

4. Rural land management issues

4.1 Introduction

Most land in Botswana is rural and supports the 47% of the population who reside in the rural areas. A significant proportion of the 53% of the population who live in urban areas derive important benefits from rural land use and many have land rights in the rural areas.

Economically and socially important rural land-uses include the following:

- **Pastoral farming**, this can be conducted on communal, leasehold or freehold land. The owners of larger herds have a primarily commercial orientation whichever tenure category they occupy;
- **Arable farming**, mostly conducted on communal land, often in conjunction with pastoral farming in the traditional agro-pastoral farming system. Productivity and returns to land, capital and labour have been declining for many years;
- **Intensive production** of poultry, milk and vegetables on relatively small areas of land near towns;
- **Gathering** of fuel, poles, wild fruits, thatching grass, etc.;
- **Hunting** whether for subsistence, recreation or for commercial purposes as part of tourism (below);
- **Tourism** mostly catering for foreign visitors but domestic tourism is becoming more important.

All these rural land uses and economic activities have evolved in response to environmental conditions and economic circumstances (as modified by government policy). A fundamental goal of policy review should be to promote social equity and human welfare and to minimise economic inefficiency.

As society and the economy change, it may be necessary for Government to alter the rules governing access to land for these activities. Rural land use remains vital for the economic well being of a large proportion of Botswana's citizens.

The currently predominant production system based on communal land use and tenure supports large numbers of people in the rural areas for whom there are no viable economic alternatives. It also provides a form of social security in that people hold on to rural land, even if they are not using it, in the knowledge that they can obtain subsistence from it if their present livelihood strategy should fail.

The communal system as it now operates is based upon the traditional subsistence farming system as modified by a century and a half of exposure to outside influences and the regional cash economy. The livestock industry on communal land is based on the

traditional cattle post system and is both economically and biologically efficient and productive. It makes effective use of a variable environment by mitigating the negative aspects of an unreliable climate as well as exploiting low land costs to maximise Botswana's comparative advantage. As a result, Botswana is one of the world's lowest cost producers of beef.

Concern has been expressed in Botswana for over 40 years at what is perceived in certain quarters to be the over utilization of pasture resources in the communal grazing areas leading to 'degradation'⁹. There is, however, disagreement about what constitutes degradation, and there is a growing body of scientific evidence that a wide variety of stocking rates are in fact sustainable in savanna rangelands. While changes in vegetation are apparent as a result of increased grazing pressure, such changes do not necessarily constitute degradation. During the wet season, vegetation production exceeds consumption by herbivores, while in the dry season the vegetation is much less prone to damage. The length and severity of dry seasons and droughts prevent herbivore numbers from building up to a level at which they might challenge vegetation in the growing season. There are a variety of both economic and biological feedback mechanisms that contribute to this outcome.

Nevertheless, bush encroachment by Moselesele (*Dichrostachys cinerea*) and Mongana (*Acacia mellifera*) has become a major problem for pastoralists in some Low Tree and Shrub Savanna rangelands in Botswana, one that is costly to reverse in the short term. In addition, grazing by domestic livestock at moderate to high intensity leads to a reduction in the availability of important food plant resources for hunter-gatherer communities.

Management of communal resources is an outstanding unresolved issue with communities who have lost their rights to manage these resources to distant and largely unaccountable institutions which have not addressed the issues adequately.

Arable farming has proved less able to cope with the variable physical environment in Botswana and competition within the SACU from farmers in South Africa who have benefited from a more favourable physical environment and a long history of subsidy and infrastructural support from the South African Government. As a result, output from arable agriculture has stagnated although the amount of land allocated as fields and cleared has increased. This has led to a long decline in yields and returns to labour and capital invested. Large numbers of poorer rural households have dropped out of agricultural production altogether, although many retain a holding of arable land.

Attempts to modify agricultural systems are usually costly and slow and frequently have unplanned consequences. In the livestock sector, Botswana has introduced a policy of privatisation of rangeland as ranches, initially of land that was not used communally, under the TGLP. Since 1991, under the Fencing Component of the New Agricultural Policy, communal land is to be privatised. The available evidence suggests that privatisation has neither resulted in productive investments, nor superior land

⁹ A decline in the rate at which land yields livestock products under a given system of management which cannot be reversed within a reasonable time or at a reasonable cost.

management, with ranches being managed in the same way as cattle posts. These privatised ranches have higher intermediate costs than the communal system and frequently have lower outputs and are thus less economically efficient.

It is noteworthy that no Cost/Benefit Analysis or Strategic Environmental Impact Assessment has been undertaken for the Fencing Component of the New Agricultural Policy of 1991.

Privatisation of rangeland has high costs in other areas of the economy. People were displaced under the TGLP and will again be displaced under the Fencing Component. Government has spent large sums of money accommodating displaced people under the RADP. Rural dispossession, with increasing numbers of people owning no livestock and abandoning arable agriculture and holding no land is fuelling an accelerating rural to urban migration that has very high costs to government. These involve the provision of housing, services and welfare support to destitute migrants for whom no alternative economic opportunities are available in the present state of development of the economy.

In Ghanzi District, where privatisation and commercialisation of rangeland has been more extensive than elsewhere, 30% of the district's population now live in Ghanzi Township. Since 1991, at least 35% of the population of the Ghanzi Farms have migrated to the township as a result of commercialisation and reduction in labour requirements. Of the township's population of 10,200 persons in 2002, about half live on unsurveyed plots with a low level of services and 20% are squatters living in squalid conditions. There is a high incidence of unemployment and poverty in Ghanzi Township with all their attendant social ills.¹⁰

The Government proposes to address the problems of the arable sector by encouraging the development of larger scale mechanized farms under NAMPAADD. It is proposed that the minimum size of farms should be 150 hectares but that within group farms of that size, the minimum size of individual holding should be 40 hectares. This will require change in the way that farmers get access to land and may require consolidation of holdings or leasing of existing fields.

There has been rapid growth in the production of poultry in Botswana over the past 20 years with producers varying in size from small, backyard operators to large industrial operators. The country is now approaching self-sufficiency in the sector. Growth in horticultural and dairy production has been slower, due to a less favourable physical environment and competition from lower cost producers in neighbouring countries.

Hunting has declined in economic importance due to the decline in wildlife populations, resulting from land use changes, and reductions in the quotas made available. The underlying demand for hunting opportunities is still large. Gathering of a wide variety of veld products remains economically important, particularly for poorer households. Fuel wood remains the most important source of domestic energy although other fuels are increasing in relative importance.

¹⁰ See *Ghanzi Township Development Plan*, Ove Arup and Partners for DTRP (in press).

Tourism is the major growth activity within the rural sector. Returns to the national economy from tourism now exceed those from agriculture and the industry continues to expand rapidly. It is now the third largest source of foreign exchange earnings.

The eight topics in Section 4 of this report focus on the traditional land rights in rural areas and then examine the outstanding issues that are coming to the fore as the economy grows and develops. The terms of reference for the Land Policy Review require the Consultant to address the following rural land management issues arising from the growth in the human and livestock population and the expansion of the economy:

- To assess the impact of the dual grazing system in communal areas and recommend solutions;
- The need to enable TGLP ranch holders to diversify their activities beyond livestock production.
- The expansion of villages on to arable land has led to encroachment of lands onto grazing areas thereby reducing land available for both and pushing farmers onto marginal and unsuitable land.

To which is added:

- The need to accommodate commercial arable production under the National Master Plan for Arable Agricultural and Dairy Development.

Failure to tackle these land-use and management issues will allow the relatively few problems in the land use system to restrict economic growth and to impose costs in other areas of the economy; e.g. the landless and jobless poor moving into shacks in the towns; slower growth in the tourism industry and continuing decline in wildlife populations and biodiversity.

4.2 Rural property rights

4.2.1 Background

Most occupied land in rural areas is held under tribal or customary tenure. There are still a small number of communities occupying state land in Ngamiland and northern Central District in accordance with customary rules.

Under the traditional Setswana system, a person is entitled to sufficient land to meet his needs for a residence (*motse*) in his village, for arable farming (*tshimo*) and for a cattle post (*moraka*) to keep his cattle in the communal grazing area. These rights are permanent and heritable, although ploughing fields are accessible for communal use outside the ploughing season. These rights can be lost if left unused for some time. Some minority communities have different rules.

People also had the following common rights:

- to draw water from any natural water source, e.g. spring, river, rain water pool, pan etc.,
- to gather wood fuel, as well as timber, soil and cow-dung for construction from anywhere in the unalienated communal land.
- to hunt wild animals and gather wild foods anywhere in the unalienated communal land subject to such rules as the chief might make about which animals might be hunted and where.

Rights to artificial water sources, wells, boreholes, dams etc. are private and may only be used with the consent of the owner. Where such assets were created communally, members of that community share the private rights.

4.2.2 Related land policy issues

These traditional systems of land rights were well adapted to the traditional subsistence life style of the people in the past. They are not necessarily suitable for life in a modern cash economy.

Shortage of labour has compelled many households in eastern Botswana to concentrate their lives on a single home, often at their *tshimo* where they reside permanently and keep their livestock. Poorer households, which have insufficient assets to farm effectively, may resort to keeping a few chickens and goats and possibly cultivate a garden in the village. Wealthier households may focus on their cattle post and develop *mashimo* there.

Near the larger urban villages and urban areas there is considerable potential for people to establish enterprises such as chicken farming, market gardening etc. which require the proprietor to live on the spot. Many households in settlements operate small businesses (called *dimausu*) that are not permitted to be located within their residential compounds. The prescribed system of land tenure does not accommodate such developments.

The interpretation of customary law by the land boards seems to have accommodated the Kalanga pattern of living in small settlements, in which *motes*, *tshimo* and *moraka* are combined for each household, reasonably well. It has not recognized the needs and rights of the Basarwa communities who have lost their band territories, in which non-members who wished to hunt and gather within the band territory had to obtain permission from the resident band, to the grazing needs of the larger cattle owners.

4.2.3 Policy principles and choices

To date in Botswana, changes in land tenure and the content of rights have been incremental rather than revolutionary.

Greater flexibility in the allocation of rights to use land would enhance the ability of rural households to diversify their domestic economy in response to the rapid economic

changes now taking place in society. This flexibility does not require a change in the law but could be achieved by administrative action.

The Draft Revised Policy on Rural Development proposes that:

- people should be permitted to lease out residential and arable land held under customary grant or common law lease,
- that people should be able to use a single parcel of land for multiple uses.

In addition, arrangements such as sharecropping and share farming should be encouraged

Greater flexibility in the interpretation of the customary land law in respect of minority groups would assist them to retain their rights and use them to generate livelihoods.

It may be desirable to allow land occupied by minority communities to be included in a separate sub-land board territory to be administered by a sub-land board composed primarily of members of that community.

4.3 Conversion of arable land to other uses

4.3.1 Background

The debate about the conversion of arable land to other uses arises from the belief that government should regulate land use. A free market in land among private owners is not able to give expression to the value of land to society as a whole. It fails to allocate land among competing users in an environmentally sustainable manner.

The problem arises from two fundamental characteristics of land. First the supply is fixed and in this respect it differs from other factors of production – labour and capital. Fertile agricultural land tends to be in great demand for non-agricultural uses. Although science has led to increasingly higher production of food per head of population and per unit of land, there is widespread demand in Botswana for the protection of prime agricultural land. The National Settlement Policy discourages change of use from arable to residential, commercial or industrial use.

Most developed economies resolve these land use conflicts by designating areas of significant agricultural potential for that use, but with the proviso that decisions on planning applications for the conversion of agricultural land can be reviewed. This is because the most economical and sustainable use of the land could be for an airport, an industrial concern or a tourism development. In such situations an EIA is prepared in the course of which planners consult all the stakeholders and advise the appropriate decision making body.

4.3.2 Related land policy issues

In many parts of Botswana there is now perceived to be an overall shortage of well-located land for development. The National Land Settlement Strategy requires that urban expansion should not encroach on agricultural land. The Ministry of Agriculture are

currently making an inventory of the whole country with a view to identifying and gazetting all land suitable for crop production.

Most settlements were originally located close to fertile soils and water. As settlements have grown, demand for additional land for residential and other uses has led to encroachment into developed arable land. Well-located arable land near urban settlements is the subject of speculative extra-legal marketing.

Although the economy as a whole is growing rapidly, many households lack the resources and skills needed to take advantage of rapid economic growth. Such households need to retain their arable land in order to remain self sustaining and productive. There may not be suitable land available as an alternative within reach of peoples homes to enable them to surrender fields now needed for development and transfer their production elsewhere.

There are areas of land suitable for cultivation that are currently used for grazing. They are often not well located in relation to water, physical infrastructure or where people now live. Grazing is also at a premium in many parts of Botswana and pastoralists may not be content to see arable use encroaching into 'their' grazing area.

4.3.3 Policy principles and choices

The National Land Policy should encourage the sustainable use of land and the conservation of natural resources.

The legal framework of the Town and Country Planning Act, which governs the zoning of land and prevents unauthorised change of use in planning areas, could provide an adequate basis for the protection of high potential arable land. These zoning regulations should be based on national norms monitored and enforced at national and district level by the appropriate government structures.

Depending on their scale, proposed changes in land use usually require sanctioning at different levels of government. Within planning areas, unless planning permission is obtained, land subdivisions cannot be registered in the land registry. Even where land subdivision may not be required, building construction has to be cleared with the local authority.

Change of land use leads to large gains in economic value. Present policy is that the land board or the new allocatee should capture these. Denying a share of these gains to the former holders limits their ability to adapt to change. As a result, the holders often prefer to sell their rights in the land in the extra-legal land market or to hold on to their land and not permit change of use. Allowing holders to capture some of these gains would encourage them to part with their land and permit change of use.

4.4 Communal grazing

4.4.1 Background

About 47% of Botswana is used for communal grazing. Beef, most of which is produced, at least in part, from this land, is the third most valuable export and the second largest source of income to the rural economy.

Concern has been expressed at what is perceived to be the over-utilization of communal grazing areas leading to 'degradation'. Stockowners are believed to be over exploiting communal grazing because, while individuals receive the benefits, the costs are shared. However, there are linked biological and economic feedback mechanisms, which protect the rangeland from over-exploitation.

There is a growing body of evidence that a wide variety of stocking rates are sustainable in savannah rangelands. While changes in vegetation are apparent as a result of increased grazing pressure, such changes don't necessarily lead to a long-term productivity loss.

Part of the alarm over overstocking and degradation of communal grazing land arises from the assumption that economically profitable stocking rates for commercial ranchers are the ones that are biologically sustainable and that communal farmers' stocking rates are not.

For a variety of reasons, communal farmers are able profitably to sustain higher stocking rates than commercial beef ranchers. The communal stockowners maximize returns per unit area rather than per beast.

4.4.2 Related land policy issues

Wealthy livestock owners, who are often influential are engaged in commercial production and resent competition from the large numbers of poor people exercising their communal rights. They perceive communal grazing as a problem leading to over-use of the rangeland.

However, most Botswana farmers, particularly those within the traditional farming sector, view the issue rather differently. They see a shortage of rain, leading to a shortage of fodder, and lack of water sources as the main problem. The communal areas also provide building poles and fuel and other vital products on which rural households depend.

The communal system enables the land to support many more people than could be supported by any of the alternatives. At present, there are no livelihood alternatives available for the majority of the people who would be displaced if the communal system were to be abandoned.

While the statements about degradation and overstocking may be exaggerated, the sustainable management of communal range resources is not without its problems:

- Decision-making powers over the management of communal grazing have passed from local tribal leaders and local stockowners to officials in distant bureaucracies.
- Commercial farmers and subsistence farmers compete for scarce water and pasture.
- Straying animals cause damage to crops.
- Livestock are lost to predators, straying and theft.
- It is also becoming increasingly difficult to employ reliable herd boys.
- Grazing by domestic livestock at moderate to high intensity leads to a reduction in the availability of food plant resources for hunter-gatherer communities.

4.4.3 Policy principles and choices

An overarching principle must be that all citizens should have the opportunity beneficially to occupy and use the land. The legal and administrative framework must provide for equitable and sustainable use of the land. In the present circumstances, the further privatisation and enclosure of common land will have damaging and costly social and economic effects. Enclosure has already taken place at a pace too rapid for the welfare of many rural people. However, it is imperative that the communal area should be better managed, which requires that communal rights are made more secure.

- Any attempt to secure communal grazing rights must be informed by a clear understanding of the reality of pastoral land use. Rural communities must be effectively involved in decisions that have a direct bearing on their livelihoods.
- Securing communal grazing rights entails giving legal recognition to the existence and validity of community-based property rights. These are rights that derive their authority from the community in which they are practised and realized. This is an essential pre-condition for the realization of participatory development.

The over-centralization of communal area management has undermined local institutions and the organic evolution of customary land law in accordance with changing land availability and local needs. The process should be reversed to place resource management in the hands of resource users. How this might be achieved through the modification of the current institutional framework needs to be discussed.

4.5 Dual grazing rights

4.5.1 Background

TGLP had two broad objectives:

- to ensure grazing control, better management and increased productivity through fencing;

- to safeguard the interests of small owners of livestock and those who own no livestock, and the right of every tribesman to have as much land as he needed to sustain himself.

The assumptions underlying the TGLP were:

- that the old system of grazing had led to lower productivity due to land degradation;
- that the old system only favoured the rich and had no room for improvement;
- that simple management techniques could double productivity;
- that giving individuals or groups private rights would help them to secure loans and invest;
- that communal area stocking rates would be reduced by moving big farmers to ranches;
- that farmers would be compelled to adhere to compulsory stocking rates;
- that large empty areas of grazing existed and that some could be reserved for the future;
- that legislation and sanctions would be enforced.

TGLP provided large farmers with a chance to acquire exclusive grazing rights and increase their income, but it worsened the lot of the poor. A comparison of production between TGLP ranches and large cattle posts does not point to any increased production or employment. TGLP did not relieve pressure on grazing in communal areas. It provided a temporary stopgap whilst cattle were still building up in ranches during years with good rainfall. When drought came overstocking in farms spilled back into Communal Areas.

4.5.2 Related land policy issues

It is now acknowledged that the great majority of the TGLP ranches have been used as extensions of the communal area and as no more than enclosed cattle posts. The assumption that communal areas could be converted into commercial farms by simply fencing them has not been shown to be correct.

There is a view that fencing induces a realisation of finite grazing resources and hence of the necessity to adjust stock numbers to forage reserves. On the contrary, occupation of fenced ranches in Botswana has often encouraged stocking rates far higher than those normal for communal areas. When this causes the rapid depletion of the grazing on the ranch, the owners drive their cattle back onto the communal range. The protests of small farmers on the communal areas and occasionally of officials have made no impression on this practice.

During drought, commercial farmers normally de-stock by reducing their herd to a breeding nucleus. Communal area farmers tend not to do this, for a variety of reasons that make sense under their conditions. The mere enclosure of communal areas does not alter this strategy.

Government has made frequent policy pronouncements about the abolition of dual grazing rights. The Review of the Tribal Land Act, 1989, went so far as to propose that government should legislate against dual grazing rights. In the event, this did not happen.

It is necessary to ask whether or not legislation would have the desired effect in the absence of profound changes in economic orientation, animal husbandry and even social and cultural life. To legislate against dual grazing would be to legislate against TGLP ranching.

4.5.3 Policy principles and choices

Legislation could perhaps require that persons wishing to move livestock from a fenced ranch to a communal area be required to obtain permission from the body responsible for that area's management. At present this will be the land board, but in future it might be a communal grazing committee.

The Draft Revised National Policy on Rural Development proposes that leases for fenced ranches should be allocated by tender or auction. This should ensure that successful applicants have an appropriately commercial approach.

The Draft Revised National Policy on Rural Development further proposes that rents for fenced ranches on tribal land should be charged at commercial rates. This would serve to compel inefficient farmers and speculators to review their management practices and tenure arrangements. Provision should be made to allow those who do not wish to continue as ranchers and pay a commercial rent to do one of the following:

- to surrender their lease and allow the land to revert to communal status. They should be required to remove the fences if they adopt this approach;
- to surrender the lease for re-allocation by the land board;
- to sell the lease.

4.6 Change of use of TGLP ranches

4.6.1 Background

Fencing of communal rangeland does not increase primary production of the grazing resource but it does increase costs. Unless farmers can find a way to enhance returns, farming in a fenced ranch is less profitable than farming on the communal open range.

The apparent enhanced profitability of fenced freehold farms is achieved by a cross subsidy in the pricing structure at the BMC which favours freehold producers of fatstock at the expense of communal area producers of leaner animals. Freehold farmers produce fatstock by reducing the stocking rate to sub-economic levels. The BMC price structure unfairly compensates them for this.

In economic terms, freehold and leasehold farms generate lower returns than the communal areas. Most TGLP ranch leaseholders are not able to reduce the stocking rate in their farms to freehold farm levels due to social pressures to accommodate more cattle.

4.6.2 Related land policy issues

The financial returns to investment in fenced ranches are low and the economic returns are close to nil.

Neither a proper socio-economic cost benefit analysis nor an environmental impact assessment of the fencing component of the New Agricultural Policy (1991) have been undertaken. As a result, the full extent of the social, economic and environmental costs and benefits of the policy and of alternative strategies are not known.

Some ranch holders would like to diversify land use in their ranches to include game farming and tourism related activities. In some districts, land boards have been reluctant to sanction such changes of use as they appear to conflict with the District Land Use Plan.

4.6.3 Policy principles and choices

Land should find its most profitable use.

- Holders of TGLP leases should be permitted to manage their farms profitably and not subjected to unnecessary restrictions.
- Land zoned for commercial use should be used in a commercial manner and leaseholders should be free to select the most appropriate manner of use for the land they hold.
- Subsidies, if given at all, should be designed to enhance economic returns rather than to enhance the financial returns of one class of producer at the expense of others.

4.7 Land for wildlife development

4.7.1 Background

Botswana has suffered a major decline in its wildlife resources over the past 30 years. Large tracts of land that were occupied by large and productive populations of wild animals in 1970 are now largely occupied by livestock and only contain relict populations of wild animals. The only region to avoid this outcome has been Northern Botswana where land use planning policy has prevented the loss of wildlife critical habitat.

In western Botswana, although large areas of land were set aside as Wildlife Management Areas, Game Reserves or National Parks, over 90% of wildlife biomass has been lost. This happened because land use planning policy permitted the erosion of core areas of critical habitat that, although small in area, were essential to the maintenance of viable wildlife populations over much larger areas.

In the eastern and central parts of Botswana, many large populations of wild animals had already been eliminated by change of land use before 1970. After 1970, land use planning policy made little attempt to prevent the loss of the remaining wildlife habitat to other land uses.

Large numbers of poorer people, including many minority communities have suffered substantial losses of subsistence income and, in the case of most of the minority communities affected, have seen their entire economic support system destroyed. A major opportunity to diversify both the rural and the national economy has also been lost.

4.7.2 Related land policy issues

Government has treated the wildlife sector very differently from the livestock sector in policy terms.

The livestock sector is privately owned but supported by a range of government services and subsidies including tax benefits. Individual producers are largely free to make their own management decisions with minimal interference from government.

On the other hand, the government claims ownership of the wildlife resource. Its use and management is subject to rigid central control. Those who wish to utilize the resource (who are producers in economic terms) are subject to numerous restrictions and are heavily taxed.

The introduction of CBNRM has not really changed the position as the communities' freedom of manoeuvre to make their own management and policy decisions is limited by the extent of government's involvement. For example, government centrally determines utilization quotas and licence fees.

Most CBNRM projects have limited their activities to commercial safari hunting and photographic tourism operators. Very little empowerment of communities to manage their natural resources or the associated business activities or the revenues generated has taken place.

In this policy framework it is not surprising that every community that was free to make the choice between wildlife and livestock production systems has chosen to adopt the latter.

4.7.3 Policy principles and choices

Appropriate policy principles to be introduced and followed might include:

- according competing land uses similar treatment in policy terms,
- extending more favourable treatment to desirable land uses which have been at an historic disadvantage,
- promoting the economic and social empowerment of all citizens, addressing the plight of the rural poor, etc.

- promoting sustainable use of land and the conservation of natural resources, and
- diversification of both the rural and the national economy.

4.8 Land for tourism development

4.8.1 Background

The Tourism Industry in Botswana has grown rapidly over the past 35 years. Tourism is now the third largest source of foreign exchange after minerals and earnings of interest on foreign exchange reserves. Tourism receipts exceed income from beef sales.

By the early 1990s, it had become clear that the system for allocating sites and concession areas was not generating adequate returns and was not using land or wildlife resources efficiently.

The number of Controlled Hunting Areas (CHAs) was increased substantially. CHAs in the Wildlife Management areas were classified into Commercial and Community areas, while CHAs in Communal Areas were classified into Community areas and Citizen Hunting (i.e. open access) areas. Within these categories, CHAs are divided into hunting areas, multiple use areas and photographic areas in which no hunting is allowed.

In commercial areas, concessions for CHAs and camp sites were let by competitive tender in which bidders had to prepare a management plan as well as make a financial offer. Concessions were awarded with the intention of distributing them fairly. Concessionaires get exclusive rights to commercial use of natural resources.

In community areas, communities were expected to enter head leases with the land boards and then to form partnerships through Joint Venture (JV) Agreements with commercial operators with the aim of enhancing returns to the communities as well as empowering them and their members.

4.8.2 Related land policy issues

The public perceives these changes as “handing over (our) land to foreign companies” and is upset by the behaviour of some concessionaires who attempt to exclude the public from exercising traditional rights, e.g. of travel, collecting veld foods, fishing etc for non commercial purposes. These concessionaires act as if they have the right to exclude the general public. Some members of the public engage in harvesting some natural resources such as grass, reeds and fish for sale. It is not entirely clear if this is a customary right.

Despite the intentions to distribute concessions widely, a concentration of effective control over concessions is taking place due to fronting at the application stage and subsequent acquisitions. One operator now controls 18 of the 57 camps in the Delta area and also has a significant proportion of the market in mobile safari operations. This operator is now acquiring monopoly power in the industry due to its large market share and will be able to reduce returns to the public revenue in the long term.

There is a lack of transparency concerning the terms and conditions of the leases, which are treated as confidential documents. Transfers of control over concessions, whether by purchase, through fronting or the letting of management contracts are not subject to scrutiny by the proper authorities or the public.

Few concessionaires are meeting the terms and conditions of their leases. These conditions are not being enforced and the proper authorities are not inspecting the concessions sufficiently often or thoroughly.

The JV Agreements with the communities are not leading to transfer of skills or to security for commercial operators.

4.8.3 Policy principles and choices

- The basic requirements of the land market should apply to land for tourism as other uses. Requirements include: wide availability of accurate information; rules and procedures which secure interests once land is obtained; a regulatory framework to ensure a level playing field for all participants; mechanisms to ensure an appropriate balance is maintained between the public and private interests.
- The development of monopoly power in the industry needs attention. Action might be needed to reduce the market share of the largest service provider.
- There is need to educate the public in their rights and responsibilities and to ensure that concessionaires neither assume rights to which they are not entitled nor neglect the duties assumed under their leases.
- The land boards and communities need to change their attitude and have a less adversarial approach to their concessionaires and JV partners. A good “Landlord and Tenant” relationship should be the aim, in which both parties see themselves as engaged in a common enterprise for mutual benefit. Good monitoring and a supportive attitude by the land board will materially assist the concessionaires and communities as tenants to manage their enterprises better and enhance the social and economic benefits to society. The time, manpower and money invested in the monitoring function should be commensurate with the high value of these leases to the land board.
- Longer concession periods might also contribute to resolution of these problems by encouraging more investment in infrastructure and in training and capacity building of community partners.

4.9 Management of land and natural resources

4.9.1 Background

Prior to the introduction of the TLA in 1970 there was a hierarchical and diffused system of land allocation and management in place. While overall authority rested with the Paramount Chief in Tribal Territories (or the District Commissioner in Crown Land

Districts)¹¹, Sub-Chiefs, Chiefs' Representatives, Headmen and Ward Heads all had delegated authority within their area of jurisdiction. Below them were the Land Overseers (a role often combined with that of Ward Head) who advised on who held what rights in their area and if there was a potential conflict with any application for new rights.

The land boards have replaced the Chiefs and their subordinates in the allocation process, although they still rely heavily on the Land Overseers to avoid conflicts between new allocations and existing rights.

The chief and his subordinates did not simply allocate land. In addition, in consultation with the leading members of the community, they planned its use and managed not only the land itself but also the natural resources derived from it, such as grazing, timber etc.

When the land boards supplanted the chiefs in 1970 the land boards did not take up this planning and management function although they were empowered to do so by the TLA. As a result, there is now a management vacuum at the community level.

4.9.2 Related land policy issues

The consequence of this management vacuum is that local communities now have no say in or control over the allocation of land within their area or the use of the natural resources derived from that land. Legal power over the allocation of land and the use of natural resources now resides with a number of bureaucratic institutions, all of which are distant from the community level and none of which are more than remotely accountable at the local level.

This represents a real loss of rights at the local level. The situation has been made worse for some communities, particularly in peri-urban areas, by the provisions of the 1993 amendments to the TLA, which gave all citizens equal rights on Tribal Land. As a result, the land boards lost the right to control the activities of non tribesmen in their areas. Communities in peri-urban areas in particular have seen a large influx of outsiders into their area to the extent that it is now becoming difficult for young people who originate in these areas to get land there. They want to acquire land and continue to live at home while they work in the nearby urban area. It is of no value to them that they have equal rights in Kgalagadi or Chobe.

There is also competition for essential resources, notably firewood and building sand, which are being depleted near urban centres. In the case of firewood, the problem is compounded by the fact that firewood is the obligate fuel of the urban poor as well as of their rural counterparts. Experience elsewhere shows that any attempt to control or limit harvesting near urban centres leads to large increases in price with damaging consequences for the livelihoods and health of the urban poor.

4.9.3 Policy principles and choices

The National Land Policy should encourage the further democratisation of the allocation and management of land and natural resources.

¹¹ After 1966, the Crown Land Districts became State Land Districts and remained so until tribalised.

Consideration should be given to involving local community-based institutions in the allocation and management of land and natural resources. The nature of the appropriate institution, the powers and rights to be given and the issues they should address all merit further detailed discussion with all stakeholders.

The Department of Wildlife and National Parks has pioneered the use of Community Based Natural Resource Management of Wildlife Resources as a mechanism to address these issues in the management of wildlife resources. Progress is being made although problems remain due to unresolved policy differences (see subsection 4.7).

The Ministry of Agriculture has made a start on introducing Community Based Natural Resource Management of some veld resources. In Ngamiland and Chobe, some communities that have obtained rights over wildlife resources are trying to extend community management to other renewable natural resources.

The Ministry of Agriculture and the Department of Wildlife and National Parks are currently reviewing policy on Community Based Natural Resource Management.