

NAMIBIA

LAND GOVERNANCE COUNTRY ASSESEMENT FOR NAIP

Established in 2003, the **Comprehensive Africa Agriculture Development Programme (CAADP)** is the African Union's policy framework for agricultural transformation of the continent. It aims to contribute to a significant increase in agricultural productivity in Africa's mostly agriculture-based economies. With the adoption by the AU General Assembly in June 2014 of the **Malabo Declaration on Accelerated Agricultural Growth and Transformation**, CAADP has gained renewed political momentum. At the heart of the implementation process are country-specific strategies, the **National Agriculture Investment Plans (NAIPs)**, that aim to increase investment and productivity in agriculture. This Policy Brief is the result of an in-depth country level **Land Policy and Land Governance Assessments** undertaken by NELGA experts with the objective to strengthen and mainstream **land issues in the successor (or 2nd generation) NAIP and to contribute towards achieving the Malabo targets.**

BACKGROUND

Good land governance is cited as a critical ingredient for achieving continental Agenda 2063 and Namibia's Vision 2030. Particularly goals related to quality of life and wellbeing (AU Goal 1), agriculture (AU Goal 5), environment (AU goal 7), peace and security (AU Goal 13), and gender equality (AU Goal 17).

Efficient land governance is a critical ingredient to achieving the commitments under the Malabo Declaration; enhancing investment finance in agriculture (commitment 2); ending hunger in Africa by 2025 (commitment 3); halving poverty by the year 2025, through inclusive agricultural growth and transformation (commitment 4); and enhancing resilience of livelihoods and production systems to climate variability and other related risks (commitment 6).

Namibia, an upper-middle-income country with a population of 2.4 million people, is Southern Africa's most sparsely populated country. With a total land mass of 824,294 square kilometres, the country is characterised by scarce productive land and fragile soils, coupled with limited water resources and erratic rainfall.

The country's land tenure system comprises of freehold and communal land with 43.2% of the total land area under

freehold, 40% of the land under communal areas and approximately 16.8% state land.

Approximately 70 % of the population depends on subsistence agro-pastoralism, mostly in communal areas. The Vision 2030, the Fifth National Development Plan and the Harambee Prosperity Plan (HPP), all of which recognise the importance of alleviating poverty and contribute to achieving Sustainable Development Goals 2 and 17, guide development in Namibia.

Box 1: Development Agenda

STUDY FINDINGS

Gaps and challenges

A number of indicators have been analysed in this report. They are discussed to highlight their importance in achieving good land governance.

CLARITY OF INSTITUTIONAL AND LEGAL MANDATES

Although there is separation of institutional roles among the various government departments dealing with agricultural land, some overlaps and duplication of functions still occur. This is because of the obliviousness of some institutions of the limits of their responsibilities. Another challenge observed in the assessment is that while policies and regulations may be clear in theory, institutions tend to operate in silos.

Although the mandate of the Ministry of Land Reform and Ministry of Agriculture, in their strategic plans, is to alleviate poverty, in practice there is need for harmonising certain functions to increase chances of achieving the objective of poverty alleviation. Vertical and horizontal overlap is particularly a concern across the local, regional and national agencies/commissions that results in long and sometimes redundant procedures.

There is also lack of harmony among legislations to successfully complement collective requirements. That is in application of Traditional Authorities Act (Act No 25 of 2000), Communal Land Reform Act (Act No 5 of 2002), and Deeds Registries Act (Act No 47 of 1937).

TRANSPARENCY OF LAND USE REZONING

There is currently a programme to develop land use maps, through the Integrated Regional Land Use Planning (IRLUP). The IRLUP is based on the bottom-up planning approach involving all relevant stakeholders in the planning and creation of geographical information system (GIS) data base. This process is still ongoing in various communal areas across the country.

The processes for rezoning are public and partially clear with mechanisms in place to safeguard existing rights, with minimal compensation in case of loss in areas where land is to be restricted or used for public purposes such as educational or health facilities. This is especially evident in expanding towns located in close proximity to communal Farming areas.

It is however not known the percentage of the share of land that has been set aside for specific use for a non-specified purpose in contravention of existing regulations. In summary, a land-use plan should address the following:

- Which land use is applicable and where to protect valuable resources;
- Which land use needs to be changed to maximise the use of land;
- Where to direct growth in a sustainable manner.

LAND TENURE RECOGNITION

The communal areas of Namibia extend over 33.4 million hectares, supporting approximately 70% of the Namibia population. The current legal framework recognises and protects the rights held by 70% to 90% of the rural communities. The communal land reform Act of 2002 ushered in the formal registration of communal land rights.

At the national level, the registration of communal land rights is still on going. Out of the planned 245,000 communal parcels, a total of 119,227 parcels (49%) have been registered in the twelve regions from 2003 to 2018. Ohangwena and Omusati regions have had the highest uptake while Kavango East and West, recording the lowest number of communal land parcels registered.

Out of the 119,227 communal land parcels that have been registered, 1,204 comprised of leasehold rights. Leaseholds in communal areas are regarded as secure, registrable, transferable, inheritable and mortgageable. The leaseholds are primarily for business or commercial purposes.

PUBLIC PROVISION OF LAND INFORMATION

Namibia has laid a firm foundation concerning the legal and institutional framework through the enactment of the Land Survey Act 1993 (Act No 33 of 1993), Statistics Act 2011 (Act No 9 of 2011), the national spatial data infrastructure policy of 2015 – and other sectoral laws that guide and facilitate the collection, management and distribution of spatial data.

This is an indication of commitment by the Namibian government to improve the use of spatial data for effective

and efficient decision-making which leads to improved land governance and economic growth. Based on assessment there are links in place for virtually all types of land information (courts, banks, registries) but checks on the legitimacy of transactions that affect certain parties' land rights are only performed ex-post.

The challenge is the lack of synchronization of the spatial data. Due to privities of contract, not all information recorded in the deeds registry is open to the public. For instance, if a person wishes to access certain spatial information, they need to make a written request to the Executive Director in the ministry of land reform.

These requests for access to land information in the registry can take a long time, as it depends on how long it takes the Executive Director to either approve or decline a request.

RESPECT FOR AND ENFORCEMENT OF LAND RIGHTS

Land in communal areas is vested in the state and administered by the 12 communal land boards and traditional authorities.

Currently, communal land owners only have usufructual rights on their land. Which means that the land cannot be used as collateral for investment in the land for agricultural purposes.

In Namibia, only the Agricultural Bank of Namibia (Agribank) provides two non-collateralised products to assist both subsistence and commercial farmers in communal areas.

Other private commercial banks are risk averse, since the land or agricultural property cannot be sold in case of loan default.

The assessment shows that the law provides opportunities for holding land under customary, group, or collective tenure to fully or partially individualise land rights if they so desire. According to the Ministry of Land Reform it costs N\$75.00 (€4.6) to apply for and obtain a customary land right certificate. Land rights in freehold/commercial areas are respected, enforced and protected by law.

AGRICULTURE LAND VALUATION

Namibia has a growing number of property valuation professionals. The lack of adherence to local and international valuation standards leads to variations in the rates applied to value agriculture land.

This is an important function in agriculture investments, as it determines the value on which financial institution loan money to farmers. Equally important is the need to have a clear and standardised process to determine how much should be paid in land taxes.

Any discrepancies in the valuation of agriculture land leads to objections and ultimately litigations in the courts of law. Needless to say, valuation rolls are publicly accessible for inspection before they are put into effect. Due to the vast and sparsely populated landscape, there is need to increase human capacity to conduct valuations of farm properties.

TRANSPARENCY OF EXPROPRIATION PROCEDURES

On average, Namibia scores poorly on the transparency of the expropriation processes and procedures, especially in communal areas and in some well documented cases of commercial agricultural land.

Although Article 16 (2) of the Namibian constitution provides for the expropriation of property in the public interest by the state and that it must be subject to payment of “just compensation”, there have been cases where compensation and procedures followed were contested.

Thus, procedures for compensation in communal areas are not clear, especially for the local communities without access to information to understand the process of expropriation and compensation. The state is considering the implementation of expropriation of “underutilised” agricultural land that is owned by both foreign nationals and Namibians. It is envisaged that by so doing, more agricultural land will be made available to less privileged Namibians. In addition, this approach will ultimately circumvent the willing-seller, willing-buyer principle that has so far not yielded desired results for the state.

Provisions for monitoring, evaluation and providing redress are an important part of ensuring that all men and women, in particular the poor and the vulnerable, have equal rights to resources, access to basic ownership of land as well as control over land and other forms of property, inheritance and natural resources.

Box 2: Access to economic resources

Positive scores

Comparatively, the land governance system in Namibia is for the most part progressive with intentions to improve the status quo. A substantial number of indicators show that the land governance system in Namibia is actually on the right track. Based on the review of literature, expert interviews and the land governance assessment framework, considerable progress has been made in the following key areas:

POLITICAL COMMITMENT

The Ministry of Land Reform has had a fair share of budget allocations towards its programmes that are meant to achieve land reform objectives.

Finances for the lands ministry’s operations and programmes have been supported by state resources and through development partners. For instance, in 2018, the ministry of land reform was allocated N\$300 million, out of this, the ministry acquired 12 farms measuring approximately 70,000 hectares of land for N\$132 million.

For the financial year 2019/2020, the ministry hopes to spend approximately N\$496 million. Therefore, despite national budgetary constraints, there is clearly some level of commitment by the government to fund land related

programmes that, if frugality and efficiency is applied, should ultimately translate into meaningful agricultural investments.

In this regard, the intention by the state should be commended. However, there is need to adopt a market driven approach to the allocation of the scarce agriculture land.

AGRICULTURAL FINANCE

The Agricultural Bank of Namibia, which is wholly owned by the state, specialises in financing the entire agriculture value chain including land acquisition. In addition to providing financing for acquisition of freehold land, in 2018, Agribank launched two non-collateralized loan products for investments on communal land.

Apart from merely advancing finance to farmers, the bank also mentors farmers, through farmers support program (FSP), in managing their farms as enterprises.

Although the AgriBank may not be big enough to meet the needs of the entire nation, it is definitely an integral institution in supporting the agrarian agenda of the country. However, more could be done if the land market was properly regulated in communal areas to incentivize other private commercial lending institutions to begin advancing loans for agriculture investments.

To actualise this, there is a need to have clear and transferrable land rights in both freehold and communal land.

NATIONAL SPATIAL DATA INFRASTRUCTURE

The government of Namibia has been at the forefront of supporting the establishment of the National Spatial Data Infrastructure (NSDI). This is an important component of the land governance system. The NSDI has received a high political willingness from the state in the process of its establishment.

According to the Namibian Statistics Agency (NSA) annual report for the period 2017 to 2018, the NSDI received financial support of N\$141 million for 2017 and N\$112 million for 2018 in form of government grants for its operations.

There is enough evidence to show that to achieve sustainable development, there must be integration of cadastral data with topographic data.

This integration facilitates the sharing, access and utilisation of spatial data to better achieve any objectives and decision-making. Therefore, the NSDI is an important pillar to good land governance. However, it’s not enough to have spatial data if the data is inaccessible. Equally important is to make the available data, freely accessible or at a minimal cost. This is because spatial data can then unleash a whole host of opportunities in the agro-food sector.

POLICY RECOMMENDATIONS

The assessment concludes with policy recommendations regarding the institutional and legal arrangements, rethinking the National Resettlement Programme (NRP), the need for research-based policy formulation, young and emerging farmer support, transparency and awareness on the importance of good land governance in supporting agriculture investments in Namibia. The general policy implications from this study point to the following measures:

- **Evidence based policy formulation:** In spite of the sound land policy and budgetary allocation to the lands sector, institutional and human resource capacity for impactful programme design are limited. The state through the Ministry of Land reform should conduct independent impact evaluation studies for all existing land related programmes with a view to proactively improve in the areas where there could be wastage of limited and valuable resources and with little or no positive impact on agriculture investment and productivity.
- **Fragmented land reform programmes:** Comparatively, Namibia has one of the most progressive and comprehensive agrarian reforms in the region. Various programmes cater for all sections of the society. However, the implementation of these programmes leaves much to be desired. Therefore, there is need to streamline procedures and completely remove any redundancies where necessary. In addition, there is need
- **Lack of coherent policy:** While the legal and policy frameworks among sectors managed by different line ministries are adequate, there is still a lack of coherence in the implementation of these policies which often results in duplication of efforts. Therefore, there is a need to harmonise the formulation of policies with the line ministries and agencies to avoid procedural redundancies in land allocation and resettlement.
- **Weak coordination:** An effective coordination of policy formulation between different stakeholders is highly recommended. This is because there is weak coordination between ministries and development agencies in the implementation of policy related to land governance. This limits progress towards a more coordinated and cohesive approach to land governance in Namibia. There is also not much communication among sectors and institutions and little drive to enforce such linkages.

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As at *October, 2019*

For more information and full references, please consult the Final Report on SLGA Website

