Land Tenure Reform in Namaqualand:
Elite Capture and the New Commons of Leliefontein

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Keywords

Carrying capacity
Common property
Communal land tenure reform
Co-management
Leliefontein
Land degradation
Land redistribution
Municipal commonage
Namaqualand
Rules and regulations
Stocking rates

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Abstract

This thesis provides a detailed examination of the development and implementation of a commonage management system on newly acquired municipal commonage in the Leliefontein communal area of Namaqualand, South Africa. This commonage has been acquired ostensibly for use by all of the Leliefontein's residents. A Commonage Committee made up of community members and state representatives manages this land on behalf of the municipality.

After describing the management framework that has been put in place, this thesis investigates how the implementation of this framework has actually unfolded on the ground. This investigation is based on a series of six field trips undertaken to Leliefontein over the course of 2003 and the first half of 2004.

What this study shows is that the newly acquired commons of Leliefontein have effectively been monopolised by larger and better-resourced farmers to the exclusion of others. This farmer group also effectively dominates the Commonage Committee, which manages this land. Moreover, there is a growing disjuncture between the rules and regulations governing land use, as set out in the formal management plan and grazing regulations, and the actual practices pursued by farmers.

Of significance, given the concerns around rangeland degradation that informed the adoption of the range management model for the new commons, is the fact that stocking rates are not being adhered to, and the management institution is unable or unwilling to enforce these. This is due to a lack of capacity and resources on the part of the co-management institution, as well as a lack of will. It is not in the interest of the management institution, constituted of the beneficiaries of the new commons, to act against their own self-interest.

May 2005

DECLARATION

I declare that *Land Tenure Reform in Namaqualand: Elite Capture and the New Commons of Leliefontein* is my own work, that it has not been submitted before for any degree or examination in any other university, and that all the sources I have used or quoted have been indicated and acknowledged as complete references.

Thomas Siegfried Lebert **May 2005**

Signed: ……..

Acknowledgements

First and foremost, my gratitude and thanks goes to the community of Paulshoek for their hospitality and assistance in carrying out this study. Similarly, to all the farmers in Leliefontein, Nourivier, Rooifontein and Kamassies that made their time available to me for what were often lengthy discussions. My thanks also go to Louis van Wyk of the Kamiesberg Municipality, and to the Leliefontein Commonage Committee, for their hospitality and ongoing assistance.

I owe a particular debt of gratitude to Dr Rick Rohde of the Centre for African Studies at the University of Edinburgh for his ongoing advice and his encouragement during the course of this research. I am also deeply indebted to Prof Timm Hoffman of the Institute for Plant Conservation at the University of Cape Town for his ongoing assistance – in particular, for allowing me the use of the Institute's Mazda Wildlife Fund vehicle for the numerous field trips undertaken for this study. I also need to thank the many people at PLAAS, especially my supervisor Dr Edward Lahiff, for their commentary and assistance.

Finally, a huge thank you to my family for their patient support during what was has been a long and, at many times, trying process for all.

This research was undertaken as part of the *Managerial and Policy Options for the Sustainable Development of Communal Rangelands and their Communities in Southern Africa* Project (MAPOSDA), which was funded by the European Commission under INCO-DC: International Cooperation with Developing Countries (2000-2004), Contract no. ERBIC 18 CT 970162. The information and views expressed in this report are, however, those of the author alone.

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Maps, Tables and Figures

1. Introduction

In many developing countries common property provides complex systems of norms and conventions regulating the use of natural resources, including water and rangelands. Although historically such institutions have proven stable forms of natural resource management, over time many of these have been undermined. As is increasingly being acknowledged, however, these common pool resources are vital to the livelihoods of many rural households (Toulmin and Quan 2000). The continued breakdown of these institutions is, therefore, a concern since it poses a threat not only to the livelihoods of affected households but also to the ecological integrity of the resources upon which they depend.

Given the importance of common property resources – i.e. resources to which a number of owners are co-equal in their use rights (Peters 1987: 175) – to the livelihoods of many rural dwellers, it is critical that interventions in common property systems seek to clarify and strengthen rights to these resources and facilitate the creation of more effective and sustainable resource management institutions (Cousins, 2000). Unfortunately, although Africa has a long history of interventions in communal tenure systems, such outcomes have proved elusive.

In post-colonial Africa, most interventions have emphasised either the conversion of communal tenure to individualised freehold rights or alternatively the vesting of land rights in the state (Bruce, 1993; Quan, 2000). During the era of structural adjustment on the continent, individual land registration and titling, in particular, came to dominate policy. The majority of these reform initiatives failed, however, often weakening the rights of the poor – in many cases to the benefit of local elites – and further undermining already weak common property institutions (Toulmin and Quan

2000). According to Cousins (2000: 151), these failures were largely the result of inadequate conceptual frameworks and inappropriate policy approaches.

Following the advent of democratic rule in South Africa, the post-apartheid state is now also grappling with the issue of communal land tenure as part of its National Land Reform Programme. Issues of communal tenure obviously arise in relation to South Africa's existing communal areas, but also in cases where land is being redistributed to groups of beneficiaries. Whether South Africa will be any more successful in tackling the complexities of communal tenure reform is yet to be seen, however. Despite some progress in land restitution and land redistribution, very little headway has been made in relation to the country's communal areas.

Reform of South Africa's communal areas has been mired in national power politics since 1994. A central point of contestation, and one around which there has been a great deal of political bargaining on the part of traditional elites and the ruling party, relates to ownership and control of this land – i.e. in whom should ownership of communal land be vested (traditional authorities or rights holders) and consequently through which institution should the administration and management of such land be undertaken. Since 1994 the focus of tenure reform has, therefore, largely been on the tenure of workers and labour tenants on commercial farms, with the core concern of communal land tenure reform largely being neglected. The *Communal Land Rights Act*, which is to address communal land tenure reform in the relatively large and populous bantustans, was only promulgated in 2004, and is currently being piloted in KwaZulu Natal province.

An important exception to this impasse in communal land tenure reform is the former 'coloured' communal areas in the Namaqualand region of the Northern Cape Province. Here the reform of communal tenure and associated common property has been underway since the late 1990s. This

thesis explores this tenure transformation process in Namaqualand, with a particular interest in the ways in which varying interests – be these local within communities, or external such as state and civil society actors – have interacted and manoeuvred to influence the nature of this reform and the ultimate accrual of benefits. These issues are explored by means of a detailed case study of the establishment of new commonage, which is part of this process of communal land tenure reform in the Namaqualand region.

2. Common property reform in Namaqualand

Namaqualand provides an excellent context for exploring common property transformation. The six communal areas of Namaqualand have a long history of state intervention in land matters with ongoing attempts, since the establishment of these areas in the early 1800s as mission stations, to transform communal land relations in these areas. The overall trend in these interventions has been toward greater cooption and control by the state through the formalisation and regularisation of settlement, land use and land management. These outside interventions served to restrict agricultural production in these areas forcing a dependence on migrant labour (Boonzaier *et al* 1987; Archer et al 1989; Krohne and Steyn 1991; Rohde *et al* 1999). From the 1960s, ostensibly in response to severe degradation of communal grazing lands, outright privatisation of the commons was promoted (SPP 1990; Rohde *et al* 2001).

As with privatisation initiatives elsewhere in Africa, this policy invariably favoured wealthier farmers and those connected to power, while marginalising and failing to meet the needs of the majority of stock farmers (Boonzaier 1987; SPP 1990; Krohne and Steyn 1991; Marinus 1998; Rohde *et al* 1999). In fact, according to Marinus (1998), the support afforded through the privatisation initiative was directly targeted at an aspirant ‘coloured’ middle class as part of the apartheid state’s overall strategy of cooption and control (Marinus 1998). Ultimately, this privatisation exercise

served to further long-standing processes of class formation in the coloured communal areas of Namaqualand (Sharp 1984) and opened deep divisions within communities (Krohne and Steyn 1991), which continue to exist to this day.

Given the importance of rights in communal land, as an element of household livelihoods and as an important fallback in times of unemployment and in retirement, attempts at undermining communal land relations through enclosure and privatisation were vigorously opposed by many residents. Successful court action by community members in the late-1980s halted these developments, and as a result of this community resistance these areas were able to retain their communal status into the post-1994 period (Archer *et al* 1989; SPP 1990; Krohne and Steyn 1991).

With the demise of apartheid and the repeal of racist land laws that restricted access and ownership by people of colour, the space now exists in Namaqualand to make a decisive break from this past. Through the National Land Reform Programme there is an opportunity to address the land shortages confronting farmers in the communal areas (and which pose the most fundamental constraint on agriculture in these areas), and to find ways to "refine and better redirect options for land management and institutional support" (Pienaar and May 2003:3) on the commons of Namaqualand.

The desire, on the part of farmers in these communal areas, as well as the NGO stakeholders they work with, is to move away from past practices of top-down rulemaking and control, by establishing democratic and people-centred commonage institutions. Through these institutions, resource users are to be centrally involved in the formulation of rules and regulations and the management of group resources. These new institutions would, unlike the Management Boards of the past, provide effective administration of land rights and protection of the land rights of the poor in particular. Moreover,

through being inclusive and democratic, it is assumed that such institutions will ensure effective and sustainable management of communal grazing.

Toward this end, through consultation processes involving community, state and civil society stakeholders, and through a subsequent Namaqualand District Planning Project, a regional approach to tackling land needs was formulated (Wellman 2000). This approach provides for the acquisition of additional land in order to expand the land base available to farmers, and also provides for the reform of the existing communal areas.

Land tenure in the existing communal areas is being addressed through the *Transformation of Certain Rural Areas Act of 1998* (TRANCRAA). At the commencement of the Act, all township land in the communal areas was vested in local municipalities with residents retaining individual rights to their residential sites. Ownership of the remaining land comprising common grazing land and individual sowing allotments, on the other hand, is to be transferred from the national Minister of Land Affairs to either local municipalities or private community-based legal entities. Referenda were held in the communal areas in late-2002 to determine which of these options was to be pursued.

In addition to resolving the ownership issue, TRANCRAA also requires that issues of land management be addressed (RSA 1998). The Minister needs to be satisfied that appropriate management regimes are in place before ownership of land is transferred. This management regime needs to deal both common grazing land as well as sowing allotments. As a part of the TRANCRAA process, all existing sowing allotments were to be surveyed and new fee structures for these land was to be developed. Unfortunately, since referenda in late-2002 on ownership of the commons and sowing allotments, the TRANCRAA process has effectively remained stalled.

The acquisition of new land, on the other hand, has moved forward substantially. These land acquisitions are being undertaken through the

Municipal Commonage Programme (SPP 2000; Wellman 2000).[1] Municipal commonage is one of a number of redistribution options available through the National Land Reform Programme. As with TRANCRAA in relation to the existing commons, a central aspect of municipal commonage acquisition is the design of appropriate management systems for these new properties. By 2003, approximately 250 000ha of new municipal commonage had been added to the communal areas in the Namaqualand region (Pienaar and May 2003). A further 73 000ha of commons have also been acquired through the programme to expand the existing commonage of towns in the region (for example, towns such as Garies and Springbok). In addition, four of the communal areas in Namaqualand (Richtersveld, Steinkopf, Concordia and Pella) have also gained access to approximately 360 000ha of state land (Pienaar and May 2003).

In deliberations on how the commons (existing and new) of Namaqualand are to be used and managed there has, on the surface at least, been a shift in thinking since 1994. Most importantly, through the acquisition of additional land there is an implicit acknowledgement of long-standing land shortages that have been fundamental in constraining viable agriculture in the communal areas. Of equal significance is the rejection of privatisation of communal land. This approach reflects a more optimistic attitude toward the possibility of successful community management of the commons. Thus, at the level of Namaqualand at least, the post-1994 land reform programme has made a definite break from the past.

At a local level, however, the situation is more uncertain. The prospects of land transfers create high stakes for different interest groups, particularly since land is often an important livelihood asset in rural areas. The irrevocable nature of transfers may thus uncover latent social tensions in communities and open up new possibilities for conflict and contestation at a

[1] Land is acquired by municipalities using the Municipal Commonage Grant of the national land reform programme. This land is held in trust by these municipalities for use by specified communities. Such land cannot be sold or encumbered by municipalities.

local level (Claassens 2000: 254; Platteau 2000: 68). Given the history of conflict around land in the communal areas, it is not unreasonable to expect a similar contestation to prevail in Namaqualand during this round of reforms.

3. Research questions

In order to understand how the regional approach to land reform adopted for Namaqualand has unfolded at a local level, this study undertook a detailed case study of the newly acquired commons of Leliefontein. In particular, this study investigated how the interaction of local interests sought to influence the nature of the land use and management regime put in place for the new commons, and in so doing, how the benefits that accrue from this new land are captured.

Toward this end, the research set out to answer three questions:

(i) What approach that has been adopted for the use and management of the new commons?

(ii) What are the reasons/motivations on the part of different stakeholders for promoting and adopting this approach?

(iii) Who are the direct and indirect beneficiaries of this new commonage?

Understanding how local interests have shaped the form of the new commons and accrual of benefits deriving from this land is important, since these outcomes will, in all likelihood, influence the land use and management regime ultimately put in place for the old commons as well (once the TRANCRAA process resolves itself). If equitable outcomes to the tenure reform process in Namaqualand are to be promoted, it is critical for

policy-makers, practitioners and communities to explicitly confront questions of interest and the contested distribution of benefits in the implementation of these reforms.

4. Approach used in the study

As already noted, a case study approach has been adopted for this research. There are a number of reasons for adopting such an approach.

The first is purely practical. Namaqualand as a region is extremely large and the six communal areas are isolated and distant from one another. A survey-based approach covering all of the six areas would, therefore, prove prohibitively costly and logistically difficult. However, given the similarities in history and socio-economic conditions across the six communal areas, a detailed case study of one area should allow one to gain insights into similar processes in other areas. These similarities will allow a degree of generalisation and extrapolation.

A more important consideration in selecting the case study approach relates to the fact that this research was engaging with a highly emotional and contested issue. The method adopted for the study had to not only capture this complexity (and fluidity), but also document and unpack a myriad of competing interests and motivations. In order to reach an understanding of this, there is a need to develop the trust of the community, which requires ongoing interaction and above all, time.

Survey-based methods are inappropriate in terms of capturing such complexity in interests and motivations, and in unpacking local histories, culture and politics. A case study approach, which enables the use of more ethnographic methods, thus, seemed appropriate. A case study method allows a greater degree of immersion in the community, enabling a deepened understanding and appreciation of local community dynamics and

decision-making. Importantly, a case study approach enables multiple data sources and the triangulation of such data.

This study is based on field research carried out in Namaqualand over a period of eighteen months between January 2003 and May 2004. A total of six field visits were undertaken to the Leliefontein area over this period, with the researcher being based in the village of Paulshoek, a settlement in the communal area. Leliefontein was selected for this study for a number of reasons.

In the first place, it is one of the largest communal areas in the region, and was also one of three communal areas where privatisation was attempted in the 1980s. There is therefore an historical context for the current round of reforms. A second motivation is relates to the fact that a large body of data already exists for Leliefontein, including socio-economic surveys and extensive information on livestock and farmers. Finally, a number of researchers and research projects are currently active in Leliefontein, which facilitated entry into the community for this study.

5. Structure of the thesis

This thesis is organised into six chapters. The chapters following this introduction are outlined below.

CHAPTER 2 – provides a review of theoretical and comparative literature on common property. This review highlights the shifting perspectives on the perceived problems and merits of common property and the policy prescriptions that flow from these. The chapter also provides a review of common property debates in Namaqualand and relates these to broader theoretical and comparative literature.

CHAPTER 3 – provides a detailed description of the study area, with a particular focus on the eastern half of the Leliefontein communal area. This chapter describes the old and the new commons of Leliefontein, reviews the socio-economic structure of communities, and discusses prevailing farming practices. In closing the chapter discusses some of the challenges of conducting field research in Leliefontein (and Namaqualand more broadly), and outlines the methods used in carrying out this study.

CHAPTER 4 – outlines the policy framework put in place for managing the newly acquired commons of Leliefontein, and examines the motivations informing these policy choices. This chapter outlines the overall management approach adopted for the new commons as well as the specific range management model put in place to govern how farmers from Leliefontein use this newly acquired land. Biases in this emerging commonage institution are highlighted.

CHAPTER 5 – having outlined the management approach and range management model in the previous chapter, chapter 5 examines how this new framework stands up to emerging practice. This chapter therefore examines which farmers from Leliefontein have gained access to the new commons, and assesses the degree to which these farmers are adhering to the rules and regulations set for their use of this new land. Chapter 5 also reviews the performance of the new management structure.

CHAPTER 6 – this final chapter provides a short summary of findings before highlighting and discussing key findings from the research. These findings are relevant not only to the future unfolding of the land reform process in Namaqualand, but to broader policy debates and to future communal land tenure reform in South Africa's 'black' communal areas as well.

CHAPTER 2: The commons – Theoretical and comparative debates

1. Introduction

The group acquisition of land and the associated complexities of managing communal resources is a prominent theme in post-apartheid land reform. Issues of common property have arisen in cases of rural land restored through land restitution to reconstituted communities, as well as through land redistribution, particularly where redistributed to beneficiary groups legally constituted as Communal Property Associations (CPAs). Issues of common property obviously also arise in relation to South Africa's existing communal areas.

By 2005 communal land tenure reform in South Africa remained largely unaddressed, although the Namaqualand region stands out as an important exception in this regard. Not only is the reform of existing communal areas underway in the region, but additional commonage has also been acquired to expand the land base available to farmers in these areas. Issues of common property are, thus, being addressed both through the reform of existing communal systems, as well in relation to new commons acquired through the land redistribution programme.

Interventions in the affairs of Namaqualand's communal areas are not new. Current engagements with communal tenure, as will be illustrated in this chapter, are grappling with similar issues as in the past, and in many instances are approaching the matter with similar assumptions and perspectives. These historical continuities in relation to the existing communal areas of Namaqualand have carried over into deliberations on the newly acquired commons in the region as well.

State interventions in communal tenure systems, and the complexities of communal land tenure reform are not unique to South Africa. There is in Africa a common thread informing deliberations on tenure reform dating back to colonial times. Today, as in the past, the debate centres on individual versus collective control of land, and Western versus African concepts of property (Lahiff 2000; Hara forthcoming), with proposals for the individualisation of communal tenure re-emerging in various guises over time (Benjaminsen 1997; Toulmin and Quan 2000). The situation is no different in South Africa.

This chapter presents a theoretical perspective on common property through a review of comparative literature on the issue. This review, given the breadth and multi-disciplinary nature of the literature, is by necessity abbreviated and selective in its focus. In addition to a review of this broader literature, the chapter also provides an overview of debates informing the current land reform initiatives in Namaqualand. The broader theoretical and comparative literature provides a context for this discussion.

2. Defining common property

A large proportion of Africa's population live under communal tenure systems which comprise both strong long-term individualised rights to residential and arable allotments, and more flexible and less individualised rights to common property such as grazing lands (Bruce 1993; Cousins 2000). The commons are those areas of land within communal systems to which "a number of owners are co-equal in their rights to the resource (Peters 1987: 175). The rights accruing through communal tenure systems are in most cases not disposable although rights can often be reallocated within the community group (Bruce 1998).

Common property makes a vital contribution to the livelihoods of many rural households in Africa, a fact that is increasingly being acknowledged

(Cousins 2000). In drier parts of the continent, for example, where large tracts of land are often set aside as grazing lands, common property is important not only to stock farmers but also provides a supplement to the livelihoods of arable farmers and other members of the community (Quan 2000; Toulmin and Quan 2000). This is particularly so during periods of crisis such as drought when the commons are an important source of wild foods and fuel, thereby supporting the coping strategies of the wider community (Quan 2000: 32).

An important characteristic of common property is that such resources are subtractible in nature. Subtractability refers to the argument that “common pool resources produce a fixed flow of use units per unit of time” (Ostrom 1987: 250) and as a result off take by one user affects the availability of the resource to other users. As a result of this finite nature of common pool resources, when the number of use units extracted by users approaches the threshold of sustainable yield, or exceeds this yield, problems of resource degradation may arise (Ostrom 1987).

It is important to distinguish common property from open access regimes. As opposed to open access regimes where there are no regulations over use and entry, common property often involves complex systems of norms and conventions that govern the allocation of rights as well as the use of common pool resources (Runge 1981, 1986; Ostrom 1987). Although common property institutions have historically provided stable forms of resource management, in many parts of the developing world these institutions were fundamentally destabilised by colonial land dispossession and usurpation of local political structures, and subsequently further undermined by factors such as population growth and technological change (Runge 1981). Where common property institutions are undermined and the rights and duties of users no longer enforced, a situation of open access may, with time, come to prevail (Cousins 2000). Given the subtractability of common pool resources, such a shift toward open access can lead to an overexploitation of the resource.

A central concern in the literature, and one that underpins most interventions in common property systems, relates to managing the subtractible nature of common pool resources, and the most appropriate institutional form such control would entail. At a general level debates have polarised between individual versus collective control.

3. Debates and Deliberations: Addressing the dilemma of common property

Although there is a large theoretical and comparative literature on common property spanning disciplines as diverse as economics, agricultural sciences and natural resource management, three broad schools of thought can be discerned. These schools of thought have evolved chronologically. This section provides a broad purview of these schools of thought. In particular, this section will focus on how each of these approaches conceptualise common property and the perceived problems associated with such institutions, and in turn discuss the prescriptions these schools make on how these should be resolved.

3.1. The Externality Perspective: Free-riders and the tragedy of the commons

3.1.1. The Nature of the Problem

> "The idea that common property causes trouble is an old and persistent part of western culture" (McCay and Acheson 1987: 2).

From the point of view of the externality perspective, famously articulated by Hardin (1968) in the article '*The tragedy of the commons*', common property

is seen as being inherently problematic. It is argued that the incentive for individual users of the commons to maximise their personal gain at the expense of the broader group of users is inherent to common property institutions. This inherently selfish behaviour, coupled with the fact that common property does not allow accurate assessment of the actual costs of commonage use by individuals, inevitably leads to common property being mismanaged and degraded (Runge 1981, 1986; Ostrom 1987).

From this perspective, the key problem with common property relates to the issue of externality (Runge 1981, 1986). In other words, the fact that individual users of group resources are unlikely to restrain their actions when the immediate and full benefits of their activities accrue to them individually, while the full costs of their actions are passed on to the group as a whole (i.e. the full costs of individual use are externalised onto the group as a whole, and not borne by the individual alone). It is this logic of individual rationality, according to Hardin (1968), that inexorably leads to 'tragedy'.

This incentive for individual users of the commons to 'free ride' is seen to be so dominant that even if all users agree to stint, in other words voluntarily restrict the number of livestock they place on the commons, such agreements would remain unstable (Runge 1986; Klooster 2000). The causes of resource degradation are, therefore, directly attributed to the institution of common property itself.

> "The tragedy is both environmental and economic. It (the tragedy) is in no one's long-term interest [yet] is nonetheless inevitable unless something is done to intervene in the workings of the commons" (McCay and Acheson 1987:5).

This analysis leads to the conclusion that common property is not environmentally or economically viable as an institution for successful resource management. Since it is assumed that users of the commons are

unwilling or unable to change the system themselves, only the introduction of private property rights (and with it the internalisation of the full costs of resource use with individual users) or the allocation of regulatory authority over the commons to an outside authority such as the state (i.e. external enforcement), can resolve this dilemma (Ostrom 1987; Klooster 2000).

This externality perspective (or property rights paradigm) is the mainstream perspective on common property that has dominated debates and policy making for much of the colonial and post-colonial periods. This approach has given rise to large-scale titling exercises such as in Kenya, or the nationalisation of communal land as occurred in Tanzania and Ethiopia.

3.1.2. Objections to the externality perspective

> "Problems of open access arise from unrestricted entry, whereas problems of common property result from tensions in the structure of joint use …" (Runge 1986: 624).

Over the years the 'tragedy of the commons' view of common property has generated numerous counter responses from researchers familiar with cases of successful common property management (Klooster 2000). A key objection to the externality perspective relates to the assumptions that are made about the behaviour of individual users of the commons, in particular the notion of selfish individuals with bounded rationalities (Peters 1987, 2002; Scoones 1999). Critics instead argued that individual users of the commons operate within the context of often-complex systems and conventions that regulate their access to and use of such property (Benjaminsen 1997; Bruce 1998; Toulmin and Quan 2000).

The 'tragedy' view of the commons treats externality as if the choices made by individuals are independent of the expectations of the behaviour of others. These choices by individual users of the commons are, as noted

above, not made in the absence of prevailing norms and conventions. According to Runge (1981), these choices are based on the expectations that individual users have of the actions of other users. By ruling out the importance of such expectations, the externality perspective fails to capture the interdependent nature of decision-making involved in common property institutions.

> "The property rights paradigm, predicated strictly on individual strategies, misdiagnoses the … problem. By failing to recognise the endogenous nature of common property institutions caused by interdependence of choice, it supports solutions which may be poorly suited to traditions of pastoral grazing societies. By seeking institutional rules imposed and enforced from the outside, it has promoted costly, top-heavy institutional regimes which restrict the potential for cooperative action" (Runge, 1981: 604).

Despite representing the mainstream orthodoxy, implementation of policies deriving from the externality perspective of the commons, both individualisation and nationalisation of common property, have a poor record (Bruce 1993, 1998). This historical experience would seem to indicate that models promoting either option are of limited relevance to Africa (Toulmin and Quan 2000; Quan 2000). Despite this, however, the individualisation model in particular continues to exert an inordinate influence on policy debates.

3.2. Institutional Choice Theory: Providing assurance through common property institutions

With a growing recognition of the importance of common pool resources to the livelihoods of the rural poor over the past two decades, there have been innovative conceptual and theoretical developments in relation to the

institutional dimensions of common property (Cousins 2000). Work critical of the externality perspective, particularly within new institutionalist economics, has contributed to a substantial body of literature in recent years offering an alternative understanding of common property. This new understanding provides a more positive outlook for successful community management of common pool resources (Cousins 2000). This alternative perspective posits that left to themselves individuals dependent on the commons for essential inputs to their economic activities will work out a system that achieves effective and sustainable regulation of the commons.

3.2.1. Nature of the Problem

> "Each individual must take into account the actions of others in his decision to [use] the commons. This defines the problem of the commons as decision making under uncertainty. This uncertainty, arising from the interdependence of choice, suggests a logical structure different from the separable (externality) case" (Runge 1981: 600).

The institutional choice perspective questions whether free-riding is in fact the dominant strategy of individuals using a commons. While not challenging the basic dilemma between individual and collective rationality, proponents of new institutionalist thinking argue that when the problem of assurance has been resolved, one can expect individual users of the commons to cooperate (Klooster 2000). New institutionalists are thus of the view that in slowly changing environments isolated sets of users will devise institutional arrangements that match their situation and needs. From this perspective communal ownership rather than private property or external authority can be an optimal institutional arrangement for effectively managing the problem of externality.

This assurance perspective on the problem of common property externality challenges the notion that the behaviour of selfish individuals will inevitably dominate common property institutions. According to Runge (1981), when individuals expect others to stint, those individuals too will stint. Conversely, if there is an expectation of widespread exploitation of the commons, then all users will have no reason to curtail their own use. In order to achieve conservation of the commons through stinting, a coordinated strategy must be devised based on some set rules or institutions. If the assurance problem can be solved, Runge (1981) believes it is reasonable to expect that commonage users will willingly cooperate.

The recommended solution is, therefore, not privatisation or nationalisation of the commons, but instead, to resolve the assurance problem through the creation of sustainable common property institutions. By providing assurance that others will not exploit the commons, common property institutions can make it rational for individuals to adopt cooperative strategies. From a new institutionalist point of view, institutions are understood largely as rules and regulations that coordinate social relationships and help moderate individual behaviour. Runge (1981: 604) sees cooperative institutional rules as “endogenous adaptive responses” to uncertainty about the actions of others. The key determination of the success of such rules or institutions would be the extent to which they foster coordinated expectations and coordinated action.

The question, therefore, is no longer whether decentralised collective action can be successful, but rather what kinds of rules are necessary, and what conditions are required for groups of people to develop such rules and abide by them (Klooster 2000). New institutionalists have defined a set of conditions or design principles in this regard. According to Ostrom (1992), successful management of common property resources is more likely to be achieved if these design principles can be met. Principles include the need for defined property rights that limit who can use the commons, control how much can be used or withdrawn, establishes who manages common

property, and defines how rights to common property are transferred (Ostrom 1992).

The definition of property rights is not enough however. As already noted above, a second requirement is coordinated as opposed to independent action on the part of commonage users. This is to be achieved through the establishment of user organisations (Ostrom 1992). The emergence of user organisations to promote coordinated action is more likely to succeed where the user group is small and close to the commons (Ostrom 1992), and where the locus of collective decision-making is relatively small and cohesive (Runge 1981). In such instances, it is more likely that there will be a common appreciation of the problem and of the value of rules and compliance since users can directly observe how rules are being adhered to and enforced (rather than compliance being informed by an external threat of penalty). The more homogenous the community of users, the more likely it is that common property institutions will achieve optimal outcomes (Runge 1986; Ostrom 1987).

New institutionalists believe that by letting users innovate self-binding property rules which best serve their needs before imposing enforcement mechanisms from outside, such rules will be better suited to these needs and more likely to succeed. Enforcement of property rules from outside is not, according to the institutional choice theorists, a sufficient condition for optimal resource utilisation. Not only are the costs of such a top-down approach prohibitive, it may lead to the imposition of patterns of land use that are inappropriate to local needs. Any enforcement mechanism operating from outside and designed to coerce coordinate action is likely to have high costs and uncertain outcomes (Runge, 1986).

3.2.2. Objections to the Institutional Choice Perspective

There are two key and interrelated objections to the institutional choice model – firstly, the equating of institutions with rules and regulations, and secondly, the premises underlying the design principles.

According to critics of the Institutional Choice Perspective such as Peters (2002) and Scoones (1999), defining commonage institutions as sets of rules devised over time to regulate human behaviour and constrain individual self-interest, provides too narrow a focus for understanding social dynamics. According to Mehta *et al* (1999), the actual practices and meaning entailed in the management of common property cannot be so easily excised from broader social and political relations in which they are embedded. In a wide range of situations, the practices of resource use are so embedded in other social relations that devising institutional rules is often selective and arbitrary (Scoones 1999; Peters 2002; Warner 2001).

Defining institutions as rules, therefore, has the effect of erasing the social and cultural dynamics entailed in how commonage institutions actually work and takes little notice of power relations in resource use and development (Klooster 2000). Mehta *et al* (1999) feel that an explanatory framework that reduces analysis of institutional processes and social interactions to the cost-benefit assessment of strategising individuals is insufficient to understand how and why particular choices for action are produced. By focussing on a narrow understanding of economic interest, the institutional choice perspective tends to render local historical and social factors secondary. This point of objection builds on the longer-established critique of methodological individualism and economism inherent in much neo-classical thinking and taken forward in the institutional choice perspective (Peters 2002).

In relation to the design principles, which are central to new institutionalist thinking, critics point out that communities and user groups are often highly heterogeneous, with boundaries that are often flexible and difficult to define, and competing interpretations of rules governing claims to and use of

resources (Toulmin and Quan 2000; Cousins 2000; Peters 2002). Use of the commons therefore entails dynamic processes that cannot be contained in a framework that posits rational, self-interested individuals, each assessing their relative costs and benefits in search for efficient institutional rules. According to Peters (2002: 13), there is a tendency on the part of institutional choice theory to assume away "the multitude of social differences, unequal power, competing interpretations, and contested claims …". Yet, social differentiation along wealth, class, ethnic, gender and age lines that characterises many communities, strongly influences the degree and type of participation possible by different groups of people and determine whose voices are heard and translated into action, and who benefit and who loses (Peters 2002; Mehta *et al* 1999).

Peters (2002) therefore argues that the common conflation of norms, rules and behaviour, as well as the question of institutions and organisations common to some institutional economics and the definition of institutions as rules, all result in an inadequate toolkit for analysing the social dynamics in relation to resource use.

A more recent approach to common property rejects the idea that rational choice can adequately explain the dilemma of the commons. This more radical view, instead, treats common property institutions, community, individual users and culture as "interpenetrated items" (Klooster 2000: 3) composing realms of differing individual meaning.

3.3. Social Complexity and the Embeddedness of the Commons: New thinking in common property resource management

> "Community and thicker conceptions of institutions are necessary to understand commons dilemmas" (Klooster 2000: 1)

According to Leach (2000), new institutionalist views on natural resource management continue to draw on common property theories that see the world as static and predictable. From this point of view, institutions are seen as the 'rules of the game' that organise rational individual actors into collectives and emphasise 'getting institutions right' in policy design. However, while useful in rendering simplistic "neo-Malthusian equations" (Mehta *et al* 1999: 13) of the commons redundant, as already noted this new institutionalist approach fails to "recognise the dynamic of sociologies, economies and ecologies" (Leach 2000: 2) in addressing issues of multiplicity and heterogeneity in communities. Users of the commons are embedded not only in specific historical, political and economic structures, but also within cultural systems of symbols and values that inform the way people understand and relate to their environments (McCay and Acheson 1987; Klooster 2000).

Recent recommendations for more appropriate conceptual and theoretical frameworks for understanding and guiding natural resource management promote the view that institutions are best seen as "regularised patterns of behaviour between individuals and groups in society rather than either community-level organisations or sets of rules" (Peters 2002: 15). Institutions are thus practices that are structured in particular social, cultural and political ways, entwined with power and knowledge, and operating as arenas of negotiation and struggle rather than closed units of accumulation and resource management (Peters 2002). Rules are often ambiguous, membership flexible and boundaries contested and overlapping. Institutions are, therefore, seen not merely as rules of the game or rigid organisations, but rather as sites of social interaction, negotiation and contestation comprising heterogeneous actors with diverse goals, which may be economic or material in nature (Mehta *et al* 1999; Peters 2004).

Understanding and analysing institutions of resource management thus needs to be broadened beyond mere rules. Power and meaning need to be more centrally located in theoretical frameworks since institutions of

governance over natural resources are inextricably part of historically produced political, socio-cultural systems (Peters 2004). What is required is an understanding of historical experience, imagined futures and conceptualisations of social class or other divisions theorised as dynamic social relations surrounding access to resources (Peters 2002).

Complexity and ambiguity of common property institutions is particularly evident in dry-land environments (Scoones 1994; Mehta *et al* 1999). In highly variable environments with a range of different landscape patches and resource values that vary over time for example, patterns of tenure may not be uniform. Certain high value resources in the grazing landscape may be exclusively managed, while others are managed on a more intermittent basis. As a result, tenure regimes are more likely to overlap both spatially and in time, with a variety of different institutions operating at different scales and managing different portions of the landscape, accommodating a variety of users and uses (Scoones 1999: 220).

Flexible tenure systems and complex institutions, which may appear as chaotic and inefficient, have been the target of external intervention, with many such interventions having focussed on rationalising this apparently disorderly mess. According to Scoones (1999), development projects often promote well-defined community institutions, and governments like to plan and govern within well-defined administrative units. This re-creation of local organisations to fit the needs of project planners and government, however, is a common route by which institutional arrangements become formalised and benefits are captured by elites able to exert their power in such settings (Peters 2004).

Scoones (1999: 221) therefore argues that “complex, overlapping tenure regimes, regulated by vague or ambiguous rights and governed by flexible institutions with competing claims” are appropriate in the context of dry land grazing management where rapid response and flexible approaches are key

if opportunistic strategies that seek to exploit the 'patchy' nature of the resource base are to operate efficiently.

3.4. The Continued Prevalence of the 'Tragedy' narrative

Despite severe criticism and evolving thought on the commons, the externality perspective continues to exert an inordinate influence on policy debates. The appeal of the 'tragedy of the commons' model lies in its attractive simplicity and the aptness with which the model explains observed environmental problems (Peters 1994: 5). As a consequence, the model has become conventional wisdom in environmental studies, resource science and policy, economics, ecology and political science, and remains the most common guide for livestock and range management policies in Africa.

Moreover, where the individualisation paradigm intersects with influential local interests who will benefit from dismantling the commons or from the promotion of non-communal forms of tenure, even contrary evidence is not enough to overcome this misplaced conceptual framework (Peters 1994: 7). The argument that communal tenure is inefficient also has intuitive and ideological appeal to policy makers such as the World Bank and USAID – both of which have actively promoted freehold tenure and the general establishment of individual rights (Barrows and Roth 1990).

4. Common Property in Namaqualand

The progression of debates in relation to the communal areas of Namaqualand has followed a similar chronology to debates in the broader theoretical and comparative literature. Moreover, it is inevitable that these debates will also come to bear on deliberations regarding the use and management of newly acquired commonage. This section provides a review of debates pertaining to the commons of Namaqualand.

4.1. Leliefontein and the communal areas of Namaqualand

The communal area of Leliefontein, which is the focus of this study, is the remnant of a once geographically larger and independent indigenous pastoral polity centred on the Kamiesberg Mountains of southern Namaqualand. According to Penn (1986), the Kamiesberg and surrounding areas were, at the time of European settlement in the mid-seventeenth century, one of five regions in the southwestern and northern Cape supporting cycles of transhumance. These regions contain diverse natural resources which, subject to different seasonal characteristics, ensure access to year-round supplies of grazing and water.

Gaining control of these pastoral regions was critical to the success of European settlement of the Cape. However, through dispossessing pastoralists of access to this land, relations of production among indigenous peoples were irrevocably changed. Penn (1986) likens this land dispossession to similar processes of primitive accumulation[2] taking place elsewhere during this time with the increasing expansion of the European world economy. As control over traditional grazing lands were lost and authority over remaining communal lands by indigenous leaders usurped by outside powers, the original occupants of the Cape were increasingly drawn into Colonial society on highly unequal terms. This was process was largely completed by the mid-seventeenth century.

In the case of Namaqualand indigenous pastoralists were afforded some reprieve. In areas where mission stations were established in the first decades of the 1800s, residents were able to secure 'tickets of occupation' to the lands surrounding these missions. This afforded protection from

[2] Primitive accumulation refers to the historical process of divorcing producers from the means of production. Primitive accumulation is an extractive process whereby surplus value is extracted from producers without their receiving an equal share in return. Capital acquired in this way is then removed from the societies of producers, effectively undermining their social structure (Penn 1986: 62).

further encroachment by European settlers and enabled some indigenous pastoralists to retain some independent access to land for farming purposes. The Leliefontein communal area originated as a Wesleyan mission station, which was established in 1816 at a natural spring located at what is now the village of Leliefontein.[3]

With the emergence of mining and fishing industries in Namaqualand and with increasing demands for labour by white farmers in the region, however, from the mid-1800s pressure to draw the residents of these communal areas into wage labour began to intensify. In addition to this external pressure, there was also support among certain groupings within the communal areas for the abolition of communal land rights. This opposition came from aspirant elites within these areas who themselves aspired to individual ownership of land for commercial farming purposes.

According to Rohde *et al* (1999: 6), during the first half of the twentieth century the communal areas of Namaqualand were, therefore, "gradually transformed from refuges of peasant pastoral production to wage-dependent economies in which households were semi-proletarianised". Although communal tenure was retained, taxes and measures to prevent further sub-division of arable plots were introduced. These measures were to force poorer farmers into the labour market – at least for part of the year (Boonzaier *et al* 1990).

Subsequent apartheid legislation considerably worsened the situation for farmers as the boundaries between communal areas and neighbouring commercial farms and state land were increasingly formalised and fenced-off. These developments severely affected the ability of communal farmers to access additional land outside of the communal areas. The Group Areas Act of 1950, which finally restricted access by farmers classified as coloured

[3] The communal area of Leliefontein has ten settlements – the village of Leliefontein is one of these (see chapter 3 for a description of the communal area).

solely to the communal areas, proved the final step in a long process of marginalisation of independent pastoral production.

More than simply restricting communal farmers to these areas, the Group Areas Act also resulted in an influx of people into the communal areas as a result of population removals from other parts of the region. The restrictions these developments placed on agriculture in the communal areas were severe, and increasing numbers of households were forced to seek livelihoods elsewhere through labour migration. The 1950s corresponded to the expansion of the mining and fishing industries in the region, and the growth of these industries led to modest levels of prosperity as low levels of unemployment prevailed in the communal areas. This modest prosperity led to a resurgence of material differentiation within the reserve population, which had begun in the nineteenth century (Sharp and West 1984, cited in Rohde *et al* 1999).

At this low ebb in communal agriculture it was easy to assume that the problem lay with the communal farming system itself rather than with "the cumulative effect of land policy in Namaqualand [which has] severely restricted the ability of farmers to move during times of drought [and] curtailed the ability of farmers to reduce risk, leading to increased poverty and the exacerbation of social divisions" (Rohde *et al* 1999: 25).

4.2. Addressing the dilemma of the Namaqualand Commons

As with broader theoretical and comparative literature, one can delineate three 'camps' in so far as resolving the problems in communal agriculture in Namaqualand is concerned. In a sense these approaches can be seen as having evolved chronologically from the early part of the twentieth century to the present. This discussion will pick up the debate from the mid-1900s.

As this section will illustrate, deliberations on the commons of Namaqualand are informed by the same broader theoretical and comparative debates as elsewhere. Moreover, the evolution in thinking in relation to the commons of Namaqualand follows a similar path to that in the broader literature.

4.2.1. The Privatisation Lobby

As communal agriculture in Namaqualand sank into increasing crisis from the mid-twentieth century, policy makers and planners began expressing fears of severe overgrazing throughout the communal areas (Hill *et al* 1988; Rohde *et al* 1999; Benjaminsen et al 2004). However, in failing to acknowledge the real structural constraints confronting communal farmers, in particular land shortages, these commentators attributed this perceived overgrazing directly to the uncontrolled access to and use of the commons associated with communal farming systems (Boonzaier *et al* 1996). In the minds of government officials, the life-style of semi-nomadic livestock farmers was a “peevish whim” (Hill *et al* 1988: 13) that had to be overcome if the community as a whole was to progress.

This negative perception of communal farming was strongly influenced by longstanding agricultural policies in Southern Africa that have been dominated by commercial ranching orthodoxies which view communal areas as inefficient, unproductive and overstocked. Policies tended to focus on controlling stock numbers at a defined carrying capacity in order to increase the productivity of individual animals and thereby avoid overgrazing (Benjaminsen *et al* 2004). According to government officials “the small nomadic farmer who is happy with his lot does nothing to improve his situation” (Hill *et al* 1988: 5) and the solution to this problem lies with younger farmers working their own piece of land using modern practices and technologies. Such strategies to address land degradation in the communal areas of South Africa were introduced in the late-1930s and extensively implemented during the 1950s and 1960s as part of the

governments ‘betterment’ approach to transforming African communal areas (Ntsebeza 1999). The same approach was applied to the communal areas of Namaqualand in the 1960s.

In 1963 the Coloured Rural Areas Act provided for the division of the Namaqualand communal areas into residential and agricultural zones, and the sub-division, allocation and ultimate sale of this agricultural land to those designated as *bona fide* farmers. Outsiders as well as local elites such as members of the Management Boards, large stock farmers, entrepreneurs, and others with permanent sources of non-agricultural income drove this privatisation agenda. Although the legislation was not implemented, the calls for dismantling common property continued unabated through to the 1980s.

> “Communal grazing has totally destroyed the natural carrying capacity of the land. If communal grazing is allowed, it will be impossible to control stock numbers, and the continued existence of *bona fide* farmers will be threatened” (Member of the Labour Party in the coloured House of Representatives, early 1980s, cited in SPP 1990: 24).

Finally, after two decades, and a number of amendments to the 1963 Coloured Rural Areas Act, privatisation was attempted in 1981 through the so-called ‘economic units’ policy (Boonzaier 1987). Implementation targeted the three largest communal areas in Namaqualand where subdivision was deemed viable, including Leliefontein (Krohne and Steyn 1991).

The rationale for introducing economic units was that the privatisation of land would limit access to *bona fide* farmers, thereby encouraging entrepreneurship and development since the lessees of this land would farm more responsibly (i.e. more sustainably) and thus more profitably (Krohne and Steyn 1991). Since access would be restricted only to *bona fide* farmers (and therefore less farmers), and farms would be operated using modern

farming practices and technologies, privatisation of the commons would lead to the conservation of rangelands. Privatisation would thus do away with the whimsical and irrational traditions of communal farmers, which were seen to be retarding development (Archer *et al* 1989).

The majority of residents in the affected communal areas, however, roundly rejected these attempts and through successful court action in the late-1980s the policy was ultimately set aside (Smith 1989; Krohne and Steyn 1991).

The basis and motivations for privatising Namaqualand's communal grazing land have been strongly challenged. Three broad areas of critique can be identified in the literature: (i) the assumptions on the relationship between communal tenure and land degradation which underpin the privatisation narrative (ii) a failure to understand the role of land and agriculture in the livelihoods of many residents of communal areas, and (iii) technical deficiencies in the design and implementation of the 'economic unit' scheme.

A number of critics of the economic unit policy question the assumptions informing the privatisation of communal land. In the first place, access to the communal areas of Namaqualand is not uncontrolled, nor is use of the commons completely unregulated:

> "Social sanctions and controls relating to communal property relations are expressed in deeply held social values and beliefs … often based on the need to maintain broad networks of reciprocity and exchange. The ethos underlying such informal systems of resource management reflect an awareness that survival depends on the conservation of the land" (Rohde *et al* 1999: 16).

Instead, in pinning the blame for land degradation on the system of communal farming, proponents of privatisation ignore the structural constraints confronting communal farmers. Thus, according to Boonzaier et al (1996), an inadequate land base and excessive population pressure on this land and not communal tenure *per se* is responsible for overgrazing. Rohde *et al* (1999: 16) concur – "While farmers in Leliefontein have successfully resisted the repeated attempts by the state to curtail access to and control over communal grazing, the ability of farmers to conserve their grazing resources has been severely limited by a lack of land, and an inability to move between agro-ecological zones".

Ironically, the apartheid state's 1976 Theron Commission came to similar conclusions. Recognising the pressure on land in the communal areas, the Commission recommended that coloured farmers be allowed to acquire land outside of these areas (van der Horst, 1976). This would have required amendment to the Group Areas Act, however, changes the apartheid regime was not prepared to make. As a result, the implementation of privatised farming units was restricted to within the communal areas instead.

In addition to misplacing the blame for degradation of communal rangelands, the attempt at modernising agriculture through privatising production displayed a profound ignorance of the function of agriculture in the livelihoods of communal area households (Boonzaier 1987; Archer *et al* 1989; Rohde *et al* 1999). What was ignored in the analysis informing privatisation was the social function of livestock and the fact that, although not easily computed in cash terms, livestock and livestock products are integral to people's survival (Rohde *et al* 1999).

Moreover, proponents of privatisation ignored the vital role of livestock as media of reciprocity and redistribution, and thus in the social reproduction of communities in these areas. Boonzaier (1987) argues that the system of economic units, formulated almost exclusively on technical considerations,

did not adequately take into account these existing social realities or the longer-term social and economic implications of the policy. Moreover, no compensation was offered to those farmers that would have lost their rights in land through being excluded from the economic units (Rohde *et al* 1999). The overall result of the policy would thus have been grossly unfair and would have led to extreme hardship for the majority of farmers.

Finally, it has been argued that even if there were merit to the analysis underpinning privatisation and the modernisation of agriculture, the design of the economic units scheme was technically incompetent (Hill *et al* 1988; Archer *et al* 1989). The units created through privatisation, for example, were far too small to be economically viable.[4] The minimum size for an economically viable unit in the Leliefontein area is approximately 6000ha, whereas the economic units that were introduced in Leliefontein had an average size of only 3200ha (Hill *et al* 1988). Only one unit was over 6000ha in extent (Archer *et al* 1989). It is thus clear that from the outset the farming units introduced in Leliefontein were not economically viable in the sense purported by the proponents of the scheme (Archer *et al* 1989). Moreover, through the misplaced orthodoxy of mainstream range management, boundaries and restrictions would have been created that would have removed an important degree of freedom necessary for strategies developed by communal farmers over time in response to the vagaries of climate and fluctuations in regional labour markets (Boonzaier 1987; Rohde *et al* 1999).

Boonzaier *et al* (1996) argue that the motivation for privatisation was, in addition to the economic/developmental motives outlined above, also informed by the aspirations of wealthy communal farmers who were demanding the right to their own individual farms. As a result of apartheid

[4] An economically viable farming unit is one from which a farmer can derive all or the bulk of their income from farming. In determining the economic viability of the economic units in Leliefontein, Archer *et al* (1987: 212) used an "arbitrarily and conservatively" set annual income of ZAR 10 000.

policies, people classified as coloured were restricted from owning land outside of the communal areas. Thus, according to Marinus (1997) the aspirations of this emergent middle class to gain private rights to communal land were supported by the apartheid state and its vassals in the coloured House of Representatives, and the privatisation policy was in part about supporting and maintaining this middle class as part of the apartheid state's overall strategy of control by cooption.

The introduction of the economic unit policy split the Leliefontein community into two camps – those leasing units, and those displaced from these former communal lands (Hill *et al* 1988). Those leasing units became increasingly ostracised by the community and the lack of social interaction this resulted in, was felt particularly hard by the wives of these farmers, who remained behind in the villages when their husbands were on their farming units (Hill *et al* 1988). Many of these divisions continue to fester today in communities, and simmer beneath the surface of the current round of reforms.

4.2.2. Beyond Privatisation

In the period since the aborted attempt at privatisation in the 1980s and with the onset of a democratic dispensation in 1994, two broad alternative perspectives on the commons of Namaqualand have emerged. Although both of these approaches reject the notion of privatising communal land, their proposals on the use and management of common property are contrary to one another.

4.2.2.1. Property rights and the co-management approach

This 'property rights' perspective has strongly informed the current round of land reform in Namaqualand, with its main proponents being land rights and public law NGOs that have facilitated the TRANCRAA process and supported municipalities in developing management frameworks for newly

acquired municipal commonage. The public law NGOs have been particularly active in supporting municipalities with the development of grazing contracts and municipal grazing regulations for these new commons. Although little of this perspective is captured in formal publications, a number of unofficial memos, papers, and specific written responses to the research of others, captures key elements and motivations of this approach (see for example Pienaar 2000; SPP 2003; Pienaar and May 2003; LRC 2005).

This perspective is informed by a set of historical experiences and concerns – top-down, authoritarian management of the commons through the Management Boards (Pienaar and May 2003); the attempted privatisation of the 1980s which saw the land rights of many, but particularly the poor, undermined (Pienaar, personal communication), and; an ongoing perception of severe overstocking and degradation of the commons (SPP 2003).

This perspective also draws on the contemporary experience of Communal Property Associations (CPAs) established by groups that have acquired land under the redistribution and restitution components of the National Land Reform Programme. The experiences of CPAs over the past 10 years have highlighted a range of problems. According to LRC (2005), the main 'instances of dysfunctionality' relate to the lack of land and infrastructure management and maintenance, the lack of formal and fair allocation of the CPAs' resources; the failure to ensure that user rights are properly defined and configured[5] at an individual level; and the lack of steps against free

[5] "A right is properly 'defined and configured' if provision is made for: the duration of the right (it may be for life); succession in the event of the death of the holder of the right; whether the holder may transact the right through donation, exchange, sale / sub-lease or, as mentioned, succession; describing the obligations that the holding of the right brings for the holder (payment, stock numbers, infrastructure maintenance), etc. In most commonage and CPI cases these issues are simply left to chance. This is also the key finding of the December review report of CPI constitutions" (LRC 2005: 11).

riders. The problems experienced with CPAs are the same kinds of problems experienced by other common property institutions (LRC 2005).

Although concerns with degradation remain prominent – the commons are still typified by NGO and other stakeholders as being 'hopelessly overstocked' (SPP 2003) – open and outright privatisation of communal land, in the context of Namaqualand at least, is rejected. There is a clear acknowledgement that land shortages are at the heart of land degradation in the region's communal areas and that the problem of degradation does not necessarily relate to communal tenure per se. In any event, privatisation is seen as impractical, since it is not possible for every rights holder to access an economically or environmentally viable allocation of land.[6]

The emphasis is, therefore, twofold. Firstly, on the acquisition of additional land to expand land access by communal farmers thereby alleviating current pressure on the old commons. Secondly, in order to avoid this new land becoming degraded, and in order to halt and redress the perceived degradation of the old commons, legitimate and legally robust rights and obligations and democratic commonage management institutions must be established, and effectively enforced (Pienaar and May 2003; LRC 2005).

Acknowledging that the acquisition of additional land is central to resolving problems on the old commons, and the fact that communal tenure is to be retained, sets this property rights perspective apart from the discourse on privatisation that has dominated for the past five decades or more. Despite this, however, full community control over this newly acquired land is not envisaged. Rather than communities constituting themselves as CPAs and acquiring land as private group entities, this perspective has promoted the

[6] If one assumes that farmers will derive the bulk of their income from farming, in the Leliefontein area a viable farm size is in the region of 6000 hectares (Hill *et al* 1988; Archer *et al* 1989). Given that there are approximately 450 farming households in Leliefontein, if each farming household was to receive a viable allotment of land a minimum of 2.7 million hectares would be required. This is clearly an unrealistic target.

acquisition of land via the municipal commonage sub-programme instead. Through the commonage programme land ownership will vest in municipalities (i.e. remain vested in the state), which hold land on behalf of user communities, and the land will be co-managed with the community by means of a representative management structure.[7]

The reason for choosing this option is in order to retain external oversight over commonage management through the establishment of co-management arrangements between municipalities and user groups for whom the land has been acquired. Moreover, since the municipality is the owner of the land, rights and obligations can be defined as municipal by-laws thereby creating rights, rules and regulations as public legal instruments, which are legally more robust than the private law rules and regulations created through CPAs (Pienaar and May 2003). The problems of inequitable access to group resources and non-adherence to rules regulating the use of resources experienced in CPAs are to be mitigated by the presence of the municipality and these rules and regulations as public legal instruments. There is also a practical motivation for promoting municipal land ownership. Whereas land owned by CPAs is viewed as private property on which the state will not invest, municipal commonage remains a public asset and therefore a potential recipient of continued state investment.

The co-management approach sets commonage management apart from past practices of authoritarian rule-making and control (Pienaar and May 2003). Involving communities in commonage management is intended to make these institutions democratic, inclusive and legitimate, and *ergo* the rules and regulations for access to and use of the commons developed by the management structure more acceptable to users. According to LRC

[7] The stakeholders promoting this property rights approach are also centrally involved in the TRANCRAA process. Many of these stakeholders are openly promoting the transfer of ownership over the old commons to municipalities as well. Their reasoning is the same as that for the commonage option (author's personal observation).

(2005), a co-management framework does not place the sole responsibility for management on the municipality, however, but promotes user group responsibility through the creation of incentives for these groups to take on management responsibilities such as servicing infrastructure and maintaining grazing registers.

Moreover, there needs to be the assurance that effective enforcement mechanisms are available when these rules are broken. To facilitate enforcement, user agreements are promoted. According to LRC (2005), the relative informality and flexibility of such commonage user agreements would need to be balanced with legal certainty of terms and conditions to ensure enforceability. “For the purposes of ensuring enforceability, agreements must be rock solid in legal technical terms (otherwise they are not worth the paper they are written on)” (LRC 2005: 14).

As will become evident in the case study, this property right perspective to transformation of the commons has strongly shaped the current round of land reform in Namaqualand. This is evident in the push for municipal ownership through TRANCRAA and the municipal commonage route for redistribution as opposed to the creation of CPAs for land acquired through the SLAG, and in the case of Leliefontein, through the land use model adopted for the newly acquired commons.

Despite the adoption of co-management and the emphasis on the protection of rights, a discourse on the need to control the behaviour of communal farmers is still strongly evident, especially among local elites and municipal officials (personal observation). There is still a prejudice against communal farmers and their use of what are seen as irrational and archaic farming practices that need to be changed. Thus, although the property rights paradigm is as much about protecting the land rights of the poor as it is about ensuring the enforcement of land use regulations, the balance in emphasis (at a local level at least) seems to be tipping more the way of regulation. Moreover, the trend toward individualisation of the commons

remains undiminished. As will be discussed in the case study, individualisation has re-emerged in the guise of the communal range management model adopted for the new commons of Leliefontein.

4.2.2.2. Promoting flexibility and mobility

The 'flexibility/mobility' approach to the commons of Namaqualand is the least defined and most recent to emerge, and in many senses is still at a far earlier stage of development than the property rights focus described above. This perspective is emerging from contemporary research on current land reform processes and studies of long-term environmental change in the Namaqualand region.

The flexibility perspective is critical not only of the property rights approach to common property more broadly, which seeks to increasingly formalise and legalise access to and use of the commons, but also of the commercially-oriented orthodoxy underpinning the land use model (Rohde *et al* 2001). Thus, according to Benjaminsen *et al* (2004: 38), "not only has commonage management become institutionalised on the basis of carrying capacity used in commercial models of rangeland management, but this new institutional approach, coupled with municipal/user co-governance has allowed wealthier, more powerful individuals to gain effective control of land that was intended, as part of the land redistribution programme, to benefit the poorest farmers".

Critics see the reinstatement of intricate rules and regulations governing grazing rights and practices as based on ideological assumptions about degradation caused by overstocking and inappropriate communal management practices (Rohde *et al* 1999, 2001). Although policies in South Africa have moved away from coercive conservation measures of the past toward community conservation models "the need for livestock keepers to adhere to a defined carrying capacity in order to conserve rangeland resources and to achieve economic development remains an

institutionalised fact [and] is part of a broader dominating discourse in southern Africa on range management, environmental conservation and agricultural development" (Benjaminsen *et al* 2004: 3).

A number of researchers active in the communal areas of Namaqualand question the perception of widespread degradation due to high stocking levels (see Rohde *et al* 1999, 2001; Hahn *et al* 2004), and note the failure of many commentators to fully understand the workings and logic of current range management practices (Rohde *et al* 2001). From this point of view, the claims of economic and ecological inefficiency ignore the multiple land use and production objectives of communal farmers, as well as the harsh economic reality and constraints under which farmers operate (Rohde *et al* 1999, 2001). Rather than attributing economic inefficiency to institutional failures or 'tragedies', the management system and high stocking densities found in Namaqualand are viewed as a rational adaptation to local conditions and constraints and needs (Rohde *et al* 1999; Benjaminsen *et al* 2004).

Moreover, the use of stock posts and kraaling is seen as a "rational way of using unfenced rangelands by multiple herds [since] stock posts can be moved to take advantage of better grazing conditions elsewhere" (Benjaminsen *et al* 2004). This emerging perspective thus challenges the need for and appropriateness of formal and bureaucratic institutions, and rules and regulations. Instead, communal farming, with mobility and flexible herd sizes, is seen as a common sense response to farming in marginal environments

> "Communal farming can be conceptualised as a complex living system which is evolutionary in the broadest sense: it is self-organising, self-complicating and adaptive as a result of the large number of interactions between farmers, their livestock and the ecosystem. Hence it is our contention that

> an expanded commons requires less, not more, outside control and formal regulation" (Rohde *et al* 1999: 5)

Referring to the expansion of the commons in Damaraland in Namibia[8], Rohde *et al* (1999) note that the resultant complexification of the social matrix, which involved flexible, negotiable and reciprocal rights and obligations, enhanced the range of coping strategies available to farmers. In the case of Leliefontein, on the other hand, under the current reforms there has been an over-simplification of the communal system and the imposition of "strict formal bureaucratic structures of control" (Rohde *et al* 1999: 22).

Although the precarious position of the poor is acknowledged in the property rights approach, and is a motivating factor for the creation of strong individual legal rights, the approach fails to acknowledge the social complexity of communities on the ground and that a highly legalistic and technocratic framework, by default, advantages those with resources and those that are better-connected.

5. Conclusion

Despite the debunking of much of the 'tragedy' perspective of the commons, rational actor conceptions of common property remain dominant. Thus, although the now ascendant property rights approach rejects privatisation as an inappropriate response to the dilemma of the commons, it retains, through its focus on the crafting of institutions, an emphasis on 'managing' what are perceived to be the irrational impulses of individual users.

In the case of Namaqualand, a similar progression in debates has taken place. The once dominant privatisation paradigm has been superseded by a property rights approach to the commons. There has, however, not been a

[8]Damaraland is similar in climate, ecology and history to Namaqualand.

complete break with the past. Perceptions of land degradation arising directly from the practices of communal farmers still prevail and have had a strong bearing on debates. As a consequence, there is still a strong element of control in the highly regulated property rights framework being established on the newly acquired commons of Leliefontein, and as will be illustrated in the case study, an ongoing tendency toward the individualisation of common property.

CHAPTER 3: The Communal Area of Leliefontein

1. Introduction

> A land of mountains and scorched up plain
> Where there is nothing to do but pray for rain
> Parched and barren and choked with sand
> Lonely deserted Namaqualand [9]

The land reform process currently underway in Namaqualand is taking place within a particular biophysical and socio-economic context. As a region Namaqualand is spatially isolated, tucked away in the extreme northwestern corner of South Africa, bounded by the Atlantic Ocean in the west and Namibia to the north. Travelling to Namaqualand from South Africa's major urban areas (Johannesburg lies 1300km to the east, and Cape Town approximately 500km to the south) is a daunting task since Namaqualand is truly on South Africa's periphery.

Approaching from the east the landscape is empty with no sign of human habitation apart from a few isolated and run-down farmsteads, decrepit and rusty windmills standing abandoned in the veld, and the occasional mineshaft sunk horizontally into a distant hill or mountain. There are few people or even animals to be seen, apart from the ever-present crows. After leaving Kakamas on the Gariep River[10], a place that is verdant and green, an arrow-straight road runs for almost 300 km through a harsh, arid and otherworldly landscape interrupted only by the tiny hamlet of Poffadder and the even smaller Agenneys, before finally reaching Springbok, the capital of Namaqualand.

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[9] Extract from a poem written by the Namaqualand prospector Fred Cornell in 1920 (in Jowell and Folb, 2004: 72).

[10] The Gariep River, which forms the border between South Africa and Namibia, was formerly known as the Orange River.

From the South the way is equally harsh. On crossing north over the Olifants River the landscape changes from fertile, manicured and irrigated orchards and fields flanked by steeply rising fold mountains, to an open and arid vastness. The 160km from the Olifants River north into Namaqualand takes one across the barren white pebble expanse of the Knersvlakte[11] and across the Salt River, before passing through the village of Bitterfontein and on into Garies, which is the southernmost town in Namaqualand. The approach is hardly a welcoming one.

This physical isolation is compounded by the harsh and foreboding physical landscape of Namaqualand itself. From the flat expanses of the coastal Sandveld in the west, to the mountainous and incised interior and plateau region to the east, the landscape is physically harsh and dry, and dominated by thorny shrub land. The summers are unbearably hot and the winters, in places, bitterly cold. These extremes in heat and cold shatter the landscape, physically prising apart the massive granite outcrops that jut from the landscape. There is nothing that is moderate about Namaqualand – only the extreme seems to prevail.

This physical isolation and the harshness, presages the social and economic marginalisation of the region. Namaqualand, being peripheral to the national space economy, is characterised by high levels of poverty and unemployment. This is particularly so in the communal areas of Namaqualand, where over the past decade the situation has worsened

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[11] There are differing interpretations of the meaning of 'Knersvlakte'. Some refer to the gnashing teeth (*kners* - to gnash) of early European pastoralists crossing this expanse. Others claim the name derives from the old Dutch *knecht* (knave – male servant). Historical records indicate that *knechte* freed of their services were allocated land in this region during the Dutch colonial period. The allusion to gnashing teeth seems more appropriate, however, and more evocative given the character of the landscape. In fact many of the place names in Namaqualand evoke harshness and struggle *viz* Bitterfontein (bitter fountain), Aggeneys (agony), Poffadder (a local venomous adder), Houmoed (keep courage), and Moedvelore (courage lost).

considerably as an already fragile regional economy, and in particular the regional mining industry, has gone into decline. In this context, the acquisition of 245 552 ha of new municipal commonage between 1998 and 2003 for use by residents of these communal areas[12], is of great significance (Pienaar and May 2003). With high levels of unemployment and poverty, the stakes in gaining access to these resources are high. From the point of view of the poor, the new commons represent an important opportunity to enhance their livestock-based livelihoods and household subsistence, whereas for those better off the new land represents an important resource to potentially further personal accumulation.

This chapter, which provides a description of the land and the people of Leliefontein, presents the context in which the design and development of a range management system for the new commons has unfolded. This will provide a background for the two case study chapters that follow. This chapter also provides a brief review of the methods employed in the study and some discussion on the complexities of carrying out community research in Leliefontein.

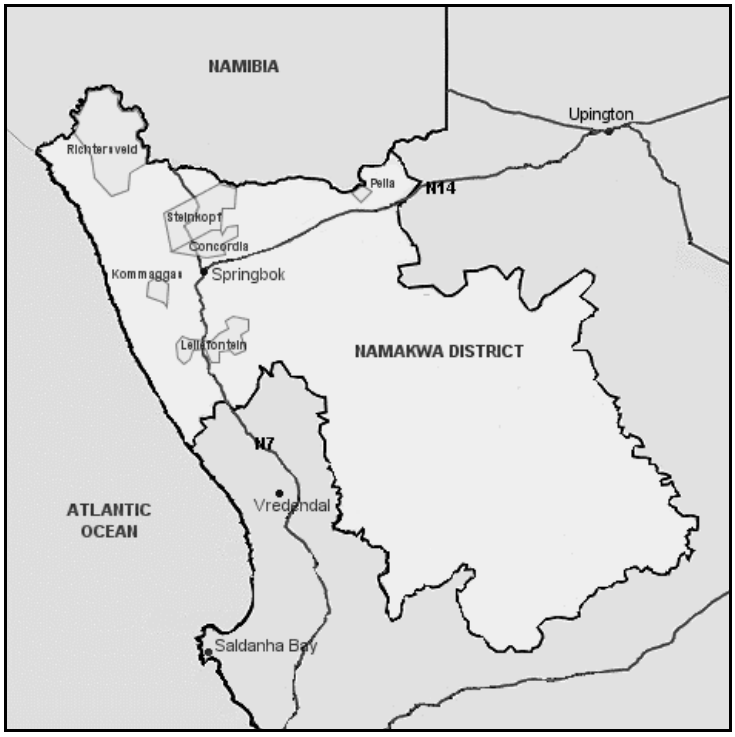
2. The Communal Areas of Namaqualand

Namaqualand, which comprises the western half of the Namakwa District[13], is home to six communal areas: Leliefontein, Richtersveld, Steinkopf, Pella,

[12] New municipal commonage has been acquired for the communal areas of Leliefontein, Pella, Concordia, Kommaggas and Steinkopf. The Richtersveld communal area on the other hand secured access to 186 690 hectares of state land (Pienaar and May 2003).

[13]With the demarcation of post-apartheid local government boundaries in 2000, the former Namaqualand Regional Services Council District was amalgamated with the Hantam Karoo and Karoo Hoogland regions to the east, to form the Namakwa District Municipality. The Namakwa District is itself split into six local municipalities, namely Richtersveld, Nama Khoi, Khai Ma, Kamiesberg, Hantam and Karoo Hoogland.

Concordia and Kommaggas.[14] With many originating in the early 1800s as mission stations, these communal areas were set aside by the former apartheid regime for exclusive occupation by people classified as 'coloured' (Boonzaier 1987; Smith 1989; Krohne and Steyn 1991). These six communal areas, which comprise some 1.7 million hectares of land or approximately 27 per cent of the Namaqualand region, are home to approximately 40 per cent of the regions inhabitants (Boonzaier 1987; Smith 1989; Rohde *et al* 2001). According to the 2001 Census, Namaqualand has a population of approximately 77 000 people (Stats SA 2001). The remainder of the Namaqualand region is made up largely of commercial farmland.



Map 1: The Namakwa District showing the six communal areas of Namaqualand (not to scale)

[14] There are a total of twenty-three coloured communal areas in South Africa spread across the Northern and Western Cape provinces, and the Free State province.

As a region, Namaqualand is arid to semi-arid in character with low and erratic winter rainfall. Rainfall ranges from 100 mm to 350 mm per annum, although there is a great variation in distribution. Generally speaking, rainfall is highest in the southwest of Namaqualand, and lowest in the northeast on the border with Bushmanland (Penn 1986). Bushmanland and the northeastern interior are characterised by summer rainfall. To some extent the Leliefontein communal area is an exception to this. Centred on the Kamiesberg Mountains, areas of the Leliefontein, particularly around the village of Leliefontein, receive higher rainfall than elsewhere in Namaqualand. Moreover, the eastern part of Leliefontein is located in the transition zone between the winter and summer rainfall regions, and in good years can receive both winter and summer rainfall.

As a consequence of this low and erratic rainfall, rivers in Namaqualand such as the Buffels and Groene are seldom perennial (Penn 1986). These ephemeral river systems only flow during heavy and extended rain events, and even when flood events do occur these rivers only occasionally flow all the way to the Atlantic. The exception to this is of course the Gariep River, which borders Namaqualand in the north. Originating in the Drakensberg highlands of Lesotho, this substantial river system flows year round. As a result of the lack of perennial rivers or other forms of permanent surface water in Namaqualand, the primary domestic and agricultural water source in the region is groundwater.[15] Harnessed through natural springs or by means of boreholes, the quality of this water is often poor with varying levels of salinity.

The economy of Namaqualand is dominated by mining and agriculture, in particular the farming of small stock. The mining sector has, however, been in decline over the past decade. According to Statistics South Africa (2001) there has been a 10% decline in the number of people employed in mining

[15] There is a pipeline that carries water from the Gariep River, but this supply is limited to certain private mining towns such as Kleinsee. This pipeline also provides for a portion of Springbok's water supply.

in the region since 1996. This follows the shedding of some 27 000 jobs in the sector between 1990 and 1995 (Husum 2004). Agriculture in Namaqualand has been through equally trying times over the past two decades, adjusting to the rapid liberalisation of the South African agricultural economy, and coping with regular drought episodes. Commercial farmers in marginally productive areas such as Namaqualand have struggled with the dismantling of extensive former state subsidies. Nonetheless, agriculture and mining still dominate the regional economy and remain prominent employers, accounting for 43% of employment in Namaqualand in 2001[16] (Stats SA 2001).

As a consequence of the decline of the formal economy in the region, the official unemployment rate in Namaqualand has increased from 25% in 1996 to over 30% in 2001 (Stats SA 2001).[17] Unemployment rates in the communal areas are significantly higher. These high levels of unemployment are reflected in income levels generally – in 2001, of the working age population, 40% of individuals reported no income at all and a further 32% a monthly income of less than R800 per month (Stats SA 2001). Although there has been significant growth in tourism over the past decade, this development is unlikely to offset the job losses in mining and agriculture. This growth in tourism is associated with the high levels of plant diversity and endemism of the Succulent Karoo biome which predominates in the Namaqualand region, and spring flowering events which occur when winter rains are sufficient (Todd *et al* 1998).

Namaqualand remains marginal to the broader national economy and in terms of human development lags behind the national and provincial averages as reflected in human development indices – 0.428 for Namaqualand as opposed to 0.677 nationally, and 0.698 for the Northern Cape province. The human development index for the population of the

[16] Agriculture accounts for 16% of employment, and mining accounts for 27%.

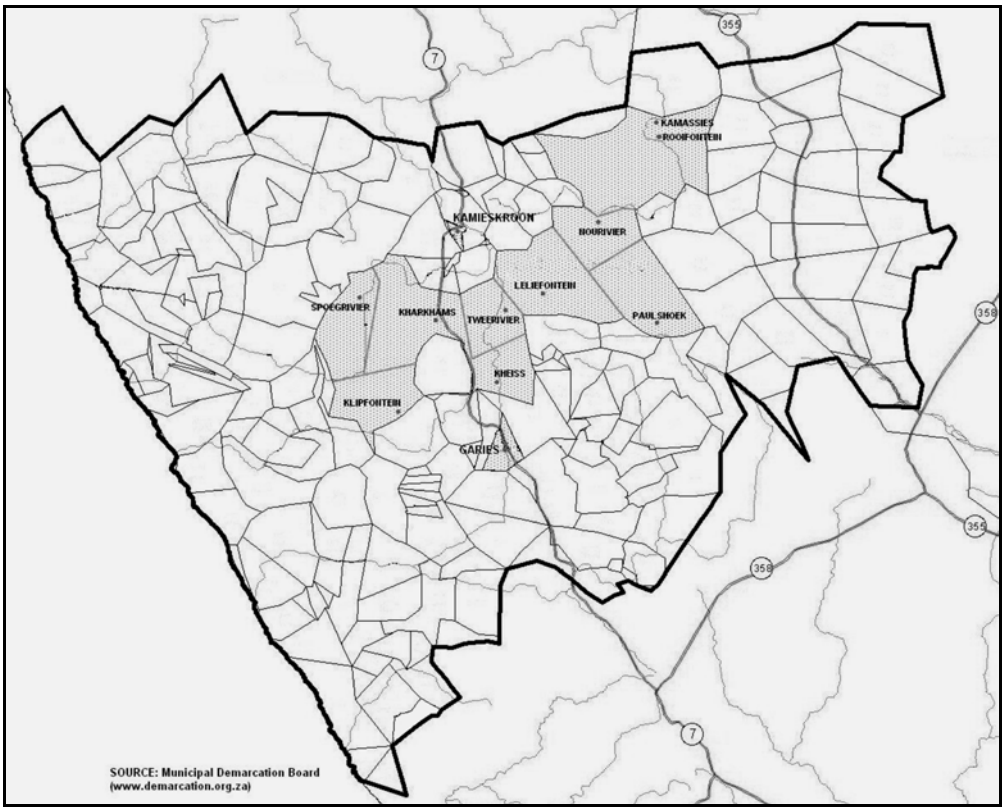
[17] The expanded unemployment rate stands at 59% (Stats SA 2001).

communal areas is substantially lower at 0.340 (Development Bank of Southern Africa 1998).

3. The Leliefontein Communal Area

3.1. Description of the Commons

Leliefontein, comprising 192 719 ha of land, is the third largest and most southerly of the six communal areas in Namaqualand (van der Horst 1976), and is bisected north to south by the N7 national road. Leliefontein falls within the Kamiesberg Local Municipality. In the past, the jurisdictional boundary of the authority responsible for Leliefontein (initially the Management Board, and between 1993 and 2000, the Transitional Local Council) has always matched the boundaries of the communal area. The Kamiesberg Municipality, which was established in 2000, on the other hand has jurisdiction over a much larger area that now includes Leliefontein and surrounding commercial farms (see Map 2).



Map 2: The Kamiesberg Local Municipality showing the Leliefontein communal area (boundaries of the village commons are indicated by the solid grey lines)

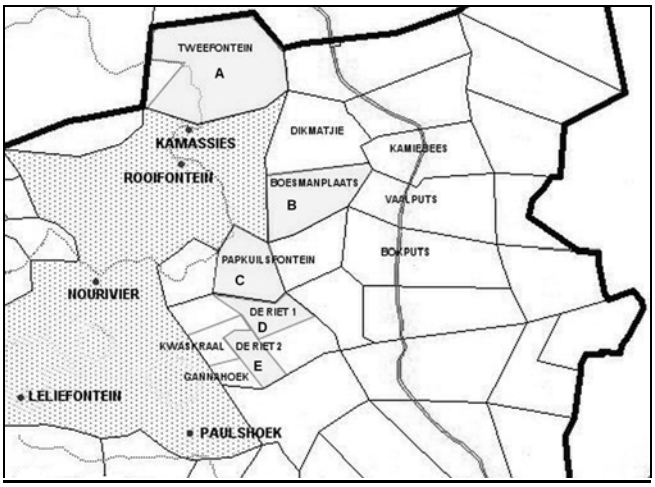
There are 10 permanent settlements in Leliefontein, three on the western side of the N7 and seven to the east. The village of Kharkams, on the western side of the national road, is the largest of these settlements (Debeaudoin 2001). Leliefontein is divided into nine village commons associated with these settlements – Kamassies and Rooifontein jointly utilise a single commons. These village commons are relatively large with the Paulshoek common, by way of example, being approximately 20 000 hectares in extent. All farmers residing in a particular settlement use the commons associated with that settlement.

These village commons are not divided or fenced into camps or discrete areas for exclusive use by individual farmers, although a ram camp is fenced-off for each settlement. The only areas on the commons to which individual farmers have exclusive use rights are sowing allotments. Such

allotments are closed to others during the growing season yet revert back to common property again after the harvest. The boundaries between village commons are not rigidly defined and instead comprise permeable and flexible boundary zones allowing stock farmers to move between village commons.

In terms of water, communal farmers in Leliefontein use a diversity of sources ranging from self-excavated pits or wells, to natural springs and boreholes. In the case of boreholes, water is extracted either by windmill or diesel pump. With springs or pits, the farmers that utilise such water generally also maintain the source – i.e. keeping the spring or well clean and open. Farmers also repair windmills and pumps themselves when there are minor problems, although ultimately the Kamiesberg Municipality is responsibility for maintaining commonage infrastructure. Access across the commons is by dirt track or trail, which in many instances are impassable by motor vehicle. Finally, dipping stations are maintained on most of the village commons by the Department of Agriculture, which also carries out regular dipping of livestock in Leliefontein.

In addition to the original 192 719 hectares of Leliefontein's original commons (the 'old commons'), between 1998 and 2000 five new farms were acquired. These land acquisitions have effectively expanded the land area available to farmers (see Map 3). These 5 farms, namely De Riet 1 and De Riet 2, Papkuilsfontein, Boesmanplaat, and Tweefontein, total some 33 000 ha, and were acquired from white commercial farmers on the eastern border of Leliefontein. This land, which is referred to as the 'new commons' in this study, is the focus of this research.



Map 3: The eastern portion of Leliefontein (the five newly acquired farms are labelled A, B, C, D and E on the map)

Three of the new farms – Tweefontein, Boesmanplaats, and Papkuilsfontein – directly abut the old commons, whereas the two portions of De Riet are separated from Leliefontein by privately owned commercial farmland. As will be discussed in Chapter 5, this has created problems of access for farmers from Paulshoek. The new farms range in size from just under 2 500ha to over 14 000ha.

Table 1: Summary of information on the New Farms

Farm Name and Number	Year of Transfer	Size in Hectares [18]	
		Title deed	Dpt of Agric
Portion 1 of De Riet (farm number 383)	1998	3426.1	3443
Portion 2 of De Riet (farm number 383)	1998	2384.8	2379
Papkuilsfontein (farm number 363)	1998	5060.4	5060
Boesmanplaat (farm number 365)	2000	6956	6956
Remainder of Tweefontein (farm number 248)	2000	14799.9	15717 [19]
	TOTAL	**32 618.4**	**33 555**

(Source: Department of Agriculture 1972, 1989, 1997, 2001, undated; Legal Resources Centre 2003)

This process of acquiring additional land to expand the Leliefontein commons has been ongoing. For example, in 2003 the farm Dikmatjie to the north of Boesmanplaat was purchased specifically for use by communal farmers from Kamieskroon. A number of other properties in the Leliefontein area, which were allegedly also on the market, including the farms Kamiebees, Bok Puts, and two further portions of De Riet, namely Kwaskraal and Gannahoek (see Map 3) were also being investigated in 2004.

Unlike the old commons, the five new farms are divided into a total of 66 camps, ranging in size from 36 to 2199 ha.[20] The distribution of camp sizes on each of the new farms is indicated in Table 2. The boundaries of the individual farms have been retained, as have the camps on each of the new farms. As will be shown in the case study chapters, the farms and camps are important management units under the framework introduced to govern the use of these new commons.

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[18] There are discrepancies between data from the Deeds Office and data from the farm maps used by the Department of Agriculture. The Department of Agriculture maps are used in the management of the farms, and are thus also included here.

[19] There is some dispute as to whether camp 11 of Tweefontein is part of the new or the old commons. Camp 11 is 946 ha in size. The camp is currently managed as part of the new commons and is thus included here.

[20] These are the pre-existing camps used by the previous owners of these farms.

Table 2: The distribution of camps and camp sizes on the New Commons

Farm	Camps	Camp Sizes (Ha)								
		<50	51-100	101-250	251-500	501-750	751-1000	1000-1500	1501-2000	>2000
Tweefontein	17	-	-	-	1	6	5	4	-	1
Boesmanplaat	14	-	1	1	8	2	1	1	-	-
Papkuilsfontein	16	1	3	3	5	4	-	-	-	-
De Riet 1	11	-	1	-	-	-	-	-	-	-
De Riet 2	8	-	-	3	4	1	-	-	-	-
Total	**66** (100%)	**1** (1.5%)	**5** (7.6%)	**11** (16.7%)	**21** (31.2%)	**16** (24.2%)	**6** (9.1%)	**5** (7.6%)	-	**1** (1.5%)

(Source: Department of Agriculture, 1972, 1989, 1997, 2001, undated)

In terms of infrastructure on the new commons, according to a member of the Commonage Committee in Nourivier, at the time of purchase the infrastructure on many of the farms was already in need of repair. It is further alleged that the farms stood unutilised after acquisition, during which time the situation deteriorated further, with pumps being vandalised and fences disappearing. Whatever the situation may have been, as with the old commons, infrastructure on the new farms is now in varying states of disrepair.

In the case of the farm Papkuilsfontein, according to one of the farmers leasing land on the farm in 2004, there is one borehole with a pump but no pump-head, and a further two pumps that leak. Moreover, the reservoir fed by these two pumps is broken and is unable to hold water. A farmer from Kamassies who uses land on Tweefontein reported a similar situation there. The situation on the De Riet farms is the same (authors personal observation, February 2003).

The state of infrastructure on the new farms, although improved by 2004, remains a major point of contention between the municipality and farmers using camps on these farms.

3.2. The Residents of Leliefontein

According to the 2001 census, there are approximately 5700 people, comprising some 1500 households, resident in Leliefontein (Stats SA 2001). Table 3 provides a breakdown of the distribution of households in Leliefontein. Compared to the Namaqualand region, Leliefontein has a high proportion of youth and elderly residents. In Leliefontein, almost 35% of the population is between one and 14 years of age and over 9% are over the age of 65, as compared to 28% and 6% respectively for the Namaqualand region as a whole (Stats SA 2001). The comparatively high proportion of children and elderly residents can be ascribed to labour migrancy from Leliefontein.

Table 3: Distribution of households in Leliefontein

Settlement	Number of Households
Kharkams	343
Leliefontein	225
Spoegrivier	176
Paulshoek	163
Klipfontein	160
Nourivier	159
Rooifontein (including Kamassies)	145
Kheiss	135
Tweerivier	54
Total	**1560**

(Source: Debeaudoin, 2001)

Households pursue diversified livelihood strategies, involving varying combinations remittances from labour migrants, earnings from local employment and piecework, self-employment through local enterprises, livestock farming, and social welfare payments.

Given that the potential for agriculture within Leliefontein is limited due to a restricted land base and an arid to semi-arid environment, and there are few other local income and employment opportunities in nearby towns such as Garies and Kamieskroon or on commercial farms neighbouring Leliefontein, many residents seek employment elsewhere in the region. Traditionally the

mining and commercial farming sectors have been the main sources of such employment.

As already noted, however, this has changed over the past ten to fifteen years as these sectors have declined. For example, in 1996 agriculture accounted for over 32% of employment in Namaqualand, and mining 6%, whereas in 2001 these figures had declined to 24% and 3% respectively (Stats SA 2001). Other migrants from Leliefontein are employed further afield in urban centres outside of Namaqualand such as Vredendal, Klawer and Cape Town. Labour migration is, however, proving increasingly futile in the region, and even further afield, due to generally high levels of unemployment across the country.

As limited as local employment opportunities may be, some residents do run their own businesses, such as shops or taxi services, in the settlements where they reside. Others are employed as teachers in local schools or work for the Kamiesberg Municipality either in Garies or in local offices located in a number of the settlements. Employment in local government varies from senior positions such as municipal Mayor and Local Development Officer, to more menial employment such as clerical, cleaning and maintenance staff. Work on neighbouring commercial farms is usually as menial labourers or as herders, and may be permanent, seasonal, or temporary piecework.

Despite the limited potential for agriculture within Leliefontein, and due to the absence of other local opportunities, livestock farming remains an important economic (and cultural) activity, and an important element of diversified household livelihood strategies. Many migrant workers will invest in livestock throughout their working careers, keeping these animals in Leliefontein with the herds of other family members. Many of these individuals will fall back on livestock farming when they return to Leliefontein on retirement or in the event of retrenchment.

On the whole, however, unemployment rates and poverty are high in Leliefontein, and have worsened considerably over the past ten years. According to census data, in 2001 the official unemployment rate for Leliefontein was 57%, compared to 52% in 1996 (Stats SA 2001).[21] Moreover, 51% of individuals over the age of 15 years reported no monthly income at all, with a further 40% reporting an individual monthly income of R 800 or less. This precarious situation of individuals is obviously mirrored at a household level. The average household income in Paulshoek in 1999, for example, was approximately R 1 200 per month with a median household income closer to R 1 050. Per capita income in Paulshoek was only R 190 per month (Rohde *et al* 2003).

Despite this widespread unemployment and poverty, however, communities in Leliefontein are not homogeneous. In household typologies developed from survey data, Rohde *et al* (2003) identify five household categories in Leliefontein – emerging middle class households[22]; households comprising ex-migrant workers and dependents; pensioners; young families dependent on local employment and unskilled labour; and marginalised households. Debeaudoin (2001) identifies seven household categories. There are a number of commonalities between these different typologies (see table 4).

Table 4: Household typology for Leliefontein

[21] The expanded rate of unemployment stands at 84% for 2001, as opposed to 80% in 1996 (Stats SA 2001)

[22] It should be noted that the term 'middle class' is used relative to these communities. These households are distinctly better off relative to the community in which they reside. In addition to a distinct income differential between this category of households and others in the community, these households also display many of the trappings of a nascent middle class such as well-constructed houses, cars, telephones and televisions. Moreover, their educational qualifications, work experience and social networks also enable them to take advantage of employment opportunities outside the village. Compared to provincial or national income figures, however, these households would be considered poor (Rohde *et al* 2003: 33).

Household Types	Characteristics	Approximate Annual Income
Emerging middle class (Rohde *et al* 2003); Autonomous/salaried (Debeaudoin, 2001)	▪Primarily dependent on wage labour/wage labour remittances and local business/entrepreneurship ▪Highest annual household income (up to ten times that of the poorest households) ▪Largest average number of livestock ▪Salaried herders	R 22 000 (in 1995) R27 000 (in 1999)
Ex-migrant labourers and dependents (Rohde *et al* 2003)	▪ Represent a later stage in the life-cycle of emerging middle class households ▪Primarily dependent on wage labour remittances and welfare ▪Livestock can play an important role	▪Annual income 60% that of emerging middle class R13 200 (in 1995) R 16 200 (in 1999)
Pensioners (Rohde *et al* 2003); Social transfer dependent (Debeaudoin, 2001)	▪Primarily dependent on state welfare ▪Livestock makes a small contribution	▪Annual income 25% that of emerging middle class R 5 500 (in 1995) R 6 750 (in 1999)
Dependent on local and unskilled labour (Rohde *et al* 2003); The irregular income earners (Debeaudoin, 2001)	▪ Approximately the same annual income as pensioner households ▪ Large portion of income derives from local, casual labour ▪Livestock makes a small contribution	▪Annual income 25% that of emerging middleclass R 5 500 (in 1995) R 6 750 (in 1999)
Young, unemployed, marginal (Rohde *et al* 2003); The poorest (Debeaudoin, 2001)	▪ High levels of unemployment with casual labour being the primary source of income ▪Lowest number of livestock, although livestock contributes more than 10% of household income	▪Annual income 10% that of emerging middle class R2 200 (1995) R2 700 (1999)

(Based on: Rohde *et al* 2003; Debeaudoin, 2001)

These typologies indicate a broad distinction between households that have been able to break into regional labour markets with household members securing relatively permanent wage employment outside of Leliefontein (that is emerging middle class and ex-migrant labour households), and those that have not been able to achieve this. Although wages and wage remittances are the primary source of income for migrant labour households, these households also tend to have the largest stock holdings. In terms of contribution to household income, however, the role of agriculture is often negligible. The weighting of the contribution of agriculture does change as these households age and those who 'retire' shift into farming on their return to Leliefontein. In these 'older' emerging middle class households, the

contribution of livestock to household subsistence becomes more prominent.

Households that are unable to secure employment in regional labour markets, on the other hand, are distinctly worse off. As noted in table 4, income for these households is one quarter to one tenth that of emerging middle class and ex-migrant labour households. The local employment that these households engage in is usually piecework, which provides very little sustainability in terms of income. As a result, although these households have smaller stock holdings than emerging middle class households, the contribution and importance of agriculture to household survival is far greater.

3.3. Communal Farming

According to SPP (1997) there were approximately 460 farming households in Leliefontein in 1997, constituting almost a third of all households. Livestock farming in Leliefontein is focussed on small stock, namely sheep and goats. A small number of cattle are also kept, but these only make up a small proportion of total stock numbers. Some farmers keep donkeys as draught animals, and there are also a substantial number of donkeys that roam wild on the commons (these are either feral donkeys, or animals that belong to residents but are not being used). Some farmers also have access to arable allotments, which are cultivated when conditions are suitable. Crops are grown for household consumption and/or as supplementary feed for livestock.

Unlike white commercial farmers in the region, most farmers in Leliefontein are not primarily dependent on livestock for their livelihoods, as there is not enough land to sustain them on agriculture alone. This shortage of land is the major driver of labour migrancy from the area. Although the contribution of livestock farming is small - for example, in Leliefontein village, income

from stock sales as well as the value of milk and meat amounts to approximately 6% of village income, and only 10% of stock owners depend on livestock as their most important source of income (Anseeuw 1999) - livestock farming remains important for a number of reasons.

Livestock represents an accessible store of wealth for residents, which can be sold when cash is needed, for example to pay school fees or to cover unforeseen expenses. Stock sales can be within communities, or to outside buyers, especially neighbouring commercial farmers. In the eastern settlements of Leliefontein, for example, a commercial farmer comes through the area every year-end and buys up stock from farmers in these settlements. The timing of these sales corresponds to the festive season, when money is required. Households obviously also derive direct benefits from livestock in the form of meat and other animal products.

In addition to the economic functions of farming, livestock represents a form of social capital, which is important in developing and maintaining relations of reciprocity and cohesion of community life. There are also strong cultural attachments to livestock, with farming being important to individual identity (in terms of continuing a family tradition of farming and/or the sense of pride associated with livestock rearing, for example).

Although farming only makes a small contribution toward household income and livelihoods in Leliefontein, it is one of the few locally available economic opportunities. This factor, associated with the strong historical and cultural attachment to stock farming, means that in all likelihood, agriculture and the use of the commons will remain an important feature in the lives of Leliefontein's residents. Moreover, given the high levels of unemployment and poverty, in the absence of alternative local opportunities, dependence on the commons is likely to grow as households are forced to rely increasingly on farming for income and household subsistence.

The objectives and practices of communal farmers are very different to those of neighbouring white commercial farmers. Given that communal farmers pursue multiple objectives in livestock production, optimal strategies on their part, seek to maximise herd sizes at high stocking densities. Farmers therefore pursue dynamic and opportunistic patterns of herd size fluctuation, which depends largely on climatic variation. In some years these fluctuations can be substantial. For example, over the drought of 2003, farmers in Paulshoek experienced massive losses, as animals weakened by a lack of summer grazing succumbed to the cold of winter. Losses of over 60% were not unusual in Paulshoek that winter, and some farmers lost all of their stock. Although stock numbers are affected by stock sales, these changes are negligible as compared to the influence of climate.

On average, however, stock figures in Leliefontein have consistently been higher than those on neighbouring commercial farms where stock numbers are kept in line with officially prescribed stocking rates. Although only recently acquired, a similar situation has come to prevail on the new commons as well, with stocking rates rapidly approaching levels similar to those on the old commons. The official stocking rate for the region is in the range of 10ha per SSU. Table 5 provides a breakdown of available stock data for Leliefontein over the past 180 years.

Table 5: Small Stock Unit Equivalent in Leliefontein by year[23]

Year	Old Commons		New Commons	
	SSU	Stocking rate (ha/SSU)	SSU	Stocking rate (ha/SSU)[24]
1824	24 000	7.9		
1854	25 230	7.5		
1875	24 400	7.8		
1890	25 600	7.4		
1909	14 700	12.9		
1947	34 890	5.5		
1953	40 000	4.8		
1997	36 479	5.2		

[23] The reduction in SSU between 1903-1907 and 1998-2000 is due to multi-year droughts.

[24] Stocking rates have been calculated using a grazing area of 33 555ha (as per the Department of Agriculture farm maps used in the management of the new commons).

2001	23 754	8.0	1075	*Incomplete data*
2002	23 712	8.0	-	-
2004	-	-	4274	7.7

(Source: Benjaminsen *et al* 2005, modified)

Each village commons is used by a number of farmers operating individually or in partnership with other farmers. In the case of Paulshoek, over the past few years the number of herds utilising the village common has remained constant at between 25 and 30 herds. Fluctuation in the number of herds has been due to drought (as farmers lose their herds) or voluntary (and in many cases temporary) withdrawal from agriculture by farmers. It is interesting to note that there is a greater tendency by middle class farmers to dispose of all of their animals during adverse times, and restock when conditions improve, or in the case of one of the Paulshoek beneficiaries, restocking in anticipation of gaining access to the new farms (authors personal observation).

Farmers on the old commons employ a semi-mobile stock-post system, with stock posts representing flexible and porous territorial markers that divide the village commons into use areas associated with individual herds. The commons are not fenced off into camps where stock is left to range free. Instead, the herds are taken out from the stock post each morning, and in many cases, actively herded in the territory of the stock post during the day. Livestock are corralled at the stock post at night. The area around the stock post is not the exclusive domain of the stock post 'owner', however. Other farmers are able to bring their animals in to graze, although in many instances the rights of stock post 'owners' are long-standing and recognised, and access by others is negotiated.

According to a number of informants in Leliefontein, as recently as the 1950s, there was a much greater degree of seasonal movement within the broader communal area. For example, livestock from Paulshoek and Leliefontein was moved down Studer's Pass, on the road to Garies, to the area around Roodebergskloof and Keurbos on the Kheiss village commons (a distance of approximately 45 km). Such movements, which exploited

different vegetation types at different times of the year, no longer take place[25]. What remains now are lesser movements between adjacent village commons. For example, informants from Paulshoek allege that some farmers from Leliefontein move their stock onto the northern sections of the Paulshoek common at certain times of the year, before returning to Leliefontein.

Most movement by farmers is now reduced to the movement of stock posts within the respective village commons. These movements are not necessarily seasonal, but can relate to other factors such as drought or the merging or rearranging of herds with other owners. In Paulshoek, for example, during the drought of 2003, a number of farmers who were each reduced to a handful of stock closed their stock posts and moved, with their few remaining animals, back to the village. It was their intention, when their stock numbers increased again, to return to their stock posts. There are also instances of farmers moving their stock onto neighbouring commercial farms (either for a rental fee, or in exchange for labour). In 2003/2004, for example, a farmer from Paulshoek was keeping his stock on the farm Rooival, which lies south of Paulshoek.

One form of livestock movement that is still practiced more regularly in Paulshoek is the movement of livestock away from sowing allotments during the growing season. Until as recently as the 1980s farmers elected a *lynwagter* (watcher of the line) who ensured that all livestock was moved to the southern part of the Paulshoek commons and kept there until the sowing allotments in the north had been harvested. This *lynwagter* had the power to impound errant livestock and to charge the owner a fee for releasing their animals from the pound. Although there is no longer a *lynwagter* in Paulshoek, farmers among themselves agree to move animals away from

[25] It is unclear exactly why transhumance of this nature ceased. Some informants in Paulshoek allege that the decline in mobility relates to the overall decline in the livestock farming in the communal area and the growing importance of labour migrancy to household livelihoods. Very few stock owners are now full-time farmers.

allotments that have been sown. Compensation for damages is negotiated between the affected parties. A common lament from farmers during the course of this field research, however, was in relation to the breakdown of mutual respect among farmers which was giving rise to increasing intransigence and conflict.

Communal farmers from Leliefontein are not an homogenous group. As with the broader Leliefontein community there is clear socio-economic differentiation, which is reflected in herd size, production objectives and production strategies.

In examining survey data of farmers in the eastern settlements of Leliefontein[26], the following distinctions are evident:

(i) Small farmers: Approximately 40% of herds comprise less than 50 animals. These herds, however, only constitute 10% of all stock in the eastern half of Leliefontein (Department of Agriculture 2002). This is in line with the broader trend for household stock ownership in the communal areas of Namaqualand, where 44% of households own less than 45 animals (SPP 2003).

(ii) Middle farmers: 47% of all herds are between 51 and 200 animals. These herds comprise 52% of all stock in eastern Leliefontein (Department of Agriculture 2002). Again, this is in line with the broader trend for the communal areas of Namaqualand, where approximately 42% of households own between 46 and 225 animals (SPP 1997).

(iii) Large farmers: 13% of herds consist of 201 animals and more. These herds account for 38 % of all stock in eastern Leliefontein. Four per cent of these herds consist of 300 animals or more, and account for almost 20 % of all stock in the eastern settlements of Leliefontein

[26] Rooifontein/Kamassies, Nourivier, Leliefontein and Paulshoek.

(Department of Agriculture 2002). This distribution is also in line with broader trends for household ownership in Namaqualand (SPP 1997).

Table 6: Distribution of herds and livestock by herd size

Herd size	Percentage of herds	Percentage of total livestock
<50	40%	10%
50-200	47%	52%
>200	13%	38%

In late 2004, there were no formal management rules or institutions operational on the old commons. In fact, since the collapse of the economic unit policy in the late 1980s, which finally undermined whatever legitimacy the local Management Board still retained, there has been an effective interregnum in the management of the old commons. As a result of this, farmers in Leliefontein adhere to varying degrees in their farming practices to informal institutions, some such as those relating to stock post territories and the movement of animals during the sowing season are described above, which are based largely on social need as well as cultural and historical norms (Marinus 1997). On the new commons the situation is completely different. Here an individualised leasehold type arrangement has been introduced, through which rights of access are strictly controlled and farmers bound, through legal contract, to stipulated land use rules and regulations.

4. Methods Employed in the Study

There are a number of factors that make field research in Namaqualand a challenging proposition. In selecting the research area and in designing the research methodology for this study it was important to take these into account. This section provides a brief review of some of the difficulties encountered in undertaking this research, before discussing the research methodology that was employed in this study.

4.1. Obstacles to Undertaking Field Research in Namaqualand

In undertaking community research in the communal areas of Namaqualand, there were a range of practical and socio-political issues that needed to be overcome.

Foremost of these was the issue of getting to an isolated and distant region, and once in Namaqualand, getting to scattered communities located in an often difficult-to-access physical landscape. This issue of physical access was a primary determinant in opting to undertake the field study in the Leliefontein communal area, and for the researcher to be based in the community of Paulshoek. There were already a number of researchers working in Leliefontein, and in Paulshoek in particular. This enabled transport to Leliefontein with certain of these researchers. In addition, Leliefontein and Paulshoek were part of the focus of a broader research project[27] that provided a grant to enable this field study. The researcher was also able to access a motor vehicle through this project for field research purposes[28].

Getting to the research area was, however, only the first complication and one that was resolved relatively easily. More intractable are the complex local historical, cultural and political dynamics that confront any outsider considering research in the communal areas of Namaqualand – particularly an outsider who is largely urban based, white, middle-class, English speaking, and with no previous first-hand exposure to the region.

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[27] This research was funded through a grant from the *Managerial and Policy Options for the Sustainable Development of Communal Rangelands and their Communities in Southern Africa* Project (MAPOSDA), which was funded by the European Commission under INCO-DC: International Cooperation with Developing Countries (2000-2004), Contract no. ERBIC18CT970162.

[28] The Institute for Plant Conservation at the University of Cape Town, which was the South African partner of the MAPOSDA project, made available their vehicle to the researcher for this study.

Compounding this complexity is the fact that this research is focussed on the highly emotive and charged issue of land reform in these communal areas. Given high levels of unemployment and poverty, and the fact that many households depend to an increasing degree on land-based livelihoods for their survival, these reforms have generated a degree of tension in the community. As a researcher I was therefore entering a minefield of competing interests, each with their biases, perspectives, and interpretations.

As a result, the researcher was met either with outright suspicion, hostility or disinterest, or stakeholders saw the research and the study as something that could be used to further their own interests. In the case of marginalised groups (the smallest, poorest farmers) in particular, there was the added danger of raising expectations that the study would somehow address their needs, or influence the transformation process in their favour. In many instances I was the first and only person to engage with this constituency around the issue of land, and the first to listen to their needs and opinions in this regard. This complexity was been mitigated through a number of factors, and through the design of the research methodology.

A great deal of preparation was undertaken prior to my first visit to Leliefontein. This involved familiarising myself with literature on the region and on Leliefontein specifically. I also undertook a number of discussions with NGO stakeholders and other researchers already working in Namaqualand. I therefore had some sense of the history and issues of the area.

In terms of facilitating entry into the community as an outsider, the first two field visits were undertaken with researchers already working and known in the area. This proved invaluable in introducing the researcher to members of the community, and these trips were important in initiating relationships with the respondents in this research. The researcher maintained

relationships with many of the individuals that were met during these first two trips, and many of these respondents assisted in introducing me to other community members in subsequent trips. In all instances, these introductions by members of the community significantly eased my access to these individuals for subsequent interviews and discussions relating to this research. Building on the manner of my entry into the community was the fact that I also resided in Paulshoek during my field visits, renting space in a house from a member of the community. As a result, I was resident and visible in the community for the duration of my field visits, which varied from five to fourteen days each. Living in Paulshoek enabled me to socialise and engage informally with neighbours and others living in the village.

A further factor that facilitated my entry into Leliefontein is my fluency in Afrikaans, which is the *lingua franca* of the region. The ability to converse directly with members of the community, without having to work through an interpreter, definitely made the task of field research easier in allowing me to develop relationships with these individuals over the eighteen months of the field study. There was also an unforeseen advantage to my Afrikaans language skills. Given that Afrikaans is not my first language and is thus heavily accented, many people in Leliefontein were curious as to where I was from, and why I was working in Leliefontein of all places. It seemed strange to them that a white middle-class urbanite would be interested in their community. Inadvertently my curiosity value became a useful way of 'breaking-the-ice' with locals.

More importantly however, through lengthy one-on-one informal discussions and conversations, I was made privy to a great deal of the complex community dynamics that are at play in Leliefontein. People shared with me their misgivings of other individuals in the community and their concerns about the leaders and others involved in the land transformation processes underway in the area. This opening up and display of personal trust would not have been possible if working with an interpreter (who would most likely have come from the local community). I was taken into confidence precisely

because I was an outsider, and had no stake in the local community. As will be noted in the chapters that follow, although a full list of respondents is provided in Annex 1, none of respondents are directly named in the body of this study. It is important that my research does not contribute further to community conflict by divulging personal opinions and information. Moreover, it is important that I respect the trust that these members of the community have shown in me.

A final factor that mitigates some of the community dynamics around the issue of land is the researchers background as a development practitioner in the land sector. This has given me many years of experience working at a community level around issues of land. Thus, the kinds of community dynamics that exist in the communal areas of Namaqualand are not new to me as a researcher, nor in fact unique to the Namaqualand region – similar dynamics prevail in other rural communities across the country. This experience of working with communities, and undertaking community research, meant that as a researcher I was not going in blind. I was aware that these sorts of community dynamics were likely to prevail. Thus, perhaps it was easier to retain a level of objectivity.

Nonetheless, in spite of the above, in designing the field methodology for this study careful consideration needed to be given to these issues.

4.2. Research Methodology

In order to further mitigate against the factors outlined above, a case study methodology was adopted. A case study allows for the use of a range of methods, each producing different but complementary data, and thus a higher quality research output. Moreover, securing data through different methods and from different sources allows for a triangulation of data, which is useful in unpacking the various motivations and interests at play in Leliefontein.

The primary method employed in the field was semi-structured interviews with farmers, commonage committee members, and municipal and state officials. Although semi-structured these discussions were guided by predetermined areas of inquiry. Discussions ranged from one to four hours, and wherever possible these discussions were recorded on audiotape for later review. In addition to audio recordings, lengthy handwritten field notes were taken during these discussions. After these discussions I also recorded my reflections and additional observations while these were still fresh in mind. With most respondents a number of discussions were carried out over different field visits spanning the eighteen months of the study. This allowed a process of iteration whereby key issues or areas of misunderstanding and lack of clarity could be revisited. These ongoing interactions also allowed a relationship of trust to develop between these respondents and the researcher.

Surveys were not undertaken as part of this study, largely due to capacity constraints and the difficulty of carrying out survey work with a farmer constituency that is often isolated and spread out over a large area. Moreover, according to Chambers (1983) questionnaire surveys often fail to provide useful insights into the lives and conditions of poor people. While questionnaires may be good at answering ‘what’ questions such as how many animals does a household own or how many members in a household have completed seven years of schooling, they are less good at answering ‘why’ and ‘how’ questions. Often the answers to these types of questions are complex and will require a number of follow-up questions before the investigator gains a good understanding of the issue, and designing questionnaires to accommodate these points is difficult (Woodhouse 1998). Chambers (1983:51) stresses that questionnaires on their own are a weak method for exploring different types of social relationships, in particular since the poor, due to a mixture of factors such as fear, misunderstanding, or the possibility of benefiting from an intervention may provide answers that are incorrect.

In addition to discussions with individual farmers and stakeholders, I also attended (as an observer) a number of commonage committee, local farmers association, and community meetings. A full list of respondents, and meetings attended is attached as Annexure 1. Additional data was obtained from the municipality and the Commonage Committee on all of the farmers that have accessed the new commons, including information on their stock numbers and camp allocations on the new commons. A full breakdown of information on farmers using the new commons in 2004 is provided in Annexure 2.

In addition my engagement with respondents in Leliefontein I also had ongoing interaction with NGO stakeholders involved in the transformation process, and in particular the Legal Resources Centre in Cape Town. A number of face-to-face meetings were held, and ongoing telephonic and e-mail interaction was undertaken over the full eighteen months of the study.

5. Conclusion

What this chapter has sought to do is provide a broader context against which to examine the process that unfolded in relation to the new commons of Leliefontein.

What is evident is that the current land tenure reform and associated land redistribution exercises currently underway in relation to the communal areas of Namaqualand is taking place within a particular physical, economic and social context. The region is peripheral to the national economy, and given the limited potential for agriculture and general economic malaise in Namaqualand, there are few opportunities for employment and income generation. As a result, levels of unemployment and poverty are high, with the communal areas, which have traditionally served as reservoirs of migrant labour, being particularly badly affected. The limited employment

opportunities outside of the communal areas may see a growing pressure on the commons of Namaqualand as residents, in the absence of alternatives, increasingly turn to livestock farming for their survival.

Although the communities of Leliefontein are poor with high levels of unemployment, communities are not homogenous. Clear socio-economic differentiation is evident. The same applies to communal farmers as a constituency. A clear distinction, based on herd size can be made between small, resource-poor farmers, and middle and larger farmers. Although farming presently only makes a small contribution toward household income, the commons are still important, and provide a crucial fallback in times of crisis. Other than farming, there are few employment and income opportunities in or immediately adjacent to the communal area. The acquisition of 33 000ha of land, or an effective 17% expansion of the commons, therefore, takes on great significance given this context. How the process of allocating rights to this new commonage and using this land has unfolded is the focus of the chapters that follow.

CHAPTER 4: New Institutions for the Commons of Leliefontein

1. Introduction

Unlike most land reform initiatives in South Africa in the post-1994 period, which have been dealt with on a project-by-project basis, in Namaqualand a regional approach comprising communal land tenure reform (through TRANCRAA) and land redistribution (in the form of municipal commonage) has been adopted. This approach was developed through a lengthy process of consultation and district planning.

In July of 1994, 270 representatives from 10 Namaqualand communities met at Steinkopf with the then Minister of Land Affairs. At this meeting, communities agreed to look into their land needs in an organised manner and to participate in the government's demand-driven land reform programme (Wellman 2000). At this meeting each community agreed to form a land committee from which two representatives were drawn to sit on a regional co-ordinating committee (Wellman 2000).

In September of the same year the DLA hosted a Namaqualand Land Convention in Springbok. The newly established community land committees attended this meeting as well as representatives from mining companies, the Parks Board, the (largely white, commercial) Namaqualand Farmers Union, the Northern Cape Provincial Government, and NGOs such as the Legal Resources Centre (LRC), the Surplus Peoples Project (SPP) and the Independent Development Trust (Wellman, 2000). At this meeting, communities requested more time to define their needs in land and the means for addressing these. To facilitate these deliberations, Namaqualand communities in 1995 applied for and were awarded a special District Planning Grant by the DLA.

Deliberations on the nature of land reform in Namaqualand were then taken forward through the 1997 Namaqualand District Planning Project (SPP 2003). This district planning exercise involved municipalities, commonage users and land rights and legal NGOs, specifically SPP and LRC (Pienaar and May 2003). It was through this planning exercise that a strategy for land reform in Namaqualand was developed (SPP 2003). A primary aim of this exercise was to develop an approach that would "refine and better redirect options for land management and institutional support" (Pienaar and May 2003:3) of the commons of Namaqualand and thereby move away from past, top-down practices of rule making and control.

Central to this was the establishment of democratic and people-centred commonage institutions through which resource users would become centrally involved in the formulation of rules and regulations and the subsequent management of group resources. Such new institutions would, unlike in the past, provide effective administration of land rights and protection of the land rights of the poor in particular. Moreover, through being legitimate in the eyes of resource users, such institutions would ensure effective and sustainable management of communal grazing resources through the effective enforcement of rules and regulations. This desire to reform land management applies as much to TRANCRAA as it does to the newly acquired commons.

This chapter looks at how this broad land reform approach devised for the communal areas of Namaqualand has been taken forward at a local level in Leliefontein. Although this new approach applies to both the new and the old commons, given the lack of progress with TRANCRAA, the focus of this chapter is on the new commons. Thus, the co-management institution that has been established to manage the commons, and the local policy frameworks regulating the use of this communal land, will be examined. This chapter highlights certain inconsistencies in the expressed motivations of local stakeholders, and provides a base for the following chapter, which

critically examine why these particular institutions have been adopted for the new commons.

2. Managing the new commons of Leliefontein

In terms of national Municipal Commonage Policy a notarial deed must be attached to titles of commonage acquired through the programme. In addition, a management committee, which is representative of the community for whom the land has been acquired, must be established to administer and monitor the use of this land in partnership with the municipality. This Committee, together with the municipality, will develop and enforce rules and regulations to ensure efficient and effective use of these commons.

In the case of Leliefontein, the Commonage Committee was established in 1999 shortly after the acquisition of the first of the new farms in the previous year. At the time of its establishment, the Committee worked with the then Leliefontein Transitional Council, the jurisdictional boundaries of which matched those of the Leliefontein communal area. Since 2000, however, the co-management partner has been the Kamiesberg Local Council, which is far larger in size than the preceding Transitional Council, and now includes surrounding commercial farmland as well. This co-management relationship with the Kamiesberg Municipality was further formalised in 2003, when the Commonage Committee was converted to a Municipal Service Entity, which is to officially manage the commons on behalf of the municipality.

The development of the Leliefontein Management Plan was undertaken as part of the 1997-1999 Namaqualand District Planning Project. The outcome of this process was the *Leliefontein Bestuurplan vir die Meent Gronde* – the Leliefontein Commonage Management Plan – of 2000. This commonage management plan is formally a part of the municipality's Integrated Development Plan. Between 2000 and 2001, further development and

refinement of the management plan was undertaken as part of the unfolding TRANCRAA process, including the preparation of regulations regarding livestock and cropland management on the old commons. According to Wisborg and Rohde (2004: 7), this "proved to be a dynamic and problematic process of negotiating rights and boundaries". Nonetheless, what emerged from this process were the *Kamiesberg Munisipaliteit Weidingsregularsies* (Kamiesberg Municipality Grazing Regulations), gazetted as Notice 18 in the Northern Cape Provincial Gazette number 678 of 2002.

2.1. The Leliefontein Commonage Committee

The Leliefontein Commonage Committee comprises the convenors of village-level commonage committees (structures elected by local communities), the Development Officer of the Kamiesberg Municipality (who is responsible within the municipality for the Leliefontein commons), and representatives from the provincial Department of Agriculture (an office of which is based in Springbok). The Municipal Development Officer chairs the Committee. By May 2004, village-level committees had only been established in eight of Leliefontein's settlements – structures still needed to be established in Kheiss and Tweerivier.

Within the Commonage Committee is a sub-structure termed the *dag komitee* (literally translated as 'day committee'). This committee, which comprises the convenors of the current eight village sub-committees, deals with the day-to-day operational matters of the Commonage Committee, including the important task of short-listing applicant for access to the new commons. This *dag komitee* was established since it is not viable, from a cost and logistical point of view, for the whole Commonage Committee to meet as often as required.

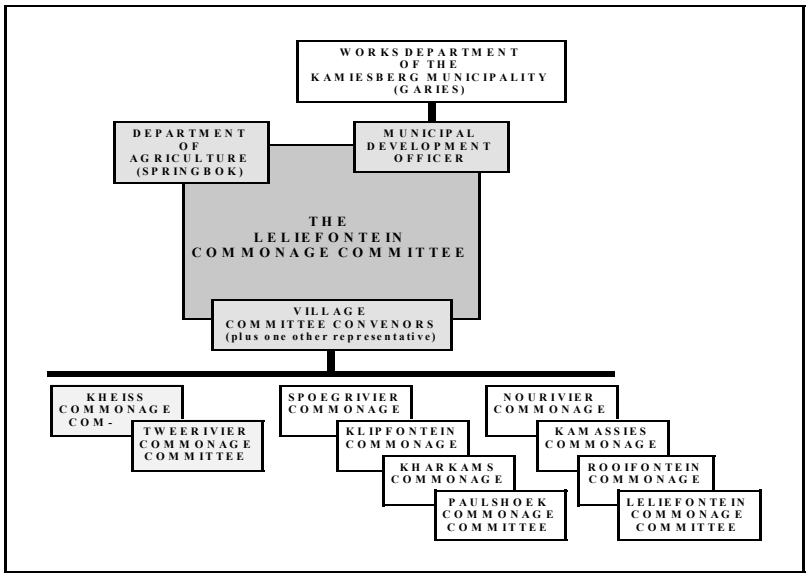

Figure 1: The Leliefontein Commonage Committee

There are a number of biases apparent in the composition of the Leliefontein Commonage Committee. The Committee is dominated by men, both in numbers and in the proceedings of meetings. For example, ten men and five women attended the Committee meeting held on 6 May 2004. Of these five women, only two participated in discussions to any degree. A similar situation prevailed during the Commonage Committee meetings of 22 July and 14 November 2003 (authors personal observation). Both the municipal and agricultural officials are men, and seven of the eight village committee convenors are men. This gender bias in the composition of the Committee is not surprising given the small number of women in Leliefontein that are stock farmers in their own right.

There is also an age bias in the Commonage Committee in favour of individuals who are of late middle age or elderly – five members of the Committee are over the age of sixty. The age composition of the Committee parallels the age structure of farmers on the new commons. Of a sample of 21 of the farmers using the new commons in 2004, 52% were over the age of sixty, and of these three were over the age of seventy. Only one farmer from this sample of 21 was under the age of forty. A similar age structure prevails among farmers on the old commons.

Not surprisingly, all of the convenors of the village committees are stock farmers, as is the Development Officer of the municipality (who lives and farms in Leliefontein village). In addition to being stock farmers, a number of the village convenors are also entrepreneurs owning shops or running other enterprises in their local settlements. Many of these individuals are also prominent in other spheres. For example, one of the convenors is a municipal councillor (although does not participate in the Commonage Committee in that capacity), and a number were centrally involved in the Transformation Committees established as part of the TRANCRAA process. As will be discussed in the following chapter, and perhaps not surprisingly, 6 of the 8 convenors of village level Commonage Committees are also beneficiaries of the new commons.

These Transformation Committees, which were disbanded in late 2002, were established to facilitate the land ownership referenda undertaken as part of TRANCRAA. In the case of Paulshoek, the convenor and a further member of the village commonage committee were also the Paulshoek representatives on the Leliefontein Transformation Committee. As will be noted in the following chapter, these two individuals are also the only two farmers from Paulshoek who have gained access to the new commons in 2004.

The convenors of the village committees are therefore prominent individuals within their communities, and in some cases in broader local affairs as well. It is important to stress, however, that these individuals are prominent on the Commonage Committee not because they are necessarily the largest farmers (although some are large farmers), but because they are leading figures in their communities generally. Some are entrepreneurial elites and others are prominent in local and regional politics.

This bias in the composition of the commonage committee does not go unnoticed among the broader farming community in Leliefontein. In

discussions with small farmers on the Paulshoek common and in discussions among Kameelkrans Farmers Union members, these individuals are disparagingly referred to as *die mense wat voor staan*[29] – the people who stand in front.

> *Die vooraanstandes praat nou vir ons. Maar blykbaar is ons nie een en die selfde nie. Die mense op die kommitee, wat vir ons moet praat … hulle praat nie soos hulle moet praat nie. Hy praat in sy guns, hy praat nie in onse guns, hy praat in sy eie guns. Die ding is, ons is oningelig. Nou die mense wat ingelig is weet van wat hulle praat. Hy praat nie reg vir ons, hy praat net vir homself reg. Hy praat nie as of dit jou raak nie, as of dit jou nie raak nie. Dinge was baaie anders in die gelede. As iemand gegaan het, het hy gegaan om vir hierdie heele plek te praat. Maar nou is it nie meer so nie*
>
> (Those in front now speak for us. But it seems that we are not one and the same. Those people on the committee that should be speaking for us, … they don't talk the way they should be talking. He talks in his own favour, he does not talk in our favour. He speaks for his own interests. The thing is we (small farmers) are not informed. These people are informed and know what they are talking about. But they don't speak correctly for us they just speak for themselves. He speaks as if it does not affect me, as if it does not affect you. Things were very different in the past. If someone spoke, he spoke for the whole place. But now it is not like that anymore), Small farmer, Paulshoek common, July 2003.

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[29] The phrase *die mense wat voorstaan* is widely used by the poor in talking about those leading the TRANCRAA and new farms processes. Farmers use this term in a dual sense. The phrase refers both to the leadership role these individuals play in local processes, but also to the fact that these individuals always seem to end up first in line when it comes to the distribution of benefits.

In the view of many small farmers these individuals have manoeuvred themselves to the forefront of transformation processes, largely in pursuit of their own interests, while claiming to speak on behalf of the broader community. These individuals are likened to the kind of people who pushed the privatisation agenda in the 1980s and indeed some of those involved now are the very same people. This view of local leaders is widely held, with most small farmers on the old commons feeling marginalised from the new commons and ongoing TRANCRAA processes, despite assertions from a range of stakeholders that participation and consultation with residents was a central feature of processes to date (see Wellman 2000; Pienaar and May 2003; SPP 2003; Wisborg and Rohde 2004; Personal communication with communal farmers).

How is it that despite the emphasis on consultation and participation, leaders viewed as unacceptable to a large number of farmers have come to control these new commonage institutions? According to respondents interviewed on this issue, a number of factors are at play.

Farmers, given the experience of the 1980s in particular, are suspicious of interventions that seek to change the status quo and draw farmers into more formalised commonage management systems. Most farmers using the old commons of Leliefontein are not registered with the municipality as commonage users. Through registering the municipality would know that they are there, and may seek to hold them accountable for their use of communal resources. This concern is widespread among smaller and resource-poor farmers in particular, as the Kamiesberg Municipality has been on an aggressive cost-recovery drive since 2000. As a consequence, most of these farmers keep a low profile, and avoid participating openly in processes relating to TRANCRAA and the newly acquired commons.

Despite avoiding overt participation, however, resource-poor farmers are still keenly tracking developments. Through report-backs from those farmers

that do attend workshops or meetings and through information picked up informally via the community ‘grape vine’, farmers are to varying degrees aware of how developments are progressing. There is, of course, also a degree of misunderstanding and misinformation among farmers, fuelled in part by their inherent suspicion of the motives of *die mense wat voor staan*.

Individuals in the municipality and on the Commonage Committee who are leading these processes, on the other hand, interpret the lack of participation by small farmers differently. In their view, the lack of participation is an indication of the unwillingness of farmers to change and adopt new farming and commonage management practices. From the point of view of these stakeholders, many of the problems on the old commons stem directly from what they perceive to be archaic and outmoded farming practices, and in particular the failure by farmers to control their stock numbers. Failure to participate is seen as a stubborn refusal on the part of these farmers to modernise their farming practices.

This characterisation of communal farmers is, however, inaccurate. Farmers acknowledge that there are real problems on the old commons, and acknowledge that the TRANCRAA process and the acquisition of the new commons are important in resolving these. Small farmers repeatedly express a strong desire for greater law and order (*wet en orde*) on the commons and the return of mutual respect and reciprocity. These farmers are, however, equally clear about the constraints they operate under and are aware, based on the experiences of the economic unit policy of the 1980s, of the consequences modernising farming practices may hold for them. It is not, therefore, the need for change that is being contested by these farmers, but rather the form that this transformation is to take. Unfortunately, according to farmers the space for such debates does not really exist.

Small farmers allege that residents who are not involved in agriculture and who lack an understanding and appreciation of the needs of farmers

dominated consultation proceedings. As one communal farmer stated: *hulle weet nie eers daar is droogte* – they (village residents) don't even know there is a drought. Moreover, it would seem that those leading these processes have already made up their minds as to the causes of the problems and the way in which these are to be addressed. Many small farmers complain of being marginalised in meetings that they have attended.[30] They also allege that often younger and more educated people look down on and discard their opinions on how the commons should be used and managed.

Compounding this marginalisation of small farmers is their own lack of coherence as an interest group, a fact that resource-poor farmers themselves acknowledge. Small farmers are physically isolated from one another, spending large parts of the year resident at their stock posts. Movement on the commons by these farmers is largely by foot or donkey cart, prohibiting ongoing contact between them. It was, therefore, difficult for these farmers to come together and define their position in order to engage in an organised manner with TRANCRAA and the new commons. It needs to be noted that no resources were made available as part of these processes to facilitate such interaction.

These negative perceptions held by poor farmers of those leading the transformation process are not without substance. As will become clear in the discussion that follows, the approach promoted by the Commonage Committee for using and managing the new commons, coincidentally or otherwise, disadvantages the majority of farmers in Leliefontein and effectively excludes them from this land.

[30] All consultation meetings took place in village settlements, requiring farmers to leave their stock posts in order to attend.

2.2. The Commonage Management Plan and Associated Grazing Regulations

The first task of the newly established Commonage Committee was to develop a management plan for the commons of Leliefontein.

The Commonage Management Plan of 2000 and the Grazing Regulations of 2002 explicitly address both the new and the old commons and incorporate these areas of land within a single management framework. However, due to the ongoing TRANCRAA process, by May 2004 the Plan and the Regulations were only being applied to the new commons. The acquisition of the new commons has, however, provided the Municipality, the Commonage Committee and NGO stakeholders with an opportunity to implement and test a new management framework for the whole of the Leliefontein commons (old and new). The thinking among stakeholders directly involved in this process is that this new system will be extended to the old commons once the TRANCRAA process has run its course.[31]

The use and management of the commons envisaged in the plan and the regulations is very different to what is currently being practiced on the old commons. The new commons have no history of community use and thus represent a 'blank slate' on which to implement the new framework. Given that the old commons are currently not managed in terms of the new management plan and regulations, the discussion that follows largely only applies to the new commons.

The Leliefontein Management Plan (2000) and the Kamiesberg Municipality Grazing Regulations (2000) address a range of issues. Both set out an approach to the use of communal rangelands and rules that reinforce this

[31] The assumption is of course that ownership of the old commons of Leliefontein will be transferred to the Municipality and not to a private community property institution.

approach, and both outline the obligations of farmers using Leliefontein's commons. In both documents, no real distinction is made between the old and new commons in dealing with these issues. In relation to the criteria governing access to the land, however, the Commonage Management Plan does distinguish between the new commons and the old. The Grazing Regulations, on the other hand, provide a generic set of access criteria applicable to both.

From the way in which these documents have been drafted, it is clear that the intention, on the part of the drafters at least, is that the land use and management approach outlined in the Plan and Regulations will ultimately apply to both the old and the new commons.

2.2.1. Approach to the Use of Communal Rangelands

The Management Plan and the Regulations place a strong emphasis on the control of stocking rates on the commons of Leliefontein. These documents require that the Commonage Committee define the process for determining stocking rates and the means for reducing stock numbers (*die vasstelling van vee getalle in kampe en gebiede en vir die vermindering van vee*). The Plan and the Regulations both go on to stipulate that the carrying capacity specified for the new commons must not be exceeded, and that efforts must be made to reduce stock numbers on the old commons to within prescribed limits. Stocking rates for the land are based on rates set for the region by the Department of Agriculture. There is thus no process for determining stocking rates – these are already defined. By May 2004, other than defining stocking rates (set at 10ha per small stock unit), no means for reducing existing stock numbers had been put in place. Nonetheless, according to the Plan and the Regulations the Commonage Committee is to be responsible for monitoring stock numbers and the enforcement of stocking rates.

In order to control stock numbers, farmers using the commons may only increase their herd size with permission from the municipality. If permission is not granted, the farmer must remove these animals from the commons. In addition to setting and controlling stocking rates, the Regulations provide for the creation of demarcated grazing camps and the defining of areas of the commons for allocation to particular users (*die vasstelling van kampe en gebiede vir gebruik deur sekere gebruikers*) or for particular uses. According to the Management Plan and the Grazing Regulations, this creation of camps and definition of use areas is intended to facilitate the regular closing of camps or areas of the commons for resting, and the rotation of farmers to other camps or areas.

The creation of camps and use areas[32] and the allocation of these defined parcels of land to specified users – the individualising of land use – serves to control access to the commons, and also facilitates enforcement and the holding to account of individual farmers for their use of the commons. All farmers with livestock on the commons are required to register annually with the municipality and pay an annual registration fee. Moreover, all farmers must annually declare their livestock numbers and pay a stipulated maintenance fee per head of stock. Farmers will be expected to pay for all of their stock, unlike in the past where provision was made for a free quota.

On approval of their application, farmers will be required to enter into a grazing agreement with the municipality. This agreement binds the farmer to using the commons in terms of the Municipal Grazing Regulations. Unless a farmer has registered with the municipality and has entered into such a grazing agreement, their use of the commons will be considered illegal, regardless of any previous right to the commons that a farmer may have

[32] The terms use areas is used in relation to the old commons where the discrete areas used by farmers are not fenced off. On the new commons, actual camps (i.e. fenced off portions of land) are leased out. In relation to the old commons, the drafters do not envisage fenced camps (given the resistance to individualisation of the old commons), but rather the allocation of particular areas for use by individual farmers.

enjoyed. According to the Management Plan (the Regulations do not include this provision), new farmers will only be allowed to keep livestock in Leliefontein if they take over the grazing quota of an existing farmer (i.e. a farmer already registered with the municipality).

Reinforcing this grazing model, which is in many ways akin to the way in which neighbouring commercial farmers manage their properties, are a number of additional rules regulating the use of the commons. These include (i) a prohibition on the construction of stock posts and kraals or other structures without the permission of the municipality – in the case of the new farms, no stock posts are allowed; (ii) controls over the use and number of donkeys allowed on the commons; and (iii) restricting the stock of farmers to the camps or areas allocated to them. A condition of gaining access to land on the new commons is that farmers must remove all of their stock from the old commons, and restrict these to their land allocation. Although the grazing model applies to land that is located far from most of the settlements in Leliefontein, the model makes no provisions for transport to assist farmers in getting to this land. It is assumed that those who will use the new commons will have access to motorised transport.

Although no real distinction is made in the Plan or the Regulations between the old and the new commons, the land use approach outlined above is, at this point, only being implemented on the new commons. Given the interregnum in management of the old commons, very few farmers on the old commons are registered with the municipality or pay stock fees, and no real effort has to date been made by the municipality to address this situation. There is also no control over where farmers establish stock posts or where and how they graze their livestock, and there are also no controls on stock numbers. What management practices there are, are informal and based on longer standing traditions for using the commons.

In relation to the new commons, however, the approach outlined in the Plan and Regulations has largely been implemented. This has been facilitated by

the fact that the newly acquired farms were already fenced into camps, and by the fact that there is no history of community use of this land – i.e. no prevailing land rights or management practices.

Successful applicants for land on the new farms are either allocated camps or portions of camps. Leases are for a period of one year. Farmers with larger herds are usually allocated a camp or camps to themselves, whereas those with smaller herd sizes share camps. The number of stock determines the amount of land that a farmer is able to gain access to, with farmers able to lease only the amount of land required in terms of the set carrying capacity. For example, with the stipulated carrying capacity in 2004 of 10 ha per small stock unit, a farmer with 50 units of stock would only able to lease 500 ha on the new commons. Farmers are unable to lease land in excess of their requirements and lessees are (in theory) required to manage their stock numbers in order to keep herd sizes within these stipulated stocking rates. What this also implies is that once the farms have reached their stipulated carrying capacity, the new commons will effectively be closed to new entrants. The maintenance fee per head of small stock was initially set at ZAR 0.50 in 2000, and was at ZAR 1.50 in 2004.

2.2.2. Access criteria for the new commons

The Management Plan sets out separate access criteria for the new and the old commons. The Grazing Regulations, on the other hand, simply provide a generic set of criteria applicable to the Leliefontein commons as a whole (the new and the old). At present, these regulations are only being applied to the new commons.

According to the Management Plan, the process of accessing the new commons should start with an assessment, by the Commonage Committee, of what space is available on what farms and for how many head of stock. This assessment would be undertaken in light of the specified carrying

capacity and the number of livestock already on the new commons. Space on the new commons should then be advertised so that individual farmers can apply. This implies that those farmers already on the new commons and whose one-year leases are coming to an end need to reapply each year. In practice the situation is somewhat different.

All farmers (those already on the new commons and new entrants) wanting access to the new commons apply (or re-apply) each year in November. To date the practice has been to automatically renew the leases of these farmers already there[33], and then to allocate the remaining land to new entrants. Given that there are large numbers of new applications, and available space is limited due to farmers already utilising the land, these applications are reviewed by the *dagkomitee* of the Commonage Committee and short-listed in terms of criteria set in the Management Plan.

The list of farmers whose leases are to be renewed and the short-list of new applicants is submitted to the full Commonage Committee for endorsement. Once the short-list has been endorsed it is submitted to the Works Committee of the municipality, and then on to the Municipal Council for final approval (see Figure 2). On approval, farmers are notified in writing as to the outcome of their applications. Successful applicants are then required to sign a grazing contract with the Municipality (this signed contract is proof of their right of access to the new commons).

[33] Farmers who had been allocated land on the new commons, but who did not end up using those allocations due to transport or water and infrastructure problems, did not have their leases renewed.

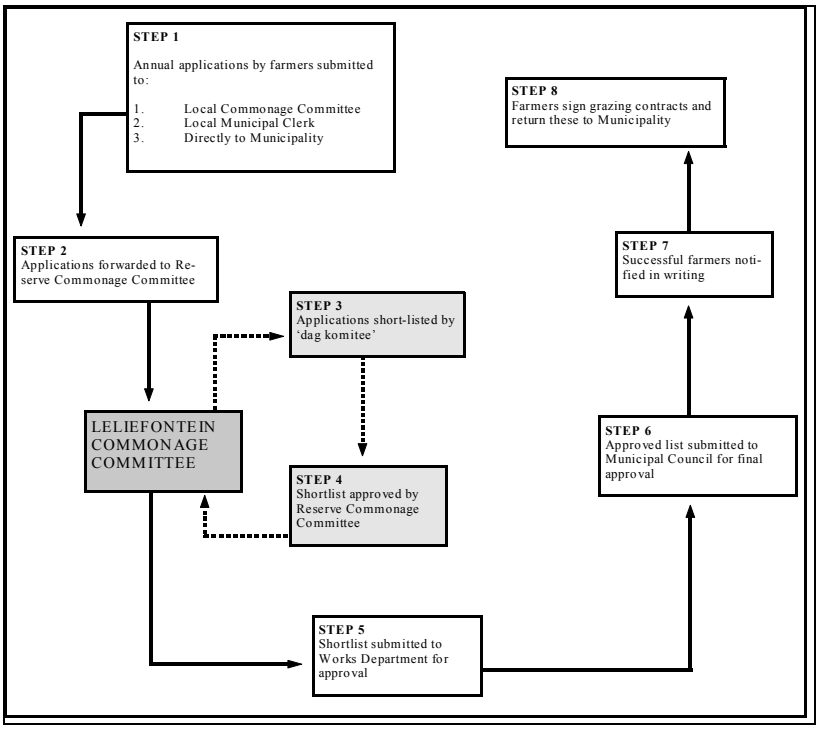

Figure 2: Application process for access to the new commons

In short-listing new applicants a range of criteria are considered. These are set out in section 5.5.1. of the Commonage Management Plan, with some additions in the Grazing Regulations. These criteria relate to the socio-economic status of the applicant (preference is given to those with a household income of less than current equivalent R 1 710 as set in 1999), their status as a communal farmer (full-time or part-time), and their history of communal land use in Leliefontein. The access criteria are presented in Box 1.

Criteria for Access to the New Farms
(*Kriteria vir toelating tot die nuwe plase*)

(i) The applicant must be registered as a stock farmer with the municipality;

(ii) Applications will only be considered from farmers that are resident full-time in Leliefontein;

(iii) Application must be made for all livestock – no stock may be retained on the old commons if access to the new farms is granted;

(iv) Applicants with private farms outside of Leliefontein, or irrigation allotments inside or outside of Leliefontein will not qualify for access to the new farms;

(v) Status of the Applicant: (a) Residential status (*inwoner status*) in terms of TRANCRAA of 1998 (b) Whether the applicants is an existing or new farmer (c) Period of current or previous use of the commons, and (d) history of adhering to obligations associated with use of the commons.

(vi) The need of the applicant: (a) The number of livestock of the applicant (b) The applicant's access to commonage land and/or sowing allotments and/or irrigated land (c) Other sources of income (Monthly household income with a preference given to those with a monthly household income less than the equivalent of the 1999 figure of ZAR 1710) (d) Number of dependents, and (e) the sex and age of the applicant[34].

(vii) The capacity of the applicant to farm: (a) Quality of the applicant's stock (b) Availability of transport if allocated grazing lands distant, and (c) Availability of herders.

(Source: Commonage Management Plan, 2000; Kamiesberg Grazing Regulations, 2002)

Box 1: Access criteria for the new commons

In addition to the income ceiling set in the access criteria, a stock limit was also informally introduced (a maximum of 75 small stock units) by the municipality to enable as many small farmers as possible to gain access to the new commons.

3. Management of the old commons

The development of a new management system for the commons of Leliefontein has to date largely focussed on the new commons. This, as already noted, is due to delays in finalising the TRANCRAA process. Despite this delay, however, some tentative progress has been made in relation to the old commons. Since 2000 a number of issues have received attention, although by May 2004 no implementation had yet taken place. Issues that had been addressed include (i) the surveying of sowing allotments and the development of a new fee regime for these allotments; (ii) discussions on the introduction of a maintenance fee payable per head of stock; and (iii) discussions on broader regulations for managing land use.

[34] The criteria applied for age and sex are not elaborated in the Management Plan or the Grazing Regulations.

3.1. Sowing allotments

As a part of the TRANCRAA process, sowing allotments in Leliefontein were surveyed. Unlike the use of grazing lands, most 'owners' of sowing allotments, many of which have been in families for lengthy periods of time, are registered with the municipality and are already paying an annual levy for this land. Although there are some rules and regulations governing sowing allotments in Leliefontein, the TRANCRAA process is to review and revise these.

According to the convenor of the Paulshoek Commonage Committee, however, this has not been a simple process as some farmers have sought to use the surveying process to further their own interests. The convenor mentioned the case of Spoegrivier as an example, where farmers had moved the beacons defining their sowing allotments before the surveyor (who came from outside of the area) came there. On completion of the survey, the individual sowing allotments had conveniently split the Spoegrivier common into a series of 'farms' all approximately 500 hectares in extent – there was effectively no communal grazing left. The survey was to be carried out again, this time under the supervision of the Commonage Committee. It is unclear whether this second survey has taken place, or what the outcomes may have been.

Discussions were also underway in 2004 for the introduction of a new, per hectare fee structure for sowing allotments. This would differ from current practice where farmers pay a set annual levy. Although the details of this fee structure had not been finalised, rumours of exorbitant per hectare rates were already circulating among small farmers and causing a great deal of disquiet. This issue had not been finalised by May 2004.

3.2. Stock fees

In 2003 the Commonage Committee began discussing the introduction of a maintenance fee for use of the old commons. As with the new commons, these fees would be calculated per head of stock, and would be used for the maintenance of commonage infrastructure. Although this issue was discussed in community workshops during 2003, by May 2004 the issue was still pending.

3.3. Land use regulations

In the past, all farmers in Paulshoek moved their livestock to the southern portion of the commons during the growing season, and only returned after the harvest. A community appointed *lynwagter* (watcher of the line) had the power to impound livestock that had not been moved. Farmers then paid the *lynwagter* to have their stock released. Although this formalised system is no longer in operation, farmers on the whole still follow the practice of moving livestock out of areas that are cultivated. Such movement is undertaken voluntarily by the farmers themselves in a given area (i.e. there is no external control).

In the case of the Paulshoek common, the land is already split into three large camps. The Commonage Committee is now proposing to increase this to 10 camps. These camps would not be allocated to individual farmers, but instead would be used to institute controls on grazing and resting and rotation as per the Management Plan and Grazing Regulations. The Paulshoek Commonage Committee would be responsible for regulating this.

One the whole, however, the approach to the old commons by the municipality and the Commonage Committee has largely been hands-off. In fact, this is true for the past decade and a half since the 1980s when, with the demise of the economic units policy, any remnant of formal control

effectively ceased. This situation was compounded by the formal replacement of the Management Board by transitional local government structures in late 1993[35], and finally their replacement by the current Kamiesberg Municipality in 2000. As discussed further in the next chapter, however, pressure is growing within the Commonage Committee to take on the management of the old commons as well. Interestingly enough, and perhaps not surprisingly given the experience with the surveying of sowing allotments, this pressure is coming from the Spoegrivier Commonage Committee.

4. Conclusion

The approach to reforming the commons of Leliefontein, as expressed in the range management model introduced for the new commons, is startlingly similar to the economic units policy of the 1980s.

In formulating this management plan, a range of different options could have been considered within the broad parameters of national commonage policy[36]. The simplest would have been to incorporate the new commons with the old commons, thereby expanding the land base available to communal farmers (both large and small). These farmers would then have used the new land in the same way as the old commons are currently being used, with the focus on building common property institutions to ensure greater community control and greater sustainability. Although not directly

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[35] The local government transition process (undertaken in terms of the Local Government Transition Act of 1993) started prior to the democratic transition in 1994. The amalgamation of urban local government structures, which saw the creation of interim non-racial structures, was already undertaken as part of the negotiations.

[36] The twofold aims of national municipal commonage policy are broad and contradictory, namely: (i) to provide access to land for subsistence farmers to support household food security and, at the same time, (ii) to provide land to emergent commercial farmers to use as a stepping stone in their transition to full commercial status and ultimate exit from the communal area.

addressing the problem of transport, it would in part have gotten around the issue through allowing farmers to stay on the new commons with their stock. As on the old commons, farmers would only occasionally return to their settlements from their stock posts.

On the other hand, the new farms could have been set up entirely for aspirant commercial farmers. The new farms could then be used as a stepping-stone to channel these farmers off communal land. Alternatively, more innovative and creative land use options could have been secured, such as setting the new commons aside as a form of emergency grazing (especially during drought, or in late summer before the winter rains have arrives) or even seasonal grazing (to allow the old commons to rest during critical stages of vegetation growth.

Despite the range of possible alternatives that could have been explored - options that may have proven more advantageous to small, resource-poor farmers, it is worth asking why the commonage committee opted for the range management model outlined above.

At a surface level, local stakeholders promote the individualisation and quasi-commercialisation of communal land. In line with orthodox thinking on the matter, these stakeholders see common property as inevitably sliding into overuse and degradation due to the actions of selfish individuals, each seeking to maximise their own short-term gain at the cost of the broader community. As with the economic unit policy of the 1980s, enclosure and individualisation of the commons is the policy prescription that emerges from this thinking.

Virtually all of the stakeholders involved in the new commons, including the municipality, the Department of Agriculture, NGOs, members of the Commonage Committee, and farmers on the commons, articulate this narrative in one form or another. The motives of community stakeholders in supporting this point of view, however, becomes more evident when the

operations of the Commonage Committee and the use of the new commons are looked at in more detail.

CHAPTER 5: Land Use and Management Practices on the New Commons

1. Introduction

The monopolisation of the new commonage institutions by local elites and the particular range management approach adopted for the new commons could be seen as the outcome of a purely technical and politically neutral process. In other words, the commonage committee is constituted of elites because these are the only individuals who have the ability and resources to participate[37] and the approach adopted for the new commons is the only practical way to avoid land degradation. But, as will be made apparent in this chapter, there seem to be other motivations at play. It seems that the degradation narrative and the prescription for individualised land use that stem from it are being used to enable certain interest groups to introduce non-communal forms of tenure, and thereby secure exclusive access to the newly acquired commons.

This chapter examines events that took place on the new commons over 2003 and the first six months of 2004 in terms of the stipulations of the management regime. In particular, the chapter focuses on the workings of the new commonage institutions and the performance of the commonage committee in enforcing the rules and regulations set for the new commons.

[37] Since the establishment of the commonage committee, many of the convenors have been covering their own travel costs in attending meetings. All of the convenors have motor vehicles and provide lifts to other committee members to attend meetings as well. Without this 'own contribution' members would not have been able to participate, since the distances that need to be travelled to attend meetings are extensive (for example, Paulshoek to Garies is over 60 km on gravel roads).

2. Access by farmers to the new commons

It is unclear how soon after the acquisition of the first farms in 1998 that farmers from Leliefontein started using the land. The earliest available records indicate that three farms – Tweefontein, Boesmanplaat and Papkuilsfontein – were being used in 2002 by at least eleven farmers, although none of these farms were being used at their full carrying capacity (Department of Agriculture 2002). The first time that all five of the new farms were fully allocated was in 2004.

Getting exact data on the farmers that accessed the new commons in 2004 proved difficult. The Kamiesberg Municipality does not have a system for storing such data (computerised or otherwise), and there is no centralised grazing register for the new commons. As a result, all of the applications from farmers, short-listing by the *dagkomitee* of the Commonage Committee, and the final selection by the Council are kept on pieces of paper, many of which are hand written and heavily amended, and stored manually in different places with different people (author's personal observation).

The data on farmers using the new farms for 2004 discussed here derives from three different sources. Firstly, the Municipality had signed grazing contracts with 23 of the 42 farmers using the new farms by May 2004 (the remaining contracts still needed to be signed and returned the Municipality). This information has been complemented by Commonage Committee minutes from 25 November 2003 and 17 February 2004, which provide a list of the farmers and their camp allocations. Finally, a member of the Commonage Committee has her own, heavily amended, hand written list of the 42 farmers using the farms in 2004. This list also provides information on their camp allocations, as well as the number of stock permitted on this land. All of the data on the farmers using the new farms (consolidated from the three sources above) is tabulated in Annexure 2.

What becomes evident from the data on farmers using the new farms is that What is evident from this information is that the location of the new commons and the failure to provide for transport has had a strong influence on which farmers are practically able to use this land. At least 88% of farmers using the new commons come from settlements east of the N7 national road, with 68% residing in the three settlements closest to the new commons (namely Kamassies, Rooifontein and Nourivier). Only 6% come from settlements on the western side (from Kharkams in particular), with a further 6% registered as currently residing outside of Leliefontein as migrant workers (at Okiep and Carolusberg).[38] It is not known from which settlements in Leliefontein these stockowners originate.

Table 7: Origin of farmers using the new farms

Residing outside Leliefontein	Okiep	1	
	Carolusberg	1	6%
Residing west of the N7	Kharkams	2	6%
Residing east of the N7	Paulshoek	2	6%
	Leliefontein	2	6%
	Kamieskroon	3	8%
	Kamassies	5	14%
	Nourivier	8	22%
	Rooifontein	12	32%
TOTAL		**36***	**100%**

(*Available data only provides information on origins for 36 of the 42 farmers)

Table 8 (below) provides a breakdown of the distribution of herd sizes on the new farms for 2004. What is apparent is that almost 75% of farmers (that is 30 of 42 farmers) have herds comprising more than 50 small stock units (SSU). Six of these 30 farmers (or 15% of all farmers) have herds in excess of 200 SSU.[39]

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[38] Okiep and Carolusberg are both mining settlements located around Springbok approximately 120 km north of Leliefontein.

[39] It is important to note that some farmers also have cattle and donkeys on the new farms. These large stock units have been converted to their equivalent in small stock units. The tabulated stock data in Annexure 2 provides the conversion ratios used in this process.

Table 8: Distribution of herd size among farmers on the new farms

HERD SIZE	NUMBER OF FARMERS	PERCENTAGE OF TOTAL
1-50	11	27% **(27%)**
51-100	14	34%
101-150	9	22%
151-200	1	2% **(58%)**
201-250	2	5%
251-300	3	7%
301+	1	3% **(15%)**
TOTAL	**41***	**100%**

(*Stock data is only available for 41of the 42 farmers)

In looking at the 27% of farmers with herds of less than 50 SSU, it is important to note that although these may be seen as small farmers, many are also non-agricultural entrepreneurs (for example, the convenor of the Paulshoek Commonage Committee, who only has 37 head of stock, is also a shop keeper in Paulshoek). A number of these smaller farmers have only recently purchased these animals, in anticipation of accessing the new commons, using credit from the Land Bank.[40]

In the absence of alternative investment opportunities in Leliefontein and in the region more broadly, the new commons thus appear to have called into being a whole new class of commonage users (local business elites as opposed to emergent and/or subsistence farmers) who see the opening of this new resource as an important opportunity for personal accumulation. Hence, in anticipation of gaining access to good grazing land on the new commons these individuals have taken on credit from the Land Bank in order to invest in livestock (in the absence of any other investment opportunity).

When comparing the distribution of herd sizes on the new commons to stock distribution on the old commons, it is clear that small herds of less than 50 animals are under-represented. On the old commons this category

[40] In discussions with small farmers remaining on the old commons, there is some bitterness about this. As small farmers they are unable to access similar financial assistance since they lack collateral or any form of credit record.

accounts for 42 per cent of all herds, yet on the new commons only 27 per cent fall within this category. It is middle and larger farmers, with 50 to 200 animals and 200 animals or more, that are the primary beneficiaries of this newly acquired land.

Five of the six largest farmers (i.e. those with herds of more than 200 small stock units) have been on the new commons since at least 2002. The herds of these five farmers have increased substantially in the 2002-2004 period, as shown in Table 3.

Table 9: Growth in herd sizes of five of the largest farmers (2002-2004)

Farmer*	2002[41] (SSU)	2004 (SSU)	% Change
FARMER 36	189	211	12%
FARMER 37	158	230	46%
FARMER 39	158	293	85%
FARMER 40	21	300	1329%
FARMER 41	97	496	411%

(*The identity of farmers has been kept confidential in this study. The farmer numbers however correspond to those presented in Annexure 1)

Anecdotal evidence from discussions with farmers indicates that it is not only the largest farmers that are doing well. The majority of farmers on the new commons were able to survive the drought and winter of 2003 relatively unscathed compared to the old commons where all farmers suffered heavy stock losses. Stock losses on the new farms were reportedly minimal.

It is evident then that the majority of farmers gaining access to the new farms are larger farmers with the resources and capacity to use the land (i.e. with motorised transport, and sufficient income - from farming or other sources - to farm under the land use system set up on the new farms). It is also evident that these farmers are benefiting from the better quality of grazing available on the new farms, with herd sizes growing (in some cases substantially).

[41] Department of Agriculture dipping figures for the new farms of Leliefontein, 2002.

3. Factors Influencing Access to the New Farms

In addition to the access criteria outlined in the previous chapter, there are a number of additional factors that have influenced which farmers from Leliefontein have gained access to the new commons.

3.1. Location of the New Commons

As indicated by data on the origins of farmers using the new farms, almost 90% of farmers come from eastern Leliefontein, and in particular from the three settlements closest to this land - Kamassies, Rooifontein and Nourivier. The close proximity of these settlements to the new commons allows stockowners to walk their stock there if necessary. Monitoring of stock and herders by these farmers is also made easier by their close proximity of the new commons. In any event, most of the farmers from these settlements that are using the farms have access to motorised transport.

For farmers in Paulshoek, on the other hand, private farmland lying between the Paulshoek common and the De Riet farms hampers direct access, although these properties are the closest to Paulshoek. The owner of this private farm is denying Paulshoek farmers access across his land, and as a result farmers from Paulshoek need to travel into De Riet from the north via Nourivier. Despite numerous requests from Paulshoek farmers that the Municipality intervene and negotiate access, by May 2004 the issue had not yet been resolved. Practically this means that most Paulshoek farmers, other than those with motorised transport, are effectively excluded from the new commons. If the Kwaskraal and Gannahoek portions of De Riet were to come onto the market (as discussed in chapter 3), acquisition of this land would effectively join the existing De Riet farms directly to the Paulshoek common. This would facilitate greater access by farmers from Paulshoek at least.

3.2. Shift in the Access Criteria

It was evident in 2002 already that, in the absence of transportation, farmers would struggle to access the new commons. A number of farmers from Paulshoek, for example, were allocated land in 2002, but found it impractical to use. A number of these farmers either did not use their allocations at all, or returned to the old commons a short time into their leases. Farmers from other settlements experienced a similar predicament.

When it was realised that many smaller, poorer farmers were physically unable to access the farms unassisted, instead of addressing the need for transport, the Municipality and the Commonage Committee chose instead to alter the emphasis in the access criteria. Many of the criteria that restricted access to the new commons by larger farmers were loosened.

Thus, in the Grazing Regulations of 2002, the income ceiling is not included in the access criteria, and the informal stock limit set for the new commons was increased from 75 to 200 small stock units. In addition, by 2004, the Commonage Committee was placing a greater priority on the availability of transport in considering applications by farmers. Thus, in processing applications for 2004, the number of farmers from Paulshoek allocated access to the new commons was in practice limited to those farmers with motorised transport. As a result, only two farmers from Paulshoek gained access to the new commons in 2004.

In initial discussions with the Municipality, this shift in emphasis was justified in terms of the ‘stepping-stones’ objective introduced into national Commonage Policy in 2000. In terms of this objective, the new commons are to be used to support aspirant farmers in their transition to full commercial production and ultimate exit from the communal area. In this sense the new commons act as a stepping-stone out of Leliefontein, and onto privately owned farms. When it was pointed out that none of the farmers on the new commons that were interviewed expressed any intention

of leaving the communal area, however, a different motivation for the shift in access criteria was put forward.[42] The shift was now justified in altruistic terms, of getting larger farmers off the old commons to benefit the remaining smaller farmers by reducing stock numbers.

Large stock farmers remaining on the old commons support this motivation. For example, a large stockowner and entrepreneur from Rooifontein said that since there are only a small number of big farmers around Rooifontein these farmers should go to the new farms. This would create more space for the small farmers that remained behind. The big farmers have transport and are thus able to access and use the new farms. The small farmers usually walk to their stock posts or use donkey carts, and the new farms are too far for that.

Many small farmers would also welcome an opportunity to gain access to the new commons, but the municipality would need to assist these farmers with transport in order for them to do so. In the absence of assistance to access the new commons, however, the removal of larger herds from the old commons would be welcomed by small farmers.

> "The problem is that there are just too many farmers, and there is not enough space (on the old commons) for everyone. At the moment the veld is trampled ('uitgetrap') out. There are too many animals in this area that it quickly gets trampled ('dat die veld so gou uitgetrap word'). It would be a good idea for

[42] Two issues are relevant here. Firstly, all farmers interviewed are well aware of the benefits they derive from farming on communal land. If they were to move onto privately owned farms of their own, all costs would accrue to them as private owners (i.e. would be internalised). In this sense there is no motive for farmers to leave Leliefontein, especially since the acquisition of the new farms. The second issue relates to the nature of farming in Leliefontein. Most farmers are elderly, having entered into farming on their return to Leliefontein following employment in the region. None of these farmers have any aspirations of now becoming commercial farmers. Any kind of stepping stone approach should focus on younger farmers willing to assume more risk and responsibility.

> some farmers at Gorap to go to the new camps. Then there would be less of us here and the veld won't get trampled out like it does. That would take stock off the areas that are trampled and overgrazed and give it time to rest and recover. But the problem is that we can't get there (the new farms)" (Small farmer, Paulshoek common, 18 November 2003).

3.3. The Grazing Model

The location of the farms is not the only factor restricting access by small farmers. The land use approach on the new commons has also been identified as limiting access through being 'too expensive'. The prohibition on stock posts on the new farms and associated cost of hiring a herder would not make such a venture cost effective for a farmer with 20 or 30 head of stock (unless they have alternative sources of income).

There are cases from Rooifontein and Paulshoek of small farmers gaining access to the new commons in 2002 and 2003, but returning after a period of time because they could not afford to use them. The costs associated with employing a herder, travelling to and from the camps, and the stock fees, make it a non-viable enterprise for small farmers.

3.4. Community Dynamics

There is a perception among those farmers who have not been able to access the new commons that access is determined by factors other than those set out in the Commonage Plan and the Grazing Regulations. Thus, an informant in Rooifontein was of the opinion that whether or not one gets access to the new farms is strongly influenced by the people leading the allocation process (i.e. the Commonage Committee and in particular the *dagkomitee*) and those that are close to these Committee members. It is alleged that in Rooifontein access has to do with family and connections - it

is family and friends of committee members that get preference (*dit is net hulle wat toegelaat is* – it is only them (i.e. family and friends) who are allowed access).

4. Actual Practices in Relation to the New Commons

As discussed in the previous chapter, all successful applicants are required to sign a grazing contract with the Municipality before being allowed access to the new commons. This contract commits these farmers to the land use regulations prescribed for the new commons.

According to the regulations, the signing of this grazing contract serves to invalidate any previous arrangement of access to the (old and new) commons of Leliefontein. From the point of signing this agreement, the commons can only be used in terms of the Regulations. In other words, even if a farmer is listed on an existing grazing register, or has a letter of acknowledgement (*toekennings brief*) in terms of Act 9 of 1987 as a valid user of the common, this does not mean that the person any longer has rights to use the commons. The commons can thus only be used in terms of the current Regulations and grazing contract.

Despite the signing of grazing contracts by farmers and by implication their commitment to adherence to the rules and regulations governing land use, however, there is open flouting of these on a number of fronts.

4.1. The Flouting of Regulations

The underpinnings of the range management model for the new commons have already been fundamentally undermined. That is, the allocation of all the camps on the new commons effectively prevents the resting and rotation of camps and undermines the principle means (in terms of the grazing model adopted) of conserving these rangelands. Moreover, as discussed

below, the model is further undermined by the failure to enforce stocking rates on the new commons. The basis for the legal enforcement of land use rules and regulations on the new commons has also not been fully implemented and there has been a failure by the Commonage Committee to secure grazing contracts from all of the farmers. By May of 2004, only 23 of 42 grazing contracts had been returned to the municipality.

Breaches of the management framework do not end there. There is open flouting of rules and regulations on a number of fronts by farmers who have gained access to the new commons.

4.1.1. Stocking Rates on the New Commons

Despite carrying capacity being the central management tool of the new commons management framework, field research for this study indicates that four of the five new farms are already overstocked (in relation to the set carrying capacity of 10 ha/SSU). As indicated in Table 4 below, three of the new farms are quite heavily overstocked with stocking rates of 6.0, 6.8 and 7.6 ha per small stock unit respectively for De Riet 2, Papkuilsfontein and Tweefontein. Only De Riet 1 is within set stocking rates at 10.3 ha/SSU, with Boesmanplaat a little over at 9.4 ha per small stock unit. By May 2004, stock limits set for the new farms, as stipulated in the Municipal Grazing Regulations, had therefore been exceeded by over 20 per cent.

Table 10: Stocking rates on the New Farms (May 2004)

Farm	Farm Size (ha)	Recommended SSU	Actual SSU	Actual stocking rate	Percentage Over-Stocked
De Riet 2	2379	238	394	6.0	66
Papkuilsfontein	5060	506	747	6.8	48
Tweefontein	15717	1572	2057	7.6	24
Boesmanplaat	6956	696	740	9.4	6
De Riet 1	3443	344	334	10.3	-

This overstocking is the result of natural herd growth on the new commons, the failure by farmers to sell stock, and the absence of any form of enforcement by the co-management institution. In 2002 and 2003 for example, when herds outgrew their initial allocations there was still space for the Commonage Committee to allocate more land to these farmers. However, now that the new commons are being fully utilised (and there are still a large number of farmers applying for access) this is no longer possible, and in all likelihood stock numbers will continue to grow in the absence of effective enforcement. Attempts are being made to deal with the issue, although how effective these will be is yet to be seen.

In May 2004 the Commonage Committee decided that when camps on the new farms become available during the year (there are examples of farmers withdrawing their stock and moving back to the old commons due to problems with water or fencing in the camp, or problems with transport) such land would be reallocated to farmers already on the new commons and not to new entrants. Such reallocation would be aimed at reducing the stocking rates of existing farmers whose stock numbers have outgrown their allocations, in the absence of any effective means of compelling these farmers to voluntarily reduce their stock numbers themselves. New entrants will only be considered during the annual November application process.

4.1.2. Removing Stock to the New Farms

In terms of the Regulations, farmers on the new commons are required to take all of their stock to the new commons and are not allowed to bring these animals back to the old commons or keep additional animals on the old commons during the period of their lease.

Despite this requirement, however, a number of farmers still keep stock on the old commons. A farmer from Nourivier who leases land on Papkuilsfontein and who is also a member of the local commonage

committee, for example, in 2003 had 143 goats on the old commons. This farmer would have needed three more camps on the new commons to accommodate all of his stock there.

There are also farmers who move their stock back onto the old commons. According to a farmer from Rooifontein, some farmers bring their stock back onto the old commons when they have used up the forage on their allocated land on the new commons. When these farmers leave the new commons they simply give notice and stop paying, regardless of whether their lease contracts have expired or not. The Commonage Committee does nothing about this, since “these farmers have been chosen for the new farms” (Nourivier farmer, November 2003).

The problem with farmers moving back from the new farms is that other farmers have often started using the land they previously used on the old commons. Farmers that moved back onto the old commons from the new farms in 2002 and 2003 did so because of problems with fencing and water infrastructure in the camps allocated to them.

4.1.3. Restricting stock to allocated camps

A further breach of regulations is that farmers on the new camps do not restrict their stock to their allocated camps and graze animals in surrounding camps. According to the convenor of the Paulshoek Commonage Committee (and confirmed during a number of Commonage Committee meetings), during 2002 and 2003 one of the farmers allocated a camp on Papkuilsfontein rarely kept his animals there. Instead the animals were grazed on neighbouring land on De Riet that, which until November 2003 had remained unallocated. When the Commonage Committee inspected the farm, this farmer would make sure his stock was in his allocated camp. However, when people come out to the new farms unannounced, they would find his stock elsewhere. In May 2004, this farmer applied formally for

the camp on De Riet that he allegedly has been 'poach grazing', and which is currently unutilised due to problems with water.[43]

Table 11: Disjuncture between rules and regulations and actual practice on the new farms of Leliefontein

Commonage Management Plan/ Municipal Grazing Regulations	*De Facto* Practice on the New Farms
Rotational grazing and regular resting of camps.	All camps are allocated with no camps currently resting and none open for rotation.
Stocking rates for the New Farms, set in the Municipal Grazing Regulations, are not to be exceeded.	Four of the five farms are overstocked to varying degrees (three severely so in relation to set carrying capacity).
Farmers on the new farms are allowed a maximum of 200 SSU each.	Six farmers or 15% of farmers on the new farms have in excess of 200 small stock units.
Farmers are to keep their stock within their allocated camps.	There are reported cases of farmers grazing on camps not yet allocated or occupied by others.
Farmers must move all their stock to the new farms.	A number of farmers keep additional animals on the old commons, and some farmers move between allocated camps on the new farms and the old commons.
Farmers are allowed to keep a maximum of six donkeys as draught animals. The council will remove all donkeys that are not branded and registered from the commons and new farms.	Seven farmers have donkeys on the new farms. Five of these have more than six donkeys each.
Applications for access to the new farms will only be considered from farmers that are resident full-time in Leliefontein.	At least two farmers allocated camps on the new farms are permanently employed and resident outside of the reserve. These two farmers have 80 and 293 SSU respectively.
No stock posts are to be established on the new farms.	By May 2004, a limited number of stock posts had been established (Nicky Allsopp, personal communication, July 2004).

A further regulation that is being flouted is that a number of farmers are keeping more than six donkeys on the new farms. Four of these farmers have seven donkeys, while one has ten. Table 11 provides a comparison of actual practices vis-à-vis the rules and regulations set out in the Management Plan and Grazing Regulations.

[43] The camp is currently unallocated because the previous lessee withdrew his stock (allegedly due to the shortage of water).

4.2. De Facto Privatisation of the New Commons

The growing 'privatisation' of the new commons poses a threat to this new land remaining a communal resource potentially open to all residents of Leliefontein. Privatisation, or exclusion, is relevant at two levels. Firstly, at the level of individual farmers and their camps on the new commons, and secondly, for the new commons as a block of land being separated off from the old commons for the exclusive use by a particular group of farmers.

At an individual level there is a growing sense of ownership of camps among a number of farmers currently using the new farms. According to a member of the Nourivier Commonage Committee this attitude is particularly prevalent among those farmers who have been on the new farms the longest. A number of these individuals had in the 1980s successfully applied for camps under the economic unit policy (before this scheme was terminated), and display a sense of entitlement to the camps they have now secured on the new farms through the municipal commonage programme.

According to this member of the Nourivier Commonage Committee, these individuals openly question the authority of the Commonage Committee in relation to how they use their camps, and challenge any suggestion that at some point in the future their camps may be leased out to other farmers. When confronted by the Commonage Committee on this issue they produce letters from the former Management Board (dating from the 1980s) indicating their exclusive right to camps under the former economic unit policy. '*Dis daaie man se heiligdom daaie'* – 'it (the letter indicating exclusive rights from the Management Board) is that man's holy artefact'.

It would appear that these farmers, having been denied private access to the old commons through the aborted economic unit policy, feel a sense of entitlement to private access now under the new municipal leasehold scheme on the new commons. In speaking with one of these farmers, their individual access and control of land was justified by linking the problem of

degradation on the old commons directly to communal farming practices and communal tenure.

> *Die probleem lê meet die eienaarskap van die land – dit bedool die land behoort almal maar ter selfde tyd niemand. As a mens a plek los sodat die veiding kan herstel, kom ander boere in daai plek in. Daar is niks wat n' mens kan doen nie want al die heinings is stukkend.*
> (The problem lies with the ownership of the land - that means the land belongs to everyone, but at the same time to no one. If a person leaves a place (on the old commons) so that the rangeland can rest, other farmers come into that place. There is nothing that a person can do against this because all the fences have been destroyed), Farmer, Nourivier, 22 July 2003.

For this farmer (who was also a beneficiary under the economic unit policy) the new commons represent a new opportunity to secure control of a private piece of land where he can farm without interference from or conflict with other communal land users.

What is becoming evident is that the individual farmers who have managed to get allocations on the new commons in the 2000 to 2004 period are increasingly consolidating their positions on this land. Other than farmers voluntarily terminating their leases, or severely breaching regulations, there is no reason under the current management framework to remove them. Current practice is to automatically renew the leases of those farmers already on the new commons (regardless of their adherence to the land use regulations). As a result of this, the new commons are gradually being excised from the broader Leliefontein commons, and being effectively set aside for the exclusive benefit of the small group of farmers from Leliefontein that have managed to gain access over the past few years.

In this sense, the new commons are in danger of ceasing to be municipal commonage potentially open to all of Leliefontein's farmers, and instead becoming the private domain of a small, well-resourced group of larger farmers.

4.3. Operations of the Commonage Committee

From the preceding discussion it is evident that the new farms have come to benefit a particular group of farmers. In addition, it is apparent that there is a growing disjuncture between the management framework put in place for the new farms and the actual practices on the land. None of these developments have taken place surreptitiously. The shift in beneficiary focus was agreed upon by the Commonage Committee, while the growing disjuncture between the management framework and actual practice is taking place openly, having featured on the agenda of every Commonage Committee meeting in 2003 and the first half of 2004.

Why, if the stated motivation for the new farms framework is to ensure sustainable use of the new commons (i.e. the conservation of grazing resources), is there this growing disjuncture between policy and practice? In questioning the Municipality and the Commonage Committee on this, a number of factors were raised relating to a lack of power and capacity on the part of the co-management institution.

Up until the end of 2003 when a Service Delivery Agreement was signed, the village Commonage Committees (as well as the broader Leliefontein Commonage Committee) had no legal authority and thus no power to enforce or implement the Management Plan and Grazing Regulations. These structures only had advisory powers, with final authority residing with the municipal council. However, given that the municipality itself is weak, it was unable to respond timeously and effectively to issues reported by the

local Commonage Committees. The following examples serve to illustrate this.

On the Leliefontein village commons there is an individual who managed to secure individual use rights to a communal ram camp for a period of five years early in 2003. A municipal official, as opposed to the Council, allegedly granted permission to the farmer for this. The community is unhappy since this individual has essentially privatised a communal resource. Over the course of 2003 numerous warnings were issued ordering the farmer to move, but to no avail. The Municipality finally instituted legal action to have the farmer removed in late 2003.

By May 2004, the issue was still unresolved and was being dealt with between the attorneys of the Municipality and the farmer. Community representatives on the Commonage Committee feel that the Municipality has not taken full responsibility for this situation (although the problem originates within the Municipality), and feel that not enough was done to resolve the case.

A further example of the weakness of the Municipality that is often cited by farmers (both those on the new and the old commons) relates to infrastructure repair and maintenance. In the case of the new commons some of the water points are broken and require repair. The water points cannot be fixed, however, since a moratorium has been placed on expenditure by the Works Department of the Municipality. Although the Municipality acknowledges that there are people in the villages who have the skills to fix these pumps, the Municipality will not allow non-municipal staff to work on municipal infrastructure. This situation infuriates farmers, especially since they pay for access to the new commons.

Whether the Commonage Committee, now legally constituted as a municipal entity, will prove any more able at enforcing the Grazing

Regulations, or at maintaining commonage infrastructure, is doubtful at this point.

A further constraint raised by members of the Commonage Committee is the lack of capacity and resources to effectively carry out their duties. This applies to general tasks such as attending meetings of the Leliefontein Commonage Committee, but also to specific tasks. For example, farmers tend to under represent their stock numbers when registering with the Municipality. To address this, the local Commonage Committees should undertake stock counts every two years, with the first of these due to have started in June 2003. However, since there are no resources available to undertake this activity (for example to cover transport costs) the counting of stock has not taken place. It was proposed at a Commonage Committee meeting in July 2003 that a commonage inspector be employed to undertake this task, but such an inspector would have to be paid, and the Municipality does not have the money for this. A similar situation applies to the employment of a dedicated commonage manager within the Municipality.

This lack of authority and capacity to exercise authority is of great concern to Commonage Committee members since they feel it undermines their ability to develop a credible role and relationship with farmers. Although the conversion to a municipal entity may address the authority deficit on the part of the Commonage Committee, it is unclear whether it will address financial and human capacity constraints. In many senses the ability to address this concern lies beyond the control of the Municipality, since it relates to the creation of a well-resourced and capacitated developmental local government in South Africa more broadly. This transformation of local government is, however, still ongoing, and it is probable that the Kamiesberg Municipality will remain under-resourced for the foreseeable future.

Although the lack of capacity and power on the part of the co-management institution does affect the ability of the Committee to enforce rules and regulations, there are other dynamics at play as well. What has become evident during this research is that despite the problems outlined above, the Commonage Committee is able to act when it so chooses.

Thus, in relation to certain issues the Committee decision-making process is effective and runs relatively smoothly. For example, the annual application and allocation process takes place in terms of accepted practice, and is generally completed in time for the start of each year (this has been the case in 2003 and 2004 at least). In addition, throughout the year, the Commonage Committee actively manages the allocation of land when camps become available, and on the whole enforces exclusive rights to these allocations. The Leliefontein Commonage Committee meets on a monthly basis, with most issues relating to the new commons being discussed and with minutes being kept of these meetings.

When it comes to certain fundamental areas of decision-making, however, in particular those relating to enforcement of land use rules and regulations, the Commonage Committee falters. A key example here is the enforcement of stocking rates. Although this issue was discussed at all of the Commonage Committee meetings in 2003 and the first six months of 2004, at no point did the Committee act in a way that would have required farmers on the new commons to actually reduce their stock numbers. The following example illustrates this.

At the Commonage Committee in May 2004 one of the farmers already on the new commons made an urgent application for access to a neighbouring camp that had recently become available. This farmer had 30 to 40 lambs and his original land allocation did not have enough forage for these animals. This farmer, who has been on the new commons since at least 2002 and who has a reputation for poach grazing on neighbouring camps, already had more animals than he could accommodate on the land he had

been allocated (in May 2004 he was operating at a stocking rate of 6.1 ha/SSU, as opposed to the stipulated 10 ha/SSU).

A small minority of Committee members felt that the farmers' application should be turned down since he had a record of non-adherence to rules and regulations. It should be noted that, although rejecting the farmers' application, this group did not propose forcing him to reduce his stock numbers. A larger lobby within the Committee felt the farmer should be supported. In fact this group felt that the Commonage Committee should wherever possible provide support to farmers producing for sale (for commercial purposes[44]). This group also raised no concern with overstocking by this farmer.

Since at least July 2003 the Commonage Committee has been discussing the need to carry out regular inspections, where infrastructure can be examined and stock data collected. The Committee believes that farmers on the new commons are under-representing their stock numbers. At every Commonage Committee meeting since then the same issue has been raised, and the same recommendation of inspections made, yet by May 2004 no inspections had been carried out.

As discussed earlier, the Commonage Committee argues that the reason these inspections have not taken place is because the Commonage Committee lacks the capacity and resources to do so. However, other events show that this is not necessarily the case. In 2003 a number of problems arose between farmers on the new farm of Tweefontein, with some accusing others of encroachment into their camps. In the course of this conflict, one of the farmers shot at the herder of another farmer. The Commonage Committee promptly undertook an inspection and investigated

[44] Although as indicated by growing stock numbers most of these farmers are not selling off their surplus stock.

these complaints. The issues appear to have been resolved in a short period of time.

It would appear from this incident that the Committee is able to act, but it seems to choose the issues it acts on. It may not be in the interest of the Commonage Committee, made up largely of farmers (many of whom are on the new farms and are in excess of their stock allocations), to act on the issue of stock numbers. It is however in their interest as individual farmers to enforce their exclusive rights of access to camps on the new commons. Thus, issues of allocation and enforcement of exclusive rights to camps get dealt with timeously and effectively, while regulations that relate to what can be extracted from these allocations are ignored. This behaviour is ironic given that the active narrative informing the new farms process is that of a 'tragedy of the commons' – i.e. selfish individuals blindly pursuing their own personal interests at the cost of the broader group resource. The co-management framework and the individualised leasehold scheme all directly echo this narrative.

In relation to the commons of Leliefontein it appears that this narrative has been deliberately subverted. Individualisation is being promoted by those with self-interest in the dismantling of common property and the establishment of non-communal forms of tenure on community land. By May 2004 there was growing pressure from within the Commonage Committee to extend the camp-based leasehold framework of the newly acquired commons onto the old commons. This issue was strongly argued by those Committee members who, in practice, are unable to access the new commons (for example, those from Spoegrivier and Klipfontein which are on the western side of the N7 national road).

In order to derive similar benefits to those being enjoyed by farmers on the new commons, the solution for these individuals is to introduce a similar individualised land use framework on to the old commons. This would effectively entail enclosure of the commons, and provide an opportunity for

these larger and better-resourced farmers to monopolise access, as is the case on the new commons. It is questionable whether the Committee or even the Municipality is far enough removed from these local interests to enable it to act neutrally and in line with the regulations.

4.4. Maintenance of Infrastructure

There is ongoing conflict between farmers and the Municipality over the repair and maintenance of infrastructure on the new commons (a situation that applies equally to the old commons).

Prior to 1993, the management and maintenance of the Leliefontein commons was financed by central state funding through the coloured House of Representatives, and through municipal rates and taxes paid by all residents of Leliefontein, whether they used the commons or not. Since 1994, this situation has changed. Following an initial transitional period of provincial government funding, all central and provincial government funding for maintenance and management of the commons has been terminated (SPP 2003).

Municipalities are now expected to fund the delivery of services in relation to the commons from levies raised locally. This levy, or maintenance fee, should be calculated on the real costs of maintaining the commons. According to the municipal Development Officer these levies will be raised only from the users of the commons, unlike in the past where all residents paid. The Development Officer stressed that the Municipality will not cross-subsidise commonage maintenance with other levies raised locally

Although in principle farmers do not disagree with paying for at least some of the maintenance costs associated with the commons, what is causing disquiet is the shift toward aggressive cost-recovery by the municipality. Currently infrastructure on the new commons is in a poor condition

(although improving) and farmers have up until now largely been maintaining pumps and fences themselves. As a result, they are reluctant to pay user fees until the infrastructure is brought up to working order by the municipality. The Municipality on the other hand, being in a financial crisis, is saying that the infrastructure cannot be repaired until farmers start to pay their fees. This situation has led to an effective stalemate between farmers and the Municipality, with neither side being willing to shift their position. As a result, some of the farmers on the new commons have not been paying their fees, with a similar situation prevailing on the old commons as well.

> "The municipality is quick to take money, but have done nothing in return in terms of fixing water pumps, for example. The farmers generally fix things themselves. They are supposed to go to *Meent Komitee* (the commonage committee) who then go to the municipality to report these problems and then the municipality is meant to come out and fix it. But this never happens. One of the reasons that the municipality has no money is that they spend most of their budget on salaries" (Paulshoek farmer, May 2003).

What infuriates farmers is that the Municipality, despite being unable to fix infrastructure because of financial constraints, will not allow farmers to undertake maintenance of municipal property. Farmers on the new commons say they are more than willing (and capable) to do much of the maintenance work themselves, but they need permission and material support from the Municipality to do this.[45] This situation is leading to growing resentment on the part of farmers toward the Municipality, and the perception that the Municipality is just there to extract money from local residents. Suspicions have also been voiced about what happens to the

[45] In practice farmers do what they can to keep the infrastructure on the new farms up and running. They cannot farm without water, and so the farmers usually fix pumps and windmills at their own expense.

money that farmers pay. The perception is that the money must be going towards the high salaries that municipal officials are alleged to be receiving.

How this issue is going to be resolved is yet to be seen. In discussions with municipal officials there has been talk of applying to the national Department of Land Affairs for a Commonage Infrastructure Grant to repair and upgrade infrastructure on the new farms. However, ongoing maintenance will still prove a problem since the levies raised from users of the commons are likely to be inadequate to cover these costs, a fact the Municipality acknowledges.

5. Conclusion

With the new commonage institutions dominated by local elites and a grazing model that disadvantages the poor, it is not surprisingly, that access to the new commons is dominated by larger and better-resourced individuals, many of whom it is alleged, are family and acquaintances of members of the Commonage Committee. This institutional approach and grazing model have been promoted on the back of a particular narrative, which directly ascribes the degradation of the old commons to the institution of communal property.

In examining the actual practices of farmers on the new commons and the operation of the Commonage Committee, what becomes evident is that this narrative has been subverted and used as a means to a particular end, namely to further the agenda of those with a personal interest in introducing non-communal forms of tenure to the commons of Leliefontein. As developments stand, the new commons are rapidly in danger of becoming the economic unit policy revisited.

CHAPTER 6: Discussion and Conclusion

1. Summary of Findings

This study set out to investigate three issues in relation the newly acquired commons of Leliefontein, namely (i) the nature of the land use and management approach adopted for this new land (ii) the reasons for adopting this particular approach, and (iii) the accrual of benefits to the residents of Leliefontein that derive from this land. What this research has shown is that, despite a commitment on the part of many stakeholders to make a decisive break from the past, in the implementation of this land reform initiative a range of historical continuities have come to the fore.

Thus, individualisation of common property has again been introduced on the back of a degradation narrative, and those in the community that are better resourced and better connected have again come to dominate, monopolising both the newly established management institution as well as access to the new commons. Small farmers, who make up almost fifty per cent of all farmers in Leliefontein and whose land needs are the greatest, have effectively been excluded. As a result of these developments all of the objectives informing the new commons process have effectively been undermined.

Thus, in terms of national commonage policy objectives, neither the subsistence needs of small farmers, nor the needs of emergent farmers have been met. As noted, small resource-poor farmers are currently excluded from the new commons, and the current beneficiaries of the new commons, the majority of whom are late middle-aged or elderly, have no intention of using this land as a ‘stepping stone’ toward their ultimate exit from Leliefontein as commercial farmers.

As to the motivations relating to resource conservation and the building of democratic and legally robust institutions for the commons of Namaqualand, the prognosis is equally bleak.

Despite the best of intentions on the part of NGOs and municipal and state stakeholders, the new commonage institution has proven unable to enforce the land-use regulations put in place for the new commons. The beneficiaries of this land, including members of the Commonage Committee, who all actively promoted individualised land use as a response to degradation supposedly arising from communal farming practices, appear to have subverted the 'tragedy' narrative toward their own end.[46] Now that these farmers have gained exclusive access to their own allocation of communal land, the majority have reverted to farming in the same manner as the farmers on the old commons whom they criticise for unsustainable farming practices. Ironically, the co-management option has given rise to the similar problems that have arisen with CPAs (in particular inequitable access to group resources and failures to implement and enforce group rules and regulations), and which were to have been avoided through the choice of the municipal commonage option.

These developments on the newly acquired commons of Leliefontein provide an ominous portent of what may unfold on the old commons as the TRANCRAA process moves forward. As noted in the case study, there is already growing pressure from members of the Commonage Committee excluded from the new commons to introduce individualised land use to the old commons as well. The new commons initiative in Leliefontein has thus opened the door for the inadvertent reintroduction of the apartheid project of converting communal land into individualised economic units.

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[46] In the case of Leliefontein, the tragedy narrative was actively promoted by local elites. The outcomes seen in Leliefontein would have been achieved anyway, however, even if these elites had not actively intervened. It could be argued that in the context of prevailing agricultural orthodoxies and the policies they give rise, local elites do not even need to conspire or manipulate, since the benefits will almost inevitably accrue to them anyway.

2. Discussion

The outcomes of this study raise a number of important issues that are relevant to future developments in relation to the new commons, as well as to the incomplete TRANCRAA process in Leliefontein and the other communal areas of Namaqualand. Moreover, in addition to highlighting issues specific to land reform in Namaqualand, the case study also raises a number of lessons that are relevant to broader debates.

2.1. The Need for Pro-Poor Policy

With regard to land reform policy in particular, there has been an increasing bias in policy toward commercialisation (i.e. support to aspirant commercial farmers) since the land reform review in 2000. This is reflected in the shift in emphasis in land redistribution policy from the Settlement and Land Acquisition Grant (SLAG) to the Land Redistribution for Agricultural Development (LRAD) programme. In addition, there has been a decline in the budgets for alternative land redistribution options including that of the Municipal Commonage Programme (Hall *et al* 2004).

This shift in emphasis is also reflected in national municipal commonage policy. The initial focus of the policy from its initiation in 1997 through to 1999 was explicitly on the poor:

> "… municipal commonage is land, which has a public character, and that land needed by local poor residents for agricultural purposes should be made available on a leasehold basis for such purposes. The policy targeted those residents who wished to supplement their income and/or use the commonage for household consumption" (DLA Commonage Policy 2000: 5).

However, following a review of commonage projects in 1999, an emergent-farmer focus was also introduced to bring commonage policy in line with the newly introduced orientation of LRAD. Thus,

> "… the Minister emphasised that existing commonage should be made available to poor previously disadvantaged communities [but] also stressed that commonage should be made available for emergent farmers, with a clear plan for exiting and allowing the emergent farmer to access the new commercial grant (i.e. the LRAD grant)" (DLA Commonage Policy 2000: 6).

As a result, current commonage policy now includes the 'stepping-stone' objective in addition to the initial focus on the poor and disadvantaged. Moreover, the policy specifies that commonage projects should ideally include both beneficiary groups.

The introduction of this dual objective for municipal commonage projects is misconceived in that it ignores very real differentiation within communities. In the case of Leliefontein (and municipal commonage projects elsewhere in Namaqualand) it has resulted, at a local level, in the poor and those better-off and better-connected being effectively pitted against each other in determining the accrual of benefits. The state is not overtly aligning itself with either one of these beneficiary groups, and in this 'free-for-all' it is inevitable that those who are better resourced will win out as beneficiaries (especially since many enjoy the tacit support of local officials). More than that, however, dominant agricultural orthodoxies, which are biased against the needs of the poor, find a natural alignment with an emergent farmer focus, thus further bolstering the position of local elites.

There, therefore, needs to be a clear separation between government programmes supporting emergent and aspirant commercial farmers and those targeting the poor with subsistence needs. If new commonage is to be

used as a ‘stepping stone’, then it must be set aside and managed as such with clear entry and exit criteria, and defined links to the LRAD programme to enable departure from communal areas. Such an initiative would need to be very selective in choosing who from the community would participate.

If, on the other hand, the new commons are to benefit the poor, then the state needs to overtly support this orientation. Under such a focus, the best option would probably to merge new commonage with the old, thus allowing a greater dispersal of the stock posts of all farmers across an enlarged communal land area. The focus would then be on developing sound management institutions for this expanded land base, institutions that match the developmental needs and objectives of resource-poor farmers in particular, and on putting in place agricultural support mechanisms.

2.2. Inadequate Conceptual Frameworks and Approaches

The narrow focus on institutions as structures and rules and regulations is inadequate in addressing the complex social, economic, political and cultural communities that characterise Namaqualand. Defining institutions in this way serves to erase the social and cultural dynamics in how institutions actually work, and takes little notice of issues of power in resource use and development.

This has been the case in Leliefontein where, in adopting a ‘new-institutionalist’ approach to the commons, the character of common property as a terrain of contestation and struggle has not been adequately acknowledged. An assumed homogeneity of interests among commonage users has enabled those community members with the time, capacity and resources to participate to dominate the newly established management structure and to strongly influence the choice of range management options for the new commons. Although seen as representative of the community, these elites (*die mense wat voor staan*) have clear self-interest, and their

motivations are in many instances contrary to the needs of the majority of communal farmers. The introduction of the municipality as part of the co-management arrangement has failed to effectively mediate this diversity of interests.

This situation has been compounded by the focus to date on building up the broader Leliefontein Commonage Committee first. Through focussing on building this Committee first, the power of elites has effectively been concentrated, as the few wealthier individuals in each settlement have been drawn out and brought together within this 'higher-level' structure. If the focus had instead been on building the village-level sub-committees first, and from that to build up a broader collective committee, local elites would have been outnumbered in their respective settlements, thus at least providing a chance for their power and influence to be diluted and the voices of the poor in these communities to be heard.

A further issue, relevant to Leliefontein and to Namaqualand more broadly, relates to the appropriateness of the 'quasi-commercial'[47] range management model adopted for the new commons. Not only does it impose unaffordable costs on the poor, it is questionable whether it is the most appropriate approach to managing unstable and unpredictable arid and semi-arid rangelands. In such environments opportunistic strategies that require rapid responses to unpredictable change and, thus, flexibility in order to be effective, are often vital in successfully managing uncertainty:

[47] By quasi-commercial I mean that at the level of design, the scheme on the new farms has many aspects in common with neighbouring commercial farmers – for example, camps to facilitate resting and rotation and the free ranging of herds; a strong emphasis on stocking rates and managing carrying capacity. Yet at the same time many features of the scheme contradict this commercial character. For example, camps are all full, precluding rotation and resting; farmers are unable to access land in excess of their stock numbers, precluding herd growth over time.

> "Where negotiations must happen in response to a sudden change in the local situation, and new and flexible contracts must be formed due to unexpected circumstances, institutions derived from a complex interplay of individual and group interaction based on negotiation of rights within and between social networks are likely to be the most effective at managing resource access in such dynamic ecological settings" (Scoones 1999: 222).

Under the current framework, however, rapid response and flexibility is not possible. The rules and regulations for access and land use are tightly defined as municipal by-laws and through individual grazing contracts (i.e. they are "rock solid in legal technical terms" – LRC 2004) and the time frames and process of application are too cumbersome and bureaucratic in nature to cater for unexpected needs that arise from changes in the environment.

This failure of the new management framework was exemplified during the drought of 2003 when small farmers in Paulshoek were in desperate need of grazing for the animals in the lead up to winter. A number of farmers interviewed at that time were strongly of the view that at least some of the new commons should be opened up as emergency grazing for farmers in need. At that time, portions of the De Riet farms were still unallocated, although inaccessible to farmers from Paulshoek due to privately owned large lying between De Riet and the Paulshoek commons. Although farmers allege that this need was brought to the attention of the Commonage Committee, no action was taken. The municipality also did not respond. By the end of the winter of 2003, all farmers in Paulshoek had suffered severe stock losses with some farmers losing their entire herds.

Compounding this problem is the fact that the individualised, camp-based leasehold scheme prohibits mobility – be that by farmers on the new commons, or movement between the old and the new. According to

Behnke and Scoones (1993), livestock movement is important in highly variable and unpredictable environments. If a herd is confined to one place, livestock numbers and productivity are limited by the scarcest resource in the scarcest season. In highly variable systems, the costs of immobility can thus be high since one unfavourable period can limit production irrespective of an abundance of resources in other periods. Here effective management is about responding flexibly to stress rather than preventing flexibility - movement is thus a means of circumventing stress under certain ecological conditions (Behnke and Scoones 1993: 12).

From this point of view the stock post system and associated opportunistic grazing strategies of communal farmers may not be as irrational as is often depicted, and may represent rather an appropriate and logical response to farming under the semi-arid and highly variable conditions of Namaqualand. Moreover, this view is not far removed from current practices of many white commercial farmers in Namaqualand, many of whom move their stock between multiple farms located across the winter rainfall Namaqualand and summer rainfall Bushmanland regions. In essence these commercial farmers mimic transhumant practices that prevailed in the region in the pre-colonial period.

2.3. Failures of emerging 'Developmental Local Government'[48] in South Africa

[48] The notion of a 'developmental local government' is central to the vision of local government transformation in South Africa since 1994. The *White Paper on Local Government* (1998: 17) defines developmental local government as one which is "...committed to working with citizens and groups within the community to find sustainable ways to meet their social and material needs and improve the quality of their lives". Such a developmental local government is to achieve (i) the provision of household infrastructure and services, (ii) the creation of liveable and integrated cities, towns and rural areas, (iii) local economic development, and (iv) community development and resource redistribution.

The motivations for involving municipalities in the management of common property – to ensure legally robust institutions and thus adherence to rules and regulations and the protection of rights; to mediate the inequity experienced in access to group resources through CPAs and other common property institutions; to ensure continued state investment on this land - are sound. Unfortunately, municipalities have not been able to live up to these expectations. There are a number of reasons for this.

First and foremost is the practical issue of capacity and resources. Being a small rural municipality, Kamiesberg does not have the human capacity or the financial resources to adequately carry out all of its functions. This is particularly so in relation to the management and maintenance of the Leliefontein commons. This lack of capacity and resources is compounded by the now much larger area of jurisdiction of the Kamiesberg Municipality. Kamiesberg is no longer exclusively focussed on the communal area, which was the case in the past when the administrative boundaries of the former Management Board and the subsequent Transitional Local Council matched those of Leliefontein.

The needs of Leliefontein are, therefore, now part of a much larger bundle of needs including needs that fall outside of the communal area. This increase in the jurisdiction of the municipality in 2000 did not see a corresponding increase in human or financial resources. Moreover, in terms of the current Constitutional allocation of functions across the three spheres of government – i.e. national, provincial and local – land is not the responsibility of local government. This means that at a local government level, land would be an un-funded mandate. As a result, and in line with national trends in local government, there is a strong emphasis on cost recovery. In the case of the commons, this means users are expected to pay the full costs maintaining this land. Moreover, there is to be no cross-subsidisation from other sources of local revenue.

This financing approach is clearly not viable in the context of extreme poverty and in the case of Leliefontein has led to an effective stalemate between the municipality and farmers. Although most communal farmers acknowledge the need to make a financial contribution toward maintenance and their use of the commons, many in their current position are simply unable to afford this. Others are simply unwilling to pay given the existing state of disrepair of infrastructure on the old commons. The municipality, on the other hand, claims it is unable to repair infrastructure because it does not have the finances to do so, and this in turn is largely because farmers are not willing to pay.[49] Yet the repair of infrastructure is essential to support the development of communal farmers, so that they can ultimately afford to pay. How this 'catch-22' situation will resolve itself is to be seen.[50]

A second issue, and perhaps ironic challenge given the people-centred nature of emerging 'developmental' local government in South Africa, is to create enough distance between local government and the community to ensure adequate oversight and mitigation of local community interests. In the case of Kamiesberg Municipality, the distance between local

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[49] To some degree this argument by the municipality is fallacious – the monies raised from farmers using the new commons, for example, is totally inadequate in meeting the actual maintenance costs of the land (in 2004 farmers were paying R1.50 per small stock unit per year). Unless the user fees are increased dramatically, full cost recovery through levies will not be attainable. This emphasis on cost recovery may also create a tension with the land use regulations relating to stocking rates. It may not be the interest of the municipality to curb stocking rates, since this in effect means curbing their income.

[50] In order to break this deadlock one side is going to have to give way. That is, either farmers start to pay (with the expectation, of course, that in response the municipality will make the necessary investments), or the municipality upgrades infrastructure. The second of these options is probably the most practical, and ethical, since the municipality is in a better position to raise the necessary finances. Municipalities, for example, are able through the Commonage Acquisition Grant, to upgrade infrastructure on existing commonage. The Kamiesberg municipality, however, although aware of this option had by May 2004 taken no action to access this financing (Kamiesberg Development Officer, personal communication, 4 May 2004). It is unclear why this was so. Given the context, this lack of initiative is problematic.

government and communities is not very great. A number of key municipal functionaries, including the Mayor and the Development Officer responsible for commons, come from communities in Leliefontein (Kheiss and Leliefontein, respectively) and both are stock farmers in these settlements. More importantly, the tragedy narrative and discourses of agricultural modernisation feature prominently in their thinking. These individuals share the largely negative view of communal farming held by many members of the Commonage Committee, and are in support of the land use model adopted for the new commons. These officials are thus not neutral in their engagement with the commons.

The even greater devolution of authority over the commons to the Commonage Committee[51] will potentially worsen the situation, and further entrench the exclusion of the poor. This conversion to a Municipal Service Entity, and the ease with which the new management institution has been captured by local elites, could be seen as the Municipality handing over responsibility for tasks it has no capacity to deal with to a group that has the will and motivation to do so.

Thus, although municipalities may "be the best bet in town" (Pienaar, personal communication 2004) in terms of resolving some of the complexities of common property management, the slow progress in local government transformation is in danger of undermining this potential.

2.3. Implications for the communal land tenure reform in South Africa

As with the land reform processes currently underway in Namaqualand, it is likely that similar historical continuities in discourse and in local community dynamics will arise in land tenure reform in South Africa's remaining communal areas as well. There has already been a great deal of elite

[51] The Commonage Committee was constituted as a Municipal Service Entity in late-2003, and is now formally responsible for managing the commons on behalf of the municipality.

contestation in relation to the fate of these African communal areas as evinced by the ten-year delay in finalising legislation and by the content of the legislation. The Communal Land Rights Act of 2004 effectively legitimises the power of existing Traditional Authorities, many of which were apartheid creations.

It is the scale of the task in terms of people and land area, however, which is most daunting. Undertaking tenure reform in Namaqualand (which is a fraction of the size of the remainder of South Africa's communal areas) has proven a complex, lengthy and costly process. According to Wisborg and Rohde (2004), expenditure on the TRANCRAA process alone to date has already exceeded R3 million, and the process remains incomplete. What the costs were of processes associated with the new commons is unclear.

Of even greater concern, however, is that despite this expenditure and despite a commitment to consultative and participatory practices on the part of those facilitating the process, the poor were still marginalised at the expense of those better off and better connected. If the views of the poor and marginalised were to have been brought to the fore, the consultation process would have had to been deepened considerably, with a greater emphasis on lengthy and logistically difficult consultation with dispersed and isolated farmers on the old commons. In moving beyond the current practice of centralised community meetings (often in localities that only those with transport can reach), the time, human resource and financial requirements involved in pro-poor tenure reform would escalate dramatically.

This reality raises real challenges for development practitioners, and forces us to examine more closely the assumptions we make about a commonality of interest in the communities we work in. The assumption that those that attend meetings and participate in development processes are doing so out of a broadly altruistic motivation needs to be challenged.

3. Concluding Statement

Although the approach to land reform in Namaqualand represents a definitive innovation in the context of South African land reform, as this case study has illustrated, these processes are no less complex or problematic than those in other parts of the country. It is clear that municipal co-management and the introduction of legally robust means for managing the commons is not a ‘magic bullet’ that can simply erase the dynamic and complex community context in which these reforms unfold. What this study has shown is that it is necessary in implementation and in development practice to explicitly confront questions of interest, and to interrogate the distribution of benefits that flow from such reforms.

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2. Primary sources

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3. Farm Maps

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Annexure 1: Respondents

Discussions were undertaken with the following respondents over the course of this research.

Person/Organisation	Date	Description
Sakkie van der Paul	▪4 February 2003 ▪26 May 2003 ▪14 November 2003 ▪5 May 2004	Department of Agriculture official who sits on the Leliefontein Commonage Committee. He is based in Springbok.
Johan Johannes	22 July 2003	Department of Agriculture official who works with Sakkie van der Paul. Emerging commercial farmer from Steinkopf and member of Steinkopf Farmers Association.
Louis van Wyk	▪4 February 2003 ▪25 May 2003 ▪21 July 2003 ▪17 November 2003 ▪5 May 2004	Municipal official responsible for the Leliefontein commons. Convenes the Leliefontein Commonage Committee. Resides and farms in Leliefontein village.
Gert Titus	▪4 February 2003	Farmer from Rooifontein using the new commons since 2000.
John Smith	▪19 November 2003	Convenor of the Nourivier Commonage Committee. Farmer on the new commons (2003 and 2004), and shopkeeper in Nourivier.
Sarah Donkerman	▪18 November 2003	Member of Kamasies commonage committee. Had two camps on Tweefontein in 2003 and 2004.
Dan Engelbrecht	▪5 February 2003 ▪26 May 2003 ▪19 November 2003 ▪5 May 2004	Convenor of Paulshoek commonage committee. Has recently been allocated a camp on the new commons for 2004. Runs a shop in Paulshoek.
Mr Lombard	▪22 July 2003	Farmer from Rooifontein using the new commons. Was a beneficiary under the previous economic unit policy.
Fonkie Claassen	▪4 February 2003	Stock farmer in Paulshoek.

	▪25 May 2003 ▪19 July 2003 ▪20 July 2003 ▪16 November 2003	Rents accommodation to visiting researchers.
Sampie Cloete	▪5 February 2003 ▪26 May 2003 ▪20 July 2003 ▪15 November 2003 ▪18 November 2003	Stock farmer in Paulshoek. Does part-time work for an outside research project.
Japie Claassen	▪6 February 2003 ▪19 July 2003	Paulshoek stock farmer who spent some time on new farms, but returned to old commons.
Gert 'Keteltjie' Joseph	▪5 February 2003 ▪26 May 2003 ▪27 May 2003 ▪18 July 2003 ▪21 July 2003 ▪16 November 2003	Paulshoek stock farmer.
Mervin Cloete	▪17 November 2003	Prominent resident and stock farmer from Paulshoek who is employed full time in Springbok. Has gained access to the new farms for 2004.
Harry Nel	▪18 November 2003	Large Rooifontein stock farmer and entrepreneur. Runs approx. 500 stock on old commons.
Dirk Joseph	▪5 February 2003 ▪26 May 2003	Stock farmer and entrepreneur in Paulshoek.
Mr Rahman	▪18 July 2003	Recent arrival in the village of Leliefontein. Works full-time for a government department in Springbok, but also farms at Leliefontein. Convenor of the Kameelkrans Farmers Union.
Kameelkrans Farmers Union meeting	▪18 July 2003	Independent farmers union recently established in Leliefontein.
Leliefontein Commonage Committee meeting	▪22 July 2003 (held in Nourivier) ▪14 November 2003 (held in Garies) ▪6 May 2004 (held in Garies)	Leliefontein commonage committee comprising two reps each from the different village committees.

Ongoing and informal (telephonic, e-mail, and one-on-one discussions) were held throughout 2003 and the first half of 20043 with individuals from the Legal Resources Centre and of the Surplus Peoples Project (in particular Kobus Pienaar and Harry May). Both organisations are based in Cape Town, South Africa. I also had ongoing interaction with Nicky Allsopp of the Range and Forage Institute of the Agricultural Research Council, based at the University of the Western Cape in Cape Town.

Annexure 2: Stock data, new commons, 2004

Notes:

1. The range management model for the new commons operates with a carrying capacity of 10 hectares per small stock unit (SSU);
2. All stock units in the table below are converted at Large Stock Unit (LSU) rates prescribed in the Conservation of Agricultural Resources Act of 1984;
3. These LSU are then converted to SSU at a rate of 1LSU to 6SSU. This is the conversion rate being used in the management of the new farms.
4. For the sake of confidentiality, the names of individual farmers have been withheld.

(See stock data overleaf)

FARMER	FROM	NUMBER OF LIVESTOCK																				TOTAL SSU EQUIV per FARMER
		Livestock over 6 months												Livestock under 6 months								
		SHEEP			GOATS			CATTLE			DONKEYS			SHEEP			GOATS			CATTLE			
		No.	LSU=0.15	SSU Equiv	No.	LSU=0.15	SSU Equiv	No.	LSU=1.10	SSU Equiv	No.	LSU=0.65	SSU Equiv	No.	LSU=0.05	SSU Equiv	No.	LSU=0.05	SSU Equiv	No.	LSU=0.50	SSU Equiv	
1	Rooifontein				16	2.4	14.4															16
2	Kamassies	16	2.4	14.4													4	0.2	1.2			17
3	Nourivier				19	2.85	17.1															19
4	Nourivier	2	0.3	1.8	22	3.3	19.8							1	0.05	0.3						24
5	Rooifontein				25	3.75	22.5															25
6	Kamieskroon				24	3.6	21.6										7	0.35	2.1			26
7	-				26	3.9	23.4										5	0.25	1.5			28
8	Rooifontein	1	0.15	0.9	20	3	18										22	1.1	6.6			28
9	-				30	4.5	27															30
10	Paulshoek	26	3.9	23.4	10	1.5	9							3	0.15	0.9						37
11	Rooifontein				18	2.7	16.2				7	4.55	27.3				17	0.85	5.1			50
12	-	15	2.25	13.5	30	4.5	27							6	0.3	1.8	19	0.95	5.7			53
13	Paulshoek	19	2.85	17.1	34	5.1	30.6										9	0.45	2.7			56
14	Kamieskroon				54	8.1	48.6										7	0.35	2.1			56
15	Rooifontein	17	2.55	15.3	16	2.4	14.4				7	4.55	27.3									60
16	Nourivier	3	0.45	2.7	50	7.5	45										36	1.8	10.8			64
17	Nourivier	8	1.2	7.2	56	8.4	50.4															64
18	Leliefontein							10	11	66												66
19	-	25	3.75	22.5	34	5.1	30.6							9	0.45	2.7	18	0.9	5.4			67
20	Nourivier	30	4.5	27	36	5.4	32.4							8	0.4	2.4	10	0.5	3			71
21	Nourivier	60	9	54				2	2.2	13.2				8	0.4	2.4						76
22	-	70	10.5	63										26	1.3	7.8						78
23	Okiep	64	9.6	57.6	6	0.9	5.4	1	1.1	6.6										1	0.5	3	80
24	Kamassies	26	3.9	23.4	60	9	54										6	0.3	1.8			88
25	Kamassies	16	2.4	14.4	47	7.05	42.3				4	2.6	15.6	12	0.6	3.6	25	1.25	7.5			90
26	Rooifontein							14	15.4	92.4										3	1.5	9	101
27	Leliefontein	34	5.1	30.6	64	9.6	57.6							21	1.05	6.3						104
28	Kamieskroon	106	15.9	95.4													9	0.45	2.7			109

29	-	37	5.55	33.3	68	10.2	61.2				2	1.3	7.8	13	0.65	3.9	9	0.45	2.7				119
30	Rooifontein							16	17.6	106										5	2.5	15	121
31	Rooifontein	4	0.6	3.6	44	6.6	39.6	4	4.4	26.4	10	6.5	39				24	1.2	7.2				121
32	Nourivier	45	6.75	40.5	80	12	72																125
33	Nourivier	48	7.2	43.2	86	12.9	77.4							8	0.4	2.4							136
34	Rooifontein	27	4.05	24.3	103	15.45	92.7													5	2.5	15	145
35	Kamassies	33	4.95	29.7	84	12.6	75.6				7	4.55	27.3	14	0.7	4.2	12	0.6	3.6				152
36	Kamassies	185	27.75	166.5										86	4.3	25.8							211
37	Rooifontein	74	11.1	66.6	140	21	126							8	0.4	2.4	44	2.2	13.2				230
38	Kharkams	60	9	54	44	6.6	39.6	20	22	132				10	0.5	3				7	3.5	21	260
39	Carolusberg	140	21	126	107	16.05	96.3	7	7.7	46.2													293
40	Rooifontein	285	42.75	256.5													49	2.45	14.7				300
41	Rooifontein	16	2.4	14.4	79	11.85	71.1	53	58.3	350				9	0.45	2.7	42	2.1	12.6	12	6	36	496
42	Kharkams																						
		1492		**1343**	**1532**		**1379**	**127**		**838**	**37**		**144**	**242**		**73**	**374**		**112**	**33**		**99**	**4274**