

RESEARCH Report 49

Commercialisation of Land in Namibia's Communal Land Areas: A critical look at potential irrigation projects in Kavango East and Zambezi regions

Maarit Thiem and Theodor Muduva



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Acronyms

| | |
|--------|---|
| CBNRM | Community Based Natural Resource Management |
| CLB | Communal Land Board |
| CLRA | Communal Land Reform Act |
| CBO | Community Based Organisation |
| CBS | Central Bureau of Statistics |
| CLR | Customary Land Right |
| CRM | Community Resource Monitor |
| EMA | Environmental Management Act |
| EIA | Environmental Impact Assessment |
| FAO | Food and Agricultural Organisation |
| HDI | Human Development Index |
| IRDNC | Integrated Rural Development and Nature Conservation |
| KA | Kyaramachan Association |
| KavCLB | Kavango Communal Land Board |
| KfW | German Development Bank |
| LAC | Legal Assistance Centre |
| MET | Ministry of Environment and Tourism |
| MLR | Ministry of Lands and Resettlement |
| NAR | Namibia Agriculture and Renewables Project |
| NPC | National Planning Commission |
| NSA | Namibia Statistics Agency |
| NUNW | National Union of Namibian Workers |
| NNF | Namibia Nature Foundation |
| NPC | National Planning Commission |
| OKACOM | Okavango Commission |
| PLAAS | Institute for Poverty, Land and Agrarian Studies |
| PPP | Public Private Partnership |
| PWC | PriceWaterhouseCoopers |
| TA | Traditional Authority |
| UWC | University of the Western Cape |
| UNDP | United Nations Development Programme |
| VDC | Village Development Committee |
| WIMSA | Working Group of Indigenous Minorities in Southern Africa |
| MAWF | Ministry of Agriculture, Water and Forestry |
| RAISON | Research and Information Services of Namibia |

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Abstract

Large-scale land acquisitions by both foreign and local investors for agriculture, forestry and wildlife purposes, among others, remain a major challenge for African governments. In recent years, the Namibian government through various ministries received proposals from multinational agribusiness to develop large-scale agricultural irrigation projects. However, only a few of these proposed large-scale projects have materialised or have been operationalised. This study is aimed at investigating land acquisitions by private and/or foreign investors (large-scale agricultural investors) in Namibia's communal land areas. The purpose of the study is, among others, to ascertain the socio-economic impacts of such deals on communities, whether legal requirements are adhered to before land for such deals is acquired or allocated, and whether community members can protect or defend their land rights or successfully oppose such deals if such is not in their interest.

The Namibian chapter of this study identified and looked at four proposed and potential irrigation projects, all situated mainly along Namibia's water-rich north-eastern regions: Fumu Mbambo Irrigation Project (Kavango East Region), HJM AGRI Farm Ndiyona Irrigation Project (Kavango East Region), Katondo

Farm Irrigation Project (Kavango East Region) and Namibia Agriculture and Renewables (NAR) Project (Zambezi Region).

The study found that there were insufficient consultations with the communities who were affected by the land deals. In addition, other procedures, as provided for in the Communal Land Reform Act, 2002 (Act No. 5 of 2002), were not being adhered to. The decision to grant leases to private or foreign investors seemed to only occur at a high level, such as the Traditional Authority (TA), Communal Land Board (CLB) and the Ministry of Lands and Resettlement (MLR). In some cases, community members were in the dark about the positive and negative impacts of such projects. They did not understand the benefits of accepting such projects and the issues of compensation were often not clear. One of the major findings is also that the community members lacked basic understanding of their land rights and hence they are subjected to decisions which, in the long run, are not beneficial to them. The outcome of the study advocates for the formalisation of group rights to make more options available for tenure security to different communities, as the current legislation does not adequately provide protection of commonage resources.

Introduction

Large-scale land acquisitions by foreign investors in Africa for agricultural purposes continue to make headlines worldwide. In recent years, Namibia has received proposals from multinational agricultural corporations to develop large-scale irrigation projects, mainly in Namibia's water-rich north-eastern regions (Odendaal, 2011). However, only a few of these proposed large-scale projects have materialised in Namibia. The numbers of applications for leaseholds are on the rise and the pressure on communal land is generally increasing

In particular, the Namibian Government has embarked on a Public Private Partnership (PPP) programme to enhance food security through Green Schemes. Starting in 2008, this arrangement drew the interest of various investors to become involved with the planting of other cash crops such as jatropha. However, a high number of these projects failed for different reasons and chief among them is the threat which such undertaking would pose to food production. In 2011, the Ministry of Environment and Tourism declared that no large-scale jatropha plantations should be allowed in Kavango and Zambezi regions 'due to its negative impact on food security and land tenure' (The Sun, 9 May 2011)

In 2012, the Legal Assistance Centre (LAC), through its Land, Environment and Development (LEAD) Project, embarked on a study aimed at investigating land acquisitions by private and/or foreign large-scale investors in Namibia's communal land areas. The purpose of the study was threefold: a) to ascertain the socio-economic impacts of such deals on communities; b) to determine whether legal requirements are adhered to or met before land for these deals is acquired or allocated; and c) to find out if community members can protect their land rights or successfully oppose such deals if they are not in their interest.

The Namibian chapter of this project looked at four case studies of potential irrigation projects: (i) Fumu Mbambo Irrigation Project (Kavango East Region), (ii) HJM AGRI Farm

Ndiyona HJM AGRI Irrigation Project (Kavango East Region), (iii) Katondo Farm Irrigation Project (Kavango East Region) and Namibian Agriculture and Renewables (NAR) Project (Zambezi Region). The study has presented a background on the communal land reform which has taken place in Namibia since Independence over two decades ago. Most importantly, it has highlighted and discussed the four case studies mentioned earlier, which are situated in Kavango East and Zambezi regions respectively. The two regions were previously ranked among the poorest in the country, with Kavango Region ranked the fourth poorest. The majority of the inhabitants live in rural areas, being primarily dependent on subsistence farming. The region possesses favourable environmental conditions for agricultural productions and had therefore been promoted as the 'Bread Basket' of Namibia.

The Fumu Mbambo Irrigation Project was initiated by the community and seems to receive strong support from the local community. The investor is a local, well-known businessman, who had invested in other projects in the region before. In the second case – the HJM AGRI Farm Ndiyona Irrigation Project – investors from outside approached the Constituency Councillor, the Headman and the Traditional Authority (TA) and/or Chief to set up a large-scale irrigation project without consulting the affected communities and without following legal procedures. This approach has resulted in a highly contested project with a community being strongly divided over the project. The Katondo Farming Project was also imposed upon the inhabitants in the Bwabwata National Park by the relevant authorities (TA and investors), but was successfully opposed by the local Community Based Organisation (CBO). The last case study, the NAR Project, was approved by the relevant authorities (TA, CLB, MLR) without sufficient consultations with the community members, but was abandoned by the investor. The study also details the responses and reactions of the local communities and their representatives to these proposed investments.

Background

Namibia covers an area of 824 295km² with a population of 2,113,077, which makes it one of the most sparsely populated countries in Africa. In addition, Namibia is one of the most arid countries on the continent. Rainfall is extremely variable, ranging from 50mm in the desert areas to approximately 700mm in Kavango and Zambezi regions.¹

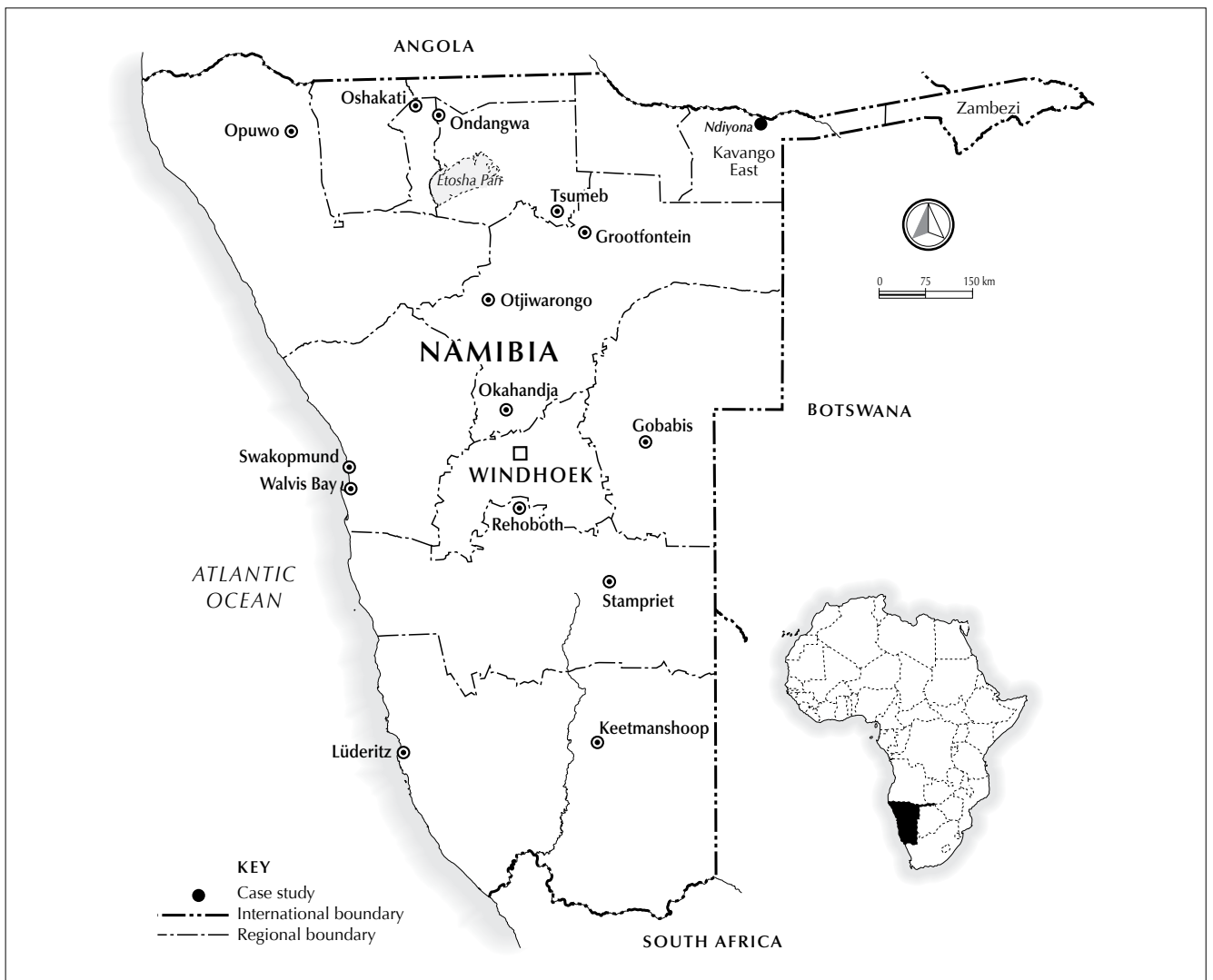
At Independence in 1990, Namibia inherited a dual land tenure system with regard to the agriculture sector, namely the commercial (freehold) and communal land tenure systems. This divided or unequal land distribution pattern stems from centuries of coloni-

sation. Not only was land unfairly distributed along racial lines, but different land tenure systems also impacted profoundly on the way of life and welfare of the people.

The freehold farming sector covers about 44% of the total land, although accommodating only 10% of the population, and is mainly located in the southern and central parts of the country (Map 1: Communal land areas in Namibia). The communal sector, primarily located in the northern regions, covers 41% of the total area and accommodates about 60% of the population.²

¹ Odendaal 2011, NSA 2012
² Green Scheme Policy, 2008

Map 1: Communal land areas in Namibia



Source: MLR, 2013

The freehold farming sector is made up of largely private farmers or juristic entities that own large farms registered under freehold title to private owners. Communal land is predominantly located in the northern and eastern part of the country, north of the Veterinarian Cordon line/fence.

The communal farming sector is regulated in accordance with the Communal Land Reform Act, 2002 (Act No. 5 of 2002) (CLRA). In general, the overarching objective of the CLRA is to ensure 'fair and reasonable administration' of land. To promote the fair allocation of communal land, any allocation more than 20ha for customary land rights and any allocation of a right of leasehold more than 50ha needs the approval of the Minister of the MLR prior to ratification by the CLB. Section 17 of the CLRA stipulates that communal land cannot be privately owned as it 'vests in the State in trust for the benefit of the traditional communities' residing on it.

The Communal Land Reform Act No. 5 of 2002 also defines the roles and responsibilities of the actors involved in the allocation and administration of Namibia's communal lands. The major role players in this regard include Communal Land Boards (CLBs) and Traditional Authorities (TAs). The functions and powers of CLBs and the TAs follow a system of checks and balances. The TAs still have the primary power to allocate customary land rights. For example, under the 2002 Act, CLBs are mandated with the ratification of customary land rights allocated by TAs. On the other hand, CLBs are tasked with the allocation of rights of leaseholds, but they can only do this when the relevant TA has consented to it. At least in theory, a TA should consult with its community before giving the go-ahead to a CLB to allocate a leasehold right.

The CLRA regulates communal land allocation and registration, with the ultimate objective of providing secure tenure to communal areas. The CLRA is intended to provide security to landholders, their spouses, children and other dependants, ensure documentary proof, specify boundaries of allocated land

parcels, prevent land grabbing and ensure equal access to land for all Namibians, especially women who are now granted equal rights when applying for a land right.

Two different communal land rights can be registered in terms of the CLRA: customary land rights and leasehold rights. Currently, commonage areas cannot be registered but are to be used by the traditional communities or inhabitants jointly for grazing livestock, harvesting fruits and utilisation of other natural resources (wood, poles, thatch, etc).

Customary land rights include land for residential and farming purposes. Leasehold rights, on the other hand, can be registered over land for any other activity and can include large-scale farming in specifically designated areas but they may, with the permission of the Minister, fall outside such designated areas.

The Namibian Government passed a number of amendments through Parliament in respect of the CLRA. The new amendments regulate the following: foreigners can only apply for Customary Land Rights (CLR) or leasehold rights if they have written approval from the minister of the MLR. Community-based organisation (CBOs) can obtain a leasehold. These leaseholds can be leased to investors by CBOs if the CLBs approve this. A new and third land right was introduced in December 2013, known as an occupational land right. An occupational land right is to be used for public services, such as government projects, state-owned enterprise projects, educational, social or sport facilities, church facilities, non-profit making organisation facilities and community projects.³

The right of leasehold generally covers activities that fall outside customary law rights of communal land for grazing, farming or residential purposes. A right of leasehold may be used for business purposes such as a lodge or an agricultural project. The CLB has the power to grant rights of leasehold in communal land, with consent from the TA. In certain cases, the Minister must give written approval before the Board may grant a right of lease-

³ Government Gazette No. B13/2013 from 23.12.2013

hold, i.e. if the size of the land is larger than 50ha. Before granting the leasehold, the Board must display it for a period of at least seven days on the notice board and in the newspaper to allow for possible objections (CLRA, 2005).

The Environmental Management Act of 2007 gives effect to Namibia's Environmental Assessment Policy of 1995 and the principles

of state policy, as outlined in article 95(l) of the Namibian Constitution. The Act lays out a range of different principles of environmental management. It requires developing proponents to comply with a 'listed activity' in terms of the regulations of the Act. Once the proposed activity is identified as a listed activity, it requires an environmental clearance certificate. It does not necessarily follow that an environmental impact assessment (EIA) is required.

Objectives, methods and approaches

This study is aimed at investigating selected cases of land acquisition in Namibia's communal land areas by private and/or foreign investors. The primary focus was to ascertain the impact of such deals on local communities and if the right procedures are followed to secure land for these projects. The study identified all the role players in such deals and also aimed at capturing the experiences and perceptions of affected and concerned community members towards such arrangements.

The study used semi-structured interviews with selected key stakeholders. The methods included individual interviews/stakeholder interviews, focus group discussions (FGDs) and meetings. The individual interviews were necessary to obtain detailed responses as the respondents were provided with a platform to express themselves freely, considering the sensitive nature of these issues in some areas, whereas the FGDs and meetings helped to gauge the group or community perceptions towards these land deals. Overall, the use of these various methods helped to improve the accuracy of the responses. The respondents were identified during the desk study, others during the pre-field trips and some were referrals during the main field trips. The semi-structured questions were regularly modified during the interview process, based on the circumstances in which the interview was conducted. However, the researchers were generally consistent with asking the key questions (see Annexure F) of the study and those aimed at generating the general picture about the processes involved.

The approach was comprehensive in the sense that communities which were likely to be affected by the potential irrigation projects were consulted, as well as the relevant stakeholders. The study was conducted over a period of about six weeks: 2–13 April 2013 (Kavango East Region), 15–19 July 2013 (Kavango East Region), 23 January–7 February 2014 (Zambezi Region) and a follow-up field trip to Kavango East and Zambezi Regions on 10–17 May 2015.

In addition, since this was an action research study, awareness workshops on land rights, which provided additional insight on the subject, were held on 1 April 2014 (Kavango East Region) (see Annexure C) and 3 April 2014 (Zambezi Region) (see Annexure C). Koshy et al. (2010:1) defines action research 'as a community based study which is used for improving conditions and practices, with the ultimate aim of bringing about change in specific context'. Brydon-Miller (2003:10–11) indicates that action research seeks to bring together theory and practice, in participation with others, in the pursuit of a practical solution to issues of pressing concern to people. As a result, such awareness-raising workshops on the Communal Land Reform Act, 2002 (Act No. 5 of 2002) were organised by the research team.

The field research was carried out in the following areas: In Kavango East Region (Rundu, Ndiyona, Hoha, Kayova, Bagani, Divundu and Mutc'iku/Bwabwata National Park (BNP) (see Annexure A), and in Zambezi Region (Katima Mulilo, Muketela, Chinchimane, Dzoti and Nambweza location) (see Annexure A). The following institutions were consulted during the course of the study: Traditional Authorities (Mafwe, Gciriku), Enviro Management Consultants Namibia, Kavango Communal Land Board, Village Development Committees (VDC), Regional Councils (Kavango and Zambezi Regions), Integrated Rural Development and Nature Conservation (IRDNC), Kyaramachan Association (KA), Conservancies (Bamunu, Dzoti, Mashi and Sobbe), Makanga Small-Scale Famers, Ministry of Lands and Resettlement (MLR), Ministry of Environment and Tourism (MET) and Likwama Farmers Association (see Annexures B, C and D). In total, 30 individual interviews, two FGDs (12 people) and two meetings (42 people) were conducted (see Annexure A). The awareness workshops were attended by 47 participants (see Annexure C) in Kavango East Region and 38 participants (see Annexure D) in Zambezi Region respectively. Overall, more than 169

people were consulted over the entire duration of the study.

In addition a follow-up field trip was conducted in 10-17 May 2015. The focus was on the three potential irrigation projects, namely: HJM AGRI Farm Ndiyona Irrigation Project in Kavango East Region and Namibia Agriculture Renewables (NAR) in Zambezi Region. The reason for following up on these three projects was because the Katondo Farming Project was successfully opposed. In Kavango East Region the following stakeholders were consulted: Headmen and women, affected community members (both for and against), investors, MLR and CLB. In Zambezi Region the following stakeholders were consulted: MLR and CLB. The follow-up was necessary to obtain the latest updates on the respective projects since the previous field trips in 2003 and 2004.

but was abandoned by the investor. The study also details the responses and reactions of the local communities and their representatives to these proposed investments.

Challenges and limitations of the study

Land is a highly contested issue in Namibia generally and even more so in Zambezi Region, where most of the challenges were experienced. Therefore, in the wake of the upcoming elections in Namibia which were held in November 2014, careful consideration and approach was taken not to create a state

of confusion as some people were not willing to discuss the issue of land conflict. The sensitivity of this issue was considered to have the potential to affect the voting patterns, especially if the affected communities/electorate felt that land is being unfairly alienated from them. During this time even government officials were hesitant to talk about land issues. It was particularly difficult to secure appointments with government officials in Zambezi Region and, where appointments were made, the interviews could not take place because of other commitments. It required and called for patience and rescheduling, with mixed results.

The timing of the study was another issue as the research was conducted during the rainy season (January–February) and, as a result, some appointments were disrupted because of heavy downpours. The people in Zambezi Region to a greater extent still observe their traditions, culture and norms, and there were three funerals which occurred during the research period; this also affected our meetings with targeted audiences. In addition, respondents in Zambezi Region were not willing to be recorded or filmed because they were suspicious of how the information would be used. Most agreed to photos being taken of them as they believed that this would prove that they had met with the research team. However, despite these limitations, the study went ahead and almost all the key targeted audiences were met, as indicated earlier.

Study regions and case studies

Kavango East and Zambezi regions were chosen as study regions for various reasons. First, both regions recorded among the lowest levels of income and highest levels of poverty in Namibia.⁴ Second, a large majority of the inhabitants live in rural areas, being primarily dependent on subsistence farming. Third, both regions possess favourable environmental conditions for agricultural crop/plant production (if compared to other regions of Namibia) with a range of perennial rivers. The regions have been referred to as the 'Bread Basket' of Namibia (NPC 2006 and NPC 2007), due to their agricultural potential, especially crop/plant production. Therefore, it is no surprise that both regions have been targeted for large-scale agricultural projects.

The sites chosen bring different characteristics with them. The Fumu Mbambo Irrigation Project was initiated by the community and therefore seems to receive strong support from local community members. In the second case – the HJM AGRI Farm Ndiyona Irrigation Project – it was reported that investors from outside approached the Constituency Councilor, the Headwoman and the Chief to set up a large-scale irrigation project without consulting the affected communities and without following the set legal procedures. Thus, the development of this project has been greatly challenged. The third site in Kavango, the Katondo Irrigation Project, is a project that was successfully opposed by a local CBO. The development plans for this project were finally given up by the investor. The irrigation project in Zambezi Region would necessitate a relocation of a large number of local community members, utilise large quantities of water from the Zambezi River and is likely to cause conflict with land uses like Community Based Natural Resource Management (CBNRM) (i.e. communal conservancies).

Thus, each of the case studies highlights different peculiarities that help to understand the processes leading to large-scale acquisition of communal land in Namibia; the laws, policies and institutions involved; and the

responses and strategies by the communities affected.

Kavango Region

The entire Kavango Region⁵ (Map 2) is situated in north-eastern Namibia, bordering Angola to the north. The region covers an area of about 48 456km². The administrative centre of Kavango Region is the town of Rundu, situated along the Okavango River. Slightly less than half of Kavango Region is available for communal farming and the remaining areas are used for a various purposes (see Table 1), particularly for commercial farming and conservation.⁶ Kavango is classified as semi-arid. Temperatures are generally warm with average maximum temperatures above 30 °C in all months except May, June and July, as frost occurs rarely in the winter months.⁷

Although rainfall in Kavango Region is higher than in most other parts of Namibia, there are a number of environmental constraints to agricultural development. For example, rainfall in Kavango Region is variable and unpredictable.⁸ Another constraint to agricultural development is the predominance of sandy soils that are low in nutrients.⁹ More fertile soils suited to crop production are concentrated in small areas along the Okavango River, along *omiramba*,¹⁰ and in long valleys between old sand dunes. Generally, all soils in Kavango Region have low fertility.

According to the 2011 national census data, Kavango Region has a population of 223,352. The population density of 4.6 persons/km² is relatively high compared to the Namibian average of 2.6 persons/km² but with a high concentration along the rivers and roads.¹¹ Large parts of the region are sparsely populated.

The 2011 census recorded 36,741 households in Kavango Region. The average household size was 6.0 persons, which was the highest total number of people living in one household in Namibia. Of all Kavango Region households,

4 In terms of the Human Poverty Index, the then Caprivi Region ranks as the poorest region of Namibia and the then Kavango Region as the fourth poorest region.

5 In August 2013, Kavango Region was split to form two regions: Kavango East and Kavango West. Hence the use of Kavango Region in some parts of this report. However, all research sites are located in Kavango East.

6 Brown 2010: Land Use Planning Framework for the Kavango Region of Namibia within the Okavango River Basin, p. 28

7 J. Mendelsohn, S. el Obeid 2003: Sand and Water. A profile of the Kavango Region, p. 43

8 Mendelsohn, el Obeid 2003: Sand and Water. A profile of the Kavango Region, p. 40

9 Mendelsohn, el Obeid 2003: Sand and Water. A profile of the Kavango Region, p. 62

10 Mendelsohn, el Obeid 2003: Sand and Water. A profile of the Kavango Region, p. 94

11 Namibia Statistics Agency (NSA) 2013: Namibia 2011. Population and Housing Census Basic Report, p. 13

57% are headed by males and 43% by females, both figures being close to the national average of 89%. The Rukavango-speaking people constitute by far the largest language group in Kavango Region, which is 79.4% of the population.¹²

Most of the region's inhabitants are engaged in some form of agricultural production: small-scale farming of mahangu (pearl millet) on a few hectares, with small numbers of goats. Recently, however, most of the southern and western parts of the region have been divided into what have been designated as 'Small-scale Commercial Farms', most of which are 2,500ha in size. These farms have been allocated to individuals under a leasehold system. However, most of the crop-growing activities on these farms generate little income because the land sizes under crop production are small, soils have limited fertility, yields are low, surplus harvests are rare and markets are small. Livelihoods are therefore considerably diversified with residents also relying on wages and salaries, pensions and cash remittances. According to Brown (2010)¹³ small-scale mahangu farms provide some food self-sufficiency but little food security – and no opportunities for economic development or poverty reduction.

Livestock provide an important source of draught power for cultivation, meat and milk.

Perhaps more importantly, the household cattle herd is regarded as a form of savings. According to the Namibia Statistics Agency (NSA), cattle and poultry are the most important assets in terms of livestock.¹⁴

About 70% of Kavango's population live within a 10km-wide strip along the river. This is where people first settled due to availability of water and the suitability of the soils and pastures for farming. Settlements have developed to the south of the river, but living conditions are bad. These are remote villages away from the river with few main or good roads. Here people are far from services and their opportunities to participate in the region's retail and cash economy are limited.¹⁵

Kavango Region is one of the poorest regions in Namibia and this is clearly reflected in various reports and surveys. According to a Central Bureau of Statistics (CBS) analysis of poverty data, the highest incidence of poverty in Namibia is in Kavango Region, where 56.5% are poor and 36.7% are severely poor.¹⁶ The United Nations Development Programme (UNDP) Human Development Index (HDI) underscores that of Namibia's 13 regions, Kavango had the second-worst life expectancy at birth, the third-worst literacy rate, the sixth-worst school enrolment ratio and the second-lowest annual average per capita income in 2001. As a result, Kavango Region

¹² Namibia Statistics Agency (NSA) 2013: Namibia 2011. Population and Housing Census Basic Report, p. 8

¹³ Brown 2010: Land Use Planning Framework for the Kavango Region of Namibia within the Okavango River Basin, p. 25

¹⁴ NSA 2013: 109

¹⁵ Brown 2010: Land Use Planning Framework for the Kavango Region of Namibia within the Okavango River Basin, p. 22

¹⁶ CBS 2008: 9

Table 1: Land use in Kavango Region

| Land use/ownership | Square kilometres | Percentage of Kavango Region |
|-------------------------------------|-------------------|------------------------------|
| Communal grazing | 22,477 | 46.4 |
| Private, commercial farms | 14,529 | 30.0 |
| Conservation areas | 7,534 | 15.5 |
| NDC farms | 1,689 | 3.5 |
| Small-scale crops | 750 | 1.5 |
| Namibia Defence Force (NDF) | 537 | 1.1 |
| Quarantine farms | 280 | 0.6 |
| Resettlement farms | 200 | 0.4 |
| Urban areas | 162 | 0.3 |
| Government farms | 112 | 0.2 |
| Forestry areas | 101 | 0.2 |
| Rehabilitation farms | 62 | 0.1 |
| 'Green Scheme' farms | 23 | 0.0 |
| Total area of Kavango Region | 48,456 | 100% |

Source: John Mendelsohn, 2009:11

had the second-lowest HDI (0.410) for Namibia after Ohangwena Region.¹⁷

HJM AGRI Farm Ndiyona Irrigation Project

A potential irrigation project called HJM AGRI Farm Ndiyona Irrigation Project, situated east of Rundu in the Ndiyona Constituency, made headlines in 2013 under the title 'Raging dispute over Kavango land' (The Namibian, 25 January 2013). The project idea started in 2012, when the investor met the Governor, Councillor, TA and apparently the community members. Initially he was given 2000ha and he planned to grow maize, potato, wheat, ground nuts and vegetables. He did not have immediate plans for export, but that he would focus on the Namibian market first. He promised to provide about 940 jobs and this included permanent (40), seasonal (500) and casual (400). It was alleged that the main investor is a South African citizen who partners with a Namibian investor. The alleged partnership operated under a company called HJM Agri-Investments. However, when the Namibian partner was interviewed, he claimed to be the main or sole investor and did not have any South African partnership. The investor basically denied having links or partnership with any South African individuals or companies.

By 2013 he had started clearing the land and fencing off the area without obtaining a

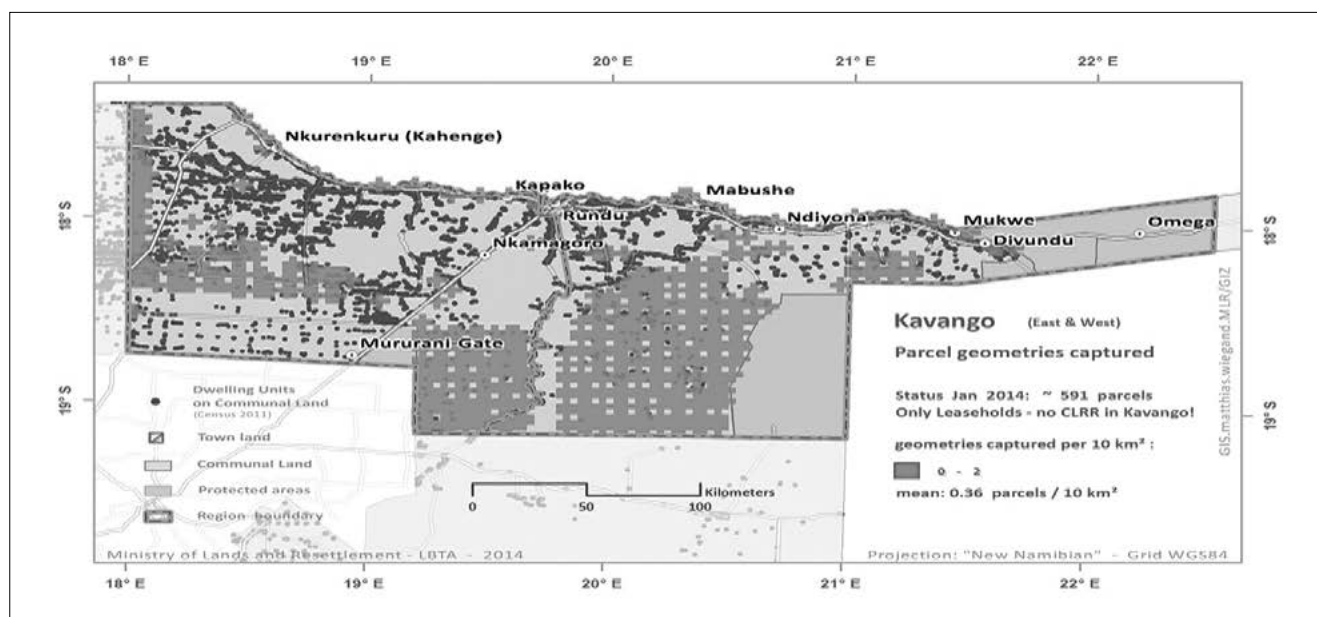
leasehold as required by the Communal Land Reform Act, 2002 (Act No. 5 of 2002). At this time his application was not tabled by the CLB and an environmental Impact Assessment (EIA) was not done.

Initially he was given part of the land which was state land (just a few hundred hectares, plus-minus 400ha). This land was donated to the government before independence by the Gciriku Traditional Authority. This land reverted back to the TA in the 1970-80s when the government project failed and the TA allowed community members to cultivate this land to prevent it from becoming a thick bush. This practice continued after independence. However, the investor was given more land taking up surrounding crop fields and bush. The following villages would have been affected by this particular project; Ndiyona, Shikoro, Rucara, Hoha and Kashipe.

The public outcry came as a result of the manner in which the project was planned and carried out. There were reports indicating that community members were not properly consulted. A group of communal farmers in Ndiyona Constituency claimed that they had not been consulted properly. The spokesperson of the opposing group claimed publicly that 'no consultation took place with field owners at Ndiyona, Shikoro, Rucara, Hoha and Kashipe villages that will be affected' (The Namibian, 25 January 2013). In the same article the secre-

17 Levine 2007: 14

Map 2: Kavango Region



Source: MLR, 2013

tary of the CLB also said that 'the people are crying, their land has just been taken away and this is illegal. People must write a letter to the Land Board' (The Namibian, 25 January 2013).

On the contrary, the Councillor of Ndiyona Constituency stressed that five community meetings were held. She said discussions were first held with the Traditional Authority, after which all necessary documents were given to the Land Board and the Lands Ministry. She said the concerned Gciriku TA, through the Chief and Headwoman, had consultations with crop field owners and that communities are not against the agricultural project.

'We had five meetings with the communities and the Chief of the Gciriku Traditional Authority was also consulted,' claimed the Councillor. She insisted that all community members were involved and that these allegations of 'lack of consultation' came from those who are not in favour of the project. 'We have given the land to the investor so that our children can have jobs and a future.' She continued that 'people have forgotten the aim of this project, namely to create food security and jobs. According to the Councillor the project had already created 300 temporary jobs and denied that homesteads or crop fields were being destroyed. She informed the research team that the South African investor intends to plant maize, potatoes and vegetables. She also promised that meetings would

be held to discuss compensation to those who have lost their fields.

The Councillor, however, acknowledged that the necessary paperwork was still outstanding, saying: 'Just to be honest, when investors come, they are often offered/granted land without leasehold. This applies to most of the green schemes in this area. In this case we are still waiting for a leasehold'. The investor started clearing the bushes, including crop fields, without having obtained a leasehold.

Opposition to the project

Two field trips were carried out to the study area during which various interviews and focus group discussions were held with traditional authorities, the investor and community groups. During these discussions it became clear that the correct procedures for obtaining a leasehold for the impending irrigation project had not been followed by the investor. In fact, the investor admitted during the interview that he was not familiar with the contents of the CLRA. He therefore did not know about procedures on how to obtain a leasehold. He started clearing fields and erected fences seemingly without any right to do so. This led to strong opposition from some villagers who claimed to have been affected by the project. The project, however, seemed to receive support from the Councillor and Traditional Authority, although it was not said openly.

The proposed project led to divisions within the community, creating deep mistrust between the two opposing parties. The division has gone as far as splitting families. The line of division seems to be running along educational and economic factors. The group opposing the project consists of better educated people, some of them occupying formal positions (e.g. teachers). This, however, is rather a class issue and not necessarily an educational one, because these people also include other individuals who form the middle to upper class of rural farmers who have diversified income which they can reinvest in agriculture. They are the rural farmer bourgeoisie with more or considerable numbers of livestock and larger or numerous crop fields. Their main argument against the project is that they will lose their land rights, especially

Photo 1: The fence around the project area which was put up before the leasehold was approved, as well as the boards with the company name at the main gate.



Photo: T. Muduva (2013)

for future generations and that they would not be able to use the commonage as before. The project would further violate existing planning for the newly proclaimed settlement of Ndiyona, as it was said to have encroached into the town/settlement boundary.

Support or acceptance of the project

The group supporting the project consists mainly of subsistence farmers. The majority of them are dependent on their land for subsistence farming and they have few opportunities for other income-generating activities. They were more concerned with deriving immediate benefits rather than the long-term vision of securing land rights for the future generation. A large number of this group are unemployed young people who are in need of jobs. Most of these young people cross over to Angola for informal employment under unfavourable conditions. The drought of 2013 in Namibia seems to have exacerbated the situation in that people seemed willing to give up their crop fields for the project, as they do not get enough yields from the field to make a living. The income some of the villagers were able to generate through the clearing of the fields made a difference to their livelihoods. They received a cash payout of N\$900 each and this was confirmed by the investor. It was far higher than the income from informal employment they normally get from other villagers (including teachers).

'I want the work to continue, the investor did not take our crop fields by force. Our parents gave him the crop fields and I was present when these decisions were made. We want to work; this committee which is against it, have even mobilised people from different villages, even as far as Ndonga Linena. They just come together to oppose development at our village. They even wrote the names of people who died in 2003 on their list of people who were apparently opposing the project. If they are serious about stopping the project, why are they not here to tell the public about their position instead of only doing things in the dark? They have money and they are all employed. They just write letters to the authorities to stop the investor. We are now hungry and have to depend on piecework even just to settle debts and to support our families. Our parents have

Photo 2: Focused Group Discussion (FDG) with crop field owners and concerned community members who were opposed to the potential irrigation project.



Photo: T. Muduva (2013)

Photo 3: Interview with two women who are among those who are opposed to the project.



Photo: T. Muduva (2013)

Photo 4: Individual interview with a community member who was opposed to the potential irrigation project.



Photo: T. Muduva (2013)

Photo 5: Women who were in favour of the potential project during a Focused Group Discussion.



Photo: T. Muduva (2013)

Photo 6: Men who were in favour of the potential project during a Focused Group Discussion.



Photo: T. Muduva (2013)

Photo 7: Focused Group Discussion with crop field owners who were in favour of the potential irrigation project. Most of them had surrendered their crop fields in order for the project to be implemented.



Photo: T. Muduva (2013)

given their crop fields and we want to start working even this coming Saturday or Sunday.’ Affected community member, 20 July 2013

‘We have spoken everything so far, about our desire and we are saying this with tears in our eyes. Since you are here (LAC, researchers), you must go and make it easy. As others have already said we want Mr Tjihero to start working on the project by Monday and Tuesday. He must not be afraid and hesitate like in the past. He must be free to go ahead, because everyone here has given up their crop fields of their free will. God must increase the knowledge of Mr Tjihero so that he can start. Our children are suffering and we are surviving on pension of N\$500 on which we must buy maize meal, trousers of our children and nappies for our babies. We want our children to work for themselves so that as pensioners we can be supported, because we are not able to cultivate like in the past. Some areas which people are claiming to be their crop fields have not been cultivated for a long time. Others who are preventing Mr Tjihero, his project does not reach their crop fields. We do not want that, we want the truth and we are saying the truth that no one was forced or paid to give his/her crop field. We gave our crop fields to the Project so that our children and grandchildren can work in the project; we want to make a living, that’s all we want’. Affected community member, 20 July 2013

The current status of the project

The Kavango Communal Land Board placed the notice of the leasehold in the local newspaper in May 2013, so that any objection could be submitted within seven days. The opposing group submitted their objections. The Communal Land Board met the opposing group in July 2013 so that they could state their reasons for their opposition, as part of the Board’s investigation. The Land Board promised to decide on the matter by 25 July 2013 – however, a final decision had not been reached by November 2013. The investor claimed to have rectified all the mistakes which he had done in terms of following standard procedures in securing a leasehold. He was initially ordered to stop debushing and fencing, which he did. He also claimed that he had started remov-

ing the fence. There are also allegations of vandalism to the fence and the group which opposed the project were suspected to have been responsible for such actions. But by November 2013, the signs at the main entrance bearing the name of the project had been removed by the investor, presumably due to pressure from a certain segment of the community, and the Kavango Communal Land Board and the Ministry of Lands and Resettlement.

The decision was further delayed because in 2013 the Government of Namibia (GRN) divided Kavango Region into two separate regions (Kavango East and West). It took approximately a year to decide whether there would be two Land Boards or whether the existing Land Board would be responsible for both regions. Therefore, no decisions could be taken by the Land Board under those circumstances and hence there was silence for nearly a year. On 28 February 2014 it was announced that the Communal Land Board, which existed before the division of the region, would be responsible for both regions (covering all communal land within the boundary of Kavango East and Kavango West regions). The research team members enquired from the Kavango CLB and the MLR Rundu office in June 2014 whether a final decision had been taken by the CLB members on the leasehold application. Their response was as follows: 'The Applicant will be informed as per the Land Board resolution regarding his application. For professional reasons, it is not ethical to disclose the Board's resolution except to the Applicant.' This might be an indication that no final resolution had been reached on the matter at the time.

However, during a follow-up field trip in May 2015, the research team established through the various interactions with relevant stakeholders that the land in question had been reduced to 778ha. The investor was now allowed to apply for 538ha in communal land and 240ha inside the town boundaries of Ndiyona settlement (see map....). He was advised by the MLR and CLB to submit two applications for leasehold; one to the MLR for communal land and another one to the Kavango East Regional Council for the part within the town boundaries of Ndiyona settlement. The investor then followed the correct procedures as he was advised. In his new application, the

investor had changed the name of the project to Ndiyona Mills. This was also confirmed in the public notice placed by the KavECLB in the local newspaper (New Era, 20 February 2015) to allow for objections of the 538ha in Communal Land. However, not much information was forthcoming in terms of progress with regards to the leasehold application inside the town boundaries.

There were allegations that the first name suggested that there were shareholders involved who abbreviated their names ('HJM' AGRI farm Ndiyona Irrigation Project). Hence the investor wanted to make a point that he was the sole owner.

Photo 8: The project fence which was alleged to have been vandalised by the opposing group.



Photo: T. Muduva (2013)

Photo 9: The gates which once carried boards with the name of the project, removed due to pressure from the opposing group, the CLB and the MLR.



Photo: T. Muduva (2013)

In November 2014 he engaged an environmental consultant to do an Environmental Impact Assessment (EIA). He has submitted the EIA and now he is waiting and is optimistic that the Ministry of Environment and Tourism will grant him the Environmental Clearance Certificate and then eventually his leasehold will be approved by the MLR. Currently, the opposing communities have maintained their positions, but their relations have somewhat been restored.

Photo 10: The community members who gave up their crop fields for the project, standing in the project area.



Photo: T. Muduva (2013)

Photo 11: A community member standing in his crop field which he gave up for the potential irrigation project, but decided to cultivate it because of the delay with the implementation of the irrigation project.



Photo: T. Muduva (2013)

Fumu Mbambo Irrigation Project (Pty) Ltd

The proposed project, known as Fumu Mbambo Irrigation Project CC, is situated in the north-eastern part of Namibia just inside the Caprivi Strip, close to the town of Bagani in Kavango Region. The approximate size of the project area is 891ha, stretching in a north-south direction, starting close to the Okavango River (northern boundary) and again stretching southwards towards the Botswana/Namibia border (approximately 14km). The project developers intend to plant various crops like maize, beans, cabbage, sorghum and nuts. Water from the Okavango will be extracted and distributed through a pivot sprinkler system (Du Toit, 2013). The researchers met with the consultants who had undertaken the Environmental Scoping Assessment. Field trips were conducted in April and July 2013. Interviews were undertaken with affected crop field owners, the village headman, the investors and the Chairperson of the Kavango Communal Land Board. A focus group discussion was further held with the crop field owners.

The project plan was initiated by a community member. He is now a partner and spokesperson of the impending project. He began engaging the community about the idea of approaching potential investors for an irrigation project in the area in 2010 and, after receiving consent from them, they agreed to approach a potential investor. The investor is a well-known and established Namibian businessman who is based in Kavango Region. Together with the investor, they held consultations with the community members, headman and the Chief of the Hambukushu Traditional Authority, whom the project is also named after. The Chief and his TA gave consent and forwarded the application to the Kavango Communal Land Board for ratification.

More than 38 people gave up their crop fields to pave the way for the project. The crop fields range between 0.5ha–12ha. The spokesperson was confident that he was going to receive the leasehold certificate from the Ministry of Lands and Resettlement in a few weeks, then start the operations. The 38 farmers who gave up their crop fields did not receive any compensation. The Headman of

Bagani village confirmed that the community members wanted to have an irrigation project as their subsistence crop fields had not been productive for some time. Their crop fields were being destroyed occasionally by hippopotamus and weeds. At the time of the interviews (July 2013) there were only 10 crop fields which were still being cultivated in the project area. The community and TA were promised various benefits resulting from the project by the investor, ranging from employment, food, royalties and cash benefits.

During interviews with affected community members in the course of the second field trip, it became clear that the community members were in favour of the project. The investor(s) seemed to have undertaken thorough consultations with the community and the TA.

Delays and status of the project

At the time of the research, the leasehold has not been issued yet and this had begun to bring discontent among community members. Some community members felt that they had given up their crop fields for nothing in return and that they wanted to take them back to cultivate and produce food again. The community members in general were tired of waiting for the implementation of the project. The apparent lack of feedback left the community members uninformed about the progress of the project. The main investor, when interviewed, agreed that the community was running out of patience and so was he. He revealed that he had hired a company to do an EIA which cost him about N\$80 000, including other logistics. He was again asked to submit other reports, including a business plan which could have taken another six months and could have pushed the cost to N\$120 000. However, he decided to stop incurring further costs in the absence of a leasehold, despite the backing from the community, including the Traditional Authority.

'The people know me so they invited me to discuss and then we started the process. I hope I get the project before I retire. We have the letters from the TA, now we are busy with MET. It has been four years now and I'm about to give up. If the President comes here, I will talk to him about this. The reason black people can't make it

with commercial farms is because of too many procedures and documentations'.
Investor, 16 July 2013

After receiving the Environmental Scoping Report, the Ministry of Environment and Tourism, through the Environmental Commissioners Office, reviewed it and raised many issues in writing which the investor and his environmental consultant were expected to address. The following issues were raised: updated information on biophysical, socio-economic factors, specific information on the constituency/district of the project area and on the project area itself. The report lacked mitigation measures for all negative impacts identified. The EIA of the road to the project site needed to be assessed and integrated in the report, a detailed project plan as indicated on MAWF's letter needed to be worked out

Photo 12: Affected community members of the project area (Bagani village) showing the area earmarked for the potential project.



Photos: T. Muduva (2013)

and the EIA report was supposed to include the following information: ploughing methods, weather information, recent soil sample analysis, type of pesticides, herbicides and fertilisers to be used, and should state if it is allowed in Namibia or not, infrastructure to be built e.g irrigation, storage, housing etc., solid waste and waste water management, including the drainage system, number of people to be employed during the construction phase and operation phase (skilled and unskilled; locals and non-locals; temporary and permanent; and gender.

The investor and his partner are then expected to address these issues which will then result in the issuance of an Environmental Clearance Certificate and eventually the leasehold right. However, during the May 2015 field trip, the investor had not yet done anything in this regard and was still contemplating making contact with this environmental consultant. The affected community were still in the dark with regard to the project progress.

Katondo Farming Project

The Katondo Farming Project was planned in the far east of Kavango Region in the Bwabwata National Park. The Bwabwata National Park falls within the Zambezi Region and the eastern Kavango Region. The inhabitants of the park were primarily Khwe and Xun! San. The Kyaramachan Association (KA), established in 2005, is a registered CBO represent-

ing the residents in the park and co-managing the park together with the Ministry of Environment and Tourism.

The planned Katondo Project was estimated to measure 10 000ha. The developers were Demeter International and its Namibian black economic empowerment partner, Labour Investment Holdings (LIH), which is affiliated to the National Union of Namibian Workers (NUNW) (The Namibian, 9 March 2010). The aim was to practice large-scale intensive agriculture with a specific focus on water-intensive species such as maize, wheat, rice, sunflower and canola (The Namibian, 19 May 2010). The project planned to abstract 75 million cubic metres of water per year from the Okavango River (The Namibian 22 October 2010).

The Labour Investment Holdings obtained a 25-year leasehold for the project. The Hambukushu chief and his TA were guaranteed a 15% stake in the \$20m project for their consent (The Namibian, 21 May 2010). The Hambukushu TA does not recognise the status of the National Park and the land claims of the San living in the Park.

During the field trip undertaken in July 2013, the researchers interviewed the Chairperson of the Kavango Communal Land Board, crop field owners, a staff member of IRDNC and Kyaramachan (KA), the Chairperson of the KA and a resident or inhabitant in the Park, who is also a member of the KA.

Photo 13: A community member in the Bwabwata National Park (Project area), narrating their (affected community) successful opposition to the potential irrigation project.



Photo: T. Muduva (2013)

Resistance to the project

'I don't have much to say because we were not interested. Fumu Mbambo, a leader from outside, organised this without telling people in Bwabwata National Park. Even the name Katondo is a Hambukushu word which means, 'A small tree'. They said that the project was going to stretch from Angola and they were going to clear the whole land. This is the area where our community gets their mangetti fruits. We discussed with our community and the association (KA) made it clear that it was against the project'. Former KA chairperson/park resident, 18 July 2013

The KA, which does not recognise Hambukushu Chief's authority over them, objected to the project indicating that the planned pro-

ject would hinder their access to bush food and that no proper consultation process with the Park inhabitants had taken place. They also stated that potential benefits to the Park inhabitants had been kept vague. Concerns were further raised by the German Development Cooperation, namely the German Development Bank KfW, who had financially supported the development of the National Park, and other NGOs like the Working Group of Indigenous Minorities in Southern Africa (WIMSA) and Namibia Nature Foundation (NNF).

'If this project had materialised we were going to lose our resources, medicine and food plants. We would not have access to resources in the future.' Affected community member, 16 July 2013

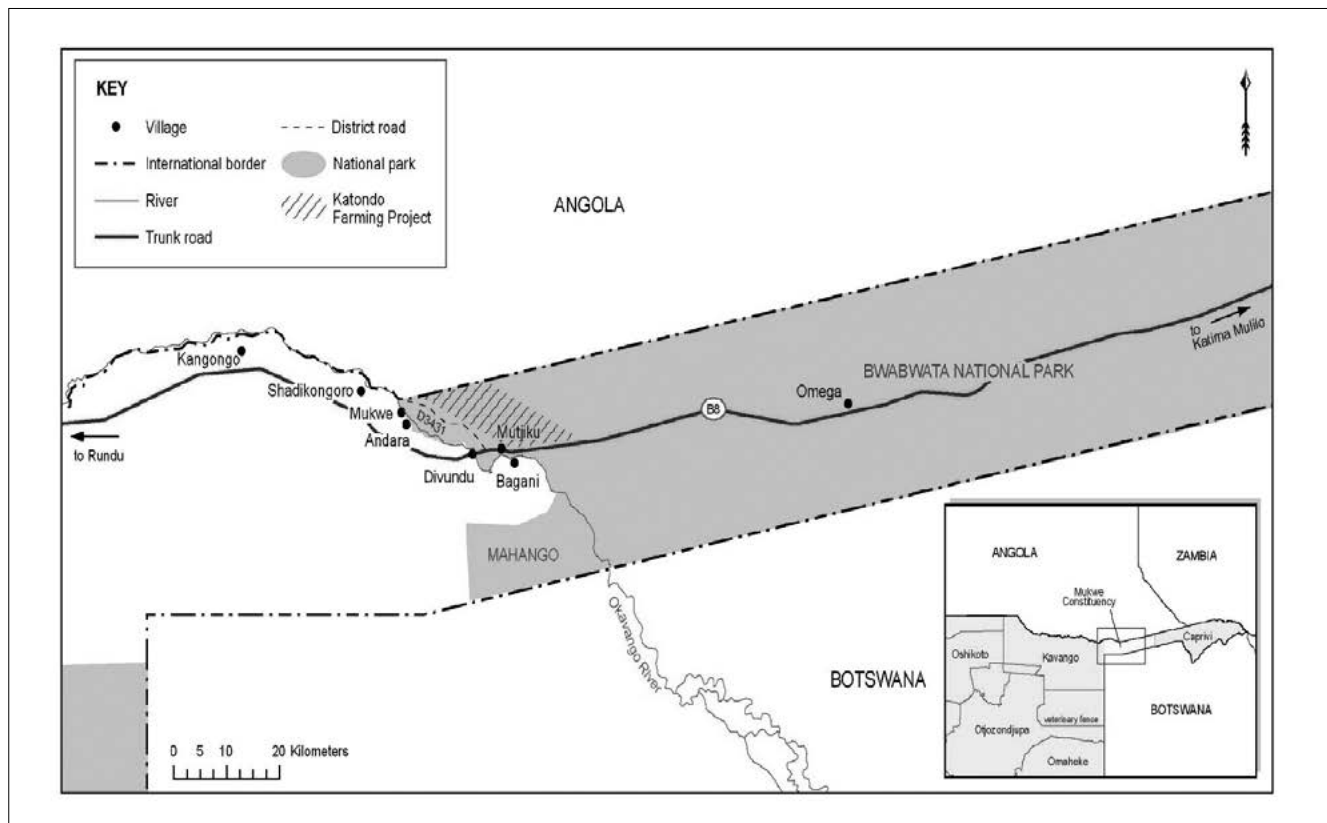
According to the scoping report, the potential impacts would have been in terms of loss of pristine and protected habitat, and increased human intervention in the relatively undisturbed ecosystems (The Namibian, 21 May 2010). The environmental scoping assessment, undertaken by Enviro Dynamics,

identified water as a 'possible deal-breaker.' The project would have had impacts on international water ecosystems in terms of water demand and pollution. OKACOM (Okavango Commission) had not been alerted to the planned project (Van den Bosch, 18 October 2010, IPS).

There was poor communication, especially with people inside the Park. People were not informed of the plans, how the project would start and the benefits to the people in the Park. Even the name Katondo is not a Khwe word, but a Mbukushu word, which mean a small tree. The project was imposed upon us. Affected community member, 16 July 2013

Demeter Manager, Mr Clay Taber, based in South Africa, reportedly said that 'the benefits from the project for the community would be a damn good deal better than harvesting plants' (The Namibian, 21 May 2010). Labour Investment Holdings CEO, Cleopas Mutjavikua, argued that environmental and human rights groups were behind the Khwe's resistance. He was quoted saying that 'they

Map 3: Location of proposed Katondo Farming project in Mukwe Constituency in Kavango East Region.



Source: Enviro Dynamics (Pty) Ltd, 2009

are talking about harvesting devil's claw and all that nonsense, but meanwhile the people there depend on government hand-outs'. He further said, 'It is up to Mbambo to share his 15% stake with the Khwe; we don't want to get involved in a tribal feud' (Business Day, 19 May 2010).

The current status of the project

The project was heavily resisted by the community members and other stakeholders alike. The community, through a local CBO, objected to the project, indicating that no proper consultations with Park residents had taken place and that the project would hinder their access to bush food. They also added that the potential benefits to the Park inhabitants had been kept vague. The environmental scoping assessment found the water issue to be a 'possible deal-breaker'. The project would have had impacts on international water ecosystems in terms of water demand and pollution. Other environmental concerns were further raised by the donors such as the German Development Cooperation, namely the German Development Bank KfW, and other NGOs like the Working Group of Indigenous Minorities in Southern Africa (WIMSA) and Namibia Nature Foundation (NNF). The

project was successfully opposed, based on the outcomes of the feasibility study.

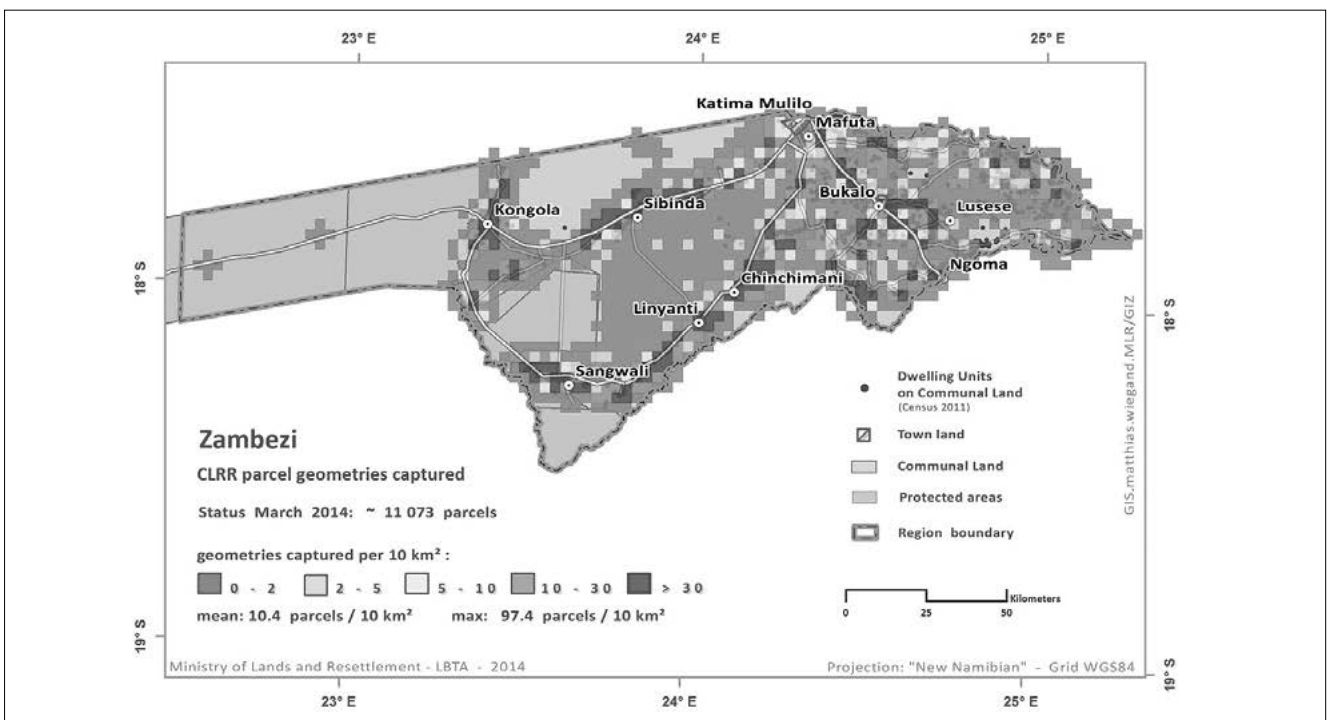
The project was finally abandoned although the reasons were not communicated to the KA. Odendaal (2011) reported that the project was dropped because the environmental and social impact assessment showed that it was not feasible to continue with the project.

Zambezi Region

Zambezi Region covers the eastern part of the Bwabwata National Park and the land east of the Kwando River (see Map 3). The region is mostly flat and characterised by several rivers and floodplains. Much of the region is low-lying and, in high-flood years, large areas of land are under water. A large part of the region's land surface is taken up by state-run protected areas: Bwabwata National Park, Mamili National Park, Mudmumu National Park and State Forests. Large parts of the region along the Kwando-Linyanti River and on the eastern floodplains have been set aside for communal conservancies and community forests.

Zambezi Region has the highest rainfall among all the regions in Namibia, with an annual average of just less than 700mm around Katima Mulilo. Most of the region is

Map 4: Map of Zambezi Region



Source: MLR, 2013

covered by soils that are moderate to poor for crop farming.¹⁸

The main ethnic groups are the Masubiya, Mafwe, Mayeyi and Hambukushu, with a small population of Khwe as well as a few !Xun. Agriculture provides the majority of people with most of their income and food. Residents combine cattle farming with crop cultivation (mostly pearl millet, sorghum and maize). Most farms are small and do not provide large surpluses, but there is also a growing trend for more wealthy individuals to farm commercially on larger areas of land.¹⁹

Turpie et al.²⁰ found that rural households in Zambezi Region regard crop production for domestic consumption as an important livelihood strategy. Other activities ranked high by communities in this respect include natural resource utilisation (especially thatching grass and reeds, both for construction and for sale) and livestock production. Pensions, crop sales and sale of natural resources were considered important for cash income among rural households in the region. While cattle are not so important in terms of cash income, they are very important insofar as they provide meat and milk for consumption, and are used for crop production, providing draught power and enabling larger areas of crops to be cultivated.²¹ Fish provides an important additional source of protein for many residents. The region has among the most successful conservancies in the country in terms of providing income and job opportunities for local residents.

Out of Namibia's 13 regions, Zambezi Region is one of the poorest. It has the third-lowest ranking in the UNDP Human Development Index, and the fourth-highest ranking in the Human Poverty Index.²² Long (2004)²³ also reported that, although not everyone is poor in Zambezi Region, poverty is more widespread there than in the country as a whole. People living in Zambezi's rural areas have little access to jobs and cash, and depend mostly on cropping, livestock, 'piecework' (temporary manual work), wages, pensions and the use of a variety of natural resources. Wealthier people tend to be those with large cattle stock who tend to be less reliant on pensions and natural resources.²⁴

Namibia Agriculture and Renewables (NAR) Project

The proposed Zambezi Irrigation Project, also referred to as the Namibia Agriculture and Renewables (NAR) Project, is situated in the eastern part of Zambezi Region, midway between the Trans-Caprivi Highway from Kongola to Katima Mulilo and the gravel road running south-west to Chinchimane and onwards. The NAR Project has been planned for implementation in the Sibinda Constituency, which is one of the six constituencies in Zambezi Region. The total size of the project is 29,873ha, but will be developed in stages. The first stage, of which 5,000ha is planned, has already been leased out to the private investor. A canal with the capacity (and size) to irrigate 5,000ha or 20,000ha (depending on the economic viability of the project) will be constructed and will run from the Zambezi River to the project area (Colin Christian & Associates CC, 2011). A variety of crops will be grown under irrigation and it is expected that lucerne will be the main crop for processing, pelletising and exporting as animal feed (Colin Christian & Associates CC, 2011).

The project has the potential to affect, and to some extent is already affecting, some communities in Sibinda, Mazoba, Lusu, Masokotwane, Muketela, Linyanti and Chinchimane areas. The leasehold was approved in 2010. However, this project has not yet got off the ground. Section 36 of the CLRA states that 'a right of leasehold may be cancelled by a board if the leaseholder fails to comply with the requirements or to adhere to any restrictions imposed by or under any other law pertaining to the utilisation of the land to which the right relates'. More specifically, Regulation 15 highlights the reasons and circumstances for cancellation of leasehold. More relevant and specific to the NAR project is Regulation 15: (e) (bb) fails to pay two consecutive instalments referred to in section 32 (1) (c) of the Act in respect of the land'; '(cc) defaults in paying an amount in respect of the periodical rental payable in terms of the deed of leasehold, within 30 days after having been given a written demand for such payment by the Board'. In light of the above provisions and regulations, the Zambezi Land Board wrote a letter to the developer and the relevant Traditional Authority informing them of their

18 Mendelsohn, Roberts 1998, pp. 6, 17

19 Mendelsohn and Roberts 1998, p. 28

20 Turpie et al. 2010

21 Mendelsohn et al. 2006, p. 26

22 Levine 2007: 8, 11

23 Long 2004: 58

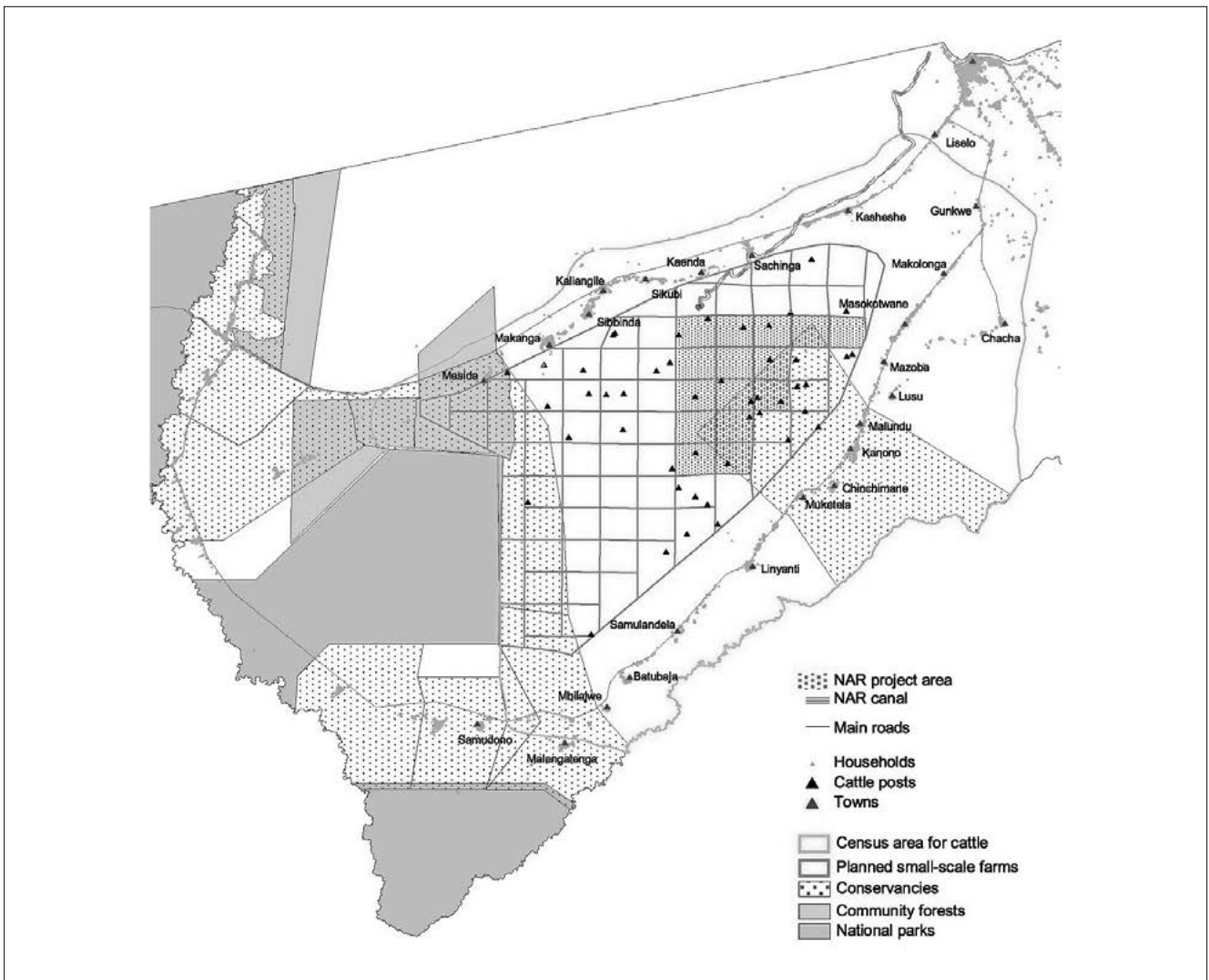
24 Long 2004: 61

intention to cancel the lease, since no development had taken place since the leasehold right was given to the investor. Additionally, the investor had not been paying lease fees, and he did not inform the CLB and TA what was hindering him from commencing with the project. An Environmental Impact Assessment (EIA) was done but the outcome of this report was not shared with the relevant stakeholders, including the Zambezi Land Board. A copy of the EIA was requested, and was not made available to the research team.

Following a meeting with team members (Willem Odendaal, Maarit Thiem, Theodor Muduva and Rodgers Lubilo) in Windhoek

on 21 January 2014, the field trip commenced on 23 January 2014 to 7 February 2014. The field trip was carried out by Rodgers Lubilo, a researcher who has extensive work experience in Zambezi Region. He therefore has an excellent understanding of the context and local networks, and submitted a report on his consultations with local communities. The following key stakeholders were consulted during the pre-field trip meeting: Traditional Authorities (including local district Indunas and Headmen, the Bamunu and Dzoti conservancies, the Makanga farming community, the Ministry of Lands and Resettlement (MLR), the Zambezi Land Board, the Ministry of Agriculture, Water and Forestry (MAWF),

Map 5: The NAR project area within the larger area of planned small-scale commercial farms. Each household was mapped off aerial photographs taken in 2007 and are shown here as small orange triangles.



Source: John Mendelsohn, 2012

the Likwama Farmers Association, the Ministry of Environment and Tourism, the Councilor of Sibinda Constituency, officials from the Regional Council and other relevant stakeholders and persons with interest and information on the project.

The current status of the project

The official status of the proposed Sibinda NAR project is that the right of leasehold granted in 2010 was not honoured by the investor, as there is no development done on the land. The investor has not communicated why he failed to start the project. In this regard, the Ministry of Lands and Resettlement, through the Zambezi Land Board, wrote a letter to the investor to inform him of their intention to cancel the lease. The same letter also reached the TA. The CLB may cancel or terminate the lease under such circumstances.

However, a three-month grace period was granted to the TA to contact the developer and inform him of the Communal Land Board's intentions to cancel the leasehold, which expired at the end of February 2014. Depending on the outcome, the CLB will meet and make a final decision on the leased land. It is also reported that the developer has not paid lease fees for the last two years, apart from the first payment made at the time of approval; the amount owed stood at \$70,000. The TA is expected to write back to the Communal Land Board about what they will discuss with the investor. It is, however, apparent, especially considering the legal requirements which have not been fulfilled, that this lease will be cancelled. There has also been no correspondence from the investor as to why he has failed to start development. The local contact person or partner is no longer residing in Katima Mulilo and is reported to have migrated to either Tsumeb or Oshakati (both towns in central-northern Namibia) where he is working for either a mining company or pursuing other business interests. Therefore, his absence from Zambezi Region may signal why the project has stalled.

Promised benefits and potential negative impacts

Expectations of potential positive developments for the region were created by NAR over the years, such as the creation of job

opportunities, income for the Traditional Authorities and an economic boost of the area and the whole region in general. However, many other similar projects in Zambezi Region have failed in the past to deliver their promises. Consequently, traditional leaders, government officials and regional councilors have become sceptical of development proposals. The developments with the NAR project have to be taken with precaution as NAR has not been able to meet some of the minimal development costs, e.g. paying for the lease to the Communal Land Board and the Mafwe TA. There is also reason to believe that Lake Liambezi, which provides fish to the

Photo 14: Individual interview with a senior official (Regional Warden) of the Ministry of Environment and Tourism in Katima Mulilo.



Photo: R. Lubilo (2014)

Photo 15: Mr Rodgers Lubilo (with a file) with staff of the Bamunu Conservancy office at Chinchimane. The man is the Conservancy Manager and the lady is the Bookkeeper.



Photo: R. Lubilo (2014)

area, might be impacted by the use of fertilisers and pesticides. In addition, the Victoria Falls Hydroelectric Power Plant might be further impacted if the projects operate at full scale, as the level of the Zambezi might drop, which could lead to a reduced production of power (pers comm C. Christian, 13 June 2013).

The project could potentially also affect some communities in the Sibinda, Mazoba, Lusu, Masokotwane, Muketela, Linyanti and Chinchimane areas. The project area is currently

used to graze approximately 3,000 cattle belonging to about 50–150 people, who are residents of these areas or communities. The government compensation policy, which was approved by Cabinet in 2008, does not cover compensation for loss of commonage grazing. Nevertheless, the residents or existing users of the project area were expected to vacate and make way for the development. Placing the cattle in another area would put additional pressure on pastures in other areas, notwithstanding the fact that it would be extremely difficult to accommodate an additional 3,000 cattle in any part of Zambezi Region. Considerable resistance by the cattle owners is also likely, until suitable measures are identified. In addition, any proposed development in the affected area would involve enormous changes for the current land users and this includes the proposed allocation of the remaining small-scale commercial farms in the area, which could potentially lead to social and political unrest (Mendelsohn, 2010).

Photo 16: Mr Rodgers Lubilo (holding a book) interviewing the senior headman (in pink long-sleeved shirt). The other man (stripped golf t-shirt) was invited to listen to the discussion.



Photo: R. Lubilo (2014)

Photo 17: Mr Rodgers Lubilo interviewing a former Manager of Dzoti Conservancy in Sibinda Constituency. He was very knowledgeable about the potential irrigation project. Because he has a broader understanding of the project, he was a key informant during the field visit.



Photo: R. Lubilo (2014)

Its many people, all these villages in this area, the people have their fields, cattle and we use the area for many things, so it will affect everyone, the number is big. Even these women they have their field there and cattle. If he fences the area where will the cattle graze? They want to bring hunger and confusion. They don't consult us first. Induna, 23 January 2014

Limitation to resource use, people will lose their vast lands, for farming and grazing. You see, people now would like to stay in the village and farm, so we all have our fields in the area where this project is planned. They might have promised jobs but at the end of the day, they will bring their own skilled workers, local people won't benefit. Hon. Councillor, 4 February 2014

According to the head of the Ministry of Lands and Resettlement's Katima Mulilo regional office, the agreement between the investor and the TA outlines compensation for loss of land to those who would be affected. This document and other correspondence are accessible upon a written request to the CLB. While the government officials are aware about this agreement and its content, the local communities, on the other hand, are not aware. Therefore, the form of compensation, if any, is not understood and has

remained speculative. Meanwhile, it was also reported that the Mafwe Traditional Authority had received some funds, estimated to be around N\$50,000. It is speculated that this donation was made to avoid the cancellation of the lease by the Land Board. The donation was intended to support five schools around the proposed project area.

Community consultation and involvement

In future, they need to start by consulting us, the local people. Then I take the issue to the chief and then we can decide, not people from Katima or Windhoek, making decisions for us. We do not want that, they do not know our problems. Headman /Induna from the Mafwe TA, 5 February 2014

In general, based on the discussion with the relevant people, it was evident that there was a lack of consultation with regard to the project with the local communities and conservancies in the affected areas. A single workshop was organised at Katima Mulilo, which was attended by selected representatives. During the meeting the proposed project was discussed. This workshop was regarded to be the 'consultation process'. A prominent community leader in one of the areas which could have been affected stated that there has been no community meeting initiated by the developer to inform people about the project. He stated that the CLB approved the lease without consulting the local people who would be affected. The CLRA, however, does not necessarily require the CLB or the TA to consult where there is no official objection, which would be followed by a hearing.

The Traditional Authorities did not share the information on this project with their communities. The TA consented to the project and this allowed the Land Board to issue the leasehold. The contents of the agreement between the investor and the TA on behalf of communities is not known by the local people, nor the conservancies, including the key stakeholders like the Constituency Councillor in whose jurisdiction the project would have been implemented.

Many people appeared to be unaware of this project and most of the people who were interviewed felt that this project was abandoned because they have not heard anything

for the past two years. The fact that there has been no development on the land has brought the whole project into question as to whether the developer has the capacity to manage this expensive project.

Intention of termination of leasehold right

The Zambezi Land Board wrote a letter to the Mafwe TA to inform them about the Board's intention to cancel the leasehold. Regulation 15 (1) (e) of the CLRA states that a leasehold right can be cancelled if 'the holder of that right fails to comply with any conditions subject to which that right was granted'. In this case no development was made on the area since the leasehold right was granted in 2010. In addition, the investor was already in arrears on lease fees which have not been paid for two years. Apart from contravening the CLRA, the inability to pay fees also rendered serious doubts about the ability of the investor to make the development a reality. The CLB is empowered to terminate or cancel the lease at the expiry of the grace period. The investor was given a three-month grace period at the request of the Mafwe TA to buy time and consult with their partner. If nothing concrete came up during the grace period, the Communal Land Board would automatically cancel the lease by end of February 2014.

Opposition to the project

We don't support the project, it won't help the local people, and instead people will suffer more. They will have nowhere to plough and graze the cattle. What about our future children, where will they go? Community member/Former Manager-Dzoti Conservancy, 5 February 2014

Most respondents do not support the planned project because of the envisaged displacement of the inhabitants, which was perceived to result in the loss of their land. At the same time, the MLR identified this area as an 'underutilised land'. Consequently, the Ministry recommended the land for agriculture development. This assumption is deemed to be wrong by the owners of the land who claim that they have crop fields which they plough seasonally in the area. They would not like to have the area fenced off. However, the MLR claims that the TA fully supported

the project and had consented to it, hence the Communal Land Board issuing the leasehold right. The MLR further claimed that no official objection was received from anybody opposing the project. It is imperative that affected parties, such as the conservancies and communities around this area, should have raised their concerns about the project, which apparently never happened.

Local capacity to lobby and advocate for protection of communal land rights

Local communities have no proper platform to voice their concerns because issues regarding management of land are handled by the Traditional Authorities in collaboration with the area Headmen or women (Indunas). Normally members of conservancies use the conservancy as a platform to raise their grievances. They also lack awareness on the legal and institutional framework on allocation of land in the communal areas. In addition, local communities lack legal and technical expertise to negotiate with private investors.

Awareness-raising campaign in Kavango East and Zambezi Regions

Background, rationale and objectives of the awareness-raising workshop

Koshy et al. (2010: 1) defines action research 'as a community-based study, co-operative enquiry, action science and action learning, and it is used for improving conditions and practices'. He continues that 'the purpose for undertaking action research is to bring about change in specific context'. 'Action research seeks to bring together action and reflection, theory and practice, in participation with others, in the pursuit of practical solutions to issues of pressing concern to people, and more generally the flourishing of individual persons and their communities' (Brydon-Miller, 2003:10–11).

In light of the above understanding this study applied an action research methodology which implies that there was an intention to implement the outcomes from the field interviews. Ultimately this is aimed at empowering communities to make informed decisions. During the field interviews in April–July 2013 and January–February 2014, the respondents expressed their need to be made aware of their land rights. They expressed concern about potential investors taking away their land along with their commonage resources.

As a result, awareness-raising workshops on the CLRA were organised by the research team. While the Act portrays many good intentions to promote tenure security, on the ground, however, communities often lack basic understanding of what their rights and responsibilities are. They are equally unaware of their rights to object to a proposed allocation or to appeal a decision once it has been made. They are also unaware of the responsibilities of the governing institutions and stipulated mechanisms to achieve such rights, and how to hold TAs and CLBs accountable for their actions. The main objective of the workshops was to raise awareness on land

rights to rural community members so that they are equipped with the necessary knowledge to make informed decisions about their land and to hold their leaders accountable.

Photo 17: Participants who attended the awareness workshop on the Communal Land Reform Act, 2002 (Act no. 5 of 2002) in Kavango East Region.



Photo: T. Muduva (2014)

Photo 18: The Headwoman of Rucara/Hoha villages in Kavango East Region displays her attendance certificate.



Photo: T. Muduva (2014)

Two separate workshops were held: on 1 April 2014 at Kayova village in Kavango East Region and on 3 April 2014 in Bamunu conservancy/village in Zambezi Region respectively. The workshop in Kavango East Region was attended by 48 participants, and the Zambezi workshop was attended by 38 participants. At both workshops the composition of participants included primarily affected and concerned community members, of which some were members of the relevant TAs, conservancies, VDCs, Government bodies (MLR, Police) and NGOs.

The awareness workshops covered the main provisions of the CLRA, including motiva-

tion of the CLRA, ownership of communal land, composition and functions of the CLB, Roles of TAs, the issues around the zoha limit, land registration, objections and appeals. There were three to four presenters/facilitators for the workshop, namely, Maarit Thiem, Emmanuel Sulle, Theodor Muduva and Justice Page, an IRDNC staff member who stood in for Rodgers Lubilo. Ms Theme was the main organiser and she directed the events during the workshops, Mr Sulle gave an overview on 'International Case Studies' from the PLAAS project, while Mr Page presented the background and update on the NAR project. Mr Muduva was the main presenter/facilitator for the contents of the CLRA. Certificates of attendance have been handed over to the 47 participants in Kavango East Region who requested them. The team have also published an article on the events in The Namibian of 13 June 2014.

Photo 19: Workshop participants in Zambezi Region debating some provisions of the CLRA during a coffee break.



Photo: M. Thiem (2014)

Photo 20: Group photo of the workshop participants in Zambezi Region.



Photo: M. Thiem (2014)

The deliberations and outcomes of the awareness-raising workshops

Consultations and decisions to grant leaseholds

During the deliberations and proceedings of the workshop, it was clear that community members were unaware of their rights with regard to communal land. Where a private investor was involved, many community members thought that a TA/Chief is the only entity to decide whether a piece of communal land can be allocated or not, with or without consent from them. As members of the community, they were unsure what procedures to follow if they were not happy with an investor who had been given part of their land for large-scale investment without their consent. Some were unaware that they had the right to appeal the decision of the TA or CLB with regards to an application for land-based investment, where no consultation was done or obtained through a back door negotiation.

Communities were raising these issues confidently and without fear (e.g. they were not intimidated) in the presence of their Headmen and Headwomen during the workshops:

'Please let me know if we can say no to an investor who got land without consulting us' was a question posed by a participant during

the workshop in Zambezi Region to the facilitators.

Partial and selective implementation of the relevant provisions of the Act leads to land allocations being made without the knowledge of the impacted communities or individuals. Practically, though, it appeared that in some instances only a few people in the communities were consulted pieces of land being allocated without the knowledge of the majority of the communities. This seems to be fuelling conflicts and resistance among the members of the community.

Perceptions regarding land registration

In Kavango East Region, some participants wondered why there are different messages about land registration being brought to them, citing an advert on national radio and television that informs people to register their existing and new customary land rights through their Traditional Authority (TA) leaders. But, when they tried to approach their TAs, they were told not to bother because there was no need to register something (i.e. land) that is theirs.

In some communities TAs are considered as the very source of land conflicts because they benefit financially from land allocation processes. Members of the communities cite this as one reason why TAs in some areas do not support the registration of land advocated by the Namibian government through the Ministry of Lands and Resettlement. For TAs the power to allocate land is also a sign of power that they have been inherently maintaining for centuries.

General observations regarding the CLRA and the significance of the workshop

The Act contains several flaws, which have been acknowledged and discussed by the

government and its partners. One is that it does not provide security for commonage areas, which have been faced with a high rate of fencing off in recent years. It has further been acknowledged that the CLRA does not take the different land use practices found in Namibia into account, e.g. pastoralism, shifting agriculture, seasonal crop fields or shifting cattle posts that use grazing areas communally. The MLR is currently busy looking into options of how groups could be enabled to register their land. The persistence of these challenges facing communities, which were supposed to be addressed by the 12-year-old Communal Land Reform Act of 2002, calls for urgent actions.

The two workshops organised by the LAC have shown that educating communities on the content of the CLRA, and thereby on their rights, is urgently needed. Local communities are not looking for sophisticated knowledge but rather basic information regarding their rights and responsibilities, and legal remedies, as well as the roles and responsibilities of their governing bodies such as TAs, CLBs and the Ministry of Land and Resettlement.

As such, options should be explored to offer such learning opportunities to more communities. One such option for consideration is the strengthening of information sharing on land rights at grassroots levels. Communities' understanding of their rights will help them to put pressure on those TAs who are unwilling to support the land rights registration process and, as a result, are violating the rights of their people.

Thus, a golden opportunity exists for both government and NGO partners to collaborate in disseminating knowledge to Namibians living on communal land. But, most of all, it is a great opportunity for communities to gain a better understanding of their rights on communal land.

Insights and recommendations

Consultations with affected communities

Investors often do not consult properly with the potentially affected communities, but consult directly with Traditional Authorities/Chiefs. The Traditional Authority Act of 2000 does not make the provision that Chiefs are democratically elected and as a result are not necessarily accountable to the affected communities. Unexplained payments to the TA/Chiefs for the allocation of leaseholds create mistrust on the side of the community members and make room for corruption.

The information provided regarding project planning is often incomplete or misleading. Due to misinformation or non-existent information, discussion with community members is often dominated by rumours which lead to false accusations. Uncertainty and impatience among villagers are a consequence thereof.

It is imperative to understand that the involvement of community members in the development of potential agricultural projects enhances ownership. However, developments need to be carefully monitored to control whether the interests of the community members are being met in the long run.

Lack of understanding of the relevant provisions of the CLRA

The need for raising awareness to educate people at the community level on the major provisions of the CLRA, 5 of 2002 is vital. This particular need was repeatedly expressed during the fieldwork and the awareness workshops. Specific topics are very relevant to the communities as they are directly affected by the decisions of the CLB and TA.

Knowledge about procedures of how to obtain leasehold(s) is often non-existent or incomplete. In one case, even the investor had not familiarised himself with the legal

terms and conditions. Knowledge by affected communities about procedures of how to oppose a potential project is also poor. Capacity-building, with regard to content of the Communal Land Reform Act, was requested repeatedly.

Communities are eager to understand the process of leaseholds. There was a particular request to understand issues regarding the zoha limit and customary land right registration. Therefore it remains important to continue informing community members about these provisions. Organisations such as the LAC could play a prominent role in raising awareness in the communities. LAC could work with local people, local Headmen, Village Development Committees and conservancies to package an awareness-raising programme on communal land rights and processes for alienating land, especially for commercial purposes.

Implementation of the of the Communal Land Reform Act, 2002

Communal Land Boards are often reluctant to take difficult decisions, which leads to outcomes that are not well accepted.

Delays with the issuing of the Environmental Clearance Certificates

Decision-making processes by CLBs is generally very slow which often lead to frustration on both sides (communities and investors). Depending on the scale of the project, the Environmental Management Act (EMA) requires either a clearance certificate or environmental impact assessment from a developer. For example, any project developer who wants to develop an irrigation scheme must abide by the provisions and regulations of the EMA. In a number of instances, project developers complained that the period it takes for

the completion of Environmental Scoping Reports further slows down processes and delays final decisions regarding the issuing of leaseholds. In addition, since the passing of the EMA, questions have been raised about the ability of the Environmental Commissioner's office to monitor the implementation of the Act's provisions and regulations.

The Food and Agriculture Organisation (FAO) Voluntary Guidelines

None of the stakeholders interviewed were aware of either the Food and Agriculture Organisation (FAO) Voluntary Guidelines or the African Union's Framework and Guidelines.

6.6 Resistance of potential irrigation projects by affected communities

One of the case studies (HJM AGRI Farm Ndiyona Irrigation Project) has shown that affected communities can organise themselves in response to these land deal initiatives. The same applied to the Katondo Irrigation Project which was successfully opposed by the Community Based Organisation (CBO), with the help of other Non-Governmental Organisations (NGO), including donor partners and environmentalists.

Registration of Customary Land Rights

It was generally observed that as a result of the acquisitions of communal land parcels by investor's, interest has developed among community members to register their land rights to ensure security of tenure. This is despite the fact that there is an intense resistance towards registration of Customary Land Rights, especially by the Traditional Authority.

Protection of commonage resources

The workshops have further shown that the government and its partners should speed up the process of law reform to accommodate the registration of commonage resources. Along with these is the formalisation of group rights to make available more options for tenure security to different communities. This could help to accommodate different land use practices across the country.

The compensation policy

There is also a need to re-visit the compensation policy and assess its implementation as the investors seemed to take advantage of this ambiguity. For example, the information regarding compensation seems to be vague, i.e. the existence of this policy and its implications.

Corruption and manipulation of the traditional and local leaders

Allegations of bribery and kickbacks often undermines adherence to legal procedures. This was particularly stated in Zambezi Region where it was alleged that the investor might have paid money to the TA to ensure that his lease was not cancelled. This also includes situations where an investor would pay a TA to acquire land for a leasehold without following the correct procedure, as alleged in Kavango East Region. In this instance, an investor was allocated the land before the approval of his leasehold. It is becoming a norm that the local leaders agree to the investor's demands based on monetary or material gains at the expense of the community members.

Annexure A: Timetable of Interviews

| Place | Date | Activity |
|---|------------|--|
| Windhoek | 22.02.2013 | Meeting with Ms Carine van der Walt and Mr. Rian Du Toit of Enviro Management Consultants Namibia, the company which did the Environmental Impact Assessment (EIA) for the Fumu Mbambo Irrigation Project. |
| Bagani village, Kavango East Region Divundu, Kavango East Region | 05.04.2013 | <ol style="list-style-type: none"> 1. Interview with Mr Max Haimbili, headman of Bagani village and affected crop field owner (in the project area of Fumu Mbambo Irrigation Project). 2. Interview with Mr Kapinga Ebenhardt Chapi, affected crop field owner (in the project area of Fumu Mbambo Irrigation project). 3. Interview with Mr Ben Tuku, a business partner (and spokesperson/administrator) for the Fumu Mbambo Irrigation Project. |
| Hoha village, Kavango East Region | 06.04.2013 | Focused Group Discussion (FGD), with five (5) community members who were against the HJM AGRI Farm Ndiyona Irrigation Project. |
| Hoha village, Kavango East Region | 09.04.2013 | Interview with Mr Christopher Moyo Ndembere, MCA Land Reform Act trainer, advisor to the Gciriku Traditional Authority and concerned community member (in the project area of HJM AGRI Farm Ndiyona Irrigation Project). |
| Rundu, Kavango East Region | 15.04.2013 | Telephonic interview with Mr Tulio Pareira (A.K.A Sakka), the main investor for the Fumu Mbambo Irrigation Project. |
| Rundu, Kavango East Region Hoha village, Kavango East Region | 16.07.2013 | <ol style="list-style-type: none"> 1. Interview with Mr Tulio 'Sakka' Perreira, the main investor for the Fumu Mbambo Irrigation Project. 2. Interview with Mr John Karondo, the Chairperson of the Kavango Communal Land Board (KavCLB). 3. Focused Group Discussion (FGD) with four (4) affected community members who were against the HJM AGRI Farm Ndiyona Irrigation project. [One is a man (teacher and VDC) and three women]. |
| Ndiyona, Kavango East Region Hoha, Kavango East Region | 17.07.2013 | <ol style="list-style-type: none"> 1. Interview with Ms Hildegard Mangundu, the Councillor for Ndiyona Constituency. 2. Interview with Mr Leon Tjihero, the main investor for the HJM AGRI Farm Ndiyona Irrigation Project. 3. Interview with Mr Christopher Moyo Ndembere, MCA Land Reform Act trainer, advisor to the Gciriku Traditional Authority and concerned community member (in the project area of HJM AGRI Farm Ndiyona Irrigation Project). |

| Place | Date | Activity |
|--|------------|---|
| Mutc'iku village (Bwabwata National Park), Kavango East Region (former Kavango west) Bwabwata National Park, Kavango East Region Divundu, Kavango East Region Bagani village, Kavango East Region | 18.07.2013 | <ol style="list-style-type: none"> 1. Meeting with Mr Friedrich Alpers, a representative for Integrated Rural Development and Nature Conservation (IRDNC) and Mr Thadeus Chedau, a chairperson for Kyaramachan Association (KA) who is also a local resident (in the project area of Katondo Irrigation Project). 2. Interview with Mr Mautu Humphrey, a resident in the project area of Katondo Irrigation Project. 3. Interview with Mr Ben Tuku, a business partner (and spokesperson/administrator) for the Fumu Mbambo Irrigation Project. 4. Focused Group Discussion (FDG) with three (3) crop fields owners including the headman (in the affected area for Fumu Mbambo Irrigation Project) |
| Hoha village, Kavango East Region | 20.07.2013 | <ol style="list-style-type: none"> 1. Interview with Ms Renate Namutenya Ngughuru, the headwoman for Rucara/Hoha villages (in the project area of HJM AGRI Farm Ndiyona Irrigation Project). 2. Meeting with about 40 community members who were in support of the HJM AGRI Farm Ndiyona Irrigation Project. |
| Muketela Village, Zambezi Region Chinchimane village, (conservancy office), Zambezi Region | 23.01.2014 | <ol style="list-style-type: none"> 1. Interview with Induna Maketela of Mafwe TA and Mr Liebero Maani, a local farmer and Vice-Chairperson for Bamunu Conservancy. Their respective wives were present. 2. Interview with Mr Mwilima Jerome, Manager; Bamunu Conservancy. |
| Katima Mulilo, Zambezi Region | 24.01.2014 | Interview with Mr Dominic Muema, Wildlife Management Specialist; IRDNC. |
| Katima Mulilo, Zambezi Region | 25.01.2014 | <ol style="list-style-type: none"> 1. Interview with Mr Reagan Mukena, Chairperson; Makanga Small-Scale Farmers. 2. Interview with Mr Charles Musiyalike, Deputy Director and Ms Mary Kabuku, Regional Planning Officer, Ministry of Lands and Resettlement (MLR). |
| Katima Mulilo, Zambezi Region | 28.01.2014 | <ol style="list-style-type: none"> 1. Interview with Mr Morgan Saisai, Chief Control Warden; Ministry of Environment and Tourism (MET). 2. Interview with Mrs Regina Ndopu Lubinda, Chief Regional Officer for Zambezi Regional Council and Chairperson of Zambezi Communal Land Board. |

| Place | Date | Activity |
|--|-------------|---|
| Dzoti, Zambezi Region Katima Mulilo, Zambezi Region | 29.01.2014 | 1. Interview with Mr James Lizazi, Former Manager of Dzoti conservancy (were the proposed project overlaps). 2. Interview with Mr Joubert and Obert of Mashi Conservancy. |
| Katima Mulilo, Zambezi Region | 31.01.2014 | Interview with Mr Muhinda Lemmy Mishake, an affected resident from Muketela area, who has a crop field in the proposed NAR project area. |
| Katima Mulilo, Zambezi Region Nambweza location, Zambezi Region | 04.02.2014 | 1. Interview with Mr Bernard Kupoma, a Board member for Likwama Farmers Association. 2. Interview with Mr Beaven Munali, Deputy Director; IRDNC Katima Mulilo branch. 3. Interview with Hon. Ignatious Chunga Sikalumbu; Cllr for Sibinda Constituency. |
| Katima Mulilo, Zambezi Region | 05.02.2014 | Interview with Mr Clemency Makumbi (Acting Conservancy Manager) and Mr Smith Tambulwa (Enterprise Officer) for Dzoti Conservancy. |
| Katima Mulilo, Zambezi Region | 07.02.2014 | Interview with Pastor Sami (Mr), the Chairperson of Likwama Farmers Association. |
| Zambezi Region | | Telephonic interview with Moven, Secretary for Sobbe Conservancy. |

Annexure B: List of Stakeholders

| Name | Office, Position | Remark (event, date, project) |
|------------------------------|---|--|
| Ms Carine van der Walt | Enviro Management Consultants Namibia | Meeting, 22.02.13 Fumu Mbambo Irrigation Project |
| Mr Rian Du Toit | Enviro Management Consultants Namibia | Meeting, 22.02.13 Fumu Mbambo Irrigation Project |
| Mr Max Haimbili | Headman, Bagani village | Interview, 05.04.13 and 18.07.13 Fumu Mbambo Irrigation Project |
| Mr Kapinga Ebenhardt Chapi | Affected community member | Interview, 05.04.13 Fumu Mbambo Irrigation Project |
| Mr Ben Tuku | Project Partner/Spokesperson /administrator | Interview, 05.04.13 and 18.07.13 Fumu Mbambo Irrigation Project |
| Ms Kandunda Aselma Pineas | Affected community member | FGD, 06.04.13 HJM AGRI Farm Ndiyona Irrigation Project |
| Ms Fabilonia Muhembo | Affected community member | FGD, 06.04.13 HJM AGRI Farm Ndiyona Irrigation Project |
| Mr Clemens Shamashiko | Affected community member | FDG, 06.04.13 HJM AGRI Farm Ndiyona Irrigation Project |
| Ms Clotty | Affected community member | FDG, 06.04.13 HJM AGRI Farm Ndiyona Irrigation Project |
| Ms Annarosa Likoro | Affected community member | FDG, 06.04.13 HJM AGRI Farm Ndiyona Irrigation Project |
| Mr Christopher Moyo Ndembere | MCA Land Reform Act Trainer and Advisor to the Gciriku TA | Interview, 09.04.13 and 17.07.13 HJM AGRI Farm Ndiyona Irrigation Project |
| Mr Tulio 'Sakka' Pereira | Project Investor | Interview, 15.04.13 and 16.07.13 Fumu Mbambo Irrigation Project |
| Mr John Karondo | Chairperson, Kavango Communal Land Board | Interview, 16.07.13 HJM AGRI Farm Ndiyona Irrigation Project and Fumu Mbambo Irrigation Project |

| | | |
|------------------------|--|---|
| Mr Eugene Likuwa | Teacher and Village Development Committee (VDC) member | Interview, 17.07.13 HJM AGRI Farm Ndiyona Irrigation Project |
| Ms Hildegardt Mangundu | Councillor, Ndiyona Constituency | Interview, 17.07.13 HJM AGRI Farm Ndiyona Irrigation Project |
| Mr Leon Tjihero | Project Investor | Interview, 17.07.13 HJM AGRI Farm Ndiyona Irrigation Project |
| Mr Friedrich Alpers | IRDNC | Interview, 18.07.13 Katondo Farming Project |
| Mr Thadeus Chedau | Chairperson, Kyaramachan Association | Interview, 18.07.13 Katondo Irrigation Project |
| Mr Mautu Humphrey | Affected community member | Interview, 18.07.13 Katondo Farming Project |
| Ms Renate N. Ngughuru | Headwoman, Hoha and Rucara villages | Interview, 20.07.13 HJM AGRI Farm Ndiyona Irrigation Project |
| Mr Maketela | Induna, Mafwe TA | Meeting, 23.01.14 NAR Project |
| Mr Liebelo Maani | Vice-Chairperson, Bamunu Conservancy | Meeting, 23.01.14 NAR Project |
| Mr Jerome Mwilima | Manager, Bamunu Conservancy | Interview, 23.01.14 NAR Project |
| Mr Dominic Muema | Wildlife Management Specialist, IRDNC | Interview, 24.01.14 NAR Project |
| Mr Reagan Mukena | Chairperson, Makanga Small Scale Farmers | Interview, 25.01.14 NAR Project |
| Mr Charles Musiyalike | Deputy Director, MLR Katima Mulilo Regional Office | Interview, 25.01.14 NAR Project |

| | | |
|----------------------------------|---|---------------------------------------|
| Mr Morgan Saisai | Chief Control Warden, MET | Interview, 28.01.14 NAR Project |
| Mrs Regina Ndopu Lubinda | Chief Regional Officer (CRO), Zambezi Regional Council (ZRO) and Chairperson, Zambezi Communal Land Board | Interview, 28.01.14 NAR Project |
| Mr James Lizazi | Former Manager, Dzoti Conservancy | Interview, 29.01.14 NAR Project |
| Mr Joubert Muchaka | Manager, Mashi Conservancy | Interview, 29.01.14 NAR Project |
| Mr Obert | Secretary, Mashi Conservancy | Interview, 29.01.14 NAR Project |
| Mr Muhinda L. Mishake | Affected community member | Interview, 31.01.14 NAR Project |
| Mr Bernard Kupoma | Board member, Likwama Farmers Association | Interview, 04.02.14 NAR Project |
| Mr Beaven Munali | Deputy Director, IRDNC | Interview, 04.02.14 NAR Project |
| Hon. Ignatious C. Sikalumbu (Mr) | Councillor, Sibinda Constituency | Interview, 04.02.14 NAR Project |
| Mr Clemency Makumbi | Acting Conservancy Manager, Dzoti | Interview, 05.02.14 NAR Project |
| Mr Smith Tambulwa | Enterprise Officer, Dzoti | Interview, 05.02.14 NAR Project |
| Mr Moven | Secretary, Sobbe Conservancy | Interview, 06.02.14 NAR project |
| Pastor Sami (Mr) | Chairperson, Likwama Farmers Association | Interview, 07.02.14 NAR Project |

Annexure C: Workshop Participants in Kavango East Region

| # | Full Name |
|----|---------------------------------------|
| 1 | Andrias Muhembo |
| 2 | Faustinus Munkanda |
| 3 | Filomina Dyangoma |
| 4 | Laurinda Vendura |
| 5 | Kapirika Servasius Likoro |
| 6 | Karomo Moyo |
| 7 | Annarosa Mutanuka |
| 8 | Nangura Klaudia Mushampe |
| 8 | Stephanus K. Hamutenya |
| 9 | Annacletha Petronella Mayaka Mangundu |
| 10 | Nikolaus Shimpandi Musenge |
| 11 | Magreth Kunyanda Marungu |
| 12 | Katrina Runguro Kutenda |
| 13 | Sellestinus Shiyave Muremba |
| 14 | Kamenye Bartholomeu Mbuto |
| 15 | Katiku Auleria Mukerenge |
| 16 | Georgiana Katoyima |
| 17 | Annarosa Muduva |
| 18 | Hedwig Muduva |
| 19 | Mpande Makushe Max |
| 20 | Mbangu Nyangana |
| 21 | Shinkeva Sylvester Kaghuma |
| 22 | Shamashiko Klemens Mukosho |
| 23 | Kayana Maria Likuwa |

| # | Full Name |
|----|----------------------------------|
| 24 | Pelagia T. Haingura |
| 25 | Mundinda K. Boniface |
| 26 | Moses N. Mukoya |
| 27 | Romanus Mukuve Disho |
| 28 | Shikukutu Marcellus Ndunda |
| 29 | Marthina Ntjinano |
| 30 | Kandjeke Weka |
| 31 | Siegtraud Likoro |
| 32 | Caroline Mukosho |
| 33 | Katiku Veronika Karengesa |
| 34 | Martha V. Kasanga |
| 35 | Kaheke Christine Mutanuka |
| 36 | Mate Imelda Katike |
| 37 | Haididira Thadeus Haididira |
| 38 | Katiku Clementine Dike |
| 39 | Ndara Norbert Mwindi |
| 40 | Renathe Nguuru |
| 41 | Benitha Nguuru |
| 42 | Gabriel Hausiku |
| 43 | Shifafure Bernadine Kamba |
| 44 | Karumbu Chricentia Shimangomango |
| 45 | Makena Pauline Haingura |
| 46 | Aron Timeli Hamutenya |
| 47 | Shitoya Elias Kambamba |

Annexure D: Workshop Participants in Zambezi Region

| # | Full Name | Office, Position |
|----|---------------------|--------------------------------------|
| 1 | Jerome Mwilima | Manger, Bamunu Conservancy |
| 2 | Liebelo Maani | Vice-Chairperson, Bamunu Conservancy |
| 3 | Agnes Matengu | Senior Induna |
| 4 | Richwell Musilizo | Senior Induna |
| 5 | G. Muswei | Induna |
| 6 | J. Mushwena | Induna |
| 7 | Gilbert B. Salwena | Induna, Malundu village |
| 8 | Francis Malweno | Induna, Chinchimane village |
| 9 | Mwinga Rector | Community member, Maketela village |
| 10 | John Matumba | Induna, Kanono village |
| 11 | A.L Mutumuswana | Head Induna, Kanono village |
| 12 | Mulopo Mulopo | Community member, Linyanti village |
| 13 | Chombo Kauhano | Community member, Linyanti village |
| 14 | Martin Libetwa | Community member, Linyatti village |
| 15 | Robert Mwala | Community member, Linyanti village |
| 16 | Trudy Mnashwa | Community member, Linyanti village |
| 17 | Sharon Luyemi | C.R, Linyanti village |
| 18 | Ps Ben Mutabelezi | Community member, Malundu village |
| 19 | Jessica Haizaya | Treasurer, Bamunu Conservancy |
| 20 | Winnie Bwendo | Cleaner, Bamunu Conservancy |
| 21 | Mary Kabuku | Senior Development Planner, MLR |
| 22 | Sylvester Kamwi | Induna, Kanono village |
| 23 | Linus Kamwi | Community member, Kanono village |
| 24 | Hefred Chilinda | Member, Shaile Khuta |
| 25 | Ben Sasele | Member, Shaile Khuta |
| 26 | Indundi Samati | Induna, Shaile Khuta |
| 27 | Benson Mwabi Lizazi | Member, Shaile Khuta |
| 28 | Alex Samati | Member, Shaile Khuta |
| 29 | Eustace Ikosa | Induna, Shaile Khuta |
| 30 | S.E Mxesa | Community member, Kanono village |

| | | |
|----|-------------------|--|
| 31 | Victor Mesowa | Community member |
| 32 | Milodus Mwala | Game Ranger |
| 33 | Munikomzo Mushitu | Enterprise Officer, Bamunu Conservancy |
| 34 | JBrown Mwilima | Management member, Bamunu Conservancy |
| 35 | Sunnet Chunga | Community Resource Monitor (CRM), Bamunu Conservancy |
| 36 | Beritha Milunga | CRM, Bamunu Conservancy |
| 37 | Grace Simone | S.G.S |
| 38 | Sonnety B. Falali | B.S.T |

Annexure E: Attendance Certificate



Certificate of Attendance

This is to certify that

ANDRIAS MUHEMBO

Has attended a Awareness-Raising Workshop

on the

Communal Land Reform Act, 2002 (Act No. 5 of 2002)

on 01 April 2014

at Kayova River Lodge

KAVANGO EAST REGION

The workshop was organised by the Legal Assistance Centre

THEODOR K MUDUVA
LEGAL ASSISTANCE CENTRE

Annexure F: Questionnaires

Processes in practice: what has actually happened, in situations where commercial land deals on customary or community land have been proposed?

1. How have these deals been developed, and who has driven them?
2. What are the proposed terms of the deals, and what is the proposed distribution of costs and benefits between local communities, urban and political elites, external investors and other actors?

Responses and strategies: how have affected people responded, individually or collectively, what are their substantive responses to the proposed deals, and what strategies have they deployed to advance their views (including collaboration and resistance)?

3. How are local landholders or land users responding? What are their views and why?
4. What platforms are available for the voices of local people to be heard?
5. What strategies and forms of organisation characterise their responses?
6. In what ways are people divided on the proposed deal, and how is the process affecting people differently (women vs men, young vs old, livestock owners vs others, wealthier vs others)?

Law, policy and institutions: what are the legal and policy frameworks that govern such transactions, and what institutions are in place to regulate these? How is the process meant to work?

7. How are government and other authorities responding to (and promoting or opposing) this process?
8. How adequate is existing national law and policy to safeguard the interests of poor land users? What would enable affected people to either refuse deals of which they disapprove or leverage beneficial terms?
9. What issues should be addressed in a joint agenda for research and advocacy? What legal, policy or institutional changes could address concerns of local people regarding their resource rights and the process of land and other resource rights transactions?
10. Are any stakeholders in the process aware of the existence and provisions of (a) the FAO Voluntary Guidelines on the Responsible Governance of Land, Fisheries and Forests and (b) the African Union's Framework and Guidelines on Land Policy in Africa? If so, what are their views and how have they used this framework and guidelines?

Alternatives: where relevant, what alternatives do they propose in terms of process (how negotiations should happen) and substantive (what terms they consider fair, or what alternative forms of land-based development they envisage)? In what ways do smallholder agriculture, multiple uses of land, out-grower schemes, large-scale plantation agriculture, or other land use models feature in their visions for the future?

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Legislations

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- Communal Land Reform Act, 2002 (No. 5 of 2002)
- Traditional Authority Act, 2000 (Act No. 25 of 2000)
- Environmental Management Act, 2007 (Act, No. 7 of 2007)
- The Environmental Assessment Policy, 1995
- The Green Scheme Policy, 2008

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