



Republic of Namibia



Kavango East Regional Council

**REGIONAL
CONSULTATIONS
IN PREPARATION
FOR THE SECOND
NATIONAL LAND
CONFERENCE,
19 - 20 July 2018**



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1. INTRODUCTION

At independence in 1990, Namibia inherited a divided and skewed land distribution pattern stemming from many centuries of colonization¹. Access to, and tenure of land were among the most important concerns of the Namibian people in their struggle for independence. Since 1990, and following the 1991 National Land Conference, which laid the foundation for most of the legal framework for land management and administration, Namibia's democratically elected government has maintained and developed its commitment to redressing the injustices of the past in a spirit of national reconciliation and to promoting sustainable economic development.

28 years after independence Namibia is faced with many concerns about land. Initially and with the enactment of the Agricultural (Commercial) Land Reform Act, 5 of 1995, the government concentrated on commercial land reform, through the National Resettlement Programme and the Affirmative Action Loan Scheme (AALS). The government predominantly pursued the Willing-Buyer Willing-Seller principle which is provided for in the Agricultural (Commercial) Land Reform Act, 6 of 1996 to distribute land to the previously disadvantaged Namibians. This approach has been blamed for the slow pace of land reform.

In rural areas where the majority of Namibians live, people were concerned about lack of clear policy and administrative structures for land administration and

¹ Annex 5: Concept paper - Second National Land Conference (July 2018)

management². There was a great need to protect the land rights of people in communal areas. The government introduced the Communal Land Reform Act 5 of 2002, a legal instrument which would guide the administration and management of Namibia's communal land. Despite all this effort the people in communal areas continues to face many challenges related to unsustainable utilization of natural resources in communal areas.

Having realized that the land question must be approached using a holistic approach, the government realized that all effort cannot only be concentrated on commercial and communal land reform. There was a great need to focus on urban land reform in the face of the rapidly expanding urban areas, with many people having no land rights on the land which they have settled. The government as a result introduced the Flexible Land Tenure Act of 2012, to specifically look into urban land reform.

The government having attained notable progress on land reform in general continues to struggle with the land question, as new challenges continues to emerge. In its quest to respond to the needs of the people with regards to land, the government has scheduled the Second National Land Conference on 1-5 October 2018. This is 27 years after the first National Land Conference which was held in 1991. As part of the preparation for this conference the government has conducted two rounds of regional consultations; in July 2017 and July 2018. These regional consultations was attended by many participants representing various stakeholders. In Kavango East alone, the recent two-day Regional Land Conference of 19-20 July 2018 was attended by more than 163 and 176 participants on the first and second days respectively (Annex 2).

² The National Land Policy (Ministry of Land Reform – 1998)

2. OPENING AND WELCOMING REMARKS BY THE REGIONAL GOVERNOR

Hon Dr Samuel Mbambo the Regional Governor of Kavango East region welcomed all the participants to the two-day Second Regional Land Conference which was held on 19-20 July 2018 at the Kavango East Regional Council in Rundu.

Hon Dr. Mbambo informed the participants that the Office of the Prime Minister, the Ministry of Land Reform and the Regional Council were key organisers of the upcoming Second National Conference scheduled for 1-5 October 2018.

He further stated that these consultations will culminate into the Second National Land Conference. He informed the participants that in addition to this consultation, the Kavango East Region was already consulted during the first round of consultations in July 2017. He also revealed that there was a sensitization the previous year in 2016 and he went on to state the objectives of the 2018 regional consultation.

He emphasized the importance of these consultations, by stating that 27 years after implementing the 1991 resolution, there was a need to also look at the Harambee Prosperity Plan (2016-2017 and 2019-2020) with special emphasis in contemporary issues. Hon Dr. Mbambo reasoned that 2018 was the year of reckoning and it was important to look at how to deliver the mandate in a sustainable manner. He informed the participants that the 1991 national land

conference by attended by 500 participants and urged everyone to participate in this consultations as the input from these regional consultations will be compiled and submitted as positions at the Second National Land Conference (Full speech – see Annex 3).

3. REMARKS BY THE MINISTER OF LAND REFORM

Hon. Utoni Nujoma (Minister: MLR) gave a statement/remarks (see annex 4– full speech) during the Second Regional Land Conference in Kavango East on 19 July 2018. In his remarks, Hon. Nujoma informed the participants that the 24 resolutions which has formed the basis for current policy and legal framework that has guided Namibia’s land reform process in the last 28 years, were adopted during the First National Land Conference on Land Reform and the Land Question held in 1991.

Hon. Nujoma also informed the participants that similar consultations were held in 2017, but due to the intervention from the head of State, Dr. Hage G. Geingob, a decision was made to have a second round of regional consultations this year (2018). This decision was also informed by certain communities and stakeholders in the country who felt left out during the 2017 consultations.

He further informed the participants that the 2017 consultations focused on the implementation of the 24 resolutions of the 1991 National Land Conference and there was little time for emerging issues. Whereas the 2018 consultations was intended to concentrate on contemporary issues. This includes identification of key regional land issues to be discussed at the Second National Land Conference schedule for 1-5 October 2018.

The Minister Acknowledged the role of Traditional Authorities in both Kavango East and West Regions as custodians of communal land in that part of Namibia. The minister emphasized that both Kavango East and Kavango West Regions are

the potential bread basket for Namibia, because of the good soil, surface water and river system. Towards his conclusion, Hon. Nujoma, urged all the participants to unpack all important issues in Kavango East including the problem of illegal fencing in communal areas.

4. PURPOSE OF THE REGIONAL CONSULTATION

The purpose of the regional consultation was summarized as follows;

- To brief the region on preparation for the Second National Land Conference and
- Identify and deliberate on the Regional Land related challenges that needs to be discussed at the Second National Land Conference.

The purpose of the second round of regional consultations is well articulated in Annex 5³.

³ Annex 5: Concept Paper – Second National Land Conference, pg. 10 (July 2018)

5. CONCEPT FOR THE SECOND NATIONAL LAND CONFERENCE

This document (See Annex 5) aims to set a tone for all the aspirations towards the convening of the Second National Land Conference in October 2018. It therefore serves as a guiding tool and outlines the objectives of the Second National Land Conference, the approach, modalities and the expected outcomes⁴.

The objectives of the Second National Land Conference are;

- A. Review the progress made towards the implementation of the twenty-four (24) resolutions of the 1991 Land Conference and address the challenges encountered
- B. Share with the Conference participants, the progress on the implementation of the 86 Resolutions assigned to the Special Cabinet Committee on Land and Related Matters.
- C. Address the structure of land ownership and deliberate on the following; Ancestral land claims for restitutions, the willing seller – willing buyer principle for agricultural land acquisition, National Resettlement Programme and Resettlement criteria, Expropriation of agricultural land in the public interest with just compensation, Urban land reform programmes, Illegal fencing of communal, Dual grazing and the removal of the veterinary cordon fence
- D. Identify and discuss emerging land issues such as land valuation and pricing, pre and post resettlement support to resettled farmers, Affirmative Action Loan Scheme and Programmes, accessibility to land by Women and

⁴ Annex 5: Concept Paper – Second National Land Conference (July 2018)

Youth, bankability of communal land as well as poverty eradication, land productivity and employment creation.

- E. Adopt strategic resolutions informed by the identified challenges, contemporary issues and future aspirations to guide a responsive and sustainable land reform programme.

The Approach to the Second National Land Conference;

The Second National Land Conference shall be preceded by Regional Consultations. Regional consultations have been held in all fourteen (14) administrative Regions of the country. The main objective is to engage stakeholders at the grassroots level and accord regions an opportunity to engage citizens to contribute their inputs into the various land related matters as well as to make recommendations for the deliberations at the Second National Land Conference. Three main approaches were planned and executed;

- A. Engagement of Key Regional Leadership
- B. Regional Consultations
- C. Second National Land Conference

Committees for the Second National Land Conference. The preparatory committees for the Second National Land Conference are;

- A. The High Level Committee
- B. The Inter-Ministerial Committee
- C. The Ministerial Preparatory Committee

The Expected outcomes;

The overall expected outcome is to contribute towards an effective and efficient land reform programme in the country. This will in turn contribute to social and

economic advancement in Namibia through land reform programmes and projects.

6. REGIONAL WORKSHOP OF JULY 2017: ISSUES AND KEY RESOLUTIONS

The Kavango East Regional Conference of July 2017 came-up with 25 issues and key resolutions⁵

#	Issue	Resolution
1	Injustice	Colonial injustice with regards to land ownership must be rectified
2	Ancestral Land Claims	Ancestral land claims will not be entertained
3	Foreign Owned-Farmland	Foreigners should not own land, but the can be allowed to lease
4	Underutilized land	Underutilized commercial land must be made productive
5	Absentee landlords	Farms belonging to absentee land lords must be targeted for expropriation
6	Farm size and numbers	Farms sizes must be reduced and the idea of one farm per person will apply. People with large farms must be target for expropriation.
7	Land tax	Commercial farmers must be taxed
8	Technical committee for commercial farms	There must be a technical committee to advise on issues related to commercial farms
9	Land Tenue	There must be a technical committee advise on land tenure issue in line with relevant legislation
10	Farm workers	No resolution
11	Assistance to commercial farmers	Government should channel support to Affirmative Action Loans Scheme farmers and not to established commercial farmers
12	Future of communal areas	Communal land should be retained and developed

⁵ Annex 6: Kavango East Regional Land Conference Resolutions/Recommendations (17-18 July 2017)

13	Access to communal land	The constitution of Namibia, allows anyone to settle anywhere in Namibia, provided they follow correct procedures. New comers or outsiders should respect the cultures and customs of resident traditional communities.
14	Disadvantaged communities	The land rights for San people and Persons With Disabilities must receive special protection
15	Game conservation and farmers rights	Farmers in communal areas must be allowed to protect their crops and livestock by whatever means necessary
16	Payment for land	All fees related to land must be given to the GRN and not TA's
17	Land allocation and administration	Land allocations should remain as provided for in the Communal Land Reform Act (key players are TA & CLB)
18	Veterinary Cordon Fence (Stock control barrier)	The Redline must be removed, but in stages of gradually
19	Illegal fences	The practice of illegal fences must be stopped and existing fences removed
20	Dual grazing rights	Commercial farmers should not be allowed to graze in communal areas (note: not applicable in Kavango East region)
21	Transfer of large communal farmers to communal land	Rich communal farmers must be encouraged to move to commercial farms
22	Access of small farmers to commercial land	Assist upcoming farmers with necessary support (training, finance) to move into commercial farms
23	NGO's and cooperatives	Government should support NGO's and cooperatives operating in the field of rural development
24	Urban land	No resolution

7. IDENTIFICATION OF REGIONAL LAND RELATED KEY ISSUES

The workshop was attended by a broad range of stakeholders from various institutions (both formal and informal) as well as various interest groups. The stakeholders represented at the workshop included;

- Traditional Authorities (both Kavango East and Kavango West)
- Kavango East Farmers Union
- Marginalized communities (Bwabwata Khwe San)
- Persons With Disabilities (PWDs)
- Women
- Youth
- Conservancies
- Political parties (SWAPO and APP)
- NGO's (Kavango GBV Task Force, Women Action Development/WAD and Positive Vibes and Namibia Marriage Council/NAMC)
- Shack dwellers Federation of Namibia (SDFN) and
- Community members

- Government ministries (Ministry of Land Reform, Ministry of Urban and Rural Development [including Office of the Regional Governor, Regional Council, Local Authorities], Ministry of Water and Forestry, Ministry of Environment and Tourism and Ministry of Information and Broadcasting, Ministry of Safety and Security)
- Education institutions (Namibia University of Science and Technology and University of Namibia) □ Development partner (GIZ)
- Municipality (City of Windhoek)

The methodology applied to identify regional land related key issues was twofold; plenary and group discussions. The main methodology which was predominantly applied was group discussions. The group discussions were preferred for the following reasons;

- 1) Limited time;** Two days were not sufficient to discuss this highly sensitive issue
- 2) Participant numbers;** The workshops were well and attended and active participation was expected and it proved problematic to open up plenary considering the time and emotional nature of the land issue and
- 3) Representation of positions;** It was easy and possible to obtain the positions of various interests groups through group discussions. This approach is likely to improve the quality of reporting.

The participants were divided into the 12 specific groups namely; 1) Youth, 2) Conservancies, 3) Bwabwata Khwe San, 4) Kavango East Farmers, 5) Political parties (SWAPO and APP), 6) NGO's, 7) People with Disabilities (PWD's), 8) Women, 9) Members of the Shack Dwellers Federation of Namibia, 10) Local Authority, 11) Regional Council/Community Development Committee (CDC), 12) Traditional Authorities (both Kavango East and Kavango West).

The various institutions and interest groups through plenary and group discussions did not only identify regional land related key issues, but also proposed solutions to many of the issues. The key issues which were identified are as follows;

- Illegal fences in Communal area
- Customary Land Rights registration
- Access to Land by the Youth (both Communal and Urban land)
- Leasehold allocation (lodges) along the Kavango river restricts access by locals
- Conservancies operations hampered by other land uses (farming, mining etc.)
- Land rights for Khwe San Bwabwata National park (Recognition of community and TA)
- Removal of the Cordon fence (red line)
- Land tenure/ownership of the Small Scale Commercial Farms
- Lack of infrastructure Development on Small Scale Commercial farms?
- Ancestral Land Claims
- Communal Land Boards
- Management of Natural Resources
- Sale of Communal Land
- Traditional Authority Boundaries
- New comers/settlers in communal land
- Representation of NGO's on the Communal Land Board
- Registration of plots to NGO's
- Rates and taxes for NGO's
- Access to land by NGO's (both urban and commercial farms)
- Expropriation of commercial Land without compensation
- Access to land by Persons With Disabilities (points 1,3,4,5,6)

- Access to land by women (pnts1,2,3)
- Protection of women's land rights
- Lack of serviced land in urban areas (SDFN, LA)
- Double allocations of urban land
- Access to urban land by the Shack Dwellers Federation
- Planning and serving land (LA, SDFN)
- Rural Urban Migration
- Land grabbing in urban areas
- Sizes of Small Scale Commercial Farms
- The status of Communal Land in Kavango East
- Payment for land in Communal areas
- Land allocation and administration
- Grazing land (dual grazing)
- Urban Land Reform

8. DISCUSSIONS ON REGIONAL LAND RELATED KEY ISSUES

8.1 Illegal fences in communal areas

Description of issue

Majority of people in rural areas of Kavango East region depend on the commonage and its resources for their livelihood. People in this region practice mixed farming which mainly revolve around crop cultivation and animal husbandry. People also derive their livelihood from the river where they get water, fish and other food types, medicine and building materials. The Traditional Authority has rejected the registration of customary land rights citing the cultural land use practices and protection of the commonage. The same TA's however has accepted the registration of leasehold rights. The traditional authority does not allow fences in the commonage to allow access by community members and for sustainable management of natural resources. In recent years, there has been an escalation of fences in some communal areas in Kavango East region.

Description of current situation

There is a mushrooming of fences in communal areas by individuals with adequate financial resources who fencing large areas. This practice is depriving many poor community access to natural resources which many depend on for their livelihood. Many if these fences are not authorized by the traditional authorities.

Workshop recommendations / resolutions

- The traditional authorities (TA) specifically where of the view that the beaurocracy with regards to the removal of illegal fences must be simplified⁶.
- The TA further recommended that their authorities as well as the Land board's must be empowered to remove illegal fences⁷
- The Regional Councils and Community Development Committees urged TA to monitor areas in the communal land which are fenced by the elites⁸.
- Generally, the participants were in favour of the removal of illegal fences in communal area.

8.2 Customary Land Registration

Description of issue

The five (5) traditional Authorities in Kavango East and West have rejected the registration of customary land registration as provided for in the Communal Land Reform Act, 5 of 2002. These TA's rejected the registration even before the region was split into two. The three (3) TA's in Kavango East namely; Hambukushu, Gciriku and Shambyu TA's have maintained this position.

⁶ Annex 18: Traditional authorities in Kavango East and West (group presentation)

⁷ Annex 18: Traditional authorities in Kavango East and West (group presentation)

⁸ Annex 17: Kavango East Regional Council and Community Development Committees (group presentation)

Among the reasons they have cited for the rejection of this provision is that; registration contradicts their cultural land use practices (e.g. shifting cultivation) and that the communal land in Kavango East region will not be sufficient for everyone.

Description of current situation

The current situation is that there growing pressure on the traditional authorities to allow their community members to register customary land rights. This pressure is both internal and external. There are community members who are expressing the interest to register, but cannot do so due to the position of their TA's. The main sources of this pressure are as follows; 1) Leaseholds: The TA's have allowed in communal areas (e.g lodges, irrigation projects, small scale commercial farms etc). The leasehold holders seem to have secure tenure than community members with unregistered customary land rights. In addition, these leaseholds are taking up the same communal areas which were was accessible to ordinary community members for their livelihoods.

2) Illegal fences: Individuals with adequate financial resources are putting fences in communal areas. They are taking advantage of the fact that the commonage is unregistered. Even people with leaseholds are reported to expand or enlarge their fences to take up more land without the knowledge of the allocating authorities. Lodges along the river were cited as typical examples in this regard and this way limited access by residents to commonage resources in and along the river.

Workshop recommendations / resolutions

- The TA maintains their objection to the registration of customary land rights. They have consulted widely therefore the position represents those of the community members under their jurisdiction⁹.
- The TA has discussed this issue in detail in their position paper which will be presented at the upcoming Second National Land Conference scheduled for 1-5 October 2018. They appeal to be given a chance and sufficient time to present their detailed position paper¹⁰.

8.3 Access to Land (urban, communal and commercial) by the youth.

Description of the issues and description of the current situation

8.3.1 Communal Land:

The youth in Kavango East region are in need of farming land to undertake agricultural activities. The traditional authorities and government should assist youth in getting leaseholds, as this can assist them to obtain bank finance to invest in their ventures. Status of communal land must be revisited. There are places in Kavango East Region, which are categorized as “under-utilized communal land”. These lands must be divided into 3km x 3km before allocation to the beneficiaries especially the youth.

8.3.2 Commercial land:

The National Resettlement programme does not prioritise youth because of age and income. Youth must be allocated commercial land at an early age.

8.3.3. Urban land:

⁹ Annex 18: Traditional authorities in Kavango East and West (group presentation)

¹⁰ Annex 18: Traditional authorities in Kavango East and West (group presentation)

When issuing leaseholds in urban areas, priority must be given to people who are located in those areas. When this is not done large open spaces in those areas are usually captured by non-paying owners. These situation disadvantages potential property developers from acquiring the land for town development which includes youth multi-purpose centers (with various sports) and recreational centers.

There is a lack of affordable housing in urban areas especially for the youth. Government flats and houses are no longer available as tenants tent to overstay in these flats/houses.

Workshop recommendations /Resolutions

- Each region must allocate 10 000ha of communal or commercial land to the youth.
- Resettlement programme must prioritize the youth from all corners of the Namibia.
- The Small Scale Commercial farms and under-utilized communal land must be sub-divided into small size in order to satisfy the demand for land with priority given to the youth as beneficiaries.
- Youth must enjoy special treatment under the National Resettlement programme. They should not compete with other applicants on basis of age and income. Their applications should be evaluated in a different context.
- Government should engage financial institutions on the issue of collateral land ownership and leaseholds in communal areas.

8.4 Leasehold allocation (esp. Lodges) along the Kavango river

Many lodges are operating along the river in Kavango East. Most of this lodges are operated by leaseholders who are not from the region. Like most leaseholds including irrigation projects, residents are promised benefits such as

employment, capacity development (skills) and cheaper produce but this never materializes.

In addition, lodges along the Kavango river are situated on prime land. In most cases the leaseholders tend to fence off this land illegally. These actions deprive locals from accessing resources in and along the river. In most cases these lodges including irrigation projects are operated by outsiders in some cases foreigners. Local people do not benefit from these ventures despite the empty promises in the early stages of operation.

Workshop recommendations /Resolutions

- Therefore, leaseholds in communal areas must not be granted to outsiders (and foreigners)¹¹.

8.5 Conflicting land uses in conservancies

Description of issue

There are four (4) registered conservancies in Kavango East Region ¹² . Conservancies do not necessarily have control over the land. Conservancies and community forests have control over natural resources including wildlife. The issue raised by conservancy members relates to the interference of other land uses with regards to the operation of conservancies. These other land uses include; Allocation of farming units, fencing activities and sand mining in conservancy areas. These land uses are explained below.

Description of current situation

- Allocation of farming units in the conservancy areas: Traditional authorities were accused of the practice of allocating customary land rights

¹¹ Annex 8: Youth (Group presentation)

¹² Namibian Association of Community Based Natural Resources Management

in conservancy areas. Hence the TA were ignoring the legislation which governs conservancies. This practice accelerates the Human Wildlife Conflict (HWC). The allocation of farming units to individuals further reduces the commonage and restricts access to commonage resources¹³.

- Fencing in conservancy areas: Community members in some areas are said to be putting up fences in the conservancy areas. This interferes with the movement of livestock and wildlife. It restricts the grazing of livestock and wildlife and consequently leads to overgrazing. This has also been observed to increase Human Wildlife Conflicts. This ultimately have a negative effect on tourism and benefits accrued from conservancies. The fencing activities in conservancy against relevant legislation¹⁴.
- Sand mining in conservancy areas: It has been observed that many people in rural areas are moving away from traditional houses and now building brick houses. Community members are said to be mining sand in conservancy areas. The sand is used for the construction of houses. Many people are engaged in the sand mining activities as a business to sell to other people. This uncontrolled or excessive sand mining activities have negative impacts on the conservancies and community forests; It disturbs the ecosystem as some living organisms are destroyed in the process, the occurrence of land degradation is guaranteed, the outlook of the conservancy or community forest is altered. The overall damage to the environment has a negative impact on the operation of the conservancy¹⁵.
- Benefits accrued from conservancies in relation to unitization of land for other purposes (esp. settlements and farming): Conservancies are increasing with the desire from government, NGOs and many community members to protect wildlife. On the other hand, as the population and individual

¹³ Annex 9: Conservancies (Group presentation)

¹⁴ Annex 9: Conservancies (Group presentation)

¹⁵ Annex 9: Conservancies (Group presentation)

incomes are increasing, so is the desire for settlement and farming in rural areas. The debate as to whether conservancies improves the livelihoods of community members (or the so called “conservancy members”) is far from over. Some people are of the opinion that conservancy benefits are insignificant. They argue that the cash distributions are very little and some cases given over long time intervals (e.g. once per year). These people hold a view that conservancies should be abolished and allow people to engage in other land uses such as farming which they believe could improve their living standards. It was also stated that increase of conservancies and settlements is contributing to the reduction of land for small scale farming¹⁶.

Workshop recommendations /Resolutions¹⁷

- Government must enforce the compliance to conservancy and other relevant legislation.
- Conservancy committees must receive capacity on the relevant legislation.
- TA consultation is proposed on the rezoning of areas in conservancies
- TA must be empowered to understand and enforce the provision of the Communal Land Reform Act 5 of 2002 with regards to the removal of fences. In the past TA have tried to removes without a court order.
- TA must be empowered to promote sustainable utilization of natural resources as per their customary laws and the CLRA

8.6 Land rights for Khwe San in Bwabwata National Park

¹⁶ Annex 9: Conservancies (Group presentation)

¹⁷ Annex 9: Conservancies (Group presentation)

Description of issue

The Bwabwata National Park is located in north east Namibia. The park was established in 2007 and has a size of 6,274 square kilometres. There are close to 6000 people in the park and most of them are Khwe San, although some reports are suggesting that this is changing as the numbers of non-San people is been increasing over the years. The Khwe San communities have claimed that the park is their ancestral land. For many years the Khwe claimed that they have been denied land rights in the park. For years they have also claimed to have been denied the opportunity to have a recognized traditional authority. They blame their situation on the Hambukushu Traditional Authority and the government whom they further accuse of denying their existence as a people. The park is highly contested with the Hamukushu Traditional Authority claiming that the area falls under their jurisdiction. The TA claimed to have evidence in form of old German maps to prove the validity of their position.

Description of current situation

The Khwe San raised two key challenges in relation to their livelihoods and human rights in the park. These issues are;

1. Lack of land rights: They have in the past requested to be allocated part of the National park. They claim that their request fell on deaf ears as far the Hambukushu Traditional Authority and the government are concerned.
2. Lack of recognition of the Khwe traditional authority and community: The Khwe San community is considered to fall under the Hambukushu TA as far as that TA is concerned. The TA does not recognize their claim to the park. There are more than 30 000 san people in Namibia, but other San communities in other parts of the country have recognized land claims and traditional authorities. These includes san groups/clans in Tsumeb, Omaheke, Nyae-nyae and Omatako.

Workshop recommendations /Resolutions

- The Khwe san community are calling for their ancestral land in Bwabwata National Park to be restored back to them, which they claim was taken away from them by the Germans first and the former South African government. This call is directed to the Namibian government¹⁸.
- They were also calling for the recognition of their traditional authority and existence of their community in the Bwabwata National Park in the context of their land claims as other san communities referred to earlier¹⁹.

8.7 Removal of the veterinary cordon fence

Description of issue

The veterinary cordon fence is a control mechanism for animal disease to protect the mainstream meat exporting market on the other side of the cordon fence. There was consensus on the removal of the so called “red line”, which excludes farmers on the other side of the redline from exporting their livestock products.

Description of current situation

The Kavango East Farmers Union were more vocal on these issue of the redline. They lamented the impact on livestock market, as they cannot tap into the export market as a result of the presence of the redline. There was however, inadequate consensus on where fence should be removed to up to. There was an idea to move the fence up to the border with Angola, but this suggestion received resistance from the Ukwangali Traditional

¹⁸ Annex 7: Khwe San Community (Group presentation)

¹⁹ Annex 7: Khwe San Community (Group presentation)

Authority. The TA questioned the rationale for all the proposal to move the fence up to certain points. The argument where, that other alternatives could be explored as there are serious consequences to the economy if the meat market collapses due to the outbreak of livestock diseases. This can happen if the removal is not managed well. The farmer's union proposed that the fence be moved in stages and they had their own illustrative map to show where the fence will be placed. The first step is to move the fence just on the other side of the small scale farms in the short-term and then eventually in the long term move it to the border with Angola.

The critics were of the opinion that small scale should not receive preferential treatment as farmers in the commonage also aspire to farm productively. Therefore, the small scale commercial farmers were given the following advice;

- Instead of concentrating on the export market, they should establish the butcheries locally, so that their meat products can be consumed locally as there is a demand since such an initiative does not exist.
- Small scale farmers can still market their livestock through the export market if they can come up with the idea of putting the livestock in quarantine camps in advance.

Workshop recommendations /Resolutions

- The veterinary cordon fence must be removed in stages; in the short-term it must be moved to the north of Small Scale Commercial Farming Units of Kavango East and Kavango West regions²⁰.

²⁰ Annex 10: Kavango East Farmers (Group presentation)

- In the long-term the veterinary cordon fence must be moved to the Namibia-Angolan border²¹.

8.8 Security of Land Tenure over Small Scale Commercial Farms

Description of issue

Farmers occupying small scale farms in Kavango East region have through their farmer's union rejected leasehold certificates over their farms. They argue that having leaseholds implies that they do not own the farms as they will be required to be paying lease fees. This means they do not own the farms and that the farms belong to the government which also leads to their concerns regarding inheritance. This will mean that once the leaseholder dies, the farm will not be inherited or transferred directly to the surviving spouse or next of kin. There are also consideration for bank finance which favours title deeds.

Description of current situation

The farmers have refused to accept and sign the leaseholds until their concerns are addressed. Through their union, the farmers been requesting dialogue with the Minister of the Ministry of Land Reform to propose alternatives. To date the ministry have not granted them an audience at the highest level.

The farmers have proposed that they are in favour of title deeds in the place of certificates of leaseholds due to reasons stated earlier. This will guarantee secure tenure over their farms. This elevates their status of occupation to ownership because having title deeds also means that the farms can be inherited by their next of kin directly in case of death.

²¹ Annex 10: Kavango East Farmers (Group presentation)

Workshop recommendations /Resolutions

- The farmers recommend that leaseholds should be converted, changed or replaced with deeds of leaseholds²².

8.9 Infrastructural Development on Small Scale Farms in communal land

Description of issue

The farms allocated to beneficiaries by the Ministry of Land Reform lacks essential infrastructure. These are infrastructure which could enhance productivity on this farms including; water, fences and telecommunication networks²³.

Description of current situation

The current situations is that many small scale farms do have essential infrastructure. The government managed to put infrastructure (e.g. boreholes and fences) on some of the farms with assistance of donors and development partners and few years back through the Programme for Communal Land Development (PCLD). Many farmers are now forced to invest in putting up this infrastructure from their own pockets. This is particularly a challenge to farmers who cannot afford to buy and put up this infrastructure. This is defeats the purpose of this farms, which by the name are supposed to become commercial farms.

In addition, the road networks to this farms are poorly developed, which makes transportation of products to market a challenge. This also increases the costs of transportation as many hours are spent on the roads, since these are deep sandy roads. The telecommunication network

²² Annex 10: Kavango East Farmers (Group presentation)

²³ Annex 10: Kavango East Farmers (Group presentation)

is none existed on the farms and these affects farm operation and eventually productivity.

Workshop recommendations /Resolutions²⁴

- Feeder roads must be constructed which should pass through the Small Scale Commercial Farming Units.
- The roads must be well developed and upgraded to at least gravel roads²⁵.
- The Ministry of Information and Communication Technology's (MICT) campaign of 100% national wide telecommunication coverage should also include coverage of Small Scale Commercial Farms.
- The Ministry of Land Reform must receive an increased budget for infrastructure development of Small Scale Commercial Farms

8.10 Ancestral Land Claims

Description of issue

Some people in Kavango East stated that ancestral land claims by those who lost land through colonialism should be recognized and enforced. These are mainly people who lived in the south and central parts of Namibia especially the Herero's and Nama communities. There was consensus that such claims should not be entertained in Kavango East region as they take a different context, which may complicate the administration and management communal land by the traditional authorities.

²⁴ Annex 10: Kavango East Farmers (Group presentation)

²⁵ Annex 11: Political parties (Group presentation)

Description of current situation

The Kavango East region was not affected by land dispossession through colonialism. Therefore, if people are allowed to claim ancestral land claims, this will move into a different context. The traditional authorities as per their customs can re-allocated land which has been long vacated to other applicants. If ancestral land claims are entertained in this context, people will be claiming land vacated or previously occupied by their ancestors, which might have been re-allocated by the TA to other people or entities (e.g. schools, churches and other institutions). These could also open the door to counter claims, which could complicate the administration and management of communal land by the traditional authority.

The only exception however is, where the land remains uninhabited since the claimer (or his ancestor) vacated it. In a situation like this the relevant TA, will consider each case base on its merit²⁶.

Workshop recommendations /Resolutions

- Ancestral land claims particularly in Kavango East region's communal areas should not be entertained at the Second National Land Conference.

8.11 Communal Land Boards *Description*

of the issue

The Communal Land Reform Act 5 of 2002 provides for the establishment of Communal Land Boards in all 14 regions of Namibia. The functions of the communal land boards is to control and ratify the customary land rights allocated by the traditional authorities. In addition, the CLB's are primary allocators of rights of leaseholds in communal land. Despite the fact that Traditional Authorities are represented in the CLB's, many TA's

²⁶ Annex 18: Traditional Authorities (Group presentation)

and community members feel that the TA's has been weakened by the existence of the CLBs.

Description of current situation

The traditional authorities and some community members feel that the TA's roles with regards to the administration and management of communal land have been minimized by the Communal Land Boards. The understanding is that the Communal Land Boards can veto the decision of the traditional authorities with regards to the allocation of customary land rights. The traditional authorities are no longer in control after the establishment of the communal land boards. Fees for customary land allocation are not paid to the TA's, but to the MLR/CLBs.

Workshop recommendations /Resolutions

- Communal Land Boards must be abolished to restore the power and role of Traditional Authorities with regards to land administration and management²⁷

8.12 Management of natural resources

Description of the issue

The sustainable management of natural resources in communal land is emphasized by various legal instruments including the communal land Reform Act, 5 of 2002, Traditional Authority Act, 25 of 2000 and even various customary laws.

²⁷ Annex 11: Political parties (Group presentation)

Description of current situation

There remains a gap, despite the availability of instruments to the relevant authorities such as the traditional authorities, communal land boards and the government to promote sustainable management of natural resources in communal land. There are many activities taking place in communal areas which contribute to unsustainable utilization of natural resources in communal land among these are; illegal fences, illegal utilization of forest products and sale of communal land.

Workshop recommendations /Resolutions

- The relevant bodies such as the government and traditional authorities must ensure that Natural resources must be managed in an appropriate manner to address the socio-economic development of relevant community members²⁸.

8.13 Sale of Communal Land

Description of the issue

Section 17 of the Communal Land Reform Act states that communal land belongs (vests in) to the state. Thus individuals and entities cannot own communal land, but may obtain land rights to certain parts of the communal land. The act also makes it clear that communal land cannot be sold like free hold to any person or entity²⁹. There were claims that communal land in Kavango East region is being sold, especially to individuals.

²⁸ Annex 11: Political parties (Group presentation)

²⁹ Muduva, T. (2018) Who Owns Namibia's Communal Land? (The Namibian, 18 May 2018)

Description of current situation

It was strongly stated communal land in Kavango East region is being sold. There was no further emphasis as to who is selling it and who the buyers were. The suspicions was that the bodies which administer and manage communal land including politicians were involved and observations shows that the buyers are mainly the elite and people with adequate financial resources.

The ministry of land reform in 2015/16 commissioned a study titled “An Enquiry into Land Markets in Namibia’s Communal Areas”. This study which also covered Kavango East region confirmed that indeed an informal (and illegal land market) in communal areas does exist³⁰.

Workshop recommendations /Resolutions

□ No one should be allowed to sell communal land as this is in contravention of the provision of the CLRA and those found guilty should be persecuted accordingly.

8.14 Traditional Authority boundaries disputes

Description of the issue

There are boundary disputes between traditional authorities in Kavango East region, which have not been addressed to date. One of these disputes exists between the Sambyu and Gciriku Traditional Authorities.

Description of current situation

These boundary dispute interferes with the proper administration and management of communal land in the affected areas due to uncertainty by

³⁰ An Enquiry into Land Markets in Namibia’s Communal Areas (MLR, 2016)

the relevant bodies. This also has potential to escalate to serious tribal disputes if not addressed.

Workshop recommendations /Resolutions

- The government should make available instruments of evidence such as maps and coordinates from the surveyor general's office to address this disputes³¹.

8.15 Control of new and outsider settlers in communal areas

Description of the issue

The Namibia constitution in article 16 states that any persons can settle in any part of Namibia, provided that they follow set procedures. Many communal areas in Kavango East regions are being faced with the problem of unauthorized settlers mainly from other areas and regions.

Description of current situation

Most of these people settle without the knowledge of the traditional authority and the community development committees (CDC). There is also bribery involved in the settlement of this new comer and outsider settlers. The main concern apart from the illegal occupation on the land is that many of these people do not follow local customs and rules with regards to land use. They disregarding rules regarding sustainable natural resources and the principles of living in the commonage. In some cases, this are the people involved in illegal fences. They are also accommodating other outsiders which is leading expansion of settlements in some communal areas.

³¹ Annex 11: Political parties (Group presentation)

Workshop recommendations /Resolutions

- The relevant traditional authorities should put mechanisms in place to ensure control of outsiders who settle under their jurisdiction, who may not subscribe to local customs and rules³².

8.16 Land Related issues pertaining to NGO's

8.16.1 Representation of NGO's on the Communal Land Board

Description of the issue

A Non – Government Organization (NGO) is any non-profit, voluntary citizens group which is organized on a local, national or international level. Section 21 of the Companies Act 28 of 2004 makes provision for non-profit type of business. These entities are regarded as public companies and holds no share capital. They are task-oriented and driven by people with a common interest. NGO's perform a variety of service including social responsibility and humanitarian functions. They bring the concerns of citizens to the government, advocate and monitor policies³³. NGO's despite the crucial role they play in society as described above are not represented in any land governing bodies or committees.

Description of current situation

NGO's are not represented in land administration and management such as the Communal Land Board and the Regional Resettlement Committees.

Workshop recommendations /Resolutions

- NGO's must be accorded an appropriate representation in the land administration bodies both at regional and national levels (e.g. Communal Land Board, Regional Resettlement Committees etc.)

³² Annex 11: Political parties (Group presentation)

³³ Annex 12: NGO's (Group presentation)

8.16.2 Allocation of urban plots to NGO's

Description of the issue and current situation

Many plots belonging to NGO's are registered on individual's names and not in the name of the NGO as an organization itself³⁴.

Workshop recommendations /Resolutions

- Plots must be strictly registered in the names of NGO's as they are public institutions.

8.16.3 Payments of rates and taxes by NGO's

Description of the issue and current situation

Although NGO's are non-profit making, they are subjected to pay for land. They also pay for registration with the Business and Intellectual Property Authority (BIPA). NGO's should not be subjected to business and industrial rates like profit making entities. This continues to limit their operation and eventually cease to exist.

Workshop recommendations /Resolutions

- NGO's should not pay land related rates and taxes as well as registration fees as they are non-profit entities.

8.16.4 Access to Land by NGO's

³⁴ Annex 12: NGO's (Group presentation)

Description of the issue and current situation

NGO's are rarely considered for land allocation in communal, urban and commercial areas despite the significant roles they play in helping vulnerable people in society. Some NGO's have expressed interest in resettlement farms to start crop production projects to ensure sustainability of their services to the needy in society. The size of the land to be allocated to NGO's should be determined by the scale of the services they offer to society.

Workshop recommendations /Resolutions

- NGO's must be considered for land allocation in communal, urban and commercial areas³⁵.
- The sizes allocated to NGO's must be determined by the magnitude of service provision³⁶.

8.17 Expropriation of commercial land without compensation

Description of the issue and current situation

Article 16 of the Namibian constitution provides for expropriation of land with just compensation. Expropriation is also provided for in the Agricultural Commercial Land Reform Act 6 of 1995. Despite the legal provisions for expropriation, the main approach for land acquisition for distribution has been the willing buyer-willing seller principle. The willing seller principle has been blamed for the slow pace of land reform. Current discourses in South Africa to expropriate land without compensation has begun to spill over in Namibia as the masses have grown impatience with government approaches to make land available.

³⁵ Annex 12: NGO's (Group presentation)

³⁶ Annex 12: (NGO's (Group presentation)

Workshop recommendations /Resolutions

- Government must amend the laws to provide for expropriation of commercial land without compensation³⁷.

8.18 Access to land by persons with disabilities

Description of the issue and current situation

PWD's expressed their concerns and among these are that they are discriminated when it comes to land allocation. They feel that they deserve to be treated fairly as they also need land like everyone else. They recognized that they often do not meet criteria's or requirements for land allocation (especially resettlement) because they are challenged socially and economically³⁸. Many PWD's struggle to have access to land advertisement and notices. They also claim that they are discriminated by the TA's with regards to compensation when it comes to damage of their properties. In general, the rights of PWD's are well documents in policies but are not implemented including land rights³⁹.

Workshop recommendations /Resolutions⁴⁰

- Land administration and management institutions must be compelled by law to approve certain numbers of applications by PWD's during each allocation process.
- Laws and policies that are intended to assist PWD's must be implemented without delay.

³⁷ Annex 11: Political parties (Group presentation)

³⁸ Annex 13: Persons With Disabilities (Group presentation)

³⁹ Annex 13: Persons With Disabilities (Group presentation)

⁴⁰ Annex 13: Persons With Disabilities (Group presentation)

- Law must be put in place to compel the land sector to use appropriate communication methods which are accessible to PWD's and established institutions of PWD's.

8.19 Land related issues pertaining to women 8.19.1

Access to land by women

Description of the issue and current situation

More men receive more land allocations than women. Research shows that many women are only able to own land, once the husband has died. They do not have land rights in their own names in communal land. This issue affects both married and unmarried women. This is mainly due to traditional set-ups which do not encourage or promote ownership of land by women. Women in rural areas feels discouraged to apply for land in communal areas due to societal pressure.

In addition, women who are married in-community property are particularly discouraged by their partners from applying for land rights in their own names⁴¹.

Workshop recommendations /Resolutions

- Women regardless of their marital status must be encouraged to apply for land rights in communal areas in their own names as this is consistent with the relevant laws⁴².
- Land rights must be allocated based on a 50/50 among men and women⁴³.

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8.19.2 Protection of women's land rights

⁴¹ Annex 14: Women (Group presentation)

⁴² Annex 14: Women (Group presentation)

⁴³ Annex 17: Regional Council and Community Development Committees (Group presentation)

Description of the issue

The communal land reform act 5 of 2002 provides for the registration of land rights in communal land. The act also provides for the protection of women's land rights. The act ensures the transfer of land rights to the surviving spouse or next of kin in case of death. Since most women do not have rights in their own names, they live on the land right of the husband.

Description of the issue and current situation

The traditional authorities in Kavango East and West region have rejected the registration of customary land rights. This means that women's land rights do not enjoy legal protection under the law. The customary laws did not prove to be very successful in protecting women's land rights. In some cases, when the husband dies, the land is taken by the deceased husband's relatives. The woman in this case is at the mercy of her in-laws.

Even women who are married in-community of property especially to foreigners feel they are at the receiving end during the divorce. They lose the land since communal land does not form part of the estate. The new wife takes over and the widow and her children are left landless⁴⁴.

Workshop recommendations /Resolutions

- The laws must be implemented to ensure that women are able to inherit the land rights of their deceased husband⁴⁵.

8.20 Urban land issues

⁴⁴ Annex 14: Women (Group presentation)

⁴⁵ Annex 14: Women (Group presentation)

Description of the issue and current situation

8.20.1 Access to urban land

In recent years there has been a great demand for urban land. The supply has never matched this demand. This demand even led to protests especially from youth movements. Many other groups and people including the Shack Dwellers Association are struggling to get enough land for provision of low cost houses⁴⁶.

There are many factors driving this demand and among these are; rural-urban migration, the demand for housing from young or new employees and the elites who are able to buy more than one houses for business purpose.

The supply has not managed to match the demand due to various reasons and among these are; lack of serviced land in urban areas and high prices of urban land.

8.20.2 Lack of serviced land in urban areas

Description of the issue

Many municipalities and town councils have struggled for years to provide service land. The main challenges faced by the municipalities and town councils are;

a) Budget constraints

The costs to plan and service land are quite high and therefore the shortage of financial resources affects servicing of land⁴⁷.

b) Beaurocracy in the system

The process of planning, design and approve layouts is very long due to old land ordinances⁴⁸.

⁴⁶ Annex 15: Shack Dwellers Federation (Group presentation)

⁴⁷ Annex 16: Rundu Town Council (Group presentation)

c) ⁴⁸ Urbanization (Rural urban migration)

High influx of people into urban areas from rural areas, other towns/urban centers and neighbouring countries has contributed to high population growth in Rundu. This strains council resources and exerts massive pressure on the local authorities to engage into faster land delivery process and roll-out municipal services⁴⁹.

d) Illegal land grabbing and settlements

Illegal land allocations specifically in Rundu are on the increase and these form of land grabbing threatens the future town expansion and development⁵⁰.

Workshop recommendations /Resolutions

- High costs: Central government should subsidize local authorities on planning and servicing costs to make land more affordable⁵¹.
- Lengthy processes: Expedite the implementation of the newly promulgated urban and regional planning Act of 2018. This act makes provision for the establishment of Urban and Regional Planning Board and Urban Structure plans⁵².
- Urbanisation: Establish new and additional local authorities in the region (e.g. Divundu and Ndiyona) to relieve pressure on Rundu⁵³.
- Urban Land grabbing: The Ministry of Urban and Rural Development (MURD) and Ministry of Land Reform (MLR) should develop model

⁴⁸ Annex 16: Rundu Town Council (Group presentation)

⁴⁹ Annex 16: Rundu Town Council (Group presentation)

⁵⁰ Annex 16: Rundu Town Council (Group presentation)

⁵¹ Annex 16: Rundu Town Council (Group presentation)

⁵² Annex 16: Rundu Town Council (Group presentation)

⁵³ Annex 16: Rundu Town Council (Group presentation)

regulations on illegal land occupation and settlements to be used nationwide⁵⁴.

- The local authorities should provide the Shack dwellers Association with virgin land in urban areas which is not surveyed so that the association can develop it the land⁵⁵.

8.20.3 Double allocation in urban areas

Description of the issue and current situation

The local authority at times allocates one piece of land to more than one applicant. This happens especially in the less developed parts of the town.

Workshop recommendations /Resolutions

- The local authority should introduce a digital system to promote efficiency, transparency and ultimately prevent double allocation of plots

8.21 Land Allocation and Administration *Description of the issue and current situation*

a) Communal Land

The TA is concerned about the future of communal Land in Kavango East region. The TA is proposing that the old land and farming committee must be brought back. The TA's must be represented by the headwo/men in those committees.

There the legal prescriptions of the size the sizes of customary land rights must be examined further. The TA is of the view that the status of communal land in the region must be retained. The TA must remain the primary allocators of communal land. They must not be limited as to what size of land they can

⁵⁴ Annex 16: Rundu Town Council (Group presentation)

⁵⁵ Annex 15: Shack Dwellers Federation (Group presentation)

allocate. There is a tendency of people applying to land rights and when rights are allocated, some people do not settle or develop the land. Farmers must be restricted to one farm and those have more than one farm must be forced to return some farming units for reallocation and this includes small scale commercial farms. This will also address the problem of dual grazing.

b) Expansion of towns into communal land

Local authority areas within the boundaries of a communal land do not form part of communal land⁵⁶. The expansion of towns sometimes leads to the encroachment in communal land. This leads to the displacement of settlers in adjacent communal areas. This has led to many disputes between the traditional authorities/communities and local authorities. The disputes are further fueled by the issue of compensation. There are claims that some people are never compensated and where compensation occurs it is said to be unjust.

Workshop recommendations /Resolutions

- The old land and farming committee must be brought back
- The status of land management and administration in communal land must be retained.
- Applicants must be limited to one farm in communal land per person
- TA's must be involved in the determination of the boundaries of towns in relation to communal land allocation.

8.22 Size of Small Scale Commercial Farms in communal land

Description of the current situation

The demand for small scale commercial farms in Kavango East region has remained high. The supply will not keep up with the demand, as the designated

⁵⁶ Regional Councils Act 22 of 1992

areas are getting smaller and smaller. The other factor contributing to this shortage of land supply is the fact that some individuals have more than one farm. There must be a limit to the numbers of farms an individual can have⁵⁷. This will also address the problem of dual grazing, which leads to overgrazing.

Workshop recommendations /Resolutions

- The sizes of small scale commercial farms must be reduced to 5kmx5km to respond to the high demand for land⁵⁸.
- The TA must be empowered to ensure that each applicant can only be allocated one farm⁵⁹.

8.23 Bankability of Communal Land

Description of the issue and current situation

Section 17 of the Communal Land Reform Act 5 of 2002, states that communal land belong (vested in) to the state. These provision must be revised because it contributes to the low value of land in communal land regardless of the investment. Banks cannot lend finance because the land belongs to the state.

Workshop recommendations /Resolutions

Section 17 of the CLRA must be revised to change the status of communal land so that the land can be used as collateral for bank finance.

⁵⁷ Annex 18: Traditional Authorities (Group presentation)

⁵⁸ Annex 18: Traditional Authorities (Group presentation)

⁵⁹ Annex 18: Traditional Authorities (Group presentation)

9. SUMMARY OF RECOMMENDATIONS AND/OR RESOLUTIONS

The second Regional Land Conference in Kavango East came up with the following resolutions;

#	Key land related challenges	Recommendation resolution
1	Illegal fences in communal areas	The law must be enforced to remove to all illegal fences in communal areas
2	Customary Land Registration	The position to reject the registration of customary land rights in Kavango East was maintained
3	Access to Land (urban, communal and commercial) by the youth.	The youth must be allocated land both on communal, urban and commercial areas so that they can use the land for housing and various business activities
4	Leasehold allocation (esp. Lodges) along the Kavango river	Leaseholds (especially) lodges along the Kavango river must not be allocated to outsiders (or foreigners)
5	Contested land: Conservancies vs other land uses	The problem of overlapping land uses in conservancies and community forests must be addressed
6	Land rights for Khwe San in Bwabwata National Park	The Khwe san in Bwabwata National Park must be recognised as a traditional community (including recognition of their traditional authority). They must also be given land rights in the areas they claim to be their ancestral land.
7	Removal of the veterinary cordon fence	The veterinary cordon fence must be removed gradually. First between the Small Scale Farms and the commonage and Second and lastly at the border between Namibia and Botswana. But before such removal, the issue must be deliberated at length taking into account many various factors.
8	Security of Land Tenure over Small Scale Commercial Farms	Leaseholders of Small Scale Commercial Farms, must be issued with Title Deeds instead of Leasehold Certificates
9	Infrastructural Development on Small Scale Farms in communal land	To achieve the objectives for Small Scale Commercial Farms there is a need to develop and improve infrastructure (e.g fences, boreholes, telecommunications, roads)
10	Ancestral Land Claims	Ancestral land claims will not be entertained as a general rule, only a few isolated exceptions will be considered based on merit.

11	Communal Land Boards	Communal Land Boards must be abolished to restore the power and role of traditional authorities with regards to land administration and management.
12	Management of natural resources	Relevant bodies (government and traditional authorities) must ensure that Natural Resources in communal land must be utilized and managed in a sustainable manner
13	Sale of Communal Land	The CLRA act 5 of 2002 should be enforced with regards to the sale of communal land which is

		prohibited
14	Traditional Authority boundaries disputes	Government should address the boundary disputes between traditional authorities in Kavango East region (e.g. Gciriku and Shambyu Traditional authorities)
15	Control of new and outsider settlers in communal areas	Traditional Authorities must put mechanisms in place to control the moved of people (with regards to settlement/farming activities) within their respective jurisdictions.
16	Land Related issues pertaining to NGO's (Access to Land by NGO's, Representation of NGO's on the Communal Land Board, Allocation of urban plots to NGO's, Payments of rates and taxes by NGO's)	NGO's must have access to land in both communal, urban and commercial areas, they should be exempted from paying municipal rates and taxes in urban centres and they must be represented in the relevant land administration and management bodies (e.g. communal land boards, regional resettlement committees etc.)
17	Expropriation of commercial land without compensation	Government must consider to amend the current relevant laws in order to provide for the expropriation of land without compensation.
18	Access to land by persons with disabilities	Persons With Disabilities must receive priority with regards to land allocations in communal, urban and commercial areas and they must also be represented in the various land administration and management bodies (CLB, Regional Resettlement Committees)
19	Land related issues pertaining to women (Access to land by women, Protection of women's land rights)	Women must be prioritized with regards to land allocations in communal areas. Furthermore, their land rights must be protected.

20	Urban land issues (Access to urban land, Lack of serviced land in urban areas, Double allocation in urban areas)	Relevant authorities and stakeholders must address the problems associated with access to land urban centres (e.g. lack of serviced land, inflated prices for plots/housing, land grabbing, mushrooming of informal settlements, double allocation, urbanisation, beaurocracy and budget constraints)
21	Land Allocation and Administration (Communal Land)	The old land and farming committee must be reactivated and the one farm per person policy (or proposal) must also be applicable in communal areas
22	Expansion of towns into communal land	The traditional authorities must be involved in the determination of boundaries between towns (urban areas) and villages (communal land).
23	Size of Small Scale Commercial Farms in communal land	The sizes of Small Scale Farms must be reduced in order to meet the increasing demand for land
24	Bankability of Communal Land	Section 17 of the CLRA must be revised to change the status of communal land so that the land can be used as collateral for bank finance.

10. CONCLUSION

The issues which dominated discussions during the consultations are mainly those related to communal land, followed by urban land issues. This was predictable as the Region is made up of mostly communal areas. The key issues on top of the agenda was; (i) Registration of Customary Land Rights, (i) Illegal fences in communal land, (iii) conflicts between conservancies and other land uses, (iv) land issues pertaining to vulnerable and marginalized groups (women, Person's with Disabilities and san communities) and (v) access to urban land to mention but a few.

It was observed during the recent regional consultation in Kavango East that consensus will be difficult to reach on some keys issues at the Second National Land Conference. These issues are; (i) the conflicts between conservancies (and community forests) and other land uses, (ii) the removal of the veterinary cordon

fence, (iii) ancestral land claims and iv) some extent the registration of customary land rights;

With regards to the conflicts between conservancies/community forests, the central question is whether conservancies/community forests are a better use of land compared to land for farming. The on-going debate is whether the benefits derived from conservancies can lead to improved livelihoods of community members (or the so called “conservancy members”). The division in the communities (including the traditional authorities) in this regard is evidenced by the presence of overlapping land uses (e.g. allocation of customary land rights and sand mining activities in conservancies). The problem is exacerbated by the presence of Human Wild Life conflicts which is also partly blamed on conservancies. The government through the Ministry of Environment and Tourism (MET) and its stakeholders are expected to play a significant role in clarifying issues.

On veterinary cordon fence, there is in principle a general consensus to remove the fence both at regional and national levels. However, detailed discussions during the consultations has revealed that the technicalities involved in removing the fence are challenging. This issue has the potential to affect the national economy, the jurisdictions of traditional authorities and the relationship with neighbouring countries especially Angola. Hence there was a difference in opinions between the Kavango East Farmers who are pushing for the removal and the traditional authorities who seem to take a conservative approach. The central questions where, how far (or up to where) should the fence be moved? And is the removal going to reduce the communal land (the domain of TA's)? In addition, the media reports on the regional consultation in Oshana Region, revealed that participants had agreed that “while it was necessary to have the cordon fence moved up to Angola it was not urgent since

many communal farmers had thousands of cattle grazing inside Angola”⁶⁰. This demonstrates contrasting opinions not only within Kavango West region, but also across various regions.

Perhaps one of the issues were clear and anonymous consensus was reached is on the question of ancestral land claims. The stakeholders in Kavango East region agreed that ancestral land claims will not be entertained. This position may differ greatly with other regions in south (//Kharas, Hardap) and central (Omaheke, Khomas, Otjozondjupa, Erongo), where this issue dominates the agenda. The central reasoning in Kavango East is that the region was not affected colonial land dispossession like those regions in the south and central parts of Namibia. Therefore, the ancestral land claims in Kavango East has a different context and it was agreed that such claims will be entertained based on merit. This will however, need further clarification to avoid conflicts associated with the complexity of ancestral land claims.

The registration of customary land rights in Kavango East Region was another contentious issue and has been for a long time. The traditional authorities in Kavango East region has taken a stance to reject the registration of customary land rights as provided for in the Communal Land Reform Act 5 of 2002. There are however, growing concerns from some community members who feel that they are at the receiving end of this decision to reject the registration of customary land rights. This concern was not expressed directly during the regional consultation in Kavango East region, but has been expressed at other platforms. The concern is that community members are not allowed to register land rights, but other people (and entities) are taking the land through leaseholds (e.g. lodges, green schemes, irrigation projects) and income some cases

⁶⁰ Angula, V. (2018). Ohangwena dismisses ancestral land question (Confidente, 26-01 August 2018)

unprocedurally at the expense of the community members whose access to commonage resources continues to be restricted.

Overall, the regional consultation in Kavango East region was well attended by different and relevant stakeholders at predominantly regional, but also at national level. The approach of dividing the stakeholders in thematic groups yielded positive results. This allowed individuals from the same thematic sector to submit their collective position on the subject, while ensuring inclusivity at the individual level. This greatly improved the quality of inputs from the participants and enhanced ownership of contributions.

In addition to the recent consultations, it can be concluded that the region has submitted fairly sufficient and representative input which will contribute positively to the quality of submissions at the Second National Land Conference. During the period between the 2016 and 2018 regional consultations, the Kavango East Regional Council had consulted the relevant stakeholders to solicit their inputs on the Second National Land Conference⁶¹. This reports will also be complemented by another comprehensive paper by all the five (5) recognized traditional authorities in both Kavango East and Kavango west regions which is expected to be presented at the Second National Land Conference. The Kavango East region had also submitted their input during the 2017 regional consultations⁶².

⁶¹ Annex 3: Welcome remarks by Hon Dr. Samuel Mbambo, Regional Governor of Kavango East Region (19 July 2018)

⁶² Annex 3: Welcome remarks by Hon Dr. Samuel Mbambo, Regional Governor of Kavango East Region (19 July 2018)

ANNEXURES

Annex 1: Workshop Programme

Annex 2: Attendance Register

Annex 3: Speech - Opening and Welcoming Remarks (Hon. Dr. Mbambo)

Annex 4: Speech - Remarks (Hon. Nujoma)

Annex 5: Concept for the Second National Land Conference

Annex 6: Regional Workshop of July 2017: Issues and key Resolutions

Annex 7: Written Inputs submitted by Khwe San community (Group presentation)

Annex 8: Written Inputs submitted by Youth (Group presentation)

Annex 9: Written Inputs submitted by Conservancy (Group presentation)

Annex 10: Written Inputs submitted by Kavango East Farmers (Group presentation)

Annex 11: Written Inputs submitted by Political parties (Group presentation)

Annex 12: Written Inputs submitted by NGO's (Group presentation)

Annex 13: Written Inputs submitted by Person's With Disabilities (Group presentation)

Annex 14: Written Inputs submitted by Women (Group presentation)

Annex 15: Written Inputs submitted by ShackDwellers Federation members (Group presentation)

Annex 16: Written Inputs submitted by Rundu Town Council (Group presentation)

Annex 17: Written Inputs submitted by Regional Council and CDC members (Group presentation)

Annex 18: Written Inputs submitted by Traditional Authorities (Group presentation)