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# **A Review of the Tribal Grazing Land Policy in Botswana**

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## **Abstract**

*This paper examines the Tribal Grazing Land Policy (TGLP) which was developed in the 1970s to address the growing number of cattle in Botswana. The historical development of the TGLP is examined. The policy considerations which influenced the introduction of the TGLP are considered, and the impact that the introduction of the TGLP has had on the traditional utilization of grazing land in the country is assessed. It is argued that the TGLP has not been successful in preventing over-utilization of grazing land, and steps which can be taken by the government in addressing the management of grazing land in order to prevent environmental degradation, are discussed.*

## Introduction

The concern for the protection of the environment has become a major pre-occupation of most countries as a result of the excessive depletion and destruction of most of the world's natural resources. Society can no longer continue to live under the illusion that the natural resources are inexhaustible. It is therefore imperative that, not only should we adopt conservation methods, but more importantly, we must focus our attention on the need to protect the environment as well. The Tribal Grazing Land Policy(TGLP) of Botswana must be seen in this light.

The paper evaluates the policy with a view to assessing the realisation of its objectives. To this end, first, the policy considerations behind the adoption of the policy are examined. Second, the implementation of the policy is discussed in order to determine the success or otherwise of the policy. Finally, some concrete suggestions are made for the elimination of the inherent weaknesses in the Policy.

## The Introduction of TGLP

In the 1970s there was a growing concern over the large increase in the number of cattle in Botswana, particularly in respect of the serious dangers that they posed to the environment. The number of cattle was estimated to be about 3 million( this gave four cattle to every Motswana). The need to sink more boreholes resulted from the increase in the herd of cattle. An unfortunate outcome was that some form of "land-grabbing" emerged. Concern was raised with regard to the possibility of the rich few taking control over the whole land. It was imperative that some concrete measures were taken. The government's

concern was outlined in a speech in 1975 by the then President, the late Sir Seretse Khama:

"the time has come to tackle a subject about which there has been a lot of talk but no action - the better use and development of our land. As our human population and the numbers of our cattle and other livestock increase there is a growing danger that grazing will be destroyed by uncontrolled use of communal grazing areas by ever growing numbers of animals. Once grazing has been destroyed it is extremely difficult to get grass re-established. And under our communal grazing system it is in no one individual's interest to limit the number of his animals. If one man takes his cattle off, someone else moves his own cattle in. Unless livestock numbers are somehow tied to specific grazing areas no one has an incentive to control grazing... We are faced with a situation which demands action (President Seretse Khama, 1975).

In order to arrest the trend, the TLGP was introduced. It was based on a report by consultants engaged by the government to assess rural development strategies for the entire country. The consultants recommended that the government should adopt a proper land planning and an effective control should be exercised over grazing. In other words, the traditional method of grazing could no longer be maintained. The TGLP was outlined in the Government White Paper, No. 2 of 1975. The White Paper sought to implement the 'Government policy on grazing land development' as recommended by the consultants and as such the changes outlined in the policy were limited to the *grazing land*.

## **The Nature of the Policy**

There were many issues that the TGLP sought to address but for our purposes we have concentrated on the increase in the numbers of cattle and the effect on the environment. This problem was pointed out in paragraph 10 of the White Paper:

Increased herds, under the system of uncontrolled grazing, have led to serious overgrazing around villages, surface water sources and boreholes. Overgrazing has led to sheet erosion and bush encroachment which reduce the amount of good grazing.....

The implementation of the policy was to be effected in the tribal territories where the customary or traditional system of land tenure is practised. It is therefore necessary to provide a brief discussion of the traditional system of land tenure, followed by the effect that the TGLP had on the traditional system of land tenure.

## **Traditional System of Land Tenure.**

Traditionally, land in the tribal territories is divided into three: (i) **residential land** which is for building purposes, (ii) **arable land** which is for ploughing purposes, and (iii) **grazing land** where the cattle and other livestock graze. All three categories of land are communally owned. The land is owned by the community and the land boards which are established to administer the land are only custodians of the land for the benefit of the community (Frimpong, 1986). Under the Tribal Land Act (Cap. 32:02), the land boards are vested with powers for the distribution and allocation of land. They operate within 12 tribal territories which are created by the Act. Before the principal Act was amended the land boards acted on behalf of the "tribesmen" within the areas under their

jurisdiction. However, the recent amendment (the Tribal Land (Amendment) Act, 1993, has replaced "tribesman" with the words "citizens of Botswana". In practice the land boards merely hold the land in trust for the people. Hitherto, this responsibility was shouldered by the chiefs.

In the case of the residential and arable lands the individuals do acquire interests which are of permanent nature and therefore come close to ownership. It is, however, worth noting that the interest so acquired should not be seen as granting full ownership rights. The interest that the individual acquires can at best be equated with the **usufructuary** interest. Although an individual interest in those areas has all the attributes of perpetuity, it is nevertheless not equivalent to a freehold interest. The community retains the reversionary interest in the unlikely event that the interest so allocated might one day cease to be under any person's control. If that happens then the land will revert to the community.

The utilisation of the grazing land, on the other hand, falls into a different category. Here, individual ownership is not allowed as the land is for the communal usage. Thus in the grazing areas members of the community are free to graze their cattle without any limitation (Frimpong. 1993). The only possible limitation is where cattleposts (**meraka**) have been established. In those cases the individual cattlepost owners exercise **de facto** control over the areas.

### **The Goals of TGLP**

As was noted earlier, the birth of the TGLP was based on the report by the consultants engaged by the Government. The consultants in their report had strongly recommended the adoption of "proper management" of land. For they saw contradiction in the existing arrangement in the utilisation of the grazing land. They argued:

We believe there is an inherent contradiction between the present institutional structure of private herd ownership,

communal land control and sustained development of the stock industry (Chambers and Feldman, 1972).

In order to resolve the contradiction and to ensure that there was proper land management the consultants recommended a radical change in the land tenure system in the grazing areas:

The introduction of pasture management requires generally that those responsible for the cattle are also responsible for the pasture used by the cattle. This can only be achieved effectively in the tribal areas through changes in the tenure structure to enable pasture rights in a piece of land to be identified with an individual, a defined group or a responsible organization (Chambers and Feldman, 1972).

The changes recommended by the consultants were to have direct impact on the traditional system of land tenure in the rural areas. The TGLP, as has already been observed, was introduced to address the problems in the grazing areas which were identified by the consultants.

The basic objectives of the TGLP were outlined in paragraph 20:

- (a) To make grazing control, better range management and increased productivity possible. The improved management system must start with fenced areas and land over which exclusive rights are recognized. Therefore under certain conditions, groups and individuals must be granted exclusive rights to land.
- (b) To safeguard the interests of those who own a few cattle or none at all.

In order to achieve the two objectives, the radical changes in the land tenure system within the tribal areas as recommended by the consultants were to be introduced. This required that the tribal grazing areas were to be **zoned** into three categories of land: **Commercial Grazing Areas, Communal Grazing Areas, and Reserved Grazing Areas**. The zoning envisaged under the policy was to be limited to the tribal territories where the traditional system of land tenure operates.

The three kinds of grazing areas created under the zoning system would confer different interests in land. For instance, in the commercial areas land was to be allocated to commercial ranchers under common law lease. The land boards, as the administrators of the tribal lands would be making the lease grants under the TGLP.

The commercial ranchers were considered to be those with large herds of cattle, with 400 or more herd. Once commercial ranches are so created the beneficiaries are expected to move their cattle into their ranches where they will be responsible for their maintenance. This is in accordance with the recommendation by the consultants. In this way, it is expected that the herds of cattle in the communal areas would be reduced. The establishment of the commercial areas was to introduce some form of responsibility in the management and control of land. It was felt that individuals who were allocated ranches would realize the need to take care of their own interests.

In the communal areas the traditional method of utilising the land would not be affected by the new changes. The people would continue to graze their cattle freely in accordance with traditional practice. It was envisaged that with the large herds out of the communal areas and confined to the ranches overgrazing would not occur in the communal areas. Those who would be left in the communal areas would be small farmers with few herds of cattle.

The reserved areas were meant for those who were unable to get allocation in the commercial areas, including the future generation. In making provision for this the government was following its avowed aim of ensuring that proper caution

was exercised in the administration of land to ensure that a large section of the community does not suddenly become landless:

The way in which land is administered is a profound expression of national values. Since land tenure is so crucial, any change should be approached with great care (Republic of Botswana, 1988).

### **Implementation of the Policy**

Extensive consultation with the communities likely to be affected took place before the policy was actually implemented. This was to explain the nature and purpose of the policy and to get the reaction of the people. The zoning exercise resulted in the adoption of plans for the utilisation of land for the whole country. But as shall be noted later this approach was incorrect in its initial assumption.

The implementation started from 1977/78. Commercial zones were identified within six districts. These were Central, Ghanzi, Kgalagadi, Kweneng, Southern and Tawana. In the case of other smaller districts the commercial zones could not be accommodated, because of the lack of sufficient land space. Within the commercial zones leases were granted to individual cattle owners who had large herds. The average size of this type of lease is 6400 hectares and the rent payable is fixed at 4 thebe per hectare. The lease is for a period of 50 years with an option for a renewal for another 50 years.

The land boards have effectively utilised the common law lease grants to establish a number of ranches in favour of individual farmers. By the end of 1991 as many as 300 such ranches had been created in different districts throughout the country. Once a lease is granted in relation to the TGLP it carries with it certain rights and responsibilities. Among other things, the lessee is expected to practise modern methods of cattle management which should include controlled breeding, daily watering, rotational grazing and proper soil control. It

should be borne in mind that the central objective behind the adoption of the TGLP is the need to control and conserve the environment. The establishment of ranches is therefore geared towards this goal. The objective of the policy will be defeated if the ranch owners do not manage them with a view to protecting and preserving the environment. But the conservation itself comes into play only after the cattle ranchers have adopted the major responsibility of the lease. It is a requirement that the cattle under the ranches are to be confined within the ranches in order to reduce the burden on the communal grazing areas. This, in itself, also puts an obligation on the lessee to ensure that the ranch is properly fenced.

In terms of rights the ranch owner is now given certain rights which transcend the normal customary usage of the grazing areas. It has already been noted that the lease so granted is under the common law and is for an initial duration of 50 years with an option for a renewal for another 50 years. The lease confers exclusive grazing rights to the grantee which would not have been possible under traditional grazing system. Under the common law the lease can be mortgaged which is not the case if it is a normal customary law grant.

### **A Review of the Policy**

An attempt is made here to examine both the successes and failures of the Tribal Grazing Land Policy. The policy from its very inception was associated with one major flaw. There was an over-estimation of available land for commercial purposes. At the implementation stage it became clear that the initial assumption that there were vast tracks of open and unused land for ranches turned out to be wrong:

For instance, the zoning surveys which were carried out in 1975/76 revealed that the sandveld areas which were to be utilised as blocks of ranches were not vacant as they were already populated by human beings and cattle. The result was that there was the urgent need to dezone some of the estimated

ranches in order to recognize the interests of the communities already established in those areas. This process seriously slowed down the implementation of the policy and thereby delayed the attempt to effectively deal with the problem of overgrazing in the communal grazing areas. In some cases some ranchers had to wait for the re-allocation of new ranches while they had already taken some concrete steps towards the establishment of the ranches.

Those cattle owners with existing cattle posts and boreholes in the grazing areas who in effect exercised *de facto* rights in those areas became the *de jure* owners of the ranches which had to be created in those areas. The result was that in some cases the actual movement was limited to human beings moving from commercial zones to commercial grazing areas.

The real threat to the policy was, however, associated with the actions taken by some ranch owners. The policy is flawed by the fact that there are no mechanisms for ensuring that there is a compliance with the stated objectives. The land boards do not have such powers. We have noted earlier that the central objective of the policy is the need to conserve and protect the environment. The implementation of any aspect of the policy should therefore have this underlying objective under consideration. It is essential and even imperative that those who are granted the common law leases for the creation of ranches should comply with the requirement for the granting of the lease. Among other things, such a lessee is expected to move his cattle from the communal area into the ranch in the commercial area. In addition he is expected to adopt proper management policy to ensure that the cattle do not overgraze the area. Further, there is the need to control the stock. Unfortunately, these objectives have not been met and therefore have seriously undermined the effectiveness of the policy to deal with the environmental problem. Among areas of concern are the following:

First, there have been a number of cases where some cattle ranchers have overstocked their cattle which has resulted in the ranches being overgrazed within a

relatively short time. There was a notorious case where one farmer was alleged to have over-grazed his land within two years of the allocation (Machacha, 1983). Further, in many instances some farmers have been trying to have the better of two worlds. While they maintain their ranches they also make sure that they utilise the facilities within the communal areas. They thus rotate between the communal areas and their own ranches instead of confining their cattle to the ranches as is required by the policy. The argument they adopt is that, as tribesmen or citizens, they are entitled to the benefits under the customary system of land tenure. Their rights under customary law do not cease to exist simply because they have acquired certain common law rights.

Those negative attitudes by some ranch owners have seriously undermined the effective realisation of the objectives of the TGLP. The communal areas which are to be free from large herds of cattle have been subjected to utilisation by both the small and poor farmers as well as by the wealthy and rich ranchers. The result is that the overgrazing in the communal areas which was expected to be a thing of the past has rather continued. Further, it has seriously disadvantaged the poor farmers.

It is significant to note that the argument made by the commercial farmers with regard to their entitlement to dual rights, though highly ingenious, cannot be justified. By opting for the common law lease within an area which would normally have been part of the communal grazing land, and also by accepting certain rights which are not found in the customary grazing areas, the commercial rancher has effectively excluded himself from a further claim to any rights under the portion of the grazing areas which are reserved for those who have not opted for the common law lease. The whole purpose of the granting of a lease for ranches will be defeated if the large scale commercial farmers are allowed to succeed with their claim (Frimpong, 1993).

In spite of the negative aspects of the TGLP there are some areas where the policy has achieved some notable successes. In particular in some districts such as Central, Kweneng and Ngwaketse the development of the ranches has been

recorded as highly successful. Further, improved management practices have been noted. The results have been beneficial both to the individual farmers as well as to the communities. In terms of financial gains the individuals are said to have been able to supply high quality breeding stock to other farmers. And from the community point of view some measure of conservation has been achieved.

The TGLP has brought some awareness among both the commercial as well as the communal farmers about the need to protect and conserve the environment. Even though the results have been slow in the long term concrete results are expected.

### **Some Suggested Solutions**

There are some steps which when taken will definitely bring about an effective implementation of the policy. Some of those steps are discussed here.

It is essential if the TGLP is to succeed in its main objective that the cattle ranchers are made to confine their cattle in the ranches. The land boards should be empowered to take certain measures against defaulters.

The failure or refusal of farmers to confine their cattle to their ranches is a matter of serious concern to many people. This emerged in the report of the Presidential Commission on Land Tenure when it observed:

..... some TGLP ranch holders have not, as expected, confined their herds to their ranches but continue to use communal grazing areas. The Commission.....considers that confinement of herds from TGLP ranches to those ranches is an important element in TGLP policy,,,,,, both in terms of relief for the communal grazing areas and for the proper intensification of development on the TGLP themselves. Worse still, there has

been a movement of both cattle and people from commercial areas back into the communal areas. It is important that this major policy be made to succeed. The Commission *RECOMMENDS that the Ministry of Local Government and Lands and Ministry of Agriculture should monitor this situation and develop means for the progressive restriction of TGLP ranch herds to those ranches*(Republic of Botswana, 1985).

Confinement of the cattle in the ranches can, however, be better achieved if the farmers are made to fence their farms. Under prevailing practice their only obligation is that the boundaries are to be demarcated "by erection of cairns, cutting and maintaining traces or markings on the ground". There are some ranchers, who choose to fence their farms not for the purpose of confining their cattle to the ranches but as a protective measure against possible intruders.

Another area which requires serious attention is the issue of over-stocking. Overgrazing in the ranches as a result of overstocking creates a very serious environmental concern. Here, the lessee who is expected to adopt proper management in the use of land is himself the source of its destruction; and more so for the fact that this emanates from a selfish and irresponsible attitude. The problem can, however, be addressed if the existing laws which have direct bearing on the issue were implemented. For instance, under the Agricultural Resources Conservation Act of 1972, there are provisions for Stock Control Orders which can be used effectively to control over-stocking in both commercial and communal areas. Under the provisions the Agricultural Resources Board can serve stock control orders on livestock owners by which the maximum number and class of stock can be prescribed. The Board even has the power to order confiscation and sale of any livestock which is in excess of the prescribed maximum.

## Conclusion

It is evident from the foregoing that the major objective under the Tribal Grazing Land Policy has not been achieved. It is, however, inaccurate to suggest that the policy has been a total failure. One has to assess it from some important factors. First, the policy deals with a highly sensitive subject. For the fact that the government had the courage and the foresight to tackle the problem is in itself a major achievement. The sensitivity can be seen from the attitude of some commercial ranchers who insist on dual rights in both the commercial and communal areas. Cattle are so sacred and essential to the Batswana that any attempt to interfere with the deep rooted traditions and customary practices must be done with absolute caution.

One should, however, not gloat over the few successes, but must take a more pragmatic approach by conceding that some of the mistakes should not have been made. For instance the over-estimation of the availability of land could have been avoided if proper feasibility studies had been conducted. Similarly, the non-implementation of certain measures to reduce the situation where some farmers openly disregard their obligations under the leases cannot be justified. Once the important and bold step had been taken it is imperative that the government should follow it to its logical conclusion. If that is not done the policy becomes a scarecrow and will enable the cattle to continue marching in.

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