

The Land Question and Colonial Legacy in North-Eastern Botswana

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Abstract

The land question in north-eastern Botswana has been, over a century now, a controversial political issue in the country. The article argues that this region faces an inevitable land crisis; which can be politically volatile, if not addressed urgently, but cautiously. It also contends that the concessions signed by European concessionaires in the 1880s, which legitimized colonial land alienation and expropriation, were, and still are, 'dubious' if not, 'fraudulent'. Proclamation No. 2 of 1911, issued by the British colonial administration, still constrains the implementation of a sound land reform. Villagers and opposition politicians regard the government's approach to the land question as lukewarm, and its treatment of Tati Company and absentee landlords, in particular, tenderly. A neo-liberal approach to the land question is, however, pervasive in southern Africa. The article concludes that a radical land reform in North East, which takes into cognizance, historical injustices, and aims at correcting them, is a must and overdue.

1. Introduction

Even in the twenty-first century, the land question remains, like in the past century, a serious threat to the democratization process and political stability of southern Africa, in particular, and sub-Saharan Africa, in general (Lahiff, 2005; Lee and Colvard, 2003; Moyo, 2004a). It is in this context that the land crisis in Zimbabwe, in 2000, resulted in renewed academic and political debates on the land question in this region, an issue which had become a bit lull since the early 1980s (Palmer, 2000; De Villiers, 2003; Kariuki, 2004). The political debates, which ensued, reignited racial tensions as 'black' communities singled out white-landed elites as the cause of rural landlessness and poverty (Moyo, 2004b). Like elsewhere in southern Africa, Zimbabwe's land question is complicated by the colonial

legacy of land alienation and expropriation, absentee landlordism, and neo-liberal approach to colonial injustices. A failed market-based land reform (MBLR) in Zimbabwe, from 1980-2000, resulted in white-owned farms invasion, land-grabbing, and violence¹ meted against the few, but extremely wealthy landed white farmers, who controlled nearly 90 per cent of the entire land (Chitiyo, 2000; Palmer, 2000; Moyo, 2004c).

Zimbabwe's radical approach to the land question, however, unmasked unresolved colonial injustices, and 'transmitted a "wake up call" to neighbouring countries [such as Botswana] that have been slow in instituting reform' (Sachikonye, 2004: 3). In fact, the fears that were expressed all over the region, as a result, attest to the need to address the land question urgently, but cautiously (Moyo, 2004a). More often than not, policy makers, under the influence of neo-liberal thinking, dismiss historical approach to the land question as revolutionary and politically disruptive. However, history has proved that, 'Ahistorical land policies are likely to undermine the legitimate claims of some poor people thus failing to contribute to inclusive development, social cohesion or political stability' (Borras and Franco, 2008: 4). Simply put; contemporary land reforms in southern Africa, in particular, must, as matter of urgency, address historical injustices in their absolute context. It is in this region that colonialism was more intense, disruptive and extractive, than elsewhere in Africa. In this region, the liberation wars of the 1970s were largely fought based on struggles over land (Ranger, 1985, Chitiyo, 2000). Such struggles continued until 1994 with South Africa attaining majority 'black' rule (Hendricks and Ntsebeza, 2000). In this article, therefore, a historical analysis of the situation in north-eastern Botswana is largely, but not exclusively, contextualized within the experiences of this region.

It is in this context that the article contends that a 'historical sensitive' land reform policy in Botswana is necessary for the long-term 'political stability of northern Botswana' (Egner, 1971: 4). Manatsha (2008: 1) describes the land question in this region as a 'political time bomb', a phrase used by Cousins (2007: 239) to analyze South Africa's land question. However, it is worth-noting that despite the booming literature on land question in southern Africa, Botswana is conspicuously neglected. Sachikonye (2004) argues that it is misleading to assume that the land question is only confined to the former fully colonized countries such as Zimbabwe, Namibia, South Africa, and Kenya. Similarly, Moyo (2004a: 2) contends that 'Even in those countries [such as Botswana] where historically legacy of racially based settler control of land had not dominated colonial struggles, increased foreign and elite control of prime lands emerged.' Thus, the article contends that even though Botswana experienced 'mild colonialism', the North East experienced what can be termed 'full-blown' colonialism, comparable to what occurred in Southern Rhodesia (Zimbabwe), Kenyan highlands and South Africa (Tapela, 1976). It was during the colonial period that the Tati Company (TC)² alienated the entire land belonging to indigenous Africans.

Since independence in 1966, the government of Botswana has been struggling to resolve the land crisis in this region, using a market-driven approach: willing-seller, willing-buyer (WSWB) policy (Manatsha, 2008). But, the situation still remains critical, if not politically sensitive. The WSWB policy is widely favoured by the International Monetary Fund (IMF) and World Bank, since it adheres to their market-economic policies (El-Ghonemy, 1999; World Bank, 2003). Under the WSWB, only willing sellers (landlords) determining their own prices, release the land to the willing buyers (governments). But, in most cases, as also observed in north-eastern Botswana, landlords demand exorbitant sums for their land; leading to 'unwilling-buyer, willing-seller' scenario (pers. comm. with Tati Land Board secretary, September 2007).

The government of Botswana is heavily handicapped by Proclamation No.2 of 1911 which gave Tati Company 'absolute and undisturbed' ownership of all the land in the North East. In other words, TC and those landlords (including the absentee ones) who purchased and leased land from the Company hold 'perpetual' rights to the land (see section 4.4). Furthermore, the government of Botswana (especially the ruling party) is against land expropriation and any form of radical land reform in North East. This is viewed as an act which can 'scare investors away' as happened in Zimbabwe (Daily News, 8 August 2003). Botswana is hailed as the leading democracy in Africa. Therefore, respect

of property rights and market economics informs all public policies undertaken by the government. It is this reason that any anti-market policy such as expropriation, confiscation and land restitution are bluntly rebuffed by the ruling elites.

The proximity of Botswana (and North East, in particular) to Zimbabwe sends a 'back-breaking' shock waves to the government when the issues of expropriation and land restitution are discussed. Botswana still has strong ties with Britain (her former colonial master), and such bilateral relations had to be maintained at all costs even if it means forfeiting its sovereignty rights, according to the ruling class. This explains the government's rigid stance on the WSWB principle. To make matters worse, the Botswana Constitution, which was drafted with the assistance of the British, prohibits 'expropriation without adequate compensation'. It supports 'adequate compensation' as shown in Chapter II, section 8 of the Constitution: '(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied; (a) the taking of possession or acquisition is necessary or expedient in the interests of defense, public safety, public order, public morality, public health, town and country planning or land settlement, (b) provision is made by a law applicable to that taking of possession or acquisition for prompt payment of adequate compensation.'

The article, therefore, examines, from a historical perspective, the contemporary struggles over access to, and control over land in north-eastern Botswana, and the implications of colonial land-related Acts and laws on these struggles. Since part of the solution and equally source of the problem is confronting colonial injustices, the only option is to bite the bullet and face the problem. It is divided into eight sections. The next section explains the methodology used in this article, while section three contextualizes the land question in North East within an international and regional context. Section four focuses, in detail, on the history of land question in this region, whereas section five is an overview of the current situation of the land question. Section six examines the political implications of North East land question in Botswana, and section seven analyzes local voices or views on the issue. Finally, section eight concludes the discussion.

2. Methodology

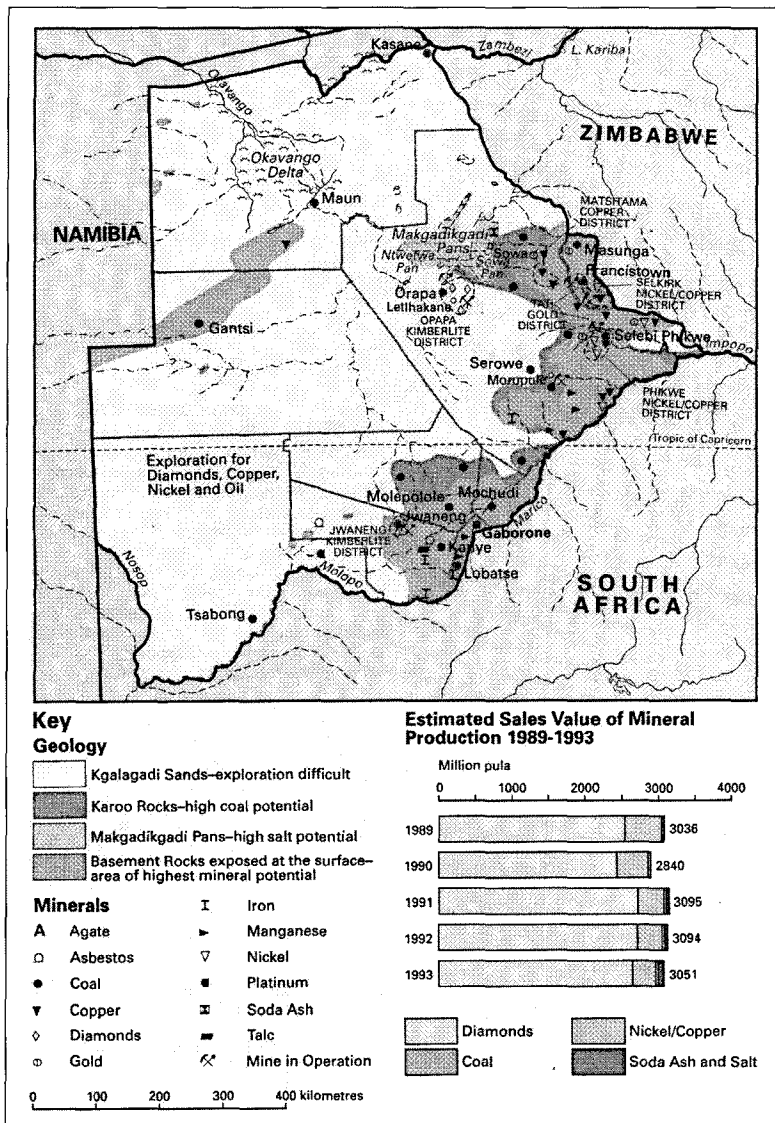
The article is an outcome of a field research conducted in August to September 2007, as part of the first author's Masters thesis on the political economy of land reform in north-eastern Botswana. The article adopts a critical historical analysis approach. The conventional historical research method of gathering data, face-to-face interviews (or oral interviews), was primarily used. Politicians, villagers, tribal leaders, youths, and Tati Land Board (TLB) officials were interviewed. Also, TLB minutes and correspondences are examined as well as archival sources. The North East was chosen primarily because it is the only district in Botswana which experienced 'full-blown' colonialism, despite the fact that the country was a British Protectorate from 1885 to 1966. Like elsewhere, in the colonized world, colonial land alienation and expropriation were institutionalized in this part of Botswana, and their repercussions remain controversial, complex, and politically sensitive, one-hundred and twenty-nine-years after the first concession was 'fraudulently' signed by the concessionaires on 2 September 1880 (see section 4).

The interviewees were chosen on the basis of their professions, social/traditional positions/status in the society, as key informants, and also according to village association. Thus, politicians (sitting councilors and aspiring Members of Parliament) were chosen because they are nearer to the communities and they address people on the land question frequently. The chiefs (tribal leaders) know the history of their localities and also play a big role in issues related to land. TLB officials are civil servants responsible for overseeing the allocation of land in North East, land management and other specific procedures related to land matters. In short, they are the custodian of communal land on behalf of the communities as per the laws of Botswana. Ordinary villagers were also interviewed because, in most cases, local voices are neglected in scientific researches. Some experts such as University of Botswana lecturers (mainly historians)

were also interviewed. A historical research relies much on oral testimonies from various people. Three villages were visited because they are dominated by different ethnic groups. For example, Masunga is the home of BaKalanga while Makaleng is the home of BaKhurutshe, and in Moroka, we find BaRolong. This grouping is crucial to the land question in North East as shall be seen with the unfolding of the paper (particularly in section 4). This is also significant in the discussion of land restitution. In short, a historical research does not rely on quantity of interviewees, but on the quality of the information obtainable from the key informants.

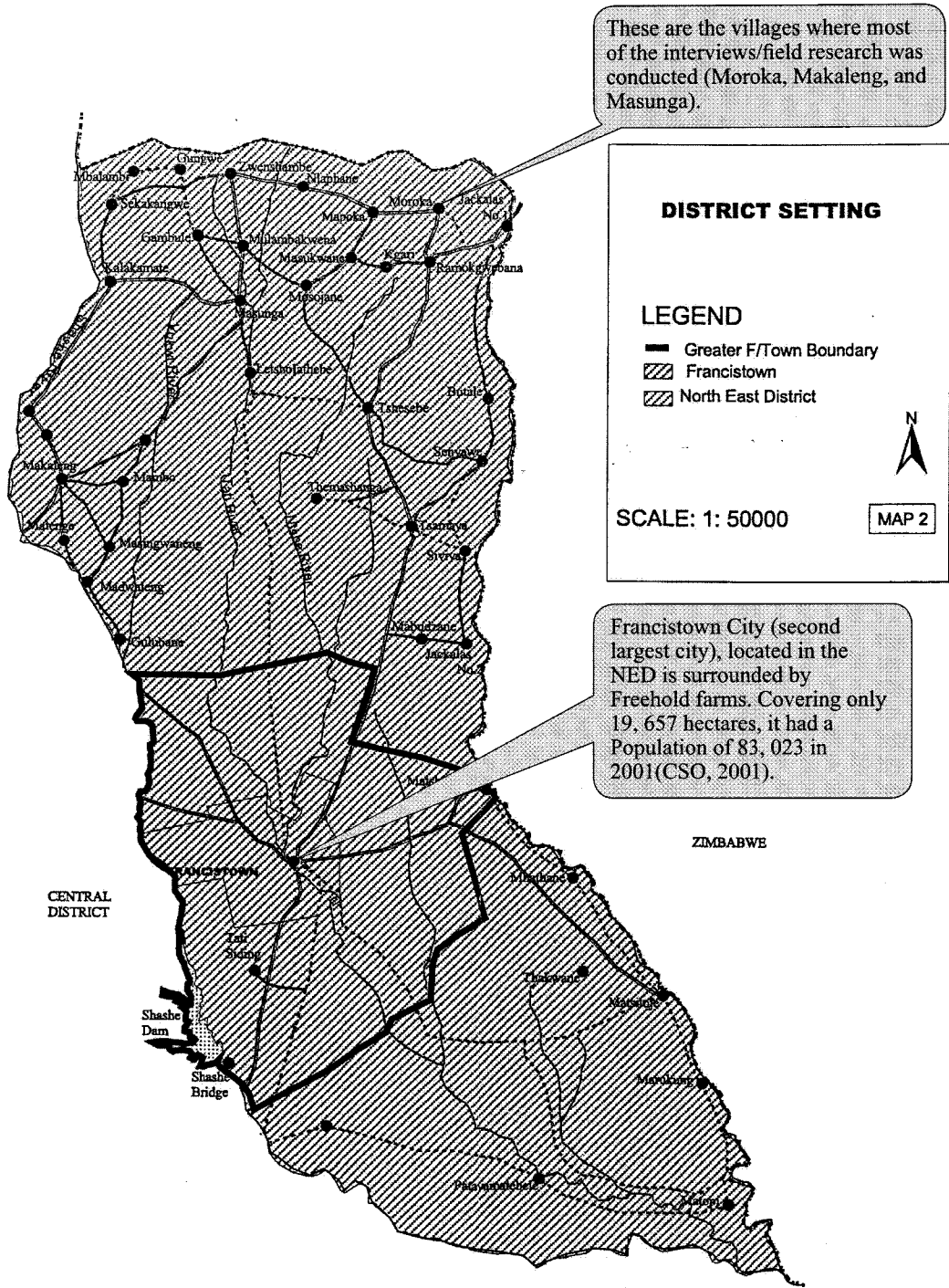
The two maps below show different places referred to in the article. Map 1 shows various districts and places in Botswana, whereas Map 2 shows various villages in the North East District.

Map1: Districts and places in Botswana



Source: Government of Botswana (1995: 16).

Map 2: The North East District



3. Contextual framework

The land question in north-eastern Botswana must be understood within a regional context, in particular, though international experiences may also add value. After 'Mugabe's land grab' in 2000, as Palmer (2000) calls it, Lee and Colvard (2003: xii) asserted that 'Time has run out in Zimbabwe for a peaceful non-violent solution to the land crisis, and time is running out in Namibia and South Africa.' In Namibia, for instance, the ruling party, South West Africa Peoples Organization (SWAPO), is convinced that Zimbabwe's radical approach to the land question is politically acceptable, and argues that it is the most, if not, the only practical way to deal with colonial injustices. The Deputy Minister of Land in Namibia, Isak Katali, was quoted saying: 'We also feel that if Zimbabwe did this, we can do it in the same manner' (Africa News, 23 May 2006). Similarly, in South Africa, the then Deputy President, Phumzile Mlambo-Ngcuka, suggested that 'On agrarian and land reform, South Africa should learn some lessons from Zimbabwe - how to do it fast' (The Independent, 12 August 2005). In Kenya too, Kariuki (2004) argues that after Zimbabwe's land crisis, sporadic land invasions by the landless were experienced in that country. Moyo (2007) observes similar land crises in Côte d'Ivoire, inspired by Zimbabwe's officially sanctioned land-grabbing.

Whereas in southern Africa, in particular, and sub-Saharan Africa, in general, land reforms have been heavily contested and politically disruptive, in some parts of the world, such reforms have immensely contributed to economic development and political stability. For example, Japan's post-war radical land reform contributed immensely to its political democratization (Kawagoe, 1999). Jeon and Kim (2000) also credit radical post-war land reforms in South Korea and Taiwan for the impressive economic development the two countries have enjoyed. China's land reform is also cited as one of the achievements of the twentieth century agrarian reforms, leading to positive rural development (Prosterman and Hanstad, 2006). As of 1993, Bulgaria's land reform redistributed 91 per cent of the land to the rightful owners (Strong, 1995). In the former Soviet Union, land reforms have contributed to both political democratization and revitalization of the agrarian sector (Csaki, et. al., 2004).

However, it is worth-telling that the way the land question is addressed in southern Africa, in particular, and perhaps elsewhere in the Third World, is dependent upon the prescriptions of donor agencies (i.e. IMF and World Bank), and the former colonial masters. In most cases, as witnessed in a number of southern Africa countries, for example, South Africa, Namibia, Zimbabwe³, and Botswana, the emphasis on neo-liberal political and market rights of the existing land owners (including absentee landlords), who acquired the contested land unjustly, 'rather than social justice is fundamental to the structural adjustment prescriptions facing most African countries' (Moyo, 2004b: 5). Such pseudo neo-liberal approach to a structural problem undermines the seriousness and the political threat of the land question in the region (Moyo, 2004c). This approach promotes the economic interests of the white-landed class, emerging black elites, politicians, and global capital to the detriment of the survival and economic needs of the rural poor. Thus, there is no qualm that the greatest threat to the political, social, and economic security in this region lies in its inequitable land ownership (Moyo, 2004b).

Neo-liberal policy contradictions are observable in north-eastern Botswana too where vast tracts of land (42 per cent of the entire land) is still held by TC, absentee landlords, and freehold farmers, mainly for speculative purposes (Manatsha, 2008). These landlords are legally protected by the 'fraudulent' concessions signed during the colonial period (see section 4). This issue is so politically sensitive such that, in August 2003, an opposition politician from the 'main' opposition party, Botswana National Front (BNF), tabled a motion in Parliament, calling on the government to 'expropriate' all idle or underutilized land held by both TC and absentee landlords (Daily News, 5 and 8 August 2003). The motion was, however, bluntly rejected by the government on the basis that 'expropriation' of land would mean that Botswana was not a liberal democracy it is purported to be (Daily News, 8 August 2003). It is such rigid neo-liberal thinking by political leadership across southern Africa which makes it difficult for the post-independence governments

to act swiftly and justly to address structural inequities (Moyo, 2004c). Most of southern Africa countries' constitutions still protect the white-landed elites (including absentee landlords), who expropriated land from indigenous Africans, using racially-inspired laws (Gutto, 1995; Hendricks and Ntsebeza, 2000).

Surprisingly, despite the political sensitivity of the land question in north-eastern Botswana, the available literature mainly focuses on the history of land alienation and the formation of Tati Company (e.g. Schapera, 1943; Werbner, 1969; Tapela, 1976; Woto, 1976; Mupindu, 1983). In all these works, the impact of colonial policies on the current land question and its politics, the contradictions of neo-liberal policies of the Botswana government, and debates on land restitution are conspicuously absent. Thus, this article fills these gaps. However, it must be noted that these works were carried out in the 1970s and 1980s, before the government started embarking vigorously on a land reform exercise. These works, which are mainly historical and anthropological in approach, however, inform the current land question debates in North East.

An anthropologist, Isaac Schapera, for instance, addresses the land question in North East from an anthropological perspective. He argues that colonial land alienation in North East had, and still has, disastrous repercussions on the people's settlement pattern. As he points out, Tati Company made life hard for the people by imposing hut taxes and other levies (Schapera, 1943). Another anthropologist, Richard Werbner, on the other hand, focuses on the land question and chiefship in the Tati Concession. He interrogates the land question and its impact on BaKhurutshe, in particular, and other communities. In this work, we find a clear account of how the conflicts between traditional leaders and the Company emerged (Werbner, 1969). Although the work was published in the late 1960s, it is helpful because the current chiefs in North East feel that their territorial jurisdiction has been completely trampled upon by the Company.

A historian, Henderson Tapela, is the most critical scholar to date, who analyses the activities of TC in North East, and its formation as a colonial capitalist Company. Tapela uses archival sources and oral interviews. His work informs the historical discussion of the land question in North East (Tapela, 1976). However, Tapela's scope and focus differ with the current article because he (Tapela) traces the activities of Tati Company from 1866 to 1969. But, the current article focuses much on the current land question in North East (though from a historical perspective). Similarly, Woto (1976) focuses on the Tati Company and land alienation, and the scramble that ensued as the communities struggled to contest TC rule and its land policies. This work, like its predecessors, does not discuss the post-independence government land reform policy in North East. Also, it does not focus on the politics of the WSWB, a concept popularized in the 1990s, as a prerequisite of MBLRs. Japson Mupindu too, limits his study to the formation of Tati Company, and does not discuss the politics associated with the land question, despite the fact that his study was carried out in the 1980s (Mupindu, 1983). This is, however, not treated as a weakness, but something informed by the scope of the study. Mupindu also provides an incisive background to the issue under discussion.

Nonetheless, an academic shift from the over-researched colonial history of this region is seen in Morapedi⁴ (2007) and Manatsha (2008). A historian, Wazha Morapedi, insists that land restitution policy must be introduced in North East, if the government is concerned with social justice and the need to correct colonial wrongs. In this work, it is pointed out that land has spiritual and historical value to the African communities. Therefore, land restitution restores such lost values (Morapedi, 2007). Though not informed by oral sources, which is very crucial in historical studies, this work provides an overview to the land restitution debate. Thus, Morapedi's work is used in this article to buttress the arguments on land restitution. However, unlike in Morapedi, in this article, oral sources are used to support the land restitution debate. Lastly, Manatsha (2008) discusses the political economy of land reform in North-Eastern Botswana. This work plays a critical role in understanding the current land reform debates.

4. The land question in North East: a historical explanation

Prior to the arrival of the Ndebele people about 1840, and European explorers, hunters, and concessionaires in the 1860s (van Waarden, 1988: 32), BaKalanga communities were already living in the northern parts of this area. The southern parts were occupied by a Tswana-speaking group called BaKhurutshe, who probably arrived a century earlier from modern day South Africa (Schapera, 1971). These two groups co-existed peacefully, and engaged in trade relations with each other, and their neighbours (Setlhare, 1978). Small pockets of Basarwa (Bushmen) are also reported to have been residing in the area (van Waarden, 1988).

The geo-politics of the region changed rapidly and completely with the arrival of the militaristic Ndebele people in modern day southern Zimbabwe from South Africa. Their arrival has a direct impact on the current land question in North East. In connivance with European concessionaires, the Ndebele King(s) awarded concessions using military might. Sometimes, at best, they played these concessionaires against each other or, at worst, revoked concessions at will. In the next few years of their arrival, the Ndebele extended their political authority towards the BaKalanga-BaKhurutshe territory (Werbner, 1969). Some groups, in particular, BaKhurutshe, fled Ndebele depredations and sought refuge from King Khama III of BaNgwato, who lived at Shoshong in the Central district of Botswana. According to Schapera (1971: 221), by 1865, the area was virtually deserted. Some groups, in particular, BaKalanga under *She*⁵ Habangana, did not flee the area, but remained in hiding. This gave pretext to the concessionaires to argue that their concessions, signed on 2 September 1880 and 2 February 1887, respectively, were valid because when they arrived, the area was not inhabited (Mupindu, 1983).

4.1. Mineral exploration and subsequent colonization

In 1866, gold was rediscovered⁶ in the area by an Australian geologist, Karl Mauch. The breaking news of his rediscovery attracted European miners mainly from South Africa, and as far as the U.S.A and Australia. By 1869, there were nine companies at work, competing and out-manoeuvring each other (Schapera, 1971: 221-22). Within a year or two, however, most of them lost heart, owing mainly to the prohibitive cost of transport and other practical difficulties. At the same time, rich deposits of quality diamonds were discovered in large quantities along the banks of the Vaal River in South Africa (at a place which became famously known as Kimberly). The majority of the miners (who were mining gold in the North East) left to try their fortunes there (Schapera, 1971). Once more, this changed regional politics, at best, and redefined the land question, at worst. While away, their contracts expired, or were unilaterally revoked by the Ndebele King, Lobengula. Meanwhile, the North East became a contested zone between Lobengula, Khama III, and fortune seekers (HC 48/1/2).

Effectively, on 2 September 1880, Lobengula revoked all the concessions that him and his father (Mziligazi) had granted in the previous years. He declared that: 'I hereby make null and void all grants or cessions made... in former years to seek or dig for gold in the [North East]' (quoted in Schapera, 1971: 251). Lobengula granted a new concession to a syndicate called The Northern Light Company (which later became Tati Company), 'the sole right to seek and dig for gold in the ground between Shashi and Ramaquabane Rivers' (quoted in Schapera, 1971: 251). Lobengula promised that: '[his] grant shall remain binding upon [him] and [his] successors so long as the [demanded] ... payment is made punctually on the 2nd day of September in every succeeding year' (quoted in Schapera, 1971: 252).

The purported signing of concessions by African Kings was, and still is, very controversial and questionable from both legal and cultural point of view (Selolwane, 1980). In African context, Kings or tribal leaders had, and still have, trusted advisors such as uncles, headmen, religious/spiritual leaders, or other senior tribal elders. But, how Lobengula signed such controversial concessions without his advisors as witnesses is questionable. Certain white men are listed as key witnesses during the signing of these concessions. This appears 'stage-managed'. The contents of the

concession documents were written in English, and explained to Lobengula by a white man. It is possible that what was said to Lobengula verbally could have been different from the written contents. Later, Lobengula denied ever giving out his land for good (Tapela, 1976). Interestingly, since the King could not write nor read, his signature is identified throughout all the documents by a cross, in the form of X. In granting the concession, Lobengula did not mean to give away 'his' land for good, or sell it (Woto, 1976). He, himself, was not the 'rightful owner' of the land in question (Tapela, 1976). Even the European concessionaires knew exactly the contentiousness over the land question in North East. Lobengula was insistent over his rights to the land in question, when he said:

In making this grant, I do not alienate from my Kingdom this or any other portion of it, but reserve intact the sovereignty of my dominion [and the syndicate must] not make any claim contrary or injurious to my right as sovereign of the country, but to recognize my authority as King, and to apply to me for such protection as they require... I engage to grant such protection to them as shall enable them to enjoy all lawful and proper use of the privileges granted them by me (reproduced in Schapera, 1971: 252).

Lobengula, on 24 February 1887, two years after Botswana was declared a British Protectorate, is purported to have authorized the same syndicate 'to make, by proclamation, all such laws, rules, and regulations necessary... for peace, order, and good government of the [North East]...' (B.N.A.HC. 48/1/1-3). The King is believed to have told one of the representatives of the syndicate, Samuel Howard Edwards, that: 'I engage to protect you... or whoever you may appoint in you instead, and give you such assistance as you may require for giving effect to the powers hereby granted'(B.N.A.HC. 48/1/1-3). A version of the said letter was (re)interpreted by W. J. Tainton, who attended the 24 February 1887 concession signing meeting as a witness. According to Tainton, Lobengula insisted that: '[the syndicate]... have the sole right of grazing stock and cutting wood within the said limits, reserving always all [his] sovereign rights in the area...' (quoted in Schapera, 1971: 253). The then manager of Tati Concession, Du Maffey, wanted the Colonial Government to accept that his Company 'was an autonomous entity in spite of its being surrounded by a region of British rule' (B.N.A.C.O. 417/82). The ensuing disputes between the Company and the Colonial Government saw the former winning the battle, particularly after the death of Lobengula in 1893.

4.2. The rise of Tati Company and land alienation

The socio-political events in the North East drastically shifted gears when the army loyal to the British South Africa Company (BSAC), which promoted British colonial interests in southern Africa, defeated Lobengula in a bloody conflict in 1893. The Ndebele state was obliterated, and Lobengula lost his political power and larger territory to BSAC. However, the North East controversially remained in the control of the now powerful TC. Taking advantage of the fall of Lobengula, their superior, TC claimed, contrary to the concessions signed on 2 September 1880 and 24 February 1887, respectively, that they were the 'rightful' and 'legal' heirs to Lobengula's territory of North East (B.N.A. C.O. 417/374, H.C to C.O. 1079). Before the defeat of Lobengula, TC was loyal to, and afraid of, him. It knew that he did not, and was not prepared to, give it the 'surface rights' to the land. Fearing possible concession revocation, which Lobengula was fond of, TC never complained to him about the surface rights. Similarly, fearing reprisals and avoiding trouble, the British colonial administration and the colonial office in London were too 'cautious' on the land question when Lobengula was still alive (Schapera, 1971). Lobengula, it seems, believed that since European countries had legitimized the conquest of Africa during the 'scramble for Africa', when they met at Berlin Conference of 1884/85, his declaration of the 'right of conquest' over North East was legitimate too (Kerven, 1977).

After Lobengula's fall, TC approached both the colonial administration and British government with the proposal that it should be recognized as the 'legal owners' of the 'disputed' North East. In 1894, the British Secretary of State gave in to the Company's claim to the ownership of 'all the land in the district.' The concession was subsequently

qualified as follows: ‘all such grants as those that made to the Company relate to waste and unoccupied lands, and cannot be understood to authorize interference with pre-existing Native rights, which... the Crown has no power to give away’ (BNA, HC.155). Although TC was partially awarded what it had long fought for, it still remained dissatisfied (see section 4.4). The 1894 connivance between TC and the British government had no immediate response from Africans. As usual, they were not consulted (Mogotsi, 1983). The bulk of them were still residing in the Central district of Botswana after fleeing from Lobengula in the 1840s. Thus, TC had all the time to ‘concoct stories’ to support its mendacious claims over their land. In 1895, BaKhurutshe dragged the Company to court over a land restitution claim.

4.3. Tati Company and BaKhurutshe dispute: a failed land restitution claim

A dramatic turn of events was witnessed in 1895 when BaKhurutshe decided to return from exile (in the Central district) to their ancestral land in the North East. Other BaKalanga communities, who had also fled the area, returned, either accompanying BaKhurutshe, or on their own. Since Lobengula had been defeated, going back home was inevitable. Strangely, what they regarded as their ancestral land was now occupied by TC. In order for them to reoccupy it, they needed to obtain conditional permission from the Company officials (BNA, S.RC 10/4). BaKhurutshe, in particular, explained to, and pleaded with, the Company and colonial officials that the land belonged to them, but to no avail. TC had good relations with high-ranking officials in Britain. In most cases, it by-passed the colonial administration in Botswana, and registered its grievances directly with the colonial office in London (BNA, HC. 13). The local colonial administration officials proved ‘powerless’. Meanwhile, BaKhurutshe could not comprehend what TC meant by having ‘inherited’ Lobengula’s land. To them, and rightly so, the land did not belong to Lobengula, and even if it belonged to him, no African chief could sell or give away land in that manner because it was not African culture to do so. The King was only the custodian of land on behalf of the people. He was not the sole and absolute owner of the land in the way the colonialists understood. Even Lobengula insisted that he has only given the concessionaires ‘the right to mine gold’.

However, TC insisted that BaKhurutshe must only resettle in their ‘ancestral land’, subject to certain conditions. Among them were (i) the provision of labour, without failure, to the Company mines (ii) not to hunt game and cut down trees/timber, and (iii) to sell their produce and cattle/stock to the Company stores at fixed prices set by the Company officials (BNA, S.RC 10/4). These conditions were contrary to the British rules and laws governing colonial territories and Protectorates. BaKhurutshe continued to suffer, and this affected their settlement pattern (B.N.A R.C.11/5 (64)). BaKhurutshe, like other Tswana-speaking groups, and unlike BaKalanga, have a tripartite settlement pattern (village, lands and cattle post). But due to land shortage, it became impractical to practice this system (Schapera, 1943: 12). The Resident Commissioner (RC) also differed with the Company, and warned that such conditions undermined the British laws, and had the potential to tarnish the British image. Desperate as they were, BaKhurutshe dragged the Company to court, but lost on legal technicality (B.N.A. RC 8/4). The court upheld that the concessions signed between the Company and Lobengula were valid. However, the legal adviser to the colonial administration, Dr. Ward, differed, and argued that the concessions were signed under ‘dubious’ circumstances. In other words, the legal expert’s position was that the ‘natives’ (including BaKhurutshe) were unjustifiably dispossessed of their natural right (land). Because the Company was closely associated with high-ranking officials in London, all these dehumanizing laws were enforced willy-nilly. Thus, the British Government gave ‘the Company surface rights, and [treated] the matter as if such surface rights had been actually the property of the Tati Concession’ (B.N.A HC 13). This judgment made it to appear like Chief Rauwe of BaKhurutshe was incorrect or misinformed when he argued that the Company does not have legal rights to the land. Later, TC fought, tooth and nail, to be recognized as the ‘absolute’ owner of all the land in the North East. In 1913, having failed to reclaim their ancestral land, BaKhurutshe split into two groups; whereas a smaller group remained in the North East, a larger group left and resettled in the Central district again, now in Tonota.

4.4. Proclamation No. 2 of 1911 and its implications on the current land question

After decades of lobbying and court battles, on 21 January 1911, the British colonial administration granted 'The Tati Concessions, its successors and assigns... the full, free and undisturbed [rights] as owners of all the land within the Tati District [North East]' (Tati Concessions Land Act, 21 January 1911). Lobengula had clearly refused to grant the Company such rights in his 2 September 1880 and 24 February 1887 concessions respectively. The colonial administration ignored all the previous concessions, including the one it made in 1894, which unequivocally stated that the Company does not have the right to interfere on the pre-existing native land rights, and that the Crown did not have mandate to interfere in such rights too (B.N.A.H.C.155). Proclamation No.2 added that:

Tati Concessions... shall have full power and authority to dispose by sale, lease, or otherwise of any portion of land within the Tati District... and the purchaser or lessee or occupier under any agreement with the Tati Concessions... shall have the right of full, free and undisturbed possession subject to the terms of the said purchase, lease or agreement... (Section 4).

The 'surface rights' to all the land were thus, conferred to the Company and the parties that have purchased or leased, or would, in the future, purchase or lease the land from the Company. The Tati Concessions were also granted: 'The right to all minerals and precious stones under the land in the Tati District... and... the right of prospecting and working the same' (Section 6). This concession resulted in the creation of a Native Reserve (current North East District). The colonial administration agreed to pay an annual rent of 1,000 British Pounds to the Company in lieu of the latter's right to collect rent from Africans in the new reserve (see B.N.A.S.235/7). After the issuance of this Proclamation, TC demarcated most of its 'new found wealth' (land) into farms, and encouraged white settlers to exploit this opportunity. This was in line with the settler policy in Zimbabwe where white settlers were given massive lands and capital to venture into capitalist agriculture. Thus, in 1921, there were about 195 white settlers in the North East. By 1926, 42 farms, totaling 96, 369 acres, were held under 'permit of occupation' agreement (Woto 1976: 37-38). Out of the total area of about 2, 069 sq. miles, the Native Reserve was only 331 sq. miles (Schapera, 1971:14).

Due to congestion, some communities left the reserve and returned to their ancestral land, now considered TC land. They were forced to live as tenants, paying rent to the Company, and failure to do so was punishable by eviction or confiscation of livestock or other valuable property. Some, unable to live peacefully with the Company, abandoned the region completely and resettled elsewhere in the country. The effort to reclaim their ancestral land failed. In fact, it was frustrated by the colonial administration and the British government (both) which connived with the Company to rob Africans their land (B.N.A.H.C.13). Proclamation No. 2 of 1911 is still upheld as the legally binding document defining land ownership by TC and other landlords (including absentee ones) in North East. This document has compromised, to a great deal, the implementation of pro-poor land reform, or land restitution. Using this legal document, landlords (including the absentee ones) hold land perpetually for speculative purposes. The situation is so serious such that some of the absentee landlords are still to be traced, or their citizenship is yet to be certified. The government, unable to revoke Proclamation No. 2, finds it difficult to explain to the local people and other interested parties why such vast tracts of lands lie idle and underutilized, whereas there is acute land shortage in the area.

5. The current situation of land question in North East

The North East's controversial land question has compromised the construction of public amenities, allocation of residential plots, arable lands, and grazing pastures (Ministry of Lands and Housing, 2006; Masunga Development Plan, 2007). The on-going land reform policy adopted by the government since early 2000 is shrouded in political controversies, complicated by complex issues such as colonial Acts and clauses, absentee landlordism, the inadequacy

of the WSWB policy, over-reliance on neo-liberalism, and also the elitism of the land reform itself. This government funded land reform has undermined the needs of the rural poor because it addresses economic issues rather than social and historical grievances. The north-eastern communities cry that they do not have land even for grave yards, grazing pastures, arable lands, residential plots, and social activities such as building churches for worship. Furthermore, the argument they advance is that culturally, land has spiritual, social, historical, and symbolic value to them. Land also plays a crucial role in group/ethnic/tribal identity in African context (pers. comm. with villagers, August to September 2007). The North East land question, therefore, requires a historical approach, which centres on core social inequities, a result of institutionalized land-grabbing by colonialists. A market driven land reform, favoured by the government, shows how neoliberalism of the land question still permeates contemporary governments in the region.

Whereas there are calls for land restitution in the North East, the government insists, based on hypothetical fears (see section 6), on WSWB policy (Manatsha, 2008). These fears are that restitution can cause ethnic intolerance and tribal division. The current approach, however, serves the interests of the cattle-owning class from all regions across the country; hence the purchased land is largely reserved for grazing pastures (pers. comm. with TLB secretary, September 2007). Historically, due to colonial policies (which barred Africans from keeping not more than four herds of cattle) in this region, cattle farming is not largely practiced like in other parts of the country. This means that cattle-owning classes from other regions of the country may benefit from the purchased land in the North East than the 'locals'. Some portion of the land will also be used for business-oriented horticultural projects and small-scale farming (pers. comm. with TLB secretary, September 2007). All these, when looked at, microscopically, are likely to benefit the few individuals who are resource-endowed.

Currently, the North East has a population density of 25, the second highest in the country, which has a density of 2.9 (CSO, 2001). To show the severity of the land question in this region, the assessment of the situation in the major villages is necessary. The demand for land in North East's big villages is 'not limited to local residents only but to [other] people' outside the district (Ministry of Lands and Housing, 2006: 114-15). These people are attracted to the city of Francistown, which has witnessed booming mining and exploration activities, in the recent years. In 2006, for instance, the projected population of Masunga village (headquarter of the North East District) was 3,400, and the land which is required for the village Plan Period (2007-2031) is 339.18 ha. In Masunga, land ownership is very low. The share of owner occupier is 42.9 per cent of the total households, whereas that of rented housing is 56.8 per cent (Masunga Development Plan, 2007: 67-72). Similarly, in the Plan Period (1997-2021), it was estimated that Tati Siding will need 86.4 ha.; Matshelagabedi 41.3 ha.; while Shashe Bridge will require 50 ha (all these villages have acute land problems). This land only caters for schools, clinics and other social amenities, including infrastructure, and excludes land required for arable farming (Ministry of Lands and Housing, 2006).

Purchasing of land from landlords under the WSWB approach is very costly in this area (pers. comm. with TLB treasurer, August 2007). This is because landlords have 'veto powers' (the right to value their land). And, 'the price paid varies directly with the gullibility of the buyer [government]' (Egner, 1971:16). For example, in 2001, a ten ha. piece of land was bought from TC at the tune of P300,000 (roughly US\$42,000) (Daily News, 23 March 2001). Sometimes the land lies idle and often unmarked for a long time. It is, therefore, often difficult to identify which land belongs to whom. It is only when cases of 'mistaken' allocation, self-allocation, and squatting arise that the true owners come in the open and claim their land. Since some of the land is held by absentee landlords, it is the government which evicts people who are often called 'illegal occupants' or 'squatters'. In many cases, the so-called squatters refuse to vacate the land on the basis that the land is underutilized and, in any case, belongs to their ancestors (pers. comm. with TLB officials, September 2007).

6. North East land question as a political issue in Botswana

The world-over, policy makers' intents of proposing land reforms varies according to national as well as international, economical, and political factors (Lambais, 2008). In the North East, the government, when implementing a land reform exercise, had to contend and deal with many key players such as TC, absentee landlords, emerging black elites, and the landless communities (potential voters); all longing to win the government favour (Egner, 1971). In the mid-1960s, the North East land question directly affected the ruling party, Botswana Democratic Party (BDP), as the opposition parties made inroads in its stronghold, capitalizing on the land question. For instance, the opposition parties, Botswana Peoples Party (BPP), in particular, organized demonstrations against exploitative activities of TC in the North East such as eviction of 'squatters', trading monopoly by TC, land-grabbing, and forcing Africans to pay levies and taxes (Koveya, 1985). However, the ruling party 'negotiation for and purchase of land from the Tati Company... won it further votes in that part of the country' (Colclough and McCarthy, 1980: 43). This shows how the land question in this region has been, since the 1960s, used by various political organizations for self-serving political agendas (see section 6.1). Some of the emerging black elites have benefited much from the on-going land reform by selling the land to the government exorbitantly (see TLB/C/19/I (46), 30 April 2007). Therefore, any form of land restitution or expropriation would be disadvantageous to such elites. Land has become a form of business in Botswana- where even citizens (black landlords) engage in speculation and business of selling land.

Since the 1970s, the purchase of land in North East has been 'primarily political' (Egner, 1971: 15). In 2003, the 'main' opposition party, BNF, implored the government to address the land question in North East, once for all (Daily News, 5 August 2003). Though not openly giving in to the political demands of the opposition (land expropriation and restitution), the ruling party has strategically funded a land reform programme in the North East. However, the main public policy issue focuses on how to redistribute the land equitably; since the north-easterners wish that they should be given the first priority as the victims of colonialism (pers. comm. with villagers, August 2007). But, following its liberal public policy, the Botswana government is committed to serve all citizens equally: something enshrined in the Constitution and the country's Vision 2016. Botswana's Vision 2016 advocates for a 'united' and 'prosperous nation' where resources are enjoyed and shared by all 'equitably' (Government of Botswana, 1997).

Thus, the government has purchased more than 20, 000 ha. at the sum of 23.7 million Pula (about US\$3.2 million) from landlords (freehold farmers) and TC in North East, using the WSWB approach. This land is to be redistributed to the eligible landless Batswana, and it has already been 'tribalised'. This land is now administered by TLB using customary law (as per the laws of Botswana). TLB, like other Land Boards in their respective jurisdictions, administers customary land on behalf of the 'citizens of Botswana' living in the North East. Claiming land on behalf of one's ethnic/tribal affiliation is unconstitutional, and contravenes the Tribal Land Act (TLA) [Amendment] of 1993. Botswana's land administration policy ensures that the land is brought under the control of the state. Sir Seretse Khama, the first President of Botswana, denounced tribal claim to natural resources found in their territories when he said '... leaving [natural resources] vested in tribal authorities and private companies must necessarily result in uneven growth of the country's economy as well as deprive the central government of important revenue for developing the country...' (Hazleton, 2002: 5). This was the first step in asserting the government control of all natural resources, including land. Such control by the government is a commendable effort, and ensures 'fair' access to resources by all. However, it is also seen as hindrance towards land restitution, more especially, in places where the land was alienated by European colonizers like in the North East (pers. comm. with a Tribal leader, September, 2007).

In the North East, the communities which were dispossessed of land during the colonial era are now competing for access to land under the land redistribution policy with other Batswana, who had never been dispossessed (Manatsha, 2008). It is because of this public policy rigidity that the North East people feel unjustly treated by the

government. The villagers insist that the land belongs to them, and argue that the current land reform policy must give them special treatment (pers. comm. with villagers, August to September 2007). However, the misinterpretation of the Tribal Land Acts by villagers lead to the politicization of the land reform. Some politicians, both from the ruling party and the opposition, are also said to encourage people to illegally occupy the purchased, but not yet redistributed land. This is deliberately done on the unsubstantiated reasoning that if villagers wait for procedural allocation of land by TLB, they are likely to be sidelined (pers. comm. with opposition politician, September 2007). However, the fact is that the current land redistribution policy which gives land to the landless communities regardless of whether they are part of the ethnic groups which were displaced during the colonial era can never resolve the land question in North East. Instead, it may spark land-based tribal/ethnic conflicts although not to the extent witnessed in other parts of Africa. It may also lead to the north-easterners becoming unhappy to see the land they call 'theirs' redistributed to the cattle barons from other districts. Already, squatting on the purchased land is rampant.

6.1. Views of political parties on the land question in North East

The ruling BDP, as argued, is against any form of expropriation of the land held by both TC and absentee landlords. The respect of property rights and 'adequate compensation' of any dispossessed property (e.g. land) is guaranteed in the Constitution. The suggestion that the government must expropriate idle land held by 'ghost' owners was bluntly rejected by the ruling party. Thus, a market-driven approach, which the government argues, adheres to its liberal democratic principles and market economic policies, is rigidly favoured. This approach places a huge burden on the citizens; hence their taxes are used to purchase the much-needed land from freehold farmers and TC (pers. comm. with Dr. Elmon Tafa, 9 November 2009). Measures must be taken to compel landlords (especially those who hold land for speculation) to sell such land to the government at reasonable costs. This can be done through issuing a directive informed by political will. However, the BDP's unwillingness to confront such landlords is politically unsubstantiated, and is based on hypothetical fears (see section 7).

The BNF which was formed in the late 1960s has been the 'main' opposition party in Botswana. From its formation, it was more of a radical party which advocated for reforms in the socio-economic and political sectors (Makgala, 2006). Its ideologist, Dr. Kenneth Koma, was educated in the Union of Soviet Socialist Republic (U.S.S.R.). Koma adored Marxism, and endeared himself as the engineer of Botswana's opposition politics for over four decades. BNF views over the land question in North East are/ were somehow radical. With its bigwigs like Robert Molefhabangwe⁸ and Dr. Elmon Tafa, the BNF called for radical expropriation of the land owned by TC and absentee landlords in North East. It had also demanded that the Company pay the victims of colonial oppression (Daily News, 5 and 8 August 2003). It dismally failed to sell its motion, which was heavily crushed by the ruling party. Dr Elmon Tafa⁹, towards the 2009 general elections, gave a strong message to government and TC over the land question in North East. He argued that it is baseless and politically incorrect for the government to continue buying land from TC and freehold farmers. His argument was that the government wastes money which could be invested in other sectors, more especially education. His demands were that the Company must 'produce' the receipts to prove that they bought the land in question, if it (TC) wants to be paid (a speech aired on Botswana Television, 2009).¹⁰

The position of BNF on the land issue, as presented by Molefhabangwe, is similar to what many ordinary people and villagers in the North East think. During the field visits in August to September 2007 and September to November 2009, many local villagers, tribal elders, and politicians from various political affiliations were stunned by the government reluctance to adopt a radical approach to the land question (pers. comm. with tribal elders, August to September 2009 & September to November 2009). Although there is a genuine concern about the government reluctance to address this issue, radical measures such as expropriation and confiscation may not necessarily solve the problem, and they should be the last resorts. 'Radicalism' may result in the government facing endless court cases,

and losing its credibility. What ought to be done is that the government must call TC and other freehold farmers to the negotiation table. It is only after such discussions that radical measures can be put in place. But, at the moment, 'no serious' discussions have been done over this issue. However, absentee landlordism is the one which causes even more alarm. The government must come up with clear mechanisms to revoke 'perpetual' ownership of the land by 'ghost' owners. The definition of 'absentee landlords' must be given a clear 'legal meaning'. Without all these, it would be reasonable to sympathize with the BNF call for radical land reform.

The BPP¹¹ is the second party to be formed in Botswana in the early 1960s. It advocated for political independence from Britain. The party was so radical and impatient with the colonial administration to the extent that the latter helped with the formation of a more conservative party, BDP (Fawcus and Tilbury, 2000). It was because of 'political radicalism' of the BPP that the British decided to speedily grant Botswana independence in 1966. However, this party did not attract massive followers because it preached radical reforms which Botswana were not prepared for. It called for the boycott of white-owned stores or business premises. It became more concentrated in the cities of Lobatse and Francistown, while BDP appealed to the rural masses (Makgala, 2006). The BDP recruited traditional chiefs/leaders and cattle barons who commanded high respect in the rural areas (Fawcus and Tilbury, 2000). In Francistown and surrounding areas, BPP attracted many followers because it used the political slogan *Shango*, a local Ikalanga¹² word which means land. The rule of TC and its alienation of Africans land became major political issues particularly in the 1960s. BPP staged protests in the city of Francistown as indicated above. BPP also had in it, highly educated BaKalanga elites, notably Dr. Knight Maripe. Its initial position was that the Company must give back the land to the people. But, with time, it adopted an 'accommodationist' stance calling for negotiations with the Company and other landlords. The BPP's popularity faded over the years. Currently, it has only three (3) councilors in NEDC out of twenty (20).¹³ Basically, at the moment, BPP's political stance on the land question in North East is weakened by its rapid decline as an opposition party in Botswana. However, some politicians in the BPP still argue that TC, absentee landlords, and freehold farmers have to be forced to the negotiation table (pers. comm. with Kopano Maruping, 12 November 2009).¹⁴

7. Views on the land question and colonial legacy by local communities

Although isolated and fragmented, and without formidable force, there has been local protesting voices (salient protests) on the land question in North East. The issue of colonial legacy and its impact on the land question crops up from village to village, ward to ward, and in the entire district. In Matshelegabedi village, an elderly villager was quoted in the local media, criticizing the government for treating TC with 'kid gloves' despite the fact that the Company administration was hostile, insensitive, and brutal to the people when it confiscated their land (The Voice, 30 March 2007). Across the district, elderly people still have fresh memories of how TC evicted them, in the early 1920s and 1930s, from their ancestral lands (pers. comm. with E. K. Masunga, September 2007). Mainly, elderly people still view TC as an imperial Company which clung to the land 'stolen from their forefathers.' Though the land was acquired 'dubiously', a TC official defended his Company by arguing that, 'TC of today is different from the one, which was operating during the colonial days' (Daily News, 15 November 2005).

In reality, TC, in the first place, 'stole' the land and then sold it to private developers and other landlords (who are still protected by Proclamation No. 2 of 1911). It is this reason that many people (of various social status) cannot differentiate between TC of yester-years, of to-day, and absentee/active landlords. They argue that all these are the 'children of the same womb' (pers. comm. with villagers, September 2007). The Francistown City Council complained that most of the land held by TC is undeveloped and underutilized, making it difficult to make efficient development planning in the city (Ministry of Lands and Housing, 2006). When Proclamation No. 2 of 1911 was passed, it explicitly

stated that TC 'would have full, free and undisturbed possession as owners of all the land' (Tati Concessions Land Act No. 2 of 1911). TC, thus, clung to the land using this clause, something which annoys the people in North East. Frustrated by this legal clause, the people have resorted to squatting and trespassing. TC, however, when it feels like, donates small pieces of land to the government (Koveya, 1985), but has largely held land for speculation, lease to potential farmers, or sells it through the WSWB policy.

Although there is a genuine and distressing problem of land shortage in this area, as remarked by one villager, when she said, 'We do not have ploughing fields. Not even a graveyard' (Mmegi, 18 April 2008), land restitution is not seen as a remedy by the government. The government feels that land restitution is anti-market, and it can lead to divisiveness in the society, thereby undermining liberal democracy. This is because land restitution favours only those groups which were displaced during the colonial era. In Africa, competition over scarce resources (i.e. land) usually leads to tribal/ethnic conflicts; hence land restitution is seen as a policy that might conflagrates salient tribal tensions. But, in Botswana case, these fears are unfounded as shown below.

Land restitution simply means recognizing and restoration of land rights to the people whose lands/rights were dispossessed, or trampled upon, by the colonial regimes (De Villiers, 2003). It has been observed that during the last century, countries have started to recognize such lost rights and restored them. South Africa became the first country in Sub-Saharan Africa to do that after attaining 'black' majority rule in 1994 (Cousins, 2007; Hall, 2004). Though the land restitution policy in South Africa has been bedeviled by problems such as administrative flaws, lack of human resources, legal complexities, and difficulties in tracing and authenticating historical land ownership or truth, it must be commended for trying to heal the colonial injustices. But, as Du Toit (1999) rightly points, 'the injustices of the past can never be completely healed.' They cannot be, since they are complex, Du Toit is right. But, somehow, restitution serves as a symbolic gesture to correct colonial wrongs (Majola, 2006).

Restitution of land can be done on individual and group claims. In most cases, group claims 'have a historic nature and the claimants often emphasize the importance of their spiritual and traditional links to the land' (Fransson and Mannerback, 2003: 27). As argued, in African context, land has more of historical, spiritual, religious and social value than the economic importance emphasized by colonial land-grabbers. In Africa, land defines ethnic/tribal identity, even in Botswana (Werbner, 1969). It is in this context that we find that some Land Boards¹⁵ in Botswana are named after certain ethnic groups according to territorial jurisdiction. The Botswana Constitution used to (until 2001) recognize eight ethnic groups: BaNgwato, BaNgwaketse, BaKwena, BaRolong, BaKgatla, BaLete, BaTlokwa, and BaTawana as the 'principal tribes'. However, this changed after tense contestation by other so-called minority tribes which forced the government to commission a referendum (Government of Botswana, 2001).

The recognition of these 'principal' tribes for many decades since independence in 1966, led to the naming of some Land Boards with the names of such tribes. For example, Ngwato Land Board (BaNgwato tribal territory), Tawana Land Board (BaTawana tribal territory), and Kgatleng Land Board (BaKgatla tribal territory) to name but few. This gave emphasis on tribal/ethnic identity. But, in some regions, such as in North East, the name Tati¹⁶ Land Board, not BaKalanga Land Board is used. Thus, in terms of tribal/ethnic identity which is, in many cases in Africa, represented by territorial jurisdiction, other ethnic groups are lagging behind in Botswana. Therefore, land restitution may restore such lost rights. The contrasting argument put forward by the government that restoring lost land rights to the rightful owners may be tribal divisive and compromise the so-called bogus concept of nationhood is unfounded. This is because there has never been any systematic study to prove this. No consultations, referendum and village meetings have been carried out to substantiate government fears.

Furthermore, this issue has never been fully discussed in parliament. It was only rebuffed by the ruling party when an opposition MP had tabled a motion calling for expropriation of the land owned by TC and absentee landlords. The MP had also wanted TC to compensate the communities in North East for the brutalities they suffered during the

colonial land-grabbing campaigns (Daily News, 5 and 8 August 2003). Land restitution has been on-going in South Africa, and no reports have been told of other ethnic groups becoming jealous to see others' lost land rights restored. Since Botswana is a democratic country, it is imperative for the government, civil societies, academics, and Non-Governmental Organizations (NGOs) to discuss objectively the issue of land restitution in line with the principles of social justice and Human Rights Declarations. It will only be logical to agree that land restitution may derail Botswana from her much praised democratic path, after open and democratic discussions are held without any prejudice. But this has never been done, and it seems it will never be (done) under the current government. Although Botswana government 'jealously' guards its image as a 'shining liberal democracy' in Africa (Steadman, 1993), ethnic nationalism and identity are part and parcel of democratization, political pluralism and inclusive development in the modern world. As argued, land plays a critical role in African tribal/ethnic identities. Thus, it is concluded that land restitution can never lead to any ethnic intolerance if Botswana themselves, including their government, are genuine and frank with regard to the land question in North East, and elsewhere in the country, where there was colonial dispossession. Land restitution may even strengthen the quality of democracy, and address issues of poverty and underdevelopment in the concerned district.

In the North East, 'an open for all'¹⁷ land redistribution policy, favoured by the government, but which many villagers doubt its effectiveness, is geared towards, as the government says, ensuring economic propensity of 'all citizens.' At the moment, however, it is difficult to say whether it will succeed in doing so, or not. But what is certain is that, it is not welcomed by the local villagers, politicians, and tribal leaders across the district. The people in North East are already crying that: 'We have been denied so many things, including ploughing fields and grazing land. There is no land in North East. We were hoping for land from the government [purchased farms], but we are about to give up' (Mmegi, 18 April 2008). Villagers believe that this 'open for all' land redistribution policy will not resolve the land question because it is economic driven (pers. comm. August 2008). The unclear policy of the current land reform programme has led to confusion and misunderstanding, even among villagers. For example, the villagers of Themashanga and Jackalas No. 1 were up in arms over the control of, and access to, the purchased land. The area Member of Parliament (MP) had to intervene and quell a looming debacle (Daily News, 1 November 2006). The villagers are full of anxiety, and are equally in the dark, since TLB does not timely update them on the land reform exercise. The same TLB seems confused and unclear on how the land can be best managed and redistributed (pers. comm. with TLB officials, September 2007).

8. Conclusion

The intractable land question in north-eastern Botswana and the impact of colonial legacy on this, confirm the mammoth task ahead of resolving the land issue in this region. The government is not ready to confront historical or colonial injustices. This compounds and prolongs the problem, though the government thinks it wards off 'unnecessary' international condemnation, as happened with Zimbabwe. In southern Africa, Zimbabwe's experience with convulsive land question, which resulted in international isolation, political quandary, and economic collapse, is often used against the genuine need to implement historically informed land reforms. In Botswana too, the ruling party uses Zimbabwe's experience to warn people and the opposition parties against land expropriation, or radical land reform in North East. One politician from the ruling party dismissed a motion advocating for land expropriation and restitution in North East, and 'casually' argued that the issue is 'water under the bridge', implying that people should not be talking about history in the modern era. His colleague rhetorically asked: 'Why TC should be the only one singled out?' (Daily News, 5 August 2003).

Nonetheless, for a radical land reform to be adopted, an appropriate and specific Act must be passed, which will

render some colonial Acts, in particular, Proclamation No.2 of 1911, obsolete. In South Africa, when land restitution policy was endorsed in 1994, the government had to pass a land restitution Act. South Africa was, and still is, restituting land to those individuals or communities who were dispossessed by racially-motivated laws such as the Native Land Act of 1913. In North East too, TC embarked on racially motivated land-grabbing after the death of Lobengula in 1893. But, as argued, this land did not belong to Lobengula, and even the concessions he is purported to have signed are questionable. However, public consultations through public meetings country-wide to seek people's views on instituting a radical land reform should be initiated.

The article concludes that land restitution which is a 'political taboo' in Botswana should be brought into political limelight and discussed openly without prejudice. The article findings are that the local communities have a strong feeling that the land in North East belongs to them since they were the ones dispossessed by the Tati Company. However, without a clear or the right platform to share their frustrations, they often misinterpret the Tribal Land Act [Amended] in 1993, which outlaws claim to land by any tribe in Botswana. Other citizens (Batswana from other districts) have driven their cattle inside the North East purchased land to graze their cattle. This, however, causes confusion and the local people start to see loopholes in the Tribal Land Act. Worsening the situation, politicians, eager to win votes, encourage people to 'invade' the farms arguing that if they wait for long, 'their' land will soon be invaded by 'outsiders' (other citizens from different districts). The fielded visit has proved this. Some elderly villagers still have fresh memories of the brutality of TC. Thus, they find it difficult to understand why the government is so lenient with the Tati Company. These testimonies are only captured, occasionally though, in news papers. This article is the first of its kind to re-visit the issue of land question in North East after Tapela's work conducted in 1976.

The article also shows that Proclamation No. 2 of 1911 still constrains the government from instituting a social justice-oriented and pro-poor land reform in North East. The concept of WSWB is strictly followed by the liberal democratic government of Botswana to the detriment of social justice. The government places too much emphasis on neo-liberalism rather than social justice. Thus, in North East, the landlords release poor land, but at exorbitant sums. The government fears of land restitution are unfounded and flimsy. The historical analysis shows that the land in question belonged to BaKalanga and BaKhurutshu. Therefore, it does not give much sense to argue that land restitution may undermine liberal democracy and political stability. In any case, the current situation of land reform is the one that is bound to cause more conflicts than land restitution. The article also analyzed the land question in North East within the context of regional and international experiences, something which has never been done. The Zimbabwe experience, as shown in the article, informs much of the land question debates, not only in Botswana, but elsewhere in Africa.

Finally, the politics of the land question in North East, and their influence in national politics of Botswana must not be undermined. We have shown how different political parties and politicians perceive the issue. The relationship between politics and the land question is clearly illustrated throughout the article. For example, the government's rigid stance regarding the WSWB and its adherence to neo-liberal thinking and fundamental market economics are all political decisions. The land question in North East can only be resolved if the government can honestly and genuinely, and by using practical mechanism, involve all the stakeholders to map the way forward. The article explained how the Constitution plays a critical role in this land question 'quagmire'. But, revisiting the Constitution and Proclamation No. 2 of 1911 is one of the practical ways in which this issue can be probed further.

Endnotes

- ¹ Zimbabwe land reform exercise was politically disruptive, and it resembled a war zone because the so-called war veterans (those who participated in the liberation war of the 1970s) took part in the land-grabbing campaign. The man known as Chenjerai 'Hitler' Hunzvi, with the help of Mugabe regime, masterminded the seizure of white-owned lands/farms. It is this reason that words like 'violence', 'grabbing', 'crisis' and 'Mugabe madness' are used to describe this land reform exercise.
- ² Tati Company was a colonial Company (private capitalist syndicate) which effectively colonized North East, and alienated the entire land in the district. However, TC's ownership of vast tracts of land in North East was, and still is, contested. It is this reason that opposition parties and the local communities question the legality of such ownership. Currently, TC owns approximately 48,000 ha. of land in North East (pers. comm. with TC General Manager, 12 November 2009).
- ³ Zimbabwe is the only country in Africa which engaged in massive expropriation of white-owned farms/lands defying neo-liberalism. This unthinkable decision, however, led to international isolation, economic collapse and political instability, all orchestrated by the West and other super powers. It is one of the reasons that Botswana finds it impractical to expropriate even lands owned by absentee landlords. South Africa, however, instituted a tripartite land reform programme (land redistribution, restitution and revisiting the land tenure system). All these were done to satisfy many stakeholders; donor agencies (IMF and World Bank), citizens, former colonial masters, the landlords, trade unions, and politicians.
- ⁴ This work is still not yet published. Therefore, it is cited as working paper.
- ⁵ *She* means chief in Ikalanga language spoken in North East District.
- ⁶ It was rediscovered because even before the arrival of explorers, BaKalanga were engaged in iron-smelting and gold mining (van Waarden, 1988).
- ⁷ A legal process of changing ownership of land from private to communal.
- ⁸ Molefhabangwe was expelled from the BNF few months before the 2009 general elections. His expulsion was a result of internal political wrangles in the BNF, which had been on-going for months. He stood as an independent candidate during the 2009 general elections, but lost to the ruling party candidate. After the elections, he defected to the ruling party, BDP, the party he had long criticized.
- ⁹ The first author discussed at length with Dr. Tafa on the land question in North East (9 November 2009). Around this time, Tafa had just emerged from the general elections where he had stood as an independent candidate in Francistown South constituency. He decided to stand as an independent candidate after he was expelled from the BNF by its leadership. However, his views strongly echo that of the BNF, the party he had worked for, for 31 years.
- ¹⁰ The first author is in possession of the audio CD which contains a speech by Dr. Tafa. The CD was collected from Tafa on 25 November 2009.
- ¹¹ The founding members of the BPP had experience of radical politics in South Africa, where some played active role in liberation politics.
- ¹² Ikalanga is a local language spoken by the majority of people found in North East. BaKalanga constitutes 11 per cent of the total population of Botswana.
- ¹³ This is the outcome of the 2009 general elections. BPP won council seats in Zwenshambe, Kalakamati and Ditladi wards.
- ¹⁴ Kopano Maruping served in the North East District Council on various capacities for twenty-five years.
- ¹⁵ Land Boards were formed in 1968 as a way of 'modernizing' the customary land tenure system. They replaced the powers held by the chiefs with regard to land allocation. They became operational in 1970.
- ¹⁶ Whereas other Land Boards were/are named after certain ethnic groups, in North East, the name Tati is that of a river passing through the area. In Ikalanga, the name is Dati.
- ¹⁷ The land was purchased, and the policy is that all people (citizens of Botswana) can graze in that area. This has led to people from very far districts flocking into the tiny North East in search of grazing pastures. This will cause lot of problems such as overstocking and eventually, overgrazing. Then, the purpose of buying the land will not be realized.

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