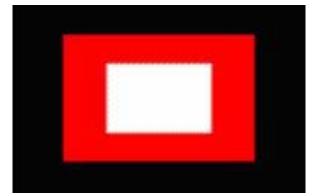




Unrepresented
Nations and Peoples
Organization



Rehoboth Basters
Kaptein's Council

Alienation of Rehoboth lands

Historical backgroundⁱ

The Rehoboth Basters are the descendants of European Colonists and the Indigenous Khoi-People of Southern Africa. During 1868 the Rehoboth Basters emigrated from the Cape Colony, to the land that today is known as the Republic of Namibia. Their exodus was due to the discrimination and atrocities committed against them by the colonial regime of the time.

In 1873 they purchased the Rehoboth Territory from the Swartboois, with the mutual consent of all the de Jure and de Facto chieftains of the central and southern parts of Namibia.

During 1875 the land was demarcated and given to the Basters in the presence of Captain Abraham Swartbooi, paramount Chief Samuel Maharero, Captain Hermanus van Wyk and their various councils. Also present were the missionaries Carl Hugo Hahn, Heinrich Brenkner and Philip Diehl.

During 1880 the paramount Chief Maharero, traded the same land from Captain Abraham Swartbooi for land in his own territory. He then gave this land he had traded, back to the Rehoboth Basters as a grant.

The current Paramount Chief of the Hereros, Chief Riruako and Captain Daniel Luiperd of the Swartboois still acknowledge and recognize these transactions. (Minutes of the Okahandja Conference 1993)
No land surveyors were available at that time.

The land which was bought from the Swartboois was identified through sworn affidavits before many Commissions. Demarcation was simplified by referring to natural geographic landmarks. The Drew Commission 1919 established that the Rehoboth Territory lies between:

- North (a) The northern point of the Auas Mountains westwards along the Guisebriver through Ururas, Fredericksdam to the sea. (Map of Von Francois (1885) and the Proclamation of Maharero and a letter From Hermanus van Wyk to Vogelsang confirmed this boundary.
- East (b) From the eastern point of Auas Mountains southwards along the Schaap River to the Fishriver. (Confirmed by Historian Vedder)
- South (c) Along the Fishriver westwards along the Sougabrивer through Sossusvlei, to a point 24° 15' s.
- West (d) The Sea. (Historians Vial, Vedder, Albertus Kotze)

The land issue

Due to the incorrect application of Schedule 5 of Proclamation A.G. 32 of 1989 at the time around Namibian independence, the Rehoboth Baster community lost all their assets including their lands.

The lands which the community possessed prior to Namibian independence were known as the Rehoboth Gebied (territory). The land itself was divided in two parts:

- a) Farmland, which belonged to private persons or families but were also regulated by the Captain and Raad in order to safeguard it from alienation by whites.

- (b) The second type of lands were communal lands held in association by the Baster Community. These lands were held in trust for the community and used for the benefit of the whole community, as some of the Title Deeds confirmed e.g. the Title Deed to the farm Nauas Poort is made out in name of the Captain and Raad for and on behalf of the Rehoboth Community. Others were directly registered in the name of the Rehoboth Baster Community. These communal lands are better known as "Baster Gemeente Grond" and was also regarded as private land and treated as such.

These lands were first registered in the name of the Rehoboth Baster Community under Proclamation 31 of 1924. When the Deeds Act came into being in (Act No 47 of 1937) these properties were once again registered under this Act.

All the deeds were transferred in 1978 in the Name of the Rehoboth Community under the Rehoboth Registration of Deeds Act 1976. (Act 43, of 1976.)

Deduced from the legal registration of these lands it can clearly be noted that the Rehoboth Baster Community is a Body Corporate. This status was confirmed by the High Court of an Independent Namibia when the judges found in the case of The Basters Community and J.G.A Diergaardt vs. the Namibian Government and others in 1993, that the Baster Community had locus standi to appear before the court.

On the 30th of August 1989 the Administrator General published Proclamation A.G.32. Government of Rehoboth Transfer Proclamation 1989 in the official Gazette extraordinary. Schedule 5 of the Namibian Constitution is not applicable to the Baster Community. The Baster Community, being a Body Corporate, was never mentioned in Schedule 5. The Rehoboth Government was the only instance mentioned in Schedule 5. On the day Independence came into being, the Government of Rehoboth had already been dissolved by proclamation A.G. 32.

By applying Schedule 5 as relevant to the Baster Community, the Administrators of the day committed an error in judgment, thus violating the rights of the Baster Community as enshrined in the Constitution in our opinion. The situation was aggravated by giving the officials freedom of interpretation and thereafter acting accordingly. What complicated matters was that the Namibian Constitution did not make provision for a constitutional court. This action resulted in the Rehoboth Community losing all their assets including their lands.

The Permanent Secretary of the Ministry of Local and Regional Government and housing wrote a letter on the 23rd of August 1991 to the Registrar of Deeds in Windhoek giving instructions to the latter to transfer properties registered in the name of Rehoboth Baster Community to the Namibian Government.

The Registrar of Deeds in Windhoek passed the instructions on to the Registrar of Deeds in Rehoboth with instructions and copies of procedures to follow which appeared to be fraudulent.

The Registrar of Deeds in Rehoboth at that time, by name Mr. J T van Wyk refused to obey such instructions and was forced to resign. Another person totally ignorant of Deeds Regulations was then appointed to execute these instructions.

These two officials, namely, the newly appointed officer and the Registrar of Deeds in Windhoek, tarnished the image of Government as well as placed themselves in a very precarious situation because through their actions they not only contravened the Deeds act but also the Namibian Constitution in particular Art. 16 concerning property.

Proposals

- That the town-lands as well as the communal farms be returned and transferred back to the community.
- That these lands, as required in Art. 18 of the Traditional Authorities Act, Act No 25 of 2000ⁱⁱ, be registered at the registry of deeds act as property of the Rehoboth Baster Community in association.

ⁱ Background documents available at: www.rehobothbasters.org

ⁱⁱ Document online at the Namibian Institute of Democracy: <http://www.nid.org.na/pub.php>