



# PUBLIC HEARINGS ON LAND REFORM AND RESETTLEMENT PROGRAMME



## Concept Note

### Background

The Namibian Constitution is highly idealistic and generous. It promises a land of fulfilment and plenitude. Its preamble proclaims the equal and inalienable right of all members of the human family; the establishment of a democratic society where the government is responsible to the people; the unity and integrity of the nation; national reconciliation; and a determination to cherish and protect the gains of the long struggle against colonialization, racism and apartheid. Chapter 3 contains an impressive catalogue of entrenched fundamental rights and freedoms, and special provision is made for their enforcement<sup>1</sup>.

Article 1(2) of the Constitution places all powers in the people of Namibia who shall exercise their sovereignty through the democratic institutions of the state. The Ombudsman is an independent constitutional institution of the state whose duty is *inter alia* to investigate complaints concerning alleged or apparent instances of violation of fundamental human rights and freedoms, abuse of power, unfair treatment of an inhabitant of Namibia, manifest injustice, etc. The Constitution as the primary source of the Ombudsman power and the Ombudsman Act<sup>2</sup> as secondary source, empowers the Ombudsman to hold inquiries and in his discretion determine the nature and extent of the inquiry. While acknowledging the difficulties within a democratic system in implementing land reform policies with a view to address existing imbalances, the need for a national inquiry regarding complaints concerning the land resettlement programme, is necessitated by:

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<sup>1</sup> Wiechers, M. "The Namibian Constitution: Reconciling legality and legitimacy in Constitutional Democracy in Namibia: a critical analysis after two decades. 2010 at p.54

<sup>2</sup> Act 7 of 1990

- The many concluding observations and recommendations by UN Treaty Monitoring Committees with regard to the Land Reform and Resettlement Programme<sup>3</sup>;
- The many complaints against Regional Resettlement Committees of unfair treatment in the allocation of land;
- The lack of implementation of the key interventions on the “right to land”, as set out in the National Human Rights Action Plan (NHRAP)<sup>4</sup>;
- The allegations that the primary objectives of the Resettlement Policy have not been achieved;
- The concerns about the apparent lack of clear and transparent criteria or the skewed implementation thereof;
- The allegations that resettlement farms are not occupied by beneficiaries but subleased to others;
- The allegations that unoccupied government farms are invaded by illegal settlers, or illegal settlers invaded group holdings and disturbed the rights of group holders.

### **Purpose of the Agriculture (Commercial) Land Reform Act**

The Agricultural (Commercial) Land Reform Act, No 6 of 1995, provides for the acquisition of agricultural land by the State for the purpose of land reform and for the allocation of such land to Namibian citizens, who do not own or otherwise have the use of any adequate agricultural land; and foremost to those Namibian citizens who have been socially, economically or educationally disadvantaged by past discriminatory law or practices.

To give effect to the purpose of this Act, in 2001 the government adopted the National Resettlement Policy with the aim, *“to facilitate the upliftment of especially the Namibian citizens at the bottom of the economic development in order to support them”*.

### **Objectives of the Resettlement Programme**

The resettlement programme is intended to cover all kinds of landless, displaced and destitute people in the country. The main target groups are

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<sup>3</sup> Ombudsman Report on the National Inquiry into Racism, Racial and Other Forms of Discrimination and Tribalism. Website: [www.ombudsman.org.na/reports/](http://www.ombudsman.org.na/reports/)

<sup>4</sup> See Ombudsman: Namibia website: [www.ombudsman.org.na](http://www.ombudsman.org.na)

members of the San community, ex-soldiers, people with disabilities and people from overcrowded communal areas. The objectives are inter alia:

- To redress past imbalances in the distribution of natural resources, particularly land;
- To give an opportunity to the target groups to produce their own food with a view towards self-sufficiency;
- To bring small-holder farmers into the mainstream of the Namibian economy by producing for the open market and to contribute to the country's Gross Domestic Product;
- To create employment through farming and other income generating activities;
- To alleviate human and livestock pressure in communal areas;
- To offer an opportunity to citizens to reintegrate into society after many years of displacement by the colonialization process, war of liberation and other diverse circumstances.

#### **Resettlement criteria:**

The primary beneficiaries of resettlement farms are previously disadvantaged "farmers". In this context the word farmer means: *a person engage in any form of agriculture including crop and livestock production, horticulture and game farming that is appropriate for allotment.* The following criteria has been established:

- **Agricultural background:**

One of the most important criteria required for successful resettlement is the ability to farm successfully and improve productivity of the farming units. Thus ideally persons who are experienced farmers and who are solely dependent on farming should get highest priority. Therefore holders of relevant National Certificates and National Diplomas will be considered for resettlement. This is done in conjunction with taking into account the years of experience of the applicant in the farming sector.

- **Age:**

The assumption is that persons in their prime years are more suited for resettlement, rather than older persons. Agriculture is a taxing and physical

activity and therefore not so suitable for the elderly or frail. Persons under the age of eighteen (18) will not be considered for resettlement

- **Gender:**

It has long been a policy of the Namibian government to mainstream gender issues as well as to empower women and increase their ability to access land. Therefore all women, irrespective of whether or not they are married, will be given preferential consideration during the selection of resettlement beneficiaries provided that they meet the age requirements

- **Generational farm workers:**

Generational farm workers have been described as being among the most marginalized people in our society. They are to be given special consideration during the consideration of resettlement applications

- **Literacy:**

For proper record keeping as is required, it is important that all applicants have basic reading and writing skills. This will greatly improve their ability to manage their farming activities, manage money, administer medicines and vaccines etc. Illiterate applicants will not be disqualified, but basic literacy and numeracy skills will be an added advantage

- **Current agricultural annual income (Number of livestock):**

Persons who are currently engaged in agricultural trading of livestock and own livestock will be considered favourably for resettlement in terms of the resettlement criteria. The first priority would be given to persons with 100 to 149 large stock or equivalent small stock.

- **Applicants from communal areas**

Applicants with livestock from communal areas are being prioritized for resettlement in order to alleviate the livestock pressure on communal areas. However, for this purpose, the number of livestock should not exceed the required number of 150 large stock or 800 small stock. An applicant from a communal area who has no livestock will score no additional points under this criteria.

### **Invitation to participate**

Anyone who feels that he/she fits the requirements of the model of resettlement for which he/she has applied and was left out or overlooked, is

invited to share his/her experiences with us. The Ombudsman will conduct public hearings:

- To provide aggrieved persons/applicants a platform to share his/her grievance/experience with the panel or submit written submissions to the Ombudsman to determine whether the Regional Resettlement Committee (RRC) complied with the criteria when the desired candidate was selected;
- To determine whether the selection criteria was applied consistently by the RRC during the selection process;
- To determine whether unsuccessful candidates were informed of the outcome of their applications and the reasons thereof;
- To determine how the RCC verifies the number of livestock an applicant owns
- To establish how many allocated farms are not occupied by beneficiaries and the reasons therefor;
- To establish how many farms or parts thereof are subleased;
- To establish how many farms are invaded by illegal settlers.

### **Public hearings**

The proposed dates and places for the public hearings are as follows:

3 July 2018 :	Mariental	10H00 – 16H00
	<b>Aimablaagte Community Hall</b>	
5 July 2018 :	Gobabis	10H00 – 16H00'
	<b>Epako Community Hall</b>	
10 July 2018 :	Otjiwarongo	09H00 – 16H00#
	<b>Evangelical Lutheran Community Hall, Orwetoveni</b>	
11 July 2018 :	Karibib	10H00 – 16H00
	<b>Usab Community Hall</b>	
24 July 2018 :	Keetmanshoop	09H00 – 16H00
	<b>Tseiblaagte Community Hall</b>	
26&27 July 2018 :	Windhoek	09H00 – 17H00
	<b>UN Plaza, Katutura</b>	

**Outcome:**

The inquiry will culminate in a report which will consider all the submissions, allegations, responses and points of law and fact; after careful consideration of all the information and desk research results; recommendations will be included in the report. The report will be submitted to the Ministry of Land Reform and thereafter made public