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WETLANDS CONSERVATION UNDER  
COMMON PROPERTY MANAGEMENT REGIMES  
IN ZIMBABWE

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Introduction.

I am more inclined to consider the issue of wetlands in Zimbabwe as a problem of the sustainable utilization of wetlands rather than a conservation problem. This is because to look at the wetlands problem through purely conservation lenses usually implies preservation and would be ignore or condemn the multiplicity of uses to which wetlands are currently being put to in the communal lands today (grazing, agriculture, fishing, recreation, gold panning and so on). Moreover, conservation/preservation as an analytical construct is rather narrow in that it usually does not include sustainable utilization as part of the conservation dynamic.

Sustainable utilization is itself a contested paradigm. I use it here to refer to resource use that does not necessarily result in resource depletion or ecological degradation. Sustainable utilization in this paper thus implies some form of management and regulation of resource use. As Murphree (1991:14) states : "Resource use without resource management is non-sustainable. But equally, any attempt to establish resource management without resource use is likely to be futile." Murphree (1991:14).

Bromley and Cernea (1988:3) remind us that the recent interest in the nature and status of common property was triggered not by pure academic concerns but rather by the practical problems faced in development interventions. Scholars and development practitioners alike have come to realize that successful intervention to reverse resource degradation at the local level is predicated on an understanding by policy makers of the nature

of property and authority systems over natural resources.

Based on greater understanding of property and resource management regimes, the debate on common property management has gradually distanced itself from the "tragedy of the commons" paradigm proposed by Hardin (1968). The current position is that common property resource management regimes indeed offer viable solutions to some of the most pressing problems of resource degradation at the local level.

Perhaps one of the greatest problems facing the management of common property resources in Zimbabwe's so called communal lands today is based on the fact that the state and the people have different constructions of land holding and land use <sup>1</sup>. Extant state constructions are apparently a continuation of the colonial 'ideologization' of the land issue<sup>2</sup>. Evidence now exists to suggest that these are not true representations of the tenure system that is operating in the communal lands today<sup>3</sup>.

The management of common property resources in Zimbabwe's so called communal areas has suffered as a result of colonial legislation and practice that was designed essentially to facilitate state appropriation and commoditization of the land.

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<sup>1</sup> See A.P. Cheater (1989): "The Ideology of 'Communal' Land Tenure in Zimbabwe: Mythogenesis Enacted?" for a more complete historical discussion of how state and people's constructions of land tenure and land use come to diverge.

<sup>2</sup> Ibid.

<sup>3</sup> See also Bourdillon (1982), Cheater (1989;1990), Holleman (1969), Ranger (1985,1987) for a discussion of the de facto tenure system operating in the Communal Lands.

Colonial land policy was based on a deliberate misrepresentation of the structure of the communal tenure system with a view to legitimize the expropriation of land and centralised control.

Of interest in this paper is not the history, both colonial and post colonial, of land holding practices per se, albeit understanding of the historical trajectory is important to the debate, but rather how state interpretations of the same have led to the apparently inexorable trend of common property resource degradation in the communal lands. Of course the degradation of resources is not a feature exclusive to the communal lands, it occurs under all other property regimes in varying, and perhaps even greater degrees. The major difference to note here is that resource degradation in communal lands results from state assumption of control over communal land and the resultant demise of management institutions and clearly defined rules, regulations and obligations.

### **The Nature of Property and Resource Management Regimes**

'Property' refers to an enforceable right of a persons or persons to some use or benefit of some thing. It is therefore a political relationship between persons. Property is not the thing to which the right refers, the right simply specifies the relationship. Moreover, property is a dynamic institution, constantly changing as the relationships between persons change. "The meaning of property is not constant. The actual institution, and the way people see it, change over time ... The changes are related to

changes in the purposes which society or the dominant classes in society expect the institution to serve" (MacPherson, 1983:3).

In the Marxist view, the property institution is the result of class relations of production and refers to the ownership of the means of production. Thus since ownership of the means of production is determined by the mode of production in each epoch, property relations are indications of the dominant mode of production of that epoch.

Since property rights define the relations between persons with respect to a particular thing, they define the behaviour of persons regarding that particular thing. Property rights thus refer to both rules of access and exclusion as well as rules regulating the use of that thing. Property relations are thus at the same time property regimes.

According to Bromley and Cernea (1988:2); "A resource regime is a structure of rights and duties characterising the relationship of individuals to one another with respect to that particular resource." A property regime over resources is regulated by a set of dynamic institutional arrangements which define the rules of access to and exclusion from that resource and how the resource may be used.

There are four possible resource regimes over the various natural resources; state property regimes, private property regimes, common property regimes, and non property regimes (open access).

State property refers to state ownership and control over the use of a particular resource. It is essentially a state right to exclude groups or individuals from the use of that resource. National Parks, National Forests, rivers and dams are examples of state property regimes.

Private Property Regimes refer to the right of the individual (or corporate body) to exclude other individuals or groups from the use or benefit of something.

Common Property Regimes refer to private property for the group. It is created by the guarantee to each individual member of a group that he will not be excluded from the use or benefit of something. The group also has the right to exclude non members (however defined) from use or benefit of that thing. Individuals within the group have rights and duties to the resource in question. Both common property and private property are individual rights because they are guarantees to individual persons<sup>4</sup>.

"The property owning groups vary in nature, size, and internal structure across a broad spectrum, but they are social units with definite membership and boundaries, with certain common interests, with at least some interaction among members, with common cultural norms, and often their own endogenous authority systems" (Bromley and Cernea, 1988:7).

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<sup>4</sup> MacPherson (1983).

States as well as local institutions can manage common property. State management would involve the administration, by a local authority or other constituted body, of rules and regulations. Thus for instance the biological resources of a country are a 'national common property' managed by the state ostensibly for the benefit of all citizens.

Open Access Regimes refer to situations in which there is no property. There are no property rights and hence no institutional arrangements to regulate access and use.

"In a situation of open access each potential user has complete autonomy with respect to use of the resource since no-one has the legal ability to keep others out; the natural resource is subject to the rule of capture and belongs to no-one until it is someone's physical possession. There are no property rights in this regime, there is only possession" (Bromley and Cernea, 1988:8).

Scholars and development practitioners frequently confuse common property regimes with non property regimes. Common property is frequently alleged to inevitably lead to resource degradation in a "tragedy of the commons" scenario (Hardin,1968). However, scholars are now challenging Hardin's thesis on the basis that Hardin failed to distinguish open access from a common property regime. Thus the evidence suggests that because of its failure to account for the institutional arrangements in common property regimes, the "tragedy of the commons" thesis more accurately



refers to a tragedy of open access than to a tragedy of common property regimes <sup>5</sup>.

"By confusing an open access regime (a free - for - all) with a common property regime (in which group size and behavioral rules are specified) the metaphor [i.e Hardin's metaphorical pasture] denies the very possibility of collective action that we all know is so prevalent in the developing world. The Hardin metaphor is not only socially and culturally naive, it is historically false". (Bromley and Cernea, 1988:3).

#### **Environmental Legislation and Wetlands in Zimbabwe.**

Research into agricultural practices in dryland farming in the communal areas of Zimbabwe demonstrates that wetlands are 'key resources' to the whole farming system and that a complex pattern of interaction and tradeoffs exists in wetland - dryland farming systems. "Access to wetlands patches offers the opportunity of diversification into crops that cannot be grown in nearby dryland areas" (Scoones,1991). Wetlands in semi arid environments are crucial to livestock management practices. That wetlands are key grazing resources is demonstrated in a study of a grazing scheme in one communal area of Zimbabwe <sup>6</sup>. "Local Management Strategies recognise this, and a system of regulated use and reserved

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<sup>5</sup> See e.g. Ciriacy - Wantrup and Bishop (1975) for a discussion of Hardin's "tragedy of the commons" thesis and the need to consider institutional arrangements in the paradigm.

<sup>6</sup> See Scoones and Cousins (1991) "Contested Terrains: The Struggle for Control Over Dambo Resources in Zimbabwe".

grazing of the dambo is practised by the local community; regulated and enforced by the 'traditional' leaders in the area"<sup>7</sup> (emphasis added).

Note that use here also implies the existence of institutional arrangements designed to regulate such use (i.e. some system of resource management is in existence). It is also implied that management is not limited to the regulation of access to the resource but also involves the condition of the resource. The institutional arrangement also implies the existence of an authority structure with a capacity to enforce the regulations. Thus in spite of state regulation, local processes of resource utilization and regulation imply that there is a process of defining a common property regime regarding the utilization of dambo resources. This seems to suggest that there exists local recognition of the importance of wetlands to the whole production system of the communal areas. Because of this central role, local political processes are aimed at maintaining these resources as part of the common property regime and thus guarantee access by recognised group members.

While wetlands are so obviously crucial to the communal farming system, and have been maintained as part of the common property regime because of the need to ensure access, legislation and official land use policy has failed to recognise this. Instead, legislation and land use policy in both pre and post colonial eras have had the effect of taking out of production the key

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<sup>7</sup>Scoones (1991:5).

wetland resources. Colonial legislation was designed to take wetlands out of production in both the European areas and the Reserves. The rationale behind this was the need for conservation and environmental protection and conservation, based on unsubstantiated fears that use of wetlands would inevitably result in ecological collapse.

Scoones and Cousins (1991) argue that the colonial state pursued a highly interventionist strategy towards natural resources management. The issue of dambo cultivation is used here as an example of state intervention. State intervention in dambo use is traced from the Water Act of 1927 (amended 1976) which states:

"No person shall conduct any operations which interfere with the bed, banks or course of a public stream or any swamps or marshes forming the source of a public stream or found along its course without permission."<sup>8</sup>

The Natural Resources Act of 1942 which introduced regulations prohibiting stream bank cultivation within 100 feet (now 30m) of a stream bank and on wetland continues to be enforced today. Scoones and Cousins (1991: 11) maintain that these regulations were, since 1942, enforced by the Natural Resources Board (NRB) whose official stance regarding wetlands use has remained unchanged to this day.

Technical evidence demonstrated the profitability of maize

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<sup>8</sup> Quoted in Scoones and Cousins (1991) who also demonstrate that the technical evidence for concern with dambo and stream bank cultivation contained inaccuracies.

production on dambos with the result that it was legalised in European areas in the 1960s. Despite the questioning of the technical rational of the regulation, peasant farmers have remained bound to this legislation. Thus the state still effectively controls access to and use of dambos in the Communal Lands and this is strongly resented by the farmers (Scoones and Cousins 1991: 13).<sup>9</sup>

This example of legislation that has a weak technical basis shows how state control needs to be decentralised to allow for greater autonomy of user groups. In spite of the existence of state regulations and enforcement by NRB, use of wetlands has continued. However, because of the difficulties of state regulation from a distance, the development of appropriate common property regimes and regulatory institutions has been constrained. In some cases, use has taken on the forms approximating open access because of the limited capacity of local authority structures to regulate use. Moreover state control has recognised the use of wetlands in European areas but continues to prescribe it in the communal areas. This is a clear manifestation of the state's lack of understanding of the de facto tenure system operating in the communal lands.

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<sup>9</sup> Scoones and Cousins (1991 :13) state the position thus: " Locals therefore argue strongly against the legislation. While accepting the need to manage the resource carefully, few accept that it should be removed from production. They argue from experience; having observed successful, productive and (apparently) sustainable agriculture in the dambos over the years. Many technical specialists would support their argument; currently the law does not.

The technicist and bureaucratic nature of land use policy in Zimbabwe together with inhibitive legislative structures have resulted in common property tenure arrangements being generally excluded from the policy framework as viable resource management options.

To argue that state control alone accounts for the disintegration of local capacity to regulate use however ignores the effect of local political and economic processes and responses to integration into the economy <sup>10</sup>. The opportunity to earn income from other non-agricultural sectors means that individuals have alternative income earning opportunities to declining common property resources.

Moreover, there is a trend of differentiation and class formation among the rural population <sup>11</sup> which suggests that decision making also becomes increasingly based on differential and perhaps even competing interests among the rural people. Differentiation also implies different strategies regarding common property and as such wealthier peasants have progressively privatised the commons and put them under sometimes unsustainable land uses. This has been possible because of the breakdown of institutional regulations and arrangements as a result of state control.

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<sup>10</sup> See Lawry (1989) for a detailed analysis of the 'village economy' as a factor in common property resource management. Lawry refers to the new economic and political processes as the 'problem of incentives' for Common Property Resources management.

<sup>11</sup> See Amin (1990) for a description of the process of differentiation among the Zimbabwean peasantry.

Scoones and Cousins (1991) note that the struggle for control over dambo resources in Zimbabwe occurs between both the state and local communities as well as within the local communities themselves. Local contestations over dambo resources are very much a result of differentiation resulting in differential interests regarding the use of the resource.

Policy making on land use, environmental issues and the economy in Zimbabwe has historically been fragmented and disjunctive. "Ecological considerations have played an inconsistent role, at times being substantive but more often being used as rationalizations for short-term political or economic imperatives" (Murphree and Cumming, 1991:20)

Policy has also ignored local capacity for resource management and rarely makes use of local ecological knowledge. Local Knowledge is based on intimate interaction with the environment and on observation and is frequently more accurate on local conditions than the information available to planners. Policy and legislation have however made this knowledge redundant. "Ecological holism is not a new concept for rural African peoples, it is simply a concept that their circumstances have not allowed them to apply" Murphree (1991:15).

#### **The Common Property Debate.**

State appropriation of the communal lands has essentially limited

local capacity to manage resources previously utilized under communal management regimes. It is not possible to reconstruct how common property resources were managed in pre colonial times. But evidence seems to suggest that while land might have been individually 'owned', contrary to state ideological constructions, there were certain 'key' resources access to which was crucial for the success of the prevailing land use systems. Such resources included grazing land, wildlife, timber and other forestry products, water and wetlands. (Scoones and Wilson). Access to these resources was regulated by common property regimes.

State assumption of control over resources results in local institutions losing their legal rights to control the utilization of and access to that resources. The state, however, because of logistical limitations of staff and funding and also because it operates at some remove from the users of the resource, is unable to put effective management institutions in place. It has also been observed that the state's principal objective in centralising control over resources is to assert political authority over local interests and not to create new or more effective resource management regimes. Moreover, as Lawry (1989: 5) state: "States have concentrated their regulatory efforts on individual users, not on local user groups". This combination of powerful sources has led to the dissolution of local institutional arrangements for resource use regulation.

Murphree argues that the ability of 'traditional' authority

structures to manage common properties during the colonial era was seriously eroded by their cooptation into the colonial administration as part of the strategy of 'indirect rule'. These authority systems could not function effectively in land and resource management when the tenure status of the land had changed effectively to state land. "They and their constituencies were on state land with usufructural rights only, they had no powers of exclusion and access to certain natural resources (e.g. wildlife) were denied to them. Thus the conditions for a genuine communal property - rights regime were removed. Under these conditions, and with the state effectively unable to manage resources, resource use tended to acquire the characteristic of an 'open access' system. It is not surprising therefore that the communal lands have been the scene of the greatest environmental degradation in the country" (Murphree, 1991:4).

Local political processes however exist which attempt to define and maintain common property regimes for 'key resources' in the communal lands production system. The failure by the state to recognise these processes or to encourage the development of systems of group rights has slowed down the development of appropriate management regimes for the key resources. It is thus urgent for policy solutions to take account of these processes before all institutional arrangements atrophy and a system of open access ensues.

The collapse of local level institutional arrangements occurs when common property regimes are converted into systems of open



access in which the rule of capture drives each to get as much as possible before others do. "While this has been referred to as the 'tragedy of the commons' it is, in reality, the 'tragedy of open access'". Bromley and Cernea (1988;).

The decline of indigenous common property resources management institutions is of course not solely a result of the imposition of state control. It also results from changes occurring in the 'village economy' (Lawry, 1989). Thus as opportunities to earn income from other than common property resources arise, and as communities become differentiated, differential interests in the common property resources are likely to emerge and with these the enervation of local institutional arrangements is expedited.

Of course a fundamental result of open access has been resource degradation. What is required therefore is a system that can institutionalise common property resources management by creating new systems of group ownership of such resources. This has been attempted with wildlife management under the Communal Areas Management Programme For Indigenous Resources (CAMPFIRE) and although initial results of Campfire are encouraging, it is obviously still too early to give a conclusive prognosis.

#### **Conclusions and Policy Recommendations: The Need For Appropriate Local Common Property Resource Management Institutions**

Thus it can be concluded that for the sustainable management of wetlands in Zimbabwe's CLs, policy needs to reconsider the whole

land tenure issue in the communal areas to facilitate the sustainable utilization of common property resources. Since the main constraint to sustainable utilization of common property resources in Zimbabwe today is the limited regulatory capacity of local authority structures, policy solutions should seek encourage the development of systems of group rights based on the development of appropriate communal tenure regimes. In the absence of such a development, open access will result with negative implications for sustainability.

The problem facing communal resources in Zimbabwe today is largely a result of the inability of state control to replace local level management. As such state property can not be advocated as a viable option given the constraints of state management. On the other hand, privatization as a solution in Zimbabwe's communal lands is just as unlikely to succeed given the questions of scale that would arise, the mixed cropping and livestock production system and the grazing commonage. Moreover, privatization would run contrary to government's ideological preference for egalitarian socialist development <sup>12</sup>.

It has also been observed that the legislative environment under which common properties are currently utilised is unnecessarily restrictive. For policy changes to occur there have to be complementary changes in legislation to facilitate the new policy initiatives. There is thus a need for facilitatory changes in

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<sup>12</sup> see Murphree and Cumming (1991) for a discussion of the property regime options in land use policy in Zimbabwe.

legislation to make it possible for local communities to utilize the natural resources at their disposal. Murphree and Cumming (1991:21) state this point thus: "Current constraints to the development of [these] diverse resources include outdated legal and bureaucratic structures... Zimbabwean policy should vigorously encourage exploitation of these resources through innovative research and marketing and revise legal and bureaucratic constraints where necessary".

If a common property regime is instituted for the management of wetlands in the communal lands of Zimbabwe, then a process of institutional development should be set in motion and the CAMPFIRE experience would be valuable in this regard. Of course such institutional development would need to be informed by the nature of the resources in question and the particular uses to which they will be put by the user groups or communities, the nature and structure of the user groups, the current dynamics of control and regulation, and so on. As Scoones (1991) states: "In order for development strategies for wetlands in drylands to be more effective and to avoid unsustainable interventions, appropriate economic assessments of the value of wetlands for local livelihoods are essential".

In urban and peri - urban areas, some system of group rights and or regulation of wetlands is also desirable. An example of practical intervention would be the institution of group/individual based market gardening systems in such areas. Profitable wetlands based market gardening has been observed in

peri-urban areas in some African countries<sup>13</sup>. If such systems were individual based, then the water rights would necessarily have to be vested in a user group, given the nature of the resource.

Thus the need for an appropriate tenure regime for the communal lands today is urgent. The success of all rural resource management programmes is predicated on the existence of an acceptable resource management regime in which all users are involved in decision making and stand to benefit from management. Moreover the transaction costs involved in the management regime should be kept at a minimum. Policy should thus be based on a recognition of current use and attempts at local regulation and should aim at strengthening these local processes.

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<sup>13</sup> See Scoones (1991) for a discussion of market gardening on wetlands.

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