



CONASA

*Community-Based Natural Resource Management
and Sustainable Agriculture*

REVIEW OF ZAMBIA'S NATURAL RESOURCE POLICY DOCUMENTS (Land, National Parks & Wildlife, Water)

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INTRODUCTION

Although reviewing of the natural resource policies in Zambia has already been outsourced to HURID Consultants for at least four Natural Resources (viz; fisheries, land, wildlife and forestry), this independent review of some of these will allow us to complement what has been done or is being done. It also helps us measure our capacity and level of understanding of the issues. Although there is room for duplication, it nevertheless is a worthwhile exercise for CONASA as it needs to build its own in-house expertise/capacity to do this work in future, at least during the project duration. This review also allow CONASA to competently make comments on natural resource policy issues that may be raised elsewhere in the program and back up NGO/CBO advocacy in CBNRM with well-informed, researched and analysed advice and options available.

Natural resources in Zambia have been seen more as belonging to the Government. The Government assumed to know better in matters of managing, and even utilising the natural resources. At least this is how it was before the Third Republic that came with the advent of multi-party politics in 1991.

Involvement of local communities that live with these natural resources has led to some successful sustained management of the natural resources, here in Zambia and other countries around the world. In Zambia's wildlife sector the local communities have been involved through ADMADE, community-based natural resource management (CBNRM) programme over the last decade of 20th century. The ADMADE success/experience was however limited to wildlife sub-sector that increasingly under threat. It is only recently that attempts are being made to replicate these successes and experiences are put to test across other natural resources and all over the country.

As ADMADE successes became more widely publicised and recognised Government made policy changes in the wildlife sector and passed appropriate legislation to back the new policy position. As a result Government prepared the National Parks and Wildlife Policy of 1998 backed up by the Zambia Wildlife Act that was enacted the same year. The Act provides for the establishment of the Zambia Wildlife Authority (ZAWA). The ZAWA will regulate, facilitate and protect national interests. The Act also allows for the creation of the Community Resource Boards (CRBs) through which local community interests are legally and legitimately safeguarded and promoted in the wildlife sector. CRBs and ZAWA are partners in the management of wildlife resource through and co-management agreements.

The Zambian Government and its cooperating partners are promoting policy initiatives similar to the ADMADE and now ZAWA concept in other natural resource sectors as summarised below:

- Similar efforts are under way for the **fisheries** sub-sector. The recognition of the importance of involving local communities in the management and policing of fisheries resources has led to concerted efforts to repeal the 1974 Fisheries Act and replace it with a new Fisheries Act. The Department of Fisheries under the Ministry of Agriculture, Food and Fisheries (MAFF) has drafted the new piece of legislation, but has yet to receive Cabinet Office approval.

- The 1999 **Forest** Act recognises the importance of local community input through creation of the Joint Forest Management Committees. Part of the revenues accrued from licenses, concessions and services rendered from use of forest resources will be paid to a Fund set up by this committee.
- The 1995 **Mines and Minerals** Act does not however have provisions for community participation in the management of Zambia's mineral resources. By November 2001, the Act was undergoing a review by the parent ministry and will be forwarded to Cabinet Office. There just might be provision for community participation in management of forest resources. The idea of there being local community participation in at least revenue/royalty sharing with government may actually not be that far fetched.
- The **Water** Act CAP 198 provides general guidelines on access, use and management of water resource. It provides for the establishment of the Water Board that controls and regulates the allocation of water through licensing or issuance of "water rights". Such water resources when licensed are considered as "private water". The Water Supply and Sanitation Act provides for the establishment of the Water Supply and Sanitation Council that regulates, monitors and issues licences to service providers and utilities.
- The **Land** Act of 1995 vests all land in the hands of the Republican President. The Act provides for conversion of customary land holdings into leasehold by acquiring title deeds. By doing so individuals feel secure to make investments in their land as there is sufficient legal protection under leasehold as provided for in the Land Act. Although customary holdings continue to be recognised and exist, increasingly more people are converting their customary land holdings to leasehold by obtaining title deeds, after seeking consent and approval from the local authority and the chief of the area. Whilst the Land Act has improved sense of security and assurance of continued ownership of land through title deeds as proof of that ownership for people who can afford, there is a glaring gap in terms of security provisions for the poor and less fortunate that can not afford to pay and obtain title to their land.

This paper limits itself to the examination of just a few key natural resources policies and legislation as they relate to the community participation in the management of these resources. The paper will attempt to bring out aspects of Community-Based Natural Resource Management (CBNRM) concept.

A) **LAND POLICY, July 2000**

The policy document describes land tenure systems in Zambia as being:

- i) Customary system where the land is under the authority and control of the traditional rulers/chiefs. The traditional authority, usually the Chief or Chieftainess allocates land to the subjects as he/she sees fit. Government has recognised the fact that at times subjects may be unfairly treated and ejected from their land if they fall out of favour with the traditional rulers. There is very little legal protection of the right to land under customary tenure system despite the fact that most of Zambia's land estate is governed by customary tenure system. However, it should be noted that Chiefs play an important role

- in maintaining a cohesive community through administrative services that they provide, although the technical services are poorly developed.
- ii) Leasehold system is prevalent on state land. Individuals get title deeds to their land, encouraging them to increase the value of their land holdings through property investments and commercial development. Such owners of titled land can even use it as collateral in business transactions, and their property is sufficiently protected under the law.

Land administration in Zambia is highly centralised. In order to increase people's sense of security of tenure and right to land for productive purposes, the Zambian government passed the 1995 Land Act that attempts to secure and protect their right to land. Title deeds are now given on land in customary areas as long as the local authorities and chiefs give consent. In practice, only those individuals with the means bother about securing title deeds to their land under customary land tenure system.

Land is a very important natural resource because even mere existence of people will require some space on land. That is one use of land – human settlement. For any economic activity to be undertaken, an investor needs to be assured of the context and status of land on which such business is situated. Land becomes a critical factor in terms of putting up new strategies for managing other natural resources. Zambia's strategy on land is to decentralise the land allocation and administrative procedures. The government continues to review and harmonise legislation with other existing legal provisions to ensure a balanced and equitable set of benefits of land and its natural resources for all stakeholders. A major staple in this regard is to clarify the status of land where natural resources are vis-à-vis community claims to and over the same land. Thus if the private sector investor interests are in forest reserves, such investors will be faced with communities who may want to use forest trees for other purposes, or worse still community may probably want to settle in the forest reserve itself. These land use conflicts given the different valuation criteria and systems employed by different stakeholders on the same piece of land makes the CBNRM concept an even more appropriate/useful and necessary model to apply in sustainable management of natural resources. The different stakeholders, given their varying interests, need to have the same understanding of what is at stake and apply the same or similar social, cultural, political and economic valuation criteria to the natural resources that they have at hand. Such common understanding reduces conflicts over the claims, access and ownership on the one hand and the sustainable management and utilisation of the natural resources on the other hand. Of course the underlying assumption is that stakeholders understand and are conversant with the implied sharing of costs and benefits arising from the same. The Government strategy is, and should be, to increase dissemination of land-related information and sensitise the communities on issues like property rights, ground rent, and procedures of land administration.

The Land Act further states that all land is vested in the Republican President. Therefore the President may alienate land under certain (stipulated) circumstances by taking into account customary law, and after consulting the local authorities and traditional chiefs. The president can alienate land for public purposes, to protect and public interests, or for carrying out public works. The owner of such land may be compensated through the president's consideration. Therefore the right or claim

through title deeds that individuals have over land is not absolute in nature, whether leasehold or customary.

The Land Act provides for the establishment of the Lands Tribunal where land-related disputes are resolved/settled. Land conflict resolution follows a laid down procedure as provided for in the Land Act. Individuals can convert their land from customary to leasehold system. This can only be done with the consent of the chief and local authority of the area.

With respect to the CBNRM concept, the 1995 Land Act and the follow-up policies on how land will be administered falls short of involvement of the local community participation in decision-making. Not even in decision affecting traditional land administration. A few people make decisions on issues such as how much land should be given to a “new comer” – investor or subject of the chief. If such land is being given at a consideration, how much is such land worth; if any money was realised, how such monies realised from the “sale” of the land should be used. The policy and Act do not provide for establishment of local community land administration structures, other than the usual involvement of the chief and probably the advisers. Administrative structures to deal with traditional land issues are not in existence, if they do they are not adequately backed-up by legal provisions. Other administrative structures that may exist in a community are for entirely different and very specific purposes and/or projects. They are not used to deal with land administration because they may be inappropriate – save for cases like border disputes between subjects.

Public Reactions to Land Act

Following the enactment of the 1995 Land Act, there have been some publicised cases of negative consequences of the new Act. The critics of the 1995 Land Act have raised the following issues and argue along the following lines:

- A landless class of people may be created through the combined effect of poor individuals failing to acquire/secure title to their land on the one hand, and the rich people investing in land for speculative purposes. Unchecked greediness of traditional and local authorities issuing more land to “outsiders” at the expense of subjects who have historical and traditional claim to some of the land.
- Legal provisions support/protect and individuals with title deeds, and not those without documentation of proof of ownership. There has to be a community based institutional and legal framework that recognises, protects and supports the poor people’s claim to land.
- Traditional social order/fabric may be undermined since the chief’s authority that lies in controlling land may discover that such authority may not apply to people with title deeds. Non-cooperation will result into a lot of ill-sentiments by the community members. Forceful removal of subjects from their holdings to give way for investors may generate unnecessary tension in the community.
- The lack of a strong social safety net to take care of the less fortunate or disposed makes individuals even more poorer and vulnerable.
- Land administration under the local authorities at times lead to creation of artificial shortages of land in peri-urban areas. The local authorities have a tendency of apportioning small lots that put up for “sale” to interested individuals. These are usually few given the demand for land that is usually there for towns that are still growing. Such artificial shortages lead to high pricing that eliminate poor individuals without sufficient money. Since the service fee, or charges or

price for land is usually a recommended and therefore uniform one, corruption tend to emerge and become more prevalent.

B) POLICY FOR NATIONAL PARKS AND WILDLIFE, 1998

This policy was developed after the Government reclassified tourism from being a social sector to an economic sector in 1996. The strategy for tourism development, as contained in the 2002 PRSP, will be based on exploitation of the (potential for) abundant wildlife and wilderness experience that Zambia is renowned for. The inherent economic value of wildlife over other alternative uses of land is the driving principle of the current wildlife policy. What has not been thought is to improve the dissemination of information so that there is a shared vision among all the stakeholders.

The revised policy also came at the time when successes and benefits of involving communities in the management of wildlife were well documented through the ADMADE programme in Zambia.

The policy and legislative support contained in the Wildlife Act of 1998 provides for the establishment of the Zambia Wildlife Authority (ZAWA) and the Integrated Resource Development Boards (IRDBs) now referred to as Community Resource Boards (CRBs). Overall ownership and control of all biological resources is vested in the Republican President. In case of Wildlife, ZAWA carries out the administrative functions on behalf of the Government. The CRBs on the other hand are legally constituted bodies that represent community interests. And as partners with ZAWA, CRBs enhance the cooperation in management and sustainable utilisation of wildlife resources outside of national parks. The benefits and costs of managing the wildlife resources will be shared between these two institutional structures. It is required that co-management agreements be entered between ZAWA and the CRBs.

The wildlife policy objectives are:

- Protect wildlife ecosystems
- Conserve water catchments
- Provide/create opportunities for advancement of scientific knowledge, public education, business
- Provide wild animals room for repopulating other protected areas of the country
- Protect other natural resources found in protected areas under ZAWA – such as water, geological resources, soil, minerals, etc.

The policy also stipulates that any other activity in protected areas should be undertaken with the permission of ZAWA, and should conform with the provisions of the General Management Plans (GMP). The GMPs will be produced by CRBs in conjunction with ZAWA. The latter will build capacity of the CRBs so that they can effectively contribute to the development of the same. By so doing the local communities will be duty bound to undertake what is contained in the GMPS as they feel a sense of ownership and therefore commitment to abide by what is contained in the GMPs.

The CRBs are involved in wildlife management in areas surrounding Game Parks through the Game Management Areas (GMAs). There can be more than one CRB in a GMA. ZAWA's preferred institutional arrangement at the local level ends at the CRB. However, the CRBs consist of representatives from Village Area Groups (VAGs) that represent households from specific villages in an area. Some of the household member may belong to Commodity Groups whose commercial/business are specific. By taking into account the various interests in the community, the Game Management Plans (GMPs) are developed by the CRBs in conjunction with ZAWA officers who guide the community in terms of what can possibly be done in terms of developing the GMA. The GMPs will state how wildlife is to be managed, utilised, how quota will be set for consumptive purposes, marketing arrangements and apportionment of any benefits derived. CRBs will be registered with ZAWA through their secretariat. The chief of the area will be the Patron of the CRB.

The policy and legislative documents also states clearly the law enforcement provisions. Village Scouts are immune from prosecution when carrying out their conservation duties. Village Scouts they cooperate with other law enforcement agents – police and judiciary.

The Zambia Wildlife Act No. 12 of 1998 provides the legal backing for all the above-mentioned policy pronouncements. It stipulates even the administrative procedures on how wild animals and their trophy will be treated, marketing, law enforcement procedures. It defines the various offences that individuals may commit and the corresponding penalties. Other issues covered are administrative structure of the wildlife sector, how individuals should conduct themselves in protected areas, licensing procedures and the appropriate requirements for the same. The Act also recognises international conventions and agreements, and conforms to their provisions as far as is possible.

Even with these detailed provisions regarding entitlements and administrative procedures there are still administrative bottlenecks that need addressing for CRB/ZAWA partnership to work smoothly. For example there has been very little consultation by ZAWA on issues such as the proportion of ZAWA revenue that should go to CRBs is a subject that need revisiting. CRBs need to know how the various decisions are arrived at. The 35 % share to CRB had limited input from the CRBs themselves. The act of releasing 35 % revenue by ZAWA has proved problematic. If the allocation is sent, it is sent quite late and significantly less than what the communities expected and entitled to.

The communities are aware of what is at stake, have appreciable levels of knowledge of what is at stake. Some communities also understand their responsibilities in the wildlife management under the new wildlife institutional arrangement. The problem in getting the communities to act the way other stakeholders expect them to arise from the unequal access to information for decision making, and also the fact that the costs and benefits are not properly apportioned. If communities are seen as behaving irrationally it is only that they feel they bear the bigger of the cost and the rewards are less than other stakeholders. The earlier appropriate, effective administrative procedures are put in place the better for the sub-sector and the general economy as a whole. The GMA communities that participated under ADMADE feel that they used to receive a lot more benefits/money through their chiefs than the current arrangement

under ZAWA. ADMADE is a policy program under ZAWA that continues in form of CBNRM policies in the GMA to improve management and utilisation of wildlife resource by involving the local communities. Instead of viewing the communities living with the wildlife as adversaries to sustainable management, the new approach is based on collaboration with communities as partners who also share in the costs and benefits. Therefore they will need to be given the same information that other stakeholders use to make decisions. The timing in release of such information is also important.

With ZAWA still struggling to find its feet, little progress has been made in formalising the agreements with the CRBs. Therefore ZAWA consultations with CRBs that are supposed to take place over issues like quota setting and concessions are literally not taking place. Probably this contributed to the presidential ban of the 2001 Safari Hunting.

Other wildlife Policy References

There are other documents that have been prepared whose content has wildlife policy implications. Specifically the National Environmental Action Plan (NEAP) of 1994 raised some of these same issues that have been ably addressed by the Wildlife Policy and Wildlife Act. The NEAP covers issues such as human encroachment, infrastructure development in protected areas and tourism, institutional and human resource capacity, system of user-rights for communities – a reference to the CBNRM concept.

Following Zambia's ratification of the International Convention on Biological Diversity (CBD) in 1993, a national strategy had to be developed to address the issues raised in the CBD. The National Biodiversity Strategy and Action Plan (BSAP) of 1999 is a 5-yr plan on sustainable use and management of biological resources. It recognises the principle of sharing the costs and benefits from natural resources with the communities that live with them, whilst recognising the value/essence of property rights. This covers a wide range of natural resources, but most of the provisions are of a general nature. The detailed, appreciable specifics are still to be found in sectoral documents that have been prepared by different line Ministries and Departments.

These various documents and their related aspects are handled by different Ministries and/or Government agencies. Because there is little coordination among the interested parties there is a high probability of duplicating certain aspects while at the same time creating more gaps in policy and intervention programs. Cooperating partners who want to help Zambia with appropriate interventions in form of projects need a strong base for coordinating their activities and cooperation among various stakeholders. There will then be reduction in costs by avoiding duplications, at the same time ensuring that all the important issues get the necessary attention and interventions they deserve.

Right now there may be stakeholders who have made known their intentions to intervene in certain areas, but because of the absence of a strong coordinating role by any institution, there is imperfect flow and sharing of information. Other institutions may also be contemplating similar intentions, or probably already intervening on these issues. Case in point is the creation of the CBNRM National Forum where there has been little progress. The BSAP recommended that a full time secretariat be

created at the Ministry of Environment and Natural Resources (MENR) for just this purpose. Stakeholders have yet to see this. It is better for institutions or organisations with some resources to get this forum on its feet, and be supported by the appropriate line Ministries.

Zambia is a signatory to quite a number of international agreements and conventions that seek to improve the management of natural resources. Some of the international agreements/conventions to which Zambia is a signatory are:

- Convention on Biological Diversity (CBD) that was ratified by Zambia in 1993. It calls for integration of programs like the ESP in the Zambian National Biological Diversity Strategy Action Plan.
- Convention on Wetlands of International importance, Especially of Waterfowl habitat. This convention is also known as the Ramsar Convention
- Convention on International Trade in Endangered Species (CITES) of wild fauna and flora
- United Nations Framework Convention on Climatic Change (UNFCCC)
- United Nations Convention to Combat Desertification (UNCCD)
- Bilateral agreements with Zimbabwe, Burundi, Tanzania and Democratic Republic of Congo
- SADC Wildlife Protocol of 2000

C) WATER POLICY

The Ministry of Energy and Water Development (MEWD) came up with the National Water Policy in 1994 whose main objective is to promote sustained water resource development, facilitate equitable quantity and quality of water for all competing needs/uses at acceptable cost to ensure access and continued supply.

Although surface water is recharged from underground and through rain, water is a scarce resource. Ground water is considered in large part as private water, such treatment of ground water may limit exploitation of economic opportunities.

The policy document highlights the need to separate water management functions from water supply functions since there is room for conflict given the varied demand for water and the uses it is put to. The policy vests the ownership of water resources in the hands of the Government, and follow what are generally referred to as the Helsinki Rules for internationally shared water resources – the concept of best joint utilisation.

Institutional responsibilities have been outlined in the Policy document that suggests that these should fall under one line Ministry. A strong legal framework will be provided for effective implementation. The policy also makes reference to the quality of water and the various uses it is put to in agriculture, industry, domestic homes, recreation, etc. Peculiar circumstances of rural and urban water supply are also highlighted, although there is little detail on the rural water situational analysis and proposed specific interventions.

The urban areas with their high concentration of people can and do attract private sector investment in water supply and sanitation. Utility companies are expensive by their very nature and therefore requires a critical mass of able and willing customers

that can pay for the services. Rural areas by their very nature can not attract private sector investment, Government's lack resources has led to rural areas heavily relying on donor-funded projects to have access to descent water supply.

The water policy calls for the separation of water management and supply functions in the water sector. On the management functions the policy called for the creation of Water Development Board whose functions are to control and allocate water rights through licensing. Therefore the Water Act CAP 198 allows for the creation of the Water Board to ensure that utility companies take into account all public interests and other factors in addition to their economic/opportunity costs when determining the water tariffs. The Water Board as regulator hears representations from various stakeholders, regulates excesses of utilities and service providers to protect the interests of users and the general public.

On the supply side another Act was passed, the Water Supply and Sanitation Act of 1997 deals with issues of water supply and sanitation as the title implies. It provides for the creation of the Water Supply and Sanitation Council whose functions are to licence utilities and service providers, regulate provision of water services; develop guidelines and standards for the establishment of and use by the utilities and other service providers. The Council also disseminates information about water-related issues to raise stakeholder awareness of dynamics in the water sub-sector.

The current water policy and the two supporting pieces of legislation address concerns of the urbanites. Rural water supply has been to a larger extent left to fend for itself and the help of humanitarian organisations. Operations of these organisations are probably not affected by the above legalities to the same extent that urban utilities and service providers are. Given that urban communities' water concerns can best be taken care of by the private sector with the regulatory oversight provided by the two institutions (Water Board and Water Supply & Sanitation Council) the rural poor communities would benefit from the CBNRM concept and approach. There are times when there are conflicts between people and wildlife for example regarding access to certain water resources in GMAs or such other protected and controlled areas. The CBNRM concept/model can help answer questions of the following nature: What or how should interests of these groups be handled/treated? Whose interests come first? How can rights of one stakeholder be protected without infringing upon the rights of the others? These are questions that are better answered under the CBNRM and participatory approaches. Given that rural communities are poor and can not therefore sustain water supply operations of private sector companies by paying user fees. Government on the other hand is also stretched with various responsibilities. Is there room for leveraging the communities' water needs (or rights) with other resources they have at their disposal?

The "Human Rights based" approach to social services like health, education, shelter and water (safe, clean drinking water) to which Zambia subscribes through various pieces of international conventions/agreements/declarations has proven a difficult concept to realise, at least for the time being. There are various reasons for our dismal performance some of which are lack of political will, lack of adequate (financial) resources, and the mere fact of plain missed opportunities by wrong prioritisation. Government may promote and promise individual rights to (have access to) clean,

safe drinking water at international forums, but may not have the resources to make this a reality for all and sundry.

CONCLUSION

What has come out of the different policy and legislative documents so far reviewed is that the concept of CBNRM has been dealt in varying degrees. In the wildlife it is clear that the demonstrated successes and positive experiences that the ADMADE programme over more ten years of experimental implementation resulted into led to the radical over hauling of the entire wildlife policy in Zambia. The old way of heavy-handed policing and law enforcement meted out on the community members that live with these natural resources had not worked for close to four decades of the Zambia's Post-colonial history.

More and more the Government and cooperating partners are duplicating this model of CBNRM in other sub-sectors to forge genuine participation between Government, private sector and local communities. The new policy regime addresses the different aspects of CBNRM in varying degrees. For sustainable management of natural resources, critical issues regarding ownership, authority, access, control/management need to be developed in such a manner as for all stakeholders to know what costs are involved and what benefits accrue to them given that they have undertaken certain roles and responsibilities. These roles and responsibilities are in essence investments by interested parties if they have lay claim to certain benefits.

Sectoral approach to CBRNM policy development has led to duplication of effort in different policy and legislative documents; and even serious is the creation of policy gaps through omissions. Currently the various policy and legislative documents are stand-alones pieces that probably did not properly take account of effects of other policies in existence. There is evidently a strong need for effective coordination by preferably by the Ministry of Environment and Natural Resources. There have been attempts at harmonizing the various policies and legislation that affect the natural resources.

In 1985 the National Conservation Strategy document sought to define and improve the role coordination. The second attempt at this was through the National Biodiversity Strategic Action Plan (BSAP) that was produced by the Ministry of Environment and Natural Resources. Such efforts should be able to address issues such as the ones outlined below:

- Combined effect/consequence of wildlife and land: is it possible for a community and private sector to create a JV in a GMA? Chief having traditional power on land classified as GMA.
- What about community access rights to other natural resources on and under the land that has been leased out to private sector investors? Are any newly born wild animals assumed to be claimed by such investors?

The quasi-Governmental organisations that have been created recently are supposed to facilitate and regulate participation of different stakeholders in various sectors of the economy, natural resources sub-sector included. However these institutions seem less willing to enlighten the local communities regarding the potential benefits that can be derived from sustainable management of natural resources. As result there are different valuation of the natural resources that lead to conflicts of interests between

the local community on the one hand and the private sector and government on the other. The latter two are usually more enlightened and well-informed. Unfortunately, sometimes even when there is descent sharing of sufficient information, and there is no agreement on how each stakeholder is going to derive the benefits. The communities find themselves short-changed. They become less willing to cooperate with those deemed to be deriving the most benefit.

Presidential decrees do little to fill the policy and legislative gaps, and may continue to hinder improvement in the relations between stakeholders. Governments have learned that that they should not make promises they can not fulfil. Even if they can, there is need to allow the communities to build capacity to use their own initiative. With the high poverty levels in the country, political expedience may
Participation by the local communities in formulation and implementation of policies and law is the cornerstone of the CBNRM concept as it makes these provisions more effective through increased commitment by the communities as there is increased sense of ownership of the process and outcome.