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# Pro Bono

## INFORMATION ABOUT NAMIBIA'S LAW

### What is Namibia doing about Urban Land Reform?

#### Background

For the best part of the first two decades after Namibia's independence, the Namibian government has focused on commercial agricultural land reform.

The [Agricultural \(Commercial\) Land Reform Act](#) was enacted in 1995, five years after Namibia gained independence. Against the political rhetoric that the war of liberation was fought to return the land to the people, and the skewed landownership of commercial agricultural land that favoured whites at the time of independence, the decision to start with land reform at commercial agricultural level made sense.

Second on Namibia's land reform agenda was communal land reform. Politically, this has perhaps been more of a challenge for the SWAPO government. It had to encourage traditional authorities – who have been an important mobiliser of the SWAPO vote in rural areas since Namibia's first democratically held elections in 1989 – to share their decision-making powers on the allocation of communal land rights with Communal Land Boards., which play an important oversight function over such land allocations in communal areas. The breakthrough in respect of communal land reform was the eventual enactment of the [Communal Land Reform Act in 2003](#).

Meanwhile, since the 1990s, Namibia has experienced a steady increase in its urban population. In 1990, Namibia's urban population was estimated to be less than 28 percent of its total population. At present it is estimated to be about 52 percent of the Namibian population. Namibia's urban population is growing because people leave the rural areas in search of employment opportunities in the urban areas. Yet, the urban population increase and the associated challenges of developing urban housing and housing rights have been met with less vigour by the Namibian Government than reforms relating to commercial agricultural land and communal land.

In this column, we take a look at urban land rights in Namibia and the importance of making them work.

#### Urban/housing rights in Namibia ([more here](#))

The 1991 National Land Conference laid an important foundation for the development of Namibia's legal and policy framework on land reform. However, none of the 24 resolutions taken at the conference addressed urban land reform in Namibia. The 1998 National Land Policy was the first attempt since independence to address the issue of urban land and to accommodate the rights and needs of the poor in urban areas.

The 1998 policy recognises that Namibia is experiencing rapid urbanisation and that the urban land system is inadequate to address the needs of low-income residents, failing to make urban land more accessible and affordable to them.

To ameliorate this, the 1998 National Land Policy recommends the enactment of legislation to enable the compulsory acquisition of land by government for public purposes in accordance with Article 16 of the Namibian Constitution.

In 2012, Parliament passed the Flexible Land Tenure Act, which aims to make urban land more affordable to the poor while still giving them secure land tenure. It creates new forms of land title, namely a “starter title” and a “land hold title”. Both are designed to be simpler and cheaper to administer than pre-existing forms of urban land title. The Act also creates mechanisms for the registration of the two new forms of title.

The regulations of the Flexible Land Tenure Act took another six years to complete. The Act was finally brought into force in 2018, 20 years after the 1998 National Land Policy envisioned the enactment of pro-poor urban land legislation.

The issue of urban land reform featured prominently during the Second National Land Conference held in October 2018. Of the 40 resolutions taken at the conference, 10 focused on urban land reform. Some of the key resolutions concern the building of government capacity to reduce urban and housing prices, the creation of infrastructure financing funds, subsidization of low income housing and services to increase affordability, the review of legislation pertaining to land delivery, the prioritisation of large-scale informal settlement upgrades and the expropriation of unused land in local authority areas.

The resolutions also set targets of 300 000 new urban housing units over a period of seven years, and an increase in government expenditure on urban land from 0.1 percent to at least 10 percent. Most ambitiously, the resolutions propose the inclusion of rights to housing as a human right in the Namibian Constitution.

The draft Revised National Housing Policy of 2022 is now out for consultation and available at <https://ilmi.nust.na/node/129>. Amongst other things, the policy aims to facilitate stakeholders’ efforts to refocus public expenditure, improve housing opportunities at local levels, advance equitable housing subsidies and unlock private sector investment. The goal is to create an enabling environment for housing supporting initiatives that are adequate to improve living conditions for the majority of Namibia’s residents, moving towards a dignified existence for the Namibian people as guaranteed by Article 8 of the Namibian Constitution.

### **Why is the realisation of urban land and housing rights important?**

Through Vision 2030, the Namibian Government committed itself to turning Namibia from a developing into a developed nation. The experience of other countries that have gone through this process shows that development tends to increase the number of people who are lured to the “bright lights big city”. It is common knowledge that modern developed economies are built around urban centres which require a stable supply of labour.

Governments play an important role in transforming an economy from being predominantly rural-based to a national economy driven by urban centres. Creating the right environment for the achievement of these development ideals is a complex but crucial task. It takes careful planning at multiple levels, including education, health, infrastructure, security and housing – all services that a government needs to put in place in order to build a society that prospers at the socio-economic level.

For Namibia, the focus on the urban poor has had several stops and starts since independence. It is perhaps too early to make a verdict on whether the Flexible Land Tenure Act is making a difference in creating the housing security that many of our fellow Namibians long for.

What is more encouraging is that the debate on urban land reform has taken much more of a centre stage since the 2018 land conference. What is now required from civil society is to proactively engage with local authorities, to demand that the promises of service delivery made during election times are fulfilled.

With regard to the future of Namibia's economy, the seeds for a prosperous economy are planted at home. The future looks bright when we feel secure at home, when we have a place that we can call our own.

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