

Namibia currently has no legislation governing access to genetic resources and transfer of technology. Urgent attention must be given to developing a policy framework and legislation to regulate these areas.

## 5.7 Other aspects of the CBD

This section elaborates on provisions of the CBD which are particularly relevant to Namibia and require special attention.

### *Indigenous knowledge and resource rights*

The CBD states that each contracting party shall respect, maintain and preserve indigenous knowledge of biodiversity and conservation, and share equitably any benefits from use of this knowledge. However, it does not refer to any particular legal instruments in this regard:

*"Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological biodiversity..."* (Article 8:j)

The article emphasises that communities should play pivotal roles in preserving and maintaining knowledge and practices.

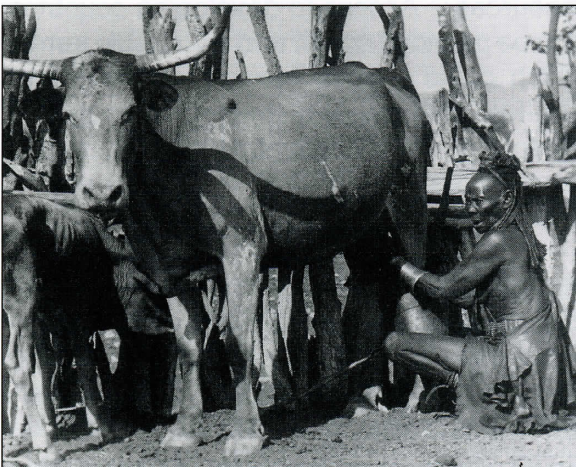


Fig. 5.10 OvaHimba pastoralists have evolved appropriate land management strategies for arid environments. Courtesy National Archives of Namibia

The article stresses the significant relationship between culture and biological resources. Traditional societies have adopted many ways of husbanding resources in their attempts to adapt to local environmental conditions. If the languages and practices of traditional communities die out, so too a vast amount of information, accumulated over centuries, is lost.

One root cause of this process is government policies that result in the loss of both cultural and biological diversity. A starting point is to identify such policies and target them for re-evaluation. Just as important, the effective conservation of biodiversity and sustainable use of its components requires the elimination of perverse structural and financial incentives to overexploit agricultural, forest and fisheries resources (e.g. Dewdney<sup>6</sup>).

### *Environmental paradigms and the North-South conflict*

As important as these policy effects are, the CBD fails to tackle another critical and closely related aspect. The interests of developing and developed nations regarding the environment differ widely. Although both groups discuss the conservation of biodiversity, one is left feeling that they speak totally different languages.

Environmentalists in developed nations focus largely on destructive human activities. They lament losses of natural habitat and wilderness, and the reduction of wildlife numbers through agriculture and urbanisation. The underlying belief is that nature must be protected from economic exploitation so that society can enjoy the aesthetic and recreational benefits of an unspoiled countryside.

On the other hand, as a Zimbabwe farmer said, conservation means the wise management of natural resources for economic use; it does not mean an absence of use at all costs. In poverty-stricken Africa, the land and its wild animals are not so much a source of aesthetic enjoyment as a resource to be managed so that people can survive.

Where the food supply is not secure, or where human needs of shelter, health care, and education can barely be met because of poverty, people cannot afford the 'luxury' of protecting the countryside from exploitation. The land is then not an arena for leisure pursuit, but a means of survival. If environmentalists from industrial nations fail to acknowledge African perspectives, there is every reason to expect that their projects will fail, and their costly advice will go unheeded. A balance must be struck between these two different perspectives on conservation.

The history of conservation in Africa is a story of the eviction of indigenous communities from land and resources that they once enjoyed. This was mostly done in the interests of a white minority and foreign investors. Evicted groups were settled in agriculturally poorer regions and were denied access to grazing, firewood and the wild animals they had hunted for subsistence in the new park area. This scenario has created a legacy of resentment towards conservation policies, which continues in Namibia to the present day. Unless conservation staff realise the depth of this antagonism and understand that economic benefits must return to local people, the existence of protected areas will be opposed, and poaching, the burning of fences, and other activities will only get worse.

Namibia has acknowledged this tension and moved to improve the situation in different ways. Most significant is the conservancy concept, whereby rural communities gain controlled rights over wildlife in defined areas (conservancies), and responsibility for its sustainable use. The recent Nature Conservation Ordinance Amendment Act (5 of 1996) gives effect to this concept.

The framework Environmental Management Act, which is currently in advanced draft form, includes a provision respecting the rights and knowledge of indigenous peoples. Namibia has not to date signed the Convention on Indigenous Peoples' Rights.



Fig. 5.11 Environmental assessment is a positive process intended to guide development in a sustainable direction. Courtesy R Simmons

### ***Environmental assessment***

Article 14 of the Convention requires each contracting party to carry out environmental impact assessments (EAs) of projects that are likely to adversely affect biological diversity. It further requires that the EA be aimed at avoiding or minimising such effects and, where appropriate, allow for public participation in the assessment. Such projects would include developments such as hydroelectric dams.

The aims of an EA are twofold: (1) to provide decision-makers with information on a project's environmental impact so as to help them take informed decisions on whether or not to proceed; (2) to produce environmentally sound projects in cases where these do proceed.<sup>3</sup>

EA is a planning tool, and looks beforehand at aspects like site selection, a project's magnitude, the displacement and resettlement of communities, and overall biophysical impact. In addition, an EA must identify specific elements of the project that could adversely affect biodiversity. It must identify the steps to be taken to avoid or minimise these effects, and ensure that the project complies with existing environmental laws. Also of importance is that the EA's design and implementation processes must involve key players and interested parties.

In a participatory process after Independence, Namibia developed an innovative EA policy which was formally approved by Cabinet in 1994. This will be formally incorporated as a chapter of the Environmental Management Act.

Namibia's EA policy provides that all policies, projects and programmes should be subjected to EA procedures, regardless of where these originate. These procedures should aim for a high degree of public participation, should consider the environmental costs and benefits of projects proposed, and so on. It refers to policies, areas and activities which may have significant environmental effects. Provision will be made to include other activities which may adversely affect biodiversity in Namibia. In line with IUCN guidelines, EAs are conducted at an early phase of project development, allowing for identification and avoidance of adverse impacts. Namibia's EA policy is an especially strong one. It would, however, benefit from more stringent mechanisms for incorporating biodiversity impact studies into the EA process.

## 5.8 Conclusions and the way forward

Although there is a body of legislation in place in Namibia which conserves biodiversity, it was formulated with general conservation ideals, rather than explicitly biodiversity, in mind. For example, parks and reserves were declared for general conservation and recreation purposes, not specifically to conserve biodiversity. New laws being developed under Namibia's environmental legislation project must take account of the country's unique and valuable biological diversity. Where necessary and appropriate, they must specifically provide for biodiversity conservation.

### *Policy principles underpinning future legislation*

It is clear from our survey that current Namibian environmental laws adopt a traditional "command and control" approach

to conservation. While we do not recommend a radical departure from this, a significant shift is clearly needed. Future legislation should be underpinned by the following general policy considerations.

- *The integration of biodiversity conservation aims into land-use and national planning laws*

A distinction must be made in Namibia between commercial and communal lands. Different tenure philosophies and legislation underpin each: while private individual ownership typifies the former, group and communal tenure is the main feature of the latter. The Agricultural Commercial Land Reform Act (6 of 1995) was recently passed, while a draft Communal Lands Bill has been circulating since 1995.

Ways to accommodate biodiversity conservation in these developments are:

- development of the conservancy concept;
- legal requirement of environmental assessment procedures for relevant development projects and policies;
- creation of intersectoral structures and mechanisms for improved information flow between sectors.

Each of these is linked to a number of general considerations set out below.

- *Devolution of natural resource rights and responsibilities*

Government administration in Namibia is characterised by strong central control. Thirteen administrative regions have been declared, but their Regional Councils lack legislative and executive capacity, and their powers, set out in the Regional Councils Act (22 of 1992), are ill-defined.

Conservation efforts will succeed only where there is direct community involvement in the