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The Commercial Farm Market in Namibia: Evidence from the First Eleven Years

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This report examines the performance of the commercial farmland market in Namibia during the first 11 years of independence. Aspects such as yearly transactions, movement of land from white into black ownership, gender related aspects of land ownership, and the role of corporations in land ownership are considered. A key underlying question of this paper is whether or not the concept of willing seller willing buyer is working. Willing seller, willing buyer has brought about a slow pace of land redistribution in Namibia. However, there are ways in which reforms and changes in policy can be used to speed the process up. Reforms are needed to better monitor the movement of land into corporate control as this has been a major avenue for avoiding aspects of land reform legislation. There are indications that the amounts provided for by the government to purchase land for resettlement may be too little, and that more funds, both for land purchases and increases in the capacity of the Ministry of Lands, Resettlement and Rehabilitation, are required.

Introduction

In the twelve years since Namibia became independent, the land issue has been prominent in discussions of post-colonial reconciliation. Many Namibians point to the fact that the war for national liberation was fought because of land. They also remember the very recent (throughout much of the last 100 years) process of colonial dispossession which removed indigenous peoples from their lands to create farms for successive waves of first German and later South African settlers. This situation has been succinctly captured by Mbaya:

"(Colonial) Resettlement often equated to dispossession, ultimately resulting in present day skewed distribution of land between indigenous communities and white settler holdings. It was primarily this skewed nature of ownership of, control over, and access to natural resources, together with accompanying injustices and legislative oppressions that, in most countries, led to political insurgence, sometimes accompanied by armed struggle.

The impact of colonialism in ESA² countries went beyond causing inequity with respect to the distribution of land. In addition to retarding indigenous agricultural systems and technologies of production, social organisations that were always based and dependent upon the control of land were severely weakened and in some cases extinguished. This had the effect of plunging African agrarian systems into perpetual crisis around the issue of land, its distribution, control use and transmissibility over the last century."

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²Eastern and Southern African (ESA) countries.

As such land, particularly the redistribution of land to those who were prevented from owning or occupying land in the colonial past, has simmered through political debates since 1990. As a backdrop to this in-country discourse, events in Zimbabwe, and closer to home in post-apartheid South Africa, have sharpened the urgency for Namibians to see progress. Since 1990 land acquisition and redistribution has rested on the foundation of willing seller-willing buyer. This base has been continually reinforced both in a series of speeches by high-ranking state leaders and in numerous policy documents. While willing seller-willing buyer has created a sense of stability in the land markets, and earned a few kudos from the international community, it places a great faith in the land market to supply enough land to meet the demands of Namibia's newly enfranchised post-independence majority.

Whether or not that faith is redeemed could depend on three factors. The first is impatience. Impatience over the slow pace of land redistribution over the past twenty years has contributed to the situation in Zimbabwe. Recently, there have been calls in South Africa to follow the Zimbabwe lead with regard to farm invasions and forced acquisition of commercial farms, as the perception in certain segments of the South African polity is that land reform is going too slowly.³ At home in Namibia during the past year the main opposition political coalition (DTA/UDF) has criticized the slow pace of land reform. More recently, the ruling party SWAPO at its Congress in 2002 also decried the slow pace of land redistribution. These criticisms have reached even into the Parliament. A second factor is that much of the land dispossession in Namibia took place within the past century. The subsequent indignity of dispossession coupled with the destruction of indigenous agriculture is very much alive in popular memory. Aside from the strength of these recent emotions, some would also argue that if it was legitimate to take land away from certain classes of Namibians in the not so distant past, why then is it not legitimate to do so again today? Third is the fact that those who were dispossessed are now the enfranchised majority, and they are just beginning to experience the strength of their political power. Under the right circumstances, these three factors could combine into a force too strong for any sitting government to challenge.

With these factors and pressures in mind, the Land Programme at the University of Namibia has undertaken a census of commercial farmland transactions. This project was carried out in conjunction with the Land Tenure Centre of the University of Wisconsin. In this project, national teams from the University of Natal, the University of Zimbabwe, and the University of Namibia conducted censuses on different aspects of the land market in each of their respective countries.⁴ The results of that census for Namibia are presented here. These results will include:

- an overall picture of the land market;
- the rates at which blacks⁵ have been able to participate in the land market;
- the question of gender and commercial farmland;
- the transfer of farms to corporate ownership.

³ See Secombe, 2001. Various news reports have also indicated the beginning of land invasions in South Africa, though on a limited scale.

⁴The title of this project was "Broadening Access to Land Markets in Southern Africa." Funds between 1997 and 2001 were provided by USAID through the Basis Initiative and the Land tenure Center at the University of Wisconsin. All opinions expressed here are those of the authors and not USAID, the Basis Project, nor the University of Wisconsin. We accept any responsibility for errors and omissions.

⁵In this paper, whites will refer to those classified as such during the *apartheid* era. Black will refer to the other two *apartheid* era categories of "Coloured and Black." In some reports these categories are also referred to as "formerly advantaged" and "formerly dis-advantaged" respectively.



Methodology

In the initial planning of this project, the decision was made to have Namibia conduct a full census on all farm transactions in the country from 1990 onwards. Even though the project ended in 2001, data collection has continued to cover the years 1988, 1989 and 2001.⁶ In South Africa the focus was on parts of the Province of Kwa-Zulu-Natal, while in Zimbabwe, the census was national but limited in the number of years.

Data Collection procedures

In Namibia data was collected from the Deeds Office by hand. Relevant sections of land transactions involving commercial farmlands were copied onto data entry sheets and then entered into a basic spreadsheet. Data on the region, name and number of the farm, the name(s) of the buyer and the name(s) of the seller, the price and the hectares transferred were recorded. The Deeds registry number was also recorded for later verification. In addition each transaction was coded by the identity of the buyer and seller as well as the financial aspects of the transaction. Characteristics of identity included gender and, status as white or black, or other legal status. Financial coding included the type of financing for the sale. This effort has resulted in a sample of 3,146 transactions for the eleven years under review.

Transactions not farms

It will be noted that this paper speaks of transactions and not the sale of complete farms. There are three reasons for this. First, many transactions involve either multiple farms, or portions of different farms. Limiting the analysis to only those transactions which single, complete farms change hands would not yield a realistic view of the commercial farmland market. Also, often when multiple parcels are bought and sold, only one price for all the land is provided. This strengthens the need to focus on the transaction as a whole. There is also a class of transactions where single small parcels change hands. After a great deal of consideration these are included here. The reason being, that while they may not make up a whole farming unit, they may represent needed acquisitions of land to upgrade and maintain farming operations. Third, the use of transactions allows the inclusion of inheritances. These are not really sales of land but, given the family-based nature of the farming sector, inheritance forms a major mode of land acquisition and land distribution.

Coding issues

According to protocols of the regional project, each transaction was examined to determine if it represented a transfer of commercial farmland to a black member of post-colonial society. On first inspection, this appeared to be simple, but two factors complicate the process. First, Namibia's Constitution forbids the gathering of data according to race or ethnicity. Hence, this information is not in the deeds records. As a work around, names and surnames of those who sold and purchased farms were used to determine "white" and "black" farm owners. This leads to the second complicating factor as some "black" Namibians, particularly in certain areas of the country, have adopted European surnames. Therefore, any indication of the extent to which the market has played in land redistribution must be seen as on the low side. Methodologies have been proposed to solve this problem, but at present they are beyond the scope of this work. They will be mentioned in the conclusions.

⁶Results on these three years will be presented later.



C'est Plus Ça Change, C'est Plus La Meme Chose⁷

General results of the land market survey can be seen below in Table 1. Overall, the average year would have 286 commercial farmland transactions that represented about 1,3665,000 hectares. There was, of course, a great deal of variation in transactions ranging from the sale of a few hectares up to and including the sale or distribution of multiple farms. The survey includes well-known developments such as the Hardap and Kaikanachab agricultural schemes outside of Mariental. These two schemes are noteworthy for the high price per hectare they bring. Recently, farmland near the Orange River has been notable for its high value. Otherwise 1995 seems to be a watershed year as the number of transactions, and the number of hectares transacted, increases and remains high for the rest of the decade relative to the years between 1990 and 1994.

Table 1: Commercial farm land transactions by year (N\$ in 2000 prices)

<i>Year</i>	<i>Number of Transactions</i>	<i>Hectares</i>	<i>Value (N\$⁸)</i>
1990	239	1,177,807	138,400,074
1991	158	765,047	106,558,161
1992	181	644,145	107,137,070
1993	289	1,384,634	173,613,491
1994	233	1,018,533	131,480,261
1995	476	2,491,626	222,619,136
1996	329	1,685,514	167,554,128
1997	267	1,223,428	129,035,722
1998	289	1,456,922	161,176,651
1999	304	1,468,583	179,748,524
2000	381	1,705,608	181,451,466
Total	3,146	15,021,847	1,698,774,684

There is wide agreement that a major aim of Namibia's 100 years of colonial rule was to establish white control over the best farmland in the country. That is the situation which Namibia inherited at Independence. Whites, or white males to be more specific, owned the vast majority of commercial farmland, and they still do. Given that for most of the past 100 years, blacks were prohibited from owning commercial farmland this is not a remarkable conclusion. A limitation for the land market is its inertia. It is perhaps best to think of the land market as a large, ocean-going ship. Turning it is a slow process. Characteristics and patterns developed over the past century will tend to remain in place so soon after Namibia became an independent state.

Yet, if one looks at the data below it appears, on first brush, that major changes in ownership are underway. Over the past 11 years, white males have been the buyers in 39% of all 3,146 commercial farmland transactions. Table 2 and Chart 1 below show a steady decline of white males acquiring land. For the years 1998, 1999, and 2000 the percentage of white male acquisitions, as a percent of yearly acquisitions, is below 30%, down from a high of almost 65% in 1992. Again 1995 appears to be a threshold year. Despite the fact that the number of acquisitions is the highest in 1995, the percentage of white males acquiring land actually drops below 50%. As

⁷"The more things change, the more they stay the same." A popular French saying.

⁸All values are given in 2000 Namibia Dollars. We are grateful to Robin Sherbourne for providing this information.

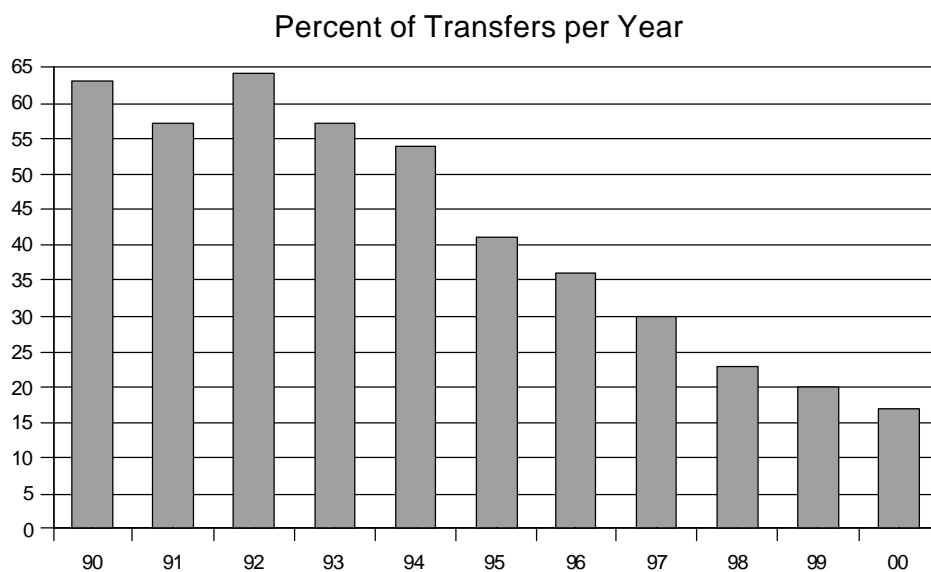


the table and chart below show, from 1995 onwards there is a steady decline to just over 15% of transactions in the year 2000.

Table 2: Land acquisitions by white males (N\$ in 2000 prices)

<i>Year</i>	<i>Number of Transactions</i>	<i>Hectares</i>	<i>Value (N\$)</i>
1990	151	764,300	83,411,178
1991	90	395,518	50,787,577
1992	116	352,350	65,532,215
1993	166	786,772	84,167,488
1994	125	529,014	64,173,661
1995	193	926,930	87,629,467
1996	120	636,995	51,124,395
1997	80	308,486	29,881,112
1998	66	260,995	29,783,935
1999	60	285,853	49,419,439
2000	63	275,653	35,722,734
Total	1,230	5,522,866	631,633,201

Chart 1: Percent of yearly acquisitions by white males



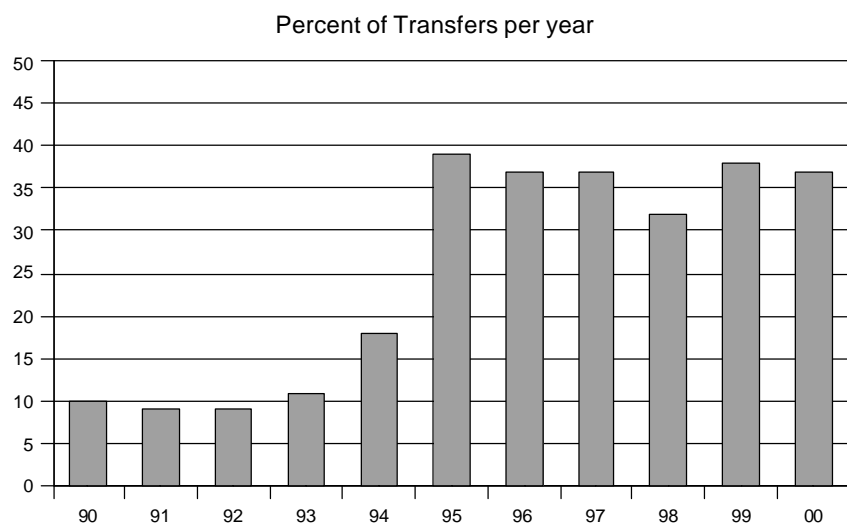
This decline may, however, be illusory, as the transformation of commercial farms to corporate ownership has a major effect on the land market from 1995 onwards. Corporate transfers will be discussed at length below. For present purposes, we extract the number of white males who have transferred ownership of agricultural land to a corporation. When

these are expressed as a percentage of yearly transactions, they show a pattern which is the inverse of that shown in Chart 1 above. The crucial year 1995 shows a dramatic increase in the number of white males transferring land to corporate ownership. After this pattern was noticed, spot checks on the identity of the principals of these corporations were undertaken. It is safe to conclude that a majority of these transactions were actually a commercial land holder transferring land to a corporation in which he was also a major shareholder.⁹

⁹See Fuller and Eiseb (2001), ms., for an earlier discussion of this phenomenon. Those who read this paper will note a larger number of transactions and hectares discussed than are discussed here. In that paper a less rigorous method of selecting transactions was used

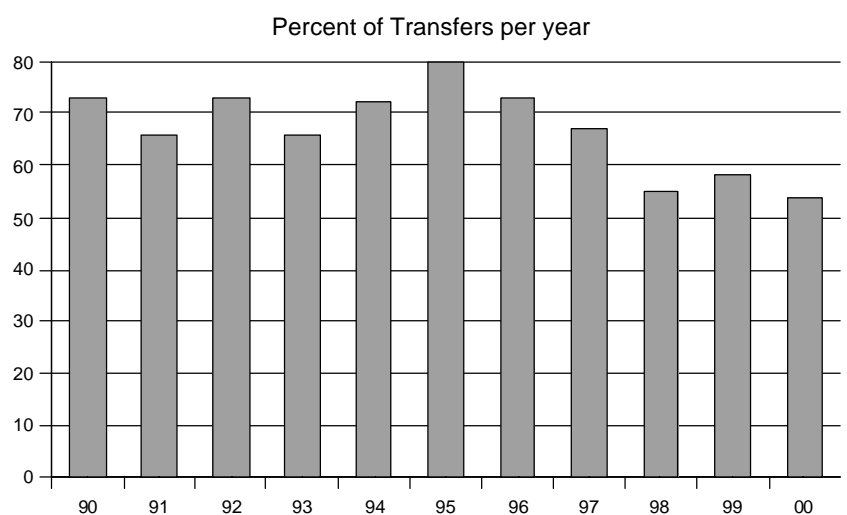


Chart 2: Percent of transfers white males to corporate ownership per year



Hence, if one combines the two types of transactions, that is white males transferring farms to other white males, and white males transferring farms to corporations which they probably own, then a much different pattern from Chart 1 emerges. This can be seen in Chart 3 below. Basically, there is very little movement in terms of ownership patterns. White domination of the commercial farmland market is still very real.

Chart 3: Combined percent white male acquisitions and white male transfers to corporate ownership.



The picture may not be as dreary as it appears. If one looks at Chart 3, one sees that the years 1998 - 2000 are years in which the total percentage of transfers from white males to white males (or their corporations) goes below 60% of all transactions. This may be an indication of a change in market direction. Unfortunately data collection for 2001 is not yet complete, and, of course, analysis of more years in the future will be required to make some positive

statements about the nature and extent of this observation. In order to understand this observation, it is necessary to look at two other aspects of the commercial farmland market, transfers to blacks, and the issue of gender in land ownership.

Rate of Participation by Blacks

When looking at this aspect of the land market, two components must be considered. The first is those parcels of land which we can identify as acquired by blacks.¹⁰ The second is those parcels of land acquired by the Government of Namibia (GRN) for resettlement and/or redistribution. For this latter class of transaction, data provided by the Ministry of Lands Resettlement and Rehabilitation (MLRR) are used. Records in the Deeds Office do not indicate the purpose of a transfer. Since there can be multiple reasons why the GRN acquires land, the list from the MLRR is the most accurate for this analysis.

¹⁰The reader is reminded of the caution given above on determining who are white and black.



Data on acquisitions by the black are below in Tables 3 - 7. When all four different categories are taken together, approximately 12% of transactions involve acquisition by blacks. Whether or not this represents a real shift in ownership will be examined shortly. By far black males have been most active in obtaining commercial farmland, followed by the MLRR, black couples, and lastly by black females. On average in the eleven years under review, we have seen 34 transactions representing 196,434 hectares per year where blacks acquired land. The overall number of hectares transferred, 2.16 million hectares, represents roughly 6% of an assumed area of 36 million hectares in the commercial farming sector. In other words the rate of transfer to black Namibians is approximately half a percent of the total commercial farmland per year.¹¹

Table 3: Overall acquisitions of commercial farmland by blacks (N\$ in 2000 prices)

<i>Year</i>	<i>Number of transactions</i>	<i>Hectares</i>	<i>Value (N\$)</i>
1990	16	74,394	11,788,938
1991	26	114,256	21,790,906
1992	22	90,015	15,224,722
1993	43	211,834	30,574,961
1994	20	67,956	10,552,522
1995	32	148,729	26,211,394
1996	30	163,438	28,092,484
1997	28	332,250	35,773,665
1998	51	395,590	51,359,232
1999	46	212,620	29,897,316
2000	57	349,697	31,710,912
Total	371	2,160,779	292,977,052

Table 4: Commercial farmland acquisitions by black males (N\$ in 2000 prices)

<i>Year</i>	<i>Number of transactions</i>	<i>Hectares</i>	<i>Value (N\$)</i>
1990	14	65,158	10,182,624
1991	12	50,075	8,646,535
1992	22	90,105	15,224,722
1993	36	186,986	25,633,480
1994	17	60,040	7,114,631
1995	21	101,061	13,569,465
1996	23	115,952	17,340,885
1997	13	556,403	8,678,312
1998	23	227,533	30,689,760
1999	23	91,508	14,830,653
2000	26	152,593	20,887,742
Total	230	1,697,414	172,798,809

Above, the question was posed whether or not these transfers represent a real shift in ownership. Do they mark a shift from white to black, or do these transactions merely reflect some other process? If one examines the data for Table 4 more closely, we were able to identify 160 transactions where land moved from a white male to a black male. There were 11 other

¹¹Institute for Public Policy Research, IJG Business Climate Monitor for August 2002.



transactions where land moved from a white female to a black male, and additionally a further 26 transactions where land moved from a corporation to a black male. Added to this are 9 transactions where land was acquired from an arm of government.¹² Hence, 90% of transactions in Table 4 represent real transfers of land where a black acquires land be it through direct purchase or resettlement.¹³ A similar pattern holds true for land acquired by black women and black couples. (See Tables 5 and 6 below.) It is also safe to add that all purchases of the MLRR represent real transfers of land from white to black as well.

Table 5: Commercial farmland acquisitions by black females (N\$ in 2000 prices)

<i>Year</i>	<i>Number of transactions</i>	<i>Hectares</i>	<i>Value(N\$)</i>
1990	0	0	0
1991	2	4,277	1,494,833
1992	0	0	0
1993	4	10,904	2,184,059
1994	2	5,324	2,283,111
1995	2	5,355	1,003,442
1996	1	14,604	2,107,536
1997	4	24,610	2,605,963
1998	2	9,522	1,826,609
1999	3	13,236	2,017,499
2000	6	27,029	2,415,970
Total	26	114,861	17,939,022

Table 6: Joint acquisitions of commercial farmland by black couples (N\$ in 2000 prices)

<i>Year</i>	<i>Number of transactions</i>	<i>Hectares</i>	<i>Value (N\$)</i>
1990	0	0	0
1991	0	0	0
1992	0	0	0
1993	0	0	0
1994	1	2,592	1,154,780
1995	1	6,352	617,668
1996	1	3,075	506,111
1997	6	29,346	4,580,434
1998	9	72,099	7,024,205
1999	14	80,667	10,911,226
2000	13	62,620	8,391,758
Total	45	256,751	33,186,182

A major force in the movement of land is the MLRR. As the GRN has made clear, there is a commitment to spending N\$20 million per year on land purchases, and recently the ruling SWAPO Party has called for this figure to be increased to N\$100 million. Using data provided by MLRR, we

¹²In the early 1990s in particular there were a number of holdovers from the *apartheid* era who had been moved on to farms purchased by the various Bantustans. Some of these so-called governments had their own resettlement schemes where large farmers were encouraged to move on to commercial farms purchased by the Bantustan and to pay off the debt over a period comparable to a mortgage. After independence many of these arrangements were formalised with deed transfers.

¹³The other major category of transfer represents black transferring to black. These represent a mix of sales and inheritances.



see that only 1997 and 2000 represent years when current spending pledges were approached. Data on MLRR commercial farmland purchases appear in the next table. Please note that the financial figures presented here are lower than those provided by the MLRR because these figures only include the cost of the farm and not transfer duties and other fees.

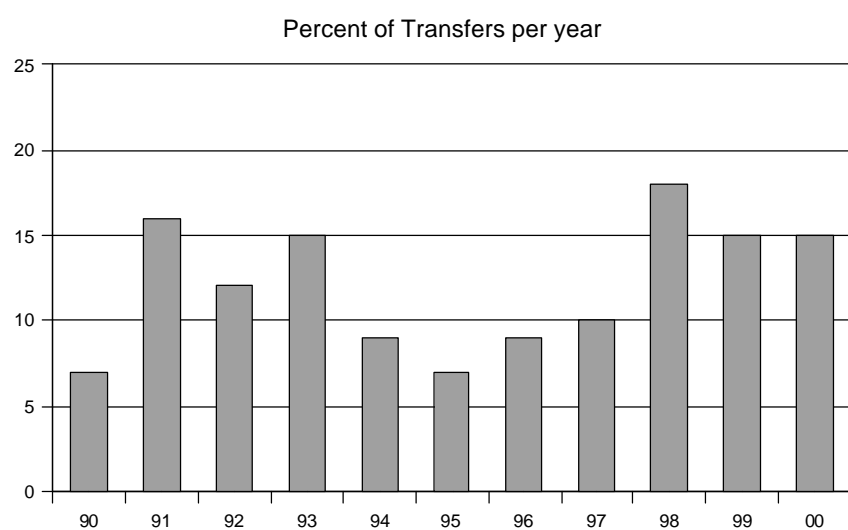
Table 7: MLRR acquisitions of commercial farmland for resettlement (N\$ in 2000 prices)

Year	Number of transactions	Hectares	Value (N\$)
1990	2	9,236	616,383
1991	12	59,904	5,002,177
1992	0	0	0
1993	3	13,944	1,528,010
1994	0	0	0
1995	8	35,961	7,366,857
1996	5	29,807	5,934,830
1997	23	162,342	15,796,727
1998	17	86,436	9,962,317
1999	6	27,209	2,046,442
2000	12	104,725	15,442,821
Total	88	529,564	63,696,564

Source: MLRR

This issue of MLRR performance was also raised recently in the article published by the Institute for Public Policy Research (IPPR).¹⁴ It may be that there are aspects of the land acquisition process within the GRN that need reform, but there is also a market-related factor which obstructs the purchase of commercial farmland for redistribution, and this will be a focus of the section below on Corporate Ownership. The question of whether or not N\$20 million per year is an adequate figure for purchasing land will be discussed in the conclusion.

Chart 4: Percent of transfers to blacks per year



Lastly, for this section, it is useful to return to the observation at the end of the previous section where a slight shift in market direction was detected. The years 1998 through 2000 showed the lowest percentage of transfers that maintain the status quo of white male domination of the land market. If so, one could expect a rise in transfers to blacks for the same three year period. Chart 4 plots the percentage of transfers for blacks. While there is a similar pattern, there is a difference. The

years 1998 through 2000 show a higher percentage of yearly transfers than in the four previous years. Only one of the final three years, however, actually shows a rise above the rest of the

¹⁴Institute for Public Policy research, IJG Business Climate Monitor for August 2002.



decade. The years 1997 and 2000, while high were exceeded or matched in 1991 and 1993. This leaves transfers to blacks as only a partial explanation for the decline in land transfers from white males to white males as is noted above.

Gender and the Land Market

In the clamor to redress colonial injustices, the issue of gender is often overlooked. This despite the fact that Namibia has made successful changes to the gender component of ownership over commercial farmland since 1990. The major piece of enabling legislation is the Married Persons Equality Act, which was promulgated in 1995. This Act provides spouses, particularly women, with rights over property acquired during the course of a marriage.¹⁵ Prior to the passage of the Act, these rights were ceded usually at the discretion of the husband. The formalisation, then, of women's control over property they acquire with their husbands is a significant step.

Table 8: Commercial farmland acquisitions by white females (N\$ in 2000 prices)

<i>Year</i>	<i>Number of transactions</i>	<i>Hectares</i>	<i>Value (N\$)</i>
1990	32	158,950	17,638,435
1991	19	84,863	12,579,964
1992	11	33,981	3,467,580
1993	29	139,067	16,636,034
1994	27	113,262	13,718,996
1995	29	153,471	16,836,656
1996	33	169,946	14,044,678
1997	22	124,712	13,616,816
1998	27	503,392	11,183,642
1999	20	104,768	12,638,354
2000	27	170,297	13,678,034
Total	276	1,756,709	146,039,189

Table 9: Commercial farmland acquisitions by black females (N\$ in 2000 prices)

<i>Year</i>	<i>Number of transactions</i>	<i>Hectares</i>	<i>Value (N\$)</i>
1990	0	0	0
1991	2	4,277	641,864
1992	0	0	0
1993	4	10,904	1,210,284
1994	2	5,324	1,401,000
1995	2	5,355	670,750
1996	1	14,604	1,536,980
1997	4	24,610	2,067,699
1998	2	9,522	1,539,675
1999	3	13,236	1,846,227
2000	6	27,029	2,415,970
Total	26	114,861	13,330,449

¹⁵See Harring and Odendaal, 2002.



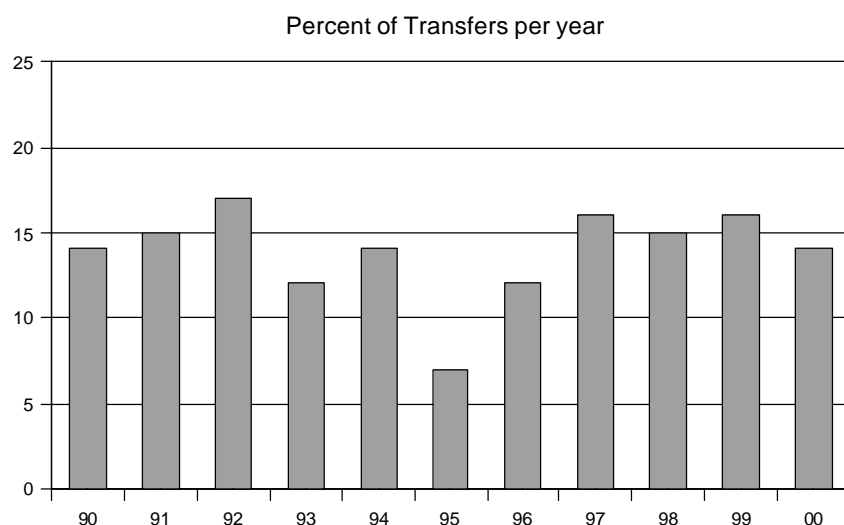
Surprisingly, white women are a factor in the land market. While they are nowhere near white males in terms of acquisitions, they do, outnumber black males in terms of acquisitions. Black women on the other hand are coming a very low level of activity, where only in the year 2000 have their numbers in land acquisitions appeared to improve. These trends are reflected in Tables 8 and 9 above.

The pattern shown in Table 10 below (as well as in Table 6 above) indicates one major effect of the Married Persons Equality Act. For white couples from 1990 through 1994 there are just under 3 transactions on average per year involving joint ownership of commercial farmland. This represents a total of 94,966 hectares. During the years 1996 through 2000 the average number of transactions is about 6 times more per year, representing 408,987 hectares. For black couples the pattern is even more striking. From 1990 to 1994 there is only 1 joint acquisition representing 2,592 hectares. (See Table 6) From 1996 to 2000 there are 43 such acquisitions involving 247,807 hectares. These rapid increases are tempered by the fact that all come from a very low base. A simple check with the amounts of hectares acquired by either white males, black males, or corporations bears this out.¹⁶

Table 10: Joint acquisitions of commercial farmland by white couples (N\$ in 2000 prices)

<i>Year</i>	<i>Number of transactions</i>	<i>Hectares</i>	<i>Value (N\$)</i>
1990	2	11,808	1,865,945
1991	3	17,882	3,971,986
1992	3	26,769	3,040,167
1993	3	5,882	2,090,341
1994	3	31,715	2,236,740
1995	4	18,667	2,070,883
1996	7	31,629	3,827,562
1997	18	44,402	5,426,951
1998	14	79,626	6,338,000
1999	26	158,626	11,731,307
2000	21	94,704	8,914,924
Total	104	521,710	51,514,806

Chart 5: Percent gender positive acquisitions per year



Lastly, there is the question of whether or not gender positive transactions show a similar pattern as that of transfers to blacks. That is, we would expect them to increase, and therefore support the overall idea that we have seen some slight movement in the direction of the land market between the years 1998 through 2000. In the chart below totals for transfers to black couples are left

¹⁶See Tables 2 and 4 above and Table 11 below.



out because they were added into the calculations in the previous section. The charts, therefore, for transfers to white females, black females, and white couples are as follows:

These results are not as convincing as some might like. Clearly there is an upward trend *vis à vis* the middle years of the decade. Overall, however, the movement, particularly in relation to early years of the decade, do not appear noteworthy. Had the figures for black couples been added to this calculation, the percentages for the years 1998 - 2000 would have been 18, 21, and 15 respectively, perhaps indicating a stronger pattern. This leads us to a future direction in research, namely the role of black couples in the land market.

Corporate Ownership

As noted above, 1995 is a watershed year for the commercial farmland market in Namibia. Two pieces of legislation are the likely reasons for this situation. The first is the Married Persons Equality Act, which gave spouses, particularly women, rights over land. The second piece of legislation is the Agricultural (Commercial) Land Reform Act of 1995. A key component of that legislation is the requirement that all commercial farmland that is sold, be offered first to the government for the purposes of redistribution. In practice this provision requires a waiver signed by the Minister of Lands, Resettlement and Rehabilitation stating that the government is not interested in acquiring that particular piece of property at the present time. What the Act does not cater for, however, are other forms of property transfer that do not require a sale. These forms of transfer are exempt from provisions of the Act, and may have significant long-term impacts on the government's ability to acquire land for redistribution.

The main vehicle for transfers without sale is the close corporation.¹⁷ A close corporation is the simplest and easiest form of corporation to create and maintain. Creating a close corporation in a business operation (such as a commercial farm) confers significant tax and other operational advantages. Thus, it is not surprising that transfers of commercial farms to close corporations has been going on for some years, indeed well before 1990. Data on transfers to corporations appears in Table 11.

Table 11: Transfers to corporations by year (N\$ in 2000 prices)

Year	Number of transactions	Hectares	Value (N\$)
1990	33	140,915	24,212,599
1991	23	159,420	16,197,639
1992	26	127,799	19,076,410
1993	44	310,763	35,644,999
1994	57	269,898	33,130,721
1995	219	1,248,530	91,512,238
1996	142	708,042	74,978,389
1997	113	545,427	50,447,227
1998	126	609,680	63,161,943
1999	171	949,139	94,647,941
2000	213	1,094,762	75,604,295
Total	1,167	6,164,375	578,614,401

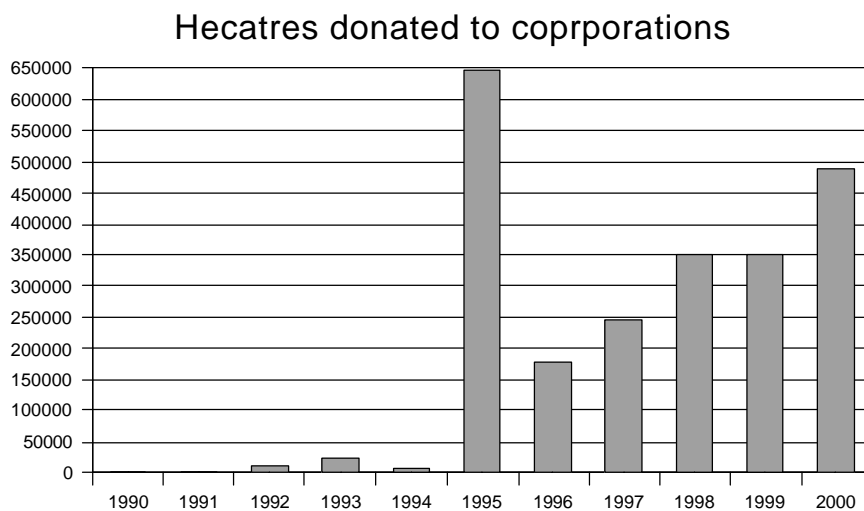
¹⁷In our analysis all corporate forms are included: Pty (Ltd.) and trusts.



The significant aspect of the above data is the frequency of this type of transfer from 1995 onwards. There is a massive increase in the number of corporate registrations between 1994 and 1995. In 1995 the reporting of sales of commercial farms was about to become mandatory, and there appears to be a link between this requirement and the movement of farms into corporate ownership. From 1990 through 1994 there are 183 transfers to corporations, an average of 37 per year. From 1995 through 2000 there are 984, or 164 per year. This is an increase of about 400% on average per year.

After this phenomenon was identified, a series of spot checks on such transactions was initiated. It was found that a common financing mechanism of post-1995 transfers to corporations fall under the category of donation. While there often was value attached to that donation for purposes of levying transfer duties, there was no "sale" of land between parties. Hence, there was no need to first offer the land to the government by seeking a waiver from the Minister of Lands Resettlement and Rehabilitation. These properties were immediately removed from the redistribution process as set out in the 1995 Agricultural (Commercial) Land Reform Act.

Chart 6: Hectares donated to corporations by year



Given that the MLRR has come under criticism for not reaching its land acquisition targets it may be interesting to speculate if these transactions could have had some impact on the performance of the MLRR. Again 1995 represents a threshold, prior to 1995 there were 14 donations to corporations totaling 43,109 hectares. From 1995 through 2000 there were 463 donations to corporations totaling 2,258,529 hectares (see

Chart 6 above). Post 1995 donations to corporations, in terms of hectares are thus 44% of all transfers to corporations. More importantly, they represent 23% of all hectares of commercial farmland transferred between the years 1995 through 2000. The amount of land thus taken out of the redistribution process is significant, and does lend credence to the MLRR's comment that many farms offered to the government are not suitable for resettlement.¹⁸

This immediate aspect of corporate land transfers aside, once these properties are removed, there are other implications. These are:

On a longer perspective, it may be possible to "sell" a parcel of commercial farmland by purchasing a share or shares of the corporation. This may not be a "sale" in the legal definition of the 1995 Act, and thus there is no need to report the transaction either to the Deeds Office, or to obtain a waiver from the Minister of the MLRR. A specific property could theoretically change hands many times in this fashion. Records on ownership of corporations are kept at the Ministry of Trade and Industry, and there do not appear to be strong links between the two sets of data.

¹⁸It would be worthwhile to sample some of these farms to see what percentage might be considered acceptable.



Effectively this means that it would be possible for a specific piece of property to change hands numerous times without the government knowing who actually owned the land.

Since the transfer of land through selling shares of a corporation does not require reporting that transaction to the Deeds Office, the government faces the loss of transfer duties. Between 1995 and 2000, approximately 5.1 million hectares of land was transferred to corporate control. This land had an aggregate value of approximately N\$450 million. Should this land change ownership through the selling of shares in corporations, and not through a registered deed, the Government could lose a percentage of that value. The actual formula for calculating transfer duties is more complicated so 5% is used for illustrative purposes only. While future prices cannot be determined, consider that 5% of N\$450 million is over N\$22 million.

Another factor in the movement to transfer commercial farmland to corporate ownership may lie with the fact that provisions of the Married Persons Equality Act apply specifically to land and other capital assets. But, the Act does not appear to apply to corporations. This may have been, and may still be, the motivation behind some men shifting their farmland to a corporation as it would effectively remove their wives from any form of control. It is an area that would require more research.

Conclusions

The first conclusion is methodological. As is noted above, the practice of using surnames to determine the ethnic or the former 'racial' status of the apartheid era has its weaknesses. Ideally, the way around this limitation is to involve officials at the regional level to determine the status of different individuals. During the early phases of this study, a local verification of farms was carried out in the Kunene Region. Regional officers were found extremely knowledgeable of farm owners in their districts. By thus ground truthing the data, debates about ownership of commercial farmland would be enhanced. It should be noted that another database on commercial farm ownership which was recently cited, also suffers from the same limitations as the data presented here.¹⁹ This point reflects a large void in our basic knowledge of conditions of land and land use in the country.

Despite the need to verify some aspects of the data, the question can be asked if this would change overall trends and patterns. Namibia's colonial land policy had the aim of entrenching a specific racial and gender group (white males) in the market for commercial agricultural land. Those policies were in operation for about 100 years before independence, and it is therefore unlikely that market forces alone would provide a radical change of direction over just 11 years. Indeed, the Namibian government has continually opted for market stability in the wider economy. In the commercial farmland sector, stability has been achieved through the principle of willing seller-willing buyer.

Generally, acquisitions of land by white males have dominated market transactions on a yearly basis for the years 1990 through 2000. There have been, however, indications of a downward trend in this domination in the years 1998 through 2000. This downward movement appears linked to an increase in both land acquisitions by blacks, and joint purchases by white and black couples. Since, this trend appears for only three years, it bears watching to see if it represents real movement or a temporary process.

¹⁹Institute for Public Policy Research, IJG Business Climate Monitor for August 2002..



Government can, of course, both sustain and enhance this trend. Though, it may have to modify certain practices to do so successfully. This can be seen above in the data on land purchases by the MLRR. In looking at Table 7 above, one must keep in mind that the GRN has repeatedly committed N\$20 million annually to acquiring commercial farmland for redistribution. Yet, in only two years, 1997 and 2000 has the MLRR been able to purchase that annual allocation. This leads us to propose four mechanisms for enhancing this observed decrease of white male participation in the market.

The first is to understand that the MLRR has only recently reached its target of N\$20 million in land purchases per year. To an outside observer this indicates that perhaps an examination of the way in which the MLRR purchases farms is required. Factors such as selection criteria, valuation procedures, staffing issues, approval issues, payment procedures and the like may require critical examination. If modifications to existing systems and procedures are required, they should be provided. The same could also be said for increases in staffing and training. If one looks at the rapidity and extent to which commercial farmers were able to circumvent aspects of the 1995 Agricultural (Commercial) Land Act, this is an additional indication that units within the MLRR who deal with land purchases and resettlement may need to be strengthened. Given that the MLRR is entrusted with one of the main post-colonial social issues, it would be unwise to deny that ministry the resources required to effectively carry out their tasks.

The second mechanism can only be accomplished after the first has been completed. When the sum of N\$20 million is compared against the amounts that white males spend on land acquisitions, it seems rather small. Take, for example, the year 2000, in that year the GRN spent just N\$15 million²⁰ acquiring land. White males, if one includes the amounts spent transferring land to corporations, spent about N\$97 million²¹ acquiring farmland. In other words, almost over 6 times was spent in the year 2000 to maintain the status quo, than the GRN spent to acquire land. If we extend this analysis to include all transfers to blacks, then N\$46 million was spent to transfer land into black hands in 2000. (This would be N\$15 million from the GRN, and N\$31 million in purchases by black males, females, and couples.) Still, this is less than half the amount spent by white males. There should be serious consideration given to greater spending levels on purchasing farms for the willing seller-willing buyer model to remain in force.

Third, clearly the impact of transfers to corporations needs attention. Changes to legislation have been introduced into the National Assembly. Once these are done, however, effective monitoring systems have to be put into place. Currently data on corporations resides in the Ministry of Trade and Industry, while data on land resides in the Deeds Office of the MLRR. Neither of these databases are computerized, making rapid and accurate monitoring difficult. This is a clear example where cooperation between different ministries is crucial.

Fourth, it must be understood that increasing black participation in the commercial farmland market requires more than government purchases of farms. The second aspect of this process is individual purchases by blacks. As can be seen in Tables 4, 5 and 6, the only category where there has been a major increase in market participation is with black couples. Yet, even this increase is very small when compared to participation levels by white males. Clearly thought needs to be given to mechanisms which encourage black ownership through private sector means. Proposed amendments to legislation governing the operations of Agribank may be a positive step in this regard. Still, the levels of black participation in this aspect of the market should

²⁰The reader is reminded that this figure is the MLRR purchase cost of farms, and does not include transfer duties, etc.

²¹This includes N\$35 million in transfers to white males and N\$62 million in transfers to corporations



be monitored within the overall framework of land redistribution. If necessary, adjustments to affirmative action loan schemes should be considered.

Lastly, willing seller-willing buyer remains the cornerstone of government efforts at Land redistribution. As it maintains this stance, the government has to balance the need to maintain market stability on the one hand versus the demands of the land hungry. How long and at what cost this balancing act can be maintained are questions we all wait to have answered.

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