serious urgency.
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CHAPTER 3: WORKING GROUPS REPORTS

Only a few, vocal, educated people have the confidence and willingness to speak to the plenary. Thus, the Committee structured the Conference so as to ensure maximum participation and input from all delegates. The Conference therefore allotted most of the time to small group sessions on specific issues. The Working Groups met around specific issues to discuss problems, to consider solutions and policy options, to put forward recommendations and to propose a plan of action for following up the Conference. Experienced trainers and development activists from NGOs facilitated the working groups. Eight groups of 25 - 40 delegates each met for three four-hour sessions in locations around Mariental.

3.1 WORKING GROUP ONE (1): Access to Land

The group was guided by the following concerns: *What are the options for increasing the land base for farmers in the communal areas?; How should ancestral land claims be addressed?; What are the opportunities and constraints for resettlement programmes?*

i) Options for increasing the Land Base for Farmers in the Communal Areas

The need has been identified that more land should be acquired to benefit the already marginalised communities. Emphasis was put on the needs of different communities. Issues considered under this section were: absentee landlords, under-utilized land, municipal land, incentives for strong communal farmers to buy commercial land and high taxation of farmers with many farms, larger commercial farms, or under-utilized land.

ii) How should ancestral land claims be addressed?

The question of how to address claims to ancestral lands is a complex issue and should not simply be put aside. It should be maintained on the policy agenda concerning land questions. The group further argued that land claims be given serious attention, taking into account constitutional principles and policies of affirmative action for the historically disadvantaged, impoverished communities, and the moral obligation to promote social justices.

The group felt that to understand the nature of problem better and how to seek solutions, it is essential to look at claims of different communities in relationship to various types of ancestral land including:

- * Land that is now in the hands of private individuals.
- * Land appropriated by the former government for nature reserves and conservation.

- * Land acquired for development purposes such as the construction of a dam.

The amount of development inputs and improvements made by the person occupying the land should likewise be taken into account.

In resolving the question of ancestral land, various possibilities should be examined, among which: restitution of land or part of it; sharing of land by the present owner; and some form of compensation (*other land, financial compensation or other means*).

In some cases, communities occupying their ancestral lands, in particular the San people, need a recognition of their land rights, which they now feel are threatened.

iii) Opportunities for Resettlement Programmes

Prior to identifying the opportunities for resettlement programmes, there is a need to establish the priority needs of the communities.

The opportunities can be listed as shown below:

- availability of land as outlined in the section on "*Options of Access to Land*".
- the section of the constitution that seeks support or promotion of "*affirmative action*".
- some unoccupied or unused land exists in certain communal areas (*presently unutilized due to lack of water*).
- the rationalisation of communal land boundaries is likely to yield some room for resettlement, for example in Erongo region.
- An integrated approach in areas such as Erongo with wildlife and other natural resources, through consultation with local communities, is likely to yield positive benefits for the communities from exploitation of natural resources (*as in the CAMPFIRE-experience in Zimbabwe*).

The following were identified as some of the definite or potential constraints to resettlement programmes: Resistance to moving by the targeted people; financial resources for purchasing farms for resettlement; high purchase price of commercial farms; lack of selection criteria for those to be resettled; Lack of effective mechanisms to determine livestock ownership; uncontrolled movement of livestock; lack of water in potential resettlement areas; and threat from dangerous animals such as elephants.

iv) Regional Issues and Options

ERONGO REGION: Government, in particular the Nature Conservation Department, does not prioritize the needs of local communities and instead, without any consultations, gives land to other outside institutions, such as Olympia Reisen, which fenced

off large parts of the land for its own use. There are also dangerous wild animals, such as elephant, in Erongo, Kunene and other regions which are heavily protected by the Nature Conservation and Wildlife Department.

OMAHEKE REGION: There is a problem of poisonous shrubs which kill large numbers of livestock. Underground water is lacking despite the availability of grazing.

HARDAP REGION: Arable communal land is limited, and the black communities around the Rehoboth Gebied do not have access to the farms.

BUSHMANLAND: "*Strangers*" are coming into the Bushmanland area without consulting the people. They camp or hunt the wildlife - in one case, 16 ostriches were killed. There is also an uncontrolled movement of livestock into the area.

3.1.1 RECOMMENDATIONS:

a) On communal land:

In general the group proposed that the Government buy more land from commercial farms to increase the communal areas in order to make land accessible for the communal farmers. Additionally:

1. Absentee land should be acquired and redistributed.
2. Under-utilized land should be acquired and redistributed.
3. Government-owned land should be made available for redistribution.
4. Research stations should be reduced.
5. Wildlife resources should be made accessible to the communities.
6. Municipal land should also be considered for redistribution (*But careful prior analysis should be done so as not to hinder the further development of the municipal area*).
7. Communal land must be restructured into productive farming units/made accessible for redistribution.

b) **The group also addressed and strongly recommended a Land Development Policy to:**

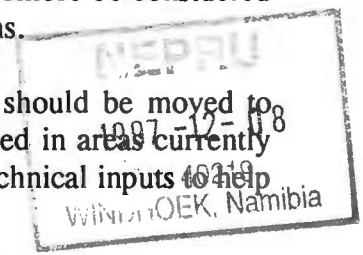
- * assess the needs of communities, the size of land needed for redistribution, lease and options to buy etc;
- * objectively look at aspects of land including: economic, social, residential, land security, and environmental issue; and.
- * investigate criteria for governing land development policy, such as who should or should not be included in the whole issue of land redistribution.

c) **On ancestral land:** It is recommended that a Commission be set up to study the current situation, problems, and claims arising in relation to ancestral lands in different regions and contexts. The Commission should also refer to the relevant experiences of other countries and international law in carrying out its activities.

Membership of the Commission: should represent different concerned groups including: regional representatives; traditional leaders; farmers associations; churches; trade unions; other non-governmental organizations; and legal experts.

The possibility of setting up regional commissions should furthermore be considered as a means to promote grassroots involvement in these questions.

d) **On Game:** Game that can cope with poisonous plants should be moved to areas where there are poisonous shrubs. People could be resettled in areas currently used as game parks. Commercial Farmers could provide some technical inputs to help solve such problems.



e) **On Women:** Women should be considered as equal partners with men, with resources to all areas discussed, especially since they are a majority population in rural areas and are engaged in many farming activities.

f) **On Farmworkers:** Farmworkers should be informed about provisions in the Labour Act allowing them to obtain land for their use, and assisted in these efforts.

g) **On the Land Bill:** The Land Bill should be translated into all Namibian languages, and widely circulated and discussed in all communities.

3.1.2 POST CONFERENCE PLAN OF ACTION:

1. Report of the People's Conference on Land: It should be produced in all Namibian languages and widely distributed.

2. Follow-up to the People's Conference: The groups agreed that discussions and networking on the land question should be continued after the Conference, and that further workshops to deal with practical issues concerning land reform should be organized.

3.2 WORKING GROUP TWO (2): Enclosure

The working group after sharing and discussing our situation realised that landlessness is contributing to social destruction of both ourselves and our future generations. We came out with the following questions:

- * Do we expand the existing communal land farming areas by adding to the communal areas more or new farms?
- * Do we develop better policies for their use? e.g Do we move "*big/rich communal farmers*" into commercial areas and develop unused areas?
- * Is there a need for the traditional headman/leaders to play a role in the land issue?

After exchanging views on the issue of the communal vs commercial, the following the group concluded the that it is better to remain with both systems and work on their solution separately. The group felt that not every communal farmer can become a commercial farmer.

3.2.1 RECOMMENDATIONS:

The following are the recommendations proposed by the working group:

a) On communal land:

1. The communal land areas must be developed and fenced on a community level to manage grazing and to prevent privatization by large-scale farmers.
2. That we have to work towards solving the problem of communal land instead of creating more.
3. To adopt the theory of starting small and growing big.
4. It will not be ideal to divide communal land for the reasons of ownership and desertification.

b) On commercial land:

1. Government should buy more farms and resettle evolving farmers and family.

2. Government should find a soft scheme programme to give loans to evolving farmers for him/her to move out of the communal areas, so that this can benefit the poorer farmer.
3. Government should look at different approaches and policies depending on the specific region.

This was closed with a summary input from the resource person who highlighted the situation and the suffering of the people 150 years ago. He also mentioned the attempt made by the colonialist trying to put down or undermine the communal farmers. He further stressed that it is important for the farmers to also look at access to markets to sell animals on a fair price and the different problems that goes with it, such as the Red Line issue and Meat Co's quarter system.

c) On Traditional Leaders:

1. On the issue of the issue of the Traditional Leaders we said that they must be elected by their people and the appointments of some traditional leaders need to be appointed on a political basis.
2. The traditional leaders have to share their power of allocation of land with a committee which would consist of Traditional Leaders plus representatives of other interest groups.
3. There must be a house of traditional leaders established to work with the government.
4. In general, a need was expressed to have more information on the Traditional Leaders Act, and a call was made to have well-outlined responsibilities for traditional leaders, and to introduce Article 102 of the Namibian Constitution.

d) On farmworkers rights:

Access Rights to Farmworkers on Commercial Farms must be returned as per the Labour Code:

- a) They must be allowed to keep a reasonable number of stock without pay.
- b) Commercial farmers should not be able to throw farmworkers and their families of the farms.
- c) The Ministry of Labour must strengthen its work on the farms and give clear information about their situation.

e) **The government must get rid of the "Willing seller - willing buyer" theory. In negotiations to buy farms for the communal areas, the government should therefore consider:**

- * how the farm in question was obtained from indigenous Namibians.
- * the value of loans forgiven and other direct government assistance over the decades of colonial rule.

These could be a factor in determining the price.

"Let commercial farmers walk on their own, for they have had decades of support and assistance from the government."

f) **The government should now put the vast bulk of resources into communal farming and for the "upcoming big/rich communal land farmers".**

g) **A tax on commercial farms should be dedicated to building up communal lands.**

h) **A tax on tourism to support land reacquisition is needed. Tourism should be decentralized and locally controlled.**

i) **The leasing of townlands to wealthy farmers must be considered by government.**

j) **Government should not allow ownership of more than one farm and must introduce policies, regulations and tax to control this. Farmers must not be allowed to combine multiple farms into one large farm; rather, there must be a limit on the total number of hectares allowed. For the taxation it must be as follows: normal GST for the one and double for the rest.**

k) **Foreign ownership of farmland should be withdrawn and given to the people.**

l) **Those who remain as communal farmers must benefit from development and economic opportunities, such as job creation and access to markets.**

3.2.2 POST CONFERENCE PLAN OF ACTION:

1. **Monitoring and lobbying for the tabling of the communal bill.**

2. Farmers Unions to negotiation with traditional leaders a common understanding on the elections of traditional leaders.
3. Report back to the communities about conference and reach out to more communities.
4. To continue with more workshops for: capacity building, awareness raising and the lobbying of government on the Land Bill.
5. Activate the farmers unions to start negotiations with the farm owners.
6. NGOs and farmers unions must encourage potential "rich" farmers to become commercial and to encourage communal farmers to work harder with their support.
7. NGOs to influence the white farmers to openly discuss the issue.
8. All the unions must unite on the land issues and work as one force.

3.3 WORKING GROUP THREE (3): Land Administration

3.3.1 RECOMMENDATIONS:

We agree that a good Land Administration system should ensure the following: easy access to land, equitable distribution of land and sustainable growth of the agricultural sector.

We therefore recommend the following:

a) The establishment of A Land Board to administer land.

Composition of the Land-Boards: The composition of the land boards should be as follows:

- * Traditional Authorities
- * The Regional Government structures and (*Local councillors*) and
- * The Farmers associations and other Coopted individuals with special knowledge.

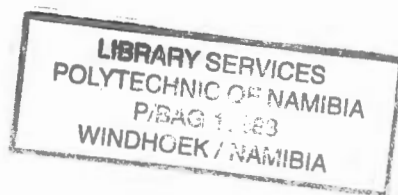
Functions for the Land-Boards: Land allocation; and use planning; land development; record keeping; handling of Disputes; and imposition of restrictions on land use.

NB: The Act should provide for offenses and penalties relating to land, etc.

b) **The establishment of Appeal Board/Land Tribunal:** To handle appeals emanating from land boards.

Composition of Appeal Board:

- * Senior Headman;
- * Magistrates;
- * Advisors; and
- * Governors.



c) **Rights within the Communal Tenure system** (*special focus on grazing land*):

1. Landholders (*individuals, groups or communities*) should have exclusive rights to improve land management (*no consensus reached*).
2. Those with exclusive rights must have leases that outline rights and obligations.
3. Certificates be issued to those who don't have exclusive rights.

If exclusive rights are granted the following issues should be considered whether:

- (a) Landholders should be issued with leases;
- (b) They should pay rental for exclusive rights granted;
- (c) Traditional rights should be extinguished/cancelled;
- (d) Dual grazing right should be allowed;
- (e) Landholders should have the right to transfer landright;
- (f) Landright should be inheritable;
- (g) Landholders should use land for security to obtain loans from financial institutions;

d) **Making of policy that will ensure the establishment of Land Boards and empowerment of this structures to handle all land matters.** Regulations should also be put in place for the implementation of the laws.

e) **Holding of public hearings after the tabling of each bill to for input.**

f) **Implementation of Traditional Authority Act as soon as possible.**

g) **Establishment of a National Commission consisting of various bodies to speed up the tabling of bills which are outstanding** (*Churches, NGO'S, Trade unions, Traditional leaders and other interest groups*).

h) **We would like Government to take cognisance of our concerns and incorporate it in the Land Bill.**

3.3.2 ADDITIONAL ISSUES:

In addition to Land Administration, we also noted the following important issues: Overcrowding/overgrazing continues in communal areas as large parts of land is under-utilised in commercial areas. We therefore propose that:

- (a) Government to regulate land prices to enable citizens to acquire land.
- (b) Government should buy land in commercial areas and expand communal land.
- (c) Government should control stocking rates in communal areas so as to curb overgrazing.

3.3.3 POST CONFERENCE PLAN OF ACTION

Workshops on regional level to enable citizens to give input on land related issues.

3.4 WORKING GROUP FOUR (4): Land Management

3.4.1 A WORKING DEFINITION:

Communities in different regions of Namibia are having different relationship with the land. Consequently, there are different management systems and different conceptions about the term **land management**.

In order to gain common ground and also to be sure that everybody has same understanding, a working definition has been developed:

Definition: The ways in which people and their animals use land and other resources (water, vegetation, etc.) for their survival and well-being.

3.4.2 RECOMMENDATIONS:

The group noted that the problems of land management as experienced on communal land can be comfortably linked with the issue of land scarcity and water. The current situation prevailing is one of too little land with large numbers of people and livestock coupled with inadequate provision of water. This scenario leads to overgrazing, land degradation and ultimately desertification, especially in the proximities where water is available. The working group made the following recommendations:

- a) **Mechanisms should be devised to encourage wealthier communal farmers to acquire private land in order to minimise pressure on communal resources;**

- b) State should confer rights over control and management of land, water and other natural resources to the communities and appropriate community institutions;**
- c) State should assist the communities, by means of financial and technical assistance, in order to produce community-based land-use plans which will be implemented, managed and controlled by the communities themselves; such plans should guide the National Land Use Policy;**
- d) State should pursue the policy of one person, one farm whereby ownership of more than one farms by an individual will be done away with;**
- e) State should regulate selling of farms to foreigners in order avoid absentee landlordship;**
- f) Whenever a farm becomes available for sale, the State should reserve the right of the first option to purchase;**
- g) Those who lost their land through dispossession should enjoy preference whenever State acquires land for redistribution, with whatever means;**
- h) Local residents should be consulted with any interventions and developments planned for their areas;**
- i) Decisions on land should be taken consultatively by a broad spectrum of stakeholder, eg government, traditional authorities, local and regional authorities;**
- j) NGOs must raise awareness about land-use by holding regional and district level workshops;**
- k) Projects generating jobs and income should give preference to the local human resources;**
- l) Natural resource management must aim at sustainable utilisation and must take into account the regional variability;**
- m) A commission of inquiry must be appointed to investigate illegal fencing on a national basis and produce policy recommendations;**
- n) Legislation(s) must be passed guaranteeing appropriate ownership and control over natural resources by communities;**
- o) There should be a greater inter-ministerial coordination with regard to the natural resource management issues in order to avoid conflicts and duplications;**

- p) **Veterinary fence should be moved gradually to the northern boundary in order to give access to markets to the communal residents;**
- q) **Farmers north of the veterinary fence should also be subsidised to bring about fair and equal access to the markets;**
- r) **Mechanisms should be devised to allow for the marketing of the produce from the north in the rest of the country;**
- s) **Appropriate and more relevant extension services should be devised and delivered to the communal farmers:**

3.4.3 OTHER BURNING ISSUES IDENTIFIED:

a) **Hei-//om Question**

The group has expressed their support for the course of the Hei-//om, and maintained that they deserve a piece of land in compensation for the territory lost with the proclamation of Etosha National Park. It was further concluded (*by Hei-//om themselves*) that unutilized land at the southern boundaries to the Park be bought for the Hei-//om, given that they realise that it is unrealistic to reclaim territory from the park.

b) **Resolutions of 1991 Land Conference**

The group also upheld the resolutions of 1991 land conference.

c) **Traditional leadership**

The role of traditional leadership in regulating movements into communal lands.

d) **Communal status**

The maintenance of the communal status for the social importance as a safety net; and

e) **Non-farming land use**

Non-farming land-uses be explored for areas not fit for farming, eg. game management in former Easter Hereroland (*Otjinene*);

3.4.4 PLAN OF ACTION

1. NGOs must organise regional and district workshops to:
 - * raise awareness about land use and management systems;
 - * ensure community input to both communal and commercial agricultural land bills;
2. NANGOF to set up an NGO task Force on Land Reform;
3. Outcome of this meeting be translated into local languages and circulated within three weeks;

3.5 WORKING GROUP FIVE (5): Consensus on Urban Land Issues

3.5.1 Principal Issues:

* The most important issue on everybody's mind is of land security. As one group put it, *"the other problems irrelevant until we have security to land"*.

* Barriers to development in the communal areas are caused by either a complete lack of proclaimed and registered land or where proclamation and registration does exist the process is extremely slow.

* Land allocation: The issue of land now being allocated by the local authority in former communal towns, needs clarification. Traditional decisions to occupy plots need to be respected.

* Land remains available in local authority areas, although the cost of land makes it difficult, if not impossible, for the majority of the people to afford.

* When planning municipal land, planners should consider the income and business needs of those who do not earn formal wage income. Cuca shops and open markets are part of the way of life in informal settlements. We do not want our way of life and livelihood planned out of existence.

* Communities being relocated felt very strongly that local authorities did not consult or include them in the decision procedure. While some communities are forcibly moved the existing residents of the new site are also not consulted or included. The result is that communities feel confused, frustrated and rejected.

* There is a strong cry for a dignified living environment. Basic infrastructure and services are necessary such as access to water, sanitation, roads, electricity, clinics, police, fire brigade, markets, public telephones, community halls, creches and kindergarten.

* Access to credit is needed to build houses including for rental and upgrade the general living environment. Possible sources of funds should come from NHE, NDC, B.T., banks and the private sector.

* Forced removals are totally unacceptable, if not illegal. Yet they still occur in Namibia. For example Katima Mulilo, Ongwediva, Windhoek and Eenhana. Instead, reception centres should be provided. The land shown/allocated to communities is often very far away and difficult to get to, adding increased cost for transportation.

* Land is essential for income generating activities.

* In order for the informal settlements to resolve the critical issues, communication between authorities and settlements must be strengthened.

* One key method of strengthening the informal settlements is to increase information and experience between the different groups.

3.5.2 RECOMMENDATIONS:

a) **The Government should speed up the proclamation of towns and the demarcation of land as quickly and as cheaply as possible.** For example, decentralisation of land registration and establishing an independent monitoring body (*with representation of the public and private sectors which includes NGOs and the traditional authorities*) with a clear mechanism for review and appeal.

b) **People need access to secured land.**

c) **Individual land ownership is proposed in some places, while others favour group ownership.** Both proposals are possible if various options of land tenure are made available. Municipalities should plan for group applications for land, particularly when considering low income groups. The price should be affordable.

d) **Give married and unmarried women and widows the full right to ownership of land.**

e) **Financial and technical support is seriously needed to help improve the situation of informal settlements.** Donors, NGOs, the municipality and the Government with the participation of communities can work together to solve the problems.

f) **Training of, and support to, community leaders is required in order to undertake and strengthen a new administrative environment with the purpose to enhance managerial capacity.** Provide legal powers at the local community level to undertake local land management tasks.

- g) Local authorities should insist that developers contribute to a fund which would cover maintenance of erven, in the event that employees lose their jobs through company closures.**
- h) Property tax information and programmes need to be developed and extended to all communities.**
- i) The majority of locally raised property tax should be allocated to the very communities they are raised from. Its use should be for servicing land, amongst other things.**
- j) Unserviced erven should be free, excepting erven, whether serviced or unserviced, which are sold in areas zoned for "high standard" development and where surpluses from such sales shall be specifically targeted for subsidizing the servicing of low cost erven; land speculation in lower-income areas should be minimized by local authorities through the use of pre-emptive rights which prevent absentee ownership and stop unnecessary delays and land-holding by private developers.**
- k) Public infrastructure which are installed should be labour intensive wherever possible and contracted to local groups in order to create jobs. Consideration for more innovative ways of servicing land is encouraged.**
- l) The respective local authorities should be more receptive to the needs of informal settlers. There should be staff available whose job it is to meet the communities and listen to their needs and problems.**
- m) Improvement in announcing public land auctions is paramount. Transparent, simple and fair administration procedures to hand land issues are required. These procedures must include a structured, systemic consultative process throughout the local authority.**
- n) Organize informal settlers into decent living environments with minimal charges and transparent options for land security.**
- o) Local authorities should develop neighbourhoods with the aim of eliminating racial and economic segregation.**

"We want our own land which we can live on. We do not want to have to keep moving from one rented place to another."

3.5.3 PLAN OF ACTION

1. The consensus paper shall be the written report for the communities.
2. A follow up workshop should occur in those areas where a workshop was not held.
3. A timeframe shall be established for determining future events.
4. As a matter of urgency, these recommendations will be taken to the appropriate government structures.

3.5.3 RESOLUTIONS

- A. Secured access to land for all, especially women and low income households, with different possibilities of ownership and/or occupancy.
- B. Financial support structures should be geared towards the security of affordable land.
- C. When dealing with urban land, the issue raised by the urban group consensus must be addressed and provided for:
 - * healthy living environments;
 - * NO forced removals; and
 - * land ownership and/or occupancy.

CHAPTER 4: THE FUTURE - Public Participation in Land Reform

Future activities of the NGO-WCLR: The NGO Working Committee on Land Reform (*NGO-WCLR*) is committed to carry forward the resolutions adopted at the People's Conference.

As of October 1994, NANGOF will be acting as the Secretariat for the NGO-WCLR, whilst the Working Committee has become an standing committee of NANGOF.

The passing of the Commercial Agricultural Land Bill precluded the process of regional consultations proposed at the Conference. However, the Committee used the recommendations of the Conference to assess the Bill and to identify sections of the Bill in need of amendment. The proposed amendments were presented officially to the National Council, which conducted a debate on the Committee's proposal (*refer to Appendix D*). This led to a declaration that members of the Council would postpone the passing of the Bill in order to undertake consultations with their constituencies.

Although the Council bowed to pressure and passed the Bill, the process raised members' awareness of soliciting public input, an important step for ensuring that the drafting of the Communal Land Act is democratic and participatory.

Under the leadership of NANGOF, the Standing Committee intends to undertake various activities such as workshops and seminars on a regional level in the New Year (1995), to generate debate on possible components of a Communal Land Act. The Committee will also intend to lobby Government to make all draft legislation pertaining to land and natural resource management available prior to tabling in Parliament. Through layman's drafts workshops, and the media, the Committee will stimulate popular debate and constructive assessment of the proposed legislation.

Thus, the Committee believes that the People's Land Conference has helped to launch a long-term process of public participation and involvement in land reform.

The Standing Committee on Land Reform reaffirms its commitment to ensure grassroots input into all legislation and policy on land and natural resources.

<p>Contact address: NGO - Working Committee on Land Reform (<i>NGO-WCLR</i>) c/o NANGOF - Chairperson Mr Naftali /Uirab P.O.Box 70533, Khomasdal, Namibia Tel: 061 - 262726, Fax: 061 - 263510</p>

APPENDICES:

- APPENDIX A: THE CONFERENCE PROGRAMME**
- APPENDIX B: LIST OF CONFERENCE PARTICIPANTS**
- APPENDIX C: CONFERENCE PRESENTATION BY GUESTS
SPEAKERS**
- APPENDIX D: SUBMISSION TO THE NATIONAL COUNCIL**

APPENDIX A: THE CONFERENCE PROGRAMME

Sunday, 4th September 1994

14H00 - 21H00: Arrivals; registration; allocation of accommodation

18H00 - 19H00: S U P P E R

Monday, 5th September 1994

07H00 - 08H00: B R E A K F A S T

08H30 - 10H00: Opening of the Conference
Welcoming and Opening address by the Prime Minister
Objectives of the Conference/Explanation of conference logistics

10H00 - 10H30: T E A B R E A K

10H30 - 12H30: Working Groups discussions: Land Use, Land Administration, Land Management, Enclosure of Communal Land, Urban Land Issues

12H30 - 14H00: L U N C H

14H00 - 15H30: Working Group discussions (*cont*)

15H30 - 16H00: T E A B R E A K

16H00 - 17H30: Plenary session: Government policy and programmes
Address by the Minister of Lands, Resettlement and Rehabilitation
(*Chairperson of the Cabinet Committee on Land Reform*).

17H30 - 18H00: Questions and Answers Forum with panel of representatives of MLRR, regional government, NGOs and traditional leadership.

18H00 - 19H00: S U P P E R

19H30 - 21H00: Drama on Land in Namibia by: YES, NHAG and others

Tuesday, 6th September 1994

- 07H00 - 08H00: B R E A K F A S T
- 08H30 - 10H00: Plenary session: Presentation of Priority Issues as outlined by Working Groups
- 10H00 - 10H30: T E A B R E A K
- 10H30 - 12H30: Plenary session: Lessons from South Africa
- 12H30 - 14H00: L U N C H
- 14H00 - 15H30: Geographical and special interest workshops
(refer to special interest groups underneath)
- 15H30 - 16H00: T E A B R E A K
- 16H00 - 17H30: Geographical workshops *(cont)*
Preparations of action plans
- 18H00 - 19H00: S U P P E R
- 19H30 - 21H00: Video: "Living on the Edge"

Wednesday, 7th September 1994

- 07H00 - 08H00: B R E A K F A S T
- 08H30 - 10H30: Plenary session: presentation of plans of action
- 10H30 - 11H00: T E A B R E A K
- 11H00 - 12H30: Continue plenary session
- 12H30 - 14H00: L U N C H
- 14H00 - 15H30: Showing of "*Voices from the Land*" and "*Whose Land*"
- 15H30 - 16H00: T E A B R E A K
- 16H00 - 17H30: Defining the Way Forward:
Adoption of the Conference Declaration

17H30 - 18H00: Closure of the Conference

Thursday, 8th February 1994

07H00 - 08H00: B R E A K F A S T

08H30 - ??????: D E P A R T U R E

Working Groups Details:

Group 1: Access to Land: *What are the options for increasing land base for farmers in the communal areas? How should ancestral land claims be address? What are the opportunities and constraints for resettlement programmes?*

Group 2: Land Administration: *What systems of property rights and communal tenure can ensure equitable access to land within communities? What is the role of traditional authorities and customary law? What is the role of local and regional government?*

Group 3: Land Management: *What is the viability of communal farming and commercial farming? What are the causes of and solutions to desertification and land degradation? What is role of local people in natural resource management?*

Group 4: Enclosure of Communal Land: *What is the impact of communal land enclosure? How can enclosure be regulated? What legal reform is required to address enclosure?*

Group 5: Urban Land Issues: *What are the constraints affecting access to land in urban areas? What options will offer security of tenure for urban dwellers? What are the options for urban land administration?*

Geographical and Special Interest Group Workshops:

- Group A:** Southern rangelands
- Group B:** Central and Eastern rangelands
- Group C:** North-eastern crop-producing regions
- Group D:** Northern mixed agro-pastoral regions
- Group E:** North-western and western rangelands
- Group F:** Remote communities
- Group G:** Women
- Group H:** Farmworkers

APPENDIX B: LIST OF CONFERENCE PARTICIPANTS

<u>Name of Person:</u>	<u>Place/Region:</u>	<u>Box number:</u>
Lister Shamologo	Katima Mulilo	855
Cedrick Sameja	Katima Mulilo	548
M. Muchaka	Katima Mulilo	751
Patrick Silhard	Katima Mulilo	1001
Francis Mubisisi	Katima Mulilo	475
S.M. Ntonda	Katima Mulilo	475
Maurice Iavaytwa	Katima Mulilo	1044
A. Kakena	Caprivi	322
M. Lutambo	Caprivi	761
B. Nandwandi	Hardap	325
B. Basson	Hardap	325
H. Kaapama	Khomas	60034
A.L. Stephanus	Keetmanshoop	454
B.M Esau	NUNW	50074
S.E. Barry	Aranos	290
E. Spangenberg	Aranos	214
Willem Aib	Kunene	196
Stephanus Hanub	Kunene	196
Mattheus Gariseb	Outjo	109
Petrus Peerstoff	Gobabis	1070
Otto Haraseb	Walvisbaai	712
Seth Kooitjie	Walvisbaai	2041
Alfred Shimueoshili	Oshakati	1523
Andrew Khan	Walvisbaai	5007
Rudolf Dausab	Walvisbaai	2017
Bernard Kooitjie	Walvisbaai	2181
Charles Ouseb	Walvisbaai	7154
Joseph Tjitekulu	Walvisbaai	7152
Ludmilla Doeses	Khorixas	2005
Willie Thaniseb	Khorixas	2005
David Eeta	Okahao	2
Hans Aneb	Otjivelo	1030
Salomo Hartley	Opuwo	18
Braines Matundu	Opuwo	50
U. Tjambiru	Opuwo	50
J. Mumbuu	Opuwo	50
Ernst Skangkombe	Opuwo	50
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Festus Cheetekela	Oshakati	757
Gotpen Hamwenge	Ondangwa	762
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Cornelius Kapala	Oshakati	72
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Julia Sipoke	Oshikango	17
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Jacqueline Nowases	Keetmanshoop	7173
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Rebecca Jacobs	Keetmanshoop	1381
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Joseph Malambo	Katima Mulilo	216
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Speakers: Batseb Mathuba, J.M Nyoni, Bahle Sibisi, Daniel Samoire
(refer to Appendix C for more details on speakers)

NB: That some of the participants did not give additional information regarding their postal address.

APPENDIX C: CONFERENCE PRESENTATION BY GUESTS **SPEAKERS**

C.1 The Land Boards in Botswana (by *B.M. Mathuba - Ministry of Local Government, Lands and Housing, Gaborone - Botswana*)

In Namibia, traditional authorities have been responsible for allocating land in the rural areas. Some chiefs collaborated with the South African regime, while others had their power taken away. While still respecting their traditional leaders, many Namibians have called for a more efficient and democratic system for allocating and administering land. Botswana has learned many lessons that could help Namibia design such a system. This summary of Ms. Mathuba's paper, describes the composition and functions of Botswana's land boards and highlights their strengths and weaknesses.

In 1968, two years after independence, the Botswana government enacted the Tribal Land Act (*TLA*) in order to improve administration of customary land, also called communal or tribal land. The Act provided for the establishment of local institutions, Land Boards, to administer all tribal land. The Boards are located in the district headquarters, and 37 subordinate land boards, which assist the main Land Boards, are located in district headquarters as well as remote villages.

Composition of the Land Boards

When the Land Boards started their operations, each board consisted of six members from the District Council, the Ministry responsible for land matters and the Tribal Administration. It was necessary to have the Chiefs in the Land Boards at the beginning because they had been administering tribal land, and the Land Boards needed the Chief's knowledge and information, which was not in written form.

After almost 20 years after the Land Boards started their operations, the Land Boards no longer needed the Tribal Administration and the District Council to be represented on the Boards. Since 1989, each Main Land Board has 12 members, while the Subordinate Boards have 10 members each. There are, in each Land Board, two ex-officio members, representing the Minister of Agriculture and the Minister of Commerce and Industry. Half of the rest of the members are democratically elected by the people at the Kgotla (*traditional assembly or meeting place*) while the other half is nominated by the Minister responsible for land matters. The members elect their Chairman from amongst themselves on a yearly basis.

The Land Boards fall under the overall supervision of the Ministry of Local Government, Lands and Housing, which is responsible for all land affairs. The Boards also work hand in hand with the District Administration, the District Council and the Tribal Administration. For example, tribal wardheads sign application forms for grants

for customary land in order to confirm to the Land Boards that the plot is not occupied or that is suitable for the land use applied for.

Powers and Duties of the Land Boards

People apply to the Land Boards for customary land for uses such as residential, ploughing and grazing. If their application is accepted, they are allotted land and issued with Certificates of Customary Land Grant. People can also apply for land for commercial and industrial purposes. However, these purposes are governed by common law, not customary law, so those who want land for commercial and industrial purposes must sign a lease with the Land Board.

The main functions of the Land Board, as outlined in the Tribal Land (*Amendment*) Act 1993 are:

- a. the granting of rights to use land;
- b. the cancellation of the grant of any rights to use any land including a grant made prior to the time when the Tribal Land Act came into operation;
- c. the imposition of restrictions on the use of tribal land;
- d. authorizing any change of use of tribal land; or
- e. authorizing any transfer of tribal land.

In addition to these, the Land Boards are also empowered to hear appeals from Subordinate Land Boards.

The main functions of the Subordinate Land Boards are to:

- a. allocate land for customary purposes (*such as residential, ploughing and grazing*);
- b. impose restrictions on the use of land;
- c. recommend cancellation of customary land rights to the Main Land board;
- d. receive investigate and make recommendations to the Main Land Board in respect of common law (*requesting land for commercial or industrial purposes*) and borehole applications;
- e. settle land disputes.

Land Disputes/Appeals

Disputes can take place between individuals over boundaries between fields and other plots. These disputes are difficult to resolve because, if the allocation was made in the past by the Chief, there are no records and few witnesses to remember the boundaries. Sometimes, wardheads (*headmen*) confirm to the Land Boards that Land is not occupied when it, in fact is. This leads to double allocations.

Individuals also sometimes dispute the decision of the Land board, for example, if the Board refuses or cancels their land rights or will not let them change how they use the land.

Disputes are heard by the Local Subordinate Land Board or Main Land Board, which may visit the plots to investigate the different claims. In the past, people who were not satisfied with the Subordinate Land Boards decision could appeal it to the Main Land Board, then to the Minister responsible for land matters, and, if people were still aggrieved, they appealed to a court of law.

However, in 1993 the Tribal Land Act was amended to provide for the establishment of Land Tribunals to handle land appeals and enforce Land Boards' decisions. Land Tribunals are much needed because it is a mistake to empower the Land Boards and the Minister responsible for land matters to be judges in disputes over land under their jurisdiction. In addition, the Land Boards are intended to be administrative, not judicial bodies. The Land Tribunals will start operations soon in Botswana.

Amendment of the Tribal Land Act

The creation of tribunals is one example of how the Tribal Land Act (*TLA*) was amended. The Act was amended in 1993 to better handle the economic, social and environmental changes that had taken place since it was first enacted in 1968. Some of the weaknesses were:

- a. that the Land Boards' procedures were cumbersome and caused unnecessary delays;
- b. the inability of the Land Board to enforce the provisions of the Tribal Land Act; and
- c. that the Land Board was inefficient, and took too long to allocate land or to resolve disputes.

Many important changes were made by the Amendment. For example, the original act vested all the rights and title to land in each tribal area in the Land Board *for the benefit and advantage of the tribesmen of that area*. But, the Government now feels that where land is available, it should be possible for any Motswana to acquire land rights in any part of the country, irrespective of tribal affiliation. Thus, the Act was amended to state that land is allocated for the benefit of *citizens of Botswana*.

In addition, a new provision created offenses and penalties against people who occupied tribal land, changed land use, or transferred land without approval of the appropriate Land Board.

The original act, did not make clear that Land Boards have authority over change of land use and of transfers of land. This led to unauthorised changes in land use and transfers, so the Act was amended to make these functions of the Land Board.

Under the original Act, the Land Board could cancel rights to tribal land, if the land was not cultivated in a given period. However, the Act was silent about residential land and sites allocate for drilling boreholes. This led to many land holders sitting on their land and not developing it. This provision was amended to stipulate that any

customary land rights could be cancelled if the land had not been developed for the purpose for which the grant was made.

Successes and Shortcomings of the Land Boards

Because land is a very important and sensitive resource, the task of Land Boards is very complex.

Successes:

Through the establishment of the Land Boards, land administration has been streamlined and most of the people now have Land Boards in their areas. The Chiefs or their representatives were involved when the Land Boards started their operations because they had information about what land was still available for allocation.

Land is allocated to citizens irrespective of tribal affiliation. This encourages nation building.

Because of the Land Boards, government has access to written records which are used for planning and in the resolution of cases of disputes and appeals.

Customary land law has been codified and is easy to refer to.

The spirit of consultation with the people has been maintained even after the establishment of the Land Boards. People are involved in land use planning exercises and the neighbours are consulted before grants of land rights are made. People are consulted during land use planning, land allocation and election of Board members. They feel part of the system and support the land Board.

By creating the Land Board institutions, government has avoided top-down control of customary land.

Shortcomings:

Land Board members require academic qualifications to understand the land laws and policies and explain them to the people. They must also read documents written in English.

There is still a problem of record keeping. This causes great concern because the government has to know how much land has been allocated; to whom; for what purpose, and how much land is still available for allocation. The Government is exploring how to inventory land and how to computerise land records.

Many Board members do not understand the provisions of the Act, which affects their ability to see that land is administered properly.

The Land Boards had problems because of the inadequacy of the TLA and their inability to enforce their decisions. As a result, some people just ignored their decisions.

The Land Boards still do not have adequate offices, equipment or vehicles and they have a shortage of qualified staff.

C.2 The National Land Reform Programme in South Africa *(by Mr. Bahle Sibisi - Advisor to the Minister of Land Affairs - South Africa)*

The land issue has always been central to the struggle for political power in South Africa, and no constitutional settlement could have been reached without dealing with historical injustices with regard to land ownership. The importance of land in a rural context is emphasized by the fact that the rural economy is largely based on agrarian activities. The inter-related link between agricultural land use and availability of, and access to land, is for the greater part of the rural population, an essential component of their daily survival. This fact underpins the current land reform debate.

A national land reform programme is a key element in meeting basic needs and eliminating poverty in rural areas, by providing a resource to enable the poor, the landless, and aspirant farmers to improve their quality of life. Land reform is viewed by Government as an integral part of the Reconstruction and Development Programme (RDP).

The central elements of a national land reform programme will be developed during the coming months resulting in the formulation of a White Paper by the end of 1994.

A national land reform programme will consist of three main elements: restitution, redistribution, and tenure reform.

Restitution of Land

The Constitution provides for the establishment of a Land Claims Commission and a Land Claims Court to register, process and adjudicate all land claims, with rural land claims given priority. Particular focus has been placed on the definition of right to Land which draws attention to the position of labour tenants and their occupational right.

Redistribution of Land

Land reform will be done in two ways: through the market and through State-assisted land acquisition programmes.

a) Market reforms

The government seeks to reduce a number of institutional constraints:

* A Committee will be appointed to look at options for improving rural finance to ensure that rural communities, small scale and part time farmers have better access to loan, savings and credit facilities to finance land acquisition as well as to provide funds for production and development.

* The Government seeks to make agricultural corporations and cooperatives and other service delivery agencies more accessible and more responsive to farmers in the former traditional black areas of South Africa.

* The Government aims to restructure procedures and requirements for land registration and transfer in order to reduce costs.

* In South Africa, certain legislative acts and administrative barriers prevent the subdivision of agricultural land. This restricts the establishment of small farmers and inhibits innovative schemes such as sectional title and equity share schemes between existing land owners and farmworkers.

* A land tax is being considered to generate public revenue and to provide an incentive to ensure that agricultural land is used productively and stimulates the land market. This tax would probably be levied at a local government level to create infrastructure.

b) Land Acquisition

State programmes would support the redistribution of land to the poor:

* The allocation of state-owned land would be directed to those in need of land for residential and agricultural purposes.

* State-assisted programmes will also aim to help individuals and communities acquire private land for settlement purposes. For example, through its rural settlement programme, the Department of Land Affairs will provide 24 communities (*approximately 8 000 families*) with grant and loan finance to acquire land this financial year.

* As part of the Reconstruction and Development Programme, special pilot projects will be established in every Province. The acquisition of land will be the starting point of

an integrated rural settlement programme. The pilot projects will facilitate access to finance and will establish a process of planning, institution and capacity building.

These projects will work in areas where land reform is taking place. However, the projects will also be open to groups and individuals within the same area who have not been able to acquire land.

Strengthening Tenure Rights

A particular challenge is to secure the tenure rights of individuals and communities living in former black traditional rural areas. The existing system of deed registration can probably not be afforded and maintained by a majority of the population. Therefore, tenure policy should recognise the diverse forms of tenure which exist in South Africa.

In addition, the development of new and innovative forms of tenure such as Community Land Trusts and other forms of group landholding is also being proposed.

Rural service delivery must be improved to ensure the success of a land reform programme. Through the pilot projects, it is proposed that provision be made for the basic support services such as infrastructure, funds for housing, agricultural credit and extension.

In South Africa, land reform policy will be determined by the Ministry of Land Affairs. However, provinces and local government will be responsible for rural development. For rural services and infrastructure to improve, there must be co-ordination between national ministries, the provinces, and local and district government.

As in Namibia, land owners in commercial agricultural areas see land reform as a threat to their own economic security. The land reform process must be managed to maintain the confidence of business investors and to balance the needs of emerging and commercial agriculture. We must see land as a scarce natural resource which can be utilised in an optimal and sustainable way to the benefit of all those who depend on it for their immediate survival and for future generations.

C.3 The Land Resettlement Programme in Zimbabwe 1980-1994 (by M.J.M. Nyoni, Development Advisor - Zimbabwe)

Introduction

Like Namibia, Zimbabwe at Independence inherited a great disparity in the distribution of land among whites and blacks. Several laws during the colonial regime

gave half of the land for private ownership to Europeans, who could have title to the land and allotted the other half to the African populations. Formerly called African Reserves and Tribal Trust Lands, these lands are now called Communal Areas. Only a small number of African farmers who are tested and officially approved as "*master farmers*" could acquire registered title to private land. Thus, the majority of Africans were crowded into the Reserves.

At the time of Independence in 1980, it was estimated that every European farmer had access to one hundred times as much land as every African Farmer. Moreover, the quality of land in the European farming areas was much better suited to agriculture, while the land in the reserves was often barren and less fertile.

The Resettlement Programme

The 1979 Lancaster House Agreement, which was the political settlement for Zimbabwe's Independence, addressed the problem of land distribution. Most importantly, the Constitution enshrined that commercial (*i.e. European land*) could only exchange hands - even including reverting to the state on a "*willing seller-willing buyer*" basis. In 1980, the new Government also established an intensive Resettlement Programme in order to:

- a. relieve population pressure on communal lands;
- b. extend and improve the base for productive agriculture in the peasant farming sector (*through individuals and cooperatives*);
- c. improve the standard of living of the largest and poorest sector of the population of Zimbabwe; and
- d. promote their well-being as well as economic production through expansion and improvement of infrastructure and services.

Other long-term objectives of the Resettlement Programme sought to reduce the dependence on the commercial farm sector by creating autonomous, productive farmers settled through the Resettlement programme.

The Government launched the Resettlement Programme in September 1980 on land bought from large-scale commercial farmers on the "*willing seller-willing buyer*" basis. The plan envisaged settling 18,000 families on an area of about 1.1 million hectares. This meant that farmers had to offer their land and Government respond to the price offered. As a result, only poorer land was made available, and no large blocks in the better agricultural regions were offered. In addition, there was no legislation to prevent private individuals from buying the farms first, and commercial farmers exchanged a lot of land amongst themselves instead of to Government. In 1986, the Land Acquisition Act was introduced in order to give the Government the first option for refusal to purchase land available for sale.

Models of Resettlement

By 1982, the Three Year Transitional Development Plan revised the goal upwards to settle 162,000 families on 9 million hectares of land. Four models of settlement were proposed and implemented:

Model A: Through this scheme, individual households were allocated a 5 hectare arable plots, settled in a nucleated "*village*" and, based on the environmental conditions, given a livestock allocation to be grazed communally. As of 1994, 47,243 families had been settled on over 2.7 million hectares of land as part of the Model A.

Model B: These were farms taken over and run as a single unit by a cooperative. 7,122 families have been settled on 166,250 hectares under this model.

Model C: These farms were commercial estates run by a para-statal, with resettled farmers as outgrowers. The estate provided essential services such as ploughing and extension, while the outgrowers provided their labours at peak harvesting times. Only 557 families on 12,949 hectares of land have been settled on Model C farms.

Model D: This approach was designed for two of the most arid regions in Zimbabwe, where the main resource base was grazing land. The Model sought to utilize newly purchased commercial ranches as "*holding grazing areas*" while neighbouring Communal Areas were reorganized to clearly demarcate arable, residential and grazing areas. Villages would use the ranches in rotation in order to reset traditional grazing areas for a season or two. Model D accounts for 6,394 settlers on over 450,000 hectares of land.

The post-independence government gave considerable attention to agriculture and rural development, with the Resettlement Programme forming the central component of rural development as well as of land reform. The Programme required many financial and technical resources as well as coordination amongst ministries and departments, conducted through the Inter-Ministerial Committee on Resettlement.

Opportunities

Maize, sorghum, sunflowers, groundnuts, soya beans, cotton and tobacco were some of the main agricultural crops grown on the schemes. Importantly, there was a gradual increase in the marketed output of some of these crops. For example, tobacco production increased, and several resettlement areas have taken the lead in the small-scale farming sector. Some of the reasons for the increase were: increased producer prices, the provision of credit for inputs like fertilizers - provision was made for the Agricultural Finance Corporation to lend to settled farmers on a "*group basis*" with no collateral, provision of marketing depots nearer the areas of settler and peasant production; a concentrated or higher ration of extension workers to farmers.

From 1982-1984, there was a noticeable overall shift in agricultural production in terms of preferred crops between Large Scale Commercial Farming Areas and the small-scale Resettlement/Communal Farmers. In 1981, Zimbabwe introduced a minimum wage for all workers including agricultural farm labourers. This forced large-scale commercial farmers to reduce their labour force and shift away from labour intensive crops. Meanwhile, the peasant farming sector benefitted and used family labour and locally hired labour to increase production.

However, the marketing of livestock did not improve much. It is particularly noticeable that for a programme seeking to promote equity, up to 50% of households do not have any cattle to date.

Constraints

As the Resettlement Programme progressed, a number of constraints arose:

1. Large blocks of land next or near together were not widely available. This made it impossible to settle farmers in large enough numbers so as to supply them with infrastructure and services. In addition, the "*willing seller-willing buyer*" provision made it impossible for Government to determine in advance where and how much land it has purchased. Increasingly, the Programme is relying on marginal lands as resettlement lands.
2. International donors preferred the Model A resettlement, which left limited funds for Model B, which the government had to support itself.
3. Funds for land acquisition began to drop, just as land prices were rapidly rising. As the country became stable after independence, and since the land resettlement programme guaranteed a market, land prices soared upwards unabated. Although the Land Acquisition Act of 1986 gave Government the choice of first refusal on any offer of land, the scattered nature of the lands and lack of funds rendered the Act ineffective. As donor funds began to decrease, the Zimbabwe government had difficulty in funding both land acquisition and the needed infra-structural development.
4. The designing of the different models was based on the capability of the previous owners, rather than on the systems and productivity of those resettled. For example, the Model B failed to balance the number of labourers - 300 - needed to run a large enterprise, with the smaller number of members - no more than 50 - needed to manage a cooperative enterprise. This has led to serious under-utilization of the land resources occupied by these cooperatives.

Similarly, because each partner grew the same crops and needed the same resources, Model C led to competition over resources between the central core estate and the outgrower settlers.

Model D's greatest hurdle was that neighbouring communal farmers needed to be persuaded to remain reorganizing their holdings whilst the livestock was in the newly acquired farms. After improving their stock from the grazing on the commercial farm, many farmers refused to sell their stock, returning it to the communal area and again creating the problem of overstocking. Other farmers were reluctant to leave the ranch.

5. Until recently, a significant constraint has been the government's lack of will to undertake more comprehensive land reform. Government has acted cautiously due to concerns over the foreign exchange earnings from commercial farms, and the loss of formal jobs in the commercial sector.

The Future

In 1992, Parliament approved the Land Bill. The Land Act of 1992 maintains the size of the communal sector and the small scale commercial sector but reduces the large scale commercial farming sector from 11.3 million hectares to 5 million hectares. The 6.3 million hectares appropriated will be given to resettlement and state farming. The intent is to increase access to prime lands for new settlers, to broaden the scope of agricultural enterprises feasible in the resettlement areas, and to improve the efficient use of prime lands. Presently, up to 50% of the prime lands held by white, large-scale farmers are under-utilised or used extensively for livestock or wildlife.

The Government wants to redistribute land but also wants to maintain the commercial agriculture sector because of its role in export earnings, employment creation and food production. Zimbabwe cannot continue to have a dualistic structure of agriculture between large-scale commercial farmers and small-scale peasants. The intention of the Government is that all the communal resettlement and small scale commercial farmers should become commercial farmers. This upgrading will require considerable resources for finance, extension services, infrastructure and irrigation.

In particular, the Government wants to boost the number of black commercial farmers through more supportive finance, extension, and marketing. This goal will seek to achieve a more balanced racial composition of farmers on the 5 million hectares of commercial land. For example, the Agricultural Finance Corporation (AFC) is considering the granting of a three year grace period for indigenous farmers purchasing land for the first time. There will be no interest charged on the loans for three years, with interest accruing during the fourth year. Similarly, the AFC will reduce the interest rate charged to communal, resettlement and small scale commercial farmers from 13.25% to 7%.

The Government is aware that the few indigenous people who have ventured into commercial farming have not been able to succeed. Therefore, Zimbabwe is considering special support programmes, similar to those given to whites under the previous regime, for black commercial farmers.

In sum, the policy underscoring the Land Act of 1992 gives a stake to the different types of farming communities in Zimbabwe. The policy appears to be pragmatic from an economic, political and social point of view, although it will require fine-tuning and flexibility.

There is need, however, to strengthen the institutions involved in the land reform programme. Recommendations include:

* Technical planning of land use, undertaken by AGRITEX, should involve farmers groups and various scientists.

* The macro policy incentives for land use should include organizations such as the Reserve Bank, the Ministry of Finance, the National Economic Planning Agency, and the Ministry of Industry, Trade and Commerce. Indigenous business-people, farmers groups and experts need to be consulted and involved.

* The local organization of communities for resettlement should include the various departments of community development and local government promotion, and the numerous NGOs engaged in Land related development activities.

* There needs to be a permanent Land Commission to review land issues.

C.4 Group Ranches in Kenya (by Daniel Somoire - Director, Group Ranches Education Project - Kenya)

Mr. Somoire provided an overview of current government policy on land and then discussed how pastoralism has changed in Kenya.

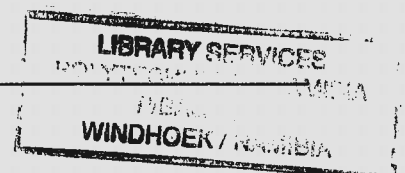
Government Policy on Land

Kenya's policy on land tenure, use and administration has had 3 broad aims:

1. To transform land within the former non-scheduled areas (*similar to Namibia's communal areas*) from customary land tenure through to statutory freehold tenure.

The country is establishing a program of land consolidation as well as procedures for adjudication of disputes. It is intended that a system of registration create security of tenure and provide incentives for better use and development of land.

2. To transfer ownership of land in the former scheduled areas from foreigners to Kenyans.



Towards this end, the country has embarked on a programme of land purchase and resettlement to reduce the problem of landlessness and unemployment.

3. To provide land within urban areas for residential, commercial, industrial and special purposes at reasonable cost.

It is envisaged that improved access to urban land will help to alleviate the shortage of housing and to facilitate commercial and industrial development.

Kenya's first aim has been met with limited success. The transformation of customary rights of land ownership to statutory freehold rights did not alleviate landlessness, as intended. Moreover, the programme of land consolidation contributed to landlessness. Thus, successful land policy in Kenya must address the question of land tenure: How can a pluralism of tenure systems be used to:

- * establish different forms of ownership?;
- * reconcile different boundaries?;
- * accommodate different types of land use?; and
- * reduce landlessness.

In particular, land use policy must consider which type of land tenure gives the people legal security over their land without compromising its production capacity and local means of survival.

The Transformation of Pastoralism

The paper looks at Kajiado District, home to a population of Maasai, to explore how land policies have affected pastoralism. Pastoralism, was, until fairly recently, the main activity in Kajiado District. However, due to the district's economic development, as well as colonial and post-independence policies, ranching and cultivation have emerged as competing economic activities.

Grazing Schemes

The transformation of pastoral lands from communal ownership to individual ownership has taken place in three, gradual stages. Change began with the British colonizers, who did not recognize communal ownership of grazing land. They began to impose reforms meant to change the systems to individual use. In particular, they established grazing schemes to control overgrazing caused by overstocking. The schemes established grazing control mechanisms as well as a system of disposing of excess livestock. The schemes did not change property rights but did impose regulations on pastoralists in the area.

Group Ranches and Co-operative Ranches

The second stage was characterized by the development of group ranches. Like the grazing schemes, group ranches also sought to control grazing and to increase off-take. The

group ranches introduced co-operative use of certain ranching inputs, and were managed by co-operative organizations.

Unlike grazing schemes, group ranches brought about changes in property rights in land ownership. Ownership rights were transferred from the original larger community to a smaller group of registered members. The new property rights prevailed over existing pastoral regulations, diminishing pastoral activities.

Group ranches did not live up to the expectations of members, who expected individual benefits. For example, loans acquired by the group ranches could only be used for construction of communal physical facilities, but not for other purposes. In addition, the process of making group decisions complicated management of the ranches.

After a decade, many members voted to subdivide the group ranches into individual ranches. On a few of the subdivided ranches, individuals have formed livestock co-operation societies. This approach is known as co-operative ranching, and may represent a useful, new model of land ownership and land use. However, many sub-divided ranches failed, as a result of the modest size of the land units and the lack of permanent water sources. Individual owners were then tempted to sell land to the wealthy ranchers, speculators or corporations. This division of land, by reducing access to land, has widened the poverty gap in the district.

Effects of Land Ownership on the Maasai

The change has been particularly problematic for the Maasai, who are nomadic and find their traditional methods of livestock production threatened. This pattern echoes British colonial practices in the region. Often, lands of the Maasai were used to solve problems arising from the needs and wants of other people elsewhere. The British did not respect traditional communal land usage, which made the Maasai vulnerable to dispossession. Today, the problem is compounded by the poor understanding of many Maasai of modern land laws and procedures.

The legal requirement of individual ownership may accelerate the process of alienating land from the Maasai. The Maasai, now marginalised from their land, are becoming mired in poverty.

C.5 Communal Land Tenure Policy in Namibia (by Dr. Wolfgang Werner - Director of Lands, Ministry of Lands, Resettlement and Rehabilitation)

With the Commercial Land Bill scheduled to be tabled within the week, Dr. Werner focused on communal land policy. The Government aims to draft an Act to regulate the allocation, administration, and management of communal lands. A draft Communal Lands

Act has been shelved. This delay allows scope for public input into the Act. Dr. Werner discussed four priorities under consideration by the Ministry for inclusion in the Act:

a) Decentralisation of land administration

A priority will be the decentralization of land administration. Dr. Werner pointed out that it is people in the regions who know the customs of the areas. Therefore, land administration must have local input. Traditional leaders will also continue to play a role in land administration. A possible model is the system of land boards used in Botswana. These regional structures would be composed of traditional leaders, government, NGOs and community structures.

b) Land tenure

New approaches to land tenure are also being explored. For example, new legislation might recognize different forms of tenure already in use in the Communal Areas and would honour land allocations through customary systems (*Thus, until the establishment of Land Boards, allocations under customary system will be recognized*). This legislation is central to the rights and security of people to the land they inhabit.

c) Land use planning

Land use planning is an important tenet of policies on communal land, and might also be a component of a future act on communal land. Without careful planning, people will exploit land for short-term financial gain. The regional land boards will need to establish rules to ensure that land users follow proper plans for management and improvement of the land. The boards will allocate land on the basis of local and regional land use plans.

Land Use planning would be developed and implemented jointly between the government and communities. In addition, to ensure sustainable management of pasture and wildlife areas, the government will need to ensure that communities have secure rights to the land. New models of range management are being piloted under the Ministry of Agriculture's Sustainable Animal and Range Development Programme.

d) Fencing in communal areas

The complex issue of fencing in communal areas will also need to be tackled through standard regulations and procedures. Dr. Werner noted that the legal issues of communal fencing are not straightforward. The Government cannot simply demolish all the fences, as many have been erected legally. One option is the creation of an investigative board, including lawyers, to travel from farm to farm to hear evidence and to determine if the fencing is legal. If legal, the government would measure the property and set a payment based on its size. If illegal, the government would ensure that the land is opened to the community.

APPENDIX D: SUBMISSION TO THE NATIONAL COUNCIL

D.1 Proposed amendments to the Bill:

Para:	Bill:	Amendment:
1.6.11	14(1)	Add: In making agricultural land available to such Namibian citizens, priority will be accorded to communities which lost land through dispossession, to women and to those without adequate other means of livelihood. In exercising the power of acquisition under this clause the Minister will have due regard to the interest of farmworker permanently resident upon affo.. property.
2.8	14(3)(ii)	Amend two economic units to one economic unit.
	14(4)(b)	Amend "size" to "size" or sizes Add: having regard to local variations in resource endowment the farm production systems to the socio-economic status of farm occupants and to the principle of long-term sustainable development of agricultural land.
3.	14	Add clause (c) any other freehold agricultural land.
4.	25(5)(e)	Add clause (iii): from past subsidies in respect of loans and other financial assistance granted by the state or parastatal institutions to the owner of the property for agricultural purposes.
7.	New	A new section is needed to grant farmworkers the legal right, in terms of use-rights, of access to land for agricultural purposes on the farms where they reside and work.
9.	4	New clause: One officer of the Ministry of Regional and local Government and Housing
	4(1)(e)	Amend "four to six" Add: of whom one each shall be a nominee of a representative coordinating Ngo body, a representative of the interests of disadvantaged rural communities and a representative of the interest of rural women.

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| 10. | 11 | Add new clause: The proceeding of the commission shall be open to the public and its decisions shall be a matter of public record. |
| 11 | 41(6)(b) | Delete the entire clause. |

D.2 Keynote Summary based on the Resolutions of the People's Conference on Land adopted at Mariental on 7 September 1994:

1. Communities which lost land through dispossession should benefit most from land reform, especially from government resettlement programmes.

Bill: Para 14(1) makes no reference to disposed communities. Para 37 allows the Minister to allocate state land to any group of persons qualifying under para 14(1) as well as to individuals.

Para 38(1)(a) state land can be subdivided for small-scale farming.

2. There must be a one farmer, one farm policy. The government should redistribute land from farmers owning more than one economic unit.

Bill: Para 14(4): leaves it to the Minister with the advice of the Land Reform Advisory Commission to determine the size of an "economic unit" for each "agro-ecological zone" There can only be one standard size for each zone. An "economic unit" could be very large (eg. a commercial ranch) or very small (eg. a smallholder farm) - the Bill gives no guidance.

Para 14(3)(b): allows one owner to have two economic units of land, which could be in one large farm or several smaller farms.

3. The government should, where necessary, make compulsory purchase of agricultural land at fair market prices for the purposes of land reform.

Bill: Para 14(2)(b) & (c) and 20(1) empowers the Minister to expropriate "under-utilised" and excessive land

Para 17(1) the state has the first right to buy any agricultural land put up for sale. The bill does not give the state the power to make compulsory purchases of other types of land for land reform (eg. a group of farms for a resettlement scheme).

4. In determining a fair market price for agricultural land, the government should deduct the value of cheap loans and subsidies given to farmers during the colonial era.

Bill: In determining a "*fair market price*" for agricultural land, the government should deduct the value of cheap loans and subsidies given to farmers during the colonial era.

5. The state should reserve the right of option to purchase any freehold farm put up for sale.

Bill: Para 11(1): gives the state this right.

Para 14(1) Land for land reform can only be bought with moneys appropriated by Parliament for the purpose: This may restrict the raising of government loans for buying land.

6. Women should have equal rights with men in all aspects of land reform, especially in the acquisition of agricultural land.

Bill: Para 14(1) makes no mention of gender discrimination.

7. Farmworkers must be augured of opportunities to obtain use rights to agricultural land.

Bill: Farmworkers must be assured of opportunities to obtain used rights to agricultural land.

8. Land reform in the freehold zone should confirm to the principle of sustainable development.

Bill: Makes no reference to the principle of long-term sustainable development. Many commercial ranches may not be visible in the long run.

9. The government: Should collaborate with NGOs and communities as well as farmers in the implementation of land reform in the freehold zone and in formulating national land-use policies.

Bill: Para 4(1) members of the Commission must include nominees of two agricultural organisations and the Agricultural Bank, plus four others not in the public service, but the Minister is not required to appoint representative of rural communities or the landless.

10. The government should promote community participation on the implementation of the Land Act.

Bill: The government, the commission and the Lands Tribunal are named as the implementing agencies. There is no provision for consultation with rural

communities, farmworkers, women and the landless, nor for their participation in implementing land reform.

Para 11. The proceedings of the Commission could be kept secret. There is no right of public access.

11. The Land Act should be implemented as a key instrument of a land reform policy which brings about a more equitable and just distribution of land in Namibia to meet the expectations of disadvantaged people.

Bill: Para 14(1): Land can be acquired for the purposes of land reform to assist "*disadvantaged*" Namibian citizens, but the definition is prague enough to town dwellers and well-off Namibians without land. In many other countries, land reform has been used by urban elites to get big farms.

Para 41(a)(b) The Communities must take account of financial manage in allocating land to an applicant. This could exclude small farmers and the landless and benefit better-off applicants and those who can already afford to by land without a programme of financial and technical assistance, which the bill does not provide land reform may not help many rural people - the landless, small farmers, farmworkers, women, disposed communities.