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LAND GOVERNANCE IN NAMIBIA: CHALLENGES AND OPPORTUNITIES

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Abstract

Namibia has committed to work towards achieving of the Sustainable Development Goals by 2030. In 2004 the country developed a policy framework outlining the overall long-term development agenda known as Namibia Vision 2030 which sets the overall goals to attain the status of an industrialized and developed country. To underpin and ensure achievement of the set goals, a number of land recording and housing projects have been initiated to provide tenure security, housing and basic services. However, the projects have largely fallen short of achieving the goals due to slow or poor implementation. Achieving the Namibia Vision 2030 and the Sustainable Development Goals calls for enhanced provision of tenure security for further development of the country to avoid civil unrest due to unequal and unfair distribution of land rights. This calls for much enhanced program implementation and governance to improve the success rate.

Key Words:

Built Together Program, Communal Land Registration Project, Mass Housing Program, Program Implementation.



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1 INTRODUCTION

Namibia committed to working towards achieving of the Sustainable Development Goals by 2030. Furthermore, in 2004 the country developed a policy framework outlining the overall long-term development agenda known as Namibia Vision 2030 which sets the overall goals to attain the status of an industrialized and developed country. In regard to housing, the Vision intends to “provide affordable housing to all Namibians by the year 2030 through increased investment in the housing portfolio and in the process eliminate all shacks” (Ministry of Urban and Rural Development, 2013, para. 3). To underpin and ensure the achievement of the set goals, a number of projects and programs have been developed since independence in 1990 to address tenure security and provision of housing and basic services.

Several scholars argue that land in Namibia remains complex and controversial and affects economic, social, political and cultural institutions. According to Palmer et al. “[f]undamentally, land governance is about power and the political economy of land” (Palmer, Fricska, & Wehrmann, 2009, p. 1), they further elaborate that in many countries “the power structure of society is reflected in the rules of land tenure” (p.1). Furthermore, the distribution of power is affected by the standard of governance in a society. Therefore, weak land governance adversely affects society with formal as well as informal land tenure regimes (Palmer et al., 2009, p. 4). In the current global land discourse, land appears prominently as part of the Sustainable Development Goal number one (1): “End poverty in all its forms everywhere”, via ensuring equal rights to economic resources including control over land and other forms of property, especially for the poor and vulnerable. Significantly, land also forms an implicit part of goal 11, which focuses on more inclusive, safe, resilient and sustainable cities and settlements (Enemark, 2017). Furthermore, goal 16 focuses on peace, justice and strong institutions, e.g. to create peaceful and inclusive societies to underpin sustainable development. All people should also have access to justice at all levels; this should be materialized in the form of effective, accountable and inclusive institutions. All these are possible only when there is a land governance system that is accessible, equitable, resource efficient and sustainable.

With the upcoming implementation of the Flexible Land Tenure System (FLTS) in Namibia the experience gained and lessons learnt from current land and housing projects should be taken into consideration to avoid falling short of providing tenure security to the urban low-income residents.

The recent population forecast suggest the urban population to increase from 50% in 2018 to about 72% by 2050 of which up to 1 million will be living in one urban area (United Nations, 2018), the capital city



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Windhoek. Today the majority of people living in urban areas reside in informal settlements. With the high urbanization rate, the informal settlements will expand significantly since the vast majority of people migrating to the urban areas end up living in informal settlements. This calls for urgent attention to be paid to provision of tenure security to the residents currently living in informal settlements. It also requires that local authorities take on the responsibility to plan prior to occupation of land and deliver affordable land to low-income residents with immediate effect.

The scenarios described above makes the research important due to the history of slow-paced implementation of land recording and housing provision projects. The commitment to achieving of the Sustainable Development Goals and the National Development Plans requires that the country enhances the provision of tenure security to provide a foundation to further develop the country and to avoid widening inequalities and unfair distribution of land rights.

2 METHOD

Very scanty research has been done regarding the unsuccessful implementation of projects in the land and housing sector in Namibia let alone the delay of implementation of projects and programs. The knowledge gap is therefore significant and with the upcoming implementation of the Flexible Land Tenure System (FLTS) it is essential to determine the main pitfalls in order to avoid disappointment of the project implementation. Identifying the main challenges of project implementation within the land sector is therefore required.

According to Flyvbjerg project implementation often remains a low priority within policy-making (1997). He further highlights a lack of research on project implementation as problematic since this is often a conflict-ridden period involving a number of different stakeholders and a period potential of conflicts of interest. Project implementation is the period where “the greatest changes take place in the final form of any policy” (Flyvbjerg, 1997, p. 7) and should be considered as a crucial step towards successful achievement of the project.

This study comprised of desk study research of publicly available documents and media publications regarding land and housing projects in Namibia. More in-depth research needs to be conducted to acquire detailed information about the reasons for the slow progress in program implementation. This could be done by conducting case studies of the specific land and housing programs in place.



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The outcomes of the research highlights major shortcomings concerning the implementation of three different land and housing programs in Namibia, namely; the Built Together Program, Communal Land Registration Project and the Mass Housing Development Program.

3 BUILT TOGETHER PROGRAM

The Built Together Program is a national self-help housing program initiated in 1992 by the then Ministry of Regional and Local Government, Housing and Rural Development (MURD, 2007, p. iv). The aim of the program was to provide shelter to low and very-low income earners (Weber & Mendelsohn, 2017, p. 37) who earn less than NAD 3,000 per month (equal to about USD 220) and who are excluded from accessing bank loans. The program was implemented country-wide in rural as well as urban areas. The Built Together Program was a response to address the then newly formulated National Housing Policy. Four different sub-programs can be supported within the program and they are as follows:

- urban/rural housing loans: Supports low-income people by providing loans for construction of new houses, production of building materials, community facilities and refurbishment of existing housing (MURD, 2007, p. 1);
- social housing: To support the facilitation of housing to disabled, pensioners and destitute;
- single-quarters transformation: To demolish existing buildings and construct new houses on a cost recovery basis. Prior to independence the male labor force was recruited from the rural areas and was housed in so-called single-quarters; a hostel-type barracks;
- informal settlement upgrading: Facilitation of communal basic services such as roads, water, sewerage and electricity in informal settlements (Ministry of Urban and Rural Development, n. d.).

Repetition of loans can only take place once repayment is completed of the previous loan. The housing scheme is set up as a revolving fund meaning that the amount of money available for loans depends on the “extent of loan recoveries over time” (Shikangalah, 2005, p. 3). See Figure 1 below for an illustration of examples of houses supported by the Built Together Program.



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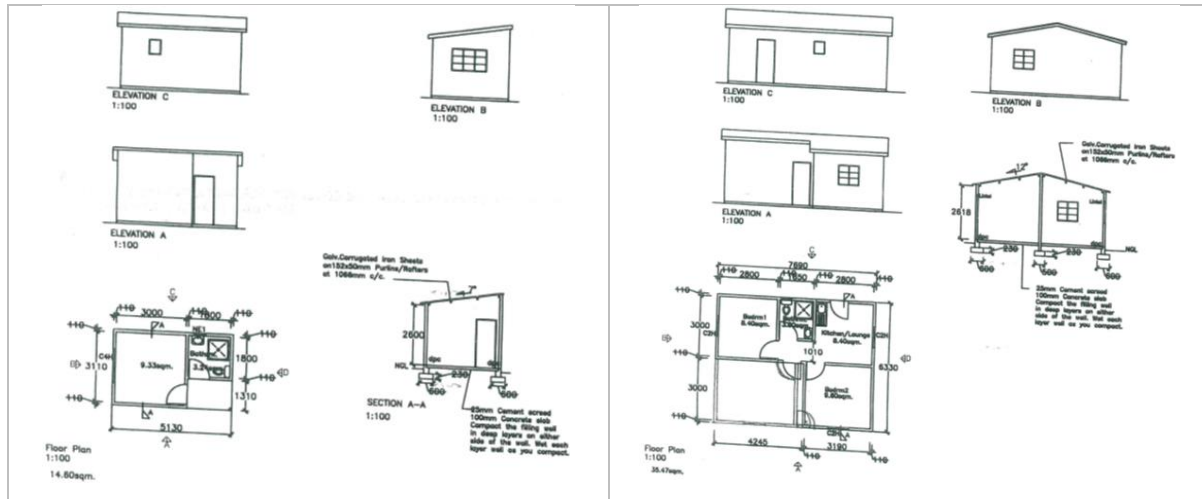


Figure 1: Examples of building plans for Built Together houses. The illustration to the left is a 14.6 m² one bedroom house with bathroom. To the right is illustrated a 35.5m² house with two bedrooms, kitchen and bathroom.

Source: (MURD, 2013).

From the initiation of the program in 1992 until 1999 it was centralized at the Ministry of Rural Local Government Housing and Regional Development (nowadays Ministry of Urban and Rural Development). As part of a state policy on decentralization the Built Together Program was transferred to the regional councils and local authorities in 1999 where administrative, financial and planning activities were handed over. The aim of the decentralization was to extend democracy to the local level and “ensure economic, cultural and socio-economic development” (Kandjeke, 2010, p. 5).

Guidelines for implementation of the program were developed by the Ministry of Rural Local Government Housing and Regional Development and suggest that local authorities and regional councils conduct inspections of construction progress prior to transferring money for the next phase of a loan. Additional progress payments should only be transferred after the completion of walls up to window level, installation of roof frames and sheets, and the last transfer is at the finishing stage, e.g. after completion of water supply, connection of toilet and internal and external plastering (Kandjeke, 2010, p. 21). All transfers should be based on the satisfactory inspection of progress of each stage of the construction. In incidents without sufficient construction progress funds should be withheld (MURD, 2007, paras. M1, 1.2-1.4).

A Build Together Committee established within the regional and local authorities are responsible for mobilizing financial resources and recovering loans, monitoring implementation progress and reporting to the regional councils and local authorities as well as for monitoring progress on the construction by each



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individual beneficiary (MURD, 2007, paras. E2, 2.8-2.11; E4, 4.8-4.11). The Built Together Committees are the institutions in contact with and assisting applicants and beneficiaries. The establishment of Community Based Organizations is encouraged to create development plans for the specific settlement, discuss and resolve problems and for example establish “management system and cost recovery system for communal facilities” (MURD, 2007, para. E3).

After the decentralization of the program the role of the Ministry of Urban and Rural Development changed to mainly facilitate funding and provide support to the regional councils and local authorities including training of staff members at regional and local level and assist in “capacity building for regional and local councilors and officers” (MURD, 2007, paras. E5, 5.4-5.5). It is also the responsibility of the Ministry of Urban and Rural Development to monitor and oversee the program implementation. The regional councils and local authorities are mandated to identify families in need of low-cost housing and potential beneficiaries of the Built Together Program and loan allocation.

In 2013 the Built Together Program was incorporated into the Mass Housing Development Program until 2016 where it re-emerged as a standalone program because “the housing needs of low income earners were not being sufficiently addressed by the Mass Housing Development Program” (Weber & Mendelsohn, 2017, p. 37). The Mass Housing Development Program is described in Chapter 6.

At the time the Built Together Program was developed and implemented at its initial stage it was considered as “one of the most comprehensive attempts by any nation to implement the United Nations Global Shelter Strategy of enabling and facilitating people to build and improve their own homes” (World Habitat, 1995). During its lifetime the Built Together Program has provided shelter to around 8,000 low and very-low income families in the period from 1992 to 2013.



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Challenges

The Built Together Program is constrained by a variety of challenges. Some of the main challenges are the following:

- debt-collection from loan takers. It is crucial to strengthen debt-collection to ensure that the revolving fund is functioning and generating money for allocating loans to more people. Defaulters should be approached to settle the debt and repay the loan. If necessary an agreement for repayment of the loan should be negotiated on affordable conditions for the defaulter. Repayment of outstanding balances should be based on a valid contract or loan agreement;
- repayment of loans. The low rate of repayment is partly due to a lack of a proper billing system put in place by the local and regional authorities. Some loan beneficiaries are not given contracts to proof the loan; hence the repayment of the loan is not taking place;
- monitoring and evaluation of construction progress. Periodic follow up and monitoring of construction progress should be conducted systematically to keep track on progress of construction activities before funds are paid out. Progress payments should not to be paid until construction is satisfactory and in compliance with requirements;
- completion of houses. Many houses are incomplete, some due to the loan beneficiaries spending the money on other expenses, some due to lack of repayment of loans and others due to delay in payout of the loan;
- application of guidelines and procedures: Appropriate and clear guidelines and procedures for the program implementation are given but they are often not followed and adhered to by the regional and local authorities. The Ministry of Urban and Rural Development should appoint dedicated civil servants specifically to train staff at the regional and local authorities in the guidelines and procedures, including in financial management, and ensure that those standards are adhered to. Also the regional and local authorities should appoint staff dedicated to administer the program;
- administration of funds and accountability of spending: Maladministration and a lack of accountable spending of funds by some regional and local authorities have caused suspension of funds from the Ministry of Urban and Rural Development. A general enhancement of project management and financial management in particular is required to improve the success rate of the program.



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4 COMMUNAL LAND REGISTRATION PROJECT

The Communal Land Reform Act was passed in 2002 to provide for registration of customary land rights in communal areas. The registration of the land rights was initiated in 2003. Prior to the enactment of the Act customary land rights were exclusively dealt with by the traditional authorities. The rights were allocated verbally according to local traditions and customs. The system however was exposed to criticism in terms of disputes arising due to double allocation of land rights and boundaries were frequently disputed. In addition, several cases of illegal fencing were reported. Inconsistent distribution of land rights in the various regions were criticized and considered uneven and unequal along with random decision making by the traditional authorities. The registration of communal land was therefore initiated to deal with those issues and to strengthen the tenure security for the people residing in the communal areas. Other aims were to establish a uniform land tenure system in all communal areas in the country and to “encourage economic development through increased investments on the land” (Werner, 2015, p. 21). Hunter further elaborates that the registration of communal land was “seen as significant in respect of poverty alleviation” (Hunter, 2004, p. 3).

The Act provides for establishment of communal land boards. This is a formalization of decision-making on the administration of land in communal areas. Customary land rights are initially allocated by the traditional authorities but are subject to approval by the land boards before legal effect is made. See Figure 2 below for an example of traditional buildings in a communal area in north-eastern Namibia. The ownership of communal land vests in the state which means that private ownership is not permitted; hence communal land can neither be bought nor sold.

Customary land rights are usufructs which can be acquired for a residential plot or for a farming plot both of which are for non-commercial activities. The customary land rights are recorded in a digital land recording system but also analogue records are kept at the Ministry of Land Reform; hence a dual recording system is in place. Acquiring leasehold rights to communal land is possible for business and commercial agriculture purposes. Leasehold rights valid for a period exceeding 10 years must be registered in the Deeds Registry. However, a recent study concluded that registration of leasehold rights to resettlement farms are often not recorded in the Deeds Registry (Werner & Bayer, 2016, p. 55).



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Cases of double allocation of land rights have been taken to court. Examples of traditional authorities allocating customary land rights already allocated to another person have been reported. The initial allocation was done by the traditional authority and approved by the regional Communal Land Board and the rights registered in the Communal Land Administration System. Despite registration of customary land rights being mandatory there are examples of traditional authorities discouraging community members to register their customary land rights. Unfortunately, this has been accepted by the Ministry of Land Reform who has so far not enforced the registration in those regions. It has been observed that the registration of customary land rights is still considered as ‘a project’ and not as a permanent facility to provide tenure security to customary land rights holders.

In the period from 2003-2018 a mere 119,227 communal land rights were registered country-wide (Ministry of Land Reform, 2018, p. 48); this equals about 49 per cent of the total estimated number of communal plots. This is a relatively low number accomplished over a 15 year period and is equal to an average of 7,948 plots registered per year since commencement of the project.



Figure 2: Traditional buildings in communal area in north-eastern Namibia.

Challenges

The Communal Land Registration Project is constrained by a number of challenges, as follows:



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- limited capacity in the Ministry of Land Reform prevents it from finalizing the registration of an estimated 340,000 customary land rights. Strengthening program management and utilization of the resources could enhance the outcome;
- registration of rights: A rather low performance of registration of land rights and the majority of leasehold rights are not registered in the Deeds Registry as prescribed by the Act. Registration and transfer procedures are not always fully completed which means that people may have a very low or no tenure security;
- communication and abiding by the law: Double allocation of land rights can be avoided by improved communication between the relevant parties who should also adhere to the rules, regulations and legal framework in place;
- selling of customary rights to communal land: Despite the prohibition to sell communal land it occurs frequently on an informal market (Mendelsohn, Shixwameni, & Nakamhela, 2013, p. 8).

5 MASS HOUSING DEVELOPMENT PROGRAM

The Mass Housing Development Program was launched in 2013 by the then president Pohamba. It is a blueprint providing the framework for implementation of the program which intends to deal with a number of challenges such as an asynchronous distribution between the supply and demand for housing, a significant urbanization trend, an emerging middle-class and a lack of available affordable housing and serviced land particularly in urban areas. The aim of the Mass Housing Project is to provide 185,000 housing units by 2030. The underlying objectives are to provide affordable housing to the Namibian people, economically empower people via the ownership of housing and to create jobs and stimulate economic growth.

The Blueprint acknowledges that current legislation, policies and the regulatory framework for land delivery cause slow processes and high land prices. It also recognizes constraints and shortcomings of institutional capacity. However, no changes of the relevant policies and legislation is in the pipeline and no additional budget has been allocated.

The Mass Housing Project Blueprint estimates a current housing backlog of 100,000 units which is increasing by 3,700 units per year (Ministry of Urban and Rural Development, 2013, para. 2.1). The backlog is subdivided into the need of 45,000 housing units for people with an income between NAD 0 and NAD



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1,500 per month and 30,000 units for people earning between NAD 1,501 and NAD 4,600 per month. To put this into perspective 73 per cent of Namibians have no access to formal credit facilities and therefore cannot afford buying urban land nor housing. The above figures indicate that 75 per cent of the backlog and thus the highest demand for housing is in the low-income segment of the population. Beneficiaries of the Mass Housing Program purchase the property and must secure loans or mortgages for financing from commercial financial institutions.

Several newspaper sources report incomplete house construction and rampant vandalism of unoccupied houses. Due to poor construction quality a number of houses have been demolished. Figure 3 below shows houses built in Walvis Bay as part of the Mass Housing Development Program. Local newspapers have also reported dubious allocation of construction contracts. This program was discontinued in 2015. The beneficiaries of the Mass Housing Project have been in the middle-income range whilst the low-income urban residents, a pertinent target group, were completely excluded due to an unattainable price levels.



Figure 3: Houses built in Walvis Bay as part of the Mass Housing Development Program.

It has been challenging to acquire exact figures for the number of houses built as part of the Mass Housing Program. However, according to the website of the custodian of the Mass Housing Program “approximately 1,500 houses” have been allocated to beneficiaries by January 2017 (National Housing Enterprise, 2019). No updated figures are provided. According to Ndeyanale, 2,699 houses have been built nation-wide out of which 1,979 have been occupied by October 2018 (Ndeyanale, 2018). Other sources report that 4,204



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houses were built between 2013 and 2015. At best that estimate is about 2,000 houses built per year which is well below the target of 8,850 houses that should have been built in the first two years (Ministry of Urban and Rural Development, 2013, para. 6).

Challenges

The Mass Housing Development Program faces a number of challenges as follows:

- unoccupied houses: Due to a variety of disputes several houses remain unoccupied long after completion of construction;
- vandalism of houses: Unoccupied houses have been vandalized, i.e. window frames removed and indoor interior damaged or removed;
- demolition of houses: Some houses were built very poorly and subsequently demolished;
- house prices: The program was intended to target middle and low-income residents but due to high prices no low-income have benefitted;
- project and financial management: Weak monitoring and evaluation of construction progress have in some events caused poor construction quality and houses were eventually demolished. Contractors have discontinued construction activities due to a lack of payment from the government and several contracts have been re-negotiated with construction companies because the initially agreed upon prices were deemed too expensive by the Government.

6 CONCLUSION

A number of land tenure and housing programs have been initiated in Namibia and this study analyzed three of those projects. The three land and housing programs under investigation all seemed achievable and within reach at the outset. A number of the challenges are apparently common to the three projects. None of the three projects have yet delivered their expected outcomes, fully reached their targets and full implementation is progressing very slowly. Slow progress in program implementation is characterizing the projects and likely caused by weak or poor program management in general and weak financial management in particular.

Despite policies, frameworks and guidelines in place the implementation of the programs is challenging for the parties involved and should have a much higher priority in policy-making. To enhance program implementation the ongoing programs should be more closely monitored and evaluated in more detail. An



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evaluation should establish the shortcomings and reasons why programs are falling short in implementation progress, in particular when it comes to program management and financial management. By learning from those ongoing programs proper project management and financial management procedures should be established to improve the success rate of the ongoing programs and also to avoid similar challenges and shortcomings in future programs and projects.

Based upon the three program examples in a Namibian context it is clear that project management should be prioritized much higher than is currently the case. In regard to achieving the Namibian Vision 2030 and the Sustainable Development Goals by 2030 it is recommended to conduct in-depth research of the ongoing programs and projects to establish the reasons for slow implementation in more detail and depth. This is crucial prior to initiating the implementation of yet another program, the so-called Flexible Land Tenure System. The Flexible Land Tenure System is aimed at providing land tenure security to urban low-income and informal settlers. However, if challenges and shortcomings are not mapped and dealt with appropriately concerning the existing programs it may likely end up as yet another low-performing or unsuccessful program. The success factor also strongly depends upon sufficient allocation of institutional and human resources along with financial budgeting for the entire project period. To achieve the desired goals calls for much enhanced program implementation and governance to improve the success rate and achieve the Sustainable Development Goals and the Namibian Vision 2030.



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BIOGRAPHICAL NOTES

Ms. Åse Christensen studied Surveying, Planning and Land Management at Aalborg University in Denmark specializing in Land Management. After finishing her studies she worked as an international project coordinator at BlomInfo Inc. in Denmark and worked onsite in Mongolia, Azerbaijan, Moldova and Nicaragua. She has experience working in international and multi-cultural environments with public as well as private institutions, NGOs and academia. As an international project coordinator she has experience on land registration projects funded by a variety of international development organizations.

Since 2012 she has been a lecturer in Land Administration at the Namibia University of Science and Technology in Windhoek, Namibia. She lectures courses on land administration, governance and related topics. She supervises research projects in the land administration field at diploma, bachelor and honors levels. During her tenure she has carried out numerous consultancies on the Flexible Land Tenure System in Namibia. Currently she is doing a PhD on how to best design urban land tenure systems in Namibia to meet the global agenda target and providing tenure security for all.

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