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Resource Access and Range Land Management
in Three Communal Areas of Namibia

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Summary

1. This study is intended to offer a broad review of access to and management of land in the communal areas of Namibia. Its focus is on range land, with particular attention to three areas where the Sustainable Animal and Range Development Programme (SARDEP) is piloting its activities: Blouwes in the South; Okakarara in the East; and Okongo in the North.
2. Policy and programme design should recognise that they face neither ignorance nor anarchy in communal areas livestock production and range management. Many rural people are expert livestock producers and range managers, and some are familiar with an array of range management procedures and institutions.
3. The study reviews and summarises the confusing heritage of land legislation which Namibia inherited in 1990, much of which remains in force. It points out, however, that colonialism in general, and its apartheid variant in particular, have engendered informal social practices in areas where the ruled have always lived. For Namibia, this meant that in the communal areas, civil societies generally did not conform to statute law, but rather functioned according to community consensus and custom.
4. A clear example of this is the continuing importance of traditional leaders in local range land management in the areas researched by this study. Despite their lack of legal authority for these purposes, traditional leaders are still widely referred to in range land management matters. The study found that few rural people are aware that such authority may officially be vested in the local magistrate.
5. The study did not find indigenous range management *systems* still functioning in the study areas. *Elements* of range management skills and systems, however, are still widespread. For instance, the concepts of rotational grazing, differential grazing and browse management, and the principle of defining certain range land areas for use by specific groups of stock owners, are still well known. The latter is the primary element of indigenous range management on which modern management systems for communal areas should be built.
6. The central foundation of order on which traditional and modern range management must operate is the twin concept of community and territory. There must be a specified group of stock owners linked to a specific, defined unit of territory.

7. However, the challenge in building on the institutional foundation of defined groups and areas is to retain the ecological principle of flexibility that permits groups to negotiate shared grazing and stock mobility in times of stress.
8. In keeping with other commentary about communal lands in recent years, this report recommends that Government needs to expedite the drafting and publication of an adequate Communal Land Act. Despite the urgency of the need for this legislation, its preparation should not be rushed, but should be consultative and participatory.
9. Beyond specifying fundamental principles and establishing key institutions, a new communal areas land law should be enabling rather than prescriptive. It should recognise and facilitate local group 'ownership' of, responsibility for, and financial authority over, specified land areas, their natural resources and the revenues generated from them. While 'ownership' need not necessarily mean freehold tenure, it should entail proprietary rights strong enough to generate a sense of managerial responsibility, and strong enough to legitimate the exclusion of non group members from use of the land area.
10. The report recommends that land legislation should adapt the concept of conservancies pioneered by the Ministry of Environment and Tourism (MET), and develop a more general model of a community land management body - for example a community land trust - with the right to generate and use revenue from resources in its management area.
11. A recurring theme in this report is the need to define communal areas land management units clearly - be they for livestock and range management, or for broader community management purposes. It is equally important to define who the members of a land managing community are.
12. This means that Namibians should resolve the potential conflict between local communities' right to local control and the exclusion of outsiders - keys to successful common property resource management - and the Constitutional right to move and live where one chooses. One way of doing this might be to develop a clear distinction between residence rights and resource use rights.
13. Community land management authorities should be empowered to raise local land use taxes - such as grazing fees - and to use the revenue for development purposes they identify.

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14. The issue of private fencing of communal lands has been evaded for too long and requires urgent attention. Realism is needed about the likelihood of existing fences being removed. The report suggests ways of rationalizing and safeguarding remaining communal rights. Once again, however, this depends on Government expediting appropriate communal areas land legislation. The study found that areas currently being 'defensively' fenced by some communities threatened with private fencing might form the basis for future community land trusts, or for further camp demarcation as part of range land management plans.

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1 Introduction

1.1 The purpose of this study

This study is intended to offer a broad review of access to, and management of, land in the communal areas of Namibia. It was carried out by a team from the Social Sciences Division (SSD) of the Multidisciplinary Research Centre, University of Namibia, in collaboration with staff of the Ministry of Agriculture, Water and Rural Development (MAWRD) and its Sustainable Animal and Range Development Programme (SARDEP).

Such a study is necessary because of the uncertainty which still, five years after independence, surrounds range land management legislation, institutions, and practice in the communal areas of Namibia. Although the nation's affairs are now guided by a clear and exemplary Constitution, there have been few significant initiatives regarding land access and land management for communal areas. Strong memories remain of the intricacies of colonial regulations for different parts of the country; but although there is now clearly a different political and constitutional dispensation, many people are uncertain about which laws and rules still apply on the ground. Although they suspect that some sort of pragmatic compromise functions in the field to combine elements of the old (including traditional leadership) and the new, policy makers and civil servants have inadequate information on how this blend of local political, social and economic realities operates in practice. There is a strong sense of concern about perceived land degradation and deepening poverty; as well as a fear that communal areas are sinking into institutional anarchy, where only the strong survive by further expropriating and degrading already over-utilised range lands.

These are the perceptions; the facts are harder to come by. SARDEP has begun with a careful exploration of the realities in its pilot areas: Blouwes in the south; Okakarara in the east; and Okongo in the north. This study is intended to complement that work with further investigations of how people actually gain access to, and manage range lands in these areas - together with a broader national overview of the legislation pertaining to this sector. The full terms of reference appear in Appendix 1. In brief, the key tasks are:

1. To review the broad legal framework governing access to, utilisation and management of land in communal areas.
2. To investigate the regulations, if any, that exist to regulate grazing rights, management practices and grazing fees in the study areas; how such regulations are enforced, and for what purpose grazing fees, if still collected, are utilised.

3. To study the social and institutional framework governing the allocation, utilisation, and management of communal land for livestock production purposes. More specifically:
- To what extent is, or was, access to grazing and browsing resources regulated in the three study areas?
 - Is there any hierarchy of range management authority and access rights, and if so, which level makes the key allocation and management decisions?
 - What is the range of land use and resource management rights in each study area, and how has it come about?
 - What do residents of the study area perceive to be the strengths and weaknesses of current range management practices?
 - How are range land use and/or management disputes settled in these areas?

To amplify the terms of reference and set the context for this study, some initial remarks follow on the key issues which need to be addressed.

1.2 Anarchy or order?

Africa has been ill served in recent decades by allegations that a 'tragedy of the commons' is unfolding on its communal range lands. It is not the role of this study to explain the inadequacies of the 'tragedy' concept in any detail. In outline, a more accurate understanding of communal areas range management distinguishes between true common property resource management regimes, and situations of open access. In the latter cases, there is no effective management system: perhaps because the land is not worth enough to make such a system worth while (in a barren desert, for instance); perhaps because the state has asserted ownership and management authority, but in fact lacks the resources to manage effectively; or perhaps because modern political, economic, or social trends have caused local management institutions to disintegrate. In open access situations, there is no resource management system: the individual interest of resource users prevails; some of the strong survive; and grave or even irreversible land degradation is common. Usually, the 'tragedy

of the commons' is in fact a 'tragedy of open access'. Communal institutions, governing common property resources, can be highly effective as agencies of sustainable resource management.¹

Is Namibia being ill served by perceptions from Windhoek that there is institutional anarchy in the communal areas? Better information is needed on the extent to which true open access situations have now evolved; why; and what the implications of this situation are. But it is at least as important to assess the extent to which local people do continue to manage their resources with at least some success; and to show that, however confused the legal context may be and however grave the demographic and environmental pressures, some order does persist in the affairs of communal areas range users. Such evidence should counter the view that communal or 'traditional' land management has no place in modern Namibia, and that the only solution for communal areas livestock production is conversion to freehold. The reality is more complex.

1.3 Regional variations

Understanding this complex reality is made more difficult for planners and policy makers by the vastness of Namibia; its environmental and ethnic diversity; and, corresponding to the latter, the intricate and often contorted variety of rules and regulations imposed by colonial regimes and the apartheid system in different parts of the country. SARDEP has taken a realistic first step towards untangling this knot with its identification of pilot areas in southern, eastern and northern communal areas, within which field work for this study was carried out. The challenge amidst this diversity is twofold. First, it must be recognised that loose generalisations about the communal areas are dangerous, and usually wrong. Secondly, general principles and common concerns must nevertheless be identified, on the basis of an accurate understanding of local variation. Namibia is now one nation, and there can be no doubt that national systems of local resource management must now be developed. The key to success will lie in making these systems flexible and participatory enough to allow for local economic, environmental and social variety: stressing the ownership, authority and responsibility of communal areas resource users.

¹ Pickney, T., and Kimuyu, P., *Land Tenure Reform in East Africa: Good, Bad or Unimportant?*, *Journal of African Economies* 3(1), pp. 2-28. p. 3 ff.

1.4 Legal structures and practical realities

Namibia faces a special challenge in unravelling the contorted legal heritage of the colonial and apartheid systems. This heritage was not swept away at Independence; much of it remains in place, although nobody seems able to say exactly how much of it, or where. One clear task, which this study begins to address, is to sort out which of the overlapping layers of legislation are still in force, in which of the communal areas. This archival detective work is necessary, but the time and resources devoted to it should not be exaggerated. What Namibia needs now - and has already needed for five years - is clearer, simpler, land legislation applying nation wide. The primary reason for cataloguing which of the earlier legislation still applies is to ensure that the new laws comprehensively repeal the old ones. This will avert the recurrence of problems which currently provide a second reason for an accurate statement of the legal situation: disputes about land access or authority which are grounded in confusion about the continuing legality of old regulations in certain parts of the country.

Of greater importance, both for effective range land development programmes now and also for appropriate legislation for the future, is an accurate understanding of the current practical realities of range land access, ownership and authority in the communal areas. The law may say one thing; people may do another - and this compromise *may* be an appropriate response to local requirements, endorsed at all levels of society and local government despite its legal invalidity. Conversely, individuals or groups may be expropriating or managing range resources in ways which are environmentally unsustainable, economically discriminatory or socially divisive - as well as illegal. Then, as always, the question must be whether the law is politically or logistically capable of enforcement. When new land and environmental laws are prepared, the same concerns apply. Will such laws be socially acceptable, and will governments be prepared or able to enforce them? There is a growing consensus that national legislation is not the best way directly to control local land access or use, particularly in communal areas. Rather, local systems and sanctions, locally endorsed and applied, are more likely to provide the social legitimacy upon which all law ultimately depends for its effectiveness. The role of national legislation and authority should be to support and validate such local systems.

1.5 Leadership and authority

As this study shows, one of the key current compromises between official systems (or the lack of them) and local realities concerns the role of local leaders in range land access and management. Traditional leaders continue to occupy a central place in local land authority structures, despite the fact that their formal authority in this sector was in most cases removed decades ago by colonial legislation and appears not to have been reinstated by the new Traditional Authorities Act. Current realities reinforce the argument made above: where local institutions remain strong and local society continues to endorse traditional leaders, these leaders still play a central and effective role in local land management. Until direct challenges to this authority arise or other grave crises emerge, national legal structures and authority systems are of secondary importance.

1.6 Methodology

These initial remarks give some indication of the conceptual and practical complexities of range land access and management in Namibia's communal areas. The present study attempts to contribute toward a better understanding of these issues. Three sites, all of them SARDEP test areas, were selected for this study. They are: Blouwes in the Karas Region, Okakarara in the Otjozondjupa Region, and Okongo in the Ohangwena Region. In all cases the SSD team worked closely with local SARDEP representatives regarding the communities within the pilot area to be surveyed. The timing of visits to different communities was left to local SARDEP personnel. At Blouwes and Okakarara, SARDEP Local Facilitators were encouraged to participate in data collection. At Okongo, the Local Facilitator was not yet on site, so the SSD team worked closely with members of the Interim SARDEP Committee.

The research instrument developed in this project is shown in Appendix 2. It included basic types of questions one would find in a field survey questionnaire and questions one would find in key informant interviews. The reasoning behind this mixture of methods was that the issues of resource access and management demanded an array of data which neither type of questionnaire could capture on its own. In addition to the questions, the research instrument included PRA exercises in resource mapping, determination of resource hierarchies, and determination of income hierarchies. Prior to the beginning of the study it was decided that representatives of the SSD, the Ministry of Lands, Resettlement and Rehabilitation, SARDEP, and GTZ, would meet after the first leg of the study to discuss refinements in the instrument and to incorporate them into the latter two legs of the research. The GTZ adviser

of the Northern region of the SARDEP programme also provided valuable input on the best ways to elicit data in the Okongo area.

The instrument was administered in two ways - individually and as the basis of a focus group discussion. There were a number of reasons for this. First, the SSD team was joined in Blouwes by Regional Control Officers from the Ministry of Lands, Resettlement and Rehabilitation. In order to expose them to different modalities of data collection, the two methods were used. Secondly, there were certain localities at Blouwes which chose to be interviewed collectively. In both the preceding cases a determination was made on which questions to administer collectively and which to administer individually. The combined SSD/MLRR team would divide into two groups with one conducting a group interview while the other conducted individual interviews. In Okongo, however, the sheer numbers of people required a change of strategy. Group meetings were held, with certain individuals selected for one-to-one interviews. This method was also strongly requested by the Interim SARDEP Committee for the area. Due to language problems, this created possible biases in results from the one-to-one interviews.

1.7 Structure of the report

Following this introduction, the second chapter of this report provides an overview of existing land legislation in Namibia. Chapters Three and Four review the core concerns of this study. Chapter Three discusses how access to range land in communal areas is currently secured. It looks at the strategies involved in obtaining access, and the rights and responsibilities that currently exist once that access is obtained. Chapter Four examines the systems of range land management that may or may not function in the communal areas. Chapter Five provides recommendations that arise from this discussion.

2 Background to land legislation and land tenure in Namibia

2.1 The legal legacy

Sixty-eight years of often conflicting and poorly designed legislation have left the current legal framework governing resource access in Namibia confused. Table 2-3 on page ? gives a summary of the relevant legislation and proclamations that have been promulgated since 1922. It is noteworthy that many of these regulations were seen by one authority as still being in force, though the actual validity of this claim has yet to be tested in a court of law.²

There is a common perception in Namibia that the powers and duties of traditional leaders and/or traditional authorities³ regarding the allocation of access to land were removed at independence. This is, however, not the case, as the process began in 1922 with the *Native Administration Proclamation* issued by the Administrator for South West Africa (SWA). This proclamation transferred most powers of traditional leaders to the local magistrate. Since then significant actions taken by the South African and Namibian governments have been:

- Government Notice 68 of 1924.
- South African Development Trust and Land Act of 1936 and as modified by Proclamation R.188 of 1969.
- AG 8, 23, 26, 29, 32, and 50 of 1980.
- Ordinance 2 of the Damaraland Representative Authority, 1986.
- Ordinance 3 of the Tswana Representative Authority, 1986.
- The Namibian Constitution.

Despite these various laws and proclamations, there is one common thread -- powers over land and resources were taken away from traditional leaders and traditional authorities, and vested in various offices of the state. Yet, consultative powers over both the granting of

² van der Byl, P.C., *Legal Position Relating to Land Occupied in Namibia on a Communal Basis*, Republic of Namibia Ministry of Lands, Resettlement and Rehabilitation, Windhoek, 1992.

³ As best as can be understood, these two terms can be used interchangeably as a traditional leader in a given area can also be the traditional authority. There is also the possibility of a traditional authority which consists of a council or group with powers and rights in addition to a traditional leader.

resource rights, and certain aspects of management - settling disputes in particular - were affirmed. Table 2-1 below summarizes these rights.⁴

Table 2-1. Findings of Advocate van der Byl regarding the general powers of Traditional Authorities⁵

1.	Tribal Authorities are not empowered to make allotments of land in areas set aside for natives.
2.	Tribal Authorities cannot claim compensation in relation to the allotment of land.
3.	Tribal Authorities have a right to be consulted on the following actions taken by a magistrate: <ul style="list-style-type: none"> • the granting of land by a magistrate • allotting land to a widow by the magistrate • moving natives into an area, natives must consult the local tribal authority before seeking permission from the magistrate.
4.	Tribal Authorities can deal with land disputes subject to appeal to a magistrate.

Retention of this consultative power is significant, as it meant that for the average resident of a communal area, the local headman or board, or council was still the body to whom one went for questions of resource access and dispute settlement. Indeed, as will be seen in Section 3.3 on page ? below, very few residents of the communal areas who were interviewed for this study knew that their permission to live on their land was derived from a magistrate or other government official.⁶ Effectively, therefore, the status of the headman and/or traditional authority did not change when viewed from the bottom up.

⁴ Again, caution must be urged in this summary as there are provisions of other laws, notably Ordinance 2 of the Damaraland Representative authority and Ordinance 3 of the Tswana Representative Authority of 1986 which could apply to traditional leaders and traditional authorities in the respective jurisdictions of those Bantustans.

⁵ van der Byl, P.C., Legal Position, p. 71. Though the confused legal status of the Damara and Tswana Ordinances of 1986 complicates this picture. Please refer to Table 1-3 for a complete description of the acts from which these rights are derived.

⁶ This raises an interesting academic question as to exactly how different magistrates approached their legal responsibilities and duties regarding communal lands. Certainly very few complete lists of resident in any given reserve were maintained. And the question of whether or not headmen bothered to report the arrival of new residents or the movement of residents within a reserve to a local magistrate is not clear.

Table 2-2. Recognized Tribal Authorities under various AG proclamations

Second Tier Group	Tribal Authority Recognized	Powers and Duties
Bushmen	Board established to look after various aspects of the welfare of the "Bushman Nation"	No rights or duties prescribed.
Caprivians	The Basubia and Kuta The Maŵe and Kuta.	No rights or duties prescribed.
Damaras	Traditional authorities are community councils established under Ordinance 2 of the Damaraland Representative Authority in 1986. The following were recognized: Sesfontein, Anker, Bersig, Khorixas, Anichab, Okombahe, Tuwisis	Traditional Authorities: were given the power to make recommendations and give advice the Executive Committee of the Damaraland Representative Authority on the following:: <ul style="list-style-type: none"> • _Determination of grazing fees in a ward. • _In connection with the regulation or prohibition of farming activities in a ward. • _Limit numbers of stock. • _Grant grazing rights to newcomers. • _Act on matters relating to the default of rent or grazing fees. • _In connection with the acquisition, alienation, grant, transfer, occupation and possession of any right to communal land.
Herero	Headmen of various wards. Mbanderu Community Authority Okamatapati Community Authority	The Okamatapati and Mbanderu Proclamations of 1974 provide for the following: Responsibility for all matters affecting the material, moral and social welfare of the Native population in the area, including the development and improvement of land within the area.
Kavango	Kwangali Mbunza Sambuyu Gciriku Mbukushu	
Namas	Berseba Group Bethanie group Nama Daman Gertsen Group Gochas Group Khauben Afrikaanders Witboois Ouni Group Gami-Nun	Tribal Authorities generally administer affairs of tribe. Tribal Authority exercises powers assigned the Responsible Minister (of Coloured Affairs) in relation to land administration.,
Owambo	Kolonkadi-Eunda Kwaluudhi Kwanyama Mbalantu Ndonga Ngandjera	No statutory powers or duties prescribed.
Tswana		See powers of Damaras with regard to headmen.

In addition to rights and duties, the definition of traditional authorities was affected by this myriad of legislation. While many of these authorities followed extant ethnic and social divisions (for example those of the Caprivi, Kavango and Owambo areas), some were drawn with more political notions in mind (as in the Damara wards and the Mbanderu Community). Again, while the legal basis for the creation of these authorities might be called into question,

they remain, in the communal areas, as contemporary social facts. Table 2-2 above describes the traditional authorities that have been recognized.

On the following three pages, the array of legislation over land in the communal areas is presented. This presentation should not be considered authoritative, only illustrative. In this analysis, we have tried to indicate which laws, acts and proclamations have been repealed, which are of unclear status (though they may have continuing legal validity) and those whose status can best be deemed as current. Due to the confusing nature of these statutes, the situation must be considered as in a state, of flux as legal challenges could dramatically change the picture presented below.

Table 2-3. Laws and proclamations regulating communal lands, 1915 – 1990

Year	Name of Act or Regulation and synopsis	Status	Management Provisions
1915	Basters of Rehoboth, Namas of Berseba, Damaras of Okombahe had 'home areas' recognized from German Occupation. Kaokoland, Owambo area, Okavango, and Caprivi not mentioned.		No
1920	<i>Crown Land Disposal Proclamation</i> , Provided for the distribution of Crown Lands to Natives. Power vested in Administrator of SWA.	Unclear	No
1922 1924	<p><i>Native Administration Proclamation</i>, Administrator (Later amended to responsible SA Minister) may set aside areas for "sole use and occupation of natives generally or of any race or tribe of natives in particular and the inhabitants thereof shall be subject to such restrictions and to such regulations he may prescribe"</p> <p>Management provisions provided under section 20 of this Proclamation, <i>Government Notice 68 of 1924</i>:</p> <ul style="list-style-type: none"> • Magistrate exercises general control over reserves in his district. • Magistrate divides, where necessary, reserves into wards and appoints a headman for each ward. • Magistrate empowered to make allotments of land and to transfer residents to any other site. • Magistrate required to keep a register of all natives in a reserve. • Headman prohibited from making allotment of land or redistribution of land or granting permission of any person to reside in a reserve without express permission of Magistrate. • Natives are prohibited from changing residence without permission of Magistrate. 	Unclear	Yes
1923	<i>Government Notice No. 122</i> added Neuhof, Tses reserve, Ovitoto reserve, Otjituuo reserve, Epukiro reserve, and Aminius reserve to existing reserves of Berseba, Bondels, Okombahe, Sesfontein, Fransfontein and Soromas. Kaokoland and Caprivi designated Native Reserves. Owambo and Okavango designated Native Territories.	Unclear	No
1928 1930	<p><i>Native Administration Proclamation</i>.</p> <p><i>Government Notice 60 of 1930</i> under provisions of this Proclamation publishes the following duties and powers of traditional leaders.:</p> <ul style="list-style-type: none"> • Efficient administration of laws relating to allotment of land and kraal sites. • Prevention of illegal occupation or squatting on land. 	Unclear	Yes

Table 2-3 Continued

Year	Name of Act or Regulation and synopsis	Status	Management Provisions
1936	<p><i>South Africa Development Trust and Land Act.</i> Establishes responsibility for land set aside for Natives under previous acts.</p> <p>This act provides for the following:</p> <ul style="list-style-type: none"> • Permission to occupy native land – Regulation 47(3). • The magistrate is empowered to settle disputes in cases where there is no headman in a community. • Tribal Authorities have the right to be consulted on the following actions by a magistrate: <ol style="list-style-type: none"> 1. the granting of land by a magistrate; 2. allotting land to a widow by the magistrate; 3. moving natives into an area, natives must consult the local tribal authority before seeking permission from the magistrate. • Tribal Authorities can deal with land disputes subject to an appeal to the magistrate. 	Unclear	Yes
1969	<p><i>Proclamation R.188</i> establishes the following regulations for the above Act:</p> <ul style="list-style-type: none"> • application of Land Survey Act of 1927 • communal land falls under the control of the Native Commissioner in each District (transferred to the magistrate in 1985) • The magistrate may grant permission to occupy for arable and residential purposes, but only after consultation with local tribal authority of the local headman • The magistrate may allocate land to a widow after consultations with tribal authority or local headman • A widow may continue to occupy the land of her deceased husband until her death or remarriage • Any portion of land allocated by the magistrate will be marked with beacons or pegs, etc. • Rights to access cannot be used as collateral, nor can they be transferred to anyone who is not a native, nor can they be subdivided. • The Minister can suspend the rights of anyone to occupy communal land, or if he deems it in the public interests to terminate those rights. • The magistrate may cancel any arable or residential allotment if the conditions of application are not met with. • No native shall move into or take up permanent residence on communal land unless he has obtained written permission of the magistrate and after consultation with the local chief or headman. • The magistrate or a local traditional authority or chief if there is one, will have the power to administratively settle disputes over grazing rights, rights of way or any other rights. 	Unclear	Yes
1954	<p><i>SWA Native Affairs Act.</i> Transfers Native Affairs from the Administrator of SWA to the responsible Minister in the South African Government.</p> <ul style="list-style-type: none"> • Government Notice 68 of 1924 was not repealed. 	Unclear	No

Table 2-3 Continued

Year	Name of Act or Regulation and synopsis	Status	Management Provisions
1968	<i>Development of Self Government for Native Nations.</i> Aimed to provide self-government for the various population groups in certain areas set aside under its section 2. The following areas were delimited: <ul style="list-style-type: none"> • Damaraland, Hereroland, Kaokoland, Kavango, Eastern Caprivi, Owambo. • Under Proclamation R.208 of 1976 the State President set aside certain land for the Bushman Nation; this was done under Section 2(1)(g) of this Act. • Provisions of this Act were repealed under AG 8 of 1980, and the existing representative authorities of each population group ceased to exist. 	Repealed	No
1972	<i>Namaland Consolidation and Administration Act.</i> Includes areas in Bethanie, Gibeon, Keetmanshoop Districts into Namaland: <ul style="list-style-type: none"> • For sole use of Namas. • State President (SA) may include other areas into this land. • Administered by the Minister of Coloured Affairs • No intention to grant self government to the Namas. • No intention to eliminate provisions of the 1954 <i>SWA Native Affairs Act</i> that refer to the 1936 SA Trust and Land Act, or to Government Notice 68 of 1924. 	Unclear	No
1974	<i>Proclamations 177 and 178 of the Republic of South Africa</i> regarding the establishment of Community Authorities in the Mbandero Community of the Rietfontein Block and Okamatapati respectively.	Unclear	Yes
1978	<i>Administration of the South African Bantu Trust in SWA, AG 19:</i> the affairs of the South African Bantu Trust (also known as the South Africa Development Trust) transferred to the Administrator General of SWA.	Unclear	No
1980	<i>Representative Authorities Proclamation, AG 8,</i> established the "second tier" authorities. This did not include the Bushman area.	Unclear	No
1980	<i>AG 26, 23, 29, 32, 50:</i> these referred to land noted in section 2 of the <i>Development of Self Government for Native Nations of 1968</i> , and declared all areas to be communal ground. <i>AG 35</i> declared all land in the former Namaland as communal.	Unclear	No
1986	<i>Ordinance 2 of the Damaraland Representative Authority.</i> Traditional Authorities were given the power to make recommendations and give advice the Executive Committee of the Damaraland Representative Authority on the following: <ul style="list-style-type: none"> • Determination of grazing fees in a ward. • In connection with the regulation or prohibition of farming activities in a ward. • Limit numbers of stock. • Grant grazing rights to newcomers. • Act on matters relating to the default of rent or grazing fees. • In connection with the acquisition, alienation, grant, transfer, occupation and possession of any right to communal land. 	Unclear	
1990	<i>Namibian Constitution.</i> Article 147 repeals all proclamations relating to second tier authorities.. Paragraph 1 of Schedule 5 gives control of all land in the former second tier authorities to the Government of the Republic of Namibia. There is a general transfer of power from the State President of South Africa. Ministers of the South African government and the Administrator General to the State President of Namibia.	Current	No
1992	<i>Regional Councils Act.</i> Establishes Regional Governments in Namibia and gives them power over the physical development of their regions.	Current	Yes

There are a few significant variations in the basic legal pattern described above in Table 2-1. These are in the Okamatapati and Rietfontein areas of the former Hereroland, and possibly in parts of both the former Damaraland and the Tswana Bantustan. In these areas traditional leaders and traditional authorities were granted greater powers to determine resource access and to engage in certain aspects of range land management. The situation here is murky due to a successful legal challenge to the Mbanderu Community Authority over certain of their basic rights, and due to the provisions of the Namibian Constitution which negate laws passed by the Second Tier Authorities. For the land planner, however, the situation on the ground may be slightly different. The reasons for this are presented in Section 3.1.

2.2 Recent initiatives and developments

Since independence there have been a number of efforts to clarify the confused administrative situation regarding communal lands. In 1994 the Government of Namibia passed the Agricultural (Commercial) Land Reform Act, which sets out provisions for the regulation of freehold land. Currently a much discussed partner act which deals with communal lands is still awaited. An act on Traditional Authorities has been passed, but unfortunately it only refers to the future empowerment of Traditional Leaders without specifying the dimensions of those powers.

Since 1990 the Sustainable Animal and Range Development Programme (SARDEP) has been in operation. The main objectives of this programme are: first, to promote the sustainable utilisation of natural resources; secondly, to reduce desertification and rangeland degradation; finally, to promote the economic development of populations living in the communal areas. The programme has been active in the East and in the South where a supportive infrastructure has been developed. SARDEP also began, in 1993, the establishment of similar support structures in the North, and has recently started working the West of Namibia. This infrastructure has included the provision of trained personnel to assist in community organisation, and through those individuals to enable the development of community-based organisations which are the vehicle through which local management schemes are realized.

At present the programme is leaving the Orientation Phase in the East and South. During this phase communities have been trained in organisational skills and in the fundamentals of range management and livestock production. These communities will shortly enter the Implementation Phase where they put into action the various plans they have developed. In the North SARDEP is currently in the Orientation Phase in parts of the Omusati, Oshana and Ohangwena Regions, and this year the programme will start in the Erongo and Kunene Regions.

3 Access and rights

3.1 National legal framework

As discussed in Section 2.1 above, the legal framework governing access to lands in communal areas is confused. Perhaps the most significant effect of this situation is the presence of an informal, *de facto*, system governing the allocation of resources. The *de jure*, or legal, power to grant access to resources has, since 1922, been vested in a magistrate or other government official. Under this regime, traditional leaders were granted the power to only advise the concerned government official about the movement and location of residents in a communal area. Yet, as will be seen below, an overwhelming number of residents in communal areas still ascribe the power to grant access to grazing and other resources to the local traditional leader. Factors which could possibly explain this discrepancy are:

- Traditional leaders, through their advisory powers, effectively continued in the same role as before 1922. For the average resident of a communal area the traditional leader was the authority to whom one went on questions of access to resources. Generally, traditional leaders were supposed to act as the intermediary between communal dwellers and magistrates or other government officials.
- The extent to which any magistrate actively oversaw the activities of a traditional leader is unclear.
- Through the decades of South African rule, the colonial government vetted traditional leaders and generally deposed those whom they thought would challenge colonial authority. Conversely, individuals who were considered sympathetic to the aims of the colonial government were installed as traditional leaders. This "trust" by colonial officials who knew that they were dealing with an individual whose aims and attitudes had already been vetted, may have given traditional leaders a degree of informal autonomy in their decision making.
- Colonialism in general, and its apartheid variant in particular, have engendered informal societies in areas where subjugated groups have always lived. For Namibia this meant that in communal areas and locations civil

society generally did not function according to statute law but rather according to community consensus and custom.

3.2 Significant local variations in the legal framework

3.2.1 Blouwes

Parts of the former Namaland, Blouwes included, are made up of what are commonly referred to as the "Odendaal Farms." These are commercial farms which were purchased by the colonial government and added to the former Namaland. Some of these farms were divided into posts and further subdivided into camps. Two significant factors arise from this situation.

- The land in question was fenced. The external boundaries of posts were fenced as well as the internal divisions of camps. The team found that, in the twenty odd years since this division took place, some fences had been maintained by regular inspection and repair. This allowed residents of posts and/or camps to know precisely the extent of their resource base, and more importantly to keep others from using that resource base.
- In certain cases individual families were the sole farmers in a specific post. While the exact reasoning behind such decisions was not clear, it did give the farmers in question a sense that they could keep other farmers from moving into that post.⁷ In one of two such cases interviewed, the farmer had a very definite sense of how to manage her grazing resources. She was able to do so because she knew that others could not bring their animals into her post.
- Apparently there were a number of farms transformed from communal to freehold in the Rehoboth Gebeit. This was done under provisions in the AG proclamations that established the various Bantustans in different parts of the country. The extent of this transformation and the precise nature of the AG provisions are currently under investigation.⁸

⁷ The principle means for doing so was the consultative process that would take place between the local traditional leader and the farmer. Residents felt that they would be asked by a headman if someone could move into the post, and that they could refuse.

⁸ Howard, J.W., *Personal communication*

3.2.2 Okakarara

Two major differences in the national legal pattern were found in the East:

- In the former Herero Bantustan, community authorities were established for the Mbanderu community in the Rietfontein block as well as in the Okamatapati area. Presumably these two authorities had rights over "the development and improvement of the land in the area", and in Okamatapati there was some division and fencing of land⁹.
- According to a recent analysis of land in Namibia, a claim was made that certain portions of land which had been surveyed and "registered in a deeds office" would turn from communal to freehold land "after a maximum of fifteen years."¹⁰ Unfortunately, neither the extent, nor the location of such parcels of land is indicated.

3.2.3 Okongo

In the North, the normal pattern is communal. A king, or senior headman, is above a number of headmen, each of whom controls the land in his community. The major exception to this pattern is in the Mangetti Block of farms to the Northeast of Ohshivelo. These farms were established during the period of the Owamboland Bantustan. Generally, wealthier residents of the area have paid for rights to use these farms, and they view their use of the resources on these farms as exclusive. The presence of these farms has triggered the creation of other exclusive plots of land - some of which are extremely large even by commercial land standards.

⁹ Moorsom, Richard., *Comparative and Multidimensional Analysis of Communal and Private Property Resources in Africa: the Case of Namibia*. MS. Windhoek, 1994. P. 24.

¹⁰ *Ibid.* p. 24. The author of this paper implies, through his citation, that this provision was in many if not all of the AG edicts which created the Second Tier Authorities.

3.3 Avenues of access

The questions in the research instrument which covered this topic asked for three general pieces of information:

- How did one obtain permission to farm in a specific area?
- What are the limits of allowing relatives to share farming resources?
- Is there a hierarchy of preference as to people one would assist in moving into one's area to begin farming?

This set of questions elicited very surprising results. It is well known that traditional leaders do not have legal power to grant access to land. Yet, 44% of the respondents when questioned as to who, or what institution, gave them the permission to farm or live in a specific area, stated that they received their rights from a traditional leader. Another 37% stated that they received their permission through inheritance. Significantly, only 10% obtained their permission through "legal" channels, that is by obtaining permission from a magistrate, or other designated government official.

Almost half of the respondents indicated that they would be unwilling to let a relative with a large number of animals come and farm with them, even if this was only a temporary arrangement. (This result contrasted to the almost unanimous response of allowing relatives with only a few animals to move in and farm.) The next highest number of respondents would send that relative to the local traditional leader for permission. Asking residents of the local community for their permission was the next choice, followed closely by accepting the relative outright.

The situation in Blouwes was most striking. The headman had long since moved to Warmbad, approximately two hundred kilometres to the South. Many members of his Council (Raad) had also been absent from the area for a number of years. Only one Council member still lives in the area. Many respondents, including some who had lived at their farms for over twenty years, could not recall ever having the headman visit them to check on local grazing conditions.

Obviously, there has been a breakdown of the traditional system. Yet, the headman was still the authority most residents of the area would seek out with regard to issues of access. This was true even when members of the team challenged respondents on the contradiction of a

man who had not lived in the area for some time making crucial access and management decisions on their behalf. Residents stated that if they needed access to the headman, they would do one of three things: drive to Warmbad and speak to him, drive to Warmbad and bring him to Blouwes, or ask him to come via the radio.

One settlement in Blouwes was noteworthy for its divergence from this pattern.. In Vergenoeg, a SARDEP Test Area, residents stated that they would make their own decisions regarding who could come in and obtain access to local resources. Then they would inform, and not consult, the headman.

Table 3-1. Response to a relative with many animals who wanted to move in and farm (total of all three communities)

Response	Percent
Refuse	46
Send to Headman or local Councillor	20
Accept	17
Ask community for advice	9
Other	8

Two points about the discussions surrounding the answers to this question are noteworthy. First, the generally stated reason for refusing was a lack of grazing and/or water in the area. Another way this was often put was "We are too many here already to accept anyone else". Included in these discussions was a concern over where one's children would farm if too many people were allowed into the area. This raises the question of whether a strategy of sending a relative to the local headman was not merely a polite way of saying "no." One respondent stated, "I will send him (a relative) to the headman, because I know that the headman will come around to ask us. And, in those discussions, I can refuse." Obviously, this respondent felt that it was better to shift the burden of refusal to another individual, especially when family was involved. We were unable to ascertain whether or not others who responded that they would send a relative to the headman were adopting a similar strategy, but it is a strategy which must be considered.

In light of the above, responses to another set of questions deserve consideration. These questions in the research instrument (Questions 2.3.4 to 2.3.6) asked what people would do

if either a relative, friend, or acquaintance wanted to move into their area and start farming. The overwhelming reply - 79% of all responses - was to send that person to the local traditional leader to get his permission. Was the strategy of sloughing the act of refusal off to another in operation here? A number of respondents noted that if the traditional leader could find room for this person, then they would be allowed to move into the area. There was an expected pattern of differentiation, however, with the follow-up question of whether or not the respondent would go along with a relative or friend or acquaintance to meet the headman, and to express support for his or her application. Generally, people were much more willing to go along with a relative or a friend than a mere acquaintance. The fact that a relative or friend was seeking permission, however, was not always a guarantee of support.

Given the above, a pattern of ease of access emerges: new users of a resource will have the most difficulty moving into an area. Outsiders with either kin or friendship ties would have less difficulty, depending on the local situation and the nature of the ties. The easiest path to resources would be for those who gained their rights through generational transfers. This pattern of access needs careful consideration by policy makers. A number of respondents noted to the team that in communal areas it has been normal to send children to school so they can best participate in the market economy. Of those children, one, perhaps two are then designated to inherit the family's assets and to continue farming. This individual or individuals would face almost no resistance in gaining access to resources.

The only place where there was apparent variation to this pattern was in Okongo. According to residents of the area "Okongo still has room for new farmers." Residents told the team that the first permanent settlement of what is now the eastern Ohangwena Region began only fifty years ago. Many parts of the area are being cleared for human habitation for the first time. There is also the historical connection between Kwanyama people in Southern Angola and the largely Kwanyama population of Okongo. The possibility of cattle moving on an informal basis into Southern Angola, a common practice in the 1800s and early parts of this century, cannot today be dismissed.¹¹ If this is the case, then the effective "room" in and around Okongo might allow an individual who wanted to immigrate into the area an easier route than they might expect in either Okakarara or Blouwes. This is, however, a theoretical statement, that should be checked by direct observation. See also the following section which discusses this matter from a slightly different perspective.

¹¹ Krieke, Emmanuel. The Oshimolo Trail, paper presented to Trees Never Meet, But People Do History Conference, University of Namibia, August - September 1994. Ms.

3.3.1 Ethnicity and access

One issue that could arise in the granting of rights in certain communal areas is the principle that land "belongs" to a specific ethnic group. Constitutionally this idea is illegal, yet decades of ethnic division in Namibia have fixed the idea in the minds of many communal area residents. Residents of Blouwes and Okakarara were the strongest exponents of the areas belonging only to the members of their particular ethnic group. As was noted in Chapter 2 above, people in Blouwes do have a former legal basis for making this claim. In Okakarara, almost all respondents stated the land in their area should belong to members of the Herero ethnic group. One respondent, after stating this fact, scoffed at the idea and stated that there were a "number of Damaras and Owambos" living in the area. The SSD team found one Damara farming in the area, though he had legally adopted a Herero surname. Other representatives of ethnic groups may have been clients or employees, but the SSD team was not able to interview any.

In Okongo the situation was presented somewhat differently. Most respondents stated that "anyone can come in and live here as long as they are Namibians." As informants said this, many also noted the Constitutional guarantees which allow any Namibian to live and settle where they choose. One factor for stating this proposition may be the perception among the community that there is still space in the area for new farmers. Another factor may be that the constituency returned a majority of well over 90% for SWAPO in the 1994 election, and they may see support of the Constitution as a duty that flows from party loyalty. The strength of either reason was difficult to ascertain in the time available. One wonders, however, what would happen if, in a few years' time, the area begins to fill up to the point where local residents perceive it as full.

3.4 Hierarchical rights and fencing

There has always been social differentiation in the communal areas. Certain families and/or individuals have been better farmers, or had higher economic, political or social status. There are indications that in the past families with higher status were able to obtain greater access to resources, though references to such matters are rare.¹² Today, those with greater resources appear to be, if they so choose, opting for the erection of illegal fences rather than relying on traditional means of gaining priority of access to resources. Other factors such

¹² Carstens, Peter., *The Inheritance of Private Property among the Nama Reconsidered*.

as political patronage and political power have crept into local discussions of who receives better access to resources than others. However, one member of the team with considerable experience in Namibia's communal areas prior to independence was struck by the lack of these last two factors in discussions about rights.¹³

One issue that may be related to the above is the issue of fencing. The explosive nature of this issue in the communal areas made direct questioning about fencing difficult. Despite this obstacle, from time to time the team attempted to measure the extent of fences erected along the roadside. Many stretched for a kilometre or more. One extraordinary fence, if measured correctly, stretched for more than twenty kilometres.¹⁴ Obviously the costs of putting up fences of such dimensions are high, thus creating a selection process whereby less-well-off farmers are excluded from this option and the resources illegal fences enclose. Informally, residents of the Okakarara and Okongo areas, where illegal fencing is prevalent, felt that political patronage and close relationship to local political power was a prerequisite for erecting a fence. This assertion needs to be tested.

Fencing was the major issue in the Okakarara area. Illegal fences are so pervasive that erecting fences is a source of cash income for some households. The prevalence of fencing has led some communities into the practice of what they termed "defensive fencing" where they must erect fences to prevent their traditional grazing areas from being enclosed by people outside the community.¹⁵

Fencing was also an issue in the Okongo area. In one community in particular, Oshalumbu, the issue was highly charged. In other communities, however, the issue was not as emotional. This may be due to the presence of a reasonable amount of open land. Despite this fact, it was obvious that individuals were starting to enclose large parcels of land, and within a few years the situation may resemble the situation around Okakarara. It was also

¹³ This may also be due to the fact that the SSD team was only in each area for two weeks.. Researchers who visit these areas for longer periods of time may have the chance to become attuned to the subtler dynamics operating in each community.

¹⁴ See Holme, D. and Kooiman, A. Mapping Fences in Oshikoto Region, Namibia, National Remote Sensing Centre, Technical Notes NRSC, 2. Windhoek, 1994. and the accompanying map prepared for the Social Sciences Division.

¹⁵ This phenomenon obviously highlights the need for further research into the strategies behind fencing in the communal areas. The matter is, however, difficult to research as residents of communal areas generally know that they are breaking the law when they erect fences. The SSD team came across instances where individuals denied the presence of fences, even when those fences were in plain view, in one community the SSD team was literally chased away because the residents were under the impression that we were there begin the process of removing the fences they had erected.

clear that a number of individuals had begun the practice of "defensive fencing" by enclosing parcels of land to preserve their access to the resources before others did the same.

3.5 Grazing fees

In Blouwes and Okakarara all residents interviewed remembered paying grazing fees. The practice apparently stopped at independence, presumably because the former Second Tier Authorities were responsible for the collection of these fees. Respondents were able to give the rates for fees, usually N\$ 0.20 per Small Stock Unit and N\$ 1.00 per Large Stock Unit per year. A small handful of respondents, no more than five individuals, still paid grazing fees. In Blouwes those who paid drove forty plus kilometres to Tses and paid the local extension officer of the MAWRD. In Okakarara residents again drove roughly the same distance from outlying areas to pay the local extension officer. No one in the sample could recall an extension officer coming to their farm, as had happened in the past, and collecting fees. In Okongo no one could recall paying any fees whatsoever.

Those who paid fees in the past generally felt that they obtained some benefits from doing so. Repairs to water pumps, assistance to farmers, grading of roads, were frequently mentioned as benefits accrued from paying grazing fees. An underlying strategy may be that the individuals who pay fees do so to retain, officially, their claim to grazing rights. The topic which generated the most discussion, however, centred around what should be done with grazing fees if the government should begin collecting them in the future. The overwhelming response from Blouwes, Okakarara and Okongo was that the money should be cycled directly back into supporting the farmers who have paid the fees. And, that local, community control over those funds should be exercised. These points should be considered by policy makers who may find that introducing, (as in Okongo), or reintroducing, (as in Blouwes and Okakarara) what is essentially a tax could meet with resistance.

Having those fees go to the central fund of the government in Windhoek was always the last option. It was felt that the delay between farmers sending a request to Windhoek and the actual response was too long. One individual in Okongo pointed to the army worms which were devouring his field. If his community had the funds, he stated, they could have driven to Oshakati and bought a sprayer and insecticide. As it was, he could only watch his mahangu be eaten while he waited for the MAWRD to send a spraying team. By the time they arrived, if they arrived, his crop would be finished.

3.6 Gender issues

Questions about who controlled and/or did the work associated with which resource, initially elicited a response like "Men do the men's work, and women do the women's work." When pressed, however, certain patterns did emerge. Women participated most in activities centred on the domestic sphere. Tasks such as collecting firewood, tending to gardens, milking stock, drawing water were seen as women's activities. Looking after animals and grazing were associated with men. In Okongo there was one exception to this general division of labour as men were supposed to milk cattle and goats.

A factor which affected management and/or major use of a resource was the technology involved. If, for example, water was far from a household and required the use of a donkey cart or a vehicle, then it was generally seen as men's work. The same could also be true for collecting firewood. Some respondents felt that collecting firewood close by the house was women's work while collecting it from a distance was men's work. In Okakarara and Blouwes, the team regularly saw men returning after a day of herding a family's animals with a load of firewood balanced on their heads.

Respondents always added a strong caveat to their answers, however. If, for example women or men were absent from the farm, and work had to be done, then whoever was around would do it. In the Okongo area, where men have traditionally engaged in contract labour, this was a very common attitude. In other areas it must be remembered that until independence one purpose of Native Reserves and later Bantustans was to serve as reserves of labour to largely white owned enterprises on commercial farms and in the larger towns, and the regular withdrawal of men from these Reserves during this century has probably disrupted indigenous sexual divisions of labour and resources.

4 Use and management

4.1 National legal framework

Much like the situation regarding laws governing access to resources, the situation governing management aspects of communal land is confused. Existing legislation is concerned with either the right to occupy, and/or the right to move into, or within, communal lands. Only the *Native Administration Proclamation of 1928* as defined by *Government Notice 60 of 1930, Ordinance No. 2* of the Damaraland Representative Authority, *Ordinance No. 2* of the Tswana Representative Authority (both of 1986) and the *Regional Councils Act* of 1992 have provisions which refer to management (see Table 2-3). Of these, the Ordinances of the Damaraland and Tswana Representative Authorities have the most specific provisions. These two Ordinances were repealed by the Namibia Constitution. On the ground, however, it may very well be that traditional leaders in the areas defined by the two Ordinances continue to assert the management powers that were given to them.

The *Native Administration Proclamation* of 1928 and *Government Notice 60* of 1930 refer to the efficient administration of laws relating to allotment of land and kraal sites. This could imply the management of land. The *Regional Councils Act* gives Regional Councils the duty of planning the physical development of their regions, and this could include the management of resources such as range lands in communal areas.

4.2 Significant variations in the legal framework

The Rietfontein and Okamatapati communities were given certain provisions that relate to management. This included the "development and improvement of land" within their defined areas. The community authorities seem to have defined this phrase broadly. They apparently decide where individuals can live, farm, and divide the land by fencing. As noted above, however, certain powers of the Mbanderu Community Authority in the Rietfontein area were successfully challenged in a court of law. Hence, the actual powers these communities have under law may be different from the powers exercised on a day to day basis by the two community authorities.

4.3 Resource priorities

Responses to this question (2.4.2 in Appendix 2) were most successfully generated in Blouwes and Okakarara. In Okongo, the team had neither sufficient personnel to carry out the mapping and ranking exercises, and meet the work plan which was developed in conjunction with the Interim SARDEP Committee. It should also be mentioned that the presence of four and sometimes five Nama speakers on the team during the first week of data collection at Blouwes greatly facilitated the collection of this data. Accordingly, this is where the most complete coverage of mapping and ranking was obtained.

In this exercise respondents were asked first to draw a map of their farm, and to include all the important resources they could imagine. Once the map was complete, they were given twenty small objects and told to place the most objects on the resource they considered the most important, the second most on the second most important resource, and so on until all the objects were gone. The tally was then recorded. The three most important categories, water, grazing, and stock, are the central categories for pastoral farmers. It is noteworthy that water and grazing received the highest rankings with stock placing third. The cumulative results for Blouwes and Okakarara appear below.

Table 4-2. Importance of resources to farmers in Blouwes and Okakarara

Resource	Ranking
Water	271
Grazing	190
Stock	169
Garden	65
House	55
Fencing	25
River	24
Road	12
Vehicle	9
Dam	9
Friends	9
Chicken Coop	7
Pigs	6
Land ¹⁶	6
Shop	5
Donkey Cart	4
Shade Trees	4
Auction Pen	3
Phone	2

When the results for Blouwes and Okakarara are disaggregated, the overall pastoral pattern stays the same - that is, water grazing and stock are considered the most important - though the internal ranking of these three components differs.

Table 4-3. Importance of Resources for Blouwes Farmers

Resource ¹⁷	Ranking
Water	199
Grazing	134
Stock	77
Garden	52
House	41
River	24
Fencing	23
Friends	9
Chicken Coop	7
Pigs	6
Road	5
Donkey Cart	4
Shade Trees	2

Obviously water and grazing are very high priorities for residents of Blouwes. Stock places third to these two basic resources, though also very high.

¹⁶ This category arises from individuals who defined "land" as the area in which their farm was situated. When prompted, they also broke the category down further into 'grazing,' 'river beds,' etc.

¹⁷ Based on 43 respondents.

In Okakarara, stock are the highest ranking resource with water second and grazing third. Before rearing the ethnic explanation that Hereros care only for their cattle, it must be noted that a major water pipeline runs through the area visited by the team, and that for many residents water was readily available. The area also receives much more rainfall than Blouwes - 300 mm per annum with an average variability of 35% versus 100 mm per annum with an average variability of 60% at Blouwes. As a result, the productivity of Okakarara is higher than in Blouwes. The vegetation regime around Okakarara would appear as a tropical rain forest to a Blouwes farmer accustomed to seeing as far as his eyes can see because there are no trees to block his or her view. Water and grazing, therefore, rank higher in Blouwes because these are the scarce components of the pastoral pattern. An additional factor for this slight variation may be the role of stock keeping in the household incomes reported by residents of Blouwes and Okakarara. This difference is discussed in section 4.4 below.

Table 4.4. Importance of resources to Okakarara farmers

Resource ¹⁸	Ranking
Stock	92
Water	72
Grazing	56
House	14
Garden	12
Road	12
Dam	9
Land	6
Shop	5
Vehicle	4
Auction Pen	3
Shade Trees	2
Fencing	2
Phone	2

4.4 The role of stock keeping in economy and society

Respondents were asked to gauge the importance of their sources on income in a similar fashion as they were asked to gauge the importance of their resources. After being asked to state their sources of income, they were then given twenty small objects and told to place

¹⁸ Based on 15 respondents.

the most objects over the most important source of income and so on. For Blouwes and Okakarara the most important sources of income were first, livestock and second, pensions. For Blouwes remittances ranked third, while in Okakarara owning a shop and/or casual work (related to erecting fences) placed third.

One factor for this difference may be due to the economics of small versus large stock farming, a factor which means that there is more cash available in the Okakarara area, which would make owning a shop much more viable. Herd sizes in Blouwes were small, with only a handful of individuals having more than a hundred head of small stock. On average respondents noted that they could expect a price between N\$ 140 to N\$ 200 per animal. They usually sold twice per year and would sell two to five animals per sale. This would amount to approximately N\$ 2,000 per sale if the highest values were obtained. This best case scenario would come to N\$ 4,000 annually.

In Okakarara residents usually sold cattle. They expected to sell their animals two or three times per year, and to sell one to five head per sale. The price range was reported between N\$ 900 and N\$ 1,200 per head. This could amount to N\$ 18,000 per year, again in a best case scenario. The actual figure is probably lower, as many respondents estimated a monthly income from farming at between N\$ 500 to N\$ 1000 per month, or N\$ 6,000 to N\$ 12,000 per year. Still, the numbers are much better than those obtained in Blouwes.

Respondents were also asked to state where the money from farming activities went. Aside from personal and household expenses, a significant reason for selling animals was to support children away at school. The following sections provide a detailed breakdown of income hierarchy and use of earnings for each area visited.

4.4.1 Blouwes

As is indicated in Table 4-5, sale of livestock and pensions placed first and second in terms of importance. Remittances were third, owing, it seems, to a strategy of rearing educated children who can enter the job market and send money back to elders on the farm.¹⁹ While household composition was not part of the study, it did seem that many houses had a preponderance of both the aged and women with children below school age. The sale of

¹⁹ See Fuller, Ben. *Institutional Appropriation and Social Change among Agropastoralists in Central Namibia, 1915 –1980*. Ph.D. Dissertation, Boston University, Boston, 1993. Chapter 6 gives an extended discussion of the rise of this strategy.

crops seems to be due to the efforts of SARDEP, as the Local Facilitator has promoted the growing of fodder and other crops in Test Areas. Usually, respondents noted that they considered crops as a consumable, and that even though they may not be sold, they brought significant income into the household. This holds true for all areas, though particularly in Okongo.

Table 4-5. Importance of income sources in Blouwes

Income source	Percent
Sale of Livestock	37
Pension	29
Remittances	16
Sale of crops	11
Wages	5
Other	2

Table 4-6 Persons supported with farming income – Blouwes

Persons supported	Percent
Household	44
Relatives in other places	12
Children at school	37
Other	7

4.4.2 Okakarara

In Okakarara the spread between sale of livestock and pensions is four times that of Blouwes. This is probably due to the economics of large stock marketing discussed above. Another way of viewing this divergence is to consider that a pension of N\$ 135 per month provides less income in a year than two head of cattle sold at the lower end of the common price range (N\$ 1,620 versus N\$ 1,800). Also, remittances were significantly lower as a source of income. Again, household composition was not recorded in this study, but it appeared to members of the team that the number of young men resident on farms, who were trying to become farmers as their main source of economic activity, was greater in Okakarara than in Blouwes.

Table 4-7. Importance of income sources in Okakarara

Income source	Percent
Sale of livestock	55
Pension	23
Other	13
Remittances	6.4
Wages	2
Sale of crops	0.7

Table 4-8. Persons supported with farming income in Okakarara

Persons supported	Percent
Household	43
Relatives in other places	4
Children at school	49
Other	4

4.4.3 Okongo

Sampling bias is directly responsible for the results obtained in Okongo. As was discussed in Section 1.6, most information here was gathered at large community meetings. A few individual interviews were conducted at each site. The selection criteria were primarily linguistic as the one Oshikwanyama speaker on the team was needed to conduct the group meetings. The possible language alternatives were English and Afrikaans. This automatically culled out individuals with little or no schooling, and led to a high percentage of teachers being interviewed. Consequently, the importance of pension and wages are the reverse of what they were found to be in Okakarara and Blouwes. Had a more representative sample been obtained, the results could have been different. Also, remittances are not recorded, a fact at variance with commonly held perceptions of the importance of this source of income to the economy of the four Regions which make up the former Owambo Bantustan. One fact does deserve consideration - the importance of crops to the households of these wage earners. Clearly, people who are on a salary also choose to plant mahangu.

Table 4-9. Sources of income in Okongo

Income source	Percent
Sale of crops	49
Wages	28
Sale of livestock	17
Pension	4
Other	2
Remittances	

Table 4-10. Persons supported with farming income in Okongo

Persons supported	Percent
Household	56
Children at school	38
Relatives in other places	6
Other	

4.5 Management institutions past and present

A set of questions about range land management institutions was included in the research instrument. Respondents were asked to note institutions which had provided them with assistance in range land management and/or farming methods during their lifetimes. What is surprising is the lack of help from either extension officers, or other government officials, which people said they had received. Family and neighbours were by far the most frequently mentioned providers of assistance on farming knowledge and practices. Traditional leaders were hardly noted. It was thought by the SSD team that, given the importance of the magistrate in the legal control of communal lands, they might have played a more prominent role in resource management; but magistrates did not get a single positive response from any of the respondents.

The general absence of local extension officers of MAWRD in the replies was disturbing. It was already noted that many residents of Blouwes had never seen their local extension officer. Many in fact did not even know his name. In Okakarara, the extension officers appeared to be bogged down in the clerical task of filling drought aid claim forms for farmers who waited for days in the queues outside the MAWRD offices. Local representatives of the Veterinary Services got praise for their activity. In Blouwes the Veterinary Services Officer apparently visited every farm twice a year giving advice on

animal diseases, poisonous plants and other aspects of stock rearing. We were not able to ascertain the frequency of visits by Veterinary Services personnel in Okakarara and Okongo, but they both appeared active. It should also be mentioned that in a short meeting with the extension officer in Okongo, he also seemed to be more active in site visits to local farmers. SARDEP was regularly mentioned in discussions surrounding this question, particularly in Blouwes.

It appears that family first, then neighbours, were the main source of advice, assistance, and knowledge about farming and management practices for farmers in the three areas studied. A new threat to this chain of instruction is appearing. The fact that many farmers in the communal areas are supporting children at schools is clear. By sending children to schools, farmers are interrupting the education which would take place at home. Thus, elders feel that traditional forms of knowledge, some of which they believe will make their children better farmers, are being lost. When people were asked to name what institutions had provided their parents with help, the answer was invariably family.

4.6 Conflict resolution

Traditional leaders play an important role in conflict resolution. This is perhaps the one area where customary and statute law coincide. In our discussions with communal residents, however, the fact that a decision of a traditional leader could be appealed to a magistrate was unknown. A general pattern of conflict resolution emerged. First, the heads of the households concerned would try to settle the situation. If they were unable to do so they would take the matter to the local member of the headman's council (if one existed) for their area. This individual could either resolve the problem or take it directly to the local headman. Appeals to higher authorities such as a paramount chief, king or council of headmen were not discussed. One reason for this may be the quasi-political nature of these institutions and the fact that some of them are based outside the communal areas. In Okongo, however, the pattern was slightly different as there was a Senior Headman with authority over all headmen in the area. He serves as a higher authority of appeal.

The issue of conflict resolution in Namibia's communal areas needs to be better understood. In particular, research is needed into decision making about how and when one takes a conflict to a higher authority, as well as the role community consensus plays in the ultimate decisions made by traditional leaders.

4.7 Regulations governing range land use

In this section of the research instrument, questions focused on the presence, if any, of indigenous rules or regulations governing the use and management of range lands. Specific questions were asked about:

- who can come in to the area to farm;
- the types of animals which can graze in the area;
- the times of year animals can graze in the area;
- how many animals can graze in the area;
- rules over poisonous plants;
- rules about diseased animals.

No overall pattern of management regulations was uncovered. The notion of actively managing range land had only been discussed in SARDEP Test Areas. Some Test Area residents told the team of their desire to begin a management plan. Unfortunately, they saw the lack of empowerment at the community level and the unclear status of traditional leaders as obstacles to implementation. Despite the lack of indigenous plans, however, there were patterns unique to each site.

4.7.1 Blouwes

In Blouwes there was continued support for the headman as the main institution through which certain management decisions would take place. This was particularly true in the case of who can decide who moves into the area. There was a sense expressed that the area was for use by members of the Nama ethnic group with some basis for this sentiment in previous law.²⁰ Yet, the ability of the headman to allow members of other ethnic groups into Blouwes, as had recently occurred, went unchallenged. The rationale expressed for acquiescing to this unpopular move was that the headman had the unequivocal right to do so.

The question about what kind of animals could graze in an area regularly brought a shrug, or a chuckle, and the reply "It's obvious -- only small stock." Indeed the number of cattle is very low at Blouwes. The number of donkeys and horses is high, however, and many

²⁰ The *Namaland Consolidation and Administration Act* of 1972. The author knows of one case in 1987 where this law was used to force a member of the Damara ethnic group to leave his lifelong residence in Namaland and move to Otjimbingwe.

people were shocked when told by one of the representatives from MLRR that a donkey eats as much grazing as 11 goats every day.

According to most respondents each camp was capable of supporting 1,000 -- 1,500 S.S.U., though it is significant that the team found only one farmer who had more than 500 S.S.U. Those respondents who moved into the area at the beginning of the Odendaal Plan noted that they were told this figure by Administration officials. These numbers have since become enshrined in local lore. Given the discrepancy between the actual performance of farmers living in these camps and these claims, it might be wise to reassess the carrying capacity of the area. In one sense the unrealistic carrying capacity figures quoted to the team could be viewed as a hindrance to the development of locally based management. Because the limit has probably never been approached in anyone's farming experience, they may not see over stocking as a problem.

The general answer to the question about the time of year animals could graze in the area was that only during and after the rainy season was grazing possible. By implication the dry periods of the year were very difficult for farming.

As regards poisonous plants, those who responded to this question either knew themselves and "managed" them by pulling them out when they came across them, or they noted that the Veterinary Services Officer, who visits all parts of the Blouwes area twice a year, tells them about poisonous plants and what kinds of antidotes they can use. Because of his frequent visits to the area this official was also the first person many residents would tell if they saw diseased animals, though there were a few respondents who stated that they would notify the headman.

4.7.2 Okakarara

In Okakarara there was a definite sense that the land in the area was for members of the Herero ethnic group. Like Blouwes, the person responsible for determining who came in was the local headman.

The response to the question about the types of animals that could graze in the area was similar to that at Blouwes, even though the specific answer was different. The shrug of the shoulders was usually the same as in Blouwes, though the answer was along the lines of, "Any kind of animal can graze here." Interviewees generally noted that the dry periods of

the year were more difficult than the rainy season, but no one indicated any restrictions about the farming of certain animals..

The question of "How many animals can graze here?" elicited an array of answers. In one SARDEP Test Area, for example, the following responses were given:

Table 4-11. Estimates of carrying capacity in the Okakarara area

Respondent	Large Stock Units	Small Stock Units
A	800-1000	300
B	1500	No Answer
C	500	10
D	900	
E	Does not know	Does not know
F	800	300

Unlike at Blouwes, there was no initial designation of carrying capacity for the area. This left residents to their own devices when trying to estimate carrying capacity. Two factors made this difficult for them, and will probably do so for others. First, the boundaries of the community may or may not be known to all, and the area of the community may include parcels where illegal fencing has occurred. Second, the team found that respondents were less than forthcoming when it came to providing even rough estimates of their herd sizes. People tend to have their herds dispersed to a number of locations, and they rarely included all of these in their estimations. No respondent indicated that there was any form of control over the overall numbers of stock that could be in their area.

Most respondents noted that they do not have many poisonous plants in the area. Responses about diseased animals were a mixture ranging from reporting the animals to the State Veterinarian, to working with the individual to assist him or her, to reporting the matter to the headman or the Regional Councillor. It should be noted that there have been active farmers associations in the area for some years, and that many farmers were well acquainted with the necessity of inoculating their animals against common diseases.

4.7.3 Okongo

In Okongo the headman, or *mwene wo kunde*,²¹ is the ultimate authority over who can move into the area. In a significant departure from the situation at Blouwes and Okakarara, all residents noted that anyone, Damara, Herero, Nama, or whatever, could move into the area as long as they obeyed the rules and were not a "botsotso." Again, there is space in the area, and one wonders what the response will be like once that space begins to diminish.

There were no restrictions on the types of animals which could graze in the area, nor were there restrictions over the time of year. Here the presence of a mixed farming economy versus a pure stock farming economy comes into play. Care had to be taken, however, to ensure that stock did not stray into the mahangu fields during the growing season. In Blouwes and Okakarara, residents noted that when there was rain and nearby grazing, they did not feel the urgency to have a herder because their stock generally grazed closer to the homestead. Yet, for the farmers in Okongo, this was perhaps the time they were most careful to watch their animals.

The question of how many animals could graze in the area elicited lengthy debates at every meeting. Like the other two communities, the effective limit on the overall number of animals was given as the condition and quality of local grazing. A brief discussion with the State Veterinary Officer indicated that the overall number of cattle in the Okongo area was probably 5,000, though the officer was not 100% certain of this figure. Like the other two communities, this finding, when compared with the numbers derived from the meetings, indicates that an assessment of the carrying capacity of the area is needed. The following table indicates the estimate of carrying capacity as derived during group meetings in different villages in the Okongo area. No mechanism for the overall control of stock numbers was noted.

²¹ Literally "owner of the village."

Table 4-12. Estimates of carrying capacity in the Okongo area

Respondent	Large Stock Units	Small Stock Units
A	2000	2500
B	2500	3000
C	3080	7000
D	8000	4000
E	5000	1500
F	4800	800
G	1000	200

When asked about poisonous plants, a few of those at the meetings discussed how they had traditional methods for controlling them and for providing antidotes to some toxins. Many at the meetings were not aware of these methods, indicating that these skills may be dropping out of the population. If this is the case then perhaps the matter should be investigated further to ensure a retention of this indigenous knowledge. Apparently there were few, if any, problems with diseased animals, though the proximity to Angola and the porous border could create future problems. Unfortunately, the brief interview with the local Veterinary Officer did not cover the prevalence and types of stock diseases.

4.8 Effectiveness and control of current management systems

Since there is no overall range land management system in any of the three communities, it is impossible to assess the effectiveness of management systems. Control of whatever management does take place is vested in the head of household. Here, there is variability among farmers in the communal areas. Obviously successful farmers are using methods and practices which imply some form of management, while marginal farmers are perhaps not as active. This is an area which could use further investigation.

4.9 Range management and farming strategies

After the Blouwes leg of the research, an evaluation of the results was conducted with representatives from the Ministry of Lands, GTZ and the SSD. At that meeting it was decided to add questions about indigenous farming practices. Overall it appeared that most farmers take care to ensure that their animals graze in areas where the vegetation is good. Also, many farmers sent their cattle to places where they knew grazing conditions were

good, and their small stock to where browsing conditions were good. These were not always the same places. This implies at least a minimal knowledge of the changing nature of grazing conditions in one's area, and suggests that there is an extant level of expertise which a programme such as SARDEP could build upon. Some farmers did note that they tried to reserve a portion of the grazing in their area for the dry, winter season, but that due to the lack of coordination with other farmers this was difficult. For example, residents of one SARDEP Test area in Blouwes had spoken extensively about a management scheme. But, because they live in the small section of Blouwes which was not fenced, they were unable to prevent the movement of outsiders from other communities into their area when it had good grazing.

In each settlement or community visited, people had informally divided the grazing areas according to the portion of the community where they lived. Accordingly, those living on the southern side of a locale primarily grazed their animals on that side, while those on the eastern side used primarily that side and so on. This represents a minimal form of management, but not one which could be considered well developed. Usually, the team found no indication that plans for range land use had been made at a community level.²²

Herders were observed in all three communities. The use of herders depended on two factors: the supply of labour available within the family and, where that was lacking, the ability to pay. Overall, families with larger herds and greater resources were able to use herders more frequently. Traditionally herding was done by boys, but in recent years the trend towards putting those children in school has increased. The use of children as a source of labour in stock farming has declined in recent years due to pressure to send children to school. By no means, however, has the practice been completely eliminated, as the team did see a number of young boys acting as herders when they should have been attending classes. We were unable to determine the relationship any of these boys had to the households where they worked, and this may be a question that requires further investigation. It could be that these young boys were actually from the poorer households in the community. Respondents noted specific times of the year when herders were used. These were: calving season, the time when mahangu was growing, or in the winter when the animals were more likely to range further from the household. The most significant aspect of the general lack of full-time

²² Since data was not collected for these questions at Blouwes, the situation there is not included in this finding. At Blouwes, particularly in the SARDEP Test Areas, there was a sense expressed that certain areas should be set aside for grazing. A general impression of the team was that residents of the Test Areas in Blouwes were slightly more advanced in their thinking on this matter.

herders is that these factors are seen by farmers as contributing to increases in stock theft and subsequently toward the increase of fencing.

5 Recommendations

5.1 Indigenous knowledge and management systems

Policy and programme design should recognise that they face neither ignorance nor anarchy in communal areas livestock production and range management. Whatever their leanings towards modern veterinary or botanical science, civil servants and extension workers must be aware of the often sophisticated knowledge which the current generation of rural stock owners have about animal health and nutrition, and about local ecology. This is a resource to build upon, rather than ignore. The SSD team found two sources for this knowledge. One is indigenous, and is passed down from generation to generation. The second comes from the ability of communal farmers to learn modern techniques. Communal farmers who work on or around commercial farming ventures do become aware of the principles and methods used in commercial farming enterprises, though once back in a communal area they may lack the capital and/or institutional framework required to implement this knowledge. In a similar fashion, the SSD team found that communal farmers are readily able to adopt the methods and techniques of local development projects, such as SARDEP, especially if they deem those methods and techniques to be potentially profitable.

One problem facing communal farmers is the declining inter-generational transfer of herd and range management knowledge. Farmers in all three areas studied felt that children's participation in school removed them from the arenas in which indigenous knowledge systems, particularly the knowledge relating to farming, were taught. This is not to say that farmers are eager to take children away from school. Indeed, the opposite is true, as communal farmers want their children to remain in school and obtain the skills necessary to participate in a modern society. SARDEP, and perhaps other units within the MAWRD, however, are well placed to assist their Test Area residents in cataloguing their knowledge about farming methods and practices. SARDEP can also approach the Ministry of Basic Education and Culture to strengthen agricultural and environmental curricula with a particular focus on practical training, and with participation by local farmers selected for their expertise.

Preparations for the research component of Namibia's Programme to Combat Desertification (NAPCOD) have stressed the importance of assessing and building upon indigenous knowledge systems. SARDEP and MLRR should participate actively in this programme and seek to apply its findings in the range management sector.

This study did not find indigenous range management *systems* still functioning in the study areas. However, *elements* of range management skills and systems are still widespread: the concepts of rotational grazing and differential grazing and browse management, for instance, and the principle of defining certain range land areas for use by specific groups of stock owners. The latter is the primary element of indigenous range management on which modern systems for the communal areas should be built. As will be stressed again below, the central foundation of order on which traditional and modern range management must operate is the twin concept of community and territory. There must be a specified group of stock owners linked to a specific, defined unit of territory.

Another key technical element of indigenous range management is already becoming hard to identify in many Namibian communal areas today. This is the principle of mobility in a semi-arid environment. Indigenous range management prospered on the basis of mobility and flexibility, moving livestock in accordance with the unpredictable behaviour of this country's rainfall and ecology. This principle is violated by modern commercial ranching, which is restricted by its fences to very low carrying capacities. The challenge in building on the institutional foundation of defined groups and defined territories is to retain the flexibility that permits groups to negotiate shared grazing and stock mobility in times of stress. That this concept remains alive is evident in the recent efforts of the Omaheke Regional Council to move livestock to temporary grazing in Kunene Region.

5.2 A legal framework

Like so much other commentary in recent years, this report makes the obvious recommendation that Government expedite the drafting and publication of an adequate Communal Land Bill. Despite the urgency of the need for this legislation, its preparation should not be rushed and must be consultative and participatory. Little if any legislation since the Constitution will be as important for the majority of Namibians as a Communal Land Act. Thorough publicity and consultation during the drafting process are prerequisites for the production of a law that will recognise the variety of the circumstances in which it will be applied, and address the full range of aspirations which rural people need it to support.

This report has noted the gap between the functioning of rural civil society and the prescriptions of statute law. This gap developed because colonial laws were repugnant, irrelevant, unenforceable or simply unknown in rural Namibia. The challenge for a new land law is to close the gap between the *de jure* and the *de facto*, and create a legal framework

which accords with communal areas realities and aspirations. Beyond specifying fundamental principles and establishing needed institutions, the law must be enabling rather than prescriptive. It must recognise and facilitate local group "ownership" of, responsibility for, and financial authority over, specified land areas, their natural resources and the revenues generated from them. While "ownership" need not necessarily mean freehold tenure, it should entail proprietary rights strong enough to generate a sense of managerial responsibility, and strong enough to legitimate the exclusion of non group members from use of the land area.

This implies a law which provides for two levels of institution. At the administrative level, and presumably covering substantial units of territory, some sort of land board will be required to take responsibility for land allocation, record keeping, planning and dispute resolution. At the local level, the law should provide for community land trusts to be constituted wherever groups of land users agree to do so. By cross reference to other legislation on trusts and associations, the law should authorise such trusts, when properly constituted, to control access to, use and management of specified land areas. The trusts should be entitled to promulgate byelaws, raise local taxes and manage the funds so generated for authorised and audited land management and development purposes.

Land legislation also needs to be explicit about the roles and responsibilities of traditional leaders with regard to land management. The recent Traditional Authorities Act has not done this adequately. Rather than generally specifying any particular function for traditional leaders within a land administration system, the land law should indicate that rural communities should determine what role, if any, such leaders will have in their land trusts or other local management bodies. Given the *de facto* prominence of traditional leaders in land access decisions, and the general strength of support they receive from the communities in which they live (see below), then some programme which provides traditional leaders with skills in making these decisions is worth consideration.

5.3 An institutional framework

In response to questions about how to make the present system in communal areas better, the overwhelming response was to strengthen local community institutions. This was coupled with a high number of answers that traditional leaders should also be strengthened as part of this process. No one in our interviews was in favour of privatising land and selling it to local people. As one resident of Blouwes put it, "If we do that [privatise land], then the strong people will buy it all up, and our children will be left with nothing."

5.3.1 Community land trusts

The concept of community land trusts has not been researched in detail for this study, and our recommendations in this regard are indicative only. The idea is already under review in Namibia, however, and much could be learned from the more detailed assessment of the concept currently taking place in South Africa. As noted earlier in this report, there is also an important precedent being set in Namibia. This is the concept of communal areas conservancies, for which the Ministry of Environment and Tourism (MET) obtained Cabinet approval this year. The necessary amendment to the relevant legislation is currently being prepared, and MET hopes to authorise the creation of the first communal areas conservancies in 1996.

The conservancy concept was first introduced in commercial farming areas, enabling neighbouring land owners to pool their farms into a larger unit, or conservancy, for the purposes of wildlife management - primarily for hunting and other tourism activities. MET undertakes technical monitoring of these conservancies, which must be legally constituted and follow approved practices with regard to management, offtake rates etc.

A conservancy on communal land "would be formed by a community or group of communities within a defined geographical area who jointly manage, conserve and utilise the wildlife and other natural resources within the defined area."²³ The definition of such areas, particularly if they were expanded in scope to include range and agricultural lands, could in future be done in consultation with the Regional Land Boards which are likely to be created by the eventual communal areas land legislation. These Boards could play a significant role in the possibly delicate process of boundary adjudication. In addition, they might develop the capacity to assist community based conservancies or land trusts by recommending different land-use zones within the confines of any community.

The conservancy concept implies considerable flexibility with regard to the geographic extent or human population of a conservancy. The policy does specify that a conservancy council would be elected to represent the community in the management of the conservancy. This council would be given full responsibility for wildlife management in the conservancy, subject (as in the commercial conservancies) to technical monitoring of sustainability and

23 Jones, B.T.B., 1995. *Wildlife Management, Utilisation, and Tourism in Communal Areas: Benefits to Communities and Improved Resource Management*. Windhoek, Directorate of Environmental Affairs, Ministry of Environment and Tourism: Research Discussion Paper. P. 5

other issues by MET. Legally constituted conservancies would be given management rights over wildlife in their areas, and to retain the hunting and tourism revenues that they would earn, for example, if they chose to enter into contracts with commercial operators. MET's policy also notes the necessity that a conservancy be clearly defined, and that its boundaries should be accepted by neighbouring communities and conservancies²⁴. It goes on to propose that each MET region would have a natural resource management committee, on which all conservancies would be represented, for technical liaison, policy and training coordination, setting of offtake quotas and related functions.

What is needed now is for land legislation to adapt the concept pioneered by MET and develop a more general model of a community land management body with the right to generate and use revenue from the resources in its management area. There would be important differences between a community land trust in, say, a stock raising area, and a communal areas conservancy as envisaged by MET: notably, the primary income generating resource in the former case would continue to be individually owned and managed, while in the conservancy case wildlife would be managed by the community and revenues would accrue primarily to the community. Furthermore, the revenues in a conservancy would often come from contracts with outsiders, whereas a community land trust's revenues might come mainly from a tax on members using the area's resources (see below). Detailed review and discussion of these ideas would be needed. For example, Norman Reynolds' model of communities allocating internally marketable shares in local resources like grazing land to all members could be investigated. But the foundations have been laid with MET's conservancy concept, and a broader policy and institutional structure now needs to be built on them. MET itself recognises that its conservancy concept is weak without clear Government policy and legislation on communal areas land tenure. MLRR, MAWRD and the Ministry of Regional and Local Government and Housing should now work closely with MET to integrate these early ideas into a broader legal and institutional framework for community land ownership and management. This might include adapting MET's ideas on a natural resource management committee in each of its regions. Instead, there could be a natural resource management committee for each of Namibia's 13 Regions, providing broader monitoring and support from MET, MAWRD and MLRR to all forms of community land trusts, including conservancies. Linked to the Regional Councils, these committees might provide an upper level land management body, below which might fall a number of sub-Regional land boards.

²⁴*Op. cit.*, p. 14.

5.3.2 Insiders and outsiders

A recurring theme in this report is the need to define communal areas land management units clearly - be they for livestock and range management, or for broader community management purposes. It is equally important to define who the members of a land managing community are. This might seem relatively straightforward: an approved register of all adult residents of the village, for instance. But some complex issues would have to be addressed. First, communities would have to determine whether, how or when to register immigrants to the area as members of the land trust who are entitled to use its resources or benefit from its revenues. This can be a significant problem if, for example, one area forms a conservancy or trust and starts earning money for its people, which residents of neighbouring areas are not receiving; or, if the area of a trust enjoys better grazing conditions (perhaps as a result of improved management) than surrounding areas. Some communities in Zimbabwe, earning large sums from their hunting revenues under the CAMPFIRE programme, have devised careful regulations about the length of residence and types of behaviour and participation required from a newcomer before he/she can qualify as a community member.

A related issue which Namibians must tackle head on concerns local communities' right to local control and the exclusion of outsiders - keys to successful common property resource management - and all citizens' right to move and live where they choose in the country. The latter is a hard won right which cannot reasonably be infringed; yet, if it means that rich people or large stock owners can move into new areas and displace already resident, poorer people or exacerbate local land degradation, it is a right that can be abused. This is one of the land legislation issues on which national, participatory consultation is sorely needed. A compromise might be along the Zimbabwean lines: that a citizen is free to live anywhere, but is not free to use local community resources until he/she has met locally determined requirements as to length of residence, environmentally responsible behaviour, local carrying capacities, participation in local institutions, and so on. This implies a clear distinction between residence rights and resource use rights. If enforced, it should avert the problems experienced in Botswana - and starting to emerge in Namibia - of large herd owners overgrazing their private commercial ranches and then turning their stock onto communal grazing lands, to which - under current arrangements - they retain rights.

Interestingly, a similar distinction appears to be made by indigenous tenure systems in the three areas studied. There is an increasing appreciation for indigenous land tenure systems in development circles because they allow for the orderly transmission of usage and rights

(largely through inheritance) and do show the ability to adapt to changing circumstances.²⁵ As was noted previously, there is a hierarchy of access to a community's resources with inheritance being the easiest, and simply moving into the community being the most difficult. Before the Ministry of Lands, Resettlement and Rehabilitation adopts a form of land tenure to promote in the communal areas, it should first investigate and thoroughly evaluate the abilities and limitations of indigenous tenure systems.

5.3.3 Grazing fees and other funds

In many (not all) areas of Namibia, the concept of grazing fees is still familiar, the collection of these fees having been abandoned only five or six years ago. If local land management bodies are instituted as recommended above, these bodies should be authorised to raise local taxes in respect of natural resource use, and to retain and use the funds so generated. Whether and how they raise such funds, or at what rates, should be left to local discretion. A grazing fee or stock tax might be more acceptable in some parts of the country than in others. The processes of revenue generation and management of these funds by local land trusts should be monitored and audited by an appropriate body within the Government and should take place in terms of approved constitutions and byelaws of the local land management authorities.

5.4 Land use planning

The research team noted important differences between Blouwes and Okakarara, where all resources are already fully (or over-) used, and Okongo, where there still appears to be space for more people and livestock. In the latter types of area, there is an opportunity - indeed it should be a priority - for SARDEP and/or MAWRD and MLRR to work with local communities to develop sustainable land use plans, before they are overtaken by events and become as crowded and over used as other communal areas in Namibia. In these more intensively used parts of the country, there is less scope for area based land use planning before the institutional development recommended above has taken place. As noted below, the camped grazing lands of areas like Blouwes may be an exception to this. Here, resources permitting, ranch scale planning may be feasible and acceptable to local users.

²⁵ Pickney, T., and Kimuyu, P., *Land Tenure Reform in East Africa: Good, Bad or Unimportant?*, *Journal of African Economies* 3(1), pp. 2-28. p. 4..

5.5 Fencing

The rapid and accelerating fencing of communal grazing areas is an issue which has been evaded for too long. It needs to be tackled soon, and constructively. There has been a great deal of negative commentary on "illegal" fencing of range lands. Much of this criticism is justified. However, it would be naive to suppose that these fences are going to be removed. Legislation to this effect is hard to imagine; its enforcement, still more so. The only effective measures at this stage would be to recognise the fencing that has already take place, and to take urgent steps to recognise and codify the remaining communal grazing rights - for example, through the community trusts suggested above - on the remaining areas not yet subjected to this effective privatisation. The *de facto* private tenure that the illegal fencers have appropriated should also be codified and rationalised. As in Botswana, such land holders might be awarded communal area leases by a local communal area land board.

These suggestions are not meant to exonerate the land grab that appears to be taking place in some communal areas of Namibia at present. They are made in a spirit of realism about what can still be done to retrieve the remaining rights of the poorer communal areas residents. Similar realism is being shown by the communities which are now engaged in "defensive" fencing in Okakarara and other areas. The areas defensively fenced in this way might form the basis for future community land trusts, and for further camp demarcation as part of range management plans.

5.6 Government and project support

Local extension officers of the MAWRD are poorly used at present. They could play a much stronger role in the transmission of farming and management skills into communal areas communities, but at present they are too desk bound with clerical tasks to do so. SARDEP currently provides a model for the introduction of such skills as well as management practices in the communal areas. Given the highly intensive support structure of this programme, there are questions as to whether it can be replicated country-wide. Two strategies should be developed to overcome this problem. First, the use of MAWRD extension officers to carry on and extend the programme (albeit at a less intensive level) should be considered. To do so would require extension officers to obtain training in PRA methods and techniques as well as in the overall objectives and aims of SARDEP. Second, the SSD team found that some communities are already adopting methods and ideas from the SARDEP programme. More formal ways of identifying and supporting these communities

should be considered. One possible means of assisting this process could be to identify and train members of SARDEP communities to assist their neighbours.

This phenomenon was a striking feature in Blouwes. Residents of a number of settlements which were not part of the SARDEP programme stated that they watched developments in the Test Areas carefully, and were trying to copy those which they felt worked. Another project, a piggery started by the Namibian NGO, R.I.S.E., also had ripple effects throughout the community. A number of respondents noted that they too were starting to farm with pigs. In one case a farmer had abandoned small stock and cattle farming (though he kept enough for personal use) in favour of pig farming. This farmer, who was one of the more influential farmers of his settlement, had invested a considerable amount of his own time and money to construct his piggery. Processes such as this should be monitored by SARDEP personnel to ascertain how well the principles of the programme are taking root within the community.

If SARDEP is to follow the recommendations offered about the development of community land ownership and management institutions, it will face a problem of capacity at local levels. Many communal dwellers are barely literate and they lack basic management skills. Establishing land trusts, or conservancies, will tax the organisational abilities of many communities. By establishing Test Area Management Committees and Community Management Committees, SARDEP has already taken considerable steps toward introducing these skills into rural areas. These efforts may be enhanced by making contact with existing NGOs that already offer training in management and legal issues. These could be the Private Sector Foundation, IMLT, and the Legal Assistance Centre. SARDEP would be well advised to establish contacts with such agencies in order that their strengths and expertise can be drawn upon in the future.

5.7 Area specific recommendations

5.7.1 Blouwes

Blouwes represents a chance for the SARDEP programme to expand. The population of the area is small, and many residents are familiar with the programme. Most of the community is already fenced, and these demarcations appear to be widely accepted. As a result, implementation of management programmes is possible. The one locality in Blouwes that showed the greatest cohesion, Vergenoeg, is in that part of the area which is not fenced. Here care must be taken to assist these farmers with the implementation of their management

scheme. Vergenoeg borders on two other communities, and the headmen of those communities need to be consulted on how best to secure the boundaries of this locality. Greater emphasis could be placed on securing better marketing opportunities for farmers. This would increase the amount of local capital for development.

5.7.2 Okakarara

Illegal fencing will be a problem in this area. The SARDEP Test Area visited was already fenced. No one expressed the desire to pull out their fences if and when a management programme is implemented. This could be a disruptive factor in the future. Efforts could be made to diversify farming activities. Some farmers were practising dryland agriculture, though more should be encouraged to do so.

5.7.3 Okongo

As in Okakarara, illegal fencing will be a disruptive factor in implementing community based management schemes. Again, it would be hard to convince those who have already enclosed land to take down their fences as part of a community wide effort. The team also found that residents of the area were woefully ignorant of the marketing structures for their products. This should be a matter of priority to the local SARDEP programme.

5.8 Other components of sustainable animal and range development

This postscript states the obvious. The issues addressed in this study - land tenure and land management - are only some of the prerequisites for sustainable livestock production and range management. Other initiatives to address production strategies, animal health and breeding, marketing strategies and marketing structures are equally important if Namibia's communal areas livestock sector is to maintain and develop its role in rural subsistence and prosperity. However, meaningful initiatives in land legislation and institutional development are probably the most urgent issue which the nation needs to address in this sector.

Appendix 1. Terms of reference

According to the terms of reference for this project, the study shall investigate and report on the following areas:

1. The broad legal framework governing access to, utilisation and management of land in communal areas. It is not expected that a detailed investigation of existing land legislation is done. Pending the introduction of new legislation on communal lands, attention should be paid, however, to the regional differences in existing legislation, (e.g. the Community Authority Proclamations which were issued in 1974 for Okamatapati and Rietfontein only). The Ministry of Lands, Resettlement and Rehabilitation will make available to the consultant relevant reviews of existing legislation and court cases that deal with this issue.
2. The regulations, if any, that exist to regulate grazing rights, management practices and grazing fees in the study areas. How such regulations are enforced, and for what purpose grazing fees, if still collected, are utilised.
3. The social and institutional framework governing the allocation, utilisation, and management of communal land for livestock production purposes. More specifically, the following points should be analyzed in detail:
 - Is access to grazing and browsing resources regulated? If no framework exists, can people remember such a framework ever to have existed? An accurate description of existing rights and obligations should be provided for each study area and where this does not exist, a description of the most recent past provided.
 - Can different levels of range management decisions and grazing land rights be identified? If so, which level makes the crucial decisions on land management, allocation, and utilisation?
 - Examine whether different rights exist regarding land use and resource management in the study areas, and if so provide a description of these. Ascertain both why the present situation exists, and the underlying assumptions of the present situation.
 - Assess the perceived weaknesses and strengths of existing range management practices by residents of the three study areas.
 - Describe existing dispute settlement procedures and their use.
4. Based on these investigations, the consultant shall submit a report on his/her findings and make recommendations on the following:

-
- Specific elements of indigenous range land tenure and resource management systems which should be strengthened or reformed;
 - An institutional framework to facilitate the implementation of the recommendations above. This discussion will include perceptions of residents of the study areas as to the most suitable framework;
 - A legal framework which will accommodate the above and enable communities to use funds generated in their areas for their own purposes.
5. The research will be carried out in the following three areas:
 - Blouwes in the south;
 - Okakarara in the east;
 - Okongo in the north.
 6. The consultant is required to conduct his/her research in close consultation and cooperation with existing SARDEP structures and the communities involved.
 7. The exact methodology to be followed will be agreed upon between the consultant and the client.
 8. The consultant will submit a preliminary report to the client and SARDEP after completion of his/her fieldwork in the first locality to enable the client to make possible changes to the approach based on an assessment of the methodology and results.

Appendix 2. Questionnaire

Date: _____
Location: _____
SARDEP Test Area Community _____ Non-SARDEP Community _____
Sex: M ___ F _____ AGE _____
Stock Owner _____
Approx. how many animals can be in this area? Cattle: _____ Sheep _____
Goats _____
Other (specify) _____
Are there too many animals in this area? _____
Why? _____

Do all farms here have stock (cattle, goats, sheep, etc.) _____
What is the average herd size in this area? _____

Do you manage or look After stock for others _____
Do you manage: Cattle: _____ Sheep _____ Goats _____
Other (specify) _____
Occupation _____ Pensioner? _____
Traditional Leader _____

SECTION 2

2.3 Avenues of Access

2.3.1 How did you obtain rights to farm here? (Can answer more than one)

Inheritance	
Permission from a government officer	
Ask Chief	
Ask Headman	
Community committee	
Ask surrounding farmers	
Pay a fee for rights (from whom?)	
Rent	
Other (Explain)	

2.3.2 What would you do if a relative who had many animals asked to come here and farm with you?

2.3.3 What if the relative had only a few animals?

2.3.4 If a relative wanted to come to this area and farm, who would you tell him/her to approach for permission to come here?

2.3.5 If a friend wanted to come to this area and farm, who would you tell him/her to approach for permission to come here?

2.3.6 If someone you only knew a little wanted to come to this area and farm, who would you tell him/her to approach for permission to come here?

2.4 Overlapping and hierarchical rights

2.4.1 Draw a map of your resources (grazing, gardens, trees, water, and so on)

2.4.2 Rank the resources using 20 small objects and have the informant place the most objects on the most important resource, least on the least, and so forth.)

2.4.3 For each resource tell how you gained access to it (also state if you can give someone else access to the resource or if you must get permission of a headman/community council first)

2.5 Grazing Fees

2.5.1 Do you pay grazing fees?

YES _____ NO _____

In the Past _____

Before Independence _____

2.5.2 How often?

Every Month _____

Every Few Months _____

Twice a year _____

Once a year _____

Only once and not again _____

2.5.3 How Much? _____

2.5.4 To whom? _____

2.5.6 Do (or did you) you see any benefits from these fees?

YES _____ NO _____

Specify your answer

2.5.7 If you pay these fees how should they be spent? Or, If you were to start paying fees (again) how should they be spent?

2.6 Gender Issues

2.6.1 On the map drawn under 2.4 have people discuss who whether men or women use each resource the most, whether men or women control access at which time, during which periods, etc.

Resource	M o s t l y Women	Mostly Men
Milking	_____	_____
Plowing	_____	_____
G r a z i n g	_____	_____
Animals	_____	_____
Trees	_____	_____
Firewood	_____	_____
Water	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____

SECTION 3

3.3. The role of stock keeping in economy and society

3.3.1 If you look after and/or manage animals, on whose behalf do you do so?

- Friend: _____
- Relative: _____
- Neighbor: _____
- Employer: _____
- Other (specify) _____

3.3.2 What is your most important source of income? (Use 20 small objects and ask people to count out the most for the most important resource of income, etc.)

- Pension _____
 - Wages _____
 - Remittances _____
 - Livestock _____
 - Crops _____
 - Other _____ (specify) _____
- (e.g. veld foods, game)

3.3.3 How many times a year do you sell stock? _____

3.3.4 Where do you sell? (Permit sale, auction, people who come by, relatives, etc.)

3.3.5 Approximately how many animals do you sell? _____

3.3.6 What is the price range that you usually get for each animal?

3.3.7 Do you sell crops or produce from trees?

3.3.8 How many times a year? _____

3.3.9 Where do you sell produce? _____

3.3.10 Approximately how much do you sell? _____

3.3.11 What are the price ranges for the products you sell ?

3.3.12 Do you use these earnings to support yourself only, or do you also use them to support people in other places?

3.3.13 If so, who and where?

3.4 Management Institutions, past and present

3.4.1 How do you herd your animals?

3.4.2 Do you send them out in the veld and wait for them to return?

3.4.3 Do you send a herder with them?

3.4.4 Do you send a herder in certain times of the year?

3.4.5 If you use a herder is he/she an a relative? An employee?

3.3.6 Do you pay this person cash and/or in kind (i.e. food)

3.4.7 How is it decided how many families can graze in a certain area?

3.4.8 How do you decide when to graze in a certain area?

3.4.9 Who controls these decisions? (A headman? Heads of Household? A committee?)

3.4.10 How were the above decisions made in the past?

3.4.11 In your lifetime, which people or which institutions have you seen offer assistance in managing the rangeland?

- Family _____
- Neighbors _____
- Headman _____
- Regional Council _____
- Government _____
- Magistrate _____
- Other _____

3.4.12 Which of these do you trust the most?

3.4.13 In your parent's lifetimes which institutions did they receive assistance from in managing rangeland resources?

- Family _____
- Neighbors _____
- Headman _____
- Regional Council _____
- Government _____
- Magistrate _____
- Other _____

3.5 What are the regulations governing the following and how effective are they?:

3.5.1 Who can come in to farm?

3.5.2 What types of animals can graze here?

3.5.3 What times of the year animals can graze here?

3.5.3 How many animals can graze here

3.5.4 What are the rules over poisonous plants?

3.5.5 About bringing diseased animals into the area?

3.5.6 If you could make changes to the present system, what would you do to make it better?

3.5.7 Give more power to traditional leaders?

3.5.8 Give more power to the community

3.5.9 Give more power to the Regional Council?

3.5.10 Sell the land to people so they own it?

3.5.11 Other