



CONASA

*Community-Based Natural Resource Management
and Sustainable Agriculture*

LAND-USE (Agricultural) POLICIES AND LEGISLATION



CONASA
P.O. Box 36238
Lusaka
Zambia

Tel: 260-1-250456
Fax: 260-1-253354

Office: Pandit Neru &
United Nations
junction, Longacres,
Lusaka

Email: rhino@zamnet.zm

Web: http://www.geocities.com/conasa_zm



LAND-USE (Agriculture) POLICIES AND LEGISLATION¹

INTRODUCTION

This paper aims at outlining in brief land use policies and legislation vis-à-vis the concept of Community-Based Natural Resource Management (CBNRM). Land use in our context will be confined to that related to agricultural practices because our target community is rural based, and supposedly agriculture is the prime economic activity among community members. However the other uses will be mentioned in passing as need arises.

Basic Agricultural Characteristics

Zambia has a land area of over 752, 000 Km², of which 12 % is suitable for arable agriculture. The agriculture sector contributes less than 20 % of the nation's GDP.

There are three agro-ecological zones that are characterised by the following features:

Zone I: 300 – 1,200 m above sea level; receives up to 800 mm of rainfall per year; temperatures range between 20 and 25 degrees Celsius. Growing season is between 80 and 120 days

Zone II: is between 900 – 1200 m above sea level; receives between 800 - 1,500 mm of rainfall per year; temperatures are between 23 and 25 degrees Celsius degrees. Agro-season lasts between 100 and 140 days.

Zone III: receives over 1,000 mm of rainfall per year; temperatures range between 16 and 25 degrees Celsius. Growing season is between 120 and 180 days. This is mostly in the northern half of the country.

Maize is widely grown throughout the country, even in areas that are not suited to growing it. This is a legacy of mono-cropping agricultural policies that started with the colonial administration, continued with the First Republic after independence to grow maize for the miners on the Copperbelt province. Maize now constitutes the greater portion to the staple basket of an average Zambian family. The earlier strategies to boost production were based on subsidising production and later on even consumption. This resulted in a number of problems that have continued to haunt the Zambian economy even after trying various economic strategies in between. Since Government could not sustain these, but people were so accustomed to producing and consuming with the subsidy facility, the result today is lower production of almost all agricultural commodities. If you include the uncertainties associated with weather patterns you get a very troubling macroeconomic problem. The 1990's Zambian economic dispensation that called for less Government intervention could not even talk about subsidies without mentioning the consequences in terms of upsetting the macroeconomic fundamental principles that have been agreed upon with the IMF and World Bank. In any case the IMF and World Bank are always close by to remind about the commitments made in the Letter of Intent.

However, in the new millennium after seeing no light at the end of the tunnel, we are seeing how government is struggling with the decision whether to reverse its economic course. Some top government officials are increasingly calling upon more concerted state intervention, at least in the provision of food for the poor.

¹ Paper presented at the Community workshop in Livingstone by Ernest Mwape - CONASA Policy Component Manager. (24th February to 1st March 2002)

POLICIES

While the legal side is clustered with a lot of legislation, both the old & obsolete and the new current & more appropriate legislation, the policy side is probably less confusing in terms of coordination and institutional responsibility in so far as land administration and utilisation is concerned. If you consider the fact that most of the affected people are ignorant of the provisions of most legislation, it compounds the problems regarding enforcement of these legal provisions and therefore does not help the community in conforming with the law especially since they were not party to putting it up in the first place.

There is no agricultural policy per se in Zambia. Although Zambia has never had a formal agricultural policy we can always deduce from the various documents in form of strategies, plans and actions that have been prepared, taken or adopted at different times. In 2001 a draft paper was prepared that was presented to Cabinet for consideration. It has yet to be declared the nations agricultural policy.

In more recent times, we can make reference to Economic Reform Programs of the 1980's and Agricultural Sector Investment Programme (ASIP) documents in the 1990's to deduce agricultural policy objectives. Before 1991, the agricultural policy and strategy was characterised by mono-cropping of maize. There was low private sector participation, and it was not encouraged. Government and quasi-governmental institutions were running the agricultural sector; setting the floor prices for commodities produced by resource-poor small-scale farmers. The Prices and Incomes Commission (PIC), Ministry of Agriculture and Ministry of Finance would propose floor prices for Cabinet Office approval. The AFC, NAMBoard, Lima Bank, ZCF and the regional cooperative movement were active players in the production and marketing of agricultural commodities and services. Agricultural marketing was actually dominated by the parastatal sector for a long time. Despite the assurance of having the buyer of last resort and an "economic" floor price, there were fluctuations in fortunes of farmers. The "lows" were too numerous and lasted for longer durations than the "boom" times. Eventually, with the advent of economic and political liberalisation and the wider acceptance of democratic values and principles, the economic (and political) orientation of the country was changed in 1991. In particular capitalism and its liberal tendencies came to symbolise the new thinking and approach of Government. The private sector players were asked to lead in almost all economic activities. In agricultural marketing Government tried to boost the private sector confidence through encouraging them to register as Maize Marketing agents with some start-up loans using the Maize Marketing Revolving Fund at the Ministry of Agriculture. The Fund never revolved, and the losses incurred by Government and farmers were huge.

The Third Republic was justified in introducing a liberalised economy, with the private sector playing a big role in production and marketing of goods and services. Agriculture being what it is, the farmers' fortunes have not improved after ten years of implementing the liberalised, free market economy. The donor-driven Sector Investment Programmes (SIPs) were to a limited extent consultative in nature – the

urban elite were consulted and local communities at least informed. Nevertheless these fell short of CBNRM practices and requirements. ASIP has undergone some revision, but not extensive and innovative enough to spur agricultural growth. The Third Republic agricultural policy objectives (at least as spelt out in ASIP documents) are as follows:

- Attain Food Security (household and national level):
 - Supply side and strategic food reserve
 - Technology – GMO, irrigation, draught power
 - Secure markets – provide market information and incentives
 - Reasonable incomes and business skills
- Maintain and improve the Natural Resource base
 - Prevent deforestation
 - Conserve/improve agro-biodiversity and genetic pool
 - Prevent Land/soil degradation
- Increase Incomes and Employment
 - 50 % of population live in rural areas: Resettlement Department @ Cabinet office, TSB,
 - Create agro-jobs: add value through agro-processing
 - Promote agricultural small-holdings (UNDP, Kanakantapa Schemes)
 - Low productivity because of nature of technology employed e.g. cultivating with a hoe
- Contribute to Industrial Development
 - Value addition to raw materials
 - Innovation/invention: Mt Makulu, NISIR, TDAU @ UNZA
 - Horizontal and vertical integration in production processes through provision of input and output
- Contribute to Exports
 - Contribute to BOP/GDP, stabilise FX rate
 - High value products: organic and NR products bring more FX
 - Competitive markets lead to efficiency in production/marketing
 - Limitations in real world market place (quotas, NTBs, standards, etc) implies recognition of the role of Government to “facilitate” investment and marketing for its big investors

The strategies being employed to attain these objectives are:

- Diversification from low-value to high-value agricultural products
- Facilitate private sector participation in economic activities through provision of enabling legislation and policies
- Provide agricultural infrastructure and services
- Provide institutional and regulatory framework
- Promote development of appropriate technology
- Mainstream gender issues/analysis into agricultural programmes. Finally Zambia has a gender policy. For details check with GIDD at Cabinet Office
- Mitigate unstable weather, emergency preparedness: DMU, OVP at Cabinet Office
- Prevent crop/livestock diseases
- Control and regulate introduction of new technologies, species, etc

At the end of the fast-tracked implementation of these policies poverty levels in the country went up from 70 % in 1996 to 72.9 % in 1998 and about 80 % at the end of the millennium some people would argue. The dismal performance of the Zambian economy under the Bretton Woods institutions economic reform programmes for over twenty years now has led to slight revision of the implementation approach. The IMF and World Bank in particular responded to world-wide criticism of the “failed” economic programmes by requiring wider participation in economic programming of the civil society, private sector and the local communities who apparently bear the brunt of all this policy experimentation. Thus following the CG meeting in Lusaka in July 2000, the Government started preparing the Poverty Reduction Strategy Paper (PRSP) under the auspices of the World Bank and IMF economic reform programme. The PRSP prepared in such a manner is one of the preconditions for Zambia to access more financial resources from these donor institutions. Apart from the PRSP preparation there are other conditions that Zambia should fulfil in order to access the HIPC resources – a debt reduction mechanism for the less developed, but highly poor countries (good governance, transparency, accountability, liberalisation, etc). The 2002 national budget is expected to make provisions for the PRSP. In fact Government has already been making announcements of monies released for PRSP programmes even though officially the PRSP has not been endorsed.

Although the 2002 PRSP process required more inclusive participation of all stakeholders, there was not enough time for the non-state actors to come to grips and understand/comprehend the issues at stake as well as they should have for them to effectively participate and make meaningful contributions and recommendations on what they would like done in terms of economic development. In fact the consultation at the lower level only started after the draft PRSP had already been prepared. Ideally PRSP consultation should start with the local communities at the lower level. Because of the importance attached to this policy and /or programming document, the Ministry of Finance and Economic Development took the lead in coordination of its preparation. Hopefully with the lessons learnt during the preparation of the first PRSP, the next PRSP cycle will call for more effective, meaningful participation of the local communities than was the case in 2001.

Hopefully capacity building (in form of basic training in budgeting, economic and financial programming, Monitoring & Evaluation, and good governance) will take place for the local CBOs to understand these issues and how they affect the local communities they represent. Without it, we will end up with an ineffective and worse still passive communities who want to participate, but are limited by the insufficient knowledge and understanding to effectively communicate with those who will lead this process in/from the civil service.

At a more local level the local authorities/councils, there also has not been a whole lot of participation by the communities. The Provincial Development Coordination Committees (PDCC) and the District Development Coordination Committees (DDCC) have been in place for over five years now, but most of them are not effective in terms of representing the interests and issues affecting the local communities. Apart from that the representatives on the PDCCs and DDCCs may not have been democratically elected and therefore do not go with the mandate of the people they claim to represent. This results into non-compliance by the communities

to whatever agricultural-related policies or legislation (in form of bye-laws) are put in place.

Whatever the shortcomings, the PDCC and DDCC draw their membership from a wide range of stakeholders that include heads of Government Departments, local authorities, traditional leadership, the church, CBOs, NGOs, and private sector representatives operating in these areas.

The institutional framework for implementing agricultural policy, strategies, plans etc is through the Ministry of Agriculture, Food and Fisheries (MAFF), with the Departments of Field Services being the most important for the local communities. Then we have donor-funded projects like SHEMA, RIF, ZAMSIF, IFAD, ZAMPIP, etc. Quasi-Government institutions like FRA, SCCI, National Plant Genetic Resource Centre and Agric Colleges are equally important in the implementation of policies. The NGOs also supplement the efforts by intervening on behalf of the local poor and vulnerable community. The private sector is supposed to make the market forces work.

LEGAL AND INSTITUTIONAL FRAMEWORK

The principle Acts for *administration* of land are the Lands Act, Landlord and Tenant (Business Premises) Act, and the Agricultural Lands Act, Common Leasehold Act, Land Acquisition Act, Rating Act. There are some Acts on the land use side that may have indirect implications for administration of land. For purposes of this paper, the legislation that are of interest are those that deal with the issues and consequences of *using land*. Therefore we have the Agriculture (Fertilisers and Feed) Act, EPPC Act, Town and Country Planning Act, etc. The latter Act confines itself to land under the councils (urban areas) and exempts agricultural land.

There are too many pieces of legislation that affect the agricultural sector. Even individual crops have their own pieces of legislation that govern their production and marketing. It says a lot about the complexity of the sector, and probably why we have failed to get it right whether with passive state intervention (but more active participation of the private sector) or vice-versa as was the case in the First and Second Republics. Although they follow from the same policy documents, there are a lot of separate (independent?) pieces of legislation that govern the different, but related activities in agriculture. Some of these pieces of legislation may be outdated, and no longer serve the initial intended purposes and definitely need repealing or at least realigning them with the current more appropriate policies and legislation.

For administration of land, we can refer to the following pieces of legislation, some of which may not be applicable to agriculture land:

- Lands Act, CAP 184 (1995)
“An Act to provide for the continuation of the leaseholds and leasehold tenure; to provide for continued vesting of land in the President and alienation of land by the President; provide for statutory recognition and continuation of the customary tenure”. It provides for the conversion of customary land into leasehold tenure; Land Development Fund; Lands Tribunal; Repeals Orders, Acts re: State Land and Reserves

- Agricultural Lands Act, CAP 187
“An Act to provide for establishment of the Agriculture Lands Board; to prescribe composition and membership thereof; to prescribe its powers and functions; to provide for tenant farming schemes; and to provide for matters incidental to or connected with the foregoing”. Applicable to 30-yr leases; take up residence within six months of offer; outlines options and conditions for purchase; provision for state grant; agricultural holdings rent/rules. Functions of the Board: Review use of land outside urban areas and make recommendations to Minister; alienation of land under State; review operations of the Act;
- Lands Acquisition Act, CAP 189
“An Act to provide for compulsory acquisition of land and other property; and to provide for matters incidental to or connected with the foregoing”. Compensation Advisory Board; prescribe form and regulations. e.g. discovery of valuable NRs and the obligation to inform public authorities. See Mines and Minerals Act, etc.
- Rating Act, CAP 192
“An Act to provide for declaration of rateable areas; to make provisions for the assessment of rateable property; to provide for matters connected with or incidental thereto”. Applicable to areas within council boundaries, except ZCCM, Agriculture, Trust and Reserve land. Rateable Area plans are prepared by Surveyor General. Calls for setting up of a Rating Valuation Tribunal. Special rates apply in case of increase in capital works scheme executed by the rating authority. Duty of leaseholder to supply information on rateable property except those used by President, public utilities/sports/worship facilities, aerodromes, rail tracks, diplomats.
- Common Leasehold Schemes Act, CAP 208
“An Act to provide for the division of land and buildings into units with separate titles by means of common leasehold schemes; and to provide for matters connected with or incidental to the foregoing”. Unit holders are tenants, holding shares proportional to unit entitlements; boundaries and easements; divide buildings and fixtures belonging to different units; application form with plan indicating unit entitlements and addresses; corporate body with bye-laws; Administrator in case of oppression; Tribunal: outlines conditions for termination, variation of common lease by common consent. Tax using applicable rate for each unit.
- Town and Country Planning Act, CAP 283
“An Act to make provisions for the apportionment of land by the planning authorities; for the establishment of a Town and Country Planning Tribunal; for the preparation, approval and revocation of Development Plans; for the assessment and payment of compensation in respect of planning decisions; for the preparation, approval and revocation or modification of regional plans; and for matters connected with or incidental to the foregoing”. Provides for establishment of the Town and Country Planning Tribunal; Regional Plans; Application for development Plans in areas under the local authorities; limited application to state, reserve and customary areas.
- Land Lord and Tenant (Business Premises) Act, CAP 193 (1971)
“An Act to provide security of tenure for tenants occupying property for business, professional and other purposes; to enable tenants to obtain new tenancies in certain cases; and to provide for matters connected therewith and incidental thereto”. Business does not include (agriculture) farming on land. Tenancy term not exceeding 21 yrs

Exceptions are agricultural holdings, residential purposes, Government, over 21 yr tenancy, business in breach of law/prohibition, appointment/employment, less than 3-month tenure. It's the duty of tenant and landlord to give each other correct and timely information to each other.

For administration of land the Ministry of Agriculture, Food and Fisheries, Ministry of Lands and various Tribunals and Commissions that are set up; local councils and traditional authorities are the major players. Local communities, private sector and NGOs have become important stakeholders that are increasingly being recognised and therefore form part of the institutional framework. However for formulation of most of the above pieces of legislation there was little input by these non-state actors – even as late as 1995 when the current Lands Act was passed. Small wonder that it generated so much debate given the wider acceptance of liberalisation and democratic principles.

For land-use purposes in so far as agricultural activities are concerned, we can refer to the following pieces of legislation:

- Control of Goods Act, CAP 421
“An Act passed to enable the president regulate and control the distribution, disposal, purchase, sale; and wholesale and retail prices of any manufactured or un-manufactured commodity or of any animal or poultry, or of any class or any such commodity, animal, poultry; for the control of imports into and exports from Zambia, and for other purposes incidental and supplementary to the foregoing.”
See also Subsidiary legislation SI # 73 of 1970: the Control of Goods (Import and Export) Regulations. Schedules and permits.
- Agricultural Credits Act, CAP 224
“An Act to facilitate the borrowing of money on security of charges upon farming stock, additional assets or other agricultural assets; to provide for registration of such charges; and to provide for matters incidental or connected with the foregoing”. Give notice of agriculture charges, register them within 30 days of execution with the Registrar. Most rural agricultural land is not titled, and therefore may not be acceptable as collateral for the loans. Security of tenure is not guaranteed without title deeds. The Act provides for penalties in, for example, cases where a farmer sells a crop that has been contracted to somebody else not party to such a contract.
- Food Reserve Act, CAP 225
“An Act to establish the FRA; establish the national food reserve; to transfer certain assets, rights, obligations of NCZ and ZCF to government; to repeal the National Agriculture Marketing Act (1989)....”. The Act allows FRA designate the food security commodities, provision of market information, standardization (quality, packaging, grading), registration of traders and processors, reports to be prepared and stipulates penalties for non-compliance.
- Agriculture (Fertilizers and Feed) Act, CAP 226
“An Act to provide for the registration and control of the manufacture, processing and sale of agriculture fertilisers and farm feeds; to provide for minimum standards of effectiveness and purity of such fertilisers and feed; and to provide for matters incidental to or connected with the foregoing”. The Registrar is required to register plant and owner, inspectors, analysts, laboratories (put on a roll); Prohibition of import of farming requisites; spells out penalties for failure to comply and conditions for seizure and disposal.

There are other pieces of legislation that affect land use, and are only listed below. Some of them that were passed much earlier are probably obsolete, or at least some of the clauses contained therein. The political and economic orientation of the country has drastically changed and some of these legislations may need repealing or complete overhaul. So far, a lot has been done in other NRM and economic sectors.

- Water Act
- Environmental Protection and Pollution Control Act
- Cotton Act
- Tobacco Act
- Plant Pests and Diseases Act
- Plant Varieties and Seeds Act
- Weeds and Pesticides Act

To appreciate the complexity of the agricultural sector, we can also briefly highlight the relevant institutions and related pieces of legislation that govern the respective agricultural sub-sectors. As stated earlier these are based or drawn from the same policy documents. Given that some of these legislations were enacted at different times, their relevance might have long expired. For the respective institutions it has been much easier to phase them out at almost the same time when policies they implemented no longer addressed the concerns/purposes for which they were intended for. Thus we have had NAMBoard replaced by ZCF, which was also replaced by FRA (N.B. there is already a pronouncement FRA will be replaced with a Crop Marketing Agency (CMA) by the new MMD Government!). The parent Ministry's name has had to also change on a number of occasions: from Ministry of Agriculture and Water Development (MAWD) to Ministry of Agriculture, Food and Fisheries (MAFF) and now the Ministry of Agriculture and Cooperatives over the last ten years. And all these changes have taken place over the last fifteen or so years.

1. CROPS SUBSECTOR

Objective: Assist farmers increase their production and productivity

Institutional Framework: Field Services under MAFF, out-grower companies (DUNAVANT, ZAMSeed, Zambia Leaf, etc), NGOs (PAM, WorldVision, CARE, CONASA, etc)

Legal framework: Cotton Act, Tobacco Act, Weeds and Pesticides Act, Plant Pests and Diseases Act, Environmental Protection and Pollution Control Act, Water Act, Agricultural Lands Act.

2. SEED

Objective: ensure quality seed of various crops is available to the farmers in efficient and convenient manner. Conserve/protect the seed variety stock through proper breeding and taking precautionary measures against contamination.

Institutional framework: SCCI at Mt Makulu, ZAMSeed, National Plant Genetic Resource Centre, SADC Gene Bank, NGOs and private sector (NRI, Seed-Co, Pannar,)

Legal framework: Plant Varieties and Seeds Act CAP 236, plus related acts. There is however no Act to regulate and protect plant breeders, farmers and community rights in light of WTO-TRIPS/WIPO developments for them to get recognition and reward them for their efforts in developing and preserving the NR genetic pool and variety.

There is need for concerted effort to educate the local communities about these developmental issues.

3. LIVESTOCK

Objective: improve production efficiency in a sustainable manner, support market, and improve food security situation.

Institutions: Animal Production and health Department at MAFF, private sector operators (Vets, farmers,)

Legal Framework: Stock Diseases Act, Cruelty to Animals Act, Veterinary Surgeons Act, Brands Act, Public Health Act, Tsetse Control Act, Dairy Act, Cold Storage Board of Zambia Act, Piggery Act, Zambia Bureau of Standards Act, Science and Technology Act.

4. FISHERIES

Objective: increase food production, sustainable utilisation of fisheries resource, preserve fish species through regulation and promulgation

Institutions: Fisheries Department at MAFF, private sector,

Legal Framework: Fisheries Act of 1974, Water Act, etc. The Fisheries Act is being reviewed to recognise community contribution, but the bill has yet to receive Cabinet approval to become an Act. The 1995 draft bill provides for community participation in management and utilisation of the fisheries resources.

Marketing and credit arrangements don't form part of the land use forms, nor do they directly influence land use, but they surely indirectly influence and facilitate the land use practices.

5. AGRICULTURAL MARKETING

Objective: Competitive, efficient and transparent private sector driven market system

Institutional framework: NAMBoard, ZCF, FRA

Legal framework: Food Reserve Act, Coop Societies Act, Control of Goods Act, Zambia Bureau of Standards Act, Seeds Act, etc.

6. AGRICULTURAL CREDIT

Objective: Regulate development of an efficient, demand-driven and sustainable rural financial system.

Institutional framework: (AFC, Lima Bank, ZCF Financial Services,) BOZ, Co-op Bank, private sector FIs.

Legal framework: BOZ Act, Banking and Services Act, Agricultural Credit Act, Agric Charges Act, Loans Guarantees (Authorisation) Act, Small-Scale Industries Act (repealed by SEDB Act), Money Lenders Act, etc. Micro-Credit draft bill still being drafted by BOZ and Ministry of Legal Affairs. Depositors' Insurance Scheme draft bill is still under consideration by Cabinet Office and Ministry of Legal Affairs.

POLICY AND LEGISLATIVE LAND-USE RELATED ISSUES

The various forms of Land-use as recognised by law are:

- Building (residential, commercial and industrial),
- Protected areas (GMAs, Game Parks, Sanctuaries, cemetery, etc),
- Agricultural
- Raw materials (firewood, wild/natural products,)
- Traditional practices (herbalists)
- Public utilities (waste disposal, water reticulation, etc)

Individual need to have documentary proof of title or ownership, that even shows delineation of holding. The institutions and communities are not bound by the same requirement of documentary proof when they lay claim to forests, GMAs, cemeteries, council areas or chiefdoms. These are dealt with by the Ministry of Local Government and Housing; the Ministry of Legal Affairs, and the Ministry of Agriculture and Cooperatives.

- Security of Tenure: duration of the lease/title affects land use
 - Investment in buildings and production processes
 - Agricultural economic activity is land based
 - Common understanding of the boundaries and rights of access/use
- Problems: Factors affecting enforcement of CBNRM practices
 - Offences and penalties: ineffective monitoring mechanisms, and inappropriate sanctions for failure to comply
 - Traditional knowledge Vs conventional hard sciences,
 - Different valuation of NR (land) as a result of ignorance and imperfect flow of information,
 - Little devolution of power,
 - Weak local community institutions,
 - Need to demonstrate benefits in the short term,
 - Inadequate conflict resolution mechanism,
 - No well-defined or lack of common understanding of user/access rights
 - Population growth and squatters: high frequency of land related disputes because of unclear boundaries
- Activities that contribute to land-use problems:
[Tragedy of the commons/free rider concept, if Murphree's CBNRM principles are not observed]
 - Food security threat
 - Grazing, logging, hunting, (mining?)

CBNRM Policy and legislative Issues that should be addressed

- Earlier policies and subsequent legislations were based on the flawed assumption that local communities were over-utilising or exploiting natural resources. The NRs were assumed to be in sufficient numbers, but were in danger of being wiped out by unsustainable use.
- There are instances where indigenous knowledge, traditional practices and institutional arrangements that have some acknowledged "best-practices" in conservation and NR management have been overlooked, or worse still undermined.
- Where as the policies and legislation have solved most of the concerns on the part of Government, the community concerns were not; in fact the communities were

left in a position to deal with new “threats”. In the case of land, it is perceived that Government wants to dis-empower them and allow for creation of a landless community.

- As a result local communities still think that Government owns and manages NRs. And therefore even if they are allowed to manage these NRs, the individual members of CBOs may not necessarily be primarily concerned with NR management, but will look out for personal gain.
- In some cases, enforcement of even what has come to be acceptable to the local communities may be problematic because of the distances involved in getting to remote places where disputes arise and require mediation by policy/legislative enforcers. Such instances arise because policies and legal provisions have not been properly explained to the local communities. Policy statements must not be left to (subjective) interpretation if communities are to be supportive of CBNRM. Outdated policies and legislation may leave room for people with a knack for trouble rousing to exploit and cause confusion among the less educated and less informed of local community members.
- Policy and legislation should clearly indicate boundaries. When people become mobile, the motivation to conserve NRs will be less strong as they will always tend to think that they will not benefit from them since they will be moving out soon. Mobility, whether by people or wildlife, brings problems associated not only with boundaries, but also access and user rights.
- With the acceptance of CBNRM, people have developed very high expectations about the deliverables – whether they be stop-gap measures through projects like CONASA. It is very important to demonstrate the benefits in the short-term, no matter how small, for people to effectively participate in CBNRM efforts. If the perceived foregone benefits are much larger, then compliance will be difficult.

CONCLUSION

It is difficult deciding what (agricultural) activities do not constitute land use forms. Leaving the land furrow for a year or two, but still being used to graze livestock is another form of land use. Therefore land use operational definition in this paper is “extensive” because of the subject matter and considerations such as the one mentioned above. Even issues like marketing and credit arrangements have a strong bearing whether land is used and how much is used.

Wider participation in policy and legislative formulation only began after the advent of multi-partyism in 1991. For the agricultural sector, it started in 1992 with the ASIP process that made some improvement on the number and nature of stakeholders consulted. However most of these stakeholders were the urban elite; the actual beneficiaries of ASIP were not properly consulted, let alone participate in drawing up the programme. Given that most agricultural policies and legislations were passed before 1991, there was little participation by the poor and vulnerable local communities. Not even the 1995 Lands Act that came after wider acceptance of democratic principles allowed for local community input. In fact the current Lands Act generated so much debate/controversy because of its alleged usurpation of traditional rulers’ power over traditional or customary land. The other clauses in the Act are seen to result into a landless, poor rural Zambian community. If this class of people from which in fact traditional rulers draw their power/authority and respect

don't have land, then Zambia will have a very weak traditional leadership, such that organising the very same people to rally behind the CBNRM concept will be difficult.

Lastly, it should be said that if the land use and administrative policies have come short, we can always remind ourselves of the fact that most SADC CBNRM policies and legislation have actually come out of successful implementation of CBNRM programmes. We can talk about ADMADE in Zambia's Wildlife sector, Fisheries Management Programme in Malawi, etc. For land-use as well the various stakeholders can design a CBNRM program/project that can be piloted to see how successful it can be in promoting sustainable utilisation of land as a NR. Thereafter an acceptable land policy and legislation that conforms to the CBNRM principles will be put in place.

REFERENCES

- ASIP Mid-Term Review: Summary Report, Institute of Economic and Social Research (INESOR), University of Zambia (UNZA), June 1998.
- Laws of the Republic of Zambia, 1995 Edition
- Misedal Kokwe and Excellent Hachileka (editors), Best Practices in CBNRM: proceedings of the Workshop on development of CBNRM Best practices, Principles and Criteria. 16-17th March 2000. IUCN
- (Draft) National Agricultural Policy 2001 –2010, Ministry of Agriculture, food and Fisheries, November 2000.
- Poverty Reduction Strategy Paper, Ministry of Finance and Economic Development, 2001