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**COMMUNITY CONSERVATION IN NAMIBIA:  
Devolution as a Tool for the Legal Empowerment of the Poor**

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## **Community Conservation in Namibia: Devolution as a Tool for the Legal Empowerment of the Poor**

Karol C. Boudreaux

### **Introduction**

Over the past decade many developing nations, including many African countries, have pursued policies that decentralize, or attempt to decentralize, decision making and political authority to lower levels of government (eds. Cheema & Rondinelli 2007; eds Bardhan & Mookherjee 2006). The impetus for such efforts may be a desire for cost savings, it may be donor driven, or it may be in response to calls from citizens and civil society to create a more participatory political environment. Whatever the reason for political decentralization, such efforts have had very mixed results to date.

One example of a successful effort at decentralizing political authority comes from Namibia, where the government is currently addressing the twin goals of environment protection and rural economic development through an innovative policy of community-based natural resource management. The core of this policy change involves devolving use and management rights over wildlife and other resources to local communities (as opposed to local governments), who self-organize into communal conservancies. This devolution of authority legally empowers the poor with responsibilities as well as opportunities that previously did not exist for them to benefit from the use of natural resources.

Namibia's community-based natural resource program (CBNRM) was implemented in 1996. Since then, over 50 conservancies have been created. This model of devolving conservation and management rights to local communities is both economically and environmentally sustainable. It has succeeded in increasing the income and human capital of rural Namibians while simultaneously leading to a major recovery in wildlife species in Namibia. It also strengthens local governance structures by providing opportunities for decision making, voice, and participation. Indeed, the Namibian program is one of the most successful examples of legal empowerment of the poor of the past decade.

Though the system has been quite successful, there are weaknesses that should be addressed. These include the problem of an incomplete devolution of management and use rights to conservancies, problems related to human-wildlife conflict, and continuing concerns with land tenure insecurity. This paper argues that the Namibian government should expand the legal rights conservancies hold in order to create a more robust institutional environment.

### **Decentralization as a Development Strategy in Namibia**

Over the past two decades, countries around the globe have decentralized political authority for a variety of reasons: to strengthen public participation in governance, to increase public-sector accountability, to benefit from diffuse knowledge and local experimentation, to reduce costs, and to more effectively and efficiently manage resources (Andersson, Gibson, & Lehoucq 2004).

Cheema (2007, p. 172) notes that decentralization is a broad concept that can be operationalized in a number of ways: through a deconcentration of responsibilities from a national government office to lower political authorities (regional/local); via a delegation of authority to parastatals or other semi-autonomous entities; via a transfer of powers to NGOs and other private sector actors; or, via a devolution of power and resources to local level governments. Ribot (2004) argues that decentralization will be more effective if it involves a transfer of meaningful legal power to local actors who are downwardly accountable. Decentralization should also be accompanied by sufficient support (financial or other resources) to carry out the delegated tasks. In the area of natural resource management, governments have adopted strategies to decentralize control over a wide variety of resources including forests, fisheries, wildlife, and grasslands among others (Larson and Soto 2008).

#### *The Namibian Experience Devolving Rights to Resources*

In the early 1990s, the post-independence government of Namibia adopted policies and legislation to devolve rights to manage and benefit from the use of wildlife to local people. The program was intended to respond to serious policy concerns in the country (Jones 2001). On the one hand, wildlife numbers on communal lands had plummeted. Throughout the 1970s

and early 1980s, a combination of civil war, drought, and poor incentives to protect wildlife was deadly for animals and the environment. As Alpert (1996, p. 851) notes: “[t]rade [generated by poaching] in ivory, horn, feather, and skins . . . reduced wildlife populations by up to 90%.” In addition, poverty levels in rural Namibia were high and CBNRM was viewed as a way to drive rural economic development by providing local groups with opportunities to benefit from entrepreneurial opportunities associated with wildlife and eco-tourism.

The government believed this effort was likely to succeed based on similar experiments in Zimbabwe, Zambia, and Botswana (Murombedzi, 1999). These southern African countries had devolved some rights to manage wildlife to local groups, with positive results for conservation and with some positive results for economic development (Binot, A *et. al.* 2009, p. 31).

An experiment in community protection of wildlife also provided hope that CBNRM would work in Namibia. In the early 1980s, the Namibian Wildlife Trust (NWT), under the local direction of Garth Owen-Smith, created a successful community game guard system in the northwestern Kunene region of Namibia (Long 2002). Owen-Smith worked with headmen and chiefs to promote conservation and to improve relations between local groups and the national environment ministry. Rural Namibians were employed to patrol communal lands and report poachers to government officials. Given the important role that traditional authorities played in rural areas, their support for the project was vital to its success. In the later 1980s, Owen-Smith and his partner Margaret Jacobsohn formed Integrated Rural Development and Nature Conservation (IRDNC), which has played a central role in the development of the conservancy movement ever since.

The government had another reason to think an incentive-based approach to wildlife conservation would succeed. In 1968, the pre-independence government gave white commercial farmers the right to manage wildlife found on their freehold land and benefit from the wildlife and related commercial activity (Barnes, *et. al.* 2001; Jones 1999, p. 3). These rights were formalized in the Nature Conservation Ordinance (No. 4 of 1975). In addition, parts of a reserve were opened to hunting on “a fee-for permit basis” (Alpert, 1996, p. 850).

This earlier devolution created a binary system: white farmers with some property rights over wildlife and black Namibians with very limited rights over wildlife. The white commercial farmers had incentives to protect wildlife on their property. Black citizens, who typically could not afford the access fees to hunt in the park areas, and who were not allowed to hunt except in very limited situations, saw little to be gained from protecting the same wildlife, and often cooperated with commercial poachers to gain from the wildlife on their lands (Alpert, 1996).

Another way to conceive of this difference in the legal environment is that white farmers held a thicker bundle of property rights over wildlife than did rural black Namibians, whose bundles of rights were quite thin. When individuals and groups are forced to hold thin bundles of property rights this constrains their ability to benefit from trading opportunities and to flourish in ways they find satisfying (Boudreaux 2005).

However, in the early part of the 1990s the Namibian government began the work to resolve this difference and provide rural citizens with a thicker and more valuable bundle of property rights. The process adopted was participatory and as a first step the government organized “socio-economic” surveys in rural areas to identify the problems and concerns local communities had with regards to conservation efforts. In 1992 the government drafted its “Policy on the Establishment of Conservancies” to address the needs identified by these surveys (Jones 1999, p. 5). The following year, the government partnered with the United States Agency for International Development (USAID) to fund and develop a project run by the World Wildlife Fund (WWF) called “Living in a Finite Environment” (LIFE) (Hoole 2010). In 1995 the government developed and approved a policy for the creation of community-level conservancies. This second policy, called the “Policy on Wildlife Management, Utilization, and Tourism in Communal Areas,” ensured that the same rights to manage wildlife that applied to freehold land also applied to conservancies on communal land.

The policy prescriptions contained in the conservancy and wildlife management documents were supported by the passage, in 1996, of the Natural Conservation Amendment Act (NCAA) (GON 1996). This act amended the Nature Conservation Ordinance of 1975 and put the 1992 and

1995 policies into effect, giving people living on communal land the same rights to manage wildlife as commercial farmers, so long as they create a communal area conservancy.

In practice this means that conservancies must have a negotiated and defined border as well as a defined membership. They must create a representative management committee and have a legally recognized constitution that provides for a wildlife management strategy and equitable benefits distribution. Management committees create and maintain membership lists, develop game management plans, create dispute resolution mechanisms, arrange and hold annual meetings, and report to conservancy members (GON, 1996, Sec. 3). Groups that meet these requirements may apply to the Ministry of Environment and Tourism (MET—formerly the Ministry of Wildlife, Conservation, and Tourism) to have their areas declared a conservancy (Jones 2003).

At annual general meetings, conservancy members discuss the direction of the organization, hear of future plans, and vote on proposals to use resources or engage in businesses. These requirements encourage the development of more democratic local governance institutions and, over time, may promote the development of a more vibrant rule of law culture in rural Namibia. For example, Jones and Weaver (2008, p. 235) write that as conservancies become more self-sufficient, management representatives shift from being upwardly accountable to donors to being downwardly accountable to conservancy members, an issue Ribot (2004) sees as important for effective decentralization efforts.

In 1997, local people organized the first communal conservancy called Torra Conservancy. Since then, as noted, the people of Namibia have created more than 50 conservancies.

#### *Devolution as a Tool for Legal Empowerment*

The UN-sponsored Commission on the Legal Empowerment of the Poor defines “legal empowerment” as “the process by which the poor are protected and enabled to use the law to advance their rights in the face of claims by both the public and the private sector” (CLEP 2008, p. 38). When the poor are legally empowered, they have a stronger voice in governance issues

and are better able to protect their interests and their assets. Among the essential pillars of a legal empowerment approach are improved access to justice and more robust rule of law; increased protection for property and tenure rights; labor rights that protect workers; and business rights that allow the poor to pursue entrepreneurial opportunities with greater security. A legal-empowerment-of-the-poor agenda builds on the recognition that the poor often have limited and insecure property rights, which both contributes to and is a result of, their impoverishment (CLEP 2009, p. 64). Such restrictions limit the ability of the poor to trade in the formal sector, keeping many within the confines of the informal economy. Strengthening property rights—both *de jure* and *de facto* property rights—for the poor is vital to the success of poverty alleviation efforts. As the CLEP report (2009, p. 73) points out:

Through sustainable ownership and/or security of tenure individuals and communities become more autonomous. Even with modest assets, as holders of property rights, individuals and groups become more active as independent members of their communities and nations . . . The increased social stability and trust emanating from robust property rights systems create appropriate environments for business and investment. Secure rights to use and trade property create strong incentives to maintain and conserve resources.

Among the methods that governments can use to strengthen property rights for the poor is to devolve rights to manage resources to the poor themselves. Devolution of rights from government to the poor, as individuals or groups, thickens the bundle of rights the poor hold. If rights are devolved broadly and if rights are enforceable at a cost the poor can generally bear, then devolution tends to expand personal, social, and economic opportunity.

CBNRM programs recognize the benefits of local control and attempt to marry local knowledge with devolved legal rights. By devolving some of the rights to manage some natural resources from the national or provincial level government to local groups, effective CBNRM programs (as in Namibia) illustrate that in cases where local people enjoy property rights over these resources, are directly involved in decision making regarding the resources, and when they directly benefit from natural resources, they can be effective stewards of the resources (Breckenridge 1992). Legally empowered with valuable property rights, rural citizens of Namibia have responded entrepreneurially to new business opportunities. They have become effective stewards of their

resources, and they have developed and improved local governance structures to manage these resources. In Namibia, CBNRM has functioned effectively as a tool of legal empowerment of the rural poor.

### *Overcoming Resistance*

One of the key challenges of decentralization efforts is to encourage public-sector officials to give some degree of power to another group without hindering or sabotaging this realignment of responsibilities (Larson & Soto 2008). Given generally accepted theories that bureaucrats have strong incentives to lobby politicians to expand their programs in order to increase budgets and their scope of authority, what helps explain the success of a counter-example such as Namibia's CBNRM program? Why did the Ministry of the Environment and Tourism (MET) ever allow for, or not hinder, the devolution of rights to manage wildlife? The institutional history of Namibia's CBNRM program is instructive on several fronts. A combination of factors help to explain why this institutional innovation has largely succeeded where other such efforts have failed to meet expectations (Oosterveer & Van Vliet 2010).

Cheema and Rondinelli (2007, pp. 9–10) note that successful decentralizations exhibit particular characteristics that include a commitment from national-level political leaders to see projects succeed, a willingness on the part of the affected bureaucracy to provide effective support, competent and committed local actors to implement projects, and appropriate timing. In any given situation additional requirements may include participation from civil society organizations, support from donors, and partnerships with private-sector actors. In other words, an elastic nexus of relationships, vertical as well as horizontal, is not only desirable, but likely necessary, in order for a decentralization to succeed.

Namibia's decentralization of resource management benefited from strong political leadership, good institutional design, propitious timing, and broad-based support for the policy inside and outside of the government. Both national-level and local-level actors had incentives to support the policy change; bureaucrats had few incentives to block or sabotage the shift in power and authority (Bartley, *et. al.* 2008).



Based on interviews with stakeholders involved in the creation of the program, it is clear that Nico Bessinger, former Minister of the MET championed the institutional changes needed to extend use rights to wildlife to non-white Namibians (J. Hazam 2008, pers. comm., 9 May; C. Brown 2008, pers. comm., 12 May; B. Jones 2008, pers. comm., 9 May; G. Owen-Smith 2008, pers. comm., 16 May; & M. Jacobsohn 2008, pers. comm., 14 May). Bessinger provided vital internal support for the development of a CBNRM program. He was familiar with IRDNC's work with local people developing the game guard system and believed the model provided a good basis for community level empowerment through wildlife management (M. Jacobsohn 2008, pers. com., 14 May).

Housed within the MET was (and still is) a policy group called the Directorate of Environmental Affairs (DEA). Staff within DEA also provided support for a CBNRM programme. In particular, Chris Brown and Brian Jones advocated for this policy extension based in part on their familiarity with CBNRM programs in other southern African countries, the on-the-ground work of the community game-guard program, and on the empirical work of Elinor Ostrom and Marshall Murphree (B. Jones 2008, pers. comm., 9 May; Jones, 1999, p. 4).

Interestingly, other bureaucrats did not block the development of the CBNRM program. Interviews with stakeholders highlighted reasons for this lack of resistance: first, the CBNRM program offered a way to right past discriminatory wrongs—black Namibians would acquire rights similar to those held by white farmers (Jones 1999, p. 7; C Weaver, 2008, pers. comm., 13 May). In post-independence Namibia this was an important selling point for the program. For Owen-Smith and Jacobsohn in particular, the civil rights aspect of CBNRM has been vital: they both report viewing the program as exceptionally important for civil-rights empowerment (G. Owen-Smith 2008, pers. comm., 16 May; M. Jacobsohn 2008, pers. comm., 16 May). Second, because there was so little wildlife left on communal lands, officials may not have realized that they were giving up something that was potentially quite valuable (J. Hazam 2008, pers. comm., 9 May). Third, the conservation bureaucracy did not rely on monies generated by wildlife use

on communal lands (B. Jones 2008, pers. comm., 9 May). Finally, other government agencies were not, at that time, in competition with the MET for control of these resources.

CBNRM in Namibia had, therefore, support from very high levels of government (Minister Bessinger); it had support from within the conservation bureaucracy (DEA); it faced limited opposition, it had support of local leaders and people thanks to the chiefs/headmen and to work done by NWT and IRDNC throughout the 1980s; and, it had support for capacity building from NGOs, particularly IRDNC. Two additional elements helped the project establish a firm foundation: timing and donor support.

Namibia won its independence from South Africa in 1990. Efforts to extend the community game-guard program had stalled under South African rule. However, with independence a shift of political leadership and some bureaucratic uncertainty over future courses of action provided an important “window of opportunity,” which proponents of the program were able to use effectively (Jones 1999, p. 7). Finally, donors eager to support the new nation viewed CBNRM as a policy that would address to important concerns: rural economic development and conservation. Support from USAID, implemented and supplemented by the World Wildlife Fund, and subsequent support by the European Union and the UN’s environmental program all provided important financial assistance at a time when the national government might not have been able to devote resources to supporting a new and potentially risky policy initiative. However, with this financial support and the local support and capacity building efforts within and outside government, the Namibians were able to extend legal rights to wildlife (now community forests as well, NACSO 2009, p. 29) to their poorest citizens. Namibia’s decentralization exhibits the characteristics Cheema and Rondellini (2007) suggest are necessary for policy success.

### **Benefits of Devolution in Namibia**

In many countries over time, local people worked together to manage resources such as forests, fisheries, grazing lands, etc. (Ostrom 1990). Namibia’s CBNRM program created an institutional framework that provides local people with incentives to search for profitable ways to manage

wildlife and develop tourist-related facilities within conservancies (Quesenberry, 2001). At the end of 2008 there were 53 registered conservancies in Namibia and another 23 “emerging” conservancies (NASCO 2009, p. 11 ). These conservancies have achieved varied levels of success. More than a dozen conservancies are financially self-sufficient, others are moving in that direction (Jones and Weaver, 2008). Many have an improved natural-resource base, particularly in terms of numbers of wildlife. Conservancies have developed viable management and governance institutions that allow for dialogue with conservancy members, traditional authorities, the Namibian public sector, donor agencies (where applicable), and the wider world. With the funds they generate through CBNRM conservancies are able to drill boreholes for domestic water use, provide members transport for medical care or for school, provide scholarships and prizes for school children, support teachers, create human/wildlife self-insurance schemes, and provide cash support for traditional authorities and sports teams (Jones and Weaver 2008, p. 234).

#### *Economic and Conservation Benefits*

This legal devolution has led to a variety of benefits for local people: increasing income from CBNRM, increasing social and human capital, as well as benefits for the environment. As a result of the community game-guard program, changing perceptions of the value of wildlife and the government’s CBNRM project, wildlife on conservancy lands in Namibia has increased, in some cases quite substantially. For example, the population of elephants within Namibia has increased from approximately 5,000 in 1984 to over 10,000 in 2000 (Berger 2001, p. 436), while populations of springbok, oryx, and mountain zebra have also increased. Conservancies have played an important role in these increases in wildlife. The recovery of the elephant population can be attributed to successes of the CBNRM conservancies, as only half of the elephant range in Namibia is located on protected land (Berger 2001, p. 437)—the other half of the range is composed mostly of conservancies. These results are similar to those experienced in other CBNRM projects in other countries, where conservation benefits are also evident (Alpert 1996, p. 852).

In northwest Namibia wildlife populations are increasing dramatically. Both aerial surveys and road counts show strong increases in the numbers of elephant, springbok, zebra, and oryx. The Namibian Association of CBNRM Organizations (NACSO, 2005, p. 23) reports:

[A]erial surveys. . . show that elephant numbers more than doubled (from the early 1980s), while springbok, oryx and mountain zebra populations increased over 10 times between 1982 and 2000. Independent estimates suggest that black rhinos have more than doubled in the past 30 years.

NACSO attributed much of this population increase in the northwestern part of the country to the “reduction and virtual cessation of illegal hunting or poaching and the steps taken by conservancies to manage conflict between people and wildlife” (NACSO, 2009, p. 18). Now that local people who form conservancies have a thicker bundle of defensible property rights over wildlife they have strong incentives to limit poaching and manage conflict between wildlife and people.

The potential profits that are associated with tourism encourage both economic development and environmental conservation, with positive results for both. Tourism can be a path to sustainable development when it creates both income for local people and a connection between the welfare of local people and the preservation of a natural resource (Quesenberry 2001, p. 478). Benefits to conservancies were just over N\$40 million in 2008 (NACSO 2009, 25). Looking beyond conservancies, Jones and Weaver (2008, p.231) conclude that in 2006 CBNRM generated over N\$93 million (nearly US\$14 million) for private-sector stakeholders and approximately NS185 (US\$27.6 million) for the broader Namibian economy. Barnes (2008, p. 353) writes that:

the internal rate of return for the programme investment over the 16 year period (1990-2005) was close to 15 per cent and the net present value of the investment over the period after discounting at 8 per cent was some US\$7.8 million. . . . The fact that investment in the CBNRM programme generated a higher return (15 per cent) and a positive net present value, means that it was economically efficient and contributed positively to development.

As important as direct economic benefits are for Namibia's rural poor, CBNRM provides additional valuable indirect benefits.

### *Increasing Human and Social Capital*

Increasing wildlife numbers are a draw for tourists. The World Travel and Tourism Council (2006) reported that travel and tourism industry generated 3.7 percent of Namibia's total gross domestic product and accounted for 4.7 percent of total employment. To cater to tourists, conservancies enter into contractual agreements to provide services for these tourists, such as joint venture lodges, campsites, and hunting concessions. These agreements create local jobs, ensure training of local people, and provide steady sources of income. Jones and Weaver (2008, p. 231) report that nearly 800 full-time jobs and over 5,000 part-time jobs are now held by conservancy members as a result of increasing employment opportunities associated with CBNRM.

For example, joint venture lodges for tourists are the most profitable activity Namibian conservancies undertake. In 2008, joint venture tourist lodges generated a total of N\$ 16,946,268 (nearly US\$ 2,500,000) or 52 percent of all conservancy income (NACSO, 2009, 27). As NACSO (2009, p. 27) reports:

This is a clear measure of the success of partnerships between conservancies and private sector investors, who recognize viable tourism potential and help conservancies unlock these economic opportunities. At the end of 2008 there were 20 formal joint venture agreements that were operational and generating income for conservancies.

Lodges provide hundreds of full and part-time jobs in areas where there are few employment options other than subsistence farming and small stock herding. Further, joint-venture agreements require lodge operators to employ and train local people whenever possible. These experiences help build human and social capital in rural Namibia as conservancy members (and others) learn new skills and expand social networks by working closely with community members, NGO representatives, government officials, and a wide variety of visitors from the world arguably leading to a "more resilient social-ecological systems" (Collumb, *et. al.*, 2008, p. 2). While Ashley (2000, pp. 15–16) argues:

Engagement in tourism can affect social networks and community organization in a number of ways, positively and negatively . . . Managing community tourism enterprises, negotiating a joint venture or decided how to spend bed-night levy income, all require development and change of community institutions.

Quoting Garth Owen-Smith and Margaret Jacobsohn, Jones (1999b, p. 167) says that: Although much attention has been given to the cash benefits generated by these (CBNRM) projects, an equally or possibly more important benefit has been the social re-empowerment that has resulted from local communities regaining some control over the management and conservation of their wildlife resources.

Other important benefits that conservancies provide include: legal access to meat through own-use hunting, income from sale of animals, and income from trophy hunting. Conservancies typically distribute the meat from own-use hunts to local people to supplement their diets (Jones, *et. al.* 2002, p. 30). Conservancies may also keep some meat and distribute it to families when there are funerals, to traditional authorities when celebrations or ceremonies take place, or to conservancies holding their general meetings. NACSO (2009, p. 16) reports that 30 conservancies are now harvesting game and distributing meat to members. This consumptive use of wildlife generated just over N\$12 million in benefits for members—N\$8.6 million in cash benefits and approximately N\$3.2 million worth of meat (NACSO 2009, 18).

While own-use hunting provides important non-cash benefits (i.e., meat and skins) for conservancy members, trophy hunting is a major source of cash income for conservancies. In 2008, there were 25 hunting concessions covering 29 conservancies. Trophy hunting concessions provide the second largest source of income for conservancies, generating nearly N\$ 10 million in 2008 (NACSO 2009, p. 27).

Conservancies are required to develop plans to distribute benefits. Conservancies may pay out cash benefits after they have paid operating costs, which may include vehicle maintenance, salaries, and other expenses, such as relocating wildlife or maintaining water holes. Some conservancies have distributed cash directly to households. However, this is not the major use of

cash. Most conservancies hold the cash in an account until there is community agreement on how to spend the money. A conservancy may choose to use its income to support programs that benefit the community as a whole, such as providing transport for members or scholarships for their children. At annual meetings, conservancy committee members present plans for using any benefits, and community members then have an opportunity to discuss and debate options. Annual meetings can be contentious, but this is to be expected. Conservancies are actively building new governance and management structures that will evolve over time and in response to changes in the local environment (NACSO 2009, p. 23)

### **The Challenges of Devolution**

While it gives real and growing benefits to the local people in conservancies, CBNRM in Namibia faces several challenges. Jones (2003, p. 13) notes that the legal rights held by conservancies *are* conditional. Conservancies must meet registration conditions before acquiring the rights. Committees must persuade residents to join and then register members. Conservancies must successfully negotiate their boundaries with neighbors. Conservancies need to draft and adopt a constitution. All of these activities are time consuming and costly, and it can take years for conservancies to meet these requirements. In addition, the MET may withdraw conservancy rights. By retaining the ability to withdraw rights, the national government maintains some important levers of control over conservancies. Jones (2003, p. 13) notes:

The legislation (1996) does not say on what grounds the Minister may take such action, although the original intention of the legislation drafters in MET was that rights could be withdrawn if the MET believes the conservancy is not using its wildlife sustainably, if there was persistent evidence of financial malpractice, or if the committee was blatantly unrepresentative of the community. The fact that the grounds for withdrawal of rights are not defined gives the MET wide powers in this regard.

Rights are conditional *and* they are limited. The MET, not conservancies, sets the quota number for game animals in the lucrative trophy market, though conservancies retain the revenue from such hunts. Conservancies hold only limited rights to deal with problem animals, such as elephants, crocodiles, or leopards. Conservancies also have vanishingly few rights to exclude

unwanted outsiders from conservancy land. These limitations create less-secure rights for conservancies and their members. With less-secure rights, conservancies have reduced incentives to invest in conservation and in conservancy-based entrepreneurial opportunities. Broadly speaking, conservancies face challenges in the areas of legal uncertainty particularly in relation to land tenure, human/wildlife conflict, and capacity and governance/management issues.

### *Land Tenure Insecurity and Ambiguities*

Land tenure insecurity results from the fact that the state, not the communities, owns the communal land in Namibia although conservancies have ostensible control over the land. This divide between ownership and responsibility creates uncertainty. Jones (2003, p. 25) argues: “The lack of secure group land tenure is probably the main constraint to CBNRM within Namibia.” He reiterates the point (2009) when he writes: “The lack of secure and exclusive group land tenure remains a key policy issue in Namibia.” According to Namibia’s Communal Land Reform Act (CLRA) (2002, Chapter III, Sec. 17):

[A]ll communal land areas vest in the State in trust for the benefit of the traditional communities residing in those areas and for the purpose of promoting the economic and social development of the people of Namibia, in particular the landless and those with insufficient access to land who are not in formal employment or engaged in non-agriculture business activities.

Under rules of customary law, which are still in force in Namibia to the extent that they do not conflict with constitutional or statutory rules, traditional authorities or chiefs allocate land use (Corbett & Jones 2000, p. 4). The CLRA (2002, Chapter IV) protects some privileges of chiefs and traditional authorities related to land allocation. The Preamble of the Law (2002) is designed to:

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

Chiefs and traditional authorities retain the right to allocate land for residential use and grazing rights. These rights are now subject to the approval or veto of communal land boards (CLBs).



CLBs also consider and decide on applications for rights of leasehold for commercial ventures on communal land. They are supposed to establish and maintain land-rights registries (CLRA, 2001, Chapter III, Sec. 30(3)). In practice, this means that most rights that involve householders are handled by traditional authorities, while outsiders must seek approval for land-use requests from the CLBs. And while CLBs are required to have at least one conservancy representative from each conservancy that exists within its borders, other members, who must include representatives from traditional authorities, from the farming community, women, and civil servants, could easily override conservancy concerns.

This situation creates confusion and can lead to conflicts. If a traditional authority authorizes someone to use grazing rights in an area that a conservancy committee has designated as a “tourism” (wildlife viewing) area, it is unclear which use allocation would win out. CLBs would, presumably, weigh alternative uses, but standards for evaluating such competing uses are unclear. Although conservancies can zone land within their borders, CLBs or traditional authorities can potentially override zoning decisions.

Thus, a disconnect exists between what Murphree (1993) calls the “proprietorship” of this resource and the actual control of the resource. The national government actually owns the land, and by extension has ultimate control of the land, but conservancies are the on-the-ground proprietors of the land. This disconnect creates conflicting incentives. The CBNRM program creates positive incentives to preserve and maintain resources, but the current land-tenure arrangement creates incentives for people to view communal land as open-access because the government does little to limit unwanted incursions and because conservancies are unable to exclude outsiders.

#### *Human/Wildlife Conflict*

Another legal issue that bedevils conservancies is the problem of institutional control over problem or threatened wildlife. Conservancies have the right to manage some, but not all, of the wildlife within their borders (GON, NCAA 1996). They set quotas for own-use of some game,

not for the use of all game. The MET retains primary control over problem animals and over threatened animals. The MET sets the hunting quotas for these animals, not conservancies. For example, the number of cheetah that may be hunted in a given period (if any) is set by MET officials, not by conservancy members. Some conservancies have expressed dissatisfaction with this process and suggest the MET sets such quotas too low, which results in conservancies losing potential revenue from the trophy hunting of these animals.

In addition, conservancies can only deal with problem animals if they threaten humans or livestock, not if they trample water sources or ruin crops. However, the government places restrictions on the issuance of firearms licenses (Cross, *et. al.* 2003). An individual is eligible to get a gun license only if he/she has a safe place in which to lock and store the weapon. This may not always be possible in rural homesteads (Jones, *et. al.* 2002). For many individuals, it may be too expensive to purchase weapons and ammunition to deal with predators. So, *de facto*, conservancies may not be equipped to deal with animals that threaten humans and/or livestock. This is compounded by the fact that the MET has a reputation for being a slow responder. Conservancy members feel that it takes too long to get the official permission to deal with problem animals.

Conservancies struggle with animals that cause problems for the inhabitants. As the latest NACSO report (2009, p. 18) points out: “living alongside wildlife has a cost for rural residents.” Conservancy members lose small stock to predators such as cheetahs, hyenas, lions, jackals, and leopards. Elephants eat garden crops, damage fences, and use water meant for other purposes. In 2001, the number of recorded human/wildlife encounters on conservancy land (which covered considerably fewer hectares) was 325. In 2008 the total number of incidents was 7,095. The majority of these incidents were livestock losses (4,384), nearly 2,500 involved crop damage, and 29 were attacks on people (NACSO 2009, p. 21).

To address the problem of livestock and human loss, some conservancies have created compensation schemes that pay members when they suffer losses. A compensation scheme called HAC SIS, Human Animal Conservancy Self-Insurance Scheme, has started to address

problems of compensation when humans and wildlife come into conflict, including property damage and funeral costs (IRDNC 2008, p 2). The HACSYS program provides a mechanism for conservancies to pay approximately 50 percent of claims from people suffering losses. The remaining 50 percent of funding comes from the Nations' Global Environmental Facility and is funneled through local NGOs, including IRDNC. However, as NASCO (2009, p. 21) says: "the design and implementation of innovative ways to deal with the increase in human-wildlife conflict is an ongoing challenge."

### *Capacity and Governance Issues*

There are a number of internal problems that plague the development and growth of conservancies. In interviews conservancy members spoke repeatedly of the continuing need for outside support to help them to develop skills, especially skills related to financial management, bookkeeping, improving communications capabilities, and business development (E. Xaweb 2006, pers. comm., 2 May).

In addition to IRDNC, a number of other NGOs have played important supporting roles in Namibia's CBNRM program. Since 1993, the World Wildlife Fund's "Living in a Finite Environment (LIFE)" program has provided training, technical support, grants and has disseminated information to CBNRM stakeholders. The Namibia Nature Foundation is another important partner in the CBNRM program, providing support services related to best practices, monitoring and evaluation services and research and other resources related to the Namibian environment and Namibia's conservancies. Similarly, the Rossing Foundation, a partner with the Namibia Nature Foundation and others, also provides training and materials for conservancies and CBNRM partners.

However, while such donor support has lasted for many years, it is unlikely to continue in perpetuity. Conservancies need to work to become financially self-sufficient, increasingly accountable to conservancy members, as well as effective managers of valuable natural resources, if they are to succeed on their own (Hoole, 2010). Sharing the local knowledge that successful conservancies have already developed is one way to approach the challenge of

creating self-sufficient conservancies. Both conservancies and NGOs recognize the need for, and encourage, mentoring by older, more successful conservancies of younger conservancies. Once established, a conservancy must ensure its members understand enough about the business and the operations of the conservancy to be involved in the decision making process. Conservancy members may not understand business concepts fully and may need to have terms such as “projected income” explained to them or presented in a manner more related to their understanding (B. Roman 2006, pers. comm., 4 May).

Even financially self-sufficient conservancies worry about building and strengthening their management and business capacity. Administration, financial reporting, and strategic planning are all areas in which conservancy members recognize they can improve. In response, conservancies continue to increase committee diversity, adjust management structure and constitutions to “improve representation and communications with their members” (NACSO 2009, p. 23). Despite the continuing challenges of building successful institutions some conservancy members believe that “overall, conservancies are one of the best things the government has done” (E. Xaweb 2006, pers. comm., 4 May).

## **Conclusions**

Since 1996, the Namibian government, with involvement and support from local communities, NGOs, and donors has created a vibrant community-based natural resource management program. This program represents an effective devolution of some rights to manage wildlife and to benefit from the use of wildlife through tourism activities from the national government to local people. This example of decentralization is an example of a legal empowerment of the poor effected by providing rural people with a thicker bundle of property rights that, in turn, create incentives to conserve wildlife and wildlife habitat and to act entrepreneurially to attract tourists to conservancies.

Over the past 15 years, more than 50 conservancies have formed and more than 20 are awaiting government approval. Creating these conservancies is a time consuming and costly process. Despite these costs, Namibians are increasingly turning towards conservancies as a means of

improving local economies and environments, bringing wildlife back to communities, building skills, and strengthening local governance institutions. Although the benefits of CBNRM were somewhat slow to materialize, many conservancies are moving towards self-sufficiency, and more cash and other non-cash benefits are now flowing into local economies.

However, for all the good that has occurred in Namibia through the CBNRM program, barriers constrain the program's effectiveness. These include:

- an unclear and insecure land tenure environment;
- a need to devolve more rights to manage wildlife and other resources to local groups; and,
- a continuing need to build local capacity to govern in an accountable and transparent fashion and to manage local enterprises.

By strengthening the incentives of rural Namibians to conserve and protect the country's valuable natural resources the government has developed a successful example of African decentralization that is strengthening economic development and improving conservation and local governance. By devolving additional rights to conservancies to manage resources the Namibian government could do even more to help its citizens prosper and flourish.

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