

**Community management of
natural resources in Namibia**

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CONTENTS

INTRODUCTION	1
HISTORY OF THE CBNRM APPROACH IN NAMIBIA	3
DEVELOPING POLICY AND LEGISLATION: OPPORTUNITIES AND CONSTRAINTS	6
AN INTERIM EVALUATION OF THE RESULTS OF CBNRM FROM THE PERSPECTIVE OF THE COMMUNITIES INVOLVED	8
CONCLUSIONS: THE CURRENT STAGE IN THE EVOLUTION OF POLICY AND POSSIBLE NEW STEPS	14
ANNEX 1: POLICY AND LEGISLATION SUPPORTING CBNRM IN NAMIBIA	16
REFERENCES	22

INTRODUCTION

Namibia is the most arid country south of the Sahara, with average rainfall varying from more than 600 mm in the north east to less than 25 mm in the Namib Desert to the west. Rainfall is erratic both temporally and spatially leading to large localised differences in precipitation and large annual fluctuations. Drought is a regular occurrence. Namibia's economy is heavily dependent on natural resources. Two-thirds of the 1.6 million population live in rural areas and are directly dependent upon the soil and living natural resources for their livelihoods (Brown 1997). In 1995, per capita GDP was US \$4 591, but income distribution is highly skewed between urban and rural households. The richest 10% of the population receive 65% of total income (UNDP 1996).

Namibia still suffers from the legacy of South African colonial rule and the imposition of apartheid policies. On independence from South Africa in 1990, 40,8% of the land had been allocated to black homelands which supported a population of about 1.2 million, while 43% had been allocated to mostly white commercial farmers. About 14% was allocated to conservation and a small percentage was unallocated land. The former black homelands are now recognised as communal lands to which rural residents have access for use, although communal land ownership is vested in the State. Some resources such as wildlife and forestry have been subject to strict state controls and communal area residents had little or no legal access to these resources. Despite these controls, wildlife numbers have generally fallen greatly in most communal areas except where long running community-based conservation projects exist such as in Kunene Region in the north west. In many northern communal areas, uncontrolled cutting of trees for various purposes is prevalent, while in the north-east woodland is being cleared for shifting cultivation. State regulation of wildlife and forestry products is extremely difficult to enforce due to great distances from administrative centres and lack of government resources.

In many cases traditional mechanisms for land and resource allocation and management have broken down. Under South African colonial rule, land allocation was the function of government officials, but in practice, traditional leaders believed that the land was owned by the chief or king and allocated land according to customary law (Corbett and Daniels 1996). However, a number of factors, including post-independence government policy, have eroded this *de facto* allocation of land by traditional leaders. The erosion of the power and status of traditional leaders has contributed to the development of 'open access'

situations on much of Namibia's communal land, such that residents are unable to prevent others from settling on the land and using its resources, to the detriment of the existing residents. In this situation people have little incentive to invest time and effort in managing the land for the future, but tend to use what they can before someone else does.

With a population growing at 3.2% a year (UNDP 1996), it is crucial that viable approaches to sustainable resource management are developed if environmental degradation and economic decline are to be avoided. The process of addressing sustainable development on communal land has been initiated by the Namibian Government which, among other activities, has put its faith in a community-based approach to natural resource management (CBNRM). This approach aims to provide communal area residents with appropriate incentives to use their resources sustainably and combines reform of policy and legislation with implementation at community level. In developing this approach, the challenge has been to adhere to the national policy of avoiding ethnic compartmentalisation, while also using institutional structures that fit with the traditions of rural society and are thus socially acceptable. A further challenge has been to develop a system flexible enough to meet the needs of Namibia's cultural and environmental diversity. The system has to cater for small scattered settlements in the arid north west where people, livestock and wildlife move over large areas to survive, compared to the wetter north east with its large villages, more settled population and a much greater emphasis on crop farming. In some areas of the country traditional institutions are still strongly supported by local people, while in other areas they have become much weaker.

Namibia is probably going further than any other African country in developing policy and legislation that devolves authority over natural resources directly to local rural communities. The CBNRM approach, although currently based on wildlife and tourism, has the potential to provide an umbrella for integrated natural resource planning and management by local communities as well as an institutional model for other sectors.

HISTORY OF THE CBNRM APPROACH IN NAMIBIA

The origins of the Namibian CBNRM approach are partly indigenous, partly drawn from the experience of neighbouring countries with similar programmes, and partly based on the body of theory that has developed around common property resource management. Within Namibia, the experience with wildlife management commercial farms has provided a powerful paradigm. The 1968 decision to give private farmers conditional rights to exploit wildlife on their land, backed up by legislation in 1975, included the right to retain all income derived from the use and sale of game animals. With farmers enabled to take management decisions over and gain benefits from the wildlife on their land, a multi-million dollar wildlife industry has developed and some species which had disappeared, such as lion, elephant and rhinoceros, have in some cases returned. In the last few years a significant development on freehold land has been the tendency of individual farmers to realise that even their large farms (5,000 ha and above) are inadequate for proper wildlife management in Namibia's arid environment. They have therefore begun pooling their financial, human and natural resources to manage wildlife more communally. They have formed common pool resource management institutions called "conservancies" run by a committee of landholders, a constitution with a set of operating rules, defined membership and clear boundaries. As freehold farmers they are in a strong position to enforce their entitlement to both the land and the wildlife on it.

Since 1982, NGO efforts to involve rural people in wildlife conservation in the Kunene Region of north west Namibia have demonstrated the viability of community-based approaches to natural resource management. The NGO, Integrated Rural Development and Nature Conservation (IRDNC) has worked with local traditional leaders and other community members who were concerned at the decline of wildlife due to heavy poaching and drought. IRDNC helped local communities establish a network of community game guards and established a pilot project to bring tourism revenue to a particular community as an incentive for conservation of local wildlife. Significantly community leaders and many residents had already agreed to take some responsibility for conserving wildlife before there was any prospect of economic benefit. The exercise of regaining some control over a resource from which people had been alienated by the State, appears to have provided sufficient incentive to conserve wildlife. The commitment of local communities to conservation has played a major role in allowing wildlife numbers in Kunene

Region to recover and has been crucial in the recovery of the region's black rhino population (Durbin et al 1997).

Of the CBNRM programmes in neighbouring countries, Zimbabwe's Communal Areas Programme for Indigenous Resource Management (CAMPFIRE) has had the most influence on the development of the Namibian programme. Whereas the Namibian experience in Kunene Region demonstrated the importance of other incentives, CAMPFIRE emphasises the critical link between community income and wildlife conservation. Where rural communities in the CAMPFIRE programme directly receive income related to use and management of wildlife and perceive that the benefits of wildlife exceed the costs, they are conserving their wildlife and its habitat (Murphree 1997). An important lesson from CAMPFIRE has been that management authority and rights to benefit need to be devolved to the lowest possible unit to have the maximum impact on people's behaviour. In some cases Rural District Councils (to which 'appropriate authority over wildlife had been granted) were holding on to revenue and management authority and not following policy guidelines for devolving to the lower Ward level. CAMPFIRE personnel advised Namibian officials that it would be better if communities could retain 100% of revenue from wildlife and not share the income with government, as had been done in Zimbabwe and elsewhere. Otherwise it difficult to generate sufficient income to have an appreciable impact at household level while the sharing of revenue represents an unfair tax on wildlife not applied to other land uses such as livestock farming.

At the same time, the lack of resources for the state's conservation authorities to adequately patrol vast and inhospitable tracts of country was a strong incentive to try alternative approaches to conservation.

In designing new policy and legislation Namibian government officials were able to draw upon important advances in common property resource management theory and practice (e.g. Bromley and Cernea 1989, Ostrom 1990). New ideas about the design of common property resource (CPR) management institutions helped answer some of the questions about how to devolve proprietorship over a common resource such as wildlife, to a group of individuals on land owned by the State. The new theory suggested that successful CPR institutions needed to have a defined membership, a set of agreed operating and resource use rules, the ability to monitor compliance with rules and enforce them, a defined area in which the resource is 'owned' and managed, legitimacy from the resource users as well as from the State.

These various influences led to the development of CBNRM policy and legislation which provide for rights over wildlife and tourism to be given to communal area residents who form a “conservancy”. In order to form a such conservancy, a community needs to define its membership, define its physical boundaries, elect a representative committee, agree on a plan for the equitable distribution of benefits and adopt a legally recognised constitution. Provision was also made for another institution called a Wildlife Council to be initiated by Ministry of Environment and Tourism (MET) officials which would operate at a more regional level and initiate development activities on behalf of residents (a more detailed description of relevant policies and legislation is contained in Annexe 1). The following is a summary of the major steps in the development of the Namibian CBNRM approach:

- ◆ From 1990-92 the newly created Ministry of Wildlife Conservation and Tourism (MWCT) carried out with IRDNC and other NGOs a series of participatory "socio-ecological surveys". These identified key issues and problems from a community perspective concerning wildlife, conservation and the MWCT. They led to the development of several localised community-based conservation projects, supported by foreign conservation NGOs, to address these issues and problems. Government officials and Namibian NGO partners realised that policy and legislation must change for these projects to be successful.
- ◆ 1992: MWCT developed the first draft of a new policy providing for rights over wildfire and tourism to be given to communities that form a "conservancy".
- ◆ 1993: Launch of the Living in a Finite Environment (LIFE) Programme brought major donor support (USAID) to CBNRM in Namibia. From this evolved a 'National Programme' involving a partnership between MWCT, local government, NGOs and rural communities.
- ◆ 1995: Cabinet approved the new policy for communal area conservancies. Work began on drafting legislation to put the policy into effect.
- ◆ 1996. Parliament passed new legislation.
- ◆ 1997: The first communal area conservancy was gazetted.

- ◆ Mid 1998: Three more communal area conservancies were gazetted.
- ◆ September 1998: Namibia's Communal Area Conservancy Programme was officially launched by president Nujoma.
- ◆ Mid 1999: Four more communal area conservancies were approved in principle pending clarification of minor issues. The second phase of the LIFE Programme was started to cover a further five years.
- ◆ Mid 1999: The Communal Land Reform Bill recognised communal area conservancies.

DEVELOPING POLICY AND LEGISLATION: OPPORTUNITIES AND CONSTRAINTS

The development of the policies and legislation which gave effect to Namibia's CBNRM approach took place within a context of provided both opportunities and constraints. The extent to which opportunities could be exploited and constraints overcome shaped the nature of the final enabling policy and legislation.

The development of local projects and the reform of policy and legislation worked in tandem, as part of a coherent national CBNRM programme and provided a particular strength of the Namibian approach. The community projects that resulted from the early socio-ecological surveys acted as pilot cases for the overall approach, helping to develop and test methods of community mobilisation and organisation, the distribution of benefits, and development of partnerships with the private sector. Experiences from these projects helped feed back into the development of policy and legislation which was taking place in parallel at the national level. Another strength was the development of a partnership between a number of implementing agencies as part of the national programme. Government played a key role in initiating the reform of policy and legislation and in providing information and extension support to communities wishing to form a conservancy. NGOs provided the capacity building and facilitation to assist communities develop new representative institutions and business enterprises. A public interest legal firm has assisted communities in developing their conservancy constitutions and negotiating contracts with the private sector.

The development of policy, legislation and practice was therefore grounded in experience at grassroots level rather than the product of theorists and planners removed from practical implementation issues. Policy arose as a response to needs identified by communities, not just government officials. Policy and legislation benefited from the opportunity for debate among a variety of stakeholders and affected parties.

An important opportunity for developing the CBNRM approach in Namibia was the environment of change and reform created by the country's independence from South Africa. The field was open to introduce innovative ideas in conservation and natural resource management which resonated with new government policies that focused on the removal of discrimination, poverty alleviation in rural areas and decentralisation. The CBNRM approach could be identified with each of these policies and "sold" politically as not only a conservation programme, but also a programme for rural development, democratisation and good governance. This conceptualisation of CBNRM also of course resonated with the agenda of the major donors and was useful in gaining funding support.

The "open field", particularly with respect to land reform, meant that there was an opportunity to develop legislation that conservation officials believed would have an important impact on land and natural resource management. A strategic decision was taken to develop the conservancy approach to communal area natural resource management despite the fact that new legislation expected to deal with tenure issues was not yet enacted. It was believed that exclusive group tenure over land and resources would be essential to ensure the emergence of successful common property resource management institutions. The "conservancy" approach, even if embedded only in wildlife legislation, could help shape the forthcoming tenure reforms.

Alongside opportunities, there were also constraints to developing policy and legislation. Government was generally pursuing policies aimed at promoting democracy, decentralisation and community involvement, but government is by no means a monolithic entity. The actual implementation of policy is often the result of a clash of competing forces within government. Within various departments of government and usually at middle management level, there was a group of officials who had been trained in exile during Namibia's struggle for Independence in countries dominated by command and control ideologies. These officials tended to believe that government knew best and that local people should be told what to do. At the same time, and particularly in the

MET, there was a large body of officials who had begun their careers in the apartheid era and whose ideological perspective was not conducive to promoting community rights and local involvement in natural resource management. There were also cautious bureaucrats who argued that the Ministry of Finance would never allow the revenue that was accruing to the state from trophy hunting to be kept by local communities, and that there was no point developing the conservancy approach until *after* the new land reform policy had been established.

Another constraint stemmed from the process of change and reform being driven by the Directorate of Environmental Affairs (DEA), within the MET, but which did not have responsibility for implementation of the new legislation. This lay with the Directorate of Resource Management (DRM), which has been responsible for enforcing wildlife and conservation legislation and running national parks and game reserves. For several years, the DRM did not fully commit itself to the CBNRM approach and few of its senior personnel were exposed to either CBNRM theory or lessons learned from field practice. When DRM did engage with the process, and legislation developed that they would have to implement there were delays as the rationale for certain modes of implementation and policy approaches had to be debated and explored. This process led to certain compromises, such as the provision for Wildlife Councils, which fell short of the ideal situation.

AN INTERIM EVALUATION OF THE RESULTS OF CBNRM FROM THE PERSPECTIVE OF THE COMMUNITIES INVOLVED

To date, the government has gazetted four communal area conservancies, and at least 11 other communities are in the process of forming conservancies, of which four of these have had their applications approved in principle. This indicates that although the conservancy approach is new, communal area residents believe they will benefit and are willing to invest time and effort in establishing these agreements.

Although conservancies are just beginning to operate and draw up contracts with hunting and photographic safari operators, a number of benefits have already accrued to participating communities. For example, the Torra Conservancy in Kunene Region concluded an agreement with a photographic safari company for the development of an upmarket tourist lodge on its land two years before being registered by government. As part of a profit-sharing

arrangement, between 1996 and 1998 the conservancy received more than N\$240 000 (US \$40 000) from the lodge development, while community members earned more than N\$419 000 in wages (more than US \$69 000) over the same period (Ashley and Jones forthcoming). The conservancy committee is involved in overall policy-making for the lodge and local people receive preferential employment opportunities. Significantly local people are trained not only for menial jobs but also for management activities. The lodge has won a major international award as one of the world's best ecotourism destinations, with the level of community involvement and commitment playing a major role in the judges' decision.

Other financial benefits to communities have included the wages paid to community game guards, and women resource monitors. In 1993, the hunting of surplus game in Kunene Region by several communities provided meat worth around N\$150 000 (US \$25 000), while in 1994, 600 women in Caprivi earned over N\$60 000 (US \$10 000) from the sale of thatching grass. Although cash earnings per household from CBNRM activities have been relatively small they "are nevertheless *highly significant because much is earned by cash-strapped households for whom only a few hundred dollars can make a substantial difference*" (Ashley 1998: 17, original italics).

In the past, the income generation opportunities open to communities have depended upon the goodwill of government or the private sector. Now, the acquisition of conservancy status gives communities both trophy hunting and photographic tourism concession rights, providing greater opportunities to generate income and a position of strength from which to negotiate with the private sector. The Nyae Nyae community (a group of mostly San people) in north eastern Namibia, was able to conclude a trophy hunting agreement worth N\$175 000 (US \$30 000) over two years very soon after its registration as a conservancy in late 1997.

Ashley (1998) identifies a number of non-financial benefits being generated by CBNRM in Namibia, and concludes that empowerment is the most important, particularly because rural communities disempowerment during the colonial and apartheid period. CBNRM communities are developing (Ibid: i):

- ◆ adaptable institutions
- ◆ defined and committed membership
- ◆ accountable leaders and participatory processes for making decisions, sharing information, and including women

- ◆ cohesive social units with a common purpose
- ◆ new skills
- ◆ mechanisms for managing natural resources
- ◆ experience and confidence in dealing with outsiders
- ◆ recognition from neighbours and outside authorities
- ◆ pride and a sense of control

Ashley concludes that CBNRM institutions are beginning to provide the building blocks for local development that go well beyond the initial scope of CBNRM. Again, the legal rights acquired by conservancies will further increase communities' sense of empowerment.

At another level, cultural benefits are also important to Namibian communities, which still place an aesthetic and spiritual value on wildlife. In areas such as Uukwaluudhi in the north and Salambala in the north-east, the main expectation of older people is that conservancies will bring a return of the wildlife that has disappeared (Ashley 1998).

Communities are also beginning to see the potential that rights over wildlife and tourism bring for enabling them to manage their resources in a more integrated way. A committee member of the Tora Conservancy in the arid north west told the author that gaining rights over wildlife meant that the community could now manage its livestock properly. Although the community was conserving its wildlife, a build up of numbers meant that game animals were competing with livestock for browse and grazing. In the past, the community could reduce its livestock, but not its wildlife. Now they would be able to achieve a balance between the two. A neighbouring community with a recently gazetted conservancy has begun zoning its land with areas designated primarily for wildlife and tourism, others for mixed wildlife and livestock and another area for residential and livestock development.

However, conservancy formation does not only bring benefits, but costs as well. To meet the conditions set out in the legislation, communities need to spend a large amount of time in meetings, which have significant opportunity costs in terms of the other activities individuals might consider important. The degree of organisation involved in arranging meetings, particularly in the north west where settlements are scattered, has taken up a large amount of time of a small core of leaders, in many cases at their own financial expense. The length of time it has taken for the government to effect policy and legislative reform from the time when this was first discussed with pilot communities has led to

individuals losing faith that any change would really occur, undermining the momentum of conservancy formation. However, so far a relatively large number of communities appear to believe that the benefits of conservancy formation will outweigh the costs.

The conservancy approach is significant because the policy and legislation provide a framework and incentives to which communities can voluntarily respond. The process is not driven by government, donors or foreign conservation NGOs, although external assistance has been an important feature of the Namibian CBNRM Programme. If a community does not choose to form a conservancy, then so be it. The legislation does not try to define a 'community' but leaves this to communal area residents themselves. It also does not prescribe who should represent a community on the conservancy committee. This enables communities to choose their own representatives and, if desired, to use an existing institution as their conservancy committee. It also allows communities to provide for strong involvement of traditional leaders if they so wish. The approach works directly with the community and does not go through levels of local government as in some neighbouring countries. The community is also able to gain rights directly and keep all of the revenue generated through hunting and tourism.

There are some inherent problems, however. The policy that communities must define themselves, and agree boundaries with neighbours often exacerbates existing conflict over resources and causes delays in conservancy formation. Protracted disputes in the north west took a number of meetings and attempts at mediation before the conflict could be resolved. In one in the north west, internal community differences took nearly 3 years to resolve. In this case, one group of people geographically isolated from the rest of the community has decided to form their own conservancy, despite being linked to the bigger community through a number of factors including traditional leadership. This process of conservancies expanding and shrinking can be expected to continue as communities over time find the appropriate social scale at which community organisation makes sense and the ecological scale at which resource management is most effective.

The conservancy policy is flexible in its approach to how communities should use their income, leaving it to the community to decide whether wildlife and tourism income should be used for community projects or as dividends to individual households. The only requirement of the legislation is that communities should have a plan for the equitable distribution of income. The

element of choice is an important aspect of empowerment and control over a community's own affairs. However, there is the risk that households and individuals will not perceive a direct link between the income and their input into managing the resource, if the income is put into community projects or a bank account. In the Torra conservancy in Kunene Region, community members are asking what has happened to the money gained from their tourism joint venture because it has sat in a bank account, and not yet been used or distributed. There is also the danger that income will be used for building infrastructure which is really the province of government, letting government shirk its responsibilities.

Although a second structure, the Wildlife Council, was provided for in the conservancy legislation, to date have been formed. The Wildlife Councils were introduced because a number of government officials felt that the conservancy approach only allowed small groups of communal area residents to benefit from wildlife. However, the Wildlife Councils are essentially government bodies which co-opt community leaders to take decisions on behalf of residents, but with no built in accountability to residents. They also do not combine the units of authority, responsibility, and management, or allow for the internalisation of benefits and costs within one institution. Despite MET internal policy that conservancies should be the primary CBNRM institution, the Wildlife Councils could potentially recreate the same kind of problems experienced in CAMPFIRE in Zimbabwe where the powers authority and rights to benefits given to Rural District Councils should have been devolved to lower, more appropriate management units. Although there was initial enthusiasm in some quarters for forming Wildlife Councils they are yet to get off the ground. If Wildlife Councils do not materialise this will give a message to policy makers which can be incorporated in subsequent changes to the conservancy policy and legislation.

The wildlife and tourism conservancy policy has proved important in Namibia beyond wildlife conservation because it is providing an institutional model, based on common property resource institution design principles, which can also be used for the management of other resources. Both the forestry and water sectors, for example, are devolving authority to community committees based on the conservancy model. The Directorate of Forestry in the MET has drafted new policy and legislation which makes provision for the establishment of various types of protected forest area including a category of community forest. A community forest would be managed by a community forest committee with similar attributes to a conservancy committee. Within MET, a

decision has been taken that separate conservancy and community forest committees should not be created within one community, but the two approaches should be integrated. The Department of Water Affairs is promoting the development of Community Water Point Associations which will eventually take over responsibility for the operation and running of infrastructure as well as the allocation of water. The proposed institutional framework for these committees is again similar to that of conservancies.

As noted earlier, communities themselves are beginning to recognise the opportunities of integrating land and resource use planning and management through a single community body, conservancy committees can take responsibility for community as when woodlands. Where resources need management and planning at a smaller scale to conservancies, relationships can be developed between the conservancy and these lower level management institutions. This is an exciting area of policy development and reform which requires more exploration, particularly regarding its implications for land reform. Although sectoral policy and legislation can give communities strong proprietorship over resources, they cannot deal with land tenure. Murphree (1995: 50) strongly emphasises the centrality of land tenure for CBNRM approaches: "For long-term sustainability CBNRM requires a fundamental shift in national policies on tenure in communal lands. The core of the matter is strong property rights for collective communal units, not only over wildlife and other natural resources, but over the land itself." The conservancy policy and legislation have preceded the development of the new communal area land policy in Namibia. However, the MET and a range of CBNRM groups have had some influence on the land policy which was approved by Parliament earlier this year. Although the policy does not contain specific reference to conservancies, a crucial clause has been included allowing for "legally constituted bodies and institutions to exercise joint ownership rights (and) duly constituted co-operatives" (GRN 1998:3). This provides for bodies such as conservancies to become landholders, a vital step towards not only community empowerment, but also sustainable resource management. The Communal Land Reform Bill (GRN 1999) recognises conservancies by giving them representation on the new Land Boards that will administer communal land and allocate leases for certain uses of land. The Bill also requires land boards to consider the impact on conservancy management plans when allocating leases. A number of issues regarding the impact of the Bill on conservancies remain unclear. CBNRM implementing agencies are planning to make submissions to the Natural Resources Committee of the National Assembly to which the Bill has been referred for further consultation.

CONCLUSIONS: THE CURRENT STAGE IN THE EVOLUTION OF POLICY AND POSSIBLE NEW STEPS

Implementation of the conservancy approach in Namibia is still in its early stages. It will require more time before a fair analysis can be made of whether the policy and legislation are practical, are suited to the needs of rural communities and lead to the desired results. At present, analysis needs to focus on some of the problems identified above. The revision of Namibia's wildlife legislation provides an opportunity, for example, to amend the legal provisions for establishment of Wildlife Councils. These councils could be removed entirely from the legislation, or they could be adapted to provide for more of a regional natural resource management co-ordinating body made up of all relevant stakeholders. Such a body could provide a forum for regional conservation and tourism planning and could integrate with existing regional level institutions such as regional development committees.

Although it is probable that boundary disputes will continue to delay the formation of some conservancies, a change in government policy on communities defining themselves is unlikely. However, in terms of implementation of the policy, new ways need to be found to assist communities to reach agreement on boundary problems. In some instances, MET staff members have managed to facilitate meetings at which disputes have been resolved, but this is not always possible. Local MET staff can be accused of favouring a particular community because of family or other connections. In disputes, there might be the need for facilitators with conflict resolution skills, complex such as using personnel from a neutral NGO to carry out this role.

Attention needs to be given to encouraging communities to be more open and transparent about the distribution and use of income. Again there are good lessons from Zimbabwe. Cash is often paid out to each head of household, who then returns the portion of income which it has been agreed will be used for a community project or kept in the community bank account. In this way, each head of household has seen and held the income due to them and has personally retained a portion and returned the balance. In some cases the cash is delivered by the safari hunter, providing a very direct link between wildlife use and income generation. The whole process is witnessed by a large gathering of community members and often accompanied by a feast and celebrations

In terms of strengthening property rights, much will depend upon the final contents of the Communal Land Reform Bill. If it does not contain clauses under which groups will be able to gain exclusive tenure on communal land, other means of strengthening rights will need to be explored. One option would be to strengthen the links between conservancy policy, and policies and legislation regarding community forests and communal area water committees. Communities will be in a stronger position if they have rights to manage a suite of resources on a particular parcel of land. If exclusive land rights are unobtainable under the new legislation, it makes the reform of grazing legislation to provide for group rights, even more imperative.

Policy change and reform in Namibia needs to focus on the establishment of community resource management institutions with secure and exclusive group rights over all natural resources on their land, including formal tenure over the land itself, and the opportunity to carry out integrated land use planning and management. If this is achieved, it will go a long way towards creating the necessary conditions for more sustainable development on Namibia's communal land.

ANNEX 1: POLICY AND LEGISLATION SUPPORTING CBNRM IN NAMIBIA

Policy on Wildlife, Management, Utilisation and Tourism in Communal Areas

The objectives of the policy are as follows (MET 1995a):

- A. To establish ... an economically based system for the management and utilisation of wildlife and other renewable living resources on communal land so that rural communities can:
 - i) participate on a partnership basis with this (MET) and other Ministries in the management of, and benefits from, natural resources;
 - ii) benefit from rural development based on wildlife, tourism and other natural resource management;
 - iii) improve the conservation of natural resources by wise and sustainable resource management and the protection of biodiversity.
- B. To redress the past discriminatory policies and practices which gave substantial rights over wildlife to commercial farmers, but which ignored communal farmers.
- C. To amend the Nature Conservation Ordinance (4 of 1975) so that the same principles that govern rights to wildlife utilisation on commercial land are extended to communal land.
- D. To allow rural communities on state land to undertake tourism ventures, and to enter into co-operative agreements with commercial tourism organisations to develop tourism activities on state land.

Commercial farmers in Namibia are given ownership over huntable game (oryx, springbok, kudu, warthog, buffalo and bushpig) if they have a certain size farm and a certain type of fencing. They are able, as identified

landowners, to use protected and specially protected species through a permit system. Legislation also allows trophy hunting to take place on commercial farms under certain conditions. Commercial farmers may buy and sell game on their land.

The policy on wildlife and tourism on communal land makes provision for rural communities which form a conservancy to be given the same rights over wildlife as a commercial farmer.

Nature Conservation Amendment Act, 1996.

The Nature Conservation Amendment Act, 1996 (Act 5 of 1996) amends the Nature Conservation Ordinance so that residents of communal areas can gain the same rights over wildlife and tourism as commercial farmers. Instead of fencing and the size of the farm as conditions for gaining ownership over huntable game and the right to use other species, the Nature Conservation Amendment Act sets the formation of a conservancy as the condition upon which ownership and use rights over game are given to communal area residents. The Act puts into effect the MET's policy on Wildlife Management, Utilisation and Tourism on Communal land.

According to the Act any group of persons residing on communal land may apply to the Minister of Environment and Tourism to have the area they inhabit or part of that area declared a conservancy.

The Minister will declare a conservancy in the Government Gazette if:

- ◆ the community applying has elected a representative committee and supplied the names of the committee members
- ◆ the community has agreed upon a legal constitution, which provides for the sustainable management and utilisation of game in the conservancy
- ◆ the conservancy committee has the ability to manage funds
- ◆ the conservancy committee has an approved method for the equitable distribution to members of the community of benefits derived from the consumptive and non-consumptive use of game in the conservancy.
- ◆ the community has defined the boundaries of the geographic area of the conservancy

- ◆ the area concerned is not subject to any lease or is not a proclaimed game reserve or nature reserve.

Once a conservancy has been declared in the Government Gazette the Act gives the conservancy committee, on behalf of the community in the conservancy, "rights and duties" with regard to the consumptive and non-consumptive use and sustainable management of game "in order to enable the members of such community to derive benefits from such use and management" (GRN 1996a: 6).

The Act then confers on a conservancy committee the same rights, privileges, duties and obligations that the Nature Conservation Ordinance confers on a commercial farmer. The Act makes it clear that provisions in the Ordinance concerning fencing and the size of the land will not apply to a conservancy.

The rights over wildlife conferred on a conservancy committee are for the ownership (and therefore use for own purposes) of huntable game (oryx, springbok, kudu, warthog, buffalo and bushpig), the capture and sale of game, hunting and culling, and the right to apply for permits for the use of protected and specially protected game. If a conservancy applies to become designated as a 'hunting farm', trophy hunting (including of protected and specially protected game) can take place on the conservancy.

The Nature Conservation Ordinance does not specifically deal with tourism. However, the Nature Conservation Amendment Act of 1996 gives conservancies rights over non-consumptive utilisation of game. The definition of non-consumptive utilisation contained in the Act includes use for "recreational, educational, cultural, or aesthetic purposes". Conservancies thus acquire rights over non-consumptive uses normally associated with tourism. This is intended, as far as possible within the powers of the Nature Conservation Ordinance, to give conservancies a concessionary right over commercial tourism activities within the conservancy.

The Nature Conservation Amendment Act, 1996, also makes provision for communal area residents who do not form conservancies to benefit indirectly from wildlife, through the formation of Wildlife Councils. A Wildlife Council is established by the Minister after consulting with a local community or communities on communal land. The area covered by a Wildlife Council may not include any conservancy, any land subject to a lease or any proclaimed

game park or nature reserve. A Wildlife Council will gain the same rights, and obligations concerning consumptive and non-consumptive use of wildlife as a conservancy (GRN 1996).

Amendment of Regulations Relating to Nature Conservation, 1996

In order to give more precise definition to certain issues relating to the formation of conservancies and Wildlife Councils, the MET introduced new Regulations to accompany the Nature Conservation Amendment Act, 1996.

The new regulations require a conservancy committee to provide a register containing the names, identification numbers and addresses of the members of the community to be represented by the committee.

The new regulations also specify certain issues which must be covered by the Conservancy Constitution (GRN 1996b):

- ◆ the objectives of the conservancy, including the sustainable management and utilisation of game within the conservancy in accordance with a game management and utilisation plan, and the equitable distribution of the benefits derived therefrom
- ◆ the procedure for election and removal of members of the conservancy committee
- ◆ the powers and responsibilities of the conservancy committee, including powers to enter into agreements relating to consumptive and non-consumptive use of game
- ◆ provisions relating to the holding of meetings of the committee, annual and ordinary meetings of the conservancy and the recording of proceedings of these meetings
- ◆ the criteria and procedure for being recognised as a member of the conservancy, provided that no-one may be excluded on the grounds of ethnicity or gender
- ◆ the rights and obligations of members of the conservancy

- ◆ the procedure for members of the conservancy to decide on the policy to be followed by the conservancy committee in the equitable distribution of benefits
- ◆ provision for the management of the conservancy's finances, including the appointment of a suitably qualified person to act as treasurer, the keeping of proper accounts, and the opening of a bank account in the name of the conservancy
- ◆ a procedure for dispute resolution
- ◆ a procedure for the amendment of the constitution
- ◆ any other issues the conservancy may wish to include in its constitution

The regulations also provide more detail about the establishment of Wildlife Councils. In order to form a Wildlife Council, the Minister must hold a meeting to inform the community concerned and to consult the community about the functions and objectives of the proposed Wildlife Council. In order to hold such a meeting, the Minister must give notice of the meeting at the Office of the Regional Council, and in one newspaper circulating in the area in question.

The Minister may establish a Wildlife Council if he or she is satisfied that the community, together with a Wildlife Council, has the ability to manage and utilise in a sustainable manner the game in the area covered by the council.

Wildlife Councils will be composed of (GRN 1996b):

- a) the governor of the region in which the Wildlife Council has been established, or the governor's nominee
- b) two staff members in the Ministry of Environment and Tourism designated by the Minister
- c) five other members appointed by the Minister, of whom one shall be nominated by the traditional authority for the area in which the wildlife council has been established, and of whom four shall be persons nominated by members of the community for which the council has been established.

The regulations also provide for regular meetings of the council, and the procedure at these meetings. The regulations state that the Minister will determine how moneys received by a Wildlife Council will be spent, and that no funds of the council, except for operational costs, may be expended or distributed without the Minister's approval.

Promotion of Community Based Tourism

The MET policy on the Promotion of Community Based Tourism was approved in 1995. It provides a framework for ensuring that local communities have access to opportunities in tourism development and are able to share in the benefits of tourism activities that take place on their land. The policy recognises that where tourism is linked to wildlife and wild landscapes, the benefits to local communities can provide important incentives for conservation of these resources.

The policy recognises that in the past, local communities have had little control over tourism activities on their land and little access to direct benefits from tourism. In order to redress this a programme of action included in the policy document states that MET will give recognised communal area conservancies the concessionary rights to lodge development within the conservancy boundaries (MET 1995b).

Draft Tourism Act

The MET is currently preparing a Tourism Act to provide for better co-ordination and regulation of the tourism industry in Namibia. This draft Act specifically provides for conservancies to be given concessionary rights over tourism activities. It states that upon declaration of the conservancy by the Minister, the conservancy committee will "acquire all rights to operate or lease tourism concessions within the conservancy, for the benefit of the members of the conservancy" (MET 1996, 11).

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