



**A descriptive explanatory study on the challenges to
implementing the Communal Land Reform Act to combat illegal
fences in communal areas of Namibia: A case study from the
Tsumkwe-West Communal Area**

By

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Declaration

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Abstract

The purpose of this study was to describe and explain the challenges of implementing the Communal Land Reform Act No. 5 of 2002 (hereafter the CLR Act) to combat illegal fences in communal areas of Namibia, using a case study from the Tsumkwe-West Communal Area. The CLR Act came into effect on 1 March 2003. The CLR Act seeks to prohibit the erection of new fences in communal areas without authorisation granted under this act. The CLR Act gives mandates and powers to Communal Land Boards (CLBs) and Traditional Authorities (TAs) to remove illegal fences in communal areas of Namibia. Notwithstanding the operationalisation of the CLR Act in March 2003, many illegal fences have not been removed yet and no perpetrator was ever arrested or fined under the CLR Act, while illegal fencing has continued unabated in many communal areas of Namibia.

With this study, the researcher first wanted to understand what challenges impeded the successful implementation of the CLR Act to combat illegal fences in the Tsumkwe-West Communal Area. Secondly, the study aimed to help improve the implementation of the CLR Act in relation to combatting illegal fencing in the Tsumkwe-West Communal Area. The study had the following specific objectives: to analyse the literature on conditions and limitations to the implementation of policies and laws; to analyse the background policies to illegal fencing, the prescriptions of the CLR Act, and relevant operational and implementation documents; to assess whether there were clear implementation mandates and procedures and to identify possible gaps in the legislation; to determine constraints that impeded implementation of the CLR Act in practice through interviews conducted with senior councillors of the !Kung TA, officials from the Ministry of Agriculture, Water and Land Reform (MAWLR) and additional respondents, and a questionnaire completed by members of the Otjozondjupa CLB; and to offer recommendations for changes to the CLR Act and/or other recommendations to improve successful enforcement of the act.

Data were collected using a questionnaire, interviews, observation and a literature review. All questions to participants were grouped under the 7-C protocol, which provides clusters of explanatory variables that might be useful for a better understanding of policy implementation success and failure.

The qualitative content analysis method was used to analyse the collected data. From the information provided by the study participants, several challenges/constraints that hindered the successful implementation of the CLR Act to combat illegal fences in the Tsumkwe-West Communal Area were identified. Those challenges included inadequate resources and human capacity; lengthy, costly and cumbersome procedures to remove illegal fences; and political, legal and social aspects affecting the implementation of the CLR Act concerning illegal fences. In light of these challenges, the researcher recommends the following: Amend the content of the CLR Act; improve policy advocacy and dialogue with political leaders to ensure political will to successfully implement the CLR Act; monitor and evaluate the implementation of the Communal Land Reform Act; provide adequate resources to successfully implement the Communal Land Reform Act; ensure closer engagement with law enforcement agencies in the implementation of the CLR Act; intensify campaigns against illegal fencing in communal areas; and improve coordination between the stakeholders.

Opsomming

Die doel van hierdie studie was om die uitdagings van die implementering van die Wet op Kommunale Grondhervorming (Communal Land Reform Act) nr. 5 van 2002 (hierna die CLR-wet) om onwettige heinings in kommunale gebiede van Namibië te bekamp te ondersoek met behulp van 'n gevallestudie uit die Tsumkwe-Wes Gemeenskaplike Gebied. Die CLR-wet het op 1 Maart 2003 in werking getree. Die CLR-wet poog om die oprigting van nuwe heinings in kommunale gebiede te verbied sonder magtiging wat ingevolge hierdie wet verleen word. Die CLR-wet gee mandate en magte aan kommunale grondrade (Communal Land Boards) (CLBs) en tradisionele owerhede (Traditional Authorities) (TAs) om onwettige heinings in kommunale gebiede van Namibië te verwyder. Nieteenstaande die operasionalisering van die CLR-wet in Maart 2003 is baie onwettige heinings nog nie verwyder nie en geen oortreder is ooit ingevolge die CLR-wet in hegtenis geneem of beboet nie, terwyl onwettige omheining onverpoosd in talle kommunale gebiede van Namibië voortgeduur het.

Met hierdie studie wou die navorser eerstens verstaan watter uitdagings die suksesvolle implementering van die CLR-wet om onwettige heinings in die Tsumkwe-Wes Kommunale Gebied te bekamp belemmer. Tweedens was die studie daarop gemik om die implementering van die CLR-wet te help verbeter met betrekking tot die bekamping van onwettige heinings in die Tsumkwe-Wes Kommunale Gebied. Die studie het die volgende spesifieke doelwitte gehad: om die literatuur oor voorwaardes en beperkings op die implementering van beleide en wette te ontleed; om die agtergrondbeleide vir onwettige omheining, die voorskrifte van die CLR-wet en relevante operasionele en implementeringsdokumente te ontleed; om te bepaal of daar duidelike implementeringsmandate en -prosedures is en om moontlike leemtes in die wetgewing te identifiseer; om deur middel van onderhoude met senior raadslede van die !Kung TA, amptenare van die Ministerie van Water, Landbou en Grondhervorming (Ministry of Agriculture, Water and Land Reform) (MAWLR) en bykomende respondente, en 'n vraelys voltooi deur lede van die Otjozondjupa CLB beperkings te bepaal wat die implementering van die CLR-wet in die praktyk belemmer; en om aanbevelings aan te bied vir veranderinge aan die CLR-wet en/of ander aanbevelings om die suksesvolle afdwinging van die wet te verbeter.

Data is ingesamel met behulp van 'n vraelys, onderhoude, observasie en 'n literatuurstudie. Alle vroe aan deelnemers is gegroepeer onder die 7-C protokol wat groepe verduidelikende veranderlikes bied wat nuttig kan wees vir 'n beter begrip van sukses en mislukking van beleidsimplementering.

Die kwalitatiewe inhoudsontledingsmetode is gebruik om die versamelde data te ontleed. Uit die inligting wat deur die deelnemers aan die studie verskaf is, is verskeie uitdagings/beperkings geïdentifiseer wat die suksesvolle implementering van die CLR-wet om onwettige heinings in die Tsumkwe-Wes Kommunale Gebied te bekamp kan belemmer. Dié uitdagings behels onvoldoende hulpbronne en menslike kapasiteit; lang, duur en omslagtige prosedures om onwettige heinings te verwyder; en politieke, wetlike en sosiale aspekte wat die implementering van die CLR-wet rakende onwettige heinings beïnvloed. In die lig van hierdie uitdagings beveel die navorser die volgende aan: Wysig die inhoud van die CLR-wet; verbeter beleidsvoorspraak en dialoog met politieke leiers om politieke wil te verseker en om die CLR -wet suksesvol te implementeer; monitor en evalueer die implementering van die Wet op Kommunale Grondhervorming; voorsien voldoende hulpbronne om die Wet op Kommunale Grondhervorming suksesvol te implementeer; verseker nouer skakeling met wetstoepassingsagentskappe in die implementering van die CLR-wet; verskerp veldtogte teen onwettige heinings in gemeenskaplike gebiede; en verbeter koördinasie tussen die belanghebbendes.

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Acronyms and abbreviations

CLBs	Communal Land Boards
CLR Act	Communal Land Reform Act No. 5 of 2002
LAC	Legal Assistance Centre
MAWLR	Ministry of Agriculture, Water and Land Reform
MLR	Ministry of Land Reform
NAMPOL	Namibian Police Force
NGOs	Nongovernmental organisations
PPPs	Public-private partnerships
TAs	Traditional authorities

Definition of terms

Illegal fence:	A fence erected or retained on any portion of communal land without authorisation in terms of Section 44 of the Communal Land Reform Act No. 5 of 2002.
Communal area:	Part of communal land that is inhabited by the members of that community.
Communal land:	Land that belongs to the state. Individuals cannot own communal land but may have customary right with regard to certain areas of land.
Commonage:	Common grazing area for the livestock of the members of a traditional community.
Traditional Authority:	Traditional leaders of a particular traditional community recognised under the Traditional Authorities Act No. 25 of 2000.
Communal Land Board:	A board established under the Communal Land Reform Act.
Communal Conservancy:	A community-based institution that has been granted right to use the wildlife occurring within a defined geographical area.
Nongovernmental organisation:	A voluntary organisation formed without any government affiliation.
Community-based organisation:	A non-profit organisation that is representative of a community.
National Land Conference:	A national conference held on land reform.
Region:	One of the 14 political regions that are recognised under the Regional Councils Act No. 22 of 1992.
Public policy:	A public statement of intent, including a more detailed programme of action.

CHAPTER 1: INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 Introduction

The purpose of this study was to describe and explain the challenges to implementing the Communal Land Reform Act No. 5 of 2002 (hereafter the CLR Act) to combat illegal fences in the Tsumkwe-West Communal Area in Namibia. The study used the 7-C protocol, which provides clusters of explanatory variables that might be useful for a better understanding of policy implementation success and failure. The CLR Act came into operation on the 31st of March 2003. The goal of the CLR Act is to prohibit the erection of new fences in communal areas without proper authorisation under this law. An illegal fence is defined by the CLR Act as a fence that has been erected or retained on any portion of communal land without authorisation in terms of Section 44 of the CLR Act (Republic of Namibia, 2002:14). The implementation of the CLR Act is presided over by the Ministry of Agriculture, Water and Land Reform (MAWLR) and carried out by Communal Land Boards (CLBs) and Traditional Authorities (TAs).

The implementation of the CLR Act has not been optimal in removing illegal fences on communal land because of certain factors/challenges that hinder the successful implementation of the act to combat illegal fences in communal areas. Kashululu and Hebinck (2020:176-178) in their study of the fencing question in Namibia identified a number of factors that impeded the successful implementation of the CLR Act. Those factors included that the roles of TAs were unclear, TAs were not aware of their powers, and not all members of TAs understood and could interpret customary rights to land and fencing. A big capacity issue seems to emanate from the fact that TAs are comprised of persons who, in most cases, are drawn from the rural population of peasant farmers who generally have a low level of education. Furthermore, disputes over boundaries between TAs and the existence of unrecognised TAs have been reported in some communities. Moreover, Werner (2011:23) in his study of communal land governance in Namibia observed inadequate funding and a lack of transport for TAs, and lengthy procedures for removing illegal fences in communal areas. There is a general belief that these policy design and implementation challenges may have hampered the efforts of the mandated institutions (CLBs, TAs and the MAWLR) towards enforcing the CLR Act to remove illegal fences in communal areas in Namibia. As a result, many illegal fences have not yet been removed. For

example, government statistics show that a total of 307 illegal fences were reported from various communal areas in six regions of Namibia between 2012 and 2015 (Tjitemisa, 2019:2). The Ohangwena Region topped the list with 107 cases, the Otjozondjupa Region had 58 cases, the Omaheke Region had 48 cases, the Omusati Region had 42 cases, Kavango West and East had 36 cases and the Oshikoto Region had 16 cases. However, according to Tjitemisa (2019:2), out of the 307 illegal fences reported, only 11 were removed. The study area is shown in Figure 1.1 below.

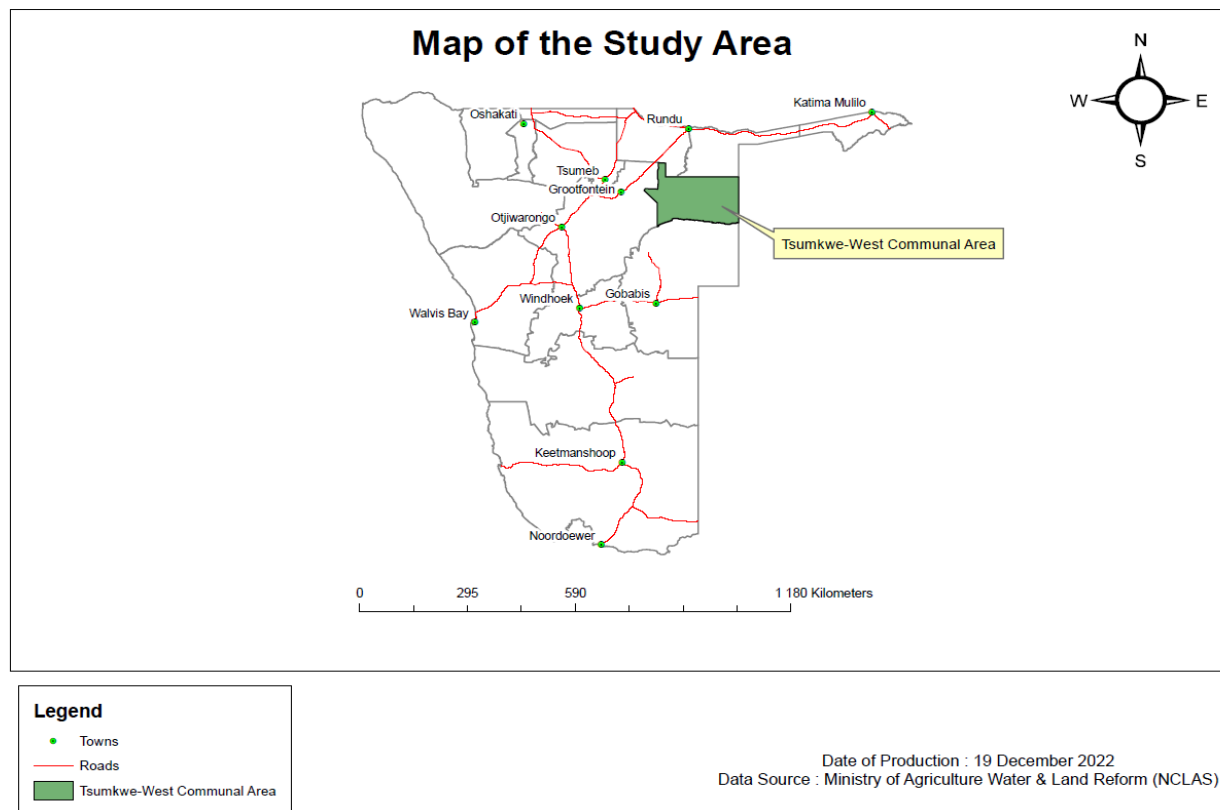


Figure 1.1: Map of the study area

The Tsumkwe-West Communal Area is situated in the Otjozondjupa Region, in northeast Namibia. Demographically, the Tsumkwe-West Communal Area is sparsely inhabited, and according to the Namibia Statistics Agency (2018:34) population report, in 2018, the Tsumkwe-West Communal Area had a population of 8 823 inhabitants. The population of the Tsumkwe-West Communal Area consists mainly of San groups who reside in big traditional villages such as Omatoko, Aasvoëlne, Kanonvlei, Rooidghtgate and Magnetti Dune. The total size of the area

is approximately 9 000 square kilometres. The Tsumkwe-West Communal Area falls within the jurisdiction of the !Kung TA and the Otjozondjupa CLB. The Tsumkwe-West Communal Area is a typical agrarian society whose livelihoods dependent on producing crops and livestock. Therefore, the major land uses in the study area are cropping fields and livestock grazing areas.

The Tsumkwe-West Communal Area is one of the communal areas in Namibia that have seen increasing incidents of illegal fencing over the past years. According to the then Ministry of Land Reform (MLR) statistics of 2014, about 33 000 hectares of land had been illegally fenced off (MLR, 2014:12). Some of the mapped illegal enclosures in the Tsumkwe-West Communal Area are shown in Figure 1.2 below.

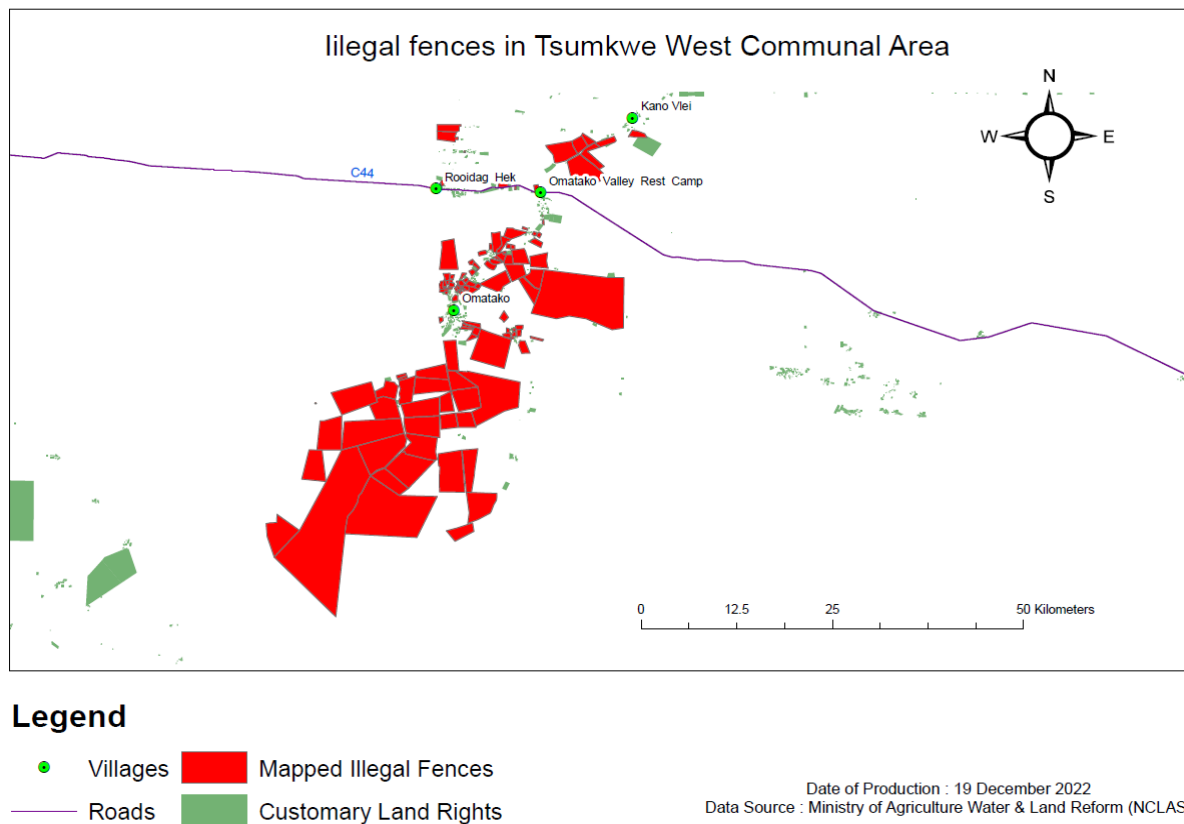


Figure 1.2: Mapped illegal fences in the Tsumkwe-West Communal Area

As can be seen in Figure 1.2 above, the practice of illegal fencing is pronounced and very visible in this communal area; hence, it was selected as a case study for this research. The sizes of

enclosures erected in the Tsumkwe-West Communal Area range from 30 hectares up to 6 000 hectares of land.

1.2 Background to the study

This study stemmed from the many debates and public outcries that characterised the implementation of the CLR Act to combat the illegal fencing of land in communal areas in Namibia. Many residents of communal areas have been unhappy with the ever-increasing incidents of fencing of large portions of communal grazing land by individuals, with most stakeholders agreeing with one another on the lack of progress in the implementation of the CLR Act to combat illegal fencing in communal areas.

1.2.1 Illegal fences in communal areas of Namibia

Fencing off communal grazing areas by individuals is one of the major contemporary problems in the communal areas of Namibia. A recent study on the fencing question in Namibia conducted by Kashululu and Hebinck (2020:163 -167) found that 36 new fences had been erected in the Onanyalala Communal Area in the Omusati Region. The TA (local chiefs and headmen) of the area did not know the owners of the fences (Kashululu & Hebinck, 2020:163). The fencing of large tracts of communal grazing lands in Namibia is not a new phenomenon. In the year 2008, the Omusati CLB received several applications for the recognition of enclosures ranging from 2 000 to 10 400 hectares (Werner, 2011:1). The applications were presented to the CLB by lawyers acting on behalf of the local farmers who argued that Section 28(1) of the CLR Act made provision for recognition of fences on communal land. However, the CLB could not approve the application for recognition of the enclosures because the enclosures had been erected without the prior authorisation of the CLR Act.

In Namibia, communal lands are administered by TAs on behalf of the state and for the benefit of their communities (Republic of Namibia, 2002:4). The TA means the traditional leaders of a particular traditional community who have been recognised as traditional leaders under the Traditional Authority Act, No. 25 of 2000. TAs comprise chiefs, traditional councillors and headmen. TAs are empowered by the CLR Act and the Traditional Authorities Act to allocate and cancel customary land rights (the right to a farming or residential unit) and to lay down conditions for the use of commonages. With regard to fences on communal lands, TAs consider

applications for the retention or the erection of fences on communal land. Particularly, TAs conduct investigation and monitoring exercises to identify illegal fences in their areas of jurisdiction.

In the late 1970s, local chiefs approved requests by local businessmen and established farmers for large areas of land to be allocated to them for grazing purposes, after which the areas were fenced off to create large fenced farming systems in communal areas (Werner, 2011:11). However, the fencing boom in the north-central communal areas of Namibia began after Namibia's independence in 1990 when a large number of local communal livestock farmers began to enclose portions of commonage land for their exclusive use (Muduva, 2014:8). The majority of fences on communal land were erected without prior authorisation under the CLR Act. The CLR Act defines an illegal fence as a fence that has been erected or retained without authorisation in terms of Section 44 of the act (Republic of Namibia, 2002:15).

Most communal areas in the various regions, including Ohangwena, Otjozondjupa, Omaheke, Omusati, Kavango East, Kavango West and Oshikoto, have increasingly been affected by illegal fencing since Namibian independence in 1990. As a result, these communal areas are visibly characterised by fences (enclosures) erected uncoordinated around communal grazing areas. The fences are limiting access of small-scale herders to common grazing ground. This has resulted in the loss of livestock to hunger as many affected farmers have had to scavenge for grazing on the few mostly barren communal grazing grounds that are still left open for everyone. It is common knowledge that the majority of rural residents survive on the natural resources found on the commonage. However, when illegal fencing takes place, land-based natural resources such as water ponds/swamps, pastures and forestry products often become privatised and inaccessible to other members of communities dependent on these resources for a livelihood or for survival. For instance, according to Ashipala (2011:1), "At least 4 000 to 5 000 head of cattle were denied grazing and water at Okongo communal area in Ohangwena region because of the illegal actions of some farmers who had enclosed much of the communal grazing grounds of Okongo communal area." Moreover, Mendelsohn, Shixwameni and Nakamhela (2011:9) state that due to illegal fencing, in some communal areas, community members have completely lost their access to the commonage grazing land, including access to communal water points/boreholes and forestry products.

The actions of individual farmers who enclose portions of communal land contravene the provisions of the CLR Act, which prohibits the fencing of communal land without authorisation. Section 18 of the CLR Act prohibits the erection of new fences on communal land, thus making fences erected after the promulgation of the act illegal. The CLR Act also prescribes procedures for the removal of illegal fences and penalties for would-be offenders. Despite the law prohibiting it, illegal fencing of communal land nonetheless continues. There has been an increase in incidents of illegal fencing in the north-central communal areas of Namibia, resulting in sporadic uproars around the country when community members physically removed a fence erected on the commonage land. Others threatened to take the law into their own hands if the government did not intervene. In addition, there have been several court cases over land disputes stemming from illegal fences on communal land. One such notable court case was a case in the High Court of Namibia in 2013 between the Ohangwena CLB and a certain communal farmer who had fenced off a large portion of communal land in the Odjere Communal Area in the Ohangwena Region (Van der Wulp & Koot, 2019:373).

Shortly after independence in 1990, the new government of the Republic of Namibia noted the illegal practice of fencing off large tracts of communal land by local farmers as a pressing concern in Namibia. This is apparent, for example, in the fact that illegal fencing of communal land was discussed at Namibia's first National Land Conference in 1991 as an emerging problem in communal areas, and consensus was reached that illegal fencing should be stopped (Odendaal, 2011:12). However, 27 years later, illegal fencing of communal land was once again discussed at the second National Land Conference held in November 2018 as a pressing problem threatening access to the land of the poor and impacting land-based livelihoods in communal areas. Once again, participants in the conference reached consensus that illegal fencing in communal areas was a major problem and that all illegal fences that still existed on communal land should be taken down. Statistics presented at the second National Land Conference by various stakeholders pointed to an exponential increase in illegal fencing in communal areas in recent years. For instance, about 307 new cases of illegal fences were reported to the relevant authorities between 2012 and 2017 (Tjitemisa, 2019:2). During the second National Land Conference, the government acknowledged that only a small number of illegal fences had been taken down between 2012 and 2018.

1.2.2 The Communal Land Reform Act and illegal fencing of land in communal areas of Namibia

While there is a progressive legislative framework with regard to land governance and land reform in Namibia, there is a clear contradiction between law and implementation when it comes to combatting illegal fencing of communal land (Ashipala, 2011:1). For example, illegal fencing of communal land has continued despite the law enacted to prevent this practice. Illegal fencing has usually taken place in communal areas of Namibia as a form of land grabbing, whereby livestock farmers erect fences in communal areas without prior authorisation by the CLR Act and the consent of tribal authorities. The CLR Act regulates fencing in communal areas, with Section 18 of the act prohibiting the erection of new fences on communal land, thus making fences erected on communal land after the promulgation of the act illegal. Section 44(1) of the CLR Act stipulates that “it is a crime to erect a new fence on any portion of communal land without prior authorization under the CLR Act” (Republic of Namibia, 2002:38). This means that under no circumstances a resident (or any person) may fence off any portion of communal land without proper authorisation under the CLR Act. If a resident erects a fence without appropriate authorisation, the CLR Act empowers the CLB and/or TA of the communal area to remove or cause the removal of such a fence (Republic of Namibia, 2002:38).

1.3 Problem statement

The problem being investigated in this study is that an insufficient understanding exists of the factors involved in implementing the CLR Act to combat illegal fences in communal areas of Namibia.

The Tsumkwe-West Communal Area is one of the communal areas in Namibia that has seen increasing incidents of illegal fencing over the past years. Illegal fencing in the Tsumkwe-West Communal Area is driven by farmers who were forced by drought in their areas of origin to search for grazing for their animals. The Tsumkwe-West Communal Area is ecologically better off than most of the communal areas in Namibia. According to the MLR (now the MAWLR) statistics of 2014, about 33 000 hectares of land had been illegally fenced off (MLR, 2014:12). In addition, in March 2017, officials from the MLR’s office in the Otjozondjupa Region, accompanied by the !Kung TA, undertook a trip to Tsumkwe-West to investigate reported incidents of illegal fencing. During that visit to Tsumkwe-West, 12 new illegal fences were

found and recommended for removal. However, these illegal fences were never removed (MLR, 2017). These enclosures measured about 30 hectares to 6 000 hectares of land. The !Kung TA and the Otjozondjupa CLB announced February 2015 as a deadline for all illegal fences in the area to come down. However, the majority of illegal fences have not yet been removed. This is evident from the latest statistics of the MLR that show that in 2020, 77 illegal fences were recorded in the area. This shows that despite the goal of the CLR Act of prohibiting the erection of new fences in communal areas without authorisation, illegal fencing has continued unabated in the Tsumkwe-West Communal Area. This corresponds with what Odendaal (2011:13) points out, namely that since the passing of the CLR Act in March 2003, little has been done to address the problem of illegal fencing despite the government's longstanding recognition of illegal fencing as a pressing concern threatening the livelihoods of subsistence farmers in the communal areas of Namibia.

The CLR Act also prescribes the following operational procedures for removing illegal fences erected on communal land: first, an investigation committee is appointed to determine the legality of the fence; second, if a fence is found to be illegal the TA or the CLB concerned should notify the offender to remove the fence within 30 days; third, the TA or the CLB concerned should remove or cause the removal of an illegal fence if not voluntarily removed; and last, the TA or the CLB should file a claim to the local Magistrate Court to recover the costs incurred from the offender. Notwithstanding the operationalisation of the CLR Act in March 2003, many illegal fences have not been yet removed and no perpetrator has ever been brought to book under the act.

Kashululu and Hebinck (2020:176-178) in their study entitled "The fencing question in Namibia: A case study in Omusati region" found through interviews with members of TAs that the roles of TAs were not always clear, TAs were not aware of their powers, and not all members of TAs understood and could interpret customary rights to land and fencing. In addition, disputes over boundaries between TAs and the existence of unrecognised TAs were reported in some communities. This study, however, only looked at the problem of illegal fencing in the Omusati Region.

Another issue identified that could also pose a challenge to enforcing the CLR Act is the fact that CLBs and TAs do not receive an operational budget from the central government but are left to do all the work with little funds of their own (Werner, 2011:32).

The operational procedures for removing illegal fences are cumbersome with regard to cost and time due to legal costs and the length of court eviction orders involved. For instance, according to Kashululu and Hebinck (2020:174), it may take up to two years to remove an illegal fence since the procedure involves several actors and legal processes. In one notable court case of illegal fencing, “Wapulile v Chairman Ohangwena Communal Land Board”, the High Court of Namibia took two years to deliver the verdict ((265) GRN 340 (AD)). The issues described above can thus be associated with the problem of the CLR Act not being enforced.

In the context of this study, challenges affecting the implementation of the CLR Act in combatting illegal fencing in the Tsumkwe-West Communal Area include a lack of political will to remove illegal fences; the TA in the area has no capacity to prevent illegal fencing; bribes are involved in illegal fencing; and there is a colossal lack of resources (financial and transport) to successfully implement the CLR Act.

1.4 Research aim

The study aimed to contribute to our understanding of challenges hindering the successful implementation of the Communal Land Reform Act to combat illegal fences in the Tsumkwe-West Communal Area.

1.5 Research question

This research sought to address the following question: What challenges hinder the successful implementation of the Communal Land Reform Act to combat illegal fences in the Tsumkwe-West Communal Area?

1.6 Research objectives

To achieve the above research aim and research question, the following objectives formed the basis of this study:

1. To analyse the literature on conditions and limitations to the implementation of policies and laws.
2. To analyse the background policies to illegal fencing, the prescriptions of the CLR Act, and relevant operational and implementation documents.
3. To assess whether there were clear implementation mandates and procedures and to identify possible gaps in the legislation.
4. To determine constraints that impeded the CLR Act implementation in practice through interviews conducted with senior councillors of the !Kung TA, officials from the MAWLR and additional respondents (key informants), and a questionnaire completed by members of the Otjozondjupa CLB.
5. To offer recommendations for changes to the CLR Act and/or other recommendations to improve the successful enforcement of the act.

1.7 Research statement

Challenges affecting the implementation of the CLR Act in combatting illegal fencing in the Tsumkwe-West Communal Area include the following: a lack of political will to remove illegal fences aggressively exists; the TA in the area is powerless and not capacitated to prevent individuals from fencing without its consent; some members of the TA accept bribes to allow illegal fencing; there is a colossal lack of resources (financial and transport) to successfully implement the CLR Act; procedures for removing illegal fences are complex and time consuming and require capacity and financial resources to carry out; and the TAs and the CLBs depend too much on the MAWLR to carry out their functions.

1.8 Research design and methodology

The researcher will briefly discuss the research design and methodology that were followed to describe and explain challenges to implementing the CLR Act to combat illegal fencing of communal land in the Tsumkwe-West Communal Area in Namibia. This subsection explains the methods of data collection, sampling technique and data analysis techniques used to answer the research question and achieve the research objectives.

1.8.1 Research design

The research design focused on the types of studies planned to reach specific outcomes, and the methodology was chosen to support the outcome and the significance of the results. The study followed an interpretivism research approach. This approach lends itself to the use of a qualitative research design. Creswell (2003:15) states that qualitative research is suitable for exploring and understanding the meaning of phenomena where specific problems are identified. A single-case study design was adopted as a research method. According to Nock, Michel and Photos (2007:347), a single-case research design requires less time, fewer financial resources and less personnel support to implement compared to other methods. Therefore, a single case study was methodologically efficient for this study, which focused on a single phenomenon in a small geographical area with a limited number of participants and a limited budget.

1.8.2 Research methodology

The methods used to collect secondary and primary data for this study are discussed below.

1.8.2.1 Document analysis

Secondary data for this study was collected by way of document analysis. Secondary sources included statutory documents such as the Namibian Constitution, the CLR Act No. 5 of 2002, the Traditional Authorities Act No. 25 of 2000 and the National Land Policy of 1998. Further, the researcher consulted government reports, books, internet articles, journal articles, master's theses and doctoral dissertations. Literature on illegal fencing in communal areas of Namibia and on policy implementation was reviewed and provided the conceptual framework underpinning this study.

1.8.2.2 Face-to-face semistructured interviews

Semi structured interviews were conducted with officials from the MAWLR, senior councillors of the !Kung TA and additional participants (key informants) to capture their perceptions, feelings, opinions and experiences regarding the challenges to the implementation of the CLR Act in removing illegal fences in the Tsumkwe-West Communal Area.

1.8.2.3 Self-administered questionnaire

A semi structured questionnaire with preformulated questions was used to collect data (opinions, perceptions and challenges) from respondents from the Otjozondjupa CLB and was distributed to these respondents via e-mail and by hand. According to April (2005:81), questionnaires are a well-established technique for collecting demographic data and respondents' opinions.

1.8.2.4 Observation

Observation is another qualitative method used to collect primary data for this study. During fieldwork in the Tsumkwe-West Communal Area, the researcher observed details such as fences (new and old), land uses (livestock and crops), houses, villages, existing communication and transportation infrastructure (roads and telecommunication facilities) and population distribution.

1.8.2.5 Purposive sampling

Purposive sampling allowed the researcher to use cases that yielded the information necessary to achieve the objectives of this study. Therefore, study participants for both the interviews and the questionnaire were hand-picked based on their knowledge, position, availability, duties and responsibilities, expertise, involvement, and sufficient and relevant experience regarding the implementation of the CLR Act to combat illegal fences in the Tsumkwe-West Communal Area. The following people were sampled as study participants: staff members of the MAWLR who were involved in the administration of communal land in the Otjozondjupa Region, members of the Otjozondjupa CLB, members of the !Kung TA and additional participants (key informants). The purposive sampling method was deemed appropriate for this study because the interest was in a small group, namely only the institutions/people involved in the implementation of the CLR Act.

1.8.2.6 Data analysis

The qualitative data produced by the interviews and the questionnaire were in the form of handwritten notes. The scripts were examined and interpreted using content analysis techniques to provide meaningful answers to the research question. The content analysis was inductive, whereby data analysis was driven by the data collected and involved a process of putting the

collected data into predetermined categories using the variables of the 7-C protocol for policy implementation.

1.9 Research ethics

This study was conducted with institutions involved in the administration of communal land and implementation of the CLR Act in the Tsumkwe-West Communal Area, namely the MAWLR, the Otjozondjupa CLB and the !Kung TA. As per the research ethics, the purpose of the study was explained to all respondents. Permissions and gatekeeper access were also obtained from these institutions to conduct the research with their members/staff. The heads of these institutions provided written consent to the researcher to proceed with the research. The researcher also obtained ethical clearance from Stellenbosch University before fieldwork commenced. The anonymity of the respondents was respected at all times, and no names of respondents are mentioned in the final thesis. The researcher at all times acknowledged the authors whose work provided critical insight into the research problem and guided this research towards achieving the study objectives. Finally, the data collected from the respondents were only used to fulfil the academic requirements of the study.

1.10 Significance of the study

The CLR Act has been implemented since the 31st of March 2003. Since then, there has been only a few studies that explored the challenges faced by implementing institutions in combatting illegal fences in communal areas in Namibia. Therefore, this study will help to fill the knowledge gap by adding to the existing literature by describing factors affecting and challenges pertaining to policy implementation. The findings of the study could assist the government of Namibia to identify areas of policy implementation that need improvement. The findings of this study will further help the institutions implementing the CLR Act to seek assistance in areas that are lagging behind when it comes to implementing the act, especially in the areas of capacity and funding.

1.11 Limitations of the study

According to Best and Kahn (1993, cited in Boire, 2003:8), researchers may encounter conditions that are beyond their control that may place a restriction on the conclusion of a study

and its application to other situations. The researcher encountered the following limiting conditions in this study:

- The study focused only on one communal area, one TA and one CLB out of many in Namibia. For a broad understanding of the challenges to implementing the CLR Act, a broad spectrum of communal areas, TAs and CLBs should have been covered by the study.
- The researcher had to make use of a Translator as the interviews with members of the Kung TA were conducted in the local San language, which the researcher does not understand. However, the language did not affect the study as it was mitigated with an English translation and the use of a semi structured interview guide.
- The case study used as the main method of information gathering presented natural limitations for the study findings.
- The study limitations include limited literature on factors affecting the practical implementation of the CLR Act to remove illegal fences in communal areas, particularly in the study area – the Tsumkwe-West Communal Area. The previous study on this topic (Kashululu & Hebinck, 2020) only focused on the problem of illegal fencing in the Omusati Region. Moreover, the focus of the study on a small communal area may not provide a fair generalisation of the findings to other communal areas in the country.
- The data analysis methodology is another potential limitation of the study.

1.12 Chapter layout

Each chapter of this study is outlined below.

1.12.1 Chapter 1: Introduction and background to the study

Chapter 1 provides an introduction and background to the study. The chapter explains the study problem, study aim, research question, specific objectives of the study and the approach to the topic of the study. The chapter also briefly discusses the research design and methodology of the study. The Chapter further discusses the research ethics, the significance of the study and the limitations of the study.

1.12.2 Chapter 2: Policy implementation: A theoretical overview

Chapter 2 presents a body of literature and a theoretical framework for the study. The chapter provides the following: definition of public policy, discussion of the types of public policy, namely substantive and operational policies, description of the policymaking process, discussion of the elite and institutional models of the policymaking process, and discussion of the 7-C protocol for public policy implementation. In particular, Chapter 2 pays attention to the analysis of factors that affect public policy implementation and, in particular, factors that affect the implementation of the CLR Act in combatting illegal fencing in communal areas in Namibia.

1.12.3 Chapter 3: Legislative framework and institutional arrangements for communal land governance in Namibia

Chapter 3 provides the Namibian legislative framework on communal land under which illegal fencing of communal land can be combated. The chapter discusses the legislation that provides information on how communal land in Namibia is governed and how this legislation can be used to combat illegal fencing of communal land.

1.12.4 Chapter 4: Research design and methodology

Chapter 4 discusses and explains the following: the type of inquiry, the context of the case study, the methods of data collection, the techniques used in data analysis, the research instruments used and the procedures used to obtain detailed information.

1.12.5 Chapter 5: Research results and discussion

Chapter 5 presents an analysis and discussion of the results of the interviews, questionnaire and observation regarding the challenges to implementing the CLR Act to combat illegal fencing of communal land in the Tsumkwe-West Communal Area.

1.12.6 Chapter 6: Conclusion and recommendations

Chapter 6 focuses on drawing inferences from the results of the investigation and putting forward practical recommendations that will assist in improving the implementation process of the CLR Act in combatting illegal fencing in communal areas of Namibia. The conclusions and recommendations are based on the challenges identified by respondents from the Otjozondjupa CLB, senior councillors of the !Kung TA, officials from the MAWLR and additional participants (key informants).

1.13 Conclusion

The researcher provided an introduction and background to the study and described the study problem, study aim, research question and specific objectives of the study in Chapter 1. Moreover, the methods of data collection, the techniques used in data analysis and the sampling technique used to answer the research question and achieve the research objectives were explained. The Chapter further discussed the research ethics, the significance of the study and the limitations of the study. Chapter 1 also presented an outline of the six chapters of the paper.

Chapter 2 presents a body of literature and a theoretical framework for the study.

CHAPTER 2: POLICY IMPLEMENTATION: A THEORETICAL OVERVIEW

2.1 Introduction

Governments seek to regulate all aspects of citizens' lives through public policies. As a result, public policymaking and implementation are manifested in our everyday life (Tebele, 2016:21). However, as already expressed in the introductory chapter, the implementation of law/public policy may be affected by numerous factors. Chapter 2 presents and reviews the theoretical process of policy formulation and implementation, definitions, implementation models/approaches and factors that affect the implementation process. The purpose is to gain insight into and understand the challenges for policy implementation in general and the factors that affect the implementation of the CLR Act to combat illegal fencing of communal land.

2.2 Public policy

Governments fulfil many functions simultaneously. They redistribute benefits, collect taxes and provide public services, for example. Thus, public policies are needed to regulate these tasks (Dye, 2013:3). Usually, public policies come in the form of formal policy statements (for example a white paper) (Brynard, 2003:313). Various definitions of public policy and an analysis thereof are presented below.

2.2.1 What is public policy?

Public policies involve fundamental decisions and choices by the government on a particular issue or problem. Numerous academics in the field of public administration have been defining public policy differently throughout history. For example, in the 1960s, Ranney (1968:7, cited in Cloete, Rabie and De Coning, 2018:6) defined public policy as the declaration of intent. Almost three decades later, Dye (1995:4) offered a short definition of public policy as “whatever government chooses to do or not to do”. In the 1990s, Theodoulou and Cahn (1995:41-53) defined public policy as a specific statement and accompanying actions about a perceived public problem. At the beginning of the 21st century, authors in the field of public administration such

as Anderson (1997:4) and Brauns and Wallis (2014:203) defined public policy as the government's course of action to address a perceived problem or needs in society in a specific way. Most recently, Cloete *et al.* (2018:7) defined public policy as “a public statement of intent, including a more detailed program of action, to give effect to selected normative and empirical goals to improve or resolve perceived problems and need in society in a specific way, thereby achieving desired changes in that society”. These definitions specify clearly that the agent of public policymaking is the government, which has legitimate authority to impose normative guidelines for action. That means that decisions by individuals, nongovernmental organisations (NGOs) and other interest groups are not in themselves public policies. However, individuals, NGOs and other interest groups may be important actors with a role in the governmental policymaking process. As a course of action, public policies consist of a sequence of purposive activities taken over time by the government in dealing with a problem or matter of concern in society.

A policy is viewed as something that unfolds over time, and it is important to note that governments do not always choose to take action in response to a problem but on many occasions may undertake some course of action in response to an opportunity. The government, for example, may deploy fiscal policies in response to economic opportunities in the domestic or foreign market such as policies on the export of goods and job creation in the booming information technology (IT) sector. Public policy does not just happen but is instead designed to accomplish specified goals, although these are not always reached. For example, in response to demand by the population or citizens for government action concerning a public issue, the government takes purposive steps/action to try and address the issue. On many occasions, policy emerges in response to policy demands by actors – private citizens, public officials, NGOs, legislators, and so forth. In response to policy demands, public officials make decisions such as enacting statutes, prohibiting, criminalising, investigating or educating. In the same vein, the government's deciding to do nothing can be a deliberate choice to maintain the current course of action or status quo, for example when the government decides not to increase taxes. Thus, inaction becomes a public policy when public officials decline to act on a problem.

In discussing public policy, it is very important to recognise the notion of ‘public’, which is concerned with government and social involvement. A policy becomes public when it is adopted

by the government and made on behalf of the public or people by their political representatives or by a public body/institution. For example, policies made by government departments and agencies are usually considered to be public policies. However, actions taken in the private sphere cannot be referred to as public policy because such actions are not sanctioned by the government and have no government authority or legitimacy. In congruence with the views of the abovementioned authors, a public policy generally outlines what a government hopes to achieve and the methods and principles that it will use to achieve this. By the same measure, as raised by Wilson and Epelle (2018:178), national governments enact public policies such as laws, regulations and presidential decrees to respond to contemporary socio-economic, environmental and political problems/issues in their countries. Cloete and De Coning (2011:67) concur with Dye (2013:3) by defining a public policy in the context of public administration by stating that “a policy is a statement of intent from a decision-maker to do something or not do anything”. That may mean that as a statement of intent to do something or not, deliberate choices and decisions are made in response to an issue or problem that requires public attention. It further implies that the government usually makes a series of choices and decisions to address a problem (the focus of the policy). In this regard, policymakers formulate a policy about the issue at hand, and the government then adopts the policy to give it effect. Once a policy has been adopted by the government, it should then be implemented by responsible institutions to achieve the desired results. Within this context, Cloete, Rabie and De Coning (2014:7) state that public policy refers to formally adopted legislation, white papers and other policy statements such as written regulations, guidelines and procedures. Cloete *et al.* (2014) through their above definition of a public policy advocate for the government’s plan of action about a particular issue to be presented in a form that can be implemented to deliver the desired results. Similarly, Weible and Sabatier (2018:20) state that public policy includes the laws passed by the legislative bodies, whether they are statutes or ordinances. Therefore, the CLR Act could fall in the category of ‘adopted legislation’ as the Namibian government’s statement of intent and course of action to address the problem of illegal fencing in communal areas of Namibia.

Public policy is formulated and adopted by a political process and then enforced through the executive branch of government for the benefit of the public. Individuals and groups may attempt to shape public policy through mobilisation of group interest and political lobbying, but the policy is enforced by a public agency (Cochran & Malone, 2014:18, cited in Weible and

Sabatier, 2018:20). This implies that the government has the power to enact policies and that the public agency has governmental authority to enforce public policy. The public policy provides a framework within which government actions can be taken to achieve intended policy goals. As such, a public policy provides general guidelines, rules and regulations by which public actor(s) can address a policy problem or an issue of public concern. Within this context, a policy also consists of regulations promulgated by the executive institution that translates a statute into actionable steps (Weible and Sabatier, 2018:20). Weiss (1993:99, cited in Mokhaba, 2005:90) considers policies as “tools that usher society in the direction of desired objectives”.

Different legal systems within which public policy has been defined differently exist. For instance, in civil law countries, public policy refers to the foundation of the legal system on which society’s moral, political or economic order rests. In contrast, common law countries refer to public policy as widely defined, abstract fundamental values (Mokhaba, 2005:94).

As alluded to above, the government may decide to do something to address a problem or respond to an opportunity. To that end, the government usually formulates substantive and operational policies (discussed below) to put its decisions into physical action.

2.2.2 Types of policies

According to Mokhaba (2005:88), policies may be classified as substantive or operational, which are discussed below.

2.2.2.1 Substantive policy

The discussion of substantive policy is vital for conceptualising a policy as a legislative instrument (law) whose implementation is the focus of this study. In general, public policy includes the laws passed by legislative bodies, whether they are statutes or ordinances. A substantive policy, in particular, according to authors such as Tebele (2016:32), addresses what governments should do and can consist of aims or goals (stating what the drafted policy would achieve). Similarly, Mokhaba (2005:88) states that substantive policies are broad policies providing descriptions of policy actions, that is, what the government is going to do and what actor(s) will be involved in the course of action. Commonly used substantive policy instruments are acts, regulations and bylaws. These policy instruments outline administrative rules and

regulations in dealing with an issue of public concern. Howlett (2011:10, cited in Tebele, 2016:32) categorises policies concerned with the welfare and development of society such as the passing of laws as substantive policies. Moreover, Howlett (2011:10, cited in Tebele, 2016:32) states that a substantive policy allows a variety of actors to have a voice in the public policymaking process and, therefore, has the power to address policy issues more effectively.

2.2.2.2 Operational policy

After the government has described what to do regarding a public problem or issue, the statement of intent should be translated into actionable steps. Operational policies are implementation oriented, and according to Bain (1992:74), the operational policy outlines day-to-day routine activities followed by public officials based on functional activities. Therefore, a government department will take the substantive policy framework that applies to it and put it into physical action, for example in its strategic plan, annual plans, budgets, programmes and projects.

When the government deliberately conceives substantive and operational policies, they tend to move through a policymaking process. The first part of the process is usually the policymaking process, which will be discussed in the following section.

2.3 Process models for public policy

Numerous authors such as Hanekom and Thornhill (1995) and Dye (1987) identified different theoretical models regarding public policy. Theoretical backgrounds regarding public policymaking are grouped into theoretical models. Therefore, to understand the public policymaking process, it is necessary to utilise its theoretical background for an explanation. Dye (1998:14, cited in Mamburu, 2004:121) defines a model as a “simplified presentation of some aspects of the real world or maybe actual physical representation”. Theoretical models are therefore necessary for helping to explain, interpret and predict the characteristic of public policy.

This section will discuss the descriptive and prescriptive models regarding public policy. Public policymaking is categorised into descriptive and prescriptive models (Mamburu, 2004:123). According to Mamburu (2004:123), the descriptive model specifies the process of policymaking, which details a step-by-step process of how policy is formulated, implemented and evaluated. In

contrast, the prescriptive model specifies what ought to be done in the public policymaking process, namely the analysis of the outcome/impact of the policy. Moreover, prescriptive models state how policymakers have to act and are more concerned with a normative theory of public policy (Hanekom, 1997:32, cited in Mamburu, 2004:133).

2.3.1 Descriptive models

Descriptive models are concerned with elements that have an impact on the policymaking process (De Coning, 1995:132). These models of policymaking attempt to explain the causes and results of a specific policy.

2.3.1.1 Elite/mass interaction model

This model rests on the premise that the elites are firmly in power. The responsibility for policy decisions rests solely with the government (referred to as a small elite group), and this group reigns supreme (governs) over the ill-informed public (masses) as far as the policymaking process is concerned (Cloete *et al.*, 2018:41). The elites (politicians and top government officials) sit at the apex of the policymaking process, and policy decisions made by the elite flow downward to the population at large. According to Henry (1992:289, cited in Cloete *et al.*, 2018:41:42), in the elite/mass interaction model, the government makes policy decisions, and public administrators act as executing establishments at the expense of the general public. Bain (1992:58) mentions that members of the elite group share common values and reach a consensus on policy matters. That implies that the elite's values and interests are of primary importance and outweigh the values and interests of the ill-informed and powerless masses.

The criticism levelled against the elite/mass interaction model is that public policies are formulated by the elite caste made up of the economic elite, wealthy people, political parties, educated members of society and the ruling class. The public (masses) is excluded from the process and regarded as apathetic and ill-informed, and therefore their views do not shape public policy (Tebele, 2016:35). Despite the criticism, however, public administrators still regard the elite/mass interaction model as the most appropriate model for policymaking (Tebele, 2016:36). This theory provides a public policy development perspective typical of developing African countries such as Namibia where political parties, the educated members of society and the

ruling class dominate the public policy development space. Figure 2.1 can be used to illustrate the elite/mass interaction model.

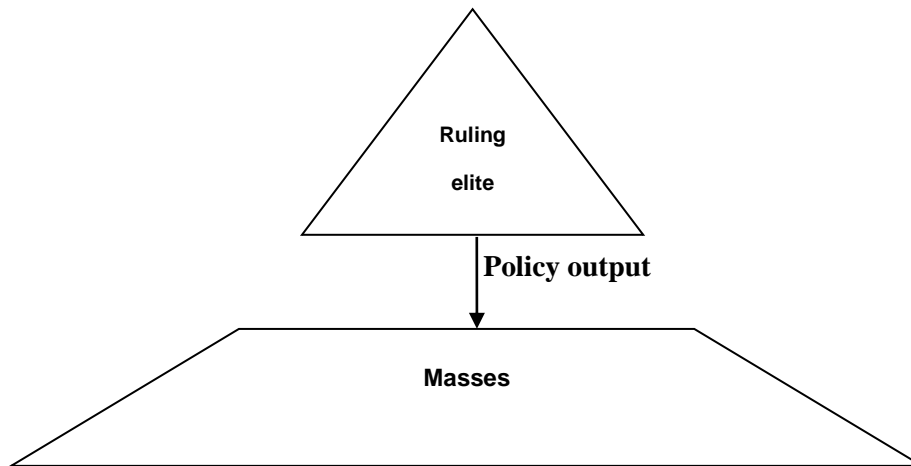


Figure 2.1: The elite/mass interaction model

Source: Cloete *et al.* (2018:42).

According to the elite/mass interaction model, a public policy largely reflects the demands and preferences of the elite with the masses being largely passive and having only an indirect influence on policymaking by participating in elections (Dye, 1978:27, cited in Masango, 2001:67). The only form of public participation in the elite/mass interaction model is by voting, which only allows the public to determine who should govern. Public participation through voting implies that the masses are not necessarily passive and ill-informed but play a pivotal role in policymaking.

2.3.1.2 Group competition model

The group competition model is based on the assumption that the involvement of interest groups in the policymaking process places the necessary pressure on policymakers to influence policymaking. De Coning (1995:135) argues that the initiative by interest groups to pressure and interact with policymakers on preference and self-interest acts as a changing agent of policy. As depicted in Figure 2.2 below, interest groups exert pressure on policymakers to change policies to promote their perceived preferences and self-interest better (Cloete *et al.*, 2018:43). That results in outcomes that are favourable to the interest groups. According to Mdluli (2006:41), group pressure is of particular importance in the policymaking process as it tends to influence policy outcomes. Hanekom (1991:79, cited in Mdluli, 2006:42) states that interest

groups have some degree of influence on policymakers, which in turn influences policymaking. That highlights the importance of involving stakeholders from different sectors to ensure that the best policy alternative is selected and that issues of great concern are placed on the policy agenda by policymakers.

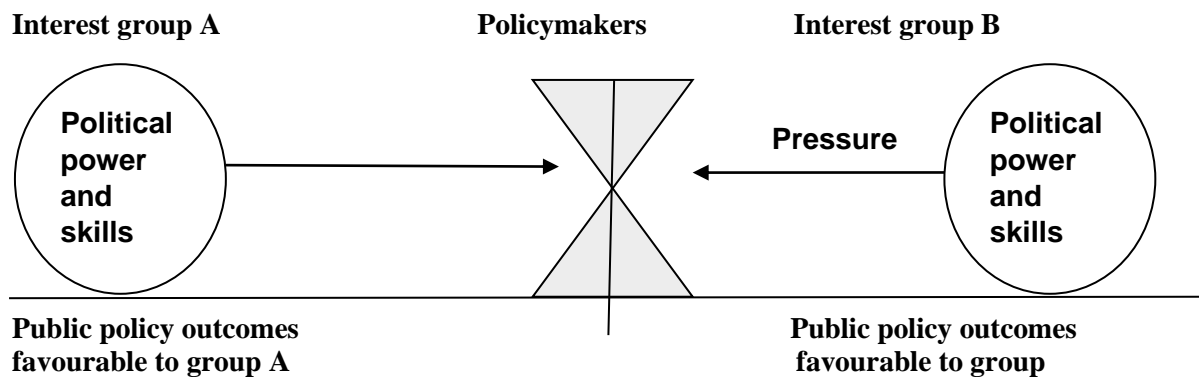


Figure 2.2: The group competition model

Source: Cloete et al., (2018:43)

According to Masango (2001:64), different groups tend to have different interests concerning a particular issue. Therefore, they tend to act against and react to each other in an attempt to influence policymaking. The interests of the group applying the strongest pressure tend to be favoured in the public policymaking outcomes (Hanekom, 1991, cited in Masango, 2001:65). Figure 2.2 above illustrates a situation in which interest groups A and B apply the same power and skill in influencing policymakers, although each group's interest is directly opposed to that of the other. As a result of having the same power and skills, policy outcomes will be equally distributed in favour of interest groups A and B. In the Namibian context, this model can be illustrated by a situation in which property developers and home buyers try to influence property prices in urban areas. Property developers usually have access to municipal officials and policymakers in power and always succeed in raising the prices of properties in cities and towns across the country. Another instance is competition between agriculturalists and conservationists trying to formulate policies on land use.

2.3.1.3 Institutional competition model

The institutional competition model describes the functions and arrangements of the policymaking institutions of government, notably the legislative and executive organs of

government (Bain, 1992:64). The model asserts that the interests of the legislature, executive and judiciary should be considered before any public policy is developed and implemented (Hanekom, 1991, cited in Masango, 2001:64). This emphasises the role and responsibility of all three organs of government in public policymaking, which include the policymaking power of the legislature, initiation of public policy by the executive and administering the legality of policies by the judiciary. According to Cloete *et al.* (2018:45), the main premise of the institutional competition model is that public policy is a product of public institutions. Therefore, public policy is legitimised by the government and only government policies apply to all members of society (Anderson, 1994:31, cited in Mamburu, 2004:132)

2.3.1.4 Functional process model

The functional process model suggests that policymakers consider policy alternatives when formulating policies. These policy alternatives may be best generated through the participation of people at the grassroots level in the policymaking process. According to Dye (1998:7, cited in Mamburu, 2004:127), the functional process model is mostly concerned with the processes and activities in the policymaking process, for instance problem identification, agenda setting, and policy formulation, implementation and evaluation.

2.3.1.5 System model

According to Masango (2001:67), the system model perceives policymaking as a system comprising subsystems, which, in turn, include inputs, conversion, outputs and feedback. According to Hanekom (1987:32, cited in Mamburu, 2004:130), inputs from the external environment such as community needs and problems form the basis for actions by the policymakers. The system model is based on a political system involving politicians on the one hand and their constituencies on the other hand, interacting with each other. The system model represents government responsibility and accountability towards meeting the demands of the people who have put it in power. For instance, the government uses public money to meet the needs of the people. The system model comprises input, output and feedback loops. This is one of the earliest and most influential models of the policymaking process. According to Dye 1998:35, cited in Mdluli, 2006:46), the system model portrays public policy as an act of the political system. The system model is regarded as a response by a political system to the demands, wants, needs, problems or goals of interest groups or individuals (Hanekom, 1991:80)

cited in Mdluli, 2006:45). The system model identifies major subsystems and processes within the wider policymaking process.

2.3.1.6 Social interaction model

The social interaction model is based on the idea of social interaction among different stakeholders – government agencies, civil society, business and labour – in the policymaking process (Cloete *et al.*, 2018:45). This emphasises constant interaction through negotiation, exchange of information and persuasion among the different stakeholders. According to Cloete *et al.* (2018:45), the nature and level of interaction determine the top-down enforcement of policy decisions and bottom-up participation by different stakeholders.

2.3.1.7 Policy community model

Voluntary groups of stakeholders drawn from the government, civil society, business and labour sectors form a policy community or network. The policy community has shared policy interests and agendas to promote the members' shared interest in the policymaking process (Cloete *et al.*, 2018:44). The policy community works to influence policy change and plays a vital role in shaping public policy.

2.3.1.8 Policy system approach

This model is based on a system theory whereby public policy is seen as a political system's response to demands arising from the environment. According to Anyebe (2018:18), a political system operates in a policy environment, and the political system receives inputs from its environment and converts those inputs into outputs. In the end, policy outcomes are centred on the demands of groups or individuals. Moreover, the content of a public policy is influenced by input from the environment. The policy system approach aids policymakers faced with multiple policy alternatives and complex problems to choose the best policy alternatives, which will lead to the most appropriate policy formulated.

2.3.2 Prescriptive models

Eight descriptive models are discussed above in Section 2.3.1. In the following subsection, Dunn's and Wissink's prescriptive models of public policymaking will be discussed.

2.3.2.1 Dunn's phases of the policymaking process

Dunn (2018:44, 45) presents a policymaking process that begins with agenda setting, policy formulation, policy adoption, policy implementation, policy assessment, policy adaption, and policy succession and ends with the policy termination phase. The policymaking process is cyclical, whereby each phase is linked to the next phase. That implies that each stage is somewhat connected to the next or previous one, and they feed into each other back and forth. Initiatives for policymaking are often derived from public institutions, public officials, cabinets and interest groups. The four most critical stages in Dunn's model are discussed below.

- **Agenda-setting phase:** The agenda-setting phase is a preliminary process to introduce or change a policy (Brynard, 2003:303). Agenda setting is a critical stage of the public policymaking process and implementation as it determines the focus of the policy (Mthethwa, 2014:49). During this stage, stakeholders persuade elected and appointed policymakers to act in order to change the status quo, and policymakers take issues of concern from their constituencies and place them on the government agenda (Dunn, 2018:45). This stage is all about making the government aware of the problem. The involvement of different stakeholders perhaps makes this stage the most politicised of the policymaking process. Multiple stakeholders debate about the policy and decide what the policy will look like. Once the policy is decided upon, it is placed on the public policymaking agenda.
- **Policy formulation phase:** According to Brynard (2003:300), initiatives to formulate public policy mostly come from politicians, public institutions, public officials or civil society. Mdluli (2006:52) notes that public officials are mostly the ones who drive the policy formulation phase. At this stage, multiple policies in the form of executive orders, court decisions and legislative acts are devised to deal with a problem (Dunn, 2018:45). Elected and appointed policymaking persons and institutions decide on the course of action to be taken to address identified policy problems or issues in a country (Bain, 1992:78). Mokhaba (2005:79) adds that in this stage, activities to be undertaken to solve a public problem are identified, and various alternatives to address the problem area are assessed in preparation of an agenda for public policymaking.
- **Policy adoption phase:** Adopting a policy involves decision making at government level about the best approach to address a problem. According to Dunn (2018:45), a legislative majority, consensus among actors or a majority decision is required to adopt a public policy. This stage

is very important since it determines the implementation of a public policy because a public policy that is not adopted by the government may lack legitimacy and, therefore, be difficult to implement. Moreover, a public institution may not have the mandate to implement a policy without government endorsement. Policy implementation phase: According to scholars such as Pressman and Wildavsky (1973), there is a lack of a common theory regarding when policy implementation actually begins and ends. The policy implementation phase is usually the stage in the policymaking process when actions are executed to achieve objectives as set forth in prior policy decisions. In other words, during the policy implementation phase, the adopted policy is put into action by responsible institutions/actors through plans, projects and programmes. Since policy implementation is the primary focus of this study, it will be discussed in more detail in Section 2.4.

2.3.3 Wissink's stage model of policymaking

The South African perspective on public policy process is asserted by the Wissink's public policy stage model (Mthethwa, 2014:46). The various stages of the policymaking process are illustrated in Wissink's stage model of policymaking presented in Figure 2.3 below.

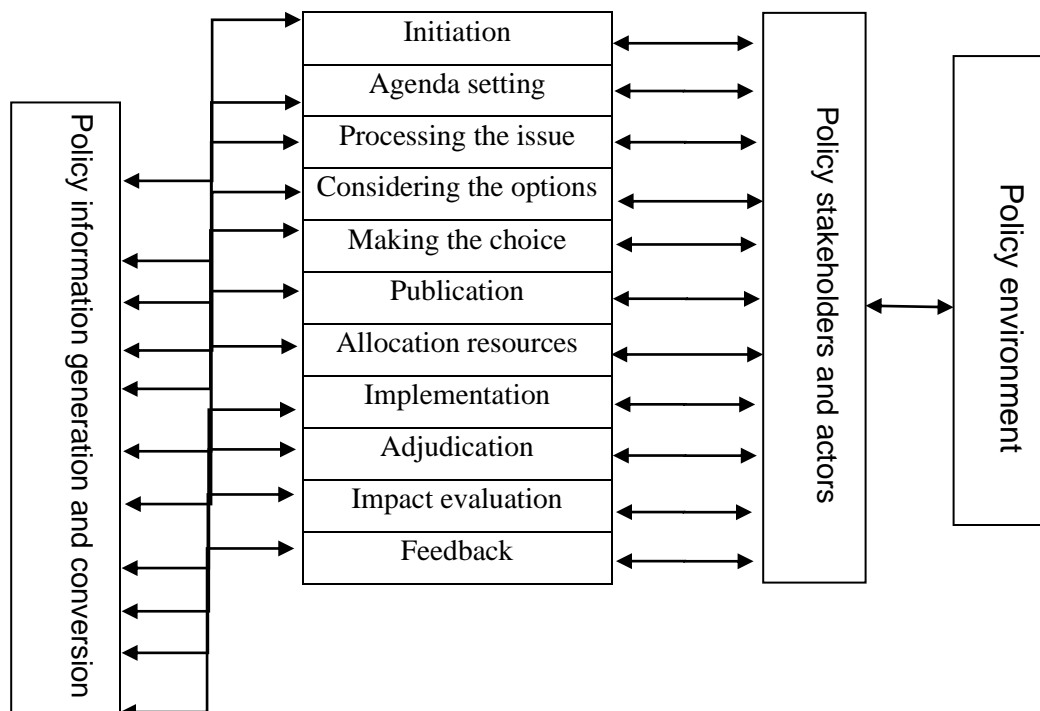


Figure 2.3: Wissink's stage model

Source: Cloete *et al.* (2018:49)

Wissink's stage model is relevant to the current study as it includes most of the stages of the public policymaking process relating to Namibia. The stages of Wissink's model that are not already discussed under Dunn's model above are outlined below:

- **Initiation:** Wissink's stage model begins the policymaking process with an initiation stage. The initiation stage starts as soon as a concern or a public policy problem/issue arises. Policy actors may become aware of a policy problem through civic, political or stakeholder action (Cloete *et al.*, 2018:48). The initiation stage entails consultation with key players, preliminary objective setting and consideration of the rules of the game (Brynard, 2003:318). Actions that lead to the initiation of a formal policymaking process take place during this stage. Policy initiatives in government often take the form of deliberate decisions about doing something. According to Hanekom (1987:20), the initiative for the establishment of public policy usually comes from either the legislative body (e.g. parliament or municipal council), leading public officials or interest groups. Public officials, in most cases, propose policy changes or new policies as they are faced with new problems or opportunities in their daily working environment.
- **Agenda setting:** This entails placing the issue on the policy agenda and determining priorities (Cloete *et al.*, 2018:49). During this stage, stakeholders persuade elected and appointed policymakers to act to change the status quo; thus, policymakers take issues of concern from their constituencies and place them on the government agenda (Dunn, 2018:45). The higher the issue is placed on the agenda, the higher the chance is that it will receive the necessary attention from the policymakers.
- **Processing the issue:** This stage is concerned with identifying the policy problem/issue and the major stakeholders (Cloete *et al.*, 2018:49). It is important to diagnose a problem properly before any attempt to develop a policy option. Therefore, during this stage, the problem is identified by observation to ascertain whether what policymakers or actors are seeing or hearing is a problem or an opportunity. Further, policymakers should ascertain whether there is a crisis in society.
- **Considering the options:** This stage presents a process of identifying alternative forms of action (Mthethwa, 2014:46). That is, several alternatives from public officials, interest groups and individuals are considered and then narrowed down to the most relevant ones for further analysis. To that end, a wide range of alternative policy options are compiled, and then the

most viable options are identified. One typical question to ask at this stage could be, “What options are there for attaining the policymaker’s goals?”

- **Making the choice:** At this stage, policymakers should select a course of action – an alternative or a combination of alternatives to solve the problem – from among those that have been identified. To select the best course of action, evaluation criteria may be used to facilitate the selection.
- **Publication:** Once a policy decision has been made, the general public, particularly those who will be affected by the policy, is informed about the policy. Policy decisions can be made public via the dissemination of information through various media related to decisions taken. The publication of a public policy has several objectives, including mobilising stakeholders who will be involved in implementing the policy, helping to change attitudes or behaviour targeted by the policy and helping to simplify complex issues so that they are better understood.
- **Allocation of resources:** The lack of resources has been viewed by authors such as Pressman and Wildavsky (1973) as the cause of policy implementation failure. Therefore, this stage is concerned with budgeting and the selection of resources needed for the implementation of public policies. Human and financial resources are much needed if policy implementation is to succeed. Public institutions or implementing agencies should allocate all needed resources towards policy implementation.
- **Adjudication:** Public administration is tasked with the responsibility of implementing public policies through programmes and projects. Policy adjudication represents the use of administrative and legal procedures to enforce public policy. A public institution may create regulations and other legal instruments such as statutes to enforce public policy.
- **Impact evaluation:** Evaluation measures the success of policy measures taken (De Coning, 1995:184). During this stage, the contents, implementation, results and impacts of the public policy are evaluated and assessed to determine whether the intended policy results and goals have been achieved. That is, what was the policy content? What were the outputs, the outcome and the impact of the policy? Did it work? To what degree were the objectives of the policy met? To what extent was the problem solved? Policy evaluation may be conducted using formal qualitative methods of data collection such as surveys and field experiments, and information generated from evaluation reveals the kind of impact that the policy has had

(Cloete *et al.*, 2014:144). Numerous actors evaluate the impacts of policies to see whether they are solving the problems identified and accomplishing their goals. Moreover, evaluation looks at the costs and benefits of policies and their indirect and unintended effects.

- Feedback: Public policies affect a variety of stakeholders, including members of the public, politicians, public officials and interest groups. This calls for feedback to be provided to those who have been affected by a public policy. Feedback may be provided by generating reports and issuing reports and other information to relevant authorities and constituencies.

By comparison, De Coning *et al.* (2011:45, cited in Tebele, 2016:2) identified five general public policy phases: problem identification, agenda setting, policymaking/formulation, policy implementation and policy evaluation. The first stage in the policymaking process is problem identification, whereby a policy aimed at solving a problem begins with accurately identifying and defining the problem. For example, to decide on the appropriate course of action to address a problem, municipal policymakers should accurately define the problem facing the city, that is, whether it is the rising unemployment rate, rising population or inadequate infrastructure. The other stages – agenda setting, policy making/formulation, policy implementation and policy evaluation – have already been discussed with reference to Dunn and Wissink above. These stages, however, according to Tebele (2016:2), are reliant on the approach that is followed. According to Dunn (2008:47, cited in Cloete *et al.*, 2018: 47), “The policymaking process is a series of integrated intellectual actions carried out within a set of actions that is essentially a political series.” That implies that policymaking is a process that involves many stages/phases, actors and institutions and often takes place in a politicised environment. The policymaking process determines what action government will take to address a problem. The policymaking process differs by government and institution and depends on the purpose of the policy.

Policymakers make decisions at every stage of the policymaking process to choose the best alternative out of the available ones. Once the best alternative has been adopted, the adopted policy is put into action by responsible institutions/actors through plans, projects and programmes, which marks the beginning of the policy implementation phase, which will be discussed below.

2.4 What is meant by policy implementation

Policymakers formulate alternative policies in the form of either executive orders or legislative acts to deal with a problem. After the formulated policy has been adopted, its implementation may begin (Dunn, 2018:45). Effective implementation determines the success of a public policy. The policy implementation phase involves efforts and decision making by the implementing agencies (various actors) towards translating policy into action. Policy implementation is the primary focus of this study and will be discussed and analysed in more detail below.

Several definitions and meanings of policy implementation have been provided by numerous researchers from the first, second and third generations of implementation studies. The fathers of implementation studies, Pressman and Wildavsky (1973), describe implementation as a process of interaction between the setting of goals and actions geared to achieve the goals. Their definition assumes a logical process from interaction through decision to action. Further, this definition sees implementation as a continuous part of the policymaking process that lasts for the life cycle of the policy. Van Meter and Van Horn (1975:448, cited in Najam, 1995:7) conceptualise the implementation process by stating that “policy implementation encompasses those actions by public and private actors directed at the achievement of decision outlined in prior policy decision”. Mazmanian and Sabatier (1983:4, cited in Najam, 1995:7) came up with an influential definition of policy implementation. Their definition describes policy implementation as the carrying out of policy decisions. Policy decisions are incorporated into legislation, which is itself a policy decision, or may take the form of executive orders or court decisions, which identify the problem to be addressed, stipulate the objectives to be pursued and structure the implementation process.

Researchers of policy implementation in the 21st century, such as Shigwedha (2004:7), regard policy implementation as being all about executing selected and adopted policy options, and translating laws, programmes and projects into actual actions. According to Dunn (2018:45), during the implementation phase, administrative units mobilise financial and human resources to implement a policy after it has been adopted. That implies that after a public policy has been adopted, it has to be implemented to achieve its intended results. This points to the critical role of the government to ensure that the policy is adopted, or else its implementation may not happen. Policy implementation is a crucial stage in the public policymaking process as it is at this stage

that policy outcomes and impacts are realised. However, according to Mokhaba (2005:12), because of the involvement of various actors/stakeholders and stages, the implementation stage is problematic. Moreover, Tebele (2016:49) believes that because policy implementation happens at multiple levels, it may become complex and problematic. Although many public policies are initiated at the national level, their implementation usually happens across all levels of government. For example, a national land policy is implemented at the national, regional/provincial and local levels of government. At national, provincial and local levels, the policy can be negated and failures can happen (Tebele, 2016:49). To achieve optimal implementation, Weaver (2009:3) suggests the use of incentives to encourage compliance with the policy. Apart from using incentives, Nsingo (2000:240) argues that a clear operational policy and procedure, competent technocrats and resource availability may increase the success of policy implementation, while Skhosana (2019:15) believes that consultation with all relevant stakeholders and role players ensures commitment to the implementation of a policy.

Mokhaba (2005:113) refers to policy implementation as a process whereby required elements are put together to produce a particular outcome. Mthethwa (2014:53) perceives public policy implementation as “translating the public policy plan into workable strategies that seek to meet the pre-set public policy objectives”. According to Pressman and Wildavsky (1973), implementation simply means carrying out, accomplishing and fulfilling something, while Van Meter and Van Horn (1974:447-8, cited in Brynard, 1995:4) provide a more comprehensive definition: “Policy implementation entails and includes all those actions by public and private individuals and institutions and groups that are directed towards achieving pre-decided policy objectives.” Brauns and Wallis (2014:203) provide a definition of policy implementation that is most relevant for this study by referring to policy implementation as “whatever is done to carry a law into effect”. However, Brynard (2005:14) argues that “if policy implementation did not achieve the intended goal, it does not mean that implementation did not happen, but the failure to achieve the intended goal may be due to that specific steps prescribed in the policy to achieve the stated policy goal were not followed”. Similar to Brynard’s definition, Nsingo (2000:213) argues that a policy could only be a policy once it is implemented and that if it is not implemented, it will simply remain a policy statement. The two definitions by Brynard and Nsingo imply that even if good policies are formulated and adopted to address a particular problem in society, implementation remains the key factor in ensuring that the problem is addressed.

Relating the above definitions to the CLR Act would entail enforcing the CLR Act to remove illegal fences on communal land and bring offenders to book. Public policy implementation, therefore, can be referred to as public actions aimed at achieving the objectives set out in the policy (Skhosana, 2019:15).

The evaluation of policy implementation provides critical information for policymakers and implementers to judge whether the implementation provides the intended outputs and achieves policy goals (Cloete *et al.*, 2014:232). Through implementation evaluation, policymakers and implementers will be in a better position to know and understand what works, why, for whom and under what circumstances. Different evaluative criteria have focused on the intended policy objectives and describing to what extent policy objectives have been achieved. Other criteria used, particularly in regulatory policy, are outcome and impact evaluation (Cloete *et al.*, 2014:167). In the same vein, Brynard (2005:14) say about policy evaluation that implementation may not achieve the intended results and outcomes without a policy goal against which implementation is judged.

To mitigate policy implementation failure, Mthethwa (2014:54) outlines four elements that should be in place for public policy implementation to be effective:

- Purpose – clear purpose for the desired change.
- Vision – clear vision for the desired change.
- Capacity – capacity and skills for implementing the desired change.
- Support – true organisational support for making the desired change happen.

The above elements imply that for implementation to achieve the intended policy goal, policymakers should formulate a clear purpose for the policy/law, including a clear vision and a list of actors involved. Institutions responsible for policy implementation should have the capacity and requisite skills to implement a policy. Moreover, there should be unquestionable support from the policy subjects and relevant authorities.

2.4.1 Role players/actors in the public implementation process

Various actors are involved in the public policy implementation process at national, provincial and local levels of government (Nsingo, 2000:237; Shigwedha, 2004:8). The persons and institutions involved in the public policy implementation process are inter alia the following:

- Legislators: Elected representatives at the national assembly, the council of provinces and municipal councils have the constitutional power to make policies/laws/statutes and may approve or disapprove a policy. Moreover, politicians play a significant role in overseeing and evaluating policy implementation.
- The president: The implementation of government policies is associated with the head of state. The president has the constitutional power to sign a policy into law.
- Courts: They administer the legality of policies.
- Law enforcement agencies (e.g. NAMPOL): They ensure that citizens act in line with the provisions of the law/policy.
- Interest groups and individual citizens: They may support or oppose a policy.
- Nongovernmental actors: These include citizens, voluntary organisations, community-based organisations and other interest groups that may work alongside law enforcement agencies. Nongovernmental actors are also involved in public programmes and project implementation and the evaluation of those programmes/projects.
- Policy-implementing agencies/institutions: These include national departments, TAs and CLBs that help to ensure that the actions of those dealing with them are in line with the policy or the law.
- Parliament: In terms of the Namibian Constitution, parliament has supreme legislative authority and is the primary policymaking institution in terms of developing substantive policy instruments such as legislation, thereby making elected members of parliament primary policymakers in the country.

The following section will briefly discuss the evolution of implementation studies, looking at the pioneering work of policy implementation scholars from the 1970s onward.

2.4.2 History and theoretical background of policy implementation

Policy implementation literature dates back to as far as 1949 with the work of Phillip Selznicks on federal economic development initiatives. Pressman and Wildavsky's investigation of the economic administration project in 1973 in the United States of America ushered in a new era of implementation studies (O'Toole, 2000:263). After Pressman and Wildavsky's (1973) pioneering research, the years that followed saw an increase in policy implementation studies. According to Winter (2006:151), most implementation studies that followed focused on

implementation problems, barriers and failures. The main questions for the early implementation studies were how regulations, programmes and official pronouncements were implemented, and how these might have been better implemented (Winter, 2006:151). One such study on policy implementation after Pressman and Wildavsky's (1973) publication is Erwin Hargrove's (1975) research in which he called implementation research 'the missing link' in the study of the policy process. In America, most of the early studies on policy implementation focused on implementation failure, and by the 1980s, the literature on policy implementation had already identified variables that could affect policy implementation. The proliferation of implementation studies gave birth to numerous types of research and a variety of models, theoretical frameworks and implementation approaches as part of the explanation for the implementation process (O'Toole, 2000:264).

One of the most important products of implementation studies is the development of three approaches that guide our understanding of policy implementation: the top-down, bottom-up and mixed/hybrid approaches. These three approaches have been presented by scholars such as Mazmanian and Sabatier (1983), Pressman and Wildavsky and Lipsky (1971, 1980), and Hjern and Hull (1982), all of whom are cited in Pulzl and Treib (2007:91).

2.4.2.1 The three generations of policy implementation research

According to public administration and policy literature (e.g. Najam, 1995:8 & O'Toole, 2000:271), there are three generations of policy implementation research: first generation, second generation and third generation. These generations of implementation studies present an important continuum of increased understanding of policy implementation.

- First generation of policy implementation studies: The 1973 work of Pressman and Wildavsky, which largely defined the field of policy implementation, together with other studies (e.g. Najam, 1995:8-11), marked the beginning of what is known as the first generation of implementation studies (DeLeon & DeLeon, 2002:469). Most of the first implementation studies were explorative and theory generating and were instrumental in identifying barriers and factors that might affect implementation (Winter, 2006:157). Second generation of policy implementation studies: According to DeLeon and DeLeon (2002:469), the second generation

of implementation studies began with the work of authors such as Robert Nakamura and Frank Smallwood (1983), cited in DeLeon and DeLeon (2002:469).

- The second generation of implementation studies focused on building models for policy implementation. Policy implementation approaches, namely top-down, bottom-up and hybrid/mixed, were born out of the second generation of implementation studies in the 1980s (Winter, 2006:152).
- Third generation of policy implementation studies: The third generation of policy implementation studies began around the early 1990s. These studies sought to explain “why behaviours vary across time, across policies, and units of government” (DeLeon and DeLeon, 2002:471). The third generation of studies tested policy implementation theories through comparative case studies, statistical research and observation (Winter, 2006:152).

The following section will briefly discuss various models of policy implementation that were born out of the three generations of implementation studies discussed above.

2.5 Models of policy implementation

There has been much debate as to which implementation model is more effective in putting a policy into effect. The advocates of each of these models/approaches claim that their approach is superior to the other (Pulzl and Treib (2007:94).

This subsection discusses the three commonly presented implementation models, namely the top-down, bottom-up and mixed/hybrid approaches. These models provide useful insight into the implementation process (Najam, 1995:14). This insight into the implementation process help in understanding the diverse paths to implementation of public policies.

2.5.1 Top-down implementation approach

The top-down model is presented by scholars such as Van Meter and Van Horn (1974), Edwards (1980) and Mazmanian and Sabatier (1983), all of whom are cited in Najam (1995:13). The emphasis of this approach is that decision makers are best positioned and thus capable of producing policy objectives by controlling the policy implementation stage. DeLeon and DeLeon (2002:468) argue that the top-down approach has often been the preferred policy implementation practice. Although the approach has been the most dominant for the implementation of public

policies, it is said to have been associated with policy implementation failures. For example, Collins (2014, cited in Gaus *et al.*, 2019:93) argues that the top-down model used in American educational reform has failed to increase and improve the quality of the graduates. Other critics see this model as elitist and of a dictatorial nature, and, therefore, it could be aligned with the elite exploitation model. The failure of the top-down approach could be attributed to the fact that implementation decisions and resource allocation take place at the top with little connection and consideration of the grassroots.

The failures of the top-down approach generated academic interest for scholars such as Hjern and Hull (1982, cited in Signé, 2017:13) to search for an alternative approach, which saw the emergence of the bottom-up approach.

2.5.2 Bottom-up implementation approach

This approach emerged in the later 1970s and early 1980s as a response to the top-down approach and was presented by scholars such as Lipsky (1978), Elmore (1979), Barret and Fudge (1981) and Hjern and Porter (1981), all of whom are cited in Cloete *et al.*, (2018:200). The proponents of the bottom-up approach regard it as more effective, democratic and accountable to communities (Cloete *et al.*, 2018:202). According to Pulzl and Treib (2007:89), the bottom-up approach emphasises that the implementation of public policy begins at the grassroots level of society and consists of the everyday problem-solving strategies of citizens at lower levels of the policy implementation environment. This emphasises the role of local actors in the policy implementation process. Thus, contrary to the top-down approach that sees central decision makers as the main actors in producing policy objectives, the bottom-up approach sees the masses at grassroots level as key actors in the policy implementation process. Local-level implementers are in charge of the implementation process, and they can shape the policymaking process (Shigwedha, 2004:14).

The bottom-up approach is based on the principle of discretion in policy implementation (Nsingo, 2000:221). Discretion in policy implementation is one of the many advantages of the bottom-up approach. Local policy actors can implement policy through a large number of discretionary decisions made at the local level as opposed to implementing decisions passed down to them from the top. Another advantage of the bottom-up approach is that it is participatory,

allowing the views and inputs from multiple levels, it is flexible and it is adaptable to local difficulties and contextual factors (Pulzl and Treib (2007:92).

Table 2.1 below summarises the advantages and disadvantages of the top-down and bottom-up implementation approaches.

Table 2.1: Summarised advantages and disadvantages of the bottom-up and top-down approaches

Top-down approach	Bottom-up approach
Goals are clearly defined.	Goals are loosely defined.
Policies are confirmed in a coherent single domain.	Policies are independent domains competing for resources.
Policies consist of authorities' statements.	Policies may not consist of authorities' statements.
Policy designers allocate resources in a very organised way at each implementation level.	Resources and expertise are not allocated properly.
A well-established common interest exists at all levels.	Implementation is through communication and compromise.
A well-established structure of command and control from top to bottom.	Street bureaucrats have latitude in enforcement.
Requires strict adherence to compliance and regulation procedure.	Accommodates local norm incentives to find common ground in procedural implementation.

2.5.3 Hybrid/mixed implementation approach

A mixed/hybrid approach to policy implementation emerged, advocated by scholars to blend the applications of the top-down and bottom-up approaches. The hybrid theory has been discussed by scholars such as Mintz (1977), Windhoff-Heritier (1980), Elmore (1985) and Winter (1990), all cited in Pulzl and Treib (2007:91). The hybrid approach alleviates the divide between and avoids the conceptual weaknesses of the top-down and bottom-up approaches by combining elements of both approaches (Pulzl & Treib, 2007:95). The hybrid approach emphasises the importance of centrally defined policy decisions while appreciating and valuing the need for and importance of involving lower-level actors.

One of the advantages of the hybrid approach is that it minimises the weaknesses associated with the top-down and bottom-up approaches, which increases the strength of the mixed approach, making it the most effective approach for policy implementation (Pulzl & Treib, 2007:95). Moreover, the mixed approach brings together both central policymakers and local actors in policy implementation. Therefore, the mixed approach is participatory and thus appropriate for implementing policies that affect people at all levels of society. Further advantages of the mixed approach are its ability to allow for differentiation between various policy areas (Pulzl & Treib, 2007:90).

In view of the above, the researcher argues that a mixed/hybrid approach to policy implementation would be more effective and successful as it satisfies the needs of both the top-downers and the bottom-uppers.

In addition to the three traditional implementation theories discussed above, alternative policy implementation approaches have emerged with neoliberalism and new public management. These approaches play a vital role in the implementation of distributive policies of governments such as the provisioning of housing, transportation, hospitals and income. Some of the alternative implementation approaches that have emerged with neoliberalism and new public management will be discussed below.

2.6 Neoliberalism and new public management implementation approaches

Market-oriented reform policies and the new public management emerged as a response to and a shift away from the old public administration, which was seen as bureaucratic, wasteful, inflexible dysfunctional and thus not responding to public service delivery (Batley & Larbi, 2004:39). Neoliberalism and the new public management borrow approaches and techniques mainly from the public sector and apply them to policy implementation in the public sector. These implementation approaches are discussed below.

2.6.1 Outsourcing and contracting approaches to implementation

Under neoliberalism and the new public management, market mechanisms are used as approaches/tools for implementing government decisions such as the delivery of public services

such as water supply and refuse collection in municipal areas and construction of public roads and other infrastructure. The implementation of public policies may not be carried out by public administration or government agencies but is outsourced and contracted out to organisations in the private sector that deliver public services to the citizens on behalf of the government. Another market-oriented approach to policy implementation is through outright privatisation, whereby the private sector takes full responsibility for implementing government decisions, with little or no involvement of the public. Private hospitals and private schools are examples of the private sector implementing public policies on health and education in a country. Market approaches to public policy implementation minimise the dysfunctions and bureaucracy associated with the old public administration (Batley & Larbi, 2004:40).

2.6.2 Public-private partnerships

The market approach has ended government monopoly and allowed the participation of organisations in the private sector in implementing public policies, particularly in the area of public service delivery through public-private partnerships (PPPs) (Batley & Larbi, 2004:49). PPPs are described by authors such as Bovaird (2004:200) as an implementation instrument, at the operational level, in the form of a working arrangement based on a mutual commitment between a public sector organisation and another organisation outside of the public sector. In the Namibian context, there has been a particular emphasis on PPPs in the area of municipal service delivery, such as housing. For example, according to the city's Mayoral Annual Report (2016:18), the Windhoek City Council in the 2016 financial year delivered 79 affordable low-income houses as part of the city's low-cost housing projects, which were implemented through PPPs. Through PPPs, government decisions and policies are implemented with the direct involvement of organisations in the private sector. Equally, the PPP approach has been used to mobilise the private funds needed to implement government programmes such as the construction of public housing and roads (Van der Walt, 2014). For example, PPPs have become a vehicle through which local governments deliver municipal services such as housing. Therefore, public policies can be implemented by NGOs through PPPs in a manner that is efficient and effective.

2.6.3 Network and new governance

The new governance paradigm has seen governments around the world increasingly engaging organisations in the private sector, civil society organisations and citizens to implement public policies through a networked governance approach. Equally, by way of a network, organisations in the public sector, organisations in the private sector, public administration and politicians collectively plan, organise, manage, make decisions and deliver services to users (Stoker, 2006:42). For example, the administration and politicians alike are no longer solely responsible for making all important policy decisions on public service delivery, but such decisions and their implementation now take place through networked governance involving all concerned stakeholders. Moreover, the new public service emphasises the broader and active participation of citizens and NGOs in the governance and delivery of public services. Due to greater participation, networks empower citizens and civil society organisations and result in greater accountability and a transparent process of public services delivery.

2.6.4 Tools of public action

One of the implementation approaches that has emerged with neoliberalism and new public management is the tools of public action to address public problems. Government activities are no longer restricted to the direct delivery of goods and services through the government bureaucracy, but governments use tools such as an array of loans, contracts, tax expenditures, vouchers, economic regulations, social regulations and loan guarantees to deliver public goods and services (Salamon, 2002:2). Through the use of the tools of public action, for instance loan guarantees, more public services are delivered than the direct provision of goods and services by government bureaucrats. For example, in the United States of America, statistics show that the direct provision of goods and services by the state-federal government has accounted for only 5% of activities, while the tools of public action, particularly direct loans and loan guarantees, have played a significant role in providing services in the area of housing (Salamon, 2002:4).

2.6.5 Improving and emphasising performance

The new public management paradigm emphasises output linked to performance measurement at both individual and government levels. As a result of performance management, there has been a shift from inputs and processes to output, which requires organisations and employees to work to

achieve set targets and policy objectives (Batley & Larbi, 2004:47). Governments can manage the performance of employees to help achieve public policy outputs; for example, performance-related rewards may act as an incentive for employees to work to achieve targets and policy outputs.

2.6.6 Decentralisation of government functions

The decentralisation of government functions, responsibility and resources to lower levels of government has become the preferred approach to public policy implementation. Through decentralisation of power, responsibility and resources for implementing public policies are transferred from the central government to lower levels of government. At lower levels, for example provincial and local levels, local actors and street bureaucrats take full responsibility for achieving policy outputs with less control from the central government. Today, most public policies, particularly the provision of public services, are implemented at provincial and local government levels. For example, provincial governments are implementing public policies in the area of housing delivery. Moreover, administrative decentralisation aims at transferring decision-making authority, resources and responsibilities for the delivery of public services from the central government to lower levels of government, agencies and field offices of central government line agencies.

The various implementation approaches help in understanding the diverse paths to implementation of public policies, including understanding why public policy implementation fails. Therefore, the following section will look at the literature on policy implementation failure.

2.7 Factors that influence policy implementation failure

Prof Allan McConnell in 2014 stated in a paper presented at the 64th Annual International Conference of the Political Studies Association that governments throughout the world seemed to suffer periodic policy failure. Likewise, in the 1970s, various studies on policy implementation indicated that policymaking in many areas had not achieved its stated goals. The failure of policies generated academic interest among scholars of public administration and policy studies to explore and understand the causes of policy failures. For example, the first generation of implementation studies in the 1970s was concerned about implementation failure. By 1973, pioneering authors of implementation studies such as Pressman and Wildavsky had

already identified potential causes of policy implementation failure. The complexity of joint action, lack of resources, conflicts and too many points of decision making were viewed by authors of first-generation implementation studies in the 1970s as barriers to successful implementation (Signé, 2017:17-21). Mazmanian and Sabatier (1989) identify factors that affect policy implementation, including the commitment of officials to statutory objectives, the degree of participation by an actor outside the implementing agencies, initial financial allocation and decision rules (veto) of implementing agencies. Nonstatutory variables that affect policy implementation include socioeconomic conditions, technology, public support of the policy, attitudes, resources available, and commitment and leadership skills of implementing officials (Mazmanian & Sabatier, 1989:28-30). The causes of implementation failure presented by the first generation of implementation studies have been reaffirmed by 21st-century scholars such as Khan (2016:7), who states that the involvement of various stakeholders in the public policy implementation process is often time consuming, resulting in delayed actions and decision making.

The explanation offered by Khan is augmented by Howie and Stevick (2014:582, cited in Tebele, 2016:12), who argue that public policy implementation becomes challenging, complex and complicated when governmental organisations, NGOs and individuals eventually become involved in the process of implementation. Shigwedha (2004:90) too agrees with Khan that if too many organisations are involved in the policy implementation process, successful implementation could become complex and difficult. Some authors disagree that having too many actors will make policy implementation problematic. For example, Nsingo (2000:240) argues that institutions involved in the implementation process and their numbers are always known from the outset. Nsingo's argument holds water in the sense that with proper coordination and communication, too many actors involved in the implementation process should not be a problem. In addition, having a clear response from the outset for each actor/institution involved in the implementation process helps to offset the complexities associated with having too many actors involved.

Matland (1995:152) sees goal ambiguity as leading to misunderstanding and usually resulting in implementation failure. Signé (2017:17) adds that ambiguity of means gives rise to policy conflict, influencing policy implementation. Scholars such as Khan, (2016:8) have mentioned

other implementation challenges, including a policy not being implemented according to its design. Najam (1995:10) explains that designing public policy is challenging and that a policy may look fine on paper but may be hard to implement due to associated challenges such as costs.

Policy noncompliance is another challenge of policy implementation. Regarding policy noncompliance, Tebele (2016:12) questions whether the general public will comply with the policy once it is adopted and implemented. The lack of consultation and participation around policy choices is a driving force in creating policy noncompliance. Moreover, scholars such as Van Meter and Van Horn (1975, cited in Khan, 2017) outline numerous challenges that can undermine proper policy implementation, including lack of sufficient resources and competent staff, lack of autonomy, lack of know-how and administrative capacity, and bureaucratic procedures.

In addition, Signé (2017:17) states that if factors such as communication, resources and positive attitudes are missing, implementation is bound to be problematic. The lack of resources and the lack of technical know-how have been mentioned by many authors as barriers to policy implementation. That could be true since implementing a policy, for example enforcing a law, requires the availability of financial and human resources. The top-down approach to policy implementation has been brought into play as leading to the implementation gap. The top-down approach may lead to a gap in the implementation of a policy because implementation decisions and allocation of resources take place at the top with little connection with grassroots-level policy implementers.

Sometimes, the government formulates and adopts a policy only to abandon the policy at the implementation stage. The government may abandon the implementation of a policy due to several factors, including a lack of financial resources and competent personnel to enforce the law, for example. Further, a change of government after general elections and opposition to the policy may force the government of the day not to implement a particular policy. Signé (2017:19) cautions that if the content of a policy is vague, it would likely increase noncompliance. The lack of consultation and participation around policy choices is a driving force in creating policy noncompliance. This argument is supported by Tebele (2016:13), who states that Africa's challenges in policy implementation are a result of a "systematic problem relating to the lack of consultation and participation around policy choices in all levels of government". In this regard,

a policy that is not adopted as a result of democratic interaction and consultations will not sit well with the public.

Therefore, implementing it could become problematic since it lacks the support and buy-in of the public. According to Khan (2016:7), implementation could be affected by the actions and capacity of implementing agencies and/or the implementability of the policy itself. Besides these factors, in many cases, policy implementation has either slipped or stalled or never been carried out at all (Palmer, Fricska & Wehrmann, 2009:1). In this case, failure of policy implementation may perpetuate the undesirable issue/problem that requires public policy intervention (Najam, 1995:49). Khosa (2003:49) simply states that decision makers may lack the capacity to implement policies. This suggests that translating decisions into actions has been difficult on the part of policymakers. Khosa adds that the reasons for failure to implement a policy vary from capacity constraints to logistical issues. Another finding of the policy implementation studies is that many policies are overambitious and therefore unrealistic (Palmer, Fricska & Wehrmann, 2009:4). A further factor to consider is the insufficient and ineffective staff in all spheres of government (Brauns & Wallis, 2014:204).

Mclaughlin (1987:172, cited in Tebele, 2016:14) suggests local capacity and the will of all concerned stakeholders as necessities for the success of policy implementation. This means that for policy implementation to succeed, there has to be sufficient human capital (skills, experience and qualifications) and the readiness of all relevant stakeholders to deliver the policy objective. However, Hill and Hupe (2014:2, cited in Tebele, 2016:49) disagree; they attribute policy failure to the fact that when policies are designed, sometimes policy designers lack foreknowledge of how a policy will perform in the face of changing economic, political and technology environment that will shape its implementation. According to Weaver (2009:2), policy failure in government ranges from inadequate coordination between agencies and levels of government to some staff disagreeing with the programme and thus implementing it with less enthusiasm. Further, Weaver's implementation analysis provides potential sources of implementation problems such as interpretation issues, organisational coordination issues, resource and organisational capacity constraints, timeline issues, political interference issues and target compliance issues.

A lack of compliance with a policy may lead to implementation challenges. For example, Weaver (2009:3) states that policy targets may fail to act in the way that policymakers wanted, which presents barriers to successful policy implementation. Nsingo (2000:240) mentions that implementation failure could come as a result of poor policy framework, too many detailed policies, malicious disobedience by the implementers, attitude change, imperfect knowledge of the problem, failure to establish a cause-effect relationship, lack of trust between the politicians and civil service, and outdated legislation. The causes of policy implementation failure presented by Nsingo are quite different from those identified by numerous other authors cited above and thus need further exploration.

In conclusion, despite challenges in implementation, public policy implementation must be perceived as a continued attempt by the government to improve people's lives (Hanekom, 1987:8, cited in Skhosana, 2019:15). This implies that if people's lives are to be improved, governments have to forge ahead with implementing a policy, no matter the challenges.

Whilst this section has explored the broader literature concerning policy implementation failures, the following section will discuss the 7-C protocol that categorises common implementation variables and the factors influencing implementation.

2.8 The 7-C protocol for policy implementation: The complexity of public policy implementation and the factors influencing implementation

Policy implementation scholars have identified a wide variety of factors that may affect implementation. For example, Najam (1995) identified five key factors that might influence policy implementation, which became known as the 5-C protocol. Cloete *et al.* (2018:206) broadened the 5-C protocol to the 7-C protocol. The 7-C protocol has been used by scholars such as Cloete and Wissink (2000:178-179) to study public policy implementation. The reasons why the researcher chose the 7-C protocol for the current study are threefold. Firstly, by analysing the 7-C protocol, the researcher became aware of the factors that led to policy implementation failure. Secondly, the 7-C protocol is a tool that can be used to understand and make sense of the complex nature of policy implementation. Thirdly, the 7-C protocol, as an implementation analysis tool, helped the researcher to gain insight into the policy implementation process.

According to Mokhaba (2005:12), implementation is the most critical, complex and demanding stage in the policymaking cycle. In most cases, however, little or no attention is paid to the problems and complexities associated with the execution of policies. The complexity of public policy implementation may be explained by discussing the variables of the 7-C protocol. Therefore, in this section, the variables of the 7-C protocol are analysed to enhance the understanding of the complexity of public policy implementation and the factors influencing policy implementation.

2.8.1 Content

The content of the policy should clarify the goal/objective of the policy. Cloete *et al.* (2018:207) highlight three important elements from Najam (1995:39). The three elements are (a) what the policy sets out to do – the aims of the project; (b) how it problematises the issue that it sets out to solve; and (c) how it aims to address the perceived problem – the choice of methods to be used.

A policy may be categorised as either distributive, regulatory or redistributive. A distributive policy aims to create good for the general welfare of society, a regulatory policy describes rules of conduct, including measures for noncompliance, and a redistributive policy is concerned with the reallocation of resources, wealth or power in favour of a certain group in society (Uusiku, 2019:30). Therefore, the government needs to introduce clear policy content as it paves the way for achieving its objectives at various stages of policy implementation. Without a well-structured policy content guiding how the policy problem is going to be addressed, the intended policy is likely to fail in its implementation. Therefore, a well-structured policy content should be reflected within the mission, vision and goals of the organisation (Brynard *et al.*, 2011:147).

Cloete *et al.* (2018:207) note that the three elements from Najam (1995:39) mentioned above are also important in how they affect the other six variables discussed below. The activities, projects and programmes to achieve the set goals/objectives determine and directly influence the capacity needed to implement the policy and the clients and coalitions of the policy, for example. Equally, the policy goal will likely have a direct impact on the commitment of the policy implementers Najam, (1995 cited in Burger, 2015:25). Moreover, the activities to achieve the set policy goals will likely have a direct impact on the communication and coordination variables. The kind of

activities/project set out in the policy content, for example, will affect how the policy activities are communicated and coordinated.

The context variable has a direct effect and influences all of the other six variables. For example, the prevailing political environment in a country would influence how public policies are communicated to the general public.

2.8.2 Context

Policy implementation takes place in political, economic and legal settings (Mokhaba, 2005:129). The context sets the limit in terms of what must be done or not done during the implementation stage. The nature of the institutional context describes the path (procedures) through which the policy should travel and by whose boundaries it is limited (Brynard, 2005:234; Cloete *et al.*, 2018:206). According to Brynard (2005:659), policy implementation may be impacted, either negatively or positively, depending on the circumstance in the context in which the policy finds itself implemented. Moreover, context tends to be a factor in determining policy success or failure (Cloete *et al.*, 2018:208). Policy context plays a prominent role in implementation success as it classifies the key institutional players and engagements within and between key institutions (Burger, 2015, cited in Uusiku, 2019:32).

2.8.3 Commitment

The variable of commitment entails the level of commitment of those entrusted with carrying out the implementation at various levels (Brynard, 2005). According to Mokhaba (2005:129) and Mthethwa (2014:56), the commitment of those entrusted with policy implementation is an integral element of public policy implementation; hence, policy implementation success depends largely on the commitment of the implementers. Mokhaba (2005:129) states that even if all required resources for policy implementation are available, without the implementers' commitment, the policy will not be implemented. Commitment to policy implementation is significant as the success of policy implementation is dependent on the commitment of all actors during implementation (Skhosana, 2019:26). According to Cloete *et al.* (2018:208), commitment is important and required at all policy implementation levels where a policy passes – national, provincial and local. This is because many public projects and programmes are implemented at national, regional and local levels where commitment from politicians, managers, government

officials and other stakeholders is crucial. For example, an education policy may be implemented at the national, regional and local levels (Cloete *et al.*, 2018). Commitment relates to a will to get things done since unwilling actors will not be committed to getting things done. For example, without the political will to implement projects and programmes, national development would stagnate. More practically, a country's commitment to end corruption, for instance, is pretty much dependent on political will to fight corruption in the country. Policy commitment may be ensured through responsible leadership, binding contracts between those entrusted with policy implementation and availability of the necessary resources.

2.8.4 Capacity

According to Mokhaba (2005:129) and Brynard (2005), in the context of policy implementation, capacity refers to the availability of tangible resources such as personnel, skills, funding, materials, technology and logistics that are critical in the policy implementation process. In addition, capacity includes leadership, motivation, commitment and willingness (Cloete *et al.*, 2018:209). In the public sector, capacity is one of the factors that helps to ensure effective policy implementation. That means that when public decisions are translated into actions, administrative capacity, that is, availability of human resources, financial resources, skills and expertise, are needed for institutions to effectively put public decisions into action. Hanekom (1987:63) cautions that if policy implementation is entrusted to an institution that lacks administrative capacity, enhancing its administrative capacity by making the necessary resources available should be given priority. Capacity has to do with resource allocation to implement policy (Uusiku, 2019:33).

In the context of service delivery, capacity is regarded as the ability to implement public projects and programmes to deliver public services to improve the living standard of the citizens (Cloete *et al.*, 2018:208). The 'capacity problem' is thought to be hindering the delivery of public services in many African countries due to a shortage of expertise and funding, to the extent that implementation of some public programmes is dependent on technology and funding from donors.

2.8.5 Clients and coalitions

Both internal and external clients and coalitions play a very important role in ensuring effective policy implementation. According to Brynard (2005), the support of clients and coalitions whose interests are enhanced or threatened by the policy and the strategies that they employ in strengthening or deflecting its implementation are important elements for successful policy implementation. Mintzberg (1984:208) distinguishes between the internal and external coalitions. An internal coalition is formed by people such as government officials and policymakers who influence policy implementation within the organisation. An external coalition is formed by people outside the organisation. Furthermore, Mintzberg describes a coalition as a set of people vying amongst themselves to determine power distribution. The clients (beneficiaries of a policy) are a key important element in policy implementation success (Cloete *et al.*, 2018:211). Policy implementation cannot be affected by state actors only; different actors (interest groups, businesses and opinion leaders) also influence policy implementation, for example the contestation of stakeholders directly or indirectly affected by the policy implementation process (Brynard, 2005). Therefore, according to Mokhaba (2005:132), during the public policy implementation process, the “government has to join forces with a coalition of interested groups, opinion leaders and other parties who support a particular policy and its implementation”.

2.8.6 Communication

According to Skhosana (2019:31), communication refers to the way in which organisations/policymakers communicate (formally and informally) policy actions. For instance, information about a policy should be communicated to the citizens (Uusiku, 2019:36). Policy communication could happen internally and/or externally and could be top-down, bottom-up, one-time or continuous. Thus, communication is an essential variable for effective policy implementation (Molobela, 2019:216). Moreover, communication ensures that policy implementation is communicated to the implementers and other policy stakeholders within institutions and in society. That calls for a communication strategy and special channels of communication that may include community radio stations, newspapers and social networks (Molobela, 2019:216).

When there is a lack of communication about the policy, stakeholders tend to be resistant to and disapproving of the policy (Cloete *et al.*, 2018:212). Equally, without proper communication during policy implementation, various policy aspects would be unknown to those responsible for the implementation.

2.7.7 Coordination

Coordination was defined in Cloete *et al.* (2018:212), using the *Short English Dictionary*, as “action of coordinating; the harmonious combination of agents and functions towards the production of a result”. Burger (2015:15) describes coordination in simple terms: coordination involves working relationships between departments/agencies within a particular organisation and between numerous organisations. An example of interorganisational coordination could be the working relationship between government, NGOs and donors in implementing a public programme, for example a national programme to combat malaria in a country. Authors such as Mokhaba (2005:133) see coordination as a major problem in policy implementation. However, according to Molobela (2019:216), coordination is a critical variable for policy implementation since it helps to bring together the other six variables in the implementation process. One may argue that coordination is a product of communication since a lack of coordination in an organisation often occurs when there is a lack of communication. For instance, if the necessary information is not shared within an organisation or between organisations, it would lead to a poor working relationship and incoherent teamwork. Therefore, Burger (2015, cited in Molobela, 2019:216) describes coordination as an important tool for ensuring policy implementation success.

2.9 Factors that affect the implementation of the Communal Land Reform Act in context

The government of the Republic of Namibia formulated, adopted and implemented the CLR Act No. 5 of 2002 as policy legislation intended to combat illegal fencing in communal areas of Namibia. The implementation of the CLR Act includes actions by public institutions and individuals. Various actors and institutions such as TAs, CLBs and the MAWLR are responsible for implementing the CLR Act. Over the years, there has been a public outcry over the implementation of the CLR Act to combat illegal fencing in communal areas, resulting from the rising incidents of illegal fencing despite the passing of the act. This section will therefore

unpack the factors that affect the implementation of the CLR Act in practice. As a point of departure, this research sought to address the following question: What challenges hinder the successful implementation of the Communal Land Reform Act to combat illegal fences in the Tsumkwe-West Communal Area?

To answer the research question, the researcher examined numerous pieces of literature on illegal fencing and communal land administration in Namibia.

The factors affecting the implementation of the CLR Act, in many respects, are related to the 7-C protocol discussed in Cloete *et al.* (2018:206). One example is capacity. According to Werner (2011:31), the MAWLR, TAs and CLBs lack the capacity, funding and personnel required to implement the CLR Act to remove illegal fences on communal land. A study on illegal fencing in the Omusati Region by Kashululu and Hebinck (2020:176-178) identified factors affecting the implementation of the CLR Act. Those factors include the roles of the TAs not being clear, TAs not being aware of their powers and not all members of TAs understanding and being able to interpret customary rights to land and fencing. Disputes over TA boundaries and unrecognised TAs are further challenges that have impeded institutions from enforcing the law to remove illegal fences on communal land. Furthermore Werner (2011:23) in his study of land governance in Namibia found that there was inadequate funding and a lack of transport for TAs and that procedures for removing illegal fences on communal land were lengthy. For example, in the court case “Wapulile v Chairman Ohangwena Communal Land Board”, the High Court of Namibia took two years to deliver the verdict ((265) GRN 340 (AD)).

Ashipala (2011:2) states that there is a need for TAs and CLBs to work together in identifying fencing problem areas, which in all likelihood, points to a lack of collaboration between the TAs and CLBs. In addition, the article suggests that law enforcement agencies (NAMPOL in particular) do not play an active role in enforcing the CLR Act to remove illegal fences on communal land in the country. Werner (2011:41) in his study entitled “What has happened has happened.” The complexity of fencing in Namibia’s communal areas” argues that after independence in 1990, the new laws have diminished the powers of TAs. Where previously TAs could inflict a penalty or sanction on their subjects for illegal activities in their areas of jurisdiction, now there are high courts, and the decisions of TAs are subject to appeal. Court appeals against decisions to remove illegal fences have been among the major factors that have

prevented the speed of removal of illegal fences. Appeals against decisions to remove illegal fences are frequent as illegal fencers turn to the court to have the decisions of the TAs and CLBs set aside, a process that takes time. However, the Odendaal (2011:11) disagrees with Werner on the diminished powers of TAs. The Odendaal argues that TAs in Namibia are sufficiently empowered by the CLR Act to enforce the provisions of the act to remove fences, evict individuals from the commonage and cancel any customary land rights. Kashululu and Hebinck (2020:178) states that the problem could be attributed to little support and a lack of backup for the TAs to enforce the law.

Researchers such as Werner (2018:8) and Kashululu and Hebinck (2020:176) have identified unregistered TAs as a factor preventing the implementation of the CLR Act to combat illegal fences on communal land. Unrecognised TAs may not deal with illegal fences since only TAs recognised under the Traditional Authorities Act can exercise functions and powers regarding communal land administration in the country. Therefore, for those communal areas under unrecognised TAs, it has been difficult to enforce the law to remove illegal fences.

2.10 Conclusion

This chapter focused on establishing what public policy entailed and discussed the policymaking and implementation processes. A large number of scholars, both past and present, have provided ground-breaking work on the complexities and challenges of policy implementation. The literature review revealed numerous variables that could influence the implementation of a policy. This chapter discussed those variables as the 7-C protocol. Emphasis was put on the policy implementation process, including the three generations of implementation studies, implementation models and implementation approaches, while the challenges and factors that affect policy implementation were identified and discussed to create an understanding of the causes of implementation failure. The work of Dunn (2018) and Cloete *et al.* (2018) provided insight into the policymaking process by outlining various stages/phases of the process. The first generation of implementation studies pioneered by Pressman and Wildavsky (1973) focused on implementation failure and identified barriers to policy implementation. The second generation of implementation studies focused on building models of policy implementation that are still in use today. Of the top-down, bottom-up and mixed/hybrid policy implementation models/approaches, the top-down model appears to be the most preferred approach for public

policy implementation because the allocation of resources and decisions can easily be made from the top (Shigwedha, 2004:13).

The survey of the literature on fencing and communal land administration in Namibia revealed a significant gap in the literature on factors affecting the implementation of the CLR Act to combat illegal fencing in Namibia. The only study that focused on factors affecting the implementation of the CLR Act was one by Kashululu and Hebinck (2020) entitled “The fencing question in Namibia: A case study in Omusati region”. This study, however, only looked at the problem of illegal fencing in the Omusati Region. Therefore, the current research will help to fill the gap in the literature by looking at the problem of illegal fencing in other parts of Namibia. Moreover, no study has investigated the implementation of the CLR Act in combatting illegal fencing in the Tsumkwe-West Communal Area yet. The aim of Kashululu and Hebinck’s study merely was to gauge the extent of illegal fencing in the Omusati Region; their study did not look at the implementation of the CLR Act in combatting illegal fencing.

CHAPTER 3: LEGISLATIVE FRAMEWORK AND INSTITUTIONAL ARRANGEMENTS FOR COMMUNAL LAND GOVERNANCE IN NAMIBIA

3.1 Introduction

This chapter aims to provide the Namibian legislative framework on communal land under which illegal fencing of communal land can be combatted. The following legislation will be discussed and will provide information on how communal land in Namibia is governed and how the legislation can be used to combat illegal fencing of communal land:

- The 1990 Namibian Constitution
- The 1998 National Land Policy
- The Traditional Authorities Act No. 25 of 2000
- The CLR Act No. 5 of 2002

3.2 Land reform legislative framework after independence

Before 1990, communal land in Namibia was managed through a combination of local traditional leaders (chiefs and headmen) and colonial officials (Muduva, 2014:4; Werner, 2011:6). However, according to Odendaal (2011:10), before 1990, there was no statutory law regulating the allocation of land and rights to communal land in Namibia. The preindependence government entrusted TAs (chiefs and headmen) with enforcing customary laws in allocating and administering land rights for cultivation and residential purposes. TAs had the ultimate power to allocate land in their respective communal areas. Then, at independence in 1990, the new Namibian government announced its intention to embark on a land reform programme to redress the land injustice of the colonial era. A National Land Conference held in 1991 gave birth to contemporary land legislation and policies in Namibia, which include the National Land Policy of 1998, the Traditional Authorities Act No 25. of 2000 and the CLR Act No. 5 of 2002. These pieces of legislation today form the legislative framework for land governance in communal areas in Namibia.

3.2.1 The 1990 Namibian Constitution

To begin with, the Constitution is the supreme law and foundation of all laws and policies in the country. Article 100 of the Namibian Constitution (hereafter referred to as the Constitution) makes all communal land in Namibia state owned. Article 100 of the Constitution states that “land, water and natural resources belong to the State if they are not otherwise lawfully owned” (Republic of Namibia, 1990:60). When Article 100 is applied to communal land, it cedes ownership of communal land to the state. This implies that communal land in Namibia is state property and that TAs are only entrusted with enforcing customary laws and administering communal land on behalf of the state. Moreover, Article 100 of the Constitution acknowledges that people who live in communal areas have customary or natural law property rights to that land, thereby guaranteeing the rights of communal landholders. Article 16 of the Constitution guarantees the right for all people to acquire, own movable properties and live anywhere in Namibia (Republic of Namibia, 1990:17). Conversely, illegal fencing of communal land denies residents of communal areas access to land.

3.2.2 The 1998 National Land Policy

The 1998 National Land Policy was the first policy adopted by the government that had a significant impact on land reform in Namibia and shaped the subsequent legislation on communal land. The 1998 National Land Policy established the basic principle for the governance of all land in Namibia. The policy is based on ‘a unitary land system’, providing equal land rights on communal and commercial agricultural land. The 1998 National Land Policy sought to address land tenure issues and to advocate for the security of tenure in communal areas, with a view to protecting the rights of the poor and women to land in communal areas (Werner, 2011:21). The policy laid the foundation for the CLR Act and the Traditional Authorities Act that were to follow. For instance, the 1998 National Land Policy stated that the administration of communal land would be vested in CLBs and TAs. The policy also moved to stop the erection of new fences on communal land pending the regulations for the erection of fences in communal areas.

3.2.3 The Traditional Authorities Act No. 25 of 2000

Historically speaking, TAs existed long before independence and played a significant role in the administration of communal land and customary laws. However, there was no statutory law that recognised TAs before Namibia's independence in 1990. The Traditional Authorities Act No, 25 of 2000 was enacted to provide for the recognition of the TAs that had existed before independence in 1990 and to establish new TAs (chiefs and headmen). In terms of Section 2(1) of the Traditional Authorities Act, a TA is constituted of a chief who is the supreme leader of a traditional community and a chief's council consisting of senior traditional councillors and traditional councillors. Section 3(1) of the act defines the power, duties and functions of TAs and the members thereof. In particular, TAs ascertain the customary law applicable in a traditional community and administer and execute the customary law of that community. Customary land rights, such as those for residential, cropping and grazing purposes, are traditionally allocated by the tribal authorities (chiefs and headmen) of a tribal community in which the land falls. Local chiefs or a TA can also grant a grazing right to a nonresident, provided that they make an application. Equally, a local chief or a TA may withdraw this right at any time if this is in the interest of the residents, which gives local chiefs significant power to prevent illegal fences in communal areas. Conversely, according to Werner (2011:11), some tribal chiefs and headmen have consented to and permitted certain individuals (livestock farmers) to fence off large portions of communal land contrary to the CLR Act.

3.2.4 The Communal Land Reform Act No. 5 of 2002

One of the products of the 1991 National Land Conference was the enactment of the CLR Act No. 5 of 2002 to provide for the regulations for the erection of fences on communal and for the administration and management of communal land. The CLR Act also makes provision for land rights that may be allocated with respect to communal land. These rights include customary land rights for residential and agricultural purposes and rights of leasehold for business purposes (Republic of Namibia, 2002:12). Section 20 of the CLR Act grants a chief or a TA primary powers to allocate and cancel any customary land rights. The CLR Act has several sections/provisions that are particularly relevant for fences on communal land. Section 18 of the CLR Act prohibits the erection of new fences on communal land without authorisation under this act, thus making fences erected on communal land after the promulgation of the act illegal

(Republic of Namibia, 2002:12). Section 18 also prescribes procedures for the removal of illegal fences on communal land. The CLR Act, however, allows holders of customary land right to apply for the retention of existing fences and exempts fencing of cropping fields and cattle pens, fencing to protect the water trough and fencing for security around the homestead. Section 44(1) of the CLR Act stipulates that “it is a crime to erect a new fence on any portion of communal land without prior authorization under the CLR Act” (Republic of Namibia, 2002:38). The penalties for this offence are a maximum fine of N\$4 000.00 and/or a year of imprisonment (Republic of Namibia, 2002:38). Section 44(3) of the CLR Act gives power to TAs and CLBs to remove illegal fences and to recover any cost incurred in the process of removing illegal fences (Republic of Namibia, 2002:38). Section 29 of the CLR Act contains provisions on grazing rights and the use of the commonage. Section 29 of the CLR Act promotes access to the commonage by members of the community (communal farmers) by prohibiting the erection of any structure, occupation of the commonage and carrying out of any other activity other than grazing of livestock without the written authorisation of the TA or CLB (Republic of Namibia, 2002:19).

A commonage is set aside for the use of the members of a traditional community for grazing livestock. There are no restrictions for the rightful residents on using the commonage (Republic of Namibia, 2002:21). This probably gave some lawful residents the leeway to fence off portions of the commonage for their exclusive usage despite the practice being prohibited by the CLR Act (Werner, 2011:9). Moreover, state ownership of land has raised an argument that commonage has to a large extent been appropriated because ‘ownership’ of commonages is vested in the state and TAs. By providing rules regulating fences on communal land, the CLR Act indeed protects the livelihood of local residents in communal areas. However, without effective enforcement of the law, ongoing illegal fencing of communal land may not be stopped, which threatens the land-based livelihoods of the residents of communal areas of Namibia.

3.3 Statutory bodies for administration of communal land in Namibia

The legislative framework discussed above is being administered and implemented by the following statutory institutions: the MAWLR, CLBs and TAs.

3.3.1 Ministry of Agriculture, Water and Land Reform

The MAWLR (previously known as the MLR) is the main institution that drives the ministerial or administrative governance structure of the land, including communal land, in the country. The MAWLR is mandated to administer and ensure equitable access to Namibia's land resources. The MAWLR has, over the years, initiated and implemented a number of communal land reform-related projects, such as the registration of customary land rights to give some form of security of tenure to customary land right holders in the form of land title certificates. The MAWLR has no legal mandate to remove illegal fences in communal areas. However, the MAWLR is tasked with supporting TAs and CLBs in investigating illegal fences and with coordinating the activities of CLBs and TAs related to the removal of illegal fences in communal areas.

3.3.2 Communal Land Boards

CLBs are other statutory bodies involved in and charged with the responsibility of administering communal land. There are 14 regional CLBs in Namibia established in terms of Section 2 of the CLR Act. A CLB is comprised of representatives of farming communities, regional governments, women, the public service, communal conservancies and TAs in its area of jurisdiction. The primary function of CLBs is to control the allocation of customary land rights by the TAs (Republic of Namibia, 2002:5). For instance, it is a CLB that has final approval of the rights allocated by the TAs (chiefs and headmen). CLBs are also key role players as far as the implementation of the CLR Act to combat illegal fences in communal areas is concerned. CLBs are mandated and empowered by the CLR Act to remove illegal fences in communal areas. The specific roles of CLBs in removing illegal fences include conducting investigations, issuing notices to offenders to remove illegal fences, conducting hearings on illegal fences and applying for court orders.

3.3.3 Traditional Authorities

The most important and longstanding, dating back to precolonial eras, communal land governance structures in Namibia are the tribal authorities (TAs). TAs comprise chiefs, traditional councillors and headmen. TAs are the primary land governance institutions and play a central role in the allocation of new customary land rights and the cancellation of existing land

rights in communal areas. Every communal land in Namibia falls under the jurisdiction of a TA. However, some TAs are unrecognised under the Traditional Authorities Act. As such, unrecognised TAs cannot implement the CLR Act as only the recognised chiefs and TAs can exercise powers and functions under the CLR Act and the Traditional Authorities Act. Tribal authorities have an inherited responsibility, which is recognised by the government, to administer communal land on behalf of the state and for the benefit of their communities (Republic of Namibia, 2002:4). The powers of the TAs to allocate and cancel customary land rights is recognised by the Traditional Authorities Act. TAs are also empowered by the CLR Act and the Traditional Authorities Act to lay down conditions for the use of commonages. Moreover, TAs are mandated and empowered by the CLR Act to remove or cause the removal of illegal fences in communal areas.

TAs are expected to ensure that no illegal fence is erected on communal land under their jurisdiction by not consenting to the allocation of large tracts of land to individuals, conducting regular monitoring and identifying illegal fences in their areas of jurisdiction. Furthermore, the CLR Act empowers TAs to lay down conditions, which may include conditions as to the type and number of livestock that may be kept and which areas of the commonage should rest. Conversely, Werner (2011:5) argues that the ability of TAs to enforce customary laws and practices diminished rapidly following political changes in independent Namibia. In addition to eroding powers of TAs, there have been reports of some local chiefs and headmen allocating large tracts of land to farmers and allowing the farmers to erect fences around large tracts of land (Werner, 2011:19).

3.4 Conclusion

In the context of communal land in Namibia, policy formulation and implementation date back to the 1990s. The Namibian government has since independence adopted policies, enacted laws and implemented several legislations governing communal land. These include the 1990 Namibian Constitution, the National Land Policy of 1998, the Traditional Authorities Act No. 25 of 2000 and the CLR Act No. 5 of 2002. These legislations form the main legal policy framework for land governance in communal areas of Namibia (Werner, 2011:25).

The MAWLR, CLBs and TAs are charged with the responsibility of implementing policies and laws governing communal land in combatting illegal fences in communal areas of Namibia.

CHAPTER 4: RESEARCH DESIGN AND METHODOLOGY

4.1 Introduction

As indicated in Chapter 1, this study followed a qualitative methodological approach. The purpose of this chapter is to set out the research design and methodology followed to describe and explain the challenges to implementing the CLR Act to combat illegal fencing of communal land in the Tsumkwe-West Communal Area in Namibia. In this chapter, the following will be explained: the type of inquiry, the context of the case study, the methods of data collection, the techniques used in data analysis, the research instruments and the procedure used to obtain detailed information, all of which served to answer the research question and achieve the research objectives.

According to Wanyama (2007:68), a research methodology is a way to systematically solve the research problem. Many authors liken a research methodology to a construction process using methods and tools. In essence, it is a combination of various tools and techniques that are used for collecting and analysing the data, information and materials needed for the solution of the problem identified for investigation.

The research design presents a systematic plan that has been followed to reach the objective of the study (McDaniel & Gates, 1996:41, cited in April, 2005:78). Therefore, the researcher designed the research in accordance with the overall objectives of the study. Authors such as Babbie and Mouton (2001:645) liken a research design to an architectural design, that is, the blueprint of a research project and the execution of the design. The research design focuses on the type of study planned to reach specific outcomes, and the methodology is chosen to support the outcome and the significance of the results. The research design guided the researcher in the process of collecting, analysing and interpreting data in this study. According to Yin (2009:24), every empirical study has a research design linking the data collected and the conclusions drawn regarding the initial study questions.

4.2 Type of inquiry

The study followed an interpretivism research approach, that is, it was based on the naturalistic approach of data collection, such as interviews and observation. This approach lends itself to the use of a qualitative research design (Muduva, 2014:22). Creswell (2003:15) states that qualitative research is suitable for exploring and understanding the meaning of phenomena where specific problems are identified. A case study is one of several ways of doing qualitative research, and Robert Yin (2009) in his book “Case Study Research: Design and Methods” defines a case study as an empirical inquiry that investigates a contemporary phenomenon within its real-life context when the boundary between phenomenon and context is not evident and in which multiple sources of data are used. A case study design was employed to gain an understanding of the challenges to implementing the CLR Act to combat illegal fencing of communal land.

Thus, the current study adopted a single-case inquiry (focusing on a single communal area) as a research method within which other methods such as interviews, a questionnaire, observation and content analysis were utilised in the context of the study, as explained in Section 4.4 below. According to Nock *et al.* (2007:347), a single-case research design requires less time, fewer financial resources and less personnel support to implement compared to other methods. Therefore, a single case study was methodologically efficient for this study, which focused on a single phenomenon in a small geographical area with a limited number of participants and a limited budget. Moreover, a case study has strength in its ability to present a variety of evidence of the phenomenon being studied, for example direct observation of the event studied, document analysis and interviews with the research participants (Yin, 2009:11). According to Patton (1990, cited in Wanyama, 2007:87), a case study is valuable in creating a deep understanding of particular problems or situations in comprehensive ways. Further, the case study explores a case over time through in-depth data collection using multiple sources of information rich in context (Creswell, 2009:61). The case study was particularly suitable for this study since the study was conducted only in one particular communal area. Moreover, the study was contextual, that is, it aimed to help understand and explain ‘how’ and ‘why’ questions regarding what was happening in the implementation of the CLR Act in Tsumkwe-West.

A case study has been defined differently by several authors. Miles and Huberman (1994:28) define a case study as an in-depth investigation of a contemporary phenomenon within its real-

life context, and a case study has a defined space and time frame. Similarly, Creswell (2009:485) defines a case study as an in-depth exploration of the bounded system (e.g. an activity, event, process or individual) based on extensive data collection. Teegavarapa, Summers and Mocko (2008:4) provide the most authoritative definition of a case study as an empirical research method used to investigate a contemporary phenomenon within its real-life context. Given the above definitions, a case study was selected as an appropriate method of inquiry into the failure to implement the CLR Act to remove illegal fences in the Tsumkwe-West Communal Area. Moreover, a case study was appropriate for this research as it gave the researcher an opportunity to collect data through different means, such as interviews, a questionnaire, document analysis and observation. A case study approach has several benefits: the case study design helps to focus the research within the confines of space and time on the specific case; it allows the use of multiple data collection methods, which results in different kinds of data collected about a specific case; and it allows lessons learned in one case to be applied to other cases or situations. In terms of the outcome, the case study provides a comprehensive understanding of time, place and physical boundaries.

4.3 Context of the case study

The study focused only on the sparsely inhabited Tsumkwe-West Communal Area in the Otjozondjupa Region in northern Namibia. The Tsumkwe-West Communal Area was selected because it had a prior history of illegal fences. Thus, the researcher wanted to use it as a typical case from which the lessons learned could be assumed as representative of other communal areas in the country. Demographically, the Tsumkwe-West Communal Area is sparsely inhabited, and according to the Namibia Statistics Agency (2018:34) population report, in 2018, the Tsumkwe-West Communal Area had a population of 8 823 inhabitants. The total area size of the Tsumkwe-West Communal Area is approximately 9 000 square kilometres. The Tsumkwe-West Communal Area falls under the jurisdiction of the !Kung TA. The TA consists of a chief, who is the supreme leader of the community, a secretary and 12 senior traditional councillors.

Tsumkwe-West's agro-ecology offers more fertile ground ideal for livestock production than most communal areas in northern Namibia. As a result, in the last decade, the Tsumkwe-West Communal Area experienced increasing incidents of illegal fencing, driven by farmers who were forced by drought in their communal areas of origin to search for grazing for their animals in the

Tsumkwe-West Communal Area. Large livestock farmers fenced off large tracts of the commonage to create exclusive grazing enclosures. According to the MAWLR statistics of 2014, about 33 000 hectares of land were illegally fenced off in the area. These enclosures measured about 30 hectares to 6 000 hectares of land. The extent of illegal fencing of large tracts of common grazing lands for exclusive family usage is prevalent in the Tsumkwe-West Communal Area. As a result, the practice of illegal fencing is pronounced and visible in this area; hence, it was selected as a case study for this research.

4.4 Data collection methods

This study was descriptive and explanatory in nature, and both nonempirical and empirical methods were used to provide data and information needed to identify and understand the challenges that affected the implementation of the CLR Act to combat illegal fences in the Tsumkwe-West Communal Area. The methods used for this study were qualitative. According to Blanche, Durrheim and Painter (2016:57), qualitative research methods try to describe and interpret people's feelings, opinions and experiences in human terms rather than through quantification and measurement. Therefore, this qualitative research made it possible for the researcher to explore and interpret respondents' opinions and experiences regarding the challenges to implementing the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area. The qualitative approach provided a diversity of responses on the subject matter.

This study was dependent on both secondary and primary data, as described below.

4.4.1 Secondary data

The primary method used to collect secondary data for this study was by way of document analysis, as discussed in more detail below.

The nature of the research topic required both primary data gathering and desktop review. To that end, this research involved a detailed study of documents relevant to the study. These documents were interpreted by the researcher to provide insight into the topic under investigation. The documents that were reviewed included a wide variety of types and were very useful for painting an overall picture of the phenomenon. In particular, secondary sources included statutory documents such as the CLR Act, the Traditional Authorities Act and the

National Land Policy. Further, government reports, books, internet articles, journal articles, master's theses and doctoral dissertations were consulted. These documents were accessed from local libraries, government offices and the internet.

The advantages of analysing documents are that documents are readily available in multiple repositories and are stable, nonreactive data sources that can be read and reviewed multiple times and remain unchanged (Bowen, 2009:31). Obtaining and analysing documents are more efficient in terms of cost and time than conducting empirical research (Bowen, 2009). Further, according to Boire (2003:55), document analysis serves to triangulate the data collected through the interviews and observation.

An extensive review of the literature provided reasons for policy implementation failures. A review of past studies on illegal fencing in communal areas of Namibia provided information on factors that affected the implementation of the CLR Act to combat illegal fencing of communal land. The literature review helped to establish what previous work had been done on the subject and which areas other authors had already focused on. The desk study discovered challenges to implementing public policies, the gap in knowledge about challenges to policy implementation and factors that had hindered the implementation of the CLR Act to combat illegal fencing of communal land. That knowledge gap encouraged the researcher to substantiate and increase the findings on this subject to help fill the gaps by collecting primary data.

4.4.2 Primary data

Primary data for this study was collected through fieldwork, as discussed in more detail below.

The fieldwork was carried out over four weeks (15 September to 15 October 2022) in Otjiwarongo, Tsumkwe settlement, Omatako hamlet, Kanonvlei, Grass hock and Aasvoëlnes villages in the Tsumkwe-West Communal Area, Otjozondjupa Region. The fieldwork adopted the following tools to collect data:

- Interviews
- Questionnaire
- Observation

4.4.2.1 Face-to-face semistructured interviews

The primary sources of primary data for the case study were semistructured face-to-face interviews. This involved asking predetermined questions and obtaining answers from the participants. The researcher prepared open-ended and closed-ended theme questions ahead of time, but participants were allowed to share information, feelings, experiences and emotions in conversations. Semistructured interviews were, therefore, used to capture the participants' perceptions, feelings, opinions and experiences on the challenges to the implementation of the CLR Act in removing illegal fences in the Tsumkwe-West Communal Area. During the interviews, the researcher posed questions personally to the interviewees.

A total of 13 interviews were conducted with officials from the MAWLR Regional Office, senior councillors of the !Kung TA and additional participants (key informants). Face-to-face interviews were deemed appropriate for these participants because the researcher worked in the same office as the MAWLR staff members sampled. Regarding the members of the !Kung TA, it was assumed that due to the low level of literacy among the TA members, a face-to-face interview would be more appropriate than sending out self-administered questionnaires. The interviews proceeded as follows:

- Four half-hour interviews were conducted at Otjiwarongo with four staff members of the MAWLR's Regional Office for the Otjozondjupa Region.
- Five interviews were conducted with five senior councillors of the !Kung TA at Omatako in the Tsumkwe-West Communal Area.
- Four interviews were conducted with additional participants (key informants) at Otjiwarongo, Rundu and Windhoek.

The interviews were guided by a predetermined interview guide, which ensured that questions and discussions were directed towards fulfilling the research objectives.

Section A of the interview guide requested qualitative and quantitative personal information from the respondents: gender, age, educational qualifications and the number of years that respondents had served in their positions.

Section B of the interview guide focused on the challenges to implementing the CLR Act experienced or envisaged by the respondents. The section contained questions grouped under the

variables of the 7-C protocol for policy implementation: content, context, capacity, commitment, coordination, clients and coalitions, and communication.

Section C of the interview guide explored the main factors/challenges that affected the implementation of the CLR Act in context, which were the practical factors experienced by institutions in removing illegal fences in the Tsumkwe-West Communal Area. Section C also solicited recommendations from respondents for improving the implementation of the CLR Act to successfully combat illegal fences in communal areas of Namibia.

All questions had the same wording and were determined beforehand to minimise the issue of legitimacy and credibility. The questions were posed in the same wording and order as they appeared in the guide. Audiotapes were utilised to allow for more consistent transcription. The researcher recorded and wrote the data down on a sheet of paper.

According to Kabir (2016:212), a semistructured interview guide provides a clear set of instructions for interviewers and can provide reliable, comparable qualitative data. In this study, standardised open-ended questions were constructed.

4.4.2.2 Self-administered questionnaire

A questionnaire is a tool for collecting primary data, and according to April (2005:81), questionnaires are a well-established technique for collecting demographic data and respondents' opinions. A questionnaire is a cost-efficient way of collecting data (April, 2005:81). This means that a questionnaire can provide a large amount of data at a low cost. In this study, a semistructured questionnaire with preformulated questions was distributed to seven respondents from the Otjozondjupa CLB via e-mail and data were received. E-mail was chosen as a viable, fast and cost-efficient way to distribute the questionnaire to respondents because CLB members were stationed in different parts of the country. In addition, all CLB members were literate and had access to computers and the internet. The purpose of the self-administered questionnaire was to ensure the participation of those CLB members despite being located in a different area far from the researcher. The researcher asked the respondents to complete the questionnaire and to return it as soon as possible by e-mail or hand delivery. The questions were standardised and could be checked for reliability.

The questionnaire consisted of three main sections designed to gain qualitative and quantitative data and information from the respondents on the challenges to implementing the CLR Act to combat illegal fences in the Tsumkwe-West Communal Area. The question formulation was guided by the work of other researchers and authors. For example, the 7-C protocol for policy implementation, discussed by authors such as Cloete *et al.* (2018:206), Najam (1995:35), Brynard (2005:234) and Mokhaba (2005:129), provided clusters of explanatory variables that might be useful to allow for a better understanding of implementation success and failure. Moreover, previous researchers such as Kashululu and Hebinck (2020:176-178) and Werner (2011:23) had identified factors that affected the implementation of the CLR Act to combat illegal fencing of communal land. Therefore, the majority of the questions were centred on the issues raised by previous researchers.

Section A of the questionnaire requested qualitative and quantitative personal information from the respondents: gender, age, educational qualifications and number of years that respondents had served in their positions.

Section B of the questionnaire focused on the challenges to implementing the CLR Act experienced or envisaged by the respondents. The section contained questions grouped under the variables of the 7-C protocol for policy implementation: content, context, capacity, commitment, coordination, clients and coalitions, and communication.

Section C of the questionnaire explored the main factors/challenges that affected the implementation of the CLR Act in context, which were the practical factors experienced by institutions in removing illegal fences in the Tsumkwe-West Communal Area. Section C also solicited recommendations from respondents for improving the implementation of the CLR Act to successfully combat illegal fences in communal areas.

4.4.2.3 Observation

Observation is another qualitative method of collecting primary data in the field, and in this study, direct observation was used as a complementary method that preceded the interviews. Kabir (2016:240) describes observation as a way of determining the reality around us. According to Ciesielska, Boström and Öhlander (2018:33), observation is one of the most diverse and important research methods used in case studies. Observation is part of our everyday life as we continuously observe behaviours and our surroundings. Observation allowed the researcher to

gain first-hand experience of the phenomenon under investigation and gave him a chance to learn things that participants might have been unwilling to discuss in the interviews/questionnaire. The researcher observed the following phenomena in the study area: Fences (new and old)

- Land uses (livestock and crops)
- Houses
- Villages
- Existing communication and transportation infrastructure (roads and telecommunication facilities)
- Population distribution across the study area

The researcher chose the observation method because observation allows the study of the phenomenon in its natural setting. Observation is also a convenient and inexpensive method of collecting primary data.

4.5 Purposive sampling

According to Mugenda and Mugenda (2003, cited in Wanyama, 2007:12), purposive sampling techniques allow a researcher to use cases that contain the information necessary to achieve the objectives of the study. In addition, the nonprobability sampling technique allows the researcher to only select those informants (relevant observation unit/expert in the area) who provide relevant information, which gives a true picture of the situation/phenomenon under study. Therefore, study participants for both the interviews and the questionnaire were hand-picked based on their knowledge, position, availability, duties and responsibilities, expertise, involvement, and sufficient and relevant experience regarding the implementation of the CLR Act concerning illegal fences and communal land administration in the Tsumkwe-West Communal Area. Moreover, this sampling technique allowed the researcher to include participants whom the researcher believed warranted inclusion (Taherdoost, 2016:23).

Participants who met the criteria for inclusion in the study were the following:

- Staff members of the MAWLR who were involved in the administration of communal land in the Otjozondjupa Region.
- Members of the Otjozondjupa CLB.
- Members of the !Kung TA.

- Other people who had experience combatting illegal fencing in the Tsumkwe-West Communal Area (key informants).

The sample for the interviews and the questionnaire is illustrated below.

- Interviews: five senior councillors of the !Kung TA; four staff members of the MAWLR Regional Office in the Otjozondjupa Region and four additional participants (key informants).
- Questionnaire: seven members of the Otjozondjupa CLB.

Thirteen respondents were selected for the semistructured interviews. Seven respondents were selected for the questionnaire. In total, 20 people participated in the study. With such a small sample size, a researcher can achieve a more refined analysis of data and can strike a better balance between quality and quantity.

4.6 Research instruments

The main instruments used to collect primary data for this research were personal interviews and a questionnaire. The questionnaire was administered to members of the Otjozondjupa CLB because the questionnaire permitted the researcher to obtain information from targeted respondents even if they were located in different parts of the country and far away from the researcher and the study area. Personal interviews were conducted with officials of the MAWLR, members of the !Kung TA and selected key informants. An audio voice recorder, note pads and an interview guide were used for the personal interviews.

4.7 Data collection procedure

Before fieldwork, the researcher requested approval to conduct the research from the heads of the targeted institutions: the MAWLR, the !Kung TA and the Otjozondjupa CLB. The heads of those institutions provided written consents, which were shown to each person who participated in the study. Individuals who participated in the study also gave their written consent to participate in the study. Data were collected from officials of the MAWLR in September 2022 through interviews conducted at Otjiwarongo. Key informant interviews were conducted in October 2022 at Otjiwarongo, Rundu and Windhoek. Data were collected from members of the !Kung TA in October 2022 through interviews conducted at Tsumkwe settlement, Omatako

hamlet, Kanovlei, Grass hock and Aasvoëlne in the Tsumkwe-West Communal Area. The questionnaire was sent out to selected members of the CLB in September and was returned in the first week of October 2022.

4.8 Content analysis of collected data

According to Babbie and Mouton (2001:384) and Kibiswa (2019:2059), content analysis is well suited to examining and interpreting recorded communications/content of text data (text, words or phrases, statements and documents) from interviews and questionnaires. Therefore, the qualitative and quantitative data produced from the interviews and the questionnaire in the form of text (handwritten notes), scripts and numbers were examined and interpreted using content analysis techniques to provide meaningful answers to the research question. The content analysis was inductive, whereby data analysis was driven by the data collected and involved a process of putting the collected data into predetermined categories.

According to Burns and Grove (2011, cited in Ileka, 2018:18), data analysis refers to the reduction, display and verification of data and the drawing of conclusions. The early stages of data analysis occurred simultaneously with data gathering. Data processing and analysis started in the field with checking for completeness of the data and performing quality control checks. Data were sorted by instruments used and by group of respondents. Because the study sample was relatively small, data were processed and analysed as soon as it had been collected. Data from the questionnaire were analysed by listing all answers for a particular question.

The following subsections discuss the data analysis methods used in this research for the interviews and the questionnaire.

4.8.1 Data analysis – individual interviews

Respondents' responses were written down by the researcher on the interview guide under each question during the interview. As a result, individual interviews produced data in the form of notes and numbers written down during the interviews. The interviews were transcribed in detail, and the transcript was then read repeatedly for the researcher to become familiar with the material. Recording responses under each question made it easy to analyse the data. Babbie and Mouton (2001) describe transcribing as writing a text of the interview. Full transcription of

interviews was first done by hand. For interviews with non-English-speaking respondents, the transcription was done in English with the help of a translator. Since the number of responses was manageable, the data were analysed manually and, in the end, different responses to the same question were compared for data triangulation.

4.8.2 Data analysis – questionnaire

The self-administered questionnaire had a qualitative and a quantitative component. Therefore, raw data from the questionnaire were in the format of text and numbers. The responses to each question from all respondents were tallied to calculate the percentage of respondents who provided a particular response to each question. Other information provided by the respondents, such as the main challenges to implementing the CLR Act and the recommendations in this regard, was directly transferred from each respondent's questionnaire. Collected data were categorised under each variable of the 7-C protocol for policy implementation. Before the data analysis started, the researcher checked each response on each respondent's questionnaire for completeness and omissions.

4.9 Data validation procedure

Research validity is qualitative research that is credible, trustworthy and, therefore, defensible. Validity is a test of whether collected data accurately gauge what is measured (Ileka, 2018:19). According to Wanyama (2007:13), the validity of qualitative data may be ensured if the researcher follows procedures that minimise bias. In the current study, the researcher adopted several strategies to ensure the accuracy of the findings: Data collected through the interviews and the questionnaire were triangulated to build coherent justification for various themes, the researcher compared information from the interviews to information from the questionnaire to see whether there was similarity and the researcher repeatedly played the audio-recorded interviews in cases of uncertainty about the responses written down on the answer sheets. Since the researcher was known in the study area, respondents were willing to provide the necessary information. The interview guide also helped to ensure that respondents provided the data or responses needed to answer the research question. The data were also validated through data triangulation, whereby interviews were used to collect data at different places with different people and at different times.

4.10 Conclusion

In this chapter, the research methodology pertinent to the study was discussed. The focus was on the research design – the case study and the qualitative methods of data collection used with the case study. The data collection methods, namely interviews, a questionnaire, observation and content analysis, were evaluated in terms of how they were effectively used. A total of 20 people were consulted: face-to-face interviews were held with 13 people, and the questionnaire had seven respondents. Using a combination of data collection methods yielded a large amount of qualitative and quantitative data, which were analysed using the qualitative content analysis technique, and inferences were made from the data to answer the research question. Nonempirical methods of data collection were adopted in the form of a desk study whereby a large volume of literature was reviewed. The literature review helped the researcher to choose the most appropriate research approach, data collection methods and data analysis methods, and showed him how to implement tools such as interviews and questionnaires to gather the necessary data to achieve the research objectives.

CHAPTER 5: RESEARCH RESULTS AND DISCUSSION

5.1 Introduction

As already described in Chapter 4, this study collected data through interviews, a questionnaire, observation and a literature review on the challenges to implementing the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area in north-central Namibia. Chapter 5 will focus on the results from the interviews, questionnaire and observation regarding the challenges to implementing the CLR Act to combat illegal fencing. Interviews were conducted with staff members from the MAWLR, additional participants (key informants) and senior councillors of the !Kung TA who were responsible for implementing the CLR Act to combat illegal fencing. A questionnaire was administered to the members of the Otjozondjupa CLB. Study participants were purposively selected for this study.

Twenty questions were directed to four officials from the MAWLR, 25 questions were directed to five senior councillors of the !Kung TA and 19 questions were directed to four additional participants (key informants). The questionnaire for the seven members of the Otjozondjupa CLB comprised 21 questions. A total of 20 people from four groups thus participated in the study.

All questions to participants were grouped under the 7-C protocol, which provides clusters of explanatory variables that might be useful to allow for a better understanding of policy implementation success and failure. The 7-C protocol variables that were considered in this study were content, context, commitment, capacity, clients and coalitions, communication and coordination.

5.2 Fieldwork results

This section focuses on the results from interviews conducted with officials from the MAWLR, key informants, and senior councillors of the !Kung TA, and the results from the questionnaire and observation.

5.2.1 Results from interviews with officials from the Ministry of Agriculture, Water and Land Reform

This subsection focuses on the responses of the four government officials interviewed. The four questions under Section A of the interview guide gathered demographic information from the respondents. The first question under Section A asked the respondents how long they had been involved in communal land administration. The results are shown in Figure 5.1 below.

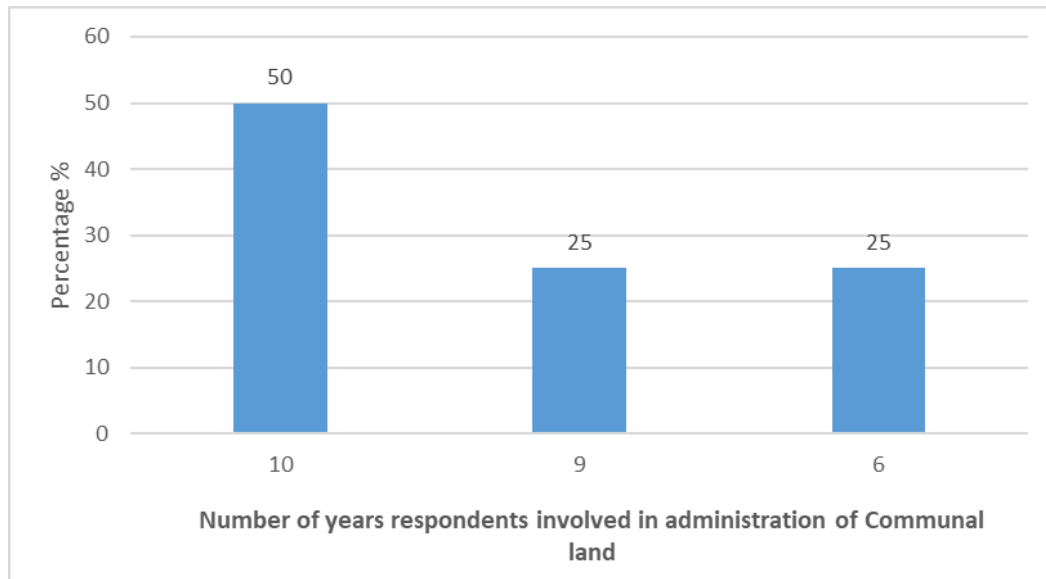


Figure 5.1: Number of years of involvement of MAWLR respondents in administration of communal land

Fifty percent of the respondents said that they had 10 years of experience in communal land administration, 25% said that they had nine years of experience and 25% said that they had six years of experience.

The second question under Section A asked the respondents to indicate their gender. All four (100%) respondents from the MAWLR were male.

The third question under Section A asked the respondents to indicate the age group/category in which they fell. The results are shown in Figure 5.2 below.

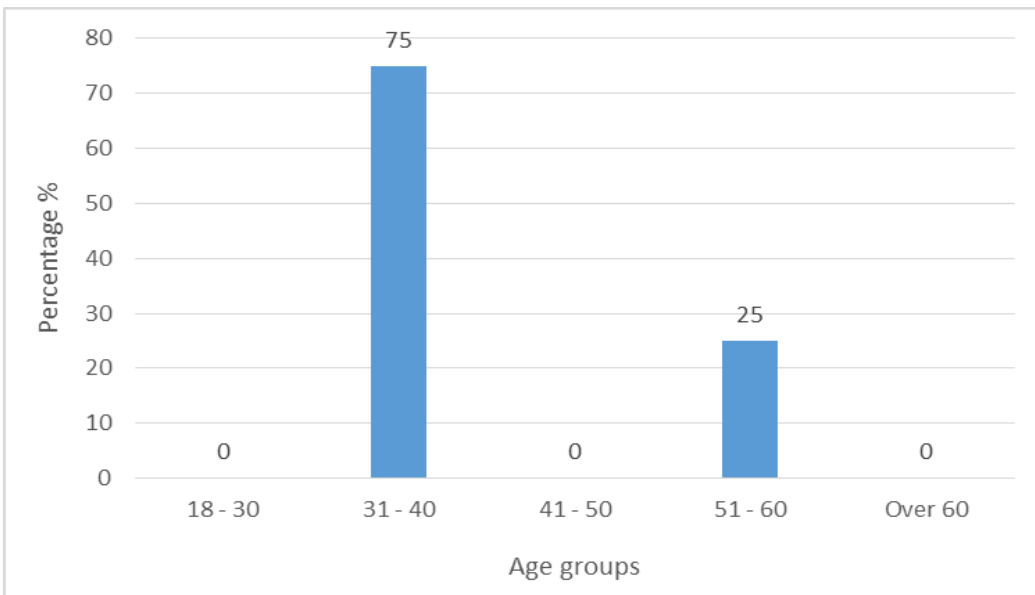


Figure 5.2: Age groups of MAWLR respondents

Seventy-five percent of the respondents were between 31 and 40 years old. The other 25% were between the ages of 51 and 60.

The last question under Section A asked the respondents to indicate their highest educational qualifications. The results are shown in Figure 5.3 below.

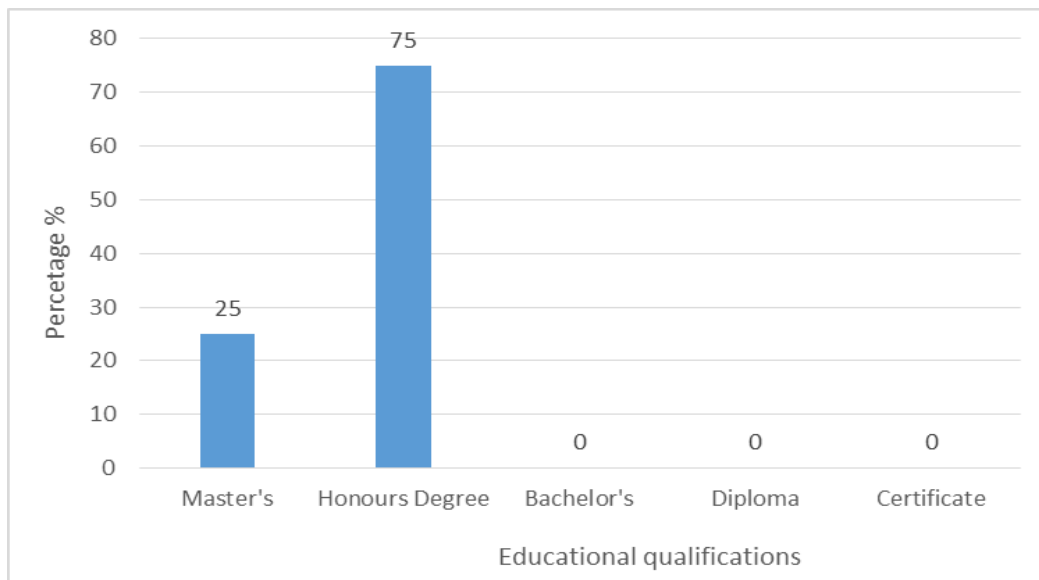


Figure 5.3: Educational qualifications of MAWLR respondents

Seventy-five percent of the respondents had honours degrees in land management and administration. The other 25% had master's degrees in land management and administration.

5.2.1.1 Challenges regarding the content of the Communal Land Reform Act

The content of a policy clarifies the goal/objective of the policy (Cloete *et al.*, 2018:206), that is, what a policy sets out to do. With respect to illegal fences, the CLR Act's goal/objective is *to prohibit the erection of new fences in communal areas without proper authorisation obtained in line with the CLR Act*. Under the content variable, the researcher focused on extracting data on the purpose and objective/goal of the CLR Act concerning illegal fences.

The three questions under Section B of the interview guide focused on the challenges regarding the content of the CLR Act.

The first question under the content variable asked whether the objective/goal of the CLR Act in terms of illegal fences was clear or not. Hundred percent of the respondents stated that the goal/objective of the CLR Act was clear in terms of illegal fencing in communal areas. All four respondents demonstrated a clear understanding of the goal/objectives of the CLR Act in terms of combatting illegal fences in communal areas: *"The CLR Act of 2002 wants to prevent new fences in communal areas without permission"*, stated one of the respondents.

The second question under the content variable asked whether the CLR Act provided clear guidelines that should be followed to remove or have illegal fences removed. Hundred percent of the respondents stated that the CLR Act provided clear guidance that CLBs and TAs should follow to remove or have illegal fences removed from communal areas. *"Section 44 of the CLR Act prescribes the steps a TA or a CLB should take against any illegal fence in their areas of jurisdiction. A TA or CLB notify in writing the fence owner to remove their fence; secondary, if the fence owner fails to remove the fence after being asked to do so, then the TA or the CLB itself may remove or cause it to be removed"*, stated one of the respondents.

The final question under the content variable asked whether there were clear implementation roles, responsibilities and mandates for implementing the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area. Seventy-five percent of the respondents were of the opinion that the CLR Act implementation roles, responsibilities and mandates were clear

between the MAWLR, the CLB and the TA. One of the respondents emphasised, *“The CLR Act gives mandate, power responsibilities to TAs and CLRs.”* The other 25% felt that roles, responsibilities and mandates between the MAWLR, TA and CLB for the implementation of the CLR Act were not clear. This respondent pointed out, *“It is always confusing as to who between the TA and the Land Board should act against an illegal because in terms of the CLR Act both the TA and CLB have the same role, responsibilities and mandate to take first actions against an illegal fence.”*

5.2.1.2 Challenges regarding the context of the Communal Land Reform Act

Policy implementation takes place in social, economic, political and legal contexts (Mokhaba, 2005:129). The context of a policy sets the limit in terms of what must be done or not done during the implementation stage. Concerning the CLR Act, context refers to the social, economic, political and legal context/realities in which the CLR Act implementation process takes place. Under the context variable, the researcher explored whether social, economic, political and legal aspects of the environment in which the CLR Act had to be implemented influenced its implementation in combatting illegal fencing in the Tsumkwe-West Communal Area.

The two questions under Section B of the interview guide focused on the challenges regarding the context of the CLR Act.

The first question under the context variable asked whether there were social, economic, political or legal factors influencing the implementation of the CLR Act with respect to combatting illegal fencing in the study area. Seventy-five percent of the respondents were of the opinion that political aspects influenced the removal of illegal fences. One of the respondents emphasised, *“There is a general lack of political will in the country to combat illegal fencing in communal areas.”* Hundred percent of the respondents were of the opinion that legal aspects hampered the removal of illegal fences in the Tsumkwe-West Communal Area. One of the respondents explained, *“Illegal fencers always appeal against decisions of the TA or CLB to remove illegal fences, and such appeals could take up to five years to resolve.”* Another respondent stated, *“Ministry does not have the legal mandate nor power to remove illegal fences in communal areas.”* Twenty-five percent of the respondents were of the opinion that the implementation of

the CLR Act was hampered by some social aspects such as land disputes among communal farmers.

The second question under the context variable asked whether the MAWLR had the legal mandate or not to remove illegal fences in communal areas. Hundred percent of the respondents said no. One of the respondents elaborated, *“The mandate and power to remove illegal fences in communal areas lies with the Communal Land Boards and Traditional Authorities.”*

5.2.1.3 Challenges regarding the commitment of officials from the Ministry of Agriculture, Water and Land Reform to Communal Land Reform Act implementation

Commitment entails the level of commitment of those entrusted with implementing a policy. According to Mokhaba (2005:129) and Mthethwa (2014:56), policy implementation success depends largely on the commitment of the implementers. One of the challenges to policy implementation could be the commitment of those tasked with implementing a policy. For the purpose of this research, commitment refers to the commitment of responsible persons/organisations to implementing the CLR Act to combat illegal fences in the Tsumkwe-West Communal Area. Under the commitment variable, the researcher explored the commitment of the MAWLR staff to implementing the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area, with a view to identifying any policy implementation challenges as a result of the commitment of the officials from the MAWLR.

The two questions under Section B of the interview guide focused on the challenges regarding the commitment of officials from the MAWLR to the CLR Act implementation.

The first question under the commitment variable asked how frequently the MAWLR investigated illegal fences in the Tsumkwe-West Communal Area. Hundred percent of the respondents stated that they investigated illegal fences in the area quarterly. One of the respondents stated, *“It is not the mandate of the Ministry to investigate illegal fences in the communal area, TAs and CLBs should do it. However, the Ministry does assist in this regard quarterly.”*

The second question under the commitment variable asked what the current level of commitment within the MAWLR was in dealing with the problem of illegal fencing in the area. Seventy-five

percent of the respondents indicated a moderate level (meaning that staff prioritised activities other than those relating to illegal fences) of commitment among the officials to combatting illegal fencing in the area. The other 25% indicated a high level (implying that staff prioritised activities relating to illegal fences) of commitment among the officials to implementing the CLR Act to combat illegal fences in the area. One of the staff members stated, *“When it comes to illegal fencing, Ministry’s staff only act as secretariat to the Communal Land Board, but it is not a core activity of our office to remove illegal fences.”*

5.2.1.4 Challenges regarding the capacity of the Ministry of Agriculture, Water and Land Reform to implement the Communal Land Reform Act

Mokhaba (2005:129) and Brynard (2005) point out that in the context of policy implementation, capacity refers to the availability of tangible resources such as personnel, skills, funding, materials, technology and logistics that are critical in the policy implementation process. The capacity of implementers is a critical factor in policy implementation and without the necessary capacity, a policy may not be implemented. Although the MAWLR does not have the legal mandate to remove illegal fences, the ministry is tasked with the responsibility of coordinating activities/efforts of the CLBs and TAs with respect to removing illegal fences. For example, the MAWLR staff are the secretariat to CLBs and assist CLBs and TAs with the investigation of illegal fences in communal areas and with technical aspects such as mapping and measuring illegal fences in communal areas. Under the capacity variable, the researcher explored whether the MAWLR’s Otjozondjupa Regional Office had the tangible and human capacity needed to carry out the activities assigned to it with respect to removing illegal fences in the Tsumkwe-West Communal Area.

The two questions under Section B of the interview guide focused on the challenges regarding the capacity of the MAWLR to implement the CLR Act.

The first question under the capacity variable asked whether the MAWLR’s Otjozondjupa Regional Office had experienced challenges/shortages related to personnel, skills, funding, materials, technology and logistics. Seventy-five percent of the respondents stated that they had experienced challenges related to a shortage of funds needed to carry out activities such as mapping illegal fences and assisting with the investigation of illegal fences in the area. One of the respondents elaborated, *“Our Office does not have adequate financial resources for activities*

aimed at combatting illegal fencing, but the office uses its pintsized operational budget for activities related to illegal fencing in the area.” Another respondent explained, *“Budgetary constraints have hampered the office’s plans and ability to investigate, map illegal fences and run awareness campaigns against illegal fencing in the area.”* Yet another respondent stated, *“We do not have a budget dedicated to illegal fences.”* Fifty percent of the respondents stated the office did not have adequate human resources/personnel for illegal fences activities assigned to the office. One of the respondents explained, *“Only two staff members were directly involved with illegal fences in the Tsumkwe Communal area.”* Twenty-five percent of the respondents stated that they had experienced challenges related to materials. Fifty percent of the respondents stated that they had experienced challenges related to the shortage of technical skills in mapping and measuring illegal fences in the area. Seventy-five percent of the respondents stated that the office had faced logistical challenges. One of the respondents pointed out, *“Sometimes we have no vehicle available to visit the area for mapping and investigation of illegal fences.”*

The second question under the capacity variable asked whether the respondents had received any training on the CLR Act with respect to illegal fences. Hundred percent of the respondents indicated that they had received training on the provisions and regulations of the CLR Act. One of the respondents demonstrated knowledge and understanding of the provisions and regulations of the CLR Act by stating, *“Section 18 and Section 44 of the CLR Act are most important when it comes to fighting illegal fencing in communal areas.”*

5.2.1.5 Challenges regarding clients and coalitions

Both internal and external clients and coalitions play important roles in ensuring effective policy implementation. In the context of this research, clients and coalitions refer to the stakeholders involved in the CLR Act implementation process concerning combatting illegal fencing in the Tsumkwe-West Communal Area. Under the clients and coalitions variable, the researcher explored whether there were challenges involving key stakeholders such as community-based organisations, NGOs and residents in the fight against illegal fencing in the Tsumkwe-West Communal Area.

The one question under Section B of the interview guide focused on the challenges regarding clients and Coalitions.

The question under the clients and coalitions variable asked whether community-based organisations, NGOs and residents of the Tsumkwe-West Communal Area had been involved in the fight against illegal fencing. Hundred percent of the respondents stated that stakeholders such as the Communal Conservancy, residents and local farmers were involved in combatting illegal fencing in the area. For example, one of the respondents mentioned, *“The TA uses residents to report any illegal fence in the area.”*

5.2.1.6 Challenges regarding communication

Communication ensures that policy implementation is communicated to the implementers and other policy stakeholders within institutions and in society. This makes communication an essential variable for effective policy implementation (Molobela, 2019:216:). In the context of this research, communication refers to communicating information about the content of the CLR Act and illegal fencing formally and informally to stakeholders and the wider public. Under the communication variable, the researcher explored whether and how information related to illegal fences had been communicated to the residents of the Tsumkwe-West Communal Area.

The three questions under Section B of the interview guide focused on the challenges regarding communication.

The first question under the communication variable asked whether the MAWLR had a communication strategy for disseminating information about the content of the CLR Act and illegal fences in the Tsumkwe-West Communal Area. Hundred percent of the respondents mentioned that a communication strategy was in place. *“We mostly use local radio channel, and distributed pamphlets in vernacular language and also give information on illegal fencing in local meetings with TA and the community”*, explained one of the respondents. Another respondent added, *“The MAWLR runs a TA programme on illegal fences in communal areas on TV.”*

The second question under the communication variable asked whether the MAWLR had conducted awareness campaigns against illegal fencing in the Tsumkwe-West Communal Area. Seventy-five percent of the respondents stated that their office conducted awareness campaigns against illegal fences in the area at least once a year. One respondents explained, *“We undertake awareness visits to the area depending on the availability of funds.”*

The last question under the communication variable asked whether the MAWLR's Otjozondjupa Regional Office had experienced any challenges related to communication concerning illegal fencing in the area. Despite having a communication strategy in place and conducting an awareness campaign, 50% of the respondents stated that the office had experienced communication challenges. As one of the respondents explained, *"The problem is even if you put the message on the radio, some of the residents live where there is no radio coverage and own no radios."* Another respondent added, *"Areas with illegal fences are hard to reach."* The other 50% of the respondents stated that their office had not experienced challenges with communicating information concerning illegal fencing in the Tsumkwe-West Communal Area.

5.2.1.7 Challenges regarding coordination

Burger (2015:15) states that coordination involves working relationships between departments/agencies within a particular organisation and between numerous organisations. In the context of this research, coordination refers to the working relationship between the MAWLR, CLBs, TAs and other stakeholders in the fight against illegal fencing in the Tsumkwe-West Communal Area.

The one question under Section B of the interview guide focused on the challenges regarding coordination.

Coordination was identified through the literature review as one of the challenges that affected policy implementation. With that in mind, the researcher explored whether coordination affected the implementation of the CLR Act to combat illegal fences in the Tsumkwe-West Communal Area. To this end, the four government officials were asked whether they had experienced challenges in coordinating activities for the removal of illegal fences in the Tsumkwe-West Communal Area. Hundred percent of the respondents said no. One of the respondents stated, *"Efforts towards combatting illegal fencing are well coordinated with other responsible institutions such as the !Kung TA and the Otjozondjupa Communal Land Board."* When asked to describe how activities were being coordinated, one respondent explained, *"Coordination takes the form of quarterly meetings of the Otjozondjupa Communal Land in which the !Kung TA and the MAWLR are always represented."* Another respondent mentioned, *"Sharing of reports on*

illegal fences in the area and regular telephone communication between the three offices are other ways activities are being coordinated.”

5.2.1.8 Main challenges that affect the implementation of the Communal Land Reform Act to combat illegal fencing in the Tsumkwe-West Communal Area identified by the Ministry of Agriculture, Water and Land Reform officials

The first question under Section C of the interview guide asked the officials from the MAWLR’s opinion on what they considered the main challenges that affected the implementation of the CLR Act to combat illegal fencing of land in communal areas. Hundred percent of the respondents mentioned the lengthy and cumbersome legal procedures to obtain court eviction orders to remove illegal fences. Twenty-five percent of the respondents stated that the local headmen, senior traditional councillors and chiefs were, in most cases, conflicted and permitted landowners/farmers to fence off the land without following the law. Moreover, the respondents mentioned that the existence of traditional customs that allow residents in rural areas to fence off land would continue to hamper the successful implementation of the law to combat illegal fencing of land in communal areas. Hundred percent of the respondents mentioned the lack of funds as one of the main challenges that the MAWLR experienced in combatting illegal fences in communal areas. The respondents explained that the removal of unlawful fences was a costly exercise that required a great deal of funds to accomplish. One respondent gave an example of how costly the exercise was. He stated, *“The Land Board has to award a tender to a contractor to remove fences deemed illegal and the contract values are always very high and beyond the means of the institutions responsible.”* Moreover, the high costs of removing illegal fences are a result of the involvement of lawyers in the process. In most cases, these institutions have no means to pay legal costs. As a result of the lack of funds, many known illegal fences ended up not being removed 10 years later.

5.2.1.9 Proposals of the Ministry of Agriculture, Water and Land Reform officials to ensure successful implementation of the Communal Land Reform Act to combat illegal fencing in the Tsumkwe-West Communal Area

The second question under Section C of the interview guide asked the officials from the MAWLR what they thought should be done to ensure the successful implementation of the CLR Act to combat illegal fencing. Fifty percent of the respondents mentioned a need to capacitate the TAs and the CLBs to be able to enforce the law to remove illegal fences in the area. The

respondents explained that the TAs could be capacitated through traditional governance instruments to impose a heavy fine on unlawful fencing. Moreover, the TAs could be empowered to mobilise their subjects to remove any suspected fence in the commonage. As with the TAs, CLBs also need to be empowered by the law to remove illegal fences. If CLBs are empowered, they will be able to issue eviction orders without going through the court, which would decrease the length of the legal routes currently followed to obtain an eviction order from the court. Fifty percent of the respondents proposed full involvement of NAMPOL to help the CLBs and TAs to execute court eviction orders and enforce the provisions of the CLR Act that imposed punitive measures on offenders such as monetary fines or years of imprisonment without fear or favour.

5.2.2 Results from interviews with senior councillors of the !Kung Traditional Authority

This subsection focuses on responses of the five senior councillors of the !Kung TA interviewed.

Section A of the interview guide gathered personal details of the respondents.

The first question under Section A asked respondents to indicate how long they had served as TA councillors. The results are shown in Figure 5.4 below.

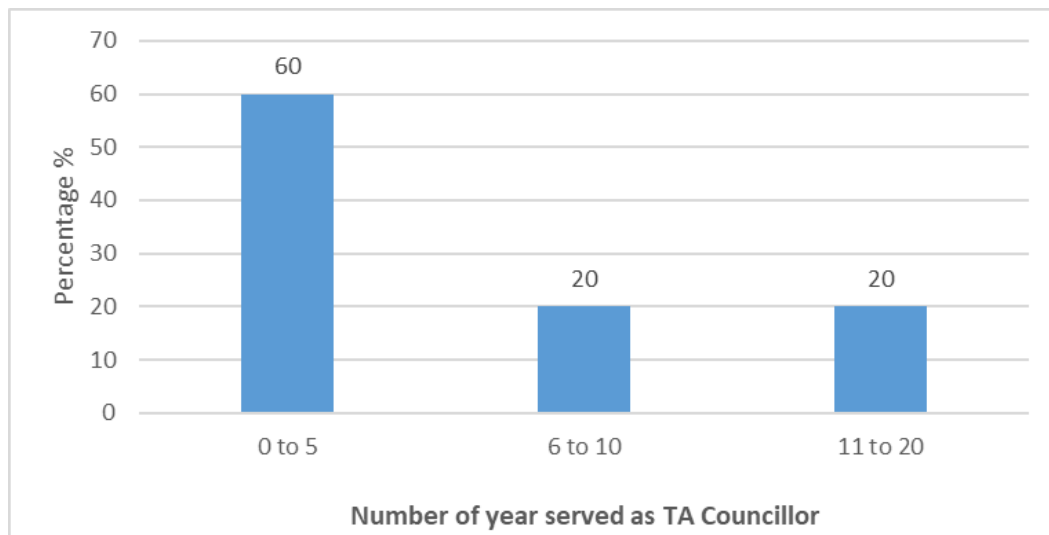


Figure 5.4: Number of years that respondents had served as TA councillors

Sixty percent of the respondents had served as TA councillors for less than five years, 20% had served for 6-10 years and 20% had served for 11-20 years.

The second question under Section A looked at the gender of the respondents. Sixty percent of the respondents were male, and 40% were female.

The third question under Section A asked respondents to indicate their age group. The results are shown in Figure 5.5 below.

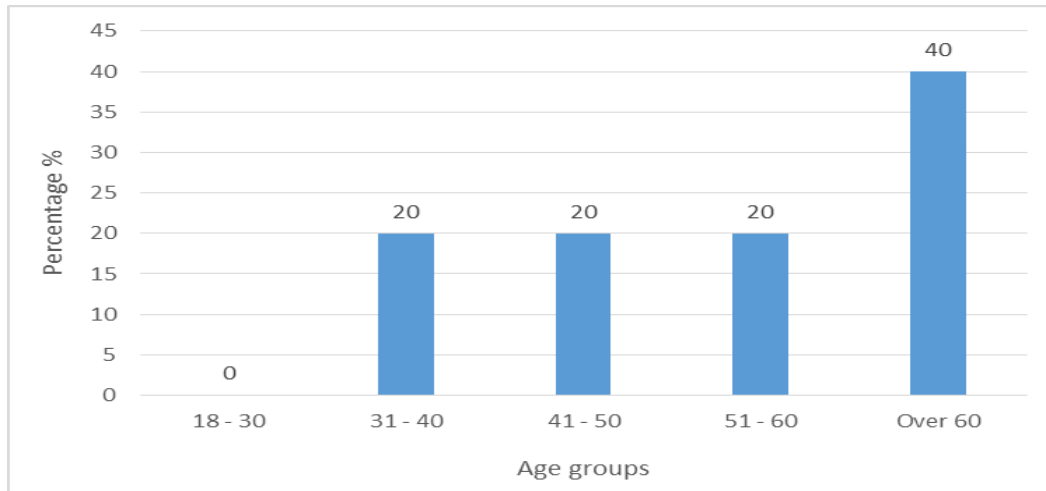


Figure 5.5: Age groups of TA respondents

Forty percent of the respondents were over the age of 60 years, 20% were between 31 and 40 years old, 20% were between 41 and 50 years old, and 20% were between 51 and 60 years old.

The last question under Section A asked the respondents to indicate their highest educational qualification. The results are shown in Figure 5.6 below.

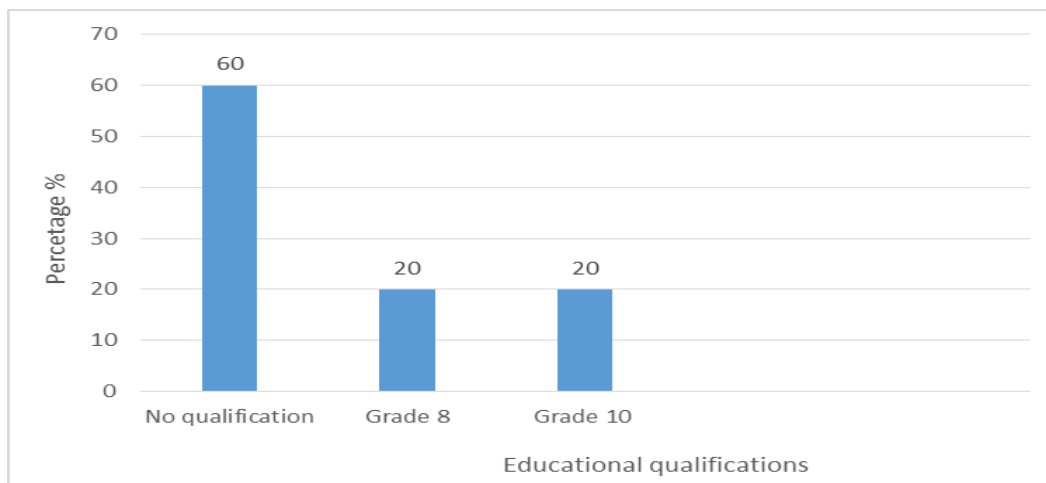


Figure 5.6: Educational qualifications of TA respondents

Sixty percent of the respondents had no educational qualification, 20% indicated Grade 8 as their highest level of education and 20% indicated Grade 10 as their highest level of education.

5.2.2.1 Challenges regarding the content of the Communal Land Reform Act

The content of a policy clarifies the goals/objectives of the policy (Cloete *et al.*, 2018:206), that is, what a policy sets out to do. The goal of the Communal Land Reform Act with respect to illegal fences is *to prohibit the erection of new fences in communal areas without proper authorisation obtained in line with the CLR Act*. Under the content variable, the researcher focused on extracting data on the purpose and objective/goal of the CLR Act concerning illegal fences.

The four questions under Section B of the interview guide focused on the challenges regarding the content variable of the CLR Act.

The first question under the content variable asked the respondents what the goal of the CLR Act concerning illegal fences in communal areas was. Sixty percent of the respondents demonstrated limited knowledge of the goal of the CLR Act concerning illegal fences, and none of these respondents could clearly state what the goal of the CLR Act was. One of the respondents could only say, *“I know what the goal is but cannot tell you what it is right now.”* The other 40% of the respondents could describe the CLR Act goal. One of the respondents stated that the goal was *“to prevent illegal fences in communal lands used by all people”*. Another respondent stated that the goal was *“to ensure that no unauthorized fences are erected in communal areas”*.

The second question under the content variable asked whether the CLR Act provided clear guidelines for dealing with illegal fences in communal areas. Hundred percent of the respondents stated that the CLR ACT provided clear guidelines on how to deal with illegal fences in communal areas. When asked to state what guidelines and procedures the CLR Act prescribed with respect to illegal fences, 40% of the respondents could describe some procedures that should be followed to remove or have illegal fences removed. One of the respondents stated, *“First, the TA tells the owner of the illegal fence to remove their fences, and if he did not remove it himself, the TA together with the land board and government, will remove the fence.”* Another respondent said, *“We tell them to remove their fence, and if they refuse, the TA, CLB and Ministry of Lands remove the illegal fences.”*

The third question under the content variable asked the respondents whether their roles and responsibilities were clear concerning combatting illegal fences in the area. Four respondents (representing 80% of the respondents) could clearly articulate their roles and responsibilities in dealing with illegal fences in the area. One of the respondents described their role and responsibilities as follows: *“Inform the communities that fencing in a communal area is illegal, inform illegal fencers to remove their fences and inform the TA and government about illegal fences in the area.”* Another respondent described their role and responsibilities as follows: *“Identify and report illegal fences in my area.”* Twenty percent of the respondents demonstrated limited knowledge of their roles and responsibilities in combatting illegal fencing in the area. One of the respondents could only state, *“My role is to make sure that fences comply with the CLR Act.”*

The last question under the content variable asked what powers the CLR Act gave to the TA concerning illegal fences in the area. Hundred percent of the respondents stated that the TA was empowered by the CLR Act to have illegal fences removed from the area. One of the respondents stated that the Act empowered the TA to *“give notices to remove illegal fences”*. Another respondent stated that the TA had the power to *“remove illegal fences in its area”*.

5.2.2.2 Challenges regarding the context of the Communal Land Reform Act

Policy implementation takes place in political, economic and legal settings (Mokhaba, 2005:129). The context of a policy sets the limit in terms of what must be done or not done during the implementation stage. In the context of this research, the context of the CLR Act refers to the social, economic, political and legal context/realities in which the CLR Act implementation process takes place.

Under the context variable, the researcher explored the social, economic, political and legal aspects that influenced the implementation of the CLR Act in combatting illegal fences in the Tsumkwe-West Communal Area.

The one question under Section B of the interview guide focused on the challenges regarding the context of the CLR Act.

The respondents were asked whether there were social, economic, political or legal factors influencing the implementation of the CLR Act with respect to combatting illegal fencing in the study area. Sixty percent of the respondents did not know of any social, legal or political aspects that affected the successful implementation of the CLR Act in combatting illegal fencing in the area. Forty percent of the respondents stated that there were some legal and political aspects that influenced the successful implementation of the act in combatting illegal fencing in the area. One of the respondents stated, *“Illegal fencers always appeal to courts against decisions to remove illegal fences.”* On the political aspect, one respondent stated, *“There are a lot of political influences when it comes to fighting illegal fences.”*

5.2.2.3 Challenges regarding the commitment of senior councillors of the !Kung Traditional Authority to Communal Land Reform Act implementation to combat illegal fencing

Commitment entails the level of commitment of those entrusted with carrying out the implementation of a policy. According to Mokhaba (2005:129) and Mthethwa (2014:56), policy implementation success depends largely on the commitment of the implementers. In the context of this research, commitment refers to the commitment of responsible persons/organisations to implementing the CLR Act to combat illegal fences in the Tsumkwe-West Communal Area. Under the commitment variable, the researcher explored whether the TA’s senior councillors were committed to combatting illegal fencing in the Tsumkwe-West Communal Area. The commitment of the TA was determined by how often the TA carried out some of its core activities with respect to illegal fences.

The two questions under Section B of the interview guide focused on the challenges regarding the commitment of TA councillors to the CLR Act implementation.

The first question under the commitment variable asked the respondents how often they conducted investigation and monitoring exercises to identify illegal fences in the area. Eighty percent of the respondents stated that the TA conducted investigation and monitoring of illegal fences in the area once a year. One of the respondents explained, *“The TA could not conduct investigations and monitoring often due to the lack of transportation to travel to all parts of the communal area.”* The other 20% of the respondents stated that investigation and monitoring of illegal fences were conducted occasionally when government officials from the MAWLR visited

the area. One of the respondents elaborated as follows: *“We don’t have a car, but we visited many areas together with the Ministry of Land officials.”*

The second question under the commitment variable asked the respondents about the current level of commitment among the TA councillors to implementing the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area. Four respondents (representing 80% of respondents) stated that the TA councillors were highly committed to combatting illegal fences in the area. One of the respondents explained, *“We have been working hard to remove all the illegal fences in our area.”* Another respondent stated, *“I am always telling people in my area not to fence off the land on which the livestock graze.”* The other 20% of the respondents stated that the current commitment among the TA councillors was low. One of the respondents explained, *“The commitment of the TA is hampered by the lack of transport and funds.”*

5.2.2.4 Challenges regarding the capacity” of the Traditional Authority to implement the Communal Land Reform Act to combat illegal fencing of communal land

Mokhaba (2005:129) and Brynard (2005) point out that in the context of policy implementation, capacity refers to the availability of tangible resources such as personnel, skills, funding, materials, technology and logistics that are critical in the policy implementation process. Under the capacity variable, the researcher explored whether the !Kung TA possessed the tangible resources that it needed to successfully implement the CLR Act to combat illegal fences in the Tsumkwe-West Communal Area. The researcher also explored whether the TA personnel responsible for implementing the CLR Act had received training on the CLR Act with respect to illegal fences.

The four questions under Section B of the interview guide focused on the challenges regarding the capacity of the !Kung TA to implement the CLR Act.

The first question under the capacity variable asked whether the TA had experienced challenges due to shortages of resources such as personnel, skills, funding, materials, technology and logistics. Hundred percent of the respondents stated that the TA had experienced shortages of funds. One of the respondents explained, *“Our office does not have funds to execute a lot of activities.”* Another respondent stated, *“There is no budget for illegal fences, may be the government can help us.”* Hundred percent of the respondents stated that the TA faced logistical

challenges. One of the respondents elaborated, *“We do not have any official vehicle since our vehicle was burnt down in 2011, and it is very difficult to operate without transport.”* Another respondent stated, *“Our movements and activities are limited to nearby areas because of the lack of transportation.”*

The second question under the capacity variable asked the respondents to explain how the shortage of resources affected the TA’s efforts toward combatting illegal fences. Fifty percent of the respondents explained that the TA was unable to execute activities. The other 50% explained that the TA was unable to conduct regular investigation and monitoring of illegal fences in the area.

The third question under the capacity variable asked how many senior councillors of the TA were directly involved in combatting illegal fences. Hundred percent of the respondents indicated that nine out of the 12 gazetted senior councillors were directly involved in combatting illegal fences.

The fourth question under the capacity variable asked the respondents whether they had received any training on the CLR Act with respect to illegal fences. Eighty percent of the respondents mentioned that they had not received any training. One of the respondents emphasised, *“I did not receive any training on the CLR Act since I was appointed in 2020.”* The other 20% of the respondents mentioned that they had been trained regarding illegal fences in communal areas. One respondent pointed out, *“I was trained by the Ministry of Land and the Legal Assistance Centre many times.”*

5.2.2.5 Challenges regarding clients and coalitions

Both internal and external clients and coalitions play a very important role in ensuring effective policy implementation. In the context of this research, clients and coalitions refer to the stakeholders involved in the CLR Act implementation process concerning combatting illegal fencing in communal areas. Under the variable, the researcher explored whether key stakeholders such as community-based organisations, NGOs and residents were being involved in the implementation process of the CLR Act with respect to combatting illegal fencing in the Tsumkwe-West Communal Area.

The two questions under Section B of the interview guide focused on the challenges regarding clients and Coalitions.

The first question under the clients and coalitions variable asked whether the !Kung TA involved other stakeholders in combatting unlawful fencing. Hundred percent of the respondents stated that the TA often involved other stakeholders. One of the respondents explained, *“We conduct many activities together with the N#ajagna Communal Conservancy.”* Another respondent stated, *“The Legal Assistance Centre (LAC) sometimes provides advices concerning illegal fences in the area.”* *“We always work together with local farmers, the Ministry of Lands and the CLB regarding illegal fences in the area”*, explained another respondent. Yet another respondent mentioned, *“Residents discover and report new illegal fences to the TA.”*

The second question under the clients and coalitions variable asked whether the !Kung TA sought suggestions and opinions from other stakeholders in dealing with illegal fences in the Tsumkwe-West Communal Area. Hundred percent of the respondents mentioned that the TA sought suggestions and opinions from other stakeholders in dealing with illegal fences. One of the respondents explained, *“We get advice from government officials from MAWLR.”* Another respondent stated, *“The Legal Assistance Centre (LAC) sometimes provides legal opinions concerning illegal fences in the area”* and *“Local farmers and the N#ajagna Conservancy also provided information about what to do with illegal fences.”*

5.2.2.6 Challenges regarding communication

Information about a policy should be communicated to the policy stakeholders and to the wider public (Uusiku, 2019:36). Communication ensures that policy implementation is communicated to the implementers and other policy stakeholders within institutions and in society.

Under the communication variable, the researcher explored whether and how the TA disseminated information concerning illegal fences to the residents of the Tsumkwe-West Communal Area.

The three questions under Section B of the interview guide focused on the challenges regarding communication.

The first question under the communication variable asked what form of communication channels/platforms the !Kung TA used to disseminate information about illegal fences in the area. Hundred percent of the respondents mentioned that the TA often used community meetings. One of the respondents explained, *“During our meetings with our communities, we provide information on illegal fences.”* Twenty percent of the respondents mentioned social media as another way to disseminate information concerning illegal fencing in the area. One of the respondents explained, *“There is a local farmers’ WhatsApp group which we sometimes use to provide information about illegal fencing to the residents of the area.”*

The second question under the communication variable asked how often the TA provided information on illegal fences to the residents of the Tsumkwe-West Communal Area. Sixty percent of the respondents stated that the TA provided information on unlawful fences to the residents on an as-needed basis. One of the respondents explained, *“No scheduled time for providing the information, its done when needed.”* Another respondent stated, *“We provide information on fences occasionally.”* The other 40% of the respondents stated that the TA disseminated information on illegal fences monthly to the residents. One of the respondents explained, *“We provide information on illegal every month during our community meetings in the area.”*

The last question under the communication variable asked whether there were any communication platforms for the residents to report instances of illegal fencing. Sixty percent of the respondents indicated that there were no formal communication platforms for residents to report instances of illegal fencing in the area. The other 40% of the respondents stated that there were some communication platforms that the residents could use to report instances of illegal fencing in the area. One of the respondents explained, *“In most cases, residents come to the TA office and Councillors’ houses to report new fence in their area.”* Another respondent explained, *“Residents mostly report new fences in their areas in community meetings.”*

5.2.2.7 Challenges regarding coordination

Burger (2015:15) states that coordination involves working relationships between departments/agencies within a particular organisation and between numerous organisations. In the context of this research, coordination refers to the working relationship between the

MAWLR, CLBs, TAs and other stakeholders involved in the CLR Act implementation process with respect to illegal fencing in the Tsumkwe-West Communal Area. Under the coordination variable, the researcher explored whether and how activities concerning illegal fences were coordinated and the working relationship between the stakeholders involved.

The three questions under Section B of the interview guide focused on the challenges regarding coordination.

The first question under the coordination variable asked how often the !Kung TA met with other key stakeholders, namely the MAWLR and the CLB, concerning illegal fences in the area. Eighty percent of the respondents stated that the TA, the MAWLR and the CLB met quarterly. One of the respondents explained, *“The TA Councillors, Land Board members and the Ministry officials always meet during the quarterly meetings of the CLB.”*

The second question under the coordination variable asked how activities/efforts were coordinated between stakeholders. Hundred percent of the respondents stated that efforts in combatting illegal fencing in the area were coordinated between key stakeholders through meetings and telephone communication. One of the respondents explained, *“Most activities are coordinated using the quarterly meetings of the CLB.”* Another respondent stated, *“We coordinate activities through meetings and telephone with stakeholders.”*

The last question under the coordination variable asked the respondents their opinion on the working relationship between the stakeholders involved. Eighty percent of the respondents were of the opinion that there was a good working relationship between the TA, the MAWLR and the CLB. One of the respondents emphasised, *“The TA and the state agencies work together very well.”* The other 20% of the respondents were of the opinion that the TA had a poor working relationship with non-community-based organisations. The respondent pointed out, *“The TA and the N#ajagna Conservancy do not really work well together.”*

5.2.2.8 Main challenges that affect the implementation of the Communal Land Reform Act to combat illegal fencing in the Tsumkwe-West Communal Area as identified by senior councillors of the !Kung Traditional Authority

The first question under Section C of the interview guide asked senior councillor’s opinions on what they considered the main challenges in implementing the CLR Act to combat illegal

fencing of land in communal areas. Hundred percent of the respondents mentioned the lack of funds and transport as the main challenges that affected the implementation of the act. The respondents elaborated that the TA was not a profit-making organisation and did not receive a fixed budget from the central government to cover its operational costs. The TA thus found itself in a financially strained position and was unable to execute daily activities such as monitoring and investigating illegal fences in the area. Moreover, the respondents explained that the TA had not had an official vehicle since 2011 and had been operating without a vehicle since then. The lack of vehicles negatively affected the ability of the TA to execute activities such as patrolling the area against illegal fencing and conducting regular investigation and monitoring of illegal fences. Forty percent of the respondents stated that the lack of compliance by the illegal fencers with court orders or notices of the TA to remove their illicit fences was the main challenge that affected the implementation of the CLR Act to combat illegal fencing in the area. The respondents elaborated that lack of compliance by offenders usually came in the form of appeals against the decisions of the CLB and the TA to remove illegal fences in the area.

5.2.2.9. Proposals of senior Traditional Authority councillors to ensure successful implementation of the Communal Land Reform Act to combat illegal fencing in the Tsumkwe-West Communal Area

The second question under Section C of the interview guide asked senior councillors what they thought should be done to ensure the successful implementation of the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area. Hundred percent of the respondents proposed that the central government should make operational funds available to the TA annually to alleviate challenges related to the lack of funds. The TA would then utilise the funds to execute activities related to combatting illegal fencing in the area. The TA has been facing transportation challenges since its official vehicle was wrecked in an accident in 2011. To alleviate challenges related to the lack of an official vehicle, 100% of the respondents were of the opinion that the central government should allocate a new vehicle to the TA to use for patrolling and investigating of illegal fences in the area, which would capacitate the TA to combat illegal fencing in the area.

Moreover, 60% of the respondents proposed greater collaboration between stakeholders, namely the TA, NAMPOL and fencers. In particular, the respondents proposed full involvement of NAMPOL as a law enforcement agency in the removal of illegal fences in the area. The

respondents explained that NAMPOL could be used to enforce Section 44 of the CLR Act to arrest or fine offenders in accordance with the law, which has so far not been the case.

5.2.3 Results from interviews with additional participants with experience of combatting illegal fencing in communal areas of Namibia

This subsection focuses on the results from interviews with four additional participants who had been involved in combatting illegal fencing in communal areas of Namibia, including the Tsumkwe-West Communal Area. Of the four additional respondents, one was a former secretary to the Otjozondjupa Communal Land Board CLB, one was a former secretary to the !Kung TA and the other two were former officials of the MAWLR in the Otjozondjupa Region.

Section A of the interview guide gathered demographic information of the respondents.

The first question under Section A looked at the respondents' gender. Seventy-five percent of the respondents were male, and 25% were female.

The second question under Section A asked respondents to indicate their age group/category. The results are shown in Figure 5.7 below.

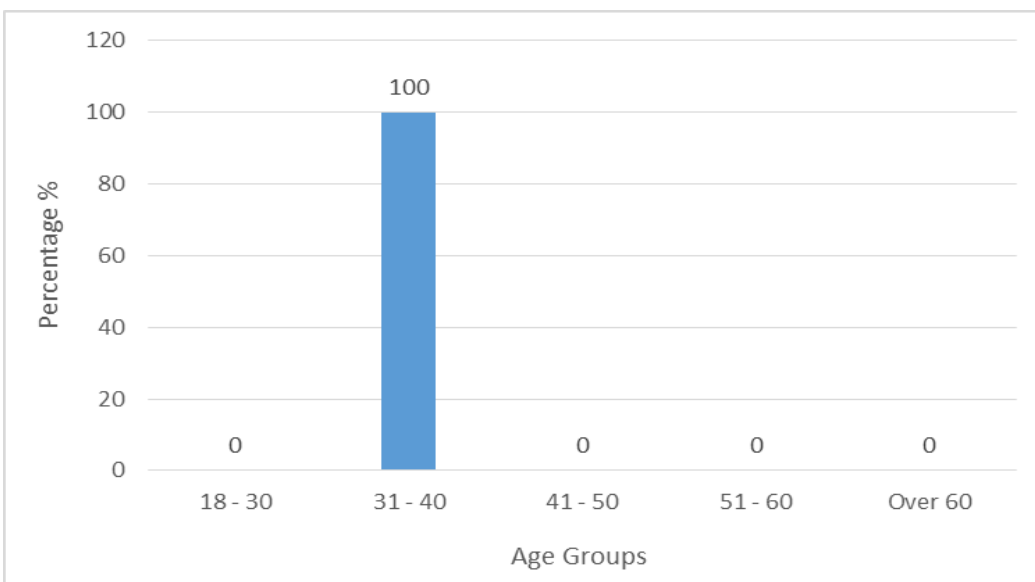


Figure 5.7: Age groups of additional respondents

Hundred percent of the respondents were between 31 and 40 years old.

The last question under Section B asked the respondents to indicate their highest educational qualifications. The results are shown in Figure 5.8 below.

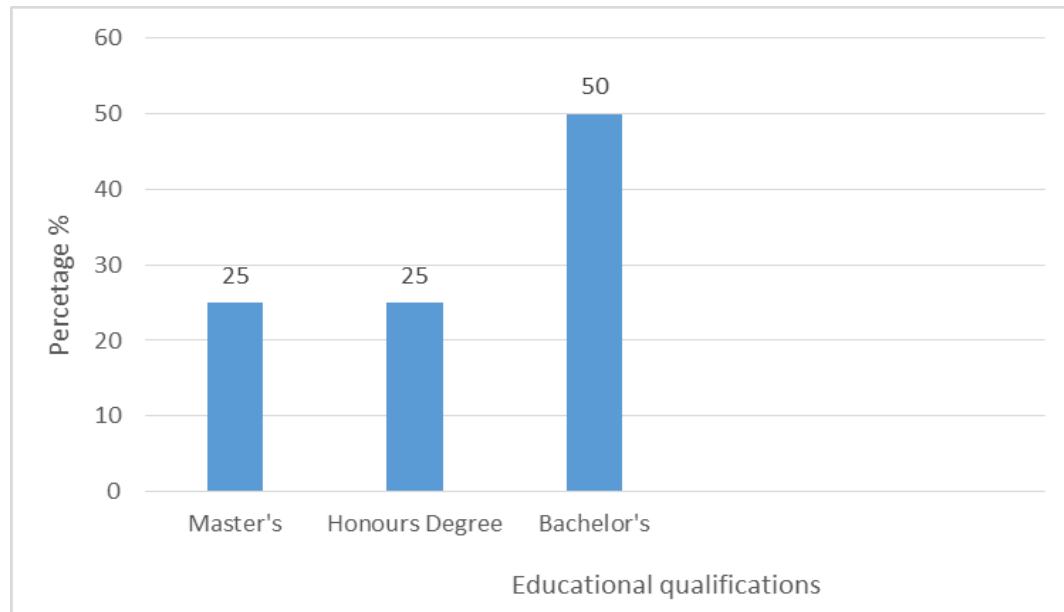


Figure 5.8: Educational qualifications of additional respondents

Twenty-five percent of the respondents said that they had a master's degree in the field of land management and administration. Another 25% of the respondents mentioned that they had an honours degree in land management and administration. Fifty percent of the respondents indicated that they had bachelor's degrees.

5.2.3.1 Challenges regarding the content of the Communal Land Reform Act

According to Cloete *et al.* (2018:206), the content of the policy itself should clarify the goal/objective of the policy. With respect to illegal fences, the CLR Act's goal/objective is *to prohibit the erection of new fences in communal areas without proper authorisation obtained in line with the CLR Act*. Under the content variable, the researcher focused on extracting data on the purpose and objective/goal of the CLR Act concerning illegal fences.

The two questions under Section B of the interview guide focused on the challenges regarding the content variable of the CLR Act.

The first question under the content variable asked whether the objective/goal of the CLR Act was clear with respect to illegal fencing in communal areas. Twenty-five percent of the

respondents were of the opinion that the goal of the CLR Act with respect to illegal fences in communal areas was very clear. The respondent explained, *“The goal is to prevent illegal fencing in communal and the CLR Act makes it clear that no fencing is allowed outside the law.”* Two respondents (representing 50% of the respondents) were of the opinion that the goal/objective of the CLR Act was not clear. One of the respondents stated, *“The goal is not clearly mentioned in the CLR Act.”* One respondent, representing 25%, was neutral about the clarity of the goal of the CLR Act. The respondent stated, *“In the Act itself, is it not mentioned clearly that this is the goal of the CLR Act in terms of fencing in communal areas.”*

The second question under the content variable asked whether there were clear roles and responsibilities with respect to combatting illegal fencing in the Tsumkwe-West Communal Area. Seventy-five percent of the respondents stated that the roles and responsibilities were very clear. One of the respondents stated, *“The Act gives mandate to the Communal Land Boards and Traditional, it also says what the CLBs and TAs should do regarding illegal fencing in communal areas.”* The other 25% of the respondents stated that the roles and responsibilities were clear, but at the same time, the respondent stated, *“I think some TA members do not know what to do when it comes to illegal fences.”*

5.2.3.2 Challenges regarding the context of the Communal Land Reform Act

Policy implementation takes place in political, economic and legal settings (Mokhaba, 2005:129). The context of a policy sets the limit in terms of what must be done or not done during the implementation stage. In the context of this research, context refers to the social, economic, political and legal context/realities in which the CLR Act implementation process takes place. Under the context variable, the researcher explored the social, legal and political aspects that influenced the implementation of the CLR Act in combatting illegal fences in the Tsumkwe-West Communal Area.

The one question under Section B of the interview guide focused on the challenges regarding the context of the CLR Act.

The question under the context variable asked whether social, economic, political or legal aspects were hindering the implementation of the CLR Act to combat illegal fencing in communal areas. Fifty percent of the respondents were of the opinion that there were political,

legal and social aspects influencing the implementation of the CLR Act to combat illegal fences. One of the respondents believed, *“There is no political will in combatting illegal fences.”* Another respondent stated, *“Offenders are mostly people of influence be it politically, legally or socially and their influence has bearing on the removal of illegal fences in communal areas.”* The other 50% of the respondents were of the opinion that the political, social and legal aspects of the environment in which the CLR Act was being implemented did not hinder the implementation of the act concerning illegal fences in the study area.

5.2.3.3 Challenges regarding the commitment of government officials and members of the Communal Land Board

Commitment entails the level of commitment of those entrusted with carrying out the implementation of a policy. According to Mokhaba (2005:129) and Mthethwa (2014:56), policy implementation success depends largely on the commitment of the implementers. In the context of this research, commitment refers to the commitment of responsible persons/organisations to implementing the CLR Act to combat illegal fences in the Tsumkwe-West Communal Area. Under the variable of commitment, the researcher solicited the respondents’ opinions to measure the level of commitment of the Otjozondjupa CLB to combatting illegal fences in the Tsumkwe-West Communal Area. The commitment of the CLB was determined by how often the board convened on illegal fences and by the attendance of the board members of meetings.

The two questions under Section B of the interview guide focused on the challenges regarding the commitment of the CLB to the CLR Act implementation.

The first question under the commitment variable asked how often the Otjozondjupa CLB convened on illegal fences in the area. Seventy-five percent of the respondent stated that the CLB convened every two months. One of the respondents stated, *“The CLB sits every after two months and if funds are available.”*

The second question under the commitment variable asked the respondents to rate the attendance of board members of board meetings.

The respondents rated the attendance of board members differently. Seventy-five percent of the respondents rated the attendance of board members as fair (some members attended meetings

regularly). The other 25% of the respondents rated the attendance of board members as good (all members attended meetings regularly).

5.2.3.4 Challenges regarding the capacity of Communal Land Boards and Traditional Authorities to implement the Communal Land Reform ACT

Mokhaba (2005:129) and Brynard (2005) point out that in the context of policy implementation, capacity refers to the availability of tangible resources such as personnel, skills, funding, materials, technology and logistics that are critical in the policy implementation process. Under the capacity variable, the researcher explored whether CLBs and TAs possessed the tangible, financial and human resources needed for successfully implementing the CLR Act to combat illegal fences.

The three questions under Section B of the interview guide focused on the challenges regarding the capacity of CLBs and TAs to implement the CLR Act.

The first question under the capacity variable asked whether CLBs and TAs had experienced challenges/shortages related to personnel, skills, funding, materials, technology and logistics. Hundred percent of the respondents stated that CLBs and TAs had experienced a lack of funds to carry out activities concerning the removal of illegal fences. One of the respondents explained, *“CLBs and TAs do not have a budget for illegal fences and only received an operational budget from the central government, mainly for meetings.”* Twenty-five percent of the respondents mentioned that CLBs and TAs had experienced challenges related to shortages of materials. Twenty-five percent of the respondents mentioned that CLBs and TAs had experienced challenges related to shortages in technology. Another 25% of the respondents stated that CLBs and TAs had experienced logistical challenges. One of the respondents pointed out, *“These communal land boards have no offices and no vehicles.”*

The second question under the capacity variable asked whether adequate human and financial resources were available to successfully implement the CLR Act to combat illegal fencing in communal areas. Fifty percent of the respondents believed that adequate human and financial resources were available to successfully implement the CLR Act. The other 50% of the respondents believed that adequate human and financial resources were not available to successfully implement the CLR Act.

When asked to rate the capacity of CLBs and TAs to implement the CLR Act, the respondents gave different ratings. Fifty percent of the respondents rated the capacity of the CLBs and TAs as fair (some resources are available). The other 50% of the respondents rated it as bad (no resources are available).

5.2.3.5 Challenges regarding clients and coalitions

Both internal and external clients and coalitions play a very important role in ensuring effective policy implementation. In the context of this research, clients and coalitions refer to the stakeholders involved in the CLR Act implementation process concerning combatting illegal fencing in communal areas. Under the clients and coalitions variable, the researcher explored whether key stakeholders such as community-based organisations, NGOs and residents were being involved in the implementation process of the CLR Act with respect to combatting illegal fencing in the Tsumkwe-West Communal Area.

The one question under Section B of the interview guide focused on the challenges regarding clients and Coalitions.

The question under the clients and coalitions variable asked whether community-based organisations, NGOs and residents were involved in the fight against illegal fencing in communal areas. Fifty percent of the respondents were of the opinion that community-based organisations, NGOs and residents were involved in the process of combatting illegal fencing in communal areas. One of the respondents pointed out, *“Local farmers and communal conservancies were directly involved.”* The other 50% of the respondents were of the opinion that community-based organisations, residents and NGOs were not involved in the fight against illegal fences in communal areas.

5.2.3.6 Challenges regarding communication

Information about a policy should be communicated to the policy stakeholders and to the wider public (Uusiku, 2019:36). Communication ensures that policy implementation is communicated to the implementers and other policy stakeholders within institutions and in society. For the purpose of this research, communication refers to communicating information about illegal fencing in communal areas formally and informally to stakeholders and the wider public. Under

the communication variable, the researcher explored whether and how CLBs disseminated information concerning illegal fences to the residents of the Tsumkwe-West Communal Area.

The three questions under Section B of the interview guide focused on the challenges regarding communication.

The first question under the communication variable asked whether there was a communication strategy to disseminate information on illegal fencing in communal areas. Hundred percent of the respondents stated that there was a communication strategy with respect to fences in communal areas. One of the respondents stated, *“There are flyers and brochures and radio sessions to always disseminate information.”* Another respondent stated, *“Information is disseminated through local radio and community meetings.”*

The second question under the communication variable asked whether awareness campaigns against illegal fences in communal areas were being conducted. Hundred percent of the respondents stated that awareness campaigns against illegal fences in communal areas were being conducted.

The last question under the communication variable asked whether there were any challenges related to communication with respect to illegal fences in communal areas. Seventy-five percent of the respondents stated that there were challenges related to communication. One of the respondents explained, *“Not all communities/village inhabitants have radios or listen to them every day due to not having money to buy batteries.”* Another respondent explained, *“Most people are residing in areas that are not accessible, and the people who have illegal fences are residing outside the areas/regions.”*

5.2.3.7 Challenges regarding coordination

Burger (2015:15) states that coordination involves working relationships between departments/agencies within a particular organisation and between numerous organisations. In the context of this research, coordination refers to the working relationship between the MAWLR, CLBs, TAs and other stakeholders involved in the CLR Act implementation process with respect to illegal fencing in the Tsumkwe-West Communal Area. Under the coordination

variable, the researcher explored challenges related to coordinating activities and to the working relationship between stakeholders in combatting illegal fencing in communal areas.

The two questions under Section B of the interview guide focused on the challenges regarding coordination.

The first question under the coordination variable asked whether there were challenges related to the coordination of activities with respect to combatting illegal fences. Seventy-five percent of the respondents were of the opinion that there were challenges in coordinating activities to combat illegal fencing in communal areas. One of the respondents elaborated, *“There is no availability of key officials when it comes to coordination efforts in combatting illegal fences.”* The other 25% of the respondents were not sure about challenges related to the coordination of activities with respect to combatting illegal fences.

The last question under the coordination variable asked the respondents to rate the working relationship between the MAWLR, TAs and CLBs in combatting illegal fences in communal areas. Hundred percent of the respondents rated the working relationship between the MAWLR, CLBs and TAs as fair, meaning that the MAWLR, CLBs and TAs somehow work together well. One of the respondent noted, *“Not all these organisations involve each other all the time.”*

5.2.3.8 Main challenges that affect the implementation of the Communal Land Reform Act to combat illegal fencing in communal areas

The first question under Section C of the interview guide asked the additional participants to give their opinions on what they considered to be the main challenges that affected the implementation of the CLR Act to combat illegal fencing of land in communal areas. Twenty-five percent of the respondents were of the opinion that the main challenge was the lack of awareness among residents in communal areas. The respondent explained, *“Some fencers do not know that the CLR Act prohibits fencing in communal areas and that approval is required from the relevant authority before erecting a fence on any portion of communal land.”* The respondent further said, *“Many people in communal lands do know how to deal with illegal fences on the commonage.”* Fifty percent of the respondents mentioned a lack of political will to combat illegal fencing in communal areas. Fifty percent of the respondents mentioned insufficient resources for the CLBs to deal with illegal fences. The respondents elaborated, *“CLBs and TAs*

depended on financial assistance to convene meetings and carry out activities and own no vehicle to carry out activities such as investigating illegal fences in the area” and “The Ministry sometimes has no sufficient funds to pay private companies to remove unlawful fences and the legal fees involved.” Hundred percent of the respondents mentioned the legal aspects involved in removing illegal fences. Twenty-five percent of the respondents were of the opinion that the bureaucratic processes/procedures through which the law had to be applied were the main challenge to implementing the CLR Act to combat the fencing of communal land. Conflict of interest was another challenge mentioned by 25% of the key respondents. *“Conflict of interest emanates from the perceived involvement of the local chief and village headmen in illegal fencing in the communal area”*, stated one of the respondents.

5.2.3.9. Proposals of the additional participants to ensure successful implementation of the Communal Land Reform Act to combat illegal fencing in the Tsumkwe-West Communal Area

The second question under Section C of the interview guide asked the four additional participants to provide opinions/recommendations on what they thought should be done to ensure the successful implementation of the CLR Act to combat illegal fencing in communal areas of Namibia. Fifty percent of the respondents proposed the involvement of NAMPOL to give prompt support to the CLB to combat illegal fencing in communal areas. One of the respondents said, *“The Police force, as a law enforcement agency, should be tasked with the clear responsibility of ensuring that all reported illegal fences are removed and offenders are brought to book”*. Twenty-five percent of the respondents proposed that CLBs and the MAWLR should intensify their awareness campaigns against illegal fences and educate residents of the area on what to do when new fences were erected on the commonage. Fifty percent of the respondents recommended that CLBs and TAs be allocated sufficient funds and other resources to combat illegal fences in communal areas. Twenty-five percent of the respondents proposed a simplified process for CLBs to be able to remove unlawful fences sooner to avoid the backlog of illegal fences pending removal.

5.2.4 Results from the questionnaire

This section focuses on the results from the self-administered questionnaire completed by seven respondents from the Otjozondjupa CLB.

Section A of the questionnaire gathered personal details of the respondents, and the results are shown in the figures below.

The first question under Section A of the questionnaire asked the respondents to indicate the number of years that they had served on the Otjozondjupa CLB. The results are shown in Figure 5.9 below.

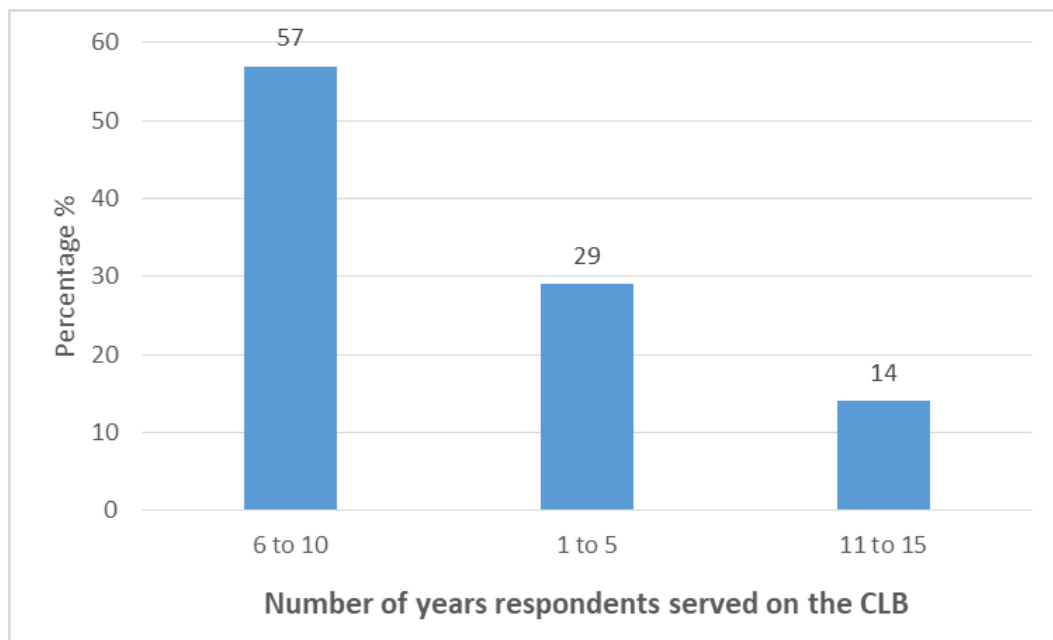


Figure 5.9: Number of years that respondents had served on the CLB

The majority of the respondents (57%) had served on the CLB for 6-10 years. Twenty-nine percent had served on the CLB for 1-5 years. The remaining 14% had served on the CLB for 15 years.

The second question under Section A of the questionnaire asked the respondents to indicate their gender. The results are shown in Figure 5.10 below.

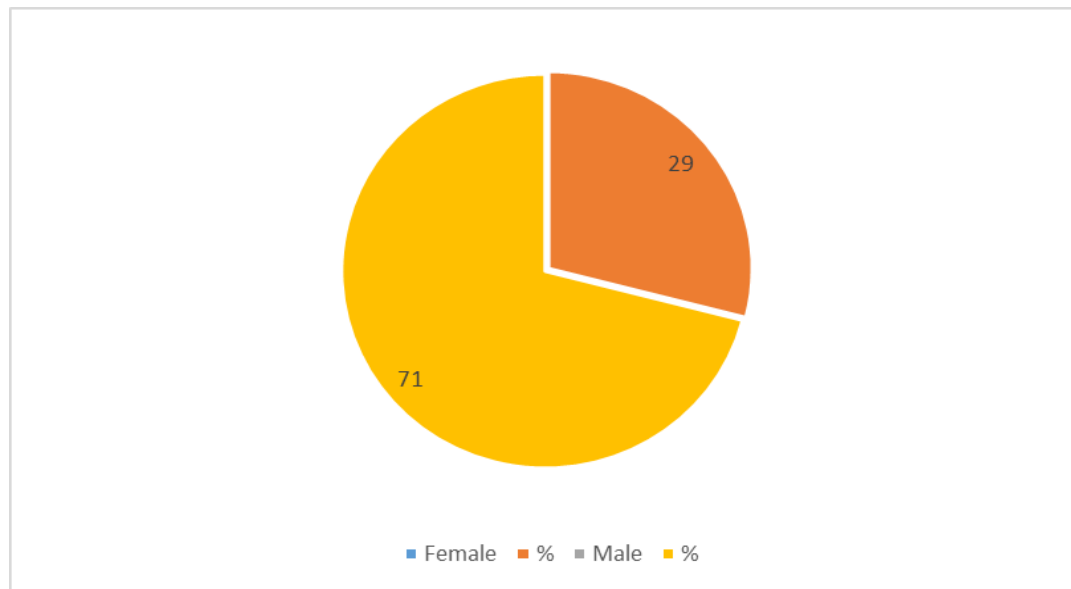


Figure 5.10: Gender distribution of CLB respondents

Seventy-one percent of the respondents were male, and 29% were female.

The third question under Section A of the questionnaire asked the respondents to indicate their age group/category. The results are shown in Figure 5.11 below.

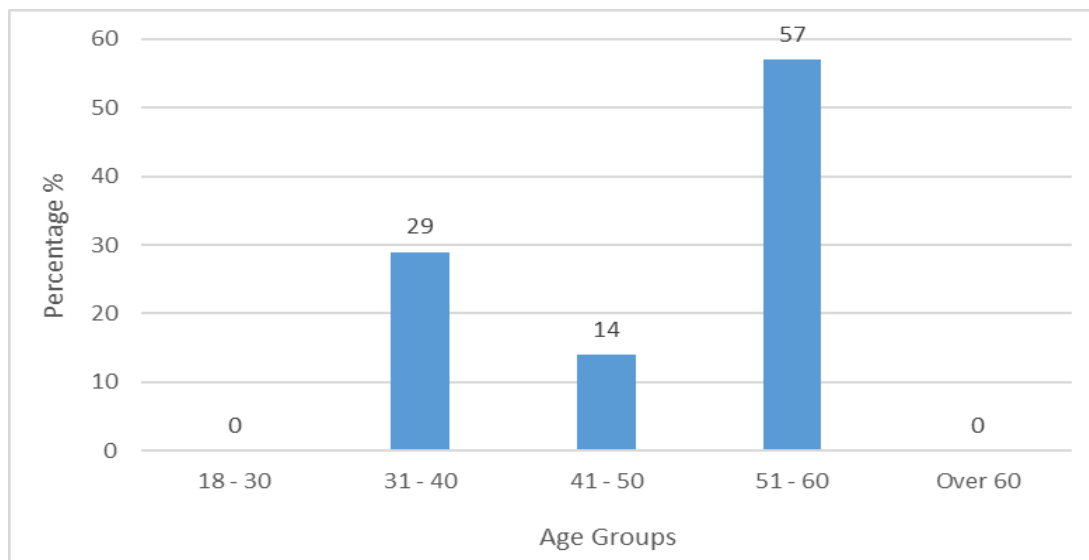


Figure 5.11: Age groups of CLB respondents

The majority of the respondents (57%) were between 51 and 60 years old. Twenty-nine percent of the respondents were between the ages of 31 and 40 years. One respondent (14%) was between the ages of 41 and 50 years.

The last question under Section A of the questionnaire asked the respondents to indicate their highest educational qualifications. The results are presented in Figure 5.12 below.

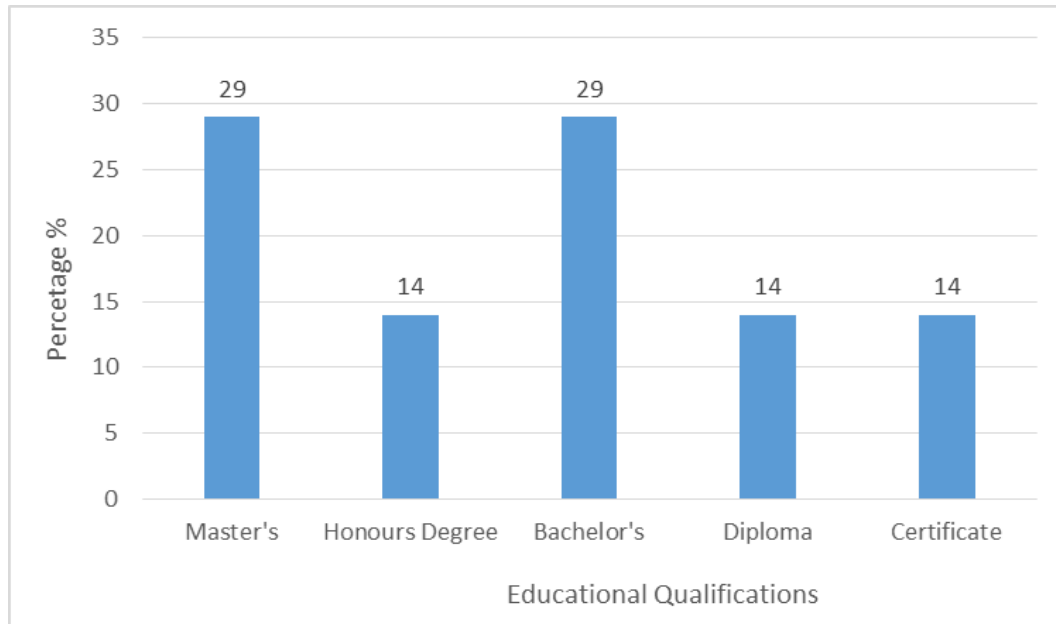


Figure 5.12: Educational qualifications of CLB respondents

A master's degree was the highest educational qualification for 29% of the respondents. Another 29% of the respondents had bachelor's degrees, 14% had an honours degree, 14% had diplomas and another 14% had certificates as their highest educational qualifications.

5.2.4.1 Challenges regarding the content of the Communal Land Reform Act

According to Cloete *et al.* (2018:206), the content of the policy itself should clarify the goal/objective of the policy. With respect to illegal fences, the CLR Act's goal/objective is *to prohibit the erection of new fences in communal areas without proper authorisation obtained in line with the CLR Act.*

The three questions under Section B of the questionnaire focused on the challenges regarding the content of the CLR Act.

The first question under the content variable asked the seven respondents from the Otjozondjupa CLB to indicate whether they were very familiar (the respondent is well acquainted with the content of the CLR Act), familiar (the respondent has knowledge of the content of the CLR Act) or unfamiliar (the respondent has no knowledge of the content of the CLR Act) with the content

of the CLR Act concerning illegal fences. Eighty-six percent of the respondents indicated that they were very familiar with the content of the CLR Act concerning illegal fences. The other 14% of the respondents indicated that they were familiar with the content of the CLR Act concerning illegal fences.

The second question under the content variable asked the respondents to indicate whether the goal/objective of the CLR Act was clear or unclear in terms of illegal fences in communal areas of Namibia. Eighty-six percent of the respondents indicated that the goal/objective of the CLR Act was clear. The other 14% of the respondents indicated that the goal/objective of the CLR Act was unclear. Hundred percent of the respondents indicated that the CLR Act provided clear guidance that CLBs and TAs should follow to remove or have illegal fences removed from communal areas.

The third question under the content variable asked the respondents to indicate whether the roles and responsibilities of the CLB in combatting illegal fences were clear or unclear. Eighty-six percent of the respondents indicated that the roles and responsibilities of the CLB in combatting illegal fencing in the communal area were clear, and 14% of the respondents indicated that the roles and responsibilities were unclear.

5.2.4.2 Challenges regarding the context of the Communal Land Reform Act

Policy implementation takes place in political, economic and legal settings (Mokhaba, 2005:129). The context of a policy sets the limit in terms of what must be done or not done during the implementation stage. In the context of this research, context refers to the social, economic, political and legal context/realities in which the CLR Act implementation process takes place. Under the context variable, the researcher explored the social, economic, political and legal aspects that influenced the implementation of the CLR Act in combatting illegal fences in the Tsumkwe-West Communal Area.

The one question under Section B of the questionnaire focused on the challenges regarding the context of the CLR Act.

The respondents were asked whether they were of the opinion that social, economic, political, or legal aspects were influencing the implementation of the CLR Act to combat illegal fences in the

Tsumkwe-West Communal Area. Hundred percent of the respondents were of the opinion that political, social and legal aspects were influencing the implementation of the CLR Act in combatting illegal fencing in the area. When the respondents were asked to clarify, one of the respondents stated, *“Some politicians are involved in illegal fencing.”* Another respondent mentioned, *“The issue of unrecognised TAs and some culture and traditions.”* Another respondent stated, *“Family disputes in some areas.”* Another respondent wrote, *“Cumbersome legal procedure and political-social influence.”*

5.2.4.3 Challenges regarding the commitment of the members of the Communal Land Board to implementation of the Communal Land Reform Act to combat illegal fencing

Commitment entails the level of commitment of those entrusted with carrying out the implementation of a policy. According to Mokhaba (2005:129) and Mthethwa (2014:56), policy implementation success depends largely on the commitment of the implementers. In the context of this research, commitment refers to the commitment of responsible persons/organisations to implementing the CLR Act to combat illegal fences in the Tsumkwe-West Communal Area. Under the commitment variable, the researcher explored the commitment of the members of the Otjozondjupa CLB to implementing the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area. The commitment of the CLB was determined by how often the board convened on illegal fencing in the area and by the attendance of board members of board meetings.

The two questions under Section B of the questionnaire focused on the challenges regarding the commitment of members of the CLB to the CLR Act implementation.

The first question under the commitment variable asked respondents to indicate how often the Otjozondjupa CLB convened on illegal fences in the area. Twenty-nine percent of the respondents indicated that the CLB convened quarterly on illegal fences. One of the respondents emphasised, *“The CLR Act allows for twice per quarter or when funds are available.”* Another 29% of the respondents indicated that the CLB convened every two months. Fourteen percent of the respondents indicated that the CLB convened biannually on illegal fences in the area. Another fourteen percent of the respondents indicated that the CLB convened depending on the availability of illegal fences. Yet another 14% of the respondents indicated that the CLB did not convene specifically for illegal fences.

The second question under the commitment variable asked the respondents to rate the attendance of board members of board meetings.

Eighty-six percent of the respondents rated the attendance of board members of board meetings as fair, meaning that some members attended meetings regularly. The other 14% rated the board members' attendance as bad, meaning poor attendance by members.

5.2.4.4 Challenges regarding the capacity of the members of the Communal Land Board to implement the Communal Land Reform Act

Mokhaba (2005:129) and Brynard (2005) point out that in the context of policy implementation, capacity refers to the availability of tangible resources such as personnel, skills, funding, materials, technology and logistics that are critical in the policy implementation process. Under the capacity variable, the researcher explored whether the CLB possessed the tangible, financial and human resources needed for successfully implementing the CLR Act to combat illegal fences.

The three questions under Section B of the questionnaire focused on the challenges regarding the capacity of the CLB to implement the CLR Act.

The first question under the capacity variable asked whether the Otjozondjupa CLB had experienced challenges/shortages related to personnel, skills, funding, materials, technology and logistics. All seven respondents (100%) indicated that the CLB had experienced a shortage of funds. Four of the respondents (57%) indicated that the CLB had experienced a shortage of personnel. Four of the respondents (57%) indicated that the CLB had experienced logistical challenges. Two of the respondents (29%) indicated that the CLB had faced technological challenges. Two of the respondents (29%) indicated challenges related to materials.

The second question under the capacity variable asked whether the CLB had adequate human and financial resources to successfully implement the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area. Hundred percent of the respondents were of the opinion that the CLB did not have adequate human and financial resources. One of the respondents emphasised, *"No vehicles for investigations."*

The last question under the capacity variable asked the respondents to rate the capacity of the Otjozondjupa CLB to implement the CLR Act to combat illegal fencing of communal land in the area. Eighty-six percent of the respondents rated the CLB's capacity as fair, meaning that the board only had some of the resources needed to combat illegal fences. Fourteen percent of the respondents rated the board's capacity as good, meaning that the board had all the resources needed to combat illegal fences.

5.2.4.5 Challenges regarding clients and coalitions

Both internal and external clients and coalitions play a very important role in ensuring effective policy implementation. In the context of this research, clients and coalitions refer to the stakeholders involved in the CLR Act implementation process concerning combatting illegal fencing in communal areas. Under the clients and coalitions variable, the researcher explored whether key stakeholders such as community-based organisations, NGOs and residents were being involved in the implementation of the CLR Act with respect to combatting illegal fencing in the Tsumkwe-West Communal Area.

The one question under Section B of the questionnaire focused on the challenges regarding clients and coalitions.

The question under the clients and coalitions variable asked whether the Otjozondjupa CLB involved community-based organisations, NGOs and residents in the CLR Act implementation process to combat illegal fencing in the Tsumkwe-West Communal Area. Seventy-one percent of the respondents indicated that the CLB involved other stakeholders, including community-based organisations, NGOs and residents in the implementation of the CLR Act to combat illegal fences. The other 29% of the respondents indicated that the CLB did not involve other stakeholders.

5.2.4.6 Challenges regarding communication

Information about a policy should be communicated to the policy stakeholders and to the wider public (Uusiku, 2019:36). Communication ensures that policy implementation is communicated to the implementers and other policy stakeholders within institutions and in society. For the purpose of this research, communication refers to communicating information about illegal

fencing in communal areas formally and informally to stakeholders and the wider public. Under the communication variable, the researcher explored whether and how the CLB disseminated information concerning illegal fences to the residents of the Tsumkwe-West Communal Area.

The three questions under Section B of the questionnaire focused on the challenges regarding communication.

The first question under the communication variable asked whether the CLB had a communication strategy for disseminating information concerning illegal fencing in the communal area. Fifty-seven percent of the respondents indicated that the CLB did not have a communication strategy for disseminating information concerning illegal fencing in the communal area. The other 43% of the respondents indicated that the CLB did have such a communication strategy. One of the respondents elaborated, *“We are disseminating information through media, radio, and newspaper.”* Another respondent indicated, *“Through media, pamphlets, meetings with communities, notice board.”* Another respondent elaborated, *“Support from MAWLR, awareness videos and community meetings.”*

The second question under the communication variable asked whether the CLB conducted awareness campaigns against illegal fencing in the Tsumkwe-West Communal Area. Seventy-one percent of the respondents indicated that the CLB did not conduct awareness campaigns. The other 29% of the respondents indicated that the CLB conducted awareness campaigns.

The last question under the communication variable asked whether the CLB had experienced any challenges related to communication with respect to illegal fences in the communal area. Seventy-one percent of the respondents indicated that the CLB had experienced challenges related to communication with respect to illegal fences. One respondent elaborated, *“Traditional Authorities not reporting illegal fences to the CLB when farmers put up illegal fences.”* Another respondent stated, *“No provision for airtime for telephone communication, poor network coverage, difficult to communicate with owners of the illegal fences.”* Another respondent elaborated, *“Lack of coordination between traditional authorities, communities, conservancies, regional political leaders and line ministries.”*

5.2.4.7 Challenges regarding coordination

Burger (2015:15) states that coordination involves working relationships between departments/agencies within a particular organisation and between numerous organisations. In the context of this research, coordination refers to the working relationship between the MAWLR, CLBs, TAs and other stakeholders involved in the CLR Act implementation process with respect to illegal fencing in the Tsumkwe-West Communal Area. Under the coordination variable, the researcher explored challenges related to coordinating activities and the working relationship between stakeholders in combatting illegal fencing in communal areas.

The two questions under Section B of the questionnaire focused on the challenges regarding coordination.

The first question under the coordination variable asked the respondents to indicate whether the Otjozondjupa CLB had experienced any challenges in coordination of activities with respect to illegal fences in the Tsumkwe-West Communal Area. Fifty-seven percent of the respondents indicated that the CLB had experienced challenges in coordinating activities to deal with illegal fencing in the area. One of the respondents elaborated, *“There is no coordination between conservancies and TA in Tsumkwe-West, hence prolonging the identification and removal of illegal fences.”* Another respondent elaborated, *“The community does not report the illegal fences for fear of intimidation.”* Another respondent elaborated, *“No regular meetings with stakeholders.”* Another respondent elaborated, *“TAs are not cooperating or working together with CLBs to identify and remove illegal fences.”*

The second question under the coordination variable asked the respondents to rate the working relationship between the CLB, the TA and the MAWLR in the implementation of the CLR Act to combat illegal fencing in the area. Fourteen percent of the respondents rated the working relationship between the CLB and other stakeholders in the CLR Act implementation process as good, 71% rated it as fair and 14% rated it as bad.

5.2.4.8 Main challenges that affect the implementation of the Communal Land Reform Act to combat illegal fencing in the Tsumkwe-West Communal Area as identified by the Communal Land Board members

The first question under Section C of the questionnaire asked the seven respondents to give their opinions of what they considered the main challenges that affected the implementation of the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area. Seventy-one percent of the respondents mentioned lengthy and cumbersome legal procedures in removing illegal fences as the main challenge. Twenty-nine percent of the respondents mentioned political aspects. A further 29% of the respondents mentioned a lack of awareness among farmers/rural residents regarding fencing in communal areas. Fourteen percent of the respondents mentioned a lack of understanding of the different roles of different parties involved in the implementation of the CLR Act as the main challenge to combatting illegal fencing in the Tsumkwe-West Communal area.

5.2.4.9 Proposals by Communal Land Board members to ensure successful implementation of the Communal Land Reform Act to combat illegal fencing in the Tsumkwe-West Communal Area

The second question under Section C of the questionnaire asked the seven respondents to provide some recommendations to help ensure the successful implementation of the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area. The proposals of the CLB participants are outlined below:

- a) Amend the CLR Act to provide for on-the-spot punitive measures such as fines.
- b) Relevant institutions should conduct continued awareness campaigns against illegal fencing in communal areas, including all stakeholders.
- c) The law should give more power to the TA to remove illegal fences in the area.
- d) Shorten the legal process of removing illegal fences in communal areas.
- e) Put more emphasis on coordination between the CLB, the TA, the MAWLR and other stakeholders.
- f) Make more resources available, including funding the TA and the CLB.
- g) Courts that do not deal with land matters should not entertain appeals or court challenges against decisions to remove illegal fences.
- h) The TA needs to take control and exercise its powers without listening to the N#ajagna Conservancy.

- i) The different roles need to be explained to all parties involved in the fight against illegal fencing in the area.
- j) The TA should combat the sale of communal land.

5.2.5 Findings of the observation

Whilst conducting fieldwork in the study area, the researcher observed the following phenomena/conditions in the study area:

5.2.5.1 Existing illegal fences (new and old)

The Tsumkwe-West Communal Area is one of the many communal areas in Namibia that has seen increasing incidents of illegal fencing over the past years. Some old and new illegal fences in the study area are shown in Photo 5.1 and Photo 5.2 below, respectively.

Photo 5.1: One of the old illegal fences in the study area



Photo 5.2: A newly erected illegal fence in the study area



When the researcher visited the study area during data collection, he observed many illegal fences dating back to 2011 and some erected recently. The researcher counted four newly erected enclosures in the study area. The enclosures are large, with some measuring up to 3 000 hectares. Many of the illegal fences are found deep in the forest, far away from human settlements, and are used as fenced livestock farming systems.

5.2.5.2 Land uses (livestock and crops)

The Tsumkwe-West Communal Area is a typical agrarian society whose livelihood is dependent on producing crops and livestock. Therefore, the major land uses observed in the study area were cropping fields and livestock grazing areas. Many illegal fences have been erected for the purposes of crops and livestock farming. Apart from crops and livestock farming, a large portion of the study area is used for wildlife conservation and hunting ventures. The N#ajaqgna

Conservancy covers 9 120 square kilometres of the study area and is home to wildlife resources such as elephants, leopards, elands and kudus, just to mention a few.

5.2.5.3 Human settlements

The study area has a population of about 4 400 people, with the majority of the inhabitants residing in big traditional villages such as Omatako, Aasvoëlne, Kanonvlei, Rooidgthgate and Magnetti Dune. Many families have erected traditional houses (huts), a few live in modern houses and others live in improvised houses made from local natural materials and scrap metals. The researcher observed that traditional houses (huts) and modern houses had been erected inside some illegal enclosures in the study area.

5.2.5.4 Existing communication and transportation infrastructure (roads and telecommunication facilities)

It is a well-known fact that the Tsumkwe-West Communal Area is lagging behind in terms of development. For example, it was observed that electricity was not readily available to the residents of the study area. It was also observed that roads in the area were insufficient and needed an overhaul. The road infrastructure is limited to a single stretch of long gravel road connecting some major settlements and traditional villages in the area, making many parties/areas within the study area inaccessible by road. Travelling to and from villages that are not on the main road is a real challenge for the residents of those villages. The researcher also observed a lack of public transport in the area, with people largely relying on government vehicles for travelling. Limited roads in the area had impacted the mobility of TA councillors, government officials and the CLB to visit all areas to conduct investigations and to discover illegal fences in those areas. Until recently (2019), the Tsumkwe-West had a very poor telecommunication network coverage as there was only one telecommunication tower for the entire area, which made telecommunication in the area very difficult and affected the operations of the TA, MAWLR and CLB in the area. During this field visit, the researcher observed that two new telecommunication towers had been erected in the area since 2020, providing mobile communication coverage for almost the entire Tsumkwe-West. That has, of course, improved the communication between stakeholders in coordinating efforts towards combatting illegal fences in the area.

5.3 Discussion of the research results

In this section, the data collected from the interviews and the questionnaire are turned into information that is significant to this study by analysing the data according to the theory. The data is analysed under each of the 7-C protocol variables that were utilised to obtain information from the fieldwork, and the research findings are presented in the exact same way.

5.3.1 Content of the Communal Land Reform Act

According to Cloete *et al.* (2018:206), the content of the policy itself should clarify the goal/objective of the policy. In the context of this research, Kashululu and Hebinck (2020:176-178) identified factors affecting the implementation of the CLR Act, including the roles of TAs not being clear, TAs not being aware of their powers and not all members of TAs understanding and being able to interpret customary rights to land and fencing. Matland (1995) adds that goal ambiguity leads to misunderstanding and usually results in implementation failure.

The researcher posed questions concerning the clarity of the content of the CLR Act, that is, the objective/goal of the CLR Act with regard to illegal fences; the implementation mandates, roles and responsibilities; and what the CLR Act prescribes in terms of procedures/guidelines for removing illegal fences. With respect to illegal fences, the CLR Act's goal/objective is *to prohibit the erection of new fences in communal areas without proper authorisation obtained in line with the CLR Act*. It is evident from the information extracted from the fieldwork that the goal of the CLR Act is clear for the implementers. The respondents noted that the goal of the CLR with respect to illegal fences was clear, and they described the goal as follows: The CLR Act seeks to ensure that no new fences are erected in communal areas without proper authorisation under the act. Similarly, it is evident from the information extracted from the fieldwork that the content of the CLR Act provides clear mandates, roles and responsibilities, and procedures/guidelines for removing illegal fences. The CLR Act gives mandate and power to CLBs and TAs to remove or cause the removal of illegal fences. The MAWLR has no legal mandate but acts only as secretariat to CLBs and as custodian of the CLR Act implementation. Although the different mandates and roles are clear, it came to light that there was potential confusion as to whether the CLB or the TA should act as the CLR Act gives exactly the same power and mandate to CLBs and TAs with respect to illegal fences.

Although some of the respondents from the !Kung TA could not clearly articulate what the goal/objective of the CLR Act with respect to illegal fences and their roles and responsibilities were, that could be attributed to the respondents' low level of education. Practically, TAs know what the goal of the CLR Act is and what is expected of them regarding illegal fences. This is evident from the respondents' long years of experience in communal land administration.

It can thus be concluded that the content of the CLR Act has little or no effect on the successful implementation of the act with respect to illegal fencing in the Tsumkwe-West Communal Area.

5.3.2 Context of the implementation of the Communal Land Reform Act

Policy implementation takes place in social, economic, political and legal settings (Mokhaba, 2005:129). The implementation of the CLR Act itself takes place in the social, economic, political and legal context/realities (Werner, 2011:24). According to Brynard (2005:659), policy implementation may be impacted, either negatively or positively, depending on the circumstances and the context in which the policy finds itself implemented.

The researcher posed questions to the respondents to identify political, legal or social aspects that affected the implementation of the CLR Act in combatting illegal fences in the Tsumkwe-West Communal Area. It is evident from the information extracted from the fieldwork that there are political, legal and social aspects that affect the CLR Act implementation. Regarding the political aspects, the respondents stated that some politicians were involved in illegal fencing, there were many political influences when it came to fighting illegal fences and there was a general lack of political will in the country to combat illegal fencing in communal areas. Regarding the legal aspects, the respondents stated that illegal fencers always appealed to courts against decisions to remove illegal fences, it could take up to five years to resolve the appeal in a court and the legal procedure for the removal of illegal fences was cumbersome. Regarding the social aspects, the respondents mentioned unrecognised TAs, family disputes, and the culture and traditions of the local people.

Legal aspects such as appeals against the decisions to remove illegal fences have negatively affected the successful implementation of the CLR Act as it always requires a long legal route to resolve a dispute in a court of law. For example, in the court case "Wapulile v Chairman

Ohangwena Communal Land Board”, the High Court of Namibia took two years to deliver the verdict ((265) GRN 340 (AD)). Werner (2011:23) has found that the lengthy procedures for removing illegal fences have hampered the success of the implementation of the CLR Act. It is clear from the respondents’ responses that the process of removing an illegal fence is lengthy, involving different stakeholders/organisations and steps, which has hampered the timely implementation of the CLR Act. Tebele (2016:12) questions whether the general public will comply with the policy once it is adopted and implemented. Appeals against decisions to remove illegal fences implies noncompliance with the CLR Act on the part of the general public, which hinders timely and successful implementation of the act.

Political influence is a big factor that has hampered successful implementation of the CLR Act. For example, CLR Act implementers are reluctant to remove illegal fences belonging to people with political influence for fear of victimisation. Moreover, where there is a lack of political will, decisions are hardly ever implemented.

Unrecognised TAs have negatively affected implementation of the CLR Act with respect to illegal fences. For example, Hinz (2008:81, cited in Werner, 2018:8) explains that it is difficult to enforce the law in communal areas that are under unrecognised TAs.

Culture and traditions define people’s way of life, so people coming from areas that are fenced off will always be inclined to continue fencing off communal areas. Disputes among household members may result in some members of the household moving away from the family land and fencing off communal land to have their own land.

5.3.3 Commitment to the implementation of the Communal Land Reform Act

According to Mokhaba (2005:129) and Mthethwa (2014:56), the commitment of those entrusted with policy implementation is an integral element of public policy implementation; hence, policy implementation success depends largely on the commitment of the implementers. Warwick (1982:135, cited in Cloete *et al.*, 2018:208) puts forward the notion that nothing will happen without commitment from those role players responsible for implementation.

It can be concluded from the information from the respondents that there is no strong commitment to the implementation of the CLR Act from the implementers at all levels. The lack of commitment from the implementers, especially at the village level, has hampered implementation of the act with respect to illegal fences. For example, the lack of commitment from TAs, who are the role players at the village level, means that illegal fencing in communal areas went undated or unnoticed as the respondents stated that the TA conducted investigation and monitoring of illegal fences in the area only once a year. At the national level, the MAWLR as a key role player in the CLR Act implementation and as custodian of the act does not prioritising activities related to illegal fences, which hinders timely implementation of the act with respect to illegal fencing. Equally, the lack of commitment from CLB members has hampered the implementation of the CLR Act with respect to illegal fences. Information from the fieldwork shows that there is poor attendance of CLB members of board meetings, which means that discussions and decisions regarding removal of illegal fences are either poorly done or do not happen at all.

5.3.4 Capacity to implement the Communal Land Reform Act

Mokhaba (2005:129) and Brynard (2005) point out that in the context of policy implementation, capacity refers to the availability of tangible resources such as personnel, skills, funding, materials, technology and logistics that are critical in the policy implementation process. In the context of this research, Werner (2011:31) found that the MAWLR, TAs and CLBs lacked the capacity, funding and personnel required to implement the CLR Act to remove illegal fences on communal land.

The availability of those resources needed to accomplish CLR Act implementation was scrutinised. It was clearly pointed out by the respondents that key role players in the CLR Act implementation at all levels lacked adequate resources to successfully implement the act to combat illegal fences in the Tsumkwe-West Communal Area. Inadequate funds, lack of skills and technology, lack of vehicles and shortage of personnel were the common resource constraints mentioned by the respondents. The lack of resources and the lack of technical know-how have been mentioned by many authors, such as Mazmanian and Sabatier (1989), as barriers to policy implementation.

The lack of adequate resources is hindering implementation of the CLR Act and hence the removal of illegal fences. For example, activities related to CLR Act implementation such as investigating and monitoring illegal fences cannot be carried out regularly due to the lack of vehicles. Equally, the lack of funds hinders execution of activities/procedures and steps towards combating illegal fencing.

Furthermore, it came to light from the respondents that human capacity for some key role players was compromised by a lack of training on the CLR Act. This leads to challenges in the content variable, hindering the successful implementation of the act with respect to illegal fences.

5.3.5 Clients and coalitions involved in the implementation of the Communal Land Reform Act

Clients (beneficiaries of a policy) are a key element of policy implementation success (Cloete *et al.*, 2018:211). Coalitions are formed by people such as government officials and policymakers who influence policy implementation. Brynard (2005) emphasises that policy implementation cannot be affected by state actors only; other actors such as interest groups, business and opinion leaders also influence policy implementation. It is evident from the respondents that there is a strong engagement of the CLR Act stakeholders in the implementation process with respect to illegal fences. It could also be concluded from the responses of the respondents that there is a very strong engagement among institutions tasked with the responsibility of implementing the CLR Act. Policy implementation scholars have come to the conclusion that both internal and external clients and coalitions play a very important role in ensuring effective policy implementation. Therefore, apart from the TA, CLB and MAWLR, the following stakeholders are involved in the CLR Act implementation process with respect to illegal fences: community-based organisations such as communal conservancies, NGOs such as the LAC, local farmers and local residents.

However, it is evident from the responses of the participants that there is a weak engagement of other critical government agencies, particularly NAMPOL, which has the mandate to enforce laws and arrest offenders. The exclusion of NAMPOL hampers enforcement of Section 44(1)(b) of the CLR Act as other stakeholders involved have no legal mandates and capacity to bring offenders to book.

5.3.6 Communication regarding the implementation of the Communal Land Reform Act

Information about a policy should be communicated to the policy stakeholders and to the wider public (Uusiku, 2019:36). Communication is a key factor in policy implementation. One could argue that if factors such as communication are missing, policy implementation is bound to be problematic. This, according to Molobela (2019:216), calls for a communication strategy and special channels of communication that may include community radio stations, newspapers and social networks.

From the responses of the participants, it is quite clear that there is a communication strategy in place and that information regarding the CLR Act is communicated to the stakeholders and wider public. For instance, respondents stated that the MAWLR, CLB and TA used print media, social media, radio, television, pamphlets and meetings to disseminate information on illegal fencing to the residents of the Tsumkwe-West Communal Area and the wider public. However, it came to light during the fieldwork that the communication strategy and the channels of communication used were not effective in certain geographical areas due to a lack of communication infrastructure, inaccessibility and low level of literacy, resulting in lack of communication. The lack of communication affects the content of the CLR Act because stakeholders such as local residents residing in remote areas that lack communication infrastructure and are inaccessible are not aware, for instance, that the CLR Act prohibits fencing without legal authorisation and do not know what to do when they discover new fences erected in their communities.

In the context of this research, awareness campaigns could be considered as critical for communicating the content of the CLR Act with respect to illegal fences. From the participants' responses, it is evident that awareness campaigns are conducted. However, it is also evident that awareness campaigns are not being conducted often enough to make a significant impact. As with lack of communication, infrequent awareness campaigns affect the content of the CLR Act.

5.3.7 Coordination of the implementation of the Communal Land Reform Act

Burger (2015:15) states that coordination involves working relationships between departments/agencies within a particular organisation and between numerous organisations. He

further stipulates that coordination plays a significant role in any successful policy implementation process.

It is evident from the responses of the participants that there is real vertical and horizontal coordination between CLR Act implementers at all levels. However, it is also evident that there is no real vertical coordination between CLR Act implementers and CLR Act clients. As Uusiku (2019:100) states, a challenge in one variable could lead to further challenges in the other variables. Vertical coordination between implementers and clients of the CLR Act is challenged by deficiencies in the communication variable, particularly in remote communal areas that are inaccessible and lack communication infrastructure.

The working relationship between stakeholders was scrutinised. From the responses of the participants, it became evident that there was a good working relation between the responsible institutions (MAWLR, CLBs and TAs). However, it came to light that there was a poor working relationship between some responsible institutions and community-based organisations at the village level, hindering communication and coordination of the CLR Act.

5.4 Conclusion

Chapter 5 presented an analysis and discussion of the results from the interviews, questionnaire and observation regarding the challenges to implementing the CLR Act to combat illegal fencing of communal land in the Tsumkwe-West Communal Area. Several challenges to implementing the CLR Act were identified from the fieldwork information, and the proposals by the study participants to help ensure the successful implementation of the CLR Act to combat illegal fencing were presented. The information from the fieldwork was obtained under the 7-C protocol for policy implementation, and the results were analysed and discussed in the same way under the variables of the 7-C protocol.

The next chapter will briefly summarise the study findings and present the researcher's recommendations, which will assist in improving the implementation process of the CLR Act in combatting illegal fencing in communal areas of Namibia.

CHAPTER 6: CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction

The focus of this chapter is on drawing inferences from the results of the investigation and putting forward practical recommendations that will assist in improving the implementation process of the CLR Act in combatting illegal fencing in communal areas of Namibia. The conclusions and recommendations will be based on the challenges identified by members of the Otjozondjupa CLB, key informants, senior councillors of the !Kung TA and officials from the MAWLR. The conclusions and recommendations will further be based on the analysis of relevant documents such as the CLR Act and other legislation on communal land governance in Namibia.

This study found that illegal fencing in communal areas of Namibia, and in the Tsumkwe-West Communal Area in particular, continued unabated, with a number of illegal fences still existing in communal areas. This could be attributed to CLR Act implementation failure as the institutions tasked with the responsibility for enforcing the act to remove illegal fences in communal areas were faced with numerous challenges that affected the timely and successful removal of illegal fences.

The main challenges for the successful implementation of the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area identified by this study are summarised below, in no particular order of their importance:

- There is a partial gap in the legislation. The CLR Act does not mandate or give power to the Namibian law enforcement agencies to enforce some provisions of the act.
- There is noninvolvement of clients and coalitions, particularly NAMPOL, in enforcing, for example, Section 44(1)(b) of the CLR Act.
- There is confusion surrounding the mandates and powers of CLBs and TAs with respect to removing illegal fences.
- The prescribed procedures to be followed by the CLBs and TAs to have illegal fences removed are lengthy, costly and cumbersome.

- Appeals by illegal fencers against decisions of the CLBs and TAs to remove illegal fences take very long to resolve in a court of law, which hinders the timely and successful implementation of the CLR Act.
- TAs and CLBs lack the personnel, skills, funding, materials, technology and logistics needed to implement the CLR Act.
- There are political, legal and social aspects that affect the implementation of the CLR Act concerning illegal fences.
- The lack of strong commitment from the implementers, especially at the village level, has hampered the implementation of the CLR Act with respect to illegal fences.
- The lack of training on the CLR Act for some key role players in the implementation of the act impacted human capacity to implement the act.
- The lack of communication and road infrastructure and the inaccessibility of some areas affect communication of the content of the CLR Act to clients and stakeholders in some geographical areas.
- Awareness campaigns against illegal fences are not being conducted often enough to make a significant impact. As with the lack of communication, infrequent awareness campaigns affect the content of the CLR Act.
- There is a poor working relationship between some responsible institutions and community-based organisations at the village level, which hinders communication and coordination of the CLR Act at the village level.

6.2 Recommendations

In view of the identified challenges to implementing the CLR Act, the researcher puts forward recommendations that may assist in improving the successful enforcement of the CLR Act in combatting illegal fencing in communal areas of Namibia. The information from the fieldwork was obtained under the 7-C protocol for policy implementation, and the following recommendations are presented in the same way under the variables of the 7-C protocol:

6.2.1 Recommendation 1 – Content: Amend the content of the Communal Land Reform Act

- The researcher recommends that the CLR Act should be amended to give mandate and power to NAMPOL to enforce Section 44(1)(b) of the CLR Act. NAMPOL has the mandate, power and capacity to arrest, fine and imprison offenders, which the chiefs and TAs and CLBs do not have.
- The CLR Act should clear up the confusion surrounding the mandates and powers of CLBs and TAs with respect to removing illegal fences.
- The prescribed procedures to be followed by the CLBs and TAs to have illegal fences removed are lengthy, costly and cumbersome. The researcher recommends that the prescribed procedures should be revisited and harmonised to reduce the time that it currently takes to remove an illegal fence.

6.2.2 Recommendation 2 – Context: Ensure political will to successfully implement the Communal Land Reform Act

- There is a perceived general lack of political will to combat illegal fencing of communal land in Namibia, which is connected to the politically sensitive environment in which the CLR Act is being implemented. Therefore, the researcher recommends that in an attempt to reassure the nation that there is a political will to combat illegal fencing, the Namibian Cabinet should give directives to NAMPOL to take a strong position against illegal fences without fear or favour. Further, the researcher recommends improved policy advocacy and dialogue with political leaders at regional and cabinet levels that will hopefully result in their political commitment to combat illegal fences in communal areas of Namibia.
- Appeals by illegal fencers against decisions of the CLBs and TAs to remove illegal fences take long to resolve in a court of law, which hinders the timely and successful implementation of the CLR Act. The researcher recommends that the central government should set up permanent regional land tribunals to hear appeals regularly at the regional level.

6.2.3 Recommendation 3 – Commitment: Monitor and evaluate the implementation of the Communal Land Reform Act

- The lack of strong commitment from the implementers, especially at the village level, has hampered the implementation of the CLR Act with respect to illegal fences. The

researcher recommends that the central government should encourage a strong commitment by the implementers by providing financial incentives and capacity-building programmes.

- The researcher recommends that the MAWLR should set up a task team to monitor, review and evaluate progress in the implementation of the CLR Act in combatting illegal fences. Monitoring should focus on the process, that is, on the inputs, activities and constraints, and come up with possible remedial actions or solutions. Evaluation should focus on the intended outputs to determine whether the implementation of the CLR Act has been effective in combatting illegal fencing. This can be achieved by developing effective monitoring and evaluation systems coupled with monitoring and evaluation capacity through training officials to conduct monitoring and evaluation.

6.2.4 Recommendation 4 – Capacity: Provide adequate resources to successfully implement the Communal Land Reform Act

- TAs and CLBs lack adequate personnel, skills, funding, materials, technology and logistics to implement the CLR Act. The researcher recommends that the central government should treat CLBs and TAs like other government agencies and provide them with adequate resources. For instance, CLBs and TAs should receive annual budgetary allocation through the MAWLR to enable them to implement their operational plans and execute activities relating to combatting illegal fencing in communal areas. In the face of the dwindling economy and the resultant budget cuts, the CLBs and TAs could be funded by requesting sponsorships and donations from private sector organisations and international donors such as the German Cooperation, German Development Bank and Gesellschaft für Internationale Zusammenarbeit.
- It is recommended that the central government should allocate official vehicles to all TAs that currently do not have official vehicles, such as the !Kung TA.
- The lack of training on the CLR Act for some key role players in the implementation of the act impacts the human capacity to implement the act. The researcher recommends that the MAWLR should come up with a comprehensive (covering all aspects of illegal fences) tailor-made training programme/course that will be presented to members of the CLBs, TAs and MAWLR every two years.

6.2.5 Recommendation 5 – Clients and coalitions: Ensure closer engagement with law enforcement agencies in the implementation of the Communal Land Reform Act

- The noninvolvement of NAMPOL in the enforcement of Section 44(1)(b) of the CLR Act hinders successful removal of illegal fences. The researcher recommends that Namibian law enforcement agencies should be fully involved in the fight against illegal fences at the village level.
- The researcher recommends the establishment of an Anti-illegal fencing Police Unit dedicated to enforcing Section 44 of the CLR Act, just like Namibia has an Anti-poaching Police Unit mandated to combat poaching in the country. The Anti-illegal fencing Police Unit should be empowered by relevant legislation and backed by court systems to enforce Section 44 of the CLR Act. The unit should work closely with residents and TAs to be able to respond quickly to any report of a new fence illegally erected on communal land.

6.2.6 Recommendation 6 – Communication: Intensify campaigns against illegal fencing in communal areas

- Awareness campaigns against illegal fences are not being conducted often enough to make a significant impact. As with lack of communication, infrequent awareness campaigns affect the content of the CLR Act. Therefore, the researcher recommends continued awareness campaigns against illegal fences at the village level by the MAWLR, CLBs and TAs. Community meetings, school meetings and church meetings are some of the most effective faces-to-face campaign and communication platforms that could be used in this regard. Moreover, media such as radio (in local languages) should be used to spread the message against illegal fencing to people in communal areas. The campaigns should be education oriented and should focus on educating residents of communal areas about the negative effects that illegal fences might have on their land-based livelihoods and what actions residents should take against illegal fencing in their villages.
- The lack of communication and road infrastructure and the inaccessibility of some areas affect communication of the content of the CLR Act to clients and stakeholders in some geographical areas. The researcher recommends that information on the CLR Act should

be provided to residents in those geographical areas on a face-to-face basis by mobile teams that should make use of the local mode of transportation where possible.

6.2.7 Recommendation 7 – Coordination: Improve coordination between the stakeholders

- There is a poor working relationship between some responsible institutions and community-based organisations at the village level, which hinders communication and coordination of the CLR Act at the village level. The researcher recommends that the stakeholders at all levels should be committed to working together. This can be achieved through organising stakeholder workshops/conferences on illegal fences in communal areas, during which participants should identify critical areas of collaboration and come up with a clear plan of action for implementation.

6.3 Potential areas for future research on illegal fencing in communal areas

Given the findings of this research, the researcher sees potential areas for future research concerning this study topic, namely monitoring and evaluation to effectively track and report on the progress of the achievements of the CLR Act since 2003 in terms of combatting illegal fencing in communal areas of Namibia. Another potential area for future research is to look at what effects fencing has had to understand the economic benefits of fencing in communal areas and the effect that fencing has had on the land-based livelihood of the people living in communal areas in Namibia.

6.4 Conclusion

The results from both the empirical and literature studies revealed a myriad of policy implementation challenges and causes for policy implementation failures. In particular, from the fieldwork results (interviews, questionnaire and observation), it came to light that the responsible institutions, that is, the MAWLR, CLBs and TAs, faced numerous challenges in the implementation of the CLR Act to combat illegal fencing in communal areas. The challenges in the CLR Act implementation are related to the variables of the 7-C protocol for policy implementation discussed by policy implementation scholars. Those variables are the *content* of the CLR Act, the *context* in which the act is being implemented, *commitment* to implementation of the act, *capacity* needed to implement the act, *clients* and *coalitions* involved in

implementation of the act, *communication* of the content of the act and *coordination* of the stakeholders involved in implementation of the act.

This study implemented the 7-C protocol for policy implementation as presented by Cloete et al (2018) without modifications. Hence, the study aims to fill the knowledge gap by using Cloete et al's 2018 work on the 7-C protocol for policy implementation to extensively explain how the 7-C protocol is an effective instrument for assessing the implementation of policies. In particular, this study provides a sufficient understanding of how to apply conceptual frameworks (the 7-C protocol) to the empirical situation (the challenges to implementing the CLR Act to combat illegal fences in communal areas of Namibia).

Given the findings of this research, the researcher presents seven practical recommendations based on the variables of the 7-C protocol for consideration by the MAWLR, CLBs and TAs, which are expected to assist in improving successful implementation of the CLR Act in combatting illegal fencing in communal areas of Namibia. Under each recommendation, more detailed steps for implementation are offered.

The researcher believes that this research achieved all its objectives as set out in Chapter 1, as follows:

Research Objective 1: To analyse the literature on conditions and limitations to the implementation of policies and laws. The researcher achieved this objective by studying literature on public policymaking and implementation, which provided insight into the policymaking and implementation process and revealed various policy implementation challenges/failures identified by implementation scholars. The researcher also analysed the CLR Act and other relevant documents and past studies on fencing in communal land of Namibia, which helped to identify factors that affected the successful implementation of the CLR Act in combatting illegal fencing in communal areas of Namibia. The 7-C protocol for policy implementation discussed by various scholars was considered and used as a tool to explore the challenges that affected the implementation of the CLR Act to combat illegal fencing in communal areas in Namibia.

Research Objective 2: To analyse the background policies to illegal fencing, the prescriptions of the CLR Act, and relevant operational and implementation documents. The researcher specifically looked at what CLR Act prescriptions (Section 44), prohibitions (Section 18) and procedures (Section 44) the chiefs, TAs and CLBs should consider in removing illegal fences from communal areas. Some gaps in the CLR Act were identified in the area of enforcement and the prescribed procedures to be followed to have illegal fences removed. The analysis of other communal land governance legislation/policies, such as the Namibian Constitution, the 1998 National Land Policy and the Traditional Authorities Act No. 25 of 2000, provided a background to fencing in communal areas of Namibia.

Research Objective 3: To assess whether there were clear implementation mandates and procedures and to identify possible gaps in the legislation. The researcher found that there were no clear implementation mandates between the CLBs and TAs. Section 44(1)(3) of the CLR Act gives the same power to three different institutions, namely the chiefs, TAs and CLBs, to remove or cause the removal of unauthorised fences on communal land. The CLR Act does not give power to the MAWLR to remove illegal fences in communal areas; the MAWLR acts only as a secretariat to the CLBs. Further, Section 44(2) clearly prescribes the procedures that the chiefs, CLBs or TAs should follow to have illegal fences removed from communal land. The researcher identified a gap in the legislation in that the CLR Act does not give power to NAMPOL to enforce Section 44(b) of the act. Moreover, the prescribed procedures to remove illegal fences are highly subject to appeals by offenders, which prolong the removal of unlawful fences from communal land.

Research Objective 4: To determine constraints that impeded the CLR Act implementation in practice through interviews conducted with senior councillors of the !Kung TA, officials from the MAWLR and additional respondents (key informants), and a questionnaire completed by members of the Otjozondjupa CLB. Empirical data obtained from the respondents speak volumes about the numerous challenges to implementing the CLR Act in combatting illegal fencing in the Tsumkwe-West Communal Area in particular and in communal areas of Namibia in general. The challenges to implementing the CLR Act were identified using the 7-C protocol for policy implementation as a guiding tool.

Research Objective 5: To offer recommendations for changes to the CLR Act and/or other recommendations to improve the successful enforcement of the act. The researcher presents seven practical recommendations based on the variables of the 7-C protocol, which are expected to assist in improving successful implementation of the CLR Act in combatting illegal fencing in communal areas of Namibia.

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ANNEXURE A: Interview guide for interviews with officials from the Ministry of Agriculture, Water and Land Reform



STELLENBOSCH UNIVERSITY CONSENT TO PARTICIPATE IN RESEARCH

Introduction: Research interview consent form

Dear Sir/Madam

You are invited to take part in a research project. Please take some time to read the information below which will explain the details of this research project.

My name is Salom Shomeya, a master's student at the School of Public Leadership of the Stellenbosch University. The topic for my thesis research is: 'An Exploratory study on the challenges to implementing the Communal Land Reform Act to combat illegal fencing of land in communal areas in Namibia: - A Case Study from the Tsumkwe-West Communal Area' The agenda of this research is solely to evaluate the challenges your organization faces in the implementation of the Communal Land Reform Act, 2002 (No.5 of 2002) (CLR Act) to combat illegal fencing in the Tsumkwe-West Communal Area. The findings of the study will assist the government of Namibia in identifying areas of policy implementation that need improvement. In particular, the findings of this study will help the Otjozondjupa Communal Land Board identify challenges to implementing the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area. Residents of communal areas and future researchers will benefit from this research.

You are invited to take part in this study because you are directly responsible for enforcing the CLR Act, and you have been involved in activities related to illegal fences in the Tsumkwe-West Communal Area. If you agree to take part in this study, you will be asked to provide your demography information and describe the challenges your organization faced in implementing the CLR Act to combat illegal fencing in the area. Your participation in this research does not involve any risk or costs on your part. Any information you share with me during this study that could identify you as a participant will be protected. Any information you provide will only be used for this academic research and will not be shared with the media and other parties not involved in this study. Anonymity will highly be ensured in the final research thesis.

By signing this form, you are providing your consent to freely participate in the study. This research is done in partial fulfilment of the requirements for the degree of Master in Public and Development Management. This research is purely for academic purposes; hence all participants and responses will be treated as confidential and individual anonymity will be protected.

If you have any questions or concerns about this study, please feel free to contact the researcher, Salom Shomeya, at xxxxxxxxxxx or xxxxxxxxxxx or Cell: xxxxxxxxxxx, and/or the study supervisor Werner Burger at xxxxxxxxxxx. Moreover, if you have questions, concerns, or a complaint regarding your rights as a research participant in this research project, please contact Mrs Clarissa Robertson at cgraham@sun.ac.za; (+27) 021 808 9183 at the Division for Research Development.

As the participant, I declare that:

- I have read this information and consent form, or it was read to me, and it is written in a language in which I am fluent and with which I am comfortable.
- I have had a chance to ask questions and I am satisfied that all my questions have been answered
- I understand that taking part in this study is voluntary, and I have not been pressurized to take part.
- I may choose to leave the study at any time and nothing bad will come of it – I will not be penalised or prejudiced in any way.
- I agree that the interview with me can be [video-recorded / audio-recorded].

Kindly sign below if you agree to participate in the study. Please note that taking part in this research is voluntary and you can withdraw from it any time should you wish to do so.

I, _____ agree to participant in this study, as conducted by Salom Shomeya.

Signature of Participant

Date

INTERVIEW GUIDE

Interview Guide for officials of the Otjozondjupa Regional Office of the Ministry of Agriculture, Water and Land Reform

Interview Number

SECTION A: DEMOGRAPHIC INFORMATION

Respondent Name (Optional).....

1. How long have you been involved in Communal land administration?

.....

2. Respondent's gender?

.....

3. Respondent's age?

.....

4. What is your highest educational qualification?

.....

SECTION B: EXPERIENCED CHALLENGES TO IMPLEMENTING THE CLR ACT

"Content"

5. Is the objective/goal of the CLA Act clear in terms of illegal fences in communal areas?

.....

.....

6. Does the CLR Act provide clear guidance to deal with illegal fences in communal areas?

.....

.....

7. Is there clear implementation roles, responsibilities and mandates for implementing the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area?

.....

.....

"Context"

8. Are social, economic, political or legal factors influencing the implementation of the CLR Act with respect to combatting illegal fencing in the Tsumkwe-west?

.....

.....

9. Does the MAWLR has the legal mandate or not to remove illegal fences in communal areas?

.....

.....

"Commitments"

10. How frequently the MAWLR investigates illegal fences in the Tsumkwe-West Communal Area?

.....

11. What is the current level of commitment within the MAWLR in dealing with the problem of illegal fencing in the area?

.....

“Capacity”

12. Did the MAWLR’s Otjozondjupa Regional Office experience challenges/shortages related to personnel, skills, funding, materials, technology and logistics.

Other (please clarify).....

13. Did you receive any training on the CLR Act with respect to illegal fences?

.....

“Clients and Coalition”

14. Are community-based organisations, NGOs and residents of the Tsumkwe-West Communal Area been involved in the fight against illegal fencing?

.....

“Communication”

15. Does the MAWLR has a communication strategy for disseminating information about the content of the CLR Act and illegal fences in the Tsumkwe-West Communal Area?

.....

16. Does the MAWLR had conduct awareness campaigns against illegal fencing in the Tsumkwe-West Communal Area?

.....

17. Did the MAWLR’s Otjozondjupa Regional Office experience any challenges related to communication concerning illegal fencing in the area?

.....

“Coordination”

18. Did you experience challenges in coordinating activities for the removal of illegal fences in the Tsumkwe-West Communal Area?

.....
.....

SECTION C: CONCLUSION QUESTIONS

19. In your opinion, what are the main challenges that affected the implementation of the CLR Act to combat illegal fencing of land in communal areas?

.....
.....

20. What do you think should be done to ensure the successful implementation of the CLR Act to combat illegal fencing?

.....
.....

THANK YOU VERY MUCH FOR YOUR TIME!!

ANNEXURE B: Interview guide for interviews with Senior Councillors of the !Kung Traditional Authority.



**STELLENBOSCH UNIVERSITY
CONSENT TO PARTICIPATE IN RESEARCH**

Introduction: Research interview consent form

Dear Sir/Madam

You are invited to take part in a research project. Please take some time to read the information below which will explain the details of this research project.

My name is Salom Shomeya, a master's student at the School of Public Leadership of the Stellenbosch University. The topic for my thesis research is: 'An Exploratory study on the challenges to implementing the Communal Land Reform Act to combat illegal fencing of land in communal areas in Namibia: - A Case Study from the Tsumkwe-West Communal Area' The agenda of this research is solely to evaluate the challenges your organization faces in the implementation of the Communal Land Reform Act, 2002 (No.5 of 2002) (CLR Act) to combat illegal fencing in the Tsumkwe-West Communal Area. The findings of the study will assist the government of Namibia in identifying areas of policy implementation that need improvement. In particular, the findings of this study will help the Otjozondjupa Communal Land Board identify challenges to implementing the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area. Residents of communal areas and future researchers will benefit from this research.

You are invited to take part in this study because you are directly responsible for enforcing the CLR Act, and you have been involved in activities related to illegal fences in the Tsumkwe-West Communal Area. If you agree to take part in this study, you will be asked to provide your demography information and describe the challenges your organization faced in implementing the CLR Act to combat illegal fencing in the area. Your participation in this research does not involve any risk or costs on your part. Any information you share with me during this study that could identify you as a participant will be protected. Any information you provide will only be used for this academic research and will not be shared with the media and other parties not involved in this study. Anonymity will highly be ensured in the final research thesis.

By signing this form, you are providing your consent to freely participate in the study. This research is done in partial fulfilment of the requirements for the degree of Master in Public and Development Management. This research is purely for academic purposes; hence all participants and responses will be treated as confidential and individual anonymity will be protected. If you have any questions or concerns about this study, please feel free to contact the researcher, Salom Shomeya, at xxxxxxxxxx or xxxxxxxxxx or Cell: xxxxxxxxxx, and/or the study supervisor Werner Burger at wernerb@spl.sun.ac.za. Moreover, if you have questions, concerns, or a complaint regarding your rights as a research participant in this research project, please contact Mrs Clarissa Robertson at cgraham@sun.ac.za; (+27) 021 808 9183 at the Division for Research Development.

As the participant, I declare that:

- I have read this information and consent form, or it was read to me, and it is written in a language in which I am fluent and with which I am comfortable.
- I have had a chance to ask questions and I am satisfied that all my questions have been answered
- I understand that taking part in this study is voluntary, and I have not been pressurized to take part.
- I may choose to leave the study at any time and nothing bad will come of it – I will not be penalised or prejudiced in any way.
- I agree that the interview with me can be [video-recorded / audio-recorded].

Kindly sign below if you agree to participate in the study. Please note that taking part in this research is voluntary and you can withdraw from it any time should you wish to do so.

I, _____ agree to participant in this study, as conducted by Salom Shomeya.

Signature of Participant

Date

**INTERVIEW GUIDE FOR INTERVIEWS WITH SENIOR COUNCILLORS OF THE
!KUNG TRADITIONAL AUTHORITY**

SECTION A: PERSONAL DETAILS

Respondent Name (Optional).....

1. How long have you served as senior TA councillor?

.....

2. Respondent's gender?

.....

3. Respondent's age?

.....

4. What is your highest educational qualification?

.....

SECTION B: EXPERIENCED CHALLENGES TO IMPLEMENTING THE CLR ACT

Content:

5. What is the goal of the CLR Act concerning illegal fences in communal areas?

.....
.....

6. Does the CLR Act provided clear guidelines for dealing with illegal fences in communal areas?

.....
.....

7. Are roles and responsibilities clear concerning combatting illegal fences in the area?

-
-
8. What powers the CLR Act gives to the TA concerning illegal fences in the area?

.....

.....

Context:

9. Are there social, economic, political or legal factors influencing the implementation of the CLR Act with respect to combatting illegal fencing in the study area.

Commitment:

10. How often do you conduct investigation and monitoring exercises to identify illegal fences in the area?

-
-
11. What is the current level of commitment among the TA councillors to implementing the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area?

.....

.....

Capacity:

12. Did the TA experience challenges due to shortages of resources such as personnel, skills, funding, materials, technology and logistics?

-
13. *If yes*, Please elaborate how the shortage of resources affected the TA's efforts toward combatting illegal fences?

-
-
14. How many senior councillors of the TA are directly involved in combatting illegal fences?

-
-
15. Have you received any training on the CLR Act with respect to illegal fences?

.....

Clients and Coalition:

16. Does the !Kung TA involved other stakeholders in combatting unlawful fencing.?

.....

17. Does the !Kung TA seek suggestions and opinions from other stakeholders in dealing with illegal fences in the Tsumkwe-West Communal Area?

.....

Communication:

18. What form of communication channels/platforms the !Kung TA use to disseminate information about illegal fences in the area?

.....

19. How often the TA provided information on illegal fences to the residents of the Tsumkwe-West Communal Area?

.....

20. Are there any communication platforms for the residents to report instances of illegal fencing?

.....

Coordination:

21. How often the !Kung TA meet with other key stakeholders, namely the MAWLR and the CLB, concerning illegal fences in the area?

.....

22. How activities/efforts have been coordinated between stakeholders?

.....

23. Describe the working relationship between the TA and other organisations involved in the CLR Act implementation process?

.....

SECTION C: CONCLUSION QUESTIONS

24. In your opinion, what do you consider the main challenges in implementing the CLR Act to combat illegal fencing of land in communal areas?

.....
.....

25. In your opinion, what do you think should be done to ensure the successful implementation of the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area?

.....
.....

THANK YOU VERY MUCH FOR YOUR TIME!!

ANNEXURE C: Interview guide for interviews with additional participants (Key Informants)



STELLENBOSCH UNIVERSITY CONSENT TO PARTICIPATE IN RESEARCH

Introduction: Research interview consent form

Dear Sir/Madam

You are invited to take part in a research project. Please take some time to read the information below which will explain the details of this research project.

My name is Salom Shomeya, a master's student at the School of Public Leadership of the Stellenbosch University. The topic for my thesis research is: 'An Exploratory study on the challenges to implementing the Communal Land Reform Act to combat illegal fencing of land in communal areas in Namibia: - A Case Study from the Tsumkwe-West Communal Area' The agenda of this research is solely to evaluate the challenges your organization faces in the implementation of the Communal Land Reform Act, 2002 (No.5 of 2002) (CLR Act) to combat illegal fencing in the Tsumkwe-West Communal Area. The findings of the study will assist the government of Namibia in identifying areas of policy implementation that need improvement. In

particular, the findings of this study will help the Otjozondjupa Communal Land Board identify challenges to implementing the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area. Residents of communal areas and future researchers will benefit from this research.

You are invited to take part in this study because you are directly responsible for enforcing the CLR Act, and you have been involved in activities related to illegal fences in the Tsumkwe-West Communal Area. If you agree to take part in this study, you will be asked to provide your demography information and describe the challenges your organization faced in implementing the CLR Act to combat illegal fencing in the area. Your participation in this research does not involve any risk or costs on your part. Any information you share with me during this study that could identify you as a participant will be protected. Any information you provide will only be used for this academic research and will not be shared with the media and other parties not involved in this study. Anonymity will highly be ensured in the final research thesis.

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If you have any questions or concerns about this study, please feel free to contact the researcher, Salom Shomeya, at xxxxxxxxxxxx or xxxxxxxxxxxx or Cell: xxxxxxxxxxxx, and/or the study supervisor Werner Burger at wernerb@spl.sun.ac.za. Moreover, if you have questions, concerns, or a complaint regarding your rights as a research participant in this research project, please contact Mrs Clarissa Robertson at cgraham@sun.ac.za; (+27) 021 808 9183 at the Division for Research Development.

As the participant, I declare that:

- I have read this information and consent form, or it was read to me, and it is written in a language in which I am fluent and with which I am comfortable.
- I have had a chance to ask questions and I am satisfied that all my questions have been answered
- I understand that taking part in this study is voluntary, and I have not been pressurized to take part.
- I may choose to leave the study at any time and nothing bad will come of it – I will not be penalised or prejudiced in any way.
- I agree that the interview with me can be [video-recorded / audio-recorded].

Kindly sign below if you agree to participate in the study. Please note that taking part in this research is voluntary and you can withdraw from it any time should you wish to do so.

I, _____ agree to participant in this study, as conducted by Salom Shomeya.

Signature of Participant

Date

INTERVIEW GUIDE

Interview Guide for Additional respondents (key Informants)

Interview Number

SECTION A: PERSONAL DETAILS

Respondent Name (Optional).....

1. Interviewee's gender

.....

2. Interviewee's age group?

.....

3. What is your highest educational qualification?

.....

SECTION B: EXPERIENCED CHALLENGES TO IMPLEMENTING THE CLR ACT

“Content”

4. Is the objective/goal of the CLR Act clear with respect to illegal fencing in communal areas?

.....

5. Are there clear roles and responsibilities with respect to combatting illegal fencing in the Tsumkwe-West Communal Area?

.....

.....

“Context”

6. Are social, economic, political or legal aspects were hindering the implementation of the CLR Act to combat illegal fencing in communal areas?

.....

.....

“Commitment”

7. How often the Otjozondjupa CLB convened on illegal fences in the area?

.....

8. Please rate the attendance of board members of board meetings?

.....

“Capacity”

9. Did CLBs and TAs experience challenges/shortages related to personnel, skills, funding, materials, technology and logistics?

.....

10. Are adequate human and financial resources available to successfully implement the CLR Act to combat illegal fencing in communal areas?

.....

11. Please rate the capacity of CLBs and TAs to implement the CLR Act?

.....

“Clients and Coalition”

12. Are community-based organisations, NGOs and residents involved in the fight against illegal fencing in communal areas?

.....

“Communication”

13. Is there a communication strategy to disseminate information on illegal fencing in communal areas?

.....

14. Are awareness campaigns against illegal fences in communal areas conducted?

.....

15. Are there any challenges related to communication with respect to illegal fences in communal areas?

.....

“Coordination”

16. Are there challenges related to the coordination of activities with respect to combatting illegal fences?

17. Please rate the working relationship between the MAWLR, TAs and CLBs in combatting illegal fences in communal areas?

SECTION C: CONCLUSION QUESTIONS

18. In your opinion, what do you consider to be the main challenges that affect the implementation of the CLR Act to combat illegal fencing of land in communal areas?

19. In your opinion, what do you think should be done to ensure the successful implementation of the CLR Act to combat illegal fencing in communal areas of Namibia?

THANK YOU VERY MUCH FOR YOUR TIME!!

ANNEXURE D: Questionnaire for the members of the Otjozondjupa

Communal Land Board.



**STELLENBOSCH UNIVERSITY
 CONSENT TO PARTICIPATE IN RESEARCH**

Introduction: Research interview consent form

Dear Sir/Madam

You are invited to take part in a research project. Please take some time to read the information below which will explain the details of this research project.

My name is Salom Shomeya, a master's student at the School of Public Leadership of the Stellenbosch University. The topic for my thesis research is: 'An Exploratory study on the challenges to implementing the Communal Land Reform Act to combat illegal fencing of land in communal areas in Namibia: - A Case Study from the Tsumkwe-West Communal Area' The agenda of this research is solely to evaluate the challenges your organization faces in the implementation of the Communal Land Reform Act, 2002 (No.5 of 2002) (CLR Act) to combat illegal fencing in the Tsumkwe-West Communal Area. The findings of the study will assist the government of Namibia in identifying areas of policy implementation that need improvement. In particular, the findings of this study will help the Otjozondjupa Communal Land Board identify challenges to implementing the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area. Residents of communal areas and future researchers will benefit from this research.

You are invited to take part in this study because you are directly responsible for enforcing the CLR Act, and you have been involved in activities related to illegal fences in the Tsumkwe-West Communal Area. If you agree to take part in this study, you will be asked to provide your demography information and describe the challenges your organization faced in implementing the CLR Act to combat illegal fencing in the area. Your participation in this research does not involve any risk or costs on your part. Any information you share with me during this study that could identify you as a participant will be protected. Any information you provide will only be used for this academic research and will not be shared with the media and other parties not involved in this study. Anonymity will highly be ensured in the final research thesis.

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As the participant, I declare that:

- I have read this information and consent form, or it was read to me, and it is written in a language in which I am fluent and with which I am comfortable.
- I have had a chance to ask questions and I am satisfied that all my questions have been answered
- I understand that taking part in this study is voluntary, and I have not been pressurized to take part.

- I may choose to leave the study at any time and nothing bad will come of it – I will not be penalised or prejudiced in any way.
- I agree that the interview with me can be [video-recorded / audio-recorded].

Kindly sign below if you agree to participate in the study. Please note that taking part in this research is voluntary and you can withdraw from it any time should you wish to do so.

I, _____ agree to participant in this study, as conducted by Salom Shomeya.

Signature of Participant

Date

RESEARCH QUESTIONNAIRE

Questionnaire for members of the Otjozondjupa Communal Land Board

Questionnaire Number:

Instructions: Kindly fill in the requested information or tick the appropriate box to select your answer. Should you require any help to answer any of these questions, please contact Shomeya on +264 812358537.

Please return your completed questionnaire by 30 September 2022 to xxxxxxxxxxxxxxxxxxxx or xxxxxxxxxxxx, Namibia.

SECTION A: PERSONAL DETAILS OF RESPONDENTS

Respondent Name (Optional).....

1. How long have you served on the board?

.....

2. Please indicate your gender by ticking the correct option:

Male ☐ Female ☐

3. Please indicated your age group?

18 – 30 ☐ 31 – 40 ☐ 41 – 50 ☐ 51 - 60 ☐ Over 60 ☐

4. What is your highest educational qualification? Please tick the appropriate box.

- | | |
|---------------------------------|--------------------------|
| (a) Master' Degree | <input type="checkbox"/> |
| (b) Honours Degree | <input type="checkbox"/> |
| (c) Bachelor's Degree | <input type="checkbox"/> |
| (d) Diploma | <input type="checkbox"/> |
| (e) Certificate | <input type="checkbox"/> |
| (f) Other (Please specify)..... | |

SECTION B: CHALLENGES TO IMPLEMENTING THE CLR ACT

CONTENT CHALLENGES

The Content clarifies the goal/objective of the Communal Land Reform Act with respect to illegal fences.

5. How familiar are you with the content of the CLR Act concerning illegal fences?

Very familiar ☐ Unfamiliar ☐
Familiar ☐

6. Is the objective/goal of the CLR Act clear in terms of illegal fences in communal areas of Namibia.?

Clear ☐ Unclear ☐

7. Are the roles and responsibilities of the CLB clear in combating illegal fencing in communal areas?

Clear ☐ Unclear ☐

CONTEXTUAL CHALLENGES

Context refers to the social, economic, political and legal aspects that might influence the implementation of the CLR Act to combat illegal fences.

8. In your opinion, are social, economic, political or legal aspects influencing the implementation of the CLR Act to combat illegal fencing in the Tsumkwe-West?

Yes ☐ NO ☐

If yes: (Please clarify)

COMMITMENT CHALLENGES

Commitment refers to the commitment of responsible persons/organizations to implementing the CLR Act to combat illegal fences in the Tsumkwe-West Communal area.

9. Please indicate how often the Otjozondjupa CLB convened on illegal fences in Tsumkwe-West?

Once a month ☐ Quarterly ☐ Annually ☐ Bi-annually ☐

Other (please specify):.....

10. Please rate the attendance of board members of board meetings.

Good	All members attend meetings regularly	<input type="checkbox"/>
Fair	Some members attend meetings regularly	<input type="checkbox"/>
Bad	Poor attendance by members	<input type="checkbox"/>

CAPACITY CHALLENGES

Capacity refers to the availability of tangible resources such as human, financial, materials, technological and logistics needed to the CLR Act implementation process.

11. Did the Land Board experience challenges/shortages related to the following:

Personnel ☐ Skills ☐ Funding ☐
Materials ☐ Technology ☐ Logistics ☐

Other (please clarify).....

12. From your observations, does the Land Board have adequate human and financial resources to successfully implement the CLR Act to combat illegal fencing in the Tsumkwe – West Communal area?

Adequate human and financial resources are available ☐
No adequate human and financial resources available ☐
Neutral ☐

13. Please rate the capacity of the Land Board to implement the CLR Act to remove illegal fences in the Tsumkwe-West Communal Area?

Good	Resources are available	
Fair	Some resources are available	
Bad	No resources available	

CLIENTS AND COALITION CHALLENGES

Clients/Coalition refers to the stakeholders involved in the CLR Act implementation process concerning combating illegal fencing in the Tsumkwe –West Communal Area.

14. Does the Land Board involve community-based organisations, non-governmental organisations and residents in the CLR Act implementation process to combat illegal fencing in Tsumkwe-West?

Yes ☐ NO ☐

COMMUNICATION CHALLENGES

Communication refers to communicating information about the “content” of the CLR Act and illegal fences formally and informally to stakeholders and the wider public.

15. Does the Land Board have a communication strategy to disseminate information about fencing in the Tsumkwe-West Communal Areas?

Yes ☐ NO ☐

If yes; (please elaborate).....

16. Does the Land Board conduct awareness campaigns against illegal fencing in the Tsumkwe-West Communal Area.

Yes ☐ NO ☐

17. Has the Board experienced any challenges related to communication in dealing with illegal fencing in the Tsumkwe-West Communal Area?

Yes ☐ NO ☐

If yes: (Please elaborate)

.....

COORDINATION CHALLENGES

Coordination refers to the working relationship between the Ministry (MAWLR), Communal Land Boards, and Traditional and other stakeholders in the fight against illegal fencing in the Tsumkwe-West Communal Area.

18. From your observations, Please indicate whether the Otjozondjupa CLB experienced any challenges in coordination of activities with respect to illegal fences in the Tsumkwe-West Communal Area?

Yes ☐ NO ☐

19. Please rate the working relationship between the CLB, the TA and the MAWLR in the implementation of the CLR Act to combat illegal fencing in the Tsumkwe-West?

Good	The board involve other organizations all the time.	
Fair	The board involve other organizations sometimes.	
Bad	The board never involve other organizations.	

SECTION C: CONCLUSION QUESTIONS

20. In your opinion, what do you consider the main challenges that affect the implementation of the CLR Act to combat illegal fencing in the Tsumkwe-West Communal Area?

.....

21. In your opinion, what do you think should be done to ensure the successful implementation of the CLR Act to combat illegal fencing in Tsumkwe communal areas?

.....

THANK YOU VERY MUCH FOR YOUR TIME!!

ANNEXURE E: Observation Guide



OBSERVATION GUIDE

Observations in the Tsumkwe-West Communal Area

Whilst conducting fieldwork in the study area, the researcher wish to observe the following phenomena/conditions in the area:

- a) Fences (new an old)
- b) Land uses (livestock and crops),
- c) Houses
- d) Villages
- e) Existing communication and transportation infrastructure (roads & telecommunication facilities) and,
- f) Population distribution across the study area.

The researcher choses observation as a method because observation allows the study of the phenomenon in its natural setting. Observation is also a very convenient and less expensive method of collecting primary data.