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LUPA*



REPUBLIC OF NAMIBIA

National Conference
on
Land Reform
and
the Land Question

Consensus Document

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Contents

Introduction	2
President's opening Address	3
The Prime Minister's address	9
Consensus of the conference	23
Prime Minister's closing remarks	35
Conference programme	37

National Conference on Land Reform and the Land Question Consensus document

INTRODUCTION

The land question in Namibia is one of the most burning issues facing the new nation. Many years of colonialism have resulted in the present situation where the vast majority of the population has access to a fraction of all agricultural land. This highly unequal distribution of land in turn laid the foundation for the structures of apartheid and labour exploitation, and thus urban and rural poverty. One of the principal challenges facing the Government is therefore to redress this imbalance and widen access to the land.

In its attempt to formulate new policies which will eventually bring about a more equitable distribution of land, Government has decided to embark on a programme of national consultation on the land question. In this way, the views and problems of the people was directly represented in a national debate. In fulfillment of the Prime Minister's undertaking given to the National Assembly on 1 June, 1990, this process of national consultation culminated in the National Conference on Land Reform and the Land Question.

President's Opening Address

We are all aware that Namibia is an extremely dry country. Thus, any issue linked to land inevitably touches on the broader aspects of agricultural productivity and the availability of water. I, therefore, hope that the Land Reform Conference will consider not only the land issue *per se* but all the relevant questions such as agricultural productivity, water availability, employment generation by farming and the linkages between agriculture and manufacturing.

The land question in Namibia is one of the most burning issues facing our young nation today. Indeed, it was central to the struggle for national liberation. A quick glance at the political economy of this country clearly reveals why land is of such great importance. In the first place, about 90% of the population derives its livelihood from the land, either as peasants, private owners of commercial farm land or workers on such farms.

Despite the fact that such a large proportion of Namibians derives their livelihood from the land, access and ownership of land are highly unevenly distributed. Thus, 36,2 million hectares of the total agriculturally usable land in Namibia is owned and utilized by only 4 664 individual farmers. On the other hand, more than 150 000 families or close to one million people have access to only 33,5 million hectares of the total land suitable for agricultural production. This latter tract is commonly referred to as communal land.

Similarly, unequal access to vital facilities such as agricultural credit, extension services, research into small-scale rather than large-scale commercial agriculture and lack of access to markets have resulted in communal areas being underdeveloped. As a consequence, agricultural productivity in communal areas and their overall contribution to the GDP has been disappointingly low.

Malnutrition and lack of access to education and other social services

have characterised the life of the majority of our people in the communal areas. On the other hand, commercial agriculture, with generous financial and other assistance from the previous colonial administration has been able to grow. As a result, most of agriculture's total contribution to the national economy is produced by this sector. This is what we call unequal distribution of resources.

It is a matter of historic record that the administrative machinery set up by Imperial Germany in Namibia after 1900 clearly indicated what social and economic policies she wanted to pursue in the territory.

The country was divided into two sections. One of these sections was named the "Police Zone" and was meant largely for whites. The Police Zone was also the best part of the territory as it contained most of the known economic resources and the best agricultural land. The other section comprised the Northern and North-Eastern parts where "reserves" or "homelands" were created and the indigenous population was forced to live in remote, arid and under-developed areas.

This structure of land ownership and tenure, however, did not only affect those who derived their livelihoods directly from the land. On the contrary, the creation of reserves or homelands was an essential feature of the colonial exploitation of Namibia's resources. In addition, the entire wage structure and labour supply system depended very much on the way Namibia's land was divided. In a sense, therefore, denying the majority of the people access to land was as much intended to make such land available to white settlers, as it was to deny black Namibians access to the same land, thereby denying them the opportunity to engage in commercial agriculture and forcing them into wage labour.

According to the recent study on farm ownership in Namibia today, there are about 6 292 farms. Out of these, 6 123 farms are white-owned, and cover 95 per cent of the surface area of the commercial districts (34,4 million hectares). Within this ownership category the overwhelming majority of farms belong to individual white farmers, including non-Namibians. To be more specific, a total area of 2,7 million hectares (382

farms) belong to foreign absentee farmers, that is to say 0,9 million hectares belonging to citizens from Austria, France, Italy and Switzerland, while the bulk of 1,7 million hectares is owned by South African residents. Similarly, there are individual Namibian farmers with more than two large farms, as against thousands of their landless fellow countrymen who live in squalid poverty.

Black Namibian farmers own only 181 of the commercial farms representing 2,9 per cent of the farms. The rest are either owned by the churches, municipalities or the state. Excluding plots around the towns, the average size of farms is 8 592 hectares. Indeed some Namibians here and certainly many of their grandparents and parents have had personal experiences of the process. However, there are some people who argue that because the unequal distribution of land happened more than 100 years ago, it should best be forgotten and relegated to history books. Others have come to this Conference to redress the situation by arguing for the restoration of their ancestral lands. One cannot and should not forget history.

This Conference will have to discuss whether pre-colonial and colonial history can be taken as a starting point for redressing the imbalances and injustices created during the course of that sad history.

The cruelty and ill-treatment meted out against black farm-workers by some white farmers up to this moment is irreconcilable with present independent Namibia and the policy of national reconciliation. Some whites arbitrarily dismiss their workers (including those who were born on the same farms) without pension or any means of livelihood. The dismissed farm worker is forced to live between the road and the fence of the farm. Often they are told to go and ask Sam Nujoma for a job and for food. This is an abuse at best and a serious insult at worst.

Equally, there are fellow Namibian citizens who happen to be rich and who embark upon illegal fencing-off of communal areas, thus cutting off and depriving the rest of the community from common grazing fields and water sources. This kind of illegal, inhuman and unpatriotic behaviour towards fellow Namibians must come to an end forthwith.

It is with a view to reconciling such opposing perceptions on the land question that my Government through the Office of the Prime Minister, decided in June last year to embark on a programme of national consultations on the land question. The culmination of this process is this Conference which is starting today.

That the general objective of this Conference is to achieve the greatest possible consensus on the land question, thus providing a solid basis for the formulation of a policy on land reform and programme of action to implement the necessary changes.

In the weeks preceding the Conference, large sectors of our population were mobilised to discuss the land question with the view to representing their views at the Conference. Newspapers, the radio and television were used to initiate discussions in all parts of the country. Regional information sub-committees were established to facilitate communication between rural organizations and the Conference administration. As a result more than 500 applications for participation at the Conference were received. Great care was taken in extending invitations to participants to ensure that all those groups and organisations with a direct interest in land would be represented at the Conference.

My Government's decision to consult the nation before formulating policy on important national issues, also demonstrates its commitment to democracy. Never before in the history of our country has any Government brought together so many people with the aim to consult on such an important issue as the land question. The issues to be discussed at this Conference did not arise as a result of independence. They are part of our historical inheritance. But it is to the credit of the first Government of independent Namibia which has provided the opportunity for all Namibians to come forward with their problems and to suggest solutions to the land question.

In having chosen the path of national consultation and participation in addressing the land question, my Government hopes to have laid the basis for an on-going process of democratic consultation on other major

issues as well. My Government hopes that this Conference will address itself to the following:

a) Contribute towards a better understanding of the issues at stake by providing a forum where relevant land issues and grievances from all parts of the country can be represented and discussed;

b) To take stock of relevant experiences of land reform and re-settlement in other parts of Africa;

c) Consider research data and findings prepared for this Conference with a view to outlining alternative policy options and to specify areas where essential information is lacking.

d) Review alternative policy and strategic options on land reform, more specially on problems of distribution and utilisation of land, taking into account regional and local factors, and;

e) To adopt, as the Conference decides, recommendations which will be taken into account in the formulation of a national policy and programme of action.

The research papers prepared will no doubt provide the Conference with information on the economic, financial, ecological and institutional parameters within which solutions for the land problem can be found. By outlining the parameters for land reform it is not intended to limit the options for reform, rather the intention is to lay before the Conference some data and suggestions which may contribute to solving the land question in such a way that sustainable development can take place on the land. Without proper regard to ecological and other factors which influence the potential of land for agricultural purposes, any particular solution to the land question may turn out to be no solution at all in the long run.

As it can be seen from the foregoing, the ownership and control of land in Namibia is highly skewed. A tiny minority not only owns about 44% of all agricultural land but also controls access to such land. The vast majority

of the population have to make a living in the reserves which comprise no more than 40% of agricultural land. This means that the land to people ratio in the reserves is highly unfavourable compared to the commercial farming sector. As a result, over-population and over-grazing are the order of the day. As a result of population pressure and the absence of employment opportunities elsewhere, arable land per household is also shrinking. In Owambo for example, the average area cultivated by a family is 1,7 hectares; in Kavango 2 hectares and in the Caprivi 2,5 hectares. This is not only unfair, but it is really inhumane.

This situation is exacerbated by the fact that the reserves have been starved of agricultural inputs such as credit, training, infrastructure, improved seeds and fertilizer for many decades. Under such conditions agricultural productivity is low. In Owambo, Kavango and the Caprivi communal areas grain yields per hectare are no more than 0,3 tons.

This is far less than what a family needs to feed itself. A recent investigation found that a family would need at least 3 hectares to provide subsistence at present yields.

So while I do not envy you for your difficult task, I am confident that your discussions will take place in a frank manner and that you will provide my Government with suggestions and recommendations with which to formulate a national policy on land reform. I do wish you the best in your deliberations.

It is now my singular honour to declare the Land Reform Conference officially open.

The Prime Minister's Address: The Way Forward

In June 1990, in the National Assembly, I set in train the arrangements for the holding of the National Conference on Land Reform and the Land Question. The purpose was to resolve Namibia's land problems in a spirit of national reconciliation. The aim of the Conference is :

- a) to act as a forum for presenting and discussing all relevant land issues and grievances from all parts of the country;
- b) to review policy and strategy options on land reform, taking account of regional and local factors.
- c) to develop a national policy and programme of action aimed at solving land problems.

The Conference provides an opportunity to obtain the views of the people directly. They will then be considered by the Cabinet and, where appropriate, will be taken to the National Assembly for the enactment of a Land Reform Law.

In the year that has elapsed since the decision was made to hold a national conference, a wide ranging debate has taken place on the land issue in Namibia. The discussions, which no doubt will continue during this Conference, have ranged over three principal areas:

- a) **Colonial dispossession:** how to get back land rights taken under colonial rule, and how to stop the continuing exploitation of farm workers;
- b) **Equity:** how to correct the extremely unequal distribution of agricultural land inherited from the apartheid regime and, at the same time, how to enable the two-thirds of Namibian households who are partly or fully dependent on the land to achieve a decent living;

- c) **Efficiency:** how to increase the efficiency of land use so as to strengthen the contribution of agriculture to the economy, now and in the long term.

Colonial dispossession

The process of land alienation in Namibia began with the colonisation of the territory, first by the Germans and later on by the South Africans. To reverse this process now and return the land to the descendants of previous users presents major practical difficulties. A major problem is to determine with accuracy the precolonial tenurial situation and to identify the descendants of former owners. During the latter years of the last century, groups of pastoral peoples, in shifting alliances, moved back and forth across the landscape. By 1883, practically the whole territory occupied by pastoralist communities had been acquired by eight concession companies, although the process of removing the people to "reserves" continued into the 1960s.

Should the clock be turned back and to what precise point in history? What criteria should be used for evaluating competing claims?

Equity

If the debate at the Conference is to move forward to achieve a positive result, it will be necessary to go beyond the issue of land theft to consider equity, i.e. improving access to land and providing a fairer share of the income from the use of land to the majority of rural Namibians: farm workers, small stock keepers, cultivators, women as well as men, San and other marginalised communities.

For those concerned about equity issues, one of the principal objectives of land reform is the elimination of the extreme social and economic inequality inherited from the colonial apartheid system. Few other countries have a pattern of land distribution which is so unequal. An estimated two per cent of the rural population controls 57 per cent of the agriculturally usable land. This inequality is further accentuated by the very limited access of those living in Communal Areas to agricultural inputs and basic social services, as compared with the commercial areas.

Efficiency

Others have stressed that land reform and the allocation of land should be guided by the principle of who can make the most efficient use of the land under systems of modern scientific farming.

This is a valid and justifiable objective, but the technical efficiency of the land user cannot be the sole criterion. The concept of efficiency should be extended to include the use of all resources (land, labour and capital). Production should not be over dependent on subsidies and tax concessions.

There is an underlying assumption that efficiency should be judged in terms of measures such as the annual off-take of animals from the range. In the Communal Areas, off-take is less than half that obtained on commercial farms, but the production costs of Communal Area farmers are also low. In this sense, Communal Area farmers are more efficient in the use of resources, especially scarce foreign exchange, than commercial farmers.

Interlocking constraints

What has become clear from the discussions of land reform leading up to the Conference is that these three issues (colonial dispossession, equity and efficiency) cannot be treated in isolation. They have to be addressed jointly, because one cannot be resolved without reference to the other two.

- Reconciliation cannot be achieved by denying the need to redress historical injustices.
- Nor can it be obtained by denying the present inequality of access to land and employment which results from these injustices. Economic and social justice cannot be achieved without enabling the present generation and their children to obtain decent standards of living.
- Equally, the importance of the technical, agronomic and economic factors which determine how the land can be used cannot be denied.

Land Rights and the Constitution

Approximately two thirds of Namibia are usable for agricultural purposes; the rest of the country is taken up by deserts and nature reserves, particularly on the western side of the country. The usable area is divided into communal land, (about 43 per cent) and commercial land (about 57 per cent).

During this week, the Conference will hear a great deal about land tenure. Communal land tenure is in fact communal ownership with household user rights, it is the traditional system or - more correctly - the system of tenure which prevailed in pre-colonial times. Approximately 33,5 million hectares, of the potentially usable agricultural lands, are under communal tenure, but not all of this is exploitable without major investment in water supplies. The usable area is about 27 million hectares.

Commercial farm land is mostly privately owned, that is freehold land, although it might be leased or rented to a second party by the owner. The total area of commercial farm land is about 36 million hectares, well over half of the usable area.

Article 100 of the Constitution, **Sovereign Ownership of Natural Resources**, states that "*Land, water and natural resources below and above the surface of the landshall belong to the State if they are not otherwise lawfully owned.*" Under Article 16 of the Constitution, *Property*, the State may expropriate property in the public interest subject to payment of just compensation.

People's rights to communal and commercial land in independent Namibia have been profoundly influenced by the colonial experience. Today, people in the communal lands - some 65 to 70 per cent of the population - have no acknowledged right, independent of the will of the State, to live and farm in the Communal Areas. This is in contrast to the "lawfully owned" commercial farming areas, created out of colonial dispossession, where owners are entitled to "just compensation" under the Constitution.

The Conference may wish to consider how this situation might be rectified under the system of Regional and Local Government yet to be introduced.

Agenda for Land Reform

It is apparent that land reform in Namibia should not be concerned only with the redistribution of commercial, privately owned land, but also with safeguarding people's access to communal land resources and protecting the legitimate rights of farm workers.

Clearly, the Conference should discuss not only land reform, that is the redistribution of rights in land, but also rural development, that is improving incomes and living standards in the rural areas. However, there is a danger that, in widening the debate to include rural development, the Conference will lose sight of the urgent need for land reform. Equally, for the Conference to talk simply about rural development in the Communal Areas without addressing the subject of land redistribution and improving the conditions of farm workers, would be unrealistic and a sure way to break the fragile process of reconciliation.

Communal Areas

Let us, nevertheless, begin with a consideration of the land-related issues in the Communal Areas. About 55-60 per cent of Namibia's population depend for subsistence on their right to live and farm in their communal lands. Their numbers are rapidly increasing in proportion to the land available.

The lack of boreholes and other basic infrastructure in the communal lands has meant that thousands of Namibians who could exercise their right to farm and contribute to the support of their families, are now without usable land. The miserable conditions of farm workers and the exploding population of Katutura is due in large part to the expropriation of communal lands for ranching during the colonial period, a process which appears to be continuing today.

A single idea on the development of the communal areas has dominated the thinking of most officials and some of the wealthier and more educated people of those areas. It is that traditional farmers and customary forms of land tenure are both obsolete and backward. It is felt that they should be transformed as soon as possible into commercial farmers and leasehold

tenure. This line of thought on the subdivision of communal land into "economic units" has provided a theme for Communal Area development plans for several decades.

This has had a number of unfortunate consequences, chief among which is that agricultural development in the Communal Areas has been virtually blocked, except for the official and unofficial fencing of substantial tracts of land. Although large sums have been spent by government on water supplies, much of this expenditure has been geared to sustaining or establishing fenced farms.

A national attitudinal survey on land issues was carried out in preparation for this Conference. Town-dwelling people and commercial farmers seemed to hold the view that communal tenure is an obstacle to development. On the other hand, the great majority of people living in the Communal Areas wished to retain the system.

The results of the survey are in line with that of research carried out in other countries. This increasingly questions the negative statements about communal land tenure and its consequences. There is clear evidence that communal land tenure systems tend to evolve towards fuller and more secure individual tenure rights in response to a growing population and commercialisation of agriculture. This raises questions about the priority which should be accorded to expensive interventions intended to force the pace of tenure change, such as converting traditional rights to land into private property. This process has led to widespread landlessness in other African countries. This Conference must thus discuss the future of communal land tenure and whether it should continue in Namibia for the time being.

In many of the Communal Areas, the problem is not one of absolute shortage of land, but of restricted access to communal land and of low and falling land productivity. Studies indicate that there are some three million hectares (an area of about twice the size of Rehoboth, or three quarters the size of Outjo) of unutilised land in Owambo and Kavango which could be developed for the use of small farmers. The Conference might consider how this land could be made available and to whom.

The area of unutilised land would be considerably larger if it were not for the fact that extensive tracts of communal land are being earmarked for

enclosure as commercial farms. This same land is suited for occupation by communities of small farmers. It might also be noted that the resettlement programme of the government requires the expenditure of public funds on buying commercial farms for the settlement of small farmers. Yet at the same time, communal land which could be suitable for this purpose, is being grabbed by wealthy farmers, some of whom could afford to buy their own commercial farms, or at least could be helped to do so.

The government has identified thousands of landless and destitute San who have been awarded priority in their land settlement programme. This situation is caused by the occupation of their land and water points by stock farmers, a process which had its roots in the last century. As long as this process of dispossession continues unaddressed, increasing numbers of San will be rendered destitute, requiring costly resettlement programmes. In this context, it should be noted that the area which the previous regime called eastern Bushmanland is not unutilised, but is occupied by a community of some 4 000 people.

There is need for the Conference to give serious attention to land policy and administration in the Communal Areas, most urgently the protection of communal rights to land for the poorer sections of the community.

Administration of communal land

Until recently, all applications for land were customarily directed through chiefs and headman. With the dissolution of the second tier authorities and the emergence of new political alignments, the traditional leaders have, in many cases, been left powerless. This is particularly the case in the communal areas of the south, east and west to where the people and their leaders were moved by the colonial regime. The position of the traditional leadership in the northern communal areas may be more secure.

The new post-independence regional authorities do not have the staff, the local knowledge or the legal mandate to deal with land disputes and land allotment, or to monitor land use. These problems of the management of resources in the Communal Areas extend beyond crop land and grazing to include other natural resources: wildlife, firewood, fencing and building poles, material for basket work, veld foods, etc.

As the contributions of Conference participants will show, each locality has its own unique set of inherited and current problems. Further, many

of the solutions to these highly specific land issues can be generated only at the local level. On the other hand, local solutions have to be in accordance with a **national policy** on land use and rights of access to land and natural resources for all Namibians, women as well as men.

A key question - one needing early action - is how to provide equality of access to women. This is most urgent in the case of female-headed or de facto female-headed households in which the male is absent most of the year. A woman should be as eligible to have the land use title in her name as a man, even if she and her husband live together, and to inherit and bequeath land. This would appear to be required by the Constitution.

It is not yet clear what the lowest level of local government will be. Some time may elapse before it becomes clear. The Conference may conclude that, in the meantime, there is need for a local institution, which has the respect of the people and the support of government, to undertake the administration of land and natural resources. Such an institution would combine local knowledge and tradition with the principles and techniques of modern land use planning. Its decisions would respect the needs and aspirations of the people it served. It would be given the legal authority to implement and enforce its decisions.

Commercial Farm Lands

From the long list of issues relating to the future of the commercial farming areas, there are several which stand out as worthy of special attention by the Conference. Of particular concern to participants will be the issue of ancestral rights and sovereignty over Namibia's land.

More than a year after independence, the situation in the commercial agricultural districts remains fundamentally unchanged. The ownership of land is still concentrated in the hands of those who profited from the former colonial regime; the labour force is still highly exploited. Despite the hard fought and hard won independence, the continuing ownership of much of the land by a small minority remains a burning political issue, especially among the rural people whose livelihood must come from the land.

The Conference may wish to consider whether the question could be partly resolved in the same way as that of sovereignty over mineral (or fish)

resources, that is by vesting land title in the State on behalf of the Namibian people and issuing land use rights.

For the large farm sector (i.e. the present freehold sector), and logically the urban freehold sector as well, rights could be issued for 99 years from the date of Namibia's independence. Such a scheme would allow the eventual harmonisation of land tenure in what are now the freehold and communal lands. In all cases, land could be leased from the State on the same basic terms.

This approach, which has been used in other African states, would vest land ownership in the State and provide an important source of revenue from rents to finance land reform, yet would also provide for secure user rights. The adoption of such a scheme could have both symbolic as well as positive political results. There is reason to believe that such a scheme could be introduced without infringing the Constitution.

Such a scheme would facilitate a more speedy transfer of farms in the commercial areas to a more representative group of Namibians. At the same time, it would facilitate the acquisition of land for the purpose of redistribution by government, which would have a first option on all leases offered for sale.

Redistribution of commercial land

At this stage, we need to ask ourselves why the redistribution of commercial land is necessary. Participants will hear, for example, of proposals for major investments in water supply schemes opening up unutilised land in the northern Communal Areas. However, such schemes will not help the poor farmers in the crowded Communal Areas to the south, west and east, for whom space must be found in the commercial areas. Many of these people have been dispossessed in the last fifty years.

Just how might such commercial land be acquired for distribution or lease to small farmers? It has been estimated that some 1 000 to 1 250 large units might come on the market over the next five years. That amounts to roughly 20 to 25 per cent of all operating farms. The vacancies will arise from abandonment of farms, sales on the retirement of farmers, sales by heirs and other reasons.

However, farm sales alone may not provide the quantity or type of land which is suitable for redistribution to small farmers. It is therefore neces-

sary for the Conference to discuss other options:

- acquisition of foreign-owned farms
- acquisition of farms in excess of one, owned by individuals;
- land owned in excess of a maximum size;
- acquisition of under-utilised land; and, possibly,
- land farmed with exploited labour in defiance of the law or future labour codes.

There are also other categories, apart from individual ownership, that need to be examined with a view to identifying land for renting or distribution to small farmers (e.g. farms owned by the State, municipalities and peri-urban boards, companies and churches) which together make up some 5 per cent of the commercial area.

However, before deciding how much land the State might acquire for redistribution, where and for whom, it would be well to examine the use to which redistributed commercial land might be put, for here lies a major dilemma for Namibia. The resettlement opportunities within the commercial areas for small farmers from the crowded parts of the northern Communal Areas are limited. In fact the opportunities are much better within the unutilised parts of Kavango and Owambo.

Only relatively small areas of commercial farm land to the south are suitable for arable crops because rainfall is too low and unreliable. There is, therefore, a clear limit to the area that could be acquired for resettlement of mixed crop and livestock farmers from the north.

We are informed that there are few successful precedents for organised pastoral settlement schemes. Simply removing the boundary fences of purchased farms on the edge of existing communal land and allowing herds to graze over a larger area may be the cheapest and most effective way of improving the situation of small-scale stock owners. This solution would depend on the acquisition of a number of adjacent farms adjoining the Communal Area to be extended. An alternative approach would be short-term rental of grazing on individual farms to stock-owners from Communal Areas.

Elsewhere in Africa, the settlement of **groups of pastoralists** on purchased farms has proved more problematic than the settlement of mixed farmers. Large areas will be needed to provide grazing for herds of sufficient size to sustain their owners. If each household is allocated a single paddock of a farm with its own water supply, the effect of restricted livestock movement is likely to inflict severe damage on the veld. There will be high risks of total stock losses during droughts. On the other hand, if a number of households are allocated the farm as a whole, it is likely to become a communal area in miniature.

The simplest programme would be to attract **individual larger stock owners** from the Communal Areas to commercial farms through the provision of special financing arrangements. However, the impact of such a scheme on the range resources of the Communal Areas and on the income and living standards of the majority of stock holders left behind would probably be small. It is noted that in the past larger stock owners have been reluctant to leave the Communal Areas. When they have moved, they have retained "dual grazing rights", by keeping one foot in the Communal Areas.

The Conference needs to consider which Communal Area farmers should be provided with access to such commercial land; their geographical origin; level of income; and whether the returnees, the landless and the unemployed should be given priority. Further, what tenure arrangements should be adopted: individual farms, cooperatives, etc? What arrangements should be made for settlers regarding purchase/lease, short-term rental contracts for grazing by individuals and/or groups? What level of support should be provided (e.g. credit, farm infrastructure, social services)? The Conference is invited to consider the adoption of a variety of approaches. One possibility would be to invite international corporations with appropriate technical and management experience (for example the Commonwealth Development Corporation) to assist in the establishment of ranching cooperatives in which employees would be shareholders.

Withdrawal of remaining subsidies and taxes from the commercial sector

Although somewhat peripheral to the central issue of land reform, it is also necessary for the Conference to consider what measures should be adopted to make the commercial farm sector more self-reliant and productive. At the same time, the Conference should recognise that the more

financially difficult conditions become, the greater will be the tendency to exploit labour and overgraze the range.

It has been argued that the current level of state support to commercial farming is both inefficient and inequitable. It is inefficient because the subsidies and tax concessions which remain in force encourage excessive investment in commercial agriculture. It might be spent more productively elsewhere in the economy. It is inequitable because the beneficiaries, namely commercial farmers, are better off than the average Namibian.

We must ask ourselves whether a phased removal of the remaining farm subsidies and tax concessions would result in a smaller, but healthier, sector free of state support?

Farm workers

It is clear that any land reform programme in Namibia must include the farm workers on the commercial farms. Recent evidence shows that many of them live and work in deplorable conditions, often earning less than R100 per month, with very poor housing and practically no access to social services. Moreover, land owners use lower-paid casual and temporary workers, as well as child and prison labour, which lowers wages for farm labour in general.

Many people argue that if government insists on improved conditions for farm labour, it would lead to loss of jobs. Others disagree and insist that legislating for improved conditions will lead to a healthier industry.

The objective must be to establish a living wage for farm labour. This can be achieved by legislating a minimum wage or by legislating for basic conditions of employment (e.g. hours, holidays, housing, etc.) and ensuring the provision of social services. This, in turn, should encourage workers' organisations to grow and flourish so that they can defend and build on the rights they have won. Experience in Zimbabwe shows that a minimum wage law is very hard to enforce and is likely to be treated by employers as a maximum wage and be used as an excuse to lay off workers.

The Ministry of Labour and Manpower Development has the responsibility for enforcing the labour code once it becomes law. It is unlikely to have enough field staff to monitor conditions. For this reason, it is important

that the field staff of the Ministry of Agriculture, Water and Rural Development are given the task of monitoring the observance of legislation and reporting any violations to the labour relations offices which are to be established at a regional level.

It should be possible, for example, to insist that the provision of supporting services to farm owners - drought relief, credit, etc. - is linked to the observance of the prescribed minimum conditions for farm workers.

In some countries, even stronger measures have been adopted to force land owners to improve the conditions of their workers. For example, they have been threatened with expropriation if the land is not fulfilling its "social function". The threat of such measures have usually been sufficient to bring errant land owners into line.

Many farm workers have lower-order tenure rights, for example to graze animals or cut firewood, through birth or long service on the farms. They are conscious of these rights and expect a land reform programme to protect them. The majority of farm workers are completely landless. The Conference needs to consider ways in which they could be granted land, both within the Communal Areas and in the locality of farms and on the farms.

Concluding remarks

In conclusion, there are several broad observations, based on experience with land reform in other countries, that the Conference should reflect upon.

First, experience shows that land reform will be a failure unless it leads to the productive use of land. Frequently land reform in other countries has failed to generate long-term benefits for the target population, who become unduly dependent on government subsidies. Our concern for the restitution of land rights, justice and equity in the allocation of land resources should not divert us from the need to ensure the long term economic viability of our land reform programme.

The second lesson that we can learn from land reforms elsewhere is that, all too often, they have excluded the poor subsistence farmers, especially women, because they are believed to be inefficient, unproduc-

tive and unworthy of assistance. Land redistribution has mainly benefited the better-off members of the community. On the other hand, where governments have taken equity seriously and provided the necessary supporting services (extension, credit, marketing, etc.), the poor and disadvantaged have responded to the opportunities offered. The crucial issue is not what people are, but what they can become if provided with the opportunity.

Thirdly, programmes involving the relocation of people and their resettlement elsewhere have had very limited success and have proved extremely costly. It is not unusual for costs to range between R30 000 to R50 000 per family for relocation and settlement, infrastructure and support during the first year or more. The Conference will do well to bear in mind that there is a considerable body of experience on resettlement, both in Namibia itself and in neighbouring African countries, which can be used to avoid the many pitfalls to which resettlement programmes are prone.

Programmes which succeed in helping the rural poor to improve their production and income and which, at the same time, are cost effective will have the most impact on raising employment. Where land reform programmes have concentrated on the establishment of medium-scale farmers, the impact on employment has been correspondingly small.

Finally, it is well to remind ourselves of one important principle. There is one recipe for success and that is to involve the people as fully as possible in the planning and the implementation of the actions necessary to satisfy their needs. It is the policy of our government to consult you, the people, on matters of such fundamental importance as land. This conference is the culmination of a series of meetings on land reform and the land question which began with ministerial visits to the regions early in the year. The process of consultation will not end with the land conference, but will continue as we strive to implement its commendations.

We have made every effort to obtain the participation of as many organisations and interest groups as possible in the Conference. Even such individuals from rural areas whose voices are not normally heard can be seen and heard in the video documentary to be shown tomorrow. The adoption of this consultative approach at the outset of Namibia's land reform programme holds promise. It must be allowed to continue. Without consultation we cannot expect to succeed.

Consensus of the Conference

During the course of the discussions at the historic conference, informed by presentations and submissions by the delegates participating, the following general consensus has emerged from the deliberations:

COMMERCIAL LAND

1. Injustice:

During the colonial period, much of Namibia's farming area was expropriated by the German and South African colonial regimes. It was allocated exclusively to white settlers while Namibian farmers were mainly confined to reserves. Today, a small minority owns nearly all the freehold farms.

Conference **concludes** that there was injustice concerning the acquisition of land in the past and that something practicable must be done to rectify the situation.

2. Ancestral rights:

Before Namibia was colonised at the end of the 19th century, the land boundaries between Namibian communities were not precisely demarcated and shifted frequently. The claims of different communities will inevitably overlap. During the colonial period, there have been large population movements and a mixing of previously distinct communities.

Conference **concludes** that given the complexities in redressing ancestral land claims, restitution of such claims in full is impossible.

3. Foreign-owned farmland:

There is nationwide land hunger and a severe shortage of available farmland. During the colonial period, Namibians were excluded in favour of settlers from abroad, especially South Africa. The constitutional principle of affirmative action is best served by giving priority to Namibians who need to own farmland.

Conference **resolves** that foreigners should not be allowed to own farmland, but should be given the right to use and develop it on a leasehold basis in accordance with Namibia's 'open door' policy towards foreign investment.

4. Underutilised land:

There is land hunger and severe pressure on farmland in the communal areas, while some land in the commercial zone remains abandoned or not fully utilised.

Conference **resolves** that abandoned and underutilised commercial land should be reallocated and brought into productive use.

5. Absentee landlords:

Many absentee landlords have alternative sources of income, while many Namibian farmers lack sufficient land to make an adequate living. Some Namibian farm enterprises are split between different locations and others are part-time or weekend farmers. Absentee foreign owners, on the other hand, mostly live abroad.

Conference **resolves** that land owned by absentees should be expropriated, but that there should be a distinction, in respect of owners who do not live on their farms, between foreign and Namibian owners.

6. Farm size and numbers:

Some commercial farmers own more than one farm or large tracts of land while many Namibians are short of land. In the spirit of national reconciliation, a redistribution of such farms would open up access to a greater number of Namibian farmers.

Conference **resolves** that very large farms and ownership of several farms by one owner should not be permitted and such land should be expropriated.

7. Land tax:

A land tax on commercial farmland will generate revenue for the state from the wealthier section of the farming community. A land tax may serve to promote the productive use of land and penalise those who leave the land idle.

Conference **resolves** that there should be a land tax on commercial farmland.

8. Technical committee on commercial farmland:

In view of the need to establish authoritative data and arrive at sound policy recommendations, conference **recommends** that a technical committee should be established to evaluate the facts regarding underutilised land, absentee ownership, viable farm

sizes in different regions and multiple ownership of farms; to make appropriate recommendations for the acquisition and reallocation of such land identified; and to assess possible forms of taxation on commercial farmland and the economic units to which taxation should apply.

9. Land tenure:

Land is a basic natural resource to which all Namibians should have access.

Conference **recommends** that in order to realise this objective a technical committee should be established to evaluate the legal options concerning possible forms of land tenure consistent with the Constitution.

10. Farm workers:

Many farm workers suffer degrading conditions of poverty and repression. They have contributed greatly to the prosperity of the commercial farming sector but have obtained little benefit from that prosperity. Their circumstances demand special attention and protection by law.

Conference **condemns** the injustices perpetuated on farm workers by some farmers in both the commercial and the communal areas.

Conference **resolves** that:

- a) Farm workers should be afforded rights and protection under a labour code.

- b) The government should enact legislation providing for a charter of rights for farm workers. The charter should be monitored and enforced by a government agency.
- c) The charter of rights should include provision for maximum working hours, sick leave, annual leave, schooling for children, medical care for workers and their families, adequate housing on the farm, pensions, the right to reside on the farm after retirement, and grazing rights for farm workers' livestock free of charge. The charter of rights should also include provision for a living wage in conformity with a labour code.
- d) The government should enact legislation to protect farm workers from the occupational hazards of their work and extend the Workmen's Compensation Act to include farm workers.

11. Assistance to commercial farmers:

In the past, commercial farmers enjoyed disproportionate state support. Such support may be best directed to sustain beginner farmers. All Namibian farmers are vulnerable to adverse conditions such as low commodity prices and droughts. Temporary support may be needed at such times. State support may be needed to assist commercial farmers to implement social programmes.

Conference resolves that:

- a) Established commercial farmers should only receive financial assistance from the government in exceptional circumstances, which include natural disasters such as drought.

- b) The government should consider providing assistance to commercial farmers for programmes of affirmative action, such as improving the conditions of farm workers.

COMMUNAL AREAS

12. The future role of the communal areas:

The communal areas sustain the great majority of Namibian farmers, especially poor farmers.

Conference **concludes** that the communal areas should for the present be retained, developed and expanded where necessary.

13. Access to communal land:

Farming households depend on the land for much of their subsistence. A guaranteed right of access is essential to their survival. The former homeland policy which restricted access to communal land on a tribal or ethnic basis is contrary to the constitution. Namibians have the right to live where they choose. However, in a particular communal area the rights of intending farmers from outside the area need to be reconciled with the rights of the local community having access to that land.

Conference **resolves** that:

- a) As provided by the Constitution, all Namibian citizens have the right to live wherever they choose within the national territory.

- b) In seeking access to communal land, applicants should take account of the rights and customs of the local communities living there.
- c) Priority should be given to the landless and those without adequate land for subsistence.

14. Disadvantaged communities:

Ever increasing land pressures in the communal areas pose a threat to the subsistence resources of especially disadvantaged communities and groups.

Conference **resolves** that disadvantaged communities and groups, in particular the San and the disabled, should receive special protection of their land rights.

15. Game conservation and farmers' rights:

In some communal areas there is a conflict of interest between the need for wildlife conservation and the need of farmers to protect their livestock from losses and their crops from damage.

Conference **resolves** that farmers in the communal areas should be allowed to give their crops and livestock effective protection from wild animals.

16. Payment for land:

In certain communal areas, farmers must pay for land allocated to them. Many are small subsistence farmers and cannot easily afford to pay. They also receive no service for their payments.

Conference **resolves** that:

- a) Communal area households should not be required to pay for obtaining farmland under communal tenure for their own subsistence.
- b) Those obtaining land for business purposes should be required to pay for it.
- c) All payments for land should be made to the government rather than traditional leaders.

17. Rights of women:

Women form the majority of agricultural producers in the communal areas, yet suffer discrimination under both customary and statutory law. They have been historically marginalised.

Conference **resolves** that:

- a) Women should have the right to own the land they cultivate and to inherit and bequeath land and fixed property.
- b) A programme of affirmative action should be introduced to assist women through training, low interest loans and other mechanisms so as to compete on equal terms with men.
- c) All discriminatory laws, whether statutory or customary, and all discriminatory practices which disadvantage women should be abolished or amended with immediate effect.

- d) Women should be fairly represented on all future district councils, land boards or other bodies which deal with the allocation and use of land in the communal areas.

18. Land allocation and administration:

The Constitution envisages that both the traditional leaders and the government have a role to play in the allocation and the administration of land. The precise nature of their respective roles has to be clearly defined in law and in terms of the democratic principles of the Constitution.

Conference resolves that:

- a) The role of the traditional leaders in allocating communal land should be recognised, but properly defined under law.
- b) The establishment of regional and local government institutions is provided under the constitution. Their powers should include land administration.
- c) Land boards should be introduced at an early date to administer the allocation of communal land. The said boards should be accountable to the government and their local communities.

19. The stock control barrier:

The majority of small farmers who live in the northern communal areas are prevented from selling their livestock in the commercial zone and to foreign markets on account of the veterinary restrictions (the 'Red Line'). This restriction excludes them from substantial economic benefits.

Conference **resolves** that:

- a) The stock control fence - the so-called 'Red Line' - must be removed as soon as possible, but has to be kept in place for a period in order to preserve Namibia's access to cattle export markets.
- b) During this period, the government should set up quarantine camps to allow farmers in the northern communal areas to market their livestock south of the fence.

20. Illegal fencing:

The uncontrolled fencing of communal land poses a serious threat to the future subsistence of small farmers in the communal areas.

Conference **resolves** that illegal fencing of land must be stopped and all illegal fences must be removed.

21. Dual grazing rights:

Some large farmers from the communal areas who have bought commercial farms or acquired fenced communal land continue to graze their livestock on communal pasture. This practice increases the pressure on the already overstretched grazing land in the communal areas at the expense of small farmers.

Conference **resolves** that:

- a) Commercial farmers should not be allowed to have access to communal grazing land.

- b) Communal farmers who acquire commercial farms should not be allowed to keep their rights to communal grazing land.

22. Transfer of large communal farmers to commercial land:

Given the existing pressure on communal land, communal farmers with the potential to become commercial farmers can be encouraged, if necessary through government schemes, to acquire land in the commercial sector. Such a transfer would relieve pressure on land in the communal areas and would give small farmers an opportunity to improve their viability and standard of living.

Conference resolves that:

- a) Under the Constitution, no-one may be forced to leave communal land. But large communal farmers having a certain minimum number of livestock should be encouraged to acquire commercial land outside the communal areas.
- b) Communal farmers acquiring commercial land should be assisted through schemes providing support such as low interest loans and technical advice. Financial assistance should be strictly limited to those who can prove their need for it.
- c) The criteria for identifying large farmers should be established for each communal area by further study.
- d) Farmland now used by large farmers in the communal areas should not be expanded and in future should be reduced to make space for small farmers.

23. Access for small farmers to commercial land:

In order to relieve the pressure on communal land, small farmers can be relocated to farmland in the commercial zone through state supported schemes.

Conference **recommends** that:

- a) Small farmers in the communal areas should be assisted to obtain access to land in the present commercial zone.
- b) Cooperative ownership and provision of state land for grazing schemes should be considered.
- c) Small farmers moving to commercial land should be given training, technical advice and assistance to buy and improve their livestock.

24. NGOs and cooperatives:

NGOs and cooperatives can play an important developmental role in the rural areas.

Conference **recommends** that:

- a) The work of NGOs and cooperatives in agricultural development should be recognised, encouraged and promoted;
- b) The government should assist all NGOs and cooperatives which are active in the field of rural development.

Duly adopted by the National Conference on Land Reform and the Land Question at its final session on Monday, 1 July 1990.

Prime Minister's closing remarks

We have now come at the end of this historic conference. A conference at which Government sought to consult the people of this country before hammering out a national policy on land reform. To the extent that it was intended to be a consultation, this conference was indeed a resounding success.

Although not everybody who wished to be invited could get a seat at the conference, participation at the conference was truly national. All corners of our country were represented. All language groups in our country were represented. Everybody, the landowners and the land hungry were represented at the conference. This indeed is positive proof of the fact that a Namibian nation is truly in the making. The unity, the understanding and the discipline demonstrated at the conference was truly remarkable and I would be failing in my duty if I did not thank all the participants for obeying the orders that from time to time I had to lay down and enforce in order to make the conference a success. I want to say only this, and this I address to those of us in Government. If this process of national consultation has to be carried forward meaningfully it is of the utmost importance that we introduce television to the far-flung areas of our country which up to now do not receive television or only receive stale news after a week or two. Television should no longer be seen as a luxury but an essential tool in our quest for a better understanding of each other and for the people in the far-flung areas of our country to better appreciate the effort being made by Government to uplift their standards of living and the limitations imposed on Government in that regard.

There will be some amongst our number who may feel disappointed because they are not able to go away with a piece of land from this conference. But that, as I was at pains to point out time and again, was not the reason for the conference. The conference was called to hear the views of the people. You have spoken, you have made your views known, we know what you want and it would be foolhardy of those of us in positions of authority to disregard your views in the formulation of a national policy

on land reform.

As you'll be returning to your respective homes after this conference remember to carry with you the message of hope, of reconciliation and of partnership from this conference.

As the adage goes, success has many parents and failure is an orphan. I would be failing in my duty, however, if I did not thank all those persons, governments, organisations who in one way or another, contributed to the success of this historic conference.

In particular, I would like to thank the government of Sweden through SIDA, the Government of Britain through ODA, organisations like ILO, FAO, the Meat Board and Sanlam who either contributed towards the research effort or towards conference material or towards the conference administration generally.

I would also like to thank the Government of Zimbabwe for generously agreeing to lend us their simultaneous translation equipment to enable us better communication with each other. I would like our Zimbabwean technicians to take home our message of appreciation with them. My sincere apology goes to those language groups for whom simultaneous translation was unavailable on account of the breakdown of some equipment. I would also like to thank the management of Swawek for making their conference facilities available for the conference.

Last, but by no means the least, I would like to thank the secretariat of the conference for the wonderful support they have rendered to the conference.

Finally, I want to assure you that the consensus that we have reached at this historic conference will be taken seriously by Government and that it will guide Government in whatever it does on the land reform issue, for it truly represents the voice of the people.

Conference programme

Monday 24 June

- 08:00 Registration of participants
- 17:30 Reception

Tuesday 25 June

- 09:00 Welcoming
President's opening speech
Prime Minister's address
- 10:30 Tea break (30 minutes)
- 11:00 Announcements
- 11:30 Statements by representatives
of regional organisations and groups (1st session)
- 12:30 Lunch break (1 hour 30 minutes)
- 14:00 Statements by representatives
of regional organisations and groups (2nd session)
- 16:00 Tea break (30 minutes)
- 16:30 Statements by representatives
of professional organisations and interest groups
- 18:30 Adjournment

Wednesday 26 June

- 09:00 Statements by representatives of political parties (1st session)
- 10:30 Tea break (30 minutes)
- 11:00 Statements by representatives of political parties (2nd session)
- 12:30 Lunch break (1 hour 30 minutes)
- 14:00 Video documentary
- 15:00 Panel discussion: Questions (including written questions) and
comments from the floor on issues relating to the film and to the
presentations made by political parties, regional groups and
professional organisations
- 16:00 Tea break (30 minutes)
- 16:30 Panel discussion continued,
but with a new panel
- 18:30 Adjournment

Thursday 27 June

- 09:00 Land reform for whom, for what purpose and at what cost?
Oral presentation by independent experts of the options for land use and settlement of the private commercial farms
- 10:30 Tea break (30 minutes)
- 11:00 Panel of experts:
Questions (including written questions) from the floor on issues raised in the oral presentation by the experts and/or the research papers
- 12:30 Lunch (1 hour 30 minutes)
- 14:00 Video documentary on a relevant theme
- 14:30 Debate, chaired by the Prime Minister,
on the options for land use and settlement of the private commercial farms
- 16:00 Tea break (30 minutes)
- 16:30 Debate continues
- 18:00 Summing-up by the Prime Minister
- 18:30 Adjournment

Friday 28 June

- 09:00 Land related problems in the Communal Areas. Oral presentation by independent experts.
- 10:30 Tea break (30 minutes)
- 11:00 Panel of experts: Questions (including written questions) from the floor on
issues raised in the oral presentation by the experts and/or the research papers.
- 12:30 Lunch (1 hour 30 minutes)
- 14:00 Video documentary on a relevant theme
- 14:30 Debate, chaired by the Prime Minister,
on land related problems of Communal Areas
- 16:00 Tea break (30 minutes)
- 16:30 Debate continues
- 18:00 Summing up by the Prime Minister
- 18:30 Adjournment

Saturday 29 June

- Morning free
- 14:00 Video documentary on a relevant theme
- 14:30 Debate, chaired by the Prime Minister,
on the development of the large-scale commercial sector
- 16:00 Tea break (30 minutes)
- 16:30 Debate continues
- 18:00 Summing up by the Prime Minister
- 18:30 Adjournment

Sunday 30 June

- Morning free
- 14:00 Video documentary on a relevant theme
- 14:30 Debate, chaired by the Prime Minister, on the development of the
Communal Areas and the resolution of problems
of land access, land allocation and land administration in the
Communal Areas
- 16:00 Tea break (30 minutes)
- 16:30 Debate continues
- 18:00 Summing up by the Prime Minister
- 18:30 Adjournment
- 19:30 Reception

Monday 1 July

- 10:00 Adoption of Conference recommendations
- 11:00 Tea break (30 minutes)
- 11:30 Prime Minister's closing address
- 12:30 Conference closes

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