

# COMMUNAL LAND RIGHTS

## Promoting the Rights of Vulnerable Groups

DID YOU KNOW THAT THE CONSTITUTION OF NAMIBIA SAYS THAT ALL PEOPLE IN NAMIBIA ARE EQUAL BEFORE THE LAW?

THE PRINCIPAL OF EQUALITY APPLIES TO COMMUNAL LAND. THIS MEANS THAT MEN AND WOMEN HAVE EQUAL RIGHTS TO COMMUNAL LAND.

MY HUSBAND DIED LAST YEAR. I THOUGHT THAT I WOULD BE FORCED TO LEAVE MY HOME. BUT THE TRADITIONAL LEADER IN MY COMMUNITY SAID THAT WIDOWS NOW HAVE THE RIGHT TO REMAIN ON THEIR DECEASED HUSBAND'S COMMUNAL LAND. HE MADE SURE THAT I WAS NOT FORCED TO LEAVE.



TIMES ARE CHANGING. IN THE PAST SOME TRADITIONAL AUTHORITIES WOULD ONLY GIVE COMMUNAL LAND RIGHTS TO MEN. BUT NOW THE LAWS HAVE CHANGED. WE NOW ALLOCATE LAND TO BOTH MEN AND WOMEN. I ALSO MAKE SURE THAT VULNERABLE PEOPLE IN MY COMMUNITY ARE PROTECTED AND HAVE ACCESS TO LAND.



Article 10 of the Constitution of Namibia says that all people are equal before the law. People may not be discriminated against on the basis of sex, race, colour, ethnic origin, religion, creed or social or economic status.





A VULNERABLE PERSON IS SOMEONE WHO STRUGGLES TO DEFEND HIS OR HER RIGHTS. EVERYONE IN NAMIBIA, INCLUDING BODIES SUCH AS TRADITIONAL AUTHORITIES AND COMMUNAL LAND BOARDS, HAS A RESPONSIBILITY TO MAKE SURE THAT THE RIGHTS OF ALL PEOPLE ARE RESPECTED.

Vulnerable people may lack knowledge, power or means to assert rights to communal land. Vulnerable groups sometimes face barriers trying to get access to land because of severe poverty, low levels of education, social isolation or other factors. When it comes to accessing communal land, the following groups are often vulnerable:

- \* indigenous minorities (such as some San and Himba groups)
- \* people who are severely poor
- \* people living with disabilities
- \* households headed by an elderly person whose only source of income is a pension
- \* child-headed households, orphans and vulnerable children
- \* people living with HIV/AIDS
- \* women, especially rural women and women-headed households

SOMETIMES THERE ARE DISPUTES ABOUT ACCESS TO COMMUNAL LAND BECAUSE GOOD LAND FOR CROPS AND GRAZING IS SCARCE. SO IS ACCESS TO WATER. FOR EXAMPLE, LAST YEAR THERE WAS AN ARGUMENT BETWEEN A GROUP OF SAN PEOPLE LIVING ON COMMUNAL LAND AND A GROUP OF OTJIHERERO FARMERS WHO STARTED TO GRAZE ANIMALS ON THEIR LAND WITHOUT PERMISSION.



Everyone who wants to use land must follow the proper legal procedures. This will help prevent disputes and protect everyone's rights.



WOMEN ARE OFTEN VULNERABLE BECAUSE IN MANY CULTURES WOMEN DO NOT HAVE THE SAME STATUS AS MEN. THE LAW ON COMMUNAL LAND PROTECTS BOTH WIDOWS AND WIDOWERS, BUT IT IS AIMED PRIMARILY AT WIDOWS BECAUSE THEY ARE PART OF A VULNERABLE GROUP.



HERE ARE SOME WAYS THAT THE COMMUNAL LAND REFORM ACT PROTECTS WOMEN.



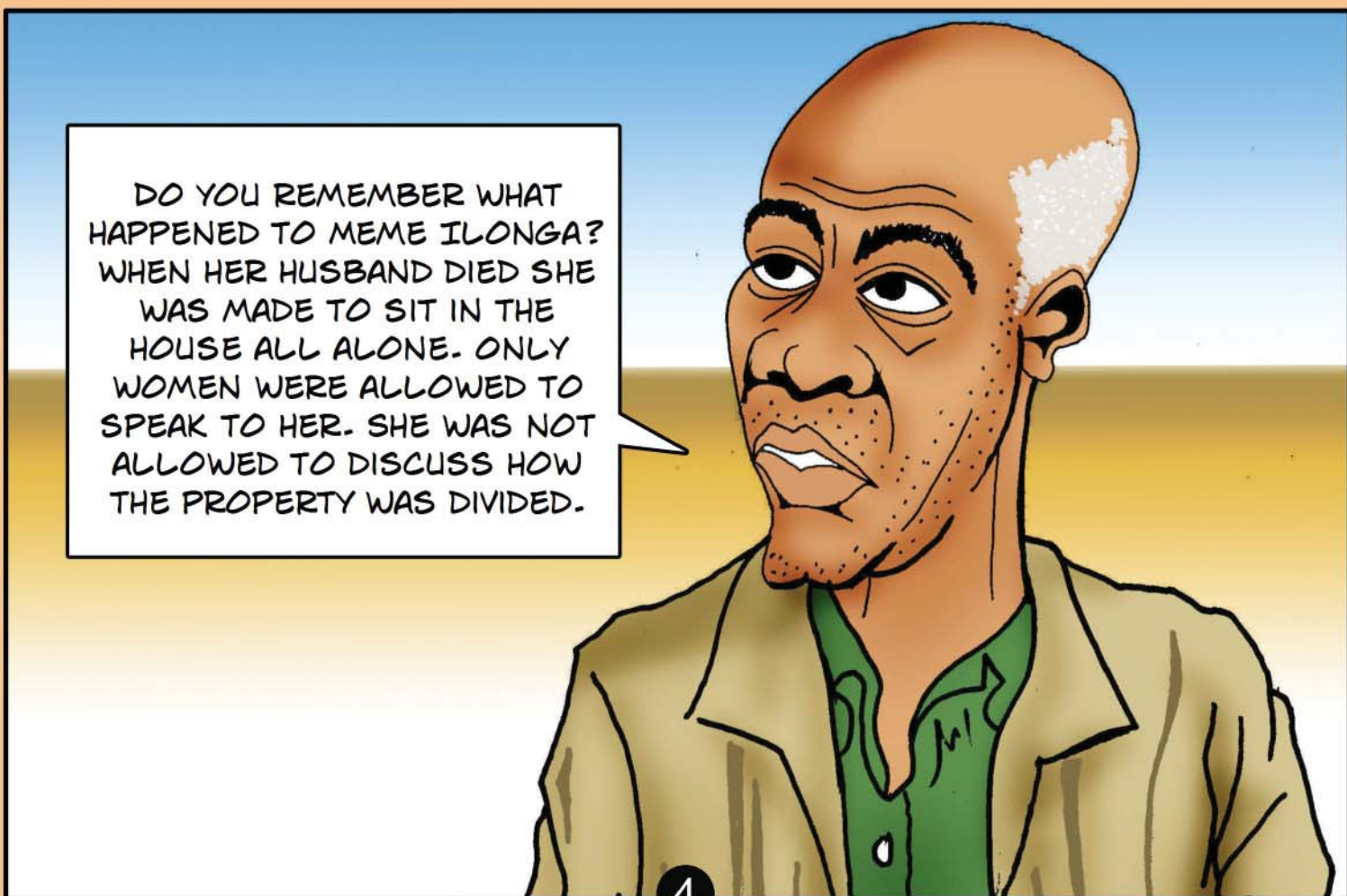
### PROTECTIONS FOR WOMEN'S COMMUNAL LAND RIGHTS IN NAMIBIAN LAWS

- \* The Namibian Constitution forbids discrimination on the basis of sex or social status. This means that women have the same rights to communal land as men, regardless of whether they are married or unmarried.
- \* If a person holding communal land rights dies, the surviving spouse has a right to remain on the land. No traditional authority is allowed to take away land from a widow if her husband dies, even if the widow later re-marries. The traditional authority is not allowed to charge a fee to the widow or widower for remaining on the land.
- \* Every Communal Land Board must have at least four women members. This is a way of making sure that women's needs and interests are taken into account.

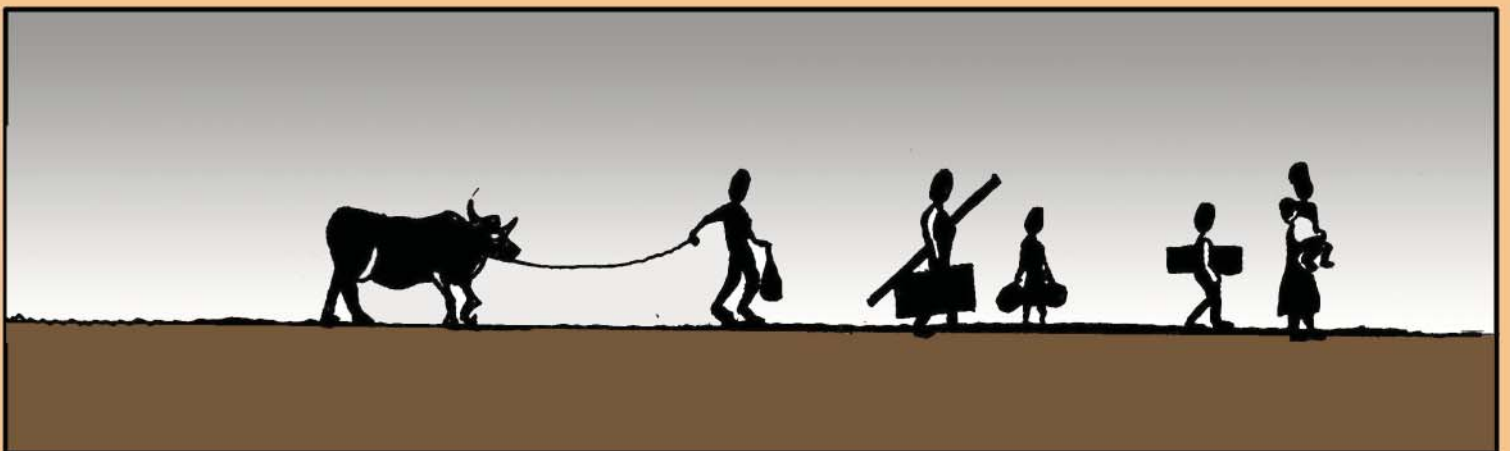




LIFE WAS VERY HARD  
FOR WIDOWS BEFORE  
OUR CHIEF DECIDED TO  
ADDRESS PROPERTY  
GRABBING.

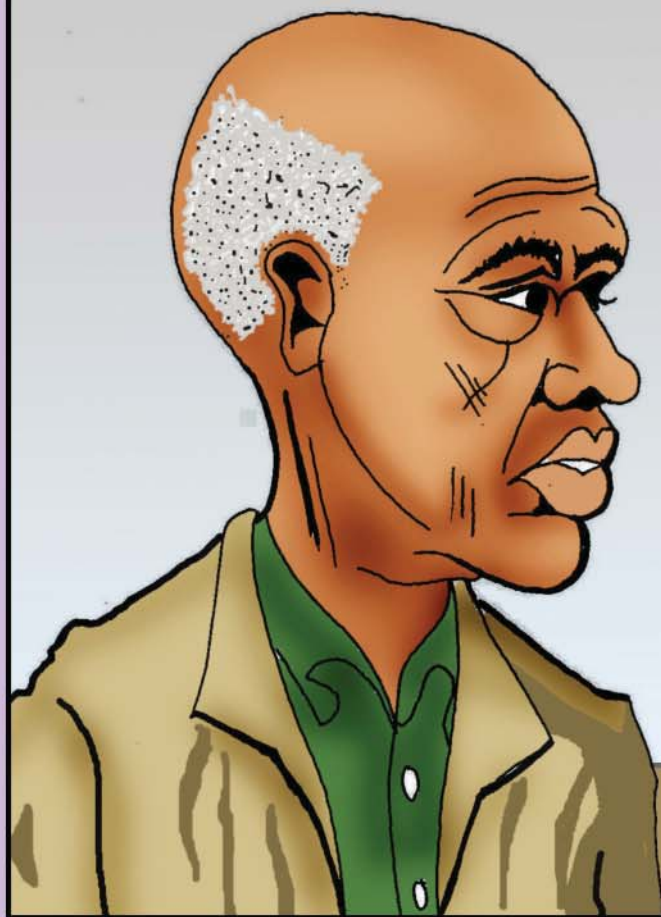


DO YOU REMEMBER WHAT  
HAPPENED TO MEME ILONGA?  
WHEN HER HUSBAND DIED SHE  
WAS MADE TO SIT IN THE  
HOUSE ALL ALONE. ONLY  
WOMEN WERE ALLOWED TO  
SPEAK TO HER. SHE WAS NOT  
ALLOWED TO DISCUSS HOW  
THE PROPERTY WAS DIVIDED.



Meme Ilonga tried to talk to her deceased husband's relatives, but they accused her of using witchcraft to kill him. She was afraid and so she stopped fighting for her rights. She and her three children left the homestead. They really suffered. The chief has decided that this kind of thing must never happen again.





SOME PEOPLE SAY THAT IT IS NOT RIGHT TO CHANGE OUR TRADITIONAL PRACTICES. CULTURE AND TRADITION ARE VERY IMPORTANT. BUT MAKING SURE THAT PEOPLE ARE TREATED EQUALLY IS ALSO VERY IMPORTANT. I AM TRYING TO MAKE SURE THAT EVERYONE IS TREATED FAIRLY. THIS MEANS THAT SOME OF OUR TRADITIONS MUST CHANGE BUT SOME WILL STAY THE SAME.

MY FATHER DIED LAST YEAR. THE FAMILY STARTED TO ARGUE ABOUT WHO SHOULD HAVE THE LAND AND THE PROPERTY. WE WENT TO OUR CHIEF AND HE EXPLAINED HOW THE CONSTITUTION SAYS THAT ALL PEOPLE ARE EQUAL. HE ALSO TOLD US ABOUT THE RULES IN THE COMMUNAL LAND REFORM ACT. THE FAMILY STOPPED ARGUING. THE CHIEF GAVE MY MOTHER THE LAND RIGHTS TO THE HOMESTEAD, AND SHE AND MY FATHER'S RELATIVES DIVIDED THE CATTLE THAT MY FATHER OWNED SO THAT NO ONE WOULD SUFFER.







TRADITIONAL LEADERS HAVE AN IMPORTANT ROLE IN MAKING SURE THAT PEOPLE ARE AWARE OF THEIR RIGHTS. I AM GOING TO HOLD MONTHLY MEETINGS WITH MY COMMUNITY SO THAT I CAN INFORM THEM ABOUT THE COMMUNAL LAND REFORM ACT. THIS WILL HELP PREVENT FAMILY DISPUTES.







I AM A COMMUNITY ACTIVIST. I HAVE RECEIVED TRAINING ABOUT THE LAWS ON ACCESS TO COMMUNAL LAND. NOW I CAN HELP PEOPLE IN MY COMMUNITY TO STAND UP FOR THEIR RIGHTS.



I AM ALSO A COMMUNITY ACTIVIST. I WORK WITH FAMILIES TO DISCUSS THE DIVISION OF THE DECEASED'S PROPERTY ON THE COMMUNAL LAND - SUCH AS HOUSING MATERIALS, TOOLS AND LIVESTOCK. I AM ALSO ENCOURAGING PEOPLE TO MAKE WRITTEN WILLS ABOUT SUCH PROPERTY WHICH CAN PROTECT ALL FAMILY MEMBERS.



MEN AND WOMEN IN NAMIBIA MUST BE TREATED EQUALLY, AND THE PRINCIPLE OF EQUALITY APPLIES TO COMMUNAL LAND RIGHTS.

The Communal Land Support (CLS) Project supports the Ministry of Lands and Resettlement (MLR) to improve the land administration system and increase securing of land tenure in the NCAs.

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Ministry of Land  
and Resettlement



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