



GOVERNMENT OF THE REPUBLIC OF NAMIBIA

OFFICE OF PRIME MINISTER

**THE NEW EQUITABLE ECONOMIC EMPOWERMENT
FRAMEWORK
(NEEEF)**

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1. Definitions

“Equitable”, means a fair redress and redistribution action;

“Economic” means related to means of production including productive assets;

“Social” means related to how human beings relate to each other in production, class, gender and generational relations;

“Previously disadvantaged persons” means persons contemplated in Article 23(2) of the Namibian Constitution and includes-

- (a) racially disadvantaged persons;
- (b) women; and
- (c) persons with any disability as defined in the National Disability Council Act, 2004 (Act No. 26 of 2004);

“Pillars of empowerment” means policy instruments for redress and redistribution;

“Targets” means percentage of number of previously deprived persons to benefit.

2. Preamble

Recognizing the long term impact the German genocidal war and the apartheid laws has on the people of Namibia;

Taking account of pauperism imposed on indigenous communities by the creation of reservations, Bantustans, the contract labour system and the denial of proper education;

Noting the social status of women under apartheid and patriarchal practices;

Considering that the majority of our population is made up of youth;

Recognizing that people with disabilities constitute a special social category;

Celebrating that the people of Namibia achieved their independence and freedom on March 21, 1990;

Appreciating that the Constitution of the Republic of Namibia in Article 23 (2) and Article 95 (a) mandates Parliament to enact legislation providing directly or indirectly for the advancement of persons within Namibia who have been socially, economically and educationally disadvantaged by past discriminatory laws or practices; to implement policies and programmes aimed at redressing social, economic or educational imbalances in the Namibian society arising out of discriminatory laws or practices; and to enact legislation to enable women to participate fully in all spheres of Namibian society;

Noting that the Government has since independence implemented a number of empowerment schemes, including employment equity, land resettlement scheme, affirmative action loans for land purchase, granting of fish quotas and exploration licenses, creation of community conservancies and massive investment in education and training etc.;

Alarmed by the continuing income disparities, skewed ownership of productive assets; low level of participation in business by the previously disadvantaged; lack of socio-economic transformation in traditional communities; high level of unemployment; continuing racial imbalance in the management control of enterprises; the economic status of women, youth and disabled people; and slow development of rural areas.

Here therefore the Government of the Republic of Namibia issues the New Equitable Economic Empowerment Framework (NEEEF) for the purpose of

bringing about socio-economic transformation in order to enhance equity, social justice and empowerment of the previously disadvantaged majority.

3. Introduction

The Government of the Republic of Namibia is committed to pursuing economic and social policies with the aim of securing prosperity and a life of human dignity for all Namibians.

The ultimate objective is to create an equitable and socially just society in which the distribution of income becomes far more equitable than it is at present. In order to achieve this end, a policy framework is required that promotes the economic empowerment of indigenous Namibians and accelerates the process of transformation that Government is committed to delivering.

Government recognises that a wide range of economic policies – fiscal and taxation, monetary and inflation control, education and health, administration of justice, security and crime reduction, infrastructure, business and employment policies – all have an important role to play in contributing towards the creation of a more equitable economy and society.

Equally, it is accepted that the most important contribution Government can make to achieve a more equitable economy and society is to pursue economic policies that generate sustainable and decent employment for the masses of the Namibian people and transfer productive assets to the dispossessed.

Government recognises that the private sector must play the role in the creation of decent employment. This being the case, Government policies must encourage policies aimed helping the private sector to create more jobs.

The New Equitable Economic Empowerment Framework (NEEEF) represents a subset of the policies required to achieve greater equity in society. NEEEF consists of policies designed to restructure the private business sector to achieve equity in the economic ownership of productive assets, while creating employment. This will require well-defined funding mechanisms with the participation of both Government and private sector, e.g. through venture capital, and private sector business and technical support services. It would also require a change in policies for the allocation of the rights of exploration of natural resources, and the value addition thereto, to optimise benefits to Namibia through job creation, improved export earnings and technology development, amongst others.

The NEEEF is anchored in the principles that underpin the Constitution of the Republic of Namibia, in particular:

- Article 16: Property
- Article 23: Apartheid and Affirmative Action
- Article 95: Promotion of the Welfare of the People
- Article 98: Principles of Economic Order
- Article 99: Foreign Investments
- Article 100: Sovereign Ownership of Natural Resources

NEEEF shall be obligatory to all enterprises. Government shall use all the regulatory, licensing and market mechanisms at its disposal to ensure compliance. These will include, but not limited to, Government procurement of goods and services, work permits, access rights to natural resources, e.g. fishing, mining, hunting and tourism, concessions, etc., as well as issue of business licences, trading, telecommunications and financial services. Government expects all businesses to proactively embrace the national transformation framework and participate wholeheartedly in the transformation of asset ownership and empowerment.

The NEEEF will promote transformation in business through six empowerment pillars (of which the first three are mandatory and all are subject to scoring):

- 1) Ownership
- 2) Management Control and Employment Equity
- 3) Human Resources and Skills Development
- 4) Entrepreneurship Development and Marketing
- 5) Corporate Social Responsibilities
- 6) Value Addition, Technology and Innovation

Further empowerment policies on land and other natural resources, technology and innovation, and marketing must be developed by relevant Sector Ministries.

The aim of the NEEEF is to provide a clear overarching policy framework into which all other policies will slot. The NEEEF will supersede all other transformation and empowerment policies of Government as well as provide the framework within which all private sector initiatives, past and future, will be expected to conform to. Government will ensure its other policies are consistent and mutually reinforcing with the NEEEF.

The NEEEF recognises that there may be differences in approach between the different sectors of the economy due to their different characteristics and strategic importance. It, therefore, makes provision for further sectoral charters that will make sector-specific requirements in accordance with parameters provided in the Score Card. Each Score Card will lay down minimum thresholds. These will be developed in consultation with sector stakeholders once the NEEEF is enacted into law.

4. Objectives

The objectives of the NEEEF include but are not limited to the following:

- 1) Ensuring the sharing of Namibian resources in an equitable and sustainable basis by the people of Namibia;
- 2) Creating a socially just society;
- 3) Implementation of measurable policies of redress and redistribution;
- 4) Creating vehicles for empowerment;
- 5) Removing barriers to socio-economic advancement in order to enable previously disadvantaged persons to access productive assets and opportunities for empowerment;
- 6) Actively guarding against the repugnant tendencies of window-dressing, favouritism, nepotism and self-enrichment;
- 7) Providing measurement of empowerment targets;
- 8) Ensuring that an empowering act is meant to launch individuals to empower themselves in the future using the basis of their initial empowerment by introducing concrete deterrents in the NEEEF law to curb non-compliance with the minimum requirements;
- 9) Economic empowerment may be organised in the following forms of ownership: public, private, joint public-private, cooperative, co-ownership, and small-scale family owned businesses;
- 10) Equitable empowerment is addressing disparities occasioned by class, gender and generational relationships.

5. Pillars of Empowerment

Pillars of Empowerment are aimed at addressing a variety of needs of the previously disadvantaged persons. The following pillars of empowerment will thus serve as instruments for redress and redistribution:

5.1. Ownership Pillar

The Ownership Pillar has two windows: one for new enterprises to be established after the passing of the law and the other for existing enterprises. For new enterprises, the requirement will be that such enterprises must accommodate a 25% shareholding to previously disadvantaged persons before they are allowed to commence business. For existing businesses, they will be required to meet the same targets as a minimum in the Score Card.

Transformation of corporate ownership of existing enterprises in the economy will be enhanced through a two pronged approach:

- Promoting access to finance to disadvantaged Namibians to acquire shares or equity in companies and enterprises in accordance with the law. Access can be provided through dedicated funding mechanisms, such as venture capital funds established by Government, development finance institutions (DFIs) and private financial institutions and by institutions partnering with empowerment groups.
- Provision of training or mentoring by suitably qualified persons or institutions to beneficiary entities to increase their operational and financial capacity.

The NEEEF expects private financial institutions to participate in financing the transformation of ownership and also requires commercial financial institutions to regularly report their levels of assistance to businesses owned by previously disadvantaged Namibians.

The NEEEF supports the idea that in case of family owned businesses, ownership can be promoted through schemes such as Employee Share Ownership. Employee Share Ownership should particularly target the previously disadvantaged employees.

The NEEEF recognises that a market economy and a vibrant business sector are dynamic systems. Furthermore, although the aim of NEEEF is to promote serious long-term participation of previously disadvantaged Namibians in Namibian business, it does not want to penalise empowerment shareholders by limiting their ability to buy and sell. Once a business has completed an

empowerment transaction to the satisfaction of the relevant authority (as referred to in section 8.1), it will, when selling the business, maintain its empowerment ownership score only on condition that the buyer is also previously disadvantaged. Penalties may be imposed if evidence shows that any deal was negotiated in bad faith.

New business growth financed by DFIs will prioritise the promotion of businesses already owned by previously disadvantaged Namibians.

State-owned enterprises may also participate in the transformation process by becoming transformational partners through tailor-made financing packages for deals taking place in the sectors where they operate.

Private enterprises undergoing transformation may also be required to provide funding packages to the previously disadvantaged individuals or entities they wish to empower through ownership acquisition.

In certain sectors, it may also make sense to use the Namibian Stock Exchange (NSX) as a mechanism for broadening and localising business ownership. The NEEEF scorecard will give full recognition to shares held through the NSX by previously disadvantaged Namibians.

Scoring:

A business will score a minimum of 10 points if it is 25% owned by previously disadvantaged Namibians. For every additional 7.5% owned by previously disadvantaged Namibians, a business will score 1 additional point up to a maximum of 100% giving a total of 20 points. However, any business must score a minimum of 10 points in order to be able to enter into a public contract for procurement purposes or for obtaining a right to exploit natural resources or to continue to conduct a licenced trade.

5.2. Management Control and Employment Equity Pillar

The Management Control and Employment Equity Pillar has two windows: one for new enterprises to be established after the passing of the law and the other for existing enterprises. For new enterprises, the requirement will be that such enterprises must have combined board and top management structures of which 50% are filled by previously disadvantaged Namibians before they are allowed to commence business.

It is also the aim of NEEEF that the management structures and workforces of businesses in Namibia should more accurately reflect the demographics of the Namibian population.

The Affirmative Action (Employment Equity) Act 1998 already requires that companies employing 25 people or more must provide regular progress reports to the Employment Equity Commission on demographics, promotion, mentorship, understudies and staff development. This is consistent with the NEEEF and may be further refined over time through, for example, tougher sanctions for non-compliance.

Scoring:

A business will score a minimum of 10 points if its combined board and top management structures are 50% filled by previously disadvantaged Namibians. For every additional 10%, a business will score 2 additional points up to a maximum of 100% giving a total of 20 points. However, any business must score a minimum of 10 points in order to be able to enter into a public contract for procurement purposes, or to be able to obtain work permits, access rights to natural resources, e.g. fishing, mining, hunting and tourism, concessions, etc., as well as issue of business licences, trading, telecommunications and financial services.

5.3. Human Resources and Skills Development Pillar

The NEEEF views practical training and skills development as the key to empowerment and transformation in the business sector. Encouraging Namibian businesses to play a greater role in training and skills development is one of the most effective ways of promoting human capital formation in the country as a whole.

The vocational education and training levy (the VET Levy) was introduced by the National Training Authority. Every employer, with an annual payroll of N\$1 million or more must pay the VET Levy. Under NEEEF, it is proposed that employers will be scored more highly if their own training expenditure is more than the VET Levy of 1% of their payroll.

Businesses shall be required to provide attachments and in-service training to new graduates or people in training institutions in order to enhance experiential learning.

Under the NEEEF, the availability of employment visas for expatriate workers will depend on how well a business performs on the human resources and skills development pillar. For example, it will be made more difficult for businesses to obtain visas for expatriates, if a business applying for visas performs poorly in terms of human resources and skills development.

Scoring:

A business will score a minimum of 10 points for devoting the equivalent of 0.5% of its gross wages to training, with training costs being calculated as total training costs less the VET Levy contribution. For every additional 0.1% of gross wages spent on training, a business will score 2 additional points up to a maximum of 1% of gross wages giving a total of 20 points.

5.4. Entrepreneurship Development and Marketing Pillar

Entrepreneurship Development shall greatly enhance economic growth and ownership of businesses by the socially and economically disadvantaged Namibians Entrepreneurship Development shall be enhanced through:

- mentorship of new entrepreneurs by the established businesses;
- performance benchmarks will be established for the procurement of goods and services by Government and the Private Sector from businesses belonging to disadvantaged Namibian enterprises;
- assistance in marketing of products of businesses owned by new entrepreneurs;
- establishment of joint ventures by disadvantaged Namibians with existing entrepreneurs; and
- initiatives by the State to attract capital-intensive, technology-intensive and resource-based industries to be owned by previously disadvantaged Namibians.

New businesses find it difficult to penetrate the market. Established business should be required to mentor new businesses on market penetration. Government and private institutions should also establish a dedicated marketing facility and allow newly empowered businesses to participate in trade fairs and provide access to export credit. As a contribution to enterprise development, established wholesale and retail trading houses should provide shelf space for local products.

Scoring:

A business will score points in proportion to the value of its procurement spending allocated to businesses owned by previously disadvantaged Namibians up to a maximum of 50%. Additional points may be made available for other support given to businesses owned by previously disadvantaged Namibians including mentorship programmes, joint ventures, market access and other initiatives. The points awarded for such initiatives will be based on more detailed criteria laid down by the relevant Office, Ministry or Agency.

5.5. Corporate Social Responsibility Pillar

The NEEEF believes corporate social responsibility has become part and parcel of the modern business environment. Good corporate citizenship requires social investment in communities. This is particularly important for enterprises that derive their income from communities or community resources. The NEEEF will require businesses above a certain size to devote at least 1% of after-tax profits to community investment. More detailed criteria will be laid down by the NEEEF administering authority.

Scoring:

A business will score a minimum of 10 points for devoting 1% of after-tax profits to community investment. For every additional 0.2% spent on community investment, a business will score 2 additional points up to a maximum of 2% of after-tax profits giving a total of 20 points. More detailed criteria will be laid down by the relevant Office, Ministry or Agency.

5.6. Value Addition, Technology and Innovation Pillar

New enterprises need to have access to technologies and knowledge. The Private Sector should share knowledge and technology with new entrepreneurs. Government should further promote technology leveraging and innovation.

Economic transformation shall only happen through innovation, invention and technology. Technology is an enabler. The nation should move from trading and extraction to manufacturing and value addition. The nation should adopt an export driven economic development. This approach requires the cultivation of economic nationalism.

Value addition should be a requirement for licencing of new enterprises, especially those involved with natural resource extraction and exports. For existing businesses, it should be required that enterprises achieve value addition to a certain level of processing by a certain defined date.

Scoring:

A business that has accommodated previously disadvantaged persons or entities in terms of ownership on the threshold as set in section 5.1 and in terms of Management Control and Employment equity on the threshold as set out in section 5.2 will score a minimum of 10 points for processing at least 50% of its raw material output into a secondary stage. For every additional 10% stage of local processing, a business will score 2 additional points up to a maximum of 100% processing to finished product.

6. Financing of the Transformation

The NEEEF funding mechanism encourages innovative funding solutions to address the overarching developmental challenges facing Namibia and to broaden entrepreneurship in the country.

The private sector will be required to develop innovative financing mechanisms for empowerment deals, which will contribute to the deepening of the financial system. DFIs should also participate by offering funding for transformation deals.

Crucially, the funding of such deals should be on clear business principles. Therefore, financial institutions should commit at least 3% of their non-retail funding to previously disadvantaged entrepreneurs, SME's and empowerment transactions to help foster greater financial inclusion.

The following options could be considered in respect of financing mechanisms:

6.1. Incentives

A range of incentives to enterprises should be considered in order to maximise the impact of NEEEF. New schemes and amendments to existing schemes should also be considered in support of NEEEF, including supplier development, micro-enterprise development, support for skills development, and the acquisition and development of new technology.

6.2. Private Sector and State-facilitated lending

Companies involved in empowerment deals are encouraged to assist empowerment beneficiaries to raise capital for their empowerment transactions. Private Sector and State-facilitated lending should consider the special need of small- and medium-scale enterprises (SMEs), by creating lending facilities and provide for underwriting and risk-sharing, especially given the nature of SMEs. A distinction should be made between the specific funding needs of *micro-enterprises*, *small-scale enterprises* and *medium-scale enterprises*, and for each a funding solution should be considered.

6.3. Project financing

Both the public and private sector can play a very important role in ensuring NEEEF is involved in new project development and delivery through dedicated project funding solutions.

6.4. Venture capital

DFIs and Private financial service sector should facilitate specific venture capital projects in particular sectors.

6.5. Targeted investment

Government should provide inducements to finance empowerment ventures.

6.6. The role of the Development Bank of Namibia and the SME Bank

The Development Bank of Namibia (DBN) is a publicly-owned corporation established through an Act of Parliament. The establishing Act of the DBN establishes the Special Development Fund (SDF) as an independent business unit within the DBN.

The purpose of the SDF is to promote and support development projects and schemes, including small-scale projects, in accordance with the rules of the SDF. The DBN may have to revisit the rules of the SDF to make provision for funding packages that will meet the NEEEF requirements, while its SME's funding can be transferred to the SME Bank as a ring-fenced facility.

7. Institutional Requirements

7.1. NEEEF Advisory Committee

Government will establish an Advisory Committee for New Equitable Economic Empowerment Framework to promote and administer the NEEEF. This Committee will be made up of representatives of Government, business, trade unions and other organisations and be served by a fulltime NEEEF Secretariat. The Committee will work closely with other Government Offices, Ministries, and Agencies, including the Ministry of Industrialisation, Trade and SME Development, the Ministry of Poverty Eradication and Social Welfare, as well as the Employment Equity Commission, the National Training Authority, and DFIs.

The Committee will oversee the implementation, monitoring and enforcement of NEEEF, and in doing so the Committee should provide guidance and overall monitoring and evaluation on the state of transformation and empowerment in the entire economy.

7.2. Composition

The President will appoint the Advisory Committee Chairperson and Members who will be drawn from relevant Offices, Ministries and Agencies, as well as from outside of Government.

7.3. Functions of the Advisory Committee

The functions of the Committee will be to:-

- a) Report to Government on NEEEF implementation;
- b) Review progress in achieving economic empowerment under NEEEF;
- c) Advise on principles of good governance and good practice in the context of NEEEF;
- d) Advise on the development, amendment or replacement of the strategy;
- e) If requested to do so, advise on draft transformation charters;
- f) Provide oversight into the implementation of the NEEEF;
- g) Ensure that there is consistency in the implementation of NEEEF;
- h) Provide direction to the resource requirements over the life of NEEEF;
- i) Advise on decisions affecting NEEEF and its implementation;
- j) Advise on how funds for the Advisory Committee will be raised;
- k) Produce reports on the state of transformation and empowerment in the economy; and

- l) Assist to establish and maintain a database of transformation and empowerment in the economy, and enablers and obstacles of implementing NEEEF.

7.4. Functions of the NEEEF Secretariat

There shall be a NEEEF Secretariat that must assist the Advisory Committee to exercise its powers necessary to enable it to fulfil its functions, including the power to:

- a) conduct research or commission research to be conducted;
- b) request information from organs of state or private bodies;
- c) formulate and submit reports on NEEEF to the relevant Office, Ministry, and Agency;
- d) establish sub-committees to deal with specific matters as and when required;
- e) co-opt experts to serve on, or advise, sub-committees;
- f) establish relations and to seek cooperation from stakeholders in the various sectors; and
- g) assist the relevant Office, Ministry, and Agency to carry out accreditation and compliance function by issuing codes of good practice and publishing transformation charters.

7.5. Offset Mechanism

NEEEF will score each business that is required to be compliant according to the NEEEF scorecard. Each business can score up to 100 points in total made up of 20 points per empowerment pillar. To achieve compliance, a business will have to score more than 50 points in total. ***A minimum of 10 points on each of the three pillars of ownership, management control and employment equity, and human resources and skills development is mandatory.*** Overachievement on one pillar can be offset against underachievement in another pillar, but this is subject to the minimum threshold set under each of the three mandatory pillar.

7.6. Compliance, Enforcement and Penalties

The NEEEF is designed to compel businesses to take transformation more seriously. Companies that fail to comply with NEEEF targets may be subjected to other penalties besides not being eligible to tender for Government or SOE contracts or to receive work permits, access rights to natural resources, e.g. fishing, mining, hunting and tourism concessions, etc., as well as issue of business licences, trading, telecommunications and financial services and may, therefore, find themselves in a disadvantageous and uncompetitive position.

Companies that do not tender for Government or SOE contracts will also be expected to score themselves according to the NEEEF scorecard if they want to be positively regarded by Government as contributing to empowerment and transformation in Namibia.

Businesses that need to comply with the NEEEF will be expected to provide audited proof that they have achieved NEEEF targets. This audit will be conducted as an additional component of their annual audits by external auditors and paid for by businesses themselves.

7.7. Review

The NEEEF Advisory Committee will provide a written annual report to the relevant Office, Ministry or Agency on progress with the NEEEF and the Office, Ministry or Agency will in turn report to Cabinet and Parliament. The Advisory Committee will conduct a regular in-depth review the NEEEF every five years in consultation with business organisations and representatives.

7.8. Sector-specific Charters

Sector-specific charters will deal with specific and detailed issues within the empowerment framework. Sector-specific charters may not change the targets and weightings of the NEEEF, but will only complement the overall objectives of NEEEF by addressing specific indicators that should be adopted within the various sectors within the given guidelines.

8. Summarised NEEEF Scorecard

Companies tendering for Government and SOE contracts or applying for licences must receive NEEEF rating from the relevant Office, Ministry or Agency after consultations with the NEEEF Advisory Committee. This rating consists of a score out of 100. A total of 20 points are available for each of the five empowerment pillars. Companies must score a minimum of 10 points in the three mandatory pillars of ownership, management and control, and skills development. Companies must score at least 50 points out of 100 to be considered empowered.

Pillar	Minimum	Maximum
<p>Ownership - mandatory</p> <p>A business will score a minimum of 10 points if it is 25% owned by previously disadvantaged Namibians. For every additional 7.5% owned by previously disadvantaged Namibians, a business will score 1 additional point up to a maximum of 100% giving a total of 20 points. However, any business must score a minimum of 10 points in order to be able to enter into a public contract for procurement purposes or for obtaining a right to exploit natural resources or to continue to conduct a licenced trade.</p>	25% ownership	100% ownership
<p>Management Control and Employment Equity – mandatory</p> <p>A business will score a minimum of 10 points if its combined board and top management structures are 50% filled by previously disadvantaged Namibians. For every additional 10%, a business will score 2 additional points up to a maximum of 100% giving a total of 20 points. However, any business must score a minimum of 10 points in order to be able to enter into a public contract for procurement purposes or for obtaining a right to exploit natural resources.</p>	50% board and management	100% board and management
<p>Human Resources and Skills Development– mandatory</p> <p>A business will score a minimum of 10 points for devoting the equivalent of 0.5% of its gross wages to training, with training costs being calculated as total training costs minus the VET Levy contribution. For every additional 0.1% of gross wages spent on training, a business will score 2 additional points up to a maximum of 1% of gross wages giving a total of 20 points.</p>	1.5% - 5% of gross wages	2% of gross wages

Pillar	Minimum	Maximum
<p>Entrepreneurship Development and Marketing A business will score points in proportion to the value of its procurement spending allocated to businesses owned by previously disadvantaged Namibians up to a maximum of 50%. Additional points may be made available for other support given to businesses owned by previously disadvantaged Namibians including mentorship programmes, joint ventures, market access and other initiatives. The points awarded for such initiatives will be based on more detailed criteria laid down by the relevant Office, Ministry or Agency.</p>	0% of procurement	50% of procurement
<p>Corporate Social Responsibility A business will score a minimum of 10 points for devoting 1% of after-tax profits to community investment. For every additional 0.2% spent on community investment, a business will score 2 additional points up to a maximum of 2% of after-tax profits giving a total of 20 points. More detailed criteria will be laid down by the relevant Office, Ministry or Agency.</p>	1% of after-tax profits	2% of after-tax profits
<p>Value Addition, Technology and Innovation Pillar A business that has accommodated previously disadvantaged persons or entities in terms of ownership on the threshold as set in section 5.1 and in terms of Management Control and Employment equity on the threshold as set out in section 5.2 will score a minimum of 10 points for processing at least 50% of its raw material output into a secondary stage. For every additional 10% stage of local processing, a business will score 2 additional points up to a maximum of 100% processing to finished product.</p>	50% local processing	100% local processing

End Note

The people of Namibia should own their country and its resources. In so doing, the principles of equity, fairness and social justice should be the guiding path. All fair minded persons within the boundaries of Namibia should commit themselves to this social and economic transformation policy. If properly implemented the policy ensures stability and peace in the country.