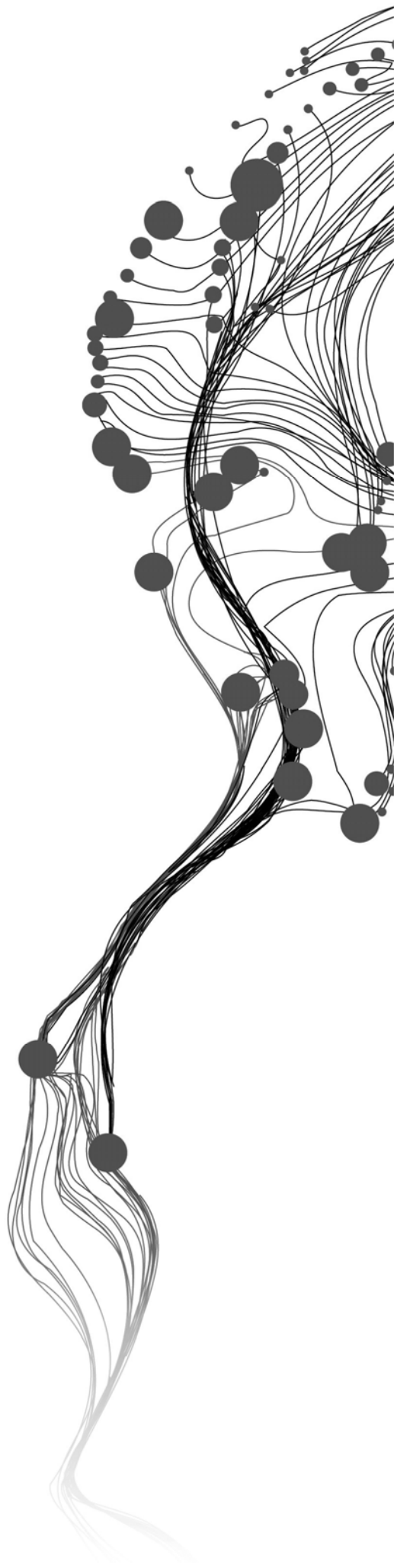


**INTEREST OF WOMEN BY
TRADITIONAL AUTHORITIES ON
ACCESS TO LAND AND LAND
RIGHTS.
(A CASE STUDY OF OSHANA)
REGION, NAMIBIA)**

YAW ACHEAMPONG AMOAH
March, 2011

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ABSTRACT

The debate on gender in land matters has received much attention from the academic community and international organizations. Women access to land and land rights are supposed to empower them, but (women) do not have equal access to land as their men counterparts in most developing African countries.

Most developing countries in Africa have put in place land policies to promote men and women having equal access to land and land rights, but whether these policies when implemented are enforced and managed properly by the respective land related agencies responsible needs attention.

The aim of this research therefore is to investigate whether the interest of women on access to communal land and land rights are considered by the Traditional Authorities in Oshana Region of Namibia. The study is based on a case study approach. A combination of qualitative and quantitative methods including interviews, questionnaires, observations and literature survey were used to collect primary and secondary data for analysis of how Traditional Authorities manage access to land and land rights of women.

The study reveals that the Traditional Authorities do address the interest of women on access to land and land rights. However this depends on the willingness and ability of the women to pay the illegal monies demanded by the headmen/women in charge of allocation of the communal land. Empowering women through education and employment will have a positive effect on their access to land and land rights.

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LIST OF ABBREVIATIONS

CLB	Communal Land Board
CLRA	Communal Land Reform Act No 5 of 2002
CLS	Communal Land Support
CLSP	Communal land Support Project
MLR	Ministry of Lands and Resettlement
MRLGH	Ministry of Regional and Local Government and Housing
NLP	National Land Policy
TA	Traditional Authority
TAA	Traditional Authority Act of 2000

1. INTRODUCTION TO STUDY.

1.1. Introduction

Land can be seen as one of the most important aspects of a country. Land and buildings on them accounts for about three quarters of most countries national wealth, (Chimhamhiwa, Molen, Mutanga, & Rugege, 2009; World Bank, 2006)). Land is at the heart of social, political and economic life in most African economies, which continue to rely heavily on agriculture and natural resources for a significant share of gross domestic product (GDP) (Commission for Africa, 2005; Toulmin, 2009).

In Africa, under most systems of customary law, women do not own or inherit land. A reason being the perception that women are part of the wealth of the community and that they therefore cannot be the locus of land rights' grants (Kameri-Mbote, 2005). For most women, access to land is via a system of vicarious ownership through men: as husbands, fathers, uncles, brothers, and sons. Customary rules therefore have the effect of excluding females from the clan or communal entity on land related issues (ibid).

(Kalabamu, 2000) elaborated on how customary land was managed a few decades ago, during this period's rules and regulations were traditionally passed verbally. In the course of transmission over time, as well as through experiments, the good parts of the rules and regulations of customary land management were retained and the poor ones dropped or eliminated to suit the prevailing or existing condition (Kalabamu, 2000). Amongst the various parts dropped and retained, the process of selecting the people who manage the land was not addressed, and also there was no gender balance (ibid).

Over the years, the work of women has been underestimated in the labor force statistics and even the national income accounts, whereas they form an integral part of them (Beneria, 1992). Irrespective of their age, educational background and societal status, women are less represented in the management of customary land in almost, if not all developing African countries, such as Ghana, Botswana, Namibia to mention but a few. (Grigsby, 2004) Women who are not part of the distribution of the land are allowed to use the land, but not control it or manage its resources, and are subject to eviction and/or relegated to less fertile areas.

1.2. Background

Namibia has a total area of 830,000 sqkm, situated on the west coast of southern Africa (Barnes, Macgregor, & Chris Weaver, 2002). Namibia has a population of 1.7million, with 30% living in the urban areas. The rural economy has different systems of land (communal and commercial). In the drier parts this is mainly private, medium scale and commercial ranges. In the less dry north this is communal land forming 43%. Communal land is state owned land, but occupied by rural tribal communities which forms most of the country's population (Barnes, et al., 2002)

In Namibia the Traditional Authority (TA) is the custodian of local communal land, though other agencies like the Ministry of Lands and Resettlement (MLR) and Communal Land Board (CLB) play respective roles in the administration and management of the communal land (Mendelsohn, 2008).

Communal land in Namibia is vested in the state by the constitution (Republic of Namibia, 2002). The state has a duty to administer communal lands in trust for the benefit of the communities residing on these lands and for the purpose of promoting the economic and social development of the Namibian people (Meijs, Kapitango, & Witmer, 2009). Communal land cannot be bought or sold, but can be leased out by the state. In charge of the lease and access to land in the community is the traditional authority

(TA). There are 46 TA's recognized by the government of Namibia (Mendelsohn, 2008). Legal instruments and policies such as the Communal Land Reform Act No 5 of 2002, Traditional Authority Act of 2000 and the National Land Policy empower the traditional authority to administer and allocate land rights in communal areas.

The Traditional Authorities (TA) in charge of the management of the communal land in Namibia are structured in accordance with the Traditional Authorities Act of 2000 and the payment of allowances by Ministry of Regional and Local Government and Housing (MRLGH) (Mendelsohn, 2008). The TAs is headed by a chief who may be known by a local name. This TA council is usually made up of 12 members (six senior and six junior councilors). Most chiefs and councilors are men, and these chiefs normally inherit their roles within a royal family (Mendelsohn, 2008). The councilors are appointed by the chiefs depending on their leadership abilities and knowledge or are elected by the community they serve. Majority of the councilors appointed are men, if not all of them (ibid).

The traditional authorities allocate land in accordance with their customary tenure systems (Republic of Namibia, 1998a). Most of the allocations are not documented and are considered biased by some of the residents, mostly women of the communal areas. These include some people being allocated larger land parcels, some allowed to fence and others are not, and even in some cases double allocation of land (Meijs, et al., 2009).

1.3. Research problem

Africa's land and natural resources represent both opportunities and challenges in relation to the whole continent's development (Metcalf & Kepe, 2008). The question now is how to get the right balance between these opportunities and challenges. Regardless the answer, the people tasked with the governing of the communal land appear to be a key issue that needs attention (ibid). According to (Metcalf & Kepe, 2008) apart from the traditional authorities being responsible for allocation of communal lands, other stakeholders, such as politicians, bureaucrats, and nongovernmental organizations are involved in the selection of the people in land management.

(Metcalf & Kepe, 2008) argued that a reliable positive result on the management of land can be dependent on the extent to which local people can hold their chiefs, elders and representatives' accountable. When women are equally represented in the management, it is more likely to hold the chiefs and elders accountable to the local people they represent. Women are currently not proportionally represented in the management of communal land (Metcalf & Kepe, 2008).

"Giving women land access equal to those of men remains a challenge in Namibia and in all four north-central regions of the country, namely Omusati, Oshana, Ohangwena and Oshikoto, despite gender equality being addressed in various policies and laws of the country since it attained independence in 1990" (Werner, 2008). The right of women to own land, and more specifically to inherit land in their own right, is an increasingly topical issue (ibid).

1.4. Focus of research

This research focused on investigating whether the interest of women on access to communal land and land rights are considered by the Traditional Authorities in Oshana Region of Namibia. In understanding the study, the researcher will discuss the core land related agencies responsible for the management and registration of communal land in Namibia. Verify if the interest of women in communal land has increased after the implementation of the CLRA and CLSP or otherwise. Additionally the researcher will verify if men and women have equal access to communal land. Some of the factors which hinder women access to communal land will be discussed. This is accomplished by looking at the practices during the regularization and implementation of land policies.

1.5. Research objective

The main objective of this research is to investigate whether the interest of women on access to land and land rights are considered by Traditional Authorities in Namibia.

1.5.1. Sub- objective one

1. To describe how communal land is managed in Namibia with emphasis on the role of the Traditional Authorities.

Research questions (sub-objective one)

1. What land related agencies are involved in the management of communal land in Namibia?
2. What are the functions and roles of the respective land related agencies that manage communal land in Namibia?
3. How do these lands related agencies work interactively to promote communal land management in Namibia?
4. How do the Traditional Authorities allocate land to the occupants in the communal area under their jurisdiction?

1.5.2. Sub-objective two

2. To identify women's interest in communal land and the positions and roles they play in the management of communal land in Namibia.

Research questions (sub-objective two)

5. What is the level of satisfaction of women in communal areas concerning the availability of land to them for the purposes of which they want that land by the Traditional Authorities?
6. How are women represented in the land related agencies that manage communal land and what are their roles?
7. What are the problems encountered by women regarding access to land by the Traditional Authorities?

1.6. Conceptual framework

It is necessary to examine the nature of how communal land is managed in Namibia, and particular investigate the role traditional authorities' play in this management with respect to how land is made available to individuals in the community and the way others are made to inherit land. This can then assist in finding if the interest of women is considered by the traditional authorities.

Investigating the management of communal land in Namibia and emphasizing on the role of the TA's will be addressed in one dimension. This will enable the researcher to find out how the women in the communal areas interact with the TA's regarding access to land and land rights. In another dimension investigating access to land and land rights and problems encountered by the citizens in the communal areas and how the TA's addressed these problems. A combination of the two dimensions will realize the interest of women by the TA's, whether their interest are considered or not by the TA. The conceptual framework for this research is shown in figure 1 below.

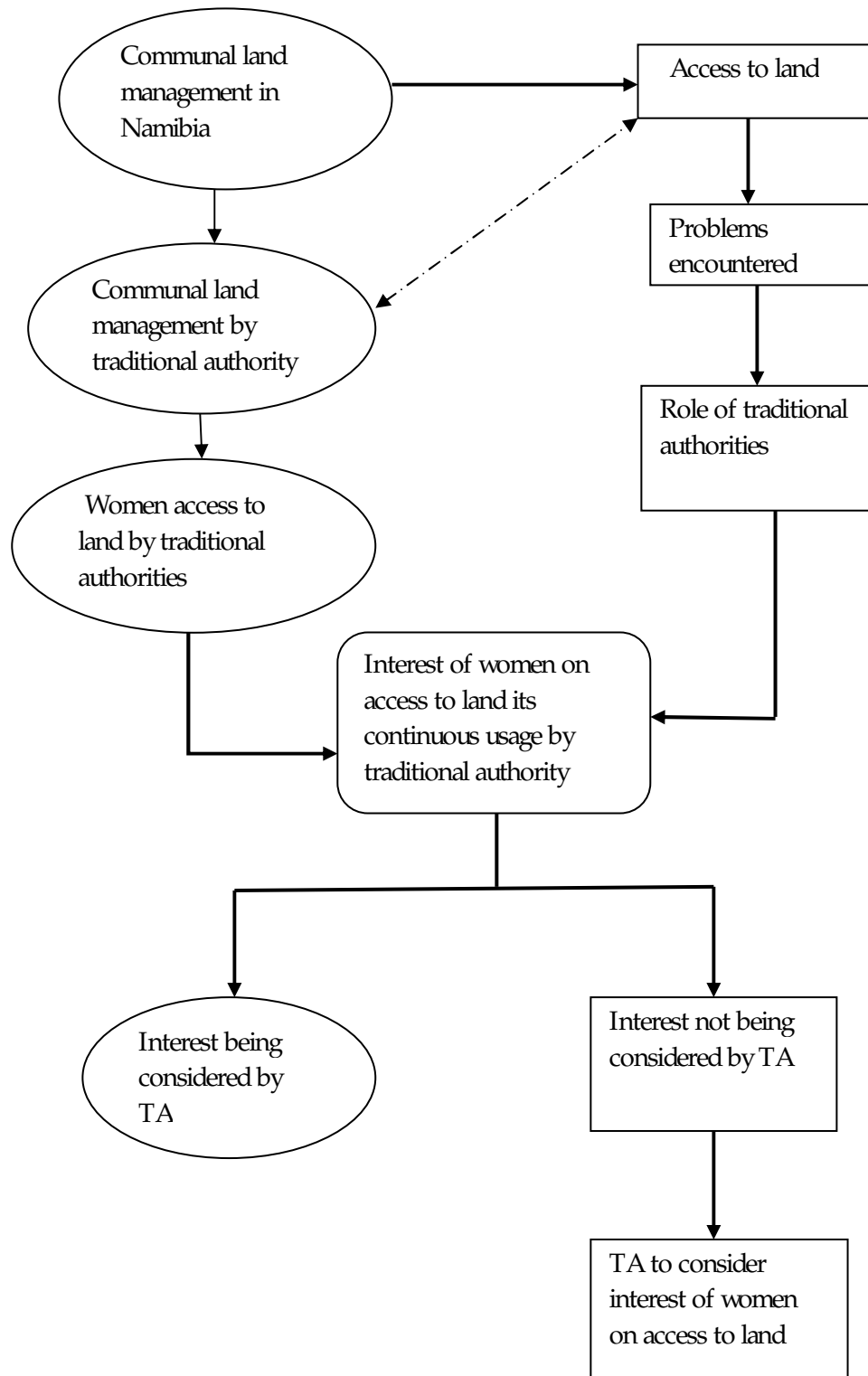


Figure 1: Conceptual framework

1.7. Research methods

This research adapted a case study approach to achieve its objectives. This enabled the employment or use of a variety of evidence, such as interviews, questionnaires, direct observation, discussions and literature review. Documents available to support findings were also considered. The above mentioned approach was employed because over the years it has been identified as the best strategy and technique if your

research questions are explanatory, when your research is on contemporary issue and the behavioral activities or issues within the research are explanatory (Yin, 2002). A case study approach was employed because to investigate a contemporary phenomenon within real-life context when the boundaries between phenomenon and context are not clearly evident and where by multiple sources of evidence is used as in this research (Yin, 2002).

The case study approach has a significant advantage of getting closer to the discipline to be studied and also have an in-depth insight, exposure to its deep structure and more importantly enable a right procedure of description (Cavaye, 1996)

This research includes the investigation of the existing processes, opinions, behaviors and experiences from the women occupants of the communal land and the traditional authorities responsible for the management of the communal land. The qualitative approach relies on collecting relevant data by interviews, questionnaires and documentary analysis. Analysis of the existing literature on the management of communal land by the traditional authority will give in-depth knowledge about the existing practices and how the interest of women are considered on access to land by the traditional authorities in the management of the communal lands.

These methods were the main procedures used in the data collection during the field observation and fieldwork for the research. Conveniently, the qualitative method was most applicable for this research, however some quantitative analysis was employed, and using statistical method to clarify some (numerical) aspects of the study and examine relationships and patterns which can be expressed with numbers. The statistical package for social sciences (SPSS) was employed for the quantitative analysis and the coding and clustering approach for the qualitative analysis.

Relevant data, both primary and secondary, concerning how the traditional authorities manage the communal land was collected from the occupants of the land as well as council members of the traditional authorities. The occupants of the communal land are citizens who have access to the land either by direct allocation or inheritance. In both cases they are initialized by the traditional authorities.

Below is a matrix which summarizes the methods employed.

Table 1: Research Matrix

Research objective	Research question	Source of evidence of data collected	Research method
1. To describe how communal land is managed in Namibia with emphasis on the role of the traditional authorities.	1. What land related agencies are involved in the management of communal land in Namibia? 2. What are the functions and roles of the respective land related agencies that manage communal land in Namibia? 3. How do these lands related agencies work interactively to promote communal land management in Namibia? 4. How do the traditional authorities allocate land to the	Literature (reports), Interviews, Questionnaires	Literature Review, Interviewing, Field Observation

	occupants in the communal area under their jurisdiction?		
2. To identify women's interest in communal land and the positions and roles they play in the management of communal land in Namibia.	<p>5. What is the level of satisfaction of women in the communal areas concerning the availability of land to them for the purposes of which they want that land by the traditional authorities?</p> <p>6. How are women represented in the land related agencies that manage communal land and what are their roles?</p> <p>7. What are the problems encountered by women regarding access to land by the TA?</p>	Literature (reports), Interviews, Questionnaires, Archival Records	Literature Review, Interviewing, Documentary Analysis, Interpretive analysis

Table 1 :Research matrix

1.8. Organization of study

The research is structured into six main chapters. Chapter one covers the introductory part, including the background, research problem, research objectives, research questions and research methodology. Chapter two covers literature review on which the study is based. Chapter three describes the management of communal land from reports, acts and documents obtained from secondary data during fieldwork. Chapter four covers methodology for the research and how data was collected. Chapter five captures the data analysis and discussion of the results obtained. Chapter six looks at the concluding and recommendations. The last section is the references for the study. Copies of questionnaire and other relevant documents are attached as annex.

2. WOMEN LAND ACCESSIBILITY.

2.1. Gender in land matters and its importance

Regarding land holding in most African countries, gender as an explanatory factor is absent in evolutionary models. It is rather the “household” considered as the smallest decision-making unit that is the pivot to the explanation of changing tenure systems. In evolutionary theories of land holding, the family head being a male is assumed to be the primary decision-maker in matters and issues regarding land use and land transfers. Women’s decisions and suggestions are considered secondary or not important to such decisions (Yngstrom, 2002). This is evident in the 1994 World Bank series of studies investigating the relationship between customary tenure systems, security of tenure and agricultural productivity (Bruce & Migot-Adholla, 1994). “In most traditional tenure systems women do not inherit land but are usually allocated land for usufruct as wives of their husband’s clan”(Platteau, 1996).

African women gain most of their access to land and the means to work on it through marriage (Moore, 1999). As wives they acquire both the right and the obligation to cultivate it (Yngstrom, 2002). In some instances, married women may provide labor on their own husband’s farm and in return expect certain tokens (Moore & Vaughan, 1993) including land which the women can use for their own cultivation. Women not only as wives, but also as widows, sisters, daughters, divorced or even separated have differently experienced tenure insecurity (Yngstrom, 2002).

2.1.1. Previous work on gender and land

Whether women may have different needs as compared to their male counterparts, and that in many societies there are specific constraints and bottlenecks that limit women’s access to land, has been the main agenda in policy debates in developing countries amongst academicians on gender and land (Baruah, 2007). The lack of access to land and its control is a key determinant of women’s economic status and poverty (Mearns, 1999).

Research has shown that, if women have access and control of land, it has positive implications on the welfare of the entire family (Allendorf, 2007). Furthermore, access and control of land is deemed to empower women, helping them to participate more prominently and effectively in community matters and highlight prominent issues affecting them (Deininger & Jin, 2009; Kameri-Mbote, 2006; Meinzen-Dick & Mwangi, 2009).

2.1.2. Need for gender in land issues

International communities, academic communities and even governments have recognized the importance of women’s access to land. The interest of gender inequality regarding access to land and its control by women has been generated by the determination that land is an important tool for development when it is held equitably. (Allendorf, 2007) has the perception that the access and control of land by women has positive implications on the welfare of the entire family. Several arguments have emerged supporting the hypothesis that, when women have access and rights to land and its resources, it influences positively their productiveness. Researchers argue that, there are appreciable differences in the decision made in respective households, depending on whether a man or woman holds the access to land. Instances where

women have rights to land, the decision on resources on the household is beneficial to all members. On the other hand, when men are household head, the decisions might not benefit an entire family. Consequently, gender can be referred to as a basic determinant of social relations and also determines an individual's opportunity, standard of living, access to relevant resources, status in society and self-perception. Getting access to land and its control by most women, who have become widowed, divorced or are separated can be between being self-sufficient or heavily depending on the extended family with very direct impacts and effects on the future of her dependents and children.

The delivery of land to both women and men equally is the core business of any good land management system. Although, land management has been in existence for decades in many countries, its delivery has not been equitable (Burns, Grant, Nettle, Brits, & Dalrymple, 2007)

Most countries have realized that the land management agencies have not been rendering land rights equitably and therefore initiatives and efforts are all targeting the improvement of access and control of land by women. In Namibia, as one of the initiatives the CLRA No 5, 2002 was institutionalized to make men and women have equal access to communal land, which forms the majority of the types of land in the country. Policies and other constitutional provisions have been structured to be gender sensitive and explicitly minimize or reduce misinterpretations that might cause biases against women (Augustinus, 2003). Furthermore, (Augustinus, 2003) argues that women in both urban and rural areas experience routine discrimination to land. They experience further tenure insecurity and do not have equal access because of discriminatory regulatory framework, both in terms of law and administrative practices as well as inheritance systems.

2.1.3. Measurable indicators in gender research

International conventions and declarations (Beck, 1999) are part of the major processes and initiatives used in the advancement of equality and equity between men and women. In closing and bridging the gap on land access between men and women, is of concern, and can be minimized using accurate and relevant data on the status of women, men and gender relations (Varley, 2007). (Mercer, Page, & Evans, 2008) confirms that sex aggregated data over the period can catalyze effective and reliable gender policies using dynamic analysis.

Various indicators have been used when conducting research involving gender equity and equality. (Beck, 1999) defines an indicator as "an item of data that summarizes a large amount of information in a single figure, in such a way as to give an indication of change overtime, and in comparison to a norm". Gender sensitive indicators therefore rely or depend on the gender related changes in society with respect to time and use these changes as an evidence of the status of the society relative to a normative standard. Politicians, planners, and land policy makers measure gender inequality at the national level based on measurable indicators, though other factors like personal interest and international pressures may be included.

To do a meaningful gender analysis, the indicators used must be measurable. However, some important concepts used in gender research are difficult to measure conveniently and explicitly, for example 'gender empowerment'. In such instances it will be advisable to use proxy indicators. It will be interesting to mention that one of the commonly used indicators is the female headship, for income measurements in families or assets that a family owns as a proxy for poverty measurement (Erenstein, Hellin, & Chandna, 2010)

Looking at the 1995 Commonwealth Plan of Action on Gender and Development, gender sensitive indicators covered the following disciplines: -

- Population composition and change
- Human settlement and geo-distribution
- Households, marital status and fertility

- Formal and non-formal education
- Health services and nutrition
- Economic activity and labour force participation
- Access to land, equipment and credit
- Legal rights and political power
- Violence against women
- Macroeconomic policy and gender (Beck, 1999)

These indicators are analyzed from the data collected through surveys conducted by respective countries with disaggregated approaches (GLTN, 2008). However, one must not depend on information from these data sets to take decisions for large geo-coverage, but rather they assist for gender relations when it concerns a smaller community as in the case of this research. For this particular research the gender sensitiveness considered were access to land, education, inheritance and employment which were used in making the questionnaires and in the interviews.

2.1.4. Gender in land policy

To utilize the wealth in land in an optimum and sustainable way by respective countries, the management of land must be guided by an integrated state land policy framework (Dale & McLaughlin, 1999). Just as in Namibia, irrespective of the governments structures for land related issues and management, a land policy is always considered as one of the priorities. In view of this, developing countries have established constitutional guarantees, specific laws and land policies with the intention of promoting and safeguarding women's equal access to land and housing. Unfortunately, myths, cultural and social norms are factors which undermine the practice, resulting in discrimination against women (Rao, 2006; UN-HABITAT (b), 2008).

To depend on a land policy which can best address the social and economic needs of the population is by incorporating a diverse range of options, adapting and be ready for innovations of the existing systems when necessary and even incorporate selected options to embrace the various policies (land) that are institutionalized in all countries. An engendered (Kölbl & Haller, 2006) framework needs to be established to allow potential legal, institutional, political, financial and even cultural barriers to be tolerated to ensure the access and control of land for women. Experts mention that when women are involved in the design and implementation of land policy, this policy tends to address gender inequality by realizing the importance of women. On the other hand, the argument is, there is the tendency of non-gender-sensitive policies contributing and strengthening gender inequality and rather benefiting those who are already wealthy and powerful politically (Deininger, 2003). There is also fear that absolute representation and participation of women in national land policies can lead to added responsibilities on their part which will not necessarily result in economic benefits. (Rao, 2006) states that consequently policies that enhance women accessing land do not necessarily lead to improve livelihoods for the women. Therefore it is mandatory (Agarwal, 1994) that land policies are specifically designed to recognize the significance of women as equal claimants to land and other social infrastructures needed for basic and social livelihood.

2.2. Women's land acquisition

In most countries men own land more than women, resulting in the women depending on their male relatives to facilitate their access to land (Allendorf, 2007). Women have been struggling for access to land for a long time and have constantly been met with resistance due to the perceptions that land is a symbol of male dominance. However, this debate of gender inequality in the access and control of land by women has received recognition from academicians and international communities, because land is considered as a vital tool in development (Allendorf, 2007). It has been argued that strengthening woman's access and control of land through gender inequality empowers women and it benefits the whole family. Most people

have the impression that poverty can be reduced, if not eradicated, while benefits can be accrued from small plots when women have direct control. Sometimes women gain access to land through marriage, inheritance (by statutory or customary law) and gender sensitive land reform programs.

Meanwhile there have been progress on women's access to land on some fronts over the last few years, however (Westman, 2006) confirms that women's access to land and control has noticeably declined. (UN-HABITAT, 2006) There have been some developmental approaches to implement woman's land right largely supported by poverty-alleviation (pro-poor) agenda, and this has created new opportunities, not forgetting there are also some challenges (Martínez, 2009) in women's access to land.

Women in highly paid employment have an advantage of getting access to land through purchasing which most women cannot afford because of their income and living conditions. This is rather unfortunate, because this can only be explored by few women in the society with higher education, access to credit and already having the basic necessity in life. This was (Augusto & Zahidi, 2005) idea, when they said in the 1990s women were only absorbed in temporary employment and these poor women were not up to the stage of enjoying long term opportunities.

2.2.1. Factors inhibiting women's access to land

All over the world women are discriminated in the access to resources such as land, and primarily have access through their male counterparts. This phenomenon is still persistent because the major contributing factor to gender inequity and inequality is the assumption that, the respective laws on land delivery which are gender-neutral are sufficient and need no immediate improvement. However, (Burns, et al., 2007) argues that it has been noted that where the laws on gender neutrality are not explicit and categorically specified, women end up being disadvantaged. The unequal accessibility of land and landed property does not only limit women's security to livelihoods but has also increased their social problems. This phenomenon has been blamed on discriminatory inheritance rights. In Africa, most customary set-ups favor patriarchal inheritance where men are usually seen as primary producers and wage earners supporting the family including the women and wives.

Women's access to land is not equitable as they experience tenure insecurity and do not have equal access. Usually this is attributed to legal frameworks and land policies which are discriminatory and have been administratively implemented by institutions in those sectors. These frameworks normally indirectly force these women to adapt to informal settlements (Augustinus, 2003). Informal settlements also leave women no access and control over the lands they occupy due to the illegality of their occupation. Basically there are three distinct rights that women can have with regard to land, being right to own it, to use it or transfer it, but the institutions have made these rights difficult if not impossible for women. Women's land right and access have been known to diminish with single-motherhood, where in order to inherit land, the only way for a woman is to get married.

In some instances, women may have access to land and land rights but due to their lack of education of the institutional regulations, the interpretation of the rights can be manipulated to their disadvantage leading women to lose their land rights (Lunnay, 2005), for example in some cities women can work on or use the land but not own it. Even in other cases, certain crops like coffee are considered as man's domain, even if all the tendering is done by women. When the land is used for a particular crop, the value of the land is increased because of the nature of the crop. Mostly, primary users of land are women, but when the land is used for the cultivation of high demand crops like cocoa or palm trees by women, consequently the value of the land is increased and the men manipulate the ownership rights by redefining them in their favor and hence excluding the women (Gray & Kevane, 1999) in countries like Benin and Cameroon. This male bias is one way that women lose access to land and land rights.

In some countries women have been denied access to land by the very system that is mandated with the adjudication and recording of rights. In Namibia, the government introduced the CLRA No 5 of 2002, which was implemented in 2003 to enable men and women to have equal access to land (Republic of Namibia, 2002). However, in some countries government programs granting land to regularized illegal urban encroachers allocated land only to male house heads (Brown, Ananthpur, Giovarelli, & Institute, 2002). This practice contributed to the denial of access of land to women.

Religious practices are other contributory factors to women's inheritance rights. With regard to the Islamic law, a widow is entitled to one eighth of the late husband's estate only if she has no children with the husband. If she has children, she gets one-fourth or quarter, but if there are no son's amongst the children, then a considerable portion of the estate (property) is given to the male relatives (Augustinus, 2003). These religious practices deny a woman who could not bear a son, which is no fault of her from rightful access and control of her land rights.

Gender biases in land reform are another setback to women's access to land. Many countries do not have specific and distinct guidelines on how to deal with traditions that discriminate against women on instances of land ownership, access to land and inheritance. In some customary institutions women can lose their land rights if they are found to be barren or did not bear a son or when they were even estranged from her husband (Augustinus, 2003) and any of these could happen to any woman irrespective of her status. Such problems can arise with no fault of the woman and some of these unwanted instances can even be caused by the men. Another avenue that contributes (Gray & Kevane, 1999) towards women's loss of land rights is through new government land rules and reforms. Instances where women own land under statutory law, there is still a tendency of conflicting situations because the customary or cultural system still has an adverse effect on them when influenced by local structures of power. The power of a woman or a group of women to claim their land rights may become stronger or enhanced through the economic resources they control (Gray & Kevane, 1999), and consequently access to land and its control by women is seen as a way in which to become empowered enough to make claims.

The factors raised in the above literature point to the fact that the hindrance of women access to land is a combination of factors. Women are denied land rights due to cultural practices, religious practices, and lack of economic empowerment, lack of educational empowerment, gender biases in land reforms and policies and other governmental institutional practices.

2.2.2. Initiatives for enhancing women's access to land

Globally, the access of land to women is considered a major issue in land administration. Internationally recognized organizations like UN Habitat, FAO, and FIG amongst others have been involved in land administration issues, and are concerned about women access to land. These organizations have produced guidelines, declarations and procedures aimed at equitable methods to the use of land and its resources. The debate on women's land rights has received much recognition and initiatives at the global stage. After, the need for adjudication of rights in an effective and efficient manner, at a reasonable cost and speed to assist a vibrant land market was emphasized during the Bogor Declaration of 1996 (FIG, 1996). Due to the global concern on women access to land, the Bogor declaration was expanded in 1999, by the Bathurst declaration which called "for a commitment to provide effective legal security of tenure and access to property for all men and women including indigenous peoples and those living in poverty or other disadvantaged groups". It was evident in this meeting that the problem mostly encountered in man- land relationships included lack of security of tenure which in many societies and communities impacts severely on women and children (FIG, 1999).

Addressing women's access to land, in 2008 the commission on the status of women urged respective governments to institute reforms in the legislation to facilitate women's equality on land rights, inheritance and land ownership. Included were access to credit, social resources and appropriate infrastructures (United Nations, 2009). In Doha, Qatar there was another declaration concerning women's land rights adapted in 2008. Regarding this declaration world leaders re-assured each other of the eradication of gender-based discrimination including the ownership assets and property rights (UN, 2008; United Nations, 2009).

At the UN Millennium Summit in 2000, one of the specific goals was to close the gender gap by empowering women (UN, 2000). Numerous efforts and initiatives at the global level have put together steps to address the gender gap, particularly in the arena of access to land for women. Both democratic elected governments and undemocratic ones have been persuaded to formulate administrative and legislative reforms so that the delivery of land rights is done in an equitable manner.

2.2.3. Women's access to land: Why it is vital?

Land is a vital commodity for men as well as women in most countries, be it under customary tenure or with formal rights. Access and control of land serves as an economic access to important markets, and this has been recognized by experts all over the world. Based on the fundamental success that land rights confer on individuals, and the additional and prominent role it plays in poverty alleviation in our societies, it will be naïve to underestimate its role, particularly the access and control of land by women (Benjamin, 2004; Benjaminsen, Holden, Lund, & Sjaastad, 2009; Deininger, 2003).

Studies have shown that economic and immediate benefits can be accrued from land when one has access and control over it (Jin & Deininger, 2009; Kameri-Mbote, 2006; Meinzen-Dick & Mwangi, 2009). Though arguable, when women acquire immovable assets or properties including land, they are not only beneficiaries but rather the entire family they belong to and sometimes their community (United Nations, 2009). When women have access and control over land, they either work on it personally to generate income to support family members and relations, or they use the property as collateral for other productive and profit making ventures.

In situations where women are faced with unequal access to land and its control, coupled with unequal employment, they are curtailed in their optimum productivity. These result in reducing their effectiveness in the participation in economic opportunities and advantages that are available to them (Heitzman, 2008). Furthermore, their productivity in public lives becomes diminished if not terminated (United Nations, 2009).

Considering that land policies that favor individual ownership confer on the head of the house, women are not the representatives of the household and are also prevented from being co-owners. While this practice does not assist women to own or have access to land, they are helpless in instigating their husband's to pay the dowry to legalize their marriage by customary law because their husband's do not heed to their demand. These women lose their land rights (Gray & Kevane, 1999).

When women have access and control of land and its resources, the benefits are enjoyed by the family in totality and their welfare are better as compared to instances when land is held by male family heads. In households where women have access and control of land, there are numerous benefits, including poverty alleviation for the whole family and sometimes even extends to the larger community. Furthermore, access and control of land by women empowers them when they use the land directly or even use it as collateral for non-agricultural purposes.

In Namibia, land is considered as a significant form of landed property. It carries a lot of weight considering the economic well being and social status of the citizens in Namibia, not only in the communal areas. When resources are held solely by male family heads, the females do not benefit equally. (Agarwal, 1994) confirms that women need resources, and emphasizes on land for the improvement of their well being and empowerment. Women with access to houses and land in the urban areas depend on them for empowerment. Owning a house (land) prevents women from the usual practice of shack farming (small houses in backyards), which are often exploited, since it contributes to the control of rent or state of the environment (Durand-Lasserve & Royston, 2002).

2.3. Factors affecting women's access to land

Globally women access to land has developed various debates, but one must be reminded that, there are other remote causes to the inability of the respective research communities interested in this issue not reaching their targets easily. The spiritual, political, social and economic strength of women must be increased as a form of empowerment if the equality of access to land by men and women is to be achieved or improved.

2.3.1. Empowerment

Empowerment is a concept which has been of great interest to various bodies within the international communities. These include research communities, policy makers, project designers and implementators as well as funding organizations. Individuals amongst a society will have to collectively address and positively change the specific or particular causes and conditions of poverty that affect them which will lead to the empowerment of the community. The ability to address these causes effectively results in comprehensive changes in a particular society which can and should be measurable (Dorius, 2009). Women empowerment is specifically understood as the capacity and ability to get involved irrespective of the degree and to be able to make informed decisions, participate effectively and efficiently in economic and political processes, in so doing improving their quality of living.

At the United Nations conference on women, population and development in Cairo, Egypt in 1994, one of the principles stated that "Advancing gender equity and empowerment, and the elimination of all kinds of violence against women, and ensuring women's ability to control their own fertility are cornerstones of population and development related programs (Chen, 1995; UN, 1995). Furthermore, in this program of action, governments (heads of states) were urged to eradicate existing inequalities and barriers to women in workplaces. Other governments were persuaded to promote and strengthen the participation of women in policy making and implementation. At this same conference, it was stressed that women should have access to productive resources, have the ability to own land and have a right to inherit property (Chen, 1995; UN, 1995).

As part of the program's initiative, governments were to invest and promote the education as well as skill development of girls and women, and additionally the desire to put into place mechanisms for monitoring and evaluating such needs and progress will emanate from the investments. There is the appreciation of educated women who are able to meet their basic human needs and exercise their human rights (Chen, 1995). Such women are able to access and provide better resources for the welfare of their children (United Nations, 2009). Economically empowered women, even including those in low-income groups contribute towards keeping the households above the poverty-line. Research have shown that women having access to economic resources experience more financial security for the entire household and also have a high sense of empowerment in dealing with problems that arises in the homes (Chant, 2007) and

the positive impacts of empowerment can be seen on child survival, welfare and education than when the same resources are in men's hands (United Nations, 2009).

2.3.2. Education for empowerment of women

Inequalities in society have been attributed to gender-specific constraints that influence the distribution of social resources, capabilities and infrastructures. Amongst the persistent forms of inequality of vast interest globally relate to property and inheritance rights, access to education and relevant salaries of paid employment (United Nations, 2009). Basic education is one of the fundamental human rights. Education is regarded as the gateway to healthy and productive lives and empowerment (Habitat, 2008). The international communities and governments have yielded significant progress and improvement towards gender equity in education in their initiatives as they work interactively. Within some Latin American Countries, the female school attainment exceeds their male counterparts (Glick, 2008). The produce from land as in the case of Philippines has resulted in most parents giving their son's more land but on the other hand more education to their daughters (Rao, 2006).

However, in other regions such as South Asia, pro-male gender gaps are still in existence. Globally, education is still not accessible to the poor sector of both the rural and urban population. Research has revealed that when a family is in a dilemma of funding education and attending to the daily requirements for food and shelter, education takes the backseat (Habitat, 2008). As an example, in Southern Asia the regional figures indicate that ratio of males to females in primary school enrolment was 85 vrs 100 while that for secondary was 75 vrs 100 (Glick, 2008). Depending on the educational policies being implemented, they have different impacts on school enrolment patterns and numbers. In Bangladesh, a food for education subsidy program resulted in a higher increased enrolment for girls compared to boys, it was 41% vrs 28 % (Glick, 2008). Glick concluded that girls' education is more constrained by distance to school. Meaning the construction of schools would reverse this effect even if the schools are not purposely targeting girls.

Though there is a considerable progress in levels of education of women, it has not been translated into increased gender equality in returns to labor (United Nations, 2009). This phenomenon has been attributed to factors such as discrimination against women in the workplace, access to land and a mix of cultural and institutional practices. Gender inequality costs national economies heavily. In a simulation exercise as an investigation to education gap in some Asian countries, the costs were approximately forty-five billion dollars a year (United Nations, 2009). Researchers argue that women can only exercise influence and recognition, in so doing bring about change in their lives as well as those of their families through tangible resources such as land, employment, credit and also non-tangible resources such as education (Floro, 2009; Kabeer, Stark, & Magnus, 2008).

The highest tool for women to move out of the lower rang in society is education. It is also the pathway to meaning employment, which can lead to purchase of assets (land) and also act as collateral or guarantee to credit credibility (United Nations, 2009). When women are educated they are more aware of their rights, the legal system and are even capable of seeking redress when their rights are violated in terms of access and control of land among others.

2.3.3. Employment for empowerment of women

Employment and for that matter labor has been evident as an effective factor of production and as a resource for most people globally to earn a reasonable living. Specifically for poor people it is most of the time the only avenue to meet their basic needs (Augusto & Zahidi, 2005; United Nations, 2009). The standard of living of households can improve as people are paid for the work they do (employment) as they can allocate their resources to food provision, healthcare and education (United Nations, 2009).

Material resources and other social assets are expected to increase when women are engaged in waged or self employment which also has the potential to improve their status (Kantor, 2009).

Between 1998 and 2008, the share of women's employment increased from 39.9% to 40.5%, but yet still divisions of labor exist such as women in casual employment, wide gaps between wages and unequal divisions in the unpaid domestic work. These gaps have significant implications on how men and women access and benefit from respective employment differently (United Nations, 2009). Paula Kantor attributes these gaps to gender and religion and argues further that they cause deprivations within societies (Kantor, 2009). Though it is a desire that women must be engaged in decent employment, global trends have further forced the poor citizen into the informal sector. In most countries the working environment offers no other alternative. Multinational companies have taken whole production lines to countries where cheap labor is readily available. Jobs offered in such employment are poorly paid and the law does not protect the workers (United Nations, 2009). Consequently women working in such informal sectors have no access to social security and have little potential to organize the enforcement of their human rights (United Nations, 2009). Due to work related norms, there is discrimination at workplaces. Furthermore, these informal jobs are characterized by variations in number of days and hours worked, resulting in unacceptable variations in income which is insecure (Kantor, 2009).

At times when women have acquired reasonable educational skills to qualify for top positions in organizations, they still suffer from institutional norms and attitudes. They rarely occupy managerial positions if there is a qualified male for the same position (United Nations, 2009). In situations where women cannot acquire land through inheritance, employment is considered as the most important avenue for the access and control of land by women through land purchase. Education and employment has been reported to empower women since they are factual and instrumental in enabling women to gain knowledge, confidence, skills and opportunities. They are vital in improving their social and economic status. It has been established that empowerment equip women with power in households as well as in society (Ann, 2007).

Regarding the above discussions, it is apparent in low-income societies, households are disadvantaged in their pursuit of their livelihoods by their lack of education, skills and assets. Compounding these inequalities is gender issue which intensifies in accessing crucial resources and deny them ground for competing for opportunities (United Nations, 2009). Another issue that hinders the access and control of land by women is that, though there are good land policies in existence in some countries, there is lack of sufficient tools to implement these policies (Augustinus, 2004). However empowering women through education and employment have direct linear benefits. Education for women has been reported to result in the making of informed decisions for the whole family. Good education paves the way for remunerated employment which in turn facilitates the access and control of land for women through purchase when all other avenues of acquiring land for women are not feasible.

3. COMMUNAL LAND MANAGEMENT IN NAMIBIA.

3.1. Introduction

Namibia has never developed large urban centers. This is because firstly, Namibia has a small population and its environmental conditions are not favorable to a high population concentration and secondly, Namibia has insufficient economic surpluses to maintain urban functions (Legal Assistance Centre, 2005). Its communities are located only marginally along regional trade and migratory routes (ibid). During the German colonial period in the 19th century, Namibia then called German South West Africa, was divided into two parts. Comprising the police zone which was cleared for white settlement and the northern and north eastern areas were reserved or 'homelands' for the indigenous population (UN-HABITAT, 2005). Movements outside these areas were restricted (ibid). On 9th July, 1915 the German armed forces surrendered and Namibia became a British protectorate, with the king's mandate held by South Africa (UN-HABITAT, 2005).

The land management (question) in Namibia is a matter of popular concern and political debate (Werner, 1997) after the country's independence on 21st March, 1990. In 2000 during a congress in Windhoek the capital city, the government urged the MLR (Ministry of Lands and Resettlement) to continue implementing the land reform policies and programmes with a sense of urgency (ibid). After independence in 1990, the Namibian government inherited a highly skewed distribution of land and this can be confirmed from the fact that land reform over the last few years has been slow (Werner, 1997). An important feature of colonial dispossession and conquest in Namibia is that, the settlers colonized the more marginal agricultural regions of the country and neglected the north and north eastern parts which as a result of higher rainfall and better soils make rainfall cultivation possible, in the hands of indigenous communities.

Rural poverty and economic inequalities is mainly caused by unequal distribution of land (Werner, 1997). In this respect land reform and more specifically land redistribution and management were seen across the party political spectrum as a precondition for socio-economic development (ibid). For the country to have a meaningful rural development and resettlement after independence the government must confront the political, economic and social imbalances which are directly linked to land management which needs to be solved (Werner, 1997).

Communal land forms about 43% of the land in Namibia (Barnes, et al., 2002), and after independence its allocation was effected by the TA's (Traditional Authorities). The TA's (headman/woman) took money from the citizens before the land was allocated. This practice continued for a longtime before the NLP (National Land Policy), TAA (Traditional Authority Act), and CLRA (Communal land Reform Act) were passed and implemented to help in the management of the communal land in Namibia.

3.2. Types of lands in Namibia

Land is classified for administrative purposes as state land, commercial land or communal land (Meijs, et al., 2009). Land is of great concern not only because of the unequal distribution of commercial land between the citizens, but also because of the growing pressures on the communal land by the larger population. The uncertainties surrounding land management in the communal areas have arisen due to the inability of legally recognized authorities to deliver in terms of their mandates (Meijs, et al., 2009). Each of the three categories of land, state, commercial and communal lands bestows certain rights and

responsibilities on the people who are using the land as well as those in the management positions (Meijs, et al., 2009). Both urban and rural land may fall within any of these categories. Below is a figure showing the types of land in Namibia.

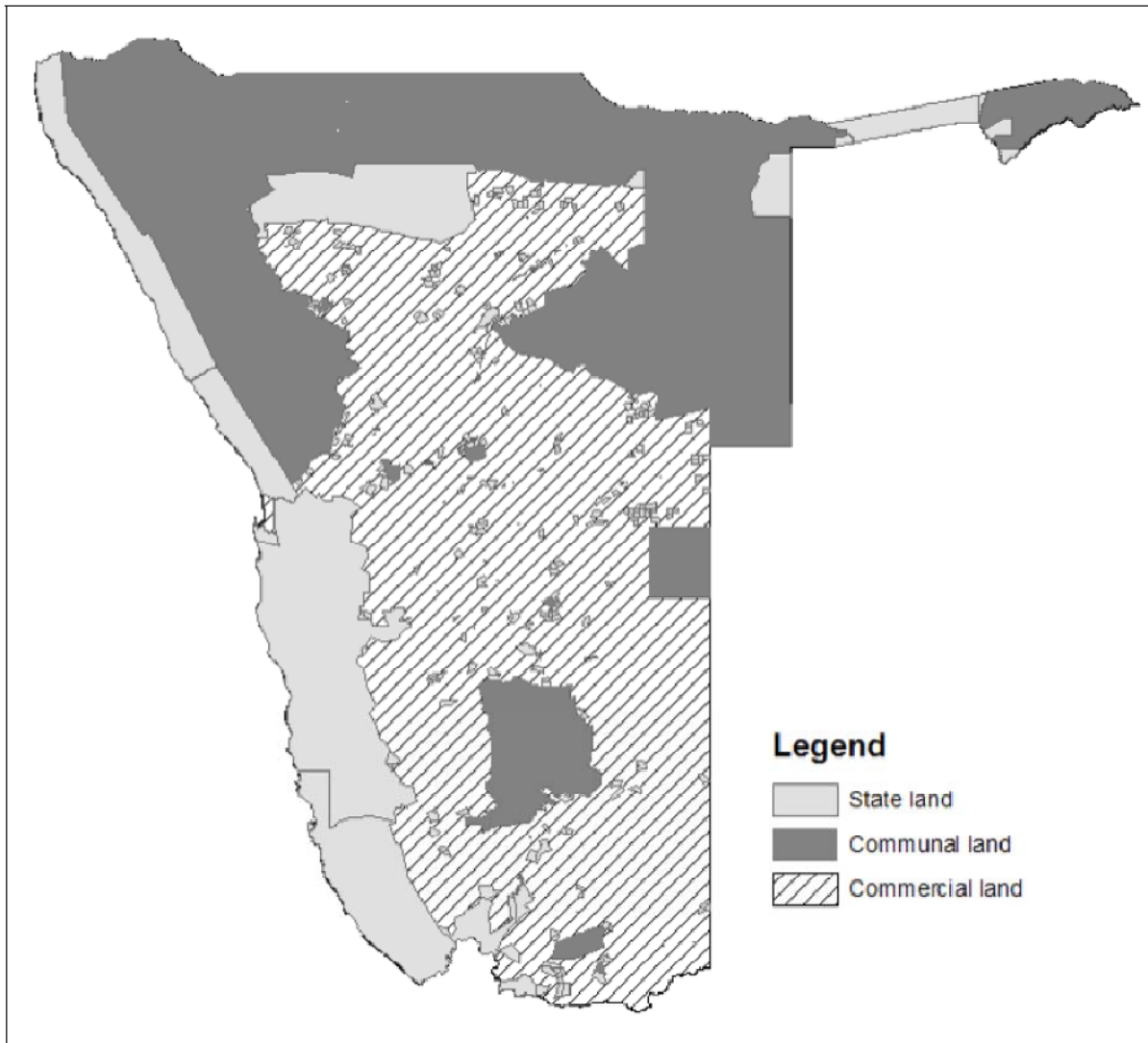


Figure 2 Types of land in Namibia. Source MLR, M.Meijs (2008)

3.2.1. State Land

State land belongs to the state. Under the Constitution, all land, water and natural resources belong to the state, unless lawfully owned by individuals (Republic of Namibia, 1998a). As the owner of the land the state can decide what to do with the land, whether to add the land to existing communal areas or sell it so that it becomes commercial land. The state can decide to allow people to reside on a particular piece of land, or permit them to rent it out, whilst still remaining the owner of the land (Meijs, et al., 2009). Most state land is classified as protected areas and named as National Parks, Game Parks, Recreation Areas etc (ibid)

3.2.2. Communal land

Communal land is vested in the state by the Constitution. The state has a duty to administer communal lands in trust for the benefit of the communities residing on these lands and for the purpose of promoting the economic and social development of the Namibian people (Republic of Namibia, 1998a). Communal

land cannot be bought or sold, but can be leased out by the state (Meijs, et al., 2009; Republic of Namibia, 2002; Werner, 1997, 2008).

3.2.3. Commercial land

Commercial land is freehold land that can be bought by private individuals, who then become the legal owners of the land (Meijs, et al., 2009; Republic of Namibia, 2002). All transactions for commercial land are registered within the National deeds Registry and Cadastral systems. However the CLRA allows the state to acquire commercial land where the owner owns a disproportionately large amount or it has been abandoned or under-utilized (ibid).

3.3. The Constitution of Namibia

The Republic of Namibia after attaining independence in 1990 had their constitution and was amended in 1998. All the sections used in this research were from the amended constitution of 1998. Articles 10 (1), 10 (2) and article 95 (a) are parts of the constitution which mention equality before the law irrespective of the gender by all citizens on various disciplines including land (communal). Article 10 (1) states that, "All persons shall be equal before the law" and article 10 (2) states "No persons may be discriminated against on the grounds of sex, race, color, ethnic origin, religion, creed or social or economic status. Article 95 states "The state shall actively promote and maintain the welfare of the people by adopting, 'inter alia' policies aimed at 95 (a)"Enactment of legislation to ensure equality of opportunity for women, to enable them to participate fully in all spheres of Namibian society, in particular the Government shall ensure the implementation of the principle of non-discrimination in remuneration of men and women (Republic of Namibia, 1998a). The constitution categorically states that all aspects of the country's resources must be benefited equally by both men and women and this includes communal land.

3.4. The National Land Policy of Namibia (NLP)

Access to land and land tenure were among the most important concerns of the Namibian people in their struggle for independence (Republic of Namibia, 1998b). Since independence the democratically elected government has maintained and developed its commitment in addressing the injustices of the past in a spirit of national reconciliation and also to promote sustainable economic development for the Namibian people (Republic of Namibia, 1998b). To achieve this goal, the nation's rural and urban resources are to be administered fairly and there must be equality and equity in the allocation of land and its resources.

3.4.1. Fundamental Principle

The Namibian constitution highlights the principle of decentralization. One of the policy landmarks was the introduction of the National Land Policy. According to this policy, all land rights have equal status before the law, a variety of tenure options should help to manage the biophysical and cultural diversities of the country; and there is a need for a decentralized administration (Republic of Namibia, 1998b). "Land policy may be defined as a set of basic principles, guidelines and rationale upon which legislation, together with the strategies and infrastructure for their implementation can be developed (Mbaya, 2000). A comprehensive national land policy is a key to reasonable clarification, consistency and the certainty necessary to provide the confidence needed for the promotion of economic development (Enemark & Munro-Faure, 1997).

For the purposes of this research I will concentrate on the rural land (communal) part of the Namibian land policy, though the policy has relevance on urban land as well. On ownership of land (rural land) the policy states that in terms of schedule 5 (1) of the constitution of Namibia, communal land is vested in the Government of the Republic of Namibia. The Government undertakes to administer this land in trust for the benefit of traditional communities residing on such land and for the purpose of promoting the

economic and social development of the Namibian people. Looking at the administration of communal land the land policy states the administration of land in communal areas shall be vested in land boards and traditional authorities. The land boards will be responsible for the survey and registration of all approved forms of land title in the area of their jurisdiction (Republic of Namibia, 1998b).

3.5. Regulatory Framework: Communal Lands

3.5.1. The Traditional Authority Act 2000 of Namibia (TAA)

This Act was signed by the president on 21st December, 2000 to “Provide for the establishment of traditional authorities and the designation, election, appointment and recognition of traditional leaders; to define the powers, duties and functions of traditional authorities and traditional leaders; to provide for matters incidental thereto”(Republic of Namibia, 2000).

Section 2 (1) of the Act states every traditional community may establish for such community a traditional authority consisting of:

- a) The chief or head of that traditional community, designated and recognized in accordance with the Act and
 - b) Senior traditional councilors and traditional councilors appointed or elected in accordance with the Act.
- Section 2 (2) mentions that “A traditional authority shall in the exercise of its powers and the execution of its duties and functions have jurisdiction over the members of the traditional community in respect of which it has been established.

The TA has several responsibilities and duties to perform for the community of which they were established and this includes managing the communal land under their jurisdiction. This will be discussed further in the research.

3.5.2. The Communal Land Reform Act 2002 No 5 of Namibia (CLRA)

This Act was signed by the president on the 25th July, 2002 “To provide for the allocation of rights in respect to communal land; to establish communal land boards; to provide for the powers of chiefs and TA and boards in relation to communal land; and make provision for incidental matters”(Republic of Namibia, 2002).

The CLRA mentions in sections 1(15), 1(16), 1(17) and 1(18), Extent of communal land, Establishment of new communal land areas and additions or subtractions from communal areas, vesting of communal land and prohibition against fences respectively. Allocations of rights in respect of communal land are also stated in section 1(19). Customary land rights and right of leasehold are all taken care of in the CLRA.

CLRA was established to assist the MLR, CLB’s and TA’s in the management and registration of communal land s in Namibia. The composition of the boards and their respective roles will be discussed further in the research.

3.6. Land related agencies involved in communal land management in Namibia and their roles

Before the enactment of the CLRA, Traditional Authorities used to allocate land rights in accordance with their customary tenure systems (Meijs, et al., 2009; Republic of Namibia, 1998b). NLP 1998 and CLRA No 5 of 2002 of Namibia aim to improve gender equality in land rights and tenure security. Unfortunately, the mechanisms in place do not monitor wholly the impact of gender policies and laws on gender equality (Werner, 2008). However, circumstantial evidence suggest that progress has so far been made in the improvement of gender equality in access to land and land rights, but discrepancies between the provisions of the CLRA and the practical dispensation continue to exist (ibid).

The CLRA underlines the fact that all communal land areas are vested in the state, and that the land is kept for the benefit of the traditional communities living in those areas (Legal Assistance Centre, 2005; Meijs, et al., 2009; Republic of Namibia, 2002). The state must therefore put systems in place to ensure that communal lands are correctly administered and managed for equal access to land and land rights. To achieve this goal, the TA was incorporated in the administrative structure, and by creating communal land boards in each region having communal lands, and then the MLR to work interactively for effective communal land management and registration (Meijs, et al., 2009; Republic of Namibia, 2002). Communal land does not have freehold status and cannot be bought or sold like commercial farmland. There are other agencies that assist in communal land management in Namibia partially like National communal land administration system (NCLAS) and Ministry of Environment and Tourism (MET), but the main agencies for the purpose of this research are MLR, CLB's and TA's. There are two or more TA's in a communal area.

3.6.1. Traditional Authority (TA)

Before the enactment of the CLRA chiefs and TA's used to allocate land use rights to their people in the community. They relied on the traditional tenure systems in the allocation of the communal lands. During this period it was custom to pay about 60 US dollars (600 Namibian dollars) to the village headman for the allocation of the customary land rights (Werner, 2008). The amount changed with the size of land allocated up to 100 US dollars (1000 Namibian dollars). These payments constituted an important source of income for village headmen.

However, the CLRA prohibits payment, be it in kind or cash. The headman (TA) is always the first point of contact when it comes to the allocation of communal land. However, the CLRA did not consider the services or recognition of the headman when the bill was drafted, it was the TA's who were represented in the drafting, but it is not the TA's who allocate the land to the applicants.

Basically, the primary powers to allocate or revoke customary land rights are vested in the chief of a traditional community, or, if he so decides, with the TA of the particular community (Legal Assistance Centre, 2005; Werner, 2008). Below are the roles of the TA's who play the biggest role in communal land management.

- Allocate or cancel land rights
- Determine size and boundaries of land
- Approve application
- Investigate matters and consult people about application
- Resolve land disputes
- Ensure good management and registration of communal land
- Ensuring security of land tenure (Republic of Namibia, 2000)

3.6.2. Communal land board (CLB)

The passing of the CLRA gave birth to CLB's. There are 12 CLB's in Namibia (one for each region except Khomas Region, since it has no communal land). CLB's were established in 2003. The CLRA prescribes the functions and composition of the board for the management and registration of communal land

Composition of the CLB's

- One representative from each of the TA's within the board's area, nominated by each such Authority
- One person representing the organized farming community within the board's area.
- The regional officer of the regional council concerned, and, if the board's area extends over the boundaries of two or more regions, the regional officer of such region.
- Four women, two of whom must be engaged in farming in the board's region, and two of whom must have experience that is relevant to the functions of the board.

- Four staff members in the Public Service, of whom-
 - (i) one must be nominated by the Minister of land and resettlement (MLR)
 - (ii) one must be nominated by the Minister of environment and tourism (MET)
 - (iii) one must be nominated by the Minister of agriculture, water and forestry (MAWF)
 - (iv) one must be nominated by the Minister of regional and local government, housing and rural development (MRLGHRD)
- One person from the conservancy or conservancies if any exist within the board's area (Nature Conservation Ordinance) (Meijs & Kapitango, 2010; Republic of Namibia, 2002).

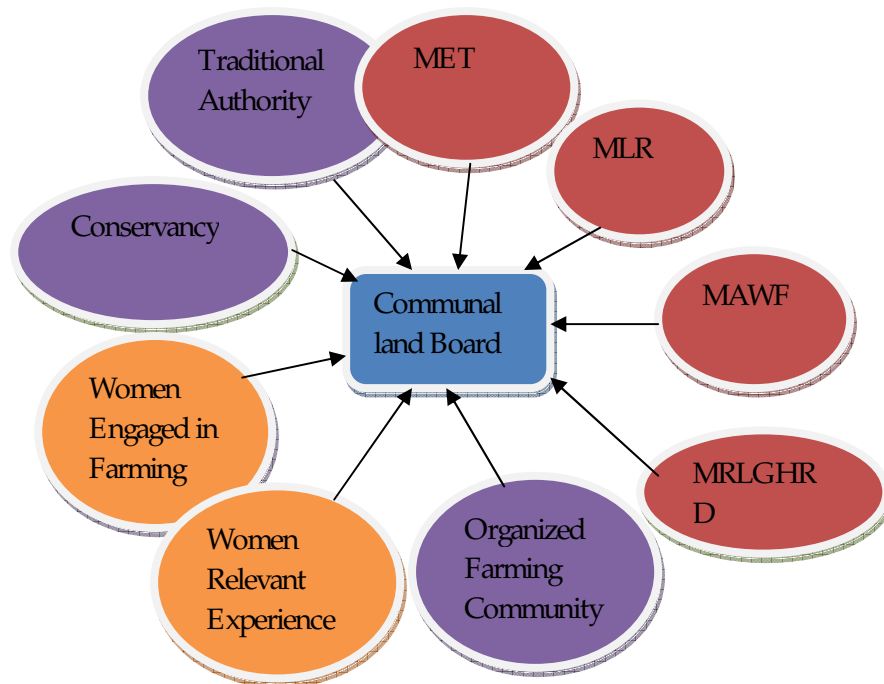


Figure 3: Composition of communal land board, adapted from Meijs & Kapitango 2010

Functions of the CLB's

- To exercise control over the allocation and the cancellation of customary land rights by chiefs and TA's.
- To consider and decide on applications for a right of leasehold.
- To establish and maintain a register and a system of registration for recording and allocation, transfer and cancellation of customary land rights and right of leasehold.
- Controlling the erection and maintenance of fences in communal areas.
- Making sure that no unresolved disputes exist before a registration certificate is issued, by resolving conflicts between neighboring land users over boundary locations. (Meijs & Kapitango, 2010; Republic of Namibia, 2002).

3.6.3. Ministry of land and resettlement (MLR)

The MLR was established in 1990 and is the principal administrator of land in Namibia. The NLP was developed and being implemented by the directorate of land reform of the MLR. It is responsible for ensuring that land registration takes place in all communal areas (Meijs & Kapitango, 2010). In managing communal land, each region has a MLR staff member appointed as the secretary for the CLB in that region. In addition, one or more land use planners are appointed, who are responsible for the technical assistance to the land boards.

The MLR takes responsibility for the following aspects of communal land management and registration.

- Secretarial activities of the CLB (minutes, finances, administration, secure keeping of registration documents).
- Keeping a register of all land rights.
- Verifying the application for land parcels in conjunction with CLB staff.
- Surveying all land parcels.
- Producing certificates of registration.
- Verifying that all applications are submitted in accordance with the law. (Meijs & Kapitango, 2010; Republic of Namibia, 2002).

The Minister of lands and resettlement, together with the Minister of agriculture, water and forestry sets the maximum sizes of land that may be allocated within a customary land right or a leasehold right. If the applicant applies for a size of land that exceeds the prescribed size, the chief/TA and CLB must refer the matter, together with adequate reasons and motivations by the applicant and the chief/TA, to the Minister of lands and resettlement for written approval. The maximum sizes have been set at 20hectares for customary land rights and 50hectares for leaseholds.

3.7. Communal land registration

3.7.1. Why Communal land Registration?

The CLRA was passed with the aim of facilitating a proper and uniform land administration system, with security of land tenure for all Namibians. This will result in the reduction of land disputes in communal areas (Meijs, et al., 2009). This is a key reason why communal land registration is being carried out in Namibia, though some critics think land registration is an expensive exercise and could be managed better if retained under the customary legislation (ibid). Consequently, the registration of existing land rights became necessary, serving as a social base for proper and effective land administration (Mendelsohn, 2008).

The idea behind the initiation of communal land registration was that, by having all the land rights registered, the MLR, CLB's and TA's will be able to improve their means of communal land administration and ensure that all people have equal access to land (Meijs, et al., 2009; Republic of Namibia, 2002).

The CLRA stipulates two broad categories of land rights in communal land, namely customary land rights and right of leasehold. The rights allocated under the customary land rights are rights to residential units and rights to crop farming units. The second category, the leaseholds covers all the rights that can be allocated for specific commercial purposes. The rest of the land is referred to as commonages and can be used for grazing by the local community. Customary lands rights can either be an existing customary land rights or new customary land rights.

3.7.2. Registration of existing customary land rights

All land rights allocated before the enactment of the CLRA are regarded as existing land rights. The application for a customary land right or leasehold right must be made in writing on the prescribed forms. These forms are available at the offices of the TA's and the MLR.

Application for a customary land right must be handed over to the chief/headman of the community where the land that is being applied for is situated. An application fee of 2.50 US dollars (25 Namibian dollars) must be paid when the application is made. The application fees must be paid to the TA. Each application has to be accompanied by prescribed documents as listed below:-

- A letter of consent from the chief of the TA concerned.

- Any available document that can prove the validity of the claim; and
- A copy of the applicant's identification document (ID) (ID card, passport or birth certificate).

When the TA receives the application the following procedures are involved in the registration of the communal land of the applicant.

- The chief/TA of the area concerned will carry out an investigation and will either refuse or provisionally approve the application. An applicant whose application may be refused has to be informed of the reason of the refusal. The applicant however has the right to submit an appeal with the CLB if he/she does not agree with the refusal.
- Both the provisional approved and rejected applications are submitted to the CLB of the respective area within 30 days of the date of the application by the TA.
- The supporting staff of the MLR together with the CLB and TA representatives will have to do a field verification during which they will map the parcel and calculate the area of the parcel. Finally they will check if the area has not already been allocated.
- On the basis of the data collected during the field verification, the CLB will, in an official meeting, either (veto) reject the application and refer back to the TA or ratify (approve) the application.
- Parcels that are bigger than 20 Ha will be referred to the Minister (MLR) for his written approval for registration. The applicant and the TA will have to submit a motivation letter to accompany the application to the Minister.
- Before the final approval of a customary land right, the CLB's will display all applications on a notice board at its offices, or at any other public offices, for a period of at least 7 days. This is done to enable those who may have any objections regarding the application to express them. The CLB may hold a hearing if a community member objects to the advertised application.
- Provided that there are no objections, the CLB registers the approved and ratified rights to the land parcel and issues a certificate of registration.
- The certificates are handed over to the TA and the applicant is informed and has to pay an amount of 5 US dollars (50 Namibian dollars) to the TA for the certificate (Meijs & Kapitango, 2010; Republic of Namibia, 2002).

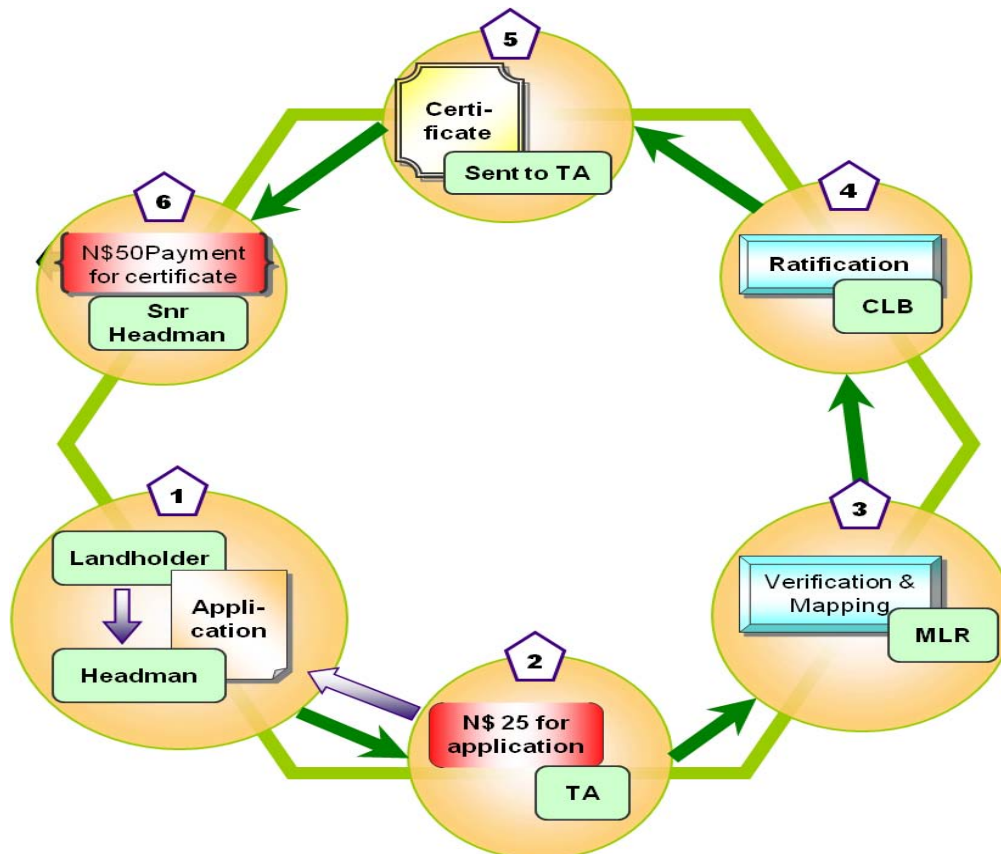


Figure 4: Process of customary land registration. Source powerpoint presentation by Doufi (CLSP)

The figure 4 shows the processes and steps involved in communal land registration by the responsible land related agencies. The process starts from step 1 to step 6 as in figure 4. The green arrows show the right procedure and the violet indicates that there is a correction which must be resolved in the previous step.

3.7.3. Registration of new customary land rights

The application of a new customary land right must be accompanied by prescribed documents as listed below:-

- A letter of consent from the chief of the TA; and
- A copy of the applicant's ID (ID card, passport or birth certificate)

The procedures for the recognition of existing customary land rights are almost the same as those for a new customary land right, except that the applicant and the TA will have to hand in any information proving the validity of the claim on the land. The CLB might decide to change the claim so that it will be in line with the current laws. All these applications are to be submitted before 1st March 2010.

3.7.4. Registration of leasehold

Applicants for leasehold rights must hand their application forms to the secretary of the CLB in their region. The application fees for the right of leasehold are paid into the Communal Land Reform Fund (CLRF).

The procedure for a leasehold right is slightly different from that of customary land rights. Leasehold is more likely to have a significant impact on the land than a customary land right because the land is to be leased out for commercial use. Furthermore, an application for a leasehold right often comes from outside the community, whereas applications for customary land rights more often originate from within the

Community. Therefore, extra precautions are put in place to protect the local communities.(Meijs & Kapitango, 2010).When the CLB receives the application, the following steps are taken to ensure the registration of leasehold right:-

- Together with the CLB, TA representatives, the applicant and supporting staff of the MLR go to the field to verify the present situation and to be informed of the applicant's intentions. The CLB then preliminary maps and demarcates the land parcel.
- In the MLR office, the area of the parcel is calculated and their staffs check if the area is not already allocated to someone else. The MLR staff also checks if the application complies with all other laws and regulations such as the Environmental Management Act.
- On the basis of the data collected during the field verification and the office work, the CLB then, in an official meeting, either approves, approves with amendment or rejects the application, or refers it to the Minister (MLR).
- Applications for leasehold rights over parcels that are larger than 50 Ha are referred to the Minister (MLR) for his written approval. The applicant has to submit a motivation to accompany the application sent to the Minister. Leasehold rights for an initial period longer than 10 years are also referred to the Minister.
- Before the final approval of leasehold right, the CLB displays the application on a notice board at its offices, or any other public offices for a period of at least seven days. This is done so that people can register any objections they may have regarding the application. The CLB may hold an official enquiry if a community member objects to the advertised application.
- The applicant is then responsible for having the leasehold surveyed by a surveyor, to comply with the CLRA and the Land Survey Act.
- The CLB registers the approved and ratified rights and issues a certificate of leasehold. The CLB and the applicant then create and register a deed of leasehold in the Deeds Registry.
- The leaseholder will have to pay a registration fee and an annual fee based on an MLR valuation. (Meijs & Kapitango, 2010; Republic of Namibia, 2002).

3.8. Initiatives to promote communal land management and registration

Since 2003 the MLR together with the CLB's and TA's, have been given the task to register land rights in communal areas. By the beginning of 2008, it was concluded that although progress had been made, there was need to hasten the land registration program. At the end of 2007, less than 1% of the estimated total numbers of land rights were registered. In 2008 a further 5% of the estimated number of land rights were registered (Meijs, et al., 2009). With the information gained from this improved performance, a roadmap has been developed and plans being prepared to register all existing communal land rights by 2012 (ibid). However from the information obtained, there was a need for putting in measures and steps to increase the rate of registration if the goal of registering all communal areas by 2012 is to be achieved. The CLRA states reasons why all citizens using communal land should register their land rights. The reasons are:-

- Land rights give security to land right holders, their spouses and their immediate dependants (wife/husband and children)
- This security is underpinned by the CLRA
- Land right holders have documented proof of their rights and know the calculated area of their parcel.
- Others cannot in the future claim the land and take it away from the person in whose name it is legally registered.
- It is the law. It is illegal to use land that is not registered. Unregistered land is available for anyone if the application procedures are followed.

•The holder of the land right has a right for compensation if the parcel or part of it is claimed by Government Republic of Namibia (GRN) bodies (for example, for building a new road or for town expansion).(Meijs & Kapitango, 2010; Republic of Namibia, 2002).

3.8.1. Communal land support project (CLSP)

In order to fast track the registration process of land rights, the MLR together with development partners (European Commission (EC), and the German Government through the German Development Service (DED), German Technical Cooperation (GTZ) and German Development Bank (KfW)) established the Communal Land Support Project (CLSP). The purpose of the CLSP is to assist the MLR to speed up the registration of customary land rights in the 6 Northern Regions in line with the Communal land Reform (Meijs, et al., 2009).

The overall objective of the project is to support the development of the land administration systems to increase security of tenure in the northern communal areas. The CLSP has to investigate and identify all technical support and training that traditional leaders need in order for them to implement a systematic process that identifies the facts of land holding and fencing. Which are clearly outlined in the CLRA as to application for the land verification and registration to be done before March, 2012.

In pursuance of these objectives the 4-year CLS project is subdivided into 5 core project components, namely:-

Assessment and identification

Policy review, Procedural Development and capacity building

Communication

Support to verification and

Support to registration and investigation.

The CLS objectives determine two parallel project streams, one project stream for land identification, verification and registration (technical) and the other for information, training and capacity building (education).

The CLS have operationalized all these objectives through institutions such as CLB's and TA's in the 6 northern regions of Northern Namibia.

4. DATA COLLECTION.

4.1. Overview

Multiple methods of approach were employed in this study to acquire both quantitative and qualitative data. The majority of the three types of land in Namibia is communal land (about 43%) and they are situated mostly in the northern part of the country. In managing the communal land, land related agencies like the MLR, CLB, and TA are involved. This study looked at the interest of women on access to land and land rights by the TA. In Namibia, regarding allocation of land, the first point of contact is the TA and specifically headman/headwoman, who are members of the TA. The headman is the lowest rank amongst the TA. Though women with access to communal land were the main focus, it was necessary to include staff of MLR, the members of CLB and TA members to get a better understanding of the situation. Talking to women will result in a reliable interpretation of the information gathered from managers of communal land and citizens in the communal areas. In order to reach a convincing conclusion, responses of questionnaire from women with access to communal land will not be enough, but rather additional qualitative and quantitative data from the land related agencies were also considered.

Initially staffs of the CLS were not part of the interviewees of the land related agencies, but during my fieldwork and observation, it became evident that their contribution and views on the topic under investigation was very important because of their duties in relation to the registration of communal land in the northern region of the country and particularly in Oshana region, the study area. The interview I had with their staff contributed to the data collected for this research.

4.1.1. Ethical consideration when conducting research (gender)

Research allows governments and other relevant organizations in authority or decision-making positions to get reliable information on existing situations and conditions and the actual need in a society. High quality research ought to be conducted or undertaken with integrity that meets high ethical standards. Research ethics takes into consideration how the researcher behaves and treats the respondents as he/she conducts the research (Connolly, 2003). To do the best of his/her ability, the researcher should avoid exposing the respondents and interviewees from external risks and unfair treatment to them after making the information available to the researcher.

There should be no unintended harm on the well being of isolated or socially identifiable communities which could affect their social economic, legal or political life (Cambon-Thomsen, 2004). The researcher relied on the four disciplines of research ethics in the data collection, namely:-

- Respect for persons (maintain confidentiality)
- Justice (do not use compromised population)
- Integrity (being honest with the participant and drawing conclusions that are legitimate and evident)
- Beneficence (the research should not harm the participant physically, emotionally or psychological) (Connolly, 2003).

To commence with any questionnaire, interview or participate in any meeting the researcher informed the population or respondents that the study is purely for research purposes and explained that what type of data were required. Their responses will help the research, hence they must provide candid and genuine information. During the interviews, questions which the interviewees were not comfortable in answering were ignored by the researcher after a mutual agreement.

4.2. Criteria for selection of study area

“Giving women land access equal to those of men remains a challenge in Namibia and in all four north-central regions of the country, namely Omusati, Oshana, Ohangwena and Oshikoto, despite gender equality being addressed in various policies and laws of the country since it attained independence in 1990” (Werner, 2008). The right of women to own land, and more specifically to inherit land in their own right, is an increasingly topical issue (ibid).

To investigate the interest of women on access to land and land rights by TA (headman/woman) was eminent because the TA's are practically in charge of land allocation. In selecting Oshana Region was because there was registration of communal land ongoing in the Oshana region and before the women could register their land they had to get access through the TA, where the allocation is made by the headman/woman. The government had realized the slow pace of the registration and had hired the services of a consulting firm (CLS) to assist in improving and facilitating the registration. This CLS from my earlier investigation will be working in Oshana Region during the period I will conduct my field work, so I saw it prudent to select Oshana Region as my study area.

With both projects ongoing in that area, I was convinced I will collect qualitative as well as quantitative data to analyze for a reasonable conclusion in my research.

4.3. Map of study area

The study area was Oshana Region in Namibia. Namibia is divided into thirteen Administrative Regions. The communal areas are located mostly in the northern part of the country. The area shaded yellow in the map below is the Oshana Region and that was my study area.

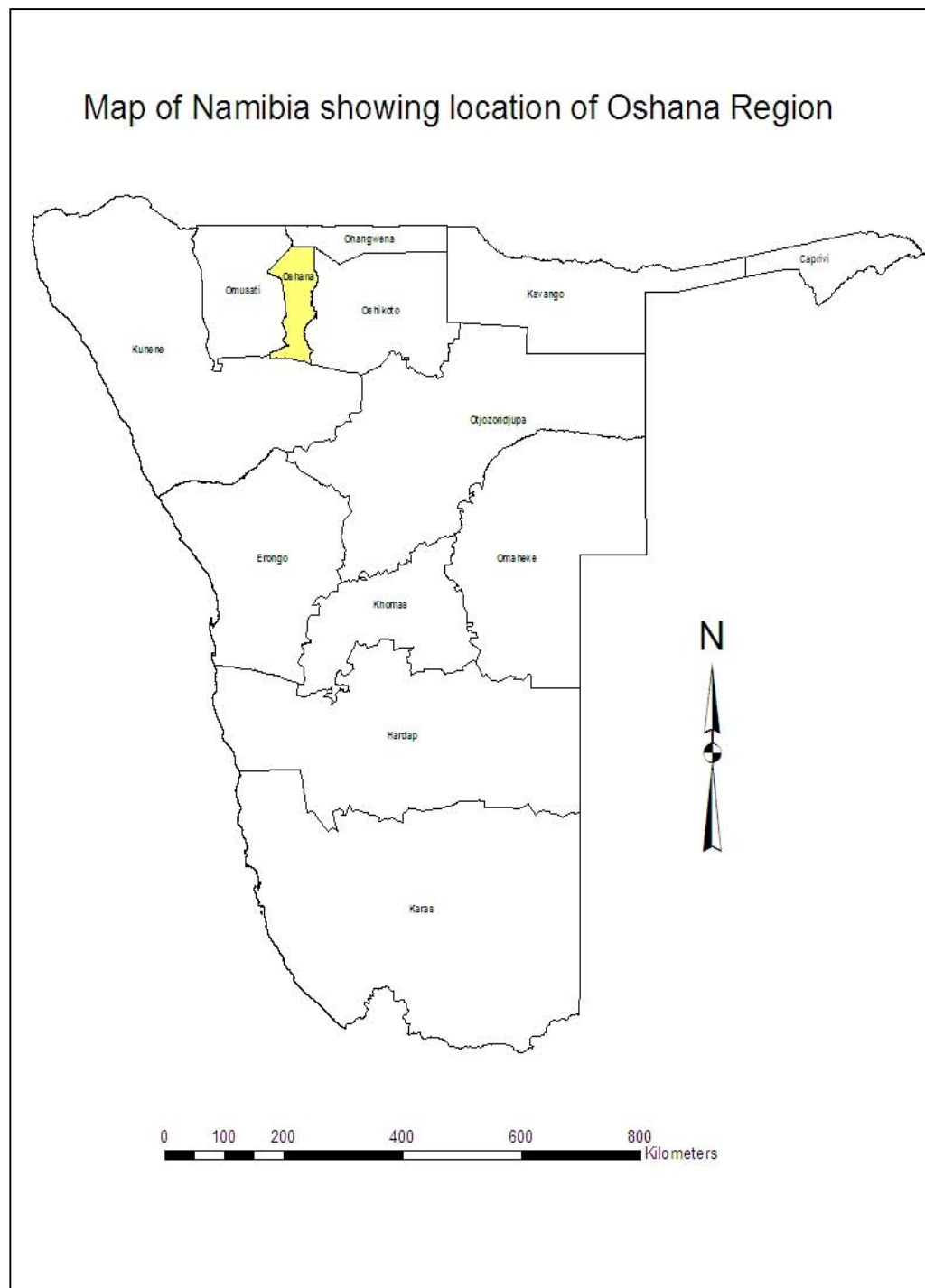


Figure 5: Map of Namibia showing location of Oshana Region. Source www.diva-gis.org

4.4. Interviews

4.4.1. Introduction

This part of the primary data collection employed a responsive interviewing system. Apart from the questionnaires, this approach allowed the interviewees to express their insights and in-depth knowledge about the interest of women on access to land and land rights by the TA. My initial target for the interviews were staff of MLR, members of CLB, members of Uukwambi TA and women with access to communal land in the Oshana Region, but time constraints and the language barrier did not allow me to

conduct all these interviews, however I was able to interview six people. All the interviews were recorded with a voice recorder to enable me do my analysis later. They were done with the interviewees' permission. The gender of the interviewee was not my priority but rather quality data from reliable source. The interviewee must be abreast with the management of communal land in general and how the TA made the allocation of land to especially women. Out of the six people, I tried and balanced the interviewees to cover all the land related agencies. Two of the interviewees were women and four were men. They consisted of 2 from MLR, 2 from CLS, 1 from CLB and the chief of the Uukwambi Traditional Authority. The interviews with the staff of MLR were in Windhoek, the capital city and the rest in the Oshana region of Namibia. These were employed for collecting qualitative data for analysis.

4.4.2. Interview with 2 staff members of MLR

The first interview the researcher conducted was with a senior officer (lady) on the 23rd September, 2010 and the next with another senior officer (gentleman) on the 24th September, 2010 at the premises of the MLR office in Windhoek. The researcher asked questions based on previous answers from the interviewees, meaning the interviews were semi-structured and flexible.

The first interviewee mentioned that there were some state lands and commercial lands in the area proclaimed as communal land, however the elderly men and TA (headman/woman) in those areas knew the general boundaries of their lands, though not documented there is a mutual agreement on the said boundaries. Their main concern was how the citizens having access to communal land will realize the need of registering their land for their certificates. This was a problem they have been dealing with for some time now.

The interviewee described why she thinks instances where one gets a bigger portion of land than others will not be an easy task to tackle. The allocation of land is done by the headman/woman for a particular area, before the TA is informed when one applies for the land through the TA. Though the CLRA prohibits the selling of communal land, but practically the headmen collect moneys from the citizens before the allocation is made. They (headmen) justify their actions with the explanation that before they were chosen as headman/woman, one has to pay bribe to the TA members.

On the other hand, she explained that citizens (mostly women) formerly were not interested in the communal land until they were married and had access to land through their husband's. Nowadays a few of the women have taken the initiatives to get allocation from the TA, though they wish the numbers could increase. Those with access to the land do not see the need of registering, because they would not use the certificate as collateral. The interviewee was convinced that men and women have equal access to communal land and stated categorically that the CLRA made that provision, I asked what she thinks about the practicality of that provision and the answer given, that is what the CLRA states.

Double allocations occur and this can be attributed to several circumstances which I will not discuss now. Mostly women think of communal land only during marriage and prefer to stay with the parents when they are single. One of the headaches of a governmental land agency is an inheritance package for the women. At the death of their husband's, women go through difficult times to inherit the late husband's land, even if she will succeed.

The other interviewee was convinced that though the CLRA states clearly that men and women should have equal access to land and land rights, but he thinks women do not have equal access as their male counterparts practically. He gave an example, when a woman applies for a large track of land for agricultural purposes, she might be granted the land depending on present circumstances, what about if she wants to apply for grazing, it is not possible, why?.

Officially men and women have equal access to land, but practically it is not the case, those were his exact words. Though the number of women with access to communal land has increased since the CLRA was passed and subsequently implemented, but for equal access the interviewee disagreed. The allocation of land is solely done by the headman/woman upon request before the TA is informed about the allocation, but because the headman/woman takes moneys before the allocation is made, which the CLRA is against. Consequently, the women who are having less cash as compared to men are at a disadvantage.

The headman/woman argued that they paid moneys to members of the TA before being appointed and consequently had to accrue their monies back during the allocation of the land to the citizens. Regarding inheritance, the major concern was how the headmen ask women to pay moneys before their late husband's or father's land is reallocated, because the land is reverted to the TA after the death of a man, before it can be reallocated to the widow. There were instances where a woman had to channel her grievances through higher quarters, like the CLB or MLR depending on her satisfaction and it yielded no results. Due to the frustration she might go through in an attempt to have access to the late husband's land they normally let it go and save themselves some time and energy. Generally, the number of women in the database of registered communal lands has increased.

4.4.3. Interview with staff of CLS

The interview was conducted at the premises of the CLS office in Oshakati on the 27th September, 2010. To start the interview, I wanted to know why the CLS in the first place, because I was aware they were initially not part of the land related agencies mandated to manage the communal land in Namibia. The civic education advisor of the CLS, made it evident that, the CLRA was only admitted into the management of the communal land only on the 13th March, 2010 and will be working till 13th March, 2014, when their contract will expire. The CLRA was implemented with the MLR, CLB and the TA as the targeted groups, to help the sustainability of the act and smooth registration of the communal lands in northern part of the country. The headmen/women were not considered in the preparation of the CLRA.

The government came to realization after some few years of its implementation that the process was moving too slow compared to their expectations and in consultation with the land agencies involved, decided to seek the services of another body to help educate the citizens on the need to register their communal land. The agency will also be responsible to explain the CLRA thoroughly to the citizens to know their land rights and specifically the women of why it was important to take active part in allocation and registering of their land. During the training of and meetings with respective MLR, CLB and TA, we confirmed the plight of the agencies. If you care to know some members of the TA and headman/women were not even aware of their roles and responsibilities as per the CLRA and TAA. At present one cannot really say why this problem arose, whether it was due to lack of time, lack of manpower or political interference, but we as CLS are determined to achieve our objectives.

Those with less understanding of their roles and duties are rather in the majority, because the system is just like a pyramid, more people at the bottom and few on top, like directors in the ministries and other senior staff are a few as compared to the TA members and people in the respective communities who access the communal lands. There are instances where the CLRA is misinterpreted depending on who and where you found yourself. We have realized that the CLRA was initiated with upper part of the pyramid in mind, so we are now trying to educate the majority of the public what the CLRA stand for and how to make its implementation effective.



Figure 6: Interviewing Doufi, the civic education officer of CLSP in Oshana Region

Another goal is to educate and advice the public on the need to register their land after they have been given allocation. The intention of the government was to help all citizens in the communal areas to have access to land that was why the communal land is free and cannot be bought or sold, which will in turn encourage the public to patronize the registration.

On the issue of women access to land and land rights the interviewee made a very interesting revelation. The CLRA and the TAA, both mentions the equality of access to communal land, but the two acts are not harmonized. How then do you expect equal access of land to men and women if there is no harmonization between the two acts? In her opinion the TAA must be revisited to check that lapse for a better management of communal land.

Previously there was a token from the government for the headmen/women, but the implementation of the CLRA which is clear that communal land should not be bought or sold, the government stopped the payment of the token, and she thinks this has contributed to the headmen/women collecting monies from the public before allocation. Generally the number of headwomen has increased as compared to this time that the CLRA is implemented. In this project, one of our objectives is to assist women to get access to land and land rights, because now their chances of getting land rights are minimal though the CLRA states otherwise.

We also think the increase number of headwomen will facilitate our objectives. The five categories of women whose land rights are of great concern for this project are widows, single women, separated, divorced and vulnerable children because, few months into this project we have realized they are the worst affected in terms of access to land and land rights. To become a member of the TA is solely by inheritance, so it will not be possible to flash out the bad nuts from the system, with the intention of replacing the headman/woman if he/she is not doing the right thing.

4.4.4. Interview with 2 members of CLB

On the 30th September, 2010 I had an interview with 2 members of the CLB after they had finished a meeting held in the premises of the MLR office in Oshakati. It was a flexible semi-structured interview as mentioned earlier. They made me aware that what the other says goes for both of them. On the issue of men and women having equal access to land, they said the CLRA states clearly that man and women

should have equal access to land, so I should not have ask that question in the first place, because the CLRA document was available to me. I pursued them with the explanation that, I am a Ghanaian and I am aware how some of these written documents are not practically enforced in our respective countries. They obliged and mention that they were aware of such difficulty but the CLB in consultation with the CLS are working to make this implementation a success.

Whether women were part of decision making on land related issues, the interviewees said the formation of the CLB makes room for women to be represented, however with their experience as CLB members for the past eight years, they have realized that most of the women on the board do not participate in debates at meetings, no arguments on any decision one makes, in fact they just sit at the meetings to make the numbers and collect their allowances. They further explained, this was due to the fact that they are not educated and cannot read and write English and these meetings are held in English. Why then are they part of the CLB? The members of the CLB are selected from different land agencies including the TA, and some of them become members because of their status in the TA.

The number of women serving as headwomen as well as those applying for allocation of land from the TA has increased in this region in particular as compared to when there was no CLRA, but still they felt there was more room for improvement. The researcher wanted to know what they thought had contributed to the increase. The response was the CLB has intensified its operations and the introduction of the CLS has also helped immensely. The government is determined to make the implementation of the CLRA and registration of communal land attractive to the citizenry.

4.4.5. Interview with chief of Uukwambi Traditional Authority

My last interview was with the chief of Uukwambi traditional authority on the 6th October, 2010. The chief could not speak English so I used the services of an interpreter for the interview. Initially I asked if women were members of the TA and how the members of the TA were selected because I saw it as an enviable position in the community. They are not only responsible for allocation of land and registration, but also settles land dispute, marriage problems, theft cases, assault on a neighbor and many other cases in the community. Some of the doubts I had were clarified after the interview with the chief.



Figure 7: Researcher interviewing the chief of Uukwambi Traditional Authority

To answer my question, he said women are members of the TA and the selection was solely by inheritance. The (royal) families whose descendants are selected to become members of the TA were already established and he became the chief because the grandfather was a chief and was inherited by the father before it came to his turn after they have passed away. On the death of a member, another person

from any of the families is selected as a replacement. If the one who replaced the deceased was a male, on the death of another member, he/she will be replaced by a female, to keep the gender balance in the TA. He stated that the Uukwambi TA is made up of 14 members recognized by the government, 6 senior councilors, 6 junior councilors, a secretary and himself, the chief. However, he has 5 more members who were not recognized by the government as well as some of the original 14 members, but he sends them on different errands to help the smooth running of the TA and the community.

To find out from the chief, if the women in the area were satisfied with the way the TA manage land allocation, but the response was “you can find out from some of the women afterwards, they will be in a better position to answer that question”. Rather he informed me about the headmen being in charge of the land allocation, though the TA has to approve it, one has to first, get the allocation with the help from the headman/woman, before the TA can assist in the approval. The headman/woman is very important and powerful when it comes to allocation of land, they are on the ground and control everything to their advantage.

He showed me the forms that the headman/woman completes after given the allocation and it was in their local dialect, so that the headman/woman could understand. Also was the form the chief has to sign as recognition of the allocation to the TA and another he has to fill and send to the CLB for further recognition and registration of existing customary rights or new customary rights. Copies of these forms can be found in the appendix. The Uukwambi TA performs its duties as per the TAA and the TAA has been translated into several local dialects for a better understanding by the members and the citizens in the communal areas. However, he was clear that only the English version was considered legal.

Though women are members of the TA, do not participate effectively in their meetings. They are just present and do not contribute to debates at meetings. He has been a chief for the last fifteen years and this was one particular observation he has made. Consequently, he thinks because the women were satisfied and comfortable with the way allocation of land is done by headmen/women and how all the other responsibilities of the TA were tackled. The chief was also not sure of the cause of this behavior from the women. Whether they have been asked by their husband's not to contribute during meetings or because of the previous practices which did not support women equal access to land before the passing of the CLRA in 2002 and its implementation in 2003.

In concluding, he said the access to land and land rights by women has improved with the implementation of the TAA and CLRA by the government, but feels there should be more education and empowerment of the women to increase their participation in decision-making on land related issues and registration of their communal land after allocation.

4.4.6. Observation at meeting and offices

Apart from data collected during the interviews, the researcher observed staff members of the respective land agencies around their offices in both Windhoek and Oshakati. In some cases, I asked a question or two to any member I met for clarity if the need arose. For example I asked a staff what were the problems they were facing in the management of communal land. The response was, we in the ministries have no problem, rather the citizens in the communal areas do not want to cooperate, because some communities feel the government wants to take over their land and others think the registration process is too cumbersome and takes too long to complete.

The office set up was very motivating for producing results. Staffs were seen carrying files (papers) around, though there were computers in all the offices I visited and when I enquired, one staff told me the applications from the TA through the CLB were always on papers because the population in the communal areas could not fill the forms electronically.

Comparatively, the researcher realized that the number of staff responsible for managing communal land was not enough as compared to work load, though this was a personal opinion, because everybody was too busy anytime I visited the office premises and still the target set to complete the registration of the communal land had to be extended on two occasions.

The researcher was privileged to sit in a meeting with the regional council members in Omusati on the 29th September, 2010. Madam Doufi, the civic education officer of CLS invited me for the meeting after the interview with her earlier on 27th September, 2010. The regional council is made up of a representative each from the constituencies in the region. The council members are responsible for all developments of governmental policies in the region, including land related issues, so this particular meeting was on communal land registration in the region, which is the mandate of the CLS.

The staff from the CLS introduced me to council members and why she wanted me to sit in the meeting and they all accepted and I was allowed to record the proceedings with my voice recorder. Madam Doufi then explained to them why they should patronize the communal land registration and encourage women in their respective constituencies to go for allocation from the headmen/women." Please council members leadership by example, you should first register your communal land and then when you advice the population in your various constituencies it will go down well with them", those were her exact words.



Figure 8: Doufi, the researcher and a section of the council members at the meeting in Omusati

The council members argued that why must they waste their time and energy to register their communal lands, if they could not use the certificate as collateral for loans to establish profit making businesses to improve their living conditions. They said this was not coming from them as council members, but from the rest of the population they represent. These are the questions we get from our people anytime we meet to deliberate on communal land allocation and registration.

The civic education officer replied there were other benefits in the registration of communal land after allocation. The benefits were to prevent

- Illegal fencing (fencing extension without proper authorization by village head)
- Prohibit discrimination of citizens on the basis of gender, sex or origin
- Any form of payment for land /bribe

In some cases citizens fence a commonage which belongs to the whole community, for example where the communities fetch water for domestic use. So they should not only concern themselves with idea of contracting loans from the banks for businesses. If the communal land registration is patronized by the council members, she was sure it will serve as a good example for the rest of the citizens to follow. Leadership by example is a very powerful tool when one has to convince others to take part in a particular process, as this registration of communal land.

Council members even asked if the CLRA could not be revised to make the registration of the communal land attractive. Time could not allow the consultant for further debate because she had to attend to another call and the duration set for the meeting had elapsed. During all this period the researcher paid attention to the body language of the council members, to really understand what they implied.



Figure 9: A section of a fenced property in Oshana area

4.5. Questionnaires

4.5.1. Introduction

As part of data collection from a primary source, I used questionnaires comprising of closed ended and open ended questions. I prepared separate questionnaires for (MLR and CLB), TA members and women with access to communal land in the study area, though some particular questions were the same. It was necessary to have separate questionnaires because, the respective land related agencies play different roles to assist the management of communal land and I wanted both qualitative and quantitative data.

In total I had 49 responses and the details are shown in the table 2 below.

Women with access to communal land in Oshana Region	21
Members of the Uukwambi Traditional Authority	12
Staff of MLR and members of CLB	16
Total	49

Table 2: Number of responses from respective target groups

4.5.2. Women with access to communal land

The women with access to communal land in Oshakati district were my target. An arrangement was made with the Uukwambi Traditional Authority to invite them for the meeting scheduled for 6th October, 2010, in order to have them as a group and gather the necessary data for the research.

The problem here was the language, because none of the women could speak or read English language. I therefore used the services of my interpreter and two of the members of the TA who could read and write slightly. With their assistance and that of my interpreter when I read a question, it was then explained in their local dialect. I had to go around making sure that particular question was answered by all the respondents before I moved to the next question. This procedure was used till all the questions were answered.

This was around 7.00 pm, after the meeting, but they were determined to assist to give the information because my interpreter had explained earlier to them the purpose of the research. We mentioned to them the information gathered can help to improve the situation if they think they were not satisfied with the present conditions.

However, it was made clear to them to give candid and sincere answers, because the study was for research purposes, so it was prudent to get truth, not to settle for convenience. The questions were simple and the number was also limited and they took some few minutes to complete them and assured me the answers were the prevailing conditions through my interpreter.



Figure 10: A section of TA members and women with access to communal land at the Uukwambi Traditional Authority meeting with the community (after the meeting)

4.5.3. Staff of MLR and members of CLB

The same sets of questionnaires were used for the MLR and CLB members, because of their respective roles they play in the management of the communal land and their interrelated responsibilities. Some staff of the MLR can be members of the CLB because of how the board is formed. The entire questionnaire for the respondents contained 10 questions.

There were 16 responses from the agencies. The respondents filled the questionnaires without any assistance because they were simple and straight to the issues concerned. Only two people asked for clarity on one or two questions. The questionnaires included both closed ended and the open ended as questions. Four of the respondents were from the MLR office in Windhoek the capital city of Namibia and the other twelve from the Oshakati district office and the CLB members in Oshakati. The CLB held a meeting in the premises of the Oshakati district office of MLR on 30th September, 2010 and I was privilege to be around and got some of the members to fill the questionnaires. I also interacted with some of the CLB members, I will not call it an interview because it was very brief and could not be recorded. However a few of them answered some of the questions I asked. They assured me they have answered the genuinely because they were aware it was solely for academic purposes. This was not the first time a researcher has contacted them for information and they knew how such research will help them (CLB) in particular to improve on their communal land management and the country as a whole in future.

4.5.4. Members of TA

The Uukwambi Traditional Authority is made up 16 members who are recognized by the government and 5 extra not recognized, but being used by the chief for respective errands to assist the community. I had access to 12 of the members on 6th October, 2010, the rest were absent for the meeting.

I used the same procedure I had used earlier for the women with access to communal land to assist the members to answer all the 17 closed ended and open ended questions in the questionnaire

Similarly, the questions numbered up to 16, so they were not reluctant to fill them, they needed some few minutes to complete them. I mentioned to them, the responses will be used against them, so they ought to be sincere and write the prevailing conditions.

4.6. Data management

The primary quantitative data collected from the respondents in the questionnaire were entered into SSPS software (closed ended questions). This was used in statistical analysis, though the respondents were 49, they were people involved in the management of communal land, hence the qualitative aspect was reliable for the analysis. Secondary data collected were reports, Acts and Governments papers by various recognized agencies of Republic of Namibia which were mainly used for writing chapter three of this research.

4.7. Data coding

The open ended questions amongst the questionnaires were managed using the clustering and coding method. The qualitative and quantitative data were encoded manually using the thematic approach. The open ended questions were four each amongst the respective questionnaires for (MLR and CLB), TA and women with access to communal land. The different themes were identified from the research questions and encoded. Answers from the respondents which were similar from my perspective were grouped. The encoding were done along the lines of aspirations for women access to land and its control, educational levels and management of communal land by the respective land related agencies.

4.8. Data analysis

The interviews conducted by the researcher were flexible and semi-structured, so the preferred method for analysis was the discourse method. This was necessitated by the various responses from different land related agencies involved in the management of the communal land in Oshakati, Namibia. The answers from the interviewees were grouped into categories to enable qualitative measurements, because some questions were common to some of the interviewees and in order to compare the respective answers. The researcher used this method.

This was guided by the research objectives and questions for the study. Apart from the same or common questions, interviewees answered questions per their duties or responsibilities in the management of the communal land because the researcher believed if interviewee was more involved in a particular duty it was reasonable to ask questions related to that for qualitative information.

For the overall results, comparative analysis was done to investigate whether the interest of women on access to land and land rights were considered by the TA (headman/woman) in Oshakati, Namibia and answer the rest of the research questions for the study.

4.9. Data triangulation and verification (validation)

In research of this nature (case study), data collected needs to be triangulated and verified to ensure reliability of the information gathered which leads to your conclusion. As I was collecting my data, verification was done on daily basis. To accomplish this, the researcher used range and presence checks by reading through the responses from the questionnaire and the recorded interviews and related them to what was observed in the field from respondents and the community. This avoided the problem of forgetting as the questionnaires piled up.

Triangulation was carried out by combining all the techniques known to me, such as questionnaire feedback from MLR, CLB, TA and women with access to communal land. The interviews conducted as well as observations at meetings were used to triangulate all data collected for a logical interpretation. The above procedure assisted the researcher to verify all the data collected, and the conclusion was reasonable.

4.10. Limitations and challenges of study

There were some challenges and limitations during the fieldwork. It was not possible to interview some key personalities I requested, with the excuse from their secretary they were always busy with meetings, and seminar and what have you. I felt I would have had access to the personalities in question if the fieldwork was conducted in another month earlier than September, because the country was conducting local government elections that September, 2010. At the premises of the MLR office in Oshakati, I was not allowed to be part of the CLB meeting for the Oshana Region in Namibia because I was not a Namibian. Issues to be discussed in the meeting were delicate and were not proper for a foreigner to be part of the meeting.

Some of the respondents on the other hand were a bit surprised to see a man investigating or conducting a research on gender. Their experience showed that such studies were always conducted by women and honestly this gave me extra morale to do my optimum to achieve my objectives of the study. This will then change the perception of most people who thought the same way. This was a challenge which kept me going throughout the entire study.

5. FINDINGS, ANALYSIS OF DATA AND DISCUSSION.

5.1. Findings from interviews and observation at meeting

As already mentioned in the previous chapter (4), the researcher conducted 5 separate interviews with 6 people in all. The interviewees had their separate reservations on the various questions posed, being either a similar question or otherwise. During the meeting of the regional councilors at Omusati with Doufi the CLSP (civic education officer), the researcher observed the councilors body language and their debate over the access to land to their communities and their impression about the communal land registration process.

5.1.1. Findings from interview with MLR staff members

Though people are aware that men and women must have equal access to land, the situation is practically different at the respective communal areas. The problem of women getting less access to land is caused mainly by the amount of money headmen/women in charge of the allocation take from the applicants before allocating the land for approval by the TA. Women are less employed and cannot afford the amount of money the headmen/women demand. In case a land owner passes away the particular land has to be reverted to the TA before it can be re-allocated to the successor or who inherits the deceased. The headmen demand cash from the successor before the re-allocation is done. Previously women depended mostly on marriage as a means of getting access to land, but the trend has change and now some of the women apply for land allocation from the headmen after the CLRA was passed and implemented.

5.1.2. Findings from interview with CLB staff members

Men and women must have equal access to land, but practically there are lapses in enforcing the Act. The CLB and CLSP are working together by intensifying their education to enforce the implementation of the CLRA. The composition of CLB is such that women will always be part of the board. However their presence and suggestions or contributions at CLB meetings are minimal. The number of women in any CLB depends on the number of TA's in that region, but at every region it is legal to have about half the members of the CLB members as women. The number of women serving as headwomen has increased and also women applying for communal land have increased after the implementation of the CLRA.

5.1.3. Findings from interview with CLS staff members

The MLR, CLB were aware that the implementation of the CLRA is facing challenges. Men and women having equal access to land needs attention and there is no harmonization between the CLRA and the TAA on the issue of land allocation to applicants. The CLRA and TAA stipulate slight differences in the allocation of communal land to the citizens in their respective communities. The CLRA does not recognize the headmen/women in the allocation of communal land whiles the TAA does. Some of the citizens do not really understand their rights and obligations as to the TAA and CLRA, what is expected of them as citizens, to co-operate with the Governmental land related agencies in the management and registration of communal areas.

As a project (CLSP) they are responsible for training and educating staff of MLR, CLB members and TA members as well as women in particular of the communal areas, why it is important to have access to communal land and why it should also be registered. Before the CLRA was passed headmen/women were taking tokens from the citizens before allocation of communal land, which assisted in their livelihoods. The implementation of the CLRA prevents the headmen/women from taking these monies, but still the practice is on-going, though it is illegal. One becomes a member of the TA through inheritance and there

are no disputes in their appointments. A member is replaced with another from the same family or clan in case of death.

5.1.4. Findings from interview with chief of Uukwambi Traditional Authority

TA members are not only responsible for communal land allocation, but have additional responsibilities like, settling land disputes, assisting in solving marriage problems, resolving theft cases and mediating over quarrels amongst neighbors. TA membership is solely by inheritance and that the grandfather was a chief as well as the father.

Women are part of the Uukwambi Traditional Authority in particular and all TA's as a whole. The TA has to maintain the number of women in the membership, so, on the death of a member the successor is appointed alternatively, that is if a man was appointed as a successor to a dead member now, the next time another member passes away the successor must be a woman, irrespective of the gender of the deceased. Women as members of TA do not contribute at meetings, during debates on land related issues, but the chief could not specify why that behavior from the women.

Headmen/women were not recognized and their views were not sought in the drafting of the CLRA, and it is having a negative effect on the allocation and registration of communal land. The headmen/women still demand cash from the applicants before allocating the communal land. The number of women applying for communal land allocation as well as those registering their communal land has increased compared to previous years.

5.1.5. Findings from meeting with regional council members

The Namibian Government in conjunction with the MLR assigned the CLSP to educate and train the citizens in communal areas and staff of the land related agencies, including the regional councilors why it was necessary for women in particular to apply for communal land allocation and the registration of their rights. The councilors did not see the reason for them and their people in the communal areas to register their land rights because the certificate received after the registration could not be used as collateral for bank loans. Their argument was there are no disputes on the communal land they occupy, why should one spend precious time and money to go through this cumbersome land right registration process and just keep the certificates in their respective homes.

The councilors argued that, they expect the CLSP to advise the Government to amend the CLRA so that the certificate could be used as collateral and all other benefits expected from the allocation and registration of communal areas will be achieved and more citizens will apply for communal land allocation and registration.

5.2. Statistics required from database of communal land registration applicants to support interviews.

Generally women access and interest in communal land has improved, as well as customary land registration. This can be confirmed by the database of the communal land registration which can be found in the annex. This database was made available to me by the head of National Communal Land Administration of Namibia (NCLAS). The database contains personal information of citizens who have started the registration process of their communal land from January 2008 up to August 2010. The information includes gender (sex) and date of start of registration. The researcher queried the database for number of men and women in the whole database and consequently for only women for the respective years 2008, 2009 and up to August 2010 and also for men for the same periods. The database and the respective queries used to extract the relevant information can be found in the annex. The numerical values obtained are shown below.

		Percentage (%)
Total number of applicants	5255	100
Total number of males	3119	59
Total number of females	2136	41

Table 3: Total number of females and males applicants for respective years

Total number of applicants	Female	Male	Total	Year	Percentage(%)Female	Percentage(%)Male
	289	380	669	2008	43	57
	898	1595	2493	2009	36	64
	533	695	1228	Up to August 2010	44	56

Table 4: Percentage of females and males applicants for respective years

Table 3 shows the total number of applicants from January 2008 to August 2010 and the total number of females and males for that period in the database. Table 4 shows the total number of females and males applicants for the respective years and their corresponding percentages for those particular years. Apart from 2009 where the percentage of female applicants was less than the overall percentage of female percentage in table 3, that of 2008 and 2010 (up to August) is more than that of the overall percentage in table 3. That of the males are in the reverse, that is for 2009 it increased and for 2008 and 2010 it decreased as compared to the total percentage number of males in the database.

Some of the dates were not recorded in the database, so the total number of the females in the table 4 above does not conform to the total number of females for the respective years, the same goes for the males. The query could not add those applicants because there were no dates attached as you can find in the annex.

The database available was up to August, 2010 that was during my fieldwork in Namibia. Dividing the total women applicants in 2010 by (8months) and multiplying by 12months, which is assuming an average number of women applicants in a month. This amount to 800

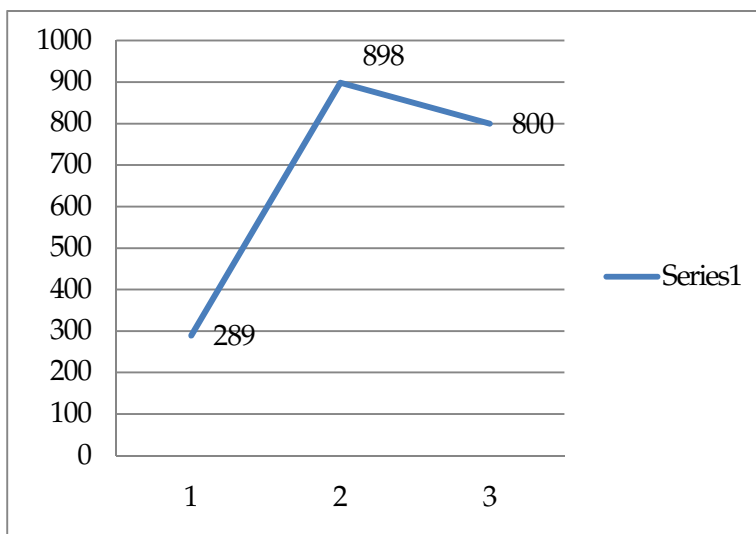


Figure 11: Linear chart of women applicants for communal land for 2008, 2009 and 2010

The registration of communal land by women has increased along the years. One may argue that the gradient from 2009 to 2010 is negative, but the researcher used an assumed average to project for the total women applicants by the end of the year 2010 and moreover the registration was previously scheduled to complete by the end of 2009, so the women were eager to register before the dead line. The period has been extended to end of 2012 and I suggest it has contributed to the number of women applicants in 2010. Consequently the researcher confirms that the number of women registering communal land has increased.

5.3. Findings from MLR staff and CLB members

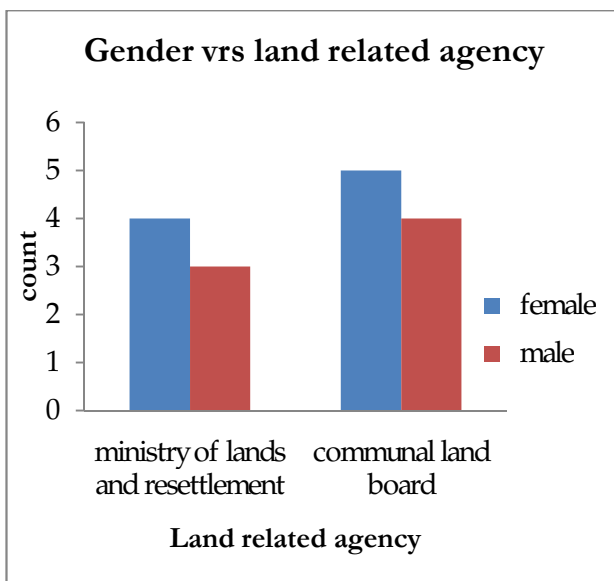


Figure 12: Bar chart of gender verses land related agency

Considering the two land related agencies at the "top of the pyramid", the number of females in both the MLR and CLB were more than males as shown in figure 12. Out of the 16 responses, only 4 were from the Windhoek office and I interviewed one male staff and one female staff. Furthermore, about the CLB at Oshakati, the researcher distributed the questions to the members after a meeting of the board in the district office of MLR. Again women were more than men. Consequently women are considered and recognized in the management of communal land and decision-making on land related issues in Oshana Region of Namibia.

5.3.1. Gender verses working years

Looking at the responses from the staff members, for the last one year more women have been employed into the land related agencies than men as shown in figure 13. For those members who had been active in the management of communal land for the past 10 years, were only women. The number of women and men were equal for the 1-5 years period, except for the 6-10 years duration that men were more than women. Women have not been sidelined in the management of communal land and decision-making on land related issues.

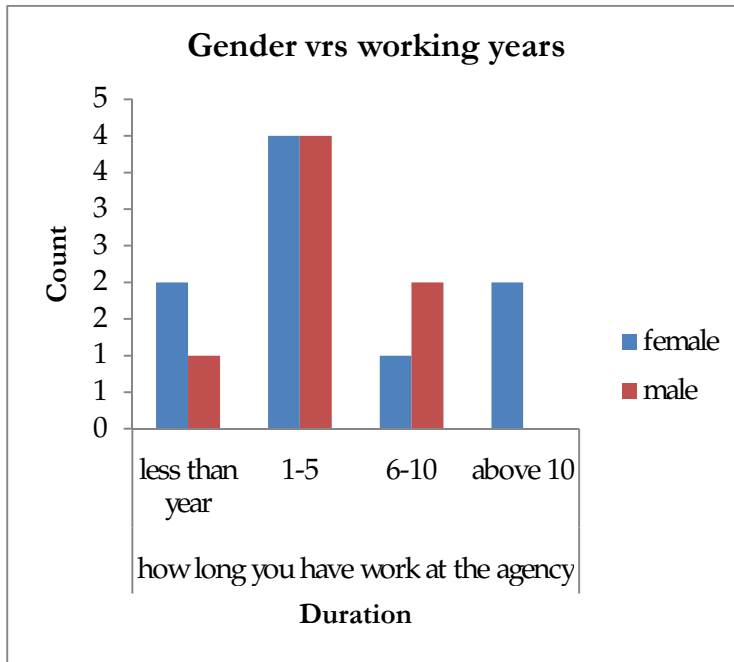


Figure 13: Bar chart of gender verses working years

5.3.2. Gender verses equal access to communal land

The staff of MLR and members of CLB were of the opinion that women and men should have equal access to land. The number of men who said 'yes' were more than twice those who said 'no' and the number of women who said 'yes' were also more than three times those who said 'no' as shown in figure 14. The number of women was more than men as shown previously. Whether this is experienced practically needs further investigation.

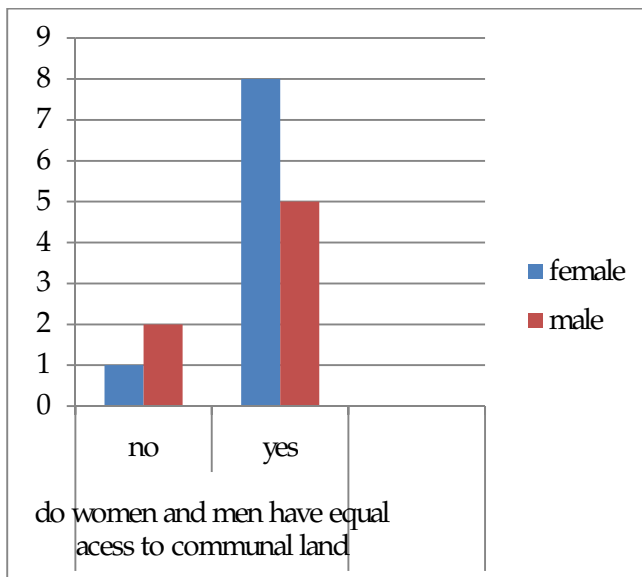


Figure 14: Bar chart of gender verses equal access to communal land

5.4. Findings from TA members

12 members out of the 16 members of the TA were present at the meeting during my fieldwork, they were made up of 4 women and 8 men. The number of men in this case were more than women. Women are part of the TA because they form 33% of the present membership, referring to the members at post and the men form 67%. Women's decisions and input are recognized at all stages of the management of

communal land. There are several TA's in each region depending on the size of the region and the population.

5.4.1. Women's complain about TA allocation of land

In finding out the level of satisfaction of women with the way TA's were handling the allocation of land in their area, the responses were 10 of the members of TA present said the women were satisfied and 2 members said women were not satisfied. One of the interviewees said the women were not complaining due to the traditional norms of the people.

5.4.2. Whether the number of men in TA influences women access to land

To find out whether the dominance of men in TA's had any influence on the accessibility of land to women, because if any decision was to be decided on ballots, the men in majority would have an edge over the women. Nevertheless, the percentage of men and women were exact as those whether women complained about the allocation of land by the TA's. Implying the views from members were the same for both instances. 10 members felt that the number of men in TA's had no influence on their access to land and 2 members felt otherwise.

5.5. Findings from women with access to communal land

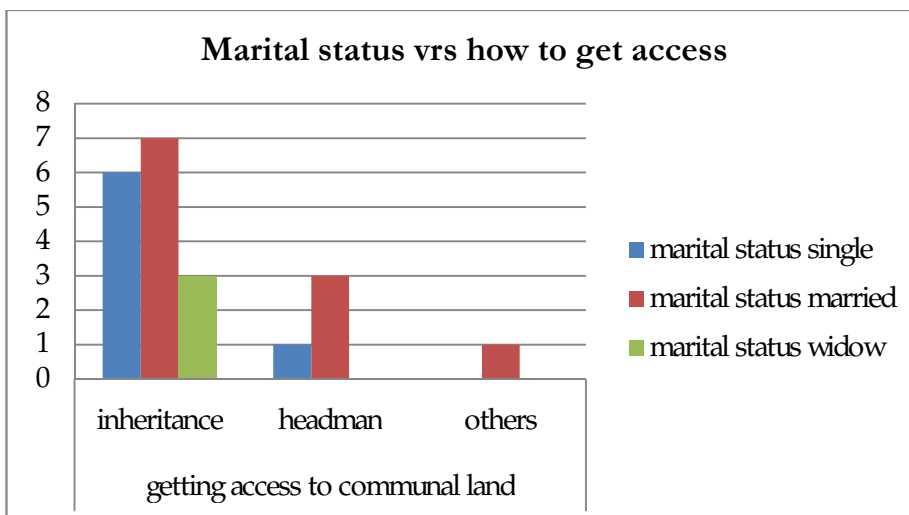


Figure 15: Bar chart of marital status verses how to get access to communal land

Women in Oshana Region are interested in communal land. Irrespective of their marital status, they need communal land for respective purposes. As shown in figure 15, married women were the highest in terms of the avenues used in accessing communal land. Can one attribute it to the influence of their husband's? The portion on the chart representing 'others' implies women who had to buy their communal land (small portion) from a friend or neighbor, or receive as a gift from a living relative or spouse for a particular purpose.

5.5.1. Age range verses satisfaction of allocation by TA

Majority of the women who were satisfied with the allocation of communal land by the TA (headman/woman) were older than 41 years. Most of the women who were not happy with TA's work were the younger ones. If the women were satisfied with the allocation by the headman/woman, why was access to land through inheritance more than access through the headman/woman as seen previously? The older women have confidence in the TA as shown in figure 16.

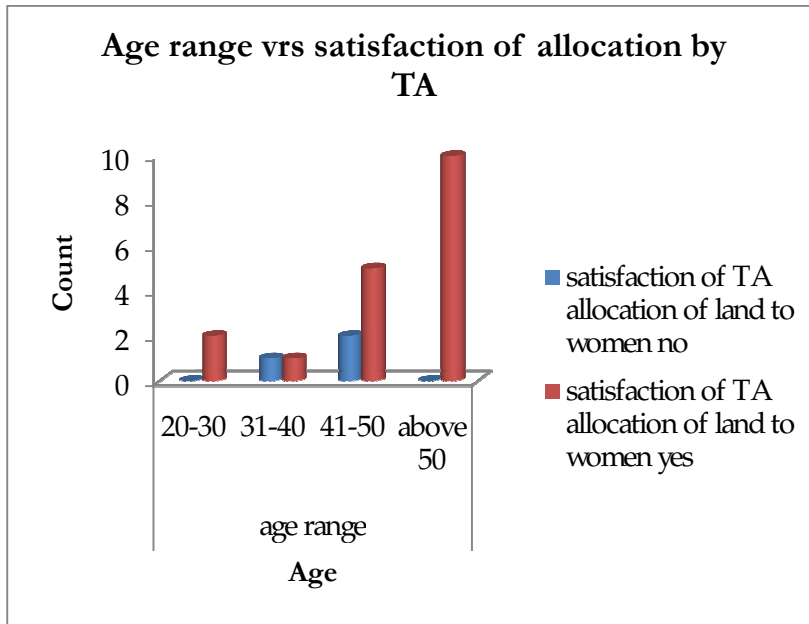


Figure 16: Bar chart of age range verses satisfaction of allocation of land by TA

5.5.2. Women occupation verses land use

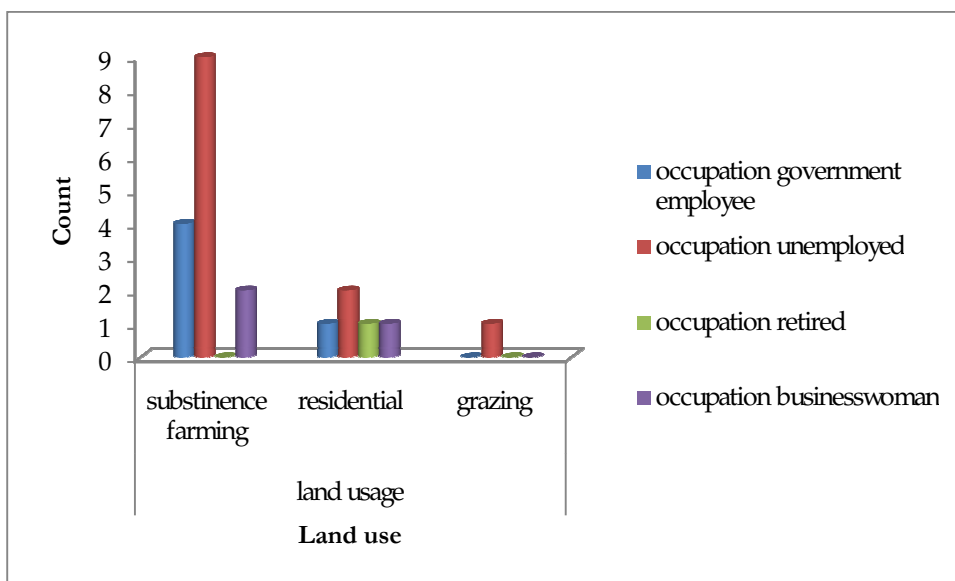


Figure 17: Bar chart of women occupation verses land use

Communal land serves as livelihood for majority of the women who are unemployed. Referring to the figure 17 irrespective of what the land is being used for. Unemployed women who have access to communal land use it for sustenance farming, as residential facility or for grazing. Women interested in grazing were the least and the highest number of the women used the land for sustenance farming. All classes of women (government employees, retired women, business women and unemployed women) are interested in communal land in Oshana Region. This suggests that women are interested in communal land in Oshana Region.

5.6. Discussions

In combining all the data collected from the respective sources the following discussions can be made

5.6.1. Position of women in higher level of management

Both primary and secondary data collected for this research suggest that women are involved in higher level of management in communal land management and registration system. Decisions made on land related issues by the higher managerial agencies like (MLR and CLB's) are superior over those of the lower managerial agencies like TA's (headmen/women) and citizens in the communal areas. Going by this, one may argue that decisions made on land related issues would be in the interest of all citizens without any gender inequality.

However this study, suggest otherwise. I realized that though the women have the numbers the men have their way. Women are not active in meetings when it is time to deliberate or debate on land related issues. Moreover most of them (women) who are members of the CLB's are not educated or well educated or knowledgeable on land related matters. The CLB meetings are held in English, so women who are not educated and do not understand English cannot make any impact at such meetings. The collaboration between the CLB and CLSP to intensify their operations by educating the women on the need to be active in decision-making on land related issues is a positive development. The women are also being advice on the need to apply for communal land and subsequently register their land for security.

Looking at the number of years women have been employed in the respective land agencies (MLR and CLB), most of them (women) have been working for more than 10years. This was even before the CLRA was passed in 2002, suggesting women being part of the communal land management in Namibia and for that matter Oshana Region has been 10years and more. The MLR and CLB in higher management of communal land are in the minority as compared to TA and headman/woman and the citizens in the communal areas who are in the majority.

5.6.2. Position of women in lower level of management

Women are involved in the lower management of communal land management and registration. TA's play a key role in the management of communal land. During my fieldwork, I observed that the women who were part of the meeting on that day did not participate in the debate on the land related issues discussed.

The CLRA was passed in 2002 and implemented in 2003, before this period most women were not interested in having access to communal land because of cultural norms and custom beliefs. Though the implementation CLRA has improved the situation with more women now applying for communal land, definitely it will take some years for women to change from that notion.

These beliefs also contributes to women being quite on such issues at meetings, because they are expected to respect the views of their husbands' which is part of the norms in most African countries.

5.6.3. Improvement of women application and registration of communal land

Previously women did not apply for communal land and registration but depended on their husbands' for access to communal land. The trend has changed and now some women do apply to headmen/women for communal land allocation especially after the implementation of the CLRA in 2003. Some women also get access through inheritance. Even married women now apply for allocation. The period when women only had access through their husbands has reduced.

On the death of a spouse (husband), their wives find it difficult in getting the deceased land being re-allocated to the woman. Even if the women decides to pursue at a higher authority like the CLB or MLR, the frustrations the woman has to go through by moving from one communal land management related office to another and the monies needed as transportation discourages her. If a wife has to go through such impediments for land which he CLRA stipulates must be re-allocated to her, then it will be better to forget about the said land and concentrate on other activities that can improve her living conditions.

Furthermore, the older women (41years above) are satisfied with the current communal land management. If the CLRA was passed in 2002, then the older women (41years above) where matured before the CLRA was passed. This group of women can compare the availability of communal land at their disposal before the CLRA was passed and the present availability and how the communal land is managed presently. In this respect the improvement they experienced now means a lot to them, but the younger women will expect more from the communal land management agencies.

5.6.4. TA's (headmen/women) role in communal land management

The headmen/women still collect monies from applicants before making allocations. This illegal money being collected is difficult to stop because previously (before CLRA), the headmen/women received monies from the government for their livelihood through the TA's. The implementation of the CLRA has prevented the government to continue paying them those monies, because the headmen/women were not considered in the drafting and preparation of the CLRA. The headmen/women pay bribes to the TA in order to be appointed, so how does one expect them to recoup those monies they pay as bribe and also monies for their livelihoods as they use to when they were receiving monies from the government.

TA members are important in their respective communities because apart from approval of communal lands being allocated by the headmen/women, they are also responsible for settling land disputes, assisting in marriage problems, resolving theft cases and mediating over quarrels amongst neighbors. In this regard most citizens will like to be members of the TA, which can lead to disputes in their selection, however, it is the reverse, and there are no disputes and quarrels in the appointment of TA members. It is solely by inheritance and the community agrees to this procedure since the establishment of TA's.

6. CONCLUSIONS AND RECOMMENDATIONS.

6.1. Main concluding statement

The Traditional Authorities in Oshana Region of Namibia do not discriminate amongst men and women regarding access to communal land and land rights. The Traditional Authorities consequently considers the interest of women on access to communal land and land rights. The women's interest depends on their willingness and ability to pay an amount of illegal money before the allocation of the communal land. An application for communal land is initially made through the headman/woman who demands the payment of the illegal money.

6.2. Conclusions

The main objective of this study was to investigate whether the interest of women access to communal land and land rights are considered by the TA's in Oshana region in Namibia. Two sub objectives were set from the main objective. (1) To describe how communal land is managed in Namibia with emphasis on the role of the traditional authorities and (2) To identify women's interest in communal land and the positions and roles they play in the management of communal land in Namibia. These objectives will be answered in the following paragraphs.

6.2.1. Objective one: To describe how communal land is managed in Namibia with emphasis on the role of traditional authorities

The four questions raised under this objective where "what land related agencies are involved in the management of communal land in Namibia", "what are the functions and roles of the respective land related agencies that manage communal land in Namibia", "how do these land related agencies work interactively to promote communal land management in Namibia", and "how do the traditional authorities allocate land to the occupants in the communal areas under their jurisdiction".

There are about eight land related agencies in Namibia. The main land related agencies involved in the management of communal land are Ministry of land and Resettlement (MLR), Communal land Boards (CLB's), Communal Land Support (CLS), and Traditional Authorities (TA's). These land agencies have specific roles as well as interactive roles they play to assist in the management and registration of communal land in Namibia.

The Traditional Authorities play a key role in the management of communal land. They are responsible for allocating or cancellation of land rights, determination of size and boundaries of land, approval of application and consult people about application. The TA's are also responsible for resolving land disputes, ensuring good land management and ensuring security of tenure. The headman/woman is always appointed from the Traditional Authority. The appointed headman/woman is the person the citizens in the communal areas apply to for the communal land and they make the initial allocation.

The CLB is found in twelve out of thirteen regions of Namibia except Khomas Region (has no communal land). The CLB in each region is in frequent consultation with all the TA's in that region, because their functions include supervising the work of the TA's. The CLB is responsible for exercising control over the allocation and cancellation of land rights by the TA's, consideration and decision on applications for a right of leasehold and the establishment and maintenance of a register. They are also in charge of system of registration for recording all allocations, transfers and cancellation of customary land rights and rights

of leasehold. The CLB has other functions, including controlling the establishment and maintenance of fences in communal areas and one important duty to ensure that no unresolved disputes exist before a registration certificate is issued, by resolving conflicts between neighbouring land users over boundary locations.

The CLS support the development of the land management system to increase security of tenure in the northern communal areas in Namibia. The CLS (project) role is to assist in assessment and identification, policy review, procedural development and capacity building. Other functions include communication amongst the land related agencies, support to verification, registration and investigation of communal lands. The CLS performs their responsibilities through (interactively) institutions such as CLB's and TA's.

The MLR is the principal administrator of land in Namibia and is responsible for ensuring that land registration takes place in all communal areas. The responsibilities of MLR in communal land management and registration is to take charge of the secretarial activities of the CLB (minutes, finances, administration), keeping a register of all land rights and verification of application for land parcels in conjunction with CLB's members. MLR is also responsible for surveying all land parcels, producing certificates of registration and verification of all applications if they are submitted in accordance with the law.

The headmen/women who are always members of the Traditional Authorities are responsible for the allocation of communal land to the applicants in the communal areas. The headman/woman pay bribes to the TA members in order to be appointed as a headman/woman. For the headman/woman to get back the cash they paid to the TA's, they demand some money from the applicants. First, one has to show his/her interest in the communal land by applying to the headman/woman. Secondly, pay an amount of money which is illegal to the headman/woman before allocation can be made. The amount of money to be paid is determined by the headman/woman depending on the size of the communal land applied for by the applicant. The headman/woman then sends the allocation for the applicant to the TA for approval.

6.2.2. Objective two: To identify women's interest in communal land and the positions and roles they play in the management of communal land in Namibia.

The three questions raised under this objective were "what is the level of satisfaction of women in communal areas concerning the availability of land to them for the purposes of which they want that land", "how are women represented in the land related agencies that manage communal land and what are their roles", "what are the problems encountered by women regarding access to land by the traditional authorities".

Women are satisfied with the availability of communal land to them by the TA's and are able to use the land for the respective purposes of their choice. The number of women applicants for communal land has increased from 2008 to date. Businesswomen, government employees, retired women, single, married, divorced and widows apply for communal land. The women use the land for sustenance farming, residential purposes, and grazing. The level of satisfaction of older women (40years above) is higher than that of the younger women. The older women realize the improvement in the communal land management compared to when there was no Communal Land Reform Act (CLRA) which was passed in 2002.

Women are represented in all the land related agencies and particularly in higher managerial positions. At the MLR they are responsible for ensuring that land registration takes place in all communal areas and take charge of all secretarial activities of the CLB's. They are also in charge of all land parcel surveys and provide certificates of registration. Women in CLB's supervise the work of the TA's and exercise control over the allocation and cancellation of land rights. In lower managerial position, that is TA (headman/woman), women are responsible for allocating or cancellation of land rights determines size

and boundaries of land and approves application. The TA's responsibilities is key to the management of communal land, but the number of women in this section of the land related agencies are less compared to the higher managerial positions.

Problems encountered by women regarding access to communal land are the amount of money they have to pay to the headman/woman, though this is illegal before they are allocated the land after applying. On the death of a spouse, the land that the widow has to inherit is reverted to the TA before re-allocation is made to the widow by the TA. The headman/woman demand illegal payment from the widow before the re-allocation will be effected. Women encounter problems when they apply for land for grazing. They are mostly refused because the TA (headman/woman) feel grazing is reserved for men.

6.3. Recommendations

Based on the findings of the study the following recommendations can be made.

6.3.1. Measures to improve communal land management

The Government should introduce the payment of allowances to the headmen/women as they were doing previously before the implementation of the Communal land Reform Act (CLRA) in 2003. This will restrain the headmen/women from demanding cash from the applicants of communal land before allocating the land. This will encourage the women who cannot afford the money as compared to their male counterparts to increase their number of applications. The TA's must stop the bribes they collect from aspiring headmen/women before they are appointed into office. The MLR should also make sure that when the above measures are put in place they are enforced to improve the communal land management system. The respective land policies must be translated into local dialects to help the citizens in the communal areas who are educated to able to understand them like the Traditional Authority Act, of 2000.

6.3.2. Assurance for full participation

Women in the communal areas should be empowered through education and employment. This will enable those who are members of the TA's and find themselves in the CLB's to be able to read and understand the respective land policies. Educated women can speak English and be active in meetings of the CLB's, because their meetings are held in English and they can be able to argue by elaborating on their suggestions to convince the other board members. Employment for the women will also give them an alternative than depending on the communal land as livelihood. Most women depend on the communal land as their source of livelihood. Women in higher level of management of land related agencies must assist in educating those in the communal areas. The steps involved in the registration of communal land rights can be reduced. Inherited land should not be reverted to the TA before the re-allocation is made to the successor.

6.3.3. Future research work

The fieldwork for this research was conducted when local governments' elections were on-going in Namibia. The researcher would have had access to other key personalities in the land related agencies, if there were no elections, so this can be checked in any future research in Namibia. The time for the data collection during fieldwork was limited. A woman researcher should be encouraged to do a further study into why women are less represented in lower managerial positions of the land related agencies and why they do not participate actively in meetings of the respective land related agencies. A woman researcher who understands the local dialect should be preferred.

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APPENDICES

This questionnaire and interview are related to a research on the topic "Interest of women by Traditional Authorities on access to land" (in Namibia) by Yaw Acheampong Amoah from Ghana, an MSc student of Land Administration (September 2009- March 2011) at University of Twente, Faculty of Geoinformation Science and Earth Observation ITC, The Netherlands.

Ethical assurance

The privacy of the respondents is maintained, highly respected and acknowledged. The information acquired or gathered from this exercise will only be used for academic purposes in this research and nothing more.

Code of Respondent

Date

Name (optional)

Questionnaires for women who have access to communal land

1. How old are you? 20-30 31-40 41-50 Above 50

2. How long have you lived here?

1-5

6-10

11-15

Above 15

3. What is your marital status?

Single

Married Divorced

Window

4. How many children do you have?

5. What is your occupation?

6. Do you have access to communal land?

Yes

No

7. How long have you had access? 1-5 6-10 11-15 Above 15

8. How did you get access to the land?

9. What are you using the land for?

10. Do men and women have equal access to land through the TA in your communal area?

Yes

No

11. Are women represented on the TA?

12. Are you satisfied with the way the TA allocate land to women in this communal area?

Yes

No

13. Have you ever contacted the TA? Yes No

14a. If yes, how and why?

b. If no, why?

15. Do you think the number of women on the council of the TA has influence on your interest regarding access to land? Yes No

16. Briefly explain your answer

17. What do you think can be done to increase your interest on access to land by the TA?

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Ethical assurance

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Code of Respondent

Date

Name (optional)

Questionnaires for TAs members (chief and council members)

1. Gender Male Female
2. How old are you? 20-30 31-40 41-50 Above 50
3. How many members make up the TA?
4. How long have you been a member of the TA?
5. How did you become a member of the TA?
6. What are the criteria for selecting members of the TA?
7. What is your status in the TA? Chief senior member junior member others
8. How do you organize your work regarding communal land management?
9. What are the major issues you deal with?
10. Are women represented in the TA?
11. Do women complain about the way land is allocated to them by the TA? Yes No
12. If yes, what is the TA doing to address those complains?
13. Do you think the number of men in the TA has influence on the access to land by women?
 Yes No
14. Do you think the number of women in TA should be more? Yes No
15. Would that result in better decisions on land related issues? Yes No
16. What do you think can be done to increase the interest of women on access to land by TAs?

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Ethical assurance

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Code of Respondent

Date

Name (optional)

Questionnaire for employees and heads of communal land management related agencies (MLR and CLB)

1. Gender Male Female
2. Age 20-30 31-40 41-50 Above 50
3. Which land agency do you work for? CLB MLR NCLAS
4. How long have you been working with the agency?
 Less than a year 1-5 6-10 Above 10
5. What is your involvement in communal land management?
6. What are the main issues in communal land management?
7. Do you have any working relationship with TAs as to communal land management?
 Yes No
8. If yes, explain how briefly
9. Do women have access to communal land equally as men?
 Yes No
10. If no, what do you think are the causes?



REPUBLIC OF NAMIBIA

UUKWAMBI	TRADITIONAL	AUTHORITY
Tel.: 065 – 225313 Fax.: 065 – 225313		P / Bag x5514 Oshakati Uukwangula
Your Ref.		
Our Ref.		
Enquiries:		

RECOMMENDATION

I, Iipumbu H. Iipumbu, Chief of Uukwambi Traditional Authority testify that Hon.
/ Mr. / Mrs. / Miss.....

ID. Has been granted a right to a
residential unit / farming unit of [hectares] in
..... Village at
..... constituency, in Oshana / Omusati
Region as such the Uukwambi Authority does not oppose such admission, which is
therefore given.

Yours truly,

.....
Chief

.....
or by Authorized nominee / delegated

All correspondence should be addressed to the Honourable Chief

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.....

Esiku:/...../.....

Elelo lyOshilongo
 Uukwangula
 Uukwambi

Aasimanekwa

Ongame

Onomola yokamutse / ID.....

mwene gwomukuda

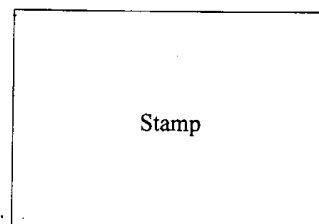
Omusamane / omukulukadhi gwedhina.....

.....nomola yokamutse / ID.....

Ondemu pa eziminino lyehala lyegumbo / lyomotunda momukunda

- gwandje, lyuunene woohekita Onkene okwa pumbwa
 okuninga eyindilo lye, mukwatheleni nombili.

Gweni,



.....
 Mwene gwomukunda (.....)

SQL to extract the total number of women applicants in the database

```
SELECT Cadastre_Query_Table.CD_SEX  
FROM Cadastre_Query_Table  
WHERE (((Cadastre_Query_Table.CD_SEX)="Female"));
```

SQL to extract the total number of women applicants for 2008

```
SELECT Cadastre_Query_Table.CD_SEX, Cadastre_Query_Table.DATE_START  
FROM Cadastre_Query_Table  
WHERE (((Cadastre_Query_Table.CD_SEX)="Female") AND  
((Cadastre_Query_Table.DATE_START) Like "*2008"));
```

SQL to extract the total number of women applicants for 2009

```
SELECT Cadastre_Query_Table.CD_SEX, Cadastre_Query_Table.DATE_START  
FROM Cadastre_Query_Table  
WHERE (((Cadastre_Query_Table.CD_SEX)="Female") AND  
((Cadastre_Query_Table.DATE_START) Like "*2009"));
```

SQL to extract the total number of women applicants for 2010(up to August)

```
SELECT Cadastre_Query_Table.CD_SEX, Cadastre_Query_Table.DATE_START,  
Cadastre_Query_Table.DATE_START  
FROM Cadastre_Query_Table  
WHERE (((Cadastre_Query_Table.CD_SEX)="Female") AND  
((Cadastre_Query_Table.DATE_START) Like "*2010" And (Cadastre_Query_Table.DATE_START)  
Not Like "*Sept"));
```

SQL to extract the total number of men applicants in the database

```
SELECT Cadastre_Query_Table.CD_SEX  
FROM Cadastre_Query_Table  
WHERE (((Cadastre_Query_Table.CD_SEX)="Male"));
```

SQL to extract the total number of men applicants for 2008

```
SELECT Cadastre_Query_Table.CD_SEX, Cadastre_Query_Table.DATE_START  
FROM Cadastre_Query_Table  
WHERE (((Cadastre_Query_Table.CD_SEX)="Male") AND ((Cadastre_Query_Table.DATE_START)  
Like "*2008"));
```

SQL to extract the total number of men applicants for 2009

```
SELECT Cadastre_Query_Table.CD_SEX, Cadastre_Query_Table.DATE_START  
FROM Cadastre_Query_Table  
WHERE (((Cadastre_Query_Table.CD_SEX)="Male") AND ((Cadastre_Query_Table.DATE_START)  
Like "*2009"));
```

SQL to extract the total number of men applicants for 2010(up to August)

```
SELECT Cadastre_Query_Table.CD_SEX, Cadastre_Query_Table.DATE_START,  
Cadastre_Query_Table.DATE_START  
FROM Cadastre_Query_Table  
WHERE (((Cadastre_Query_Table.CD_SEX)="Male") AND ((Cadastre_Query_Table.DATE_START)  
Like "*2010" And (Cadastre_Query_Table.DATE_START) Not Like "*Sept"));
```