Natural Resources Tenure in Southern Africa: Exploring Options and Opportunities

Proceedings of a workshop on Land / Resource Tenure and Decentralisation
Johannesburg South Africa July 7 - 9 1998

Edited by Elizabeth Rihoy

SADC Natural Resources Management Project
Arranged and organised by the Africa Resources Trust for and on behalf of the SADC Wildlife Sector Technical Coordination Unit, Malawi, and the SADC Natural Resources Management Project Consortium Steering Committee comprising ART, IUCN and WWF.

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SADC NATURAL RESOURCES MANAGEMENT PROJECT
FOREWORD

NATURAL RESOURCES AND LAND TENURE IN SOUTHERN AFRICA

There is possibly nothing so sacrosanct and precious as a person’s right to choose and to possess. Sadly southern Africa’s history is littered with the skeletons of dispossessed and marginalised people.

The issues of land tenure, dispossession, re-settlement and restitution are issues that we all read about daily in the region’s media, recounting the history of our sub-continent and its colonisers. It should not be forgotten however that the struggle for land, and the natural resources that occur on it, has been an ongoing saga from time immemorial. Ours is not a new chapter in the books of history – merely a different page. The actors, and the set may be different, but the play follows the same script. It is how the audience responds to the plot that matters and we in southern Africa need to tailor the climax of our show to the audience’s demands.

This workshop on Natural Resource Tenure and Decentralisation in the SADC Region addresses a critical issue at this stage of the evolution of community based natural resources management or CBNRM in our region. Emerging from the mists of change in our sub-continent’s newly independent nations, communities have increasingly found that land and resource tenure issues are at the heart of every legitimate CBNRM transaction – either enabling them to draw benefits from their property or denying them the right to use them as they see most appropriate. These rights have increasingly become the rallying points around which communities are building their case for restitution. Demanding back that which they once had as a god given right.

The lessons learned from many of the case studies presented in the workshop provide profound insights into current thinking on this vital issue. Despite the difficulties encountered in creating the appropriate ‘enabling environment’ for CBNRM, the ongoing struggle to understand the intricacies and complexities of land and resource tenure legislation will assist in achieving this goal and providing a more equitable basis for negotiation. At least one more small brick will have been laid in the wall of justice.

Dr Yemi Katerere
Regional Director, Regional Office for Southern Africa
IUCN-The World Conservation Union
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<td>Appropriate Authority</td>
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<tr>
<td>ADMADE</td>
<td>Administrative Management Design for Game Management Areas (Zambia)</td>
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<td>ANC</td>
<td>African National Congress (South Africa)</td>
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<td>ART</td>
<td>Africa Resources Trust</td>
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<td>BASP</td>
<td>Biodiversity Action Support Programme</td>
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<td>BDP</td>
<td>Botswana Democratic Party</td>
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<td>BNF</td>
<td>Botswana National Front</td>
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<td>BNRMP</td>
<td>Botswana Natural Resources Management Programme</td>
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<td>CAMPFIRE</td>
<td>Communal Areas Management Programme for Indigenous Resources (Zimbabwe)</td>
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<tr>
<td>CASS</td>
<td>Centre for Applied Social Sciences (University of Zimbabwe)</td>
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<tr>
<td>CBNRM</td>
<td>Community Based Natural Resources Management</td>
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<td>CBO</td>
<td>Community Based Organisation</td>
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<td>CBS</td>
<td>Community Based Strategy (Botswana)</td>
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<td>CHA</td>
<td>Controlled Hunting Areas (Botswana)</td>
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<td>CITES</td>
<td>Convention on International Trade in Endangered Species</td>
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<td>CPA</td>
<td>Communal Property Association (South Africa)</td>
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<td>DDC</td>
<td>District Development Committee (Botswana)</td>
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<td>DLA</td>
<td>Department of Land Affairs (South Africa)</td>
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<td>DWNP</td>
<td>Department of Wildlife and National Parks (Botswana)</td>
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<td>GMA</td>
<td>Game Management Area (Zambia)</td>
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<td>GoB</td>
<td>Government of Botswana</td>
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<td>IKS</td>
<td>Indigenous Knowledge Systems</td>
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<td>IUCN</td>
<td>World Conservation Union</td>
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<td>LIFE</td>
<td>Living In a Finite Environment (Namibia)</td>
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<td>MET</td>
<td>Ministry of Environment and Tourism (Namibia)</td>
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<td>MLRR</td>
<td>Ministry of Lands, Resettlement and Rehabilitation (Namibia)</td>
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<td>MRLGH</td>
<td>Ministry of Regional Local Government and Housing (Namibia)</td>
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<td>NDP</td>
<td>National Development Plans (Botswana)</td>
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<td>NEAP</td>
<td>National Environmental Action Plan (Zambia)</td>
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<td>Non-Governmental Organisation</td>
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<td>NRMP</td>
<td>Natural Resources Management Programme</td>
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<td>PAC</td>
<td>Pan African Congress (South Africa)</td>
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<td>PCC</td>
<td>Project Coordination Committee (SADC)</td>
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<td>PRA</td>
<td>Participatory Rural Appraisal (Zimbabwe)</td>
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<td>PTO</td>
<td>Permission To Occupy</td>
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<td>RDC</td>
<td>Rural District Council (Zimbabwe)</td>
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<td>SADC</td>
<td>Southern African Development Community</td>
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<td>SAP</td>
<td>Structural Adjustment Programme</td>
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<td>SDI</td>
<td>Spatial Development Initiative (South Africa)</td>
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<td>TANAPA</td>
<td>Tanzania National Parks Association</td>
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<td>TrepCs</td>
<td>Transitional Representative Councils (South Africa)</td>
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<tr>
<td>UDM</td>
<td>United Democratic Movement (South Africa)</td>
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<tr>
<td>VIDCO</td>
<td>Village Development Committee (Zimbabwe)</td>
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<tr>
<td>WADCO</td>
<td>Ward Development Committee (Zimbabwe)</td>
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<td>WMA</td>
<td>Wildlife Management Area (Tanzania)</td>
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<td>WWF</td>
<td>World Wide Fund for Nature</td>
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INTRODUCTION AND BACKGROUND
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1.1 Introduction

Experience has demonstrated that sound land use practices and the sustainable use of natural resources (land and the biological resources occurring upon it) are not solely, nor even largely, determined by physical and biological factors. Reproduction and growth rates may be important when harvesting biological resources, but the real determinant of sustainability is a package in which human needs are bundled with economic and social realities. It is a fact that 'open-access' resources are usually harvested beyond their capacity for renewal and consequently one of the most significant factors in the search for sustainable resource use is secure tenure at a level which provides the appropriate incentives for the desired outcome. Ideally, those with the responsibility for managing resources should also bear the authority, the accountability and the costs involved in decision-making.

Land and resource tenure in southern Africa is a complex and often emotional issue with its roots in colonialism and the struggle for racial justice. Throughout the region, poor rural communities lack secure ownership or title to the land and resources they depend on for survival. New tenurial arrangements and 'land reform' are commonly proposed as a means of integrating those who were historically excluded from access to resources and opportunities. However, experience has indicated that appropriate new tenurial arrangements are extremely difficult to establish. Where tenure, whether for land or resources, is vested in the state there are often stakeholders who are reluctant to decentralise and devolve authority to lower levels of governance. The same is true at all levels closer to the household or individual levels. Is it surprising when cash-strapped District Authorities resist devolution of tenure to villages or groups of villages? It is perhaps more surprising when they do not! The allocation of tenure rights over 'fugitive' resources such as wildlife has also proved to be complicated. Even if it makes economic sense, is it truly acceptable, for instance, for tenure over wildlife to be devolved so that the benefits of use are channelled to a few 'owners'?

The inescapable conclusion is that, in so far as it appears almost inevitable that different levels of society will be brought into conflict, land and resource tenure is a highly political issue and one which lies at the heart of rural development throughout the region.

1.2 Purpose and Background

This workshop was organised by Africa Resources Trust (ART), on behalf of the SADC Technical Coordination Unit for Wildlife (TCU-W) based in Malawi, in recognition of the determining role of tenurial arrangements in the search for sustainable use of natural resources. Identification of appropriate tenurial arrangements to enhance the successful implementation of Community Based Natural Resource Management (CBNRM) initiatives was identified as the priority issue by the regional Project Coordination Committee (PCC) of the SADC Natural Resources Management Project (NRMP). The PCC consists of representatives from the CBNRM initiatives in Botswana, Malawi, Namibia, Zambia and Zimbabwe. The regional SADC NRMP, which has been in operation since 1989, is supported by a USAID-funded consortium of implementors, consisting of the IUCN-ROSA (Regional Office for Southern Africa), ART and WWF-Zimbabwe.

The workshop provided a forum for 7 countries from around the region to exchange information and experiences on the development of appropriate tenurial regimes for sustainable natural resource management. The workshop sought to achieve this by bringing together over 50 government policy and decision-makers, academics, practitioners and community representatives involved in tenure
and natural resources management from Botswana, Malawi, Namibia, Zambia, Zimbabwe, South Africa and Tanzania (unfortunately the anticipated Mozambican attendance did not materialise due to administrative difficulties).

1.3 Methodology

The professionally facilitated workshop ran for three days. The programme was designed to provide all participants with an opportunity to explore natural resource tenure and decentralisation in southern Africa within the following framework (see Appendix 1, Workshop Programme):

- Where should land/resource tenure be and why, and what factors affect this?
- Where does tenure lie in southern Africa and what processes have led to this?
- What processes of devolution of authority are taking place and what factors influence this?

The first one and a half days were devoted to presentations and facilitated discussions based upon these three themes. Presentations were delivered by a core group of resource peoples who provided national and regional perspectives and guided discussions (papers delivered are presented in Section 3). This enabled participants to develop a common understanding of key regional issues, opportunities and constraints in developing appropriate tenurial regimes and in the decentralisation of authority.

The rest of the workshop was dedicated to focused working group sessions. The first session consisted of country-specific working groups, which identified key constraints and opportunities in their respective countries. The second session consisted of working groups aimed at identifying the key roles of, constraints and opportunities which the principal stakeholders face. The stakeholders were identified as government, non-governmental organisations (NGOs), resource users/communities and the private sector. Each working group reported back to the plenary on its key findings. (The results of these working group deliberations are presented in Sections 4 and 5).

1.4 Workshop Outputs

These workshop proceedings represent the first phase of the documented workshop outputs. In addition to the synthesis and analysis of workshop discussions, these contain edited versions of all the presentations delivered.

In addition to these proceedings, the workshop participants identified the need for a further documented output which should take the form of a 'Natural Resource Tenure Toolbox'. This will contain information relevant to the development of appropriate tenurial arrangements, developing upon and informed by the workshop discussions. The information contained in the 'toolbox' will be structured to meet the information requirements of the key role-players, facilitating the development of appropriate tenurial arrangements that will optimise ecological sustainability, economic viability and social equity.

Of equal importance to these tangible workshop products is the collective regional learning experience of all participants and the contacts and networks that have been created. To facilitate further interaction among participants and interested parties, Appendix 2 contains an address list of workshop participants and resource people.
2

SUMMARY AND SYNTHESIS
SUMMARY AND SYNTHESIS

This summary and synthesis represents an overview and analysis of key issues raised during the workshop. The main points arising from each of the presentations are highlighted to provide an insight into the complexities and practical issues that each country is grappling with; an indication of how and why these situations arise; and an outline of common constraints and opportunities. Summaries of the key points arising from each set of presentations are presented. A brief analysis of the outcome of the country working groups and the stakeholder working groups is provided.

2.1 Reviewing Experiences and New Directions for Land Tenure Arrangements and Decentralisation Within the SADC Region (summary of presentations and panel discussions)

The workshop began with opening speeches and a keynote address that emphasised the need for natural resource tenure arrangements that decentralise authority from central government to a lower level in order to achieve sustainable natural resource management, social equity and poverty alleviation. It was stressed that CBNRM is an essential component of any rural development strategy. Therefore CBNRM must engage in the broader political issues around which the tenure debate is central if it is to meet its objectives.

In his opening address, the Minister for Land Affairs in South Africa, the Honourable Derek Hanekom, acknowledged the achievements of CBNRM initiatives in SADC countries. He noted that they have the potential to contribute to national development priorities whilst addressing historical grievances. However, he noted that in some instances the rhetoric surrounding CBNRM was being used to mask a lack of political will to empower local communities to manage and benefit from their own resources. He stressed that if CBNRM is to achieve its potential, it must address the issue of property rights and tenurial empowerment. Governments need to grant resource users/communities secure and legally recognised ownership rights over resources in order to provide resource users with incentives to sustainably manage resources.

South Africa, unlike other countries in the region, does not have a specific CBNRM programme. It has instead focused on developing policies to restore property rights to the disenfranchised. These policies have created an 'enabling environment' for CBNRM and have facilitated the implementation of pilot initiatives that provide ongoing learning opportunities. This ensures an effective, flexible long-term approach that accommodates the needs of differing local situations.

In his keynote address Saliem Fakir concentrated on raising key issues and questions pertinent to CBNRM. Central amongst these is whether CBNRM is possible without land/tenure reform and decentralisation? CBNRM must be recognised as a crucial component of the rural development strategy of any nation, with its objectives being those of poverty alleviation, social upliftment and democratisation as well as conservation. Acknowledging this broad role for CBNRM necessitates viewing it within the context of the national political economy. The process of tenure reform will inevitably generate conflict because competing interests will be involved.

Fakir explores the distinction between 'organic' and 'assisted' forms of CBNRM. 'Assisted' forms, generally driven by outsiders, are open to manipulation and co-option and their sustainability is therefore questionable. Options for joint management and resource sharing regimes are reviewed, with emphasis placed on the need to explore different arrangements rather than assume that outright 'ownership' is always the answer.
Fakir also raises concerns regarding decentralisation. It is not necessarily a panacea and it is necessary to recognise when and where decentralisation is useful. It can be used by those with vested political or economic interests to wrest control from legitimate authorities. This raises issues of the appropriate role for government, which should be to create an enabling environment and ensure a balance of power between the interests of the various stakeholders. Decentralisation should complement the role of the state, not replace it.

**THEME 1**

*Where should tenure be and why and what factors in Southern Africa affect this* provided the focus for the first three presentations.

The first presenter, **Professor Mandivamba Rukuni**, observes that it is essential to develop African solutions to African problems. Only then will it be possible to develop tenurial arrangements that accommodate African culture, traditions and agricultural systems. This is an essential prerequisite if appropriate tenurial regimes are to be established. Land tenure should be viewed as a priority for rural development. Rural development is ultimately dependent on building effective and representative rural institutions. Decentralisation of authority over resources facilitates the development of such institutions and the empowerment of communities. If southern Africa is to achieve economic development and social progress issues of agriculture and natural resource management can no longer be divorced from issues of politics and democracy. The complexity of such issues and the potential for conflict that surrounds tenure reform requires that it must be an evolutionary process that is adaptive to local socio-economic and cultural conditions.

**Excellent Hachileka** highlights constraints to the development of economically viable tourism ventures that are posed by inappropriate tenurial arrangements in Zambia and the unsustainable resource exploitation to which this can lead. If resources are to be sustainably managed, tenurial arrangements should provide incentives to invest in the resource base. This requires secure, long-term, legally recognised rights to the resource. In Zambia the lease agreements for tourism ventures are for a maximum of five years and do not permit exclusive access to the resource. This short time period and the ‘open access’ resource regime create disincentives for private operators to invest both in the resource base and in the skills and capacities of neighbouring communities. By further alienating communities from their resources, customary tenurial systems may also have been undermined. As in most ‘open access’ resource regimes, the insecure tenure arrangements of the lease system create incentives to use the resource unsustainably and inequitably.

**Dr. Robin Palmer** reviews the context, trends and lessons of land reform in southern Africa. Post-colonial southern Africa has seen growing individual control and ownership over land at the local level, but this has been contradicted by a growing centralisation of authority by governments. Land tenure has tended to be viewed as a technical issue, with a ‘quick fix’ solution, rather than as an evolving social and political issue. This has led to inappropriate reforms, which ignore customary tenurial arrangements and tend to benefit the better off at the expense of the poor, particularly women. This is particularly the case when uniform national land policies that neglect local social, economic and ecological differences are introduced. There is no correct and final answer to the process of land reform. It must be allowed to evolve and adapt, guided at all times by the principle of subsidiarity. Policy makers should identify and recognise the positive values of indigenous systems, giving local communities control of their resources, while keeping national goals and priorities in view.
Key points: Where should tenure be and why? What factors in southern Africa affect this?

- Africa must develop 'home-grown' African solutions and approaches to natural resource tenure.
- These approaches must accommodate traditional/customary tenurial arrangements and authorities.
- Flexible, evolutionary approaches must be adopted to accommodate changing local realities.
- Appropriate tenurial arrangements must empower communities giving them direct authority over their resources.
- The development of effective, representative and accountable community based management institutions is crucial.
- Policies must provide incentives for investment if economically viable land use options are to be adopted.
- Security of tenure is essential for the creation of investment incentives.
- Social, economic and political components of resource management regimes must be given equal attention as technical aspects.
- Social group differentiations, such as ethnicity, gender and class, must be accommodated within tenurial arrangements.
- A wide variety of options for tenurial arrangements exist. National policy frameworks should ensure that the full 'basket of options' can be accommodated to meet different local requirements. A 'blue print' approach is not recommended.
- The broader political economic implications of CBNRM should be given due consideration as these will usually involve conflicting interests. These should be anticipated where possible in order to ameliorate their impact.
- There are good opportunities within the region for learning from each other through the exchange of ideas and experiences, these opportunities should be promoted.

THEME 2

The second set of presentations focused on 'where does tenure lie in southern Africa, and what factors have led to this?' These three papers provide an illustration of the existing tenure and decentralisation situation in South Africa, Zimbabwe and Botswana and the influence that the colonial period still has upon existing systems. Whilst there have been attempts by several governments to reform tenure systems and decentralise resource control, effective implementation has been hindered. These presentations illustrate many of the potential problems and pitfalls that were highlighted in the keynote address.

Lungisile Ntsebeza looked at the current status of land tenure in South Africa, the processes that had led to this and present directions. The historical roots of the existing systems lie in those introduced by the apartheid and colonial governments. The 'Bantustans', where the African population were forced to live were state lands. This land is administered by chiefs and tribal authorities that were created or co-opted by the apartheid government. Householders have usufructuary rights over land with no security.

One of the central goals of South Africa's new land tenure reform programme is to confirm the co-ownership rights to land of groups and communities living in former 'homelands'. These rights take the form of 'ownership in common hold' and are legally recognised. The new policy stipulates that co-owners, i.e. the community have the right to choose the institution in which ownership of the land rights will be vested. Most traditional authorities view these new policies as threatening to their political power. The example of Tshezi communal area is used to illustrate problems in resolving land tenure issues at a local level. Changes are fraught with conflict and it is questionable to what extent democracy, accountability and transparency can apply when there is such conflict with the traditional authorities. Whilst good policies and legislation are now in place, there is no coherent implementation strategy and there is inadequate co-ordination between and within the various implementing agencies.
Dr. Samora Gaborone provides an overview of land and resource tenure in Botswana in relation to its CBNRM initiatives, with special emphasis upon the plight of the most marginalised sectors of society, the ‘San’. The government of Botswana has introduced policies fostering decentralisation of resource management that are conducive to CBNRM but these policies fail to provide firm guidelines for effective CBNRM implementation. The result is that these policies tend to be undermined by a lack of political will to implement them as well as the lack of a coherent policy framework that has led to competition and contradictions between Ministries.

The need to accommodate distinctions between various different social groups when developing policy is highlighted by the San example. In Botswana, many indigenous communities inhabit state land but they remain dispossessed and external to political processes because of the lack of respect for their different ethnic origins, land use practices and customs. The research and reporting systems that inform policy development are often biased and inappropriate, leading to the further development of inappropriate policies. Inadequate consultation, monitoring and evaluation processes reinforce this.

Dr. Joseph Matowanyika explores how land use and tenure in Zimbabwe during the colonial period was an instrument of social engineering. This highlights the extent to which current land policy is a product of the colonial era. During the colonial era policies and legislation relating to land were one of the key tools with which colonists promoted themselves at the expense of the African population. These policies alienated people from the land and undermined indigenous tenure systems. Throughout southern Africa independence struggles have been about land and it remains a central political issue. But in most countries tenure systems are still based upon the inequitable systems developed during the colonial period. Despite the emphasis on land resettlement after independence, Zimbabwe is still struggling with how to address the skewed land distribution. A similar situation is found in most other countries as the proliferation of land commissions indicates.

Key points: Where does Tenure lie and what processes have led to this?
- Throughout SADC, existing land tenure arrangements are a product of social engineering policies of colonial governments.
- These policies have resulted in inequitable, dual tenurial arrangements, reflecting ethnic preferences in access to opportunities, land, resources and centralised authority.
- Despite the political importance of land reform, in most countries the current system is still based upon the inequitable colonial arrangements.
- Where appropriate legislation and policies do exist, governments often lack the political will or capacity to implement them.
- Lack of co-ordination and communication between and within Government Ministries/Departments constrains effective implementation.
- In those instances where change is ongoing, the process is often dominated by technical ‘quick fix’ solutions to the detriment of social, political and economic requirements.
- The roles of stakeholders is often undefined and unclear, resulting in conflict and ineffective use of resources.
- The use (and misuse) of ill-defined rhetoric used within the CBNRM context often masks lack of action and commitment
- Where new tenurial arrangements have been developed, these fail to pay sufficient attention to various social groups, e.g. ethnic minorities, gender, the poor.

THEME 3
The presentations in the third session were focused around the theme of ‘what processes of devolution of authority are taking place and what factors are influencing this’.
Mr. Taparendava Maveneye presented the CAMPFIRE programme in Zimbabwe as an illustrative case of decentralisation and empowerment of local communities and pointed out some of the potential pitfalls. Under CAMPFIRE, local communities manage and utilise their natural resources to their economic benefit. Because of the financial incentives, communities now protect and conserve their wildlife and its habitat. The Zimbabwean government has facilitated this by devolving ‘appropriate authority’ (ownership) of wildlife occurring on communal lands to the local authority, the Rural District Council (RDC). The RDCs are then expected to pass on to local communities, through the government administrative sub-structures of VIDCOs and WADCOs, the rights to benefit from and manage the resource. However, there is no legal requirement for this and the ‘ownership’ of wildlife remains vested in the RDC. Consequently, the degree to which communities are actually involved in the management of the resource varies from district to district. Whilst this system can promote fruitful co-operation between RDC and communities, it can also lead to the creation of new elite and domination by powerful local interests.

CAMPFIRE does not address land tenure, which remains state property with ill-defined property rights that do not allow communities to exercise rights of inclusion and exclusion. This results in continued encroachment by outsiders on land reserved for wildlife. This problem is compounded by lack of a co-ordinated policy framework for resource management. Currently CAMPFIRE only decentralises authority over wildlife. This hinders an integrated approach to environmental management.

Munashe Shumba details Namibian efforts to create an enabling environment through the decentralisation of authority to allow community management of resources. Namibia appears to have gone further than other countries in decentralising authority and devolving control over resources, a process facilitated by a seemingly conducive ideological framework following independence. The principle of decentralisation is enshrined in the constitution, resulting in a general policy shift in this direction. The focus is on ensuring security of tenure by granting a defensible ‘bundle of rights’ to resources. The ‘Conservancy’ policy, which enables the implementation of CBNRM, grants communities limited and conditional but exclusive rights over wildlife in their areas. The Namibian land policy has provided for three crucial developments; all land rights enjoy equal status before the law; a basket of tenure options has been created in order to cater to biophysical and cultural diversity; and decentralisation of land administration. Whilst the Namibian situation has resulted in perhaps less of a contradictory policy framework than elsewhere, problems do remain as policy is developed along sectoral lines, leading once again to poor co-ordination and implementation.

Key points:
What processes of devolution of authority are taking place and what factors are influencing this?
• Global economic trends and Structural Adjustment Programmes are undermining the already stretched capacities and resources of governments to effectively manage state owned resources. This, coupled with demands brought about through increasing democratisation, has strengthened the trend towards decentralisation.
• A shift in the conservation/development paradigm from one in which natural resources were centrally managed and ‘protected’ to one in which resource management is devolved to local entities is becoming apparent throughout SADC.
• If this apparent commitment to CBNRM is to be meaningful it must be accompanied by tenurial reform. CBNRM advocates must engage with the broader political economy to achieve this.
• The adaptability and resilience of indigenous tenure systems is gradually leading to their re-evaluation and the role and potential value of indigenous tenure systems is beginning to receive greater recognition.
• Resource tenure is always a political and controversial issue involving conflicting interests, these
often hinder attempts to undertake meaningful tenurial reform.

- There is no 'correct' and 'final' solution. The development of appropriate tenurial regimes is a long-term process. This has important implications for donors and politicians.
- The challenge is to develop appropriate local institutions. The two most common constraints are: defining 'the community' and deciding who should represent it; and determining what constitutes 'benefits' and who should define the nature of these.
- The technocratic perspective, which views natural resource tenure as principally relevant to agricultural production and natural resource management, is beginning to make way for an approach that integrates the socio-economic, cultural and political dimensions of resource use. This changing perception facilitates a more flexible approach that is conducive to the development of an environment in which the necessary pragmatic and gradualist solutions can be sought.

2.2 Exploring Country Strategies and Lessons Learnt
(summary of country working group feedback)

Feedback from the country specific working groups indicates that there is a great deal of commonality in problems and opportunities that countries are encountering in their efforts to develop appropriate tenurial arrangements, despite the different stages that countries are at.

Common positive trends and areas of opportunities include:

- Gradual process of democratisation has ensured that governments are generally becoming more open and responsive to inputs from civil society.
- Growing recognition and commitment on behalf of government for the need to adopt new and innovative policies.
- Increasing recognition of community rights and appreciation of traditional African resource management systems.
- Changing political climate has led to the development of some form of CBNRM initiative in each country, although this is usually reliant upon state permission to experiment rather than a mandate for decentralisation and tenurial security.
- Much of the decentralisation process to date has been catalysed by initiatives in the wildlife management sector. Preliminary indications of success here will add fuel to the decentralisation process.
- Innovative policies are being developed, although implementation is not always effective.
- Local level resources management institutions are being developed throughout the region in existing CBNRM initiatives, these may provide the catalyst for further decentralisation.
- NGOs and civil society are becoming more engaged in and committed to implementation.
- Increasing recognition of the potential to learn from the experiences of neighbouring countries.
- Growing interest and investment from the private sector.

Despite these common positive trends and opportunities, all countries still have a long way to go and many constraints to overcome. Once again, many of these were common to all countries. They include:

- Lack of coordination and consultation between and within ministries in policy development hinders the required integrated planning process and often leads to conflicting and fragmentary policies.
- Lack of government capacity to implement new policies.
• Lack of NGO or private sector capacity to assist with implementation.
• Poor coordination by government leads to duplication and waste of scarce resources.
• Lack of political will to decentralise despite rhetoric to the contrary.
• Difficulties in monitoring and evaluation impact.
• Dictates and requirements of international economic policy often works against local processes of decentralisation.

Detailed country reports from each working group are presented in section 4.

2.3 Critical Stakeholder/Role Player Perspectives
   (summary of stakeholder working group feedback)

The development of appropriate tenurial regimes has immediate implications for four groups of stakeholders/role players: government, resource users/communities, NGOs and the private sector. Each of these stakeholder groups has a distinct but important role to play in developing appropriate tenurial systems and ensuring effective implementation. Working groups were formed to look at the following issues in relation to each of these stakeholder groups:

1) identify the characteristics of each stakeholder/role player group
2) identify the principal roles of each stakeholder/role player group
3) identify the critical functions that should be performed by each stakeholder/role player
4) identify the constraints from the stakeholder/role player perspective to establishing
   a well-functioning tenurial arrangement
   what benefits could accrue to the stakeholder/role player in achieving a well-functioning tenurial arrangement for CBNRM.

Working Group 1 - Government

Government plays a crucial role in developing innovative policies and legislation - the enabling environment - which facilitates effective resource management. This process must ensure that secure tenure is granted at a level that provides the appropriate incentives for the desired outcome. The following issues are crucial:

Creation of incentives for local people to invest in the resource base through the decentralisation / devolution of authority over resources to the appropriate local level.
Development of appropriate institutional arrangements / legal frameworks to facilitate efficient and effective local management.
Capacity building activities to ensure the necessary skills development and creation of open and representative local institutions.
Co-ordination of cross-sectoral policies by central government to ensure integrated and synergistic policy implementation.

Experience indicates that the bureaucratic and hierarchical nature of government hinders the development of innovative approaches. Where good policies have been developed, implementation is often undermined due to fragmentation and lack of co-ordination and communication between and within government departments.
Working Group 2 - Community / Resource User

Responsibility for the management of land and resources is ultimately exercised at the local level through the resource users. Experience has clearly demonstrated that those who bear the responsibility for resource management should also have the authority, the accountability as well as the costs and benefits associated with decision-making. This implies a process of devolution and decentralisation of authority. However, if this is to be effective in promoting sustainable resource management there have to be effective management institutions in place at the level to which authority has been transferred. The predominance of indigenous tenure systems throughout the region ensures that, other than in exceptional circumstances, communities will have some form of authority structures in place. The development of new management institutions must accommodate these existing structures. These institutions have to be genuinely representative, transparent and accountable to the constituencies they represent.

Communities often lack technical skills and management knowledge required to manage their resources. A critical component of the decentralisation process is ensuring that these institutions are effectively empowered through both an appropriate legal framework and the provision of skills and resources needed to exercise control. A clear and commonly understood definition of the membership of the group that such institutions represent is a vital prerequisite for success.

Working Group 3 - Private Sector

Investment by the private sector in the maintenance and development of the resource base can be vital in developing economically viable forms of land use. For example, in sectors such as tourism and the wildlife industry, it can provide the necessary capital for the development of new ventures. Partnerships between communities and the private sector allows for investments which benefit both groups. It can also provide appropriate expertise and skills. Any partnership should ensure that these skills are transferred to communities. Tenurial arrangements must ensure that there are appropriate incentives for long-term investment in the resource base by the private sector if they are to be effectively engaged.

The private sector often lacks an understanding of the local social and political dynamics and is ultimately profit driven. This may result in attempts to establish unequal partnerships between communities and the private sector. Government must play a balancing role and establish frameworks and mechanisms to ensure that such partnerships do not work to the communities’ disadvantage. The private sector can often contribute to enhanced communication between government and community.

Working Group 4 - Non-Governmental Organisations (NGOs)

NGOs can complement government and community efforts to establish sustainable and equitable land use systems. They are also well placed to undertake appropriate advocacy and lobbying efforts to ensure that authority over resources is devolved to the appropriate level and to facilitate communication and consultations between government and the local level.

NGOs can provide capacity building services for both governments and communities, providing appropriate technical training and assisting in the development of management institutions. Capital and investment funds can also be sourced from NGOs. They are also able to promote the interests of marginalised and under represented groups such as the poor, women and ethnic minorities. The aim of NGOs in this context should be to work themselves out of a job.
PRESENTATIONS
Welcome and Opening Address
The Honourable Derek Hanekom
Minister of Land Affairs
South Africa

The Minister welcomed participants to the workshop, noting that this was a timely attempt to address issues that are central to the successful development of sustainable natural resource management regimes throughout SADC. He noted that CBNRM strategies have the potential to make a significant contribution to national development priorities, whilst addressing historical grievances stemming from the colonial era, by fostering economic development based on the equitable and sustainable use of the natural resource base.

In South Africa, CBNRM has the potential to address the inequalities and social disruption caused by the appropriation of land and resources during the apartheid era. However, the Minister expressed some scepticism regarding the level of commitment to change by some of the technical experts, politicians and bureaucrats involved. He questioned whether the appropriate rhetoric was being adopted simply to accommodate changing political realities, whilst in reality few real changes are forthcoming. He illustrated this with two examples - the Tembe Elephant Reserve and the Ndumu Game Park. For both of these, claims were made concerning the adoption of new joint management and benefit sharing regimes with neighbouring communities. However, control, and to a large degree benefits, were still vested in the hands of the original managers.

He noted that there are generally two constraints to the development of effective, equitable and sustainable CBNRM initiatives. These are the definition of ‘community’ and identification of whom should represent it, and, what constitutes ‘benefits’ and who defines the nature of these? The only way to address these constraints is to extend secure, legally recognised rights to land and resources to the resource users, such that they define their own communities, their own needs and what they consider to be sufficient and appropriate benefits. Only once secure tenurial rights have been granted will the capacity building activities of NGOs and governments become effective.

The Minister pointed out that whilst South Africa does not have a comprehensive programme for CBNRM, such as CAMPFIRE in Zimbabwe or ADMADE in Zambia, it does have policies in place to restore land rights to the disenfranchised. These policies enable the implementation of pilot initiatives, which can be learnt from on an ongoing basis, ensuring an effective long-term approach. The Minister highlighted the historically important and precedent-setting Makuleke land claim that has just been concluded. This settlement has resulted in the title deeds for some 25,000 hectares being restored to the Makuleke people. The Makuleke have voluntarily agreed that a joint management regime, consisting of a Communal Property Association representing the Makuleke and the Kruger National Park authorities, will be established to manage the land but that all benefits deriving from this will return to the community. A similar settlement between the Gemsbok National Park authorities and the San is imminent.

The Minister went on to note that an essential component of this process in South Africa has been the transformation of the National Parks Board and of the functions of the Parks estate. Currently, the Parks estate is not managed primarily as a profit-making venture. This has major implications for notions of benefit-sharing and joint management, since contradictions between the various objectives of those managing the resource will soon manifest themselves, the Parks estate must become economically and financially viable if such problems are to be avoided.

In closing, the Minister invited questions from the floor. Following these, he expressed his appreciation to the workshop organisers and hoped that a useful set of products would be generated.
Is Community Based Natural Resources Management Possible Without Land Reform?
Some Critical Issues for Consideration
Saliem Fakir,
IUCN Country Representative,
South Africa

Introduction

I would like to thank the organisers for inviting me to give a ‘keynote’ address. I feel privileged and honoured to speak before you today on a subject which perhaps many of you have longer experience in dealing with than I have. My input is going to focus on raising some pertinent issues and questions in relation to land/resource tenure and decentralisation that need addressing if CBNRM is to be successful in meeting its objectives.

I would like to focus my talk on two broad themes:

- The political-economy of CBNRM, and
- The notion of decentralisation and CBNRM.

The Political Economy of CBNRM

1. Why do we have to address the land reform question in relation to CBNRM?

At the core of many of the issues that need addressing in CBNRM lies the question of land and tenure reform and any discussion of land reform has to be placed within the broader context of the political economy of a nation. How the land reform question is addressed varies from one country to another in Southern Africa, whilst how much the land debate is an issue in any given country depends on the nature of changes introduced during the post-colonial era. Land is not only about entitlement and ownership, but also about access to resources.

Engaging the land issue through CBNRM is to tackle the land problem from the back-end. In the many experiments that have been performed so far with CBNRM in Southern Africa, the land question always crops up. At the heart of this debate lie the questions of who controls what, how they control it, and if they do control it, what is it that they do with it? This is the broader context, or the political economy, in which CBNRM is located.

If we recognise and accept this, we have to acknowledge that in order to develop appropriate enabling environments for CBNRM we must confront the land question head on.

2. Does the true nature of CBNRM make conflict inevitable?

It is clear that CBNRM is not simply concerned with natural resource management. Rather, it provides a means in which local and marginalised people can have greater access to resources and through this greater opportunities to improve their living standards. As CBNRM has broader implications than simply ‘resource protection’, we should acknowledge it as being an integral component of the national rural development strategy, where the main aim is economic, political and social upliftment. Recognising this brings us back to addressing primary rural development issues and thus back to the question of land.
My critical question then is whether in those countries where CBNRM is still emerging is it not necessary that the political conflicts that inevitably arise around land reform have to be played out before CBNRM can become a reality? These conflicts manifest themselves at two levels:

a. Addressing the land question at the political level involves several components:

I) Ensuring that greater political support is gained from government, to enable marginalised groups to acquire or have access to land.

II) In cases where communities do own land, to ensure that they have a greater security of tenure and that this is registered and enforced.

III) If people/communities are given access to land, to ensure that other forms of development assistance complements this.

b. The second level of conflict occurs in cases where communities live either adjacent to private land holdings, game reserves, commercial farms or large-scale forestry plantations. In some of these cases, neighbouring communities have been denied traditional access rights or even forcibly resettled from these lands. The adjacent areas to which they have been moved will be less productive than their original lands. The alienated communities will at some point try to regain access to their land. Conflict ensues, with the ‘ownership’ or control over resources becoming contested. This conflict is either perpetuated or the conflicting parties will enter into negotiations and reach an agreement. Innovative approaches to CBNRM can contribute to this process. Various options are available, including:

I) Farmworker share agreements,

II) agreements on limited or controlled access:

III) or agreements on joint management regimes, particularly in areas where conflict is rife or where land claims are strong but communities do not wish to live in the area.

The important point is that for CBNRM initiatives to develop, people do not necessarily need to have physical ownership over land. There are a variety of innovative arrangements that can be established for CBNRM to flourish.

Perhaps conflicts are inevitable within CBNRM but these can only be addressed if we take into account the broader context. In some countries in the region, addressing the broader issue of land reform, whilst not being a soft option, is the only way to develop meaningful CBNRM.

3. ‘Organic’ and ‘assisted’ forms of CBNRM

A further critical issue is that of the distinction between ‘organic’ and ‘assisted’ forms of CBNRM.

‘Assisted’ forms of CBNRM have different characteristics. One can define them in two ways:

- Where external agencies, such as NGOs, take what is initially an organic process and enhance the work that has been done by communities. This can be done through the contribution of external knowledge and networks that make the right connections in the right places.

- The second, which is perhaps more controversial, is when assisted forms of CBNRM driven by government, NGOs, or donors, lock communities into a certain kind of experimental or programmatic notion of CBNRM. Just because the external agency sees a need or opportunity does not imply communities will do likewise. Will the community perception of an intervention be similar to that of government, NGOs, or donors, i.e. ‘good CBNRM will lead to better resource management’. Or do communities simply see the opportunities that external agencies want to create as a means of cashing in on government or donor funds that were earmarked for communities.
In my opinion, organic forms of CBNRM are more sustainable than 'assisted' as these will involve a sense of 'ownership' by the community and are more likely to reflect their real needs and desires. A further constraint with some 'assisted' CBNRM is that some NGOs tend to behave as 'gate-keepers', in effect preventing communities from learning about or benefiting from alternative development options.

The role of assisted CBNRM needs to be critically reflected upon. Self-introspection is needed because the issues I raise here are ones we all face. These queries really question the legitimacy of development aid in general and, whilst I am not saying we should abandon our efforts, I do think that we must not forget where we are coming from. Looked at within this context, CBNRM raises some crucial issues related to development assistance policy as a whole such as external intervention, the right over choice and over options. These are things we must scrutinise all the time.

The mere fact of creating a CBNRM initiative in one village implies that there is a selective approach to which community is ultimately chosen. Here we enter into a political minefield, the choice of one village automatically means that the community that is assisted reaps most of the benefits in the interim, often at the expense of others.

To pose a simple question here. Does external intervention in CBNRM lock people into thought and practice that they are not prepared for and which may be simply inappropriate? We also need to consider whether CBNRM is always the appropriate land use option. Is it becoming co-opted as a political tool for those who support a particular ideology or belief? There are various other land use and tenurial options, all of which may be more appropriate than CBNRM given the particular local conditions.

**CBNRM and Decentralisation**

There are two critical questions that I would like to raise in relation to decentralisation.

- When does CBNRM really constitute a decentralised form of governance?
- When is decentralisation useful, and when is it not?

1. The decentralisation debate resonates with political implications that can manifest themselves as a conflictual engagement with government, i.e. a competition for control or authority with the appropriate governing body.

In the absence of real democracy, where the State is dysfunctional, or where local authority is weak, who controls resources becomes an important issue. In a democracy one would assume that the role of the State, since it is established with a broad mandate, is to create an enabling environment for CBNRM. In these circumstances, the States function should be to ensure that there is an equal balance of power between marginalised groups and strong elite and the promotion of equity and social justice.

CBNRM should not be an alternative to legitimate government. There is a tendency in some circles to use CBNRM as an excuse to accuse government of non-performance and as a means to create alternative, illegitimate systems of governance. In circumstances where government is legitimate, CBNRM can create tensions and provide opportunities for disgruntled political groups to use community forums and structures to engage the State for their own self-interest.
2. CBNRM initiatives are useful where the State lacks sufficient resources or capacity to deal with local level NRM issues. The State can enter into agreements or create an enabling legislative framework that allows local communities, through statutory provisions, to manage their own resources, or undertake programmes on behalf of the State.

For example, recently when I was working on the ‘New Environmental Management Bill’ for the South African government, we considered the idea of creating ‘special agreements’ for groups who wanted to undertake environmental programmes where there was visible lack of State capacity. These agreements were to be based upon the following conditions:

- Ministerial approval.
- Non-dependence on the State.
- The bona-fide and objectives of the group action.
- Ability to mobilise independent resources.
- Approval by provincial, local or district government.
- The right of the Minister to terminate agreements in cases where conflict of interest is evident.

These special agreements allow groups who want to undertake environmental activities to have the necessary statutory powers, with some conditionalities imposed. This enables the State to mobilise civil society resources to achieve local or national objectives enshrined in the various environmental policies.

There is always a balance to be struck between the State’s need to intervene too much and the necessity of allowing some degree of self-determination. Experiences in South Africa have demonstrated that there is a very real danger in relinquishing too much control leading to:

- competition with legitimate government for control over authority, leading to the creation of independent ‘fiefdoms’ and enclaves of power;
- competition for limited external resources and attempts to direct the way they are used, and who should benefit;
- competition over hegemonic control over constituencies; non-government structures and forums can become means by which certain groups gain ascendency over others

Creating decentralised forms of governance should not be a way to usurp State power. It should represent a pragmatic way to deal with resource management problems that the State may not have the capacity to address. In this case decentralisation can create incentives for people to find their own solutions with their own resources.

3. Perhaps the question that we need to look at when addressing CBNRM, is how it can lend itself to co-operative forms of governance? In cases where government is corrupt, CBNRM can provide a barrier against corruption and interference by government and provide them with opportunities for some degree of independence. In such cases it is argued that decentralisation is a solution to the problem - it may well be a temporary one. On the other hand, it may intensify conflict with the state if attempts to exercise control by local communities are perceived to be ways of resisting state influence. In this instance, CBNRM may contribute to further conflict, pitting weak groups against the more powerful elite who have at their disposal state resources.
In order to have effective decentralised community participation and control in resource management, certain conditions need to be met. These include:

- Access to information
- Capacity to organise
- Local institutional capacity and resources to manage democratic participation
- The nature of the relationship with government, whether this is supportive or antagonistic
- Programmatic actions that enhance policy objectives
- Level of power and equity
- Ownership or degree of access to resources
- Management skill and capacity
- Type of investment
- Financial sustainability
- Levels of community conflict and the presence of local contending political forces

In southern Africa the option of decentralisation and the realisation of CBNRM objectives is dependent on the level to which various States have created an environment of openness and democratic participation. Unless the political will to create such an open, democratic society is present, CBNRM cannot be realised.◆
The Role of the SADC Natural Resources Management Programme in Southern Africa

Ramsosh Jiah
SADC Wildlife Sector Technical Coordination Unit
Malawi

Honourable Minister, Honoured Dignitaries, Ladies and Gentlemen. As the new Head of the SADC Wildlife Sector Technical Coordination Unit it gives me great pleasure to see such a magnificent turnout at one of our SADC Natural Resources Management Programme's activities, arranged by our collaborating partner, Africa Resources Trust.

It seems that land tenure is 'flavour of the month' right now in our region yet in truth it merely reflects how important the issue is to many of the problems that we are facing today. We live in changing times, and people naturally tend to seek some form of security to protect or improve their quality of life. Owning land or resources is the greatest form of security. This desperate drive to acquire, retain or gain access to such rights can so easily create conflict and tension between the 'haves' and the 'have nots'.

Land tenure also has implications for the manner in which we treat our land and the natural resources that exist upon it. Over-use, misuse or abuse of these resources often has profoundly negative impacts on the land and its physical functions reducing the potential of the land to sustain existing and future generations. The aim of this workshop is to explore the issues and processes that affect our ownership and management of land and natural resources, and hopefully to use this knowledge to ensure that we mitigate any potential negative trends that can occur.

On our part, the SADC Natural Resources Management Programme (NRMP), which operates within the SADC Wildlife Sector Technical Coordination Unit in Malawi, attempts to develop a regional understanding of all issues that relate to the management of our natural resources. This is of vital importance because many of the regions ecosystems do not recognise national boundaries. What one country does through its various natural resource management policies may affect its neighbour's policies and processes. Today more than ever, we have to think beyond our own national interests if we are to ensure that our natural resources and the environment they exist within are maintained as healthily functioning systems.

In 1995 we entered into a collaborative partnership with a USAID-funded consortium consisting of The World Conservation Union's (IUCN's) Regional Office for Southern Africa; the Africa Resources Trust (ART); WWF-Zimbabwe; as well as the five NRM projects in Botswana, Malawi, Namibia, Zambia and Zimbabwe. This partnership was developed to function as a synergistic mechanism to stimulate the growth of CBNRM throughout the region. We have recently begun to include Tanzania, Mozambique and South Africa in our activities. Funding permitting, we welcome the day that the other SADC countries will also become part of our programme.

The specific objectives of the SADC NRMP are:

to demonstrate that the sustainable use and management of wildlife resources (flora and fauna) is a viable economic alternative for marginalised rural communities now farming marginal land, by increasing local employment and income generating opportunities through community-managed natural resources in the region;
to expand the role of women in decision making processes in local economies throughout the region through CBNRM processes; and
to improve the exchange of CBNRM related information in the region.
To achieve this the programme facilitates the development of systems and processes that enable the exchange of information and understanding about the best CBNRM practices across the region. Through this exchange of information and understanding between communities, practitioners and policy makers, we hope to stimulate the creation of enabling environments - regionally, nationally and locally - which promote the development of appropriate incentives for smallholders and communities to adopt sustainable natural resources management technologies and approaches.

Our programme carries out six types of activities to achieve this:

Firstly, we are strengthening the capacity of our Wildlife Sector Unit in Malawi to better manage the regional tasks it is required to carry out.

Secondly, we are stimulating the development of a number of networks for the various role-players and stakeholders to be able to communicate with each other both as peers and as interested and affected parties. For example, I am pleased to say that last August we hosted a our second very successful Biennial CBNRM Conference in Victoria Falls. This saw over two hundred stakeholders, representing various sectors of society meet and, often for the first time, exchange views and perspectives on issues affecting the management of natural resources in their areas.

Thirdly, we have created communications mechanisms aimed at making as much technical information as possible available to decision makers and policy makers to assist them in making enlightened decisions affecting natural resources management policy. Through our associated country based programmes - CAMPFIRE in Zimbabwe, ADMADE in Zambia, LIFE in Namibia and the BNRMP in Botswana - we are also able to make information available to communities and local decision makers.

Our fourth activity has been the development of mechanisms to monitor and evaluate the impact of the various natural resources management processes in our member states. This enables local people to better manage their own resources, as well as to provides accurate technical information to decision makers as a means to create an enabling environment for CBNRM.

We are carrying out a series of seminars and meetings for people working on policy development throughout SADC, during which we exchange ideas and provide information which leads to the development of a deeper understanding of the very complex issues that are involved in CBNRM.

Our sixth group of activities concerns our on-going research into CBNRM processes in an attempt to explore the dynamic inter-relationships between managers of natural resources and the driving forces that impact on them in society as a whole. Through an improved understanding of these influences we will be able to advise the governments of our member states on the most appropriate practices to build into their policies and legislation.

This workshop is a key exercise in expanding our knowledge and understanding of what is seen by most NRM practitioners as the corner stone of CBNRM, land and resource tenure. Through this enhanced understanding we are convinced that our governments will be able to use CBNRM as a vehicle to harness the capacity of communities to sustainably manage natural resources in collaborative arrangements, thus releasing government resources to be used in other sectors such as education and health.

It is your challenge in this workshop to add to the already growing body of understanding on the critical issues affecting land and natural resource tenure that we have as a region. Millions of people in our region are relying on you to assist them in managing their resources in a more sustainable way.
Professor Mandivamba Rukuni
University of Zimbabwe
Zimbabwe

1. Introduction

The land tenure rights of people is an issue that is assuming greater and greater significance throughout Africa, and will almost certainly be one of the most burning issues of the 21st Century. Southern African governments have to appreciate that transforming agrarian systems into urban-industrial economies invariably requires fundamental changes in many institutions, including those of land tenure. The distribution of land ownership is a major factor that influences the transition from one form of social and political order to another. Moore (1966) quoted in Dorner (1992) sums up the experience of all industrialising countries in this separation of a substantial segment of the ruling classes from direct ties to the land. The Southern African legacy, however, can also be summed up in the lack of political wisdom or vision in terms of public policies, particularly for agriculture and natural resource management. Erratic rural economic growth is today translated into pervasive poverty, hunger, unemployment and environmental decline. It is now widely accepted that rural economic development is ultimately dependent on building strong and effective rural institutions and empowered communities. If Southern Africa is to achieve meaningful levels of economic development and social progress, then issues of agriculture and natural resource management can no longer be divorced from issues of politics, democracy and good governance.

This paper is premised on growing evidence that agricultural growth and efficient management of natural resources are dependent on the political, legal, and administrative capabilities of rural communities to determine their own futures and to protect their natural resources and other economic interests. The lack of this power (or lack of democracy) is translated into insecure tenure rights, abuse of common property and resources, dis-enfranchisement of rural people, particularly women, and the breakdown or weakening of rural economic institutions. Land reforms and land tenure reforms are infamous in Latin America for their limited success, while such needed reforms are conspicuous by their absence in Africa. Where land distribution is highly inequitable, arguments against land reform are basically ideological and private property is assigned near-sacred rights. Private property is elevated to the status of the foundation of civilised society. But, as Dorner (1982) argues, if this premise holds, then it must likewise be accepted that private property cannot perform this noble function if most people are without it!

2. Land Tenure, Land Reform and Security of Tenure

Both colonial and African governments alike have shown little respect or understanding of the land tenure systems practiced by the majority of their rural people. Governments need to appreciate that land tenure institutions are invariably unique and develop over time to suit local needs. Moreover, land tenure institutions are rooted in value systems and grounded in religious, social, political and cultural antecedents which make them vulnerable to outside intervention. Within Southern Africa, the nexus between tenure and government is found in the colonial and post-colonial belief that indigenous or traditional tenure systems are incompatible with Western or 'modern' systems of government, as well as the associated economic Institutions. In order to examine this question and its implications, I will first discuss the concept of tenure security and then describe the various generic tenure systems, their possible evolution, and relevance to development.

1Programme Director, W.K. Kellogg Foundation. Also Professor of Agricultural Economics, University of Zimbabwe. Views expressed in this paper, however, do not necessarily reflect or represent those of the said organisations.
2Peter Dorner in his classic entitled “Latin American Land Reforms in Theory and Practice, A retrospective Analysis” refers to the Asian experience in relation to Latin America. He cites the land reforms in Taiwan and South Korea as having occurred early in their growth and industrialisation process, and that the industrial sector was never as closely tied to the egalitarian rural structures as is often the case in Latin America.
For clarity, let us differentiate land reform from land tenure reform. Land reform encompasses any change which redistributes land. Because land is a finite resource and its ownership generally symbolic of wealth, social status and political power, all forms of land reform are political in nature. Land reform, therefore, often involves restructuring patterns of wealth, income flows, social status, prestige and so on, and these are the very basic elements or ingredients of politics. Land reform, is a revolutionary process and passes power, property and status from one societal group to another. Land tenure reform, on the other hand, involves changes in the rules that govern land and related property rights. This explains then the close association between land reform and land tenure reform and why this two often go together.

The scholarly literature on tenure places emphasis on the need for tenure security and that the various types of tenure (including the registered title’) can be secure or insecure depending on social, legal and administrative institutions in a given society. Security of tenure is associated with four sets of rights. This basket of rights, therefore, indicates the relative security of a tenure system depending on secured rights from the four sets as follows:

**use rights:** are rights to grow crops, trees, make permanent improvement, harvest trees and fruits, and so on;

**transfer rights:** are rights to transfer land or use rights, i.e., rights to sell, give, mortgage, lease, rent or bequeath;

**exclusion rights:** are rights by an individual, group or community to exclude others from the rights discussed above; and

**enforcement rights:** refer to the legal, institutional and administrative provisions to guarantee rights.

The four major categories of property rights define uses that are legitimately viewed as exclusive and also define who has these exclusive rights (Feder and Feeny, 1991). Rights may also have a temporal dimension. In parts of Africa and South Asia, for instance (as was the case in medieval England) rights to the crop are private, whereas rights to the stubble after harvesting are communal. In parts of Africa, land and tree tenure is separate. In addition, rights may specify conditions affecting types of rights transfer and parties to who such transfers may be effected.

Institutional arrangements include instruments for defining and enforcing property rights, be they formal procedures, or social customs, beliefs, attitudes and so on, determining legitimacy and recognition of these rights (Taylor 1988). Enforcement often requires a buttress of instruments such as courts, police, financial institutions, the legal profession, land surveys, cadastral and record keeping systems, and land titling agencies.

Tenure systems can be categorised on the basis of those who enjoy exclusive rights. On this basis, all tenure systems fall into four broad categories: open access, communal, private and state (Table 1). For practical purposes, there are few areas left in most countries that are truly open access. As a general observation, some land may appear or behave as open access but such land is usually state land or communal land. When the state or community lack adequate legal and enforcement capacity, or such capacity comes under pressure, the resultant insecurity of tenure is evidenced through land use patterns that mimic open access systems.

Exclusivity (to individual or group) therefore defines the degree of tenure security. Under communal tenure, exclusive rights are assigned to a group. Individual or family rights are also assigned under most traditional tenure systems. This explains why Migot-Adholla et al (1991) have argued that indigenous African land rights systems have been incorrectly represented by most foreign
anthropologists and colonial administrators, as well as some nationalist ideologues who view these systems as static polar contrasts to Western property rights systems.

Private property rights are the most prevalent form of tenure in industrialised Western Countries. As alluded to earlier, however, private land rights are not God-given or sacred rights, but rather private property is a creation of the state. After all, private property is not and cannot be an absolute right (Dorner, 1992).

"It is not very helpful nor is it accurate, to say that private property and enterprise made the United States great and that this is what the United States has to offer in the struggle for economic development around the World. In fact, it is our open and flexible political system that has allowed us to make private enterprises within the United States consistent with the general public interest, as Marx thought it would never be. However, there is no reason to expect that private enterprise will automatically function in the public interest in a system lacking political Institutions and the middle-class society in which they rest." pp 10.

We will discuss later the fact that where private property rights are not viewed as legitimate, or not generally viewed as working in the public interest, or where they are simply not enforced adequately, de jure private property becomes de facto open access.

The Kenyan, and to some degree the Zimbabwean, experience with state imposed change from traditional to registered title have experienced problems based on the fundamental interpretation of these rights under customary law or belief. Often, traditional inheritance and succession laws will supersede the implied statutory law of intestate inheritance. Moreover, in most patrilineal African societies, registered title usually means the individual name of the male head of household appearing on the title. Since such title is negotiable property, women and dependent children are often prejudiced when property is let or foreclosed on business they were not party to. Under most African cultural laws, the male may be head of family but the land is property belonging to the whole family. Wives and dependent children, therefore, should have inalienable rights to subdivision or inheritance. As a minimum therefore, the immediate family have to be party to or concede to any land transactions or mutations that may effect their immediate and/or future rights, or interests. The cultural laws and practices of family rather than individual rights, are the basis of Africa’s celebrated social security system; a system that is still relatively cost-effective and unlikely to be replaced by state social security system for quite some time into the future.

State land is often used by the public sector, but more importantly for our discussion, most land under de facto indigenous or customary tenure, is usually de jure designated as state land. This situation poses the most serious source of tenure insecurity or lack of exclusivity.

**Table 1: Categories of land tenure systems**

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>OWNERSHIP OF EXCLUSIVE RIGHTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open access</td>
<td>None</td>
</tr>
<tr>
<td>Communal</td>
<td>Defined group</td>
</tr>
<tr>
<td>Private</td>
<td>Individual legal entity</td>
</tr>
<tr>
<td>State</td>
<td>Public sector</td>
</tr>
</tbody>
</table>

Institutions, or the rules of the game and how the rules are applied, are most important in determining how secure rights are, this applies to all tenure systems. Ultimately, and in the abstract, there is no tenure system that is good or bad, right or wrong, but rather that any tenure system has to be secure, appropriate, and able to facilitate the needs of a community or society.
3. Governance Issues and Implications

The majority of Africans hold their land under indigenous customary land tenure systems irrespective of the formal legal position under national law (Bruce, Migot-Adholla and Atherton, 1993). Most African governments, however, designate traditional land as state land. Most governments accept the de facto prevalence to customary tenure, while at the same time maintain the de jure state ownership, which in turn allows bureaucrats, politicians and influential people to exercise privilege and authority over traditional land and rural communities. Some governments have attempted to replace customary tenure with state guaranteed individual rights (registered titles). The general experience, however, has been that due to weaknesses of government institutions in Africa, state imposed individualised tenurial systems do not necessarily offer greater security for African land users.

Communal tenure and common property management

African tenure systems have erroneously been explained through the notion of the “tragedy of the commons”. This is because observers believed that these systems of tenure assign land rights to the community, and ultimately land users will not risk long term investment into improving the land and land based resources. More careful analysis of traditional tenure systems, however, shows that this tenure is composite, with clear freehold rights usually for arable and residential land, as well as group rights for pastures, forests, mountain areas, waterways, sacred areas and so on. The robustness of the tenure system, however, is dependent on the strength of the traditional institutions in place, and degree to which state and other local government institutions interfere with or supersede traditional rights and administrative process.

Most African governments, after political independence from colonial masters, have maintained the colonial legacy of inadvertent undermining of indigenous tenure systems. This has been brought about through two major approaches. Most prevalent is the practice that all land with no registered title is ipso facto, state land. The second approach is the attempt to replace customary land tenure with state-imposed individual property rights to land and the land-based resources. This change, it is assumed, is more compatible with the intensification and commercialisation of agriculture. There is mounting evidence, however, that land titling and registration programs have generally not yielded positive benefits. Moreover, formal title did not necessarily mean an increase in tenure security (Roth et al, 1989).

There is also growing evidence that indigenous tenure systems are dynamic and evolve with changing social, economic and political circumstances. Boserup (1981) and Feder and Noronha (1987), provide evidence, confirmed by Bruce, Migot-Adholla and Atherton (1993), that customary tenure rights evolve towards more inalienable individual rights as population pressure increases and as agriculture becomes more commercialised.

Legal and administrative processes

A fundamental problem is the clash between customary laws governing tenure, vis-a-vis statutory laws which are often based on European or North American legal principles. A general observation is that customary always tend to confer greater recognition to group rights, whereas Western laws emphasise individual rights. These differences also lead to further differences in other elements of property rights institutions such as inclusion, exclusion, succession and inheritance.
The need to decentralise government and strengthen traditional institutions (including ability for conflict resolution)

Highly centralised systems of government were judged as the most serious threat to tenure security for land users under all types of tenure in Zimbabwe (Rukuni, 1994). This problem is most serious for communally held land and state land occupied by communities under customary rights. Communities occupying such land have limited exclusivity of rights because state bureaucrats and related politicians also claim institutional authority over such land and in the worst of such cases these state functionaries may be de facto landlords. Ministries of Local Government in most African countries have responsibility for enforcing the state-controlled system and often subordinate traditional institutions to the state bureaucracy. In some cases, Kenya for example, traditional leadership structures were dismantled after independence. To varying degrees, these traditional leadership structures have been weakened or disenfranchised after independence. The political justification for this has been the historical association of traditional leaders with colonial administration.

An illustrative case to decentralisation and empowerment of local communities is the CAMPFIRE program in Zimbabwe and also under adoption in a few other Southern African countries. CAMPFIRE is the Communal Areas Management Programme For Indigenous Resources. Under CAMPFIRE, local communities manage and utilise their natural resources to their exclusive economic benefit. This approach has been most effective for the management of wildlife held on communal land. Because of the financial incentives to the communities, these communities now take the initiative to protect and conserve their wildlife that in the past they would poach. This experience confirms the need for greater empowerment of communities over the conservation of their environment. This is only possible through delegation of responsibility and authority, and creating administrative and institutional mechanisms that are legitimate, effective and accountable in the control of land use and natural resource utilisation. Rural communities, therefore, can own and utilise common property resources effectively and sustainably provided there are clear benefits to the community and that the community is empowered through local level institutions.

Land tenure and economic efficiency

A growing body of research based knowledge on tenure demonstrates that the most important characteristic of tenure security under indigenous systems is the ability to bequeath land. Pace, Roth and Hazell (1993) examined existing studies by the World Bank and the Land Tenure Centre, and they also studied a number of African countries to end up with a comparative analysis of Burkina Faso, Ghana, Rwanda, Kenya, Senegal, Somalia and Uganda. This analysis confirmed that indigenous systems do not hinder productivity or investment. In addition, land registration has not necessarily led to tenure security. Government intervention, therefore, makes sense only after establishing causes of tenure insecurity, and also bottlenecks to rural development. As productivity of land and natural resources increases, agriculture becomes more commercialised, and as population densities increase, then appropriate registration efforts may bear positive results. The same may apply where land grabbing by powerful elite is unchecked. Recent research work also demonstrates that the high productivity increases enjoyed by smallholders in Kenya and Zimbabwe had, and still have, less to do with individual land tenure, than with the removal of prohibitions and other bottlenecks for smallholders.

Research has also exposed two other economic fallacies associated with state imposed individual tenure reforms. First is the fallacy of economies of scale in agricultural production. World wide evidence shows no real scale economies, and if anything, small farms can be just as economically efficient as any size farm. The second fallacy is the traditional state view that multiple parcels of land in separate locations are inefficient for production. Once again there is growing evidence showing that there is great wisdom in smallholders cultivating multiple parcels of varying potential and/or suitability for the wide spectrum of crops grown. These two fallacies lead governments into pursuing policies for consolidating holdings and policies against sub-division of land.
4. Conclusion

Land tenure is a complex issue that should be allowed to develop or evolve with the changing socio-economic and cultural conditions of any given community. Traditional or customary tenure systems offer as much security as any other system, provided that communities have legal ownership and authority over their land and natural resources. Governments can strengthen this tenure system by supporting and empowering local communities. Highly centralised systems of governance, combined with bureaucratic top-down decision making systems, tend to impose decisions on people at the grassroots level. This system of government is weak in terms of effectiveness and impact, accountability and transparency, and it denies people the chance to be self-innovative. Governments have to fully understand traditional and indigenous tenure systems before radical attempts to alter them for whatever reason, be it ideological or purely political. These tenure systems have survived a century of neglect, abuse and exploitation by colonial and contemporary governments.

Above all, these tenure systems require support to strengthen local institutions and empower local communities in administering tenure, including the ability of the tenure system to evolve over time. Tenure security in terms of exclusive rights of groups and individuals, it has been argued, are the very basis of political and social power and status. When such rights are overly subordinated to the state, it follows that the political rights of rural people are diminished, and that democratic processes and institutions are undermined. This then is a major cause of tenure insecurity, with resultant negative impacts on agricultural productivity and the management of natural resources, particularly on communally held land.

References:


Land Tenure Constraints to Sustainable Tourism Development in Zambia
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1. Introduction

Secure tenure and well-defined property rights are a prerequisite for any natural resource based sustainable development. Based on this premise, this paper evaluates the existing property rights and security of tenure in the tourism development areas of Zambia for sustainable tourism development. The paper gives a brief overview of the land tenure system in Zambia and how it has evolved from the colonial era to the present day. It then discusses and puts into perspective the existing land tenure situation in the tourist areas in the context of security of property rights and length of the lease periods for both consumptive safari hunting tourism in the Game Management Areas (GMAs) and non-consumptive tourism in the National Parks. The performance of the tourism industry in Zambia is discussed, focusing on the main constraints for the unfavourable observed trends, among which is the security of tenure and property rights bestowed upon tour operators leasing tourism sites. The tourism sites lease agreements and the security of tenure as contained in the conditions of the lease conditions are then evaluated for ecological, economic and social sustainability of the tourism industry. The paper concludes that the current land tenure system of lease agreements for tourist areas in Zambia is ecologically, economically and socially unsustainable because they are too short for any meaningful investment in tourism and natural resource management necessary for a sustainable tourism industry.

2. An Overview of Land Tenure in Zambia

Prior to colonial times, tribal customs and conventions governed communal rights to land in Zambia. Zambia became a British Protectorate in 1924 and a dual land tenure system was introduced, consisting of Crown land and Native Reserves. Crown land was set aside for white settlers and was administered under British law with freehold title, a system specifically designed to encourage settlers to come to what was then known as Northern Rhodesia (Craig 1960). Native Reserve land was placed under traditional leaders in their areas of jurisdiction, to be managed through traditional laws and systems of allocation and tenure (Mupimila, 1995).

Large parcels of Crown land remained idle, as settler demand was too low to fully utilise all the designated area. Meanwhile, the rapidly expanding population now confined within the Native Reserves was leading to serious land degradation and a mounting realisation that the dual system was inadequate. Consequently, the British administration created a third category of land known as Trust land. Trust land consisted of land that was previously unassigned and some of the idle Crown land. This land was set aside for Africans, just as the Native Reserves, except that Trust land, was to be settled on a non-tribal basis. Trust lands were administered by the Central Authority in trust for the indigenous population (Kajoba 1998).

At Zambia’s independence in 1964, there were therefore three predominant land tenure arrangements, Crown land, Trust land and Native Reserves. In the new republic, Crown land became state land, while the other two categories remained the same. In 1985, a minor amendment was made to the land tenure system by distinguishing between Zambians and Non-Zambians in land acquisition. The amendment meant that only Zambians could be granted land, while Non-Zambians could be granted land only for investment purposes or under special authority from the President.
The current system of land tenure in Zambia is in essence threefold; State land, Trust land and Reserves. State land is largely used for urban settlement, mining, power generation and permanent farming. Land holding in this category is based on renewable leasehold titles for up to 99 years (Mupimpila 1995).

Today customary tenure predominates on Trust land and Reserves. These two categories cover most of the country's total surface area and are administered by traditional chiefs and their village headmen. Generally, once one is allocated a parcel of land, ownership is perpetual through cultivation and may be inherited upon the death of the owner. Land and the natural resources upon it are communally used in uncultivated areas. However, since the 1995 Lands Act, any person who holds land under customary tenure may convert it into leasehold not exceeding 99 years or any other title that the President may grant. The Act vests all land in the President who is required to give consent to a person who wishes to sell, transfer, or assign any land. In the conversion of land held under customary tenure to leasehold, the President has to consult with the traditional leaders in that area where land is held under customary tenure in which the land to be alienated is situated (GRZ 1995). Once land is converted from traditional/customary tenure, at the end of the lease period that land does not revert back to traditional land but becomes state land.

The government has also strategically set aside large parcels of land as National Parks for wildlife conservation and Forest Reserves for watershed protection, ecological, economic and social uses. According to the National Environmental Action Plan (NEAP, 1994) the present distribution of land: State land - 6 %, National Parks - 8 %, Forest Reserves - 10 % and Communal land -76 % (22 % of which is GMAs).

Land in the GMAs is under customary tenure though National Parks and Wildlife Services (NPWS) has to be consulted for any land allocation and use by the traditional leaders in their communal areas because GMAs are part of the wildlife estate (NEAP 1994).

3. Property Rights, Security of Tenure and Sustainable Development

Property rights may be defined as a bundle of entitlements defining the owner’s rights, privileges, and limitations for the use of natural resources. These rights may be vested either with the individual in the case of private property; the community under communal tenure; or the state under state ownership. Clearly defined property rights are important to sustainable development because they determine the manner in which producers and consumers use the environmental resources in an area (Tietenberg 1992). To be effective in modulating the interactions between humans and their environment, property rights must reflect both the general and specific social and ecological contexts of the tenure system in place. To improve natural resource management secure tenurial systems are required. Secure property rights provide incentives to individual resource users to participate fully in management, promoting efficient and sustainable resource use. Uncertain or ill defined property rights, or those allowing open access to resources, causes individuals or communities to use a shorter planning horizon in determining their own resource use patterns than is ecologically or socially optimal (Panayotou 1994).

A tenure system is said to confer property rights if it: is secure, guarantees possession over a relatively long time, enables holders of property to recoup their investment in a cost effective manner, protects third party rights and investment affecting land, and ensures equity between and among generations whose livelihood depends on that land.

This paper analyses the tenure systems existing in the tourism areas of Zambia against the principles of secure property rights.

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3.1 Property rights in Zambia

Since British colonial rule, the trend has been towards centralised control of natural resources. The centralisation trend was reinforced by the nationalisation of large companies controlling resource use and the expropriation of most freehold land after independence in 1964. Under the leasehold arrangements found in state land, rights to the use of the natural resources on the land are allocated to the holder of the title. Under the traditional tenurial systems, resource use rights to different resources on the same area of land are often distributed among multiple users.

It is for this reason that it is generally believed that there are legitimate economic and ecological reasons for moving to more formalised and exclusive systems of individual use rights as resources become scarce. There is a long standing argument that the present system of land tenure in Zambia is cumbersome and a disincentive to sustainable economic development. This is because the majority of land and resources in Zambia are still under customary tenurial arrangements, where individuals do not hold title deeds. This position maintains that since individuals do not hold title deeds under customary tenure, they lack security of ownership and therefore have no incentives for long term investments on the land. Therefore the predominant system of land tenure in Zambia retards investment and development (Mupimpila 1995).

The passing of the Lands Act of 1995 has provided individuals with the opportunity to own land privately under leasehold title of up to 99 years. This has provided land with a market value, creating an incentive to those who have title to use it more productively and sustainably, including investing in conservation and wise use (Kajoba 1998). For now, the bulk of the land still remains under customary tenure, providing less tenure security for individual resource users in communal areas.

4. The Tourism Industry

Tourism is the world’s fastest growing industry, employing millions of people in the interrelated sectors that make up this industry. In Zambia, tourism is second only to copper as the countries largest earner of foreign exchange. Zambia’s tourism industry is largely based on the country’s large wildlife estate, which makes up about 30% of the country by area. Wildlife based tourism activities include game viewing in Zambia’s 19 National Parks and safari hunting in the 34 Game Management Areas. Major tourist attractions include the Victoria Falls and Zambia’s rich diversity of cultures and history, and tourism activities can include canoeing and boating along the Zambezi River, sport fishing for tiger fish, and bird watching (Hachileka 1998).

Zambia’s image in the market place is critical to attracting a steady flow of tourists but unfortunately this image has been tarnished over the last few years. Zambia’s poor image has undermined its ability to compete with other countries in the region, a major factor in the country’s poor showing in the international tourism market. Today Zambia represents a high cost alternative relative to other Southern African destinations (Downie 1995). For example a Walking/ Travelling Safari costs US$320 in Zambia, US$232 in Zimbabwe and US$197 in Namibia. Similarly, a single supplement per night on average costs US$60 in Zambia, US$28 in Zimbabwe and Botswana and only US$17 in Namibia (Suba, 1995).

The available statistics suggest that in recent years there has been little overall investment and development of the tourism industry in Zambia. There has generally been a steady decline in occupancy rates in hotels and lodges. For example, studies show that there has been a decline from about 43 % in the low season and 67 % in the high season occupancy rates in 1989, to 10-30 % in the low
season and 30-60% in the high season in the 1990's. On average, occupancy rates in excess of 75% are said to be a satisfactory use of tourist facilities. For a new venture requiring a significant infusion of capital, the break-even occupancy rate would be between 50 and 55% for a tourist lodge (Suba 1995). Zambia is falling far short of achieving this and it is therefore not surprising to see the lack of investment in this sector.

A tourism viability study conducted in South Luangwa indicated that the performance of tourist lodges both in the National Park and GMA were marginal in commercial terms. Though operators were realising a return on their investment, even when compared to the level of risk free returns from a commercial bank, these returns are hardly competitive (Devzman 1994). A major effort is needed to address some of the legitimate concerns held internationally about Zambia as a tourist destination.

5. Constraints to Sustainable Tourism Development

Zambia's tourism industry faces a number of problems, which according to the 1994 NEAP include the following:

Climate - the high summer rainfall and lush vegetation growth in many parts of the country restrict tourism to the winter months and early hot-season which may be as little as 5-6 months for some activities such as game viewing.

Poor infrastructure - many of the tourist attractions are located in remote parts of the country where access by road is poor and access by air rarely available. This is coupled by poor communication systems, which are unreliable and of exceptionally high cost.

Poor funding - of government departments in charge of wildlife and tourism which has led to poor administration and management of the resources and the tourism industry.

Economic constraints - Zambia's tourism is not competitive in the region due to high taxation, a weak currency, high prices and relatively poor services in some tourist hotels and lodges. This has made the country a low quality but high cost destination.

Low investment - the overall investment in the tourism industry is still relatively low compared to other sectors of the economy or to the investments in the industry in the region. This is largely due to limited private investment in the industry because of some of the problems highlighted above and the insecurity of tenure in the tourist zones.

Insecurity of tenure in the tourist areas is rarely highlighted as one of the constraints to tourism development in Zambia. It is for this reason that it is the subject of discussion in this paper, though in the context of lease agreements for tourism development in the National Parks and GMAs. Before focusing on the lease agreements, I wish to put in perspective the tourism development policy in Zambia.

6. Tourism Investment Promotion Policy

The development of wildlife based tourism in Zambia requires considerable investment by both the private and public sector. Public investment includes infrastructure and a range of management facilities in both the National Parks and GMAs. The private sector offers vital opportunities for tourism development because of its entrepreneurial skills, sensitivity to market forces and profit motivation. Large scale private investors are critical because they can offer a wide range of integrated services; can survive patches of bad business; are important in building up and maintaining
the critical volume of tourists that is required to support a viable industry; and can contribute to infrastructure development and management of the resources upon which tourism is dependent.

Recognising the importance of private sector investment, Zambia is actively encouraging foreign investment through the Investment Centre. According to the NEAP (1994), the Investment Act provides incentives and guarantees for foreign investors, especially in the tourism sector. Some of the incentives for encouraging foreign investment in the industry are:

- Assured effective protection and management of the resource base to protect investment in the tourism plant and infrastructure.
- Limiting unfair competition from state run enterprises
- Tax and other financial incentives.
- Secure title to land on which investments are sited
- Lease terms that enable efficient leases to realise an acceptable return on investment

While the first three categories of incentives have received substantial attention, the issue of long term agreements and adequate security of tenure have not. The rest of this paper focuses its discussion on these two issues.

7. Lease Systems in National Parks and Game Management Areas

7.1 National Parks

The current tourism arrangement is based on a leasehold agreement. The NPWS, together with the National Tourism Board, select 5-hectare sites for tourist camps/lodges. These are then tendered on a competitive basis to would-be developers. The successful contractor is given a five-year lease and is entitled to develop semi-permanent tourist facilities. At the end of the five-year lease, the site is once again put out to open tender with all interested investors, including the previous leaseholder, being invited to enter a competitive bid (NPWS 1997).

There are 4 main types of tourism operations allowed in National Parks. Each one has different terms for its lease agreement. These are Type A, B, C and D operations. The tourist operations are differentiated on the basis of the lease periods, management requirements, structures permitted and performance assessment criteria. Lease periods range from a maximum of 5 years for a Type A and D operations to a single season for a Type C operation. In all cases only temporal semi-permanent structures which must be removed at the end of each tourist season are allowed. Further, only structures for Type A and D operations are allowed to have concrete slabs for tourist accommodation. The operators are also required to contribute effectively to anti-poaching activities of National Parks and in the maintenance of park infrastructure.

7.2 Game Management Areas

Three forms of hunting are permissible in GMAs: recreational hunting by overseas safari hunters; subsistence hunting by residents of GMAs; and a combination of commercial, subsistence and recreational hunting by, usually urban based, non-GMA residents. Leases are offered for hunting blocks for safari hunting operations on a competitive tender basis (NPWS 1992).

The hunting blocks leased out to safari operators are the same areas in which the other forms of hunting take place during the same hunting period. This leads to disturbances of the professional
hunting activities for the safari company international clients. This is so because the safari hunting company that leases a hunting block has no exclusive rights to the use of the area. This to some extent makes the leased hunting blocks open access areas as far as the other types of legal and illegal hunting are concerned. The Lease Periods for safari hunting are limited to five years but renewable for a second five-year period if the performance assessment report is positive.

The management requirements are that the company must adopt an active anti-poaching stance by assisting with patrols in the area and where necessary must be able to rest selected species for an interim period on the basis of data collected from game counts to encourage the re-establishment of the wildlife population in the area. It must assist with famine relief and improve health facilities in the area; assist with wildlife management related research and animal censuses and offer employment opportunities to local people. The Company may not sub-lease any part of the GMA/Hunting block without written permission of the Director of NPWS; or develop roads, airstrips, pontoons or any other land developments within the leased hunting block without written approval from the Director.

The lease agreement is subject to annual reviews, which has inputs from the local communities in whose area safari hunting operations are being conducted may be terminated if:

- The safari hunting company becomes bankrupt
- The company fails to comply with any of the terms and conditions of the lease agreement
- If the company fails to conform to the general acceptable standards in the running of the safari operation.

Renewal of the lease agreement is subject to approval of the overall performance review by the Director in consultation with the local communities in the hunting block.

As earlier alluded to, it is generally taken that physical and financial investments in natural resource improvements depends on security of tenure and property rights under which the title holder is confident of reaping the returns from the investment. However, in this paper the issue is not a demand for exclusive property rights because these may not be granted in a National Park or Hunting block, rather the issue is secure rights to leases or better lease conditions (NPWS 1992).

8. Evaluation of Existing Lease Agreements

This section evaluates the existing lease agreements for a sustainable tourism industry against the basic principles of secure tenure and well-defined property rights in Zambia. The evaluation is done separately for National Parks based non-consumptive tourism and the consumptive safari hunting tourism in GMAs.

8.1 Guaranteeing long term possession

The principle of secure tenure is not met by any of the lease periods either in the National Parks or GMAs where the maximum single lease period is 5 years.

8.2 Enabling holders to recoup their investment in a cost effective manner

Despite the short leases both Tour Operators and Safari Hunting Companies manage to recoup their investment through maximisation of the resource use beyond the optimum use levels. As a result,
the recouping on the investment is realised through limited if any investment in natural resource management and conservation. Most of the tour operators and Safari Hunting Companies do not contribute much to the surrounding communities except through provision of seasonal employment with ‘slave wages’. The unskilled local people are employed to do manual work for little wages in a bid by the tourism entrepreneurs to recoup on their investment in a cost effective but by no means efficient manner.

8.3 Providing incentives to individual users to participate fully in resource management and sustainable resource use.

The short leases do not give any incentives for either Tour Operators or Safari Hunting Companies to fully participate in the conservation of the wildlife resource on which the tourism industry in Zambia is largely based. Similarly, the lease conditions do not provide any direct incentive for the tour operators or companies to increasingly contribute to natural resource management. This is mainly because the lease conditions do not provide well-defined property rights by way of quantitative targets.

8.4 Well defined property rights for the users

The lease conditions which constitute the property rights do not clearly state what the Tour Operators or Safari Hunting Companies are allowed to do in the area but only emphasis the don’t and the likely penalties. This leaves room for unfair treatment and performance assessment of the operators at the end of the lease period.

8.5 Protecting the third party rights and investment affecting land

The provision of short leases while providing a safeguard against non-performing operators does not effectively protect third parties since the lease agreements have no clauses requiring a non-environmentally friendly operator to rehabilitate or restore any damaged or degraded resource in the operation area. The short leases do not encourage investment on the leased sites or the operation area in general. Further, the lease conditions do not provide for any legally binding obligations of the operators to the communities in surrounding areas.

8.6 Ensuring equity between and among generations whose livelihood depends on land

By not permitting titling of land on the sites for tourism development, the lease system ensures equity between and among generations whose livelihood depends on the National Parks and GMAs as these will always remain national or communal assets available for all those who wish to bid for the sites now and in future. This principle is certainly met by the current lease system.

In general terms, the maximum five-year lease period and lease conditions in National Parks do not meet most of the basic principles of a secure land tenure system. This is largely because the lease period is too short for any meaningful tourism investment as outlined below:

Tourism venues require ample time to establish themselves as an internationally recognised destinations. Marketing requires detailed consultation with international tour operators in the main source markets and in-depth market research and advertisement. To adequately accommodate this it is estimated to require a minimum of 12 months, where communication conditions are favourable. Given the conditions in Zambia, one year may be spent on planning and development of basic infrastructure and the second year on advertising. This leaves the tour operator a three-season operation
period. This time period may not enable a tour operator to get a meaningful return on investment, and he has no guarantee of any extension.

The private sector is expected to provide many of the technical inputs, such as market research and infrastructure development. Current impediments to tourism development in Zambia include the lack of research and inventories which are essential for the management of dynamic ecosystems such as National Parks. This problem is due to critical shortages of funds for NPWS. While NPWS recognises the important role the private sector can play in this regard, the lease periods are just too short to motivate any private investor to invest in research whose findings may be realised after 5 years and its benefits even longer. The five-year lease period is discouraging tour operators from investing in natural resource management research. It has had a similar impact on the development of any National Parks infrastructure such as roads, airstrips etc.

The five year lease period is not long enough for any of the tour operators to invest in any long term restoration or restocking of wildlife in the depleted areas because of the uncertainty of future utilisation rights.

The five-year lease is encouraging tour operators to maximise resource utilisation and profits in an attempt to make even the five-year term profitable. This will be at the expense of the wildlife and other National Park resources.

The situation for the GMAs is no different from that in National Parks:

The lease period is too short to create any incentives for the safari operator to invest in those things required in the lease. The anti-poaching benefits take a number of years to bear fruits in terms of increased trophies available to the safari operator. A safari operator who invests in wildlife conservation may not be there to enjoy the benefits if the five-year lease is not extended. This is discouraging safari operators from investing in wildlife research and infrastructure development in the hunting blocks.

There is no guarantee that the safari operator will enjoy the benefits of a restocking program, which may bear fruits years after their lease agreements are terminated and given to other companies. This discourages safari operators to invest in long term restoration work of depleted areas.

Due to the open access circumstances resulting from the non-exclusive property rights that the safari operators have, the benefits of investing in resource management initiatives may be enjoyed by the other categories of hunters who have access to the same area leased to the safari operators. The 'free-rider' problem here is the major disincentive to investment in wildlife resource management by the safari operators. Instead, the safari operators are bent on maximising the returns on their investment within the five-year lease period.

There is ample scope for establishment of joint ventures between local communities in the GMAs and the private sector by bringing together local assets and skills with the capital and managerial capacity of the private sector. For example, the local communities can lease out an area within a GMA for safari hunting or game ranching. Unfortunately, this is not possible at the moment because of the communal ownership of land in the traditional areas, which does not confer title to the community or individuals within the community.

The lease period desirable takes into account the size of investment being made. The NPWS realises the need to closely examine the lease periods and conditions to make tourism sustainable from both the investment and conservation points of view.
9. Conclusion and Recommendations

Like any other industry, tourism requires that a fair return be made on investment. Much as natural resource management may gain from the presence of tourism ventures, this presence will only be there if there is a decent return on investment. The five-year lease system is generally believed (Devman 1994, Downie 1995, Suba 1995, DNPWS 1998 Pers. Comm.) to be too short to attract meaningful investments which will lead to environmental protection and conservation. It encourages investors to look for short-term, quick and often unsustainable returns on their investments.

Ecological sustainability is not achieved because of the insecure property rights imposed by the lease agreements. The tour operators want to maximise their returns within the five-year period. The easiest way of achieving this is by over exploiting the resource base. The system provides no financial incentives to invest in resource conservation through long term research and restoration work. The requirement to dismantle and remove the tourist camp structures from the National Park before the start of the rain season and to rebuild them at the beginning of the next tourist season leads to unnecessary over exploitation of local building materials. It also leads to regular movement of destructive big trucks which crush fauna and flora along the narrow roads and which promote gully erosion.

The short lease periods and the conditions imposed, such as limitations on the number of beds and chalets, make tourism economically unviable for individual lodges in the National Parks. Tour operators try to recover their investment costs by passing on the high costs to the tourists. This makes Zambia the ‘high cost - low value destination’ it has become. The dismantling of the camp structures results in substandard tourist accommodation.

The tourist industry offers extremely few job opportunities to local residents and those that are available are usually for unskilled, manual labour, such as camp construction. When good jobs are available, the short leases offered to operators makes it impossible for the locals to get permanent jobs, as the employer may not stay longer than 5 years. Many local people are employed on the basis of ‘on the job training’ and it may take them a year or two to become competent. Tour operators prefer to bring their own skilled workers from outside the local areas since there is no time for probation and training of new employees into the industry. As a result, local residents have little if any opportunity for meaningful training, permanent, or well paying positions in the lodges or safari camps (Downie 1995).

The length of the leases should be increased, removing the need for tour operators and safari operators to attempt to recover their investment in a short period of time. This encourages illegal hunting and unsustainable over exploitation of the resource base. It is recommended that the lease periods be increased from the current maximum of 5-years to 10-15 years. Longer lease agreements will provide incentives for tourism enterprises to invest in better infrastructure, natural resource conservation and management, and contribute meaningfully to the socio-economic welfare of the local communities. This can help make Zambia’s tourism industry ecologically sound, economically viable, socially desirable, and above all, sustainable.
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Land Tenure in Southern Africa: Context, Trends and Lessons Learnt  
Dr Robin Palmer  
Policy Adviser for Africa, Oxfam  
Great Britain

1. Context

‘Contested’ lands

- Land always a highly CONTROVERSIAL issue
- Land always a highly POLITICAL issue - especially at time of liberalisation
- Everyone recognises this - because of CONFLICTING INTERESTS (GRACE):
  - Gender
  - Race
  - Age
  - Class
  - Ethnicity

Global context

End of Cold War → Western economic models becoming dominant worldwide.  
Almost universal championing of:

- unrestricted market forces
- liberalisation
- privatisation
- structural adjustment
- search for foreign investment

African land context

- Land again a very high-profile issue throughout southern & eastern Africa
- Desperate ‘scramble’ for land (like 19th century) in context of privatisation and the search for foreign investment
- Farming and grazing lands held under ‘communal’ tenure under particularly serious threat. So:

  | Land commissions set up in Tanzania, Zimbabwe, Mozambique, Malawi |
  | National land policies produced in Zimbabwe, Tanzania, South Africa, Namibia |
  | Passing or drafting of new land laws in Mozambique, Uganda, Tanzania |

Response

recent emergence of national NGO land alliances in South Africa, Uganda, Zambia, Tanzania.

Land alliances wanting genuine debates before laws passed. Why concerned?

- About long-term impact of proposed changes on the poor and vulnerable
- That women’s already fragile rights to land may be still further eroded
- That communities unaware of their legal rights may be exploited by the powerful

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Land in southern & eastern Africa:

- History: DISPOSSESSION
  - Current: MORE DISPOSSESSION (Critical)
  - Situation: ? REPOSSESSION (South Africa)
  - Problems: LACK OF INFORMATION
  - LACK OF POWER
  - LACK OF ALTERNATIVE MODELS
  - RURAL PEOPLE ISOLATED/MARGINALISED

- Challenges: MAKE 2 + 2 = 5
- How To: PROMOTE NATIONAL DEBATES (Translation)
  - BUILD NATIONAL + REGIONAL LAND ALLIANCES
  - OFFER PRACTICAL REGIONAL SUPPORT
    (Legal, Advocacy, Capacity Building)
  - ENABLE WOMEN'S RIGHTS TO LAND
    (+ Pastoralists, Ethnic Groups)
  - ENFORCE EXISTING LEGAL RIGHTS

- Government approaches:
  - CORRUPTION
  - SECRECY
  - MOCK CONSULTATION

- Civil Society:
  - VARIES GREATLY (South Africa>Angola)
  - GENERALLY WEAK & OVERSTRETCHED
  - BUT NUMBER OF LAND ALLIANCES FORMING

Dualism

Dualism of TENURE throughout southern & eastern Africa because of white settlement:

<table>
<thead>
<tr>
<th>‘modern’ / ‘western’ / ‘individual’</th>
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<tr>
<td>&amp;</td>
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<tr>
<td>‘indigenous’ / ‘traditional’ / ‘customary’ / ‘communal’</td>
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Also contrast between countries which had extensive white settlement and those which did not:

- In those that did, focus on resettling blacks onto former white-owned land & redressing colonial history
- In those that did not, strong pressures to privatise and make land available on the market
2. Trends

General Trends
- Since colonialism growing INDIVIDUALISM of control & ownership of land
  (community → household → family)
- Growing CENTRALISATION of authority, especially after Independence -
  Governments wanting to control everything
- Recent → DECENTRALISATION (resisted)
- Since Independence, land grabbing by urban elite (week-end/telephone farmers)
- Weakening of capacity and role of state
- Greater corruption
- Abuses of political power
- Appaling fate of pastoralists
- Growing rejection of ‘outsiders’
- Declining access to off-farm income
- De-agrarianisation

Indigenous Tenure Trends
- Great capacity of indigenous tenure systems to adapt
- Indigenous & ‘modern’ tenure systems living side by side
- Whatever the formal legal position, the vast majority hold title under indigenous
  tenure systems & acquire land through inheritance rather than the market
- The ‘traditional’ has changed greatly over time e.g.
  - law
  - tenure
  - inheritance

Tenure Trends
Dominant belief during and after colonialism that individual tenure is more progressive, modern,
efficient, better for economic growth etc. than indigenous ‘communal’ tenure

For this reason, Kenya titling & registration programme held for many years as model for elsewhere
by World Bank & Wisconsin Land Tenure Centre etc

Expected that indigenous tenure would wither - but it has proved surprisingly resilient & adaptable
& has co-existed with modern tenure. Meanwhile, problems have arisen in titled areas:

- registers not maintained, so fail to reflect social reality
- problems over succession
- land vested in household heads, so women and children lost out
- Kenya system bureaucratic, lacks transparency, encourages corruption
- titles “virtually worthless” so no incentive to update
- people with titles driven away in Rift Valley clashes, undermining integrity
  of tenure system nationwide

So The World Bank now had to seriously rethink.
Government Trends
- Governments generally have severe problems of lack of capacity and resources
- So they are unable to implement ambitious, grandiose plans
  (this was true of colonial governments too)
- Government capacities and resources are now declining further with cutbacks demanded
  by SAPs and global trends
- Governments are now facing demands to decentralise

Civil Service Trends
- The technocratic perspective has been enormously influential in southern Africa
- Much of the civil service in new (as in old) Zimbabwe, Namibia, South Africa
  is highly technicist
- It tends to see land as a technical rather than a social/political issue
- Many civil servants in Southern Africa retain a belief in settler myths and legends
  masquerading as science or fact with regard to:

  - farm size
  - land carrying capacity
  - imagined iniquities of communal area farmers
  - many more

- They generally hold a distorted & uncritically negative view of the Zimbabwean
  resettlement experience

3. Lessons

Land Tenure Reform Lessons
- Land tenure reform issues have been around since the 1950s, but have become
  more urgent because of SAPs & liberalisation
- Land reform always involves a hierarchy of beneficiaries, with winners & losers
- Land reform has tended to favour better off farmers (Kenya, Zimbabwe, South Africa)
- It is very rare for women’s incomes to rise in land reform schemes:
  - registration Kenya
  - villagisation Tanzania
  - resettlement Zimbabwe
  - have all curtailed women’s rights & enhanced men’s
- It takes a long time for resettled people to become a ‘community’ (Zimbabwe, South Africa)
- Few bureaucrats are trained to administer land reform programmes, so they are often
  implemented by local authorities who ensure that the old systems don’t disappear

Evidence from all over Africa shows that:
- individual title often fails to activate an agricultural credit market based on land as collateral
- it’s possible to design rural credit programmes which don’t rely on land as collateral
- credit from land title is often not used for farming
- land markets are not driven solely by profit motive
- widespread adoption of tree crops shows that absence of title does not deter investment in farming
- with land scarcity and free land market it’s usually the rich who first exploit gains from
  accumulation while the poor & households in temporary economic crisis are induced to sell
Group titling, at the village or community level, can be beneficial in some contexts

Widely agreed that the strength of the economic case for titling varies positively with
• the degree of pressure on land
• the strength & nature of investment opportunities in agriculture
• the degree of local demand for titling

Since customary systems evolve, need to examine whether intrusive programmes
are necessary after all.

Titling not justified when:
• land is abundant or has no commercial value
• land transactions and disputes are rare
• other markets are absent or poorly developed

Lessons for Government
• Central governments cannot expect to manage and control land effectively at the very local level
• Land reforms work best where Local Government capacity is strong
• Uniform national land policies which neglect local ecological, population density,
  tenure & other differences will prove conceptually flawed
• Governments should intervene to the minimum extent possible in a few special cases where some
  tenure reform is required, e.g. where indigenous systems are under great stress, in settlement
  areas, or zones of ethnic conflict, etc
• The most effective form of policy intervention would be for governments to guide and coax,
  assisting indigenous tenure systems to evolve and to operate more effectively
• Policy makers should identify and recognise the positive values of indigenous systems & give
  local communities control of their resources, while keeping national goals & priorities in view

Lessons on Rural-Urban Links
Planners too often ignore the importance to rural economies of rural-urban links:

| how urban incomes supplement and support rural livelihoods |
| how the linkages are underpinned by communal tenure systems |

... e.g. in Zimbabwe money from wage earners is invested in agricultural inputs every season & con-
tributes to household & national food security

World Bank Writers Now
• take a very critical view of titling, which should only be introduced in particular circumstances
• say titles have become worthless in Kenya
• admit that in the past the Bank exaggerated the benefits and neglected the costs of freehold tenure
• admit that in the past the Bank underestimated the virtues of indigenous tenure and so made
  great mistakes
• believe there should be transparency
• believe we need to learn from history and there should be comprehensive participation and
  consensus building before land laws are passed
• argue that the Bank should provide a menu of opportunities from which communities can choose
• say communities should have the right to administer their own internal land affairs autonomously
• argue that there is a need to respond flexibly to local needs

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Decentralisation
There are increasing arguments in favour of local control and management of land (& other natural resources). But how to make this:

- **EFFECTIVE**
- **DEMOCRATIC**
- **REPRESENTATIVE**
- **TRANSPARENT**
- **ACCOUNTABLE?**

- Some see Botswana land boards as a good model
- Others cite Tanzanian villages
- Challenge is to develop *appropriate* institutions

General Lessons
- There are no ‘CORRECT’ solutions
- There are no ‘FINAL’ solutions
- It’s a ‘LONG HAUL’ struggle
- So there’s need for pragmatic, gradualist approaches
- Things generally don’t work out as planned
- People often don’t behave in ways planners expect
- The principle of subsidiarity is key
- Land will ALWAYS be a contested issue

4. An example: Kenya

**Kenya Land Titling & Registration Programme**
- High degree of coercion needed to consolidate holdings 1950s before adjudication & registration
- Unanticipated abuses of adjudication procedures
- High initial & recurrent costs
- Failures to maintain registers
- Disincentives to production because neglect of subordinate rights

Tenure conversions led to conflict because officials under-estimated the strength of community and family controls, which guaranteed:
- stability of social reproduction
- security of access to land
- integrity of trans-generational rights
- equity in distribution among social groups

Credit did not work as expected and was denied to most smallholders.

Community grazing grounds disappeared because of attempts to individualise every piece of land.

Registration eliminated communal sources of wood, forcing landholders to develop individual sources.

Polarisation with a large class of smallholders & smaller number of absentee landlords

NOT the anticipated emergence of widespread commercial farming
Who Gained Most?
- rural elite
- urban employed
- urban businessmen

Distribution of power & social influence in rural society has changed considerably

In densely populated areas, later generations challenged registered titles when attempts were made to extinguish their inheritance rights through sub-divisions & transfers

Process of tenure reform & aftermath caused great confusion & insecurity; in areas of severe land shortage it led to marked increase in disputes over registered land

Impact of tenure conversion disenfranchised esp women + children

Despite +30 years of registration, a land market has not yet clearly emerged in the former reserves:
- this has nullified the credit & investment objectives
- the dispute system reduced to a costly bureaucratic travesty

Throughout the process of adjudication, the odds were weighted heavily AGAINST:
- the poor
- the uneducated
- those unfamiliar with bureaucratic ways

SO, a lot depended on knowing one's rights & being able to prosecute them effectively.

The results have not justified the effort & the staggering resources invested.

Any contribution to growth has been completely offset by the disequilibrium caused.
Land Reform in South Africa: Processes leading to this and where are we going?
Lungisile Ntsebeza
University of Western Cape
South Africa

1. Introduction

One of the goals of South Africa’s land tenure reform programme is to confirm the co-ownership rights to land of groups and communities living in the former ‘homelands’, where land in the ‘tribal’ areas is still nominally state-owned. The form these rights will take is ‘ownership in common hold’ which will be able to be registered in the national Deeds Registry. The policy further proposes that co-owners will have the right to choose the local body, which administers their land rights.

One option for co-owners is to constitute themselves as a Communal Property Association (CPA). However, in many areas land is currently administered by chiefs and tribal authorities which were created by apartheid-era legislation, and the new policy is seen by these traditional structures as a deeply threatening attempt to undermine their political powers. This paper examines these issues which currently form the centre of national debate over land tenure policy. Whilst the paper will be focusing on contemporary issues, it will attempt to situate current issues within an historical context, particularly land tenure policies from the 1930s. Case study material from the Eastern Cape illustrates the complexities.

2. Land tenure in the rural areas of the bantustans prior to early 1990s

In terms of the Development Trust and Land Act No 18 of 1936, most of the land in the rural areas in the former Bantustans was/is ‘state land’. Occupation was based on a ‘permission to occupy’ (PTO) system. The 1936 Land Act prescribed two types of PTOs, one issued in terms of section 4, and the other in terms of section 5. Section 4 of Proclamation No 26, 1936 as amended empowered the magistrate to grant permission

“To any person domiciled in the district, who has been duly authorised thereto by the tribal authority, to occupy in a residential area for domestic purposes or in an arable are for agricultural purposes, a homestead allotment or an arable allotment, as the case may be.”

In practice the person, usually male, seeking access to land would be introduced to a local sub-headman of the preferred location by a local person. The sub-headman would call a meeting of men in his village and table the matter to the general meeting. If the meeting approves of the application, the matter is taken to the headman of the administrative area, who will then forward the request to the tribal authority that is presided over by the chief or headman. If the chief approves the allocation of land to the individual, his name is placed on a list for allocation of land at the Land’s Office, which is situated at the local magistrate’s court and controlled by the magistrate. In those areas that were affected by ‘betterment’ planning, or in those cases where individuals wanted PTOs, an agricultural officer would be invited to ‘cut’ the land, which has been allocated to the individual, and demarcate the boundaries. The agricultural officer had the discretion to refuse to allocate land, which is not suitable for the purpose, it was intended and which did not comply with guidelines set out by the Act. Areas not affected by ‘betterment’ planning did not necessarily approach the agricultural officer. Consequently, the majority of people in these areas do not hold PTOs.

1Paper to be presented at an SADC Workshop on Land Tenure and decentralisation, Randburg, 7-9 July 1998.
2The exception being land designated “trading site”, being land held under deeds of Grant, land administered by state departments, eg forests, clinics, etc.
3Interview with Chris Maseko, June 1998.
The allocation of land according to the Act was, inter alia, subject to the following condition:

"(N)ot more than one homestead allotment and one arable allotment shall be allotted..... to any Native (sic), provided that if such Native (sic) is living in customary union with more than one woman, one homestead and one arable allotment may be allotted for the purpose of each household."

In terms of the permission to occupy system, the holder of the site was entitled to remain in occupation until his death and elect the person to whom he would like the site to be allocated on his death. In theory, the holder’s rights could be forfeited for the following reasons:

failing to take occupation or fence within a year of allocation; and

non-beneficial use for two years.

In practice, the above conditions were often not adhered to.7

This has led some people to comment that tenure under this system was/is much more secure than is realised. What these commentators fail to grasp, though, is that there was/is no legal backup for holders of section 4 PTOs in the event of arbitrary decisions to remove or expel people by traditional authorities and the state.

Section 5 of the above-mentioned Proclamation made “special provisions regarding the use and occupation of Commonage Land under certain circumstances”. In this regard, the Minister “may grant permission for the use of land on the commonage of any native (sic) administrative area for”, inter alia, “sport and other recreation”. No procedures are set in the Proclamation, except to state that “(s)uch permission shall be subject to such conditions and payment of such rentals or other charges as the Minister may approve”. It is important to note the distinction that ‘permission to occupy’ granted under section 5 is granted by the relevant Minister, and not the magistrate. There was no legal requirement to approach or seek the approval of a traditional authority or chief of whatever rank.8

Despite the fact that PTOs were granted under different clauses depending on the nature of the application, the land remained ‘state land’, and PTOs were not freehold title deeds. It is argued that even land granted under Deeds of Grant was state land.

3. Land reform during the dying moments of Apartheid9

It should be noted that the system described above did not substantially change in those Bantustans that opted to become ‘independent’. Instead, in the early 1990s, the ruling South African National Party under its reformer, FW de Klerk, embarked on a land reform programme. The three pillars of this programme were upgrading of land rights, land redistribution and land utilisation. This paper focuses on upgrading of land rights.

6 The allotment was traditionally for both residential and agricultural allotment but with the enormous pressure on land in some areas, people are willing to accept a residential site only.
7 Conversations with committee members of the Spatial Development Initiatives (SDI) and the Interim Communal Property Association (CPA), December 1997 - June 1998.
8 Some (mainly white) cottage owners in seaside resort areas in “tribal” land, “introduced” themselves to traditional authorities, but they were not legally bound to do so.
9 I am fully indebted to my colleague and friend, Eric Bulen for drawing my attention to this phase of the emergence of the land reform in South Africa.
There were two aspects to the upgrading of land rights. First, the National Party government attempted to forgo its trusteeship role over tribal land by advocating the transfer of land to ‘tribes’. In terms of section 19 of the Upgrading of Land Tenure Act, 1991:

"Any tribe shall be capable of obtaining land in ownership and, subject to subsection 2 [which deals with limitations to land disposal], of selling, exchanging, donating, letting, hypothecating or otherwise disposing of it”.

Thus the 1991 Upgrading Act created conditions in which PTOs could be upgraded to full freehold title. The essence of the argument for the upgrading of PTO land rights was the view that the right to title deeds had been denied blacks in the past, as manifested in trust held land and the system of PTOs. The thinking was that “Blacks were denied the right that whites had to freehold title.” The Upgrading Act provides for the upgrading of PTOs and the transfer of communal land to tribes\(^\text{10}\), with a preference in policy for the former, namely upgrading of PTOs.

This kind of National Party thinking came under attack from the National Land Committee (NLC), its affiliates and other critics. The following shortcomings were pointed out: A miscalculation of realities on the ground. The Act never reckoned with the problems of overlapping land rights; and the near collapse of the PTO system, as the basis of this reform.

A misconception of the desired tenure model (‘paradigm problem’). It was assumed that individual tenure would offer development opportunities to the rural poor. They were seen to be holders of land (at least homesteads) and would benefit from gaining title. The notion of ‘communal title’, as reflecting a refinement in thinking about the ‘bundle of land rights’, with some but not all being shared, was not well understood.

### 4. Post 1994 Land Tenure Reform Programme

Upon coming to power after the first democratic elections in South Africa in 1994, the ANC-led government of national unity embarked on an ambitious, rights-based land reform programme, under the auspices of the Department of Land Affairs (DLA). Its three pillars are land restitution, land redistribution and tenure reform. As regards the latter, it is a constitutional responsibility to ensure that a person or community whose tenure is insecure consequent to racial laws or practices should have their tenure legally secured. In keeping with the above requirement, the Department of Land Affairs are in the process of addressing this issue in, amongst others, the rural areas of the former Bantustans. The Minister of Land Affairs has on numerous occasions expressed his intention to do away with his status as a trustee over communal land and to return land to its rightful owners. In this regard, the DLA adopted the following principles to guide its legislative and implementation framework.\(^\text{11}\)

It is necessary to recognise the underlying land rights, which belong to individuals, and groups (e.g. tribes) on most land that is nominally state owned.

These rights should vest in the people who are holders of the land rights and not in institutions such as tribal or local authorities. In some cases, the underlying rights belong to people and in other cases to individuals or families. Where the rights to be confirmed exist on a group basis, the rights holders must have a choice about the system of land administration, which will manage their land, rights on a day-to-day basis.

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\(^{10}\) This clause was later amended in 1996 giving the Minister discretionary powers in transferring land to tribes.

In situations of group-held land rights, the basic human rights of all members must be protected, including the right to democratic decision-making processes and equality. Government must have access to members of group-held systems in order to ascertain their views and wishes in respect of proposed development projects and other matters pertaining to their land rights.

Systems of land administration, which are popular and functional, should continue to operate. They provide an important asset given the breakdown of land administration in many rural areas. The aim is not to destroy or harm viable and representative institutions. Popular and democratic tribal systems are not threatened by the proposed measures.

Earlier on, the Minister had expressed similar sentiments when addressing the 1997 annual congress of the Congress of Traditional Leaders of South Africa (Contralesa):

“This means that no level of government, whether national, provincial or local can disregard the views and concerns of the groups, tribes or individuals who have underlying historical land rights to land which is registered as state owned. Any actions to simply disregard the rights holders in such areas and dispose of or develop the land as state owned are unlawful”.

The DLA is currently in the process of introducing three interrelated measures to create tenure security. Namely; a law defining and confirming underlying land rights and describing the relationships between different right holders; a registration system to register rights; and land administration options to ensure the holders of rights access to fair systems of day-to-day administration of their land rights. A clear-cut policy and legislation on this matter is expected after the 1999 elections.

5. Registration system to register rights.

As mentioned, it is the expressed intention of the Minister to do away with his title as trustee over communal land, and he is willing to return land to its rightful owners the ‘tribes or individuals who have underlying historical land rights’. However, traditional authorities, whilst supportive of the notion that land should be transferred to the ‘people’, are not happy with the DLA position. For example, traditional authorities from KwaZulu Natal contend that the land is theirs, and that the title deed should be in their name, as is clear from their submission to the Portfolio Committee on Land Affairs on 18 February 1998.

“We hope that central Government will not create obstacles to the transfer of title to Traditional Authorities which will sanction that our initiatives have set KwaZulu Natal several years ahead of the rest of the country in the process of returning land title to our people”.

The position of traditional authorities in the Eastern Cape is confusing. Whilst agreeing that the land belongs to the people, they argue however, that the title should be in the name of the tribal authority. At times some argue that the land belongs to the king/chief, suggesting that the title should be in the name of the king/chief. The confusion is often made worse by their tendency to conflate land ownership and governance issues, for example, arguing that because land is administered by the tribal authority, it should be registered in the name of the tribal authority. As I have pointed out to the House of Traditional Leaders in the Eastern Cape, this argument is equivalent to maintaining that because a company is run by a board of directors, then the owners of that company are the board of directors and not shareholders! In a meeting with some members of House of Traditional Leaders in the Eastern Cape, on 2 July 1998, the House agreed that land belongs to the people, and not to an individual or representatives. What remains to be resolved is the ‘legal entity’ that will hold land.
One option for co-owners is to constitute themselves as a Communal Property Association (CPA). However, in many areas where land is currently administered by chiefs and tribal authorities which were created by apartheid-era legislation, CPAs are seen by these traditional structures as a deeply threatening attempt to undermine their political powers. Further complicating the institutional matrix, are emerging conflicts between traditional authorities, CPAs and local government structures over development planning, land administration and service delivery. Nowhere is this evident as in the Tshezi communal area in the Mqanduli magisterial district, Eastern Cape, where there are attempts to establish a CPA.

6. The example of the Tshezi Communal Area

6.1 Background

The Tshezi communal area, or Coffee Bay cluster, is situated along the Wild Coast of the Transkei region of the Eastern Cape, and is made up of four administrative areas and the two coastal resorts of Coffee Bay and Hole-in-the-Wall. It is one of four economic development nodes that were identified by the state initiated Spatial Development Initiatives (SDIs). A situation analysis that was conducted in the area identified the following as posing major constraints to development:

Who controls the development process?

Where and how land rights will be determined?

In whose jurisdiction administration and control of land will fall?

Who will administer the area in future?

Thus, resolving land ownership and governance issues became almost a pre-requisite for development, including SDI-type development. This entailed the need to set up a land holding legal entity to ease the process of entering into contracts and negotiations with investors, local and foreign.

A SDI committee was established to, inter alia, co-ordinate SDI projects in the area including the establishment of a legal entity. Two workshops on legal entities were organised for the committee to provide them with a menu of various legal options. After each presentation, the SDI committee unanimously agreed that they preferred a Communal Property Association (CPA), both as a land-holding entity and as an instrument for various development initiatives, including SDI developments.

What is a CPA? It was set up in terms of the Communal Property Associations Act of 1996, as a legal entity which primarily holds land for its members in terms of an agreed set of rules for land ownership. The establishment of a CPA requires that the community concerned must agree to these rules and must confirm and publicly declare these rules. These rules need to be written into a Constitution. The Act requires that the Constitution should contain the following:

- Name of the Association
- Definition of Membership
- Membership rights
- Objectives of the Association
- Decision-making procedures
- Establishment of Committees (including the Interim Committee)
- Financial matters
- Compliance with the principle of equity in the constitution
- Mediation and disputes.
The CPA Act does not prescribe the rules and procedures for land allocation and decision-making, or the manner in which the CPA Committee should be constituted. This must be decided by the community.

As far as registration of the CPA is concerned, a designated government official from the DLA officiates the registration process. This individual must be satisfied that all members of the community were informed about the CPA, and that a fully representative meeting endorsed the Constitution and democratically and freely elected the CPA Committee. A two-thirds majority is required to approve the CPA and to disband it.

In the case of the Tshezi communal area, a draft constitution and regulations of land administration were prepared with the SDI committee as part of the registration of the CPA. Only at this stage was a decision taken that the idea should be introduced to the wider Tshezi community. Our understanding was that some groundwork had been undertaken by the SDI committee that was consciously elected as a structure that would represent all the administrative areas. It was only when public meetings were held that it became clear that the SDI committee had not reported back to their constituency. We discovered that the majority of the Tshezi people heard about the CPA for the first time when it was presented by us. From that time onwards, the CPA registration process ran into problems.

6.2 Resistance to the CPA process

Resistance to the CPA process stems from various sources and for a variety of reasons. The main resistance comes from the local chief, Dubulinganga and some of his councillors and a militant group in one of the administrative areas, Mthonjana. The wider Tshezi community - which is made up of mainly illiterate and semi-literate people who were brought up under the rule of chiefs who they grew to fear during the repressive and corrupt apartheid regime - are concerned that their chief is not supportive of the CPA. For this reason they are unlikely to support the CPA. Those who are currently benefiting from the collapse in administration in the area are likely to oppose the CPA given the possibility that an efficient and effective CPA will normalise things.

The position of the chief in the CPA process is interesting. After resolving, in principle, land ownership issues with the DSI committee, it was decided that members of the tribal authority, in particular the chief should be invited and informed about the CPA and its implications. The CPA was presented to the chief as a mechanism to officially return land to the Tshezi people, who will then decide on how this land will be administered. The chief was initially excited that 'his' land would be registered as Tshezi land and not state land. The registration process was explained to him, including the need to hold public meetings to explain and get general acceptance of the CPA. Although we preferred public meetings at administrative area level, the SDI committee and the chief preferred to call a public meeting at the tribal authority offices. The SDI committee made an undertaking that they would organise their own meetings in their administrative areas to prepare the ground for the public meeting.

It therefore came as a shock on the day of the public meeting that the SDI committee held no public meetings in the administrative areas. We17 later came to understand that the SDI committee rarely meets18 except for meetings organised either by the SDI or ourselves. Promises are made which they do not carry through, including the promise that they would report back to their constituencies. Be that as it may, the meeting at the tribal authority office took place. We had to start from scratch explaining the CPA. It came as no surprise that a number of questions were raised. A recurring question related to the position of the chief. The chief's response was that 'his' people needed time to talk and debate the CPA. He suggested that we schedule another meeting.

17 Erik Buiten and I, who are consultants of the Department of Land Affairs.
18 This is still the case, despite undertaking to the effect that we would compensate them for travelling expenses.
At this second meeting, which was also attended by representatives of the Mqanduli Transitional Representative Council (a post-1994 elected rural local government structure), no one was in attendance. We ended up visiting headmen in the various administrative areas organising public meetings at administrative area level. We had earlier discussed the idea with the chief who was not opposed. It is during this process of addressing public meetings at administrative area level that we came across aggressive opposition to the CPA in Mthonjana. Their argument was that they could only listen to us if the chief accompanied us, and was supportive of the CPA. The chief on the other hand argued that he can only support the CPA if his people supported it, a ‘Catch 22’ situation. Other administrative areas, though, seemed to be supportive of the CPA, although it is doubtful that they would oppose the chief.

The question that arises then is why the chief changed from an initial acceptance of the CPA to his current concerns? Preliminary research shows the following:

• Fear that the introduction of the CPA will erode the position and power of Tshezi chiefs.

A question that the chief keeps raising is why the CPA is established on his land first?

When informed that CPAs are being established in other parts of the country, including neighbouring Dwesa/Cwebe, he indicated that he would be happy to visit such places.

• Concern that the introduction of the CPA will shift the power from the ‘familiar’ traditional structures to a new power ‘elite’, namely business people and ‘people with pens’.

• There is no letter from government to say that his land is being transferred to him as the chief of the area.

• Plans to demarcate boundaries might lead to him losing his land, which extends to Mqanduli and Ngqeleni.

• That he has not had the opportunity to consult with other chiefs, in particular, chief/advocate Nonkonyana, Gwadiso and Holomisa, all leaders of the Congress of Traditional Leaders in South Africa (Contralesa). The chief fears that registering land in the CPA which has got a rigorous accountability mechanism will mean that he will no longer get the ‘benefits’ (imfanelo zakomkhulu) that he got with each and every land allocation that he approved.

In short, it is clear that chief Dubulingqanga is concerned that he may lose his power and benefits, and in the process spearhead a move that might undermine the power and benefits of traditional authorities.

The resistance of the chief makes it difficult for the CPA process to proceed. It seems clear that no one in the area is prepared to oppose the chief. There are no civic structures in the area, and political organisations such as the ANC and PAC are weak. The majority of those who participate in the meetings are elderly men, who are illiterate and/or semi-literate and have known chiefs as the only authorities in rural areas. The youth in the area is away in the cities as migrant workers and do not participate. Interviews reveal that the educated youth prefer to work outside their area, and that almost all the teachers in the area are ‘outsiders’, and do not participate in issues involving land and governance. Men exclusively dominate meetings, and only elderly men attend meetings that are held next to the kraal where major decisions are taken. These men, whilst they might not be happy with the decisions of the chief, cannot differ with him.

The position at the time of writing is that the Tshezi chief wants a go ahead from the chiefs in the House of Traditional Leaders and Contralesa in the Eastern Cape. Chiefs in the House of Traditional Leaders in the Eastern Cape have been addressed and an agreement reached that land should be transferred to the people of the areas concerned, and not to individuals and/or institutions. What needs to be addressed are options regarding how land will be registered. In this regard, they requested a meeting with the DLA in Pretoria. Further, both at the level of the House of Traditional Leaders and at a local Tshezi community level, there is a desire to visit the King of the abdThembu to solicit his views regarding the registration issue, in particular, the CPA.
Apart from the chief, there are others who are either opposed to the CPA or are concerned and/or simply confused. The Mthonjana group is one such case. It is not clear what their opposition is based on. Some allege that it is party politically based, for example those leading the opposition are members of the newly formed United Democratic Movement (UDM) whose provincial leader is chief Gwadiso, who is vehemently opposed to the CPA. Others allege that one of the leaders of the ‘resistance’ movement is one of those investigated by the Heath Special Investigation Unit on ‘illegal’ cottage owners along the Wild Coast. He associates the CPA with the Heath investigation. Thus, opposition is based on personal and financial interests from those who benefit from the existing informal allocation of tenure rights in the area. This must be viewed in the context of the present lack of certainty and absence of effective control over allocation of land resources in the area in the face of pressures for development.

For the ordinary Tshezi man and woman, the CPA adds to the collection of confusing names that they never heard of before, for example, SDI, RAP, LDOs, etc. Proper consultations to comprehensively explain these terms, what they mean and how they relate to each other are not undertaken. As the reality of the change that will be brought about by the establishment of a CPA is starting to sink in, it is natural for people to question the impacts once they begin to realise the implications. This suggests that even if there were no opposition to the CPA, getting it accepted would be a protracted process.

Added to this complexity is the role of local government - Transitional Representative Councils (TrepCs) - in the CPA. The issue has been further complicated in the Eastern Cape by the passing of the Regulation of Development in Rural Areas Act which transfers all development functions from traditional authorities to elected councillors. One of these functions is the allocation of land. Ever since the Act was passed, TrepCs have been positioning themselves to perform this function. In some areas where traditional authorities are not strong they are allocating land. Where traditional authorities are strong, conflict has been the order of the day. What local government structures do not appreciate is that one of the implications of transferring land to its owners is that the owners will have the powers to decide who should allocate land for them, and this may not necessarily be the Transitional Representative Councils.

7. Conclusion

Resolving land tenure issues in the rural areas of the former Bantustans is complicated and complex. Particularly worrying is the role of traditional authorities in the process of land transfer and in the aftermath of this process. To what extent will the principles of democracy, accountability and decision making apply in places such as the Tshezi area where opposition by the chief could mean that nothing can proceed, even if there was majority support? What is the role of the state in ensuring that its policies are implemented? What is the capacity of the state to implement its policies?

In a newspaper article that received mixed reactions on SDI developments on the Eastern Cape Wild Coast, we pointed out, inter alia, that one of the major weaknesses in the implementation of SDI projects was inadequate co-ordination between various agencies involved - government, NGOs and consultants. Further, whilst good policies and legislation have now been formulated, there does not seem to be a coherent implementation strategy.

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14 Interview conducted by Erik Bulken with Derrick Lang, June 1998.
Land and Resource Tenure in Botswana: An Overview
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1. Introduction and background of CBNRM policy in Botswana

1.1 Policy Framework

The Government of Botswana (GoB) policy for Community Based Natural Resource Management (CBNRM) should be viewed as an extension of the Wildlife Conservation and National Parks Act of 1992; the Tourism Act of 1992; the Wildlife Conservation Policy of 1986; the Agricultural Resources Conservation Act of 1974; and National Development Plans (NDP) 7 and 8. Each of these documents calls for increased opportunities for local communities to benefit from wildlife and/or tourism. They recognise the vital importance of conservation policies that are national and ecosystem in perspective and yet local in approach. However, none provide firm guidance for CBNRM implementation.

In Section 2 an attempt will be made to try and explain why these policies are silent about firm guidelines for effective CBNRM implementation.

Having said that, it is important to acknowledge that at a policy level at least enabling factors for CBNRM in Botswana do exist. First, there is political commitment of the parent ministry - The Ministry of Commerce and Industry - to CBNRM as can be evidenced from 40% of national land devoted to natural resources conservation; CBNRM policy guidelines; and about P10 million allocated to CBNRM projects in the current financial period 1998 - 2001.

Second, there is Community Based Programme Strategy at the national level which augurs well for decentralisation of power and authority even though at the moment the Ministry of Commerce is the only ministry out of 10 which is trying to implement this strategy. Indeed the parent ministry should be commended for this bold and progressive out look.

Third, the Ministry of Commerce and Industry has created Controlled Hunting Areas (CHAs) with tenure rights for communities.

Fourth, the parent ministry is the only ministry in Botswana that encourages the formation of a strong civil society (i.e. through community-based organisations such as community trusts) to which they are decentralising and devolving some power and authority. That is an interesting precedent where the civil society emerged and/or is encouraged to emerge by a government ministry not in opposition to the ministry as is often the case in other instances, but complementary to it.

Fifth, the ministry has provided some legitimacy and legality for those CBOs to enter into partnerships with the private sector and to receive grants. Indeed the parent industry has transcended the normal political rhetoric of talking about the need for civil society while in actual fact being hostile towards their very existence.

Sixth, while the parent ministry encourages the emergence of a strong civil society it still provides a regulatory function in terms of quota setting. Indeed, the CBOs are still in their infancy and they need ministerial tutelage. However, it is hoped that in the near future quota setting should be jointly done by CBOs and the parent ministry. This is because as part of conservation education, communities need to develop this skill of not only quota setting but also of taking consensus of their natural resources so that they get to know the basis for quota setting and therefore improve upon their own conservation awareness.
Seventh, the parent ministry has encouraged diversification of natural resources use by granting user rights to those who want to harvest phane worms and marula fruits outside the Game Reserves and National Parks. This is a welcome move. Often times, there is an overemphasis on wildlife utilisation to the exclusion of other natural resources such as veldt products as the second engine of economic growth.

Last, in Botswana the political atmosphere under which CBNRM is being implemented is indeed conducive for its success; it was driven by government rather than being an agitated political demand as in other countries. This therefore has given the ministry ample time and opportunity to experiment with the idea - this is despite the fact that such land reforms were characterised by mock consultation.

These therefore are very important enabling factors for CBNRM in Botswana. However, as it shall be shown below, the parent ministry needs the cooperation and collaboration of other ministries. But are those structural and sectoral mechanisms and philosophies that will promote such collaboration? What are the structural and philosophical threats to the spirit of CBNRM? Section Two discusses these issues.

1.2 CBNRM Efforts to Date

The Department of Wildlife and National Parks (DWNP), working with the Natural Resources Management Project, have developed some successful CBNRM projects. Some rural citizens now realise significant economic and social gains through community-based programmes for non-consumptive tourism, wildlife management and utilisation, and the development of veldt resources. Private enterprises and communities have established mutually beneficial partnerships directed by formal mechanisms such as, the "Joint Venture Guidelines", the savingram, dated 20th November, 1995 from the Ministries of Commerce and Industry and Local Government Lands and Housing (ref: WP/SAF 2 V, DV/ONO/I), and subleasing procedures. Methods for community participation in wildlife management have been strengthened through activities such as the "Guidelines for Community Management of Hunting Quotas". Trust committees established by communities to represent the desires of communities have been particularly effective. Rural citizens received training in several key sectors. Progress has been made in conservation and important lessons learned concerning the development of CBNRM in the Botswana context (DWNP, 1997).

Such developments are indeed welcome even though they are belated. As Reimer and Maruatona (1997:3) correctly point out, such development programmatic shift is unusual in Botswana, where "the emphasis of rural development... in the past has been on infrastructure provision, building of government institutional capacity for providing services in rural areas, and implementation of development projects and programmes by sectored ministries and Local Authorities" rather than on efforts grounded within communities themselves (see also Ministry of Finance and Development Planning, 1997).

In the past, the GoB, with revenues from the country's natural resources, has been the driving force behind Botswana's economic development and the development of its physical infrastructure. This produced a reliance on centralised funding sources which has inhibited both the organisation of communities and the active involvement of community members in their own development (Reimer and Maruatona 1997). It should be noted that of the ten ministries in Botswana, only two - the Ministry of Commerce and Industry and the Ministry of Health - are attempting to implement the GoB's proposed community-based strategy. This is an interesting social comment on the political will to implement a people-centered development strategy.
As the Community Based Strategy (CBS) document points out, "efforts to strengthen the rural economy and improve rural livelihoods have been less successful. In many instances the formulation and implementation of rural development policies and programmes has been undertaken by government" (MFDP Document 1997:1). The CBS Document goes on to say, "the major challenge envisaged under the CBS is to place the major responsibility for development in the hands of the rural communities" (MFDP Document 1997:3). While shifting responsibility from central government is a challenge, there are further challenges ahead. These will stem from those who currently hold the reins of power, i.e. ministries and local authorities (councils) and their unwillingness to relinquish this power as the next section demonstrates.

2. National structural and socio-economic factors

For the CBS, which informs CBNRM to work, certain enabling factors have to be in place. The converse is also true. These factors are discussed below as they impact on CBNRM.

2.1 Ministerial System of Governance in Botswana

The current system is well adapted to the provision of infrastructure and basic services by vertically linked sectoral ministries and departments. It's very success has in fact reinforced the sectoral approach adopted by these ministries and departments, and sometimes strengthened the inter-sectoral barriers that existed (Ellison1990).

The Botswana ministerial system depends upon sectoral specialisation, which results in each ministry jealously guarding its area of competence. As can be expected, this precludes any possibilities of co-operation and collaboration between ministries. As White et al (1993:34) point out, this sectoral specialisation, which is consistent with Botswana's parliamentary rule, is required by the Ministry of Finance and Development Planning for reasons of financial accountability. It has served Botswana well and is unlikely to change.

The result of this sectoral approach to CBNRM is that communities are often denied access to the specialist services of departments other than that with which they initially engage. For instance, the Department of Community Development and Social Work in the Ministry of Local Government, Lands and Housing would not avail their services to a community project started by the DWNP in the Ministry of Commerce and Industry. A similar example occurred in the Khwai community's CBNRM project. The Khwai had introduced a temporary ban on fishing in the Khwai River because they were concerned about reductions in the fish harvest. However, the Department of Fisheries in the Chobe District issued fishing permits to non-Khwai residents. The community chased away these outsiders but have since been informed that a complaint against them will be lodged with the Ministry of Agriculture. This is a clear case of interministerial rivalry that served to undermine the spirit of community control and their efforts to sustainably manage their natural resources.

As noted above, the sectoral specialisation between ministries tends to encourage centralisation of authority. Such centralisation of power has received scanty attention in the development research and literature of Botswana.

2.2 Reluctance to Decentralise and Devolve Power and Authority to Communities:

While the GoB recognises and accepts the need for decentralisation in principle, in practice it has been slow to introduce this, and in some sectors, centralisation even appears to be increasing. White
et al (1993:54) has come to the same conclusion; "there is a strong resistance to such decentralisation within government, and, it is unlikely to happen soon." It is five years since this study and indeed, there are still no signs that government is willing to decentralise.

Below, I explore several purely speculative explanations as to the GoB’s reluctance to decentralise. The CBS as a development paradigm has come about in Botswana in an era of vibrant multipartyism. The ruling Botswana Democratic Party (BDP), which has enjoyed an uninterrupted rule from independence in 1966, is suddenly finding itself challenged by the opposition party, the Botswana National Front (BNF). For instance in the last election in 1994, BDP lost all the urban centres to BNF. The BDP’s stronghold is in the rural areas of Botswana, where the proposed decentralisation and CBNRM are supposed to take place. The BDP civil servants and ministers are worried that civil servants loyal to the opposition BNF are subverting development efforts as a means to discredit the BDP among the rural electorate. The truth about this perception can only be ascertained by comprehensive research.

However, there are already indications that there may be elements of truth in this. Councillors loyal to BNF in one town in which they have a majority, are said to have bluntly told visiting civil servants from Gaborone that "their mission was to undermine and oppose BDP policies and programmes" (personal communication - S and CD officer 1997). If indeed this is the general view of the BNF with regard to government policies and programmes, perhaps it is not surprising that there is a reluctance to decentralise authority.

Another possible explanation for the reluctance to decentralise might be that the implications of this paradigmatic shift are too discomforting for those who currently exercise authority under the existing centralised approach. The ‘empowerment’, whether political or economic, that is talked about in CBNRM literature should be ‘unpacked.’ Empowerment, if properly unpacked, should imply, "a challenge to existing bases of power and its distribution, and a re-alignment of this power in favour of the (hitherto) powerless" (Marsden and Oakley 1990:53). The basic practical questions arising out of this definition are:

- whom are the communities being empowered against - either politically or economically?
- who holds the reigns of power and how in terms of control of natural resources and technocratic decision making? Are the communities in the delta being empowered against white tour operators who enjoyed total monopoly for over 20 years?
- can civil servants, steeped in elitist and patronising schools of thought, bring about the desired decentralisation and empowerment of communities?

Such questions tend to highlight the need for communities to be involved in the ‘unpacking’ of operational and organising concepts. Another issue is that the concepts upon which CBRNM and decentralisation are based lack indicators.

The sectoral compartmentalisation of ministries, and the reluctance to decentralise authority have had an impact on areas needing coordinated efforts and interministerial collaboration. These in turn have impacted on the implementation capacities of both central and local governments.

2.3 Implementation Capacity of GoB and Local Authorities

The inadequate implementation capacity in Government has been identified as one of the main bottlenecks in delivering services nationwide. This problem was identified during the mid-term Review of National Development Plan 7. This stated that the lack of adequate monitoring and
accountability throughout Government was a major contributor to the large gap between policy decisions and their implementation. This has disadvantaged those living in rural areas through lost opportunities in employment and income generation. (GoB National Development Plan 8-1997-2002/03: 89).

This gap is such that at the end of each financial year much of those funds budgeted for various projects and programmes remain unspent, as there was insufficient capacity to undertake the activities as planned. According to White et al, most of the experienced district level officials whom they interviewed, whether in the councils, district administration or Ministry of Agriculture insisted that the district planning process is more centralised today than it was 10 years ago. They argued that an efficient, decentralised, consultative planning mechanism had been transformed into a centralised, hierarchical system.

Such a shift in policy had far reaching implications for the implementation capacities of the district councils because "district level planners and implementors were changed from decision makers into executives". The results for rural development have been severe. For instance, in NDP 5 the rate of actual development expenditure fell to 55% of that planned; while councils' expenditure targets for the period 1986-89 were 14% below actual expenditure for the period 1979-85, which was itself at a level below the councils' capacity to implement (Egner 1987). It is not surprising that GoB can afford to save so much money in offshore banks - at the moment of writing it stands at .23 billion Pulas.

The GoB is said to be concerned about this situation. However, voicing such concerns and doing something concrete about them is quite another thing. Current indications are that the GoB has no plans, nor the desire, to change the situation. To be sure, NDP 8 points out that district councils are largely responsible for the co-ordination and implementation of development programmes, but many of the projects that are implemented in the districts are under the authority of the Central Government, and funding for these is also mainly derived from the Central Government - (NDP 8, 1997/8 2002/8:88).

The failure of GoB to implement programmes and projects and the resultant hardships to rural communities partly explains the rise and development of the non-governmental (NGO) and community based (CBO) sector to fill the gaps left by the post colonial state. The relationship between the GoB and development NGOs/CBOs can be characterised as ranging from mild hostility - to outright hostility. There is no existing policy that informs the workings of these two sectors.

2.4 Government Ministries and Departments reluctant to share information and experience

In section 2.1 we discussed the ministerial/sectoral pattern of governance and practice - that it encourages not only specialisation but also centralisation of resources, and sectoral implementation of projects and programmes. Some ministries consider themselves more important than other ministries and this in turn breeds ministerial and departmental rivalries and even jealousies. Such a structurally poisoned atmosphere is altogether without incentives to facilitate mutual sharing of information and experiences.

'Knowledge is power,' and conversely those without knowledge are disempowered. Those who possess knowledge use it to safeguard their already powerful positions from those who are perceived as wanting to change the balance of power. The essence of elitism is that elite possess knowledge of greater importance than their counterparts or resident communities. Hence, such elite often hold the false belief that they can "develop, civilise, and modernise" rural people.
The Technical Committee in the CBNRM tendering process, for instance, bears the hallmark of this attitude and uses it to play a role in crucially disempowering resident communities. The Technical Committee, facilitated by the DP and consisting of appropriate members of the District Development Committee was established to review all joint venture proposals for each community, and to advise the Review Committee on the technical aspects and merits of each proposal.

The irony of this is that the DDC is itself composed of elite who are steeped in the ministerial/sectoral system described above and who either freely subscribe or are forced by structural circumstances to subscribe to essentially anti-people development paradigms. The spirit behind the creation of the Technical Committee was good. In practice however, it both robs resident communities of expertise and subsequently further devalues them for not having such knowledge. This contradicts the spirit of CBNRM that says that there must be local participation in every phase of natural resource management. Communities have no representation on this important committee. Is there anything that is discussed and decided at Technical Committee meetings that is beyond the comprehension of the resident communities? In the interests of skill transfer and transparency, community representation should be seriously considered. Even according to the DP Implementing Handbook, citizens should be involved in all phases of management, including technical plan preparation, decision-making, implementation, and monitoring. Involvement should occur before final decisions are made and technical information should be available in appropriately simplified forms.

The institution of Kgotala has played, and continues to play, a crucial role in disseminating development education, ideas, information, and information on CBNRM specifically, to rural communities. Its efficacy has never been appraised. The next section looks at Kgotala and related community issues.

3 CBNRM and Resident Communities

3.1 Kgotala - Inappropriate Structure for Effective Consultation and Education

The ‘indigenous’ Kgotala structure serves a variety of functions. It is used as means to disseminate information; it acts as a traditional court and it is a means by which orders by chiefs and ministers are given. Here, anybody’s comments/inputs are welcome, regardless of her/his social standing in the community - if one is given the permission/recognition to speak! Indeed, its seemingly democratic nature has led to its being abused by those who wield power such as ministers, high-ranking public servants and chiefs.

Ministers and civil servants have used and are using the Kgotala to provide communities with information - often confused for consultation. The information could be on development policies, programmes and even educational activities, and holding community elections for NGOs/CBOs.

The Kgotala’s role in development and in the technological world should be appraised for its appropriateness. For instance, most of the CBNRM activities as a development intervention are carried out at Kgotalas. There is nothing wrong with this - just so long as the information being given is not too “much”, too abstract, too complex and too technical. However, if the information given to communities - most of whom are illiterate - is complex, technical, abstract and involves change of attitudes and behaviour - the Kgotala is not an appropriate institution or vehicle for this.

The institution of Kgotala needs to be appraised/revisited to determine its suitability and appropriateness not only to the present day needs of the rural communities but also its efficacy as an educational structure. Is Kgotala suitable for technical, abstract, complex educational messages? Some
concepts do not translate into the local languages, used in Kgolas (i.e. "sustainability"). Needless to say however, there are situations where teaming can be properly facilitated through “seeing and doing” - frequent reinforcement, repetition, and drill. These are especially important because Kgola is attended by anyone, regardless of their education, social standing, age, or sex. Experience shows that the most vocal participants in Kgolas are either educated people or those pushing a particular point of view.

3.2 Heterogeneity of Communities

Botswana during and after colonial rule followed a capitalist economic system. This capitalist mode of production made Botswana the miracle of economic growth it is today. However, this was not achieved without social costs. One such cost was the distinction between the urban centres and rural areas; those who wield power and influence, either because they are wealthy or more educated, on the one hand, and those who are marginalised, poor and illiterate on the other. These differences are reproduced throughout Tswana society, be it at national level, in the towns, districts or villages. Another category that is neither educated nor wealthy is minority indigenous groups, such as Basarwa/Bushman. This latter category is resident in the National Parks, Game Reserves and Wildlife Management Areas (WMAs) and tends to be dominated and despised by other Tswana ethnic groups. The situation is akin to apartheid South Africa, with whites perceived as the superior and wealthy race, and blacks as inferior and poor race. In Botswana it is black racism. The Basarwa have been the victims of land disposessions and virtual impoverishment by the dominant groups (Hitchcock 1996, Gaborone 1997).

The discrimination, land disposessions and violation of their human and land rights has led to some hostility on the part of the Basarwa towards not only the state but also to civil servants from ethnic dominant groups. This has implications for development interventions from outside these communities, such as CBNRM. However, development literature and development theories and practice tend to ignore these social issues, as they are 'politically sensitive'. Expatriate development workers are scared to address these for fear of loosing their resident and work permits. Whilst the Tswana elite are scared they may jeopardise their promotional prospects within the civil service. This is despite the fact Botswana considers itself the most democratic country in Africa. Not surprisingly therefore, development workers eschew reporting on these political issues. For instance, rural communities are described as classless; consequently it is assumed that their homogeneity will always guarantee 'social consensus' of how natural resources should be managed sustainably.

Redclift (1992:47) argues that by identifying points of tension in local systems of power and comparing their complications with different groups, often the dispossessed of different epistemological systems, we will be able to highlight the changes through which the environment becomes the object of economic, social and political dispute. The articulation of demands governing the use of natural resources inevitably means the exercise of power and resistance to it.

It is therefore important to conceptualise power as a resource in the same way we view natural resources. Their common feature is that various groups and classes in the community and others from outside the community contest for them. For this reason, local power structures should be problematised within the context of the CBNRM projects in Botswana. Redclift (1994) cautions that unless we analyse specific power structures in relation to the environment, we are in danger of being too sanguine about the potential of negotiation and agreement. We are in danger, in fact, of drowning in our own rhetoric rather than identifying the underlying political process whose understanding would facilitate the formulation of sound and responsive environmental policy and practice.
When sustainable environmental development is considered within the South-North framework, attention should be given to the contradictions imposed by the structural inequalities of the capitalist global system (see Brundtland Commission 1987, Redclift 1987).

Such inequalities have a bearing on the type of "partnership" forged with communities on the one hand and GoB on the other; the subjects to which we now turn.

3.3 Partnership: A Requisite for Sound and Sustainable Environmental Management

Experience suggests partnership between unequal partners is very hard to build and maintain. When a particular constituency feels relatively powerless and incapable in relation to another constituency it is very difficult to build bridges or partnership between them (see Tandon 1990).

Tandon (1990) argues that partnership in social development cannot function if the very processes and mechanisms of the social development initiatives do not incorporate and believe in partnership "per se". In the case of the CBNRM it is important to stress the need for education - not only for the communities but also for the development elite too. This makes educational sense since ecotourism or CBNRM is a new development initiative for all involved. Development elite should be assisted to unlearn the past elitist practice of regarding themselves as the fountains of all knowledge. In reality resident communities are the depositories of much of this knowledge.

The process of mobilising local participation for CBNRM initiatives depends very much on a consultative problem solving approach. Approaches like participatory action research or participatory rural appraisal used by the DWNP are good starting points. Such people centred and problem solving approaches proceed from the assumption, a correct assumption it must be stressed, that poor rural people have more to contribute to the development process than just their money or labour. They have ideas, management skills, technical insights and organisational capabilities needed for development (Uphoff, 1992: 12).

For as Uphoff (1992) correctly points out, the problem solving approach is a continuous one, and though it is proposed here to start at one or more local levels, it is expected to expand and include higher ones as well. Once groups, communities or localities have made serious efforts to solve priority problems with their own initiatives and resources, they are in a strong position to get assistance from higher levels to deal with problems that cannot be solved locally. But communities should feel that they are equal partners with higher institutional levels in shaping the form, content and pace of the problem solving process.

For instance, one of the aspects in a CBNRM partnership, would have been the joint development of social indicators for some of the concepts used: such as economic empowerment, participation, conservation awareness, confidence building, local control, quality of life, etc. The development of indicators to measure quantitative or qualitative aspects of CBNRM projects was not done. It is not easy but it is doable (see Weiss, 1972; Merton et al, 1979; Patton, 1987; Marsden and Oakley 1990).

People centred qualitative approaches, by their nature, imply a continuous, close contact with participants of the project in their own environment. It therefore discourages detachment and distance precisely because those processes are studied as they occur (Marsden and Oakley 1990). Therefore there is need to rethink our evaluation procedures, including rethinking adherence to dominating conventions of formal research design and elaborate statistical procedures.
3.4 Genuine Community Participation for CBNRM


In tourism, participation that is limited to low levels of information sharing and mock consultation often leads local communities to confrontation with tourism developers or government authorities (Guevara 1996:25). As Guevara (1996) argues, often “community education” has been limited to the benefits they can receive from tourism, or from a particular tourism development. The Chobe Enclave ecotourism development, for example, is often presented in Botswana as a success story. And indeed, the concerned communities are usually benefiting financially from the operation. However, such information sharing cum participation is seldom really empowering precisely because there is only limited participation and prolonged educational processes.

Community tourism is recognised as a major requirement of ecotourist planning. Genuine participation will take place only when resident communities feel that their knowledge and ecological practices form the building blocks of a new “order” such as CBNRM. Both local and expatriate “development experts” devalue the contribution of local knowledge to environmental planning and policy, and simultaneously assume that local people should “participate” in sustainable natural resource management projects. Development experience shows that it tends to be very difficult for local people to embrace and promote visions and dreams of other people that they played no part in formulating.

Poor rural people frequently resist subjection to a worldview that they cannot endorse. This is in much the same way that people in developing countries often confront “totalising” theories such as psychoanalysis or Marxism. Development professionals working in the South frequently have recourse to a body of techniques for intervening in the natural environment which have been largely derived from the experiences of developed countries. “Environmental managerialism” is one way of describing these techniques (Redclift 1992). The refusal to be subordinated to a worldview dominated essentially by alien values and assumptions marks resistance against subjection. Redclift (1992) notes that people who are relatively powerless because their knowledge systems have been devalued - this often because they do not yield economic power - resist in ways which look like passivity. That is, they may keep their own counsel and appear “respectful” towards powerful outsiders, but they simply fail to cooperate. Indeed, this is survival strategy commonly employed by the marginalised and impoverished Basarwa.

In the case of the Basarwa, the calculated “respect” they show has given GoB officials a false picture of social agreement and consensus. So it comes as a surprise when they later claim to the same officials that they were never consulted about issues. For community participation to take place it has to be accompanied by extensive community education and not one-off Kgotla meetings as is common in Botswana.

In spite of the fact that CBNRM philosophy and practice are new in Botswana, there is an accumulating body of knowledge from which we can draw tentative lessons. These lessons are discussed in the following section.
4. Lessons

4.1

Development interventions, such as CBNRM, are not only about outcomes, they are about process; processes which may take a long time to develop. They are also unpredictable because they involve both the development of new knowledge and attitudinal and behavioural changes. These then call for multidisciplinary approaches and responses.

4.2

Material benefits accruing from CBNRM projects should not only be shared equitably but should be linked to conservation awareness building. This link is not forged at the moment, partly because there are no indicators for this objective i.e. building conservation awareness. Concerned constituents should draw such indicators. Others have argued that the identification of qualitative indicators should begin with a detailed analysis of power and its distribution and use within the project context. Indicators could then be derived from the changing nature and characteristics of that power (see Marsden and Oakely 1990:53). For example, indicators such as the control of civil servants in vital decision making regarding CBNRM; peoples exclusion from discussion and debate on local development initiatives, or people's unwillingness or even fear to take action or to question the basis of some policies and decisions should be developed. We cannot do without such indicators.

4.3

The issue of shared and locally derived or operationalised development values is a case in point, which should be negotiated with constituents in the resident communities. Values such as consultation, democratic rights, local control, empowerment, local participation, power sharing, democratic leadership and gender equality are important in the assessment of qualitative aspects of social development. But they should not be imposed on people. There should be shared meanings of these values with catalysts, facilitators and educators.

4.4

The spirit of partnership is crucial in CBNRM, particularly considering the history of conflict between rural communities, specifically the Basarwa, and GoB officials including the DWNP prior to the introduction of CBNRM. Partnership requires sharing of visions, dreams, hopes, fears, aspirations and frustrations amongst all members of the project constituents.

4.5

While development officers of various sorts have attempted to inform the resident communities about various development programmes using the Kgotla institution as the forum, it is clear that one-off information giving sessions/lectures at the Kgotla is not sufficient, and indeed the institution of Kgotla should be seriously appraised.

4.6

Problems of a political nature should be addressed as political problems, not as technical problems and/or blaming the victims of political control and manipulation. If the civil servants cannot deal with these problems, academics of repute should be called in to undertake research on these. The
case in point is the issue of decentralisation in which the Gaborone based civil servants and ministers are unwilling to relinquish power to the resident communities in pursuance of CBNRM policy. A sober conclusion was made by White et al (1993:56) with regard to decentralisation:

"GoB should accept that the price of continuing centralisation of power over the economy in the hands of Gaborone based civil servants will include continued rapid growth in rural poverty, rising urban migration (3% annually in Botswana) and rural discontent, and in the long run, reduced political stability...Rural poverty will continue to grow until such time as these constraints are substantially reduced and this will entail a massive transfer of resources on a scale not yet contemplated in Botswana, from rich to poor, from urban to rural areas. We recognise that income and asset transfers entailed in the removal of some of these constraints will be unpopular in influential quarters, and will call for hard political decisions" (my emphasis).

Centralisation is inhibiting inter departmental cooperation at the local level, with dire consequences for the rural poor and marginalised constituents in the CBNRM projects areas.

4.7

One of the lessons from the ongoing CBNRM projects is the recognition that civil servants are not well placed, by virtue of being civil servants, to assist resident communities in areas such as empowerment, local participation and general transfer of power from themselves to the communities. The Trusts that have been formed in the CBNRM projects are a step in the right direction for the development of a vibrant civil society. The role that has been played by the NRMP in the DWNP is a commendable one, indeed without which CBNRM could not have advanced this far. Interestingly, because of its external funding, it tended to play a crucial independent role in catalysing the development and experimentation of CBNRM projects. Civil servants from dominant groups of the Tswana society are not well placed structurally and ethnically to carry out some of the sensitive aspects of the CBNRM.

4.8 Challenges and threats to CBNRM

One of the chief threats to an intervention such as CBNRM is the tendency for central government to regard the issues of land reform as exclusively their own concern, and to see communities affected by these reforms as bystanders or passive beneficiaries.

Another related threat to CBNRM is the fallacy promoted by central government and its technocrats that lands tenure is a technical rather than a political issue. Properly conceived land tenure should be regarded as a social-relations issue since it touches on various modes of existence of rural communities and, as a resource it is contested for. Therefore, affected constituents should negotiate for land tenure and land reforms.

The current land reforms linked to CBNRM say nothing about women's rights because its tone is so gender neutral. Factually, it is the women who harvest natural resources, and they are also often responsible for the transmission of indigenous knowledge and practices to the following generation.

Related to the above threat is the conceptualisation of much talked about empowerment in the context of CBNRM. A lot is assumed in terms of definitional consensus on the concept of empowerment. Yet no consensus exists. Land redistribution is a means to both land and empowerment for rural communities. As someone aptly put it, empowerment has mathematical implications. It entails
subtracting from those who presently 'have' and adding to those who presently 'do not have'. Even if the aim is to equalise the equation - a win-win situation - those who currently enjoy disproportionate power relative to the others will resist or resist this action (e.g. technocrats, bureaucracies, ministers and politicians).

Power is a resource and as such it is contested for. There are cases of retired civil servants or failed politicians who want to use CBNRM as their power basis, and therefore bring power struggles and political party conflicts to the resident communities. This pattern is clearly developing in the Delta and is causing concern. Therefore, heterogeneity is a political reality that needs to be discussed and not assumed away, as is currently the case with CBNRM.

Poverty should be defined broadly. It should be defined not only in financial or material terms, but also in terms of a lack of information, causes of underdevelopment and decisions not made by the affected constituents themselves but by outside technocrats and bureaucrats. As long as decision-making lies with self-appointed bureaucrats or "community spokesmen," even communities receiving straight money from tourism remain impoverished. Indeed this set-up makes a mockery of the decentralisation and devolution of authority envisaged in CBNRM.

Failure to recognise the existence of multiple forms of indigenous land tenurial systems and their associated indigenous knowledge systems is another threat to CBNRM. Such complete disregard not only alienates communities from CBNRM intervention, but in fact works towards its demise (e.g. "illegal offtake for the pot," or not attending Kgotla meetings as a silent protest.

Another serious threat to CBNRM in Botswana is lack of secure land tenure of a long duration confirmed through written documents. The current legal life of CBNRM in the country is 15 years. Yet in bigger villages, individuals are given leases up to 55 years. Why this discrepancy? The duration of these tenurial rights can negatively affect joint partnership with the private sector. In fact, the private sector is, in the first instance, given 18 months, after which they can reapply for continued joint ventureship. The spirit behind this conditionality was good. It meant to protect communities against unscrupulous private sector companies (and there have proven to be many in the Delta). Be that as it may, this duration is a disincentive to long term investment in joint ventureship. Local authorities are more likely to be successful in natural resource management where the resources is "bounded." This means where a resource is known and predictable rather than shifting and variable. And it is more likely to be successful where the users themselves are an identifiable group or community with its own authority structure (Uphoff 1992:9).

Lastly, different types of benefit distribution should be experimented with. Building a classroom or a clinic with the benefits from tourism is not a bad thing. However, this is the responsibility of the local authorities. The communities should experiment with various forms of "motshelo" or Crimean Bank revolving loaning system so that those who want to venture into businesses could use such a facility. Direct benefits to community members will improve conservation awareness. We should not forget that not all people use clinics, nor do they send their children to school. Schooling is free but not compulsory in Botswana. The aim should be to promote sustainable natural resource use and not to build clinics or schools, strange as this may sound to some altruists!

Having said all this, it is important also to note that CBNRM, when well implemented, holds the future not only for resident communities but also for sustainable resource management. Those external agencies that are concerned with sustainable and equitable economic development should support CBNRM initiatives.
References:


The History of Land Use and Tenure in Zimbabwe from 1900: A Case in Social Engineering
Dr Joseph Zano Zvapera Matowanyika
ZERO
Zimbabwe

1. Land Tenure and Land Use: Socio-Economic and Political Tools

- resource tenure is about social relations
- land use is a contrived situation and part of social engineering
- Zimbabwe's land use and tenure systems over last 100 years about its social political and economic history
- the pattern is of politically engineered and legislated skewed distribution of opportunities
- many efforts from 1980 have been about changing these
- sustainability in the country must address these social and political perspectives
- land is the lifeblood of Zimbabwe's politics

2. Governance and Land Distribution in Zimbabwe

2.1 1890 to 1922: The Beginnings of Racial Segregation

British South Africa Company (BSAC) and forceful land occupation
a) The Land Commission of 1894
   - set aside 2 native reserves
b) Southern Rhodesia Order-in-Council, 1898
   - extended concept of native reserves to whole country.
By 1902 there were a total of 96 African reserves.
c) Estates department, 1908
   - to look after the land requirements of the settlers.
d) Native Reserve Commission, 1914 - 1915
   - reviewed the amount African land
e) The Native Reserves Order - in - Council, 1920
   - African reserves under British High Commissioner

By 1922, Africans moved around significantly and confined to smaller land. Formalised segregation in place.

2.2 1923 to 1953: Consolidation of Formalised Segregated Land Use

1923: Settler self rule, period to 1953 consolidated racial segregation
a) Morris-Carter Land Commission, 1925, very significant commission
   - concluded that segregation was most desired arrangement
   - led to the Land Apportionment Act (LAA) passed in 1930
b) The Land Apportionment Act, 1931.
   - by law 51% of country assigned for European settlement and about 30% given to Africans.
   - some land set aside for future
   - urban land assigned for Africans
   - Native purchase areas created
Consequence of the LAA
- set a rigid land allocation structure;
- led to further movement of Africans;
- contributed to increased degradation and reduced productivity;
- left inadequate land for the indigenous people;
- led to extensionist solutions;
- began destruction of indigenous agricultural technology and know-how;
- introduced centralised planned villages;
- led to the promulgation of the Natural Resources Act of 1941, the cornerstone of natural resources management to date.

c) The Native Land Husbandry Act, (NLHA) 1951 called for:
- land resources conservation and good husbandry;
- promoted notion that correct land conservation could only be promoted by private individual landholding;
- limited animal stocks;
  -allocated arable and grazing land;
  -communal use of all land outside arable land;
  -set aside land for towns and business centres.
- Act consolidated African political resistance
- Repealed in 1962 without much of it being implemented.

The period from the 1920s to the early 1950s consolidated European rule and institutionalised segregation. It set the parameters within which much of the land use to date was determined.

2.3 1953 to 1965: Expansion of Industrial Base

- Major investment in water, energy and urban infrastructure
- The land issue galvanised African political resistance

2.4 1965 to 1980: Demise of European Rule

a) The Tribal Trust Land Act, 1969
- enacted to stabilise the land uses and boost agricultural production in rural areas.
- sought to enforce mechanical conservation works
- attempted to localise in the chiefs the process of land allocation
- repealed and replaced by the Land Tenure Act of 1979 which was in turn repealed in 1982 and replaced by the Communal Lands Act.

b) The Regional Town and Country Planning Act, 1976
- regulated land use in urban areas
- directs the manner in which land could be subdivided.

2.5 1980 to-date: Post Independence Zimbabwe

a) Emphasis on Resettlement
- need to redress imbalances in land allocation
- land purchased for resettlement of African farmers.
  -Model A: village settlements with individual land for family arable and allowances for grazing
  -Model B: commercial farms converted into producer co-operatives.
  -Model C: developed nuclear commercial estates with out-grower producers
  -Model D: provides paddocked grazing areas but no settlement of farmers on neighbouring ranch land.
Resettlement Programme not entirely successful:
- limited resources to purchase land
- insufficient technical services and infrastructure.

Nonetheless, some changes in land redistribution and settler programme for commercial farmers commenced

b) Endurance of Pre-Independence Structures
- technocratic approaches prevail
- regulations on land subdivision remain strong and serve interests of large-scale commercial farming areas.
- inefficient land allocation remains - hence mention of economic incentives and disincentives e.g. land taxes

c) The Land Commission, 1993 makes six major conclusions:
- complex nature of land tenure noted and cautions against saying any one form is good or bad;
- notes the highly centralised nature of governance stifling people's self innovativeness;
- suggests that if population pressure is not addressed by resettlement, any change in land tenure will not promote positive attempts to manage the environment;
- calls for community empowerment in resource management;
- notes that the skewed nature of land distribution is not politically, socially and economically sustainable
- calls for more coherent policy on supporting small-scale agriculture.

It calls for a number of specific actions:
- long term plan to cater for 80 million people in 60 years;
- stimulate both public and private investment in land improvement;
- facilitate natural resource conservation;
- allow greater access to land and promote more employment;
- facilitate rural capital formation;
- revitalise agriculture as engine for development;
- facilitate social development;
- facilitate legal, administrative and institutional structure that is people based.

There are moves toward implementing a number of these recommendations: e.g.
- communal tenure and state dejure ownership remain
- existing freehold title on commercial land remains
- acceptance of traditional village as basic social organisation accepted as administrative unit for land resource management guided by an elected village assembly
- concept of perpetual usufruct (not ownership) in villages accepted for identified rightful owners
- boundary registration by village and land registration certificates for arable and residential for households while grazing is held in trust by village head accepted
- some recognition of inheritance rights for widows and customary systems expected to intercede
- local arbitration processes through customary systems adopted
- infrastructure development in rural areas prioritised
- long term leases (99 year) with option to purchase after 10 years recommended
- model A schemes to be planned for redemarcation into viable self-contained farms
- concept of agricultural land tax adopted
- entry by indigenous black farmers into commercial agriculture being worked on
- principle of one-man-one-farm adopted and means of effecting this being worked on
- on farm labour, commercial farmers working on some measures
- agreed that a land act which is all encompassing be promulgated to handle many facets as above
- Ministry of Lands and Water and a Department of Lands are in place
- a system for a comprehensive land database is being worked on
3. The Place of the Urban System in Zimbabwe

Historically, the urban system in Zimbabwe was created to service the economic requirements of settlers. The urban system plays certain crucial roles:

a) as the major industrial bases;
b) servicing the farming and mining systems;
c) as administrative centres;
d) as transportation nodes;
e) as growth points in communal areas; and
f) as a major source of investment for the rural areas.

4. Issues from the Land Use History of Zimbabwe and Implications for Sustainability

a) An Enduring Central Government
   - control indicative of the enduring political role of land, its distribution and use in Zimbabwe
   - some opportunity exists in the Land Commission and government appears ready to promote some local control of land management

b) Artificially Created of Land Pressure
   - this needs to be addressed and less zoning of land use according to current thinking can be productive
   - economic principles now reinforcing social demarcations

c) Instability in Land Use Patterns
   - constant movement of most rural people has remained for a number of reasons.
   - greater stability and less threats of being moved should promote a climate better conducive to sustainability.

d) An Enduring Rural Economy
   - some serious work needed here
   - understanding the kind of mix of activity that can kick-start the rural economy into entrepreneurship needed. The basic question is what should trigger the rural economy toward being part of the national economy?

e) Determinants of Land Use and Land Resource Allocation in Communal Areas
   - understanding how people allocate and use land in the current situation is needed
   - giving people a meaningful hold on determining land allocation is also essential

f) Special Resource Niches and Key Resources
   - a better comprehension of these, their control and distribution are needed.

g) Indigenous Controls on Land and Resource Uses
   - need to better understand the importance of the control systems that are in traditional Zimbabwe that help in promoting orderly resource use.
   - understanding common property resource regimes essential;
   - comprehending people’s own innovativeness and investing in these should also help

h) Viability of Alternatives
   - seeking viable alternatives, and not just in the urban systems, will also help.◆
Decentralisation in Campfire: Current Issues and Constraints
Taparendava Maveneke
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Firstly, I would like to draw a distinction between decentralisation and devolution. Decentralisation is related to the process of enabling lower tier structures of a private or public organisation to handle some of the issues relating to the running of that particular organisation. This could be in the form of 'decongesting' or 'deconcentrating' certain activities from the centre to the periphery. For example, central government can allow provinces to deal with certain issues on the centre's behalf. In this case the province is an arm of the centre. The problems with such decongesting or deconcentration is that personnel at the provincial level are mere spokespersons for the centre and so problems related to delayed decision-making are still evident. Distinct from this, there is the process of devolution. This means that the centre has relinquished responsibility to the periphery, ensuring that lower tier structures have the flexibility and authority to make decisions. The advantage of devolution is that the lower tier structures are able to make decisions taking into consideration local cultural, political and social considerations. Devolution is a political process meant to ensure equitable political, economic and social participation by the citizenry.

Zimbabwe's policy on decentralisation can be traced to the 1984 Prime Ministers directive which created various administrative structures from the central government through to the village level, as detailed in Box 1. The policy-making structures are elected; those involved in technical decisions appointed. They are meant to facilitate communication and local participation.

| Box 1: Institutional Arrangements Resulting from 1984 Prime Ministers Directive |
|-----------------------------------------------|-----------------------------------------------|
| **Mainly Technical**                         | **Mainly Policy**                             |
| -National Level-                             | -National Level-                             |
| Permanent Secretaries,                       | Parliament Cabinet                            |
| National Allocation Committees               | Provincial Council                            |
| Provincial Development Committee (PDC)       | Provincial Council                            |
| District Development Committee               | District Council                              |
| Ward Development Committee (WADCO)           | Ward                                          |
| Village Development Committee (VIDCO)        | Village                                       |
| Household                                    |                                               |

The Communal Areas Management Programme For Indigenous Resources (CAMPFIRE) is a decentralised programme for sustainable utilisation of natural resources. Successful implementation of the programme is dependent upon local participation as the empowerment of local communities is the key indicator for success. The programme seeks to entrench the role of local people in natural resource management through the utilisation of local skills, particularly Indigenous Knowledge Systems (IKS).
Participatory institutional mechanisms for resource management are established from the village to national levels through the creation of village, ward and District CAMPFIRE Committees and the CAMPFIRE Association at the national level. The Association represents the focal point for national advocacy and networking.

In most cases these participatory CAMPFIRE institutions dovetail with the local government structures. The level of independent decision making varies from one local authority to another, but in most cases there is an element of co-management between the Rural District Councils (RDCs) and the local communities. For example, in Nyaminyami District the ward committees work hand in hand with the district committee. Key management functions, such as Problem Animal Control, the contracting of safari operators and auditing of ward CAMPFIRE accounts, are done by the RDCs; whilst the ward is responsible for selecting projects in conjunction with local people. Co-management of this nature has its own advantages and disadvantages. On the one hand it can promote a fruitful, co-operative spirit between the RDC and the community. On the other hand it can lead to domination by powerful local interests, such as local politicians, safari operators and other commercial businessmen and national politicians with vested local interests.

CAMPFIRE is also promoting the decentralisation of decision making with regards to local investment. Rather than the centre deciding on the needs of the periphery, projects are now chosen and implemented by the local people. Initiatives such as grinding mills, football clubs and drought relief services are not normally in the public sector investment portfolio, but in CAMPFIRE districts these are now the norm. Districts such as Guruve, Muzarabani, Tsholotsho, Binga, Chipinge and Gokwe North have invested in such initiatives as well as others such as schools, clinics, and water projects. The most important point here is that the rural communities are able to stamp their authority on decisions over what projects to invest in. This decision making by the lower tier structures leads to enhanced accountability and transparency amongst the stakeholders. For example, budgeting for CAMPFIRE projects is done at group meetings to ensure all people participate. An additional benefit for rural communities is the generation of local employment such as game scouts, game guards, bookkeepers and CAMPFIRE managers.

The process of decentralisation is enhanced by the transfer of skills being undertaken by Zimbabwe Trust, World Wide Fund For Nature (WWF), CAMPFIRE Association, Department of National Parks and Wildlife Management (DNPWLM) and Centre For Applied Social Sciences (CASS). This is important in that transfer of decision making to lower structures must be accompanied by requisite skills. In many areas, locals utilise participatory planning and needs assessment tools, such as Participatory Rural Appraisal (PRA), to undertake their own assessments of their needs. Providing these tools to local communities leads to real rural development as these people are now empowered to make meaningful decisions concerning issues that affect them.

Decentralised management is further enhanced where local project committees are set up to manage grinding mills, water points and social projects. Local communities are now also becoming involved in the technical aspects of resource use management. With the assistance of DNPWLM and WWF communities are now becoming involved in quota setting, natural resource inventories and resource monitoring in their respective areas. When communities are given these responsibilities they appreciate the value of natural resources and this helps natural resources conservation considerably.

The decentralisation of resource management has also enabled local level negotiations to resolve various ongoing conflicts over resource use. For example, in Muzarabani district, local communities have resolved land use conflicts with Mvurwi commercial farmers through neighbourliness and constructive dialogue that has become characteristic of CAMPFIRE.
Various issues have emerged during the implementation of CAMPFIRE that may provide insights into the issue that we are discussing today, that of appropriate tenurial regimes for CBNRM. One obvious observation is that within CAMPFIRE areas, communal people do not own land. People have usufruct rights on the land and the natural resources found upon it but the land itself remains the property of the state. Consequently, property rights are poorly defined. This lack of definition can easily degenerate into an open access ‘free for all’ situation, in which there is no obligation or incentive to collectively manage and husband resources. Not surprisingly, we see that encroachment on land reserved for wildlife is a growing problem. This is due to increasing population pressure and the predominance of agriculture among the rural people. This is an issue that has direct implications for the long-term future of CAMPFIRE.

The legal status of the wards and villages involved in CAMPFIRE and the institutions within these has yet to be defined. Wards and villages are political entities and their geographical entities have been vague. Moreover, wards and villages cannot sue or be sued, making it risky for them to enter into legal contracts with safari operators in their respective areas. Many people argue that attempts to legalise the villages and wards may fragment the nation state, to the dislike of politicians. Others, however, feel that the legal status of villages and wards can only promote rural development as ‘micro-units’ such as these are easy to develop and administer. Currently the RDC, which holds ‘appropriate authority’, is the legal entity with control over the wildlife resource. This vesting of ownership with the RDC has affected the devolution process.

Lack of a comprehensive policy framework for natural resources management leads to a fragmented and uncoordinated approach that constrains the potential effectiveness of CAMPFIRE as a conservation and rural development tool. Whilst devolution of control over wildlife to the RDCs has been affected through ‘appropriate authority’, control of other natural resources, such as forestry, remains vested in the State. This limitation of Appropriate Authority to wildlife has been one of the major criticisms of CAMPFIRE. It is argued that without habitat there will be no wildlife. Actions are being taken to address this. For example, the current thrust of the Biodiversity Support Action Programme (BASP) is aimed at dealing with natural resources in a holistic manner. Such a holistic approach can only enhance CAMPFIRE. It will also enable more rural communities to become involved in CAMPFIRE even if they do not have mega-fauna such as elephants, lions and buffalo. This policy shift, along with the role of the decentralised structures, is now enshrined in the new Environmental Bill that is integrating efforts of the private and public sectors.

The issue of who benefits has produced controversy. The level at which benefits are received can either be the village or ward, but the most important issue is that incentives must be tangible. Some analysts feel that local power equations are important bundles of incentives. Some feel that cash dividends are viable while others would opt for projects. What is significant is that communities make informed choices and that RDCs should act as facilitators and not attempt to co-opt or coerce decision-making over benefits.

However, those wards and villages that meet the costs of living with wildlife resources would like the principle of exclusion to prevail, otherwise there would be the problem of ‘open access’ or ‘free riding’. Granting of powers of exclusion to communities would ensure that they could identify themselves as custodians of the natural resources. For example, in Hurungwe, local people oppose new settlers who are perceived as intruders who will deplete the resource base and so lead to the impoverishment of the existing inhabitants. CAMPFIRE is based on the principle that the smaller the unit of proprietorship the greater the satisfaction that stakeholders derive. Russell Taylor of WWF Zimbabwe maintains that “Out of an escalating ecological disaster, CAMPFIRE creates a win-win situation. When people win, the habitat wins and animals flourish”. This emphasises the importance of keeping a viable carrying capacity for certain fragile environments where CAMPFIRE operates.
One of the key issues that CAMPFIRE has to battle with is options for land use. The Member of Parliament for Matobo, Mr Ananias Nyathi was quoted in the Herald, 17 June, 1998, P. 4, saying, "The establishment of CAMPFIRE is not in the interest of the cattle farmers here. Large tracts of grazing pastures could be lost to this programme and this would be a setback to cattle farming which forms the mainstay of villagers in this drought prone district". This highlights the potential for conflict between cattle barons (not necessarily poor local people) and the local peasants. Politicians could facilitate CAMPFIRE, but where it does not promote their vested interests, they retreat, potentially leading to disaster for the programme.

For the foreseeable future, CAMPFIRE will battle with the whole issue of 'sustainability'. The word has been batted backwards and forwards, but for it to have meaning it must relate to the whole issue of social sustainability, particularly with local level institution building. When local institutions are strong, they can negotiate meaningfully with central policy makers and bureaucrats for further devolution of power to villages. This political process requires a policy environment that accommodates all stakeholders - private and public. Further decentralisation would also strengthen the scientific basis of CAMPFIRE by ensuring the continued integration of IKS into the programme.

In conclusion, CAMPFIRE has effected significant changes in wildlife use in marginal areas of Zimbabwe, but in terms of land and resource ownership, more initiatives need to be undertaken. There are external forces, such as opposition from animal rights groups, that have tendencies to invite central authorities to defend national integrity. In such situations devolutionary processes are temporarily forgotten as member states act as units to portray their common positions, such as we recently saw during the debates on elephant during CITES.
Devolution of Natural Resources Tenure in Namibia
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1. Introduction

The saddest chapter of Namibian history is the dispossession of land and use rights by colonial settlers from the indigenous people, and the resistance that followed this process. This marked the beginning of a protracted struggle for political and economic power by the majority. The indigenous people are bitter even up to this day, despite calls for reconciliation by the national leadership. Understandably, it is difficult to erase that part of the country’s history.

In the pre-colonial period, Namibians enjoyed rights to land that were conferred by widely respected traditional institutions. The advent of colonialism saw the fast and steady erosion of these rights and the destruction of institutions that supported them. The colonialists carved out huge chunks of land for themselves and designed laws to make that land private. The remaining land was relegated to second rate status, with little regard for the appropriate tenurial arrangements. This resulted in the creation of the so-called "homelands" and third tier governments. The people’s traditional rights to land were alienated, or at the very least manipulated as part of apartheid’s divide and rule tactics. All land that was not privately owned became state land. The result of this land expropriation and alienation of the people was that they exercised less responsibility over the land. Land became a government responsibility, which the government itself was to look after.

Today, 41% of Namibia is communal land (see map1) and supports the lives of over 70% of the total population. In arid and semi-arid environments such as Namibia, people eke out a living by pursuing a number of diverse land use activities and survival strategies, such as cropping, pastoralism and hunting and gathering of veldt foods. Water is a key resource around which all activities revolve. The need to have comprehensive rights over all these resources is imperative. Communal land is, in theory, under a common property management regime, but in reality this has often deteriorated to an open access regime because of the breakdown of common property management institutions. Land conflicts abound, particularly in the crowded northern communal areas.

At independence, efforts to redress past injustices with respect to land were pursued with almost activist enthusiasm. Two land conferences were held soon after independence to put land reform on the development agenda. The first conference was organised by the government and the second by non-governmental organisations (NGOs). One of the most important resolutions of the NGO conference was that the communal land system should be maintained but that the use rights should be strengthened. This ensured that tenure reform was to become an integral component of the land reform programme in Namibia. The aim of reform was to ensure that land tenure was secure irrespective of type. Secure tenure means the granting of a defensible "bundle of rights" to resources. Tenure reform in communal areas was to be based on the principle of subsidiarity. This gave more momentum to a process of decentralised decision-making with respect to resource management.

This paper is an attempt to trace the devolution of resource tenure in Namibia and the identification of factors that have enabled the process. Some experience with regards to game conservancies in Namibia will be shared. Authority on land tenure issues in Namibia is not claimed.

1 The principle of subsidiarity states that decisions on management and administration must be taken as near as possible to where activities are happening.
2. The Concept of Decentralisation and Devolution Within the Policy Framework in Namibia

These concepts are central in any democratic set up. In Namibia, a decentralised government structure is enshrined in the constitution (chapter 12 of the constitution).

It is important to be clear about the meaning of the two concepts. Decentralisation is the transfer of government functions and authority from the centre to regional government with the express purpose of bringing services nearer to the people. Devolution goes beyond decentralisation in that it involves the transfer of authority to levels below the regional government; that is, to communities through their institutions whether traditional or non-traditional. Decentralisation is a precursor to devolution. It is also possible to have devolution without decentralisation of government services. A very thin line separates the two concepts in practice.

The Government of Namibia has developed a Decentralisation Policy, the implementation of which started from 1 April 1998. The Ministry of Regional Local Government and Housing (MRLGH) developed the policy and will spearhead its implementation. In the foreword to the policy document, the Minister of Regional and Local Government and Housing states, “the aim of the policy is to provide the basis and framework for government to devolve functions, responsibilities, powers and resources to the lower levels of government”. It would appear that the official position is that devolution has not yet taken place. However, in the rest of the policy document, the two terms are used interchangeably. One of the requirements for full devolution is the decentralisation of functions (MRLGH, 1998). The policy document states the decentralisation objectives as follows:

- to extend, enhance and guarantee participatory democracy

- to ensure, enhance and safeguard rapid sustainable development

- to transfer real power to the regional and local authorities based on national ideas and values

- to improve the capacity of regional local government councils to plan, implement monitor and manage delivery of services for their constituencies “ (MRLGH, 1998).

One of the landmarks on the policy front in Namibia was the development of the long awaited National Land Policy by the Ministry of Lands, Resettlement and Rehabilitation (MLRR) which took place between 1995 and 1998. This policy laid the foundation for land tenure reform by defining the parameters. The policy makes provision for three important developments, namely; that all forms of land rights should enjoy equal status before the law; a number of tenure options is provided in order to take care of the bio-physical and cultural diversity of the country; and the need to decentralise land administration. Land Boards will be granted responsibility for land allocation, a function currently being carried out by the largely inefficient traditional leaders.

On a more sectoral front, two policies that promote the management of resources by communities were developed. The Water and Sanitation policy makes provision for the conferment of exclusive rights over water to local communities. Operation and maintenance costs are recovered and the money is managed locally by Water Point Committees.

Perhaps of more significance are the Conservancy policy and the subsequent Nature Conservation Amendment Act of 1996. The policy seeks to redress past discriminatory laws, which granted rights over wildlife to commercial farmers on freehold land. Farmers in communal areas did not have such rights, with wildlife here remaining state property.

18 My emphasis.
This policy enables communities to obtain limited and conditional but exclusive rights over wildlife found in their areas. These rights allow them to benefit financially from consumptive and non-consumptive wildlife utilisation. This should lead to improved resource management. It is a "win-win" situation, where the national objective of sustainable resource utilisation and the community objective of deriving tangible benefits from resource utilisation are achieved.

The policy states that a conservancy should be managed by members of the conservancy themselves with limited interference from the state (Jones, 1995). The rights conferred are limited and conditional in that the Ministry of Environment and Tourism (MET) has laid down conditions which need to be fulfilled before a conservancy is formally recognised and rights granted. The conditions for the devolution of rights are as follows:

a. a locally respected and representative conservancy committee made up of people resident in the area should be formed. The committee should demonstrate ability to manage the distribution of benefits.

b. a constitution needs to be drawn up to demonstrate commitment to sustainable management of wildlife in the conservancy.

c. The conservancy should have an identifiable physical boundary.

d. a defined membership is a critical condition for the conferment of rights over wildlife and tourist attractions (MET, 1997).

The approval of the policy and the passing of the enabling legislation has seen an increase in the number of communities considering setting up conservancies (see map 2). Their applications are at different stages. To date, only one conservancy - the Nyae-Nyae in Otjozondjupa Region - has been registered. The same policy recognises the need for people outside conservancies to benefit from wildlife. To this end, Wildlife Councils, which are district or regional structures, have been proposed.

Tourism and/or hunting concessions can be granted within conservancies. In a conservancy, concession rights are to be granted by the conservancy. This has been problematic in situations where conservancies were formed after concession rights had been granted by the state (Corbett, 1998). The Legal Assistance Centre is assisting communities to negotiate new agreements with concessionaires.

Worthy of note is the fact that both water point and conservancy committees are made up of local people who are selected on the basis of locally developed criteria. Civil servants may not sit on the committees in their official capacity. They can only play an advisory role on invitation. This arrangement seems to suggest complete devolution. Wildlife Councils on the other hand, are made up of officials from the MET and locals. This suggests transfer of responsibility to a quasi-government structure. This is what would constitute decentralisation.

It is important to note that the two policies promote the granting of rights to communities rather than individuals. It is not practical to parcel out resources to individuals in a communal area arrangement.
3. Characteristics of Secure Resource Tenure in Namibia

The National Land Policy provides for equitable and secure rights over resources (MLRR 1997). The rights should be defensible in a court of law. Dewdney (NAPCOD, 1996) recommends the following features, among many, should be included in a tenure reform package which is meant to promote sustainable resource use:

- **tenure should be exclusive** - that is, communities should be able to exclude non-members from utilising their resources. If there should be need for access by other communities, it should be negotiated.

- **tenure should be comprehensive** - all land resources should be covered by the bundle of rights.

- **tenure should be enforceable** - that is, communities should be able to call on the state apparatus to protect their rights.

- **decentralised allocation institutions** - to allow local institutions to allocate resources within and between communities.

- **tenure should allow mobility** - in an environment characterised by variability, mobility in its various forms is a useful strategy for survival.

- **tenure should be gender neutral** - men and women need to enjoy the same rights and access to resources.

- **multiple forms of tenure should be allowed** - this should take care of the biophysical and cultural diversity in the country.

The land policy, which is the umbrella policy for natural resource management, recognises all these features. While the policy recognises all other forms of tenure, it is silent on community or group tenure. Community tenure is envisaged in both the conservancy and rural water supply and sanitation policies as the very basis of community based wildlife and water point management. The argument advanced by the MLRR for the omission of the community tenure option is that it may foment ethnicity. The argument is based on the history of the country. The omission and the argument for it, have not been well taken by civil society in the country (NANGOF, 1996). However, one of the categories of land rights holders in the land policy is “legally constituted bodies...”(MLRR, 1997). Conservancies are legally constituted bodies. They will become corporate bodies as they develop. This is an arrangement which conservancies could benefit from, if they develop fast enough into corporate bodies. Operating as corporate bodies may make conservancies even stronger legally because they will have power to sue and to be sued. The omission of community tenure from the land policy could well be a blessing in disguise.

4. Factors Which Have Contributed Towards the Devolution of Rights Over Resources

There has been considerable progress in the devolution of rights over resources to local communities over the last 8-10 years. It is important to examine the processes and events that have contributed to this progress.
4.1 The demand for control and access to resources from the grassroots

The claiming of rights over land did not start with the development of policy and legislation. In fact, policy development only reacted to pressure that came from the grassroots. Local NGOs played a crucial role in creating awareness amongst communities to appreciate the potential benefits of community-based natural resource management (CBNRM). Namibia has witnessed a major attitudinal shift amongst communities who once viewed game as a liability, in competition with their major source of livelihood, cattle; whilst lions and elephants threatened their very lives. When the benefits of managing wildlife were demonstrated, the attitudes of the people changed from perceiving wildlife as a threat to an opportunity. Pressure for rights over them mounted.

4.2 Livelihood diversification

Namibia is so drought prone that a good season for agriculture is the exception rather the rule. Rural land use has been essentially “agro-centric” and yet agriculture has the greatest risk level to the farmer in semi-arid areas. Other land use activities such as wildlife utilisation are less drought-prone, yet access to the resources has been limited. The grassroots started to clamour for rights over these resources as an alternative source of livelihood, which could potentially cushion them against the adverse effects of drought on agriculture.

4.3 Experience from neighbouring countries

Information dissemination has had its place in influencing processes of devolution of rights over resources. Namibia took a leaf out of similar schemes in neighbouring countries (such as, ADMADE in Zambia and CAMPFIRE in Zimbabwe) where communal area inhabitants in similar political and bio-physical circumstances are benefiting from the utilisation of wildlife. CBNRM as both policy and practice is spreading rapidly in Southern Africa as a result of experience from other countries. It is difficult to stop a good thing from spreading.

4.4 Restoration of the “assurance mechanisms”.19

The establishment of CBNRM is viewed as a strategy for restoring the assurance mechanisms in the communal areas of Namibia. There has been poor management of resources leading to degradation or losses caused by an open access resource management regimes. For example, in the Kunene and Caprivi regions, game numbers plummeted in the years leading to independence due to poaching. Wastage of water at water points was the order of the day. There were no locally designed rules on the management of the resources. The establishment of the community game guard system and water point committees is intended to reduce the losses and create greater community responsibility as well as foster cooperative action. Policy intervention was necessary for the restoration of the assurance mechanism for common property resource management.

4.5 Rising quality of life expectations at independence

National independence ushered in a wave of rising expectations for a better quality of life for all Namibians through participation in the national economy. Most of Namibia is semi-arid to arid with little natural resource endowment for conventional agriculture. Each area, despite the low resource levels, has its own resources, which give it a comparative advantage to break into the mainstream economy. The remote north west and north east of the country is teeming with wildlife, providing an excellent opportunity for improving the quality of lives of local people.

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19 The assurance mechanism is a set of practical rules which assures all members of a community, rights over resources in a common property regime to avoid “free riding” by individuals. Uncertainty caused by the absence of assurance mechanisms encourages individual strategies of resource appropriation (Shanmugathan, 1994).
The local people have seized the opportunity and applications for conservancies are pouring into the two areas. People view a good quality of life as one of the basic rights brought about by independence. Rights over resources are the fruits of independence.

4.6 The quest for improved natural resource management institutions

The bastardisation of traditional resource management institutions and Euro-centric views on conservation (e.g. game reserves) during the colonial era did not serve the interests of local communities. The answer to this, after independence, was the development of new, devolved institutions for resource management and allocation. This is why Regional Land Boards, Conservancy Committees and Water Point Committees are being formed to replace old and discredited institutions.

4.7 The failure of government ownership and management of resources

It has become increasingly clear to government that they cannot “own” and run everything efficiently and effectively. Almost invariably, government ownership has a tendency to result in open access situations, as there is no connection between usage and responsibility. Enforcement is always weak and leads to bad relationships with local people. Government was unable to control poaching of wildlife, neither could it control the wastage of water. Game Rangers have been viewed as the enemy of the people, an image that only progressive policies will remove. With the devolution of responsibility, community game guard schemes have been established and poaching has been reduced significantly, particularly in the northwestern part of the country. Local NGOs, with funding from donor agencies such as the World Wildlife Fund (WWF), worked flat out to establish this community game guard scheme. To some extent, the devolution of responsibility over natural resources was a donor-driven issue.

4.8 The changing role of government

There is talk about the changing role of government. Government is transforming itself into an enterprise with efficiency and “less government” as key principles. The government is expected to play a facilitatory role and relinquish power and responsibility to the local people. This has added impetus to both decentralisation and devolution. This is a difficult but inevitable development, as resources to run a bloated bureaucracy continue to dwindle. It is too expensive and largely unnecessary in a democracy for government to maintain its presence everywhere. The private sector, civil society and communities will spearhead rural development including the management of resources. There are already some healthy partnerships between the private sector and local communities in the tourism sector. Such partnerships are also expected with respect to conservancies. The partnerships are only possible and meaningful where rights over resources are clear and people are in direct control.

5. Threats to Conservancy Development in Namibia

In most instances, when conservancy boundaries are demarcated, conflicts between neighbouring communities arise. This has been the case at a number of proposed conservancies in the northwestern part of the country. Boundary demarcation legitimises rights over resources within the boundary and threatens reciprocity among communities. The main issue is the difference between social and resource utilisation boundaries in semi-arid communal areas. No community can be self-sufficient in all resources. It takes considerable energy to agree on resource boundaries. For conservancies, the policy is clear that only those with agreed upon boundaries will be registered.

26 Reciprocity is a principle in common property regimes based on the fact that the distribution of resources is not equal (among all communities) in both space and time. Resources are then shared across social boundaries.
(CBNRM) policies were sectorally developed. Is it practically workable to have rights over water without similar rights over grazing or rights over game without rights over trees? The problem has been inadequate co-ordination in policy development. Every ministry would like to be seen to be formulating progressive policies. The enthusiasm is often so high that ministries forget to consult each other early enough in the process. Poor co-ordination does not augur well for policy implementation. The discrepancies between the umbrella land policy and the conservancy and rural water supply policies are a case in point.

Article 21 of the constitution, which gives Namibians the right to settle anywhere they choose, is a potential threat to conservancies. This means that non-members can move and settle in conservancy areas. The National Land Policy states that this right does not refer to land ownership or property rights. Technically, it is sensible but is not practically feasible for someone to settle in an area and desist from using local resources. In fact, this constitutional provision has been used as justification for the displacement of some vulnerable groups (such as the San) from land they have occupied for generations (Adams and Devitt, 1992; Thoma, 1996). If proper information on this issue is not given out, it poses a potential threat to access to resources in conservancies.

The various different pastoral groups within Namibia have different perceptions of wildlife. There are those who view it as a nuisance, competing with their livestock for grazing and water, irrespective of its potential benefits; whilst others will have a more tolerant view. In instances where the two groups live together, the establishment of conservancies could be problematic. The pure pastoralists have offered resistance to the formation of conservancies, irrespective of potential benefits. This is a land user conflict situation.

Almost all policies have proposed the establishment of one or another form of regional structure (e.g. Regional Land Boards, Wildlife Councils, Conservancy Committees, Water Point Committees, Regional Development Committees, etc). The proliferation of institutions could well be a threat in that since their mandates are not clearly defined and co-ordination is inadequate, there are bound to be "turf wars". These wars can only be at the detriment of conservancy development.

The typical civil servant feels a little uneasy with devolution of resource management responsibility, a process he is expected to facilitate. There is need for the re-orientation of the civil service to take them down from their ivory towers and help them to use people friendly approaches. More important is the need to speak with one voice. Poor co-ordination among government and non-governmental agencies at both policy and operational levels is of paramount importance.

Access to resources is about power. Power is difficult to share, particularly with grassroots levels. The politicians still have to demonstrate that they are willing to relinquish power to the local people. Institutions and individuals that assist peripheral communities have come under pressure from politicians about their role. Conservancies could well be viewed as a new power base for some people.

The policy provides for rights over game. Game found in most parts of the country is migratory. Mobility is made even more imperative by the recurrent droughts that hit most of Namibia. Animals move out of drought-stricken areas in search of food and water. When they move out of the conservancy boundary, rights over them are lost. In situations where there are no wildlife councils to take care of game outside conservancies, game risks being poached when it leaves the conservancy. This may undermine the resource base and lead to a reduction in quotas.
6. Conclusions

The process of devolution of natural resource management responsibility has firmly taken root in Namibia due to a number of processes. The most important development has been the creation of enabling policies, despite the small contradictions.

There are increasing claims over natural resources by communities, particularly in remote and marginal areas. This provides the only opportunity for people in these areas to break into the mainstream economy and make a contribution. Like any new process, the devolution of responsibility over natural resources has birth pangs. However, it would appear that the pangs are less significant than the benefits.

The vision for the devolution of rights over resources seems to be shared. All players are playing a positive role to enable the process but more could be done, particularly with respect to the fine-tuning of policy provisions. There appears to be no cohesive approach, which facilitates the co-ordination of government institutions.

The devolution of natural resource management is an idea whose time has come. The innovative policy and legislative provisions make the Namibian example unique in Southern Africa. A seemingly conducive ideological framework helps the process.

Tenure over resources is a dynamic phenomenon driven by social and economic imperatives and is viewed as one of the cardinal components of the social and economic development agenda in post-independent Namibia. There will be no need to re-possess land if such process does not come with a bundle of rights whose administration is presided over by local institutions.

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EXPLORING COUNTRY STRATEGIES AND LESSONS LEARNT: COUNTRY WORKING GROUP REPORTS
EXPLORING COUNTRY STRATEGIES AND LESSONS LEARNT: COUNTRY WORKING GROUP REPORTS

All of the workshop participants from each of the seven countries present were asked to form country specific working groups. These groups then identified a minimum of four positive and four negative trends in relation to natural resource tenure in their countries. Feedback from these working groups indicates that there is a great deal of commonality in problems and opportunities that countries are encountering in their efforts to develop appropriate tenurial arrangements, despite the different stages they are at. Section 2.3 contains an analysis of common opportunities and constraints.

4.1 Botswana

POSITIVE
1. Commitment by implementing ministry
   • All encompassing community based strategy for rural development
   • Wildlife conservation policy 1986
   • Tourism policy 1990
   • CBNRM policy
   • Technical and financial support
   • Quotas issued to CBOs
   • Facilitation
2. Legal status of CBOs. Autonomy and decision making and powers
3. Secure tenurial rights given to community
   • Resource user rights
   • 15 Years lease period
   • Conducive for investing and marketing
   • Resource base broadened beyond consumptive use of wild life
4. Decentralised land allocation institutions

NEGATIVE
1. Policies fragmented, conflicting and uncoordinated
2. Access rights for citizen difficult to monitor (no powers of exclusion)
3. Weak civil society
   • No influence in policy direction
   • No contribution in CBNRM activities
4. Guidelines for partnership not favourable for long term investment

4.2 Malawi

POSITIVE
1. Presidential commission on land reform in place
   • to address unequal distribution of land
   • report not yet submitted
2. CBNRM supportive policy and legal framework in place
   • national wildlife policy
   • environmental Management Act (1998)
   • national Parks and Wildlife Act (1992)
3. Collaborative management and resource use initiatives in place
   • resource collection, i.e. fish, fruits, grass
   • bee keeping
   • revenue sharing
4. Community based institutions in place in border zone area
   • natural resources commission
   • traditional leadership
   • NAPENAREMA
   • Liwonde advisory body

NEGATIVE
1. Conflicting policies and interests and lack of coordination
   • agriculture Versus conservation
   • sectoral policies implemented independently
2. Population pressure on public land (protected areas)
   • high population growth rate - 3.2 % per annum
   • much land under private ownership (estates)
3. Abject poverty for the average citizen
   • Malawi one of poorest at world level
   • economy agriculture based (commercial productivity)
4. Misconception of meaning of democracy
   • public land used as campaign tool
   • free for all
   • no one is responsible (Liwonde National Park fence)

4.3 Namibia

POSITIVE
1. Constitution provides for positive/progressive development and environment management ambience
2. Policy development process based on national or broad-based consultation, i.e. reflect realities
3. Policies sensitive to minorities e.g. gender, physically challenged, etc.
4. NGOs and Government invest in building local and CBO capacity - to sustain implementation of policy provisions
5. Ability to learn from neighbours

NEGATIVE
1. Absence of coordinated and sequential approach to NRM policy development - leads to incompatible policies
2. Delays in policy development leads to open access, e.g. illegal fencing of communal areas
3. Capacity (human resources and monetary) to implement innovative policies in Government- cause of concern

4.4 South Africa

POSITIVE
1. Increase in recognition of community ownership and rights of land and resources
2. Increase in promotion of partnerships with communities for resource management
3. Increase in appreciation and recognition of indigenous knowledge and practices
4. Tendency towards integrated planning of resource use and management with communities at national, regional and international levels
NEGATIVE
1. Increase in conflict and competition over authority to dispose of and allocate rights
and land resources
2. Trend to push for high profile projects without considering incentives for long term sustainability
3. Plethora of good initiatives and policies not well coordinated into national policy and strategy
4. Tendency to pay lip service to women’s rights at the interface b/t rural tenure patterns
and some traditional institutions

4.5 Tanzania

POSITIVE
1. New wildlife policy provides for establishment of WMAs, which will be managed local
communities, and benefits will also to the local communities.
2. Existing TANAPA principal legislation gives TANAPA full mandate to manage national
parks without interference.
3. In 1997 the Government abolished the posts of regional natural resources officers and moved
all the powers to the district natural resource officer.
4. The existing land law recognises existing customary land tenure systems.

NEGATIVE
1. All wildlife belongs to the state (the director of wildlife).
2. Government does not have the capacity to manage the land (encroachment, land degradation).
3. All land belongs to the state. 33 of 99 years lease may be revoked or may not be renewed.
4. The new existing TANAPA principal legislation does not give TANAPA the mandate to operate
outside the park boundary (e.g. CCS).

4.6 Zambia

POSITIVE
1. Partnership in management of wildlife resources on communal lands and benefit sharing.
2. Incentive to invest in land conservation and management through acquisition of title, especially
of former state farms and refugee camps
3. Over 75% of land is still under customary tenure. Pressure on land not reality.
4. Establishment of community-based natural resources strategies in the management of other
resources, e.g. forestry, fisheries, etc.

NEGATIVE
1. Insecure rights to resources on communal on communal lands. Commercial utilisation of
minerals, trees, fish resources, etc. is controlled by the state.
2. Loss of communal land through conversion to lease hold.
3. Acquisition of land for lease hold favours the elite, top government officials and foreigners
creating artificial land shortage.
4. Too much power invested in chiefs as chairmen of CBNRM programmes. They:
   * tend to bulldoze subjects
   * tend to represent their own interests at times
   * sometimes give out land without consulting other members of the community
4.7 Zimbabwe

POSITIVE
1. Government facilitated easy access to resources by communities, e.g.
   • Granting of appropriate authority (AA) to RDCs
   • Enactment of Environmental Bill that will give Local Authorities more powers to manage and use natural resources
   • Government’s Biodiversity Convention (Focus on other natural resources)
   • The Government’s Desertification Strategy that seeks the participation of RDCs and their communities on natural resources conservation.
2. Government has allowed open democratic debate on matters of sustainable use of land and other resources, e.g.
   • water reform sector
   • biodiversity Convention
   • environmental Bill
   • poverty Alleviation
   • District Environmental Action Planning
3. The establishment of institutional mechanisms from grass-roots to national level for effective coordination of government and NGOs has been operationalised, e.g.
   • Capacity building programme to strengthen the institutions

NEGATIVE
1. The government system is still heavily centralised in decision making and management of other resources, e.g.
   • allocation of state land
   • management of parks
   • problem with animal control
   • quota setting by RDCs and communities, sometimes not recognised by the Department of National Parks and Wild Life
2. Government has not fully addressed the land concerns of the peasantry, e.g.
   • abuse of land identified for resettlement by Government elite as a result very few people resettled
   • not enough financial resources allocated to land acquisition for resettlement (Government for outsiders to finance the programme)
3. Duplication of services by institutions due to poor coordination by Government, e.g.
   • NGO activities in NRM (new NRM activities by GTZ and Italy in some RDCs duplicating Campfire efforts)
4. Adherence to dictated policy by international financial institutions due to poverty, e.g.
   • ESAP that further marginalised the rural communities - the ZIMPREST programme may sharpen this marginalisation due to cuts on Government allocation to local authorities.
CRITICAL STAKEHOLDER / ROLE-PLAYER PERSPECTIVES:
STAKEHOLDER WORKING GROUP REPORTS
CRITICAL STAKEHOLDER / ROLE-PLAYER PERSPECTIVES: 
STAKEHOLDER WORKING GROUP REPORTS

The development of appropriate tenural regimes has immediate implications for four groups of stakeholders/role players: government, resource users/communities, NGOs and the private sector. Each of these stakeholder groups has a distinct but important role to play in developing appropriate tenural systems and ensuring effective implementation. Working groups were formed to look at the following issues in relation to each of these stakeholder groups:

Issue 1. Identify the characteristics of each stakeholder/role player group
Issue 2. Identify the principal roles of each stakeholder/role player group
Issue 3. Identify the critical functions that should be performed by each stakeholder/role player
Issue 4. Identify the constraints from the stakeholder/role player perspective to establishing a well-functioning tenural arrangement
Issue 5. What benefits could accrue to the stakeholder/role player in achieving a well-functioning tenural arrangement for CBNRM?

5.1 Working Group 1 - Government

CHARACTERISTICS
- Bureaucratic and hierarchical
- High staff turnover because of:
  - low salaries
  - politics
  - lack of capacity or inadequate skills wrongly placed
- Does not prioritise environmental issues
- Stifling of creativity and innovativeness
- Empire building and poor coordination
- Provision of ‘data base’ with information research, libraries, archives
- Tendency towards centralisation
- Slow policy review and implementation

PRINCIPAL ROLES
- Creating an ‘enabling environment’ for other stakeholders. Policies must ensure that this is:
  - socially acceptable at local level
  - environmentally sustainable
  - provides long-term security to encourage investment in resource base
  - carefully and clearly targeted to identify intended beneficiaries
  - addressing immediate people’s needs as identified by themselves
  - provides mechanism for equitable distribution of resources
- Provides regulatory framework for resource management
- Mobilise resources, manpower, expertise, finance
- Monitoring and evaluation
- Creation of opportunities for networking both regionally and internationally
CRITICAL FUNCTIONS
• Support for local level initiatives
• Facilitates capacity strengthening/building for local institutions.
• Facilitates two-way communication through effective consultation and negotiation
• Clearly and effectively communicating policies
• Ensures 'balance of power' between different stakeholders remains equitable
• Creation of policies which provide investment incentives

CONSTRAINTS
• Fragmented and uncoordinated policies due to sectoral nature of policy development
• Inadequate resources
• Absence of organised civil structure
• No proper consultation process
• Lack of appropriate skills and attitudes
• Political interference creates pressure to produce results according to political calendar, this produces an unrealistic planning and implementation framework
• Sectoral divisions within and between Government departments undermine implementation capacity and wastes scarce resources

BENEFITS
• National economic development promoted through improved sustainable resource management practices
• Reduced costs of conservation for government
• Rural stability produces environment conducive to economic development and investment
• Poverty alleviation
• International recognition economically, politically and socially
• Improved relationship between Government and communities

5.2 Working Group 2 - Communities

CHARACTERISTICS
• Affected communities mainly rural
• Great economic and social diversity within any community, i.e. rich and poor, literate and illiterate, etc.
• Usually rely on external capital, either government, NGO or private sector, to provide initial impetus for development
• Other than unexceptional circumstances, communities will always have some form of leadership and administration, although this may not always be recognisable as such by outsiders
• Frequent immigration and emigration effects community dynamics.

PRINCIPLE ROLES
• Decisions regarding how and when resources will be utilised are made at community level, including the role of 'conservationist' to ensure resources are used sustainably
• Decisions regarding how these resources will be distributed amongst the community are made through a consultative process
• The community members are generally represented by a management institution accountable to them whose role includes:
  - Liaison function between community and local government structures with regard to policy issues
  - Securing of communal property rights for community members
  - Ensuring equal representation of all members of a community, i.e. gender and ethnic groups
  - Communication both within and outside community
CRITICAL FUNCTIONS

- Determination of access and exclusion rights to natural resources. This implies that they must have representation on any board that makes decisions regarding allocation of natural resources in their area.
- Monitoring and census of resource base. External training and capacity building may initially be required to ensure that they are adequately equipped to undertake all necessary activities.
- Setting harvesting and off-take levels and enforcement of these.
- Determining how benefits will be used and by whom.

CONSTRAINTS

- Government bureaucracy hinders local decision-making
- Lack of capacity and resources, technological know-how, equipment and access to opportunities to improve this situation
  - Undemocratic traditional practices
  - Ignorance due to lack of technology transfer
- Population growth
- Emigration of young and skilled
  - High level of secrecy within the community
- Disrespect of traditional values

BENEFITS

- Immediate financial benefits to individual households and long-term economic benefits through increased access to opportunities leading to reduction in poverty
- Improved social infrastructure, e.g. schools, clinics, grinding mills, which communities identify as their own needs
- Increased confidence in own abilities
- Cultural heritage and social customs/traditions preserved
- Communities become less marginalised, more able and willing to engage in national development strategies
- Political confidence leading to greater democratisation

5.3 Working Group 3 - Private Sector

CHARACTERISTICS

- Includes great diversity, e.g. everything from small indigenous business to large multi-national corporations covering diverse areas of commercial interest
- Despite diversity, they are always profit driven
- Flexible and adaptable to meet changing demands of markets
- Source of capital and investment into resource base
- Smart, always hold legally binding title deeds
- Have vision and initiative

PRINCIPAL ROLES

- Provide capital for maintenance of resource base and development
- Provide appropriate expertise and skills for ventures
- Harmonise different land tenure systems. They do not operate in isolation, so wherever they are, there are surrounding areas that may have different tenurial rights. It is their role to harmonise whatever is in their vicinity.
- Link between communities and external agents vital for marketing
CRITICAL FUNCTIONS
- Create an enabling environment for effective communication
- Transfer skills to community
- Creation of equal partnerships
- Can encourage and lobby for the development of tenure systems that empower marginalised people

CONSTRAINTS
- Lack of understanding of social and political dynamics
- Rigid existing tenurial arrangements which frequently provide disincentives to invest due to lack of security
- Government bureaucracy

BENEFITS
- Optimization of profit (not maximisation which may be expense of resource base)
- Social acceptance
- Enhance resource base which in turn enhances business

5.4 Working Group 4 - Non-Governmental Organisations

CHARACTERISTICS
- Diverse nature of NGOs, international, national and local (CBO)
- Variety of different functions and specialisations
- Undertake activities for philanthropic or altruistic reasons, not for profit
- National and local NGOs tend to be small, responsive, flexible and non-bureaucratic, able to get things done -- motives and mandate of international NGOs may need scrutiny

PRINCIPAL ROLES
- Basic role in this context is to compliment government and community efforts to promote sustainable national development. The aim of NGOs should be to make themselves obsolete
- Advocacy and lobbying
- Fund raising
- Independent monitoring and evaluation

CRITICAL FUNCTIONS
- Improve communications and information flow between rural communities and government
- Capacity building/institutional development, human resource development and training for both communities and government
- Advocacy and lobbying to promote required changes
- Promote interests of marginalised and under represented, e.g. poor, women, ethnic minorities
- Fund raising and donor liaison
- Project implementation and management

CONSTRAINTS
- Lack of accountability to their ‘constituencies’
- Limited resources, competing with each other for what is available
- Lack of coordination with other NGOs and government agencies
- Unclear objectives and policies may lead to weak management and inadequate technical capacities
- Donors may dictate to NGOs

BENEFITS
- Reputation
- Environmental and social justice
- Continued funding
APPENDICES
**Appendix 1: SADC Workshop on Land/Resource Tenure and Decentralisation**

Randsburg Towers Hotel, 7th - 9th July 1998

**PROGRAMME**

**Tuesday 7th July**

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<tr>
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<td>Registration</td>
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<td>Welcome and Introductions</td>
<td>Facilitator: J Sturgeon</td>
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<td>Workshop Overview</td>
<td>Salim Fakir</td>
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<td>SADC NRMP and Consortium activities</td>
<td>Ramosh Jiah</td>
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<td>Assessment of Expectations</td>
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<td>10.00</td>
<td>Discussion on workshop methodology</td>
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<td>11.00</td>
<td>THEME 1: Where should tenure be and why:</td>
<td>Mandivamba Rukuni, Zimbabwe</td>
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<td>What factors in Southern Africa affect this?</td>
<td>Excellent Hachileka, Zambia</td>
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<td>1st Paper: Where should tenure be and why: Factors</td>
<td>Robin Palmer, UK</td>
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<td>3rd Paper: Land and resource tenure: learning</td>
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<td>and Eastern Africa</td>
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<td>M. Rukuni, E Hachileka, R. Palmer, and all participants</td>
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<td>THEME 2: Where does tenure lie in Southern</td>
<td>Lungisile Ntsebeza, South Africa</td>
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<td>Africa, and what factors have led to this?</td>
<td>Samora Gaborone, Botswana</td>
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Wednesday 8th July

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<td>THEME 2 CONTINUED: Where does tenure lie in Southern Africa, and what factors have led to this? The History of Land Use and Tenure in Zimbabwe from 1900: A Case in Social Engineering</td>
<td>Joe Matowanyika, Zimbabwe</td>
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<td>Country-specific working groups: Key constraints and opportunities in SADCcountries</td>
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Thursday 9th July

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<td>Identification of themes for working groups</td>
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Appendix 2: PARTICIPANTS LIST

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7 - 9 JULY 1998

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Natural resources tenure is a complex and emotional issue with its roots in colonialism and the struggle for social justice. People's rights to land and other resources has emerged as one of the most important political issues in recent history of Southern Africa. The development of appropriate tenurial regimes for natural resources has cross-cutting implications for Southern Africa's economic, social, political and environmental development and is inextricably linked to the broader issues of equity, democracy and good governance. This role is likely to continue for the foreseeable future because of the multiplicity of functions that natural resources fill in an area where most of the population still depends on land, water or forests for a living.

Developing appropriate tenure systems is a crucial long-term policy issue essential for the sustainable development of southern Africa.

The Land / Resource Tenure Workshop, convened by the Africa Resources Trust in collaboration with IUCN and WWF for and on behalf of the SADC Wildlife Sector Technical Coordination Unit, brought together 60 decision-makers from seven countries in the SADC region to share experiences and lessons learned from the regional community based natural resources management (CBNRM) initiatives. These proceedings provide a summary and synthesis of the deliberations and a series of presentations detailing country experiences, exploring options and opportunities for the way forward.