



Integrated Land Management Institute

LAND REFORM

Clearing the Conceptual Rubble

A lot of aspects are commonly subsumed under the concept land reform. These range from redistribution to tenure and agrarian reform. What do these different concepts mean?

- Agrarian reform: this is the broadest term and refers to attempts to change the agrarian structure of a country. It typically includes land reform, tenure, the reform of agricultural support systems and the reform of the credit system
- Land reform: interventions to change the pattern of land ownership or agrarian structure through a process of redistributing land
- Tenure reform: tenure refers to the system governing access to land defining rights and obligations. Tenure reform refers to reforming these rules to achieve improved tenure security or equity. While land reform involves moving some people off the land in order to improve access to such land by other, tenure reforms leaves people holding the same land but with different rights.

Land reform since Independence

Using the three broad definitions presented above we can state the following about land and agrarian reform since Independence.

- Namibia has not had the benefit of an agrarian reform. We have redistributed land in the freehold sector and secured customary tenure through a process of registration.
- But we have separated agriculture and land in the process. One result of this has been that beneficiaries of land redistribution and small-scale farmers in communal areas are not receiving the support they need to become successful farmers.
- The redistribution of freehold agricultural land remains painfully slow as the table overleaf shows with government not meeting its self-declared targets for land acquisition. An estimated 30% of the total land held under freehold is in black hands. Moreover, in 2017 twice as much freehold land changed hands from white owners to black owners under the AALS than the National Resettlement Programme.
- Willing-seller willing-buyer principle and unwilling whites blamed for the slow pact. But little, if any, evidence for this assertion has been presented. What we do know is that AALS buyers have preferential access to land offered in the market, rendering government's preferential right to buy land ineffectual.
- Against this background, there are calls to expropriate land. This held by many to be quicker and cheaper. Our Constitution and land legislation make provision for expropriation with compensation as well as appeal procedures against decisions to expropriate. On the positive side, expropriation in a well-planned and transparent manner would enable government to acquire contiguous pieces of land instead of the ad hoc land parcels. On the negative side, expropriation is not necessarily a cheaper option, but could include lengthy and costly litigation. Expropriation without compensation is likely to cause major losses to the financial sector, given that commercial farming is heavily indebted.

| Year | Type of acquisition | No. of Farms | Total freehold area (ha.) | Distribution % of freehold area |
|-------------------------------|--|--------------|---------------------------|---------------------------------|
| Before 1990 | Land belonging to 'black farmers' | 181 | 980,260 | 3 |
| 1991-2017 | National Resettlement Programme | 408 | 2,447,756 | 7 |
| 1991-2017 | Farms transferred by MAWF to MLR | 54 | 411,257 | 1 |
| 1992-2017 | Affirmative Action Loan Scheme | 1,000 | 4,500,000 | 12 |
| 1992-2017 | Land acquired by previously disadvantaged Namibians outside the AALS (private purchases) | 1,000 | 2,500,000 | 7 |
| Sub-total 1991-2017 | | 1,462 | 9,859,013 | 27 |
| Sub-total including 1980-1990 | | 1,643 | 10,839,273 | 30 |
| Total Freehold Area | | | 36,164,880 | 30 |

- The issue of who should benefit from land redistribution remains highly contentious. While the declared objective of improved access to land is to improve the livelihoods of the poor, a new paradigm which emphasises agricultural productivity informs selection criteria for resettlement. Elite capture of redistribution benefits is prominent.
- Access to credit remains a serious issue. The current financial system requires applicants for loans to offer some collateral. While Agribank has introduced a salary-backed no-collateral loan to communal farmers this only applies to salaried individuals, as repayments are deducted from monthly salaries. Applicants without salaries do not qualify.
- Improving tenure security is the objective of the CLRA, 2002. An estimated 245,000 communal land rights have to be registered. The process is slow, and although the compulsory registration of these rights was to have been completed within 3 years of the CLRA having become operational, the deadline was postponed indefinitely in 2014.
- Long-term registered leaseholds or titles are widely touted as a panacea to bring about economic development of small-scale farmers. The arguments centre around the ability to use such land as collateral for loans. However, in applying for loans at any financial institutions, applicants must show their ability to service a loan. A substantial majority of small-scale farmers in the freehold and non-freehold areas are asset poor, and more specifically cash-strapped. They will therefore not qualify, even if they have registered title or leasehold. Tenure security is important for economic development and investment. But title and leasehold are only two forms of security. Customary tenure regimes typically provide adequate, lifelong security.
- Current legislation prohibits the trading of leasehold rights obtained from the state. This renders leased state land useless as collateral. Land can only perform the function of collateral if it can be traded. This is what financial institutions have to do in order to recover loans from people who have defaulted on their loans. A regulated land market for customary and leased land is therefore important.

Conclusion

The land question is fundamentally about power and the political economy of land. It is useful when writing about land issues to keep the following questions in mind:

- Who benefits, and how, from current legal, policy and institutional framework for land?
- How does framework interact with traditional authorities and informal systems?
- What are the incentive structures for and constraints on diverse stakeholders?
- Who has influence on how decisions are made?
- How are decisions enforced?
- What recourse to the law regarding grievances?

Acknowledgment

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