

**A presentation on Land Issues
and
Land Reform in Swaziland**

Alfred Mndzebele

Coordinating Assembly of NGOs (CANGO)

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In order to be able to understand the land reforms that have taken place in the country, one would need to trace back the history of how land was lost by the Swazi people and the attempts that have been made to recover it over the years.

HISTORIC PERSPECTIVE

The concession rush occurred largely during the era of King Mbandzeni (1870s) when Europeans flocked to Swaziland with different gifts including liquor, money and other implement.

The Europeans were given rights to settle on vast portions of Swazi land. In 1899 the anglo-boer war broke out and the British took control of Swaziland in 1902 from the South African Republic. Swaziland remained under British control until September 1968 when she gained independence.

The Land Proclamation Act was enacted in 1907 by the British as an Act to address the concession problem. This legislation reserved 1/3 of the land, 37.6% of the total land area for the exclusive use and occupation by the Swazi people. This land came to be known as the Swazi Nation Land. The 63% of land with good soil and best land, very good for grazing was expropriated from the Swazis for settler use and become title land and crown land.

About 58% of the Swazi population were situated in the reserves whilst 42% were on the settler's land. The Swazi in the settler's land were given five years to move voluntarily to the reserved areas after which they could be allowed to stay on the title land at the discretion of the land owners. Since then conflict between Swazis (called squatters) and landowners became the order of the day.

The 1907 Concessions Partition Proclamation brought into being three tenurial systems namely, freehold title, communal tenure and crown land.

The communal tenure was to apply within the so-called Swazi areas in accordance with Swazi law and custom, while the crown land and title land were regulated by the Roman Dutch Law. The private tenurial and crown lands were obviously held by the white settler population and colonial government.

The Swazis protested over the seizure of their land and strongly opposed the private land ownership concept. The Swazi areas became overstocked and land degradation started to emerge, not to mention the growing problem of Swazi's who became landless. The protest over foreign occupation failed and the Swazis then resorted to buy back their land. To this day Swazis are still buying back their land. The buy back programme started in 1913 and was further revived in the 1940 under King Sobhuza II.

Land shortage became acute for Swazis by 1939 when the second World War broke out. Most people lived in reserves. This meant that these people could not have permanent homes or farming land.

After 1940, the British government started to sought ways of increasing land available to Swazis. Policies were put in place giving a substantial amount of land back to the Swazi population. Crown land was earmarked, however, it became apparent that crown land alone would not be adequate to solve the crisis of land shortage for the Swazis. An initiative for a full-scale land purchase needed to be launched, to buy back land from the white freehold and concession landholders and transfer to the Swazis.

1. Land Reform view at pre-independence era

(a) Swaziland native land settlement scheme (1940)

This scheme's intention was to provide land to 4000 landless families of Swazis who were evicted from European owned farms and to establish a peasantry community capable to support itself under supervision of colonial administration.

327 Swazi families were settled in three settlement areas. It is estimated that about 130,000 acres of crown land was set aside for the scheme (Thomas and Whittington, 1969). The settlement areas were kept outside the control of the monarchy. The peasants were given usufructory rights without ownership of the land they worked. Ownership of the land was with the colonial government. The peasants could be evicted from these settlements if they failed to follow conditions of occupancy.

The settlement scheme provoked (according to Simelane 1991) serious controversy between colonial officials and the monarchy. The controversy was centered on who would have power to control the settlement scheme areas.

The settlement scheme is said to have been significant in reversing previous land policies, by attempting to address the land problem. In some ways it increased the amount of land available to Swazis for their occupation and use. However, it is observed that most of the landless Swazis did not jump on the idea of occupying land under this scheme mainly because, the land allocated was not good quality and not good for farming purposes. Most of the land and the best land had remained under European control.

It is estimated that only 12% of the total number of targeted peasants for settlement was accommodated by 1949. The conditions of occupancy were unacceptable and a number of evictions and desertions took place. Another development after the war was that the colonial government appropriated some of the land to sell to affor station companies. It is said that the colonial government gave with one hand while it took with the other. The land that was purchased by the British colonial government from white settler's owners form part of what today is commonly referred to as Swazi National Land.

(b) Lifa Land Purchasing Programme

The Swazis from 1944 under the leadership of Sobhuza 11 formed the Lifa Fund for the purpose of regaining lost land. Families with more than ten head of cattle contributed

cattle to be sold once in 3 years. Adult males owning less than ten head of cattle had to pay 2 pounds. The Lifa Land constituted 6.31% of land holdings in Swaziland, comprising 109,562 hectares.

In 1969 the Hobbs Commission reported that over 240,000 hectares of land was in ownership of non-citizens of Swaziland and an additional 140,000 hectares was identified to be available for the land purchase programme as it was under utilised or unutilised at all. Land bought through the scheme was registered in the name of the King and formally designated as Swazi National Land.

The Land including farms, ranches and estate purchased through the land programme was acquired by the Swaziland government and by the royal investment cooperation, Tibiyo. Some land from the State purchased areas was allocated to rural development programme, however large hectareage was used for creating state farms (Levin 1997)

The state farms were made up of cattle ranches and maize/bean farms. Under the land purchase programmes under utilised farms owned by non Swazi citizens were targeted for acquisition by government for small holder resettlement. The purpose for this acquisition was to reduce land pressure by resettling people on under utilised farms. The resettlement scheme entailed the reallocation of people onto purchased land, which they did not previously occupy. The Hobbs report had recommended that the land resettlement should also entail changes in the pattern of land use for sustainable development. Hence the tripartite land use model was introduced. This model consisted of blocks of fields for agricultural activity and a planned location of dwellings.

In 1991 a review of the land purchase programme indicated that just over a 1/3 of the targeted land had actually been purchased (137,000 hectares out of targeted 388,999 hectares of land had been purchased by FAO in 1998)

It is speculated by the review that half of all targeted farms had been purchased privately, outside the land purchase programme by Government for specialist use, by Tibiyo and by individual Swazi citizens. Out of 82 farms identified for purchase only a mere 8 farms had been purchased by government for its rural development programme. What is of interest is that much of the land purchased privately has not been intensively used, contrary to the object of the purchase which was to alleviate land hunger.

2. Rural Development Areas Programme type Resettlement

This type of settlement began in 1970 with financial support from UK and land foreign donor support.

The general objective of the RDA programme has been to promote agricultural and livestock production as well as to encourage commodity production in the rural areas. It also aimed at enhancing the standards of living of persons residing in such areas through the provision for infrastructural services. The resettlement of rural populations entailed the reassignment and relocation of land use, involving the redesignation of arable,

grazing and residential zones within already settled communities. Three objectives had to be fulfilled by the RDA Programme.

- (i) Improving agricultural and livestock production through altered land use patterns
- (ii) Promotion of better environmental conservation by allowing more managed use of communal land, especially as regards its use for grazing.
- (iii) To make it easier to provide rural infrastructure and services by reducing the scattered nature of rural homesteads.

A review of this settlement in 1998 by FAO consultants revealed that the provision of rural infrastructure has had notable measurable successes out of the three objectives. With regard to Agricultural Production, there has been no overall increase in cultivated areas, except for cotton, where there has been an increase in areas devoted to its cultivation. Maize yields have only had a slight increase. One major constraint noted by Magagula (1978) was the fact that RDA had the customary land tenure system which becomes a disincentive to farmers to invest in high yielding technology and to engage commercial farming.

There is growing land shortage in the RDA areas and hence need to ensure that the land purchase programme avail sufficient land to the Swazi people.

Levin (1997) indicated that the second National Development Plan did acknowledge the constraints and limitations which customary land tenure system places on the ability of individuals to raise agricultural productivity. However, government has been reluctant to initiate sweeping land tenure reforms for fear of the implication, which this might have on the existing socio-political structure.

Government policy has been to promote gradual adjustment rather than sweeping reforms.

Some Lessons learned

- It is crucial that land reforms be participatory and should not be at the hands of the few, particularly the governing regime. The larger segment of society should be part of the discourse to ensure that the land questions are answered from the perspective of access, control and production.
- In order for land reforms to be meaningful they should be focused and be informed by the needs of the people and should not be politicised. Political manoeuvring can bring short sightedness and would compromise the impact of the reforms for current and future generations
- When land reform is instituted, it is important that policies and legislation pertinent to it are revised accordingly, to form an integrated whole other than fragments.
- Land reform should be accompanied by resources in order for it to fight poverty.
- When land reform is not carried out with a monitoring mechanism, good intentions can turn to bad actions. In the Swaziland case, land purchases that were intended for

distribution to the landless in some cases ended as property for private companies and individuals. This has deprived the peasantry from benefiting to the good intentions.

Prospects of Land Reform in Swaziland

A blue paper on land policy has been written and is still under review. This long awaited Land policy in order to bring benefit and value to all has been designed to fulfil the following objectives:

Land Policy Objectives are :

- *To improve access to land and secure tenure.*
- *To encourage the rational and sustainable use of land.*
- *To improve productivity, income and living conditions and alleviate poverty.*
- *To reduce land-related conflicts.*
- *To develop an efficient and effective system of land administration.*
- *To encourage land ownership by Swazi citizens.*

Land Policy Principles

Its principles arise from the above objectives. That there be:

- *Access to land for all citizens*
Due to the above mentioned successes in returning much of the land to the nation, implementation of this principle is still practical in Swaziland. The level of landlessness is very low at present, but this principle needs to be stated in the face of ever-increasing pressures on the land resource and its administration. The principle recognises the fundamental role that land access, clearly defined property rights and secure tenure has to play in human development.
- *Integration of this National Land Policy with the vision and goals of the National Development Strategy*
The NDS is the long-term guide to Swaziland's development. Therefore, a principle of this national land policy is to utilise the land resource to assist in achieving the human-development vision and related goals of the NDS.
- *Institutional coherence/alignment of land-related agencies*
This deserves its status as a principle rather than simply a strategy because of its fundamental importance in achieving all the above objectives. That is, it is a fundamental principle of this policy that institutional coherence and efficiency is a necessary precondition for the achievement of all the above objectives.
- *A process of building upon Swazi culture and institutions*
This principle recognises that, historically, lasting progress is built incrementally, one step at a time. Practices and institutions that encourage such growth are to be

facilitated: that is, all existing use and management rights are to be recognised and modified if need be.

- *Community participation, accountability and transparency in land administration*

This principle follows from the one above and the human development principles of the National Development Strategy (NDS). This policy principle is directed towards local communities taking their future more and more into their own hands, with the government being available to them to service their requirements. The principles of transparency and accountability are to apply to all levels of this process - from the communities themselves to the highest echelons of land administration.

- *Gender equity*

Obstructions to the human development of any individual should not be imposed on the basis of gender or marital status. Land-related legal impediments to gender equity are to be removed. The growth towards gender equity in customary tenure is to be encouraged.

- *A process of enabling land and property markets to work*

The Economic and Social Reform Agenda (ESRA) recognises the private sector as holding the key to economic growth. The effective operation of the private sector is dependent upon the establishment of clearly defined, enforceable and transferable property rights - including land-related property rights - by a legal framework, and their efficient administration through an institutional framework.

- *Optimal sustainable use of the land resource to facilitate food security.*

Enterprise development and natural resource management are the basic strategies towards improving food security. This policy recognises that, for many Swazis, land is the most important - and in some cases the only - means of implementing those strategies.

What might Government do to enhance and underpin land reform in Swaziland

1. First and foremost the government need to speed up the process of passing the land policy in order to bring into effect and review relevant legislation
2. Constitutional entrenchment of “equality “ in the Country’s Constitution. Such action will trigger the general reform of all laws that are not gender balanced in the country.
3. Enact legislation that clearly demarcates land boundaries; powers and authority of traditional leaders; and a critical review of the Farm Dwellers Act
4. Assist in carrying research on the squatter issue and legislation to be informed by such research.
5. There is need for government initiative to assist low income earners to access land within the commercial market system

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