

**Integrated Land and Water Management:
Policy and Institutional Issues**

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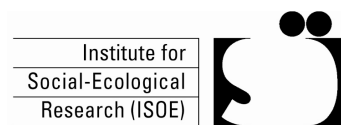
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Abbreviations

CDC	Constituency Development Committee
CLB	Communal Land Board
CLRA	Communal Land Reform Act, 2002
DFID	Department for International Development (UK)
DSE	Deutsche Stiftung für Internationale Entwicklung
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
IDC	International Development Consultants
IIED	International Institute for Environment and Development
ILWM	Integrated Land and Water Management
ISOE	Institut für Sozial-ökologische Forschung
LUEB	Land Use and Environmental Board
MAWF	Ministry of Agriculture Water and Forestry (after March 2005)
MAWR	Ministry of Agriculture, Water and Rural Development (before March 2005)
MLR	Ministry of Lands and Resettlement (after March 2005)
MLRR	Ministry of Lands, Resettlement and Rehabilitation (before March 2005)
MRLGH	Ministry of Regional Local Government and Housing (before March 2005)
NLTP	National Land Tenure Policy
NMRMR	Namibia Water Resources Management Review
NRI	Natural Resources Institute
NWP	Namibia Water Policy
PTT	Permanent Technical Team on Land Reform
RDCC	Regional Development Co-ordinating Committee
WASP	Water and Sanitation Policy
WPC	Water Point Committee

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1 Introduction¹

Namibia is known to be the most arid country south of the Sahara. Average annual rainfall is not only relatively low in most parts of the country, it is also highly variable. Only 8 per cent of the country receives enough rain during a normal rainy season to practice rainfed cultivation. At the same time between 60 per cent and 70 per cent of the population depend on subsistence agro-pastoralism in non-freehold or communal areas. Against the background of rising unemployment, the livelihoods of the majority of these people are likely to depend on natural resources in the foreseeable future.

Natural resources generally are under considerable strain. As the rural population increases, so is the demand for natural resources, land and water specifically. Dependency on subsistence farming which is the result of large scale rural poverty exacerbates the problem. Large parts of the country are stocked injudiciously, resulting in overgrazing and water is frequently over-abstracted, leading to declining water tables (MET 2005: 2).

Unequal access to both land and water has prompted government to introduce reforms in these sectors. These reforms were guided by the desire to manage resources more sustainably while providing more equal access to them. In terms of NDP 2, sustainability means to use natural resources in such a way so as not to 'compromise the ability of future generations to make use of these resources' (NDP 2: 595).

Immediately after Independence government started reform processes in the land and water sectors. However, these reforms have happened at different paces and largely independent of each other. Increasingly policy makers and development practitioners realised that land and water management needed to be integrated, as decisions about land management and land use options had a direct impact on water resources. Conversely the availability of water sets the parameters for what is possible in terms of agricultural production and other land uses. The north-central regions face a particular challenge in this regard as the region carries more livestock than it can sustain in the long run. At the same time, close to half the households do not own any livestock. Access to livestock by these households would improve their abilities to cultivate their land more efficiently in order to feed themselves and thus reduce poverty levels. But livestock are a major consumer of water. In 2000 livestock was consuming more water than the domestic sector. The figures were 77Mm³/a and 67Mm³/a respectively (Urban et al. 2003 Annex 7: 2). This situation has prompted a Project Progress Report on the Namibia Water Resources Management Review in 2003 to conclude that

Given the extreme water scarcity in most parts of the country, land and water issues are closely linked. It therefore seems indispensable to mutually adjust land – and water sector reform processes (Ibid: 20).

This paper will briefly look at four institutions that are central to land and water management with a view to assess the extent to which they interact. These are Communal Land Boards, Water Point Committees, Traditional Authorities and Regional Councils. A discussion of relevant policy documents and legislative instruments will investigate whether the existing policy framework provides for an integrated approach or not. Before doing this, it appears sensible to briefly situate these four institutions in the wider maze of institutions operating at regional and sub-regional level. All these institutions – important as they are in the quest to improve partici-

¹ Comments by Dr. Mary Seely on this paper are gratefully acknowledged.

pation at the regional and sub-regional level – are competing for time and input from small-scale farmers.

2 Participation and decentralisation

During his introduction of Namibia's decentralisation policy in Parliament, the Minister of Regional, Local Government and Housing stated that the ability of people to make their own political, cultural, social and developmental decisions at their own level was the only guarantor for democracy. Moreover, the only safeguard of sustainable development was when people participated in setting their own priorities, and planning, implementing and monitoring them (MRLGH 1997: 1). With regard to the environment, the Decentralisation Policy stated that it was imperative for all people to participate extensively at all levels and to apply traditional and modern knowledge in order to bring about sustainable development.

An institutional framework designed to promote and encourage grassroots participation in policy and development matters was implemented as part of Decentralisation. Regional Councils were established in all 13 regions of the country. In terms of the Regional Councils Act, 1992, the functions and duties of Regional Councils include the planning of development in their respective regions. More specifically, Regional Councils are responsible for the planning of water infrastructure and the general utilisation of land, considering the sensitivities of the natural environment (Article 28). Each region has a Directorate of Planning and Development Services which will gradually take up these responsibilities.

At the sub-regional level, Constituency Development Committees are responsible for identifying community needs and to develop plans and proposals for submission to Regional Councils. The CDCs are chaired by the Regional Councillor of the constituency. (S)he constitutes the link between constituencies and the Regional Council. In the north-central regions, Regional Councillors generally co-operate very closely with traditional leaders at village level. The latter or their representatives are represented on CDCs. More generally, however, it is not clear how representative members of CDCs are of communities in their constituencies. Most people spoken to during PPAs in the north-central regions did not know how members of CDCs were selected. What was clear, however, was that they were not elected.

Development issues and problems identified by communities – which could include needs for additional water points, for example – are fed to CDCs by Traditional Leaders where they are discussed and decisions are taken. Decisions and proposal taken by CDCs are submitted to Regional Development Co-ordinating Committees (RDCCs) which are responsible for the co-ordination of development inputs. At present, RDCCs only have consultative functions and no decision making powers. Recent Poverty Monitors carried out in all regions indicated that all budgets are decided at National Level, for the RCs, for the CDCs and line ministries.

In the north-central regions Regional Councillors, although being politicians, are rural institutions in their own rights on account of the fact that they provide the single most important link between villagers and government institutions. However, in other regions such as Hardap, for example, they never call meetings, according to communities and the RC Planners. In north-central they not only provided important services, but also direct developments in their constituencies by dint of the fact they serve and chair several committees such as Drought Relief Committees for example. During the recent PPA in the north-central regions most communities appeared to be satisfied with their relations with Regional Councillors and Traditional Leaders.

While the Decentralisation Policy sets out the overall framework for decentralisation, some line ministries had incorporated the principle of decentralisation into their policies before a formal policy on decentralisation was in place. The National Agricultural Policy of 1995, for example, committed the Ministry to give ‘greater autonomy and responsibility to local government authorities for decentralised development planning and management of natural resources’ (Ibid: 16). The same Ministry developed a policy to transfer the ownership of water points to communities of water users and provided for the establishment of Water Point Committees to take care of the day to day management of water points. The Ministry of Environment and Tourism not only developed policy which provided for the transfer of rights and responsibilities regarding the utilisation of natural resources to local users, but implemented these policies in the form of conservancies. However, the MET exercises tight control from Windhoek. More recently, forest legislation provided for the establishment of community forests.

3 Customary land and water management²

Traditionally, land in the north-central regions belonged to the Traditional Authority of a particular group. The latter was headed by a King. The land under his jurisdiction was divided into a number of ‘districts’ under the authority of Senior Headmen who were responsible directly to the Traditional Council. ‘Districts’ in turn were subdivided into wards or omikunda (omukunda, sg.). These were granted to people who could make a payment for such land. Upon acquisition of an omukunda the new ‘owner’ became headman with certain rights and responsibilities. These included that they could allocate land to individual households against payment of a fee.

Land allocation is administered according to the type of usage. Headman could allocate land for residential and cropping purposes, and rights to such allocations amounted to permanent usufruct. They included rights of first access to waterholes, wells and trees on or near the plot.

Headmen could not allocate grazing rights to anybody, as grazing land belonged to the traditional authority on behalf of its subjects. Although settlements did not have exclusive rights of access to grazing land, usage of such land was essentially controlled through the ownership and control of water points. Typically, the person who dug a well and developed it became the ‘owner’ of the water point, and in this way obtained control over grazing within a certain area.

However, water itself was incapable of exclusive ownership. While the owner of a well had the right to satisfy his water demands first, rights to wells were characterised by reciprocity and access was negotiated. Neighbours who assisted in the maintenance of the well were allowed to draw water, but also people who passed through with their livestock. This established a network between different owners of wells and their communities, which allowed for herd mobility.

A fundamental criterion as to whether a newcomer should be given permission to settle in an area with his livestock was whether the resources of the area could sustain his livestock and whether the existing settlers would accept him. This suggests that land and water resources were considered before giving permission to a new settler in a particular area. In this way livestock numbers could be matched to the seasonal variability of water.

The introduction of government boreholes gradually undermined this system and effectively separated the integrated management and control of water and land. Where ownership and con-

² This section is based on the contributions in Cox et al. 1998 ‘The privatisation of rangeland resources in Namibia’ unless stated otherwise.

trol of water points – and by implication of land – previously vested in communities, new boreholes were owned by the state, which did not transfer any management responsibilities to communities of users. Property rights over land and water respectively were thus located in two separate jurisdictions: Traditional Authorities and the Department of Water Affairs and Forestry.

The effects of these developments have been discussed elsewhere in more detail (E.g. Vlachos, 1995; Cox et al. 1998). Suffice to say, therefore, that in Oshikoto Region these developments have not only led to more permanent utilisation of grazing areas by larger numbers of livestock, but also to the rapid privatisation of government boreholes and surrounding grazing land. This in turn impacted negatively on transhumance patterns and reduced the availability of seasonal grazing and access to water for communal farmers. Henceforth, access to water on fenced land was controlled by individuals who were wealthy enough to fence off boreholes.

This process of what Vlachos (1995: 14) has called the separation of private and communal interests was further accelerated by increasing population numbers and the gradual transition from subsistence agriculture in certain sectors of rural communities. Village economies have become increasingly open economic systems displaying a variety of livelihoods strategies which in some instances decreased the dependence on natural resources. In addition, local level management institutions such as Traditional Authorities were gradually integrated into a larger administrative system. Administrative units, for example, cut across territorially-based user groups, shifting gravity from local level institutions towards sub-regional, regional and national structures. Local level institutions are therefore being marginalised. Some evidence of this will be provided in the discussion of Communal Land Boards below.

To sum up: Traditional Authorities are increasingly unable to manage land and natural resources effectively. The privatisation of communal grazing areas is a manifestation of the fact that the former were no longer able to enforce minimum common property rules, viz. controlling who had access to land and water. Integrated land and water management requires that community control over these resources must be strengthened. However, as Lawry (1990: 407) has observed,

Local common property management will not emerge simply by giving greater official rein to local action. Policy initiatives will have little impact unless an important array of incentives supportive of common property management are operating at the local level.

He reminded the reader that ‘collective action is more likely to result where the common resource is critical to local incomes and is scarce’. On the other hand, collective action will be more difficult to achieve where interest in the resource as a source of income varied, or where resource use strategies differ significantly’ (Ibid: 410; 413). Finally, increasing scarcity of resources may lead to increased competition for access to those resources, rather than increased co-operation.

Interventions seeking to empower local communities thus need to understand the incentives and disincentives of communities to participate in community based resource management, which presupposes some form of common property.

4 Land Boards

It is against the background of customary tenure systems that are being undermined gradually that the Communal Land Reform Act was introduced in 2002. The objectives of the Act are:

To provide for the allocation of rights in respect of communal land; to establish Communal Land Boards; to provide for the powers of Chiefs and Traditional Authorities and boards in relation to communal land; and to make provision for incidental matters.

The Act provided for land boards to be established for a whole region or part of a region. At present, Land Boards have been established in all Regions which have communal areas. The exception is Khomas as the region does not have any communal land. Land Boards are therefore referred to as Communal Land Boards (CLB).

4.1 Composition of Land Boards

Members of Communal Land Boards are appointed by the Minister of Lands and Resettlement, not by vote. But the Act prescribes the composition of CLBs as follows:

- one representative from each Recognised Traditional Authority within the Board's area nominated by such authorities;
- one person to represent the organized farming community in the Board's area;
- a regional officer of a regional council in the Board's area;
- two women engaged in farming activities within the Board's area;
- two women with expert knowledge relevant to the functions of the Board;
- one person representing a conservancy(s) jointly, where these exist within the Board's area;
- one staff member from each of the following ministries:
 - (a) Lands, Resettlement and Rehabilitation
 - (b) Agriculture, Water and Rural Development
 - (c) Regional and Local Government and Housing
 - (d) Environment and Tourism

Members of CLBs serve for a period of 3 years, but may be reappointed. About half the members of CLBs are civil servants representing line ministries with some responsibilities regarding land, water and natural resources. Often, civil servants at regional level are fairly junior and may be new to a region. Local level representation is weak, being mediated by one representative of the Traditional Authority and three other members who in one way or another are members of the farming community. If the number of water points and water point committees per region are considered, it is clear that the interactions between water point committees and Communal Land Boards are tenuous at best and non-existent at worst. Table 1 provides a summary of the total number of water points in the four north-central regions for 2003:

Table 1: Total number of water points in north-central regions, 2003

Region	Total no. of water points
Oshikoto	702
Ohangwena	609
Oshana	298
Omusati	1065

Source: MAWRD, 2004b: Annex 8

4.2 Responsibilities and mandates of Land Boards

The primary function of CLBs is to administer land rights in communal areas. There are two aspects to this. Firstly, CLBs are tasked to exercise *control over the allocation and cancellation of customary land rights* by Chiefs and Traditional Authorities and to *register allocations and cancellations* of customary land rights as well as customary land transfers in a regional registry.

CLBs do not allocate customary land rights, a function that is still the responsibility of Traditional Leaders. However, CLBs have to verify that such allocations satisfy the requirements of the CLRA before giving final approval and entering such rights in a regional lands register. The objective of this function is to improve tenure security for land rights obtained under customary land tenure systems. At present the controlling function of CLBs is limited to customary rights to residential and arable land. Their mandates are thus limited to individual rights which are defined by customary law and which are spatially bounded. Where this is not the case as in communal grazing areas, CLBs have no responsibility at present.

The second aspect concerns the introduction of *leases* over communal land. CLB are to consider applications for leasehold and keep registers of all allocations, cancellations and transfers of lease agreements lasting less than 10 years in a regional land register.

Communal Land Boards do not appear to have any responsibilities regarding natural resources management. Instead, the National Land Policy foresees the establishment of a Land Use and Environmental Board. In terms of the National Land Policy this Board will operate at national level, and will have the responsibility to co-ordinate different line ministries in developing land use plans and promoting sound land administration and environmental protection. In developing land use plans the LUEB is required to consult with Regional Land Boards on matters which will affect the administration of land rights. The latter in turn are expected to 'liaise closely with Regional Councils in connection with their land use planning functions as Regional Councils have overall responsibility for development planning' (MLRR 1998: 16-17).

The LUEB does not have a legal basis as yet and thus remains dormant, despite a recommendation made by the PTT in its report on findings in 2005 that it should be established as soon as possible (MLR 2005b: 19). It must be pointed out, however, that this recommendation was not put forward in the Strategic Options and Action Plan for Land Reform in Namibia which was submitted to Cabinet (MLR 2005a). It was on the basis of this report that Cabinet pronounced itself on land reform in April 2006.

4.2.1 Land use planning

Despite the fact that the LUEB has not been established as yet and was not regarded as important enough to be submitted to Cabinet as part of the PTT Strategic Options, the MLR regards the development of integrated land use plans as a mechanism to integrate environmental constraints and opportunities with land utilisation. In 2002 the MLRR appointed consultants to draw up a National Land Use Planning Policy (IDC 2002), the objective of which was ‘to create the physical environment necessary for present and future generations to gain optimal benefit from the equitable and sustainable utilisation of Namibia’s natural resources’. The principles and norms applying to land use planning identified by the consultants include sustainability and the integration of ‘separate and diverse elements involved in development planning and land use’ in order to be combined and co-ordinated into a more complete and harmonious whole. In this regard the integration of water resources was regarded as crucial. More specifically, the National Water Policy White Paper implied that the impact of land use in line with catchment boundaries be considered and not only manmade boundaries. Land use planners needed to consider Information on existing surface and underground water resources in drawing up land use plans. In addition, co-ordination of water point committees and Communal Land Boards was essential (IDC 2002: 14).

Integrated land use plans for Caprivi (2000) and north-central regions (2001) have been complete, but still cannot be legally enforced, and thus remain guidelines for spatial development and possible land use options.

4.3 The role of traditional authorities and their mandates

Traditional Authorities continue to play an important role in land administration, although their functions have been subordinated to CLBs. The initial allocation of communal land for residential and cultivation purposes remains the responsibility of Traditional Authorities, and no person is allowed to cultivate any land or take up residence and erect a structure on communal land without the written approval of the Traditional Authority and subsequent ratification of such approval by a CLB. The same provisions apply to the obstruction of water points on common-ages and the interference with windmills, water pumps, water pipes dams or storage tanks.

The powers exercised by Traditional Authorities are controlled by CLBs, which can veto allocations made by Traditional Authorities. This will happen where the size of customary allocations exceeds the maximum size prescribed by the CLRA or where land rights have been allocated in respect of land to which another person holds rights already. Finally, where Traditional Authorities allocate land ‘which is reserved for common usage or any other purpose in the public interest’ CLBs are obliged to cancel those allocations.

The CLRA empowers Traditional Authorities to impose conditions on the utilisation of communal grazing areas. These include the kinds and numbers of livestock that may be grazed and the sections of common grazing areas where stock may be grazed ‘and the grazing in rotation on different sections’. It must be pointed out that these powers are new powers. Lawry (1990: 417-418) has observed that centralised control over livestock was not a feature of pastoralism in Africa, where independent decision making constituted an important element of opportunistic grazing management. In view of this and given the fact that in many cases Traditional Authorities were unable to enforce minimum tenure rights, i.e. rights of access to grazing, it is not likely that Traditional Authorities will perform these functions and responsibilities any time soon. For

practical purposes therefore, communal grazing areas are likely to remain under open access for grazing purposes.

Traditional Authorities also have to consent to the alienation of communal land for leasehold purposes. Where a CLB feels that Traditional Authorities withhold consent unreasonably, it may submit the matter to an arbitrator to be appointed by the Minister. The Minister is obliged to appoint a person who has been approved by the Traditional Authority and the Land Board, but may disregard these provisions if either one or both of the two institutions fail to communicate with the Minister or, on a third occasion, communicate their disapproval of a proposed person.

Although the CLRA allocates significant functions to Traditional Authorities, the overall tendency of current land policy and legislation is to decrease the powers of Traditional Authorities in land administration and thus more generally. Apart from being controlled by CLB, the gradual transformation of customary land tenure towards leasehold implies that large tracts of land will be alienated from their jurisdiction. This means that the area of land under their jurisdiction will decrease. Draft proposals to allocate property rights to land to village communities are likely to reinforce this trend.

4.4 Group rights to non-freehold land

Land Boards and Traditional Authorities are primarily responsible for the administration of customary or leasehold rights held and/or claimed by individuals or individual households. The parcel of land over which rights are to be registered must be spatially defined in one way or another. This raises the question how customary rights to land that is being utilised on a communal basis will be dealt with. In view of the possibility that some of that land may be alienated for agricultural development under leasehold, this appears to be a pertinent question.

Regrettably, neither the National Land Policy nor the Communal Land Reform Act provide any conclusive answers. In the former, a 'strategy to promote group tenure through a Regional Land Board' is alluded to. This suggests that the possibility of granting land rights to groups has been discussed in government circles, but the NLP did not pursue this matter any further. In order to obtain insights into this policy issue, one has to turn to the National Land Tenure Policy (NLTP), a final draft of which was completed in January 2005 (MLRR 2005c).

The NLTP proposes to grant group rights to 'traditional villages'. It proposes that each Communal Land Board should define and demarcate the boundaries of each village under its jurisdiction. Once identified and demarcated, villages should be registered, thus turning them into juristic persona. A register of all 'rightful members' of villages should be compiled and updated regularly, and village members 'will be given formal rights over land and all resources in each village'. They will also have the right to exclude or include people seeking to join. Members of villages will be entitled to a residential plot, an arable holding and the right to 'have a cattle post in the grazing lands. A traditional councillor will be identified for each village. Communal Land Boards will be responsible to keep registers of villages as well as records of village members (MLRR 2005: 17-18).

Group rights to natural resources were also discussed briefly by the PTT. It recommended that community based resource management should be expanded beyond wildlife and tourism to incorporate land and water (MLR 2005a: 36). It is significant that Cabinet endorsed this recommendation in April 2006. This suggests that at the highest political level the introduction of group rights to land has been approved. It is likely, however, that the implementation of this

recommendation is not one of the main priorities of government. Amongst other impacts, transferring rights to land to communities of users will change the balance of rural power in ways that cannot be assessed before hand. The position and power of traditional leaders for one will change dramatically as they loose control over land. With the loss of influence of traditional authorities in rural areas, a major organising structure of rural society will disappear.

Important as it is to improve tenure security of people to communal grazing, the delimitation of villages and the concomitant alienation of land falling outside such villages for agricultural development under a leasehold system may have negative impacts on village households and environment. It is foreseeable that by fixing village boundaries, transhumance patterns will be adversely affected, increasing pressures on scarce village grazing and water.

At the same time, property rights over village land will facilitate the introduction of new technologies in water purification for example, in that a legally constituted village could become the owner of such a facility. Without clearly defined property rights, ownership issues may introduce difficulties about responsibilities and duties.

4.5 Water in land policy

Access to water and how the privatisation of water sources in non-freehold areas will impact on customary tenure systems have not been addressed in any great detail in land policy and legislation. The National Land Policy of 1998 makes reference to rights to natural resources only once when it states that tenure rights allocated in terms of the Policy will include rights to all natural resources including water, but ‘subject to sustainable utilisation and the details of sectoral policy and legislation’. Moreover, such rights will be exclusive rights, enforced and supported by law. But, states the Policy, ‘the sharing of land and natural resources to mutual benefit between neighbours will be encouraged, particularly in times of drought and other stress’ (MLRR 1998: 11). Where natural resources are not used sustainably, Land Boards will be empowered to ‘terminate or deny the award of title’ (Ibid: 16).

Despite a commitment to sustainable development, the water issue is not at all articulated in land policy and legislation. This stands in stark contrast to some other natural resources. For example, Communal Land Boards are required by the CLRA to take into consideration any management or utilisation plans of conservancies when considering applications for lease agreements (Jones and Kakujaha-Matundu 2006:11,13).

5 Water Associations and Water Point Committees

In recognition that water was scarce and a limiting factor in economic and social development, Government embarked on reforms in the water sector very soon after Independence. At the core of these reforms was the gradual devolution of ownership and management responsibilities to the level of users. The water sector was the first sector to embrace decentralisation at policy level and in its day to day operations. The first policy statement in this regard came in 1993 in the form of the Water Supply and Sanitation Sector Policy which recommended ‘that the decentralisation objective should take precedence over the performance objective’ (MAWRD 1993: 32). Consequently, it argued that ‘the equitable improvement of services should be the result of the combined efforts of the government and the beneficiaries, based on community involvement, participation and responsibility (Ibid: 12). WASP laid down three basic policy principles:

- the maximum involvement of users;
- the delegation of responsibility to the lowest possible level; and
- an environmentally sound utilisation of the water resources (Ibid: 18)

With regard to communal farmers the WASP proposed that they should be responsible on an individual or communal basis for their own water and sanitation facilities. They should own and operate their own installations (Ibid: 29). In 1997 approval was given to introduce Community-based Management of rural water supplies. The aim was to gradually devolve responsibility for managing and paying for water services to Water Associations and Water Point Committees over a period of time.

Subsequent to these developments, the entire water resources management set-up was reviewed by a team of Namibian consultants with the assistance of expatriate consultants. The work of this team resulted in the National Water Policy White Paper, which retained and expanded on the principle participation first expounded in WASP. The single most important recommendation of the White Paper was to manage water resources in an integrated manner at Basin level. A review of the NWRMR in September 2003 recommended that the approach should be widened to include land. This resulted in the Integrated Land and Water Management approach, which was first piloted in the Kuiseb catchment and subsequently introduced on a pilot basis to the Cuvelai Basin.

5.1 Group rights to water

The National Water Policy White Paper regards the participation of stakeholders and decentralised decision making as fundamental to facilitate more equitable access to water resources. Institutions should be developed to facilitate such participation and to devolve decision making to the lowest appropriate administrative level (Ibid: 30). Under this decentralised dispensation, the role of central government will be limited to policy and standard setting, regulation and facilitation (Ibid: 23).

The process of establishing a new institutional framework for the management of water in communal areas was started in the late 1990s, but only obtained legal sanction in the Water Resources Management Act of 2004. At the apex of this structure is a Basin Management Committee which should be broadly representative of all stakeholders in a Basin. The Act stipulates a number of functions of basin management committees which boil down to the protection, development, management and control of water resources within a Basin Management Committee's water management area by promoting community participation in all different aspects of water management. As the Act is not in force yet, no regulations have been promulgated which prescribe the composition of Basin Management Committees. The Act only stipulates that Regional Councils must nominate a person to sit on Basin Management Committees.

The National Water Policy provides for the full transfer of ownership of water points to communities of users. In order to facilitate proper management of water points, the Act provides for the establishment of *Water Point User Associations*. These will consist of community members who permanently use a particular water point for their supply needs, and any rural household which regularly uses a particular water point qualifies for membership. However, such membership is mediated by the ability to pay a membership fee and for subsequent use of water. Water Point User Associations have the power to permit non-members to use water as well as to exclude any person from the water point who is not complying with the rules, regulations and

constitution of a Water User Association. Water Point User Associations have to agree to a Constitution before they will be registered.

With regard to the utilisation of communal land, Water Point User Associations have the power ‘to plan and control the use of communal land in the immediate vicinity of a water point in co-operation with the Communal Land Board and the traditional authority concerned’ (Section 19). Although it is not clear how the immediate vicinity of a water point is defined, a more significant ambiguity exists in the fact that current land policy and legislation does not empower Land Boards to plan and control the use of communal land. Regional Councils are the only structure at sub-national level with legal powers to draw up development plans in regions. However, the Communal Land Reform Act does provide Traditional Authorities with powers to exercise control over the number of livestock in areas of their jurisdiction and to introduce rotational grazing by prohibiting livestock from grazing in parts of their areas.

The provisions of the Water Act are likely to lead to changes in land tenure if they are implemented properly. Powers to control access to water points imply that Water Point User Associations can effectively control access to their grazing land. However, the Water Act does not confer any rights to WPCs to exercise control over open water in pans during and after rainy seasons. These open water points are important for livestock owners for as long as they last, usually until about August-September in the north-central regions. Open access to these water points may limit the powers of WPCs to plan and control the use of communal land that falls within the ‘jurisdiction’ of a WPC.

Current land policy and legislation do not provide for the rights conferred by the Water Act to communities of water users. It was mentioned above that the draft Land Tenure Policy proposes to register villages as legal entities, thereby conferring land rights to communities. However, a review of this draft and existing land policy and legislation is necessary to make it consistent with the Water Act. One of the issues that needs to be addressed in such a review is the fact that most villages have more than one water point and thus more than one Water Point User Association. For all these institutions to be effective, it is important that clear mandates exist. This is not an insurmountable task, but unless it is addressed early, unclear and overlapping mandates may result in weakened institutions, unable to control access to natural resources.

5.2 Responsibilities and mandates of Water Point Committees

The day to day management of a water point – maintenance, control of access, payment etc. – is being carried out by Water Point Committees. These consist of not less than 5 members which are elected by the Water Point User Association. Local Water User Associations in turn will be formed by a group of Water Point User Associations for the purpose of co-ordinating the management of a particular rural water scheme, such as take-offs from a pipeline.

Recent participatory poverty assessments in the north-central regions suggested that communities were generally satisfied with the operations of their WPCs. As members of the Committees are elected, WPC were broadly representative of the communities they served. In some instances WPC lacked sufficient skills and capacities to manage their affairs efficiently. However, interactions with Land Boards are non-existent, and Traditional leaders do not play a role in WPCs.

It is likely that WPC will assume responsibilities and functions outside their water mandate. Research in eastern Namibia has shown that some WPCs have started to address land issues in their communities. In Aminuis, for example, the WPC regulated the influx of people wishing to

come into the settlement for emergency grazing. This involved assessing applicants, drawing up contracts with successful applicants and monitoring their stay (Twyman et al. 2002: 11). The WPC also discussed the issue of fencing off village grazing areas and has done so after agreement was reached among community members to do so.

5.3 The role of traditional authorities and their mandates

Traditional Leaders do not have any role to play in the management of water points, as ownership rests with Water User Associations. Although by custom traditional leaders did not have any say over the rights to water points, WPC have the potential to gradually erode the powers of traditional leaders to administer land. At present there is no evidence to suggest that this is happening in the north-central regions, but the Aminuis example shows that this may well happen. As the demand for access to land with access to water outstrips supply, communities are likely to want to protect their land and water against outsiders by fencing it off. Such developments will effectively excise such land from the jurisdiction of Traditional Leaders, further eroding their authority.

5.4 Land in water policy

The National Water Policy recognised explicitly that a more effective and sustainable allocation of water required a holistic view of the chain of water management from source to consumer. Water demands by different sectors needed to be balanced against an environmental and basic needs reserve. Such a holistic view, in turn, required that land and water related activities be integrated (MAWRD 2000: 21). To do this efficiently, all water related information should be synthesised and analysed at basin or catchment level to inform local, regional and national level planning initiatives and water related decision making (Ibid: 25).

Integrated land and water management requires improved intersectoral co-ordination and co-operation. In recognition of this, the NWP lists a number of important ministries that need to better co-ordinate. A significant omission is the MLR, which has become a significant stakeholder as a result of its responsibility to resettle people on sub-divided land, and the development of 'unutilised' communal land into small-scale commercial farms (Ibid: 22).

6 Conclusions

Integrated land and water management has been widely accepted as the most sustainable approach to the management of these scarce resources. A comprehensive policy framework supported by legislation exists in Namibia. However, the need to integrate is not articulated equally clearly in sectoral policies. It is fair to conclude that ILWM is not at all embedded in land policy and legislation, beyond a very general commitment to sustainable development. The National Water Policy on the other hand is more specific about the need to consider land use issues in water management, but did not regard the MLR as important enough a stakeholder to be included in the list of ministries that need to be co-ordinated in order to facilitate integrated water management.

Both sectors have established an institutional framework in the form of Communal Land Boards and Water Point Committees to facilitate a larger degree of participation in the management of

their respective resources. These institutions operate in an environment that is characterised by a proliferation of institutions at various levels of governance. Most are designed to increase participation. At the lowest level, they operate under the jurisdiction of Traditional Leaders. At a higher level, Constituency Development Committees have been established to involve local communities in the identification of development problems and solutions. At regional level Regional Councils are responsible for overall planning in a region. To facilitate this Regional Development Co-ordinating Committees operate in all regions. In addition, committees such as Drought Relief and Orphans Committees, HIV/AIDS committees and so on exist. To compound matters, mandates and responsibilities of committees do not necessarily coincide with official administrative borders.

In the land and water sector, the mandates and interactions between the most important institutions vary. Communal Land Boards are responsible for improved land administration and in particular improved tenure security. As National Land Policy recognises the role of Traditional Leaders in customary land administration, interaction between these two institutions is regular.

Water Point Users Associations and Water Point Committees on the other hand do not interact at all with Land Boards and Traditional Leaders unless the TAs are resident in the WPUA area or have designated representatives there. The main reason for this may well be that users of water points have obtained full ownership of the resource. At present, land policy and legislation provides property rights only to individuals who have been granted leasehold. Property rights of communities to land only exist in draft form. However, ownership of water points effectively transfers property rights to grazing in that WPC are empowered by law to exclude people from using water points. With no access to water, grazing land becomes useless.

A critical analysis of current policy and legal framework in the land and water sectors suggests certain changes in the institutional landscape of rural areas. Traditional Leaders have the potential to lose a lot of their current powers. In the water sector, policy and legislation devolved full ownership and management responsibility to communities. Although Traditional Leaders traditionally did not have any powers to control access to water, research in eastern Namibia suggests that WPC may assume land related powers hitherto exercised by Traditional Leaders, thus competing for legitimacy with the latter.

Land policies and legislation are also likely to weaken local level management institutions by decreasing powers of traditional leaders and limiting their areas of jurisdiction. However, instead of transferring these powers to groups of land users, the decentralised state acquires these powers in the form of Regional Land Boards. Local level land management institutions will thus be increasingly marginalised. At present local communities are represented by altogether 4 people from across the region for which a Land Board is responsible (one representative of each recognised Traditional Authority; one member from the organised farming community in the Board's area and two women engaged in farming activities).

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