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**Do Local Communities Have Capacity to Regulate the Tourism Commons? The Case of Tourism Resource in Communal Land Conservancies, Namibia.**

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*“The State shall actively promote and maintain the welfare of the people by adopting (...) policies aimed at (...) maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilisation of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future(...)”.*

Article 95 of the Namibian Constitution

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**Abstract**

Namibia sustainable development depends on the country's rich natural capital. Thus, nature tourism is thought to be a tool to reconcile apparently opposite objectives of conservation and poverty alleviation in communal lands. Tourism in Namibian communal lands is based on natural resources and amenities that can be considered as impure public goods. Rivalness and zero-exclusion conditions lead to rent dissipating externalities and threaten sustainability of the resource-system. Multiple actors compete to capture rent from natural resources-flows. Land use conflicts increase transaction and governance costs. This paper aims at analysing institutions that emerge in Namibian rural areas to regulate what is said to be the “tourism commons”. Supply of governance structures is made through devolution of new property rights to local communities that register as conservancies (CBNRM programme). We analyse the emergence of such local institutions by referring to Williamson's (2000) four level model of institutions. Institutional arrangements are put in place, based on community social capital, peer-control, community participation and state facilitative strategy and new legal framework. *Formal* and *real* capacity of local communities is here questioned in order to evaluate effective

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Namibian local institutions' efficiency to reduce transaction costs by lowering conflicts and enhancing collective action.

*Keywords: Common Pool Resources, Nature Tourism, Property Rights, Institutional Analysis, Social capital, Community, Namibia.*

## **1. Introduction**

Namibia has been long protected from European civilization by the huge and arid Namib Desert ("Namib" in Khoesan local dialect means "shelter"). Its arid and semi-arid conditions on most of the territory led to extremely low human population density (1.7) and appearance of spectacularly dramatic desert landscapes. Today the independent country is known for its natural resources as fish stocks, minerals (diamond, copper, tin, uranium, etc.) and endemic and abundant fauna and flora. Movies are more and more shot in Namibia, to benefit from favourable weather conditions and photographic scenery. Thus Namibia is characterized by its rich natural capital. Following Berkes and Folke (1992), natural capital consists of three major components: (1) non-renewable resources such as oil and minerals that are extracted from ecosystems, (2) renewable resources such as fish, wood, and drinking water that are produced and maintained by the processes and functions of ecosystems, (3) environmental services such as maintenance of the quality of the atmosphere, climate, operation of the hydrological cycle including flood controls and drinking water supply, waste assimilation, recycling of nutrients, generation of soils, pollination of crops, provision of food from the sea, and the maintenance of a vast genetic library. These crucial services are generated and sustained by the work of ecosystems. According to natural resources economists, natural capital can be valued as use, option, bequest or existence values. Namibian rich natural assets can be directly consumed *in situ*, sold, or transformed by appropriators. Mines, industries all appropriate resources flows and commercially value natural resources (NR). Tourism is another economic alternative in Namibia, which is a production function transforming inputs into output, and based on all financial, social, human, physical capital and natural capital. In this paper, we think of nature tourism as a production process in which tourists combine their own time and skills with human-made goods and services and with natural capital services. Human-made and natural capital –e.g. a camera and a beautiful landscape- are essentially complementary inputs (Vail, Hulkrantz, 2000: p.229). Understood as such, tourism is dependant on the resource base and should use it wisely to continue its activity. For some decades, natural resources have been depleted in Namibia, due to poaching, deforestation, soil erosion, veld fires, overfishing, etc.

Future development is thus questioned, as the resource base is threatened of overexploitation. Natural assets are common resources that suffer from a lack of ownership definition. Moreover, nature services' apparent zero price can lead to their overuse, both absolutely and relative to purchased inputs (Vail, Hulkrantz, 2000: p.229). As a matter of fact, as we may detail later in the paper, appropriators only value individual costs and not social costs and then natural capital is often inefficiently exploited. Conserving environmental amenities and natural resources is thus a necessity in order to continue producing. This follows the sustainability criteria that states "a development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (Brundtland commission: WCED, 1987). The inter-temporal effect is here the cornerstone of sustainable development. Preference rates between long term nature conservation and short-term poverty reduction have to be reconciled. Disadvantaged's incentives structures have to be modified in order to change the poorest' economic behaviours and reconcile antagonist objectives of nature conservation and human survival. In this context, nature tourism in Namibia seems to represent a potential solution to the dilemma and the temporal conflict. Based and dependant on nature, tourism generates rent for rural populations that have incentives to conserve the resource base for present and future tourism production.

Economic incentives however are necessary but not sufficient conditions for sustainability of tourism production. Equity, as the distribution and sharing of the rent is a primary factor that explains phenomena of rent dissipation. Before independence in 1990, apartheid system expropriated natural resources and land from African populations in favour of the white settlers' community. Ownership was unevenly distributed between indigenous communities and settlers. This led to extreme poverty, sub-optimal ecological scales for African territories and thus to overexploitation. Natural assets are multi-functional ecosystems where multiple actors compete to appropriate resource-flows and economic rent from nature. Parallel to efficiency are criteria of equity and governance. Actors' actions and rent-seeking strategies have to be controlled and regulated. With regulation we understand the coordination of individual and group strategies so as to reduce conflicts and reach stability and collective objectives. Regulation aims at controlling the actors' game and enhancing collective action. Value maximisation is dependant on governance and institutions. Yes institutions matter. As J.R. Commons states, "(...) we may define an institution as collective action in control, liberation and expansion of individual action. Collective action ranges all the way from unorganized custom to the many organized going concerns, such as the family, the corporation, the trade association, the trade union, the reserve system, the state" (Commons,

1931: p.649). Institutions and governance provide with conditions for possible collective action. State should decide on and enforce enabling legislation that control rent-seeking and free-riding strategies. On the other side, collective action is better facilitated through local participation of primary users. But user groups should be organized and structured for participation to be effective and create collective action and collective good. Here social capital is the cornerstone for communities to control and regulate the tourism commons. As we may see in the text, state capacity and community social capital are main conditions to improve governance and conservation of the natural capital. Using social, human, financial, physical and natural capital, tourism and its regulation are main points of interest to study sustainable use of natural assets in Namibia.

Our paper is organized as follows: Part 2 presents our theoretical framework, which is the institutional view of governance of tourism landscapes and natural assets, characterised as common-pool resources and multi-function ecosystems. Part 3 questions legal (*de jure*) capacity of community to regulate the tourism commons. Here we analyse participation of communities in the tourism governance and enabling tourism legislation and land reform from the government. Finally, Part 3 studies intrinsic community *de facto* capacity to control the tourism commons, through presence of positive or negative social capital. Illustrations in all parts of the paper will mostly be taken from the national CBNRM legislation and our case study in Tsiseb Conservancy, in the north-western part of Namibia.

## **2. From open access regime to resource governance: the CPR and institutional theoretical framework for tourism regulation analysis.**

### ***2.1. CPR, natural resources-based public goods and the Tragedy***

Nature-tourism is characterized as a production function that is based on various assets and transforms them into an output, which is a tourism services' package and a nature and wilderness experience for the tourist (customer, client). Referring to Jafari (1982) and Briassoulis (2002), cultural, heritage and natural resources are background tourism elements (BTE) that are territory-situated and are part of a broader environment with human infrastructures, local facilities and the broader landscape of the surrounding region. Thus, assets that are inputs for tourism are a mix of public and private goods. The addition of those elements is defined by Briassoulis (2002) as the tourism commons. For those authors, the tourism commons are heterogeneous and variable composed of natural and built material

(tangible) and immaterial (intangible) elements. They comprise several types of common pool resources (CPRs) and public goods, constituting a diversified and tightly connected resource base that is indispensable for the integrity of the tourist experience (Briassoulis, 2002: p.1068). The tourism commons, as local CPR, is also intertwined with locally produced common resources or public goods, as well as locally produce private goods which share common characteristics with local public good. As stated by Requier-Desjardins (2004), “this is what the concept of multi-functionality is all about”.

Tourism in Namibia is however based mainly on environmental features, i.e. dramatic desert landscapes, endemic wildlife species as the black rhinos. As completed by Marcouiller (1998, p.132), “There are important natural resource-based public goods that tourism uses in its production that defy empirical analysis due to their non-priced and common-pool characteristics. (...) The characteristics and extent of natural resources do indeed matter in the production of regional leisure-based tourism output. This is particularly true in natural amenity-rich communities, examples of which can be found in regions with significant water, forest and geologic resources”. Thus, parallel to cultural assets, heritage, human-made capital, physical capital (infrastructures), natural capital is the main and specific asset that is incorporated in the tourism production function. Marcouiller (1998, p.132) even states the concept of ‘placeness’, that is the type and extent of environmental resources surrounding a site, which have image-boosting values.

According to the millennium assessment program from the World Tourism Organization, 360 000 tourists came in 2001 in Namibia for nature-tourism purposes. Total tourists accounted for around 650 000 in 2001. This shows that natural amenities are main reasons for tourists to come and visit Namibia. Further, environmental attractions, apart from National Parks (Etosha NP, Namib NP) are situated in Communal lands<sup>2</sup> and tourism in communal lands is estimated to be approximately 25% of total tourism in Namibian territories. This shows us that “resource-based public goods serve as latent primary factor inputs into the production process of tourism” (Marcouiller, 1998: p.132) in Namibia.

As stated by Marcouiller (1998), Vail and Hulkrantz (2000), Vail and Heldt (2004) or Berkes and Folke (1992), natural assets (natural capital) incorporated in tourism product are characterized, on first analysis, as common-pool resources (CPR) with zero exclusion and

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<sup>2</sup> Communal lands are former ethnic homelands before 1990 where populations were concentrated on ethnic bases. Today these areas are State owned, under custodianship of local traditional leaders.

rivalness criteria. Concerning the exclusion condition, communal lands in Namibia are State-owned under traditional rights of local leaders. The latter grant grazing and residential rights as well as non commercial cropping rights. On its side, central government grants commercial rights for agriculture and tourism through Rights of Leasehold (RoL). However, state control is often limited and use and property rights are not well defined. This leads to a *de facto* open access situation where local and outside actors can quite easily enter CPR territories and use natural capital. Thus they appropriate resource-flows from the open-access resource-system and capture the economic rent without any limit except the replenishment rate.

Concerning rivalness, CPR are not pure public good where no subtraction occurs. The Tourism Commons provides units of resource-flows that individual capture without sharing it with other. Professional hunters use wildlife in a consumptive way (they shoot). Thus the animal is no more available for photographic non-consumptive way. Even in the case of the sole photographic tourism and animal observation, congestion externalities are caused by actors to one another. Too many game-drive vehicles on observation for desert elephants in the Ugab River will undermine the individual wilderness and nature experience of each tourist. Through congestion externalities, rents are dissipated by rivalness and open-access regime.

Further, overuse of BTE can cause resource depletion, here degradation of photographic landscapes, migration of harassed wildlife or soil erosion due to off-road and illegal camping activities. To conclude on the CPR analysis, open-access and rivalness are said to lead to over-entry and misalignment of incentive structures that cause rent dissipating externalities. As stated by Vail and Heldt (2004: p.473), “with open-access, individuals’ incentives to intensify exploitation are misaligned with the collective interest in restraining exploitation, to enhance economic rents and conserve stocks. Open access causes reciprocal externalities, whereby each user’s harvest subtracts from the remaining pool and may also raise others’ extraction costs. Rational individual exploitation dissipates short-term income (scarcity rent) and may exceed maximum sustainable yield.”

Nevertheless, analysis has to be detailed so as to better understand actors’ strategies of rent appropriation. Legal situation is more complex than one of strictly open-access. We saw above that certain rights, even badly, were defined. Recreational lands do not meet the open-access conditions of no vested ownership, no limitations on use, and no user responsibilities (Hanna et al., 1996). This point will be detailed below when we explain the new legislative framework. Further, most recreational lands are best understood as impure public goods

supplied by multi-function ecosystems. Here we understand impure public good as a good presenting a certain degree of exclusion and rivalness. Multi-actors want to appropriate individually different resource-flows from ecosystems. CPRs are thus complex. They arise in turbulent environments and are characterized by “multiple, overlapping and conflicting uses and user-groups; volatility in uses and institutional arrangements; and variances between *de jure* and *de facto* property rights” (Selsky and Memon, 2000: pp.1-2). Open landscapes are ecological amenities (aesthetic value) for photographic tourism operators, and represent grazing land for local farmers. The Ugab river site is for example a bone of contention in the Tsiseb conservancy. The Lodge<sup>3</sup> situated in the Ugab River is based on a site that is relatively abundant<sup>4</sup> in vegetation and water. It attracts desert elephants that are the tourism attraction, but also local farmers that bring their livestock to drink and graze. Here there is conflict over opposite ecosystem use-options. Rivalness can cause here a race for resource exploitation. It brings congestion, rent dissipation ecosystems services degradation and finally depletion of the site by overgrazing or overbuilding.

Thus, various actors compete for rent appropriation and use of natural assets. Impure public good situation, if rights are not well defined, leads to inefficient incentive structures and misalignment where “tourist activities above threshold levels compete for ecosystem services. (...) When rights to nature’s services conflict or are incompletely specified, tourism’s environment impacts appear negative externalities. Limited power to exclude tourists prevents landowners from choosing the rent-maximizing activity mix. (...) Pareto inefficiency is also a likely consequence where tourism growth causes uncompensated losses to traditional land users” (Vail, Hulkrantz, 2000: p.229).

Above scholars mainly point to the lack of well defined property rights to ecosystems services and amenities. This even brought G. Hardin to forecast the Tragedy of the Commons. As for Demsetz (1967) or Coase (1960), the author poses clear and defined rights to resource-flows as a condition to rent-maximization and resource replenishment. Thus CPRs under unclear, multiple and often antagonist property are overexploited due to incentives misalignment. As the tourism product (tourism production function) is identical to the tourism commons (complex CPR) it experiences problems of overuse, lack of investment incentive and mismanagement generally (Healy 1994). Then, three basic approaches to CPR governance are namely privatization and markets, state ownership and regulation, and community norms and

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<sup>3</sup> A lodge is an accommodation infrastructure where tourists sleep in bungalows in a natural setting.

<sup>4</sup> Compare with other part of this very desert region.

reciprocity (Vail, Heldt, 2004: p.473). Demsetz (1967) links defined private property rights to the internalization of social costs and externalities at the individual level. Moreover, Coase (1960) states that well defined transferable rights results in rent maximization. Private property rights, with universality, exclusion and transferability criteria, are answers to the Tragedy. Strong conditions include zero-transaction cost situation and no wealthy effects.

Briassoulis (2002) generalizes explanations for the Tragedy of the tourism commons. Among all eleven stated reasons, we focus on the following for which we can state institutional governance answers:

1. *Multitude, heterogeneity and variety of resource regimes*: Diverse user groups act frequently independently and under differing sets of rights and duties concerning natural capital and assets.
2. *Multitude, heterogeneity and use varieties*: There are different systems of understanding, norms, behavior and patterns of resource use. This may be linked to the social and cultural capital, which builds attitudes and adaptation to natural conditions and capital (Berkes and Folke, 1992).
3. *Free-riding*: Different actors follow individual rent-seeking strategies and under-invest in public good provision. Peer-control and repeated interactions through social networks (social capital) are variables that influence collective action and such free-riding behaviors.
4. *Resource regimes*: The property regimes of several components of the tourism commons may not be partly or fully adequate to secure rights over flows and the economic rent.
5. *Decision making and planning culture and structure*: Use options and actors' strategies depend on the decision making process, which is level of participation.
6. *Contextual factors*: Tourism intermediaries' level of control of power and rent appropriation, as well as level of state centralization and devolution are potential conditions that leads to the Tragedy.

## **2.2 From Tragedy to stability: the institutional analysis of commons governance structure.**

Above we posed conditions and variables that may lead to the overexploitation of CPR and/or under-provision of local public goods. Actors' interactions and coordination of individual strategies are the cornerstone of any adequate governance structure. Regulation aims at reconciling individual decisions and interests with collective goals. Here institutional analysis provides with a theoretical and applied framework that studies variables and criteria to

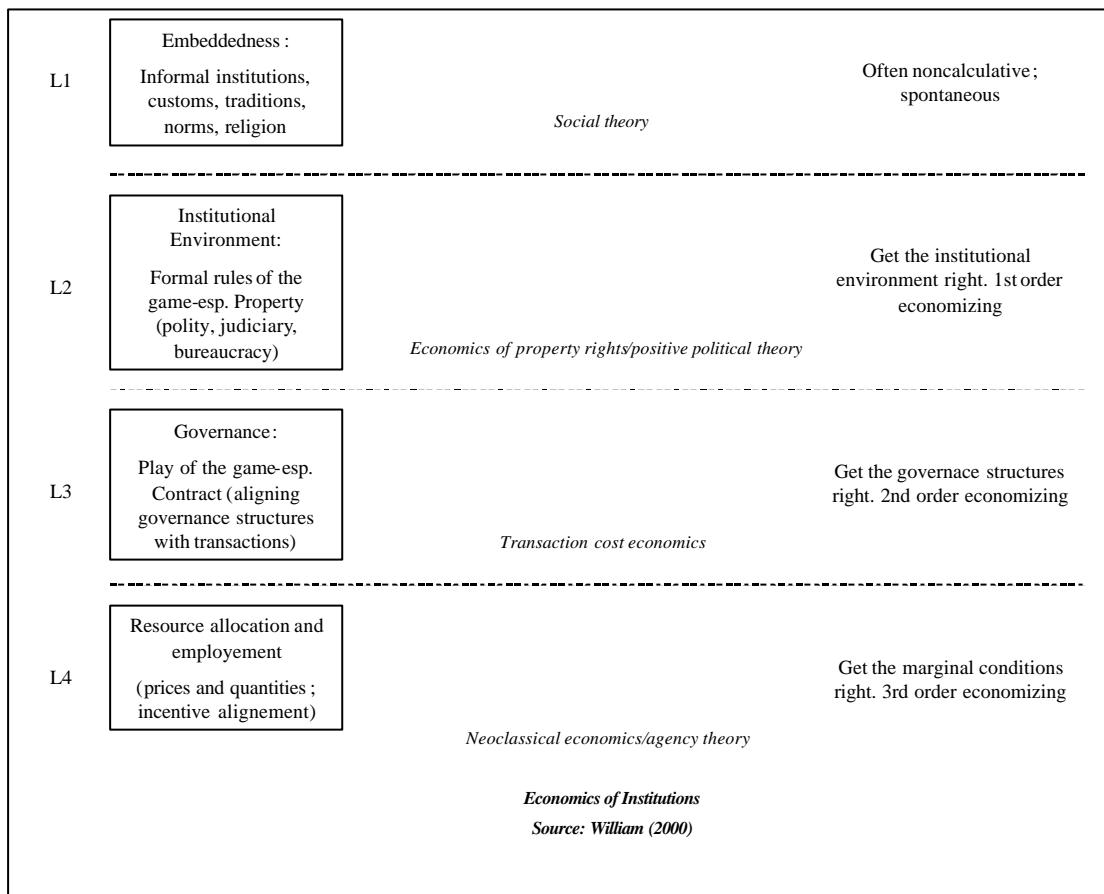


enhance cooperation and avoid the degradation of the natural resources-based latent primary factors to the tourism production. Adequate institutional arrangements are potential answers to the above sources of resources degradation. Tragedy is not a fateful outcome. Institutions matter, as stated by North (1993) and can emerge to coordinate and regulate relations between actors and reduce opportunism and uncertainty.

Referring to J.R. Commons, “(...) we may [in this paper] define an institution as collective action in control, liberation and expansion of individual action. Collective action ranges all the way from unorganized custom to the many organized going concerns, such as the family, the corporation, the trade association, the trade union, the reserve system, the state”

(Commons, 1931, p.649). Institutions try to create and sustain collective action. Those institutions are formal and informal rules and norms that help to soften conflicts and provide for collective action and social stability. Institutions are state agencies, state laws but also cooperatives, communities and families.

Further, Williamson (2000) defines resource governance as “an effort to craft *order*, thereby to mitigate *conflict* and realize *mutual gains*” (p.599, emphasize by Williamson). Williamson bases his analysis on the transaction unit and follows John R. Commons (1932: p.4) that stated “the ultimate unit of activity (...) must contain in itself the three principles of conflict, mutuality, and order. This unit is a transaction”. Analyzing institutions and transactions are thus essential to study governance of strategic interactions and regulation of the threatened common-pool resources (CPR). Oliver E. Williamson (2000) states 4 levels of institutional analysis that help to study potential arrangements for better (tourism) commons governance. Level I comprises the informal institutions. Williamson places social norms and traditions in the first level that he calls “embeddedness” to emphasize on the unconscious and socially built norms. Level II is the institutional environment, where formal rules of the game are designed. Property rights are essential in this level as they define *de jure* and *de facto* authority and responsibilities of stakeholders over resources. They set the way the game will be further played and define positions and powers of respective actors. Level III is the governance level. Play of the game is situated there and contracts as well as relations and conflicts have to be coordinated and regulated in this level. Finally, level IV is the resource allocation level. Here analysis is put on prices and quantities that are exchanged on a daily basis.



*Figure 1: Four levels of institutional analysis.*

Concerning level II and the set rules of the game, Commons (1968, *cited in* Ostrom, Agrawal, 2001: p.80) defines “A property right (...) [as] an enforceable authority to undertake particular actions in a specific domain”. As authority is always characterized in relation with other actors, we first note that property rights are social relations that state rights and duties on a thing that actors have over other persons. I. Fisher (1923: p.27) specified even earlier that “A property right is the liberty or permit to enjoy benefits of wealth while assuming the costs which those entail (...) property rights are not physical things of events, but abstract social relations (...). A property right is not a thing”. Finally, for Bromley (1997: p.3, *cited in* Vail, Hultkrantz, 2000), “rights are not relationships between me and an object but rather are

relationships between me and others [present or future] with respect to that object (...) To have a property right (...) is to have secure control over a future benefit stream. And it is to know that the authority system will come to your defence when that control is threatened” (emphasizing is ours). These definitions provide us with a framework. We show here that property rights and their social function must be clearly understood in order to set property regimes which create adequate incentive structures for resource-flows’ appropriators. Rent appropriation is only possible through property rights and their legitimacy over other users. Further, property rights determine incentives for collective action and compliance. Property regimes are levels of institutions that govern and regulate conditions of social and economic relations between actors where conflict, mutuality, and order variables occur. Thus property rights, through defining respective bargaining powers, govern transactions as well as human negotiations (Commons (1931: p.655) says: “The psychology of transactions is the psychology of negotiations”) in order to set the rules of the game, so as to enhance collective action.

Demsetz (1967) and others called for private property right as a way to avoid rent dissipation from common-pool resources mismanagement. Usus, ususfructus, abusus rights and transferability of those are operated and concentrated at individual level under private property regime (Pejovich, 1990). In other words, commons must be divided and enclosed so that each agent is fully responsible and bears (internalises) alone the costs from overuse and depletion of the resource base. However, Common Property scholars contradict this privatization vision and analyse a continuum of institutional arrangements and conditions that permit to reduce conflicts, enhance cooperation and sustainable use of the tourism commons. Nevertheless, Platteau (2003) shows that privatization costs are often prohibitively high, as well as strict exclusion costs. Further, private property rights are not the only mean to exclude outsiders and reduce externalities. Clearly defined rights and duties relative to the tourism commons, e.g. group rights as common property regimes, would have the same internalization result as strictly private property. As a consequence, Ostrom and Schlager (1992) define a spectrum of bundles of rights over resources. Different property regimes are possible. Bundles provide users with rights of actions and duties over resources, according to their legal status. Such clarification secures rural inhabitants rights and provide with incentives to manage sustainably the tourism commons and generate rent efficiently.

Regarding Williamson’s (2000) level III of institutions, we analyze here governance structures that can regulate the tourism commons, that is: generate resource-flows and rent for all interest groups without dissipating the total rent and permit replenishment of the resource-

system. Conditions and variables are necessary to permit emergence and stability of such institutional arrangements for tourism regulation. Among them are state capacity and facilitative attitude, social capital, collective action, enabling legislation and land reform.

Next parts 3 and 4 will question whether those conditions exist or not in communal land rural communities in Namibia. Existence of such conditions in institutional level II (land reform and clear property rights) and level III (enabling state legislation, and social capital) is essential to analyze institutions' stability and capacity to govern human trans-actions and thus the CPRs (tourism commons).

### **3. Facilitative CBNRM legislation and property rights: towards devolution and community control over tourism commons?**

#### ***3.1. Communal lands Conservancies in Namibia as an incomplete common property regime.***

##### *3.1.1. Land reform and CBNRM legislation set common property regime in communal lands.*

Institutions emerge to control human negotiations and trans-actions in order to reduce conflicts and lower transactions costs. Transactions costs are ex-ante costs and ex-post costs. The former are composed of information, bargaining and negotiation costs. The latter represent monitoring and enforcement costs. Clear definition of property rights to resources, corresponding to Williamson's (2000) level II, is a first step to design institutions that reduce transaction costs. Let us now see if this condition has been met for community regulation of tourism in Namibian communal lands.

In Namibia, communal lands residents do not enjoy the same rights over resource than residents on freehold farms<sup>5</sup>. The latter, in seventies, were legally declared owners of any huntable game on their property. On communal land however, any game, including huntable game, and other ecosystems' resources as wood, fish, trees and plants are the property of the central State that issues quotas to potential users. Thus, communal residents and farmers could only be said to have the status of authorised entrant or authorised user, if one refers to the typology of Ostrom and Schlager (1992). Managing resources was the full responsibility of the State, through the local offices of the MET. Patrols were made by ministry game rangers and quotas and permits issued in Windhoek.

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<sup>5</sup> Freehold farms are demarcated and enclosed pieces of land under individual private property (legal titling)

Tourism rights were held by the central state, represented by the Department of Tourism (DoT) of the Ministry of Environment and Tourism (MET). Thus tourism development in communal lands were agreed upon and supervised by government officials that granted Permissions to Occupy (PTO) over an area to potential tourism investors. PTO grants were decided in commissions in Windhoek and fees were collected by the MET. Even if traditional leaders were to approve the PTO granting over an area under their traditional jurisdiction, local community was unable to control resources and land allocation. Bribery was common and tourism development was anarchic and left unregulated (if we refer to Baland and Platteau's (1996) concept of regulated resources).

At the opposite, freehold farmers could be considered as "owners" of wildlife and tourism resources, i.e. latent primary factors (Marcouiller, 1998). Until now, they have had all rights of action over resources, including management, exclusion and alienation rights, that is *usus*, *ususfructus*, *abusus* and transfer. Any tourism development, based on natural amenities situated on their private land, could be made freely and without any restriction. Only consumptive tourism (trophy hunting) was controlled for specially protected species. Lodges, guest farms, game-drive vehicles were under full responsibility of the farm owner.

Confronted with rural poverty and natural resources degradation, the Namibian government intended to redress past inequalities between freehold farmers (mostly white settlers) and communal land farmers in former Bantustans (African populations). The MET 1995 Policy on Wildlife Management, Utilisation and Tourism in Communal Areas, stressed that the new policy intended:

- 1) To remove discriminatory provisions of the Nature Ordinance(...) by giving conditional and limited rights over wildlife to communal area farmers that were previously only enjoyed by commercial farmers;
- 2) To link conservation with rural development by enabling communal farmers to derive a direct financial income from the sustainable use of wildlife and from tourism;
- 3) To provide an incentive to rural people to conserve wildlife and other natural resources through shared decision-making and financial benefit.

Nature Conservation Amendment Act n°5 of 1996 amended the Nature Conservation Ordinance of 1975 so that residents of communal areas could gain the same rights over

wildlife and tourism as commercial farmers. The Act sets the formation of a *conservancy*<sup>6</sup> as the condition upon which ownership and use rights over game and tourism are given to communal area residents of a certain territory. Based on this new legislation, the MET and donors launched the CBNRM (Community-based Natural Resources Management) Program. This program supports communities in order for them to register as communal land conservancies. The community<sup>7</sup> must elect a representative committee, agree upon a legal constitution, prepare a “resource management and utilisation plan”, set up a financial distribution plan and finally agree upon undisputed recorded (GPS) boundaries. Communities, if registered as communal land conservancies, are recognized new rights and new action rights over resources. They become “claimant” over resources, which mean that they now can access to, subtract and manage natural resources that are on their territory (conservancy). To a certain extent, communities are also recognised as “proprietors” over wildlife resources (seen as capital for photographic tourism). Through the conservancy committee, members can exclude outsiders from utilizing game inside the conservancy. Use of game is controlled by the conservancy committee which decides who will be the users of game and who will benefit from the meat, if hunted. To another certain extent even, conservancies have limited status of “owner”, as they can alienate wildlife. If permit is issued, conservancy can capture and sell alive some of their game. This clarification and securisation of land and resource rights creates incentives for local communities to use wisely their common-pool natural resources. Local communities can benefit from wildlife and tourism resources, by directly consuming (for subsistence) or transforming them. Wildlife resources can be used for hunting operations, meat distribution to the conservancy members, shooting and selling the meat to outside corporations (Meat Co or in South Africa), or trophy hunting (“recreational” hunting). Also, as we saw above, natural assets, i.e. dramatic landscape and endemic species (desert elephants and black rhinos) can help develop tourism activities on the conservancy territory.

In 2004, 31 conservancies were registered by the government. Four more were registered in 2005 and many more emerging conservancies are to be registered soon. In total, around 100 000 rural people live in and benefit from communal land conservancies that represent an area of about 85 000 square meters. Namibia is 825 500 square meters and its population is 1.8 millions. Communal conservancies have added substantially to the network of conservation

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<sup>6</sup> A conservancy is a territorial Unit.

<sup>7</sup> Community is simply seen as a declared group of people that recognised themselves as a group.

areas in Namibia. More than 23% of the Namibian surface is under conservation management. To this figure, we can add 5% of territory under freehold private conservancy and even more under private reserves as well as tourism and hunting concessions.

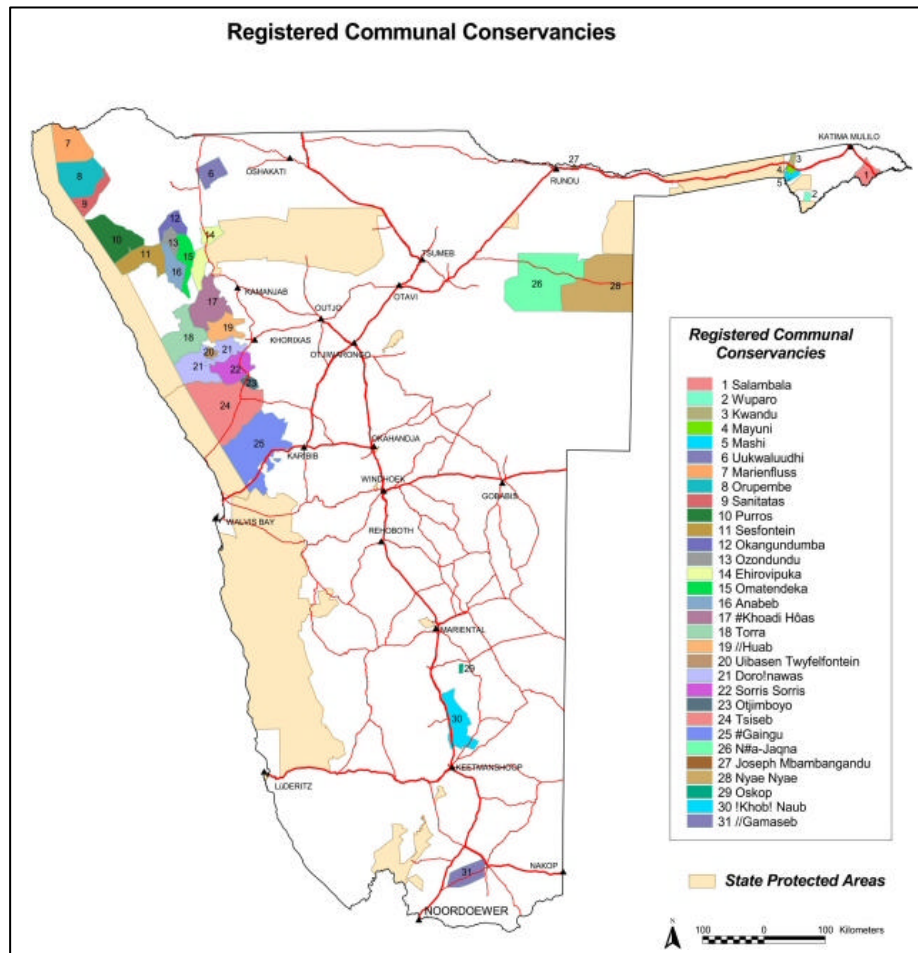


Figure 2: Territorial re-appropriation of natural resources: Communal Land Conservancies

Communities in conservancies set up decision structures (conservancy management committee, executive committee, sub-committees, etc.) and design resource management plans. They design zonation plans where tracks of land are demarcated for exclusive activities: Grazing land, wildlife breeding, forest, tourism and wildlife exclusive zone, hunting zone. We show below in figure 3 the draft zonation plan of Tsiseb conservancy. Tsiseb conservancy is situated in former Damaraland, today Erongo region (number 24 on figure 2). Zones have been designed to control activities and land use options. In multi-function ecosystems characterized as complex CPRs, zonation plan reduces land use conflicts, regulate

strategies and coordinate different user groups with opposite interests. Thus, tourism operations are situated in a specific zone where natural capital is fully (given some exceptions) used as a latent primary factor and incorporated as an input in nature-tourism production function. To regulate those natural attractions (impure public goods), working rules are set up by “resource management and utilization” plans. Tourism management plans are also designed for each conservancy to complement NR consumptive use regulations. All this regulates activities by members and outsiders.

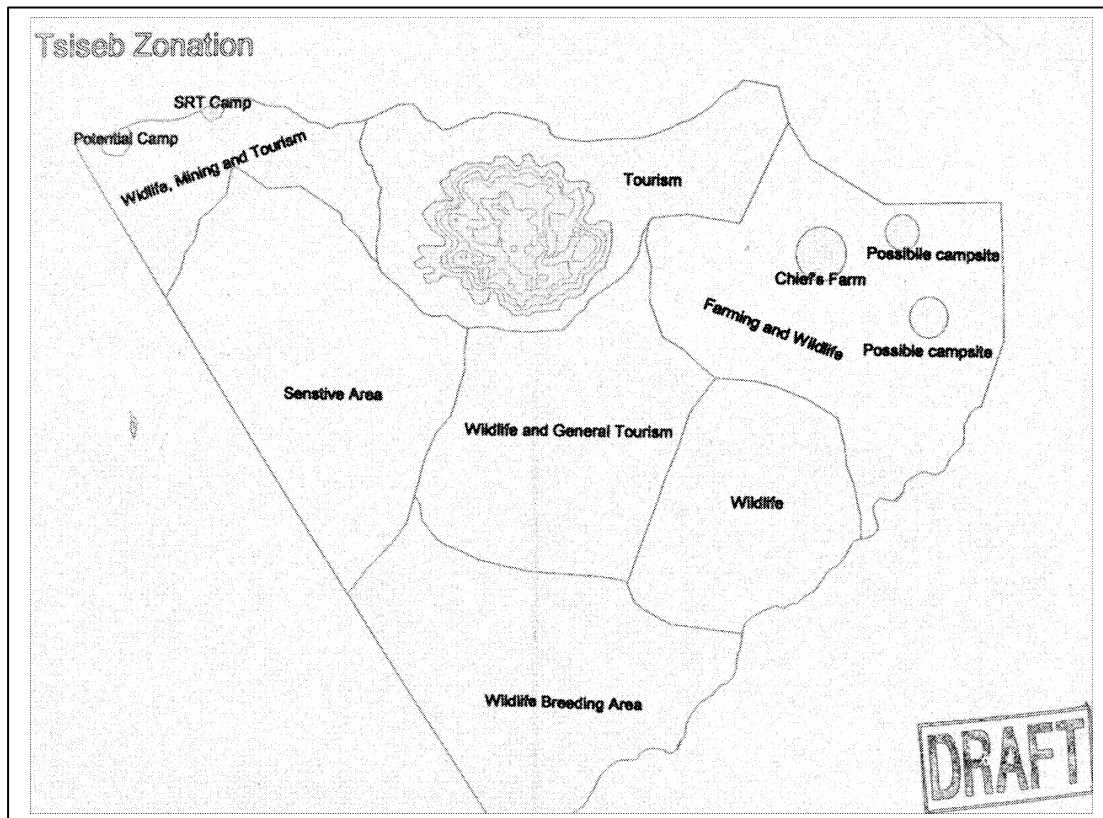


Figure 3: Designed land use option zones in the Tsiseb resources management and utilization plan. Source: Tsiseb Conservancy.

In Tsiseb conservancy, the tourism management plan states rules and regulations that have to be respected by members and enforced by conservancy officers. Common property regime (exclusion rules) and regulations about use (technology to be used, quotas, and behaviours) set what Baland and Platteau (1990) characterize as regulated CPR.

Section 3.2.1 of the management plan sets rules and priorities for Wildlife and General Tourism zone. “Tourism activities such as guided mountain trails, walks, game drives and trophy hunting will take place and tourism developments such as campsites and lodges can be established here. Additionally, wildlife harvesting can take place, both in terms of



professional hunting and own use (...)". Section 3.2.1 continues: "Activities which will be encouraged are as follows: a) Wildlife activities, b) Conservancy Tourism activities, c) Controlled harvesting activities, d) Existing farming and mining activities. Activities which will be discouraged are as follows: a) Poaching, b) Illegal hunting, c) Tourism activities not authorized by the conservancy, d) new settlements.

The plan also defines roles and duties of the different stakeholders. As it is said, "stakeholders who will be involved in decision making with regard to the management of the zones are: a) Conservancy Committee and members, b) Daures Daman Traditional authority, c) Ministry of Environment and Tourism, d) Other line ministries.

In their Management and Utilization Plan, Tsiseb conservancy also states a tourism activities plan in section 4. Thus section 4 stipulates that "the conservancy is aware that uncontrolled tourism can result in irreparable damage for the natural resources and to the people living within the conservancy". The guiding principle for tourism in the conservancy is that "all Namibian laws and regulations in relation to tourism enterprises development, including those prescribed by the communal Land Reform Act, 2002 and the Nature Ordinance [1996], shall be adhered to. Both these laws acknowledge the need for conservancies to be involved in the management of tourism activities within their areas."

Further, operating principles include in the plan, as follows:

1. All tourism operations lease holds within the conservancy will be in the name of the Tsiseb conservancy, unless agreed otherwise by the conservancy management.
2. A leasehold for each tourism operation must be obtained through the Land Board.
3. Tourism operations within the conservancy will be coordinated and integrated with other livelihood activities so to avoid conflicts
4. Income generated from all Tourism operations or ventures will be deposited into a community Trust. This income will be used according to the approved annual budget by the conservancy members.
5. The Conservancy management reserves the right to select tour operators or investors who will carry out businesses within the conservancy on merit and ethical tourism principles.

Cutting and harvesting wood, grazing animals, illegal hunting as well as tourism activities are controlled by community game guards that patrol on the territory to monitor resources and report any incident. Compliance with CPR rules in use is monitored by agents who are chosen

from, and appointed by, the community. Face-to-face monitoring and enforcement of regulations are very difficult and costly because users are scattered on a large territory and individual actions are very difficult to observe by other users. This is reason to appoint game guards that specialize fully in this activity. 7 game guards are operating in Tsiseb conservancy. They presently control activities on foot activities from their farms, but will be soon equipped with a 4x4 and mobile camp facilities. Those game guards control zones and make sure only authorised users and activities are undertaken in the different zones. In Tsiseb game guards should make sure that no farmer is free-riding on rules of access to specific zones. No grazing is permitted in tourism and wildlife zones, so as to propose a homogeneous and “pure wilderness” tourism product. More over, wildlife and livestock often compete for grazing areas. Thus they should be separated if rangelands have to be well managed, so as to sustain sufficient populations of wildlife (carrying capacity).

Land reform, started at the National Land Conference of 1992 (Werner, 2001), supports this legal framework that devolves new rights over tourism assets to communities in communal lands. First, Policy on Community-Based Tourism Development (1995) aims at defining a legal framework for new tourism resources rights. Section 4.5 enhances rights over tourism resources and officially paves the way to the formal devolution of use rights over tourism to communal farmers. The policy states as follows: “In order to redress past inequalities, the MET needs to enhance the rights over tourism resources. At present they [communities] have little control over what happens to or on their land.(...) MET sees conservancies as a key tool by which communal residents gain rights over environmental resources, particularly wildlife and hence over tourism assets. Once the conservancy legislation is passed, MET will support communities to establish wildlife conservancies and to establish tourism ventures as appropriate. MET will give recognised conservancies (with a legal Trust Fund or other mechanism for administering and sharing revenues) the concessionary rights for lodge development (which they can utilise themselves or lease to others) within the conservancy boundaries (...)”.

Then, The Communal Land Reform Act n°5 of 2002 tries to regulate land use options and clarify rights of occupation in communal lands. The Act decentralizes decisions about land allocation. Regional Communal Land Boards are responsible for granting rights of leasehold (RoL) on communal lands. Those RoL concern rights to occupy a piece of land for commercial reasons, mainly tourism purposes. Section 3 states the functions of boards and states: “Subject to the provisions of this Act, the functions of a board are- (...) (b) to consider

and decide on applications for a right of leasehold under this Act; (...)". Section 4 (f) defines roles of conservancies in the boards by stating that "[the board consists of] if any conservancy or conservancies, (...), exist within the board's area, one person nominated by the conservancy concerned or, where applicable, by the conservancies concerned jointly".

Thus, conservancies have representatives in the communal land boards and are able to partly control the land allocation and distribution within their boundaries. In section 31(4) "before granting a right of leasehold in terms of subsection (1) in respect of land wholly or partly situated in an area which has been declared a conservancy (...), a board must have due regard to any management and utilization plan framed by the conservancy and such a board may not grant the right of leasehold if the purpose for which the land in question is proposed to be used under such right would defeat the objects of such management and utilization plan". Through Communal Land Reform Act, powers to allocate land rights (thus to appropriate rent) are redistributed. Granting of rights is better monitored and decision process now involves local communities. Relations between public sector, private entrepreneurs and rural people are slightly changed. This leads to modified economic respective powers in the tourism sector.

The 1996 Act puts a common property regime in place for communal land conservancies. User groups obtain collective rights to utilize and benefit from common-pool resources. Communities have access, subtraction, management and quasi-exclusion rights. Management right helps regulate resources and reduce externalities and rivalry amongst users. Right to exclude outsiders limits numbers of users and opportunistic behaviours (free-riders). From open-access regime, CPR are now set under common property regime, and regulated in the sense of Baland and Platteau (1996). This leads to better securisation and better incentives structure for individual strategies. Conflicts are reduced as well as transactions costs.

### *3.1.2. Limited and insecure property rights over the tourism commons: towards a new Tragedy?*

We showed that legislation is supportive to the devolution discourse. Later in the point 3.2. we shall see and question reality of this discourse of devolution. At this moment we aim at analyzing limits of institutional change in Williamson's (2000) level II, as applied to the Tsiseb conservancy case.

1. Devolution of property rights over natural resources has been limited in Namibian communal lands. Illustrations of these limitations can be found locally from Tsiseb case.

Communities are only claimants over natural assets on conservancy territory. As a matter of fact, the state remains the owner of all communal lands whether registered as conservancies or not. Namibian Constitution and Communal Land reform Act of 2002 stipulate both that communal lands are made available for use and entry by all Namibian citizens. Rights of *pawn* (right to keep a thing belonging to someone else but not to use it), *usus* (right to use a thing belonging to someone else but not to rent it or sell it), *usus fructus* (right to use a thing belonging to someone else or to rent it to others but not to sell it or change its quality), or *trespassing* (right to cross another's land) have been transferred to communities (conservancies) but the right of *ownership* (right to use, sell, rent, and change quality of one's property within the limits of law) still lies in the hand of the government. Natural assets are not fully under the authority of the communities. Without this authority, conservancy representative have no power or responsibility to legally enforce rules and regulations. A final tourism policy document is lacking in Namibia. Illegal camping, off-road driving and inadequate behaviours can not be legally monitored and pursued directly by conservancy game guards and members. Only indicative signboards can be put up to restrict camping and off-road driving. Prohibition of illegal fire by campers can not be enforced by game guards. They must call upon MET officers that still remain in the area. Tourists harassing animals or degrading fauna can also only be pursued by MET rangers that patrol. No right is actually devolved to conservancies to enforce their management plan and their rules. Irony is that the Legal Assistance Centre (LAC) now informs communities they can use the Criminal procedures Act of 1977 to arrest without a warrant any body that committed an offence. Here rural communities should use a law passed by colonial South-African power during apartheid oppressive regime!

2. Different pieces of legislation contradict themselves. The high legal segmentation lowers clarity and security for community. Colonial occupation disorganized local systems of traditional authorities in communal lands. Some chiefs were appointed by the apartheid, while not legitimate, and other were not recognized by the central power. At independence the new state found a situation of multiple leadership levels without any coherence. Local-level authority to control rural inhabitants, settle disputes and allocate land was thus confuse. To clarify responsibilities in rural in communal lands the government passed the Traditional Leaders Act of 2000. This gives rights and authority to recognized traditional leaders under this Act. If legally recognized by state, local chiefs are given responsibility and authority to allocate customary rights. Under Communal Land Reform Act of 2002 traditional leaders grant residential and grazing rights to farmers under their custodianship. Problems arise when

chiefs give permission to graze in areas that are demarcated for exclusive tourism use. As conservancies only control (see above) allocation of land (RoL) for tourism purposes, they can not prevent traditional authorities to grant customary grazing rights on the same place. Zonation plan is mostly indicative. Designated areas under the management plan are not legally fully enforceable by conservancies. Two systems of rights (traditional as opposed to “modern”) here compete and this brings us back to a potential new tragedy. In Tsiseb, the Ugab River site is both allocated for grazing and tourism purposes. Neighbouring farmers bring their livestock for water and food in the lodge area. At the same time conservancy leased the site to a tourism operator that accommodates clients and organizes game drives to observe desert elephants. Discussions have been hold between traditional leaders of the area and conservancy committee to reduce land use conflicts. In times of severe drought however the arrangement proves unstable and problems occur. Mosimane (2000) concludes that “in the absence of formal rules and regulations governing grazing rights and the creation of effective enforcement mechanisms, open access to the conservancy’s grazing resources will remain a threat to its long-term viability and tourism potential”.

3. Moreover, the Traditional Leaders Act creates further confusion between recognised and not recognised local chiefs. Some areas, including Tsiseb are simultaneously under the custodianship of two traditional authorities (T.A). Chief Elias Thaniseb is recognised locally as the chief of Daures Daman by all members of the community. Nevertheless, the Namibian state did not give recognition, and instead placed Okombahe T.A as the “official” local leaders. This has important consequences. Communal Land reform Act of 2002 conditions granting of RoL by communal land boards (where conservancies seat) to the approval by local chief of the area. Any tourism development, to be granted a RoL, must get the approval of the recognized local T.A. Confusion happens when two T.A control an area. A local entrepreneur in Tsiseb got the approval from one T.A. (the one only recognized by state and not community) to be granted a right to operate a campsite in the Ugab river. The conservancy committee was not happy with this decision because they had other plans for the site and were willing to condition the allocation to a benefit-sharing agreement. However, they had no responsibility to challenge this right, and despite discussions, the entrepreneur still runs his business without redistributing any fund to the community.

4. Line ministries control devolution of property rights to local communities in communal lands. Conservancies are not independent and must always get the support and even acceptance of the MET before taking a decision that would slightly change conditions of management and utilization of natural assets on their territory. As stated by Jones (2003) the

MET was supposed to transfer concessionary rights back to conservancies where state concessions were situated. Concessions rights and fees would be decided upon and appropriated by conservancies. This was part of legislation to devolve rights to communal land farmers in order to regulate natural assets and tourism commons. However, Hobatere tourism concession was never reverted to #Khoadi //Hôas conservancy. State still decides in Windhoek about development of tourism in the north-west.

5. Namibian state is often arbitrarily deciding upon change in land tenure rights over resources. Palmwag state tourism concession is ending in 2010 (situated in the north-west). For 20 years the concession has been leased to a tourism operator that made agreement with NGO to protect black rhinos and distributed part of turnover for this purpose. The concession rights could be in the future reverted to neighbouring conservancies. However, it seems that the MET is instead planning to create a National Park *in lieu* of the concession. Rights that should be devolved to communal land farmers are here arbitrarily re-centralized in order to capture the rent and impose state regulation. Same case occurs in Tsiseb conservancy. The community has been taking care of the Brandberg Mountain and its archaeological remains for 15 years. However, in 2005, the state National Monuments Council took over management of the mountain and imposed its regulation and rules over local inhabitants (that had their own arrangements for years).

To conclude for section 3.1., new property rights have been defined and devolved to local communities in communal lands in Namibia. As a consequence, this secured land tenure and use options for rural farmers, and slightly changed their incentives structure. Through change in the property rights regimes, state modified bargaining powers of interest groups that compete for natural resources, which are resource-based latent primary factors for tourism production. Under the new incentive structure local communities can generate rent from using natural assets as inputs for tourist product. However natural capital is an impure public good that often suffer from provision problem, free-riding and over-exploitation. New common property regime provides communities with formal (*de jure*) capacity to regulate the tourism commons. Through changes in level II variables, local institutions emerge for resource governance. This also enhances power and authority of communities to control the tourism assets and participate actively in the regulation. This last fact has now to be questioned seriously to analyse the potential gap that divides formal (*de jure*) capacity to regulate tourism and the real (*de facto*) authority and capacity to appropriate control resource-flows from tourism commons. This is our point of interest in section 3.2.

### ***3.2. Facilitative state and the discourse of devolution: community participation in tourism regulation?***

The literature suggests that state intervention is often necessary. In Grafton's (2000) words, "The institutional costs to overcome the free rider problem can often be very high, requiring some form of coordination across resource owners, users, and beneficiaries" (p.513). A core insight is that often states can most effectively mitigate conflicts and promote mutual gains with a facilitative strategy, rather than public resource ownership or regulation (Vail, Heldt, 2004: 475). We saw above that the Namibian state passed legislation aiming at reforming land rights in communal lands and empowering local communities. However, to be claimant, proprietor or other does not make everything. Participatory approaches are essential for actors to respect and comply with rules that they have decided. Defining clear property rights is a condition for the emergence of institutions that reduce transactions costs, but it further needs participation to smooth conflicts out and lower negotiation and monitoring (against rent-seeking strategies) costs. Thus, state facilitative strategy means state promotion of community participation and coordination of actors.

#### *3.2.1. Towards community participation in tourism commons governance...*

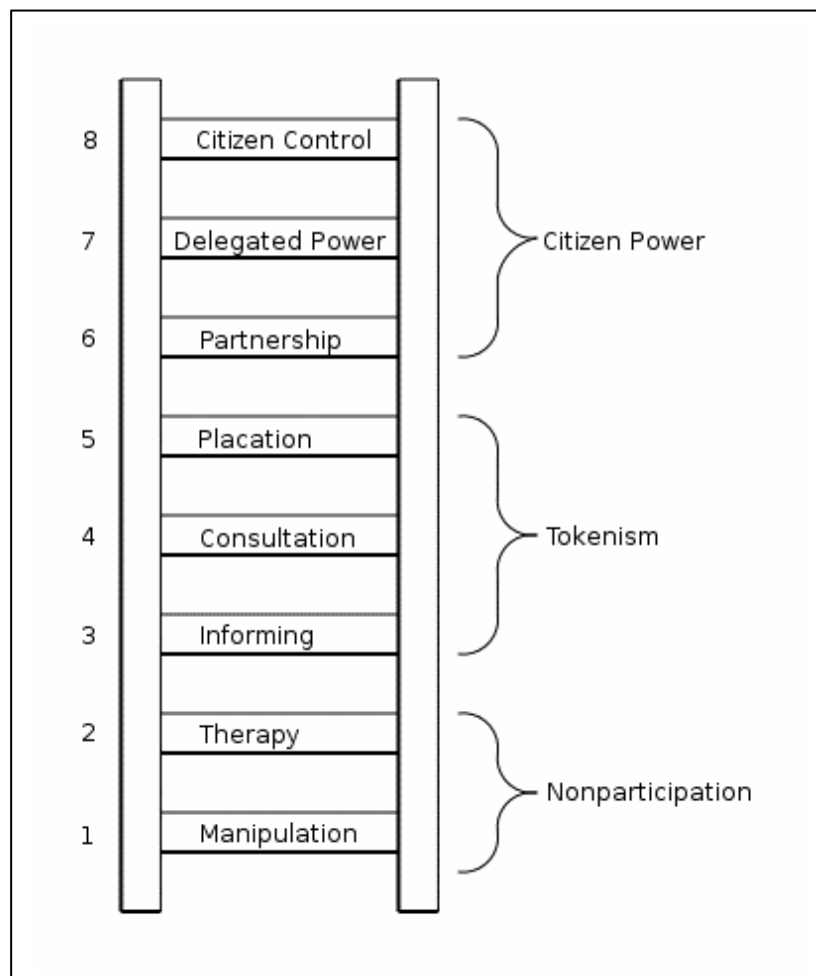
Tosun (1999, 2006) analyzes levels of citizen participations in decisions in general and tourism development in particular. As stated by Arnstein (1969: p.216), "Participation is the redistribution of power that enables the have-not citizens (...) to be deliberately included in the future. It is the means by which they can induce significant social reform, which enables them to share in the benefits of the affluent society". Arnstein (1969) designs a ladder where each rung is a level of community participation in public affairs (see figure 4 below). Tosun follows Pretty's (1995) and Arnstein's (1969) approaches and proposes 3 levels of differentiated participation, applied in the tourism regulation case.

a) Spontaneous participation in Tosun's model corresponds to degrees of citizen power in Arnstein's typology. This ideal type provides full managerial responsibility and authority to host community.

b) Induced community participation in tourism development tallies with degrees of citizen tokenism in Arnstein's typology. They have a voice in the tourism development process, but they do not have power to insure that their views will be taken into account by other powerful interest groups. This type is the most common mode to be found in developing countries where a host community only endorses decisions regarding tourism development issues made

for them rather than by them. It is top-down, passive and indirect. Host communities may participate in implementation and sharing benefits of tourism, but not in the decision making process.

c) Coercive participation is manipulated and contrived as a substitute for genuine participation. It represents the lowest rungs of the ladder, manipulation and therapy in Arnstein's typology. (Tosun, 2006). In this rungs, as stated by Arnstein, "the real objective is not to enable people to participate in the tourism development process, but to enable power holders to educate or cure host communities to turn away potential and actual threats to future of tourism development" (Arnstein, 1969; *cited in* Tosun 2006).



*Arnstein's (1969) typology of community participation.*

In Namibia, Decentralisation Policy of 1997 aims at the devolution of certain powers to lower levels of decision. The Policy sets Regional Development Co-ordinating Committees up to coordinate regional development planning. At the lowest level, village councils are responsible for local tourism development and a local tourism councillor is appointed.



More specifically, Policy on Community-Based Tourism Development (1995) aims at defining a legal framework for new participation of conservancies in tourism. Section 4.2 wants to enhance community interests in planning. It stipulates that “approval of PTO<sup>8</sup> and concessions applications is part of the planning process. All PTO/concession applications for a tourism enterprise must include details of an agreement between the applicant and local community, before it can be approved by the MET (...). In assessing applications for tourism enterprises, MET will judge them against a range of criteria to include: degree of local participation and benefit in the enterprise (...)”. Section 4.4 further promotes maximum benefits to communities from private sector tourism enterprises on communal land. As it is said, “MET (...) will give incentives for and preference for partnership and or revenue-sharing ventures, e.g. use criteria for judging PTO allocations and tourism concessions”. Actual participation by local communities is promoted by the government. Legislation passed and facilitative state strategy for local participation has several illustrations, as we showed already in section 3.1:

- Conservancy management committees nominate and form tourism sub-committees to participate fully in all tourism development inside the conservancy. In Caprivi, transboundary parks projects (Botswana-Zambia-Angola-Namibia) all consult conservancy committees and ask for their inputs. Conservancy committees and especially conservancy chairman are fully recognized as actors in the national and local tourism development. North-West Tourism Master Plan, finalized in 2001/2002 has been consultative exercise whereby all communities (especially official and emerging conservancies) were invited to propose ideas about tourism future operations and governance. During this plan design phase, attractive sites (Marcouiller’s (1998) notion of placeness) were found and tourism opportunities were thought about, by all stakeholders, including communities’ representatives. Tourism option plans were written for each conservancy after this consultation process. These documents are efficient and easy tools for local communities to monitor future development of tourism on their territory and thus regulate existing tourism commons.

- Community members in communal lands are invited to participate in several meetings organized by line ministries and conservancies. Natural resources management and utilization plans are discussed in workshops where all members can participate. Tsiseb zonation plan was discussed and reviewed by multiple stakeholders. First, conservancy inhabitants

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<sup>8</sup> Permission To Occupy. PTOs have been transformed into RoL by the Communal Land Act of 2002. PTO were granted by State to operate on land.

commented it. This brings fruitful debate and conflicts. Farmers, hunters, informal miners, sellers, local entrepreneurs have different interests and view concerning zones to demarcate. Farmers fight for larger grazing zones. Tourism operators and professional hunters are looking for exclusive zones for tourism. All members could make their input to influence the resulting plan. Same process was adopted for setting up rules and regulation (access, use rights). The document was reviewed as well by the MET, Ministry of Agriculture, local authorities, traditional authorities, Ministry of Education and Culture, Ministry of Mines and Energy<sup>9</sup>, and some others. Thus management and zonation plans were designed through a participatory approach where community members could have their input.

- Local communities, through conservancies and new land rights which are devolved to them, are first participants in negotiations for benefit-sharing agreements and joint-venture agreements in tourism operations (Lodges, game drives, hunting concession, etc.). Firstly, we mentioned earlier that conservancies seat at Regional Communal Land Boards and represent their communities. They do participate in decisions about land allocation. Thus tourism operators have to negotiate with them to be granted RoLs. Secondly, as conservancies are claimants over their resources, investors who want to operate business in a conservancy area, have to reach benefit-sharing agreements with conservancy committees if they are to be granted the RoL. Joint venture contracts are signed between communities and private tourism operators. In the deal, conservancy transfers its right over land to another agent that pays lease fees in return to the community. The contract stipulates conditions of the lease and rights and duties of each party. The lessor (community) must enforce the exclusive right over the area that was transferred to the Lessee. In return, the former pays a percentage of its turnover as a fee and should respect regulations and rules stated by the conservancy management plan. Moreover, local community members are employed in priority by the tourism operator. Community, through its conservancy representatives, negotiate the contract and participate in stating the clauses that will be monitored and enforced. A joint Management Committee is set up to settle disputes regarding respect of contract. Three members of the conservancy and 3 members of the operator meet on a monthly basis and discuss matters of job conditions, respect of environmental rules, compliance with the zonation (i.e. if farmer graze on the tourism site) and with tourism regulations stated by the conservancy management plan (Ethics, illegal hunting, etc.). Participation is here quite at a high level but will be further questioned below in section 3.2.2.

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<sup>9</sup> Uis Myn is situated in Tsiseb conservancy. There is here a tin mine. In general the all conservancy is rich of precious and semi -precious stones.

- Co-management structures are designed in order to make local communities participate in tourism activities in communal lands. Co-management can create synergy between actors and help regulation of tourism commons by communities. Co-management is “a situation in which two or more social actors negotiate, define and guarantee amongst themselves a fair sharing of the management functions, entitlements and responsibilities for a given territory, area or set of natural resources” (Borrini-Feyerabend et al., 2000:1, cited in Carlsson and Berkes, 2005). The idea is that an agency with jurisdiction over an area (State or conservancies, or both) might develop “a partnership with other relevant stakeholders (i.e. private sector, or local users) which specifies and guarantees their respective functions, rights and responsibilities with regard to the (area)” (Borrini-Feyerabend, 1996:8, cited in Carlsson and Berkes, 2005). Through co-management structures, communities are participating in tourism activities and regulation and are empowered by knowledge sharing process.

- Community-based tourism enterprises (CBTE) are strongly promoted by the Namibian state. The Policy on Community-Based Tourism Development (1995) puts CBT as a priority to alleviate rural poverty and empower communal land inhabitants, especially minorities (Bushmen, Himba) and women. A work position of CBT Coordinator has been created within the Department of Tourism (DoT) of the MET. The CBT coordinator’s function is to monitor CBTE development and promote community tourism in communal lands. Funds are limited but the coordinator facilitates coordination between ministries’ services, NGO and international donors that work in the field of CBT and rural poverty alleviation. NACOBTA (Namibia Community-Based Tourism Association) is an umbrella membership organization that supports communities for CBT development. Financial, marketing, management and institutional support is the core activity of NACOBTA. The organization is funded by international donors (Sida, USAid, Finish Embassy, Austrian Embassy) and works in all the regions with around 20 projects. In Tsiseb conservancy, Daureb Mountain Guides Association (CBTE run and managed by local young guys), as well as a coffee shop and Daureb Crafts women cooperative, are supported by NACOBTA.

We showed that state and NGO in Namibia facilitate participation and coordination between different interest groups that compete to appropriate resource-flows from the tourism commons. Community participation is promoted by State and ministries and supported by NGO in the field. However, community participation is often simply a political discourse of devolution of responsibilities to communities in communal lands. We refer here to Arnstein’s (1969) tokenism level of participation.

### 3.2.2. ...but “Big Brother” is still watching communities.

Ministry of Environment and Tourism, agencies and NGOs are very important stakeholders in the decision-making process concerning tourism development and regulation. MET officials must be present in workshop where conservancy resources management and utilization plan and zonation plan are designed and voted by members. MET officers often start the management plan process and have the most important inputs. Zonation plan designing is also steered by the different ministries. Parks and wildlife officers analyze ecological conditions in different parts of the conservancy and make a zonation proposal. Further, MET (and DoT) and Ministry of Agriculture must approve regulations, management and zonation plans before those are official and enforced. NGO and donors have also big decision power. WWF Namibia, Us Aid, RISE, NNF have major positions to influence decision-making process. WWF and NNF facilitators influence strongly the day-to-day running of conservancies. Any matter in regard with natural assets management and tourism regulation will be discussed with NGO officers. Institutional dependency on NGOs and ministries is quite high in Namibian communal lands. Communities, through their conservancy committees, rely on NGO and State support. In return the latter have strong *de facto* power to decide on local affairs. Monitoring and enforcement processes are also controlled by State. We showed earlier in the paper that MET rangers and police officers are the sole authority to legally arrest people offenders.

Joint-ventures process and negotiation is also steered by state and NGO. Tender processes were launched in 2002 and 2003 to find potential investors that would be interested to operate a tourism venture in communal areas. Prior to launching, consultants (appointed by donors) went in communal lands to value opportunities and designate attractive sites for investors. Conservancies were consulted and sometimes proposed sites. During the tender process, interested investors submitted their proposal to the tender team (NACOBTA Joint-venture Unit) that appointed sub-team to evaluate proposals and mark them. Evaluations were given to conservancies that decided which investors they chose (if they were willing to find an investor). Tsiseb conservancy put its Ugab River site on tender. In 2002, an investor was found but the evaluation team (adjudication) advised the community not to enter into contract with the operator, because this one was thought not to have enough tourism and community experience. However, the impatient community decided to sign an agreement with the interested investor. This situation shows limits and loopholes of the so-said “transparent”

tender process. In Tsiseb, this system was badly felt. Conservancy committee members felt that the process was controlled by “whites” that decided and evaluated from their cozy office in the capital. They said they were controlled by NGO and donors that implemented European, occident methods to an African context. Today, the agreement is a bone of contention between the investors, NGO and the community. The latter feels like now abandoned by donors that decided on their behalf.

Real (*de facto*) community participation in tourism commons regulation is questionable in Namibia. Conservancies are integrated in the decision process but MET, donors, NGO are still steering the process. Those stakeholders distrust communities and see many problems that occurred and still occur in community projects. Thus they want to control decision and influence communities. Financially, conservancies depend on state and NGO support. This dependency syndrome leads naturally to lowered authority and responsibility. Communities mostly implement plans that are decided by external actor that only consult actors at the local level. Following Arnstein’s (1969) typology, we characterize the Namibian situation for tourism as pure tokenism. Some degree of partnership is reached but still needs to go on to really include local communities in the tourism regulation.

Real community participation and capacity also depends on their skills and internal organization and performance. If participation is to be fully promoted and accepted by state, communities have to prove their *de facto* capacity. Here positive social capital is essential to analyze to understand real community power to govern natural resources-based public goods (latent primary factors in tourism).

#### **4. Social capital as a tool for communities to regulate natural capital and tourism commons? Beyond communitarist idealistic approach.**

While incomplete, legal framework does devolve some rights over resources to local communities, through emergence of conservancy institutions. Local communities are involved in tourism regulation and participation, even questionable, is facilitated by state strategy. Thus multiple conditions are met for efficient resource governance. Definition of rights, devolution, and community participation all reduce transaction and permit efficient institutional arrangement to emerge. Social capital is an additional essential condition for low transaction costs (negotiation) and commons governance (Birner and Wittmer, 2000).

#### ***4.1. Social capital as peer-control for tourism activities.***

Pierre Bourdieu (1986) distinguishes between three forms of capital: economic capital, cultural capital and social capital. He defines social capital as "the aggregate of the actual or potential resources which are linked to possession of a durable network of more or less institutionalized relationships of mutual acquaintance and recognition". Social capital is seen as a resource to be used as a production factor. Following this vision, Putnam states that "by analogy with notions of physical capital and human capital--tools and training that enhance individual productivity--social capital refers to features of social organization, such as networks, norms, and trust, that facilitate coordination and cooperation for mutual benefit" (Putnam, 1993, p.36). Further, Putnam (1995) defines social capital as "the collective value of all 'social networks' and the inclinations that arise from these networks to do things for each other". Social capital is types of norms, traditions and social relations that build links between people and enhance collective action. Mutual benefit is the result of social capital. It is a club good produced by group members that value and use it to reach collective good.

As stated by Jones (2005, p.307), "[social capital] can improve a community's ability to sustainably manage natural resources through generating appropriate norms and rules and enhancing trust and reciprocity. Trust and reciprocity lubricate cooperation through reducing transactions costs as people no longer have to invest in monitoring the behavior of others, thus building confidence to invest in collective or group activities". Repeated contacts between actors (meeting, seeing each other, living near to each other) build trust and enhance cooperation. In the "tourism commons regulation" game, agents choose whether to comply or not with working rules (from the management and zonation plans). Actors follow strategies depending on external factors and others' strategies. We face a prisoners' dilemma in a one-shot game. However, communities are characterized by repeated social relations on multiple periods. Thus, the commons regulation game is a repeated game where agents can follow cooperative strategies. Repetition of face-face contacts creates trust and reciprocity. People know each other and value free-riding at a higher cost. In such repeated game, Ostrom (2000) shows that agents choose to be "conditional cooperators". Social capital is in this context the cement that keeps individual bricks together and permits collective action. Actors choose to comply with rules at each period until one of them free-rides and breaches norms. Regulation is respected and enforced through mutual trust and formal and informal norms that lower transactions costs.

Moreover, existence of tight social networks lowers costs of observing others' actions regarding use of the tourism commons. Rural farmers can observe their neighbor's strategies and report incidents. They often discuss informally to convince the offender to respect rule and invest in collective action. Peer-control reduces individualistic strategies, lowers transaction costs (monitoring and control) and enhances collective action, which is reaching collective objectives, i.e. governing the tourism commons. In Namibia, traditional leaders facilitate conflicts resolution and free-riding reduction by intervening and advising on situations.

In Tsiseb conservancy, tourism regulation is facilitated by social capital among group members. Daureb guides tourism operation is a good illustration. The Daureb Mountain Guides (DMG) Association is a group of about 15 local young men that are (until June 2005) responsible for the tourism operation in the Brandberg Mountain. Their activity consists of guiding visitors either to the White Lady bushman painting (2.5 hour trip) or to the Koenigstein peak (3 day trip). DMG started their operation in 1993 as a school club and later organized them as a Community-based tourism enterprise. Since that time DMG can be characterized as a self-organized group using the resource-system, which is the tourism commons (the mountain and its natural and archaeological assets) to capture resource-flows (economic rent). Group members comply with informal shared norms and rules. Alcohol, drugs, impolite, arrogant and violent behaviours are implicitly prohibited. Face-to-face relations, social relations and networks are social capital within the Tsiseb community. Those social ties are important for a collective result: the supply of local institutions to regulate the Brandberg tourism commons. Tour guides live in the same settlement, composed of 15 houses (better described as shacks) and meet on a daily basis. They work together, eat together, play soccer and spend long evenings together to support being far from home (the mountain is 50 km from Uis, the main village where most inhabitants live).

Informal shared norms are set by group members that stick to the rules. Following Ostrom (2000), norms are "share understandings about actions that are obligatory, permitted, or forbidden" (p.143). They observe each other easily and can control behaviors. Alcohol, drug unprofessional behaviors in the mountain (while guiding) are monitored and those situations are solved informally thanks to strong social links (family or friendship ties). Collective action (choosing to comply with norms in the repeated game) leads to better tourism regulation. For example, guides took care of the mountain, even before they were recognized as the CBTE responsible for the operation in the Brandberg monument. They altogether

controlled tourists' movements and behaviors in the mountain, especially littering. They were following tourists that refused services from guides. They removed litters and monitored degradation of Bushmen paintings. This result is similar to Vail and Hulkrantz's (2000) research that states: "In remote areas, high costs for monitoring and prosecuting negligent tourist behaviour, such as littering and damaging logging equipment, further depress owner's investment incentives. A strong land ethic may reduce recreationists' opportunism and strengthen landowners' investment incentives. Such Ethics can be considered 'cultural capital' (Berkes and Folke, 1992) and where it is costly to control access and monitor behaviour, cultural capital formation may be a necessary condition for sustainable nature tourism" (p.229). Thus social capital and shared understandings about prohibited, permitted or compulsory strategies are essential to regulate tourism activities in communal areas where rights are not clearly defined.

Further, formal institutions have been set up to enforce norms and govern the resource-system. A chairman, vice chairman, treasurer and additional members were elected by the group to be representatives of the self-organized group. After 2004, a board was put in place and coordinated was chosen from the group and appointed through fees collected for guided tours. Following Birner and Wittmer (2000), we define this institution as a community-based arrangement, which results from high social capital and reduces transactions costs and conflicts and help regulate tourism activity.

Land use conflicts over resources are also settled at low costs through existence of social capital among community members. Grazing conflicts between lodge owners and neighboring farmers are solved with informal discussion and face-to-face repeated meetings. Different interest groups that compete for resource-use solve conflicts through social networks and conflict-resolution informal systems (face-to-face negotiation, traditional leaders). Same collective result occurs in problems concerning joint-venture agreements. Tight human relations and informal norms (social capital) enhance possibility of finding solutions and thus of governing the tourism commons. Community members enter in repeated interactions. If one member breaches a rule that has been set in a joint venture agreement, i.e. exclusive zone for tourism, with no grazing, other community members observe this deviant strategy and solves the problem through discussion or mediation by traditional leaders. Tight networks also permit community members to control that private operators (partner in the contract) fulfill his financial, empowerment and environmental obligations. Farmers monitor easily activities and movements organized by lodge operators for their customers. Game drives in fragile



riverbeds, quad biking excursions in dunes are examples of private commercial tourism activities that local inhabitants can better monitor than an external independent actor (ex: state). Peer-control is here efficient to observe and report free-riding strategies. Once again, this reaches same conclusions than Vail and Heldt, (2004: 474) who show superiority of private contracts between local actors and self-monitoring. “Focusing on strategic interactions between snowmobilers and landowners in Western Sweden, Anttila (2001) models the evolution of local contracting arrangements. A “lose-lose” prisoner’s dilemma game has been replaced by a repeated cooperative game. (...) snowmobilers’ knowledge of peer behaviour-made self-policing more cost-effective than third-party enforcement.”

Co-management and community-based governance structures (Birner and Wittmer, 2000) benefit from positive social capital, because social networks and repeated interactions and face-to-face contact build trust and reciprocity and enhance collective action. Local actors that compete for rent from the tourism commons comply with the rules and norms and then challenge the prisoners’ dilemma result that would foresee the Tragedy. Conditional cooperation strategies in repeated game permit collective good, here high level of commons regulation.

However, scholars often overlook notion of negative (harmful) social capital. Communities in the field are idealized by field researchers that overweight community solidarity and disregard group heterogeneity, governance high costs and elite capture phenomena.

#### ***4.2. Heterogeneous communities and negative social capital: peer-protection and group conflicts.***

Negative social capital can occur with negative externalities created by social capital and network. Francis Fukuyama (1999) shows that “negative externalities abound, as well. Many groups achieve internal cohesion at the expense of outsiders, who can be treated with suspicion, hostility, or outright hatred. Both the Ku Klux Klan and the Mafia achieve cooperative ends on the basis of shared norms, and therefore have social capital, but they also produce abundant negative externalities for the larger society in which they are embedded. This is because group solidarity in human communities is often purchased at the price of hostility towards out-group members”. Fukuyama (1999) further analyses another way of approaching this question, which is the concept of the "radius of trust." All groups embodying social capital have a certain radius of trust, which is the circle of people among whom cooperative norms are operative. Fukuyama (1999) states that “if a group's social capital

produces positive externalities, the radius of trust can be larger than the group itself. It is also possible for the radius of trust to be smaller than the membership of the group, as in large organizations that foster cooperative norms only among the group's leadership or permanent staff. A modern society may be thought of as a series of concentric and overlapping radii of trust. These can range from friends and cliques up through NGOs and religious groups". Ballet and Rakotovoao (2005) show that social capital might be a good tool to regulate natural assets. However, the authors also point out the negative face of social networks. Collective good may be appropriated by a group and shall become a club good. Jones (2005, p.206) refers to Anderson et al. (2002) that conceive social capital as networks of horizontal (positive social networks that contribute to the overall productivity of a community) and vertical linkages (characterized by unequal power distribution among members and able to produce negative as well as positive associations). Based on this useful distinction, we analyze negative externalities created by negative social capital in communal lands in Namibia.

#### *4.2.1. Social capital as peer-protection: loyalty and elite capture.*

Putnam defines bonding capital as the value assigned to social networks between homogeneous groups of people. As opposed, bridging capital is made of social networks between socially heterogeneous groups. Typical examples are that criminal gangs create bonding social capital, while choirs and bowling clubs (hence the title, as Putnam lamented their decline) create bridging social capital. We assume social capital in communities in communal lands, partly as bonding capital. In Tsiseb, the former community-based campsite (CBTE, before the site was leased out through a joint-venture agreement) faced multiple organization and management problems. Managers were appointed from the community and had various kin and lineage (family) links with workers they were supposed to monitor and manage. As a matter of fact, alcohol and drug problems occurred and the commercial campsite was in a state of disrepair. Managers did not dare to fire workers (that were from the community) and management problems continued. Tour operators and private tourists complained about the cleanliness of the site, the booking system, and about quality of facilities and services rendered. The site was not fully used by campers and turnover was very limited for the community. Same problems occur now in the joint-venture agreement. The private operator is often unhappy of some workers' performance. Alcohol problems are part of the lodge private owner's difficulties. Through the joint management committee, community members can support workers from the community. Here community support and solidarity prevents the operator from substituting "bad" workers. Loyalty to community

members protects free-riders from the community and lowers development opportunities. Social capital here creates negative (harmful) externalities and reduces regulation possibilities. No member wants to report and denounce breach cases by other members. Denouncing would signal them as traitors. Sanctions are not enforced and loose credibility. Peer-control becomes peer-protection. Self-policing efficiency is questionable, and leads to a certain public and private sector's distrust about communities capacity to self-regulate the tourism commons and enforce use-rules.

Moreover, loyalty and vertical linkages (Anderson et al., 2002) often lead to elite capture. Some advantaged groups will capture resource-flows and rent from tourism operation and will limit redistribution to other community members. Field work in Tsiseb conservancy (Lapeyre, 2005, *pers. comm.*) showed that most conservancy members in remote areas are not informed about tourism development in the Conservancy. They do not participate in decisions and do not feel as active actors in the conservancy tourism development. According to most rural farmers in the conservancy, they do not benefit from wildlife and tourism activities. Except from some meat that has been distributed in 2004, no money of project seemed to be redistributed to conservancy members. Bribery is even suspected concerning some members that would have been paid by the private investor to influence the community decision. A group of young people (around 15) are very involved in the tourism activity but, apart from this "radius" (Fukuyama, 1999), few members seem to benefit from tourism use option. However, loyalty of all community members, analphabetism and remoteness maintain the situation. Bonding social capital concentrates benefits and reduces incentives for members to comply with regulation over the tourism commons. Free-riding strategies are observed (grazing in prohibited zones, unregulated tourism individual projects) as many inhabitants do not feel to participate in the decision-making process.

#### *4.2.2. Heterogeneity and group conflicts over the tourism commons.*

Community regulation of resources is supposed to reduce transactions, through trust and reciprocity (social capital). However, we showed that bonding social capital led to elite capture and segmentation of the community. Existence of internal sub-groups makes coordination and negotiation even more difficult. Platteau (2003) notes that common property regime and community regulation generate relatively high governance costs. Workshops, meetings, consultation, participation are all costly because it takes time and needs external support and mentorship. When community is heterogeneous and divided into sub-groups, negotiation is hard and governance costs slightly increase. Often, negotiations fail and

agreement is impossible. Intra-community conflicts break out. Conservancies in Namibian communal lands are a good illustration. In Purros conservancy community campsite (situated in Kaokoland, north-west), two traditional groups are competing for the ownership of the site. The situation is very tricky and legal advice and mediation was asked for. The community was divided and it created tensions that disorganized the project management. Regulation is difficult and sustainability is threatened. Same case occurs in Khowarib Schlucht community campsite (Anabeb conservancy). Two traditional leaders were recognized by community members. Conflict over the site was so important that criminal case was the result! Here governance costs are enormous and lead to unregulated situation where bridging social capital is lacking. The tourism commons is threatened by those problems that dissipate rent (no tourist comes and no money is given to the community) and might deplete natural assets, which are inputs for tourism function. Facing these situations, many experts call for state or private sector regulation, so as to overcome low social capital and low community capacity to govern tourism development.

#### ***4.3. Private or public sector to substitute community negative social capital?***

Community capacity to regulate the commons has been showed to be promoted *de jure* through CBNRM programme (devolution of rights) but to be limited in *real* terms. Hence ideas to develop co-management structures and community-private public partnerships where communities would be involved in tourism regulation and management but will be formally supported and completed by private and public sectors.

In June 2005, the National Monument Council of Namibia (NMC), within the Ministry of Culture and Basic education, took over management of the Brandberg Mountain site. Arguments were given were by several experts (program coordinators, archaeologists) that local Tsiseb community and DMG association did not have enough capacity to regulate the site. Bushmen world renown paintings and remains were threatened of degradation because guides did not have all means to control the area. Thus NMC appointed a regional officer that is now responsible for monitoring the Heritage site. Boards have been put up and fees are collected at the entrance of the mountain, when guides bring people to the paintings. Fees are collected by NMC, and no more by guides themselves. Fees are put in ministry coffers that use them for management of the area and enforcement of rules. Clerks, as well as the regional officer are paid on these fees. Guides are no more responsible for the site. The association is now only contracted by NMC to deliver guiding services to tourists. DMG is given a percentage of all fees (20%) and then divides this contract money between all guides. This

phenomenon of re-centralization of resources (we saw local community was *de facto* custodian and manager of the site before this period) was badly felt by local conservancy members and traditional leaders that see it as a State rent re-appropriation. However, experts think better governance will be set up through this co-management structure. Local community is still involved in day-to-day regulation, but State makes sure that rules are enforced and that community is capable to monitor the area. Infrastructure investment will be funded by the State, which applies for the site to become a World Heritage Site (UNESCO label). Same co-management structures are used in lodge management in conservancies. Community Lodges of Namibia (CLN) programme involves private and public sector as well as communities. The State, through donor funding (European Union) fully builds a lodge on a conservancy territory. The community is full owner of the lodge (100% equity). However, the running of the project is leased out to an operation private company that will manage the lodge for a renewable 5 years period. Thus synergy is created between different actors and total capacity is enhanced. Government future policy plans to broaden the spectrum of co-management projects in Namibia. Public-private partnerships will occur in the National Parks (concept of contractual park, which is used already in South Africa) and in various communal areas.

Co-management structures increase community capacity to regulate tourism. Partnerships through mentorship, joint-ventures or benefit sharing agreements, empower communities, lower conflicts, strengthen synergy and build reciprocity. This in turn reduces governance and transactions costs and help generate a tourism rent without dissipating it, “for the benefit of all Namibians, both present and future(...)”, as stated by the Namibian constitution. However, questions of appropriation, allocation and distribution of resources between actors through partnerships, remain tricky issues, especially in a post-colonial context where all Namibian aim at capturing some share of the post-apartheid economic sustainable development.

## **5. Conclusion**

According to Froger (2001), “governance refers to process of coordination between actors, so as to reach collectively negotiated goals”. Adequate governance reduces transaction costs and lowers conflicts over resources. Yes institutions matter. They are informal and formal norms and pieces of legislation that control and monitor individual actions so as to permit collective action. Tourism regulation in Namibian communal lands aims at generating economic rent for the benefit of rural actors, without dissipating this rent. Tourism in communal lands is based

on natural resources-based public goods. We characterized those natural assets as CPR and more precisely as impure public goods with some degree of multi-functionality. Hence regulation of natural assets involves multiple interest groups that compete. Coordination is essential for actors to comply with rules and use wisely natural capital for tourism or other land use options. Conditions are necessary to transform individual opportunist actors into conditional co-operators in a repeated game. Here communities are thought to be the efficient level for governing the tourism commons. Social capital among communal land communities helps enhancing collective action and reducing free-riding through peer-control. The Namibian state devolved new property rights over resources to communities that register as conservancies. Those rights secure communal farmers legal situation and change the incentives structure. This promotes local participation and reduce opportunism with self-organized, self-policing and self-monitoring local groups.

However this paper showed that scholars must go beyond the *de jure* situation and analyse *real* community participation and involvement in tourism governance. As stated by Ostrom (1990), supply and change of institutions are a second-order dilemma. We mean here that community regulation of the tourism commons is a long process, conditioned by communities still limited capacity.

- 1) It is *legally* limited because devolution is incomplete and communities still rely on state to enforce rules.
- 2) It is *de facto* limited because communities rely on NGO and donors' financial and technical support. Further, community intra and inter-relations are more complex than thought. Negative social capital, heterogeneity and elite capture bring high governance costs.

In total, communities are not the sole efficient level to regulate the tourism commons. Community institutions must be included in nested institutions (Ostrom, 1990) and government must be facilitative, rather than appropriative and centralistic. Co-management structures represent present and future institutional opportunities where different levels and groups are inter-related in a multi-scale (on a subsidiary system and federal model) legislation and regulation framework. Bridging capital would be essential to promote so as to reduce ethnic divisions, group conflicts and monitor intra-group income distribution. CBNRM programme is still young in Namibia and will benefit for further national experience and regional comparisons.

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