

Workshop on  
" Integrating Conservancies and Community Forests in Caprivi Region"  
on 14-15 September, 2004

RAISON

# Workshop Proceedings on Integrating Conservancies and Community Forests in Caprivi Region

at the Ministry of Agriculture and Rural Development, Katima Mulilo  
14-15 September, 2004

compiled by Caren Jakubaschk, Aina M. Andreas, Peter Ries

Workshop on  
" Integrating Conservancies and Community Forests in Caprivi Region"  
on 14-15 September, 2004

**Table of Contents**

<i>1</i>	<i>Summary</i> .....	<i>3</i>
<i>2</i>	<i>List of Participants</i> .....	<i>5</i>
<i>3</i>	<i>Abbreviations</i> .....	<i>6</i>
<i>4</i>	<i>Background</i> .....	<i>6</i>
<i>5</i>	<i>Workshop Objectives</i> .....	<i>7</i>
<i>6</i>	<i>Agenda and Working Groups</i> .....	<i>8</i>
<i>7</i>	<i>Legal Issues</i> .....	<i>9</i>
<i>8</i>	<i>Options</i> .....	<i>13</i>
<i>9</i>	<i>Working Group Results</i> .....	<i>16</i>
9.1	Working Group 1: Bukalo, Zilitene, Sikanjabuka, Salambala .....	16
9.2	Working Group 2: Masida, Lubuta, Mashi .....	16
9.3	Working Group 3: Kwando.....	18
9.4	Working Group 4: Lusese .....	18
<i>10</i>	<i>Conclusions</i> .....	<i>20</i>
10.1	Legal Issues .....	20
10.2	Working Group Results.....	20
10.3	Regional strategy .....	21
<i>11</i>	<i>Recommendations</i> .....	<i>22</i>
	<i>Appendix 1: Summary of Legal Issues concerning integration of community forestry and conservancies by Andrew Corbett</i> .....	<i>24</i>

## 1 Summary

Integrating conservancies and community forests in Caprivi region aims at achieving a comprehensive community-based natural resource management approach.

In order to review experiences, current approaches, and future visions of both CBNRM strategies and to develop proposals for joint management, a stakeholder workshop was organized by the CFNEN project in co-operation with IRDNC, DoF and NFFP.

A total of 42 participants representing management committees of both area categories, traditional authorities involved, members of supporting organizations, the Directorate of Parks and Wildlife Management and the Directorate of Forestry (both MET) contributed in discussions and through working groups which focused on different community forest and conservancy areas as case studies.

Mr. Andrew Corbett participated as legal adviser and helped to clarify the complex and still evolving legal framework.

### Workshop results and recommendations

- Communities show a high interest in combining the management of game and other forest resources with a joint management approach.
- Different models with regard to spatial and organizational set-ups have been implemented or have been proposed at the workshop. Of four working groups (which each represent one case study area), three agreed upon sharing the same area boundaries managed by one or two management bodies.
- It is a dominant view that as less committees as possible should be involved in the management of one area.
- Most participants support sharing of benefits, doubt remains how revenue distribution will work and who will be the beneficiaries of revenues.
- The variety of local resource conditions, settlement patterns, area sizes and stages of project implementation requires flexibility with regard to management structures and benefit distribution.
- The new Park and Wildlife Management Bill will change the relationship between conservancies and other CBNRM institutions. This new bill should be amended in such it becomes compatible with and does not suppress other CBNRM legislation, e.g. the Forest Act.
- Integration of conservancies and community forestry should mainly be obtained through integration of Management Plans as legislation cannot provide detailed

Workshop on  
" Integrating Conservancies and Community Forests in Caprivi Region"  
on 14-15 September, 2004

guidance on integration. Joint management plans for both game and other forest resources are essential to ensure compatibility and sustainability of resource management.

- Choice of the resource management body should always depend on who has the expertise.
- A common agreement on the interpretation of central terms of the complex and confusing legal framework is required to specify rights and responsibilities of management bodies of both area categories. One possibility could be that commercial income generation from game resources requires a conservancy, from wood resources a community forest set-up and that other non-wood resources can be managed by either management body according to expertise and interests of members. Consequently, habitat management in conservancies as well as game management in community forests should be of protective nature only as long as the corresponding other area category has not been gazetted.
- Most often, conservancies cover several Sub-Khutas, while community forests only cover one Sub-Khuta. This can relate to the manageable area size. When gazetting an area category, it must be clear that the responsible committee is able to manage the whole area. For example, sufficient forest resource monitoring of a large area might be impossible for one committee while game management within a small area might not be possible either.
- Where both area categories cannot be established at the same time or evolve successively, regulations have to specify the necessary integration (and amendment) of management plans, the standardization of by-laws (conditions of resource use) and the adaptation of management structures.
- Ministries and supporting organizations should find a common position. Staff has to be well informed about legislation and policies concerning both conservancies and community forestry. Confusion among communities due to incorrect statements of staff members must be avoided.

## 2 List of Participants

1. Sikabongo D.M., DoF, Katima
2. Daisy Nheta, IRDNC, Katima
3. Rolf Sprung, CFNEN/DED, Rundu
4. Andrew Corbett, Legal Consultant, Windhoek
5. Magdalena Ya Kasita, DoF, Windhoek
6. Jo Krug, CFNEN/DED, Katima
7. Silimwe M.K., Lusese CF, Lusese
8. Saisai Borniface, Salambala Conservancy
9. Bennety B.L., Kwandu conservancy
10. Muchaka J.K., Mashi Conservancy
11. Siyambango Florence, Salambala Conservancy
12. Ntaba George., Masida CF
13. Peter Ries, CFNEN/DED, Katima
14. Francis Pukani, Masida Khuta
15. Lifumbela Victor, Lubuta CF
16. Lutabile Bernhard, Lubuta CF
17. Mpangu Pheeden, Sobe Conservancy
18. Lungine Gilbert, Kwandu Conservancy
19. Lifumbela Obby, Mashi Conservancy
20. Kutelo Moven, Sobbe Conservancy
21. Shari Pherice, Masida CF
22. Matengu Inocent, Sikandjabuka CF
23. Robert Sinyambo, Salmbala Conservancy
24. Leonard Sanzila, Bukalo CF
25. Peter Samuel, Zilitene CF
26. John Sitwala, DoF, Katima
27. Mahela Matheus, Bukalo CF
28. Tembwe B., Sikanjabuka Khuta
29. Alfred Mwala, Bukalo Khuta
30. Francis Malanzabi, Mashi Khuta
31. Sinyemba Crispin, Linyanti Khuta
32. Richard Diggle, IRDNC, Katima
33. Loice Omoro, NFFP, Katima
34. Andreas Aina M., DoF,, Katima
35. Caren Jakubaschk, CFNEN/DED, Katima
36. Melvin Lisao, MET CSD, Windhoek
37. Sikombwe Fredrick, Lusese CF
38. Kasokonya Giddius, Lusese Conservancy
39. Mbongo Werner, DoF, Katima
40. Maiba M. Saisai, MET-CBNRM, Katima
41. Masule, Chief Forester, DoF, Grootfontein
42. Albius Chunga, Lusese Khuta

### 3 Abbreviations

CFB	Communal Forest Board
CBNRM	Community-Based Natural Resource Management
CFNEN	Community Forestry in North-Eastern Namibia Project
CC	Conservancy Committee
DED	Deutscher Entwicklungsdienst (German Development Service)
DoF	Directorate of Forestry
DoPW	Directorate of Parks and Wildlife
FMB	Forest Management Body
IRDNC	Integrated Rural Development and Nature Conservation
KfW	German Development Bank (Kreditanstalt fuer Wiederaufbau)
MET	Ministry of Environment and Tourism
NFFP	Namibia-Finland Forestry Program

### 4 Background

In order to empower local people to manage and control natural resources and to contribute to both poverty reduction and resource protection, the Namibian Government is following two main strategies:

1. The establishment and management of community forests with a focus on the management of natural vegetation and related income opportunities (timber and non-timber forest product marketing, tourism, arts and crafts)
2. The establishment and management of conservancies with a focus on game and related income opportunities (trophy hunting, tourism, camp sites, arts and crafts)

While both strategies share the common objectives to safeguard valuable natural resources and to enhance local peoples' livelihoods, they are as yet implemented side by side, often in adjacent areas. Based on different policies and laws and the unique nature of targeted resources, both strategies also have different requirements for many issues, e.g. area sizes and management planning. Both strategies are also confronted with different levels of financial returns and modes of revenue administration.

Many conservancies are well advanced especially concerning capacity building, fund administration, organizational development and impact monitoring, whereas for community forests such procedures are still being developed, need to be further specified and tested.

While most conservancies are already gazetted and have gained their legal recognition, the gazettement of the first community forest is still pending. As a result, many communities already profit from or are well aware of the rights and benefits conservancies have to offer, whereas for community forests they still have to wait for the legal proclamation (gazettement) of areas. This is likely to happen during the course of 2004.

Forests and other types of natural vegetation constitute an integral part of ecosystems, habitats and landscapes. Therefore, their condition and development will not only

determine income potential of community forestry and sustain traditional land utilization but their condition will as well determine living conditions for game and wildlife and thus future income potentials of conservancies.

Consequently, and in order to achieve a more comprehensive, transparent and effective CBNRM strategy, there is an urgent need to integrate both approaches.

In Caprivi Region, seven conservancies are established while four community forests are likely to be gazetted in the near future. These areas partly overlap which is why supporting organizations, the ministry and the communities are forced to find practical solutions for these areas.

Several reports advised cooperation between conservancies and community forestry on a national level. For example, legal consultant Andrew Corbett outlines the importance of integration of community forestry into ongoing CBNRM projects, especially conservancies, in a paper dated from 2002<sup>1</sup>. A report by KfW<sup>2</sup> of 2003 emphasises as well the need to integrate both approaches.

For this reason, CFNEN in Caprivi entered into discussions with IRDNC on how to improve collaboration between the two projects which resulted in the organisation of this workshop.

## 5 Workshop Objectives

- ⇒ Clarification of legal issues of conservancies and community forestry
- ⇒ Division of areas of activity between conservancies and community forestry
- ⇒ Developing a strategic proposal for cooperation on regional level and on case by case level (FMB/CC level)

The main objective of the workshop was to find practical solutions for current challenges experienced by stakeholders. With this as a background, a regional strategy for future establishments of conservancies and community forests can be formulated.

---

<sup>1</sup> Corbett, A.W. (September 2002), Community Forestry and the new Forestry Act: A focus on interpretation and implementation, Consultancy to DoF/DED/KfW Project on Community Forestry in North-Eastern Namibia

<sup>2</sup> The German Development Bank (KfW) is the funding agency of the CFNEN project.

Workshop on  
 " Integrating Conservancies and Community Forests in Caprivi Region"  
 on 14-15 September, 2004

## 6 Agenda and Working Groups

The workshop agenda is divided into

- ⇒ the presentation of legal issues by Mr. Corbett,
- ⇒ the presentation of options for collaboration which is based on a discussion paper - jointly written by CFNEN, IRDNC, DoF with consultancy of MET-CBNRM sub-division and NFFP – which had been sent to all participants one week before the workshop was held,
- ⇒ discussions in working groups (see tables below) on case-by-case proposals, using a template of questions,
- ⇒ presentation and discussion of working group proposals and
- ⇒ summary of findings.

### Day 1

9.00	Introduction by District Forest Officer, Mr. Sikabango
9.15	Presentation of participants
9.30	Introduction (Presentation of objectives of workshop)
10.00	Presentation of Andrew Corbett (see objective 1) and discussion
11.00	<i>Tea break</i>
11.30	Presentation of options for collaboration
13.00	<i>Lunch</i>
14.00	Introduction to working groups
14.30	Working groups
15.30	<i>Tea break</i>
15.45	Continued
17.00	End of day 1
	Evening program at Hippo Lodge

### Day 2

9.00	Preparation of presentations
10.00	Presentations of working groups
11.00	<i>Tea break</i>
11.30	Continued
13.00	<i>Lunch</i>
14.00	Discussion on regional strategy
15.00	Summary of workshop
15.30	<i>Tea and end of workshop</i>



Workshop on  
 " Integrating Conservancies and Community Forests in Caprivi Region"  
 on 14-15 September, 2004

**Working Group 1**

CC	FMB	DED/DoF	IRDNC/CBNRM-SD	TA Masubia
Salambala	Bukalo Sikanjaboka Zilitene	W. Mbongo A. M. Andreas	D. Nheta	A. Mwala

**Working Group 2**

CC	FMB	DED/DoF	IRDNC/CBNRM-SD	National	TA Mafwe
Mashi Masida	Lubuta Masida	C. Jakubaschk P. Ries J. Sitwala	M. Saisai	M. Ya Kasita	C. Sinyemba

**Working Group 3**

CC/FMB	NFFP	DoF	IRDNC/CBNRM-SD	National	TA Mayuni
Kwando	L. Omorro	D. Sikabongo	R. Diggle	R. Sprung	F. Malanzabi

**Working Group 4**

CC	FMB	DED/DoF	IRDNC/CBNRM-SD	TA Lusese
Lusese	Lusese	J. Krug	M. Lisao	A. Chunga

**7 Legal Issues**

Mr. Corbett is a lawyer based in Windhoek. He has been working as an adviser to conservancies and community forestry since ten, respectively two years. He has been involved in the drafting of the Nature Conservation Amendment Act (passed 1996) and the Forest Act (passed 2002) which are the legal basis of conservancies and community forests respectively. He is as well advising the government on the Parks and Wildlife Management Bill which is in its fourth internal draft (as to July 2004) and the Community Forest guidelines.

The new Bill contains amendments which result in overlapping legal rights of conservancies and community forestry. Further, the draft suggests that the Bill takes precedence over all CBNRM legislation. As Mr. Corbett states "the Bill ignores the potential resource tenure conflicts between the exercise by conservancies of rights over wildlife and wildlife habitats and the exercise of other resource rights (through community forest committees, water point committees, rangeland management committees or inland fisheries committees) in respect of overlapping or superimposed areas of land".

Therefore, Mr. Corbett suggests that the Bill should be amended to make it compatible with the Forest Act. According to him, this is the only possibility to avoid confusion. Mr. Corbett states that the interaction between field workers and legal drafters is often neglected; therefore he appreciates this meeting. His main interest of this workshop is to integrate the opinion of the fieldworkers and the target group into the legal framework.

Workshop on  
" Integrating Conservancies and Community Forests in Caprivi Region"  
on 14-15 September, 2004

Appendix 1 contains a summary by Mr. Corbett of the key issues impacting upon strategies to integrate the management of conservancies and community forests with special consideration of the new Bill. Mr. Corbett stresses that this new Bill will not pass before beginning or middle of next year.

This paragraph summarizes additional questions and issues which arose during workshop discussions.

**Issues addressed during workshop**

1. Q: According to the new Bill and the Forest Act, both, conservancies and community forests are legally allowed to manage the same resources. Is it possible to pass a law which says that if a conservancy is already established (or vis versa), a community forest cannot be established?  
A: According to the new Bill, if laws differ, the Bill has to be followed. Although, according to Mr. Corbett, this is not the right way to go. As the decision on who manages which resource should be based on expertise, the people have to agree upon a Joint Management Plan or separate Management Plans. NGOs and Ministry extension staff has to help during negotiations.
2. Q: Can a community forest be gazetted within an already gazetted conservancy area?  
A: Yes, but the question to solve is how these two institutions can work together, e.g. by integrating Management Plans.
3. Q: If conservancies – according to the new bill - are legally entitled by law to manage forests, are they as well allowed to issue permits?  
A: Theoretically yes, but the Minister would not accept that situation as it does not make sense if a committee is allowed to manage a resource which the people are not trained for. However, if a FMB does not exist, the Minister might allow the conservancies to manage forest resources during a transition period until a community forest is established. During the discussion, the idea emerged that it is not advisable to let the respective committee gain financial benefits by the resource which it does not have expertise to manage. In case the committee wants to earn money with a resource it has to gazette a community forest (in case of forest resources) or a conservancy (in case of game). For the reasoning please see summary of Technical Advisor meeting below.
4. Q: Is it possible to extent an already gazetted area of a conservancy or community forest under current law?

Workshop on  
" Integrating Conservancies and Community Forests in Caprivi Region"  
on 14-15 September, 2004

- A: No, in case of extension, the conservancy or community forest must be revoked and re-gazetted.  
Mr. Corbett liked the idea of "extending" instead of re-gazetting areas and considers it for the new Bill.
5. Q: As benefit distribution and other issues are comprised in the constitution, does a (conservancy) constitution have legal power?  
A: No, the constitution only states if the management body is in place, it does not have legal power. The law overrules the constitution. Additionally, the Management Plan is the document stating who has which rights
6. Q: As conservancy areas are divided into different management zones, would it be possible to gazette a forest zone within a conservancy as a community forest?  
A: Yes.
7. Q: If both area categories are gazetted, are both FMB and conservancy committee legal bodies?  
Yes.

During an additional meeting with Technical Advisors, Mr. Corbett summarizes the main legal points to consider during the integration process.

- ⇒ The law is only a framework for a flexible mechanism to encourage integration and linkages between the new Bill and the Forest Act. Additionally, the law can provide a mechanism for dispute resolution for both internal conflicts and conflicts between organisations.
- ⇒ The focus of integration should lay on the Management Plan as the law cannot provide detailed guidance on integration. Until a community forest or a conservancy are established, the respective other organisation can take over to manage resources. The advantage to comply with integration through Management Plans is that it is not exactly stated in the law what a management plan has to include. Therefore, it is up to the communities to negotiate. Nevertheless, the Management Plan has to comply with its respective Act, other laws and other Management Plans for the area. Management Plans need the full consent of traditional authorities, other Natural Resource Institutions and the communities.
- ⇒ Conservancies rely on DoPW which distributes quotas every year. This is why conservancies can hand in the Management Plan after gazetting. Community forests have to hand in a Management Plan before gazetting. Consequently, it is easier to gazette a conservancy. According to the new Bill, if a conservancy is interested in managing forests as well, there is no need to gazette a community forest. For that reason, management by respective other organisation should only

Workshop on  
" Integrating Conservancies and Community Forests in Caprivi Region"  
on 14-15 September, 2004

be of protective nature but not for harvesting activities. Those who have the expertise should manage the resource.

- ⇒ It might be the case that an existing institution is withdrawn management rights by the Minister in case it does not want to cooperate with emerging other institutions. For example, an existing conservancy which does not want to cooperate with community forestry. In Mr. Corbett's opinion this is a bad idea but it could be used as a threat.
- ⇒ When the new bill passed, there will be a transitional period for the conservancies to comply with the new laws

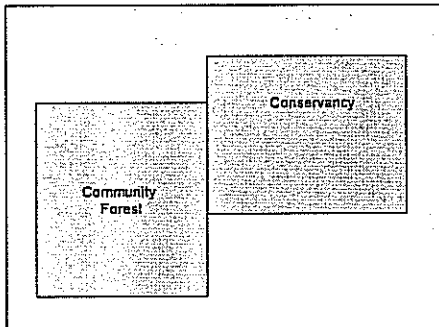
## 8 Options

The joint discussion paper handed out to the participants in advance, summarized possible options of collaboration with focus on area and organisational set-up. The presentation's objective was to prepare the participants for the working group discussions. It was common understanding that there is no best option but a practical solution for each area had to be found.

After the presentation, the questions arise who are legal and/or management bodies and who are the beneficiaries. According to Mr. Corbett, legal bodies can be both institutions as long as they are gazetted. The question of beneficiaries has to be clarified for each area and documented in the Management Plan.

The **first option** considers separating conservancies from community forests (see figure 1). Two separate committees manage the resources they are appointed for in respective area. There is no collaboration.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>▪ No additional work for integration by stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>▪ No integration of both strategies</li> <li>▪ Increased competition between conservancies and community forests, e.g. when selling same crafts</li> <li>▪ No benefit sharing from all resources</li> </ul>



*Figure 1: community forests and conservancy act separately within their areas*

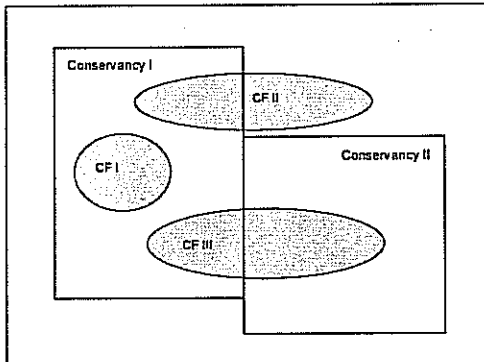
The **second option** arises where parts of a conservancy and a community forest overlap. Figure 2 shows a community forest partly or as a whole overlapping with one or two conservancies. Each community forest unit would be controlled by a FMB on Sub-Khuta level.

From this area set-up, mainly two organisational options come up. The FMB can become a sub-division of a conservancy committee, e.g. if the community forest as a whole forms only a small part of the conservancy. Otherwise, FMB and conservancy committee can negotiate on joint management agreements for overlapping areas. Gaps in forest management in this set-up should be filled by DoF as long as community forestry is not in place.

Advantages	Disadvantages
------------	---------------

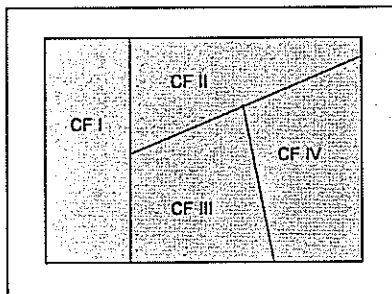
Workshop on  
 " Integrating Conservancies and Community Forests in Caprivi Region"  
 on 14-15 September, 2004

<ul style="list-style-type: none"> <li>▪ Flexibility of boundary arrangements for both area categories according to local interests</li> <li>▪ Benefits are partly shared</li> </ul>	<ul style="list-style-type: none"> <li>▪ More complicated boundary arrangements</li> <li>▪ Confusion and risk of conflicts with resource users</li> <li>▪ High costs, e.g. for boundary demarcation</li> </ul>
--	--



*Figure2: Option where conservancies and community forest areas overlap*

As a possible **third option** conservancy and community forests share the same boundaries (see figure 3). In this case, several community forests would be managed on Sub-Khuta level within the borders of one conservancy.

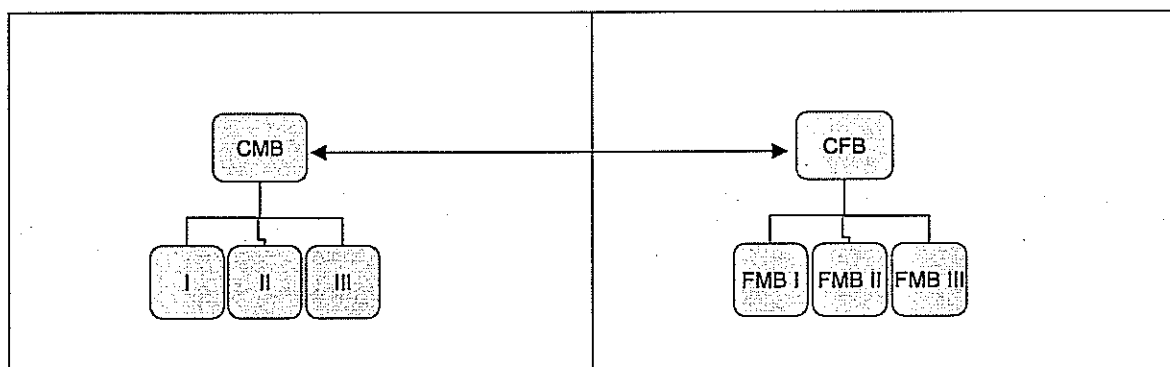


*Figure3: the whole area is a conservancy, divided into community forests*

As a possible organisational set-up, this area can be managed by a Conservancy Management Board (CMB) and a Communal Forest Board (CFB), each with clearly defined management responsibilities (see figure 4). Each community forest elects a FMB which represents the community forest in the CFB. CMB and CFB meet on a regular basis.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>▪ Costs are reduced</li> <li>▪ All benefits are shared</li> </ul>	<ul style="list-style-type: none"> <li>▪ Many committees are involved which made confuse users</li> </ul>

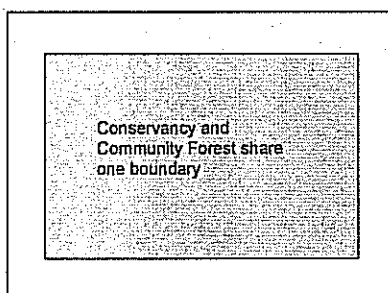
Workshop on  
 " Integrating Conservancies and Community Forests in Caprivi Region"  
 on 14-15 September, 2004



*Figure 4: Organizational set-up, Conservancy Committee and Communal Forest Board (CFB) with Forest Management Boards (FMB)*

The **forth option** suggests considering one conservancy area as one large community forest, so that both area categories share the same boundaries (see figure 5). This can be the area of one or several Sub-Khutas. One or two committees can manage the area.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>▪ Confusion among committee members and users is avoided</li> <li>▪ All benefits are shared</li> <li>▪ Cost reduced</li> </ul>	<ul style="list-style-type: none"> <li>▪ Manageable area size: the area of one Sub-Khuta might be too small to manage game, the area of several Sub-Khutas might be too big to manage forest</li> </ul>



*Figure 5: Conservancy and community forest share same boundary*

## 9 Working Group Results

### 9.1 Working Group 1: Bukalo, Zilitene, Sikanjabuka, Salambala

#### 9.1.1 Proposed area set-up

It is not clear to working group members where boundaries of community forestry and Salambala conservancy are situated. According to the working group, committees do not have to collaborate as overlapping areas do not exist. However, this perception is wrong. Bukalo community forest overlaps partly with Salambala conservancy (see figure 6). A solution for this dispute is not found during the workshop.

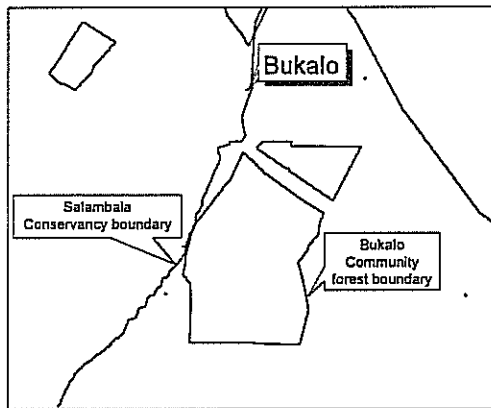


Figure 6: Bukalo community forest within Salambala conservancy

#### 9.1.2 Proposed resource management

Salambala conservancy committee manages fauna and flora within conservancy boundaries. The FMCs manage trees within community forest boundaries.

#### 9.1.3 Proposed management structure

There is one conservancy committee and three FMCs. These committees want to establish one common board to discuss forest issues.

Conservancy and community forests distribute revenues separately.

#### 9.1.4 Pending issues

The overlapping area dispute between Salambala conservancy and Bukalo community forest has to be solved with facilitation by IRDNC, CFNEN and ministry staff.

### 9.2 Working Group 2: Masida, Lubuta, Mashi

#### 9.2.1 Proposed area set-up

Masida FMB and emerging Sobbe conservancy share the area of Masida Sub-Khuta. Lubuta community forest shares the area of Mashi conservancy together with Lizauli, Ngonga and Sachona community forest (see figure 7).



Workshop on  
 " Integrating Conservancies and Community Forests in Caprivi Region"  
 on 14-15 September, 2004

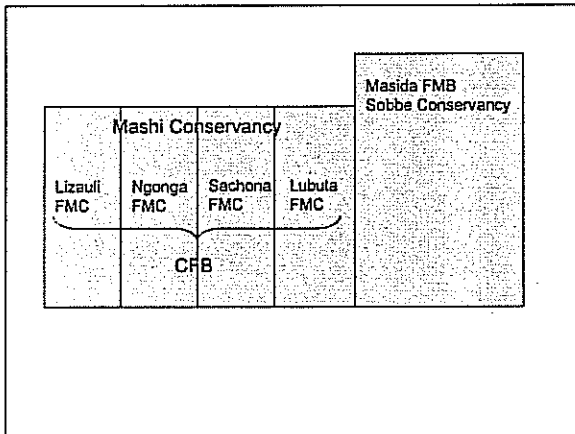


Figure 7: Area set-up of Masida, Lubuta, Sobbe and Mashi

### 9.2.2 Proposed resource management

Division of resource management is separated in the same way for Masida and Mashi area. For tourism and grazing, committees in both areas have joint Management Plans.

Resources	Products	Management Body
Game	Hunting	CC
Fixed Forest Resources	Arts and Crafts	FMB
	Timber	FMB
	Fuel wood	FMB
	Medicinal plants	FMB
	Fruits	FMB
	Grass	FMB
	Bees	FMB
Landscape	Tourism	CC, FMB
Rangeland	Grazing	CC, FMB

### 9.2.3 Proposed management structure

In Masida Sub-Khuta area, Sobbe conservancy committee and Masida FMB agree on a joint Management Plan which clarifies how to manage resources.

In Mashi conservancy area, Mashi conservancy committee and the CFB (consisting of the four FMBs of Lizauli, Sachona, Lubuta and Ngonga) manage respective resources (see figure 7).

Distribution of revenue is not touched during working group discussions.

### 9.2.4 Pending issues

As the working group decided on a new area set-up, the boundary between Masida/Sobbe and Lubuta/Mashi is in question. Discussions to solve this issue are ongoing and facilitated by MET and CFNEN staff.

It is in the hands of Lubuta FMB and Mashi conservancy committee to convince the communities of Lizauli, Ngonga and Sachona to join community forestry.

### 9.3 Working Group 3: Kwando

Kwando is the only area where community forestry and conservancy already collaborate. The following set-up is not a proposal but already put to practice. At the moment, only Kwando conservancy is gazetted as a legal body. The application for the community forest is in its making.

#### 9.3.1 Area set-up

Conservancy and community forest share same area and area boundaries. It includes five Sub-Khutas.

#### 9.3.2 Resource management

The conservancy committee manages the resources and is assisted by the Honorary Forester and game guards. Grazing is managed by the traditional authorities.

Resources	Products	Management Body
Game	Hunting	CC
Fixed Forest Resources	(Arts and Crafts, timber, fuel wood, medicinal plants, fruits, grass, bees)	CC Honorary Forester Game guards Village Development Committees (VDC) Community Resource Monitors
Landscape	Tourism	CC
Rangeland	Grazing	Traditional authorities Communities

#### 9.3.3 Management structure

One Conservancy/Community Forest Management Board manages all resources in the entire area. Game guards, honorary foresters and Community Resource Monitors support the board with technical expertise for game and forest resources.

The Board includes representatives of each Sub-Khuta and resource experts e.g. for forests and game.

Revenues of all resources should be administered and distributed by the Board.

### 9.4 Working Group 4: Lusese

#### 9.4.1 Proposed area set-up

Conservancy and community forest share the area of Lusese Sub-Khuta (see figure 8). Boundaries are going to be demarcated jointly during the next months. There is a small overlapping with Salambala conservancy but participants agree to neglect this issue at the moment. The case is already with the Royal Court at Bukalo.

Workshop on  
 " Integrating Conservancies and Community Forests in Caprivi Region"  
 on 14-15 September, 2004

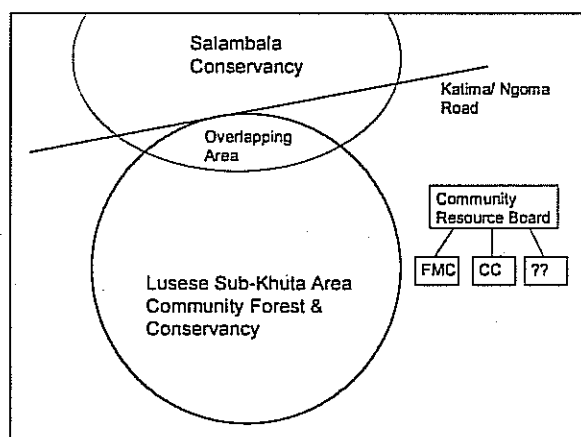


Figure 8: Area set-up of Lusese

### 9.4.2 Proposed resource management

As Lusese conservancy already started with tourism and markets for Arts and Crafts are closely related to tourism, the conservancy takes over to manage these resources. Further, the conservancy already established a market for thatching grass, which is why the conservancy committee takes over management of this resource as well. Fish has been added by the working group. The working group emphasizes that management committees are appointed according to expertise.

Resources	Products	Management Body
Game	Hunting	CC
Fixed Forest Resources	Arts and Crafts	CC
	Timber	FMC
	Fuel wood	FMC
	Medicinal plants	FMC
	Fruits	FMC
	Grass	CC
	Bees	FMC
	Fish	CC
Landscape	Tourism	CC
Rangeland	Grazing	CC

### 9.4.3 Proposed management structure

The Community Resource Board (CRB) manages the resources in the entire area. It consists of FMC, conservancy committee and other natural resource committees which assist the board with management of specific resources and one or two representatives of traditional authorities.

The CRB with consultation of the Sub-Khutas distributes the revenues from all resources. All benefits are shared equally.

### 9.4.4 Pending issues

The Overlapping area with Salambala conservancy is currently discussed at Royal Khuta, Bukalo.

## **10 Conclusions**

All objectives of the workshop have been met, apart from a proposal for a regional strategy.

### *10.1 Legal Issues*

The new Park and Wildlife Management Bill will change the relationship between conservancies and other CBNRM institutions. It is important to amend the law in such it is compatible with and does not suppress other CBNRM legislation.

The law only sets a framework within which conservancies and community forestry can operate. Integration of both approaches can mainly be obtained through integration of Management Plans.

### *10.2 Working Group Results*

Overall, participating community representatives show a high interest in integrating the approaches of conservancies and community forestry.

Working Group 1 (Salambala/Bukalo/Zilitene/Sikanjaboka) did not find common ground during the workshop, mainly because the representatives of Salambala conservancy did not know that Bukalo community forest partly overlaps with the conservancy area. There is strong competition between the different committees. Good facilitation of MET and supporting organisations is needed to change opinions.

Working Groups 2 (Mashi/Sobbe/Masida/Lubuta) and 4 (Lusese) found practical proposals for their respective areas. There are still pending issues to be solved before the proposal can be put into practice. However, the representatives are highly interested in collaboration and motivated to work.

Working Group 3 (Kwando) already has an integrated management. Participation at the workshop was highly appreciated as a working solution could be presented to all participants.

#### **10.2.1 Area set-up**

All working groups except Working Group 1 decide to share same areas and boundaries.

#### **10.2.2 Resource Management**

Each working group agrees differently. Resources with overlapping interests comprise grazing, tourism and arts & crafts.

#### **10.2.3 Management structures**

All working groups except Working Group 3 decide to manage resources with several committees. However, participants tried to keep the number of committees managing one area as low as possible. The management set-up depends on affiliation to traditional areas

Workshop on  
" Integrating Conservancies and Community Forests in Caprivi Region"  
on 14-15 September, 2004

(one or several Sub-Khutas). All except Working Group 1 agree on joint management of resources.

#### **10.2.4 Revenue distribution**

Working Group 1 decides not to share benefits. Conservancy benefits are distributed among members and residents of the area while community forest benefits are distributed among residents of the Sub-Khuta.

Working Group 2 and 4 agree on sharing all benefits among all residents.

Working Group 3 states that revenues of all resources should be administered and distributed by the joint Management Board.

Solutions for revenue distribution were not a priority at the workshop. As the issue came up during discussions, results are highlighted here. It seems as if most participants are not clear in who the beneficiaries should be, either members or residents of the area. It is doubtful, if all participants know the legal differences of the two categories (see Appendix 1). These issues have to be clarified on facilitated meetings.

#### **10.3 Regional strategy**

While case-by-case proposals were developed during working groups, a proposal for a regional strategy was not developed during the workshop. These proceedings can serve as a basis for future discussions on regional level.

## 11 Recommendations

This workshop dealt with the legal issues and implementation of laws and policies on the ground. These recommendations are based on both the clarification of legal issues and the practical solutions offered during working groups.

The new **Park and Wildlife Management Bill** will change the relationship between conservancies and other CBNRM institutions. This new bill should be amended in such it becomes compatible with and does not suppress other CBNRM legislation, e.g. the Forest Act.

Where conservancy and community forest cannot be established at the same time or evolve successively, regulations have to specify the necessary integration (and amendment) of management plans, the standardization of by-laws (conditions of resource use) and the adaptation of management structures.

In case a community forest or conservancy committee wants to manage a resource which is not within its range of expertise, it is – according to the new Bill - legally allowed to do so as both legislations make provisions for management of both flora and fauna. Although, some workshop participants suggest that management of these resources be of protective nature. Only the appointed committee with the right expertise should be allowed to use the resource for harvesting activities.

**Area and management structures** have to be adapted to individual area set-ups and resource conditions. There is no best practice solution up to date and it is doubtful if this can be found for Caprivi region.

The variety of local resource conditions, settlement patterns, area sizes and stages of project implementation requires flexibility with regard to management structures and benefit distribution.

Concerning management structures, for larger areas (including several Sub-Khutas, as e.g. proposed in Mashu conservancy) additional sub-committees or personnel may be established at subkhuta levels.

Most often, conservancies cover several Sub-Khutas, while community forests only cover one Sub-Khuta. This can relate to the **manageable area size**. When gazetting an area category, it must be clear that the responsible committee is able to manage the whole area. For example, sufficient forest resource monitoring of a large area might be impossible for one committee while game management within a small area might not be possible either.

Modes of **revenue distribution** should be decided by communities.

Integration of conservancies and community forestry should mainly be obtained through **integration of Management Plans** as legislation cannot provide detailed guidance on integration. Joint management plans for both game and other forest resources are essential to ensure compatibility and sustainability of resource management.

Workshop on  
" Integrating Conservancies and Community Forests in Caprivi Region"  
on 14-15 September, 2004

**Ministries and supporting organizations** should find a common position. Staff has to be well informed about legislation and policies concerning both conservancies and community forestry. Confusion among communities due to incorrect statements of staff members must be avoided.

## Appendix 1: Summary of Legal Issues concerning integration of community forestry and conservancies by Andrew Corbett

The following are some of the key issues impacting upon strategies to integrate the management of wildlife conservancies and community forests in the light of sectoral legislation:

### 1. Sectoral legislation

The Forest Act, 2001, came into force in April 2002, whilst the Nature Conservation Amendment Act came into force in 1996. Whilst attempts were made to ensure that the provisions for community forests did not conflict with the corresponding sections on game, the integration at the local implementation level has been uneven. The Parks and Wildlife Management Bill ("the Bill") is currently in its fourth internal draft (as of July 2004). Its drafting provides a strategic opportunity to make meaningful efforts to create effective linkages between forests and wildlife so as to facilitate the integration of resource management at the conservancy/community forestry level. In order to do so, certain issues need to be addressed.

### Membership of conservancies/community forests

2. A previous draft of the Bill emphasized "residence" on the land in question as the criterion for membership of a communal areas conservancy. However, the Forest Act, No. 15 of 2001 ("the Forest Act") provides for a narrower basis for the formation of a "community forest", namely those persons who have rights over the communal land on which the "community forest" is to be located. This narrower category would include those persons who have -  
⇒ customary land rights; or  
⇒ rights of leasehold,  
allocated to them in terms of section 19 of the Communal Land Reform Act, No. 5 of 2002.

The July draft of the Bill standardises the tenure requirement for membership of a conservancy. The same wording is used as in section 15 of the Forest Act. This simplifies eligibility for membership and reinforces the tenure rights of existing resource users.

### Rights of utilization and tourism

3. Section 32(8) of the Bill grants to members of a conservancy *exclusive rights* of utilization of wildlife, wildlife habitats and tourism. "Wildlife" is defined in the Bill as "*any non-domesticated living organism*" and "*wildlife habitats*" as "*the whole or any component of any*



*ecosystem which sustains wildlife*" – both very broad definitions. If regard is had to the definition in the Forest Act of "*forest produce*" as "*any thing which grows or is naturally found in a forest...*" then the concepts overlap.

4. These overlapping rights granted by sectoral legislation must cause confusion for resource using communities at community level. Section 32(8) of the Bill clashes directly with section 15 of the Forest Act. Once a "community forest" has been established, section 15(2) provides that the Minister of Environment and Tourism, through an agreement with the management body of such forest, may –

**"confer the rights, subject to a management plan, to manage and use forest produce and other natural resources of the forest, to graze animals and to authorize others to exercise those rights and to collect and retain fees and impose conditions for the use of the forest produce or natural resources".**

5. In other words, this provision in the Forest Act goes further than the Bill (which refers only to responsibility for managing the use of wildlife) in according *rights* not only to manage but also to *use forest produce and other natural resources*, which would also include wildlife. The Bill ignores the potential resource tenure conflicts between the exercise by conservancies of rights over wildlife and wildlife habitats and the exercise of other resource rights (through community forest committees, water point committees, rangeland management committees or inland fisheries committees) in respect of overlapping or superimposed areas of land.

Management plans as the basis for resolving tenure conflict

6. As mentioned above, a management plan for a community forest would determine the parameters within which members of a community forest could exercise their rights to manage and use forest produce and other natural resources of the forest. In terms of section 12(4) of the Forest Act this management plan forms part of the agreement which the community forest management body enters into with the Minister in terms of section 15(1) of such Act. Thus the Minister would approve the management plan of a community forest when declaring the area as such in terms of section 15(3) of the Act.

7. In terms of section 33(1) of the Bill a conservancy must submit a draft conservancy management plan to the Minister no later than one year after being declared by the Minister as a conservancy. The Minister retains the right, in terms of section 33(3) to suspend the powers, functions and benefits to the conservancy committee pending the approval of the management plan.

8. Section 33(4) of the Bill sets forth broad issues to be covered by the management plan but omits to require of a conservancy committee to take into account other resource uses in the same area. Consideration should accordingly be given to requiring a conservancy committee (and similarly a forest management body) to state in its management plan the other existing or potential resources which could become the subject of jurisdiction of another management system or institution at community level, and furthermore, how the committee proposes to integrate such management and deal with any potential conflicts in resource tenure regimes.

9. However, section 34 of the Bill provides that:

**"All persons residing within a conservancy will be required to practice land-use options compatible with the Constitution and Management Plan of such conservancy".**

10. Moreover, Section 105 of the Bill states that –

**"Where there is an inconsistency between the provisions of this Act and any other law that affects the conservation of wildlife and wildlife habitats, other than the Constitution, this Act shall prevail".**

This is a very intrusive provision. When it comes to community based natural resource management the Bill will take precedence over all legislation regulating this sector, particularly where there are conflicting provisions.

11. In the context of community forestry this would mean that, where a conservancy management plan conflicts with a community forestry plan, wildlife will take precedence. Serious consideration accordingly needs to be given to integrating and rationalizing all CBNRM sectoral legislation so as to limit conflicts and provide a more coherent legislative framework.

12. Potentially section 34 can have a huge impact on rural livelihoods. It is anticipated that most would be positive. However, its effect could be controversial. For instance, non-members of conservancies could be deprived of all grazing for their livestock (should the management plan require this) and in effect be forced off communal land that they have farmed for generations. This provision could also provide the basis for a constitutional challenge over the denial of property rights under customary law. Accordingly, whilst this provision would give conservancy members considerable powers to enforce land use practices compatible with the development of sustainable wildlife management, there needs to be some protection for inhabitants of communal land within a conservancy or community forest, and in particular non-members from capricious behaviour by conservancy leadership.

Workshop on  
" Integrating Conservancies and Community Forests in Caprivi Region"  
on 14-15 September, 2004

13. Consideration should be given to amending section 34 to provide that –
- 13.1 land use options of inhabitants be restricted only insofar as they directly conflict with the constitution and management plan of conservancies;
- 13.2 the conservancy take into account the subsistence needs of community forest users and farmers when formulating the management plan; and
- 13.3 there is a procedure to resolve conflicts concerning incompatible land use practices within a conservancy.
14. As already mentioned, the instrument for resolving any disputes over conflicting land uses might in an optimistic scenario be the formulation of the management plan, but without making it a legislative requirement for both the forestry and wildlife sectors at community level to integrate their plans so as to avoid overlapping resource tenure claims, conflict and confusion is inevitable. Consideration must be given to determining an appropriate way to integrate management of resource use at community level, both by harmonizing policy and legislation and facilitating integrated land use planning. The future role of Land Boards in this respect needs to be considered.

Hunting in community forests

15. The Forest Act in section 24(5) provides that:

**"The hunting of wild animals in a classified forest shall be done in accordance with the applicable management plan and no authorization to hunt in terms of the Nature Conservation Ordinance, 1975 (Ordinance No. 4 of 1975) which is contrary to an applicable management plan shall be granted."**

16. This provision refers to authorization to hunt in terms of wildlife legislation and the applicable management plan. Here is an example where the Forest Act attempts to provide a direct linkage for an integrated approach to the management of wildlife in community forests.

Distribution of benefits

17. The Bill is not explicit on the links between the management of wildlife and wildlife habitats by a conservancy and the right to benefit from such resources. It refers in section 32(7) to the distribution of benefits in an equitable manner. However, the term "equitable" is not defined.
18. This link is, however, made explicit in section 15(2)(f) of the Forest Act where the emphasis is placed upon "equal use of the forest and equal access to the forest produce by members" and in (g) to "the equitable use or distribution of the surplus". Consideration should be given to creating a direct link in the Bill between conservancy membership and the right to enjoy benefits.

Dispute resolution

19. Given the potential for conflict over resource management and utilization at the local level, a procedure should be provided for in the Bill and in the forestry regulations currently being drafted to channel such disputes to an appropriate authority in order to contain conflict within acceptable limits. The Communal Land Boards could be the appropriate authority.

Enforcement of legislation

20. Section 36 of the Bill generally empowers the Minister to delegate or grant powers to a conservancy committee to enable it to effectively perform its functions, but the powers are not set out. These powers need to be harmonized with the powers given to community forest management bodies. The regulations promulgated in terms of the Bill and the Forestry Act could provide this integration.
21. Section 78 of the Bill provides that the Minister may designate "honorary conservation officers". Section 8 of the Forest Act permits the Minister to appoint appropriately skilled community forestry members to act as honorary forest officers. Consideration should be given to harmonizing the powers granted to such officers in terms of regulations to be promulgated under the Bill and the Forestry Act. They should be flexible enough to enable the Minister to appoint one person to perform both functions, where this would be appropriate.