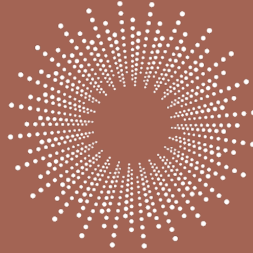


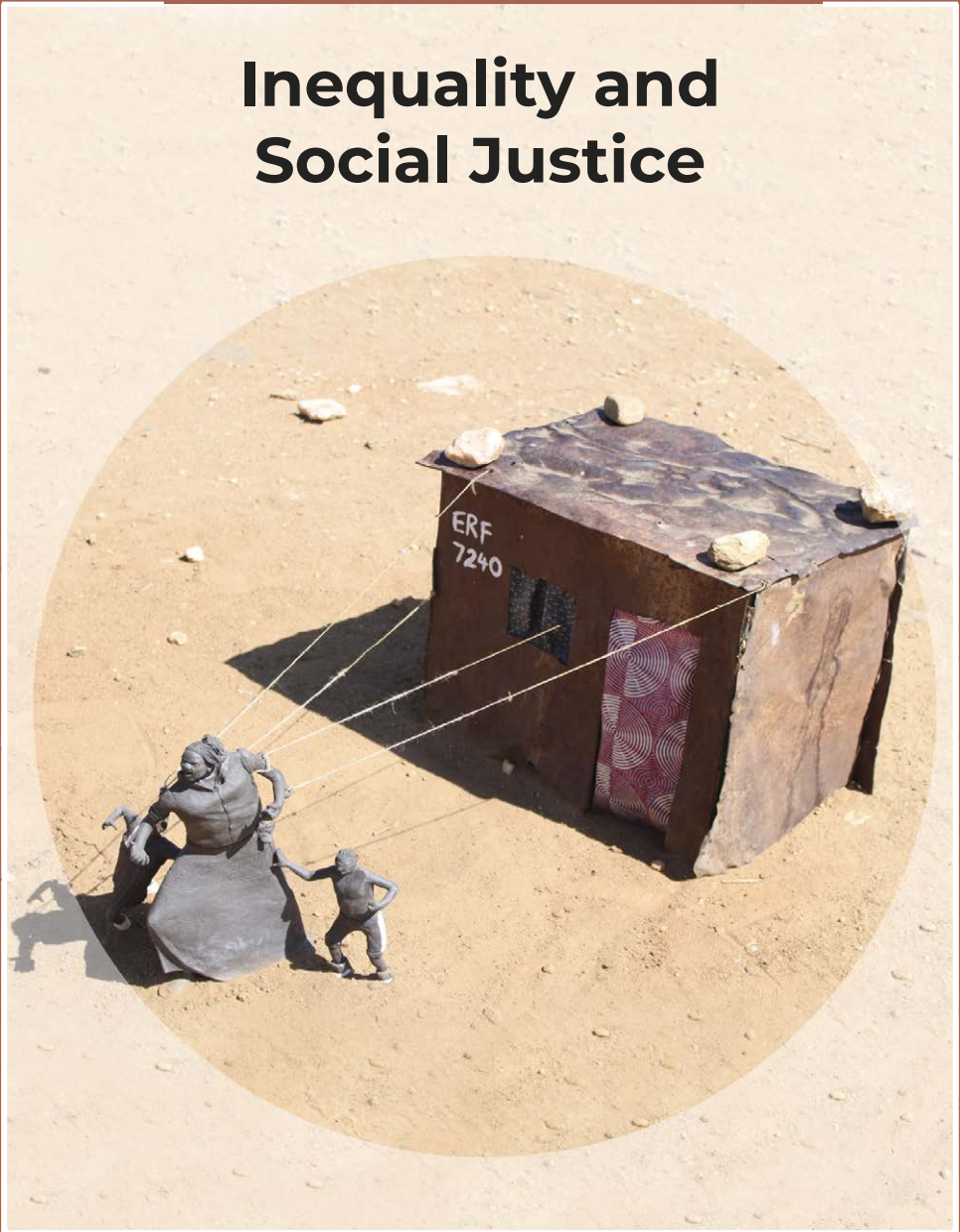
Volume 2

November 2022



Namibian
Journal
of Social
Justice

Inequality and Social Justice



Copyright: Economic and Social Justice Trust 2022



Artwork on the cover: “Pulling into Tomorrow” by Mitchell M. Gatsi

All rights reserved.

No part of this journal may be reproduced, copied or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage or retrieval system without the written permission of the Economic and Social Justice Trust.

ISSN: 2026-8882

Printed by Solitaire Press, Windhoek, Namibia

Inequality and Social Justice

Volume 2

November 2022



**Namibian
Journal
of Social
Justice**

www.namsocialjustice.org

Table of Contents

Acknowledgements	4
Acronyms and Initialisms	5
Editorial	7
Intersectionalities: The Effect of Educational Reform on Inequity Eradication and the Regional Economy in Namibia	26
<i>H. J. Sartorius von Bach and E. A. Nuppenau</i>	
COVID 19 and Inequalities: The Changing Landscape of Inequality and Poverty in Namibia and the Implications of the COVID19 Pandemic	52
<i>Blessing Chiripanhura</i>	
COVID-19 and inequality in Namibia: A vicious syndemic?	76
<i>Bruno Venditto, Ndumba J. Kamwanyah and Christian Nekare</i>	
Mining and Social Justice, Extractivism: Chrome Miners and Corporate Crocodiles: Illicit Financial Flows, Profit Shifting, and Samancor Chrome.....	97
<i>Jaco Oelofsen</i>	
Extractivism and Dispossession: The Case of Kavango Oil and Gas Exploration	113
<i>Rob Parker and Rinaani Musutua</i>	
Gender, Sexuality and Women’s Rights: A Feminist Critique of Institutional Racism and Gender Essentialism: In Defence of Christine Mboma and Beatrice Masilingi.....	118
<i>Ndeshi Namupala and Nashilongweshipwe Mushaandja</i>	
Gender-responsive Budgeting, Gender Equality and the Empowerment of Women.....	135
<i>Lucy Edwards-Jauch</i>	

Religion and Social Justice: Social Justice as Praxis: A Socioreligious and Ethical Analysis.....	161
<i>Basilius M. Kasera</i>	
The Church and Social Justice in Contemporary Namibia	176
<i>Emma N. Nangolo</i>	
Case Study:Land Inequality in Namibia: White Indifference, Elite Capture and Policy Inadequacies	197
<i>Ellison Tjirera</i>	
Case Study from the South: From Farm Workers to Farm Owners	204
<i>Ellen Albertz</i>	
The Tsumib Judgments and their Implications for Asserting Ancestral Land Rights in Namibia.....	210
<i>Willem Odendaal</i>	
Fighting Inequality through Basic Income Support: Lessons from India, Kenya, and Namibia	216
<i>Nkululeko Majozi</i>	
Case Study: Autocracy and Inequality in the Kingdom of Eswatini:	234
<i>Helen Vale</i>	
Opinion Piece: From Collective Bargaining to Collective Begging: Namibia’s Supreme Court Undermines the Right to Strike.....	241
<i>Nixon Marcus</i>	

Acknowledgements

The Economic and Social Justice Trust is proud to present the second edition of the Namibian Journal of Social Justice (NJSJ). This edition, on *Inequality and Social Justice*, follows the 2021 edition, which dealt with *Housing*.

We wish to thank the editor, Prof. **Lucy Edwards-Jauch**, and the co-editor of this edition, Dr **Ndumba Kamwanyah**. We are likewise grateful for the contributions of the other members of the NJSJ editorial board, Ms **Ndeshi Namupala**, Dr **Guillermo Delgado**, Dr **Ellison Tjirera**, Dr **Job Amupanda**, Prof. **Trywell Kalusopa** and Ms **Rinaani Musutua**, and for the commitment towards our journal shown by all our **authors** and **peer reviewers**.

We also thank:

- **William Hofmeyr**, for a comprehensive and meticulous language edit;
- **Bryony van der Merwe**, for the design of the journal's cover page and the layout;

- **Frieda Luehl**, from the **project room Namibia**, for introducing us to the artworks printed in this edition;
- **Lynette Musukubili**, **Mitchell M. Gatsi**, **Dörte Berner**, **Saima Iita**, **Trianus Nakale**, **Rudolf Seibeb**, **Ina-Maria Shikongo**, **Titus Shitaatala**, **Mateus Alfeus** and **Tuli Mekondjo** for making their artworks available for publication; and
- all **photographers** for making their photos available for publication in this journal. They are mentioned in the captions of the photos.

A special word of thanks goes to the **Friedrich Ebert Stiftung Namibia Office**, for their generous support that has made the publication of this volume of our journal possible. In particular, we wish to thank the Country Director, Ms. **Freya Grünhagen**, for her unfailing encouragement, as well as the Project Manager, Ms **Inge Neunda**.

**FRIEDRICH
EBERT** 
STIFTUNG
Namibia Office

Acronyms and Initialisms

AMCU	Association of Mineworkers and Construction Union
BEPS	base-erosion profit shifting
BIEN	Basic Income Earth Network
BIG	basic income grant
CCN	Council of Churches in Namibia
CEDAW	UN Convention on the Elimination of All Forms of Discrimination Against Women
CSOs	civil society organisations
DSD	Differences of Sexual Development
ELCN	Evangelical Lutheran Church in Namibia
ELCRN	Evangelical Lutheran Church in the Republic of Namibia
ESOP	Employee Share Ownership Plan
FMS	Finnish Missionary Society
GBV	gender-based violence
GDP	gross domestic product
GEWE	gender equality and women's empowerment
GRB	gender-responsive budgeting
GRN	Government of the Republic of Namibia
HDI	Human Development Index
HTA	Hai om Traditional Authority
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICT	information and communication technology
IFFs	illicit financial flows
ILO	International Labour Organisation
IMF	International Monetary Fund
IMR	International Mineral Resources
IOC	International Olympic Committee

LMS	London Missionary Society
MAWLR	Ministry of Agriculture, Water and Land Reform
MGEPEWSW	Ministry of Gender Equality, Poverty Eradication and Social Welfare
MGEPEWSW	Ministry of Gender Equality, Poverty Eradication and Social Welfare
MPI	Multidimensional Poverty Index
MPUCT	Madhya Pradesh Unconditional Cash Transfer
MTEF	Medium-Term Expenditure Framework
NLF	Namibia Labour Force
NNSCH	Namibian Senior Secondary Certificate Higher-level
NPC	National Planning Commission
NSA	Namibia Statistics Agency
NSSCH	Namibian Senior Secondary Certificate Higher
OECD	Organisation for Economic Cooperation and Development
PDS	Public Distribution System
PIT	personal income tax
RMS	Rhenish Missionary Society
SADC	Southern African Development Community
SEM	structural equation modelling
SEWA	Self-Employed Women’s Association
TAA	Traditional Authorities Act (No. 25 of 2000)
TVUCT	Tribal Village Unconditional Cash Transfer
UCT	unconditional cash transfer
VAT	value added tax
WHO	World Health Organization
WMMS	Wesleyan Methodist Missionary Society
WSWB	willing-seller-willing-buyer

Extractivism and Dispossession: The Case of Kavango Oil and Gas Exploration

Rob Parker and Rinaani Musutua

The “scramble for Africa” at the Berlin Conference of 1884–85 describes powerful European nations dividing Africa between themselves and represents the occupation and colonisation of much of the continent. Even though Africa is no longer made up of a collection of colonial territories, sovereignty is weighed down by the persistent dynamics of neo-colonialism.

Africa’s subordinate position as the supplier of natural resources to former colonial powers and importer of manufactured goods has remained practically unaltered.

Exemplifying this dynamic is Canadian company ReconAfrica, which has a license to explore for oil and gas in an area the size of Switzerland within northern Namibia



Andreas Hawano in front of his sorghum fields, one part of which was occupied by ReconAfrica without prior warning or notification. Photo by John Grobler, Oxepeckers

and Botswana, despite having no history of success. ReconAfrica likes to tell investors that the terms of the deal were so favourable as to be “unheard of”.

Illicit Financial Flows

Western extractive corporations are major beneficiaries of Africa’s natural wealth, making super-profits and huge returns on investments from the externalisation of risk and the illicit outflow of money.

The United Nations Conference on Trade and Development (UNCTAD) in Africa produced a report in 2020 which focused on trade mis-invoicing and capital flight. The report states that Africa loses between \$30 billion and \$52 billion per year due to trade mis-invoicing, particularly under-invoicing in the extractive sector (UNCTAD, 2020). Under-invoicing causes African governments to lose billions per year in foreign exchange, weakening tax collection and lowering state expenditure in crucial social sectors.

Extractive companies on the continent have used multiple schemes to achieve tax avoidance which are difficult to detect. Companies would import goods and services from one of their subsidiaries, secure finance from another, and sell upstream to yet another, thus shielding their profits from African governments.

The United Nations Economic Commission Africa team said that other methods include kickbacks and other forms of corruption involving civil servants; criminal activity such as drug and money trafficking and money laundering; and fraudulent commercial transactions such as tax evasion, the distortion of money transfer charges and over-billing.

Former ReconAfrica CEO and Chairman of the Board Jay Park recently left the company. Park was tied to dubious payments in Somalia (Reuters Staff, 2015), Tunisia and Chad (Gerson, 2013) before coming to Namibia.

ReconAfrica and the Communal Land Reform Act

While the company has not discovered oil, and is not likely to, the way they have acted on the ground serves to illustrate how they might behave if they ever reached a stage where profits have to be shared. Their actions illustrate their disdain for the communities in which they operate. Kawe, located in Kavango East Region, was ReconAfrica’s first drill site. Community activists and residents state that no consultations were conducted prior to the arrival of the drill rig. A local farmer, Andreas Mawano, appeared on Sky News and stated that his mahangu field was taken from him and that he was not compensated.

The Mbambi community, who reside in the area of the second drill site, had gathered at the request of the company on 25 January 2020, but ReconAfrica representatives did not show up. Yet early in 2021, the company falsely told the public that they had held all required consultations. Communities are left to wonder how an EIA was approved for drilling without having a critical list of interested and affected parties in compliance with Namibian law.

The families in Mbambi were given no opportunity to protect or defend their land rights or oppose ReconAfrica's illegal acquisition of their customary land. According to a May 2021 statement by the Legal Assistance Centre, ReconAfrica is engaged in an "unlawful occupation" of communal land. The company still has not obtained the rights to occupy the area from the land board. Multiple families are suing the company in the high court of Namibia.

Local communities were dispossessed of their land rights in violation of the Communal Land Reform Act, 5 of 2002 (as amended by the Communal Land Reform Amendment Act, 11 of 2005). Community members had no opportunity to defend their land or oppose ReconAfrica's acquisition of customary land. This represents a blatant violation of the internationally

recognised right to free, informed, prior consent by the local people who are being dispossessed by ReconAfrica.

The company has no right to occupy land at Mbambi village without the ratification of such rights by the Communal Land Board. Any allocation of a customary land right made by a chief or traditional authority has no legal effect unless the allocation is ratified by the relevant land board (section 24 of the Communal Land Reform Act). This was never done. The Act also provides that no person shall, without "written authority of the Chief or Traditional Authority, and ratification by the board concerned" (section 29(4)) "erect or occupy any building or other structure on the commonage" (subsection (a)), or "carry on any activity on the commonage, other than the lawful grazing of stock, which may prevent or restrict the residents of the traditional community concerned from a reasonable exercise of their grazing rights" (subsection (e)).

ReconAfrica promised jobs and development. However, the company provides only poorly paid temporary jobs. Community members have testified that this has created distrust toward Recon Africa within the region.

ReconAfrica ignores Namibian labour law by introducing casual employment. The Labour Act (11 of

2007) does not make any provision for casual employees. The company hires workers for 2 weeks or less and then replaces them with new ones. It appears that ReconAfrica does this to claim that hundreds of Namibians are employed by the company. Given their violations of other laws, the company also has an interest in limiting the number of people who are aware of the full extent of the company's operations.

It is also suspected that ReconAfrica has hired foreign employees who don't have Namibian work visas. In February 2021, the company denied labour inspectors access to the Kawe drill site for inspection and then threatened to sue the labour inspector.

Even though there is compelling evidence of ReconAfrica violating Namibian laws, President Geingob has hailed ReconAfrica as a "lifesaver" for Kavango West and Kavango East regions, which are the poorest in Namibia (Ndjaveru, 2021). The Namibian Government has not put any pressure on ReconAfrica to make it follow the laws of the country and reinvest in the communities in whose territories they operate.

Water

ReconAfrica constitutes a significant threat to water resources, agricultural land, livelihoods and wildlife in the area. If allowed to continue, the

company will severely disrupt the way of life of indigenous people through dispossession and poisoning of their ancestral land and water resources on which they depend for survival.

Onsite visual assessments of the containment ponds have revealed that they had not been lined with appropriate waterproof barriers. No lining or other method of rendering the containment ponds impervious has been made despite the requirement that there should be a double lining system coupled with monitoring. They are therefore in violation of the Environmental Compliance Certificate issued by the Ministry of Environment, Forestry and Tourism. Despite the extensive publicity that ReconAfrica has generated over the drilling of water wells there will be no benefit accrued if the groundwater is contaminated by drilling effluent.

ReconAfrica lacks respect for the indigenous rural people of Kavango East and Kavango West regions whose livelihoods are entirely dependent on access to clean groundwater. It has shown blatant disregard for those directly affected by its illegal operations, which have resulted in the destruction of homes and the displacement of families, and if allowed to continue, will severely disrupt the way of life of local communities.

References

Communal Land Reform Act, No. 5. (2002). Government of the Republic of Namibia. <https://www.lac.org.na/laws/annoSTAT/Communal%20Land%20Reform%20Act%205%20of%202002.pdf>

Communal Land Reform Amendment Act, No 11. (2005). Government of the Republic of Namibia. <https://www.lac.org.na/laws/2005/3550.pdf>

Falola, T. (2022). *Recolonising Africa*. <https://www.premiumtimesng.com/opinion/510662-recolonising-africa-by-toyin-falola.html>

Gerson, J. (2013, 22 January). Calgary energy firm pleads guilty to \$2 million bribe attempt of Chad ambassador for oil access. *National Post*. <https://nationalpost.com/news/canada/calgary-energy-firm-pleads-guilty-to-2-million-bribe-attempt-of-chad-ambassador-for-oil-access>

IMF. (2019). *Corporate taxation and the global economy*. (IMF Policy paper, March 10, 2019). <https://www.imf.org/en/Publications/Policy-Papers/Issues/2019/03/08/Corporate-Taxation-in-the-Global-Economy-46650>

Labour Act, No. 11. (2007). Government of the Republic of Namibia. <https://namiblii.org/akn/na/act/2007/11/eng%402012-08-01>

Ndjavera, M. (2021, 8 October.) Geingob: Recon a potential lifesaver *New Era Live*. <https://neweralive.na/posts/geingob-recon-a-potential-lifesaver>

Reuters Staff. (2015, 4 August). U.N. monitors accuse British oil firm of ‘payoffs’ to Somali officials. *Reuters Business News*. <https://www.reuters.com/article/uk-un-somalia-soma-idUKKCN0Q829Q20150804>

UNCTAD. (2020). *Tackling Illicit financial Flows*. https://unctad.org/system/files/official-document/aldcafrica2020_en.pdf