



Republic of Namibia



Kavango West Regional Council

**REGIONAL
CONSULTATIONS
IN PREPARATION
FOR THE
SECOND
NATIONAL LAND
CONFERENCE,**

26 - 27 July 2018



Table of Contents

1. INTRODUCTION.....	4
2. OPENING AND WELCOMING REMARKS BY THE REGIONAL GOVERNOR	6
3. REMARKS BY THE MINISTER OF LAND REFORM	7
4. PURPOSE OF THE REGIONAL CONSULTATION.....	8
5. CONCEPT FOR THE SECOND NATIONAL LAND CONFERENCE	8
6. REGIONAL WORKSHOP OF JULY 2017: ISSUES AND KEY RESOLUTIONS.....	11
7. IDENTIFICATION OF REGIONAL LAND RELATED KEY ISSUES	13
8. DISCUSSIONS ON REGIONAL LAND RELATED KEY ISSUES.....	16
9. SUMMARY OF RECOMMENDATIONS AND/OR RESOLUTIONS	37
10. CONCLUSION.....	39
ANNEXURES	43
Annex 1: Workshop Programme.....	43
Annex 2: Attendance Register	43
Annex 3: Speech - Opening and Welcoming Remarks (Hon. Ausiku)	43
Annex 4: Speech – Remarks (Hon. Nujoma)	43
Annex 5: Concept for the Second National Land Conference	43
Annex 6: Regional Workshop of July 2017: Issues and key Resolutions.....	43
Annex 7: Written Inputs submitted by Women (Group presentation)	43
Annex 8: Written Inputs submitted by Youth (Group presentation).....	43
Annex 9: Written Inputs submitted by San Community (Group presentation).....	43
Annex 10: Written Inputs submitted by Conservancy and Community Forestry members (Group presentation)	43

Annex 11: Written Inputs submitted by Person’s With Disabilities (Group presentation)43

Annex 12: Written Inputs submitted by a Political party/APP (Group presentation)43

Annex 13: Written Inputs submitted by Traditional Authorities (Group presentation).....43

Annex 14: Written Inputs submitted by Kavango West Farmers (Group presentation).....43

Annex 15: Written Inputs submitted by Regional Council and Local Authority (Group presentation)43

Annex 16: Written Inputs submitted by Regional Council (Regional Land Report).....43

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.

¹ Annex 5: Concept paper: Second National Land Conference (July 2018) ²

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

In rural areas where the majority of Namibians live, people were concerned about lack of clear policy and administrative structures for land administration and 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 West Region alone, the recent two-day Regional Land Conference of 26-27 July 2018 was attended by more than 281 and 252 participants on the first and second day respectively (Annex 2).

2. OPENING AND WELCOMING REMARKS BY THE REGIONAL GOVERNOR

Hon. Sirkka Ausiku, the Regional Governor for Kavango West Region, welcomed all the participants to the two-day Second Regional Land Conference which was held on 26-27 July 2018 at the International University of Management (IUM) in Nkurenkuru.

In her address Hon. Ausiku acknowledged the presence of the members of the High Level Committee and their delegation indicating that this showed the Government's commitment to addressing the land question. She informed the meeting that the Region had consulted all its 8 constituencies on its position paper which will be taken to the Second National Land Conference scheduled for 1-5 October 2018.

The Governor further informed the participants that the Region was blessed with abundance of natural resources, statistics showed that, the Region was still one of the poorest in the Country. She therefore emphasized, the importance of the Second Regional Consultations, as a platform where communities could raise their inputs especially those related to communal land, which is crucial to the development of the Region.

The Governor further noted with concern that most of the 24 Consensus Resolutions on land reached during the 1991 National Conference on Land Reform and the Land Question were not fully implemented. She therefore urged all the participants to raise relevant issues on land matters and come up with practical and concrete recommendations during the consultation that could be

taken up further at the upcoming Second National Land Conference scheduled for October 2018 (Full speech, 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 West Region on 26 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 West Region 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 5².

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

² Annex 5: Concept paper: Second National Land Conference, pg. 10 (July 2018)

therefore serves as a guiding tool and outlines the objectives of the Second National Land Conference, the approach, modalities and the expected outcomes.

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 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 First Regional Land Conference in Kavango West came up with 18 issues. See annex 17 for detailed issues and resolutions. These issues were categorized into five (5) themes³;

1. Historical Perspectives, Injustice and Land Ownership pattern
2. Land Governance and Tenure Security
3. Land Use, Productivity and Environmental Sustainability
4. Land Tax and Valuation System
5. National Spatial Data Infrastructure for Economic Development

#	Issues	Key Resolutions
1	Colonial injustice (Theme 1)	Correct injustice pertaining to land ownership and distribution
2	Foreign – Owned Land (Theme 1)	Non-Nationals should not own land
3	Absentee Landlord (Theme 1)	Expropriate farms belonging to absentee landlords
4	Ancestral Land (Theme 1)	Ancestral land claims should not be entertained, only in isolated situations (such as communities previously displaced Green Scheme projects).
5	Generational farm workers (Theme 1)	Working conditions for farm workers must be improved including enactment of relevant legislation to enforce such betterment.
6	Land Tenure System (Theme 2)	The position of rejecting the registration of customary land rights must be maintained
7	Land Allocation and Administration (Theme 2)	
8	Communal Land Development (Theme 2)	Implementation of the Integrated Regional Land Use Plans (IRLUP)
9	Stock Control Barrier (Theme 2)	The Red-line must be shifted in stages towards southern Angola
10	Illegal fencing (Theme 2)	All illegal fences must be removed, as per sections 18 of the Communal Land Reform Act, 5 of 2002.
11	Dual Grazing Rights (Theme 2)	Update farm ownership data base. The principle of “one farm per person” should apply

³ Annex 6: Kavango West Regional Council – Regional Consultative Meeting in the Preparation of 2nd National Land Conference in Namibia Report (19-20 July 2017)

12	Urban Land Delivery (Theme 2)	Local Authorities must ensure that land/housing is affordable to the middle and lower income groups
13	Land Use Planning (Theme 3)	Traditional Authorities and Communal land Boards must be trained on the Integrated Regional Land Use Plans (IRLUP)
14	Development of under-utilized land in communal areas (Theme 3)	Provide support (infrastructure, training and M&E) farmers. Give title deeds to farmers to access bank finance
15	Farm size, Economic Farming Unit and Commercial Viable (Theme 3)	Expropriate large farms, ensure economic viable units and the principle of “one farm per family” should apply
16	Communal Land Pressure (Theme 3)	Support progressive subsistence farmers in communal land to become commercial farmers
17	Agricultural Commercial Land Tax (Theme 4)	Farmers must be granted a grace period of 5 years before paying fees to MLR
18	National Spatial Data Infrastructure for Economic Development (Theme 5)	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 West Farmers Union
- Marginalized communities (San communities)
- Persons With Disabilities (PWDs)
- Women
- Youth
- Conservancies
- Community Forests
- Political parties (SWAPO and APP)
- 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)
- Development partner (GIZ)
- Municipality (City of Windhoek)

The methodology applied to identify regional land related key issues was two fold; plenary and group discussions. The main methodology which was predominantly

applied was group discussions. The group discussions was 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 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 9 specific groups namely; 1) San community, 2) Youth, 3) Women, 4) Persons With Disabilities, 5) Conservancies 6) Kavango West Farmers Union, 7) Political party (APP), 8) Regional Council and Local Authority, 9) Traditional Authorities (both Kavango West and Kavango East)

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;

- Access to land by the San communities
- San communities remain a source of cheap labour
- Slow implementation of programs/projects earmarked for San people
- Access to land by the youth (both urban and commercial/resettlement farms)
- Representation of youth in land decisions making bodies
- Capacity building in Agriculture for the youth a necessity
- Access to land in Communal areas by women

- Inheritance of spouse land right by women
- Illegal fences in Communal area
- Access to Land by Person's With Disabilities
- Representation of PWD's in land administration institutions
- Allocation of farming units and sand mining in Conservancies and community forests
- Human Wild Life conflict
- Foreign Owned Land
- Ancestral Land Claims
- Generational farm workers
- Land Tenure System (Land bill)
- Dual grazing
- Development of underutilized land in Communal areas (SSCF)
- Farm size, economic farming unit and commercial viability (SSCF)
- The period between National Land Conferences
- Representation of political leaders in the Communal Land Boards
- Leaseholds (lodges long the rivers) in communal areas
- Urban Land Reform
- Land Use Planning (e.g. IRLUP)
- Management of Communal Land
- The veterinary cordon fence (redline)
- Utilized allocated communal land

8. DISCUSSIONS ON REGIONAL LAND RELATED KEY ISSUES

8.1 Land related issues pertaining to San communities

Description of the issues and current situation

The San community in Kavango West region many land related issues of interest them. San people in Kavango West region are subjected to various forms of discrimination; they are used as cheap labour on farms and other work, their products are ignored, general injustice with regards decision making in situations which involve san people. This includes slow implementation of san projects and programmes intended to benefit them and injustice in applying the compensation policy where San people are involved⁴. Among the key land related issues raised are; Access to land by San communities, cheap labour and renaming of areas/farms in communal land⁵.

a) Access to land by San people

San people are excluded from land allocation despite the fact that they are first settlers in certain communal areas in Kavango West region. They are not considered for allocation because of their social and economic standing in society, which is not consistent with relevant legislations.

b) Renaming of areas/farms in communal land

The san people are concerned about the loss of their cultural heritage. They have observed that many san people have changed the san (original) names of villages (including areas which have been designated for small scale commercial farms)

⁴ Annex 9: San communities (Group presentation)

⁵ Annex 9: San communities (Group presentation)

to bantu (Kwangali names). They want their culture, heritage and identity to be preserved⁶.

This is also true when it comes to names of San people who are raised their the VaKwangali people. They original san names are replaced with the VaKwangali people's names.

c) San people as a source of cheap labour (San slavery)

San people are widely used as cheap labour by the Kwangali people. They are used as cheap labour in homes and farms⁷.

Workshop recommendations / resolutions

- San people must be given special preference with regards to land allocation (communal and resettlement farms). The land rights must be registered in their names⁸.
- Once they are given a land right, they must also be training and mentored in agricultural production to ensure that they become self-reliant⁹.
- The areas including those which have become farms should retain san names and appear in the deeds registry as such. Those who have already changed their village/farms names must be reversed with immediate effect. This will help to preserve the san culture¹⁰.

⁶ Annex 9: San communities (Group presentation)

⁷ Annex 9: San communities (Group presentation)

⁸ Annex 9: San communities (Group presentation)

⁹ Annex 9: San communities (Group presentation)

¹⁰ Annex 9: San communities (Group presentation)

- Government must speed up the implementation of projects and programmes (included land allocation) intended to benefit san people¹¹.

8.2 Access to land by the youth

Description of the issues and current situation

The youth in Kavango West region raised key land related issues which are relevant to them. They stated issues which concerns the three land reform agenda in Namibia. Their concerns touched on Communal land, urban land and commercial land reform.

a) Communal land reform

In Namibia youth unemployment is very high. The youth are struggling to improve their standard of living. The youth are now looking for different opportunities to better their situation and they are turning to land. They youth want to acquire land and they want to be empowered with skills to engage in commercial agriculture which are equivalent to the green scheme irrigation projects. In some cases, the youth are required to provide details of guardianship or their parents details before they can apply for land in the communal land¹².

The youth are also calling for inclusion in the land administration and management. They cited the Communal Land Board as one of the body they would like to be represented so that their interests can be heard at those levels¹³.

¹¹ Annex 9: San communities (Group presentation)

¹² Annex 8: Youth (Group discussion)

¹³ Annex 8: Youth (Group discussion)

b) Urban land

The youth again stated that they are on the receiving end when it comes to accessing urban land. The youth are struggling to get land or affordable housing in urban areas because of the inflated prices of plots. The issue of housing is crucial to the youth. This problem is made worse by the fact that most youth have lower economic capabilities due to unemployment and entrepreneurial opportunities. The youth do not have collateral to obtain banking finance for housing. The Local Authorities must make available land to the Shack Dwellers Association to build more affordable houses¹⁴.

c) Commercial farm land

With regards to the National Resettlement Programme, the youth stated that the resettlement criteria's for land allocation is not in favour with the youth. They stated that the criteria includes issues regarding, age and income which the youth cannot fulfill¹⁵.

The youth are convinced that they do not benefit adequately from the resettlement program. The youth are also calling to the MLR to release the list of all the youth who have been allocated with commercial land thus far (and this should include foreign youths)¹⁶

Workshop recommendations / resolutions¹⁷

- Youth must be considered for land allocation in communal, urban and commercial areas.

¹⁴ Annex 8: Youth (Group discussion)

¹⁵ Annex 8: Youth (Group discussion)

¹⁶ Annex 8: Youth (Group discussion)

¹⁷ Annex 8: Youth (Group discussion)

- The relevant authorities must lower or relax the criteria for land applications for the youth especially on the issues income, collateral.
- Youth must be empowered with skills on agriculture and farming so that they can engage in commercial agriculture.
- The youth want to be represented in land administration and management bodies including the Communal Land Board.
- The youth are calling for the Local Authorities to make land available to the Shack dwellers Association, who are well placed to build low cost houses.
- The resettlement list or statistics for youth must be available

8.3 Access to land by women

Description of the issues

Many women do not have land rights in their own names. Most land rights in communal land are allocated to men. The women raised the following land related issues which are applicable or affecting them; a) Land allocation and b) Inheritance of customary land rights.

Description of the current situation

a) Land allocation in communal and urban areas

Land allocations for women are fewer than men. Women are not encouraged to apply for land rights. Women want to be allocated land rights in their own name for that they are able to obtain financing and engage in projects. They also raised the problem of illegal fences in communal land which is increasing pressure and competition over natural resources in communal land¹⁸.

¹⁸ Annex 7: Women (Group discussion)

The women are also facing the same challenge in urban areas. They are challenged economically and hence cannot access urban housing. They also want to do profitable projects in urban areas if land is made available to them¹⁹.

b) Inheritance of customary land rights

Most women live on the land which belongs to their husbands. When the husband dies, there is a tendency from some in-laws to take the land from the woman, especially in Kavango West, where the registration of land rights is not accepted. This leaves women in vulnerable positions and affected their livelihoods moving forward²⁰.

Workshop recommendations / resolutions²¹

- Women must be prioritised with regards to land allocation in both communal and urban areas.
- They want the government to protect their land rights especially when it comes to inheritance, by establishing tribunals which can stand up for women.
- The land which has been confiscated from some women must be returned.

8.4 Illegal fences in Communal areas

Description of the issues and current situation

One of the issues which dominated discussions in Kavango West region, is the illegal enclosures in the commonage. The Communal Land Reform Act 5 of 2002

¹⁹ Annex 7: Women (Group discussion)

²⁰ Annex 7: Women (Group discussion)

²¹ Annex 7: Women (Group discussion)

prohibits the erection of fences in Communal Land without authorization²². The impact of these fences are have negative impacts ranging from; restrict access to natural resources in the commonage (e.g. grazing, food, medicine, wood and other forest products) and they block paths and access roads. Stakeholders and groups such as Traditional Authorities, Kavango West Regional Council, women, persons with disabilities and other community members were very vocal about the issues of illegal fences.

Section 18 of the CLRA No 5 of 2002 state that “the Acts takes strong position against putting up (erecting) fences on communal lands. No New fences may be erected without proper authorization obtained in line with the Act. Similarly, fences that existed at the time that Act came into operation have to be taken down, unless the people who erected those fences applied for and were given permission to keep the fences on the land”. This indicates that the law is very clear on illegal fences. However, although the law is clear illegal fences in the communal areas remains a huge issue which required swift and punitive measure to halt it from happening.

The Kavango West region have concluded that uncontrolled fencing in communal land possess a serious threat to the future of subsistence farmers in communal areas²³.

Workshop recommendations / resolutions

- MLR must avail the list of all illegal fences in the region to the office of the governor and the Regional Council offices as from 1st of April 2019²⁴.

²² Section 18 of the Communal Land Reform Act 5 of 2002

²³ Annex 16: Kavango West Regional Council (Regional Land Report)

²⁴ Annex 16: Kavango West Regional Council (Regional Land Report)

²⁶ Annex 16: Kavango West Regional Council (Regional Land Report)

- Government through the MLR should stop and remove all illegal fencing activities. The fences must be removed as from 1st of April 2019²⁶.
- MLR and TAs should together enforce without fear and favor what is in the Act with immediate effect. The TAs must not hesitate to name and shame anyone found guilty of putting up illegal fences
- The process of removing Illegal fences must be shortened (preferably within 14 days and this should be done without compensation.
- TAs and any other persons who are allowing individuals to erect fences must be relieved of their power/duties with immediate effect²⁵.

8.5 Access to land by Person's With Disabilities

Description of the issues

The persons With Disabilities in Kavango West regions raised land related issues of concern. The key issues were; a) Land allocations to PWD and b) Representations of PWD's in the land administration and management institutions.

Description of the current situation

a) Land allocations

PWD were concern about the fact that government is not doing enough to implement policies and provisions which favour them with regards to access to land. The PWD are of the view that they are not given enough priority with regard to land allocation in communal areas. The resettlement criteria in the resettlement policy encourages PWD to apply for resettlement farms under the National Resettlement programme²⁶.

²⁵ Annex 12: Political party (APP) (Group discussion)

²⁶ National Resettlement Policy (MLR, 2001)

- b) Representations of PWD's in the land administration and management institutions.

The PWD's are of the view that they need to be represented in the land administration and management so that their interest with regards to access to land can be articulated.

Workshop recommendations / resolutions

- PWD's must receive priority with regard to land allocation in communal areas and resettlement farms as this is in line with relevant laws²⁷.
- PWD must be represented in land administration and management institutions²⁸.

8.6 Conflicting land uses within conservancies and community forests

Description of the issues

There is unsustainable competition between land uses in Kavango West region. In particular, the conservancies and community forests are experiencing the negative impact of the interference by other land uses. The key issues raised are;

- a) Land allocation for farming units in the conservancies and community forests,
- b) Exploration and mining (sand) activities in conservancies and community forests.

Description of the current situation

- a) Land allocation for farming units in the conservancies and community forests

²⁷ Annex 11: Persons With Disabilities (Group discussions)

²⁸ Annex 11: Persons With Disabilities (Group discussions)

Traditional authorities continue to allocate customary land rights in conservancy and community forest areas despite the restrictions by relevant legislations. One of the main contributing factors to this overlapping of land uses lack of consultations between relevant stakeholders and particular the traditional authorities and the Conservancy and community forest committees²⁹. This overlaps contributes to many negatives impacts;

- i) **Overgrazing:** The presence of fences around farming units reduces the total grazing area of the both wild and domestic livestock and this leads to overgrazing.
 - ii) **Human-Wild life conflict:** Human-Wild conflict is a very serious issue in various communal areas Kavango West region. The presence of human settlements and farming units brings human and wild animals in close proximity which escalates the probabilities of conflicts.
 - iii) **Wildlife habitat loss:** This presence of human activity disturbs the habitats of wild life and this disturbs the ecosystem and has a direct impact on the management of conservancies and community forests. As a result, this affects tourisms and income of the conservancy.
- b) **Exploration and mining (sand) activities in conservancies and community forests.**

Mining activities are rampant in conservancies and community forests in communal areas in Kavango West region. These activities also have a negative impact on the management of the conservancy and community forests and consequently the local and national economy. These activities contributes to³⁰;

- The loss of wild life habitats, which can lead to mortalities
- It destroys the ground water distribution channels

²⁹ Annex 10: Conservancy and community forestry members (Group discussion)

³⁰ Annex 10: Conservancy and community forestry members (Group discussion)

- Artificial degradation of the river which alters the image and disturbs the ecosystem along the river

Workshop recommendations / resolutions

- MLR must take the lead and encourage local level participatory planning to address the problem of overlapping land uses³¹.
- Conservancies and community forests must be pro-active in their duties regarding the management of natural resources and awareness raising³².
- There is a need to revise relevant legislations pertaining to conservancies and communal land to ensure effective with regards to implementation³³.
- Regulation must be developed with regards to sustainable sand mining especially along the river and conservation areas³⁶.

8.7 Human-Wild Life conflict

Description of the issues

Human-Wife Life conflict is one of the most serious problems in communal areas in Kavango West region at the moment. This is issue all over the local media (newspaper and radio stations). The debate for compensation has been going on for a long time. Many people are losing their crops, farming infrastructure, other property and most importantly and tragically human injuries and even death. There are many contributing factors to HWC;

³¹ Annex 10: Conservancy and community forestry members (Group discussion)

³² Annex 10: Conservancy and community forestry members (Group discussion)

³³ Annex 10: Conservancy and community forestry members (Group discussion)

³⁶ Annex 10: Conservancy and community forestry members (Group discussion)

Description of the current situation

- i) **Migration (and movements) of wild animals:** More frequently animals are encroaching into the habitats of people. Sometimes animals are searching for food (grazing) and water which are increasingly lacking in their environments due to droughts. In the other cases wild animals come in contact with humans in-transit (through villages) to their destinations. Many elephant incidents are related to the scenarios discussed above.
- ii) **Settlements and farming unit's allocations in the conservancy areas:** Traditional Authorities are allocating customary land rights in designated areas. People themselves also tend to settle themselves even without the consent of the TA in these areas. This brings people in contact with wild animals, which increase the chances of conflicts.
- iii) **Existing cultural livelihoods and life styles:** Many people in Kavango West region depend on commonage resources for their livelihoods. This lifestyle many times brings them in contact with wild animals. For instance, the Kavango river is very important to the livelihoods of the people in Kavango West region. They collect water from the river, they bath and wash clothes in the river, they collect food (fish) in the river and other natural resources. This explains why there are some crocodile attacks (and sometimes hippopotamus) on the local people.
- iv) **Lack of awareness on HWC:** There is also a level of ignorance on the part of the community members to take precautions. Many lack awareness about the danger of interaction with wild animals. This also requires change in utilizing resources. For instance, many people are over fishing as most are using unsustainable fishing methods. This reduces the fish populations, which leads to the scarcity of food

for the crocodiles. This contributes to the conflicts between crocodiles and humans.

Workshop recommendations / resolutions

- The relevant authorities especially the Ministry of Environment and Tourism (MET), must improve on their response when incidents are reported.
- The MET must finalize the compensation debate and implement the policy
- Relevant authorities (MET and others) must intensify awareness and education with regards to the HWC and the environment in general³⁴.

8.8 Foreign Owned Land

Description of the issues and the current situation

Namibia has a skewed land ownership pattern, where most of the productive agricultural land is owned by the minority and the majority are confined to communal land. Considerable hectares of this productive land belong to foreigners and absentee land lords. In its effort to compliment land distribution efforts to the previously disadvantaged Namibians, the government is in the process of amending land laws. One of the proposed amendments in the land bill is the banning of foreigners from owning commercial farms/land in Namibia.

Workshop recommendations / resolutions

- The MLR should provide farm statistics and database all farms owned by non-namibians prior and after independence, disaggregated by

³⁴ Annex 10: Conservancy and community forestry members (Group discussion)

nationalities. This is essential for the Namibian public to observe the changes that has taken place in terms of farm land transfer³⁵.

- The MLR must ensure that this foreign-ownership land database must be made available to the public on an annual basis³⁶.

8.9 Ancestral Land Claims

Description of the issues and the current situation

First National Land Conference of 1991 reached consensus not to entertain the question of ancestral land claims. This position was well articulated by Ron, 1995 who wrote that “There was a desire to correct the historical injustices, but not by turning the clock back, principally it was felt that it would be very difficult to validate and meet the competing claims on ancestral on ancestral land”. Although this was the position of the Namibian people during the 1991 conference, there have been consistent calls in recent years to put this issue back on the agenda of the Second National Land conference in October 2018³⁷. Various stakeholders in Kavango West Region reached a general consensus that the ancestral land claims should not be entertained. They have reasoned that people in the region did not lose land due to dispossession and atrocities committed by the colonial regimes. They added that this matter was more relevant to commercial farms³⁸.

Workshop recommendations / resolutions

An exception can be made with regards to the communities displaced by Green Scheme Projects and in this case ancestral land claims can be considered.

³⁵ Annex 16: Kavango West Regional Council (Regional Land Report)

³⁶ Annex 14: Kavango West Farmers (Group presentation)

³⁷ Annex 16: Kavango West Regional Council (Regional Land Report)

³⁸ Annex 16: Kavango West Regional Council (Regional Land Report)

Workshop recommendations / resolutions

- Ancestral land claims should not be entertained as the inhabitants in the region did not lose land through colonial dispossession. Exceptions can be considered based no merit such as people dispossession by Green Scheme Projects³⁹.

8.10 Development of under-utilized land in the communal

Description of the issues

Various issues were raised which relates to the commercial farming units and these included the development of under-utilized land in the communal areas.

Description of the current situation

The farmers from Kavango West felt that there were some parts of underutilized land in the region which needed development.

However current Small Scale Commercial farmers are also having various challenges and among these are lack of agricultural skills, lack of farming infrastructure, monitoring and evaluation, and lack of title deeds.

Workshop recommendations / resolutions

- Some of small-scale commercial farm owners whose farms have been surveyed should be trained and assisted with farm infrastructure such as water infrastructure and fences for them to farm productively.
- MLR should engage in active monitoring on progress made by farmers after assistance to instill seriousness culture in the farmers.

³⁹ Annex 16: Kavango West Regional Council (Regional Land Report)

- The MLR should give title deeds bankable to farmers to allow them (farmers) access loans at Agribank. This will allow farmers create job opportunities and wealth within their local economy and the country at large.

8.11 Farm size, economic unit and the commercial viability.

Description of the issues and the current situation

The productivity of commercial farms is determined by the agro-ecological patterns in different parts of Namibia. This determines the economic viability of a farming unit, hence a farming unit in the south has to be larger than one in central part of Namibia.

Workshop recommendations / resolutions

- The GRN should expropriate those very large farms and subdivide them and re-allocate them to Namibians.
- The prohibition of more than one farm per family should be strictly enforced.
- Economical viable farming unit should be adhered to and enforced.
- The Agricultural (Commercial) Land Reform Act, 1995, (Act No.6 of 1995), the Deeds Registry Act, 1937 (Act 47 Of 1937) and the Deeds Registry Act, 1976 (Act 93 Of 1976) must be amended to criminalize the owning of excessive large farms.

8.12 Generational farm workers

Description of the issues and the current situation

The Permanent Technical Team Study carried out in 2005 found that only 16% of the sample size of resettlement farmers were former farm workers (RON, 2005). This meant that many farmworkers were still subjected to mistreatment and poor

wages. The Labor Act 11 of 2007 does not sufficiently address the plight of farmworker.⁴⁰

Workshop recommendations / resolutions⁴¹

- The 1991 resolution on farm workers should be enforced without fear and favor to prevent the suffering of the farm workers.
- Generational farm workers should be allowed to keep limited number of livestock on their employer's farm during their stay.
- Farmworkers from communal areas should be registered at their respective TAs offices or constituency councilor's office.
- Farm owners who mistreat their workers should be the target of farm expropriation
- The government must address this historical injustice by leading a vigorous land reform campaign consisting of the transfer of ownership of a non-negotiable 30% share of each commercial farm to the respective farm workers.
- A Farm Workers Act must be enacted to guarantee a minimum wage and other fringe benefits and ensure harmonious industrial relations.

8.13 Dual grazing

Description of the issues and the current situation

There are some greedy Namibians who access land in the communal areas while they have commercial farms or land in other part of the country. This actions put a lot of pressure on communal land and disadvantages those communities who only depend on commonage resources (including grazing) in communal land

⁴⁰ Annex 16: Kavango West Regional Council (Regional Land Report)

⁴¹ Annex 16: Kavango West Regional Council (Regional Land Report)

for their livelihood. There are people who disguise identity in order to obtain two land rights.

Workshop recommendations / resolutions⁴²

- There should be an updated database for farm ownership available to three main actors (MLR, Communal Land board and Traditional Authorities) to avoid double allocation of land.
- Once people are found guilty of disguising personal identity in order to obtain for the second time land allocation, the culprit must face criminal charges.
- Commercial farmers should not be allowed to own farms or have access to communal land.
- The TA emphasized that the principal of one farm per person should be applied in communal areas as well⁴³.
- Relevant bodies such as Ministry of Land Reform, Technical Committee, Communal Land Board and Law enforcement should enforce the resolutions on dual grazing rights for commercial farmers not to contravene with resolution.

8.14 Registration of Customary Land Rights

The traditional authority and communities in Kavango West region have rejected registration of customary land right as provided for in the CLRA 5 of 2002. During the liberation struggle the TA Chiefs were assured that they will remain in control of their people and the land under their jurisdiction. Now they are being pressured to partition the land. The TA's and community have argued that

⁴² Annex 16: Kavango West Regional Council (Regional Land Report)

⁴³ Annex 13: Traditional Authorities (Group presentation)

registration of customary land rights was one of the ways to weaken the power of the chiefs. It breaks down their cultural and traditional practices. In addition, the TA's and many community members argue that they do not see the benefits of land registration. They emphasized that the TA's in the two Kavango regions have always accommodated different people from all parts of the country more so than any other TA's⁴⁴.

Workshop recommendations / resolutions

- The TA must remain the main administrator of communal land
- Kavango West region maintains the position of rejecting the registration of customary land rights in communal areas to safe guard the weak in the society⁴⁵

8.15 Land Use Planning

Description of the issues and the current situation

Land use, productivity and Environmental sustainability are crucial factors in communal land management. The MLR has been undertaking Integrated Regional Land Use Plans (IRLUP) in various regions in Namibia⁴⁶.

⁴⁴ Annex 16: Kavango West Regional Council (Regional Land Report)

⁴⁵ Annex 13: Traditional Authorities (Group presentation)

⁴⁶ Annex 16: Kavango West Regional Council (Regional Land Report)

Workshop recommendations / resolutions⁴⁷

- It is recommended that the MLR and its development partners should print many copies of the IRLUP for distribution to the TAs.
- TA's and Communal Land Boards must be trained on the implementation of the IRLUP.

8.16 Lodges along the Kavango river

Description of the issues and the current situation

Individuals and entity which have been allocated leaseholds in forms of lodges along the Kavango river have been facing continues criticism and pressure in recent years. The source of this pressure is mainly the resident community members, who accuse the lodge owners of capturing commonage resources along the river. The resident community members in most cases are not allowed to access the resources which are adjacent to the river.

Workshop recommendations / resolutions

Traditional Authorities must be proactive and ensure that this leaseholders respect boundaries and allow communities members to access resources in the commonage⁴⁸.

8.17 Sizes of Small Scale Commercial Farms

Description of the issues and the current situation

The demand for Small Scale Commercial Farms in Kavango West has increased. In order to meet this demand, the farms size available for allocated must be reduced.

⁴⁷ Annex 16: Kavango West Regional Council (Regional Land Report)

⁴⁸ Annex 12: Political party (APP) (Group presentation)

Workshop recommendations / resolutions

- The SSCF must be reduced to 5km x 5km⁴⁹
- Other options include reduction of SSCF the size to 500ha⁵⁰

8.18 The Veterinary Cordon Fence

Description of the issues and the current situation

There communities in Kavango West region, particularly the farmers are calling for the removal of the cordon fence. The main motivation for this position is to open up the market of livestock in the communal areas. The TA's however is of the view that rushing to remove the fence have negative impact, because this issue involves other country and most importantly it is linked to the Namibian economy. They TA also believe that removing or shifting the fence will weaken their power of the TA, because those areas will become commercial areas and as such they will no longer be under the jurisdiction of the TA

Workshop recommendations / resolutions

- The Veterinary Cordon fence must be removed, but many factors must be considered.

8.19 The duration between national land conferences

Description of the issues and the current situation

The Second National Land Conference is scheduled for October 2018, since the first conference on Land Reform and the Land Question of 1991. This is 27 years

⁴⁹ Annex 13: Traditional Authorities (Group presentation)

⁵⁰ Annex 14: Kavango West Farmers (Group presentation)

ago and this duration is simply too long to ensure a effective monitoring of progress made on land reform.

Workshop recommendations / resolutions

- The duration between land conferences must be reduced to every 10 years.

9. SUMMARY OF RECOMMENDATIONS AND/OR RESOLUTIONS

The Second Regional Land Conference in Kavango West came up with the following resolutions;

#	Key land related challenges	Recommendation resolution
1	Land related issues pertaining to San communities (Access to land by San people, re-naming of areas/farms in communal land, San people as a source of cheap labour/San slavery)	The san community must be prioritized in terms of land allocation. Areas (villages and farms) with San names should not be changed to non-san names. Where this has happened such names must be reversed. San people must no longer be used as cheap labour.

2	Access to land by the youth (Communal, Urban and Commercial land)	The youth must be prioritized with regards to land allocation in communal, urban and commercial areas. Land, especially urban land must be made affordable for the youth. The youth must also be represented in the communal land board. List of the resettled youth must be released annually.
3	Access to land by women (Land allocation in communal and urban areas, Inheritance of customary land rights)	Women must be prioritized for land allocation in communal and urban areas. The communal land rights for women must be protected.
4	Illegal fences in Communal areas	All illegal fences must be mapped and a published. The law must be enforced with regards to the removal of illegal fences. The process of removing the fences must be shortened. Those individuals and institutions (e.g. TA, CLB) found guilty of facilitating this acts must be exposed and expelled.
5	Access to land (communal, urban and commercial land) by Persons With Disabilities (Representations of PWD's in the land administration and management institutions)	Persons With Disabilities must be allocated land in in communal, commercial and urban areas. They must also be represented in relevant land administration and management bodies.
6	Interference of other land uses in Conservancies and community forests	Government (MET) and all relevant stakeholders must address all issues related to the overlapping land uses in conservancies (overgrazing, HWC, sand mining, damage to ecosystem)
7	Foreign Owned Land and Absentee land Lords	Government must provide a list of all farms/land belonging to foreigners and absentee land lords.
8	Ancestral Land Claims	Ancestral land claims must not be entertained as a general rule, but exceptions will be made based on merit such as land which was lost to green schemes.
9	Development of under-utilized land in the communal (including SSCF)	Under-utilized communal areas must be developed and small scale commercial farmers must be equipped with skills, necessary farming infrastructure and they must get title deeds.
10	Farm size, economic unit and the commercial viability	Commercial farms must be subdivided into reasonable economic units before distribution.
11	Generational farm workers	The working conditions for farm workers must be improved through enactment and amendment of relevant laws.

12	Dual grazing	A list of farm ownership must be released. The principle of one farm per person must apply to both communal and commercial areas to address the problem of dual grazing.
13	Registration of Customary Land Rights	The position of TA's and communities in Kavango West region not to register customary land rights was maintained.
14	Land Use Planning	The Integrated Regional Land Use Plans must be implemented and relevant implementing bodies (RC, MLR, TA etc.) must be trained in this regard.
15	Lodges along the Kavango river	TA must ensure that land leaseholders especially lodges along the Kavango river to allow communities to access resources adjacent to their boundaries and not to deprived communities from their commonage resources.
16	Sizes of Small Scale Commercial Farms	The sizes of Small Scale Commercial Farms must be reduced to meet the demand.
17	The Veterinary Cordon Fence	The Veterinary Cordon fence must be removed, but many factors must be considered.
18	Duration between National Land Conferences	Hosts national land conferences every 10 years

10. CONCLUSION

The issues which dominated discussions during the consultation in Kavango West region are mainly those related to communal land, followed by urban land issues. This was predictable as the region is made up of mostly communal

areas⁵¹. The key issues on top of the agenda was; (i) Illegal fences in communal land, (ii) registration of customary land rights, (iii) Human Wild Life Conflict, (iv) Access to land by vulnerable and marginalized groups (e.g. women, Persons With Disabilities and San communities) and (v) access to urban land, to mention but a few.

There were key issues which proved that consensus will be difficult to reach at the upcoming 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) to 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 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 role in clarifying issues and help with regards to reaching consensus on this issue.

On veterinary cordon fence, there is in principal a general consensus both at regional and national levels to remove (or shift) the fence. However, detailed discussions during the consultations has revealed that the technicalities

⁵¹ Annex 3: Welcome remarks by Hon. Sirkka Ausika, Regional Governor of Kavango West Region (26 July 2018)

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 West Farmers who are pushing for the removal and the traditional authorities who seemed to take a conservative approach. The central questions were, how far 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 Ohangwena Region, revealed a resolution by participants who 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"⁵². 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, was on the question of ancestral land claims. The stakeholders in Kavango West 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 West is that the region was not affected colonial land dispossession like those regions. Therefore, the ancestral land claims in Kavango West has a different context and it was agreed that such claims will be handled 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 West Region was another contentious issue and has been for a long time. The traditional authorities in

⁵² Angula, V. (2018). Ohangwena dismisses ancestral land question (Confidante, 26-01 August 2018)

Kavango West 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 also expressed during the regional consultation in Kavango West region. 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) at the expense of the community members whose access to commonage resources continues to be restricted.

Overall, the regional consultation in Kavango West 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 regional consultations of 2017 and 2018, the Kavango West Regional Council had consulted all the relevant stakeholders to solicit their inputs on the Second National Land Conference⁵³. The Regional Council presented a comprehensive report at the recent consultation and this report was submitted to the facilitators to ensure that all their issues and

⁵³ Annex 3: Welcome remarks by Hon. Sirkka Ausika, Regional Governor of Kavango West Region (26 July 2018)

concerns are covered. This report will also be complemented by another comprehensive paper by all the five (5) traditional authorities in both Kavango East and Kavango West regions which is expected to be presented at the Second National Land Conference.

ANNEXURES

Annex 1: Workshop Programme

Annex 2: Attendance Register

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

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 Women (Group presentation)

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

Annex 9: Written Inputs submitted by San Community (Group presentation)

Annex 10: Written Inputs submitted by Conservancy and Community Forestry members (Group presentation)

Annex 11: Written Inputs submitted by Person's With Disabilities (Group presentation)

Annex 12: Written Inputs submitted by a Political party/APP (Group presentation)

Annex 13: Written Inputs submitted by Traditional Authorities (Group presentation)

Annex 14: Written Inputs submitted by Kavango West Farmers (Group presentation)

Annex 15: Written Inputs submitted by Regional Council and Local Authority (Group presentation)

Annex 16: Written Inputs submitted by Regional Council (Regional Land Report)