

Land Reform, Ethnicity, and Compensation in Botswana

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The shift from communal to individualized systems of land tenure is a process that has occurred throughout the Third World. The twentieth century has seen at least 25 major attempts to reform the basis of land tenure in various countries, some of them relatively successful.

In July 1975, Sir Seretse Khama, the president of Botswana, announced a long-term program of land reform and livestock development for his southern African nation. Known as the Tribal Grazing Land Policy (TGLP), the plan has been described as "possibly the most open and comprehensive land reform program being undertaken anywhere in the world at this time" (von Kaufmann 1979:255). Since its birth in 1975, the grazing land policy has had important effects on rural areas and the populations residing in them in Botswana, particularly the Basarwa (Bushmen, San), an indigenous minority that has been under intense anthropological scrutiny (Lee 1979; Lee and DeVore 1976; Silberbauer 1981).

One of the crucial changes created by this policy has been the shift from communal to individualized systems of land tenure. During the colonial period (1895-1966), some of the land in the country was allocated to individuals and companies on a freehold basis (Schapera 1943:7-15; Hitchcock 1978, 1980). In most of these areas, notably the Ghanzi Farms and the Tati and Tuli blocks, residents were either displaced or forced to become laborers on other people's lands. By the early twentieth century, the country was divided into tribal land (71 percent), Crown land (later called state land) (23 percent), and freehold (private) land (6 percent).

In the tribal areas, where most of the population resided, land was held communally. Chiefs or their representatives distributed land, allocating it on the basis of a person's membership in the tribe. Tswana (majority tribes) were able to get land for arable, grazing, and residential purposes. Certain groups, however, did not have property rights, notably those non-Tswana who were at the bottom of the socioeconomic scale. These people—sometimes referred to as *malata*, or "clients"—provided goods and labor to the Tswana in exchange for protection and occasional payments (Schapera 1943:220).

In the 1920s and 1930s, demands arose in what was then the Bechuanaland Protectorate for reforms in the treatment of certain segments of the territory's population—the Basarwa in particular, substantial numbers of whom lived in remote parts of the country. Some of the Tswana and a few district commissioners argued that the rights of these people were

frequently being abrogated, and they suggested compensation for the loss of their land and resources. Not until 1961, however—the end of the colonial period—was any land set aside specifically for Basarwa, and no cash payments were ever made for the loss of wild plant and animal resources.

The Tribal Grazing Land Policy

In the late 1960s and early 1970s, Botswana's system of land administration underwent major changes. The Tribal Land Act (1968) took the right to allocate land away from the chiefs and put it in the hands of land boards. Land use in the tribal areas of the country were also decided upon—the most important decision being the promulgation of the Tribal Grazing Land Policy.

The underlying reasons for launching a land reform effort in Botswana were spelled out in a Government of Botswana White Paper published in 1975 (Republic of Botswana 1975). According to this document, the aims of the land policy were threefold: (1) to stop overgrazing and degradation of the range, (2) to promote greater equality of incomes in rural areas, and (3) to allow growth and commercialization of the livestock industry on a sustained basis. The best way to achieve these aims, it was argued, was to grant exclusive rights to individuals and groups who would then have an incentive to manage their grazing in appropriate ways.

In order to achieve the aims of conservation, production, and equity, the document suggested that the grazing land in Botswana be divided into three zones: commercial, communal, and reserved. In the commercial areas, leasehold rights would be granted over blocks of rangeland; in the communal areas, the basis of land tenure would remain the same as it was before; and reserved land would be set aside "for the future" (Republic of Botswana 1975:6-7). Large-scale cattle owners would be encouraged to move to the commercial areas, where they could establish fenced ranches in exchange for rent to the district land board. This would relieve grazing pressure in the communal areas, thus enhancing herd productivity and at the same time providing a more equitable distribution of land among rural people.

The TGLP White Paper paid special attention to protecting "the interests of those who own only a few cattle or none at all" (Republic of Botswana 1975:6). It also states that "planning will aim to ensure that land development helps the poor and does not make them worse off" (Republic of Botswana 1975:2). In addition, the policy underscores the basic principle of

the traditional land tenure system in Botswana, which is "the right of every tribesman to have as much land as he needs to sustain him and his family" (Republic of Botswana 1975:4). Preserving land rights was thus one of the policy's key aspects.

The TGLP has seen a number of shifts from the original as outlined in the 1975 White Paper. As the program evolved, it was found that there was not as much "empty" land onto which large-scale cattle owners could move as was believed. The cabinet and the attorney general's chambers changed some of the basic tenets of the policy, such as the amount of rent to be charged to leaseholders. The idea of stock limitations on commercial ranches was dropped, and there were no requirements for leaseholders other than constructing firebreaks around their property and managing the range "in accordance with the principles of good husbandry."

Between 1975 and 1977 a series of zoning and land use surveys in rural Botswana revealed large numbers of residents living in potential commercial areas. Many of these people did not have water rights, but they used the land for foraging, grazing, arable, and residential purposes. If the land were to be declared commercial, large numbers of people would have to move elsewhere—raising the question of compensation for the loss of their land.

The TGLP surveys showed that many of the people in the areas that were being considered as ranches were Basarwa. In the western part of Central District, for example, 75 percent of the nearly 4,000 residents were Basarwa (Hitchcock 1978:219). When asked to comment on the legal rights of Basarwa in light of the changes being wrought by the TGLP, the litigation consultant to the attorney general's chambers said, in essence, that the Basarwa, being "true nomads, owing no allegiance to any chief or tribe," had no rights of any kind except to hunting. The significance of this ruling was that Basarwa, who make up nearly 4 percent of Botswana's population, could be denied rights simply on the basis of their ethnicity.

The Botswana government was quick to disavow this position. Government officials stressed that Botswana was a multiracial state that did not discriminate. It was also noted that the TGLP White Paper guaranteed sufficient land for everyone to sustain themselves. The compensation question, however, remained unanswered.

Providing Land for Remote Area Populations

One of the issues raised early on in the TGLP planning process was what to do about those people whose land was declared commercial and who did not get leasehold rights during the adjudication process. Several strategies were suggested, including (1) providing compensation, (2) allowing people continued access rights in leased land under a system of "lease-right alternatives," and (3) offering land of equal value to that which had been held by people previously (Wily 1978, 1979; Hitchcock 1978, 1980).

One way of ensuring that people could keep access to land for subsistence, income generation, and other purposes was to set aside reserved land. When land use planners decided not to zone any land as re-

served, however, alternatives had to be considered. Unfortunately, some people in the government felt that populations that derived the bulk of their subsistence from hunting and gathering should not have land rights. As the acting commissioner of lands in the Ministry of Local Government and Lands said at a national district development conference in January 1978, "We should gather these hunters together." In a similar vein, the district commissioner for Central District, the largest administrative unit in the country, made this remark at a special meeting on remote area development: "We have had enough 'going to the people.' Consultation takes too much time. All this discussion and planning is getting in the way of development. Basarwa, if they are in the way, should be gotten out of the way so that we can put up our fences."

Fortunately, some central government and district-level officials were aware of the potential problems involved in commercializing tribal land. The coordinator of the TGLP in the Rural Development Unit of the Ministry of Finance and Development Planning, for example, recommended that the government consider a parallel program of hunter-gatherer development with a mix of alternative means for enhanced livelihood for foragers (Jenness 1977:3).

Beginning about the time that the TGLP was first being implemented, people began to call for setting aside land for resident populations that were going to be denied residence rights within the leased ranches; some of these suggestions came from the Bushmen Development Program, anthropologists, and a few civil servants. In a number of cases, district land board members suggested that land be made available to commercial area residents. Many of the people residing in the areas to be affected by granting of leasehold rights suggested that they be allowed to remain on the land where they had lived for generations. During the consultation campaign in July and August 1976 requests were made by local people that land not be commercialized.

Compensation Efforts

Government officers and members of the public noted that there were already large numbers of water points, livestock, and people in most parts of the country. Given this situation, they argued, the land should not be turned into leasehold ranches. If this was to happen, however, they requested that residents be compensated—something also recommended in the TGLP White Paper (Republic of Botswana 1975:14). The compensation subcommittee of the government's Land Development Committee suggested in 1982 that compensation for people removed from leasehold areas should be provided in the form of land. The subcommittee also recommended that the area allotted to people should be sufficient in size and quality to support the individuals or group that had to relocate.

In the late 1970s, the government of Botswana endorsed the concept of communal service centers (also called communal enclaves, communal pockets, or population catchment areas), with papers written by the Bushmen development officer and a consultant to

the then-Bushmen Development Program. The steps they outlined included: (1) carrying out detailed anthropological and land capability investigations; (2) drawing up a detailed plan for the commercial area, which included areas to be set aside for communal use, service roads, trek routes, water points, and other features; (3) taking the plan through the district and central government planning process; (4) once approved, getting funding for the planned projects; and (5) implementing the projects.

Planners stressed that the service centers be large enough to service present and future populations and that they be located near open areas so that residents could continue to hunt and gather if they so chose. In addition, they noted that the service centers should not be enclosed completely within ranches, since this would restrict their growth and limit access to outside areas.

An issue that arose with regard to both communal service centers and settlements in remote areas was security of land tenure. In some cases, cattle owners had brought their cattle in to Bushman settlements such as those at Ka/Gae and Bere in the Ghanzi District of western Botswana, taking advantage of the water and grazing resources. Most area residents resented this intrusion but lacked the authority to force the outsiders to leave. Such experiences led rural people to voice repeated requests for having a greater say in who had access rights to the land allocated to them.

An analysis of the land reform program in rural Botswana reveals that seven districts established commercial ranching areas, and four of these planned communal service centers. The table below shows a wide range of variation in the size of these places. At the same time, the amount of land made available to people who were to lose residential rights in the commercial zones was relatively small in comparison to requirements of people dependent to a significant degree upon foraging. Anthropological information on the range sizes of foragers reveals that a hunter-gatherer group in the central and eastern Kalahari Desert requires between 60,000 and 400,000 hectares in order to sustain its members without having to resort to alternative means.

The data on the existing service centers reveal an average population of more than 300. The total area set aside for the centers is 88,500 hectares, with an average of 17,700 hectares each. The average population density for these areas is 1.86 persons per square kilometer. Thus, these places are relatively densely occupied in comparison to many other parts of the Kalahari, which contain one person per 10 square kilometers. The impact of the high population den-

sities can be seen in the degree to which virtually all of the service centers suffer from resource depletion and overgrazing.

The new communal service centers have other problems, too. At the Tankana service center in Southern District, difficulties arose from the fact that it is surrounded by fenced ranches (Childers 1981:11-12, 93-105). Ongoing social conflicts have erupted with local ranchers, and some of the residents of the area have become disillusioned. The borehole drilled for local people's use was also placed within a short distance of a water point on an adjacent ranch, and cattle ranged freely over the land in Tankana. In addition, the social infrastructure (e.g., schools) in the area have been relatively slow to develop.

The lack of secure access to land is a severe constraint for those people who wish to engage in self-help activities (Gulbrandsen, Karlsen, and Lexow 1986:12-22; Hitchcock 1988:67-68). Service centers were suggested as a means for providing at least some land to people displaced by the TGLP ranches. By no means, however, were these centers considered sufficient to meet the land needs of remote area populations, neither were they seen as adequate compensation for loss of land access in ranching areas. In nearly every case, people who were interviewed stated that they wanted enough land to sustain themselves in their present lifestyles, which were based at least partly upon foraging.

Remote Area Development Program personnel and anthropologists in Botswana argued strenuously for compensation to be in the form of land rather than cash. They also recommended that people receive sufficient land to meet their needs, as was guaranteed in the TGLP White Paper (Republic of Botswana 1975:4). Basing their suggestions on data from Australia indicating that relocation is detrimental to people even if land supposedly equivalent in ecological terms is provided, development personnel pushed for a policy that did not require resettlement.

According to the Tswana customary law and the revised TGLP policy guidelines (Republic of Botswana 1984:10), individuals and communities cannot have their rights removed "without just compensation." The chapter on compensation notes that those to be compensated include tribespeople, individuals or groups with vested rights in specific areas, and those whose claims to land are based on equity or social justice rather than on law. In practice, however, only those considered tribespeople or those with specific vested rights (interpreted to mean those who had received allocations from land boards) were compensated.

In a number of cases Basarwa were refused land or compensation simply on the basis of their ethnic affiliation. In the Kgalagadi District in 1977 the land board refused water rights to a group of !Xo Basarwa because they did not own livestock and "therefore had no need for a well." More recently, Basarwa in northwestern Kgatleng District were refused land on the basis of the claim that they were "not tribesmen" (i.e., Bakgatla). At least one district in Botswana refused to allocate land to individual Basarwa but stated that it would allow groups to have land rights.

Analysis of the files of land boards in the various

Communal service centers in and adjacent to Botswana's TGLP commercial ranching areas

District	Service center	Size (hectares)	Population
Central	Lepasha	13,000	228
	Mmaletswai	19,200	100
	Kedia	20,000	440
Kweneng	Diphuduhudu	45,000	480
Northwest	Ranch No. 52	4,900	50
Southern	Tankana	6,400	130

districts that house remote area populations give little insight into the ways in which these people have been treated. On the basis of interviews with land board members and with rural people, however, it appears that some compensation claims may have been treated differently on the basis of ethnic affiliation. Several people said that they did not receive payment for their houses because they were traditional Basarwa grass huts, whereas other people whose houses were made of mud and thatch did receive some compensation. In general, the compensation payments to Basarwa who were forced to relocate have been substantially less than those to members of other groups.

For the Benefit of All

The land reform effort initiated under Botswana's TGLP was supposed to work so that all the citizens of the country would benefit. As it turned out, more than 12 percent of tribal land area in the country was designated as commercial ranches. More than 20 percent was set aside for wildlife utilization purposes. Less than 30 percent of the tribal land remained under communal tenure. More than 20,000 people were residing in commercial ranching areas at the time they were transformed into areas that would be leased out. The presence of people in areas zoned as commercial led the Botswana government to consider strategies for ensuring that the rights of local residents were protected.

Botswana is a country that prides itself on its multiracial stance and its commitment to social justice and sustained development. There is no question that the country's citizens have a say in the kinds of policies pursued by the government. At the same time, if those policies are to be fair to all groups, special attention will have to be paid to the equitable distribution of compensation benefits. □

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References

- Childers, G.
1981 *Western Ngwaketse Remote Area Dwellers: A Land Use and Development Plan for Remote Area Settlements in Southern District*. Gaborone, Botswana: Government Printer.
- Gulbrandsen, O., M. Karlsen, and J. Lexow
1986 *Remote Area Development Program*. Gaborone, Botswana: Government Printer.
- Hitchcock, R.K.
1978 *Kalahari Cattle Posts*. Gaborone, Botswana: Government Printer.
1980 Tradition, Social Justice, and Land Reform in Central Botswana. *Journal of African Law* 24(1):1-34.
1988 *Monitoring, Research, and Development in the Remote Areas of Botswana*. Gaborone, Botswana: Ministry of Local Government and Lands.
- Jenness, J.
1977 Subcommittee Progress to Date on Developing Lease-Right Alternatives. Report to the Ministry of Finance and Development Planning. Gaborone, Botswana.

- Lee, R.B.
1979 *The !Kung San: Men, Women, and Work in a Foraging Society*. Cambridge, England: Cambridge University Press.
- Lee, R.B. and I. DeVore, eds.
1976 *Kalahari Hunter-Gatherers: Studies of the !Kung San and Their Neighbors*. Cambridge, MA: Harvard University Press.
- Republic of Botswana
1975 *National Policy on Tribal Grazing Land*. Government Paper No. 1 of 1975. Gaborone, Botswana: Government Printer.
1984 *The Tribal Grazing Land Policy Guidelines (Revised), September, 1984*. Gaborone, Botswana: Government Printer.
- Schapera, I.
1984 *Native Land Tenure in the Bechuanaland Protectorate*. Alice, South Africa: Lovedale Press.
- Silberbauer, G.B.
1981 *Hunter and Habitat in the Central Kalahari Desert*. Cambridge, England: Cambridge University Press.
- von Kaufmann, R.
1979 The Tribal Grazing Land Policy's Relevance in a Drought-Prone Environment. In M.T. Hinchey, ed. *Proceedings of the Symposium on Drought in Botswana*. pp. 254-260. Gaborone, Botswana: Botswana Society.
- Wily, E.
1978 Detailed Planning Within Commercial Areas: Why Do We Need Some Communal Land Within Commercial Areas? Report to the Ministry of Local Government and Lands, Gaborone, Botswana.
1979 *Official Policy Towards San (Bushmen) Hunter-Gatherers in Modern Botswana: 1966-1978*. Gaborone, Botswana: National Institute of Research.

