

**CENTRE FOR APPLIED SOCIAL SCIENCES (CASS)  
UNIVERSITY OF ZIMBABWE  
PO BOX A1333  
Avondale  
Harare  
Zimbabwe**

**CASS AND THE PROGRAMME FOR LAND AND AGRARIAN  
STUDIES, UNIVERSITY OF WESTERN CAPE**

**Community-based Natural Resources Management in Southern Africa**

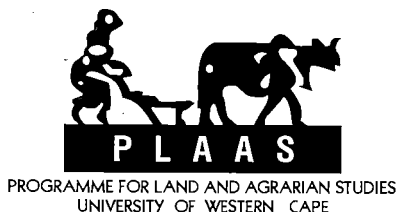
**Commons Southern Africa Occasional Paper Series 3/2003**

**THE LIMITING STATUTORY FRAMEWORK  
FOR ECONOMICALLY BENEFICIAL  
COMMUNITY BASED NATURAL RESOURCE  
MANAGEMENT IN ZIMBABWE AND  
BOTSWANA: A Comparative Analysis**

O.Chiyaka

PO Box A102, Avondale, Harare

<sup>1</sup>Corresponding author: e-mail – [overchiyaka@yahoo.com](mailto:overchiyaka@yahoo.com)



# ABSTRACT

Natural resource management in Southern Africa has predominantly been guided by the concerns with conservation of natural resources. This has seen the use of natural resources to sustain livelihoods taken as a subservient objective incidental to the pursuit of conservation efforts. The legislation has also been framed in the resource conservation framework thereby giving limited room for communities to diversify their livelihoods through the exploitation of natural resources. Legal authority over natural resources has never been fully “devolved” to the communities but has remained with governments and affiliated bodies like rural district councils. Community Based Natural Resources Management activities are not legislated but are dealt with through policy directives and statements that are not binding at law. Without the requisite legal status the communities are affected negatively by the changes or reversals of the directives. The role of natural resources in diversifying the rural livelihood portfolio continues to be downplayed and communities continue to have no legal custody of resources found amongst them.

**(Key words: natural resources, CBNRM, statutory framework, Botswana, Zimbabwe)**

**Abbreviations:** **CAMPFIRE** - Communal Areas Management Programme for Indigenous Resources; **CBNRM** - Community Based Natural Resource Management; **NRM** - Natural Resource Management; **RDCs** - Rural District Councils; **SADC** - Southern African Development Community; **WMA** - Wildlife Management Areas; **VIDCOS** - Village Development Committees; **WINDFALL** - Wildlife Industries New Development for All.

## 1.0 INTRODUCTION

The debate on natural resource management has evolved over time in a fashion which has seen a move from an “organic” community management of natural resources in the pre-colonial era through the state imposed regulatory framework in the colonial era. Presently, the calls for sustainable resource utilization have been growing. The concern with natural resource management and proper utilization has always been there but could be differentiated by the spirit and purpose behind it, as well as the undergirding factors for such concern.

From a mere concern with “proper” natural resource utilization and preservation/conservation there has been a shift in focus which has seen the embracing of broader economic goals in the management of natural resources. This feeds into the current vogue of sustainable resource utilization. Under the sustainable development paradigm, resource utilization should involve stakeholder participation and striking a balance between resource conservation and sustainable livelihoods. Sustainable livelihoods itself is not a clear-cut issue but is taken to mean livelihoods that can recover from stress and shocks and do not compromise the livelihood sources for future generations (Chambers, 1998; Hussein and Nelson, 1998; Scoones, 1998).

This paper argues that Community Based Natural Resources Management (CBNRM) should be seen as a way of diversifying the rural livelihoods and that this should be integral to the legislative and policy framework in natural resources management. It highlights that whilst the CBNRM projects have contributed to incomes of communities, these incomes are not secure and are affected by the lack of legal status on the part of communities. The comparative analysis is aimed at drawing general conclusions about CBNRM in Southern Africa. The paper is based on desk research, which entailed the analysis of the legislation and the policy framework for natural resource management in Zimbabwe and Botswana.

The first section of the paper discusses the evolution of CBNRM and highlights the fundamental requirements for the success of such initiatives. It highlights the secondary importance attached to the use of natural resources to enhance livelihoods as emphasis is placed on the conservation of natural resources. The second section focuses on the legislation in the two case study countries, i.e. Zimbabwe and Botswana, highlighting the key pieces of legislation that guide natural resources management. The paper discusses how the legislation, coupled with the policy directives, affects the CBNRM projects, especially in relation to use of the resources to generate economic gains for the communities. The third section gives a comparative analysis of the legislation in the case study countries to help in drawing conclusions on the CBNRM movement in Southern Africa. The paper concludes by highlighting some issues that need to be addressed if natural resources are to become a diverse source of income that will enhance rural livelihoods.

## 2.0 EVOLUTION OF NATURAL RESOURCE MANAGEMENT REGIMES

The evolution of natural resource management can be classified into three epochs - the pre-colonial, the colonial and the post independence. In the pre-colonial period there was community resource management through a whole array of sanctions and use patterns. Taboos and other declarations by the traditional leadership held sway. One could characterize this as what Katerere (1999) calls the “organic model” of natural resource management characterized by the maximization of community resource ownership.

The colonial period brought with it the usurping of the powers of traditional leadership and systems of resource management. A new interpretation of resource use was put in place because of the perceived threat posed to the environment in the marginal, ecologically fragile communal areas. The preservation of natural resources became a topical issue. A host of segregatory legislation was put in place. In Zimbabwe, until 1975 all natural resources belonged to the state. As in most Southern African countries, the legislation in natural resources management (NRM) was scattered and fragmented but was similar in its oppressive nature. As pointed out by Environment in Southern Africa (1994), the occasional hunter was overnight turned into a “poacher”. Emphasis was on the preservation of natural resources; no wonder why the regulations were seen as oppressive by the black majority population, and hence the violation at any possible opportunity.

The post-colonial governments brought some changes to the legislation. There was a wholesale change to the race discriminatory sections of the legislation but very little was done to refocus the contents of the principal legislation guiding natural resource use. Very little was done by way of devolving the ownership of natural resources to the local level. Traditional leadership was not revamped as in the pre-colonial system. As Rihoy *et al.* (1999) put it, the traditional leadership was viewed as having worked in cahoots with the colonial regimes. It was therefore not surprising that the traditional leadership was stripped of powers and there was the creation of parallel modern institutions such as village development committees (VIDCOs) in Zimbabwe for development purposes. Although it might have not been explicit, the traditional leadership was stripped of powers to regulate resources including land as these were to be handled by the new modern institutions put in place by the government.

Resource ownership was still vested with the state either in the form of central government or its affiliated institutions or arms such as Rural District Councils (RDCs). There was a general trend towards the centralization of control over resources. However, in the mid-1980s there was a gradual shift in most SADC countries towards CBNRM regimes. As pointed out by several authors (Murphree, 1990, 1993; Thomas, 1992; Bond, 1999) the rationale for CBNRM was derived from the following:

- A growing realization of the state's inability to control natural resource management i.e. lack of capacity to enforce regulations.
- Breakdown of traditional management systems due to the colonial and post-colonial resource legislation based on enforcement.
- Global appreciation that devolved natural resource management is a necessary and appropriate approach for sustainable natural resource management.

CBNRM has evolved as the key natural resource management regime in Southern Africa as evidenced by the array of CBNRM projects in Southern African Development Community (SADC) countries. Regional initiatives such as the SADC Natural Resource Management programme are also evidence of the various attempts at changing approaches to NRM. It is then essential to look at CBNRM in detail, especially the economic empowerment element.

### 3.0 COMMUNITY BASED NATURAL RESOURCE MANAGEMENT

Development theory debates and approaches have evolved to the stage of sustainable development. Sustainable development like so many other words in the development lexicon has often been alluded to but it remains an enigma to many. Sustainable development entails the use of resources today without undermining the capacity of future generations to do the same. This was put across as:

*"A process of change in which the exploitation of resources and direction of investment, the mention of technological development, and institutional changes are all in harmony to enhance both current and future potential to meet human needs and aspirations"* (The World Commission on Environment and Development, 1987:xx).

CBNRM is born out of the sustainable development paradigm and hinges on sustainable natural resource utilization and management. As highlighted earlier, the guiding principles in NRM have largely been based on the preservationist ethic. This created a lot of conflict as the regulatory framework was imposed and viewed with animosity by the villagers. This raised the question of who is important, the elephant or the human being?

CBNRM marks a new thrust in development initiatives. It has been argued that NRM should be seen in the broad sense of development. As Zaal *et al.* (1998) put it, NRM projects should ensure that current production is of primary importance and there is need to strike a balance between resource use and conservation.

There is the fundamental problem of defining a community. What is a "community" as alluded to by the CBNRM projects and can a universal agreement be found regarding what constitutes the community? How representative is the community? CBNRM can take place at different spatial levels such as the district and ward levels. The community as referred to in this paper is limited to the lower spatial level, which is the ward level. This community then becomes the population resident within this spatial zone. The delimitation of communities poses problems and as such communities have to be defined differently depending on the matter in context. The ward level represents a reasonable spatial unit within which natural resource management can be undertaken and in the case of Zimbabwe it is the spatial unit which has been adopted by CBNRM initiatives.

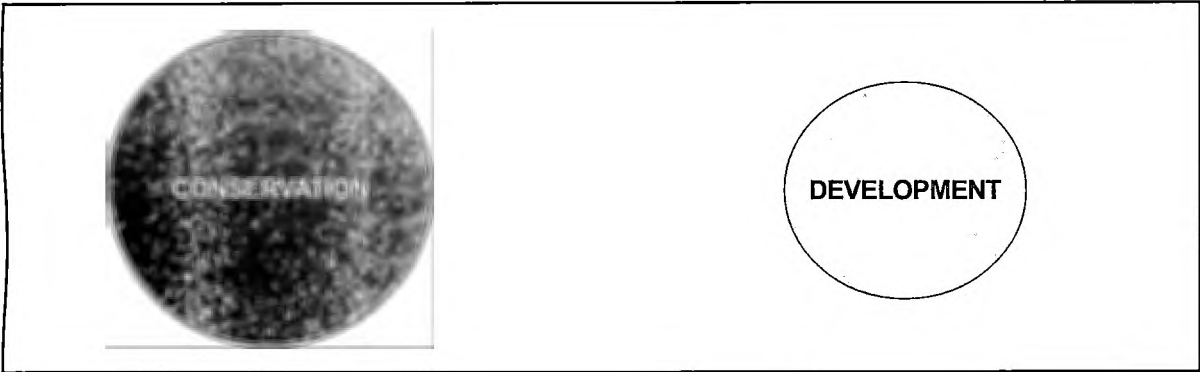
The new thrust has been to try to link development economics or economic opportunism with NRM. This linkage takes place under the ambit of the sustainable development paradigm, which advocates community participation and empowerment in development initiatives. Barbier (undated) says that sustainable economic development hinges on striking an optimal balance or interaction between the three systems below through a dynamic process of trade offs:

- Biological resource system;
- Economic system; and
- Social system.

The biological system looks at protection of the natural resource to ensure that it is not over-exploited. The economic and social systems look at natural resources and gains to communities living among them.

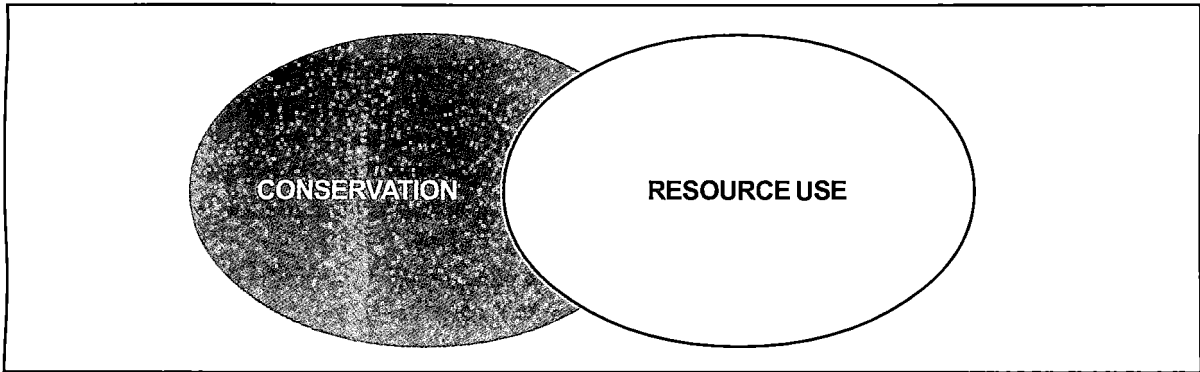
The concern with conservation or preservation of natural resources has come from different quotas of society. The conservation of resources has been largely guided by the need to preserve natural resources. This phenomenon is associated with the western sentimentalization of endangered species. The group is what Murphree (1993) referred to as the "wildlife lobby". This group includes the western romantics, sentimental conservationists, and safari and tour operators. This group largely believes that wildlife provides the best, ecologically and economically (at least to tour and safari operators) an efficient and rational form of land usage. Under this arrangement, that there might be some benefits filtering to communities has largely been incidental to the preservation of resources. However, the accrual of economic benefits to communities from NRM ought to be an integral component rather than being a by-product of the process. This is likely to give a greater impetus for care in the way people look after and use natural resources. CBNRM has to be

viewed as a way of enhancing “rural livelihoods” through the diversification of income. As a “non farm” activity this has to be seen as a livelihood diversification vehicle. As in a balanced business portfolio, a “balanced livelihood portfolio” is one with diversified income sources (Chambers, 1998; Hussein, 1998; Pretty, 1998). Natural resources, as part of the physical capital stock, could be and should indeed be utilized as a springboard for economic development by providing additional income no matter how meagre. To see the significance of additional income one can juxtapose the income from CBNRM related activities to the overall household totals. The Communal Areas Management Programme for Indigenous Resources (CAMPFIRE) has been seen as a way of building a resource for community projects such as the refurbishment of schools, and building of clinics. This has been accomplished in Mahenye and Tstholotsho in Zimbabwe. At an individual level the communities should also benefit from the resources. The key then is that natural resources can be tapped to enhance livelihoods. The diagram below (Figure 1) depicts the two polar motivations for NRM as highlighted earlier on.



**Figure 1: Polar perspectives on natural resources management**

Historically the economic benefit or developmental arm has been downplayed. The two arms have been treated as mutually exclusive. However, a balance has to be struck in the utilization of natural resources. As argued by Breton (2000), the development of an interdependence or symbiotic relationship between people and natural resources gives people reason to invest in the sustainable utilization and management of these resources. The resulting arrangement is the equal weighting of use and conservation and the two being viewed as mutually inclusive rather than the exclusiveness of objectives as depicted in the diagram above. Figure 2 below highlights the interaction of resource conservation and use.



**Figure 2: Striking a balance between conservation and resource use**

The intersection comes from the idea of a balancing act of the NRM polar perspectives. The characterization above highlights that there is still need to look at how best communities can protect their natural resources in order not to deprive the future generations of these resources. There has to be concern with strict resource conservation in the conservationist framework. Natural resources have to be used in a sustainable manner in line with the general sustainable development arguments. However, on the other hand issues of survival are also raised. Thinking of saving the black rhino on an empty stomach might not hold way. Present consumption becomes vital.

Striking a balance is then key to what one could term sustainable, economically edifying resource utilization. This term implies the need to take due cognizance of the need to use resources in a sustainable way whilst at the same time recognizing the need to take into account the usufruct requirements of the present generation. The key consideration in the legislative framework is to create the space, which makes it possible to exploit the resources for economic benefits at both the community and individual levels. Scope might be there presently but is limited. That consumption and exploitation is taking place does not signify acceptance on the part of existing legislation. The bigger the intersection (Figure 2) the greater the goal congruency and common understanding. What this means is that if communities want to enjoy greater use of resources they should put much more effort in the conservation efforts to make this possible. The idea is not to have an inverse relationship between use and conservation wherein more emphasis in one will result in a negative impact on the other. There could be a “win-win” situation. The two should intersect and move in the same direction although not necessarily at the same magnitude.

## **4.0 LEGISLATIVE FRAMEWORK AND COMMUNITY USE**

As already highlighted the pre-colonial regulatory framework under traditional leadership allowed regulated use of natural resources. The colonial era resulted in most Southern African countries having a regulatory framework divided along racial lines. The legislation was generally anti-black and bestowed less rights on them compared to their white counterparts. The post independence legislation in most Southern African countries ( Botswana, Namibia, Zambia, and Zimbabwe) was largely populist and based on socialist egalitarian goals. The immediate move was removing the racist elements in all pieces of legislation.

The birth of CBNRM was enveloped in the idea of giving the communities the requisite use rights. One of the critical success factors for CBNRM is the legal status of the community. The question is whether communities do have the control over resources and whether they are legal entities. Bromley (1995:39) argued for property rights and points out that a right “denotes a set of actions and behaviour that the owner may not be prevented from undertaking. A right by definition implies an obligation on the part of all others to respect certain actions and behaviours, and to refrain from preventing those actions or behaviours”. Rights therefore have an element of duties, responsibilities as well as benefits. Since rights can be enforced at law then communities would benefit from having clear rights over resources in CBNRM. Questions have been asked about the devolution of ownership of resources. As will be highlighted below, in general, ownership and legal control over land and other resources vests with the state or its affiliated institutions.

The question, which also comes into one’s mind, is whether the legislative framework empowers individuals within communities to be able to derive economic benefits out of the existing stock of resources. There is also need to revisit the question of personal use with regard to forestry produce. This calls for a revision of how one defines “personal use” which is, for example, permitted by the Zimbabwean legislation. Can the issue of personal use not be extended to the individuals utilizing resources for commercial use? Can individuals not be allowed to sell wild fruits for economic gain? If licences for commercial exploitation can be obtained from council what then inhibits the same leverage being given to the communities in question?

The next section looks at the case studies to see whether the key legislation permits the use of resources to derive economic benefits. As Rihoy (1995:17) points out, “A critical component of the decentralization or devolution process is to ensure that local institutions are effectively empowered on both a legal basis and through the provision of skills and resources that they need to function”. It is then imperative to see whether the legislation in the case study countries gives the community the requisite legal authority over the natural resources in their areas as this is deemed a critical success factor for CBNRM projects.

### **a) Zimbabwe**

Prior to 1975 all natural resources belonged to the state. The 1975 Parks and Wildlife Act extended the ownership of natural resources to private property owners e.g. commercial farmers. They were given jurisdiction over natural resources in their areas. This enabled farmers to enjoy economic benefits through activities like game hunting. The black communities, however, also benefited to a limited extent in the late 1970s through The Wild Life Industries New Development For All (WINDFALL) programme. The understanding was

that the conflict between wildlife and people would be reduced if the villagers received some benefits from wildlife management proceeds (Jansen, 1990). The revenues from safari hunting and elephant culling were given to the local district councils. The communities benefited through the District Development Fund (DDF) in the form of, for example, schools refurbishment. The programme was, however, limited in coverage and communities also saw the money as a grant from central government. This was because in the end there was no direct link between management of resources and the receipt of funds. This was, nevertheless, an improvement from the earlier system in which the people were not involved in the management of the resources (Child *et al.*, 1997).

The amended Parks and Wildlife Act (1982) extended the ownership of resources to RDCs in the spirit of decentralization of central government functions. This resulted in the extension of “appropriate authority” status to the RDCs. The reasoning or logic was that the RDCs are an embodiment of the interests of the people, and hence it was tantamount to placing resource management in the hands of the people. This is further reinforced by the RDCs Act of 1988; according to this Act, the RDCs are the government at the local level and therefore are entrusted with the regulation of natural resources management. They are empowered to make by-laws on conservation and environmental matters. This is reinforced by the Policy for Wildlife in Zimbabwe (1992) of which Section 1.15 points out that:

*“The conservation committees of Rural District Councils will act as the first level of regulation and coordination of issues related to wildlife in the rural districts of Zimbabwe in accordance with the Minister’s delegation of appropriate authority.”*

The councils are, therefore, the custodians of the resources. However, this misses the point of empowerment of communities. Johnson and Mbizvo (1999) point out that the success of CBNRM depends on developing a legal framework, which allows producers to manage resources and benefits.

The CAMPFIRE programme in Zimbabwe has largely been hailed as a way of trying to balance conservation and resource utilization. Although communities have realized some benefits, the communities do not have a say in the levels of resource utilization. In spite of the existence of CAMPFIRE committees, the communities are not directly responsible for the devolution of the proceeds of CAMPFIRE or the determination of the quotas i.e. the levels of resource use. The quotas are regulated by the RDCs, which have the regulatory authority. Without meaningful decision making by the communities through the CAMPFIRE committee, the following observation by Christoffersen *et al.* (1996) becomes relevant. They argued that without the meaningful involvement of the communities in the management decisions the programme activities become nothing more than tourist revenue schemes. The level of empowerment is, therefore, critical in deciding whether there is community management since the receipt of dividends by itself does not translate into empowerment of communities.

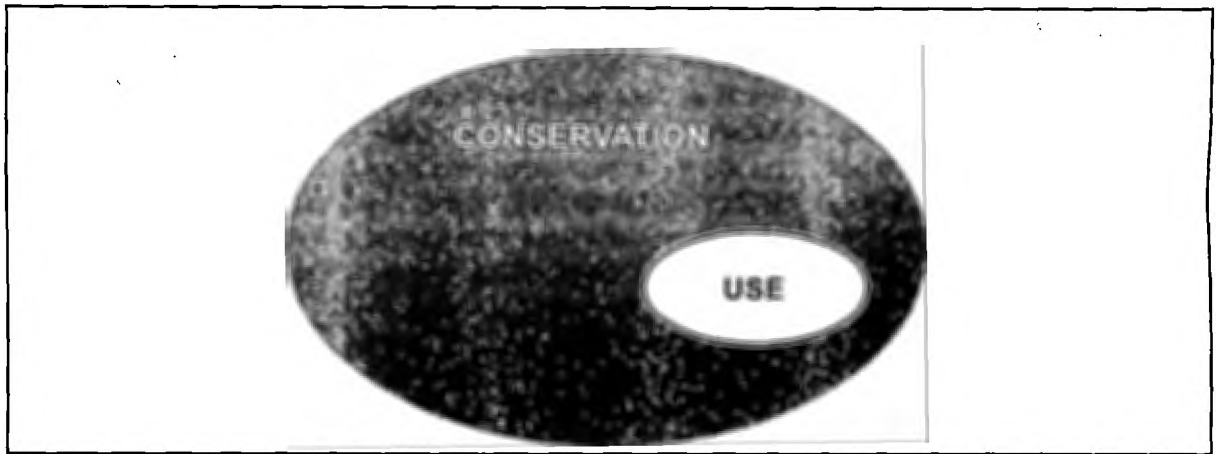
The CAMPFIRE programme has been limited in Zimbabwe mainly to mega fauna but natural resources extend beyond this. Forestry products are also a major class of resources and their management and use are guided mainly by the Forest Act of 1948 but amended in 1982 and the Communal Land Forestry Produce Act of 1987. These two pieces of legislation vest the ownership of resources with the RDCs, which are deemed the custodians of the resources. The Communal Land Forestry Produce Act allows the utilization of resources by communities albeit for personal use only. Section 4(i) of the Act points out that:

*“The inhabitants of any communal land shall have the right within that communal land, to exploit for their own use any forest produce”.*

Interestingly, however, the same Section, through Section 4(ii), prohibits the sale of produce to third parties or outside the confines of the communal land in question. Exploitation for commercial use is only possible subject to the acquisition of a license, which can be obtained via the payment of a licence fee. This invariably excludes most of the rural population who would rather risk harvesting the resources, without a licence, for sale than pay for such a licence. The application for the permit under the Communal Land Forestry Produce Act itself is a rigorous and time-consuming process which most of the villagers would rather avoid and continue “poaching”. Expropriation is, therefore, limited to domestic utilization. The sale of

the produce is not allowed at law. Consequently, individuals cannot sell the produce to derive economic benefits from these resources, e.g. wild fruit such as *masau* found in Mt. Darwin district. That people are doing it does not reflect consent but signifies the lack of appropriate enforcement mechanisms to restrict the use of these resources. In the case of minerals the permit system also applies and this when coupled with the local authorities by-laws complicates matters.

The various pieces of legislation allow for use, albeit limited. They limit the levels of usage and still emphasize the preservation leg of the relationship in a relationship one could characterize as follows (Figure 3).



**Figure 3: Resource use that is subservient to conservation concerns**

The utilization of the resources becomes incidental to the major objective of natural resource management outside restricted areas. The legislation is much more concerned with the preservation of natural resources such that the utilization of the resources to sustain livelihoods is really not a consideration and therefore a peripheral issue. This fails to link the CBNRM projects as a livelihood diversification vehicle. The funds generated from the efforts of the project should go towards diversifying the “fragile” and limited rural livelihood portfolios.

The legislation guiding natural resource use in Zimbabwe was formulated in the colonial era and was guided by conservation concerns. It might have changed names but the content has not changed. Although the legislation is restrictive and does not expressly promote commercial exploitation of natural resources by communities, resource use is tolerated. The government realizes that it does not have an enforcement mechanism to regulate the exploitation of the resources and therefore tends to turn a blind eye as trying to do otherwise would be an exercise in futility.

## **b) Botswana**

Botswana has a slightly different colonial history from Zimbabwe and other Southern African countries; because of its deemed limited potential it was not under direct colonial rule but was administered as a British protectorate. This resulted in limited occupation with the percentage of land taken by the white commercial farmers not at any point exceeding 5.5% (Rihoy *et al.*, 1999). The colonial regime had very limited interest in the abundant wildlife. During this time the traditional leadership had control over the natural resources and they allowed tribesmen to exploit the resources subject to the restrictions that they themselves devised. In 1962 the Fauna Conservation Proclamation was passed to regulate safari hunting. This was limited to the whites and the big commercial farming areas. Under the 1979 Unified Hunting Regulations this was then extended to the tribal land with licences being issued and the revenue accruing to the District Councils. The effect was that those communities bearing the social costs of living with wild animals enjoyed less benefits than the outsider since the revenue was shared across the district. This centralization of revenue collection discouraged the communities.

As early as the 1980s the Botswana government realized and took the use of natural resources as an integral component of the development process. This was reflected in the national development policies.



The Government Paper Number 1 of 1986 highlighted the value the government placed on natural resources. Article 6 of the policy highlighted the overall aim of the policy as:

*“The policy not only recognizes but also emphasizes the need to obtain a better ‘yield’ or economic return from the land allocated for wildlife while at the same time ensuring continuity of the resource.... When the substantial flow of benefits of wildlife utilization on a sustained yield basis begin to be realized the resource’s value will be more widely appreciated. Conservation will enjoy even greater support”.*

The government obviously realized and acknowledged the principle at the centre of the CBNRM movement, which is that the communities can only take a keen interest in natural resource management and conservation if they perceive there will be a benefit derived from their efforts. There has to be a positive correlation between the conservation efforts and the benefits emanating from these efforts. It was in light of the overall policy objective that the establishment of Wildlife Management Areas (WMAs) was emphasized. These were defined in terms of Article 3.1 of the aforementioned policy paper as rich game habitats outside the Parks and Wildlife areas. The WMAs were to be considered as a separate zoning in terms of land use planning.

Interesting to note, however, was the distinction made between the WMAs and the Parks and Wildlife areas. Article 3.4.1 highlighted the distinction:

*“Wildlife Management areas will differ from National Parks and Game reserve areas in that Parks and Reserve areas are as previously stated primarily preservation areas; total preservation of the wildlife resource is practiced. In WMA, on the other hand, sustainable wildlife utilization will be actively encouraged”.*

The point emphasized was that there was an element of sustainable usage planned. The WMAs then were a land use category within which the community could derive an economic benefit out of the natural resources found in their areas.

This linkage between the natural resources and the general development process has been reflected in the government policies over the years. The Government Policy Paper Number 1 of 1990 continued to highlight the need to diversify the rural economy through the use of wildlife resources to gain economic benefits. The policy paper stated the need to balance the developmental and conservation goals. The policy document advocated the development of multi rather than single purpose natural resource use. An interesting factor, which came out of the 1990 policy document paper, was the acknowledgement of the need to make trade offs between environmental concerns and resource use. Article 2.3 points out the following:

*“Fulfillment of these detailed goals entails designing development so as to minimize environmental costs and to enhance the quality of the environment. It likewise requires that, when tradeoffs have to be made involving the use of natural resources, full account is taken of environmental and social as well as economic costs”.*

The realization was that in trying to derive the economic benefits from the use of natural resources it means that resource utilization has to be intensified. Instead of having zero utilization as in the Parks and Wildlife areas there has to be sustainable community utilization of the resources. This goes with the arguments put in this paper earlier about the need to enlarge the intersection of the development objectives of resource use and the need to conserve the resources in light of the need for sustainable development. The enunciation of this in policy is a significant move in the right direction as it indicates some level of commitment by government and its inclusion in the national development plans is very crucial.

In the case of Botswana the legal status of communities is slightly different from the scenario in Zimbabwe. Policy directives such as the 1995 ‘SAVINGRAM’ and Joint Venture Guidelines supported the legal status of communities. They stipulated the minimum conditions for communities in the set up of WMAs and entering into joint ventures with the private sector. The communities could apply for a wildlife quota from the

Department of Wildlife and National Parks. This was subject to the existence of recognized, accountable local management structures (Rihoy, 1999). Under the arrangement the committees could sub-lease the rights. The steps undertaken by the approved WMAs are as follows:

- Establish the legal status by publication of the boundaries in the government gazette.
- Develop and legislate appropriate WMA regulations.
- Draft a management plan for each area.
- Implement a policy of sustained wildlife utilization appropriate to each designated area.

In the WMAs the committees form Community Trusts, which are legal entities. Before committees can enter into contracts they have to form the trusts. The question is whether the community constitutes a legal entity that can enter into contractual arrangements. A community trust is a legal entity at law and can therefore sue and be sued.

There has, however, been a sad development in the area of CBNRM in Botswana. In February 2001 the Ministry of Local Government issued a directive stating that, "with immediate effect all revenues collected from CBNRM projects would have to be channeled to the district councils". The arguments for the above U-turn in policy are that natural resources are a national asset and as such the benefit should be shared by the whole nation. The other reason advanced is that the community trusts were producing unaudited books and that there had been fraud and misuse of the funds. The above arguments defeat the whole essence of CBNRM that is underpinned by the argument that the communities are likely to be inclined to properly utilize resources when they perceive that there will be a direct benefit. The other argument is that there should be a proportionate relationship between the benefit and the costs. The cost of living with the wildlife, which is borne by the communities, has to be compensated. As such, commentators rightly point out that this is a retrogressive step being taken by the Botswana government. The community will see no benefit from the conservation efforts, and hence there is likely to be increased poaching of wildlife.

This centralization of revenue collection to the district councils runs counter to the decentralization process, which has characterized governance in the last decade. The government is seen trying to regulate all the revenue collection and the idea of averaging the revenue throughout the country negates the fundamental principle of proportionate benefits and costs in CBNRM. The current legislation means that the Botswana legislation on CBNRM has gone a full cycle and has now returned to the restrictive phase where management of natural resources did not benefit the community directly. It will be difficult to link the receipt of funds to their conservation efforts. When brought to a simple exposition, what the Botswana government is doing now is tantamount to retracing of steps in the CBNRM movement in that country.

## **6.0 COMPARATIVE ANALYSIS**

In general terms in both the case studies the custodial rights of the communities are limited. The rights rest with the rural district councils in the case of Zimbabwe and the Local Land Boards in the case of Botswana as well as the Department of Wildlife and National Parks. The communities are allowed some level of exploitation in both circumstances but they do not have control as to how much of the resource they can exploit. The RDC in the case of Zimbabwe defines how much the communities can get as a hunting quota and the district council determines the contracts, which are signed with outsiders. In Botswana the case is, however, slightly different in the sense that the communities are legal entities as trusts. This means that a community can then be able to enter into a binding contract with a third party and these contracts can then be enforced in a court of law. This also means that the community could regulate the activities of those who will be granted a licence.

The Zimbabwean scenario is such that the benefits are devolved in accordance with what the district council deems prudent. The district council maintains the accounts for the CBNRM initiatives. What this means is that the communities get a residual figure after the council has removed whatever portions it deems necessary. The CAMPFIRE guidelines on the devolution of revenue collection are not binding and the councils can ignore them. In the case of Botswana the devolution of the benefits, until the February 2001 directive alluded to earlier, used to rest with the community trust, which is a recognized entity at law. This gave the communities greater leverage in terms of how to utilize the resources.

This is different from the Zimbabwean scenario where there is a CAMPFIRE committee, which has no legal status, and is therefore not a legal entity. The committees rely on the blessing of the RDC, which decides on the devolution of the benefits from natural resources management. The implications of the lack of appropriate legal status on the part of communities even those involved in CAMPFIRE is that they cannot enter into contracts, and hence have no legal standing. As Maveneke (1998) said, the communities couldn't, for example, enter into legal contracts with safari operators in their respective areas. They also cannot sue and they cannot regulate the activities of those given licences. As Chenje *et al.* (1998) put it, people do not have legal standing to bring either the state or the other individuals to the courts for mismanaging resources or for non-compliance with the provisions of environmental legislation.

As already pointed out, in the case of Botswana there is no legislated regulatory framework facilitating the CBNRM projects. This to some extent applies to the Zimbabwean scenario where there are only CAMPFIRE guidelines. The directive reversing the approach in Botswana could have a spillover effect to the other countries in the region. The Botswana case study had been looked at as the flagship of the southern Africa CBNRM projects because the legal component was better established than in any other country. What this unfortunate situation means is that it emphasizes the point alluded to earlier, that there is need for a very clear legislative framework which will give the communities the legal status which can be sustained over time. The use of policy directives to regulate CBNRM activities does not help the situation, as they do not have the force of law, and hence are not binding. As a result, the directives can be reversed overnight as in the Botswana case.

Interesting to note, however, is the fact that the government of Botswana will have difficulties in collecting the revenue where legal trusts were already in existence. This then means the new policy regulation will be unable to dispossess the already existing trusts but will only impact negatively on any future attempts at CBNRM projects. This is so because the existing trusts are legal entities with right at law, and hence cannot easily be arm-twisted. This is the kind of strength that the communities should have in order to fully empower them.

The different CBNRM programmes have, however, failed to empower communities to fully utilize the natural resources and gain better livelihoods. In the case study countries (Botswana and Zimbabwe) the communities have limited control. However, as noted earlier, community ownership of resources is key to the success of CBNRM. The quota or quantity of resources to be exploited is still determined outside the community, for example by RDCs or the Department of Wildlife and National Parks in the case of Botswana. The above use has also been limited to mega fauna and, to a limited extent, minerals.

There has also been reluctance to shift the management authority beyond the local level. This might derive from what Rihoy *et al.* (1999) call the reluctance of cash strapped district authorities to devolve tenure and valuable resources to individual villages. This has been evident in the Zimbabwean case and Botswana seems to be tagging along in this recentralisation approach. The trend indicates that the district councils are viewed as the last level of accountability, and hence the governments are not keen to devolve authority beyond that level. Communities are therefore not effectively represented in the decision making process and in the end become just passive recipients of dividends from tourism activities.

The devolution of the benefits of the CBNRM proceeds accrues to the communities through the Community Trusts in the case of Botswana and through the RDCs in the case of Zimbabwe. This makes it possible for the communities to implement developmental projects such as the upgrading of schools, roads, community centres and other social facilities. It is only in rare circumstances that the funds are devolved to individual communities. In as much as the communities' benefit is appreciated, one is bound to agree with Gaborone (1998) who argued that the building of infrastructure is the responsibility of the local authorities and that the individuals are, therefore, not empowered at all. Individuals cannot, therefore, under the current legislative framework exploit the natural resources for individual economic empowerment.

Botswana, until the February 2001 directive, represented one of the more successful examples of how to structure tenure regimes, which are compatible with general development objectives. The importance of natural resources at the highest level of government and incorporation into the national development policies is crucial in facilitating livelihoods enhancing CBNRM.

## 7.0 CONCLUSION

Principal legislation in NRM enacted by the state still resonates an element of control and preservation. The legislation allows some element of resource utilization (e.g. in Zimbabwe, Communal Land Forestry Produce Act, Mineral and Mines Act, and Forestry Act) but it does not guarantee full benefits and does not highlight the contribution, which the natural resources can make towards economic benefits. Most Southern African countries have attempted to draw resources closer to the people and to make people derive economic benefits through CBNRM programmes such as CAMPFIRE in Zimbabwe and WMA in Botswana. The enabling legislation has not gone the whole “nine yards” in enshrining community utilization of resources to sustain livelihoods. Rather, the issue of economic benefits is incidental to conservation and natural resource protection.

The legislation in SADC countries, and in the context of this study Zimbabwe and Botswana, shows that governments are still “uneasy and uncomfortable” with decentralizing the control of natural resources to communities. There is little recognition of how the natural resources can be a vehicle for diversifying the rural livelihood portfolios through the generation of economic benefits. There is very limited express appreciation of the role of natural resources. That *de facto* people in rural areas are deriving some economic benefits through the exploitation of natural resources is only by default as the central and local governments fail to enforce the regulations and by-laws.

In the present situation the major issues in CBNRM are determined by third parties such as the RDCs in Zimbabwe, the Land Boards or the departments of Parks and Wildlife in both countries. The devolution of the benefits rests with the RDC in the case of Zimbabwe. This creates problems, as it is a known fact that the RDCs are cash strapped and are, therefore, inclined to retain the money than release it to the communities. Communities need to be given a legal status, which enables them to have control over natural resources. The idea of community trusts is one way of getting round this problem. This enables the communities to be legal entities that can enforce contracts against third parties. Communities should be key in the decision making process with the RDCs at most just facilitating and kick-starting the process. The community has to be a legal entity, which will have the full powers to regulate their resources.

Natural resources have to be seen as an integral part of the development process. Natural resource use for development promotion should be key in the determination of natural resource management. There is need to accord immediate use of resources greater importance, as this is likely to give a greater impetus to the initiation of conservation measures. Natural resources should be seen as a livelihood enhancing resource to the extent that they enable the communities to generate incomes to diversify the livelihood portfolios. This should not be incidental to the conservation efforts but an integral component of the natural resource management regimes. Rural livelihoods are fragile and constrained by heavy reliance on subsistence agriculture and as such anything which helps in providing additional income is a welcome development. This should not only apply to areas with wildlife but to all areas with exploitable natural resources.

## 8. POLICY IMPLICATIONS

- There is need for the policy framework to acknowledge individual usage of natural resources to support livelihoods.
- In the case of Zimbabwe, there is need to give communities legal standing at law to enable them to have greater leverage in negotiations. In this light there is also need to review the relationship between communities and the RDCs. The devolution of CBNRM dividends has to be decided upon by communities in the true spirit of meaningful decentralization.
- There is need for both countries to shift from the use of policy directives to the enactment of enabling legislation. This will ensure that there are no policy U-turns as was the case with Botswana in February 2001. Policy directives have no effect at law and are difficult to take to the courts when violated.

- Taking sustainable developments and livelihoods as the guiding framework there is need to look at natural resources as a livelihood enhancing resource. This translates into the need to refocus the principal guiding legislation, from preservation of nature towards sustainable utilization of natural resources. There is need to strike a balance between present use of resources and future availability of the same resources.

## ACKNOWLEDGEMENTS

I sincerely thank the Centre for Applied Social Sciences (CASS) and the Programme for Land and Agrarian Studies (PLAAS) of the University of the Western Cape, South Africa, for funding this study through a research grant from the Community-based Natural Resource Management in Southern Africa Project.

## REFERENCES

- Breton, G. C., 2000.** *Enterprise Development Markets and CBNRM*. Regional Roundtable Consultation Southern Africa Development Community, Natural Resources Management Project, Lilongwe, Malawi.
- Barbier, B. (undated).** *New Approaches in Environment and Resource Economics: Towards Economics of Sustainable Development*. The International Institute for Environment and Development, London, UK.
- Bond, I., 1999.** *Economic Incentives for Institutional Change for the Management of Natural Resources*. World Wide Fund for Nature, Southern Africa Regional Programme Office, Harare, Zimbabwe.
- Bromley, D.W., 1995.** *Natural Resources Issues in Environmental Policy in South Africa*, The Land and Agriculture Policy Centre, South Africa.
- Chambers, R., 1988.** *Sustainable Livelihoods, Environment and Development: Putting the Poor Rural People First*. Institute of Development Studies, Discussion Paper No. 240, Brighton, UK.
- Chenje, M., and P. Johnson (Eds.), 1994.** *State of the Environment in Southern Africa*. Southern Africa Development Community, International Union for the Conservation of Nature, Penrose Press, Johannesburg, South Africa.
- Chenje, M., L. Sola, D. Paleczny, (Eds.) 1998.** *The State of Zimbabwe's Environment*. Government of the Republic of Zimbabwe, Ministry of Mines, Environment and Tourism, Harare, Zimbabwe
- Child, B., S. Ward and T. Tawengwa, 1997.** *Zimbabwe's CAMPFIRE Programme; Natural Resource Management by the People*. International Union for the Conservation of Nature Regional Office for Southern Africa Environmental Issues Series No. 2.
- Christoffersen, N., B. Campbell, J. du Toit, 1996.** *A Pan African Perspective on Community Based Natural Resources Management* The World Conservation Union Regional Office Southern Africa, Harare, Zimbabwe.
- Gaborone, S., 1998.** *Land and Resource Tenure in Botswana*. In: Proceedings of a Workshop on Natural Resource Tenure and Decentralisation in the SADC Region Held in Johannesburg South Africa, July 7–9, by the Southern African Development Community.
- Hussein, K. and J. Nelson, 1998.** *Sustainable Livelihoods and Livelihoods Diversification*. Institute of Development Studies, Working Paper Number 69, Sussex, UK
- Jansen, D.J., 1990.** *Sustainable Wildlife Utilisation in the Zambezi Valley of Zimbabwe, Economic, Ecological and Political Tradeoffs*. Multi Species Animal Production System Project, Project Paper Number 10, World Wide Fund for Nature, Harare, Zimbabwe
- Johnson, S. and C.L. Mbizvo (Eds.), 1999.** *CBNRM and Its Contribution to Economic Development in Southern Africa*. International Union for the Conservation of Nature, Southern African Development Community, World Wide Fund for Nature, Africa Resources Trust, Harare, Zimbabwe.

- Katerere, Y., 1999.** *Overview of CBNRM in Southern Africa.* Paper Presented at the Exchange Workshop for Directors on *CBNRM and Its Contribution to Economic Development in Southern Africa* Held at Chilo Safari Lodge, Mahenye, Zimbabwe.
- Maveneke, T., 1998.** *Decentralisation in CAMPFIRE: Current Issues and Constraints.* Paper presented at the Workshop on Land/Resource Tenure and Decentralisation in the SADC Region Held in Johannesburg, South Africa, July 7-9, 1998.
- Murphree, M.W., 1990.** *Decentralizing the Proprietorship of Wildlife Resources in Zimbabwe's Communal Lands.* Centre for Applied Social Sciences Occasional Paper –NRM Series, 1990.
- Murphree, M.W., 1993.** *Communities as Resource Management Institutions.* Sustainable Agriculture Gatekeeper Series Number 36, International Institute for Environment and Development, London UK.
- Rihoy, E., 1995.** *The Common Without the Tragedy. Strategies for Community Based Natural Resources Management in Southern Africa.* Proceedings of the Regional Natural Resources Management Programme Animal Conference. SADC Wildlife Technical Coordinating Unit, Lilongwe, Malawi.
- Rihoy, E., B. Jones, S. Anstey, and M. Rolfes, 1999.** *Tenure in Transition: A stakeholders Guide to Natural Resources Management.* SADC Natural Resources Management Project, Lilongwe, Malawi.
- Scoones, I., 1998.** *Sustainable Livelihoods, A framework for Analysis.* Institute of Development Studies, Working Paper Number 72, Sussex, UK.
- The World Commission on Environment and Development, 1987.** *Our Common Future.* Oxford University Press, New York.
- Thomas, S. J., 1992.** *Equity in CAMPFIRE: Wildlife as a Communal Property Resource in Zimbabwe.* Zimbabwe Trust, Harare, Zimbabwe.
- Zaal F., M. Laman and C.M. Sourang, 1998.** *Resource Conservation or Short-term Food Needs. Designing Incentives for Natural Resource Management.* International Institute for Environment and Development, Dryland Programme, Issue Paper No. 77, London, UK.



This work is licensed under a  
Creative Commons  
Attribution – NonCommercial - NoDerivs 3.0 License.

To view a copy of the license please see:  
<http://creativecommons.org/licenses/by-nc-nd/3.0/>

This is a download from the BLDS Digital Library on OpenDocs  
<http://opendocs.ids.ac.uk/opendocs/>