



# Wildlife conservation in Zambia and the Landsafe Customary Commons

by

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*Thesis*

*submitted in partial fulfilment of the requirements for the degree of  
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Faculty of Natural & Agricultural Sciences

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**Declaration:**

I, *Ian Patrick Alexander Manning*, declare that the dissertation which I hereby submit for the degree of *Doctor of Philosophy (Wildlife Management)* at the University of Pretoria, is my own work and has not previously been submitted by me for a degree at this or any other tertiary institution.

SIGNATURE:  \_\_\_\_\_

DATE: 25 January 2011



From the standpoint of a higher socio-economic formation, the private property of particular individuals in the earth will appear just as absurd as the private property of one man in other men. Even an entire society, a nation, or all simultaneously existing societies taken together, are not owners of the earth, they are simply its possessors, its beneficiaries, and have to bequeath it in an improved state to succeeding generations, as *boni patres familias* (good heads of the household).

Karl Marx – *Capital*

If Africa is to take her rightful place among the continents, we shall have to proceed on different lines and evolve a policy which will not force her institutions into an alien European mould, but which will preserve her unity with her own past, conserve what is precious in her past, and build her future progress and civilisation on specifically African foundations.

J.C. Smuts - *Africa And Some World Problems*

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## **ABSTRACT**

This dissertation both proposes and records the ongoing implementation of a 'Landsafe' integrated conservation and development model for the customary commons of Zambia.

In Volume I, a geographical historical perspective of the country is presented which concentrates on wildlife conservation and rural people. The changes wrought successively on indigenous peoples by invading native Africans of the Bantu linguistic group, then in turn on them by Europeans in the form of Charter Companies and later by Imperial Protectorate rule, and finally, by self-rule, is explored. The country's evolution from Western colonialism and embedded liberalism, to exploitative neoliberalism and the concurrent emergence of the traditional patrimonial system - one modernised by its meeting with European capitalism, is the backdrop and basis for the construction of Landsafe and its current implementation in two chiefdoms.

Volume II presents the Landsafe ICDP model. This is based on the formation of chiefdom statutory trusts, with trustees elected by villagers of the customary commons; and the signing of co-management agreements with government departments in respect of wildlife, Game Management Areas, and protected forest land, forests, fisheries and water. The local District Councils would be signatory to such agreements, and the chiefs and their headmen would vest selected customary land in these trusts. These vested lands are then protected, allowing for controlled exploitation by investors - such that they do not impinge unnecessarily on traditional rights or on the re-establishment of traditional guardians of nature. Land may not, under any circumstances, be alienated from customary control. A log frame programme analysis procedure is adopted and a suggested formalisation methodology and procedures for implementing Landsafe included. Finally, the socio-ecology of the first project area in the Luangwa Valley is detailed, followed by a description of the implementation of the Landsafe programme; including a critical analysis comparing Landsafe theory to practice.

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Google Map showing the area of the Landsafe Conservancy Project

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**For Cathlin, Hamish, Brendan and Bronwen.**



## INTRODUCTION

At the start of this Zambian project seven years ago the author still held patently Eurocentric views regarding the previously named Northern Rhodesia, and Zambia: that the country was a Western-style state within the Western club of nations requiring assistance and effort to safeguard its institutions and to further its modernisation. In such a country, wildlife would be conserved, the poor enfranchised and safeguarded, and democratic freedoms assured. Later on in the project, the author gained an insight into the neoliberal effects of restructuring, foreign aid, and of the control exerted by the West over the political and economic realms, and of their impact on the elite and on the urban and rural poor. These were, after all, the same forces that had destroyed the embedded liberalism of the post-war years in the West, replacing it with the cult of individualism and the withdrawal of the state from social provision. And added to this, anti-globalist forces now increasingly object to excessive corporate greed and its negative externalities. Harvey analysed the forces at work within capitalism, noting how prone it is to crisis, calling for remedial social action by setting out ‘some loosely agreed-upon common objectives’. These objectives resonate with African communal culture and with Landsafe:

These might include respect for nature, radical egalitarianism in social relations, institutional arrangements based in some sense of common interests, democratic administrative procedures (as opposed to the monetised shams that now exist), labour processes organised by the direct producers, daily life as the free exploration of new kinds of social revelations and living arrangements, mental conceptions that focus on self-realisation in service to others and technological and organizational innovations orientated to the pursuit of the common good rather than to supporting militarised power and corporate greed. These could be the co-revolutionary points around which social action could converge and rotate.<sup>1</sup>

An Africanist called for something similar - for an autochthonous model for Africa’s development:

It would be found, rather, in devolving executive power to a multiplicity of locally representative bodies. It would be found in re-establishing ‘vital inner links’ within the fabric of society. Democratic participation would have to be ‘mass participation’ And ‘mass participation, patiently evolved and applied, would be able to produce its own version of a strong state: the kind of state, in other words, that would be able to promote and *protect civil society*.<sup>2</sup>

These, in essence, are objectives and views of the way forward that are in harmony with African culture, certainly with the people of the chiefdom commons. Yet, it is questionable that the reform of capitalism and any neoliberal reversal would make much difference to Zambia. The author’s experience gained during the Landsafe project reveals that Zambia is not a Western state in waiting, or a state wishing to modernise - as Europeans would wish. It is, in fact, a country of many ‘nations’ run by ‘Big Men’ and their networks of ‘clients’, a country occupied by people who - perhaps because they did not experience the Industrial or Mesopotamian revolutions - have little interest in Western notions of development. What motivates Zambians is social wealth – and the material wealth to assure that status’s continuance, for they are a deeply communal culture, who do not act at the individual level as do Westerners. While the institutions and the administrative capacity to run a modern state appear to be in place, the reality is that they barely function, except as harvesting centres – as the Auditor-General’s reports continually confirm. It is patrimonialism that ‘runs’ the country, a bewildering set of major and minor corruptions, of highly integrated social networks required to make it function, all of it inimical to Eurocentric modernisation:

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<sup>1</sup> Harvey, D., 2010. *The Enigma of Capital: And the Crises of Capitalism*, Oxford University Press, USA, p. 231.

<sup>2</sup> Davidson, B. 1992. *The Black Man’s Burden: Africa and the curse of the nation-state*. Times Books, New York, p. 294.

...what all African states share is a generalised system of patrimonialism and an acute degree of apparent disorder, as evidenced by a high level of governmental and administrative inefficiency, a lack of institutionalisation, a general disregard for the rules of the formal political and economic sectors, and a universal resort to personal(ised) and vertical solutions to societal problems.<sup>3</sup>

This statement describes Zambia, with a patrimonial system that impacts negatively on people (thus not surprising that Zambia's 2010 standing on the Human Development Index places it fourth from last in the world, with Liberia, Congo Republic and finally, Zimbabwe, following behind it by only a few points). This is the reality that this partly polemical Eurocentric history contained in Volume I hints at. But does this belated conclusion mean that the author's efforts so far – as laid out in Volume II –will not deliver any improvement to villager livelihoods or to wildlife? Upon review, the author concludes that by providing the statutory institutional shape for the chiefdoms of Zambia, and by the attempts to implement it in two chiefdoms, some minor accretion of modernisation will - and already has, occurred. But it needs to be taken up by other chiefdoms, without being a mere fleeting addition to the patrimonial food chain, and without becoming a curse, rather than a blessing.

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<sup>3</sup> Chabal, Patrick. & Daloz, Jean-Pascal. 1999. *Africa Works: disorder as political instrument*. James Currey, Oxford, p. xix.



## **VOLUME I: WILDLIFE CONSERVATION IN ZAMBIA**



**CHAPTER ONE:**  
**ZAMBIA BEFORE SELF-GOVERNMENT IN 1964**



## ACRONYMS

<b>BSA Company</b>	British South Africa Chartered Company
<b>CAZEC</b>	Central African and Zoutpansberg Exploration Company
<b>CHA</b>	Controlled Hunting Area
<b>DC</b>	District Commissioner
<b>DO</b>	District Officer
<b>GMA</b>	Game Management Area
<b>GDP</b>	Gross Domestic Product
<b>HQ</b>	Headquarters
<b>KNP</b>	Kafue National Park
<b>mtDNA</b>	Mitochondrial DNA
<b>NA</b>	Native Authority
<b>NCE Company</b>	North Charterland Exploration Company
<b>NGO</b>	Non-Governmental Organisation
<b>NW</b>	North-Western Rhodesia
<b>PA</b>	Provincial Administration
<b>PC</b>	Provincial Commissioner
<b>UN</b>	United Nations
<b>WWI</b>	World War I
<b>WWII</b>	World War II

## 1 WILD COUNTRY

The territory encompassing the watersheds of the Congo and Zambezi is geologically ancient, noted for its Great Tanganyika Plateau of deciduous miombo forest, its lakes and wetlands, and the fertile valley troughs and vistas of undulating Kalahari sands. It is one of the best-watered parts of Africa with sixteen ecosystems contained within four biomes and with a wealth of minerals and natural resources, though its soils are generally leached and infertile. It lies at an altitude of between 2,164 and 3,500 metres, presenting a generally equitable climate of the 'savannah' type with three seasons: cool-dry (April-August), hot-dry (August-November) and warm-wet (November-April) - its ecology being determined by the long dry season and the single wet season.. The rainfall is highest in the northern parts of the territory, which reveal, in the presence of remnants of *mushitu* tropical moist-forest, evidence that the present Congo moist-forest had at one time extended much further east.

Such a rich ecological environment - particularly associated with the hippo, crocodile and fish-filled perennial rivers and wetlands - produced the Elysian Fields in which vast herds of lechwe, buffalo, eland, wildebeest and tsessebe, together with other species of antelope, were coursed by the great African predators. And elephant and black rhino were ubiquitous.

## 2 PRE-COLONIAL HISTORY

Excavations at the Mumbwa and Natchikufa caves revealed the existence of two types of aborigines: bushmanoid, of the Wilton culture; and pygmoid, of the Natchikufan culture. The latter emanated from the Equatorial region to the west, people of considerable cultural divergence (Clarke 1950, pp. 42-52). Bushmanoid remnants - probably resembling the black and physically robust bushmen, the Hukwe, who still live in the region between the Mashi and Zambezi Rivers in Western Province (Barotseland) - bear some resemblance in appearance and survival strategy to the Hadzabe bushmen of present day Tanzania, another aboriginal remnant (Brelsford 1956, p.18).

The pygmoid group is represented by the Twa people, whose genetic inheritance is still found to a marked degree in the peoples of the Lukanga, Kafue and Bangweulu wetlands – in the latter centred on the island of Mboyolubambe - though in that area, by the time of the First World War (WWI), they were not universally short, having already fused with the Unga and other tribes (Hughes 1933). What singles them out is the Twa geometric tradition of rock art and the now defunct Butwa secret society (Smith 2000, p.87). In the Luangwa Valley, the aborigines were known as the Akafula, being skilled iron workers and fearsome fighters. The Nsenga knew them as baKatanga, a largely solitary people who hunted elephant with spears and who were without bow and arrow (Lane Poole 1938, p.37). They were slowly assimilated, killed, or driven off elsewhere by the Bantu colonists.

Recent genetic evidence making use of mitochondrial DNA (mtDNA) – as well fossil evidence - has allowed us to trace the movement of humans around the earth, suggesting that a group of modern humans migrated successfully out of Africa some 80,000 years ago (Oppenheimer 2003, p.31). In addition, the fact that Africans have a much larger mtDNA sequence divergence than non-Africans, suggests that they accumulated the most mtDNA mutations, and therefore the greatest diversity, supporting the argument for a human African origin (Stoneking 2006, p.21). Thus it would appear that modern Africans, Europeans, Asians and Australians i.e. *Homo sapiens*, evolved from a Hukwe/Twa type, who had in turn possibly evolved from *Homo erectus*.

### 3 BANTU COLONIALISM

#### 3.1 Early Bantu invaders, the Portuguese and Arabs

It is likely that the immigration into the territory by Africans belonging to the Bantu linguistic group began in a trickle, greatly expanding in the mid eighteenth-century, a process that continues to this day.

By A.D. 500 a group distinguished by their use of 'stamped ware' pots had moved from the north of Lake Nyasa and down the Shire River and up the Zambezi Valley - a matriarchal people, these were the likely ancestors of the Tonga. During the fourteenth and fifteenth-centuries a group known as the Maravi settled the Luangwa Valley and Eastern Plateau, while the Kaonde moved into the north-west of the country, displacing the Lenje. In the early sixteenth-century the Portuguese gained an ascendancy over Islam in the Indian Ocean, having already in the early fifteenth-century captured the ports of Mombasa, Kilwa and Sofala. From here they made forays into the interior in search of gold and ivory. In the process they introduced a wide array of new agricultural plants: pepper, wheat, tobacco sweet potatoes, manioc (cassava), haricot beans, lentils, onions, guavas, paw-paws, small bananas, and later, maize. Their first invasion - one leading to a settlement - was in the Zambezi Valley at Zumbo (the confluence of the Luangwa and Zambezi Rivers), established by the Goan, Perreira. In 1570, a horde of cannibal invaders known as the Zimba arrived at Tete on the Zambezi, laying waste the country. In 1585, they retreated towards Kilwa, which they sacked, eating most of their prisoners; finally being defeated by an alliance of Arabs, Africans and Portuguese. In the same century, more invaders arrived, the present people known as the Lozi entering along the Zambezi from the north and spreading out onto the plains allied with the upper Zambezi, usurping the land settled by the Subiya, Mashi and Shanjo aboriginals. Sometime in the seventeenth-century, the Luba Kingdom, fuelled by commerce from the west and the possession of many firearms, sought new lands to settle by moving into the present day Northern Province. These migrations culminated with the arrival of the Bemba in about 1740, who then forced the Bisa, Lungu and Mambwe nations to give way, the latter two in particular spending the next 170 years escaping their depredations. While all these movements were taking place, the Portuguese, Lacerda, led an expedition in 1798 from Tete to Chief Kazembe's country near the Luapula River. The first crossing of Africa in these parts was completed by two Portuguese speaking Africans, Baptista and Jose, a journey which took them nine years for they had been long detained by Chief Kazembe on the Luapula River. In 1827, the Portuguese established a small garrison to protect their Kazembe slave and ivory route in the Lundazi district of the Luangwa Valley, but by 1831, the last Portuguese expedition into the territory left Tete for the north under Monteiro and Gamitto (Gann 1964, pp.13-18).

#### 3.2 Nineteenth century invaders

The nineteenth-century saw a reversal of the generally southward migration of Bantu Africans. In 1835, the patriarchal cattle-owning Ngoni crossed the Zambezi from present day Swaziland, then split up into various groups, some of them settling under Chief Mpeseni in the eastern part of the territory, displacing the Nyanja people and soon laying waste the area far and wide in their search for tribal converts and grain (Baxter 1954, pp.46-52).

A further remarkable movement north took place when a nation known as the Kololo, under their chief, Sebitwane, moved north with large herds of cattle, crossing the Zambezi in about 1840. They dallied briefly in the Tonga country, until they were forced westward by the Matabele into the Barotse country. On the death of Sebitwane in 1851, the Kololo fortunes declined and in 1864 they were defeated by the Barotse chief, Sepopa, and the Barotse Kingdom, now firmly established, expanded its area of influence by raids for cattle and slaves, much as the Ngoni had done (Gann 1964, p.21).

### 3.3 Bantu culture and custom

The Bantu invaders of the territory were predominantly hoe agriculturists of a late iron-age culture, with a few tribes - notably in the tsetse fly free areas - such as the Tonga, Ila, Bisa, Lozi and Ngoni, being pastoralists, depending on hunter-gathering and fishing in the generally well watered territory. Canoes were dugouts, loin coverings were made from bark cloth and antelope skin – with some spinning and weaving of kidney cloth - and hoe, spear and axe heads being smelted by themselves (Gluckman 1956, pp.1-27). The Ila men, however, went completely naked up until WWI (Holub & Johns 1975, p.116). Paradoxically, this external view concealed the existence of a reasonably well developed native African model of community self-government, and the existence of well developed political institutions among the Bemba, Ngoni and the Barotse, the latter characterised by an elaborate central political authority that is still intact today. It was simply assumed by Europeans, as in the rest of Africa, that there were no nations or nation-states in Africa's pre-colonial history (Davidson 1996, p.51). Yet there is evidence that by the late eighteenth and early nineteenth-century the Batoka Plateau supported populations of considerable density and prosperity, suggesting the existence of a 'nation' that was relatively advanced (Vickery 1986, p.13).

Although Bantu societies all have a rich set of kinships and clans, they vary considerably according to custom. The Tonga, when first studied at the time of their disintegration at the hands of the raiding Matabele, had no system of chieftainship, living in small hamlets of kinsmen related in many lines. Here the important kinship groups were those related by maternal descent, there being twelve matrilineal clans, some of which were linked as 'joking partners', signifying a close and privileged relationship. The clan system is the *sine qua non* of Bantu life itself. Chirapula Stephenson, clambering up the Muchinga Escarpment, described it thus:

But, of course, they would only help members of their own clan, or family, or surname – the last is, perhaps, the nearest equivalent according to our lights. In other words, these people would regard all Smiths in the world, all Browns, all Robinsons, as of the same descent: all Smiths are relations, all Browns are relations, but no Smith is any kind of relative to a Brown – certainly not! Natives of the same surname have, among themselves, particular rights and privileges: they will do for their "brothers" what they would do for themselves. But the strangers from another 'surname' is, as the scriptures say, "not with us," and therefore "against us" – and is treated accordingly (Stephenson 1937, p.49).

#### 3.3.1 Survival strategies

The principles upon which Bantu tribal life is based, showing a remarkable similarity over a wide area, were wrought in the fires of isolation and environmental vicissitude. Three principles have long governed their existence (Culwick 1943, p.11):

- (i) The idea of the intimate relation of the natural and supernatural worlds with the consequent interplay of religious and secular functions - *the immanence of the supernatural*.
- (ii) The conception of tribal and clan unity in both worlds, and the social and moral philosophy built on that foundation.
- (iii) The complicated and interlocking organisation of *economic reciprocity* which regulates the rights and duties of individuals in the various groups, often overlapping, some permanent, others temporary, to which they belong.

African's wealth is measured therefore in the extent of social networks - 'rights-in-persons remain a respectable and rational way to invest and display wealth' (Gordon 2006, p.23) - the normal capitalist accretion model exhibited by Westerners, whereby individuals advance their interests and wealth in isolation, being largely absent. And the relationship of Bantu Africans with the land and the



biodiversity is far from being strictly utilitarian. Prior to colonisation in particular, nature and man formed an inviolable relationship where religion, custom and the dream world formed a unity. Elaborate rituals governed man's relationship with nature, something carried out by appointed guardians having authority and tenure rights over particular areas such as lagoons and rivers where fish were plentiful, or by guilds who held the rights to hunt elephant. In the moist tropical forest areas of Africa where small sedentary populations exist, the land, forest and its wildlife is still 'owned' by lineages and distinct families, and is inherited, evidence of the age-old existence of a positive political economy and the organisation of common-pool resources that avoid excessive consumption by its participants (Manning 1990), (Manning 1991). With colonisation, particularly under Indirect Rule, 'the commons' was created under appointed chiefs and headmen who had previously not held the positions of guardians of nature.

This led to the marginalisation of an ecological ideology that had integrated discourses about society with those about nature. The new chiefly bureaucracy and colonial government separated people and nature; nature became an object acted on by people, rather than an integral part of societal forces (Gordon 2006, p. 83)

While the aboriginal people were hunter-gatherers having a negligible impact on the land or its wildlife, the successive waves of Bantu invaders introduced twenty-one systems of land usage into the country, though mostly of the type developed in dry to moist forest (Winterbottom 1945, p.39). Five staple crops were grown out of more than 100 varieties, of which four are cereals (maize, sorghum, millet and bulrush millet) and one root crop (cassava). Essentially, with the exception of some examples of more permanent agriculture based on livestock, these were traditional systems, or modified traditional systems. What these systems have in common is that they are adaptations and survival strategies of small groups of people of a low population density in response to soils of generally low carrying capacity notable for being highly leached and acidic, and the need to survive an extended annual dry season of seven months. The type of survival strategy in place, is based on hunter-gathering and a number of shifting cultivation strategies of the chitemene (*fitemene*, plural) type where trees are lopped, whole or in part, and then burnt, the crop seeds planted in the ash. This divergence of systems also governs the carrying capacity of people. With the coming of the British under the British South Africa Chartered Company (BSA Company) rule, notions of forest conservation and the management of land which had emerged under the King's Law of Magna Carta in 1215 as a result of the more static and settled history of the British, were introduced. These conflicted with similar systems in place, notably again among the Barotse.

Among the people of the Great Tanganyika Plateau who required extensive areas of miombo forest in which to carry out chitemene, any population increase and a more sedentary existence had negative effects both on the environment and the people. Reports of the extremely wasteful de-forestation that took place among the Bemba after their slaving had been brought under control points to this change, their young men taking great pride in cutting down trees, the area far exceeding that which was planted, particularly in the southern chitemene system where some twenty times the amount of land required annually for crops was cut down (Gluckman 1945b, p.57).

The agricultural methods of these first colonists were highly developed adaptations to the environment from which they had come, most of which were successfully applied initially; but others, as in the Bangweulu Chipya areas, with greater population pressures, less successfully. In addition, the sudden imposition of the plough and other more modern methods were often not successful, as the culture of people with long-honed survival strategies does not easily absorb sudden change. Moreover, where the movement of people was restricted due to the imposition of Native Reserves (as a result of the alienation of land), as occurred with the North Charterland Exploration Company (NCE Company), European commercial farming settlement in present day Eastern Province (Winterbottom 1945, p.38), and along the railway lines relevant to these, ecological degeneration and some desertification followed. However, the statement by Leroy Vail (Musambachime, cited in Chipungu 1992, p.9) that 'the daily realities of colonial control, labour migrancy, village consolidation interacted with the

natural disasters of the 1890's to precipitate an ecological collapse' is highly unlikely, instead a low ecological equilibrium was likely reached (Bell, in Anderson & Grove 1989, p.83). In part because of this, able-bodied men were drawn off to the mines, leading to labour shortages and other significantly adverse effects on the fabric of village community life.

The assumption of power by people with an advanced civilisation in a land locked in the late iron-age, yet with well developed political systems and adapted as they were to the environment, would bring with it mixed results. Early in the 1900s the killing of wildlife was banned, though in 1905 the BSA Company reluctantly allowed duiker to be hunted. In 1906/7 at the end of the growing season, chitemene and *mitanda*<sup>4</sup> were banned in some areas, as were the use of game pits – this undoubtedly caused great hardship, although given the number of company officials it is highly unlikely that it was enforced to any great degree. Also, all villages of less than twenty huts were instructed to amalgamate – all *mitanda* now being banned - and the new villages were encouraged to be re-positioned on good soils. In the first year harvests appeared excellent and there were few breaches of the new chitemene regulations. However, in the Mpika district a famine occurred due to a locust plague, the salt industry ceased production because of the lack of food, and smallpox took a heavy toll. However, one benefit was the fixing of all boundaries between the various chiefs - a source of constant tension and squabbles. In 1908, three chiefs in the Mpika district travelled to Fort Jameson to complain to the Administrator of the BSA Company concerning the abolition of chitemene. Three years later, after the chiefs' complaints could no longer be ignored, the ban was lifted. These early years, after the great joy of the successes against the slave trade – even though they often masked the foreign invasion intent of resource extraction - must have been extremely difficult times for the villagers.<sup>5</sup>

### 3.3.2 Witchcraft

A witchdoctor (*ng'anga*) is a medium through which an African fights against and seeks protection from witchcraft – a malign craft practiced by the *muloshi* (sorcerers), who bewitch others. The latter casts a pall of terror over Africa, constantly requiring individuals – be they chiefs, politicians or ordinary people - to seek the protection of a medium and to have them bolster their powers against their effects. The witchdoctor is also the diviner carrying out such essential tasks as finding out which ancestor is re-incarnated in their newborn child. Yet the Witchcraft Suppression Ordinance of Northern Rhodesia stated that, 'Any person practicing as a *witch-doctor* shall be guilty, etc' (Melland & Young 1937, p.127).

As it is unlikely that any native Africans existed in those times who felt that they could not be bewitched, this ordinance – based on considerable ignorance and misunderstanding - would have had the effect of driving witchcraft underground, making it subversive and secretive, an unhealthy development in the psyche of a people already under the yoke of a foreign culture.

A magistrate for 26 years under the BSA Company stated,

The natives believe in witchcraft. We do not; and so we deny it. And while we legislate against the *pretence of witchcraft*, that is actually a part of the various ordinances that is hardly ever invoked, since one cannot find a man guilty of pretending to do such a thing when he *believes* he has done it. In such cases we generally have to frame an alternative indictment under the Vagrancy Act of 1824 – to use a law which was never made for such cases - but the sections of the ordinances under which penal action is taken are almost invariably those that penalise accusations of witchcraft, divination for witchcraft, and action taken against an alleged witch: that is to say, ordinances are used against those who are trying to protect either themselves or others. That is what seems so unjust to the natives.

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<sup>4</sup> Guard huts built in the rains amidst the crops in order to chase off wildlife garden raiders.

<sup>5</sup> Mpika District Notebook Vol. 1, p.9.

...a witch in African society is someone who ceases to be a person - the latter defined as a muntu (*a person*) - residing within the Peace of the Chief. He could therefore, in times past, be killed without affecting anyone; a belief not accommodated by Western adopted mores and customs (Melland & Young 1937, p.128).

### 3.3.3 Customary law

As with English common law, Bantu customary law is unwritten, evolving over time in accordance with the pressures and adaptations of people to their environmental and cultural circumstances. African justice at its heart is based on offences against life, property and the wellbeing of others, as between neighbours and clansfolk. The primary concern of any group, any clan, is its increase, therefore the first demand of justice is equilibrium, the continuing necessity of the *quid pro quo* (Melland & Young 1937). Failing 'give and take', discontent is inevitable, and any action outside of this, crime. This does not include the removal of sorcerers who threaten group equanimity. The re-establishment of friendly relations between estranged groups is the *sine qua non* of traditional African life, a process facilitated by the witchdoctor, for as African justice has no regard for the individual, the families of the wronged and the perpetrator of wrong-doing both have a vital interest in the reinstatement of social equilibrium. This notion is totally rejected by Western statutory law; and by the same token it rejects the actions of such nineteenth-century tribal despots as Tchaka, Mpeseni and Chitimakulu, their place taken by the political despots Mugabe, Mobutu and their ilk, all of whom transgress the natural law that ensures social cohesion and the building of a nation-state.

Customary law became a compendium of tribal laws and customs enforceable in native courts that were established early in BSA Company times. It differs from English law on matters of property - which descends to heirs according to local custom, or in the making of a will - for which there is no provision. After Company rule had ended and the Protectorate of Northern Rhodesia declared in 1924, the Northern Rhodesia Native Courts Ordinance of the 1920s restored powers to chiefs lost under BSA Company rule but also 'conferred on them a jurisdiction in some matters of customary law which they had not enjoyed before the British occupation' (Stefaniszyn & Apthorpe 1964, p.vi).

In Northern Rhodesia, the English court could review a decision of the native court or hear an appeal from a native court. These mostly dealt with issues relating to marriage or tenure and inheritance of property. Customary law could not be enforced when the court was dealing with land that was under a form of title such as freehold or leasehold. The Colonial courts did not interfere where land was used and occupied according to the provisions of that law. And this natural law was not enforced among those who no longer lived a traditional life.

Customary law came into force in a dispute between a native and a foreigner, and was generally enforceable unless it had little to do with natural justice or if it was inconsistent with statute law; or if it was inapplicable to the particular circumstances of the case. Unfortunately, the *volte-face* that had occurred in the administration in the transition from direct to Indirect Rule, was not mirrored in that of the law i.e. of the transition from customary to statutory law.

## 3.4 The slave and ivory trade

The slave trade, with serfdom endemic in Africa, was commercialised between the fifteenth and sixteenth-centuries, first by the Portuguese who shipped slaves - this known as the Atlantic Trade - to the 'New World' plantations. In 1807, Britain banned the trade, though perversely, she only ended the trade in her West Indian possessions in 1833 (Gann 1954, pp.28-51). In the nineteenth-century the trade was operated by Muslims. In the north, east and west of the territory Muslims operated from the East African Coast collecting slaves from their agents such as the Bemba, Lunda, Bisa, Yao and Chikunda, and taking them to Zanzibar, Pemba, Kilwa, Turkey, Persia and Arabia, the three East African Arab settlements having been established in the tenth-century.

In Barotseland – now called Western Province - domestic serfdom, as well as slavery, was a feature of life. Lewanika, the Paramount Chief, raided into the Ila and Batoka country, as well as present day Angola. Slaves were also obtained from vassal tribes who paid them over as tribute. In 1898, the coming of the BSA Company gradually brought this slave export under control. But it was the imposition of the hut tax in 1903 that discouraged citizen slavery, as the tax had to be paid to the administration by all able bodied men, placing a burden on slave owners such as the Lozi who considered labour demeaning (Gelfand 1961, p.75). In order to compensate Lewanika for the loss of income from slavery, the administration agreed to pay him 10% of all hut tax received. Lewanika's proclamation of 1906 banning slavery, freed some 30,000 serfs on condition they paid £2 each in compensation to their owners (Clay 1968, p.171). However, domestic slavery continued until 1913 at least. In the rest of what first became North-Western Rhodesia (the areas outside of Lewanika's influence), the export trade continued with the Mambari traders from Angola the most prominent - there being a lively trade in guns and cloth for slaves, wild rubber and ivory.

In North-Eastern Rhodesia the Arab slave trade had a firm grip on the area lying between the Luapula and Lake Nyasa, and beyond it into the Katanga. They had controlled the area since their invasion of the Mweru district in 1865 and their attacks on the Watawa people. In 1873 the Sultan of Zanzibar banned the slave trade, but this made little difference. In 1881 the Stevenson Road was constructed between the northern part of Lake Nyasa and the southern part of Lake Tanganyika, greatly speeding up the anti-slavery campaign. In 1883, Abdullah-bin-Suliman (who had helped Livingstone) and Tipu Tib invaded the country in earnest, setting up a series of armed encampments (*Tembes*). When the emissary of the BSA Company, Alfred Sharpe, returned to Chief Nsama two years after a previous visit in 1892, he found that the chief had been murdered by the Arabs and their Bemba allies and the villagers taken off into slavery. Sharpe later questioned any action in a region where financial returns would be difficult to achieve, suggesting it be left to the Arabs and their unpleasant ways. However, he did conclude that there were funds available to administer the area, and that they had a duty to do so (Boeder 1981, p.43).<sup>6</sup>

The importance of the anti-slavery campaign was that it disguised the imperial intentions of Britain. In 1885, the first expedition of the BSA Company's newly appointed head of the region, Major Forbes, began to attack the Arab caravans and to aggressively place administrative outposts with Native Collectors *in situ* around the region. Of importance in these early days was the African Lakes Corporation set up at Abercorn in 1892, which established trading stores, keeping the officials and their troops supplied. From 1896 the Native Collectors began a serious campaign against the Arab slavers, one caravan intercepted leaving Bemba country having fifty-seven women and children and 150 pounds of ivory. Another caravan yielded thirty-five slaves and 1,000 pounds of ivory. The Company focused on bringing the powerful Bemba chiefs Mwamba and Mporokoso - the main agents of the trade in those parts - to heel, and putting the Arabs out of business (Gelfand 1961, p.90). The BSA Company then took over the Arab and Swahili vacated land. There now was imposed upon the people a growing stream of BSA Company officials and miners - and later, European settlers along the line of rail and on the Nyasaland border - direct rule now being imposed. With the slavers and their comprador chiefs defeated, dispossession was complete; and as in Asante on the Gold Coast, anywhere that wealth could be extracted by commercial means fell within the scope of European companies, mostly British (Davidson 1996, p.71)

It has been said that the Bemba were forced by the poor land that they inhabited and the presence of tsetse flies to raid other tribes for cattle and grain (Meebelo 1971, p.5). This may have been a contributory factor, but a number of tribes who practiced chitemene in the leached soils of the Great Tanganyika Plateau did not pillage other tribes for slaves, grain and whatever else could be plundered. The Bemba, like the Ngoni, sought to retain their ascendancy in the area by obtaining recruits, many of which they sold. The general animosity of both these tribes towards Europeans may have been

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<sup>6</sup> Note that the area remains totally neglected and undeveloped 117 years later.

brought on by the fact that they foresaw that Christians would not long tolerate the slavery, and that the missionaries would not supply them with guns and gunpowder.

The actual death rate resulting from slave raiding was enormous. In the last decade of the nineteenth-century the Matabele raids on the Batoka plateau laid waste the land, one such raid on a Tonga village in 1883 - which yielded but a few young girls - resulting in the torture and slaughter of everyone (Clay 1968, p.82). Another observer estimated that one caravan of fifty-five captured women had involved the destruction of at least ten villages, each having a population of between one and two hundred people. F.S. Arnot, the missionary, reported seeing forty men killed in order to abduct the same number of women and children (Arnot 1914, p.97). In the last twenty years of the nineteenth-century, the slave trade laid waste the country until the Charter companies were able to eradicate the commercial trade. Apart from the BSA Company, the African Lakes Company around Lake Nyasa - which was made up of missionaries and traders - undertook a campaign against the slavers, at one time employing Frederick Lugard - later Lord Lugard of Indirect Rule fame - to head the action. However, without the force to effect the Arabs' defeat, they had to sue for peace with them in 1888. Later, in return for important concessions, Cecil Rhodes - through his bankers, Rothschild - gave financial undertakings to the Imperial Government, who as a result then formed the British Central African Protectorate.

The slave trade greatly intensified from the 1870s, in part a domino effect and compensation for the lack of ivory, which in turn, made the predated people welcome the coming of the European as their protector. However this was not the case with the Ngoni and the Bemba. With the defeat of Chief Mpeseni of the Ngoni in 1898, the slave trade ended in the Luangwa Valley, though the Ngoni were still to send out impis in search of converts until shortly before the Great War.

## 4 EUROPEAN COLONIALISM

For the last 2,000 years, as a result of long settled and stable conditions, north-west European societies gradually threw off their hunter-gatherer survival strategies, embracing modern notions of time and modes of behaviour which accentuated forward planning, technological innovation, education and problem solving. This led to the production of Magna Carta in England in 1215 - the basis in the English speaking world of common law and of early notions of human rights and responsibilities, and also of environmental conservation efforts, the latter more fully developed in a forest conservation charter of 1217. It also eventually led to the Industrial Revolution. However, from the Stone Age until about 1800, any technical innovation and increase in living standards was rapidly reversed by population increase, with the average standard of living worse than that of Stone Age man - 'a life of boring drudgery, poor diet and unhygienic living conditions' (Clark 2007, p.1). Life expectancy then was the same as it is now for Zambia and Zimbabwe: thirty to thirty-five years. Since the Industrial Revolution in the European world - which led to *Pax Britannica* and the emergence of the major powers, Britain and France - and the Neolithic Revolution of Mesopotamia in the Asiatic world, greatly improved living standards occurred, though not necessarily improved levels of happiness. Also, the expectancy that living standards would rise the world over have been dashed, suggesting that if the conditions which led to these revolutions are absent or conspicuously different, modernisation - in a Western sense - will be a long running affair.

### 4.1 Explorers, missionaries, hunters, traders and miners

The death of David Livingstone in 1873 near the Lulimala River in south-east Bangweulu evoked great sadness among those who followed his exploits; but the tale which then unfolded of the transport of his mummified remains by his two stalwarts, Susi and Chuma, truly struck an emotional chord, lending impetus to missionary incursions, and, inevitably, to commerce and colonisation (Arnot 1914, p.121).

In 1849, the first European to enter Barotse country was the Portuguese explorer, Silva Porto, who spent the next sixty years travelling and trading for rubber, ivory and slaves. In 1884, he helped the Plymouth Brethren missionary, Arnot, on his journey away from Lewanika - Arnot had been refused permission by Lewanika to travel to the tribes further up the Zambezi, with the latter stating, 'These people were the dogs of the Barotse, and missionaries would not be allowed to visit them.'; and thence to take himself off to the Garanganze (Katanga) - whom 'God had told him to serve' - being accepted by the tyrannical chief of that region, Mushidi (Arnot 1914, p.21). There he persevered, treated with considerable disdain by Mushidi, living in abject conditions and making no converts. Two of his early recruits, Dan Crawford and Dr Walter Fisher, who moved on to Lake Mweru and Mwinilunga area respectively, left a more lasting impression, the Fisher progeny still active in Zambia over a century later.

The trader, George Westbeech, who had arrived in 1871 at Pandamatenga on the Zambezi, became a highly trusted trader with strong links to Lewanika, obtaining permission for Arnot to carry out his missionary work. In 1882, Francois Coillard of the Paris Evangelical Missionary Society arrived from the Hlotse River area of present day Lesotho and was later invited by Lewanika to set up a mission station. Coillard became an important advisor to the traditional leader of a nation later given protectorate status by Britain.

In the north of the country the first missionaries to arrive were from Livingstone's London Missionary Society. In 1891, they were followed by the White Fathers who in 1895 built Kayambi Mission in the Bemba country. In 1899, they opened Chilonga Mission near Mpika, and in 1903, Chirui in Bangweulu. In 1904 they started work at Kamwiri in the Luangwa Valley. Their missionary work was closely bound up with the BSA Company (Gelfand 1961, p.64). However, the pioneer missionaries in the eastern area were the Dutch Reformed Church of South Africa, who established a mission at Madzimoyo in 1899 and at Madzimoyo in 1903.

#### ***4.1.1 The pioneer concessionaires in the East of the territory***

In the country lying close to the British Central African Protectorate (in the present day Eastern Province of Zambia) two men, working without the backing of major financial institutions, signed treaties and obtained concessions from local chiefs and headmen. One of them, Harrison Clark, later called the uncrowned King of Northern Rhodesia, was active from 1887 to the turn of the century, controlling much of the area north of the Zambezi and up to the mid-Luangwa, and to the Hook of the Kafue (Stephenson 1937, p.23). He maintained his own army of Nsenga tribesmen who kept the Chikunda and Ngoni at bay. Later he was made a chief of the Ila (Brelsford 1965, pp.19-29). Clarke built his headquarters in 1895 at the confluence of the Lunsemfwa and Lukusashi, naming it Algoa after the Portuguese name for his home town of Port Elizabeth in South Africa. As famous a name as Livingstone or Fort Jameson at that point, it was listed in the *The Times* Atlas of 1922. Clark made numbers of treaties with chiefs that were as comprehensive as any signed up by Rhodes' emissaries. They included mineral rights, establishing farms, collecting corn as tax, dealing with Arab ivory caravans as he saw fit, suppressing slavery, constructing railways, tramways, telegraphs and the building of towns and villages (Brelsford 1965, pp.22-23). One of the chiefdoms he signed up, Mburuma, is still in existence on the lower Luangwa.

Another pathfinder with considerable impact was Carl Wiese, who established himself at the same time as Clark, but in Mpeseni's country lying to the west of Clark's eastern plateau concessions, though he makes no mention of Clark in his book *Expedicao Portuguesa a M'Pensene (1889)* (Wiese & Langworthy 1983). Wiese had obtained the concessions from 1885 when he had first journeyed there to obtain ivory from his base in Mozambique. In 1890 he began to seek and obtain concessions. In May 1895 he met up with H.H. Johnston who had arrived to take up his position as Consul-General of the British Central African Protectorate and Administrator of the BSA Company. The latter was dismayed to find that Wiese had already signed up many of the chiefs and headmen. In 1892, Wiese's

concessions in the British sphere were placed in the Central African and Zoutpansberg Exploration Company (CAZEC), for which he received shares (Wiese & Langworthy 1983, p.13)

The BSA Company, by then settled in current Malawi, wished to extend its domain to Lake Tanganyika, and would not tolerate individuals signing treaties with chiefs. In order to resolve the dilemma, they gave Harrison Clark – or *Changa Changa*, as he was called - financial compensation for his concessions (Stephenson 1937, p.24). Wiese, on the other hand, agreed in 1895 to the re-organisation of CAZEC, the company in which he had a major shareholding, as the North Charterland Exploration Company (NCE Company) – this new company then being recognised as the legal owner of the concessions.

## 4.2 Charter companies

### 4.2.1 History

#### i) The North Charterland Exploration Company

With the breakdown in negotiations between CAZEC and the BSA Company in 1893 for the sale of the concessions, Johnson pursued the dubious claims to the territory by the BSA Company. However, negotiations continued in London and finally it was agreed that the Wiese concessions would be surrendered to the BSA Company, in return for which a new company would be formed - the NCE Company – which would receive a grant (Wiese & Langworthy 1983, p.24). The NCE Company received a 10,000 sq. mile concession along the Mozambique border, including the land between the Luangwa and present day Chipata, this including Mpeseni's country and Luembe, Mwape and that of a few other chiefs. Here they received ordinary mineral rights and the land, but no monopoly of trade. The rights of natives were to be protected but not defined. In 1896, Wiese joined the NCE Company expedition to the Ngoni - in essence an aggressive search for financial returns - later calling for British help on the basis of his reports that there was a threatened rising against the NCE Company. This was an unfortunate development as it led to the Ngoni war and to settler incursions and land alienations (Wiese and Langworthy 1983, p.20).

The BSA Company who had fought Wiese's claims through their Commissioner, Johnson, had artfully manipulated the process in order to deliver up the mining rights that Mpeseni had long refused to sign over to both the British and Portuguese, but which he had given to the person he trusted, Wiese. When these concessions suddenly appeared in the unwelcome form of the BSA Company, it was most likely devastating to Mpeseni.

By 1897, Mpeseni was unwell and had lost control of the warring and raiding elements amongst his people; n'dunas did as they pleased, taking slaves and killing people on their raids. The Ngoni clearly wished to rid themselves of the Europeans who had concessions. Rumours abounded, worsening an already tense situation. One such rumour was that the Ngoni had killed two NCE Company officials; this later proving to be false. At that point, any reason would have been sufficient to advance upon them, for clearly the Ngoni were viewed by the successive administrators of the BSA Company, Johnston, Sharpe and Colonel William Manning, as standing in the way of the advancement of BSA Company interests (Wiese & Langworthy 1983, p.41). When the NCE Company thoughtlessly established their HQ, Fort Young, at Loangweni - six miles from Mpeseni's court - the Ngoni bridled, smarting at the loss of land and at the sudden influx of Europeans; confrontation was thus inevitable (Gelfand 1961, p.91).

On 19 January 1898, the Ngoni were defeated in a brief battle by troops sent by Colonel Manning from British Central Africa (Wiese left the employment of the NCE at this time), and thousands of head of their cattle confiscated, capping a series of shameful acts by the BSA Company. The Ngoni defeat was to change their way of life. Now they would have to concentrate on cultivation and nurture their diminished herds. But many went to work on the mines.

On 17 July 1902, the Manager of the NCE Company wrote to the administrator of North-East Rhodesia, confirming that the BSA Company had taken over the NCE Company.

ii) The British South Africa Chartered Company

In North-Eastern Rhodesia development was slow, there being only 129 Europeans in the territory in 1899, a number of them itinerant hunters and traders. The Administrator, Robert Codrington, stated that the African living in that region was now a free man as he paid no taxes and was free to move where he wished. In 1900, a High Court was created in Fort Jameson and a district administrative system implemented. In a few years Indian – mainly Hindu - traders started arriving, soon to play an important part in opening trading stores in far-flung places.

The Great War saw a massive recruitment of village men as porters (*Tenga Tenga*), and as free-lance scouts (*Ruga Ruga*). When the campaign intensified in southern Tanganyika against Von Lettow Vorbeck's well lead forces, the need for food was overwhelming. The presence of tsetse fly made the use of animal transport impossible, and the Great North Road – a mere hoe track - could not yet take much motorised transport (Model T Fords), and not at all in the rains. The development of the Luapula River route solved the supply problem with stores brought from the railhead at Ndola and across the Congo pedicle to Kaunda on the Luapula River where as many as 2,000 canoes transported the goods – including tons of black lechwe meat collected from native hunters under David Ross and Mickey Norton - through the Bangweulu swamps and up the Chambeshi to the Lukulu River, thence up to within about twenty-five miles of Kasama. The former Native Collector, J.E. Hughes, who had left the BSA Company to live in the swamps and organise hunting safaris and the collection of otter skins, organised the canoe men (Hughes 1933, p.86). The war caused a massive shortage of food in the country, with many of the villagers having to resort to the most basic of food gathering. Privation was considerable, understandable when one considers that 36,897 able-bodied men had been recruited away from their villages. In all, 312,910 men were employed for war work during the campaign. In addition to these, many thousands were contracted to traders to carry their goods to all ends of the territory. Mortality was high. After the German surrender, the carriers returned to their villagers in an emaciated state due to the onerous war conditions, lack of food, dysentery and typhoid. Of the 1,485 carriers sent from the Petauke sub-district, sixty-three deaths were reported. The Allied effort, particularly in East Africa, had been delivered with the help of the villagers, but at great cost (Gelfand 1961, p.274).

#### 4.2.2 Impacts on people

The imposition of British colonial rule in Central Africa in the late nineteenth-century, mainly through the BSA Company, a company granted a royal charter in 1889 (just after the assumption of the Imperial Protectorate over Nyasaland), was brought about by Cecil John Rhodes. This occurred at a time when there was an indigenous population of some 340,000 people in the territory, resulting in the creation of two separately administered territories named North-Eastern Rhodesia and North-Western Rhodesia (which later coalesced in 1911 into Northern Rhodesia – administered by the BSA Company).

Given a people with no notion of buying or selling land, the arrival of Europeans bearing documents which resulted in land being given over under English contract law showed a lack of understanding of native African land tenure, and was amoral in many respects. On the other hand some chiefs and headmen would do anything for trade goods and firearms – as evidenced by the slave trade – there being very little sense of duty by them to safeguard their community of subjects. On the other hand, some chiefs firmly resisted their lands being taken over by settlers after WWI, as with the Tonga of the Batoka Plateau, particularly Chief Mwanachingwala (Vickery 1986, p.127).



The first recorded alienation of land to a European occurred in 1824, when the mid-Luangwa Chief Mwase of the Bisa sold land for an ivory trading post to the Governor of Sena, Colonel Barbosa. This post was called Marambo but was abandoned after two years. Under Company rule, the alienation of land to European farmers after 1898 and the emergence of Native Reserves greatly affected African settlement and land use along the line of rail and around Fort Jameson. The NCE Company and the BSA Company had the right to sell land.

In North-Western Rhodesia, the administrator, Coryndon, gave out land on an *ad hoc* basis; the first was to H.F. Walker and his sons; given 12,000 acres. By the late 1920s about one-tenth of the Batoka Plateau had been alienated to white settlement, a highly fertile tenth. As a former BSA Company official recorded, 'These natives are complaining that restrictions on the sale of their crops to Europeans, legislation for enforcing their continuance of big villages, and the like, are thwarting their natural aspirations and tending towards stagnation and repression (Melland & Young 1937, p.38). In 1904, the East Luangwa Land Commission considered the impacts on Africans, the Mpeseni Reserve near Fort Jameson being demarcated and defined and the area south-west of the *boma* (district headquarters) reserved for the sole use of Africans. In 1924 a Native Reserve Commission was appointed to investigate matters, and later in 1928 nine reserves were set aside in perpetuity for the sole use of Africans by the Northern Rhodesian Crown Lands and Native Reserves Order in Council. This order reduced by a third the 10,000 sq. mile NCE Company estate, to which the Company objected in the courts. But the House of Lords ruled against the Company. The Provincial Administration and the BSA Company then began moving Africans into the retrieved area. By 1931, only a thousand or so people remained outside the Reserves and large areas of Petauke district became deserted, wildlife increased and with it the tsetse fly - carrier of the cattle disease, Nagana, and the human disease, sleeping sickness. The impact of this re-distribution of people led ten years later to overcrowding and land degradation; and inevitably to attempts once more to resettle people. Again Africans had their land taken away, though this was done voluntarily. In 1928, the tobacco industry around Fort Jameson was all but destroyed by the tobacco blight, the United Tobacco Company closing down. The North Charterland Company could afford to keep employing their managers but the private planters went out of business (Tapson 1957, p.138).

In North-Western Rhodesia, shortly before it joined with North-Eastern Rhodesia to become Northern Rhodesia, the Administrator, realising that the company could only be developed with an influx of settlers, urged that grants of land be made, but on the condition that the interests of the African would be protected. He was encouraged by the Fort Jameson scheme where farmers could obtain land for three to five years, provided they took occupation, and where they had the option of purchase after a certain period. In 1908, there were sixty-eight farms in North-Western, but only thirty of them were genuine farmers producing maize, potatoes and finger-millet. After amalgamation, with about 1,000 settlers in the country, they naturally started to voice their opinions and wished to have a say in the administration. A number of them favoured joining up with the new Union of South Africa whose policies the administration found abhorrent. This was to drive the process forward to self-government until the running of the country was handed over to the Colonial Office in 1924. Wallace was the first administrator and was paid by the BSA Company, but his appointment had first to be approved by the Secretary of State. European farmers, alarmed at the prevalence of cattle disease and the lack of controls, called for firmer action. In 1918, an Advisory Council drawn from the settlers was elected; with this Council being vociferous on the issues of labour being diverted to Southern Rhodesia and the way land was being handled. In 1921, the Europeans numbered 3,634, the Africans of the territory, 983,539 (Gelfand 1961, p.139).

#### **4.2.3 Blackbirding**

In place of the slave trader came the recruiter of labour for the mines of the Witwatersrand, Southern Rhodesia and later, the Copperbelt and the Congo, village men being recruited from the early 1900s. Recruitment for the mines in South Africa and Southern Rhodesia were lent considerable impetus by

the imposition of the hut tax in 1901 in North-Eastern Rhodesia and in 1904 in North-Western Rhodesia. Northern Rhodesia as a whole was seen as a source of labour for the developing south.

In North-Western Rhodesia, many Tonga villagers refused to pay the hut tax on the grounds that they had no money. An official, Colin Harding, went to one troublesome area with a maxim gun and eighty policemen and burned as many as 970 huts; though barbaric instances such as these were rare. Harding was subsequently dismissed from Company service (Vickery 1986, p.75). In 1920 the Hut tax was doubled, resulting in the Administration raising their wages, this soon followed throughout the country. Despite the negative impact, the villager had since before WWI been free to come out of his stockaded village and move about in search of work, something he had not been able to do under slavery. However, the impact of all of this on village life with many of its men employed elsewhere, would continue the state of dissolution that the slave trade and the invasion of resource harvesters had brought about.

After serving out their contracts mineworkers returned with trophies of the modern age, including venereal and other diseases. One of the main routes south from the east of the territory was through Feira on the Zambezi. In 1902, the count of men walking to and from Southern Rhodesia amounted to 6,981 going south, and 4,308 going north – these were Africans of Nyasaland, North-Eastern Rhodesia and Portuguese territory (Gelfand 1961, p.88). In 1904, because of the high mortality rate of those walking, Nyasaland banned the recruitment of labour within its borders; and in 1907 NW brought in regulations controlling recruitment. In 1907, the Southern Rhodesia Administration took on responsibility for all recruitment north of the Zambezi, and in that year recruited 4,743 men and 7,009 in 1908. The high death rate of the people in the mines was cause for great concern: in the years 1907 and 1908 the death rates from scurvy, dysentery and pneumonia were some 40 per 1,000. Added to this at the time were outbreaks of sleeping sickness, which brought about bans on recruitment from certain areas. The men were frequently transported in trains without proper latrine facilities, and worked without adequate rest - this also added greatly to the abysmal mortality rate. After WWI reform was introduced through the lobbying of the Anti-Slavery and Aborigines Protection Society, probably the first NGOs to be active in the territory. But the effects of the mines through the invasion of hundreds of prostitutes from the villages certainly added to the weakening of community structure. However, these effects were insignificant when compared to the effects of the slave trade.

### **4.3 British Imperial protectorate**

#### **4.3.1 Indirect Rule**

In 1924, in addition to the Nyasaland Protectorate, Northern Rhodesia was taken over by the Colonial office as a Protectorate. The British administration continued ruling directly as they had done in BSA Company times, with the chiefs and headmen acting more as administrative assistants. By 1932, Lord Lugard's Indirect Rule was introduced whereby a network of traditional rulers was imposed and rule conducted through them. The acquisition of the territory took place in the Victorian era, a time notorious for a rather rigid parental manner, as well as loyalty to principle, something now eroded over time (Bowman 2006, p.4). This manifested itself in a certain attitude: that the ways of the native African were inferior to that of the British; and that the African should be moulded into a British way of behaving, disregarding African culture, the result of thousands of years of survival. The danger of this was that spontaneous adaptation by the African was extremely difficult, with the Africans being constantly harried to conform. Melland, who had served as a BSA Company magistrate and official for 26 years, wrote strongly from experience that Indirect Rule required to be reformed so that Africans could produce an autochthonous civilisation, 'which will prove a notable contribution to world civilisation' (Melland & Young 1937, p.21).

As Melland pointed out, one of the principle criticisms of Indirect Rule was that it would not contain those educated Africans wishing to break free from what they now regarded as a primitive past. This immediately raised the spectre of dual development: on the one hand a materialist and more self-

centred one based on the Western ballot box and on European ways and thought; the other, that of autocratic rule by chiefs – in many cases enthroned by the BSA Company - where the emphasis was on a perennially fixed culture of equitability and harmony, a culture of the group rather than of the individual.

But Melland suggested a third possibility: ‘The rule of the aristocracy (in its original sense) which can be built on to the old tribal council, and yet admit into such councils plebeian educated natives who have demonstrated their worth’ (Melland & Young 1937, p.30).

Melland also makes the point that, implicit in the Indirect Rule of British colonial effort, be it as a crown colony or as a protectorate, was the question of Christianity, which disregarded native religion and belief, the latter the result of the evolutionary time warp and not something to be lightly dismissed. Africans were required to become self-regarding individualists, when in fact natural selection had moulded them into part of an harmonious whole, however primitive their life and culture might have appeared to Victorians or Edwardians. Africans did question the fact that while missionary effort was zealous in seeking to convert them, most of the Europeans farming, mining, administering or trading with them at the time, were clearly not practicing Christians.

The reaction of the chiefs to Indirect Rule was interesting. They had not been consulted on the issue, the notion having been transplanted from Lord Lugard’s implementation of it in Nigeria. In the period of BSA Company rule until the 1930s they had become used to direct rule, had appreciated the impartiality of the white man, a major factor amongst people so riven by clans and the imperatives of economic reciprocity. Melland wrote that, ‘they did not relish the change, in many cases because they had lost the habit of ruling, and still more because they did not regain the right to rule in accordance with custom, but were forced to rule on lines laid down by their white overlords, to administer to justice and to punish on those lines’ (Frank Melland & Young 1937, p.39). And there were those like Sir Stewart Gore-Brown who, seeing the damage being wrought, called for the creation of a partnership with the African, a relationship of equals rather than an imposed will, and imposed rule (Melland & Young, 1937, pp.65-75).<sup>7</sup>

Until the exploitation of copper, the territory did not satisfy those in the BSA Company who wished to see great profits. Until 1924, the BSA Company never declared a dividend, and it was only in Protectorate days that huge royalties for the Company were produced (Vickery 1986, pp. 40-41).

#### **4.3.2 Provincial Administration**

In 1926, Native Authorities (NAs), based on chiefdoms, were established and shortly thereafter Native Courts and Treasuries, the country being split into provinces and then into districts run by Provincial Commissioners (PCs) – and under them - District Commissioners (DCs), and in turn, District Officers (DOs), and served by *kapasos*, or messengers. Income for the NAs came from government grants and from licences and other fees. District officials therefore held meetings with the chiefs, local officers responsible for agriculture and health, as well as with prominent local people, following basic development plans which increased in complexity as time wore on. The operations of the NAs were therefore highly collaborative with the officials visiting each of the villages a few times a year to assess development and to advise on a host of issues.

#### **4.3.3 The Federation**

Despite strong African opposition, the British Parliament in 1953 passed an Act providing for a Federal Constitution for the Federation of Rhodesia and Nyasaland. The Federal Government controlled the main economic and military functions, but not the police. All matters affecting Africans – their education, agriculture and rural development - were parcelled off, a clearly segregationist

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<sup>7</sup> Colonel Gore-Browne’s maiden speech to the Legislative Council of Northern Rhodesia, November 1935.

approach. And the Queen could disallow any law of the Federal Legislature assented to by the Governor-General within twelve months of its having been passed.

The Constitution was complicated, both Europeans and Africans vying for greater powers. One major development through an Order in Council was the recognition of the Barotseland Protectorate in 1953, but only as a part of Northern Rhodesia. By 1951 there were 37,000 Europeans in Northern Rhodesia, with their increasing political power being matched by the rapid growth of the African's political consciousness and the growing realisation that their powers were in the ascendant (Gann 1964, p.441). At the end of 1963, the Federation was dissolved.

#### 4.4 Winds of change and Bandung

The Afro-Asian Conference held at Bandung in Indonesia in April of 1955, where four independent African and twenty-three Asian independent states gathered, set in motion de-colonisation. Their central belief was that they formed the nucleus of millions of the world's population and that they should mobilise a third world 'of free, pacific, non-aligned, purged of capitalist and Stalinist vice, radiant with public virtue, today saving itself by its exertions, tomorrow the world by its example' (Johnson 1983, p. 477). The Suez crisis of 1956-7 confirmed that Britain had lost the will to rule. The blockade of the Suez Canal by Colonel Nasser and the dithering of the Eden Government was in marked contrast to the resolute action of Israel. But Nasser and the Bandung generation had won, with the support of the UN. Thus for the Empire, weakened by WWII and irresolution over Suez, and with the new concept of 'world opinion' now clearly supportive of the colonised and the 'protected'; change was not far off. A British White Paper in 1948 had recognised this, stating that British colonial policy was to guide colonial territories to responsible self-government, clearly something that was not done. In the general election of 1959, the decision was taken to withdraw from Africa; the 'Winds of Change' speech by Prime Minister MacMillan in Cape Town in 1960 merely making it public.

In Northern Rhodesia, where the Provincial Administration had fought against an increasingly vocal and powerful settler group and the siren call of apartheid down south, whilst continuing to rule through the chiefs as part and parcel of the Native Authorities, they were suddenly faced with the inevitability of withdrawal. The question however was to whom they should hand power. The NAs were still embryonic and required administrative and accounting skills, then in short supply, particularly where clan and traditional leadership interests required an independent person or group to steer the ship through the muddy cultural waters. But they were not to make the decision; that was a matter for the Colonial Office who now looked around for the group normally in receipt of political power, professional politicians, candidates suitable for African nation-statist leadership, who despite their rather inflated freedom-fighter credentials would be the *interlocuteurs valubles*, for they still clearly accepted the primacy of British interests (Davidson 1996, p.172). To them were handed the keys of State House. As great as was the betrayal of the chiefs and NAs, many of whom supported the new order called politician, so – on the face of it - was the betrayal of settlers who had been recruited to support *Pax Britannica* and the building of a modern society. However, it was also the intransigence of the European population who refused to compromise on the sharing of power with Africans, rejecting British proposals under the 1962 constitution, which forced the hand of the Government (Sampson 2006, p.19). And what was lost also was the opportunity to go to nationhood based on the African participatory model extolled by such visionaries as F.H. Melland, rather than the now bankrupt neoliberal model with its army of consultants, 'other nations' representatives and the perennial plunderers in search of cheap natural resources.

## 5 THE ENVIRONMENT AND ITS LEGAL FRAMEWORK

### 5.1 Land tenure and population

Africa, the cradle of man, has witnessed the full evolution of land use patterns from hunter gathering, to shifting cultivation and cattle management, to chemical farming. This change, depending on rainfall and soil fertility, on population pressures, peace and stability and economic conditions has brought increased pressure on customary tenure and on the culture of communal welfare.

### 5.2 Land use and technical support

The BSA Company essentially gained land rights over the whole territory except for Barotseland. It could therefore bring in white settlers and insist that native Africans living *in situ* move. In order to compensate for this, The Northern Rhodesia Order in Council of 1911 stated that native Africans would be assured sufficient land and water sources for their needs. In 1923, the Passfield Memorandum stated the situation in more unambivalent terms, 'that the interests of the African natives must be Paramount, and that if, and when, those interests and the interests of the immigrant races conflict, the former should prevail' (Gann 1964, p.242). This led to the establishment of Native Reserves in 1928-29.

By the mid-thirties, the land was divided into three categories: 71 million acres of African Reserve – made up of Barotseland - and 34 million acres of Native Reserve. The land alienated to two Europeans companies totalled 5.5 million acres, leaving another 3 million acres of commercial farms. The balance of 105 million acres was taken up by 11 million acres of protected areas, with 94 million acres being unallocated. The Pim Commission recommended these be converted into Native Trust Land, this subsequently legislated for in 1947. Therefore, just prior to attaining self-government, the territory comprised the following: Crown Land (5.6%) held by Europeans; Native Reserves (18.9%); Barotseland (16%); and Native Trust Land (59.5%). According to an Order in Council, the Governor administered Native Trust Land for the sole benefit of native Africans. Non-Africans could only have access to these areas if they were part of a township development or public utilities.

The agricultural policy of Northern Rhodesia ensured that European farmers and the 'improved' African farmer, i.e. the commercial farmer along the line of rail, had preferential treatment. But, in so far as the production of maize was concerned, this had no great effect on Africans due to expanding internal markets and changes in the control scheme.

The Department of Agriculture, backed as it was by two fine research institutions - the Central Agricultural Research Station at Mount Makulu and the Veterinary Research Centre at Mazabuka - ensured a full range of technical support. In addition, two outstanding ecologists, C.G. Trapnell and W. Hall, pioneered the ecology of native agriculture. In socio-anthropology, the Rhodes-Livingstone Institute provided the peerless knowledge and understanding necessary of the different tribes and nations speaking some seventy-five languages and involved in complex survival strategies.

### 5.3 Wildlife conservation

The slave export trade, allied with the ivory trade, and paid for in firearms and calico, saw elephant numbers by 1870 reduced to such an extent in the Zambezi and Luangwa Valley that one of the Zambezi *musungu*<sup>8</sup> traders, Texeira de Sousa, who ran a stable of some three hundred or so elephant hunters north of the Zambezi, had great difficulty in finding bulls carrying heavy ivory. In 1885, it was reported that 'elephant populations had decreased surprisingly over the last two years in that triangle between the lower Chobe and the western part of the central Zambezi' (Holub & Johns 1975, p.272).

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<sup>8</sup> At the time describing those of mixed race i.e. Native Africans and European, but now used to describe white people.

However, this was not surprising given the great elephant drives that took place in the 1870s by the Barotse Paramount Chief Sipopa, with elephant being driven by a few thousand men into the angle between the Zambezi and the Chobe. On one occasion ninety elephant were slaughtered. Sipopa's successor, Lewanika, continued these drives on elephant and antelope (MacKenzie 1997, p.71). From 1871 the hunter and trader George Westbeeck formed a close commercial relationship with Sipopa and Lewanika, employing many elephant hunters in the region. In 1882, Lewanika gave Westbeeck his own exclusive hunting concession in the Machili Valley. In the years 1871 – 1888, Westbeeck exported between ten and fifteen tons of ivory each year, the equivalent of 460 to 690 elephant annually (MacKenzie 1997, pp. 123-124).

In the country of the Bemba and their vassal tribes, elephant were greatly reduced by 1879, the explorer, Joseph Thomson reporting that there were few left between Lake Tanganyika and the East Coast (Meebelo 1971, p.6). Alfred Sharpe – who had once been a commercial ivory hunter - only shot two elephant on his long journey back to Blantyre from Katanga in 1890 (Boeder 1981, p.34). But the slaughter in Africa - supplying only the London market - was estimated to be in the order of 47,000 animals annually between the years 1850 to 1890 (Melland, 1938, p.13). As elephant populations recovered, they were again killed in the legitimate defence of life and property in the territory in the years 1917 to 1921 - native hunters armed by the BSA Company and supplied the necessary ammunition, killing 3,992 elephant (Melland 1938, p.88). This commercial exploitation of elephant by Africans, Europeans and Arabs –which reappeared a hundred years later - brushed aside native African laws of conservation, directly threatening their stability. Among the Bemba,

...finding one bee's nest is good fortune, because honey is a blessing, finding two is better still, but persisting in your search for bees' nests that are never plentiful and finding three – that is the work of witchcraft: it is the influence of greed, for which the powers of Evil will find a way to punish you (Davidson 1996, p.85).

Within tribal groupings prior to BSA Company rule, the hunting of elephant, eland, rhino and hippo was severely restricted to a certain class of *fundis*<sup>9</sup> or hunter. Among the Bemba the sect, society or guild which controlled the hunting of elephant was held in great esteem, being known as *Uwanga wa Nsofu* with its own secret nomenclature, initiation ceremony and body marks, and with its own elders, the *waChiwinda*, to whom application had to be made to join. With any slaying of an elephant, one of the tusks was immediately given to the chief, the left hand tusk, the *chimbo*, being a symbol of the lordship of the country. The tail was normally given to the *fundi*. Hughes, the Native Collector at Nabwalya in 1902, reported on the use of members of this guild by the Arabs in their search for ivory (Hughes 1933, p.223). One of the first acts of the BSA Company when it assumed control – having had these rights signed over by some chiefs, but not all - was to claim the right to all 'ground' tusks i.e. the tusk lying on the ground, at an elephant's death. This symbol of ownership, of the right to rule, was now accepted as being held by the BSA Company. These guilds died with Indirect Rule and the appointment of chiefs and the creation of the chiefdom commons. The extermination of the black rhino and the onslaught on elephant populations was driven by the same sort of anarchic forces as operated during the slavery holocaust, where money and the power it brought was deemed greater than any notion of kinship. Any hope for the emergence of an indigenous conservation movement from the hunting guilds was therefore stalled, as foreseen by Melland (1938, p.90).

In 1892 the Rinderpest epidemic reached the territory from the Horn of Africa, crossing the Zambezi in 1896. Buffalo were nearly exterminated, and kudu, eland and other cloven-hoofed species severely affected, and also zebra. Barotseland was spared; the people brought new wealth from cattle in place of ivory.

In 1896, regulations for the control of hunting and the establishment of game reserves was produced by the British Central African Protectorate – the former Nyassaland and future Nyasaland. By 1899,

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<sup>9</sup> Now used to describe anyone thought to be a genuine expert at anything.

Alfred Sharpe, the Commissioner and Consul-General of the BSA Company, was alarmed at the desecration of the great herds of game in the Mweru region and feared for the extinction of the elephant. He thus declared the Mweru Marsh as a Game Reserve (gazetted in 1900), the first in the territory, and one of the earliest in Africa. In 1901, in order to protect villagers from large predators, the Administrator of North-Eastern Rhodesia reduced the size of the Mweru Marsh Game Reserve by excluding the villages on the eastern boundary (MacKenzie 1997, p.234).

In 1900, the North-Eastern Rhodesia Order in Council for the International Convention for the Preservation of Wild Animals, Bird and Fish in Africa was issued, and regulations for the preservation of game introduced. These were the Game Laws of North-Eastern Rhodesia, issued, printed and distributed in Fort Jameson, and revised two years later. Killing animals with snares, traps and pit-falls was banned, and other restrictions were placed on the species allowed to be hunted. In 1902 an export duty was placed on ivory, and later, the acting Administrator stated that control was necessary as hippo numbers were dwindling as they were being shot for their teeth. He also decried the fact that in one week an African hunter killed thirty rhino for their horns (Astle 1999, p.15). In 1903, the restriction on the hunting of a number of animals was withdrawn because of the increase in wildlife and the resultant damage to African crops. In 1904, under Section 4 of the Game Regulations of 1902, a second Game Reserve was proclaimed (for the protection of Thorneycroft's giraffe); this was the Luangwa Game Reserve near old Petauke - the Sasare mine on its border, also known as the Lusangazi Game Reserve (later cancelled in 1913). In the years 1912-1925, non-residents of the Luangwa were banned from hunting there.

With the change brought about by the imposition of the hut tax and the demand for labour for the mines, villagers had a large proportion of their adult males drawn away. This necessitated a reorganisation of the villagers' survival strategies. The more elderly lineage members now recruited younger males as hunters with the responsibility for protecting crops and supplying meat. The younger males, in turn, grasped the opportunity as their control of meat supplies would enable them to compete later for the position of lineage head over their contemporaries who had gone off to the mines. The ownership of a gun or rifle became a matter of considerable importance. Among the Bisa of the Luangwa, there were four groups of hunters, being differentiated by the charms they used and the manner in which they had been legitimised. The 'dangerous shades' of elephant, lion and eland required specialised rituals to be observed, particularly - if the hunter and his kin was not to descend into madness (Marks 1984, p.88).

Soon after the formation of the Protectorate, and managed by the Provincial Administration, the Northern Rhodesia, Ordinance No. 19 of 1925 was promulgated, a game ordinance which consolidated the laws of North-Eastern and North-Western Rhodesia. Native game licences were issued allowing a villager to hunt in his traditional area, limits only being introduced in 1931. The bag was extremely generous and given that the territory in 1926 was estimated to have 1,099 breech-loading rifles, 1,763 shotguns and 25,619 muzzle-loaders among a population of about one million people, the impact on wildlife would have been considerable. However, increasing game populations also raided village gardens (Astle 1999, p.25). As the main concern of the PA was the welfare of the villagers, they began to contract experienced hunters to deal with marauding animals elephant. These included E.C. Mills, a notable professional white hunter and member of the East African Professional Hunters Association; Henry Rangeley, H.L. Hall (who farmed in the Petauke district), Charlie Ross and D.G. Lancaster; with most of them later appointed as civil-service elephant control officers.

In 1929, R.W.G. Hingston - the first wildlife consultant to the territory - was appointed by the Society for the Preservation of the Wild Fauna of the Empire. He recommended the establishment of what was to be called the South Central African National Park, a suggestion which was rejected, but which would have incorporated much of the Luangwa and the present day Kasungu area in Malawi. This was finally accomplished some seventy-seven years later by the formation of the Malawi/Zambia Transfrontier Conservation Area, linking the Kasungu, Nyika and Lukusuzi National Parks.

The 1931 ordinance amendment registered the following Game Reserves: Victoria Falls, Kafue Gorge, Mweru Marsh, Kafue and David Livingstone Memorial – wardens being provided within the PA, although Pitman in his report of 1934 did not mention Victoria Falls (Pitman 1934, p.36). Pitman came to Northern Rhodesia in 1931, and in his report of 1934 he laid the foundation for the future Game and Tsetse Control Department of 1942, or the “Game Department” as it became known. His report remarked on the massive decrease of wildlife – with the exception of buffalo and elephant - due to hunting by villagers with muzzle-loaders, and the inadequate Game Ordinance and state of Game Reserves, some of whom contained villages. He recommended establishing organised elephant control operations to protect villagers (immediately effected), the establishment of a Game Department, that the co-operation of the NAs be sought, that people be removed from Game Reserves, that much of the Luangwa should be made a Game Reserve (on 27 May 1938, Luangwa Valley Game Reserve southern section was gazetted), and that the present Kafue Reserve become a National Park.

The report emphasised game control. In 1935, 4,600 elephant were shot on control in order to alleviate the sufferings of the villagers - plus 573 killed on licence (MacKenzie 1997, p.253). Moreover, he urged that the Native Authorities be given increased powers in order to effect wildlife’s protection, something of a contradictory statement. The Secretary for Native Affairs had commented that the interests of the native community were the first consideration. However, the shortages of money and WWII meant that the implementation of his recommendations were much delayed. Out of this came two categories of land, Game Reserve and Controlled Area, to be administered by the NA and for which they would receive an income from hunting. Vaughan-Jones, the author of a 1938 report laying out the architecture of a future department, warned of the corruption amongst chiefs, but thought that the NA could in time manage wildlife and the areas under them for the benefit of the villagers - ‘The optimum scope of a Game Department, as has become apparent in the light of modern thought, is the whole relationship of wild life to human progress, not merely the preservation of game for sportsmen to hunt and the shooting of superfluous elephant’ (Vaughan-Jones 1938, p.vi, para 82). In 1941, he was appointed the Officer-in-Charge of the Game Control Department, a revised Game Ordinance being proclaimed in the same year.

In 1942, the Department of Game and Tsetse Control was formed within the PA and Vaughan-Jones appointed Director. In future the proclamation of any Game Reserve would have to have the agreement of the NA as these were formed on Native Trust Land. However, the responsibility given to the NA for the control of wildlife outside of the reserves, with them receiving substantial fees from non-resident hunters, was not a success, and wildlife populations continued to decrease - as they would under any open-access regime. This led to a conflict between the Game Department (pro-wildlife) and the PA (pro-people). In 1945, the Kunda Controlled Hunting Area (CHA) and the Munyamadzi CHA was declared, with responsibility for protection of wildlife given to the chiefs. In 1946, hunters were encouraged to hunt in these CHAs, with native treasuries receiving income from licences and permits. In 1947, the Petauke CHA was declared. In 1949, in the Kunda CHA, the Game Department camp, Chipera, (on the orders of the DC Lundazi, Errol Button) was handed over to the NA as a tourist lodge, with all income being retained by the NA.

In 1949/1950, the Government Controlled Hunting scheme was started in the Nsefu/Malama area of Eastern Province, producing further income for the NA. This was the resumption of professional safari hunting after WWII. By 1952, European hunters coming to hunt on their own account could not hunt easily or at all given the plethora of CHAs: only 140 permits a year were being issued and each permit was only valid for a fortnight in a particular area. But there was no check on native African licences or on native hunting, and thus a massive trade existed in bushmeat - driven by the demand of the mines and by the burgeoning urban populations. In 1954/55 a Fauna Conservation Ordinance was passed in which the existing thirty-nine Controlled Hunting Areas were redefined as sixteen First Class Hunting Areas and twenty-three Second Class Hunting areas, representing a one-third reduction in areas for hunting.



In April 1950, the Governor proclaimed the Kafue National Park being 'set aside' within what was Native Trust Land. The Order in Council defining Trust Land stated, 'land set apart for the sole use and benefit, direct or indirect, of the natives of Northern Rhodesia...' and further: 'out of the profits or rents accruing from any area of native trust land set aside as a forest or Game Reserve... there shall... be paid first the expenditure necessarily incurred by the Government in connection with the said area, whether by maintenance, development or otherwise, and the balance shall be paid into the (Native Trust Land) Fund, or into the treasury of the native authority concerned, as the Governor shall direct'. A consultant, Darling, commented that being Native Trust Land first and a National Park second conflicted with the concept of National Parks as outlined by the 1933 International Convention. Darling recommended that an amendment be tabled of the Order of Council, altering the boundaries of Native Trust Land, or by invoking Section 5(1) (d) of the Order in Council which empowers the Governor to 'acquire native trust land for public purposes' (Darling 1960, pp.128-129).

The Fauna Conservation Ordinance was approved in 1954, but only gazetted in 1957. Existing controlled areas became First or Second Class Hunting Areas, and a category of private game area was defined. There was considerable opposition in the Legislative Assembly to the new Game Ordinance, with one member, R. Kidson, speaking out on behalf of the villagers who were suffering from wildlife impacts - essentially for their protection - demanding that the Government Controlled Hunting Scheme be abandoned.<sup>10</sup> Some new African members said that NAs should be allowed to shoot out their animals if they so wished. Vaughan-Jones' riposte reminded members that CHAs were created at the request of Native Authorities, and Government had assented, hoping that they would manage their areas (Astle 1999, p.42).

The PA and the NAs were opposed to any tightening of preservationist regulations. And while the Game Department now had the necessary powers to control African hunting, they conceded that without the co-operation of the NAs, no progress would be made in slowing down the pace of depletion. In 1958, Game Department staff were instructed to confine themselves in their duties to the Kafue National Park (KNP), the Game Reserves, and the First and Second Class CHAs on Crown land. In other areas, NAs would have full responsibility for game management. The retrenchment of Game Department staff in 1958 as a result of a fall in copper prices, saw them hand over control of most of the Second Class Hunting Areas to the NAs. These areas continued to deteriorate as the State retained ownership of wildlife. In 1962, the Government Controlled Hunting Scheme was abolished and their concessions awarded to a limited liability company, Luangwa safaris, whose Directors were Peter Hankin and Norman Carr, the latter formerly in charge of the Government hunting scheme.

In 1966 Nsefu was declared a full Game Reserve. The National Parks and Wildlife Act was promulgated in 1968, but only implemented in 1971. In this legislation, CHAs became Game Management Areas (GMAs), and the Luangwa South Reserve was enlarged to include Nsefu Game Reserve and Chifungwe Plain, and renamed the South Luangwa National Park. In 1972 the elephant cropping scheme, begun eight years earlier in South Luangwa, was closed after the conservationist turned preservationist, Sir Peter Scott, allegedly complained about it to President Kaunda.

By the early 1970s a broad-based protected area system was in place and nineteen National Parks had been created from their Game Reserve predecessors. Many of these protected areas were supported by the production of management plans and applied research. The power of the chiefs waned greatly from the time of self-government, and the Natural Resources Act Cap 315 of 1962, and later, the Natural Resources Act of 1970 - legislation which contained everything necessary to usher in development to customary areas - was ignored and much of it later repealed by the Environmental Protection and Pollution Control Act of 1990.

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<sup>10</sup> Father of Ron Kidson, founder Chairman of the Professional Hunters Association of Zambia.

## 6 THE ECONOMY

With the extension of British interest over the territory in 1891, it took another thirty years for the basic infrastructure of railways, roads, towns, and the basic forms of Western technology and civilisation to be imposed. By 1921, commercial mining had begun - the engine for the rapid growth which was to follow over the next forty years, though clearly the 3,000 Europeans, 56 Indians and approximately one million African natives in existence, stood together at the brink of development. At the time, 82% of the Europeans lived in the capital, Livingstone, Lusaka (the capital from 1935) or Broken Hill (Kabwe). The rest – with the exception of the tobacco farmers in the Fort Jameson area (Chipata) – lived near the railway line whose construction through the territory reached Kabwe in 1906 and the Congo border in 1909. Of the Europeans, 1,000 farmed, with the great majority of Africans subsisting in the time-honoured fashion, and the Indians being involved in trading. Only 133 Europeans worked in mining, mainly in the production of lead and zinc in Broken Hill. The 1924 export value of metals was £161,000 (only £7,000 from copper at Bwana Mkubwa), with agriculture at £153,000 - constituting 70% of the total exports of £465,000 (Baldwin 1966, p.19).

But all of this was soon to change with a massive rise in demand for copper, the mobilisation of investment capital in London and a recent advance in mining technology that allowed, through the flotation method, the mining of ores high in sulphides. However, the key was the decision of the BSA Company – which still held the mining rights - to award vast mining concessions to well capitalised mining companies. By the end of the 1920s, copper was a major industry. The Copperbelt now experienced a building boom. By 1930, seven major mines were in production. Allied with this development, advances in the treatment of malaria allowed relatively large numbers of qualified Europeans to live in the area. The health of Africans was also considerably improved (Gann 1964).

However, in 1931, with copper prices plummeting, Bwana Mkubwa closed down, and by 1932, with the onset of the Great Depression fully evident, copper production was cut by international agreement to 26.5% of world capacity (Gann 1964, p.251). Between 1931-1933 the white population dropped from 13,846 to 11,278. Five difficult years followed, but by 1937 mining was once more in full swing, Northern Rhodesia now becoming one of the most rapidly growing economies in the world. In 1949, the pound devalued and the price of copper increased 44% overnight, and with it production, reaching 379,000 tons in 1954. In 1959, further significant growth took place with minerals generally taking up 70% of GDP. From Federation days (1953-1962), these figures were no longer available, but no other industry challenged the copper supremacy in what had become a very lopsided dualistic economy (Baldwin 1966, p.36).

In 1947, the Government inaugurated a ten-year development plan, giving as their three main objectives:<sup>11</sup>

- i) To give, on a modest scale, the bare essentials of social and economic services which all sections of the community require.
- ii) To encourage development of the natural and potential assets of the Territory but at the same time to prevent ‘exploitation’ (used in its worst sense) of these assets.
- iii) To assist the African population to develop itself under its Native Authority with all possible speed. This is urgent because a higher standard of living must be earned and cannot be awarded.

However, shortly after the start of the programme, under pressure from the legislature, the goal of stimulating the rural non-monetary sector was diminished, with increased food production, roads and European and African housing taking their place. The share devoted to African housing, education and rural development fell from 31% to 17% by 1953, mirrored later by the Government in the years

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<sup>11</sup> Ten-Year Development Plan for Northern Rhodesia as approved by the Legislative Council on 11 February 1947, Northern Rhodesia. Government Printer, 1951. p.8.

1980-2000. Between 1945 and 1951, Britain extracted roughly 140 million sterling from their colonies, investing about 40 million sterling under the Colonial Development and Welfare Acts; this under a Labour Government supposedly with the interests of the common man at heart (Davidson 1996, p.219).

From the creation of the Federation of Rhodesia and Nyasaland, development funds augmented those being supplied by the Northern Rhodesia Government. Most of this was taken up by the modernisation of the railway and the production of power from Kariba. Crucially, funding which had been intended for the upliftment of the rural African went to strengthening the urban monetary sector (Baldwin 1966, p.200). And where some effort was made to improve African food production, these were based on European methods of agriculture as the condition for raising income. This was particularly applicable to the Kafue Flats Pilot Polder Scheme begun in 1956, a massive and expensive failure, an augury of the destruction of the Elysian Fields to come.

As both the Protectorate and Federation days came to an end, it was claimed that the economic reality of the time was of an economy controlled by European interests where African farmers had been excluded from access to the land along the line of rail – essential to supplying the mines with food – with imposed produce marketing controls, seen as a deliberate policy to hinder their competitiveness with commercial farmers; and in industry, that the might of the European controlled unions blocked the attainment of any significant advances in labour skills by Africans (Baldwin 1966, p.216). This conclusion did not take into account the massive social and cultural differences between Westerners and native Africans. And as Peter Bauer wrote, ‘Poverty and prosperity are not usually matters of land. Poverty or riches, and personal and social satisfaction depend on man, on his culture and on his political arrangements. Understand that, and you understand the most important cause of wealth or deprivation’.<sup>12</sup>

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<sup>12</sup> Bauer, Peter. *Land and People*, quoted in Zambia Institute for Public Policy Analysis, April-June 2009. Lusaka.

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**CHAPTER 2:**  
**SELF-GOVERNMENT AND WILDLIFE CONSERVATION**

## ACRONYMS

<b>ACC</b>	Anti-Corruption Commission
<b>ADMADE</b>	Administrative Management Design for Game Management Areas
<b>AG</b>	Auditor General
<b>AWF</b>	African Wildlife Foundation
<b>BEE Act</b>	Broad Based Black Empowerment Act of South Africa
<b>BSA Company</b>	British South Africa Chartered Company
<b>Bushmeat</b>	Wild animals used in tropical and sub-tropical forests for food and for non-food purposes, including medicinal use
<b>CBNRM</b>	Community Based Natural Resource Management
<b>CBO</b>	Community Based Organisation
<b>CEE Act</b>	Citizens Economic Empowerment Act of Zambia
<b>CEO</b>	Chief Executive Officer
<b>CHA</b>	Controlled Hunting Area
<b>COMACO</b>	Community Markets for Conservation
<b>CONASA</b>	Community Based Natural Resource Management and Sustainable Agriculture
<b>CRB</b>	Community Resource Board
<b>CTC</b>	Conservation Trading Centre
<b>D-G</b>	Director General ZAWA
<b>DNPW</b>	Department of National Parks and Wildlife
<b>EDF</b>	European Development Fund
<b>EIA</b>	Environmental Investigation Agency
<b>ERPP</b>	Emergency Resource Protection Project
<b>FAO</b>	Food and Agriculture Organisation
<b>FINDECO</b>	Finance and Development Corporation
<b>GEF</b>	Global Environment Facility
<b>GMA</b>	Game Management Area
<b>GRZ</b>	Government of Zambia
<b>HCA</b>	Hunting Concession Agreement
<b>HQ</b>	Headquarters
<b>INDECO</b>	Industrial Development Corporation
<b>KNP</b>	Kafue National Park
<b>LIRD</b>	Luangwa Integrated Resource Development Project
<b>MD</b>	Managing Director
<b>MINDECO</b>	Mining Development Corporation
<b>MP</b>	Member of Parliament
<b>MSB</b>	Mechanical Services Branch
<b>MTENR</b>	Ministry of Tourism, Environment and Natural Resources
<b>NA</b>	Native Authority
<b>NBSAP</b>	National Biodiversity Strategy and Action Plan
<b>NGO</b>	Non-Governmental Organisation
<b>NORAD</b>	Norwegian Agency for International Development
<b>NP</b>	National Park
<b>NPE</b>	National Policy on the Environment
<b>NPWS</b>	National Parks and Wildlife Service
<b>NRCF</b>	Natural Resources Consultative Forum of Zambia
<b>NRM</b>	National Resource Management
<b>PA</b>	Provincial Administration
<b>PAYE</b>	Pay As You Earn
<b>RAMSAR</b>	Convention on Wetlands of International Importance
<b>REMNPAS</b>	Reclassification and Effective Management of the National Protected Areas System

<b>SCI</b>	Safari Club International
<b>SEED</b>	Support for Economic Expansion and Diversification
<b>SLAMU</b>	South Luangwa Management Unit
<b>TBNRM</b>	Tourism-based Natural Resource Management
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNIP</b>	United National Independence Party
<b>US</b>	United States
<b>USA</b>	United States of America
<b>USAID</b>	United States Aid
<b>VAG</b>	Village Action Group
<b>VMC</b>	Village Management Committee
<b>WB</b>	World Bank
<b>WCRF</b>	Wildlife Conservation Revolving Fund
<b>WCS</b>	Wildlife Conservation Society
<b>WWF</b>	World Wide Fund for Nature
<b>ZAWA</b>	Zambia Wildlife Authority
<b>ZCC</b>	Zambia Competition Commission
<b>ZCCM</b>	Zambia Consolidated Copper Mines
<b>ZIMCO</b>	Zambia Industrial and Mining Corporation
<b>ZRA</b>	Zambia Revenue Authority



## 1 ZAMBIA AND THE GAME DEPARTMENT (1964 -1974)

### 1.1 Politics and wildlife conservation

The early post-European colonial protectorate period had seen the continuation of the colonial system of protected area and biodiversity management. But after near total Zambianisation from 1974, this became much neglected and corrupted, even though supported financially by an increasing array of idealistic and ultimately naïve foreign donor support.

The new African hegemony under the founding president, Kenneth Kaunda, continued with the European conservation system it had inherited despite the antipathy of the nationalists who felt that their people had been denied access to wildlife and other resources enjoyed before being colonised by the British, and that they should now be able to claim what was rightfully theirs. Kaunda was avowedly pro-conservation, frequently visiting the Luangwa Warden's own quarters on Mfuwe Lagoon, the Mushroom, and spending days driving about in the company of a coterie of conservationists such as Errol Button and Johnny Uys, though the suggestion that Kaunda was converted to conservation by Uys et al, has been refuted elsewhere (Astle 1999). However, Kaunda's support for the controversial elephant cropping scheme in the Luangwa which operated between 1964-1972 (mounted on ecological grounds), appears to support his conservationist claims, as well as his instructions to the Game Department to translocate black lechwe to an area where they had been exterminated (Manning 1975).

In 1968, a new bill was passed conferring even greater powers on the Government of Zambia in their mandate to manage wildlife and its habitat. By the end of 1971, when the bill was implemented, the governing United National Independence Party (UNIP) passed a further eight statutory instruments outlining new regulations governing hunting licences, trophies, protected animals and legal methods of hunting. The system of Controlled Hunting Areas (CHAs) were replaced by 32 Game Management Areas (GMAs), and a motion was forwarded by the Minister in the National Assembly for the creation of a further eighteen National Parks. One of these new National Parks, the new South Luangwa National Park, contained Chifungwe Plain – taken from Chief Nabwalya and his Valley Bisa people - and Nsefu Game Reserve, declared as a Government controlled Game Reserve in 1966 (Nsefu camp having been taken over by Government in 1965).<sup>13</sup>

It has been suggested elsewhere that Zambia's political institutions – and that of other African countries such as Zimbabwe and Kenya - create incentives for the ruling party to ignore the electorates' wishes for greater hunting. In Zambia this was put down to the fact that Kaunda was pro-conservation, that electoral and party rules did not reward those parliamentarians who called for greater wildlife benefits for their constituencies, that the rules punished members of UNIP for opposing Kaunda and the Central Committee, and that by promulgating the National Parks and Wildlife Act, GRZ would control the wildlife sector and be able to woo chiefs and others with game licences (specifically the Minister who to this day has within the Ministerial remit a number of special licences that may be issued to those bringing the greatest benefit) (Gibson 1995, chap.2, p.2). This was African patrimonialism at work, with rule by patronage rather than law or ideology, and based upon relationships of loyalty and dependence with a blurred distinction between private and public interests (Bond 2006).

However, its roots really lie at a deeper level than this, imbedded as it is in the traditional African culture of kinships and interlocking clans whose members must conform to an intricate set of give and take relationships and economic reciprocity forged over thousands of years. Clearly they have survival value; rigid ideology and laws do not, and relativism truly holds sway. In this there is no notion of a world outside, no notion of a nation state let alone ideology or law or honour, which are what modern states are founded upon (Bowman 2006). And there are few principles outside of the clan.

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<sup>13</sup> Kafue NP was the only extant National Park at the time.

The legitimacy of the African political elites, such as it is, derives from their ability to nourish the clientele on which their power rests. It is therefore imperative for them to exploit governmental resources for patrimonial purposes (Chabal & Daloz 1999, p.15).

In the 1968 bill, authority over wildlife was vested in the President and generally centralised power over wildlife and National Parks strengthened. Little thought was given to empowering rural communities or chiefs at the time as the Game Department was in a building phase, although in later Protectorate days the Provincial Administration's (PAs) main conservation mandate had been to protect villagers from wildlife depredations and to rule indirectly through the chiefs. At the time this was understandable, given the existence of a highly competent Game Department with a vibrant research division based on a model which had been copied by a number of countries in the British sphere of influence; and funds were in plentiful supply given the high price of copper at the time, unlike ten years earlier in 1958 when copper prices plummeted and the Game Department was shorn of a large number of staff. But in the 1968 bill, penalties for poaching were increased as a resurgent hunting safari industry began to exploit increasing game populations.

The only opposition to the 1968 bill came from Harry Nkumbula, leader of the opposition party, the African National Congress, who railed against the amount of land being placed under the protective blanket. As his party's stronghold lay in Southern Province he was particularly critical of the massive Kafue National Park, not realising that the Park had originally been given over to protected status from its Trust Land status by the communities living there - not alienated to State Land - and with the agreement that after the costs for running the area were covered, that they would receive financial benefits (Darling 1960, p.128). This agreement, as with all the other National Parks and protected forests, has not been honoured.

The Wildlife Act No 65 of 1970 had reversed the powers placed in the civil service head of the Game Department, the Director, and placed them under the sanction of the Minister. It was at this time that members of the Central Committee- such as Grey Zulu - arrived occasionally in the Luangwa accompanied by a fleet of Government vehicles and assistants to kill what they could load up and remove.

The assertion that poaching had greatly increased in the early years of independence is probably true, though no statistics exist to prove it either way. However, it is clear that at no time after the arrival of the British South Africa Company (BSA Company), or the Imperial Government's administration, had poaching ever been under control. Moreover, the sheer population increase, the massive number of firearms in circulation, the later liberation wars in Rhodesia and, most of all, the failure to decentralise and devolve and address issues of wildlife ownership - wildlife supported on traditional land 'owned' by villagers - ensured that.

Just prior to 1973, Government 'broke the contracts of numbers of long serving officers while admitting their exemplary service, and filled the resulting vacancies with other expatriates thus ensuring that experienced staff were not available to guide the newly qualified Zambian staff' (Astle 1999, p.88). By 1974, the Zambianisation programme entered its final phase, with hundreds of European civil servants told to leave - the Minister of State (Lands and Natural Resources) of the time, Sefelino Mulenga, travelled to the Department of National Parks and Wildlife (DNPW) HQ at Chilanga to address the staff, pointing at the white officers, and saying that the Zambians present would be taking 'the whites' jobs, and that they should denounce any white racists. To his credit, the Permanent Secretary apologised to the Director (Astle 1999, p.88). The Game Department was soon cleared of its institutional memory and expertise. With the possible exception of one officer, all whites were expatriates, though many were long time residents. Experienced whites were no longer hired, though some since have thought that 'white Zambians no longer saw the wildlife department as an appropriate employment option' (Manspeizer 2004, p.25).

In 1974 and 1975, Kaunda still directed matters in a conservation direction. In 1974, he issued an instruction to the Game Department for the black lechwe antelope to be re-established in the Nashinga Swamps and Bwela Flats area near Chinsali, the site of the Lubwa Mission where he had grown up (his father was the pastor). Airforce transport planes were despatched to the Chikuni airstrip of the Black Lechwe Project in south-east Bangweulu to carry the animals caught by airboat to Chinsali (Manning 1976). Ironically, the project, which had three phases: research on the lechwe's ecology and distribution (Grimsdell & Bell 1975), its protection, followed by the development of a utilisation scheme once populations had risen to a certain level for the sole benefit of the local communities of Unga and Twa swamp inhabitants, never occurred. Early in 1976, as the head of the project, the author was forced to leave the country due to one of the strictures of the Watershed Speech of June, 1975 that stated that no Government employee could leave the service and enter into private business. Despite having increased the population from 17,000 to 39,000 between 1971 and 1975, the project simply ceased, never to be resumed, other than a desultory attempt by a multi-national conservation NGO, the World Wide Fund for Nature (WWF), of whose activities, like the Black Lechwe Project - which only completed one other study, on *sitatunga* (Manning 1983) - there is now no trace. No follow up was ever made of what happened to the 120 or so lechwe translocated to the Nashinga, although they all appear to have disappeared (Chief Chibesakunda 2009, personal communication, 17 November.).

The Watershed Speech of 30 June – 3 July 1975 made Kaunda's revolutionary intentions absolutely clear to non-Zambians: he wished to defeat capitalism and place the UNIP Party at the centre of Zambian life. In short order the private hospitals were closed and the membership told to use government hospitals, the Mechanical Services Branch (MSB) was taken over by the army, freehold land was abolished, estate agents were closed down - land now only having the value of its infrastructural development. Emigration of Europeans and Hindu Indians from 1974 became a flood and the economic destruction of a country - which had been one of the most successful and promising in the world - had begun.

## **1.2 Transitional and Natural Resource Development Fund**

In the Luangwa in the early 1960s development funds were used to establish international tourism facilities, 72% of Game Department revenue being so allocated. Nsefu and Luambe camps – established expressly to provide revenue for the Native Authorities – were handed over to the Game Department, joining their stable of non-catering camps: Lion, Big Lagoon, Chilongozi and Lusangazi. In 1966, the 32 bed lodge, Mfuwe was opened in the Park but from 1971 the decision was made to place all infrastructure outside the Park, this immediately broken by Kaunda's orders to build his presidential lodge, Chichele, within. Since then the practice has continued. From 1970 the decision was made to create a series of game viewing loops that could be used by tourists during the rains, thus encouraging the build-up of a mass of tourist operators all concentrated in a small area. From 1964, a landuse planning approach was adopted by the Department, followed by aerial surveys, fire and mammal research (Astle 1999, pp.57-67). This approach has long since been discontinued.

## **1.3 The Luangwa Valley Conservation and Development Project and Game cropping**

In the Luangwa, in order to provide funds for the Native Authorities (NAs), a pilot cropping scheme was initiated by the Game Department in 1962 under the Lundazi-Chewa Native Authority. In 1963 the scheme expanded into the Luambe Game Reserve. In 1964, operations moved to the South Luangwa Game Reserve, with little profit resulting. In 1965, the cropping of elephant, buffalo, hippo and impala began, being served by an abattoir complete with refrigeration. In October 1966, the Food and Agriculture Organisation of the UN (FAO) under the Luangwa Valley Conservation and Development Project began a landuse survey of the Luangwa. In 1966 and 1967 dart guns and the drug, Scolene, were used to remove entire elephant family groups, with buffalo and hippo shot in the day by rifle (Manning 1995). In 1968 the use of dart guns was discontinued. In the same year, the FAO team recommended the removal of several thousand elephant (Dodds et al. 1968). However, the cropping ceased in 1972 having accounted for 1,408 Elephant, 1,643 hippo and 212 buffalo, and an

unrecorded number of impala (Astle 1999, p.101). In 1973, after conducting elephant aerial surveys with high confidence limits, attempts were made to once again continue the project, it being recommended that a two-step reduction of 5,000 elephant should take place (Naylor et al. 1973). However, the cropping did not resume and the project closed down, its place taken by poachers.

The cropping scheme had provided very little benefit to local people, the meat being frozen and sent to the Copperbelt - one five ton load of ivory going missing on its way to Lusaka (J Botha 1966, personal communication). Another project, hastily conceived, had ended. And the original reason for the cropping in the Park - ecological, not socio-mercantile - to reduce elephant numbers because of major changes to the floristic diversity, forgotten.

From the standpoint of the elephants and their range, this illegal removal was probably not terribly detrimental: but the specific animals chosen would probably not have been the same ones taken under controlled removal. The prime bulls, reflecting elements of the best genetic stock were harvested most heavily by the poachers (Gilbert & Dodds. 1987, p.272).

## **2 NATIONAL PARKS AND WILDLIFE SERVICE (1975 - 1999)**

### **2.1 Introduction**

Between 1973 and 1993, under a new and completely Africanised administration, almost the entire population of rhino of some 20,000 or so were killed for their horns, and the elephant population in the South Luangwa National Park and its environs reduced from 31,000 to 7,000. This has been put down to inadequate wildlife conservation policies inherited from the colonial era (Gibson & Marks. 1995). However, the onset of poaching had begun in Kenya with a ban on safari hunting in 1972 (all hunting in 1977), orchestrated by the wife of President Kenyatta, Mama Ngina, who was involved in the ivory trade. To this was added the Africanisation of the East and Southern African Game Departments, the increase in oil prices, a drop in the gold price, and the onset of neoliberalisation and reckless cadre Africanisation. However, it was the removal of the British administrators and the inevitable collapse of governance that allowed for the emergence of a patrimonial elite from the Native Authorities, unhindered by traditional systems that had once guarded nature – these destroyed by colonialism.

Between 1994 and 2002, at a time when millions of dollars were being invested by donors in conservation, protection and community empowerment, possibly 123.5 tons of ivory – the likely contents of nineteen containers, representing some 14,589 elephant, was – according to the Malawi Anti-Corruption Bureau – allegedly smuggled from the Luangwa via Malawi and Durban to Singapore<sup>14</sup>. At the same time, the last population of rhino living in the Chendeni Hills within a few miles of the Administrative Management Design for Game Management Areas (ADMADE) field HQ – some 14 in number - were exterminated (R Time 1989, personal communication), despite assurances to the author of their safety by the senior advisor to the ADMADE programme (D Lewis 1989, personal communication) at his Nyamaluma HQ, (Manning 1989a).

A number of Non-Government Organisations (NGOs) attempted to stem the tide. From 1979, the NGO, Save the Rhino Trust made vain attempts and safari companies came forward with funds. In return for concessionary benefits, Circuit Holdings (a subsidiary of the Zambia Consolidated Copper Mines (ZCCM)), through a personal relationship of their Managing Director, M. Freed, with Kaunda, obtained concessions around Lake Tanganyika - some of them seized from others and handed over to Circuit, with Kaunda ordering that they take on some of the mandate of the National Parks and Wildlife Service (NPWS) such as anti-poaching work. Kaunda even had the boundaries of the Sumbu

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<sup>14</sup> Samuel Ngosi. 2006. Address to International Ivory Enforcement Workshop. Environmental Investigation Agency (EIA), Lusaka.

National Park de-gazetted to accommodate Circuit. In 1981 Kaunda deployed large numbers of military into the Luangwa to stem the elephant and rhino poaching, without success. From 1983 Kaunda allowed hunting companies to retain 50% of their foreign exchange, opening the doors to patronage - corrupt businessmen with little interest in conservation obtaining concessions in return for other concessions and bribes (Gibson 1995). Unknowingly, Kaunda had lost the bedrock of wisdom and experience of those who had advised him in the 1960s and early 1970s, replaced by crackpots, opportunists and carpetbaggers.

That Kaunda, superficially at least, was trying to do something about the killing fields, is not in doubt; but having embarked on his grandiose and tragically misguided indigenous socialisation plan, part of which was perversely to do exactly what the colonials had done – but with a quarter of the existing population - to order village regrouping, he clearly could not turn the clock back and welcome a new wave of conservation minded immigrants into the country, the only way modern economies grow. But crucially, despite his philosophy of Humanism that sought to re-impose the egalitarian pre-colonial life of economic reciprocity, he refused to see that it was the empowerment of the chiefs and their communities, joined as they once were under the promising Native Authorities and the Parish Councils, where the way forward lay. He believed in a highly centralised control mode with himself in charge serving his narrow constituency of Central Committee Members and Cabinet Ministers, whereas the reverse was required. But this he had learnt from his colonial masters, who having followed Lugard's model of Indirect Rule through the chiefs, when the time came to withdraw from Empire, looked for a few professional politicians to receive the cudgels of power, but not the chiefs. This was a massive and callow act of expediency by the British Government on the people whom their admirable Provincial Administration - of no more than 250 men - had served so well for a mere 40 years as a protectorate within *Pax Britannica*.

Kaunda made numerous attempts to provide more draconian punishments in the Wildlife Act of 1971 by way of amendments. In 1982 the Minister put forward the required amendment to the National Assembly (National Parks and Wildlife Amendment bill of 1982). Backbenchers opposed the amendment believing it to impinge on the rights of their constituents, but the front bench, reliant on Kaunda patronage, supported it. The bill was withdrawn, re-appeared a few months later with the prison sentences removed for poaching rhino and elephant. This omission coincided with the eye of the killing field's tornado (Gibson 1995).

In 1983, with conservationists complaining about the dire situation, two new major strategies emerged from the seminal Lupande Development Workshop held in September 1983, a last-gasp move of desperation to halt the slide into depletion anarchy. The first, ADMADE (Administrative Management Design for Game Management Areas), was funded by United States Aid (USAID) and engineered by one of their citizens, Dale Lewis and the then current leadership of the NPWS who were the first native African wildlife management graduates. The second, the Luangwa Integrated Resource Development Project (LIRD), was punted by conservationists with the backing of Kaunda and funded by the Norwegian Agency for International Development (NORAD). Ostensibly both programmes had customary communities as their main beneficiaries, and the stemming of the elephant and rhino poaching as the main thrust, in particular in the Luangwa where they believed the future model for conservation should be implemented. LIRD was to be an independent group having total development control of the area, a mini-government in fact, essentially usurping the NPWS mandate. ADMADE with Lewis and the NPWS hierarchy as its champions protested at this saying that what was required was not a mini-government, but a programme within the NPWS.

Most of the nineteen National Parks, thirty-five Game Management Areas (GMAs) and numerous national forests have since 1975 been under only rudimentary protection and management, much as they had been during the early years of the Protectorate period, though with considerably smaller numbers of people. However, now some Parks and forests are already settled by people, parts of some Parks have been alienated to developers and tourism concessions expanded without due process and before the necessary environmental assessment work was completed (Mosi oa Tunya National Park).

Part of at least one National Forest (West Mvuvye No. 54) was sold off on a 99 year (renewable) leasehold illegally with the assistance of corrupt elements within the District Council, Ministry of Lands and the Forestry Department, and conveyed by a Lusaka lawyer.

There are a number of reasons for this sorry state of affairs. Government has for too long avoided implementing provisions in the law for awarding customary communities harvesting rights to forests and wildlife and to devolve powers to them under structures that will ensure that the plunder of the customary commons is avoided, and to ensure that they have the necessary investment and support which will allow them to improve their living standards and halt the increasing degradation of an environment which should be the engine for their development. Since 1975, there has been a near total failure of GRZ to provide the funds and managerial expertise necessary for biodiversity conservation and for the upliftment of the rural poor, their prime consideration being to use the jobs available as part of the patronage and clientelism system, development altruism being almost wholly absent.

## **2.2 ADMADE: Administrative Management Design for Game Management Areas**

The ADMADE programme had its genesis in the Lupande Research Project (1979-1984), which then led to the Lupande Development workshop in 1983, which in turn gave birth to the two major Community Based Natural Resource Management (CBNRM) interventions in Zambia, LIRD and ADMADE. The latter ran for the last twelve years of the NPWS (1987 – 1999), being funded by USAID, World Wide Fund for Nature (WWF-US), and with aid and technical assistance from the Wildlife Conservation Society of America (WCS-USA). CBNRM has been defined by Stierer & Rihoy (cited by Clarke 2000, p.5) as ‘for a community to manage its resource base sustainably it must receive direct benefits arising from its use. These benefits must exceed the perceived costs of managing the resource and must be secure over time’. This definition excludes the essential element for providing benefits over time: ownership. Lyons (2000, p.39) conceded that ADMADE had many of the ingredients for a successful CBNRM project ‘that a strong wildlife legislation had been adopted by the government and that ...a legal framework which does not grant ownership yet empowers rural communities with access and management rights’ was in place. However, such access and management rights have been almost totally absent in Zambia.

Lewis, the main originator of ADMADE proposed an ‘African model’ for wildlife conservation based on the following four hypotheses (cited by Marks 2008, P.107):

- i) ADMADE employees would show greater dedication to conservation than other NPWS employees.
- ii) The costs of law enforcement would decline as local and more Afro-centric institutions took over the management of wildlife, allowing for enhanced wildlife productivity.
- iii) The ADMADE wildlife authorities would build trust and respect among rural residents.
- iv) The restoration of ‘traditional African wildlife values’ would take place as wildlife recovered ‘its place’ within the lives of rural residents.

It is revealing that ADMADE followed a set of hypotheses that did not mention ownership as being the absolutely essential pre-requisite for the sustained development of wildlife land. This is the Achilles’ heel of Integrated Conservation and Development Projects (ICDPs), also known as CBNRM, or CBWM (Community based Wildlife Management).

Avoiding the recruitment of powerful politicians, particularly Kaunda (a strategy adopted by LIRD), the NPWS/ADMADE embarked on a programme to increase revenues and staffing levels. For this they would need a Trojan horse; so, persuading their Ministry to create a hunting concession in the Lupande GMA – a prime hunting area, which they would lease out for a good return, they had partially succeeded on the first count. Here they made use of their Wildlife Revolving Fund, set up

originally in January 1983 as a mechanism to fund their operations. There were unanswered questions regarding the financial accounting and management of the Revolving Fund, with certain senior members being involved in high-handed corruption. In America, before the start of the European Development Fund project to re-organize the NPWS (see section 2.4), two senior members of the NPWS attended the Safari Club International (SCI) Hunting Convention and attempted to extract a massive bribe from two Texans and a senior member of the world hunting fraternity for a concession in the Luano Valley, having earlier agreed verbally to award them the concession. The Texans then cancelled their proposed investment (D Lindsay 2009, personal communication). No full and satisfactory audit of the Revolving Fund was ever presented to the Ministry of Finance, with most of the money being trousered. This system of harvesting by the present equivalent of NPWS, a statutory body, the Zambia Wildlife Authority (ZAWA), is now firmly entrenched.

ADMADE then started a cropping programme, making cheap meat available and reportedly giving the local community 40% of the income. This bought the necessary grassroots political support for ADMADÉ, soon to be the NPWS national programme of CBNRM, the term usually used when government and donors jointly establish a project with the intention of improving the lives of villagers from wildlife derived income. ADMADÉ now established similar projects in other GMAs, creating a structure not unlike that implemented by the colonial administration's system of Parishes, a system ADMADÉ imposed on the people of the GMAs (Kawayawaya 2003). A Wildlife Management Authority was established in each area, the District Governor acting as chairman, the District Secretary as vice-chairman, and members comprising the Member of Parliament (MP), the local officer in charge of ZAWA, the chief and the ward chairman - not dissimilar to the Native Authority of old, only the Native Authority had all the natural resource departments of Government represented, not just that responsible for wildlife. The managing director of the local safari company also sat on the Authority. In the GMA associated chiefdoms, Sub-Authorities were set up and chaired by the chief, with headmen, teachers and a representative of the District Council in place. This structure was ingrained in the Wildlife Act of 1998 as Community Resource Boards (CRBs), although no statutory instruments regulating their operations were produced by 2009. In practice the hierarchy of the NPWS ran ADMADÉ as a private fiefdom, with the Authority and the Sub-Authorities having little power, but having responsibility for game protection, rather as in the present situation, and with the same poor sharing and very lax and corrupt payment system. Clearly ADMADÉ in time subsumed NPWS and metamorphosed into the present ZAWA and their CRB proxies, with all their defects intact.

In 1988, WWF provided funding for six GMAs out of the thirty-two then in existence.<sup>15</sup> This was followed by a US\$3 million grant by USAID. This money and support from another major donor started to bring in support from the Government, although ADMADÉ, run by NPWS officers, was in fact the NPWS Trojan horse. The Government agreed to absorb its hirelings into the civil service and to transfer 50% of the income from hunting safaris to the Revolving Fund under the NPWS control. ADMADÉ now had nine GMAs under their control. Given that hunting safaris were now the most important source of funds, USAID, doubtless mindful of the powerful American domestic hunting lobby received some sort of undertaking that hunting safaris would continue into the foreseeable future (Gibson 1999, chap.4, p.20.).

The concentration in the 1990s by the pretentiously named Nyamaluma Institute for Community Based Natural Resource Management – ADMADÉ's HQ - on the collection of data and arcane monitoring procedures, funded as it was by USAID, took on CIA like proportions, fully revealed in 200 pages of a Master's thesis, a bewildering detail of forms and data sheets requiring to be filled out by the barely literate, and numerous courses and standards to be attended and attained (Lyons 2000). Today there is little left of this, although the South Luangwa Management Unit of ZAWA (SLAMU) still attempts to have professional hunters fill out, in bewildering detail, the state of their hunt – while they are in company with a client.

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<sup>15</sup> At the time Kaunda was punting LIRDPA, and the Norwegians were about to fund them.

The Trojan horse, in the guise of a project, ushered in by the NPWS, Lewis and USAID had easily captured something they would ordinarily not have been able to obtain: international protection, compliance with the mechanics of a new operating institution, and protection as a result of its own Government's reluctance to obstruct a large donor partner. There was also the matter of the considerable patronage arsenal of special licences given to the Minister of Tourism. In 1999, as one example, the Minister issued 233 animals from fifteen species in just three GMAs free-and-gratis to those whom he wished to favour, at a loss of \$141,400 to the three CRBs (Clarke 2000, p.50).

Both NORAD and USAID had not considered carefully what they were setting in motion. The law of unintended consequences is to be seen today in its natural progeny, ZAWA, which has inherited a scientifically bogus quota system, a corrupt field operation involved in the bushmeat and ivory business, the late or non-payment of Village Scouts, the failure to provide even a modicum of resource protection for the hunting and game tourism industry who provide the only earned income, the complete absence of any successful collaborative wildlife management scheme because of their resistance to decentralisation, and, more seriously, through their active undermining of many investment initiatives. This was particularly true up to the end of the Saiwana era – the Director-General of ZAWA until 9 October 2009 - when he was removed by the Board. However the final evaluation of ADMADE in 2000 by an American consultancy group using the services of a former Director of the NPWS in the early 1970's, were, apart from reservations about what had been done for women, fulsome in its praise for what it considered to be the successes of the project and for USAID's role as the provider of the funds (Clarke 2000).

Clarke also concluded that the Project had:

- i) Shown that CBNRM is a workable system for wildlife management in at least some GMAs, and may be applicable to others.
- ii) Shown that safari hunting is a profitable use of wildlife in GMAs, the revenue from which can be used to improve household living standards.
- iii) Defined the criteria needed to create sustainability of ADMADE programs.
- iv) Established CBNRM programs that are probably self-sustaining in some Luangwa Valley GMAs where ADMADE is active.
- v) Shown that ADMADE can produce local employment opportunities and raise incomes.
- vi) Set up monitoring programs that may demonstrate a positive link between living standards and optimal sustained wildlife yields.
- vii) Influenced Government wildlife policy resulting in CBNRM provisions being included in the new Zambia Wildlife Act.
- viii) Begun testing the linkage between wildlife management and food security.

However, Clarke admitted that Astle's criticism of community-based programmes is valid: that they are nothing more than special pleading by biologists on behalf of animals. He also observed that ADMADE's strong assertion that anti-poaching is ineffective in conserving animals is contradicted by their massive effort and expense in the training and deployment of 600 Village Scouts. The fact that the Singapore ivory bust suggests that 18 similar consignments of ivory had come out of the Luangwa in the eight years before 2002 coinciding with ADMADE's reign, reveals the massive corruption of the system, with those responsible yet to be prosecuted (Wasser et al. 2007). He also commented that the programme started as a wildlife management exercise and ended up as one of food security. This is confirmed by Lewis's move from his HQ at Nyamaluma to Lundazi where he is now running COMACO, a food security/wildlife conservation *quid pro quo* project programme, still supported by WCS-US. At community level, COMACO establishes Conservation Trading Centres (CTC) that strive to provide stable prices and a guaranteed market for agricultural produce for farmers based on conservation farming techniques and a local landuse plan (DSI 2008, p.48).



Experience of the current state of GMAs and the author's efforts over the last seven years to invest in a GMA and two Open Areas does not support many of Clarke's overly optimistic conclusions. And the customary communities in some of the GMAs where ADMADE had spent eleven years working are rather bemused at ADMADE's disappearance and metamorphosis into COMACO.

While ADMADE was consuming large amounts of money and time and generally raising once more the expectations of people living on their survival wits, a burgeoning game ranching industry in Zambia based on leasehold land was arising. This industry is based purely on individual ownership and the responsibility which comes with it, proving a far more potent force than the donor/government instigated projects that pretend to advance the cause of communities, yet which do not address the absolute fact that the reason why all the supposed CBNRM projects have failed is that they deal only with benefits and not ownership; and that the benefits – solely monetary – amounted to no more than 17.5% of total revenue in GMAs, the rest going to Treasury and the NPWS (Matenga 2002).

At the end of ADMADE's life – for all such projects not based on customary community institutions are not sustainable - they were reputed to be working in twenty-nine GMAs, twenty-one of them being given out as hunting concessions, eight being leased to companies for rehabilitation over a fifteen year period. But in actual fact they supported eleven GMAs and thirteen hunting blocks involving ten CRBs (Clarke 2000, p.8).<sup>16</sup> The Wildlife Management Areas proved unworkable, the Sub-units being viable but the chairmanship by chiefs creating dissatisfaction amongst its members. The answer they believed was money, it being agreed that the chiefs would be paid 5% of the income received by CRBs from the hunting concessions in their areas. Some of the dissatisfaction and constructive criticism found expression in the Wildlife Act of 1998. In 1999, the CRBs were set up and 'elections' held. ADMADE was soon to become ZAWA, the former then re-inventing itself as COMACO, attempting now to prove the hypothesis that food security in rural areas will bring with it the conservation of wildlife, clearly signalling that the emphasis on anti-poaching by ADMADE had failed (Rodary 2009), (Gibson & Marks 1995).

The recommendations of the final consultancy attained clarity by saying that in the future customary communities should have rights of ownership over wildlife managed by the CRBs, with ZAWA as the regulatory body being responsible for National Parks and safari hunting, and making available highly professional technical services (Clarke 2000, p.61).

Zambia is fortunate in having the benefit of a remarkable research programme carried out since 1966 in Chief Nabwalya's country (the Munyamadzi Corridor of the Luangwa Valley). One of its latest reports includes an assessment of eighteen years of a community-based wildlife programme (including the ADMADE programme), one carrying considerable weight (Marks 2008). Marks has pointed out that ADMADE had assumed that villagers 'would readily trade their access (both as endowments and entitlements) to wildlife for community revenues from safari licences to foreigners'. He has shown that wildlife numbers began to decline substantially in the Nabwalya Chiefdom from 1993, the year ADMADE came to the area.<sup>17</sup> This he ascribed to the toll taken by wildlife scouts from the operation of an official 'culling station' from 1991, the killing of game for rations and from 'assumed privilege' of one sort or another. To this was added the low morale of ZAWA staff and the failure of crops due to drought and elephant depredations (Marks 2008, p.49). He further pointed out that prior to ADMADE the chiefdom was not an open-access area, for few local men had the means and knowledge necessary to hunt commercially. When ADMADE was ushered in emphasising wildlife protection at the expense of community development, villagers subsisting on wildlife were criminalised, greatly impacting on them, particularly in times of drought and famine. For GRZ wildlife had become a commodity for generating revenues:

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<sup>16</sup> Clarke presents a précis of five evaluations of ADMADE carried out between 1992 and 1998 by consultants (Appendix 1).

<sup>17</sup> Twenty years after the author and Phillip Nel had discovered there one of the earliest commercially poached rhino of the infamous killing fields of the 1970's and 1980's.

shifting the local patronage system from meat, protection and support to money and employment – a process requiring major transformations in social and cultural organisation...other changes – a growing population, a shift from corporate (lineage) identities to endemic individualism, recurrent drought-induced famines and resource scarcities – are regional phenomena. How this symmetry of new changes and regional factors will alter valley life and livelihoods in the future remains open-ended (Marks 2008, p. 89).

It is the criminal human rights abuses visited upon villagers by NPWS and ZAWA personnel which took place in Nabwalya during the ADMADE and post ADMADE regime, which entirely consigns to the dustbin of history the rationale of outside intervention and force in the guise of CBNRM. In Nabwalya Central the survey of households in 2006 showed that the percentage of arrests, 38% (174/460), among respondents was even higher in some village clusters (Marks 2008, P.95). In 2006, in a summing up of ADMADE, the report on Nabwalya found that there was little to support Lewis' earlier hypothesis. Indeed, rather than rural residents benefiting from their natural resources, ADMADE had ushered in 'sustainable use conservation' with legal access to wildlife only assured through wealth and privilege (Marks 2008, P.109).

A graphic account of human rights abuses and the torture of suspected poachers in the Zambezi Valley during the tenure of ADMADE, particularly by the ZEBRA section of the Zambian Paramilitary, acting in consort with NPWS/ADMADE, the Zambia Police, and white Honorary Rangers, is recounted by a mission-educated villager converted to commercial poaching because of the effects of illiteracy, poverty, hunger and cultural degeneration, a man who later became a dedicated conservationist (Kawayawaya 2003).

In the Sichifula-Mulobezi GMAs, villagers who were found poaching were moved by ADMADE - presumably with the cooperation of the chiefs - to areas with no animals,

When it is known that a certain person hunts animals illegally and is setting a bad example to the local community, that person is sentenced by the chief as being unable to live peacefully with wildlife and is ordered to live where there are no animals and to take up some other occupation (Lewis et al. 1990).

This totalitarian forced removal, one redolent of apartheid, goes completely against the Constitution and the rights of members of the customary commons.<sup>18</sup>

On the Kafue Flats where ADMADE was implemented for eleven years from 1986, it was clear that little had been achieved, given the financial support of WWF and income from hunting. Crucially, Government did not initiate resource-sharing initiatives over wildlife and fisheries, and no consultative process with local people was ever undertaken by ADMADE (Chabwela & Haller 2008, p.19).

### **2.3 LIRD: Luangwa Integrated Rural Development Project**

As a result of the Lupande workshop and a consultancy carried out by an NPWS member and a Norwegian, LIRD resulted and a mini-government established over the heads of the NPWS and the local Kunda people. This was placed under the National Commission for Development Planning. The two consultants, Larsen and Lungu, delivered the project by way of a private audience with Kaunda who enthusiastically agreed to become the project's Chairman, particularly as his wife's people came from Jumbe in the heart of Kundaland, and his one son was involved there in politics for the sole Zambian political party. Lungu became its first co-director, joined by Richard Bell, formerly of the Black Lechwe Project. They ran the project from 1987 until Kaunda was defeated in the 1991 elections.

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<sup>18</sup> See Chapter 5 for details of the forced removal and rape of villagers in Sichifula GMA.

The NPWS and LIRDPA were clearly at loggerheads as the removal of the National Park and Lupande from their control was a serious attack on the mandate of the NPWS, and clear evidence that Kaunda had little faith in the ability of the NPWS to do something about the killing of black rhino and elephant. The Ministry responsible clearly supported Kaunda, believing that the NPWS were incapable of carrying out their mandate. In 1987, the then Permanent Secretary, Harry Chabwela, a former Chief Research Officer of the Department, requested the assistance of WWF International in saving the black rhino from extinction. The author was then recruited by WWF to head up the programme, and seconded to the NPWS. However, the NPWS hierarchy were not in sympathy with their former colleague, Chabwela, because of his allegiance to LIRDPA, rather than to ADMADE. Although the author answered to the NPWS it was with LIRDPA that negotiations were opened, the plan being to create a fenced sanctuary within the South Luangwa National Park and to translocate all the rhino that could be found in the Luangwa into the sanctuary. Bell and Lungu refused permission for this. Later, the ADMADE supremo, Lewis, told the author that he would not allow the Chendeni Hills rhino population - which lay near his HQ (the Nyamaluma Institute for CBNRM) - to be translocated into the National Park as they were 'perfectly safe' (D Lewis 1989, personal communication).

In 1989, Lewis had written that ADMADE's policy was shown to be 'the best of all possible solutions to be shown' with regard to elephant and rhino anti-poaching success in the Lower Lupande Unit - which included the Chendeni Hills population - near his headquarters, with not one rhino being killed between 1986 -1988 (Lewis 1989 also citing Lewis & Chanda 1988). The rhino project was thus ground up between the two projects, and Chabwela, despite being the senior civil servant, was powerless to command either LIRDPA or ADMADE to do his bidding. A short while later the project was closed. Two years later the Chendeni Hills population had been exterminated, and the rhino, but for a few isolated individuals elsewhere in Zambia, essentially extinct (Manning 1989). Subsequently Lewis reiterated his claim that no rhino were killed for three years where an ADMADE project existed: 'Furthermore, a resident population of black rhino suffered not a single instance of poaching during this period despite adequate numbers to attract illegal hunters' (Lewis et al 1990). The claim that Bell and Lungu, while making unsuccessful attempts to carry out the work of a mini-government, had been successful with an effective law-enforcement campaign and had secured the protection of the elephant in the project area rings hollow given the evidence of the massive ivory export from the Luangwa that occurred from the time they left to 2004 - something which continues to the present day (Dalal-Clayton & Child 2003, p. XXIV). In 1992 LIRDPA was placed under the NPWS and in 1999, it became the South Luangwa Management Unit (SLAMU), the NPWS metamorphosing in January 2000 into the statutory body, the Zambia Wildlife Authority.

In 1992, a consultancy on the restructuring of NPWS was rightly concerned about the absence of fiscal devolution, the *sine qua non* for any meaningful upliftment of the disenfranchised and the wildlife which is their cultural, spiritual and physical support:

Government should now take the bold but essential step of allocating the rights to use and/or benefit from wildlife in a given area outside National Parks to these people with established usufruct in the area. These people should then be viewed as shareholders of the resource and, as with any shareholders, should be entitled to the dividends from the proper management of their shared assets. This necessitates a second major policy decision - the decision to pay people in cash for their wildlife in the same way that they would be paid for in any other produce (Dalal-Clayton & Child 2003, p.81).<sup>19</sup>

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<sup>19</sup> These recommendations were embodied in the Policy for Wildlife in Zambia, approved by Cabinet on 25<sup>th</sup> August 1993.

And despite much of the 1993 policy finding its way into the Wildlife Act of 1998, little has been done to decentralise power or to encourage in any way fiscal devolution, both seen as a threat to ZAWA's income base and their control of the wildlife income and patronage, legal and illegal.

In 1998, a report concluded that 'the research suggests that LIRDPA has generally failed to achieve its conservation and development objectives and that the program has achieved few community benefits' (Wainwright & Wehrmeyer 1998).

#### **2.4 Restructuring the administration of wildlife and National Parks (1992-2001)**

From 1992 to 2001, as a result of donor concern, a succession of consultants were brought in to improve the state of wildlife conservation in Zambia; in particular, support came from an EDF funded project which sought to transform the NPWS - which had been subsumed by a viral donor funded project - into a statutory body which would be self-funding. The NPWS/ADMADE hierarchy were resentful of this decision, informing potential consultants to the project in the recruitment phase that candidate project leaders should be 'fresh' i.e. should know little of Zambia, and certainly should not be former employees of the NPWS or its previous equivalent (A Mwenya 1996, personal communication). Inevitably, the experienced consultants from Zimbabwe and Botswana were not made welcome, and the master plan they produced, ignored. From 1998 - 2001 a firm of accountants tried to establish ZAWA, their work delayed until 1999 until such time as the first ZAWA Board was appointed. Essentially, NPWS/ADMADE became ZAWA, this despite ADMADE's fundamental failure by involving itself with the 'soft' option (benefits), rather than the 'thorny' and political issue of ownership and devolution - a major cause of the further destruction of the customary commons.

The year 2001 ushered in further deterioration in the management of the Zambian wildlife estate due in part to the suspension by President Chiluba of hunting safari leases and the subsequent loss of much of the ZAWA income (US\$2 million in 2001; US\$2.7 million in 2002), the delay in the appointment of a Board of Directors and Director-General for the newly fledged ZAWA, and the refusal of donors to provide funding in the absence of these appointments. Foreign exchange earnings, tax income, employment and associated benefits for ZAWA workers and income for CRBs who were responsible for appointing law enforcement officers under the Wildlife Act of 1998, were adversely affected. This encouraged the onslaught on wildlife by opportunistic bushmeat traders reacting to the considerable traditional game meat demands of burgeoning urban populations, encouraged by the absence, or by the active support of striking ZAWA and CRB Scouts (Manning 2001). In addition, the scientific capacity of ZAWA was already severely impaired, with most of the management plans, scientific reports and relevant files produced in the previous years stolen, not returned by borrowers, or thrown away. An inspection of the government archives in 2003 revealed that few files had been deposited there after 1974 - though unconfirmed reports say they are being kept elsewhere - and nothing in the ZAWA library. Moreover, where valuable research information is available, such as at Ngoma, the HQ for the Kafue National Park, researchers there were in total ignorance of it until a visit by former Game Department biologists.

### **3 ZAMBIA WILDLIFE AUTHORITY (1999 - 2009)**

The Zambia Wildlife Authority (ZAWA) is a statutory body, i.e. a parastatal, confirmed by the Wildlife Act No. 12 of 1998 Part II: 4. (1), subsuming the former NPWS which had been empowered under the Wildlife Act No.10 of 1991. However, it contradicts the prescriptions of the more senior Lands Act of 1995.

This Act mandates the Zambia Wildlife Authority and its Board, with the assistance of its proxy Community Resource Boards, to carry out the following:

- i) In partnership with local communities, to share the responsibilities of management in GMAs.
- ii) To encourage general development in National Parks and GMAs, including the development of facilities in accordance with management plans.
- iii) To enhance the economic and social well-being of local communities in GMAs.
- iv) To prepare and implement management plans for National Parks and GMAs, in consultation with local communities.
- v) In partnership with communities, to grant hunting concessions to hunting outfitters and photographic tour operators in GMAs.
- vi) To assist and advise the Community Resource Boards (CRBs).
- vii) To pay out money to a CRB, from licence and concessions fees obtained, and according to regulations issued by the Minister.
- viii) To delegate any of its functions to the CRB.

The Policy for National Parks and Wildlife in Zambia adopted in 1998 recognises that customary communities are the best custodians of wildlife and the natural resources. However, it is a policy, like a lot of other legislation and policy, which is scantily adhered to.

### **3.1 Game Management Areas and The Lands Act of 1995**

The Lands Act Chapter 184 of the Laws of Zambia of 1995 vests all land in the President and provides for the recognition and continuation of customary tenure, and it provides – under section (8) 3 - the ‘right to use and occupation of land under customary tenure’. The President cannot alienate customary land unless it is with the Chief’s consent, and then only after consulting affected bodies or persons, and, in the case of Game Management Areas (GMAs), ZAWA. GMAs were created in 1971 under the National Parks and Wildlife Act of 1968 as a planning framework for integrated community and biodiversity development, and not as another distinct category of protected state land. They are in fact customary land and therefore legally under customary control, supported by the primary legislation of the Lands Act of 1995.

Customary authorities - made up of Chiefs and their headmen, may ascribe usufruct rights, i.e. the ‘right to use and occupation’ of land, to an individual. Land rights obtained by residence is the most prevalent form within customary tenure where an individual obtains land from a headmen, who, together with other headmen, do so in consultation with a chief. Once acquired, land ownership is recognised by the community, but should the individual leave, the land reverts after a reasonable period once more to the community – under the control of the headmen and their chief. No person owns the land in the statutory sense (i.e. as freehold land) – though the customary authority use and allocate its usufruct. The chief does not extract taxes or surpluses from individuals or headmen, and every person produces their own food, the society therefore being generally egalitarian.

### **3.2 Community Resource Boards**

Community Resource Boards (CRBs) - elected to represent local communities along geographic boundaries contiguous to a chiefdom in a GMA or a particular chiefdom with common interest in the wildlife - are provided for in Part III of the Wildlife Act. As allowed under the Wildlife Act of 1998: Part 3: (7), the elected CRB is empowered to promote and develop an integrated approach to the management of human and natural resources in a GMA or an Open Area, with the power to:

- i) Negotiate, in conjunction with the Authority, co-management agreements with hunting outfitters and photographic tour operators;
- ii) Manage the wildlife under its jurisdiction, within quotas specified by the Authority;
- iii) Appoint Village Scouts to exercise and perform the duties of a wildlife police officer under the supervision of ZAWA;

- iv) In consultation with the Authority, develop and implement management plans which reconcile the various uses of land in areas falling under the board's jurisdiction;
- v) Perform such other functions as the Authority or Director-General as may direct or delegate to it;
- vi) Prepare and implement management plans in customary areas.

The CRB functions are summarised below:

PURPOSE	REQUIREMENTS	POWERS	RESPONSIBILITIES
<ul style="list-style-type: none"> <li>• To create CRBs in a Chiefdom or community in GMA and Open Areas.</li> <li>• To promote and develop integrated natural resource and human management in the Chiefdom.</li> </ul>	<ul style="list-style-type: none"> <li>• ZAWA will register a CRB.</li> <li>• Community to elect 7 to 10 representatives to the CRB.</li> <li>• One representative of District Council.</li> <li>• One representative of Chief.</li> <li>• Chief to be Patron.</li> <li>• Management plans to be prepared in accordance with regulations.</li> <li>• ZAWA to approve donations to CRB.</li> <li>• Minister to approve donations from outside Zambia.</li> <li>• Books of accounts to be open to inspection.</li> </ul>	<ul style="list-style-type: none"> <li>• CRB may invite persons to attend board meetings, but not to vote.</li> <li>• To negotiate, with ZAWA, co-management agreements with hunting operators.</li> <li>• Manage wildlife within quotas set by ZAWA.</li> <li>• Appoint Village Scouts to carry out duties under supervision of Wildlife Police Officer.</li> <li>• Develop and implement, with ZAWA landuse management plans.</li> </ul>	<ul style="list-style-type: none"> <li>• To develop management plans.</li> <li>• To keep minutes of meetings.</li> <li>• To establish a development fund.</li> <li>• To maintain accounts.</li> </ul>

CRBs are a civil society wing of ZAWA (i.e. a proxy), supposedly serving and assisting ZAWA to protect wildlife and to assist community development, yet 'without any legal personality of their own' (W Kabimba 2009, personal communication). Although they list as one of their main functions the promotion and development of integrated natural resource management, they have no powers over resources other than wildlife. They represent the customary community in a GMA where a hunting lease is in force, as well as in the Open Area. A share of income derived from hunting safaris is supposed to be paid by ZAWA to the CRB, to be used in a prescribed manner under the control of ZAWA, but in practice little is available for the benefit of GMA residents, it being used principally to pay Village Scouts, with the CRB officers acting as unpaid volunteers. And the chief in his own area is relegated – without his sanction - to the non-executive position of Patron, posing a threat to traditional life and the chiefly powers and forcing many chiefs to override what should be a democratically run Community Based Organisation (CBO), but also allowing, for the first time, a glimpse of the liberating intrusions of a more democratic dispensation. However, CRBs in practice do what the chief and ZAWA tells them to do - even if corrupt – and are removed should they stand up against them, as has been shown in the removal of the elected Luembe CRB in Nyimba District who would not support the chief or ZAWA for the removal from Mbeza Safaris of their hunting concession in the West Petauke GMA.

And CRBs, mostly uneducated villagers unversed in the law and fearful of 'Big Men', 'Big Government' and the chief's witchcraft, rely on ZAWA for full support on financial accounting, the compilation of management plans, the setting of game quotas, the protection of wildlife and the other considerable number of unpaid duties and responsibilities, assistance which is rarely given. Despite an offer to ZAWA to assist with the establishment of a national body to support CRBs in their essential function under the law, this was ignored (Manning & Shenton 2004).

A continuing blight on the system is the failure of ZAWA to pay communities their full share of income gleaned from hunting and land user rights. By May 2009, the Luembe and Nyalugwe CRB Village Scouts and other employees, a total of 33 people, plus eleven former Village Scouts, were owed salary arrears of K119,820,000 (c. \$25,000), i.e. 44 people owed an average of 14 month's wages (Nkhoma 2009). The income from hunting concession fees and trophy fees is supposed to be shared in the following ratio: ZAWA 50%; CRB 45%; Chief 5%; and the CRBs are supposed to spend the funds in the following ratios: wildlife conservation (anti-poaching) 45%; community projects: 35%; administration: 20%, a highly academic model. For a time the amount supposed to be paid to CRBs was summarily reduced by ZAWA.

The Parliamentary Public Accounts Committee, in summoning ZAWA to account for deficiencies and theft, revealed in the Auditor-General's (AG) report on ZAWA in 2005 (2001-2005) that sixty-two CRBs did not submit audited accounts or annual reports as is required under the Act: Part III section 5: subsections (a), (b) and (c). In addition, taking four CRBs at random, it was clear that board members had stolen money and had no assistance from ZAWA in managing funds, the Committee remarking on the very poor and suspect financial control. The ZAWA Controlling officer in his submission said: 'Given that the communities, through CRBs, were the custodians of wildlife, ZAWA would not like to clamp down on them as this would endanger wildlife'. But he did reveal an important new development: ZAWA would now submit quarterly financial returns on funds given to CRBs to the Ministry, the CRBs now possibly being able to extract details of funds owed them, something they manifestly failed to do at ZAWA. The Committee also made the following general comments:<sup>20</sup>

- i) CRBs need to be trained on how to account for public funds and there should be corresponding progress in the agreed key result areas. It was however noted, that there is a need to be firm in dealing with CRBs in respect of financial discipline.
- ii) ZAWA needs to emphasise to traditional leaders that the patronage of CRBs was placed on the traditional establishments as an institution. The direct involvement of chiefs in the running of CRBs might result in avoidable queries.
- iii) ZAWA is not financially able to adequately police wildlife sanctuaries on its own, therefore, the concept of CRBs is filling the void.
- iv) ZAWA should be encouraged to periodically re-evaluate the CRB initiative in order to determine whether the objectives of ZAWA are being realised despite the poor financial managements of CRBs.
- v) The Ministry of Tourism, Environment and Natural Resources should assist ZAWA to meet its financial needs in order to operate effectively.

The Committee did not, however, probe deeply into the issue of ZAWA's accounting itself, an investigation long overdue; but they have correctly adjudged that the CRB initiative requires re-evaluation. However, it is their 'instruction' that chiefs should involve themselves in the running of CRBs - which runs counter to the Act where they are given explicitly non-executive positions as Patrons, a source of great irritation and conflict.

Although the Director-General of ZAWA may empower a CRB as he sees fit, most CRBs have little power or influence with ZAWA. Where CRBs – as in the case of the Luembe CRB - have made applications for harvesting quotas as provided for in the Act, or for hunting safari quotas, they have been ignored, though investors such as M'nyamadzi Game Ranch in Luembe, having obtained only a 14 year provisional leasehold title, were issued with a safari quota on its then unfenced land.

It is clear that the whole management by ZAWA of the CRB system is in need of review, the lamentable accounting systems in place divulging huge discrepancies of money earned, paid and received. In 2006, attempts were made to rectify matters with the removal of the ZAWA Commercial

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<sup>20</sup> Parliamentary Public Accounts Committee 2006.

Director and the Director of Conservation, and meetings were held at a high level to urgently address the re-building of ZAWA. Clearly, a forensic audit and appropriate subsequent action to prosecute and discipline those responsible was necessary, however demands by the author for this in the press were not heeded (Chirwa 2007).

By 2010 the debt of ZAWA to CRBs has yet to be cleared. Chief Chitingulu has complained of ZAWA corruption, K50 million being owed to his CRB since 2007 for their share of hunting (Habbuno 2009). And at a time when the private sector is being excoriated for not abiding by the labour laws, ZAWA continues an entrenched system of staff recruitment introduced by ADMADE; a system whereby classified employees are taken on as Village Scouts, without being subject to the labour laws. The present system of Village Scouts employed by CRBs makes use of this ploy, paying villagers without the necessary civil service required qualifications, paying them far less than civil servants and without the need for pension or tax payments, or terminal benefits as is required under the labour laws, something the private sector is not allowed to emulate (Gibson 1995, Chapter 4, footnote 37).

### 3.3 SLAMU: South Luangwa Management Unit

The South Luangwa Area Management Unit (SLAMU) grew out of LIRDP. In January 1999, Zambia signed an agreement with NORAD for assistance to allow SLAMU to retain all revenues from tourism and safari hunting in the South Luangwa National Park and the Lupande GMA. The year 2009 marked the 25<sup>th</sup> anniversary of NORAD aid to the South Luangwa National Park.

Some inkling of major management problems surfaced in July 2004. SLAMU/ZAWA entered into an agreement with L and L Properties for cropping 600 hippo over a period of three years in the SLAMU area of jurisdiction. From this ZAWA received K498,033,775 in 2005, but as of December 2006, only K82, 391,000 had been remitted to SLAMU leaving a balance of K415,612,775 still owing. In addition, both SLAMU and ZAWA Head office had been invoicing Chichele lodge in South Luangwa National Park, the lodge invoicing ZAWA HQ instead of SLAMU - as a result, records at SLAMU indicated that Chichele Lodge owed them a sum of K523,403,066 (US\$67,202), whereas the statement obtained from the lodge showed that the lodge was owing US\$19,764 as of August 2006.<sup>21</sup>

The report of the Auditor-General in 2005 on parastatals places little confidence in the capabilities of SLAMU. As one seasoned observer, (R Shenton 2007, personal communication) has noted:

At the other extreme is the NORAD/GRZ LIRDP/SLAMU where millions of dollars have been thrown into the South Park and had created an overall negative impact on local culture, ownership and created more problems in the long term than they have solved. There are still no effective patrols in the park other than the private sector organised ones, no alternative income interventions in the poaching communities on the west bank (not that much in the east either if you take away the tourism industry) and critically, no local ownership nor partnership structures. In fact there is more hostility between locals and their tour operators, and ZAWA, than anywhere else in Zambia.

Another writer's experience is that SLAMU:

...is seen as heavily overstaffed, chronically inefficient and self-serving. It is divided into a number of departments that charge each other at Norwegian rates, wholly out of kilter with Zambian costs, haemorrhaging the organisation internally. Despite having roughly five times the budget of North Luangwa, SLAMU achieves five times fewer patrol days per scout per month. The road system relies on safari operators for

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<sup>21</sup> Auditor-General report on parastatals, 2005.



maintenance, and such is their frustration with the slowness of response to poaching incidents that they have formed their own self-funded Rapid Action Teams. Against a backdrop of economic hardship, food shortages and AIDS, government funding for conservation comes under greater pressure. (Warburton-Lee 2003).

Without the support of the South Luangwa Conservation Society, very little active patrolling would have occurred.

However, it is the author's experience as an investor within the SLAMU area of jurisdiction, that there is widespread incompetence, corruption and hostility to indigenous development - and to investors - by the SLAMU management (i.e. the management in place until 9 October 2009 when the Saiwana regime ended). It must be made clear that under the Zambian system of patronage and the highly centralised political system, officers in the field merely slot into a corrupt system established from 1976, whereby the Minister controls the D-G, who in turn controls officers in the field, ensuring the flow of benefits upwards.

### 3.3.1 *Quotas*

SLAMU showed that they had little understanding of the whole concept of quotas. While they held an elaborate and expensive day of consultations with Mbeza Safaris and the Luembe and Nyalugwe CRBs in 2005, the agreed quotas were subsequently changed to fit the requirements of the Hunting Concession Agreements (HCA). In 2006 no consultation took place with Mbeza. The quotas therefore still reflect ZAWA's requirements that the West Petauke GMA remain a Prime hunting concession, despite the author's request – backed by the precautionary principle of the Biodiversity Convention (to which Zambia is signatory) – for it to be downgraded.

### 3.3.2 *Elephant poaching*

During the 2005 to 2007 period in the West Petauke GMA, poaching of elephant was rampant - the brother of the MP (Gray) in Nyimba being apprehended with large quantities of ivory (Manning 2007a) - and with clear evidence of an elephant poaching syndicate being run by the Nyimba SLAMU office. Despite SLAMU officers being caught red-handed, no action was taken. While SLAMU did occasionally send out anti-poaching patrols, they bore all the signs of being part of a criminal poaching syndicate operation (Manning 2007b). When the author became too prominent in an anti-corruption drive, both his community partners and the financial accounting and safari operation was targeted by the Nyimba Offices of ZAWA/SLAMU by HQ itself, and by the Office of the President (Manning 2007c) (Manning 2007d).

Given the onslaught on elephant and the lack of scientific data to support elephant sport hunting – all of it conducted in the SLAMU area, stakeholders in Zambia opposed ZAWA's issuing of elephant hunting licences, but to no avail. In May 2005, ZAWA applied for a voluntary elephant quota of 40 tusks at a CITES Standing Committee meeting and then went ahead and issued elephant hunting licences for the 2005 hunting season. On 10 January 2006, the Natural Resources Consultative Forum (NRCF), a cross-sectoral forum for environment whose membership includes the hunting industry, resolved that no elephant sport hunting should be conducted in Zambia in 2006 until such time as the necessary scientific information was to hand. The minutes were widely circulated. An advisory note and the minutes of the meeting were sent by the NRCF to the Permanent Secretary of the Ministry of Tourism, Environment and Natural Resources (MTENR), followed by a meeting between the NRCF Chairman and the Minister. No reply to the advisory note has been received to this day.

On 28 October 2005, a six-ton consignment of ivory and precious stones was discovered in a container in the port of Manila, the container allegedly originating in Lusaka (M Rice 2006, personal communication, 6 February). The ivory was later stolen from the warehouse where it was housed. On 11 April 2006 at the ZAWA offices, an auction for 20 elephant for sport hunting was held and the

licences purchased by one bidder. These 20 elephant, according to the then D-G of ZAWA, Hapenga Kabeta, in a statement to the Office of the Vice-President's Disaster Management Unit, were elephant that had been 'identified' as crop raiding bulls. In January 2007, a meeting was called by the Minister MTENR and ZAWA of the hunting industry and some CRBs to resolve a number of conflicts and to effect a truce between the industry and GRZ. Following this meeting, the D-G of ZAWA, Saiwana, promised the author and another committee member of the Natural Resources Consultative Forum (NRCF) that no elephant sport hunting would be allowed until wide consultations were held with stakeholders. This promise was not kept.

### 3.3.3 *Illegal acts*

In 2008, the Nyimba SLAMU office, with the connivance of Senior Chief Luembe, removed the elected Luembe CRB for not agreeing to the termination of the Mbeza Safaris concession. A man posing as the Chairman of the Nyalugwe CRB from Nyalugwe was then collected and driven to Lusaka where he was coerced by the D-G, Saiwana, into signing a concession termination document. Later the West Petauke concession was removed from Mbeza. All efforts – as allowed under the hunting agreement – for mediation were refused. Since then the two companies handed the concession 'administratively', have not hunted much (Chief Nyalugwe 2009, personal comm., November). A default judgement from the High Court giving back the concession to Mbeza in July 2008 is yet to be acted on.

In June 2009, the Ministry of Finance and National Planning reported the ZAWA D-G, Lewis Saiwana and his management to the Anti-Corruption Commission (ACC) for investigations over the alleged irregular awarding of a road construction contract in the SLAMU managed area of Mfuwe to Tomorrow Investments. Complicit was the officer in charge of SLAMU at Mfuwe, Edwin Matokwoni, who was chairman of the committee dealing with the road contract. This followed NORAD's forensic audit report on its funded road projects of serious irregularities allegedly committed by Saiwana and his management. The audit recommended that ZAWA investigate the employment contract of Saiwana and charge him with gross negligence for the loss incurred due to his acts resulting in a loss of approximately K1.4 billion. The auditors recommended that ZAWA refund the Norwegian Embassy (Silwamba 2009). Subsequently it is reported that Norway has suspended aid, subject to Saiwana's removal (Silwamba et al 2009). In October 2009, Saiwana was removed and offered a new post by the President of Zambia, Rupiah Banda – presumably the first foreign-aid project mounted by Zambia – establishing an organisation along the lines of ZAWA in the Gambia.

SLAMU management in the person of the Area Warden, Mushimbalume, failed to reply to correspondence detailing the involvement of his officers in the elephant and bushmeat poaching ring. No attempts to prosecute those responsible were made.<sup>22</sup>

### 3.3.4 *Human rights abuses*

In October 2009 a villager was killed by a ZAWA Wildlife Police Officer (WPO) while on anti-poaching patrol in the Luembe Chiefdom, the body later found by villagers who in retaliation burnt the nearby ZAWA Kalanshya game camp to the ground. The police and paramilitary from Nyimba were summoned, and together with officers from the Nyimba SLAMU office descended on the nearby villagers, assaulting them – including woman and children – many of whom ran into the bush where they remained in hiding for days. The GRZ forces widened their terror tactics to include villages far from the game camp, the former Chairman of the Luembe CRB having to take to the bush with his family and living there for a few days without food. He subsequently contracted malaria, fell into a coma, and was saved by Gamefields staff taking him to hospital (A Lungu 2009, personal communication, October). Sixteen villagers were incarcerated in the Nyimba jail where they spent a number of weeks awaiting trial. An investigation by a Catholic task force revealed that villagers knew

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<sup>22</sup> Author's letter to Area Warden SLAMU on 2 October 2007.

where the body was but were too terrified to tell the police (W Njobvu 2009, personal communication, October). Later, when ZAWA attempted to re-build the camp, villagers tore the structures down. Fourteen people were arrested and imprisoned in Nyimba; twelve being released within days for lack of evidence. The two remaining were defended in court by a Catholic task force and acquitted (W Njobvu, personal communication, 2010, March). In 2011, six villagers were given ten year sentences for arson and imprisoned at Chipata jail. No prosecution of the ZAWA WPO has taken place. Local villagers have refused to allow ZAWA to build another permanent camp.

### **3.4 Natural Resources Consultative Forum (NRCF)**

The first meeting of the NRCF on 24 March 2005 - a forum funded by DANIDA for a one-year pilot phase, and a second three-year phase up to 2008 - was launched by its Chairman, the Permanent Secretary, Ministry of Tourism, Environment and Natural Resources (MTENR).

NRCF was envisaged as a stakeholder organisation for the management of natural resources. It is supposed to be member driven, and to promote the transfer of technical information within the sector. Its deliverables are advisory notes on stakeholder issues and concerns, addressed to the MTENR Permanent Secretary, its objective is to provide national policy goals on Zambia's natural resources and to provide an organisation able to deliver such an objective. However, the production of the National Policy on Environment, the final draft of which was produced in May 2005, has already provided the national policy goals – albeit, correctly, of a more holistic nature, including as it does environment and natural resources, and has confirmed the need for a formal institutional mechanism to structure natural resource and environmental issues, and to provide sustainability. What is therefore now long overdue – given that the MTENR has accepted the NPE as official policy - is for the NRCF to implement the NPE within a three-year renewable project format.

### **3.5 CITES: Convention on International Trade in Endangered Species of Wild Fauna and Flora**

CITES was concluded on 3 March 1973 and entered into force after ratification by ten countries on 1 July 1975. The new Strategic Vision of the Conference of the Parties to CITES outlines the Convention's direction in the new millennium and takes into account, within the context of its mandate, issues such as contributing to the MDGs relevant to CITES and contributing to the World Summit on Sustainable Development (WSSD) target of significantly reducing the rate of biodiversity loss by 2010, and ensuring that international trade in wild fauna and flora is conducted at sustainable levels.

#### **3.5.1 Ivory trade**

In 1991, the Zambian Parliament was told that ...

'The Forest Act No. 7 of 1999 provides for the implementation of the Convention on International Trade in Endangered Species of Wild Flora and Fauna, the Convention in Wetlands of International Importance, especially of water-fowl habitat, the Convention on Biological Diversity and the Convention to Combat Desertification and the Lusaka Agreement on Co-operative Enforcement directed at illegal trade in wild fauna and flora'.<sup>23</sup>

The author had assisted ZAWA with appropriate legislation developed in the South African CITES Implementation Project, as well as a manual on the MIKE (Monitoring the Illegal Killing of Elephant) programme. CITES is a contentious convention, running up against differing theories of economics and the impacts of trade restrictions on the illegal harvesting of wildlife species, in particular – now

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<sup>23</sup> Statement by Minister of Legal Affairs: Daily Parliamentary Debates for the First Session of the Ninth Assembly, Thursday, 5th December, 2002.

that native Zambian black rhino are extinct – elephant and hippo (ivory and bushmeat) and buffalo (bushmeat) (Sugg & Kreuter 1994).

Since 2000, there have been four Conference of the Parties (CoP) meetings of CITES:

- (I) 11<sup>th</sup> meeting of the Parties in Gigiri (Kenya), 10-20 April 2000;
- (II) 12<sup>th</sup> meeting in Santiago (Chile), 3-15 November 2002;

At this meeting Zambia applied for permission to sell its stockpile of 17 tons of ivory. It also proposed that its elephant be down-listed from Appendix I to Appendix II so that trade could be allowed. This proposal was heavily defeated.

A CITES panel of experts had visited Zambia in late 2002 and reported that Zambia was failing to report on seizures of elephant ivory as required under the Convention. They also reported that Zambia had never officially communicated any information about seizures of elephant ivory or other specimens to the Secretariat or to The Wildlife Trade Monitoring Network (TRAFFIC) - although TRAFFIC had sought information from Zambia - and consequently was not implementing the recommendation in Resolution Conf. 10.10 (Rev.) that Parties should provide information on seizures of ivory within 90 days of their occurrence. In addition, a copy of a report of an audit conducted by Price Waterhouse in 1998, which the Panel expected to contain information about the stock of ivory held at that time, was not made available.

In 1991, the National Parks and Wildlife Services (NPWS) had nine tons of ivory. This was deliberately destroyed (burnt) in 1992. Between then and 2002 it accumulated a further 17 tons of ivory from natural mortality, problem animal control and other sources.

This equates to approximately 1.4 tonnes a year (N = 10 years). The average weight of ivory (N = 1,700) being 4.23 kg per tusk, it can be assumed that ivory from about 200 elephant is being harvested each year. This equates to about 0.90 per cent of the overall population (22,000), which is within the expected rate of increase of elephant populations in the region (assumed to be 3 - 5 per cent per annum).<sup>24</sup>

The findings of the panel were that the overall population is not increasing (and could be decreasing) suggesting an important illegal offtake that accounts for a substantial amount of the ivory that could in theory be produced from an elephant population of this size, approximately 800 animals a year. Yet in Zambia it was reported that from 1988 the Kafue National Park had a threefold increase in poaching, while in the Luangwa poaching dropped by more than 90% between then and 1992, this being put down to a huge investment in anti-poaching activities (Lyster 1992, p.42). This conclusion is highly unlikely given the demise of the last pocket of rhino at about the same time, and in light of the revelations brought about by the Singapore ivory bust.

CITES posed the following question:

Would the acceptance of the proposal be likely to have a positive or negative impact on the conservation status of the elephant population and its environment in the affected range State? The responses to most of the questions posed by the Conference of the Parties are negative. Nonetheless, if the proposal were accepted, and if the stock of raw ivory in Zambia were sold, the funds could be used to ensure a positive impact on the

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<sup>24</sup> Report of the Panel of Experts on the African Elephant on the review of the proposal submitted by Zambia to transfer its national population of *Loxodonta africanus* from Appendix I to Appendix II . CoP 12, Doc 66, Annex 4.

status of the species in Zambia. The Conference of the Parties will be able to judge this when it is clear exactly how the funds would be spent.<sup>25</sup>

All experience since does not support the conclusion that it would be well spent.

In 2002, a consignment of 5.9 tons of ivory was intercepted in Singapore and traced to a shipper in Lilongwe, Malawi. In April 2005, the Environmental Investigation Agency (UK) held an International Ivory Enforcement Training Workshop in Lusaka funded by DFID and attended by the author. A presentation on the Singapore ivory seizure was made, which included details of the DNA investigations of the ivory and soil isotope analysis suggesting that the elephant came from two savannah populations, one of them perhaps being the Luangwa, though they needed to be matched with samples from there and elsewhere. At this same presentation, Samuel Ngosi, of the Malawian Anti-Corruption Bureau, revealed, possibly for the first time, that his investigations had uncovered the fact that a total of 19 shipments had been made between 1994 and 2002 by the same people in Lilongwe, using the same methods and freight carriers, and sent to the same destination – a possible total of 123.5 tons of ivory being shipped. The value of this was then in the order of US\$185 million. As reported in a National Geographic newsletter, Sam Wasser and his team at the University of Washington sequenced DNA recovered from nearly 500 samples of dung collected from elephant in 23 African countries and then matched it with DNA from the seized ivory. When Wasser's team compared 75 samples from the illegal shipment to their genetic map, they found that all the ivory came from Zambia. Moreover, as the bulk of Zambia's remaining elephant are to be found in the Luangwa and its associated rift-valley systems, this does name the ivory's source.<sup>26</sup> Extrapolating from the 2002 CITES report on Zambia, which found that the average ivory in the strong room was 4.23 kg; this would mean the tusks of 14,598 elephant might have been in those 19 containers.

The confiscated 2002 consignment was taken by the Lusaka Task Force to Kenya for assay and it is alleged that the consignment's whereabouts is unknown and the poachers yet to be apprehended (Silwamba 2009). In May 2009 the Ministry of Tourism, Environment and Natural Resources (MTENR) wrote to the Lusaka Task Force requesting the return of the 2002 intercepted ivory, the same newspaper report stating, 'And well-placed sources have revealed that elephant might become extinct in Zambia just like rhino if the government does not prosecute the syndicate involved in ivory scams at Zambia Wildlife Authority (ZAWA) and other government agencies', the same source at the Ministry stating that the Singapore ivory had come from the theft of ZAWA's own ivory cache' (Silwamba et al 2009).

That Zambia is at the centre of the ivory trade is undeniable, an investigation team from the Environmental Investigation Agency concluding:

...despite a ban on domestic sales, ivory is easily obtainable in large quantities. The country has a thriving illegal domestic market and is also at the centre of the international ivory trade, hosting some of the world's most sophisticated traders and networks – in some instances even using Red Cross and military vehicles to transport illegal ivory.<sup>27</sup>

(III) 13th meeting in Bangkok (Thailand), 2-14 October 2004;

In April 2004, ZAWA announced that they were applying to CITES to downgrade elephant from Appendix 1 to Appendix II in order to 'control 20 animals' which they considered to be crop raiders.

<sup>25</sup> CITES CoP. 12, Doc. 66, Annex 4 – p. 6

<sup>26</sup> URL:<http://news.nationalgeographic.com/news/2006/08/060817-ivory-dna.html>. Accessed: 2010-02-04. (Archived by WebCite® at <http://www.webcitation.org/5nIEReDKM>)

<sup>27</sup> URL:<http://www.eia-international.org/cgi/news/news.cgi?t=template&a=584&source=>. Accessed: 2010-03-21. (Archived by WebCite® at <http://www.webcitation.org/5oO5sHAVX>).

The Conference of the Parties adopted an amendment to Resolution Conf. 8.3 (Recognition of the benefits of trade in wildlife) to recognise that implementation of CITES-listing decisions should take into account potential impacts on the livelihoods of the poor.

(IV) 14<sup>th</sup> meeting at The Hague (Netherlands) 3-15 June 2007

At this meeting the implementation of the *Action plan for the control of trade in African elephant ivory*, adopted at CoP13 was mandated and adopted. Zambia reported that it was following the plan and had established an office at the Lusaka International Airport. However this office later lay unmanned and the Action Plan not implemented. Document CoP14 Inf. 61 was then presented on behalf of Africa by Chad and Zambia. The new annotation authorised the trade in hunting trophies, and allowed South Africa, Botswana, Namibia and Zimbabwe to sell their ivory stockpile, but with no further sale of ivory being allowed for nine years. This left Zambia and Tanzania free at future CoPs to apply for downlisting and for the sale of their raw ivory stockpile.

In 2006, the South African National Biodiversity Institute hosted a workshop on CITES and Livelihoods to identify practical measures that would contribute to the implementation of the new provision of CITES Resolution Conf. 8.3 (Rev. CoP13). The workshop agreed on 14 recommendations that were presented at CoP14 and served as the basis for the adoption of Decisions 14.3 and 14.4. Decision 14.3 states that the Standing Committee shall, subject to the availability of external funding, and requesting the assistance of organisations including the IUCN Species Survival Commission, initiate and supervise a process to develop, by the 15th meeting of the Conference of the Parties:

- i) Tools for voluntary use by the Parties for the rapid assessment at the national level of the positive and negative impacts of implementing CITES listing decisions on the livelihoods of the poor, in conformity with Resolution Conf. 8.3 (Rev. CoP13); and
- ii) Draft voluntary guidelines for Parties to address these impacts, particularly in developing countries. The guidelines should, where possible, assist Parties to develop local, national and regional initiatives that take account of the impacts of implementing CITES listing decisions on the livelihoods of the poor.

At its 57th meeting (SC57, Geneva, July 2008), the Standing Committee agreed on the creation of a Working Group on CITES and Livelihoods to assist in the implementation of Decision 14.3.<sup>28</sup>

(V) 15<sup>th</sup> meeting at Doha (Qatar) 13-25 March 2010

In 2009, Zambia again made a proposal to the CITES Secretariat for its elephant population to be down-listed from Appendix I to Appendix II (CoP15 Prop. 5) so as to allow it do the following:

- i) Trade in elephant hunting trophies for non-commercial purposes;
- ii) Trade in live elephant;
- iii) Trade in raw elephant hides;
- iv) Trade in registered raw ivory with a single sale of 22 tons only to trading partners designated by the Standing Committee (this to be allowed once the Secretariat has verified the registered government-owned stocks).

The conditions applicable are that the proceeds of the trade must be used exclusively for elephant and community conservation and for development programmes within or adjacent to the elephant range in

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<sup>28</sup> CoP15 Doc. 14 – p. 1.

Zambia; and, on a proposal from the Secretariat, the Standing Committee can cause this trade to cease in the event of non-compliance.<sup>29</sup>

Between 31 January and 5 February 2010, a four-man panel of experts selected by the Standing Committee of CITES travelled to Zambia to assess its application for downlisting.<sup>30</sup> The membership of the panel consisted of the Chairman – also the Chief of the CITES Management Authority and Conference Support, an Intelligence Officer of the Nairobi-based Lusaka Task Force, and two consultants from Dar es Salaam and Harare respectively. The facilitator for the panel was the Head of the CITES Management Authority at the Zambia Wildlife Authority (ZAWA). The Panel reviewed the ZAWA proposal – as well as the previous review of the application for down-listing made by Zambia in 2002 and submitted to the 12<sup>th</sup> CoP. Only two conservation NGOs – both regionally based - were invited to give information, the South Luangwa Conservation Society and Conservation Lower Zambezi. A further two Zambian organisations consulted were the Professional Hunters Association of Zambia and the Tourism Council of Zambia. In addition to these, the international NGOs, World-Wide Fund for Nature (WWF), the Wildlife Conservation Society (USA)(WCS), the Environmental Investigation Agency (UK) and TRAFFIC provided further information. In addition a host of government officials were interviewed. Only one Chief, Chiawa, and her Community Resource Board were interviewed. No knowledgeable independent experts were consulted – particularly on the science of the aerial population estimate and on the historical record, and the Natural Resources Consultative Forum, expressly established by the Ministry of Tourism to deal with such issues in an open-handed manner, was also not consulted (perhaps because the NRCF in its advisory note to the Minister of Tourism, opposed the issue in 2005 of 20 elephant for sport hunting – its members drawn from civil society, including the Professional Hunters Association of Zambia and the Safari Operators Association of Zambia).

The panel accepted the information given to them by ZAWA and did not take into account reports of the Auditor-General or of the Parliamentary Public Accounts Committee, nor of numerous reports critical of the delivery of benefits to customary landholders and of the efficacy of Community Based Natural Resource Management (CBNRM) in Zambia. It also did not consult with the House of Chiefs or organisations such as the Land Alliance or the Wildlife Producers Association of Zambia.

At the same time, the Environmental Investigation Agency did an undercover investigation, confirming once more that Zambia has a thriving domestic ivory market with criminal syndicates freely at work and with many of the ZAWA officials implicated in poaching, and those involved in poaching and the ivory and meat trade in the past now occupying even more senior positions.<sup>31</sup> In March 2009, 72 tusks and five rhino horns were intercepted on their way from Kafue to Lusaka. They were being transported in three vehicles, two police officers being present. No prosecution has resulted (EIA 2010).

In March 2010, the Secretariat endorsed its panel's report, saying that the proposal demonstrated that the elephant population did not meet the biological criteria for retention in Appendix I and that appropriate and effective enforcement controls are in place in Zambia. While the Secretariat recommended that the proposal be adopted, it also sounded a note of warning:

The adoption of the proposed annotation would mean that no trade in specimens of elephant would be possible under the provisions relating to Appendix II except for hunting trophies; the specified stock of raw ivory owned by the Government of Zambia and derived from natural mortality and from problem animal control; live elephant of Zambian origin to 'appropriate and acceptable destinations' and raw hides.<sup>32</sup>

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<sup>29</sup> This proposal was submitted by the Republic of Zambia pursuant to Article XV of the Convention with precautionary measures in accordance with Resolution Con 9.24 (Rev CoP 14).

<sup>30</sup> Terms of reference of panel: CoP15 Doc.68 Annex 6.

<sup>31</sup> See Chapter 2: (3).

<sup>32</sup> CoP15Doc.68 Addendum.

In effect Zambia was making an application to down-list in order to make \$3.5 million from the sale of part of the current ivory stockpile, it being unlikely that it would ever trade in raw hides or export many elephant. Furthermore, safari hunting did not need to down-list in order to receive an increased elephant hunting quota and the necessary permission to export the trophies – a fact, given that only 60% of the 20 quota was shot, that casts doubts on the population estimate. However, Zambia did cite as a reason for making the application the fact that it saw the primary risk to elephant in Zambia as being elephant conflict with humans and not international trade issues, and that they would not tolerate humans rising up against elephant as a result. However, much of the motivation for their actions, as stated in their proposal, is their resentment at outside interference in their affairs.

A successful down-listing will therefore not bring the benefits ZAWA desires but will cause enmity with other African nations, with conservationists – and perhaps tourists – who will view a sale of ivory to China and Japan, two of the main dealers in illegal ivory, as reprehensible. As 27 prominent elephant scientists and conservationists recently wrote:

We contend that no 'one-off' ivory sales should be approved, regardless of who is the seller or buyer. Such sales split the appendix listing of a single species (which CITES itself recommends against); introduce uncertainty of supply into the marketplace, encouraging poaching; and stimulate conflict among people working for effective elephant conservation. Ultimately, CITES will only meet its mandate to protect wildlife if criteria that place science above politics are applied to all CITES trade decisions. The implications reach far beyond trade species, potentially affecting ecosystem health, climate, and even the spread of zoonotic disease (Wasser et al 2010).

And two of those authors further added:

We disagree with the recommendation of the Secretariat that the proposal should be adopted. We also disagree that the biological criteria show that elephant in Zambia should no longer be retained in Appendix I. Figures quoted by the Secretariat from Game Warden Charles Pitman of 4,000 elephant for 1900, and 12,000 for the mid-1930s, are likely to be significant underestimates from the pre-aerial census era. By contrast, leading scientific authority Graeme Caughley estimated 350,000 for Zambia's elephant population in 1972, and the African Elephant Specialist Group estimated 160,000 in 1981. It is, therefore, highly probable that Zambia's population has declined by more than 50% over the last 75 years and thus meets the criterion for retention in Appendix I. With the biological criteria in doubt and the currently increasing levels of poaching (PIKE) and illicit markets, the Precautionary Principle should be invoked and Zambia's population should remain in Appendix I, which also means no trade of ivory is permitted.<sup>33</sup>

In fact Pitman stated in his report (p. 63) that there were considerably more than 12,000 elephant, this borne out by the fact that in 1935 in Northern Rhodesia, 4,600 were shot on crop protection and 573 killed on licence (MacKenzie 1997, p. 259).<sup>34</sup> This figure of 5,173 –mostly bulls, is the number actually killed, probably the same number again were wounded, at least half dying of their wounds. Moreover, a figure of some 8,000 elephant possibly died from legal control operations – mostly bulls. When this is added to the number poached, and the number of cows - given the skewed offtake since circa. 1917, Pitman's figure is a considerable underestimate.

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<sup>33</sup> Douglas-Hamilton, I. & Poole, J.

2010.URL:<https://mail.google.com/mail/?shva=1#search/melissa+groo/12773b0793dc3b76>. Accessed: 2010-03-25. (Archived by WebCite® at <http://www.webcitation.org/5oUPg7s9I>).

<sup>34</sup> These figures were compiled from data given in successive issues of JSPFE (The Journal of the Society for the Preservation of the Wild Fauna of the Empire); elephant kills are in JSPFE, xxxiii (1938), pp.44'.



Zambia's application, the panel of experts report, the CITES Secretariat report and comments on them are summarised in Appendix 3.

On 22 March 2010, at the 12<sup>th</sup> session of Committee 1, Zambia addressed the committee, thanking NORAD for their assistance for wildlife conservation over 20 years but emphasising that their application was motivated by their wish to reduce their dependence on donors. They also highlighted increasing elephant-human conflicts and the fact that the paramilitary had been brought in on anti-poaching exercises. Chieftainess Chiawa then addressed the committee stating that elephant were seriously affecting villager livelihoods and that chiefs in Zambia were committed to wildlife conservation having allocated considerable tracts of land to wildlife. Then, noting the comments from the Panel of Experts, other Parties and the Secretariat, Zambia suggested amending the proposal in accordance with Rule 22.2 of the Rules of Procedure, so that, after 'for the exclusive purposes of allowing:-', it would read: 'a) trade in hunting trophies for non-commercial purposes; b) trade in live animals to appropriate and acceptable destinations, as defined in Resolution Conf. 11.20; c) trade in raw hides. All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly'. Having made this amendment to their proposal, Zambia admonished those circulating rumours that revenue from ivory sales would be used for political purposes. Apart from the expected support of South Africa and Zimbabwe, Norway and the United States expressed the bizarre view that Zambia had sufficient law enforcement and management capacity to regulate any trade that would be allowed by adoption of their proposal, considered the biological criteria for Appendix-II listing had been met, while Norway also considered Zambia's proposal to be in line with precedent for transfer of elephant populations to Appendix II. Uganda noted that the moratorium on proposals to allow trade in elephant ivory agreed at CoP14 did not apply to Zambia's elephant population. They believed that Zambia was faced with the challenge of balancing increasing numbers of elephant with consequent environmental degradation that had possible implications for climate change. On behalf of the EU, Spain accepted that Zambia's elephant met the criteria for downlisting and that national management and conservation measures were adequate. Ghana, Kenya, Mali and Rwanda, as members of the 23-member African Elephant Coalition, were against the proposal, Kenya and Rwanda reminding the meeting that the moratorium had been instituted to allow implementation of the African Elephant Action Plan and monitoring of the effect of the one-off sales, and that Zambia had not consulted African elephant range states before submitting their proposal. Ghana was sceptical about whether benefits from the trade in elephant would indeed accrue to communities living alongside elephant. Zambia then requested a secret ballot. The result of the vote was 55 in favour, 36 against with 40 abstentions. Accordingly, the amended proposal was rejected.<sup>35</sup> On Thursday, 25 March, in plenary, Zambia moved to vote by secret ballot to re-open the debate on the amended proposal. The debate was re-opened, with Uganda, Malawi, Japan and Zimbabwe supporting the amended proposal; and Rwanda, Democratic Republic of Congo and Sierra Leone opposed. The CoP rejected the amended proposal, with 59 in favour, 47 against and 38 abstentions.

What CITES 15 CoP clearly reveals is that the elephant problem is a microcosm of the conservation-people problem - in reality the CITES, donor, nation state, NGO consensus problem (on the necessity for benefits to flow from elephant to villagers), versus their failure to address the agistment rights of customary landowners – both historically and at present - in respect of elephant and other wildlife which continue to impoverish the people living there, such that the customary landholders are 30% poorer than people living without elephant. This thinking is even reflected in the tepid resolution presented at the Doha meeting by the Standing Committee Working Group on CITES and Livelihoods, a document entitled: Strategic Matters: CITES and Livelihoods. This resolution agreed that the following principles be considered when Parties address livelihood issues, in particular with regard to the empowerment of the poor:<sup>36</sup>

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<sup>35</sup> CoP15 Com. I Rec. 12.

<sup>36</sup> CoP15 Doc. 14 – pp. 4 – 5.

- a) Empowerment of the poor should be encouraged through measures that include, as appropriate:
  - i) Promoting transparency in the development and implementation of policies regarding poverty and the use of natural resources;
  - ii) Developing harvesters associations;
  - iii) Developing trade associations with clear obligations for benefit sharing; and
  - iv) Recognising of resource tenure for indigenous and tribal communities and the poor;
  
- b) Support for the implementation of CITES listings should be enhanced by public awareness and education, including education of poor people, to ensure that:
  - i) The positive aspects of CITES and CITES-related legislation are understood;
  - ii) The need to take measures to conserve listed species, and the benefits, particularly to poor people, that can accrue from doing so, are appreciated; and
  - iii) Poor communities support policies and activities designed to reduce or eliminate illegal trade in specimens of CITES-listed species; and
  
- c) As implementation of some listings may have short-term negative impacts on the poor, mitigation strategies may include:
  - i) Developing interim aid packages to provide assistance to the collectors and harvesters most severely affected by the implementation of the CITES-listing decisions; and
  - ii) Waiver of permit fees during the first six months of a listing so that local harvesters and producers can internalise the transaction costs generated by the implementation of the CITES-listing decisions;
  
- d) Regarding mitigation strategies for human-wildlife conflict:
  - i) Recommends that mitigation strategies provide alternatives or compensation schemes (e.g. payment for ecosystem services, employment in eco-tourism or as game wardens; provision of tourist or local hunting and collection permits; development of alternative products);
  
- e) Regarding enabling policies:
  - i) INVITES Parties to initiate or strengthen collaborative partnerships between development and conservation agencies to enhance aid effectiveness for wildlife conservation and eliminate duplication of efforts (e.g. CITES authorities making cross-sectoral links to seek assistance in mainstreaming wildlife trade policies into poverty reduction strategies and wider development plans).
  - ii) ENCOURAGES international financial institutions and cooperation agencies to assist Parties in the development of multilateral and bilateral measures, supportive policies and institutions at the regional, national and local levels to address negative impacts of the implementation of CITES listings on the livelihoods of the poor.

The closest this advice to the CoP came in addressing the real issue was in point a) iv) Recognising of resource tenure for indigenous and tribal communities and the poor.

In effect, rather than the sovereignty of Zambia being brought into question by CITES, it is the Government and CITES who fail to recognise the inalienable ownership rights of the chiefdoms to the wildlife resources being supported by them at great cost, and that the National Parks in Zambia were once customary land, only handed over to protected status by the chiefs on the proviso that they and their people benefit from having done so. Given the horrendous assault on elephant in Africa as a whole and in parts of Zambia such as Mukungule, Luembe, Nyalugwe and the Lower Zambezi, and of the failure to curb the bushmeat and ivory trade, the only panacea is the building of the customary commons and the enfranchisement of customary communities. However, as long as the CITES Secretariat and NORAD, USAID and the EU support elephant-centred CBNRM benefit projects, the elephant problem and the elephant impoverished will remain with us.

### 3.5.2 *Bushmeat trade*

Decision 11.166, adopted by the Conference of the Parties at its 11<sup>th</sup> meeting relating to the establishment of the CITES Bushmeat Working Group, recognised that poaching and illicit trade in bushmeat constitute the greatest threat to the survival of wildlife species in Africa, especially in Central Africa; and that illicit trade in bushmeat increases poverty and the food deficit among rural communities which use bushmeat as their main source of animal protein.

The Conference of the Parties to the Convention advised all relevant Parties to:<sup>37</sup>

- i) prohibit the offtake of Appendix-I species for consumption as food, and to encourage sustainable levels of offtake for species in Appendix II and III of the Convention;
- ii) improve the domestic management of CITES-listed species harvested, traded and consumed as bushmeat through a review and, if needed, strengthening of relevant informative, legislative, in situ conservation, monitoring, enforcement and social or economic incentive measures;
- iii) define clearly the administrative responsibilities of government agencies that may be involved in, or can contribute to, the domestic regulation of trade in bushmeat and the import, export, re-export and transit or transshipment of bushmeat;
- iv) *clarify or establish property rights regarding CITES-listed species harvested, traded and consumed as bushmeat and to involve local communities in the monitoring of harvest, trade and consumption;*
- v) review and, if needed, revise logging and other natural resource concessions to ensure that they contribute to the legal, non-detrimental harvesting of, trade in and consumption of bushmeat;
- vi) encourage the adoption of codes of conduct by the timber, fishing and other natural resource extraction industries, that discourage illegal or unsustainable harvesting, consumption and trade in bushmeat; and
- vii) identify alternative sources of protein and take other measures to reduce the demand for bushmeat and particularly the consumption of Appendix-I species.

At CoP15 on Monday, 22 March, in Committee II, the Secretariat presented a document on the Report of the Central Africa Bushmeat Working Group (CoP15 Doc.61), announcing that no report had been received from the working group and that Decisions 14.73 and 14.74 have been carried over.

### 3.5.3 *Ranching*

CITES regulates ranching and trade in ranched specimens of species transferred from Appendix I to Appendix II, defining the term ‘ranching’ as the rearing in a controlled environment of specimens taken from the wild. Also, regarding proposals to transfer populations from Appendix I to Appendix II

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<sup>37</sup> CITES Resolution Conf. 13.11 – 2.

for ranching purposes, a number of recommendations are made, as well as providing qualifying criteria.

### ***3.5.4 Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora***

The Lusaka Agreement Task Force (LATF), the Secretariat of the Lusaka Agreement, grew out of a meeting of wildlife personnel from a number of countries in Lusaka in 1992 hosted by the United Nations Environment Programme (UNEP) and the Zambian Government. In 2000 a Memorandum of Understanding (MoU) was signed between the Task Force and the CITES Secretariat. There are currently six members: Congo, Kenya, Tanzania, Uganda, Zambia and Lesotho; with South Africa, Ethiopia and Swaziland as signatories. One officer from each state is seconded to the Task Force. In November 2008, The Task Force arrested 57 suspected dealers and confiscated about 1,000 kilograms of powdered, carved and raw ivory products. Among those arrested were four Chinese nationals attempting to smuggle ivory curios out of Kenya. This highly publicised event merely revealed the scant success of LATF. In October 2008 it held its ninth governing council meeting in Uganda. However, the Taskforce has had a negligible impact on poaching or the illegal ivory trade in Zambia, as evidenced by the continuing Singapore ivory debacle.

## **4 PARTNERSHIPS IN CONSERVATION DEVELOPMENT**

### **4.1 National Parks and public-private partnerships**

More than 70% of the area of the National Parks has now been hived off into public-private partnerships (PPPs) - this includes all of the flagship revenue earning Parks, with the main financial beneficiary being ZAWA.

#### ***4.1.1 Kasanka***

The original concept, elaboration, strategy, approach and technical evaluations for a PPP in respect of the Kasanka was developed in 1984/85 by the author<sup>38</sup>, David Lloyd, Peter Moss and Chief Chitambo. Negotiations were successfully completed in 1988 for an agreement between the Kasanka Trust Limited and National Parks and Wildlife Service (NPWS), the former agreeing to finance and manage the park in partnership with NPWS (Moss 2008). On 28 May 2002, a Memorandum of Understanding (MoU) was signed between the two parties and automatically renewed in 2007. The substance of the MoU made it clear that the Trust's Park Manager should report to the ZAWA Area Warden and submit quarterly reports. The Trust agreed to pay ZAWA and the Kafinda Community Resource Board (CRB) 10% and 5% respectively of its gross income from tourism within the Kasanka. Funds given to the CRB was to be maintained in a bank account to which two members of the CRB, the Park Manager and the Park Ranger were signatories, with the utilisation of the funds being in accordance with the Zambia Wildlife Act. All accounts were to be made available to ZAWA on a quarterly basis. The MoU also laid out the composition of the Kasanka National Park Management Committee composed of the Director General (D-G) of ZAWA (Chairman), the ZAWA Director of Conservation, the Park Manager (Secretary), the Area Warden, the Park Ranger, the District Council Secretary, the Member of Parliament (MP), Chief Chitambo, one ward Chairman, the CRB Chairman and two Trust officials. The Committee was to meet bi-annually and to approve plans and programmes for future activities. The Trust was also given the mandate to 'assist the local communities living within the Kafinda GMA to embark on community development'.<sup>39</sup> In 2005, Kasanka registered as a Trust under the Companies Act (limited by guarantee), i.e. a non-profit organisation.

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<sup>38</sup> Former Officer-in-Charge/Biologist, Bangweulu Command: Kasanka, Lavushi Manda & Isangano National Parks and attendant GMAs

<sup>39</sup> MoU. 20 May 2002. Management of the Kasanka National Park: ZAWA and Kasanka Trust Limited, Zambia.

Until early 2009, no current management plan existed and the then (unqualified) manager operated an air charter company from Kasanka, his wife running the park and organising anti-poaching. Funding for park management and other activities has come from the EU, Conservation Foundation (Zambia), Darwin Initiative, Beit Trust, Kasanka Trust (UK), Tusk Trust, Finnish Embassy, Holly Hill Trust, German Development Service (DED), SRT (Zambia) and tourism. At that stage, a consultant reported poor accounting and generally unprofessional management (Appendix 2). Another unfortunate aspect of the Kasanka management was that they made plans to translocate black lechwe into the Park, and had already had a hand in the translocation of a foreign strain of zebra onto the floodplains of the south-east Bangweulu.

Apart from some limited CBNRM work, the Trust has rejected establishing a Landsafe Chiefdom Trust in the Kafinda GMA and Open Area under Chief Chitambo, the traditional owners of the land alienated from the Park. Relations between the Trust management and the chief are deplorable (J Kapijimpanga, 2006 personal communication).<sup>40</sup>

#### **4.1.2 North Luangwa**

In 1986, on the grounds that it had been abandoned to poachers, the author made a PPP proposal to the African Wildlife Leadership Foundation (AWF) to join with a consortium of Zambian businesses and the NPWS for the management of the North Luangwa National Park (Manning 1986). This invitation was declined by AWF. In the same year, a research couple, Mark and Delia Owens, began the North Luangwa Conservation Project, having had the US Embassy in Lusaka obtain the necessary permits and permissions for them from the NPWS. This project involved anti-poaching in the Park and a variety of CBNRM type projects, mainly carried out in the Mukungule Chiefdom and GMA.

The Owens in the course of their work allegedly uncovered the workings of a wildlife crime syndicate based in Mpika in the office of the area warden of the NPWS - with links to headquarter staff - controlled in turn by the chief security official in the Office of the President (OP). This syndicate ran a school of elephant and rhino poachers in the surrounding areas, but mainly in the North Park. In 1994, this OP official visited the Owens in their Luangwa camp. Later they were warned by one their employees that their lives were in danger (Owens & Owens 2006, p.162). At about the same time, the North Luangwa Conservation Project (NLCP), along with other in-country NGOs, were asked to renegotiate the status of their projects. At issue was the Zambian Government's (GRZs) demand that the NLCP turn over its fixed and moveable assets to GRZ, and that it agree to pass its operating funds through a GRZ account so that they could be taxed at the rate of 33%. This issue was never resolved (M Dykes 2009, personal communication).

In 1997, with the Owens' on leave in the USA, their assets were seized, their staff placed under house arrest - later freed on the intervention of USA and British Embassy personnel - and their field projects and staff left permanently to their own devices (Owens & Owens 2006, p.178). Although free to return - no cancellation of permits having been made or deportation orders issued - they did not do so, later handing over the project to the Frankfurt Zoological Society who signed an agreement with the NPWS in 1998, agreeing to conserve the wildlife resources and to generally develop the park. The reason the Owens had not returned was that the Zambian police wished to question Mark Owens and his son in connection with an investigation prompted by the murder of a poacher captured on an ABC television documentary.<sup>41</sup> This film lent considerable substance to the stories of the killing of poachers by the scouts whom Owens commanded, and of other numerous human rights abuses against villagers.<sup>42</sup>

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<sup>40</sup> A former Cabinet Minister, and relative of Paramount Chief Kopa of the Bisa

<sup>41</sup> URL:<http://www.newyorker.com/online/blogs/cloread/2010/03/a-shooting-in-zambia.html>. Accessed: 2010-04-04. (Archived by WebCite® at <http://www.webcitation.org/5okl6b9mm>).

<sup>42</sup> URL:[http://www.newyorker.com/reporting/2010/04/05/100405fa\\_fact\\_](http://www.newyorker.com/reporting/2010/04/05/100405fa_fact_). Accessed: 2010-04-04. (Archived by WebCite® at <http://www.webcitation.org/5okk1eNwb>).

In 2003, under the Southern African Development Community (SADC) Regional Rhino Programme, five black rhino were translocated to the North Luangwa from the Kruger National Park and placed in a fenced sanctuary. In 2006, a further ten were introduced.

#### **4.1.3 Liuwa**

The Liuwa Plain National Park has long been the personal fiefdom of the Paramount Chief of Barotseland, the Litunga, with little being done there by Government until the first aerial census of its wildlife was made in 1975 by the NPWS (Manning & Moss 1975). In 2003, whilst guidelines on PPPs were being produced for ZAWA, it was made clear that no PPPs would be entered into by ZAWA until such time as national policy on PPPs was provided, and that an application to establish a PPP for the Lavushi Manda and Isangano National Parks would have to await this event (Manning 2003). Despite this, a South African organisation, African Parks, were granted a concession over Sioma and Liuwa National Parks.

In 2003, the United Party for National Development (UPND) MP for Livingstone, Sakwiba Sikota, charged the Government of Zambia (GRZ) with corruption, complaining that the people of Liuwa and Barotseland had not been consulted and that their heritage had been taken from them. He called for a parliamentary inquiry, a request not heeded.<sup>43</sup> Complicating the issue was the fact that the Liuwa had been placed under the management of a limited liability company whose 30% shareholder was the Litunga himself.

In 2004, n'dunas (headmen) living in the area surrounding the Liuwa (African Parks having given up Sioma) came to Lusaka to voice their discontent at the 'alienation' of their park in which many of their people and their cattle still lived. At two meetings with the author and others, they were encouraged to form CRBs and Trusts and to then seek investors for development on the park periphery, an area which should soon have increasing numbers of wildebeest and other wildlife as result of African Parks activities. However, it was clear that ZAWA and the Minister of Tourism (Kalifungwa) – supported by the Litunga - had effectively alienated the National Park to a company, the customary community's rights being side-lined.

#### **4.1.4 Luambe**

In December, 2003, an MoU was signed by ZAWA and an international NGO: Communities for Conservation Society of Cologne (CCSC) in Germany, laying out a PPP arrangement for the management of the Luambe National Park. Some Society members are also shareholders in a lodge that serves the Park. No formal arrangements have been entered into with the adjoining Chitungulu Chiefdom, with charitable gestures extended to the community on an *ad hoc* basis. Along with Nsefu, this was one of the earliest pieces of customary land appropriated by Government as a Game Reserve, agreed to by the customary community on the condition that they would benefit from its protected status.

#### **4.1.5 South Luangwa (see Chapter 3)**

#### **4.1.6 Lower Zambezi**

In order to assist ZAWA in the preservation of the Park, Conservation Lower Zambezi (CLZ) was registered under the Zambia Societies Act in 1995 by conservationists, safari tour operators and stakeholders within the Lower Zambezi National Park (LZNP) and Chiawa GMA. In 1999, Danish aid was elicited. CLZ is also involved with the development of the Chiawa Community Partnership Park in the Chiawa GMA.

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<sup>43</sup> Reporter. 2003. Government is a Handmaid to Corruption-MP Sikota, The Post Newspaper, Lusaka, 5 August.

#### 4.1.7 *West Lunga*

The West Lunga Trust, in association with the Kesho Trust (a registered Society and Canadian charitable organisation in the province of British Columbia, also registered as an NGO in Tanzania), have been involved in the conservation of this Park, in particular concentrating on the adjoining Chibwika and Ntambu GMA communities. The Chibwika Development Foundation, a wholly grassroots organisation has emerged from the process. As of early 2009, African Parks had signed an MoU with ZAWA for its management.

#### 4.1.8 *The Kafue Flats and its protected areas*

In 1905, with the building of the rail line from Kalomo to Broken Hill, the Kafue Flats was described as the Elysian Fields, being covered with herds of game that had yet to be hunted by anything other than the spears of the Ila people (Varian 1953, p.117). A hundred years later, despite the Flats being embraced within 6,000 km<sup>2</sup> of protected floodplain fringing 255 km of the Kafue River and containing Blue Lagoon and Lochinvar National Parks and their attendant GMAs, the Flats are a socio-ecological disaster.

Since 1972 with the construction of the Itzhi-tezhi dam at the upstream side of the Flats and the Kafue Gorge dam downstream, both serving the Kafue Gorge Hydroelectric Power Project, the great herds have gone, the cattle of the Ila and the Plateau Batoka decimated by disease and restrictions on movement, Zambia's most productive fishery destroyed, the waters and flood plains invaded by pernicious and unpalatable plant species, and people impoverished. The proximate cause of this disaster is the attenuated flood peaks, raised base flows, retarded drainage, reduction in floodplain area, unseasonable fluctuations in water levels, and the lamentable natural resource management by GRZ, and criminal neglect for 37 years by the Zambia Electricity Supply Corporation (ZESCO) who have deliberately ignored the environmental management regime required for the Itzhi-tezhi under their water contract (Douthwaite 2007). As a result, the operation of the Kafue floodplain commons by two-dozen chiefdoms comprising Ila cattle herders, Tonga agro-pastoralists and Twa fishermen has been all but destroyed. Added to this the seizure of water and land resources by GRZ and large agribusinesses such as the Nakambala Sugar Estates, as well as the removal of the land commons in the form of two National Parks and the restrictions imposed on people by the GMAs, has greatly exacerbated the problem. Moreover, 'free-rider' immigration into the area by people from other parts of Zambia has further added to the burden of people once ancient members of the Kafue Flats commons.

However, it is the failure of GRZ, with its neoliberal and highly centralised control agenda, avoiding any devolution of powers to the existing chiefdoms over their land – in addition to the rather weak usufruct rights and controlled-access regimes which rely on secure rights under the traditional system and which cannot withstand major environmental perturbations and the invasion of their areas by outsiders - which is the true cause of this 'tragedy of the commons' (Hardin 1968). Reaction to all this by conservationists, donors, GRZ and academia has been predictable: to call for interventions that deal with the symptoms of the malaise, and not its cause, which is the eco-imperialism of both GRZ, mining and agri-business over the rural poor. One such effort was the 1986 WWF Zambia Wetlands Project, a CBNRM symptoms approach which parleyed a revolving fund in exchange for livelihoods 'improvement' and conservation projects. But the project collapsed when irreconcilable differences emerged between the community and WWF. The Bangweulu WWF Wetlands Project met a similar fate. One study, out of a host of recommendations, called for the involvement of:

...local communities wherever possible in both the planning and implementation processes. Their participation and cooperation are critical in resolving land use conflict. In fact, understanding the root cause of local people's problems will help implement water conservation and population strategies (Chabwela & Haller 2008).

This root cause is in actual fact the destruction of the controlled-access chiefdom commons; a political problem and something most conservationists avoid tackling.

The Kafue Flats remains the main and visible exemplar of what is wrong with conservation and governance in Zambia. Under the Ramsar Convention for Wetlands of International Importance, the Kafue Flats and its two National Parks are one of eight designated Ramsar sites in Zambia. Moreover, under the Zambia National Policy on Wetlands Conservation (2001), long awaiting ratification by Cabinet, there is the intention to empower and conserve and devolve, but unfortunately there is little action. There is supposed to be in existence a National Wetland Steering Committee and a National Action Plan for the Management of Wetlands; and the WWF Wetlands Project, still in existence, has reputedly entered into a partnership with ZESCO for the improved management of the flow regimes. Also, ZAWA - having assumed the responsibility from the Environmental Council of Zambia (ECZ) for Ramsar wetland sites - wrote a disarming report:

Notable changes however include reduction in the Kafue Lechwe (*Kobus leche kafuensis*) to 38,000. The figure was previously fluctuating around 45,000. There is also an encroachment of woody vegetation into the flats as seen from the latest aerial survey and this could be a result of reduced flooding induced by dam operation. *Mimosa pigra* has also surfaced in the Lochinvar National Park and has started to spread but is still within manageable levels if interventions are implemented quickly (Ramsar 2006).

Draft management plans have allegedly been produced for these parks.

i) Blue Lagoon

Blue Lagoon was once a cattle ranch owned by Colonel Ronnie and Erica Critchley, later donated to Government and declared a National Park in 1973. Since that time it has been neglected, either being used by the Zambian army, or subject to failed PPP arrangements. From 2000, Real Africa Safaris entered into an agreement with NPWS/ZAWA to manage the park. In December 2001, a further agreement was signed to uphold the principles of sustainable tourism. By October 2007, Nyanja Safaris were negotiating with ZAWA for its takeover. However, nothing has eventuated barring the October of 2008 reports of a killing field of animal carcasses.

ii) Lochinvar

The park was formerly the property of Len Vaughan, a former professional white hunter and first game warden of the Kafue National Park (Manning 1995, p. 179). He had bought the property in a pub in Nairobi in 1918 for use as a cattle ranch (L Vaughan 1983, personal communication), with the property later purchased by the Government and turned into a National Park in 1972. In August 2001, a tourism operator, Star of Africa, signed an MoU with ZAWA to rehabilitate infrastructure and to develop tourism in the park. However they later withdrew. The mismanagement of the flooding regime has created a permanent lagoon and thicket (*Mimosa pigra*) encroachment, displacing game animals from the floodplain and beyond the park's boundaries. The main house and lodge – formerly known far and wide as the Regent's Palace - and visited by train on weekends from as far afield as Bulawayo, is now derelict. There are no facilities for tourists, other than an attempt to provide a visitors' centre and an imposing thatched entrance gate. Furthermore, a Chinese company, funded by the World Bank, and seemingly oblivious to Environmental Impact Assessment (EIA) guidance or supervision, is cutting down trees as they create wide roads in anticipation of future tourist invasions (Staden 2009).



## 5 NATIONAL PARK CONCESSION TOURISM AGREEMENTS (CTAs)

ZAWA allocates lodge sites and concessions in National Parks as a result of a tender process. Successful bidders are awarded a Tourism Concession Agreement (TCA), a commercial agreement that lays out the rights and obligations of concessionaires. This TCA is conditional on an Environmental Impact Assessment (EIA) being approved by the Environmental Council of Zambia (ECZ), a parastatal within the Ministry of Tourism, Environment and Natural Resources (MTENR).

### 5.1 Mosi oa Tunya

That the TCA process is extremely corrupt, is revealed by an investigation of events in this National Park, one enclosed in a World Heritage Site around the Victoria Falls. While ZAWA has direct control of the park, the Natural Heritage Conservation Commission (NHCC) – which has no policy document guiding its activities - is responsible for the preservation of what is a declared World Heritage Site under the National Heritage Act Chapter 173 of the Laws of Zambia. During a hearing of the Public Accounts Committee, a witness stated that:

...the Environmental Council of Zambia (ECZ) was consulted on developments to take place because provisions of the Environmental Protection and Pollution Control Act (EPPCA) required that projects, in areas such as game parks and national heritage sites, underwent an EIA before any implementation was done. The land was usually allocated by ZAWA and NHCC in consultation with the Ministry of Lands, depending on whether the land in question was in a National Park or a heritage site. However, ECZ was also consulted based on the requirements under EPPCA. ECZ then provided a response in form of a decision letter, approving or rejecting the project proposal with reasons. For example, the Commission had in the past entered into a Memorandum of Understanding (MoU) with ZAWA in an effort to stem conflicts between the two institutions. For a time, there had been mutual understanding as the institutions consulted each other regularly, especially with regard to development of heritage sites and issuance of licences and permits in such areas. However, following a change of management at ZAWA, they had refused to recognise the MoU, and the conflicts had resurfaced. Hence, it often turned out that the Commission and its sister institutions held conflicting positions about certain proposed developments and projects, when they should in fact harmonise their positions and complement each other and promote the much needed development of heritage sites.<sup>44</sup>

He further stated that proposed development at the Victoria Falls World Heritage Site by Legacy Holdings was one such situation. He explained that had the development been allowed to proceed as initially proposed, United Nations Educational, Scientific and Cultural Organisation (UNESCO) would have withdrawn its recognition of the site as a World Heritage Site.

In July 2006, ZAWA signed a CTA agreement with Legacy Hotels and Resorts International for a 220 ha concession for 75 years. The developers planned to build an eighteen-hole golf course, two hotel resorts, a club house and 350 chalets in the Mosi oa Tunya National Park lying on the edge of Livingstone. On 29 July, the Vice-President – on behalf of President Mwanawasa – laid the foundation stone, although no EIA had been approved yet. This proposed desecration of a UNESCO World Heritage Site had effectively begun despite the project's environmental impact assessment later being rejected by the ECZ and the objections of the local ZAWA office, the NHCC and the Livingstone branch of the Wildlife and Environment Conservation Society of Zambia (WECSZ) (Manning 2006a). No application had been made to the Livingstone City Council, and no consultations of any kind carried out with the National Heritage Commission or the Natural Resources Consultative Forum of

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<sup>44</sup> Report of the Committee on Energy, Environment and Tourism for the first session of the Tenth National Assembly of Zambia appointed on 8 November 2006.

Zambia (NRCF - established by the MTENR to oversee natural resource and conservation concerns), or with civil society in general. And, in flagrant disregard of international conventions, approval had not been given by UNESCO for the scheme, threatening its World Heritage status and prospects for the area's conservation and economic development as a major world tourism destination.

Legacy, it appeared, had purchased a company with a 2.2 ha concessionary site on a five year lease. This was expanded by the Acting Director-General of ZAWA (Gershom Chilakusha) on the advice of the then Financial Director of ZAWA (Tom Mushing, brother of the Legacy Financial Director) to a 220 ha concession for 75 years - essentially land alienation by another name. The sum of \$9 million dollars was allegedly paid for this by Legacy HQ in Johannesburg to ZAWA, an allegation denied by the D-G of ZAWA.

Finally, on 15 December 2006, Lewis Saiwana, the Director-General of ZAWA, informed the Chairman of the Livingstone Tourism Association, Nick Katenekwa, that the Tourism Lease Agreement issued to Legacy Holdings Zambia Limited for 220 ha for 75 years in the Mosi oa Tunya National Park had been cancelled. Legacy now reverted to their 2.2 ha for 5 year lease. Later the Minister admitted that ZAWA had been wrong to issue the additional land (Chulu & Chirwa 2007). However, calls for those responsible to be prosecuted were ignored, but Chilakusha and Mushing were later fired, like the former D-G, leaving with generous 'golden handshakes' (Chirwa 2007).

ZAWA then gave import permits – again before any EIA process was completed - to a group called the African Lion and Environment Research Trust (ALERT) to import 19 lion for the establishment of lion walking safaris in the Mosi oa Tunya National Park and in the Dambwa local forest reserve. Antelope are being stocked in the Dambwa in order to teach lion how to kill; and once they are too dangerous to be walked with tourists, they will be released into the wild.<sup>45</sup>

One of the concerns is the silence and lack of appropriate action by NGOs such as the African Wildlife Foundation, and by the World Bank - the major loan and grant source for the area at the time under the Support for Economic Expansion and Diversification (SEED) project - to the politically inspired corruption that takes place. In fairness, NGOs are required to remain out of politics, certainly a requirement of the Charity Commission in the United Kingdom. However, given the evidence of corruption, they could withdraw their funds and support, as the Swedes did over the theft of their aid money by the Health Department.

## 5.2 Kafue and Luangwa

These two flagship National Parks are currently being commercialised following the Kruger National Park model. In the Kafue, ZAWA is brokering Commercial Tourism Concessions and Joint Management Concessions. Tourism Concessions (TCs) are divided into Recreational TCs, consisting of high-value investments such as hotels and lodges with capacities in excess of 40 beds each, and Nature-Based TCs of various sizes. These will be operated through a Tourism Concession Agreement (TCA) between the concessionaire and ZAWA. Joint Management Concessions (JMCs) covering large areas of the park (between 1,823km<sup>2</sup> and 6,778km<sup>2</sup>) will be awarded as Joint Management Concession Agreements (JMCAs) between ZAWA and concessionaires. ZAWA states that concessionaires will consist of partnerships that may include the private sector, NGOs and Community-Based Organisations (CBOs). JMCAs are considered to be PPPs. The critical issue is the length of the lease period, which, if taken up to 75 years is little different from leasehold alienation. The mention of community-based organisations is unconvincing, as the original owners of the Trust land on which Kafue now stands should have been the founding partners in the PPPs.

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<sup>45</sup>URL:<http://lionscam.blogspot.com/2008/02/to-sunday-times-london.html>. Accessed: 2010-04-07. (Archived by WebCite® at <http://www.webcitation.org/5ooFRF5TF>)

The Luangwa is being similarly dealt with, though it appears land outside of the South Luangwa National Park i.e. GMA, may have been given out as JMCAs.

### 5.3 Sioma Ngwezi

Six wildlife (block) concession sites ranging in size from 40,000 to 50,000 ha have been identified by ZAWA within and adjacent to the National Park. Each concession will be allowed a sixteen two-bed facility. The fact that ZAWA is effectively commandeering customary land through co-management agreements, with itself acting as the main investor-partner, is clearly commercially driven and further evidence of the nationalisation of nature.

## 6. AID PROJECTS

### 6.1 CONASA: Community Based Natural Resource Management and Sustainable Agriculture (2001 – 2005)

Under a cooperative agreement with USAID in Zambia to improve livelihood security and sustainable resource management in the Bilili/Nkala, Sichifula and Mulobezi GMAs in Southern Province, CONASA pursued the following programme:

- i) supporting rural livelihoods through agricultural production and small business development,
- ii) policy and advocacy, and
- iii) Tourism based Natural Resource Management (TBNRM).

CONASA was implemented by CARE International, the African Wildlife Foundation (AWF) and WCS (ADMADDE) and funded by USAID Zambia, running for four years at a budget level of approximately \$1m a year.

A mid-term review conducted in the fourth year of operations noted the following results (Lyons 2004):

- i) The formation of CBOs - CRBs, VAGs (Village Area Groups), and VMCs (Village Management Committees - in the project area, involving community mobilisation, skills assessment, and training).
- ii) Several successful strategies to boost local food production.
- iii) The formation and training of dozens of enterprise groups, with promising signs of a viable model in a handful of them, had taken place.
- iv) Numerous successful community mobilisation and sensitisation campaigns for conservation, resulting in several examples of the voluntary surrendering of firearms.
- v) The facilitation of numerous meetings involving ZAWA and CRBs to improve community relations, increase skills in resource management, and implement safari hunting concession agreements.
- vi) Formation of local Natural Resource Management (NRM) plans and local by-laws in four out of five CRBs, which are currently going through the process of legal ratification through a provision in the Local Government Act.
- vii) Numerous product development and marketing studies on non-timber forest products.
- viii) Training of livelihood skills for reformed poachers and the development of local-level NRM plans.
- ix) Training on the importance and content of natural resource policies.

- x) A baseline report on the polices in the wildlife, forestry, water, and fisheries sectors, and widespread dissemination and discussion of these analyses.
- xi) The establishment of the Natural Resources Consultative Forum (NRCF) in a manner which was inclusive and eventually handed over to government.
- xii) Support for ZAWA's reorientation to grassroots natural resource management (NRM).
- xiii) Formation of a regional CRB association.
- xiv) Helping communities take advantage of opportunities to provide input into policy formation by facilitating a community presentation to a parliamentary committee on forestry, and input into the draft land policy review process.
- xv) Smoothing relations between ZAWA, communities, and safari operators through meetings and forums.
- xvi) Support for the development of enterprises with the potential to reach regional markets.
- xvii) Sensitisation and training in natural resource policy development of natural resource by-laws and resource management plans formation and strengthening of several Community Development Trusts in the Open Areas.
- xviii) Collection of preliminary information on wildlife corridors and habitat.
- xix) Connectivity between Kafue NP and the Zambezi.

And concluded as follows:

Two months after it began operating, CONASA was informed by USAID that its total budget had been reduced by \$2 million, the project from five to four years and with one less GMA, although the results framework and performance targets were not adjusted. Consequently, what was already an ambitious and possibly unrealistic set of goals for five years was compressed to four. CONASA had also stuck to its original strategy even though significant changes in the project context had occurred. 'On the resource management side, a two-year ban on safari hunting, a lengthy restructuring of ZAWA, a near total lack of law enforcement for over two years, and expansion of settlements into core habitat has cast doubt on whether the most profitable form of wildlife enterprise - safari hunting - will ever generate the levels of revenue it did as recent as the 1990s.

Today there is little to see of CONASA's efforts, other than a human rights disaster in Sichifula GMA where people were forcibly moved from the area by ZAWA, and the Bilili Springs GMA which is now the most heavily settled in the country as a result of agricultural settlement schemes. And the depletion of wildlife is severe with only Mulobezi GMA escaping unscathed. WCS, rather than carrying on with its programme of turning poachers into farmers, departed to Lundazi in Eastern Province under the COMACO label, to start anew. And the NRCF was adopted by the Ministry of Tourism, but has lapsed into a government sanctioned consultancy group rather than an advocacy group as was intended. The Sekutu Trust was established under AWF, but no progress has been reported, nor of any other attempts to strengthen and institutionalise the customary communities. It may therefore be classed as another failure and let-down for GMA residents.

## **6.2 COMACO: Community Markets for Conservation**

COMACO is essentially a continuation of a notable failure, ADMADE, and of the CONASA project, which parlays agricultural input loans, guaranteed prices and market access as incentives to poachers - and villagers in general - to enter into agriculture. It is a partnership between the CRB, District Council and the funder, WCS. The model requires high finance with no guarantees of sustainability once the project drivers have moved on. COMACO works in a number of chiefdoms merely as a servicer and marketer of products. Its major failing is the absence of any attempt to create statutory

customary community structures, the *sine qua non* for socio-ecological sustainability. In June 2009, the Norwegian Government agreed to give COMACO US\$8 million for five years.

### 6.3 SEED: Support for Economic Expansion and Diversification.

The World Bank project 'Support for Economic Expansion and Diversification' is a US\$29 million, four-component project (Tourism and Protected Areas, Agribusiness Sector Development, Gemstones Sector Development and Project Management), with the tourism component divided into two main areas, tourism and protected area management. Within tourism there are three subcomponents:

- i) policy, regulatory and institutional support for Ministry of Tourism, Environment and Natural Resources (MTENR) and its agencies;
- ii) tourism investments and capacity building in the Livingstone area;
- iii) infrastructure for Livingstone and institutional support for Livingstone City Council.

The protected area sub-component covered biodiversity restoration in Mosi oa Tunya and Kafue National Parks (KNP) and capacity building for ZAWA, a NORAD/World Bank financed component. From August 2002, the KNP had benefited from the support from Norway through the project Emergency Resource Protection Project (ERPP), whose purpose was to assist ZAWA to regain management of the park and reverse the high levels of illegal hunting. In 2004, Norway and the World Bank agreed to join forces to support ZAWA and the KNP through the present project under SEED. In 2006, the SEED project underwent a refocusing and the Mosi oa Tunya National Park Project was dropped – this at a time when the park was under threat from the ZAWA/Legacy imbroglio - the funds and focus shifting to the KNP. There the goal of the project was to see that critical habitat and species were secured in the park and surrounding GMAs through improved management, infrastructure and tourism development.

The review of the performance of the 2002 – 2007 Strategic Plan concluded as follows: the project did not have a clearly defined leader, and this would not allow the Project to achieve its objectives; most of the research carried out was of a poor standard; ZAWA's performance was unsatisfactory; large sums of money had been stolen; the lack of motivation at different levels was a major concern, being detrimental to the success of the Project. Furthermore, they found that in the CBNRM component, only two of the three objectives were addressed: the objective 'to develop co-management agreements with traditional fisher folk in the Park and its surrounding GMAs' was ignored. In all, nine GMAs were dealt with and the CRBs trained in basic GMA management skills. Also, landuse planning was initiated in selected GMAs, but later discontinued due to a budget change (Booth et al 2007). The project considered introducing sport hunting in the Park but this did not find favour. Booth et al concluded that:

- i) In preparing the draft 2008 – 2012 Strategic Plan, ZAWA has not faced up to the core issues that undermined the performance of the initial strategic plan. Nor has it identified a reliable mechanism to resolve its financial situation, other than prevailing on Government to write off this debt. Furthermore, contrary to the assumptions made in the ZAWA Business Plan, it is doubtful that ZAWA would be in a position to service its statutory financial obligations, and it would most likely incur debts of a similar magnitude over time. The key issue in preparing the revised strategic plan is the absence of a thorough review of the Wildlife Policy and subsequent amendments to the Wildlife Act. Currently ZAWA is mandated to manage the entire wildlife sector, but does not have the human and financial resources to achieve this. The 2008 – 2012 Strategic Plan advocates an increase in staff and promotes Public-Private Sector Partnerships to address this issue. What it fails to recognise is that there may not be the business case to justify this assumption. In particular, the heavy reliance on the GMAs as

the primary source of income (through consumptive tourism) is being undermined through the rapid advance of alternative land use options. ZAWA's continued role in attempting to manage these areas in the face of these challenges is therefore probably unsustainable.

- ii) Without radical policy changes to effect the transfer of financial and management responsibility for these areas to local communities, and the recognition by central government that it has to play a role in meeting the cost of biodiversity conservation in its protected areas, it is unlikely that ZAWA will achieve financial self sustainability in the foreseeable future; particularly given the crash in the clients-for-hunting market as a result of the economic meltdown.
- iii) In its current form, the KNP Project addresses the 2008 – 2012 Strategic Plan by supporting its objective to develop cost effective Resource Protection Programmes, improving the South Luangwa National Park infrastructure and supporting initiatives to develop land use plans in the GMAs. It is not contributing to any policy, legal or regulatory reforms which in the long term are fundamental to the future sustainability of the Project.
- iv) The current approach of donor support to ZAWA is through stand-alone projects such as SLAMU, Kasanka and KNP. In the case of SLAMU there has been considerable investment over a long period of time to reach a point where it can meet its recurrent costs. Under the current Project a similar scenario is envisaged for KNP.
- v) At issue is whether this approach is the most optimal, or whether donor support should focus on a sector-wide programme designed to strengthen the overall institutional capacity of ZAWA to effectively implement its mandate.
- vi) ZAWA is in a state of flux. It has not addressed the fundamental causes for its lack of performance under the existing policy environment, and through its latest Draft Strategic Plan, it is attempting to maintain the status quo (some might say that it is actually reverting back to strategies that prevailed under the former NPWS regime). It still has to resolve organisational and management issues that were carried over from its transformation from a civil service structure to corporate body. Above all, ZAWA has to develop internal revenue strategies that would make it financially self-sustaining.
- vii) There is no clear answer to the future approach of donor support to ZAWA. The environment for a sector-wide support programme is probably premature at this stage. Government needs to take a pro-active role in defining future policy, especially with respect to its Decentralisation Policy, that advocates the empowerment of local communities to administer and manage natural resources.
- viii) A possible solution is to adopt a three-pronged approach in which donor support focuses on policy reform at the central government level (this is to a large degree should have been covered by the UNDP reclassification programme, REMNPAS); institutional support to ZAWA and development support at the project level aimed at creating a conducive environment for private sector investment.

#### **6.4 REMNPAS: Reclassification and Effective Management of the National Protected Areas System**

The project 'Reclassification and Effective Management of the National Protected Areas System' (REMNPAS) is executed by the Ministry of Tourism (MTENR) through the Department of Environment and Natural Resource Management, and ZAWA. The Global Environment Facility (GEF), the UN Development Programme (UNDP) and the GRZ jointly fund the project (UNDP 2004). The project has three main areas of intervention: providing the regulatory, legal and institutional framework for public-private partnerships; strengthening the institutions responsible for protected area management, and implementing new protected area categories within these partnerships.

The original UNDP/GEF, 'Classification of Protected Areas' project, had its origin in 2000 when UNDP and the Ministry decided that Zambia's protected areas required re-classification. The justification for this was presented in September 2000 to GEF as a concept proposal for a PDF Block "B" grant ON the grounds that Zambia had demonstrated its commitment to conservation and had backed this commitment with various legal instruments and policy frameworks and by the establishment of the necessary institutions at the national and local levels - a statement made at a time when such commitment was little in evidence, the National Parks and Wildlife Service having been replaced by a statutory body, ZAWA. They also tried to justify the project by saying that conditions had changed so much in and around protected areas that there needed to be a re-evaluation. And belatedly, they mentioned that communities needed to be involved in the management and conservation of biodiversity so as ensure sustainability of the new system. No empirical evidence was put forward to justify the project.

GEF, the World Bank and the Nordic Development Fund were sent the concept note with a request for £410K so that a full project proposal could be written. This was agreed to. The Plan recommended nine implementation partners for the Reclassification of Protected Areas Project: the MTENR, ZAWA, WWF, UNDP, Ministry of Finance and Planning, Natural Resources Consultative Forum, a 'Relevant Ministries Steering Committee', a Technical Advisory Group, a Project Consultation Group (consultants) and private sector partners for two demonstration sites. Curiously, given they being used to justify the project, the customary authority and the people were omitted.

The Government strategy at the onset of REMNPAS was as follows (UNDP 2004, p.7):

- i) ZAWA will concentrate on the National Parks having high tourism potential so that they may be conservation hubs.
- ii) A protected area re-classification exercise would be conducted.
- iii) GRZ will pass new legislation supporting the protected area estate which emerges.
- iv) Two new categories of protected area would be advanced:
  - 1) Community Conservation Areas which would maximise incentives for conservation for communities by giving nearly full control over resources and the revenue derived from these resources while preventing conversion to agriculture or other land uses, and
  - 2) allowing portions of National Parks to be zoned as safari hunting areas, converting them from cost centres to profit centres for ZAWA and requiring a change in their legal status.
- v) A range of PPPs would be developed.
- vi) Strengthening core systems and institutional level capacities.

Although REMNPAS had removed the ZAWA safari-hunting scheme from the project (J Robinson 2007, personal communication) it will, given the pronouncements of Minister Namugala on the need for ZAWA to operate as a mercantile quango, inevitably be reconsidered.

However, the development of so-called Community Customary Areas have seen the light of day in the Chiawa demonstration site in the Zambezi Valley, where community representatives, ZAWA and local tourism operators agreed to create a new PA category out of the eastern part of the GMA and to raise the protection status, the land to remain under customary tenure and governed in a partnership between the resident community, ZAWA and local tourism operators. But this new category of protected area, placed on customary land, signals a future change of land tenure - effectively alienation by another name, this being the experience of Chief Nsefu, Chief Kasempa, and other chiefs in 1949-1954. All of this was engineered by UNDP who used a secular planning group called Future Search to usher in the scheme.

As Chieftainess Chiawa assisted in the distribution of the Landsafe (then Chipuna) model to the House of Chiefs, a system of chiefdom trusts accepted by them and submitted to the 5th National Development Plan workshop by James Matale, the House of Chiefs' spokesman, as Chiefdom Trusts, declaring that, 'We should be allowed to retain absolute title to our land while giving investors and non-subjects renewable lease rights under various chiefdom trusts'. Thus UNDP/GEF completely ignored an indigenous system developed over 58 years, and injected a foreign one with ZAWA still holding the reins of power, ignoring REMNPAS' own stated willingness to allow communities to have one institutional structure for all natural resources that 'they manage or are to manage' (UNDP 2004, p. 46).

UNDP had identified South-East Bangweulu as one of the demonstration sites, and were unaware of the recommendations of the Black Lechwe Project (1969-1976), a project that had sought first to save the black lechwe from extinction, and then to ensure that the local inhabitants would benefit from them in the future. In this second demonstration site where UNDP and ZAWA proposed their new system (ZAWA effectively bankrupt by 2008 but saved by a K23 billion bail-out from the Medium Term Expenditure Framework for 2008-2010), they conjured up an agreement with six chiefs within the black lechwe range, an area totally neglected by ZAWA and by the National Wetland Management Committee, the latter supposed to be in place under the RAMSAR Convention. Again, UNDP appeared unaware of some important facts: i.e., that this site was greatly expanded by RAMSAR in 1991 to include all the three National Parks of the Bangweulu and their attendant GMAs.

There never was a plan to gazette part of the Bangweulu into a National Park, as it would have impacted on local people in their annual movement with the floods in search of fish and lechwe. What was proposed by the original Black Lechwe Project team, Grimsdell and Bell, who carried out a seminal ecological study of the area, was the gazetting of a Special GMA, with the second choice being the establishment of a National Park within it.

One forthright comment was made concerning this (R Shenton 2007, personal communication):

The UNDP reclassification project exhibits all the classic mistakes of an aid program:

- i) Supporting an institution that does not follow its own agenda of partnership building, and one that has made no effort to decentralise or manage its finances - see Auditor-General's report of 2005 on parastatals, and;
- ii) using foreign consultants (Future Search) who appear to have no experience in rural Africa when there are at least three community ownership projects run by locals, two of them supported by a sister institution, WWF (Mpumba and Mazabuka) and;
- iii) dreaming up a big plan without extensive involvement of the local stakeholders and with no reference to relevant past studies or paying heed to existing conventions. Bound to fail at a cost to future generations.

Recently, management of the REMNPAS project were persuaded by a group of businessmen to the idea of creating a conservancy in the Luembe Open Area. These businessmen had bought a major share of M'nyamadzi Game Ranch within the Open Area, and had conspired to alienate part of the adjoining West Mvuvye National Forest, but having failed to do the same on the rest of it, sought to take over the adjoining Luembe Open Area. But, on discovering that the Luembe Conservancy Trust held 60-year land user rights, and the agreement of the self-same chief – and 153 of his headmen - to a Community Game Ranch, REMNPAS declined to back them (Manning 2007e). Subsequently, Senior Chief Luembe, has decided to pursue matters again with his Royal Luembe Trust, applications being made by him to REMNPAS for the registration of a Community Game Ranch.



## **7 NATIONAL AND LOCAL ORGANISATIONS**

### **7.1 WECSZ: The Wildlife & Environmental Conservation Society of Zambia**

In 1951, the Northern Rhodesia Game Preservation and Hunting Association was formed by two hunters from the Copperbelt, E. Page and V. Dunstan, in order to lobby Government over the paucity of hunting permits issued (Astle 1999, p.67). It was later taken over and steered forward by non-hunters, Erica and Col. Ronnie Critchley of Blue Lagoon, thenceforth being called the Wildlife Conservation Society with funding and support from Anglo American under the Chairmanship of David Gleason. Among the Society's notable achievements were the formation of the Chongololo clubs for school children, the financing and other support to the Black Lechwe Project - in tandem with the World Wildlife Fund – and encouragement to a fledgling game ranching industry (Manning 1989). It is now called the Wildlife and Environment Conservation Society, a fairly inactive society that avoids confrontation with Government, with the notable exception of the Livingstone Branch and the campaign against the illegal alienation and development of land in Mosi oa Tunya National Park.

### **7.2 PHAZ: The Professional Hunters Association of Zambia**

PHAZ was first conceived at a meeting before Independence between Ron Kidson, Keith Rowse, Norman Carr and Peter Hankin, and the Director of the Game Department, Bill Steele (R Kidson 2009, personal communication, October), and established in 1965. Its principle role has been to vet future applicants for a professional hunters' licence, and to generally try and regulate PH affairs so that hunting and safari standards and ethics are maintained. A medical doctor in Choma, Ed Naylor, succeeded Ron Kidson as Chairman in the early 1970s, followed by David Frost in the 1980s.

### **7.3 SHOAZ: The Safari Hunter Operators Association of Zambia**

The general operating climate for hunting safari companies in Zambia is poor, with operators not willing to unite into a progressive industry exhibiting the necessary leadership and vision able to deal with the major industry issues:

- i) declining game stocks,
- ii) disenfranchised local communities and CRBs,
- iii) venal quotas,
- iv) flawed lease agreements, and
- v) major threats such as the possibility of lion being placed on Appendix 1 of CITES as a result of overshooting, poisoning and habitat/prey species loss; and
- vi) the removal of concessions without a proper legal basis - a constant worry given Zambia's mercurial handling of concessions.

This is not improved by the fact that SHOAZ has only seventeen or so members who, in addition to having shown little taste for dealing with the serious matters to hand, are further weakened by the lack of the necessary ZAWA support, and the fact that individual operators prefer to negotiate directly with those having the necessary powers. The industry thus remains unregulated and intrinsically corrupt.

The Association has shown no interest in pursuing a Landsafe agenda that offers long-term security of tenure for operators.

### **7.4 WPAZ: The Wildlife Producers Association of Zambia**

See Chapter 3: Part II

## 8 ZAWA PERFORMANCE

Two consultancy reports on ZAWA (Changa Management Services 2006) and the Auditor-General's report of 2005 on parastatals revealed a dysfunctional and corrupt organisation. In the first, it was revealed that the ZAWA management database was inadequate for effective management and monitoring of the organisation; that key elements such as human resources had no databases that could be accessed immediately (outside the payroll list); that income and expenditure data was not in an integrated format (i.e. all sources of revenue and all expenditures in one database); that there was no summary of infrastructural information at Headquarters, and that wildlife population monitoring data was held in separate files and not designed to allow time series monitoring. The consultant further revealed serious financial and managerial failings, stating that (Pope 2006):

- i) Creditors represent 107% of ZAWA's total turnover and nearly doubled over the five-year period to US\$6.4 million;
- ii) Total income is approximately US\$14 million of which only 42% is internally generated (US\$5.9 million), and 67% of that is still contributed from hunting-related activities;
- iii) Turnover is stated as US\$5.9 million in 2005 (i.e. 112% of revenue income and 62% of all income), but the budgeted and actual expenditure is US\$9.5 million (i.e. published turnover is only 62% of all expenditure);
- iv) Budget allocation and budget utilisation figures for HQ, regional offices and Area Management Units (AMUs) are identical, probably indicating that operating cost demands exceed budgeted resources to the extent that 100% of every budget line is consumed. But it would also suggest that there is smoothing of budget reconciliations so that each budget allocation can be reconciled to the last Kwacha;
- v) More disturbing is the budget allocation trend. Over the three years 2003 to 2005 the HQ budget increased by 46%, while the global Regional office and AMU budgets (where the real work is done) decreased by 4% and 19%, respectively;
- vi) A final observation is that ZAWA was only able to increase its total budget by 11% over the period in Kwacha terms (approximately 2.5% per annum) against a national inflation rate of between 15% and 25%. In real terms the budget declined by 0.3% over the period.

The second report, which assessed the current status of ZAWA's strategic plan implementation (2001-2005), revealed considerable flaws. At the inaugural meeting at ZAWA HQ to launch the WB funded assessment, attended by the NRCF (represented by the author), UNDP, NORAD, the World Bank, ZAWA, the just quoted consultant, and the World Bank consultants, it was admitted by the senior ZAWA officers present that they had barely looked at the plan, let alone followed its prescriptions. It was agreed that the review of the plan would be carried out with the assistance of the NRCF as the host for meetings attended by the private sector and Government, funded by UNDP. None of this occurred, but two reports were produced, a draft and a final report.

The consultants to ZAWA, tasked to produce a strategic review, first produced a draft report that contained some glaring omissions and errors.<sup>46</sup> The report made clear that ZAWA expenditure was, like the national Zambian budget, largely uncontrolled. Furthermore, whilst mandated to protect a very large protected area estate, ZAWA had since 2001 spent a mere 7% - 18% of its total expenditure on operations, i.e. biodiversity research and protection. The organisation had also not been able to meet its statutory tax commitments, and 48% of income over the five-year period was from donor grants, not 25% as reported. It was also unclear whether CRB incomes in the financial section were gross or net, i.e. income after the CRBs had been paid - the consultants being unable to clarify the issue, but saying at the time that it would be corrected in the final report. However, the final report carried the

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<sup>46</sup> I.P.A. Manning, letter to World Bank, Lusaka, 2006.

same errors, omitted any mention of the National Policy on the Environment (NPE), and contained considerable padding and a poor understanding of the ZAWA areas of responsibility. A study of the conclusions and changes made in the final report, with parts of the draft report table for comparison, revealed that expenditure listed under establishment had been reduced, and operations increased. In addition to this, the Auditor-General's report of 2005 on ZAWA reported that:

- i) ZAWA collected revenue below the budgeted amounts during the period under review.
- ii) ZAWA had net current liabilities of K2,699 million, K2,133 million and K12,687 million for the years 2003, 2004 and 2005 respectively. ZAWA could clearly not pay its liabilities when they fell due. The liquidity position worsened dramatically in 2005.
- iii) ZAWA does not hold title to its buildings despite enjoying economic benefits from the buildings, and had not taken stock of its properties since its establishment in 1998.
- iv) ZAWA terminated the contract of the Director-General, who was paid an irregular termination payment of K550,488,842.
- v) Imprests totalling K368,346,544.08 were outstanding for more than ninety days as of 31st December 2005.
- vi) Contrary to ZAWA regulations, which stipulated that salary advances must be recovered within three months, amounts totalling K175,065,703 relating to salary advances to 261 members of staff were outstanding for more than two years without effecting recoveries.
- vii) Amounts totalling K1,300,233,627 (converted at K3500:\$1, this equals \$371,495) was owed by nineteen operators who had since abandoned their projects and left the country, or were wrongly classified; and could not be collected. Consequently, ZAWA management applied to the Board to write off these debts.

In November 2006, the Parliamentary Public Accounts Committee took submissions from ZAWA:

- i) The D-G had received K207 million from the People and Parks Foundation without the permission of the Minister, this spent on upgrading his office and other parts of the ZAWA HQ.
- ii) Note was taken of the income/expenditure for the three year period but no comment was made of the fact that the community share of income fell from K20,878 million in 2003 to 3,345 million in 2004 and K4,315 million in 2005.
- iii) The D-G was dismissed in December 2004 and was then illegally paid K335,488,842 by the Financial Director. The D-G then claimed a further K215,000,000 in allowances. This was referred to the Board who gave permission for the amount to be paid in April 2006; again, illegally. The Committee censured the Board and ZAWA and instructed them to recover the money.
- iv) The amounts of K1,300,233,627 owed by nineteen operators and not collected was written off.

Committee Observations and Recommendations:

- i) Your Committee observe that there was poor cooperation from ZAWA as these responses could have been provided during the audit process. They, therefore, urge the Controlling Officers to advise the Board and Management of ZAWA to accord the audit process its due regard. Your Committee further observe that, whilst the figures for the Hippo culling exercise may not have been accurately reported, the action that ZAWA took was against the spirit in which the project was developed. They, therefore, recommend that ZAWA should uphold the agreement to sustain donor confidence. They further recommend that documents

relating to the payments to the South Luangwa Area Management Unit for the Hippo culling exercise, and remittances of collections for Chichele Lodge should be submitted to the Auditor-General for verification. The Controlling Officer should report progress on the acquisition of title deeds for the South Luangwa Area Management Unit property.

- ii) Waterfront Lodge in the Mosi oa Tunya National Park had obtained title details illegally. These were cancelled and a tourism lease entered into.
- iii) In accordance with the Income Tax Act, every employer was required to remit PAYE to the Zambia Revenue Authority (ZRA). During the period under review, it was observed that ZAWA had not been remitting PAYE. As at 30th June 2006, the outstanding PAYE stood at K19,656,327,267.
- iv) It was also observed that the Authority had not remitted pension contributions for its employees in amounts totalling K3,544,973,232 as at August 2006. The issue was brought to the attention of the Board at its 4th meeting held on Friday, 16th May, 2003 by the Finance Committee, though no action had been taken as at October 2006. 'Your Committee observe that, whilst ZAWA can propose to write-off outstanding taxes or be considered for a tax waiver, this is not the case with pension fund obligations'.<sup>47</sup>

## 9 ZAWA INCORPORATED

Although endowed with a wealth of natural resources, Zambia, forty-five years after attaining self-government, is under environmental siege. A number of factors contribute to a downward spiral of land capability impairing the prospects for rural people's upliftment, a situation reiterated in the preamble to Zambia's draft National Policy on Environment of 2005. These include the now rampant abuse of the savannah by fire - a major contributor to global dimming - and the increasing brittleness of the environment, lowering herbivore carrying capacity and leading progressively to desertification; the depletion of wildlife due to poaching to supply the bushmeat and ivory trade; the second highest deforestation rate in Africa brought about by shifting agriculture and the legal and illegal charcoal and timber trade; and the overfishing and pollution of its rivers and lakes.

The conversion of the Government mandate for its wildlife and protected areas - and for the customary communities living in GMAs - from a government department with a professional civil servant as Permanent Secretary and advisor to a Minister, to a parastatal within a Ministry having a short-term contracted appointee as Permanent Secretary, one instructed by the Minister in whom the powers of patronage ultimately rest, would inevitably place income generation above custodial responsibility, although this has over time been denied.<sup>48</sup> The speech in March 2009 by the Minister of Tourism, Environment and Natural Resources to Parliament makes it clear that ZAWA will now openly function as a state-owned trading company:<sup>49</sup>

Further, ZAWA will this year start implementing a number of additional programmes aimed at increasing its revenue base. These programmes include a live sale auctioning of game; participation in the capture of animals for local and international game ranching; venison business by curling<sup>50</sup> of abundant species to supply game meat in butcheries so that members of the public can have access to game meat; establish

<sup>47</sup> Report of the public accounts committee on the report of the Auditor-General for 2005 on the accounts of parastatal bodies for the first session of the tenth National Assembly appointed by the resolution of the House on 10th November 2006.

<sup>48</sup> Lisulo, Walusiku. 15 January, 2007. "We will no longer place wildlife conservation behind income generation." Statement of the Chairman of the Zambia Wildlife Authority Board to the Mulungushi Truce Meeting called by Minister Pande of MTENR.

<sup>49</sup> Minister's speech to National Assembly, 17 March 2009, page 5 of 7.

<sup>50</sup> Culling.

tourism block concessions in all National Parks and increase tourism sites, thereby, inviting more investors; and the Lusaka National Park Project, where attractive key species will be introduced for the purposes of creating among others activities, photographic tours. The establishment of the Lusaka National Park has reached an advanced stage.

The Minister appears to have ignored the advice of the Public Accounts Committee of Parliament:

As efforts to improve the financial performance and position of the Authority are being made, your Committee further advise the Controlling Officer to ensure that the fundamental reasons for creating ZAWA are observed, that is, wildlife protection and conservation. This should not be compromised for mere monetary gain.<sup>51</sup>

As a state-owned trading company that has a monopoly over the awarding of hunting concessions agreements, hunting permits, capture permits, tourism concession agreements and now a directly controlled and operated business (i.e. game meat), it should therefore not be exempt from the conditions laid out under the Competition and Fair Trade Act of 1994 which the Zambia Competition Commission (ZCC) is mandated to uphold.<sup>52</sup> However the ZCC made a statement on 19<sup>th</sup> May 2009 announcing proposals to lift the exemption of state-owned companies from the application of the Act – there to regulate monopolies and concentrations of economic power – although, as a recent article in a Zambian newspaper stated: ‘There is nowhere in the Act where the exemption is conferred on state-owned companies’ (Kashita 2009). Clearly political pressure has been brought to bear on the ZCC so as to remove any obstacles to ZAWA operating as an untrammelled business where patronage opportunities will be considerable.

## 9.1 Live animal translocation

The last few years has seen the capture and translocation of animals with little regard for extant subspecies and varieties or of conservation principles in general. In The Post of 22 July 2008, ZAWA advertised the sale of 150 buffalo from the Luangwa protected area estate, 100 crocodile from Kafue NP, 240 impala from Lower Zambezi NP, 110 wildebeest and 20 tsessebe from Liuwa Plain NP, 50 zebra from Blue Lagoon NP, 20 hartebeest from Kafue NP, and 50 and 100 sable from Mushingashi Game Ranch and the Stacey ranch (Mkushi) respectively. Neither African Parks in Liuwa, or Stacey, had been informed of this, the latter obtaining a court injunction prohibiting the sale. Later, he and ZAWA agreed to share the sable progeny and Stacey was then given ownership of the animals on his ranch, the planned game auction being allowed to proceed. At the auction, buffalo sales were flaccid until a ZAWA official stated that buffalo from the Luangwa are Foot and Mouth free, despite the fact that the Luangwa is notorious for the disease.

After the auction, ZAWA issued export permits to South African and Namibian buyers for the 280 sable purchased, despite the fact that those countries will not allow for their import, raising the spectre immediately of corruption and illegal exports. Zambian sable already exist in South Africa, having been illegally smuggled out of the country in the past. This illegal trade continues with reports of sable being smuggled out in a Dakota aircraft by a criminal gang.

In the late dry season of 2010 it is reported that more animals are being captured in the Kafue National Park: 100 buffalo calves for African Parks, 50 sable for Peter Fisher, and an undisclosed number of wildebeest and hippo, some of the latter tranquilised opposite the old Ntemwa camp in a prime tourist area operated by Wilderness Safaris, one dying and another two, still drugged, being released back into the river.

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<sup>51</sup> Report of the public accounts committee on the report of the Auditor-General for 2005 on the accounts of parastatal bodies for the first session of the tenth National Assembly appointed by the resolution of the House on 10th November 2006.

<sup>52</sup> Competition and Fair Trade Act of 1994.

## 9.2 Game meat

ZAWA will have to act on the Ministerial speech by putting out to tender game cropping quotas in National Parks and GMAs. These will be based on unscientific quotas, will cause considerable disturbance and additional loss through wounding, spoilt carcass replacement, over shooting and other corrupt processes, and will encourage ZAWA to avoid co-management agreements with customary communities, both in customary areas – be they Open Area or GMA – and in National Parks. As offtakes in game areas by the bushmeat trade are already unsustainable, this will further impact on wildlife stocks. It will also allow illegally obtained game meat to be mixed with that of legal meat put up for sale in butcheries.

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## 11 APPENDICES

**Appendix 1: Précis of five evaluations of ADMADE carried out between 1992 and 1998 (Clarke 2000).**

**Appendix 2: Principal conclusions from a review of Kasanka (Pope, 2006).**

**Appendix 3: CITES 15<sup>th</sup> CoP uses of wildlife**

**Appendix 1: Précis of five evaluations of ADMADE carried out between 1992 and 1998 (cited in Clarke 2000).**

BENEFITS	NEGATIVES
<ul style="list-style-type: none"> <li>• Meeting objectives to demonstrate that wildlife can be a profitable form of land use, and that benefits derived from wildlife management can be distributed to local people;</li> <li>• Demonstrating progress towards increasing the welfare of local communities, increasing participation by women and returning benefits from local use of wildlife to communities;</li> <li>• Increased local employment;</li> <li>• Training and deployment of law-enforcement personnel, which resulted in reduced illegal hunting;</li> <li>• Successfully convincing local people of the values of wildlife conservation;</li> </ul> <p>(Alpert &amp; DeGeorges 1992)</p>	<ul style="list-style-type: none"> <li>• Had not yet succeeded in establishing self-sustaining wildlife management programmes;</li> <li>• <b>Had not yet succeeded in influencing national policies governing rights of ownership over wild animals;</b></li> <li>• Unlikely to demonstrate the ability of local communities to manage wildlife unaided although it had shown that communities could manage local development projects.</li> </ul> <p>IMPROVEMENTS REQUIRED</p> <ul style="list-style-type: none"> <li>• Wildlife monitoring and research capacity;</li> <li>• Internal communications within the ADMADE program;</li> <li>• Consistency of management and record keeping;</li> <li>• Persuading officials and leaders to share authority with lower levels;</li> <li>• Financial accounting and increase revenues;</li> <li>• Vehicle maintenance.</li> </ul>
<p>That adequate technical knowledge for natural resource management, land use planning, community development and other relevant issues existed, (ULG 1994).</p>	<ul style="list-style-type: none"> <li>• Lack of will on the part of GRZ to follow through existing policies or to commit sufficient resources to the wildlife sector;</li> <li>• Insufficient attention by NPWS to address constraints to the Project's success;</li> <li>• <b>Insufficient attention to management issues on the part of USAID offices in Lusaka, Harare and Washington DC;</b></li> <li>• Monitoring systems were not yet producing sufficient data to determine whether or not natural resource management or the lives of local people had been improved;</li> <li>• The community development component had not got started, and was beset with policy, management and personality problems; there was minimal coordination between the conservation and community development components of the Project, which often competed for the limited local resources being generated;</li> <li>• <b>Complete and accurate data were unavailable for the Wildlife Conservation Revolving Fund (WCRF), making it impossible to analyse availability or use of funds, and that little effort seemed to be made by NPWS to address this problem.</b></li> </ul>
<p>While the program is not mature, it has achieved a degree of sustainability. Even without further USAID funding, the ADMADE program, or something like it, would continue. (Rosenthal &amp; Sowers 1995)</p>	<ul style="list-style-type: none"> <li>• GRZs adoption of a wildlife policy has given needed official support to the principal of community-based management. But institutional changes were needed in NPWS to give greater support to ADMADE;</li> <li>• The concept of community-based natural resource management is now seen to be workable in Zambia, and the Zambian sport hunting industry has positive economic benefits that can be passed on to local rural people;</li> <li>• A new initiative is needed to assist local communities in planning and conducting management programs for conservation and development;</li> <li>• Management of the WCRF had improved since the last assessment;</li> <li>• <b>WWF-US had been unable to provide leadership and coordination, and NPWS had allowed technical leadership to be controlled at Nyamaluma.</b> The Research and Training</li> </ul>



BENEFITS	NEGATIVES
	<p>Centre at Nyamaluma was an asset but needed strengthening, and its role in other fields clearly specified to ensure its continued support of NPWS;</p> <ul style="list-style-type: none"> <li>• Monitoring of wildlife and economic development still needed improvement;</li> <li>• The Technical Assistant needs to spend less time on community development, and that more Zambians be trained to carry out research and monitoring and how to use the information derived from them;</li> <li>• Village Scouts (who are trained at Nyamaluma) were functioning well under trying conditions but needed stronger leadership.</li> </ul>
<ul style="list-style-type: none"> <li>• Sound in conception, design and implementation;</li> <li>• An effective and cost-effective system of wildlife conservation and</li> <li>• Community development financially and politically sustainable, wherever an area had been 'secured'.</li> </ul> <p>(MANO 1998)</p>	<ul style="list-style-type: none"> <li>• The report recommended that radical alternations were unnecessary but that efforts should be made to increase the share of hunting revenues used to finance resource.</li> <li>• No suggestions were made as to how much the increase should be or how it might be achieved.</li> </ul>
<p>This report noted that improvements were visible in WCRF's financial management and its operations were now transparent and sufficient revenues were being generated from hunting licences to achieve financial self-sustainability. (Ernst &amp; Young 1998).</p>	<ul style="list-style-type: none"> <li>• <b>Absence of accounting records in some GMAs to support alleged expenditure of money received from WRCF;</b></li> <li>• Absence of co-ordination and direction in and between WRCF, NPWS and LIRDPA;</li> <li>• Duplication was leading to wasted resources.</li> <li>• GMA residents allege that absence of a ceiling to special licence issue results in lost revenue opportunities;</li> <li>• Absence of communication between WRCF and GMAs regarding accounting for funds and licence issue.</li> <li>• The report noted that WRCF would become financial managers within ZAWA when the latter was established, and it identified three areas where continued need for financial support would exist.</li> </ul> <p><b>RECOMMENDATIONS</b></p> <ul style="list-style-type: none"> <li>• The College: the report recommended that USAID support current activities but on a larger scale, and that management courses be introduced for senior ZAWA employees;</li> <li>• Major capital investment in plant and vehicles and radios;</li> <li>• Internal auditors be employed to review the work of Bookkeepers trained at Nyamaluma and working at the headquarters of the four proposed management units - the four headquarters would, in turn, monitor their GMAs;</li> <li>• Financial support would be needed to establish the four offices but thereafter they would be sustained by revenue from the GMAs.</li> </ul>

**Appendix 2: Principal conclusions from a review of Kasanka (Pope, 2006).**

Data provided from Kasanka indicate that record keeping is not a strength in the private sector either. In many cases data in replication format could only be provided readily for the last one or two years. The National Park covers 420 km<sup>2</sup>, but the Trust also provides inputs to the surrounding areas, including the Kafinda GMA (3,860 km<sup>2</sup>).

- i) although the Kasanka Trust considers the PPP arrangement generally satisfactory, they consider their working relationship with ZAWA to be less than satisfactory;
- ii) staffing levels have grown steadily over the period 1990 to 2005 to a total of 60 (excluding lodge staff) [representing 0.14 management staff/km<sup>2</sup>];
- iii) donor contribution has declined by 74% since 1995 to US\$74,000, but income from tourism activities has increased substantially to US\$272,000 in 2005 [US\$648/km<sup>2</sup>] (it should be noted that ZAWA does not have any internally-generated commercial tourism income but total non-consumptive income from tourism operators is equivalent to some US\$33/km<sup>2</sup>);
- iv) tourist numbers were not available for previous years but only 1,100 tourists visited in 2005 [0.26 tourists/km<sup>2</sup>/year];
- v) total income is in the region of US\$325,000, but total expenditure US\$234,000 [approximately US\$190/km<sup>2</sup> – assuming a 20% inputs to non-National Park areas. A generally accepted value range for field management costs is US\$50 - 150/km<sup>2</sup>. ZAWA's total field expenditure is equivalent to US\$101/km<sup>2</sup>];
- vi) law enforcement data were only available for 2000 and 2005, but patrols declined from 8 to 6 per month between those years, numbers of arrests declined by 46% to 43 in 2005, but somewhat anomalously firearm recoveries increased by 175% over the period to 14 and snare recoveries increased by 168% to 1,437 in 2005. (Clearly patrols are better at collecting contraband (possibly because patrol days have increased), but poachers are either carrying more contraband each, or they have developed better techniques for evading capture);
- vii) infrastructure investments in roads have increased by 50km with a total maintained distance of 250km [1.68km/km<sup>2</sup>];
- viii) wildlife research projects and surveys have been continued but at a limited level (one or two projects);
- ix) Kasanka works with an increasing number of village groups and projects (10 village action groups, 5 women's groups and 30 natural resource projects in 2005);
- x) Wildlife numbers recorded from roadside counts show highly variable results that have some correlation with annual rainfall. The averaged position for 9 species (elephant, puku, warthog, bush pig, common duiker, bushbuck, waterbuck, reedbuck, and hartebeest) indicates a 2% increase in numbers over the period 1999 to 2005 (which is low in comparison the common rates of natural increase for wild, large mammal populations). Hartebeest numbers have declined in recent years.

While the dataset is insufficient to draw firm conclusions there are more positive indicators than negative ones, suggesting that the PPP arrangement is working and is sufficiently attractive to encourage further investment by the Kasanka Trust. At the very least some data is available and there are some positive management trends – outcomes that most of Zambia's small National Parks cannot match without the benefit of similar resource inputs'.

### Appendix 3: CITES CoP15 proposals and comments

#### 1. LEGAL

ZAMBIA'S PROPOSAL TO CITES	CITES EXPERTS PANEL REPORT ON ZAMBIA	COMMENTS
	The Wildlife Act establishes ZAWA whose 'functions include the establishment, control and management of Game Management Areas (GMAs)'.	The CITES Panel and the CITES Secretariat do not fully appreciate the primacy of customary law and the Lands Act over the Wildlife Act in respect of the rights of customary landholders. ZAWA only has control of the wildlife on customary land, i.e. that part of it designated GMA.

#### 2. RISKS

ZAMBIA'S PROPOSAL TO CITES	CITES EXPERTS PANEL REPORT ON ZAMBIA	COMMENTS
<p>Primary risk to elephant in Zambia is not international trade but conflicts with humans</p> <p>Situations where humans rise against the elephant as a result cannot be tolerated</p> <p>Outside interference on Zambia's decisions are attacks on national sovereignty and are not welcome.</p>	<p>There is no clear relationship between one-off sales and poaching levels.</p> <p>Disappearance of sub-populations cannot be ruled out without meaningful investment.</p> <p>Lower Zambezi decline will affect people currently benefiting from hunting. Levels of poaching need to be reduced.</p> <p>Elephant populations support human livelihoods through the return of hunting revenues.</p> <p>Survival of elephant 'depends on mitigation of elephant conflicts and community benefits and active community involvement and participation in dealing with these problems'.</p>	<p><b>From Wasser et al 2010:</b> Does legal sale influence levels of poaching across Africa?</p> <p>That question could not be resolved, partly because MIKE (Monitoring Illegal Killing of Elephant), created by CITES in 1997 to assess poaching rates on a continental scale, is unable to deliver data relevant to the causality mandate.</p>

### 3. PROTECTION MEASURES

ZAMBIA'S PROPOSAL TO CITES	CITES EXPERTS PANEL REPORT ON ZAMBIA	COMMENTS
<p>2006-2007 reduction of poached animals by 23% and elephant by 62%.</p> <p><i>(These figures are not credible given that between 1994 and 2002 there were 19 shipments of ivory going through Lilongwe in Malawi and bound or Singapore which would have meant about 1,750 elephant were poached annually and handled by one criminal gang – most of it coming from the Luangwa).</i></p>	<p>Anti-poaching sometimes hampered by delays in salaries for CRB scouts (very long delays in some cases, a major factor in converting village scouts into agents of the criminal gangs).</p>	<p><b>From Wasser et al (2010):</b> The petitioning countries are major sources and conduits of Africa's illegal ivory: These large seizures are indicative of organised crime and suggest that Tanzania and Zambia's abilities to address these challenges are considerably compromised.</p> <p>Zambia and Tanzania are among the largest sources of, and transit countries for, Africa's illegal ivory.</p>

### 4. ELEPHANT POPULATION ESTIMATES

ZAMBIA'S PROPOSAL TO CITES	CITES EXPERTS PANEL REPORT ON ZAMBIA	COMMENTS
<p>Estimate of 26,382 elephant arrived at from aerial census using stratified sampling techniques.</p> <p><i>(The African Elephant Status Report of 2007, compiled by the African Elephant Specialist Group, estimated that there were 16,562 elephant in Zambia)<sup>53</sup></i></p> <p><i>(The pro-hunting organisation, The International Council for Game and Wildlife Conservation support Zambia's application for down-listing and for an increase from 20 to 120 elephant for trophy hunting, accepting the ZAWA estimate of its population and its undertaking that it would share 50% of income with local communities; no evidence of such actions being so far recorded.<sup>54</sup> However, were ZAWA to apply for 120</i></p>	<p>First countrywide survey (70%) gave estimate of 26,382 (95% CL)</p> <p>In Bangweulu elephant only seen in Kasanka. <i>(Inaccurate report as they range throughout the south-east)</i></p> <p>Elephant possibly moving into Congo. <i>(They move constantly back and forth hence calls from mid-30's for a transfrontier area)</i></p> <p>Elephant surveys suggest a minimum of 16,562 and maximum of 29,229 so that no clear overall population trend is evident. Carcass ratios were highest in the Lower Zambezi suggesting a declining population. <i>(This should include the GMAs and Open Areas lying to the south of the South Luangwa National Park (Chisomo, West</i></p>	<p><i>(The ZAWA report on the aerial census is not on their website and has not been reviewed and the findings presented.)</i></p> <p><b>Wasser et al 2010:</b> Transparent, scientific peer review of census methods and results is needed for verification.</p> <p>The proportion of elephant mortality attributed to illegal killing (PIKE)—an index of poaching threat - is rising in Zambia, with record levels of 88% in 2008. Monitoring data for Zambia are deficient, with small sample sizes limiting interpretation.</p> <p>MIKE, the system of verification, is currently unable to meet its full mandate, and an analysis integrating data from both MIKE and ETIS is lacking. In the absence of data, precautionary principles should be</p>

<sup>53</sup> URL:<http://www.african-elephant.org/aed/aesr2007.html>. Accessed: 2010-03-11. (Archived by WebCite® at <http://www.webcitation.org/5o93qBbpt>)

<sup>54</sup> URL:<http://www.cic-wildlife.org/index.php?id=510>. Accessed: 2010-03-13. (Archived by WebCite® at <http://www.webcitation.org/5oByZSD33>)



ZAMBIA'S PROPOSAL TO CITES	CITES EXPERTS PANEL REPORT ON ZAMBIA	COMMENTS
<i>elephant hunting licences as an Appendix I country, such application would be allowed by CITES)</i>	<i>Petauke, Luano etc)</i>	applied.

## 5. SAFARI HUNTING

ZAMBIA'S PROPOSAL TO CITES	CITES EXPERTS PANEL REPORT ON ZAMBIA	COMMENTS
<p>1. Hunting will be based on a scientifically based quota system from a given hunting block.</p> <p>2. Quota too low to generate funds for conservation and CBNRM.</p> <p>3. .5% offtake allowed.</p> <p>4. Request an increase of permits to 120 trophy animals.</p> <p><i>(If only 60% of 20 elephant on quota a year are being shot and with a decline in ivory weight and length, this is illogical)</i></p>	<p>Hunting can still be permitted under Appendix 1.</p> <p>Trophy hunting regulated and has minimum size of 15 kg per tusk (33 pounder) and 150 cm per tusk (5 foot).</p> <p>Hunting results: 13 out of 118 tusks less than 33 lbs; and 22 out of 118 less than 5 ft. During 2005 – 2009, 60 shot out of 100 on quota. Quota of 4 in Lower Zambezi; 16 in Lupande GMA.</p> <p>Average tusk declined from 23.1 kg in 2005 to 19.6 kg in 2009. <i>(50 down to 43 pounders)</i></p> <p>Accumulation of 112 trophy tusks from other causes is large increase in year 2000-2004 and should be factored into quota setting.</p> <p>Declining trophy quality suggests need for a precautionary approach such as gradual increase in trophy hunting quota, accompanied by close monitoring of trophy quality.</p>	<p><i>15% by weight and 25% by length of the offtake were illegal– and the fact that only 60% of the 20 animal quota was shot – suggests that the alpha bull age class are in short supply, the result of poaching and control measures with alpha raiding bulls being shot instead of linked cow herds.</i></p> <p><i>No mention is made of what ZAWA did with the PHs and operators who erred in bull trophy selection, or what they will do in the future.</i></p> <p><i>Original quota requested was based on '20 known crop raiders'. This suggests hunters have difficulty in finding shootable bulls even of such low standard. In Lower Zambezi hunters shot known alpha bulls near lodges A 33 pounder is not an elephant trophy of acceptable standard. Setting the standard at 65 pounds would obviate the need for setting quotas and would assure genetic health</i></p> <p><i>The NRCF advised that no sport hunting quotas should be issued until quotas and acceptable standards were in place; failing which the precautionary principle should be followed. The NRCFs advice was ignored, and promises made by the DG ZAWA to consult widely, ignored.</i></p>

## 6. ENHANCEMENT OF RURAL LIVELIHOODS

ZAMBIA'S PROPOSAL TO CITES	CITES EXPERTS PANEL REPORT ON ZAMBIA	COMMENTS
<ul style="list-style-type: none"> <li>All revenue will be used for conservation (incl. monitoring, research and law enforcement) plus development of communities.</li> <li>Economic returns required for local people which will be met by acceptance of proposals</li> <li>Well developed CBNRM in Zambia.</li> <li>African elephant is not a global resource.</li> <li>Prohibition of trade would be detrimental to elephant.</li> <li>Elephant should contribute to the rural economy.</li> <li>CITES should acknowledge the effective conservation measures in Zambia that have led to the recovery of the elephant.</li> <li>Advisable to maintain populations at low densities as it may lead to environment destruction and may contribute to global warming.</li> <li>Elephant must yield economic returns to landholders.</li> <li>A fund is already operational in Zambia where income from hunting is shared on a 50/50 basis. <i>(No proof of this provided)</i></li> </ul>	<p>From 2005-2009 \$6,171,126 disbursed to 56 CRBs. This is 40% of total hunting revenue (\$15,429,920) and \$21,653 to each CRB.</p> <p>Hunting revenues disbursed quarterly upon receipt of reports by from CRBs.</p> <p>CRB Chiawa 2009 received \$50,400. CRB had statement from ZAWA.</p> <p>The CRB allocates 20% to admin; 35% to comm. projects; 45% to wildlife management.</p> <p>Panel believes that funds from ivory sales and hunting 'could help to improve tolerance of elephant by local communities, reducing number shot on control'.</p> <p>Conservation disadvantage of communities 'came to regard non-tolerance of elephant as preferable because they were regarded as a source of income. Adoption of proposal would be positive if funds channelled to conservation and development programmes.</p>	<p><i>The CITES Panel has accepted ZAWA reports at face value. Numerous CRBs are owed money for payment of village scouts, let alone having funds for development. This is corroborated by the Parliamentary Public Accounts Committee report to Parliament 2006 and the Auditor-General's report of 2005, as well as the reports of a number of CRBs</i></p> <p><i>Insufficient funds to do this.</i></p> <p><i>CBNRM is notable for its failure in Zambia.</i></p> <p><i>Panel fails to go beyond the discredited 'benefits' issue.</i></p>

## 7. SPECIES MANAGEMENT

ZAMBIA'S PROPOSAL TO CITES	CITES EXPERTS PANEL REPORT ON ZAMBIA	COMMENTS
<ul style="list-style-type: none"> <li>Protected areas are managed to ensure minimal disturbance and the provision of security.</li> <li>Secure the goodwill of communities through problem animal control.</li> <li>In 2003 ZAWA formulated an elephant management policy.</li> </ul>		<ul style="list-style-type: none"> <li>Most National Parks – let alone GMAs - receive no management or protection.</li> <li>Communities receive little protection or compensation.</li> </ul>

8. HISTORY

ZAMBIA'S PROPOSAL TO CITES	CITES SECRETARIAT REPORT ON ZAMBIA	COMMENTS
<p>Elephant reduced by 'disproportionate hunting' during the colonial era, as well as population increase and agricultural activities.</p> <p>Compounded by falling copper prices and rising oil prices forcing people to poach.</p> <p><i>(This is the politically correct and historically incorrect answer)</i></p>	<p>Secretariat writes: at 1900 country had a small elephant population estimated to be 12,000 by mid 1930's; and then 'increased steadily' until mid 1970 followed by poaching. Suggests population higher than it was three generations ago (1934).</p> <p><i>(Selective reading of Pitman report of 1934. In 1935 in Northern Rhodesia, 4,600 were shot to protect villages (plus 573 killed on licence) – a total of 5,173; the same amount again wounded and 60 -70% or so dying later. Some 8, 000 elephant, all males would have been shot, the sex-selection policy since 1917. This would suggest a very much larger population ( source: The Journal of the Society for the Preservation of the Wild Fauna of the Empire, xxxiii(1938), pp.44).</i></p>	<p><i>There is no evidence of 'disproportionate hunting during the British Colonial period. The elephant were reduced during the pre-British period i.e. during the Bantu colonial period preceding it.</i></p> <p><i>De-colonisation, the closure of safari hunting in Kenya, the implementation of the Watershed Speech of June 1975 and the weakening of the power of the chiefs, the destruction of the Native Authorities and the removal of Europeans from the Game Department in Zambia, the presence of a ready market in the Chinese TAZARA workers, these are the factors that led to the killing fields.</i></p>

9. Transfrontier Conservation Areas (TFCAs) and contiguous populations across borders

ZAMBIA'S PROPOSAL TO CITES	CITES EXPERTS PANEL REPORT ON ZAMBIA	COMMENTS
<p>Sub-populations contiguous with populations in neighbouring countries, hence support for TFCAs.</p> <p><i>(Why were the 'owners' of these sub-populations, i.e. the adjoining countries, not consulted about Zambia's wish to down-list? Note Congo adjoining Sumbu and Kasanka NPs; and Tete Province in Mozambique, and Zimbabwe).</i></p>		<p><b>Wasser et al 2010:</b> CITES decisions should be based not only on national trends in population size and illegal killing but also on trends for sub-populations within ecological aggregations (some of which span national boundaries).</p>



**CHAPTER 3:**  
**SAFARI HUNTING AND WILDLIFE BASED TOURISM**

## ACRONYMS

<b>ADMADDE</b>	Administrative Management Design for Game Management Areas
<b>BSA Company</b>	British South Africa Chartered Company
<b>CBD</b>	Convention on Biological Diversity
<b>CBO</b>	Community-Based Organisation
<b>CCA</b>	Community Conservation Area
<b>CEE Act</b>	Citizen Economic Empowerment Act
<b>CITES</b>	Convention on International Trade in Endangered Species of Fauna and Flora
<b>CRB</b>	Community Resource Board
<b>D-G</b>	Director General ZAWA
<b>GDP</b>	Gross Domestic Product
<b>GEF</b>	Global Environment Fund
<b>GMA</b>	Game Management Area
<b>GRZ</b>	Government of Zambia
<b>HCA</b>	Hunting Concession Agreement
<b>HQ</b>	Headquarters
<b>IATA</b>	International Air Transport Association
<b>ICS</b>	International Conservation Services
<b>JFMA</b>	Joint Forest Management Agreement
<b>LR</b>	Leopard Ridge
<b>MMD</b>	Movement for Multi-Party Democracy
<b>MoU</b>	Memorandum of Understanding
<b>MTENR</b>	Ministry of Tourism, Environment and Natural Resources
<b>NAMAC</b>	National Movement Against Corruption
<b>NGO</b>	Non-Governmental Organisation
<b>NORAD</b>	Norwegian Agency for Development-Cooperation
<b>NP</b>	National Park
<b>NPE</b>	National Policy on Environment
<b>NPWS</b>	National Park and Wildlife Service
<b>NRCF</b>	Natural Resources Consultative Forum
<b>PH</b>	Professional Hunter
<b>PPP</b>	Public Private Partnership
<b>PWE</b>	Private Wildlife Estate
<b>REMNPAS</b>	Reclassification and Effective Management of the National Protected Areas System
<b>SEED</b>	Support for Economic Expansion and Diversification
<b>SHOAZ</b>	Safari Hunting Operators Association of Zambia
<b>SLAMU</b>	South Luangwa Management Unit/ZAWA
<b>TCA</b>	Tourism Concession Agreement
<b>TCZ</b>	Tourism Council of Zambia
<b>UNDP</b>	United Nations Development Programme
<b>WLPAZ</b>	Wildlife Producers Association of Zambia
<b>WPO</b>	Wildlife Police Officer
<b>WWF</b>	World Wildlife Fund for Nature
<b>ZAWA</b>	Zambia Wildlife Authority
<b>ZDA</b>	Zambia Development Agency
<b>ZNTB</b>	Zambia National Tourism Board

## **PART I: Safari hunting**

Professional hunting, one of the oldest Zambian industries, started in the 1890's when native African hunters, often members of elite hunting guilds - the *aChiwinda* - guided the occasional explorer and big-game hunters in pursuit of elephant and other game (Melland 1938), (Manning 2006a). Although native Zambians rarely lead safaris as professional hunters, they still hunt on licence for themselves, unlike in Kenya where both safari hunting and hunting by native Kenyans was banned in 1977 (Steinhart 2006, p.1).

From 1902, some hunters, mainly British settlers and ex-members of the British South Africa Chartered Company (BSA Company), began hunting safari operations (Hughes 1933), (Lyell 1910), (Manning 1995), (MacKenzie 1997, p.136). This continued between the wars. In 1949, the Government Conducted Hunting Scheme was started by the Game Department in the Luangwa and as part of the publicity drive a booklet was produced (Federal Tourist Office 1950). Norman Carr was placed in charge and was joined by Bert Schultz, and later in 1950 by Barry Shenton and a contractor, Peter Hankin, with 50% of net income accruing to the Native Authority. But, perhaps inevitably, conservation gave way to protection and nationalisation, when, late in 1950, Nsefu became a special Game Reserve, in 1954 a full Game Reserve, and in 1972 was joined with the South Luangwa Game Reserve to form the present South Luangwa National Park. To this was added the Luambe Game Reserve, also once part of the scheme. The significance of the two Luangwa-based operations continues to be felt today as numerous efforts are made across Zambia and Africa to have wildlife provide earnings for traditional communities. Unfortunately, shortly after they attained protected status, benefits for the former residents ceased.

### **1 HUNTING CONCESSIONS**

In 1962, the Government Controlled Hunting scheme run by the Game Department was closed and then awarded to Luangwa Safaris under Peter Hankin and Norman Carr. Shortly after, Zambia Safaris began operations, founded by Ron Kidson and Keith Rouse. After 1975, with the National Parks and Wildlife Service (NPWS) now Zambianised, the patronage system came into force and a plethora of companies were given concessions, a number of them to businessmen attracted by the opportunity to obtain foreign exchange.

In 1991 they were reduced to twenty-one outfitters, the patronage system gaining impetus as a result of the Chiluba MMD regime coming in to power. In the years 1992-1995, tenders for the first four-year concessions were held, followed in 1995 for the 1996-2000 concessionary period. Corruption in the 1995 tenders brought the industry to a standstill and affected Administrative Management Design for Game Management Areas (ADMAGE) and NPWS operations (Clarke 2000). In that year a safari company was paid money in very irregular circumstances. It started with the refund of foreign currency payments by a company from NPWS. The safari company later sued Government for non-payment on account of some misinterpreted policy provision at the time for foreign currency transactions. Though Government won the case, it later paid damages of US\$2.32 million against the court ruling. The amount appears in the Auditor-General's report for 1995 as an expenditure loss (Djokotoe & Chama 2007, p.68). To put this in perspective, in the period 2003-2005, those of the 29 safari company concessionaires holding one of the twelve Prime concessions paid \$32,500 each for them - other categories paying smaller fees - and licence fees paid per hunting safari were usually no more than \$10,000 per hunting client. A million dollars would therefore be the most that ZAWA could expect to earn, a large slice going to the CRBs. Thus, in 1995, the amount of US\$2.32 million in damages represents more than ZAWA's annual income from hunting, and a far greater percentage of what the CRBs - acting on behalf of the villagers - could expect.

## 1.1 The first 25 concessions: 2003 – 2012 (Appendix 1)

In 2001, President Chiluba banned safari hunting. In 2002, the Minister cancelled the results of the new concessions won by tender and awarded them to those he favoured, ‘administratively’. This led to court injunctions by the illegally denied operators, with the actions of the Minister overturned in August 2003, one of these being the removal of the prime hunting concession, Nyampala, obtained by Rashid Randera, and given back to Leopard Ridge Safaris from whom it had illegally been removed. This event was to have repercussions a few years later with the former Nyampala concessionaire embarking on a campaign to win it back.

In 2003 only 30% of the safari quota was utilised, this in part due to the fact that six Prime areas of the twelve were not hunted due to the litigation – although ZAWA, reporting to the Public Accounts Committee in November 2006, stated that no hunting had taken place until 2004 – given as the reason for the reduced income based on their projections that 60% of the quota would be shot. The twenty-five concessions awarded by tender in January of 2003 resulted in some chiefs banning the issue of District Game Licences in their areas.<sup>55</sup> The twenty-five blocks (twelve Prime, seven Secondary and six Understocked areas), were taken up by nineteen operators for ten years. Given that 50% of the top-earning Prime areas were under court injunction for the season, and that little or no income was expected from Understocked areas for five years, hunting income in 2003 had to rely on six Prime and six Secondary areas i.e. 50% of the blocks awarded. Moreover, given the late date of the awards, insufficient time was available to market hunts, placing enormous pressure on the operators, or on those to whom they had sub-leased.

In 2005, ZAWA reported to Parliament again that there was a recovery in hunting quota utilisation and that it was expected that revenue collection would improve, but that the appreciation of the kwacha was the main contributor to the negative variance of K2,095 million registered.<sup>56</sup>

Two wetland areas, Kafue and Bangweulu, were classified as open access areas in which no particular operator held concessionary rights; quite understandable given that they were the only areas in Zambia where kafue and black lechwe were to be found.

In the Chiawa GMA, one part of which is a major tourism area with an array of lodge sites on the Zambezi, and with Chieftainess Chiawa being a member of the ZAWA Board, ZAWA allowed hunting - including the shooting of alpha bull elephant close to the lodges, animals of massive sustained value to non-consumptive tourism.

### 1.1.1 Hunting Concession Agreements (HCAs)

ZAWA is authorised by the Wildlife Act of 1998 to grant hunting concessions on that part of customary land designated as a Game Management Area, in agreement and in partnership with the total number of villages, their residents and traditional rulers of the GMA (defined by ZAWA collectively as Local Communities), or their authorised representative. It is a tripartite partnership agreement between ZAWA, the community resident in the GMA and the safari operator, each contributing certain services and resources. In practice the signature of the Community Resource Board (CRB) Chairman - as the representative of the community - is obtained, and in the case of there being more than one community, one CRBs assent is considered by ZAWA sufficient, even though the proxy signature of other CRBs may not necessarily have been obtained.

The document laying out the Hunting Concession Agreement (HCA), which the industry signed under some duress due to its highly contentious content and the pressure exerted by ZAWA (the Financial

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<sup>55</sup> Chiefs Chitingulu and Nabwalya et al. 16 July 2002. Letter to the Minister of Tourism and Natural Resources.

<sup>56</sup> Report of the Public Accounts Committee on the report of the Auditor-General for 2005 on the accounts of parastatal bodies for the first session of the Tenth National Assembly appointed by the resolution of the House on 10th November 2006.

Controller, Tom Mushinge) to sign it immediately, has some 75 conditions and strictures, 70 of which are in favour of ZAWA and six in favour of the safari operator. Some responsibility for law enforcement – as a support to ZAWA and the Village Scouts - is awarded to the operator, in addition to his pledges, although the Wildlife Act places this statutory responsibility squarely on ZAWA. This highly inequitable document does not best serve the interests of the industry, the customary community, wildlife, or ZAWA, the latter having near total control of the partnership through the lease document and exhibiting an increasing penchant for the introduction of administrative diktats and illegal charges, and with the operator having to carry out a vague requirement to assist ZAWA in the protection of wildlife, a simply massive financial requirement were ZAWA to insist on the letter of the law being enforced.

A serious omission from the agreement is a mechanism to reduce or increase the number of Classical and Mini hunts based on obviously fluctuating wildlife populations. These populations should be confirmed by either measurable scientific data, or should this be lacking, by the imposition of the precautionary principle as provided for in the Biodiversity Convention – to which Zambia is signatory - requiring a reduction of the ‘quota’, thus perhaps necessitating the downgrading of hunting concessions categorised by ZAWA as Prime, Secondary, Understocked or Depleted. The HCA agreement has proven to be of little worth, ZAWA rarely honouring what is laid out in the HCA for settling disputes i.e. good faith negotiations, mediation and arbitration. CRBs who do not agree with ZAWA (Luembe) are removed, safari concessions are removed summarily (Ed Smythe, Leopard Ridge, Mbeza, etc.) for spurious reasons, and the conditions of the original HCA are not held to despite changes in the state of the concession and populations of game species.

## 1.2 The next 13 concessions: 2005 – 2010 (Appendix 2)

Despite ZAWA receiving two proposals in 2003/2004: 1) for a public-private partnership (PPP) with ZAWA for the management of depleted and unallocated GMAs that would involve local communities as partners (Manning 2004), and 2) for a programme for the building of CRB capacity (Manning & Shenton 2004); ZAWA declined any interest, and at the end of 2004 issued tenders for renewable concessionary leases - eleven Secondary areas for five years and two Understocked areas on fifteen year leases (see table below); these included the Kafue & Bangweulu wetlands, normally open access areas to all operators. A very short time was given to bidders, so that the author’s attempt to bring in the World Wildlife Fund (WWF) as a partner to represent a 40% shareholding in concessions by customary communities, could not be put together in time; a wonderful opportunity to empower customary communities thus lost. The ramifications of this tender were as follows:

- i) Some existing concessions were subdivided and given the same quota in 2005 as the original, larger concession.
- ii) The Bangweulu and Kafue concessions became a species-specific monopoly under single concessionaire companies controlled by the Indian community, thought to be the result of the Nyampala concession being lost to Rashid Randera.
- iii) Quotas were issued for animals that were either not available, or with numbers that were inflated.
- iv) No consultation was carried out with the private sector or local communities who, under the Lands Act of 1995, and under customary law, are the *de facto* landowners.
- v) Customary community rights to harvest animals – enshrined in the Wildlife Act, were ignored.

Had most of these areas been viable, they would have long been hunted and have contributed to the economy and to the residents of GMAs. The removal of Bangweulu and the Kafue areas and their awarding to single operators could not be justified; nor the awarding of Bangweulu to an existing safari operator, in direct contravention of agreements entered into by the Department of National Parks & Wildlife in 1972 with international and local donors, and with the conditions laid out in the tender



(Grimsdell & Bell 1975). It also created a monopoly; and no mechanism was put in place to give villagers a shareholding, a massive opportunity lost for their empowerment and for the restitution of ancient traditional rights over natural resources, and in the case of Bangweulu, to enfranchise the remnants of an aboriginal people, the Twa. The irony is that Government had pushed for the implementation of an Act that would allow the rapid indigenisation of existing businesses - the Citizen Economic Empowerment Act (CEE Act) - yet denying customary residents a shareholding in an enterprise being conducted on their land, tending to support the conclusion that the Act was intended to enrich a small group of the politically connected elite (Manning 2007a).

It is accepted by those involved professionally with the conservation of the biodiversity that in order to maintain ecological effectiveness, it is necessary to maintain game population densities and the distribution of strongly interactive species above a certain threshold. It is also accepted that those having the mandate to manage wildlife - together with all other stakeholders involved with wildlife - be obligated to adhere to a doctrine of best conservation practices based on the best science (Soulé et al. 2005). Hunting blocks should therefore be classified according to their wildlife threshold level. However, the classification of hunting blocks into Prime, Secondary, Understocked and Depleted areas is based solely on the number of Classical and Mini hunts which ZAWA consider able to be conducted, based on a highly flawed quota system. There is no category describing an area able to provide five or more Classical hunts but no Mini safaris (buffalo hunts), other than in the Kafue where sable now take the place of buffalo as the main Mini-safari selling point. In the West Petauke GMA – classified as Prime - buffalo populations cannot sustain the number of Mini hunts required. It is likely that many of Zambia's other hunting blocks, which have fallen below the critical threshold, cannot cater for 21 day classical safaris and therefore require similar downgrading. In a Secondary area such as Sichifula, now seriously depleted, wildlife numbers have dropped below the threshold necessary to support even one classical safari, though in 2006, two 21 days safaris had been booked consecutively and Professional hunters (PHs) started shooting animals on game ranches and then transporting them in as lion bait. However, as predators are regularly poisoned there – a practice that appears to be on the increase nationally - legal baiting is not often successful. The obvious conclusion is that the categorisation criteria need drastic revision, or scrapping.

### **1.3 Proposed Protected Area Hunting Concessions**

Under the Global Environment Fund (GEF)/ United Nations Development Programme (UNDP) funded project currently underway: 'The Reclassification and Effective Management of the National Protected Area System for Zambia' (REMNPAS), Government intended, over the medium term, to pass new legislation to exploit wildlife by creating two new categories of protected areas:

- i) Community Conservation Areas (CCA) - under the near total control of local communities for tourism development.
- ii) Safari Hunting Areas - managed by ZAWA for their own benefit, where safari hunting will be allowed; to occur in part or all of protected areas, and requiring a change in their legal status in order to do so.

Two CCAs are being established in Bangweulu and Chiawa, a move which appears to be a thinly veiled attempt to expand ZAWA powers over GMAs. However, the original proposal to establish Safari Hunting Areas under ZAWA, has been cancelled (J Robinson 2007, personal communication) after considerable criticism.

## **2 QUOTAS, SPECIES STATUS AND MBEZA SAFARIS**

ZAWA in its early years accepted that quotas may be defined as the number of animals which may be utilised in a year without biologically destroying or reducing the wildlife population. In scientific terms, sustainable offtake quotas should be based on scientific censuses having high confidence limits

in which a total population figure is arrived at, the mortality rates quantified, and a sustained yield offtake set, i.e. a quota. However, other than in the Bangweulu and parts of the Kafue and Barotse wetland systems, it is scientifically and economically not feasible to set scientific quotas in Zambia for animals other than elephant; rather a 'good farmer' harvesting approach is required, based on a set of agreed age and trophy standards, to be monitored at the end of each hunting season and then adjusted for the next season; thus ZAWA quotas should correctly be termed allocations. This common-sense approach to setting and monitoring offtakes is highlighted by a seminal paper on the trophy hunting of lion, which confirms that quota size is irrelevant, provided only older males are shot (Whitman et al. 2004) – though lion hunting offtakes and management is a complicated issue. This holds true for all species, but great care must be taken to avoid shooting animals showing a precocious development of body size, horn or mane, as this will affect the evolutionary development of the species as a whole by precluding the impregnation of females by these superior males. For instance, the excessive shooting of young buffalo herd males with wide horns but soft bosses, as takes place in the Selous Game Reserve and its environs will, over time, adversely affect the population as a whole.

## 2.1 2003

When hunting finally resumed in 2003, the offtake quotas provided by ZAWA in the first year of the new ten-year leases were, according to them, influenced by a number of factors. This in addition to the pre-2002 quotas; these were impacted by the feedback from resident and established citizen hunting returns in 2002, but chiefly, by the needs of the lease agreement and the 2003 ZAWA financial budget so as '...to ensure that numbers of species provided meet the minimum requirements for both classical and mini safaris', concessionaires being required to meet these on pain of the loss of a \$50,000 surety deposit, or the cancellation of their concessionary agreement. Although ZAWA admitted that wildlife had decreased considerably due to poaching and that few GMAs had been censused, they gave a contradictory justification for a quota increase of between 5 and 15% based on 'the abundant state of the species' and also, on the assumption that:

- i) The hunting blocks were successfully allocated to bidding safari companies.
- ii) Logistics for law enforcement are made available.
- iii) Funds were secured for aerial counts and monitoring.
- iv) That as a result of the above animal populations will increase or stabilise (ZAWA 2003, p. 3).

## 2.2 2004

The 2004 ZAWA quota report stated that some hunting blocks had been subdivided and the quotas increased as 'each hunting block must meet the requirements in terms of the minimum number of classical and mini safaris depending on its status'. It further stated that because all classical and mini safaris require a buffalo, 'This in practice entails that the minimum number of buffaloes for a prime hunting block should be 12 and a secondary block, eight. Thus quotas have been prepared and adjusted with this situation in mind' (ZAWA 2004, p. 4). Clearly, quotas were therefore massaged to meet the safari package requirements of Prime or Secondary areas in order for ZAWA to exact the maximum income. In 2004, with all areas operating, 50% of the quota was utilised.

At the end of 2004, at the request of the Luembe Conservancy Trust, Gamefields Ltd purchased Mbeza Safaris from its owners, the Mehta brothers. The HCA they had signed on 17 February 2003 had been co-signed by ZAWA and the Nyalugwe CRB, and not by the Luembe CRB. As Luembe was far larger in area than Nyalugwe, holding the majority of the quota, this was an anomalous and undemocratic decision by the Financial Director of ZAWA, T. Mushinge. To rectify matters, Gamefields ensured that the Luembe CRB gave their blessing to the HCA - duly signing an agreement, countersigned by the chief, on 22 December 2004 – to the effect that Mbeza Safaris could legally operate in the chiefdom.

### 2.3 2005

The 2005 ZAWA quota report stated that further areas were subdivided, ZAWA admitting that overall quotas were increased 'to meet the requirements in terms of the minimum number of classical and mini safaris' (ZAWA 2005). This made clear that quotas were to a large extent a function of meeting the lease requirements, and by extension, the meeting of ZAWA's budgetary requirements.

The quotas were increased from 2003 – in West Petauke by 36% - despite the admission that in Zambia game stocks of some species had been reduced drastically by poaching, particularly, the buffalo of the lower Kafue. In addition, in the south Luano concession bordering on West Petauke and sharing the same boundary, the Lunsemfwa River, a hippo quota was issued despite the fact that they had been all but exterminated there.

Accompanied by the Luembe CRB Chairman of Natural Resources, the author conducted a 21 day classical hunting safari over much of the Luembe part of West Petauke in July 2005, confirming that the quotas bore little relation to game populations, in particular with regard to hippo and buffalo, both keystone species in the operation of lion and leopard safaris and in the operation of buffalo Mini safaris. The hippo population had only a few alpha males out of a population sample of 320 in the stretch of the Luangwa spanning two game scout camps and were almost totally shot out in both the Lunsemfwa and Lukushashi Rivers, evidence of the issuing of unrealistic quotas, overshooting by local hunters and the operation of a hippo ivory and bushmeat poaching ring, as well as the issue by ZAWA of hippo licences to trainee Wildlife Scouts for shooting practise. The buffalo population had been severely reduced by the heavy infiltration of the bushmeat trade, as well as an obvious shortage of adult bulls due to offtakes by citizen hunters and past hunting safari operations. Furthermore, little anti-poaching effort by ZAWA and Village Scouts was in evidence, coupled with the operation of a poaching ring by the same (Manning 2007b).<sup>57</sup> In the Mlembo River area within the West Petauke GMA, game carcasses were being poisoned so as to kill vultures for the Malawian muti trade, the large predators being severely affected (B Phiri 205, personal communication, July).

Nationally, the quotas issued for the new hunting blocks given out in 2005 in many cases bore little relation to the resource, most areas being given four lion. In Bangweulu, a quota of eighty black lechwe is not unreasonable - given their duel lekking system (Manning 1974) - but a quota of forty-five sitatunga when feedback from operators reveal very poor hunting success rates and where there is clear evidence of over-use, is irresponsible (Manning 1983). In addition, there can be no grounds for placing buffalo (eight) and reedbuck on quota, nor for issuing a quota of twenty oribi for safari hunting and a further six made available for residents. Apart from those who hunt without licences, resident hunters do not fill in their licences until it is absolutely necessary, greatly adding to the illegal offtake. Having Wildlife Police Officers (WPOs) – a retrograde description - who accompany safari hunting parties, is no deterrent, as they are easily bribed, followed by a situation where a licence to kill is given.

In 2005, no figure for the utilisation of the national quota was published in the 2006 ZAWA quota report, though it is likely not to have exceeded 60% overall, but probably near 100% of keystone species were accounted for (though not lion), though there is no record of the age classes.

ZAWA was reported to have introduced performance bonds based on mandatory utilisation of 75% of the quotas, though this was only implemented in the case of Mbeza Safaris (Simasiku et al 2008). Three companies (of some twenty-eight to thirty-three in total for Zambia), had been adjudged by ZAWA to have 'underachieved' for 2005 (T Mushingi 2006, personal communication, June) - this term being used by the responsible ZAWA officers to describe the failure of operators to carry out the requisite number of hunts for their particular area. It was therefore first thought that the small percentage of 'underachievers', given the state of 'quotas' and the fact that many areas have wildlife

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<sup>57</sup> I.P.A. Manning, 30 January 2006. Letter to the Research Director, ZAWA HQ.

stocks below a critical threshold, could be explained by the failure of those operators to make use of a loophole in ‘underachievement’ assessment: i.e. as long as an operator provides a Tourist’s Import and/or Export Permit (The Firearms Act: Regulation 4 (2)) – a simple application requiring submission of a client’s address, passport and firearm details, ZAWA will issue the mandatory Non-Resident Hunting Permit and bird licence (total cost of \$250) which allows a client to hunt in a specified hunting block and for a specified period; and as long as the ZAWA Form 14 trophy returns are made to ZAWA showing that a few animals were shot, the safari would not be counted as an ‘underachievement’ – though it is doubtful that even this is necessary. However, one operator assured the author that any attempt by ZAWA to exact ‘underachievement’ fines from them had simply been ignored (Y Zumla 2006, personal communication). Legal council had also advised Mbeza that such a fine was illegal. All attempts so far to recover this money has been in vain.

One of the problems that has added to the general insecurity of the hunting industry is the poor security of tenure of hunting leases. As many GMAs have hunting as the only investment and employment activity, it was important that action should be taken to improve the situation by making use of the National Policy on Environment (NPE). The author therefore drew up a concept note and sent this out to the Natural Resources Consultative Forum (NRCF), to ZAWA and other stakeholders on 18 July 2006. The concept note elicited no interest from Government or the hunting industry itself.

A further instance of brazen harvesting officialdom was the insistence of ZAWA, supported by the Immigration Department and the Professional Hunters Association, of charging Mbeza professional hunters who held investment certificates and self-employed permits the non-resident professional hunter licence fees of \$6,000 each, instead of the \$600 resident fee. ZAWA had for some time based its professional hunters licence fee structure on two categories, ‘non-resident’ and ‘established resident’, with the latter being defined by the Immigration and Deportation Act No. 25 of 1997, an Act amended by Parliament on the 11<sup>th</sup> November 1997, and section 33 - which provided for such a category, being repealed. It was clear that the use of this term was without legal standing and any extraction of fees based on it therefore illegal.<sup>58</sup> ZAWA refused to recognise – even though so advised by Immigration – that the resident directors and PHs were resident in Zambia. This position was supported by the Zambia Development Agency (ZDA), who had issued the investment certificate to Mbeza Safaris in the first place.

Towards the end of the 2005 hunting season, The Post newspaper quoted the then Director-General (D-G) of ZAWA, Hapenga Kabeta, as saying that seven safari companies, including Mbeza Safaris, had escaped criminal proceedings for overshooting their quotas. No proof of this allegation was ever provided (Manning 2007c).

## 2.4 2006

The quotas for 2006 were issued as a result of quota meetings held by ZAWA and its partners in the middle of the 2005 hunting season. In the case of the West Petauke block, the results of the workshop held between the partners (CRBs and Mbeza) and ZAWA’s Norwegian Agency for Development-Cooperation’s (NORAD) funded South Luangwa Management Unit (SLAMU) – the latter with a poor understanding of setting sustainable quotas - were not reproduced in the official quota issued to the partners on 5 December 2005 - buffalo numbers being inflated by 50%, no mention being made of the female hippo quota agreed to, nor of any other agreed changes. Contrary to agreements entered into at the 2006 quota setting meeting held in 2005, the 2006 quotas included four buffalo for resident hunters in the GMA, one later being poached by a Village Scout who was never prosecuted.

In 2006, no effort was made to institute a system designed to ensure sustainable offtakes, despite numerous recommendations being made to ZAWA in workshops and meetings. In the Kafinda GMA,

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<sup>58</sup> I.P.A. Manning. 22 June 2005. Letter to the Director-General, Lewis Saiwana, The Zambia Wildlife Authority, Chilanga.

classified as an Understocked area where little if anything under the lease should be shot, an area surrounding the Kasanka National Park, a hunting quota of two sable and two buffalo were awarded to an operator despite the fact that the Kasanka has no more than a dozen buffalo – some of the latter translocated there by the Kasanka Trust - and despite the fact that there are very few sable in the area. This offtake posed a considerable threat to the Kasanka and to the PPP established with ZAWA for the management of the Park (D Lloyd 2007, personal communication), although ZAWA stated that quotas for West Zambezi Lower and Kafinda had been reintroduced based on recommendations from the field (ZAWA 2006). ZAWA later cancelled the quota for buffalo, but not for sable.

The 2006 report also stated that the lion quota was reduced due to concerns regarding the availability of trophy animals: this again signalled ZAWA’s failure to understand that if the selection for six year old plus lion was enforced - provided management was carried out at the pride level - quotas become meaningless. ZAWA’s explanation that as a result of aerial surveys population levels of such species as impala, buffalo, puku and warthog had remained stable, could not be taken seriously, being contradicted by their statement in the same paragraph that ‘buffalo numbers have declined in some of the GMAs...’. Very little supporting data was included in the report to substantiate any claims or conclusions. The statement decreeing the minimum number of buffalo required for a Prime block caused ZAWA in 2005 to ignore the joint request of Mbeza Safaris and the CRBs of Luembe and Nyalugwe to lower buffalo quotas for 2006 in the West Petauke concession, and to dismiss Mbeza’s decision to cut the number of its Classical safaris and all its Mini safaris due to the depletion of wildlife stocks.

The terms of the 2003-2012 leases required – on forfeiture of a security bond of \$50,000, that operators generate gross revenues per client equal to the gross projected income as laid out in their tender bid, and in the case of a Prime area, that they conduct a minimum of 5 Classical safaris (lion/leopard/buffalo hunts) and seven Mini safaris (buffalo hunts).

The total theoretical, projected national gross trophy earnings for 2005 – based on the Mbeza ‘underachievement’ fine and extrapolated for Zambia’s concessions as a whole - is shown in the table following:

<b>TYPE OF SAFARI</b>	<b>UNIT RETURN</b>	<b>NUMBER OF HUNTS</b>	<b>TOTAL</b>
Classical	\$8,435	96	809,760
Mini	\$3,670	144	528,480
			<b>\$1,338,240</b>

This amount is more than the \$1.1 million earned from hunting in the same year, up from \$700K in 2004.<sup>59</sup> It was therefore clear, that were the industry as a whole to be treated similarly to Mbeza Safaris, a large sum of money would be earned by ZAWA. However, although an increase in income is highly desirable; such a move would have to be supported by a hunting industry that is scientifically managed by a properly regulated organisation where every effort is made to encourage its viability.

## 2.5 2007

A quota meeting, in August of 2006, called by ZAWA for the 2007 season, invited a Mbeza company director to attend whilst he was busy hunting with a client. It was also held without the Luembe CRB Chairman being present. The resulting quotas were again inflated to fit the requirements of the area’s classification as a Prime hunting area.

In terms of undertakings given by ZAWA, its Board and the Ministry of Tourism, Environment and Natural Resources (MTENR) to the general tripartite partnership meeting (operators, communities and ZAWA) on 3 January 2007 at Mulungushi Hall, Lusaka - confirmed by the Chairman of the Board and

<sup>59</sup> Director-General ZAWA. Feb 2, 2006. Statement to Xinhua via COMTEX.

the D-G at separate meetings with two steering committee members of the Natural Resources Consultative Forum (NRCF) on 15 January - it was agreed that full consultative meetings would in future take place between the tripartite partners and other stakeholders.

Shortly after the Mulungushi meeting, three members of the Safari Hunting Operators Association of Zambia (SHOAZ) - who represent 50% of the safari hunting operators of Zambia – met with ZAWA to discuss quotas and licencing, no CRB representatives being present. ZAWA had issued a statement prior to this meeting proclaiming that in future 75% of the issued hunting quota would have to be paid for in advance. Their position was not arrived at by any consultation with the stakeholders. The results of the SHOAZ/ZAWA meeting revealed the contortions of logic to which ZAWA were prone when scientific wildlife management collided with the illogical Hunting Concession Agreement (HCA), created in order to extract maximum rentals. The main issues discussed were as follows:

### **2.5.1 Quota Utilisation**

ZAWA was concerned that the majority of outfitters utilised under 50% of their quota, saying that as operators had a hand in setting quotas, they should be able to take off a large part of it, something justified by clause 7.1(i) of the lease agreement. While they accepted that their initial proposal of 75% was not realistic they also rejected SHOAZ representatives' suggestion of 40%, concluding that they considered 60% to be a reasonable target to work towards.<sup>60</sup>

The meeting agreed that the underutilisation problem was due to unrealistic quotas being allocated to some hunting blocks and that this should initially be attended to prior to a benchmark being set. To achieve this ZAWA requested the representatives contact all outfitters and have them submit a proposed quota based on a guaranteed utilisation of 60%. SHOAZ emphasised that while there was no minimum quota utilisation requirement in the HCA lease agreements or the ZAWA Act, the Act was in the process of being rewritten and would include a minimum quota utilisation clause. It was therefore important, they stated, that the industry try and establish a realistic benchmark rather than to have a figure imposed on them by new legislation.

It was clear from the minutes of this meeting that ZAWA had admitted that quotas were greatly inflated and that many hunting concessions did not comply with the arbitrary classification given to them, one laid out in the HCA and requiring certain fees and number of Classical and Mini hunts to be conducted. It was also apparent that they had no clear understanding of the quota setting process attempted by ZAWA field personnel, nor of the scientific rationale behind quotas, viewing them rather as an allocation that the operators had somehow negotiated. In Mbeza Safaris' case, quotas had been agreed to in 2005 for 2006 (greatly reduced on the insistence of Mbeza), and then when they were issued by ZAWA Headquarters (HQ), the agreed changes had been ignored. In addition, agreements arrived at on resident hunters' quotas were also not honoured; and in 2006 (for 2007), quotas were set without an Mbeza representative or the CRB being present. The reason for the low utilisation of the quota was solely due to the unrealistic quotas set and allowed by ZAWA, noticeably under the second round of leases issued in 2005 which took in a lot of marginal areas. Quotas were inflated by ZAWA in order to fit the number and type of hunt required in the tender, which in turn attracted a certain level of financial commitment. Furthermore, apropos 7.1 (1) of the Hunting Agreement – the surety charge apart, it was in fact being followed. ZAWA and SHOAZ appeared not to accept that if a real, sustainable quota was to be arrived at, this could only be ascertained by a monitoring exercise of trophy size/age classes at the season's end, with adjustments then made to the quota.

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<sup>60</sup> Tanzania, which has a safari industry far greater than that of Zambia, at the time, adopted a 40% guaranteed payment offtake on agreed quotas, with low concession fees of around \$10,000.

### 2.5.2 *Licencing*

SHOAZ accepted ZAWA’s decision to revamp the licencing system, the most notable change being that animals of a client’s choice - and within the quota - would be purchased by outfitters from ZAWA prior to hunting; with a non-resident hunting licence for each animal bought and issued in the name of the safari company and valid for the whole hunting season. Here ZAWA and SHOAZ had accepted a major change to the licencing system without consultation with the stakeholders and without a projection of the possible impact. An alarming decision was the purchase of animals prior to a hunt, which would mean that young animals, or poor trophy animals, would be killed. The meeting clearly contradicted the undertaking given by the ZAWA Board Chairman to the NRCF that income generation would in future be subservient to conservation management and biological planning.

In 2007 no quota was issued to the West Petauke customary community whatsoever, in contrast to other Prime areas. However, citizens and established residents of Zambia (i.e. Zambians not living in the chiefdoms) were awarded 38 animals, including nine hippo.

### 2.6 Summary of Zambia’s Safari Quotas: 2003 - 2007

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Total safari quota	3360	4420	4350	4622	4539
Lion	112	130	122	91	99
Leopard	108	135	123	110	117
Buffalo	240	358	321	343	341

From the table recording the total safari quotas and that of the keystone species that support Classical and Mini hunts - the latter converted into a hunt with a sable taking the place of the buffalo - it can be seen that quotas were considerably increased in 2004. It is the conservation status of lion, the prime attraction for hunters, and the very basis of the hunting industry (and a major financial support to ZAWA), which displays ZAWA’s dilemma, emphasised in their statement:

Unjustified uplifting of lion to Appendix I would have serious ramifications on the Safari hunting industry in Zambia. As we all know, lion is an important component in the classical safari and its removal would distort the classical package/bag. This would present serious challenges and present areas of potential litigation by safari companies with valid concession agreements and would eventually lead to loss of revenue to ZAWA and the local communities (Kampamba & Chansa 2005).

## 3 CONCESSION ‘NATIONALISATIONS’

To confirm the inherent instability of the hunting industry and contempt for due process, some hunting operators and concessionaires found their concessions removed by ZAWA.

### 3.1 African Experience Safaris (Lunga Busanga in the Northern Kafue – a Secondary area): 2006

On the sudden departure from Zambia of the owner of African Experience Safaris, Ed Smythe, as a result, allegedly, of having threatened a worker with a firearm, a meeting was held in Kasempa on 4 May 2006 between ZAWA and some of its board members, CRB representatives in the Lunga Busanga area, the local chief (Senior Chief Kasempa), a House of Chiefs representative and a Kasempa District Council representative.<sup>61</sup> The purpose of the meeting was to re-allocate the

<sup>61</sup> Minutes of the Consultative meeting on the re-allocation of Lunga-Busanga hunting block held at Kasempa District Administrator’s Office on 4 May, 2006

concession ‘administratively’ rather than put it out to tender, the latter being the normal and accepted procedure required to avoid any hint of corruption. Tom Mushinge, the Financial Director of ZAWA, stated that in this case they would like the local community to decide on who would be chosen to take up the concession, and that the CRB could not take on the hunting concession themselves – as they had already applied to do. A ZAWA Board member (Sikongo) said that the concession had been removed because Smythe had breached various hunting regulations, ‘such as failure to honour community pledges, hunting without escort scouts, over shooting the quotas, no respect to traditional authority, etc’, though no mention was made that the necessary procedures, as laid out in the lease agreement, and put there to protect the tripartite partners, had been followed. Such charges are, under the circumstances, not convincing; many safari companies suffering similar charges.

The Kasempa CRB put forward four companies that had expressed an interest in taking up the concession: TEA-ECO Systems Limited; C.K. Scientific Group Zambia Limited; Mukata Zulu and Associates and Royal Zambezi Wildlife Safaris. Senior Chief Kasempa objected to Royal Zambezi on the grounds that Chieftainess Chiawa was a shareholder and he did not think it proper that a chief from another area should take up a concession in his area. However, ZAWA stated that Royal Zambezi was suitable, and supported by the District Council and the House of Chiefs representative, this motion was adopted. They then called in the operator to negotiate on pledges and concession fees, a further break from normal procedure, as in an ‘administrative’ re-allocation it would be expected that the original lease agreement would be adhered to. Nevertheless, Royal Zambezi’s representative - not known - proposed a concession fee of \$24,000, the CRB representative countered with \$25,000, and this was agreed. The operator’s representative then pledged the sum of \$10,000 to the CRB, to be paid every season. This was accepted. Furthermore, the CRB requested that meat be issued, as did the District Council, and this was accepted.

It is highly irregular to make a cash pledge to a CRB given that the purpose of pledges is to see that the community benefit from hunting. It is likely that this payment was distributed between the members of the CRB and the chief, with nothing going to the community whom they represent. One of the reasons put forward for giving this concession to the Chieftainess Chiawa’s safari group - Royal Zambezi Safaris - stems from their hunting operations in the Chiawa GMA where they have been hunting up and around the game lodges. At the time, the Chieftainess was the acting Chairman of the ZAWA Board.

### **3.2 Leopard Ridge Safaris: Nyampala: 2006**

Leopard Ridge Safaris had their concession; Nyampala – the finest hunting block in Zambia – removed. The brother of the major shareholder had his Professional Hunter’s licence withdrawn, prompted by charges that they had been attracting animals with loud speakers and had overshot their quotas. In the Nyalugwe chiefdom Open Area, where they also had a game ranch at the time, they had been charged with feeding the community game meat mixed with hyena and lion meat. These latter charges, without foundation, were also made by Chief Nyalugwe to ZAWA and the Office of the President against the author and Dr Guy Scott, Secretary-General at the time of the main opposition political party, The Patriotic Front, neither having ever entered the area.

ZAWA decided that the Nyampala hunting block, lying within the country of the Bisa chief, Nabwalya, should be nationalised. Having got rid of its concessionaire, Leopard Ridge Safaris - despite the High Court still having to decide on whether the expulsion was legal - ZAWA put it out to tender, then, doubtless on the orders of the ZAWA Board, decided that they would run it themselves, an advert for two professional hunters duly being placed in the local papers. No thought was given to those who had paid \$1,100 to tender. Reports circulated of the imminent nationalisation of other hunting concessions (Manning 2007d).

Having had their rights to hunt in their Nyampala concession terminated, Leopard Ridge then applied to the High Court for a stay of execution. This was refused, the judge directing them to go to



arbitration. Legal counsel advised Leopard Ridge and the community partners in the tripartite hunting concession agreement (HCA), the Nabwalya CRB, that they could take action against ZAWA on the grounds that as signatories they had not been consulted and that they stood to lose the income on which their Village Scouts and development projects depended. The CRB applied to the High Court for an injunction, which was granted. The safaris then recommenced. ZAWA then appealed to the Supreme Court who upheld ZAWA's appeal (Manning 2007e). At 4.00 am in the third week of August, with clients in their Nyampala camp, Leopard Ridge were invaded by a ZAWA and paramilitary force, served with the order, and advised to leave the area. In October, the company returned to the Supreme Court who ruled that a hunting concession was analogous to a game licence and could be removed by ZAWA whenever it chose to do so, a decision likely to deter future investors from investing in the hunting industry.

### **3.3 Sable Transport (Sandwe – Secondary area; Chisomo – Understocked area)**

The owner, Iqbal Alloo, had sub-leased the hunting concession to South African operators. His nearby privately owned Nyakolwe Game Ranch, was also used for hunting. He had had his concessions withdrawn on the charge of overshooting. He did not contest the ZAWA decision. The ZAWA financial Director, T. Mushingi, stated that the Minister had decided to allocate the two concessions 'administratively', but had later changed his mind. Alloo resumed safaris.

### **3.4 Mbeza Safaris**

In November 2004, Gamefields purchased Mbeza Safaris from the Mehta brothers after the latter declined to join with the Luembe Conservancy Trust in the development of the area. In 2005, hunting operations began.

In June, 2006, Mbeza were fined a US\$43,560 'underachievement' fine by ZAWA for allegedly not having fulfilled their quota utilisation obligations in 2005, the only operator to be so treated. This fine was levied on the day that the new D-G, Lewis Saiwana, took office. Mbeza – with a client arriving in three days - were threatened with closure unless they paid. The 'underachievement' fine for failing to conduct the full complement of hunts was calculated by ZAWA to be based on \$8,435 for each of two Classical hunts, and \$3,670 for each of six Mini safaris. Legal action was taken by Mbeza Safaris; with the matter still awaiting a High Court action.

On 28 March 2008, in defiance of the terms of the HCA, Mbeza's concession was summarily removed by ZAWA. Mbeza then instituted legal action against ZAWA, an action the latter did not defend in the requisite time period. On 23 July 2008 Mbeza applied for a default judgement. By February 2011 the High Court had failed to issue it.

### **3.5 NAMAC v ZAWA**

Prompted by a question in Zambia's National Assembly - and clearly not just politically motivated - the Minister of MTENR requested that the National Movement Against Corruption (NAMAC) hold a judicial review of ZAWA to inquire into the matter of the penalties applied to a number of companies who had allegedly overshot their hunting safari quotas. This was supposedly a ruse to remove from office certain corrupt ZAWA officers, and to remove concessions from safari operators whom they deemed to have overshot quotas so that these could be made available to others, possibly 'targeted citizens' as catered for under the new Citizens Economic Empowerment Act No 9 of 2006 (CEE Act).

On 22 August 2006, in the High Court, ZAWA was represented by its D-G, the latter agreeing to a consent judgement with the NAMAC attorney, in which it was declared that ZAWA had not dealt properly with those safari companies that had overshot their quotas in 2004, and that the matter should now be rectified by them and referred to the Director of Prosecutions. These operators - in addition to a few others - were the same seven safari operators who had been threatened with criminal charges in

October 2005 by the D-G ZAWA for allegedly overshooting their quotas (Phiri 2005). One of these companies was Mbeza Safaris, which had been charged with over-shooting one bushbuck in the 2004 season whilst under previous ownership when, in fact, Mbeza had shot one bushbuck less than the quota for its West Petauke concession. ZAWA's confusion was explained by their poor administrative attempts to settle a dispute between the two chiefs in the concession by issuing quotas for each chiefdom, this was illegal in terms of the Hunting Concession Agreement. Mbeza was informed that the bushbuck would be taken off the following year's quota. The seven miscreants were allegedly given different penalties: 1) fines, 2) fines and having their PHs barred from hunting for three months of the season, and 3) having their hunting concessions removed, though this was never carried out.

On 8 September 2006, Mbeza's attorney received information from the Financial Director Mushinge of ZAWA that the ZAWA D-G (Saiwana) - using the consent judgement - intended gaining the Board's approval for the removal of hunting concessions from a further six safari operators. Furthermore, he had convened a ZAWA Board meeting for 12 September and had arranged a flying visit on 14 September to the Nyalugwe CRB, a CRB which was the co-signatory with Mbeza Safaris in an HCA. Thus the stage appeared set to remove Mbeza's concession.

Deciding on pre-emptive action, on 11 September 2006 a writ of summons was obtained from the Zambia High Court by Mbeza and Sofram Safaris Limited in an action against ZAWA and NAMAC. This was delivered to the Director-General on the 12 September while he was attending the ZAWA Board meeting. The plaintiffs' statement of claim was notable for the following:

- i) That ZAWA only informed the Plaintiffs of the 2004 overshooting in 2005.
- ii) That the Plaintiffs had no knowledge of the court action which had led to a consent judgement between ZAWA and NAMAC.
- iii) That ZAWA and NAMAC should have known that such a consent judgement would adversely affect the Plaintiffs' exclusive hunting rights when in fact the Plaintiffs were not party to the legal proceedings in question and had not been accorded a fair hearing.
- iv) That ZAWA 'fraudulently or by mistake suppressed facts by consenting to the judgement on issues which were fully within its Director-General's knowledge and which at trial would have been determined on the merits and hence the court's approval of the consent judgement'.
- v) That '...it was an act of fraud or mistake for ZAWA not to give full disclosure to the court of the circumstances leading to the alleged over hunting by the Plaintiffs and the administrative action taken by ZAWA, which action was intra vires the provisions of the Zambia Wildlife Act, No. 12 of 1998'.
- vi) That NAMAC had no legal capacity to take out or commence the legal proceedings under Cause No. 2006/HP/0596, or consent to any judgement.

The plaintiffs further claimed:

- i) A declaratory judgement to set aside the consent judgment by the defendants granted on 22<sup>nd</sup> August 2006 as it would affect the plaintiffs on the grounds that the same was obtained by fraud or mistake and, therefore the said judgement is null and void at law.
- ii) In the alternative, a declaratory judgement that NAMAC had no legal capacity to take out the legal proceedings under cause no. 2006/HP/0596.
- iii) An interim order of injunction.
- iv) Costs.
- v) Any other relief the court may deem just.

The companies alleged to be the subject of the possible removal of their concessions – in addition to the three already so treated, were:

- |                                  |                       |
|----------------------------------|-----------------------|
| i) African Experience Safaris    | Lunga Busanga         |
| ii) Sable Transport & Safaris    | Chisomo and Sandwe    |
| iii) Kwalada Safaris             | Lower Lupande         |
| iv) Mushingashi Game ranch       | Hunting quota removed |
| v) Nsonga Safaris                | Bilili Nkala          |
| vi) Sofram                       | Mwanya/Lumimba        |
| vii) Leopard Ridge Safaris       | Nyampala              |
| viii) Mbeza Safaris              | West Petauke          |
| ix) Swanepoel & Scandrol Safaris | West Mumbwa           |

NAMAC and ZAWA were defeated in the High Court. Their subsequent appeal to the Supreme Court on 19<sup>th</sup> July 2007 was refused (Manning 2007e). Following the dismissal of the appeal, the Appellants (NAMAC) had agreed that the consent judgment which was signed between ZAWA and NAMAC, be set aside by consent of the parties. Legal council on behalf of the ‘safari four’ agreed to this proposal as it did not in any way prejudice the safari four case. However, NAMAC raised a counterclaim against the companies involved, with ZAWA as Defendants, with the intention of obtaining judgment in similar terms as those contained in the consent judgment previously signed with ZAWA.

NAMAC evidently wished to obtain a decision to terminate the HCA of the four outfitters and their reason for taking up the case in the first place (i.e. to remove the ZAWA Financial Director, T. Mushing), was pure subterfuge, Mushing having been fired from ZAWA some time before. ZAWA was in agreement with NAMAC’s decision. The action was later dropped by NAMAC.

#### **4 COUNTRY SAFARI HUNTING REPORT 2008**

At a meeting on 21 December 2007 between SHOAZ and ZAWA, SHOAZ was informed that the ZAWA Board had laid down new policy for ZAWA to implement in the 2008 hunting season:

- i) Operators to make an advance, non-refundable payment for 100% of their issued quota.
- ii) These individual quotas to be mutually agreed between ZAWA and the Operators.
- iii) Current laws and regulations to be amended so as to allow a client to shoot as many species and animals as he wishes, at no additional charge.
- iv) Time restrictions on hunts will no longer apply.
- v) Operators may not enter their concession if payment is not made, though ZAWA are prepared to accept tranche payments for the quota.

##### **4.1 Legal**

Such policy was not catered for in the HCA, and no good faith negotiations, mediation or arbitration – as required in the agreement - had run its course. In 2007, payment by members of SHOAZ, and some non-members, of 60% of the quota, was done in good faith. It was not legally bound into the HCA, being a concession made by operators due to ZAWA’s parlous financial position. An organisation motivated so highly by its financial needs was undoubtedly being driven to ever more desperate measures, negating its mandate to see to the conservation of wildlife and protected areas, and to the customary communities in the GMAs.

##### **4.2 Conservation**

Given that only some 43% of the 2006 quota was accounted for suggested that quotas continued to be inflated. The fact that a keystone species such as lion had a similar offtake rate, at a time when a large

percentage of males taken appeared to be sub-adults, was indicative of the haphazard and poorly managed and monitored quota system. To therefore require 100% payment for the lion quota would ensure that young lion were killed and the lion population in Zambia placed under threat. This would obviously also be the case for all other species, assuming that the general quota, and the lion quota for 2008 would be similar to that of 2007. Such policy could plainly not be defended on conservation management grounds, a policy posing a direct threat to wildlife management and the tourism industry.

From a cursory examination of current lion research results to which Mbeza Safaris had contributed skulls, it was clear that a preponderance of sub-adult males were being shot. A seminal contribution to lion management in Zambia (having the objective of the long-term management of the species, as well as to justify its retention on Appendix II CITES), concluded that lion populations were being depressed by poaching of prey species and that certain GMAs needed to be rested. The study also challenged the rigid classification of hunting areas and quota allocations that are unrelated to the resource, recommending that success rates falling below 70% for two years should result in the reduction of quotas. The study questioned the inequitable financial and administrative burdens placed on operators. It also, for the first time in over 100 years of the safari hunting industry, made a lucid presentation of the biology of lion harvesting, pointing out that lion harvesting should be carried out at the level of the pride, not at the population level. The report also advised on the implementation of an operator certification process and, significantly, pointed out that a major threat to the sustainability of trophy hunting in GMAs was the failure to devolve adequate benefits to local communities, the lack of which reduces incentives for rural people to conserve wildlife. It was stated that the primary linkage needed to be between the outfitters and the communities, not between outfitters and ZAWA (Viljoen 2007).

The fact that ZAWA had repeatedly made offers to operators (first in January 2007) to renegotiate quotas already agreed to with the community is evidence of a Board with no understanding of wildlife management.

#### **4.3 Customary community partners**

As CRBs are mandated under the Wildlife Act to prepare management plans with ZAWA for their area of jurisdiction, any changes that will affect wildlife populations and their management should receive their inputs and assent. In addition, as they are supposed to receive 50% of the trophy fees, a responsible CRB should not wish to benefit financially from increased earnings when there will be an obvious and direct conservation cost. And the chiefs, who receive 5% of all income from hunting, and who do hold rights to the land on which the wildlife is maintained, ask why they are not consulted.

#### **4.4 Safari hunting operators**

Any mandatory and increased charge levied without the agreement of the partners, in particular the operators, is counterproductive. Most operators expend greatly in excess of the HCA pledges on the community. Therefore asking an operator to pay an extra \$50K or so per annum will have to be compensated for elsewhere by a reduction in supports to the community, to anti-poaching and to the CRBs. Given the rampant theft and misappropriation by CRBs of these funds already, increased CRB income will not have the desired effect, it being far better for operators to be encouraged to increase their community inputs. The Board should first have obtained details of operator expenditure on community livelihoods and wildlife.

#### 4.5 Changes to the Hunting Concession Agreements

The decision – as a *quid pro quo*, to allow a client to shoot as many animals as he wishes (within the quota), and to hunt for as long as he wishes, completely nullifies the whole construction of Classical and Mini safaris within the HCA – and the HCA agreement itself. The classification of hunting blocks into Prime, Secondary, Understocked and Depleted areas was based solely on the number of Classical and Mini hunts which ZAWA considered able to be conducted (based on a highly flawed quota system). A serious omission from the HCA was a mechanism to reduce or increase the number of Classical and Mini hunts based on obviously fluctuating wildlife populations. Changes such as these, issued as policy by the Board, will serve to reduce a once vibrant industry to its knees and discourage further investment at a time when the exchange rate mechanism, fuel costs, a weakening dollar, unsympathetic labour laws, punitive taxes and the bushmeat trade already greatly weaken those wanting to see some improvement of the livelihoods of the people living in the concessions, and to wildlife conservation itself.<sup>62</sup>

In early 2008, SHOAZ held talks with the ZAWA Board regarding the payments for the 2008 season. The Board made the following points:

- i) The lease agreement is not cast in stone and can be amended at any time to suit current conditions.
- ii) The Board is not in the least intimidated by the threat of legal action by operators.
- iii) The Board contended that as operators themselves identified the quota required at their annual quota setting meetings, they should be able to utilise and pay for 100% of this quota.
- iv) The Board suggested that SHOAZ consider a proposal along the lines of the quota being split into a 60% fixed quota and 40% optional quota.
- v) The 60% financial quota would be paid in three instalments and the optional quota paid for as and when used.
- vi) The current animal deposit would fall away.
- vii) The Board suggested removing the 50% surcharge on second animals.
- viii) The Board suggested removing the time and animals restriction currently in place for mini safaris.
- ix) Outfitters could revisit their quotas if necessary.
- x) Specialised and Understocked areas would be exempt from the above and would negotiate separate arrangements with ZAWA.

The author's response to the above was that at all times the procedure between the tripartite partners should be followed as laid out in the HCA: 1) good faith negotiations, followed if necessary by 2) mediation, and then 3) arbitration – the latter presumably under the auspices of the Arbitration Commission. Should these fail, then it would be a matter for the courts. Unfortunately, these procedures have not been followed by ZAWA in the past, nor at the time when the Board made its pronouncements – with the then current court actions (*Leopard Ridge v ZAWA*) being prejudiced by a proposed nationalisation of the Leopard Ridge concession, but later cancelled on advice of the Ministry, the concession being handed back to Rashid Randera.

With regard to quotas, the Board clearly laboured under a misapprehension. Operators should not identify the quota that they require. The operator may make submissions, which, together with the inputs of the CRB and ZAWA, should be followed by ZAWA HQ. If the operator is to set a quota, - i.e. a sustained yield quota - without it fulfilling reasonable scientific standards - then it should be properly called an allocation. What is lacking is a monitoring system which will ensure that only the older age classes are being taken. The allocation therefore becomes a guide only for the benefit of

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<sup>62</sup> I.P.A. Manning, 30 December 2007. E-mail submission re ZAWA Board policy to ZAWA re hunting safari payments for the 2008 season.

ZAWA, who may from this deduce their income, and therefore their cash-flow. The Board appear to be assuming powers they do not have, the issue not being about policy, but about management and sound science.<sup>63</sup>

## **PART II: Game ranching**

Investment in the private game estate – begun some twenty-five years ago - has been disappointing. Its benefits to communities are minimal on the 94% of Zambia denoted customary land, being more a source of irritation and political resistance than advancement. In the light of political reality and the need to avoid land alienations that do not encompass joint ventures, any increase in investment in the land and biodiversity of areas under the Customary Authority require mechanisms and incentives for joint-venture partnerships between investors, the chiefdom and District Councils, facilitated by the good offices of responsible NGOs. These need increased support in legislation, as this is currently weak.

Instruments supporting the expansion of the private wildlife estate, let alone its successful day-to-day operations are imperfect, while the Customary Authorities, empowered as they are by the Lands Act Chapter 184 of the Laws of Zambia of 1995 for statutory recognition for the continuation of its 'ownership' of land held under customary tenure, are hampered by the contradictory legislation contained in the Wildlife Act of 1998. There remains an urgent requirement for national policy on private wildlife estate and customary authority conservancy development in order that the private wildlife estate may expand its activities, and the chiefdom's be empowered to enter into dynamic joint ventures for the benefit of the biodiversity and their beleaguered people.

In 2006, 47 game ranches were registered members of the Wildlife Producers Association of Zambia, most of them being game-fenced leasehold land where the animals are owned; other ranches being unfenced within Open Areas, with either 14 or 99 year title, where ZAWA issues game quotas for hunting.

Attempts were made in 2003 by ZAWA to provide policy on private wildlife estates (PWEs) and other novel uses of wildlife (Appendix 4). A project proposal was tendered by the author on behalf of the Norman Carr Foundation to assist ZAWA in drawing up national policy that would stimulate the interface between game ranchers on statutory land, and customary communities. No reply was received to this offer. Later a workshop under the auspices of the NRCF was held, with senior ZAWA management and their legal consultants present, and the policy scrutinised by representatives of the WLP AZ and other stakeholders. Since that time, ZAWA and its legal consultants have not called further meetings through the NRCF, and until recently had not involved the WLP AZ either. The statutory instruments discussed at length at the time, have still not been signed off and gazetted.

Some of this deficiency is being attended to by the REMNPAS project which has put forward the notion of Community Game Ranches, based on the same model negotiated in 2003 between the author, Senior Chief Luembe, 153 headmen and the Nyimba District Council for the establishment of a community game ranch in the Luembe Open Area under the custodianship of the Luembe Trust. Such a mechanism only becomes necessary if a usufruct agreement is being entered into with an investor who wishes to fence the area, a requirement if ownership of the wildlife is to be granted by ZAWA.

ZAWA requires that game ranches established on alienated customary land (and elsewhere) fence their land if they are to purchase and own the wildlife. Regulations controlling fencing fall under the Agricultural Lands Act (Fifth Schedule of Fencing Ordinance Cap. 228 as amended by Ordinance No. 16 of 1960), and any fencing, in theory only, has to be approved by the Ministry of Agriculture. Some

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<sup>63</sup> I.P.A. Manning. 8 January 2008. E-mail submission to ZAWA Board on hunting safari payments policy.

ranchers, despite receiving investment certificates from the Zambia Development Agency, which were issued on the condition that they fenced, were issued with hunting quotas by ZAWA even though they had not fenced. One unfenced ranch of 10,500 ha, M'nyamadzi, in Luembe's country, was issued approximately half the lion quota of the adjoining West Petauke GMA (610,000 ha) - 2 lion, and a few buffalo, hippo and crocodile, knowing that the latter two species could only be shot on the river, which is part of the GMA. As the Luembe CRB wrote,

We must also question how it was that so many animals were given to M'nyamadzi game ranching company without our knowledge. Their area is only 10,000 ha but they were given 1 eland, 2 lion and so on, and our open area is depleted. Yet in the GMA – about 4,000 km<sup>2</sup>, we are refused eland. There is something that is wrong here.<sup>64</sup>

Although ZAWA had told the Luembe CRB that from 2006 no hunting will be allowed on unfenced ranches, this has not happened. Furthermore it is likely, once again, that the animals purchased by the game ranch owners from ZAWA will not in any way benefit the villagers or the CRBs (Manning 2007g). Also, no guidelines or policy on game ranching is currently available for communities.

On 12 November 2009 the first Community Game Ranch in Zambia was officially sanctioned in Zambia, the culmination of 18 months of work by Gamefields Ltd that had assisted the community of the Nyalugwe Chiefdom in establishing a community trust into which land for a game ranch was vested, and sanctioned by the Minister of Lands. ZAWA insisted on an 'ecological survey', followed by a 'social-scoping exercise', holding out the promise of the issue of a game ranching certificate, something that did not materialise.

### **PART III: Non-consumptive tourism**

Tourism in Colonial days took the form of government self-catering camps in the Game Reserves and National Parks, many of which fell into disuse from 1975, now replaced by private sector managed lodges. Tourism today is concentrated around Livingstone (Victoria Falls), Mfuwe, the Kafue and Zambezi portion of the Chiawa GMA with ZAWA now advancing on the 'privatisation' of the protected area estate along the lines of the Kruger National Park model. In the GMAs (successor to the Controlled Hunting Areas and run originally by the customary community), apart from hunting concessions leased out by ZAWA, there is little non-consumptive tourism development and therefore no benefit for the previously empowered.

The industry today is served by the private sector run Tourism Council of Zambia (TCZ), and the parastatal, the Zambia National Tourism Board (ZNTB). Essentially, tourism is run – as it always has been - by mainly small European managed outfits, carrying out their own marketing, ill-served by ZAWA and the ZNTB (who recently had their boards dissolved (Sinyangwe 2009)); with legislation which makes it very difficult for customary communities to become involved at the grass roots level, and with GRZ having an erratic and confused support record for investment generally.

Donors and Government have concentrated their efforts in carrying out tourism in two National Parks (abandoning Mosi oa Tunya), particularly the South Luangwa National Park, which has been funded by the Norwegians for 25 years, and latterly the Kafue National Park, showing little signs of being able to be managed by GRZ, or to involve the customary community in its management. ZAWA is now advancing on the massive privatisation of nature as a concessionaire broker, obtaining rentals wherever possible, with little prospect of managing the resource on which the industry will depend.

Zambia's tourism is mainly wildlife based – apart from the Victoria Falls – and thus it must compete with Zimbabwe, Botswana, Namibia and South Africa. Other than being a peaceful country and

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<sup>64</sup> Senior Chief Luembe, Chairman of Luembe CRB, 9 November 2004. Letter to D-G of ZAWA.

generally friendly, it is expensive and corrupt, placing it well behind Namibia and Botswana in its attractiveness to tourists. However, it has some of the last intact pieces of primary nature in Africa that are well watered and with low populations of people. This is where its opportunity for appropriate tourism development lies.

A World Bank report estimated that the travel and tourism economy contributes in total to nearly 4% of Gross Domestic Product (GDP) and creates more than 55,000 jobs (3.7% of total employment). Tourism demand from 2001 – 2006, it contends, has been continuously growing - international tourist arrivals surged from about 400,000 in 1999 to more than 600,000 in 2008 - suggesting that Zambia could attract more than 2 million tourists by 2015. But, Zambia represents only 4.3% of the safari market share, the second worst performer in the region (World Bank 2006).

The Public Accounts Committee in Parliament identified some of the dysfunction affecting tourism. The Government had issued a gazette number 332 in 1998 directing all operators in the Chiawa GMA to pay land user fees. The fees were to be paid at the beginning of the year. However, as of December 2005, total amounts of K450,999,935 and US\$128,857 (K440,175,512) were outstanding as land user fees older than 120 days. As at June 2006, the fees had not been paid, nor had ZAWA invoiced the operators for the year 2006. When the ZAWA Controlling Officer appeared before the Public Accounts Committee in November of 2006, he stated that there was a conflict between ZAWA and the operators as a result of ZAWA's decision to allow hunting activities in the eastern part of the GMA where the lodges are located. The operators had protested against the action by not paying the land user fees. Discussions had then taken place between the two parties to draw up a Memorandum of Understanding (MoU), following which the lodges owners agreed to pay the outstanding amounts. The Controller hoped the MoU would be signed by August 2007. The ruling of the Committee was that ZAWA was being lenient with the lodge owners, instructing the Controlling Officer to report progress on the matter.<sup>65</sup>

The issue highlights a conflict both in the law and the matter of land use. Chiawa is customary land, such rights being held sacrosanct by customary law and by the Lands Act of 1995. However, the Wildlife Act of 1998 confers rights over those parts of customary land classified as GMA that supercede the rights of the customary authority, extracting rentals and issuing Tourism Concession Agreements (TCAs) without consultation with the Customary Authority. This is done in addition to their leasing out of GMAs as hunting concessions and their sale of hunting licences. The Wildlife Act errs by not understanding that GMAs were only declared in 1971 as a land planning framework, and not as a category of State land. This continues to give licence to ZAWA for rent seeking and control of customary land development.

The Livingstone area, extended to Mosi oa Tunya, has benefited the most from tourism growth, yet the town and the Park is neglected, increasingly crime ridden, polluted by trucking and with serious water and power shortages. In nature-based tourism, the Livingstone area represents 39% of all beds and 45% of all bed nights with high levels of occupancy. It also has to deal with punitive corporate raids on its public goods by corporations, despite it being part of a World Heritage Site. The second point represents a serious challenge for Zambia's tourism strategy: 60% of tourists spent less than four days in Zambia, usually taken up with visits to the Victoria Falls and Mosi oa Tunya (World Bank 2006). At a recent meeting in Livingstone, convened by the SEED Tourism Officer and attended by over 100 government officers and members of the tourism industry, a long catalogue of dysfunction was fed into the proceedings. The Police spoke of their need for cash donations in order to give tourists security, something already supplied by private operators in the form of a police station and police accommodation, yet they stated they had not taken up their positions because they required bedding and kitchenware. Mention was also made of the Zambian borders and the money extracted from tourists for carbon taxes, toll fees, car insurance, ferry charges, District Council levies, each tax having

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<sup>65</sup> Report of the Public Accounts Committee on the report of the Auditor-General for 2005 on the accounts of parastatal bodies for the first session of the Tenth National Assembly appointed by the resolution of the House on 10 November 2006, p.24.



its own office with 2-3 staff members per office. In Botswana one tax office collected all revenues.<sup>66</sup>

The common constraints in developing tourism in Zambia remains an unskilled labour force and a control-minded labour administration and legislation, poor infrastructural supports, burdensome licencing bureaucracy, short land leases, the disregarding of concession agreements by the authorities, the highest tax rates in the region, a Zambia Development Agency and a Department of Immigration who do not serve the best interests or security of investors, a judicial system largely under political control, and Zambianisation policies. However, one of the major constraints is the extended rainy season and soils that make access and movement well nigh impossible over much of the game country. The other major issue is the failure thus far of GRZ to devolve powers over natural resources to the chiefdoms, and to knit customary communities into the fabric of protected area development and appropriate exploitation.

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<sup>66</sup> The Livingstone Weekly, 14 June 2009

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## **6. APPENDICES**

- Appendix 1: The 25 Concessions (2003-2007)**  
**Appendix 2: The next 13 hunting concessions as awarded**  
**Appendix 3: Synthesis of the draft national policy of May 2003 on private wildlife estates and other novel uses of wildlife**

## Appendix 1: The 25 Concessions (2003-2007)

<b><u>HUNTING AREA</u></b>	<b><u>CATEGORY</u></b>	<b><u>NOTES</u></b>
<b>KAFUE AREAS</b>		Kafue areas encircle the Kafue NP- except to the west, being miombo woodland interspersed with dambos (grassland drainage areas), high speciation, excellent sable and roan, lion, leopard, kudu, duikers (blue and yellow-back) and sitatunga, kafue lechwe on the flats to south, and red lechwe in the north.
<b>BILILI</b> Tiyovwane Safaris* Chief Mukuni	S <sup>67</sup> 3080 sq km	Originally two hunting blocks: one retained (Bilili) by Chief Mukuni; the other (Nkala) purchased by Nsonga Safaris.
<b>BILILI NKALA</b> Nsonga Safaris Chief Mukuni and South African partners		Mukuni is a chief from the Livingstone area. Chief Musungwa of Nkala GMA complains that ZAWA has been issuing very high quotas and that the safaris have depleted game required to support non-hunting tourism. <sup>68</sup>
<b>MUMBWA WEST</b> Swanepoel & Scandrol Safaris	P 3370 sq km	Was subdivided. They now hunt West Mumbwa.
<b>SICHIFULA</b> Alfa Recreational Safaris Gilson Kaweche.	S 3600 sq km	Once an excellent area but now heavily poached.
<b>MULOBEZI</b> Steel Fabrications Ltd	P 3420 sq km	Reports suggest the area is being looked after and improving.
<b>KASONSO</b> Hunters & Guides Safaris T. Mulonga Gavin Hume	P 7780 sq km	A good area.
<b>LUNGA BUSANGA</b> Royal Zambezi Wildlife Safaris Doug Reynolds Chief Chiawa	S 2094 sq km	Concession removed from African Experience Safaris and 'administratively' awarded to Reynolds etc.
<b>LUNGA LUSWISHI</b> Pro-Hunt Safaris Barry & Richard Bell-Cross	S 11246 sq km	The poor parts of the concession were hived off by ZAWA and awarded to other operators.
<b>NAMWALA</b> Nsonga Safaris (also have Bilili Nkala) Chief Mukuni and South Africans	U 1894 sq km	A poor area generally, though one now improving as a result of the efforts of a lodge operator , Chief Kaingu and the Itumbi- Kaingu Trust .
<b>LUANGWA VALLEY</b>		One of the great general-bag hunting grounds.
<b>WEST PETAUKE</b> Mbeza Safaris Khalid Al Tajir and Manning family	P 4140 sq km	Purchased in December 2004 as part of a conservancy development. Heavily poached. Quotas reduced to allow for success but re-instated by ZAWA. In 2008 split and awarded to Hunting Horizon (Nyalugwe) and Bimm's Travel (Luembe). Default judgement awaited since July 2008 to return it to Mbeza.

<sup>67</sup> P = Prime; S = Secondary; U = Understocked

<sup>68</sup> Frederick Mwansa. 21 July 2009. Chief Musungwa urges ban on safari hunting. The Post Newspaper, Lusaka.

<b><u>HUNTING AREA</u></b>	<b><u>CATEGORY</u></b>	<b><u>NOTES</u></b>
<b>LUAWATA</b> Luawata Conservation Ltd: Tudor Jones	P 1284 sq km	An excellent non-profit conservation hunting area.
<b>CHANJUZI</b> Muchinga Safaris Johnny du Plooy Roland Norton	P	Area was subdivided but owners retain both.
<b>MWANYA LUMIMBA</b> SOFRAM SAFARIS Fico Vidale	P	Area purchased from Sofram by Fico Vidale.
<b>NYAMPALA</b> Nyampala Safaris Rashid Randera		Removed from Leopard Ridge for no legal reason; subsequently returned to owners as a result of community obtaining an injunction. Then overturned in the Supreme Court, and while LR were taking the matter to court against ZAWA, was removed by ZAWA, then put out to tender, then cancelled, then awarded to previous concessionaire, Randera.
<b>CHIFUNDA</b> Luangwa Crocodile Safaris Keith/Ian Asherwood	P	
<b>UPPER LUPANDE</b> Mangomba Safaris	P 2336 sq km	
<b>LOWER LUPANDE</b> Kwalata Safaris Peter Chipman, Gulam Patel	P 3262 sq km	
<b>SANDWE</b> Sable Transport & Safaris Iqbal Alloo	S	Removed without due process, then given back. Sub-leased to South Africans.
<b>LUANO UPPER</b> Agro-Fuel Ltd Sashi Patel	U	The Luano areas are considerably depleted but concessionaires are actively protecting the wildlife, though hunting quotas on hippo are a major concern.
<b>LUANO LOWER</b> Agro-Fuel Ltd Sashi Patel	S	Ditto.
<b>WEST MUSULANGU</b> Wildcat safaris Brian Heath	S	The area was subdivided, Wildcat Safaris retaining the excellent section
<b>RUFUNSA</b> Nyampala Safaris Rashid Randera	U 3179 sq km	
<b>CHISOMO</b> Sable Transport & Safaris Iqbal Alloo	U	Removed without due process but later returned.
<b>CHIZERA</b> Luangwa Crocodile Safaris Keith/Ian Asherwood	U	



<b>OTHER AREAS</b>		
<b>CHIBWIKA NTAMBU</b> SOFRAM Safaris Lilian Chilense	U	Appears to be inactive, though a dynamic trust, The West Lunga Trust, is at work in the area.
<b>TONDWA</b> Muchinga Safaris Johnny du Plooy, Roland Norton	U 443 sq km	
<b>WEST ZAMBEZI</b> Hunting Horizon Safaris	S	
<b>LOWER ZAMBEZI</b> Royal Zambezi Wildlife Safaris Doug Reynolds Chief Chiawa		Two elephant licences taken out – both in 2006 and 2007.
<b>UPPER ZAMBEZI</b> Maningi Safaris	U	

**Appendix 2: The next 13 hunting concessions as awarded**

<b><u>HUNTING AREA</u></b>	<b><u>CATEGORY</u></b>	<b><u>NOTES</u></b>
<b>MUKUNGULE</b> Busanga Trails Ltd Younis Patel	<b>S</b>	A depleted area.
<b>EAST MUSALANGU</b> Miyombo Safaris	<b>S</b>	
<b>LOWER EAST LUNGA LUSHWISHI?</b>	<b>S</b>	
<b>UPPER EAST LUNGA LUSHWISHI?</b>	<b>S</b>	
<b>MSORO LUPANDE</b> Mitchell Safaris	<b>S</b>	In 2007, the source of a dispute with Chief Msoro, Michell and his PH, Ray Millican. <sup>69</sup> The area is totally depleted and should not be hunted.
<b>BANGWEULU</b> Baobab Safaris Rashid Randera (later returned to open access status)	<b>SPECIALISE D</b>	A monopoly at first. Over concentration of hunting and heavy poaching produces poor hunting for sitatunga – although some 650 km <sup>2</sup> of suitable habitats exists. <sup>70</sup> Black lechwe and Bangweulu tsessebe.
<b>KAFUE FLATS NORTH</b> Eastern Safaris Yousef Zumla	<b>SPECIALISE D</b>	A monopoly. Kafue lechwe.
<b>KAFUE FLATS SOUTH</b> Eastern Safaris Yousef Zumla	<b>SPECIALISE D</b>	A monopoly.
<b>KAFINDA</b> Busanga Trails Ltd Younis Patel	<b>U</b>	Apart from some sitatunga hunting, safaris should not be allowed as it is heavily depleted, and what animals there are come from the Kasanka and Lavushi Manda National Parks.
<b>LUKWAKWA</b> 'Consortium'?	<b>U</b>	
<b>MUSELE-MATEBO</b> 'Consortium'?	<b>U</b>	

<sup>69</sup> URL:<http://zambiasafarihunting.blogspot.com/2007/12/zambia-hands-out-treatment-to-sheriff.html>. Accessed: 2010-02-27. (Archived by WebCite<sup>®</sup> at <http://www.webcitation.org/5nqyXnNTr>)



### **Appendix 3: Synthesis of the draft national policy of May 2003 on private wildlife estates and other novel uses of wildlife**

#### **A. ZAWA POLICY**

- The importance of PWEs is recognised in the war against rural poverty.
- ZAWA will support PWE establishment, will provide animals for restocking at a fee.
- ZAWA wish to enter into partnerships with PWEs, communities and private sector.

#### **B. PRIVATE ESTATE CLASSIFICATION**

- Game ranches: fenced, private, not greater than 5,000ha.
- Communal – Private Conservancy: joint venture, fenced, not greater than 30,000ha.
- Communal Wildlife Conservancy: community owned, fenced or not, not greater than 50,000ha.

#### **C. GUIDELINES FOR PWE APPLICATIONS**

- Application for a PWE to be made to ZAWA on the prescribed form.
- Detailed business plans must be submitted.
- Approval of a PWE will be given only after a feasibility study & inspection.
- ZAWA will co-ordinate PWE development with other Ministries and stakeholders.

#### **D. PWE PROPOSED RESTRICTIONS**

- Restrictions on the placement of fences in relation to rivers.
- Where existing properties are too close to rivers, and unable (after an ecological study) to alter the boundary, ZAWA will not delegate ownership, but instead will award ‘user rights’; and will set an off-take quota.
- All PWEs must be fenced unless an environmental study suggests it is not in the biodiversity interest.
- ZAWA will ensure that PWEs have management plans that provide off-take restrictions and quotas.
- Professional hunters and capturers require to be registered with ZAWA.
- Only a percentage of live capture are to be allowed for export.
- No medium to large scale PWE will be allowed within 10 km of built-up area (i.e. a town).
- Export is prohibited in endemic species e.g. kafue & black lechwe.
- Various restrictions are suggested on the import, care and release of species, most of them following international regulations (CITES and International Air Transport Association (IATA) etc).

#### **E. PWE CONDITIONS**

- Private operators to submit annual returns to ZAWA not later than 15 February of every year.
- Transfer of ownership to be with the approval of ZAWA, but only after a game inventory is taken.
- A change of land-use requires ZAWA’s approval.
- CITES regulations to be followed.

#### **F. ZAWA DELEGATION OF RESPONSIBILITIES**

- Ecological studies & supervision of game capture may be delegated to an agent.



**CHAPTER 4:**  
**THE FRAMEWORK FOR CONSERVATION AND RURAL DEVELOPMENT**

## ACRONYMS

<b>ABC</b>	Atmospheric Brown Cloud
<b>ACC</b>	Anti-Corruption Commission
<b>ANC</b>	African National Congress
<b>BAA</b>	Business Action for Africa
<b>BAZ</b>	Bankers Association of Zambia
<b>BBBE Act</b>	Broad Based Black Empowerment Act
<b>CBD</b>	Convention on Biological Diversity
<b>CC</b>	Customary Community
<b>CDM</b>	Clean Development Mechanism
<b>CEE Act</b>	Citizens Economic Empowerment Act
<b>CEP</b>	Copperbelt Environmental Programme
<b>CITES</b>	Convention on International Trade in Endangered Species of Wild Fauna and Flora
<b>CMZ</b>	Chamber of Mines of Zambia
<b>CONASA</b>	Community-based Natural resource Management and Sustainable Agriculture
<b>CoP</b>	Conference of the Parties
<b>CPI</b>	Corruption Perception Index
<b>CRB</b>	Community Resource Board
<b>CSI</b>	Civil Society Index
<b>DANIDA</b>	Danish International Development Aid
<b>DDT</b>	Dichlorodiphenyltrichloroethane
<b>DFID</b>	UK Department for International Development
<b>D-G</b>	Director General of ZAWA
<b>DHMT</b>	District Health Management Team
<b>DNA</b>	Deoxyribonucleic Acid
<b>ECZ</b>	Environmental Council of Zambia
<b>EIA</b>	Environmental Impact Assessment
<b>EMF</b>	Environmental Management Facility
<b>EPPCA</b>	Environmental Protection and Pollution Control Act
<b>ESP</b>	Environmental Support Programme
<b>FD</b>	Forestry Department
<b>FMA</b>	Fisheries Management Area
<b>FMC</b>	Fisheries Management Committees
<b>FNDP</b>	Fifth National Development Plan
<b>FODEP</b>	Foundation for Democratic Process
<b>FRA</b>	Food Reserve Agency
<b>FSC</b>	Forest Stewardship Council
<b>GDP</b>	Gross Domestic Product
<b>GEF</b>	Global Environment Facility
<b>GIS</b>	Global Information System
<b>GM</b>	Genetically Modified
<b>GMA</b>	Game Management Area
<b>GMO</b>	Genetically Modified Organism
<b>GRZ</b>	Government of Zambia
<b>H of C</b>	House of Chiefs
<b>HDI</b>	Human Development Index
<b>HE</b>	His Excellency
<b>HIP</b>	Harmonisation in Practice
<b>HIPC</b>	Heavily Indebted Poor Countries
<b>HQ</b>	Headquarters
<b>HRC</b>	Human Rights Commission
<b>HURID</b>	Institute of Human Rights, Intellectual Property and Development Trust

<b>HWC</b>	Human Wildlife Conflict
<b>IDA</b>	International Development Association
<b>IMF</b>	International Monetary Fund
<b>IPCC</b>	Intergovernmental Panel on Climate Change
<b>ITN</b>	Insecticide Treated Net
<b>IUCN</b>	World Conservation Union
<b>JASZ</b>	Joint Assistance Strategy for Zambia
<b>JFM</b>	Joint Forest Management
<b>MAP</b>	Millennium Partnership for the African Recovery Programme
<b>MCA</b>	Multi-Criteria Analysis
<b>MDG</b>	Millennium Development Goal
<b>MEWD</b>	Ministry of Energy and Water Development
<b>MIGA</b>	Multilateral Investment Guarantee Agency
<b>MIKE</b>	Monitoring the Illegal Killing of Elephant
<b>MMD</b>	Movement for Multi-Party Democracy
<b>MoU</b>	Memorandum of Understanding
<b>MP</b>	Member of Parliament
<b>MTENR</b>	Ministry of Tourism, Environment and Natural Resources
<b>NAFTA</b>	North American Free Trade Agreement
<b>NAI</b>	New African Initiative
<b>NAP</b>	National Action Plan
<b>NAPA</b>	National Adaptation Plan of Action
<b>NBSAP</b>	National Biodiversity Strategy and Action Plan
<b>NCC</b>	National Constitutional Conference
<b>NCS</b>	National Conservation Strategy
<b>NCSC</b>	National Civil Society Consultative
<b>NDF</b>	Nordic Development Fund
<b>NDP</b>	National Development Plan
<b>NEAP</b>	National Environmental Action Plan
<b>NEPAD</b>	New Partnership for Africa's Development
<b>NGO</b>	Non-Governmental Organisation
<b>NP</b>	National Park
<b>NPE</b>	National Policy on Environment
<b>NPWS</b>	National Parks and Wildlife Services
<b>NRCF</b>	Natural Resources Consultative Forum
<b>NWRMA</b>	National Water Resources Management Authority
<b>OAU</b>	Organisation of African Unity
<b>ODA</b>	Official Development Assistance
<b>PFAP</b>	Provincial Forestry Action Programme
<b>PHAZ</b>	The Professional Hunters Association of Zambia
<b>PPIAF</b>	Public-private Infrastructure Advisory Facility
<b>PPP</b>	Public-Private Partnership
<b>PRGF</b>	Poverty Reduction Growth Facility
<b>PRSP</b>	Zambia Poverty Reduction Strategy Paper
<b>PS</b>	Permanent Secretary
<b>PSDP</b>	Private Sector Development Programme
<b>R&amp;D</b>	Research and Development
<b>REDD</b>	Reducing Emissions from Deforestation and Degradation
<b>SADC</b>	Southern African Development Community
<b>SEAP</b>	Structural Economic Adjustment Programme
<b>SERF</b>	Strengthening of the Environmental Regulatory Framework
<b>SHOAZ</b>	The Safari Hunter Operators Association of Zambia
<b>SWOT</b>	Strength Weaknesses Opportunities and Threats
<b>TCA</b>	Tourism Concession Agreement

<b>TCZ</b>	Tourism Council of Zambia
<b>TEALC</b>	Tourism Enterprises and Licencing Committee
<b>TEVETA</b>	Technical Education and Vocational and Entrepreneurship Training Authority
<b>TIZ</b>	Transparency International Zambia
<b>TOR</b>	Terms of Reference
<b>TRAFFIC</b>	The Wildlife Trade Monitoring Network
<b>UK</b>	United Kingdom
<b>UN</b>	United Nations
<b>UNCCD</b>	United Nations Convention to Combat Desertification
<b>UNCED</b>	United Nations Conference on Environment and Development
<b>UNDP</b>	United Nations Development Programme
<b>UNEP</b>	United Nations Environment Programme
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organisation
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change
<b>UNIDO</b>	United Nations Declaration on the Rights of Indigenous Peoples
<b>US</b>	United States
<b>WB</b>	World Bank
<b>WCS</b>	Wildlife Conservation Society (USA)
<b>WDC</b>	Ward Development Committee
<b>WECSZ</b>	The Wildlife & Environmental Conservation Society of Zambia
<b>WHO</b>	World Health Organisation
<b>WPAZ</b>	The Wildlife Producers Association of Zambia
<b>WRAP</b>	Water Resources Action Program
<b>WSPS</b>	Water Sector Programme Support
<b>WSSD</b>	World Summit on Sustainable Development
<b>WTO</b>	World Trade Organisation
<b>WWII</b>	World War Two
<b>ZAM</b>	Zambia Association of Manufacturers
<b>ZANIS</b>	Zambia National Information Service
<b>ZAWA</b>	Zambia Wildlife Authority
<b>ZBF</b>	Zambia Business Forum
<b>ZCCM</b>	Zambia Consolidated Copper Mines
<b>ZCCM-IH</b>	ZCCM-Investment Holdings plc
<b>ZCSD</b>	Zambia Council for Social Development
<b>ZCSMBA</b>	Zambia Chamber of Small and Medium Business Associations
<b>ZDA</b>	Zambia Development Agency
<b>ZECU</b>	ZCCM-IH Environmental Coordinating Unit
<b>ZIBA</b>	Zambia Indigenous Business Association
<b>ZIBAC</b>	Zambia International Business Advisory Council
<b>ZIC</b>	Zambia Investment Centre
<b>ZNFU</b>	Zambia National Farmers Union

## 1 ECONOMICS, POPULATION AND INVESTMENT

### 1.1 Economics

Four years after Zambia attained self-government, Kaunda - greatly influenced by Julius Nyerere of Tanzania - moved in 1968 at the Mulungushi Economic Reforms Conference to nationalise the economy.

The Industrial Development Corporation (INDECO) was established with Andrew Sardanis as both CEO and the Permanent Secretary of the Ministry of Trade and Industry, and large European-owned corporations were told to hand over 51% of their equity, to be paid for out of declared dividends, anticipating the future Broad Based Black Empowerment Act (BEE Act) of South Africa, and its clone, the Citizens Economic Empowerment Act of Zambia (CEE Act). At the end of 1969, the mining houses were informed by letter of Kaunda's decision to take 51% of the mines, the latter already paying 75% of their gross earnings in tax and royalties. This was to be repeated decades later in South Africa, as a result of their wholly sympathetic part in the affirmative action industry, a front for the African elite's own self-enrichment (Mbeki 2009).

In rapid succession, Kaunda then created two more parastatal holding bodies: the Mining Development Corporation (MINDECO), and the Finance and Development Corporation (FINDECO), the latter being the vehicle to gain control of insurance companies and building societies. In 1971, the three parastatals were combined into the Zambia Industrial and Mining Corporation (ZIMCO), with Sardanis as its CEO and Kaunda as Chairman. In 1972, Kaunda declared a one-party state, espousing his philosophy of Humanism that called for a return to the African cultural roots of economic reciprocity and the 'low-poppy' society. In 1973, Kaunda abrogated the management contracts entered into with the mining houses, borrowed money from international banks, and bought them out (D Gleason 2009, personal communication). Anglo-American received their payout gratefully, funds which they used to establish themselves in the Bahamas.

By 1975 there were 147 parastatals in existence, 80% of them Government-run. The fact that Kaunda, despite being a Humanist and re-distributive socialist, sought to harvest that which had been built by European technology and verve and vest it into Afro-European conglomerates that in no way re-distributed ownership or benefits to rural people, is both instructive and ironic. In June of 1975, the economy already reeling from oil price increases and low copper prices, Kaunda unveiled a radical programme of Zambianisation and pervasive state control in the cataclysmic 'Watershed Speech', which effectively drained Zambia of its remaining critical mass of European skills, and consigned the country to an isolated and donor-supported notional democracy, one serving only the elite. Clearly, embedded liberalism, that political-economic organisation of the vibrant post-war period, was dead, replaced by the neoliberalism that had swept through much of the world:

Embedded liberalism delivered high rates of economic growth in the advanced capitalist countries during the 1950's and 1960's. In part this depended on the largesse of the US in being prepared to run deficits with the rest of the world and to absorb any excess product within its borders. This system conferred benefits such as expanding export markets (most obviously for Japan but also unevenly across South America and to some other countries of South-East Asia), but attempts to 'export' development to much of the world largely stalled. For much of the third world, particularly Africa, embedded liberalism remained a pipe dream. The subsequent drive towards neoliberalisation after 1980 entailed little material change in their impoverished condition....Fixed exchange rates were therefore abandoned in 1971. Gold could no longer function as the metallic base of international money; exchange rates were allowed to float, and attempts to control the float were soon abandoned. The embedded liberalism that had delivered high rates of growth to at least the advanced capitalist countries after 1945 was clearly exhausted. Some alternative was called for if the crisis

was to be overcome.....Even in the United States, a Congress controlled by the Democratic Party legislated a huge wave of regulatory reform in the early 1970s, governing everything from environmental protection to occupational safety and health, civil rights, and consumer protection...The capitalist world stumbled towards neoliberalisation as the answer through a series of gyrations and chaotic experiments that really only converged as the new orthodoxy with the articulation of what became known as the 'Washington Consensus' in the 1990s....The uneven geographical development of neoliberalism, its frequent partial and lop-sided application from one state and social formation to another, testifies to the tentativeness of neoliberal solutions and the complex ways in which political forces, historical traditions, and existing institutional arrangements all shaped why and how the process of neoliberalisation actually occurred....After the implementation of neoliberal policies in the late 1970s, the share of national income of the top 1% of income earners in the US soared, to reach 15% (very close to its pre-Second World War share) by the end of the century. The top 0.1% of income earners in the US increased their share of the national income from 2% in 1978 to over 6% by 1999, while the ratio of the median compensation of workers to the salaries of CEOs increased from just over 30 to 1 in 1970 to nearly 500 to 1 by 2000 (Harvey 2005, pp. 11-16).

In 1983, Zambia, its external debt by 1980 already at US\$3,244 million, entered into negotiations with the World Bank (WB) and the International Monetary Fund (IMF), leading to the imposition of a Structural Economic Adjustment Programme (SEAP). In 1986-1987 the Government cancelled the programme and began its own rescue package ('Growth from Own Resources'). The Fourth National Development Plan followed in 1988, as well as a resumption of its IMF relationship, so negating the Plan. From 1989, Government (GRZ) began a New Economic Recovery Programme. Since 1989 there have been trotted out an endless litany of plans and programmes, but as one writer observes:

From the end of WWII to 1974, Zambia saved and invested in excess of 30% of GDP. Average per capita income grew at close to 4% per annum. This was one of the best growth performances in the world. From 1975 to 1991, Zambia's savings rate collapsed and the average investment rate, although inflated by foreign aid, external borrowing, and the accumulation of arrears, fell below 20% of GDP. During this period, Zambia's average per capita income declined by 2.5% per annum. For developing countries which avoided disasters such as civil wars and coups, this was the worst performance in the world (McPherson 1995).

In 1993, the debt crisis in countries such as Zambia led to the creation of the much vaunted Heavily Indebted Poor Countries (HIPC) initiative which imposed stringent conditions by the IMF on Zambia: the privatisation of public utilities, removal of subsidies, deregulation of its markets and general trade liberalisation, investment deregulation, retrenchment of civil servants, public sector wage cuts or freezes, and reduced state intervention in the agricultural sector.

By any measure, these policies have been a massive failure: the textile manufacturing industry declined from 140 textile manufacturing firms in 1991 to eight by 2002; the agricultural industry regressed - partly due to the removal of subsidies; many companies collapsed, jobs were lost and welfare programmes originally performed through a parastatal were not continued by private companies; spending on the rural poor has since all but dried up; the trade deficit has increased; and employment is still at the same level as it was under colonial rule. The core IMF and WB policies agreed to by Zambia - trade liberalisation, agricultural liberalisation and privatisation - are clearly one of the major causes of its woeful economic and social performance.

Ironically, all of the aforementioned occurred under the presidency of a former trade-unionist, Frederick Chiluba, supposedly there to serve the masses and the national interest but who (along with countless leaders of backward countries with the duty and expectation to introduce a new international

economic order) reversed allegiance, imposing ineffectual and extremely unpopular structural adjustment programmes on their countries. In addition to the actual loans and programmes, the WB and the IMF inveigled themselves into the chambers of policy decisions as a result of the debt crisis, forcing GRZ and other governments to take on structural adjustment programmes. Where structural adjustment was not agreed to, they had to give the IMF 'policy undertakings', under the threat of losing international creditworthiness, inevitable without the IMF's stamp of approval (Bond 2000).

Of concern is the way the WB forces its dubious agenda on individual Ministries, an agenda that directly oppose the wishes of stakeholders and civil society. An example is the WB recommendation to the Ministry of Lands that all customary land be placed under the Ministry of Lands, with the chiefs relegated to land administrators.<sup>71</sup> This recommendation was made without wide consultation, simply agreed to by the Ministry of Lands and the World Bank and without the agreement of the chiefs or the Land Alliance or the customary communities themselves. However, this has not yet been implemented.

One of the factors in this major decline is the increasingly poor performance of workers and the collapse of the apprenticeship schemes. Recent quantitative economic research reveals that modern production technologies developed in the West are designed for labour forces that are disciplined, conscientious and engaged, and where error rates are kept to a minimum. In poor countries little attention is now paid to worker discipline and their training, explaining the dramatically lower productivity of textile mill workers in these countries (Clark 2007, p.15).

In a recent report, 'A New Debt Crisis?' a warning is sounded that the significant decreases in income and de-valuing of currencies taking place in 2009 will seriously damage developing countries' ability to service and refinance their debts. In particular, they warn that Zambia could see its debts at twice the level deemed sustainable by the WB and IMF.<sup>72</sup>

Since the time of Adam Smith, most economists have overwhelmingly held to a very rigid free-market position. But there are an increasing number of dissenting voices:

In light of the apparent settled nature of economists' judgement on the issue of trade liberalisation, the profession has stopped thinking critically about the question and, as a consequence, makes poor-quality arguments justifying their consensus. That is, this consensus is now an institution that, like some other institutions, can best be described as 'centuries of tradition, unmarred by progress' (Driskill 2007).

Major opposition to neoliberal free-market policies first took place in Mexico in 1994 as a result of the disastrous effects of the North American Free Trade Agreement (NAFTA) on the native Chiapas people, with rural communities rising up against their government in what became known as the Zapatista rebellion. The basis of much of this was the repeal of the rights peasants had long held to their commons, the *ejido*, in order to allow agri-businesses to be established on their land. The legacy of the Zapatistas reveal two inescapable facts: 1) power is not something to be concentrated at government level, merely changing hands between political elites at every election, but something to be devolved to community level, and 2) that it is foolish to expect government to hand down power of its own volition, requiring communities to rise united and empower themselves (Kingsnorth 2004, p.20). However it was at the first meeting of the World Trade Organisation (WTO) in Seattle in November 1999 that the phenomena of anti-globalisation (anti-neoliberalism) really emerged, followed in 2000 by the demonstrations at the World Economic Forum meeting in Davos, a movement protesting that the rich were getting richer and the poor, poorer.

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<sup>71</sup> 12 April 2006, World Bank/Ministry of Lands presentation on an action plan to strengthen land administration in Zambia, Oxfam HQ, Lusaka.

<sup>72</sup> Campaigners warn of new Third World debt crisis, March 15, 2009, Christian Today.  
URL:<http://www.christiantoday.com/article/campaigners.warn.of.new.third.world.debt.crisis/22783.htm>.  
Accessed: 2010-04-06. (Archived by WebCite® at <http://www.webcitation.org/5omhNZgmr>)



The evidence suggests that the past twenty years of IMF and WB interventions have exacerbated, rather than ameliorated, Zambia's debt crisis. Ironically, in return for debt relief, Zambia is required to do more of the same. As one report stated:

It is not acceptable that these institutions have effective control over policy-making in countries like Zambia. Policies need to be developed which are genuinely home grown alternatives that put the Zambian people, especially the poor, first (Situmbeko 2004).

Moreover (the misguided treatment by the Washington Consensus of Zambia's economic condition apart), particularly since the accession to power of the MMD Party - civil servants and society at large, continue the unabated pillaging of government funds, as recorded in the annual reports of the Auditor-General, reports analysed by Transparency International Zambia (TIZ) for the period 1984-2004, where the equivalent of approximately one year of national income is unaccounted for. Furthermore, in a country where some 80% of its people scrape a living, with an average life expectancy at birth of 33-35 years, Government spent only 16.32% of total national expenditure on education, health, agriculture, community development and social welfare – much of it stolen - with environment in 2006 having an estimated budget allocation within the Transitional National Development Plan of less than 1% (Djokotoe & Chama 2007, p.67).

The actual amount of illicit funds exported to Western financial institutions from Africa is a crime of simply massive proportions. From 1970, over a 39-year period, Africa lost US\$854 billion in cumulative capital flight – this excludes that moved illegally by the cross-border smuggling of the informal sector. The illegal financial flows for Southern Africa – which includes Zambia – in the 1970's was \$5,894 million; 1980's \$20,581 million; 1990's \$31,447 million; 2000-2008 was \$116,828 million – a total of \$174,751 million. For Africa as a whole at the end of 2008, external debt was at around \$250 billion, leaving some US\$600 billion for poverty alleviation and economic growth accounted for between \$9,770 - \$5,880 million from 1970-2004, not accounting for the smuggling of narcotics, ivory and gemstones (Kar & Cartwright-Smith 2010, p.10).

In 2006, problems of fuel supplies, the exchange rate mechanism - the dollar losing 30% of its value - the inflation rate and the vagaries of the budget (not least the fact that oil reached and surpassed \$100 a barrel), meant continued difficulties for the tourism industry and for agriculture in particular. Yet, in 2008, without consultation with the tourism industry, Government increased tourism visa fees by 100% and sought to have hunting safari operators pay in advance for 100% of the game quota (non-refundable), despite the fact that quota offtakes since 2001 had not exceeded 45%.

The very recent and expectedly brief surge in mining brought about by high commodity prices has once more allowed Zambia to misplace its development priorities, leading to considerable natural resource exploitation with poor environmental safeguards in place and with a corrupt royalty negotiation process that has lost the country a great deal of revenue. This renewed focus on mining has only enriched the elite who benefit from mining royalties and other pay-offs, with rural people excluded from the kleptocratic patronage system.

Inevitably, given recessionary fears, global commodity prices plummeted in September 2008, leading to mine closures, massive retrenchment and the loss of income to Government, events redolent of the precipitous collapse initiated by the formation of a one-party state in 1972 in what had been one of the fastest growing economies in the world between 1920 and 1960, with a growth rate of 4% until 1974 (Baldwin 1966). At Independence Zambia had the same per capita income as the Asian Tiger nations; now Hong Kong is seventy-five times richer, South Korea twenty-five times richer.

While there is a continued clamour for investment in agriculture, the reality is that the powerful lobby for hybrid maize seed and nitrogenous fertilisers creates a continual state of crisis regarding seed and fertiliser availability, maize collection, marketing and credit - the country paying lip service to

conservation agriculture, neglecting the use of age-old techniques using non-hybrid seeds. The 2008-2009 season has seen the most dramatic increase in prices in the country's history, with compound fertiliser prices increasing from K3.3 million per tonne to K8.8 million per tonne, and diesel prices almost doubling from K4,860 per litre the previous year to K8,500 at the time of ploughing and planting the maize crop (Katilungu 2009). The recent cataclysmic drop in commodity prices will likely increase foreign debt and dependency on the IMF, further dampening the prospects for more equitable income flows into rural areas. But it is the depletion of the non-renewable resources, and the accompanying long-term pollution, which will continue to tax future generations. However, the recent alliance of chiefs whose customary areas adjoin the Zambezi, condemning the mining companies for polluting their country and delivering few benefits, is a spirited defence of the customary commons which is likely to spread, to incorporate and add momentum to the movement for customary land owners to reclaim their share of the renewable resources supported by it.

The WB has acknowledged that for every percentage point increase in a country's extractive-resource dependency, the potential GDP declines by 9% (as against the real GDP recorded). Significantly, Zambia has the second highest combined resource dependence and the lowest accumulation of capital of all countries in Africa (Bond 2006, p.78).

A major assessment of the state of environment and existing policy, legislation and conventions carried out by the Policy Development Secretariat in 2005, confirmed that it has become widely recognised that Zambia's wealth of natural and cultural resources are in danger of further widespread depletion and degradation, sometimes irreversibly as in the case of misuse of some soils – this has not changed since and is unlikely to do so unless those with the land assert their traditional rights.<sup>73</sup> However, it is more difficult to deal with the ability of Government to hold two contradictory ideas simultaneously. This may be gauged by two reports which appeared on the same day in the local Lusaka free-press: 1) the IMF announced the immediate disbursement to Zambia of \$160.1 million to 'help the country cope with the global economic slowdown and financial crisis'; and 2) the IMF having completed the first and second reviews of Zambia's economic performance under the three-year Poverty Reduction Growth Facility (PRGF) arrangement announced the authorities had adopted a new public debt management policy and strategy to help ensure that the public debt remains sustainable. 'In this regard, caution will be needed in contracting new non-concessional external debt' (Chulu 2009b). And addressing the Non-Aligned Movement meeting in Cuba, Zambia's Foreign Affairs Minister, Kabinga Pande lamented.

The process of globalisation and trade liberalisation in its current form has produced uneven benefits among and within states. There is nothing more undignified and humiliating than being in perpetual economic bondage and living in abject poverty. Zambia believes that continued economic marginalisation has grave implications on human rights (Moonze 2009).

The Bank of Zambia's quarterly brief of 1 August 2009 states that during the second quarter of 2009, international arrivals at the country's four international airports was 88,066 passengers, lower than the 113,129 passengers recorded during the corresponding period in 2008. On the investment front investment pledges totalled US\$762.7 million in 2009, compared with the US\$1,820.7 million recorded during the same period in 2008. It was also reported that copper prices and production were on the increase.<sup>74</sup> However, as the year 2009 ran to a close, the closure of the Indeni Oil Refinery once more plunged the country into crisis.

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<sup>73</sup> National Policy on Environment. May 2005. Ministry of Tourism, Environment & Natural Resources, Zambia', p. 6

<sup>74</sup> Caleb Fundanga. M. July 2009. Second Quarter 2009 Media Briefing, The Bank of Zambia, Lusaka

## 1.2 Population

A fact not often mentioned in Zambia (and reported on even less), is that the depletion and degradation of the environment is due to Zambia falling increasingly into the *Malthusian Trap* in urban areas. Whilst people in the slums, in defiance of Malthus, actually do benefit from the critical mass market found there, they represent a massive market for plundered rural natural resources. In the last hundred years Zambia's population of 12 million (10 million in 2000) has increased forty-fold, with more than half of the population now urbanised, and with rural populations expected to supply food, charcoal, bushmeat and timber for the town consumers. One report gives Zambia's population as increasing at a rate of 2.4%, with projections to 2010 and 2015 of 13.2 and 15.3 million respectively.<sup>75</sup> The Central Statistics Office, 2000 Census of Population and Housing, provides the following details for Zambia:

Year	2006	2007	2008	2009	2010
Population (million)	11.8	12.1	12.5	12.9	13.2

Although Zambia introduced a National Population Policy in 1989, it was only in 2005, after considerable vetting, that it was made official. Population issues were not, however, fed into the Poverty Reduction Strategy Paper of 2002-2004, nor into the Transitional National Development Plan of 2002-2005; and the 5<sup>th</sup> National Development Plan (NDP) contains a weak attempt to deal with the issues.

Zambia's population density since self-government has gone from about 5/km<sup>2</sup> to 13.5/km<sup>2</sup> with considerable variations across the country. The available labour force in 2010 is projected to be seven million, indicating a rise of 15% over five years. By 2025, the labour force is projected to be at approximately eleven million. In stark contrast, total formal employment in 2004 in Zambia was estimated at 416,228 people, similar to figures issued at the time of self-government. The informal sector – as is readily apparent when travelling around Zambia - is clearly the principal source of employment and income for Zambians.

It was revealed in the 5<sup>th</sup> National Development Plan that the Government vision in the area of population and development is 'improved quality of life through the achievement of population trends that are commensurate with Zambia's socio-economic development'. It then lists the objectives as being: the reduction of high levels of procreation, particularly amongst adolescents; the expansion and maintenance of the nation's population database; to promote the achievement of an even spatial distribution - especially between urban and rural areas; and the improvement of the sexual and reproductive health status of the population. The strategies they give for achieving these vague goals are derisory:

- i) Establishing and developing mechanisms for coordination, collection, processing, analysis, dissemination and utilisation of demographic and related information;
- ii) Long-term and short-term training, re-training and retention of human resources so as to ensure effective implementation of population and development programmes;
- iii) Promoting research on the inter-relationship between population, reproductive health, gender, HIV and AIDS and various aspects of development;
- iv) Providing long and short-term population and research related training in population and development.

Programmes to be implemented:

<sup>75</sup> Tens C. Kapoma, 3 – 7 April 2006, Thirty-ninth session of the Commission on Population and Development, UN HQ, New York.

- i) Establishment of population and development sub-committees at provincial district levels;
- ii) Procurement of equipment;
- iii) Production of tourism, migration and population registers, and education and vital statistics reports;
- iv) Census preparatory activities;
- v) Census undertaking; and
- vi) Establishment of a community database.

One Chief, Chitambo of Kafinda, has called for more children in his area, perhaps expecting hard times - such is the 'natural economy' - and perhaps understanding more fully the workings of the Malthusian model: knowing that the birth rate (being dictated by custom) increases with material living standards, and also knowing that the death rate has dropped off in his country, for reasons unknown. But he has had little experience with the fact that living standards in rural areas generally decline as populations increase - a perilous situation in the Chipya woodland of low fertility, where villagers are under pressure to grow maize with nitrogenous fertiliser and hybrid seed so as to feed the clamouring urban masses. And those same masses now require his charcoal, his fish and what bushmeat remains on the hoof.

### 1.3 Investing and doing business in Zambia (Manning 2007a)

A married couple involved in tourism in Livingstone wrote to the author:

We were investors in Zambia and, after hearing the then Minister of Home Affairs, Shikapwasha, and the District Administrator of Livingstone say (on separate occasions) in public meetings that they could 'kick out investors any time', we decided to cut our ties and leave the country. There were other reasons too, e.g. the incessant changing of Government rules and fees and the incompetent and often discriminatory implementation of them. In a nutshell, investing in Zambia just wasn't worth it.

Another tourist operator described how his wife was jailed overnight in Livingstone for a minor infraction of her immigration status. For the small to medium investor, without the means or mindset to pay bribes to officials, Zambia is a minefield, acknowledged as such by the World Bank. In particular, this applies to those who are involved with empowering customary communities (Manning 2007b). This does not apply to the Chinese who appear to avoid the Department of Immigration altogether, and where they don't, are given work permits (Manning 2007d).

A rating of doing business in Zambia by the WB compares Zambia with of 181 other nations.<sup>76</sup>

Doing Business	100
Starting a Business	71
Dealing with Construction Permits	146
Employing Workers	135
Firing costs	178
Registering Property	91
Getting Credit	68
Protecting Investors	70
Paying Taxes	38
Trading Across Borders	153
Enforcing Contracts	87

<sup>76</sup> URL:<http://www.doingbusiness.org/ExploreEconomies/?economyid=207>. Accessed: 2010-02-04. (Archived by WebCite<sup>®</sup> at <http://www.webcitation.org/5nIE5O6XS>)

The investor protection index of 5.3 suggests that there is fair protection<sup>77</sup>. However, once the political and executive establishment have decided to rid themselves of a troublesome investor there is little that can be done about it, national and international protective measures being of little help to those without large financial resources. Moreover, the blurred boundaries between the executive and the judiciary result in decisions not in favour of the alleged transgressor, with long delays being the order of the day, justice therefore being denied. In addition, the alleged transgressor is constrained by the judiciary from making public comments for fear of prejudicing the judicial proceedings; silence being therefore enforced.

Apart from the employment of workers - a major limiting factor in doing business in Zambia - the average score of 100 does confirm that the country is not friendly to investors, other than the Chinese. Zambia is positioned at 135 out of 181 countries for worker employment. The Minimum Wages and Conditions of Services Act ensures that students are not employed, and investors shun employing older workers as terminal benefits for workers reaching 55 year of age ensure they must be paid three months wages for every year of service - provided they have worked for ten years – an unaffordable cost for most businesses, saved only by the low life expectancy of the average Zambian. In the case of Mbeza Safaris Limited, in respect of a worker who had been employed for two years, a benefit of a year's wages had to be paid to the widow on his HIV/Aids-related death – much of this claimed by predatory relatives under the traditional system. However, the law also has an impact on the worker: the worker who moves to another employer, who goes into business, whose employer goes out of business, may lose the entitlement. An additional impediment to progress is redundancy pay, which is set at two months pay for every year of service – this compared to, for instance, the South African standard of one week for every completed year of service. Taken together with the epidemic levels of theft that businesses now suffer from workers – as does the civil service - Zambia presents a daunting climate for investors.

The view of the business stakeholder group, The Zambia Business Forum (ZBF), is that 'Zambia is for the Zambians' - as expressed by its Chairman at a meeting the author attended, and that the pre-eminent legislation guiding their work is the Citizens Economic Empowerment Act (CEE Act). The recent commodity and financial crisis that has resulted in the closure of numerous mines, has elicited a totally predatory response by District Councils and Government in seizing plant, vehicles and equipment, as well as a call to cancel mining contracts and nationalise the mines.

The National Assembly debates also reveal disturbing levels of xenophobia and racism. A diatribe in 2006 by the Member of Parliament (MP) Shakafuswa in which he accused the Ministry of Tourism of awarding hunting concessions on the basis of race (this while debating the report of the Committee on Energy, Environment and Tourism), was greeted by the members with enthusiasm (Phiri 2006).<sup>78</sup> The MP failed to understand that although twenty-five concessions were awarded by tender in 2003, citizens obtained seventeen areas, foreigners two and those of unknown origin, six. He asked for concessions to be reserved for indigenous Zambians - although a number of concessions are held by indigenous Zambians although not operated by them, these all being sub-leased to non-indigenous fellow citizens, or residents. In the same debate a Deputy Minister (Chola) backed Shakafuswa's assertion that non-Zambians are stealing Zambia's resources.<sup>79</sup>

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<sup>77</sup> The indexes vary between 0 and 10, with higher values indicating greater disclosure, greater liability of directors, greater powers of shareholders to challenge the transaction, and better investor protection.

<sup>78</sup> The Zambian Parliament: Debates, Thursday 16 March 2006, page 2 of 12.

<sup>79</sup> I.P.A. Manning, 2006. Unpublished letter to the Editor, The Post Newspaper, Lusaka 22 March.

## 1.4 Investment protection

Zambia is a signatory to two major instruments meant to protect investors:

- i) The Arbitration Act No. 19 of 2000, implements the model law on international commercial arbitration adopted by the United Nations Commission on International Trade Law in 1985, as well as the Geneva Protocol on Arbitration Clauses and the Geneva Convention on the Execution of Foreign Arbitral Awards and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.<sup>80</sup>
- ii) The Convention Establishing the Multilateral Investment Guarantee Agency (MIGA) signed by the Government of Zambia on October 7, 1986, and ratified on June 6, 1988, designated the Ministry of Finance to be the authority with which the Agency is to communicate. MIGA applies performance standards to manage social and environmental risks and to enhance development opportunities in the projects that it supports through the provision of guarantees against political risks.
  - 1) Social and Environmental Assessment and Management System
  - 2) Labour and Working Conditions
  - 3) Pollution Prevention and Abatement
  - 4) Community Health, Safety and Security
  - 5) Land Acquisition and Involuntary Resettlement
  - 6) Biodiversity Conservation and Sustainable Natural Resource Management
  - 7) Indigenous Peoples
  - 8) Cultural Heritage

Performance Standard 6 recognises that protecting and conserving biodiversity is fundamental to sustainable development. In circumstances where a proposed project is located within a legally protected area, the client must meet the following requirements:

- i) Act in a manner consistent with defined protected area management plans.
- ii) Consult protected area sponsors and managers, local communities, and other key stakeholders on the proposed project.
- iii) Implement additional programs, as appropriate, to promote and enhance the conservation aims of the protected area.

Performance Standard 7 recognises that Indigenous Peoples are often among the most marginalised and vulnerable segments of the population. Their economic, social and legal status often limits their capacity to defend their interests in, and rights to, lands and natural and cultural resources, and may restrict their ability to participate in and benefit from development. They are particularly vulnerable if their lands and resources are transformed, encroached upon by outsiders, or significantly degraded. Their languages, cultures, religions, spiritual beliefs, and institutions may also be under threat. These characteristics expose Indigenous Peoples to different types of risks and severity of impacts, including loss of identity, culture, and natural resource-based livelihoods, as well as exposure to impoverishment and disease.

...Private sector projects may create opportunities for Indigenous Peoples to participate in, and benefit from project-related activities that may help them fulfil their aspiration for economic and social development. In addition, this Performance Standard recognises that Indigenous Peoples may play a role in sustainable development by

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<sup>80</sup> Statement by Minister of Legal Affairs: DAILY PARLIAMENTARY DEBATES FOR THE FIRST SESSION OF THE NINTH ASSEMBLY Thursday, 5th December, 2002.

promoting and managing activities and enterprises as partners in development. Investments may be insured internationally by MIGA.<sup>81</sup>

However, the reality is that investors, most of them being small to medium do not rely on such august conventions for their protection. The multi-national corporations rely on a closet relationship with the elite and a battery of international lawyers using highly placed compradors, or become corporate members of such organisations as the influential Commission for Africa's, Business Action for Africa (BAA), an organisation that falsely claimed in a report to the G8 meeting in Germany that it was fighting corruption in Zambia.<sup>82</sup>

Furthermore, the Zambia International Business Advisory Council (ZIBAC) – affiliated with the Commonwealth Business Council – and in turn to the BAA, with its function to advise the Presidency on investment, did not address the author's complaint concerning the membership of the Chairman of the CEE Commission on ZIBAC, the CEE Act being patently anti-investment.<sup>83</sup> When, at its meeting in Livingstone in 2005, the Chairman of the ZIBAC criticised the lack of progress of the Commission since its previous meeting, President Mwanawasa of Zambia upbraided the Commission Chairman, Lord Simon Cairns, for his temerity in levelling criticism.

Foreigners who invest in Zambia and commit any criminal act (except minor traffic offences), are liable under Section 33 of the Penal Code Cap 87 of the Laws of Zambia to compulsory deportation upon conviction.

## 1.5 Foreign Aid

Recently, a plethora of popular writings has been published on the efficacy and failings of Western aid to Africa - this prompted in part by the high profile it has received through the involvement of various celebrities in drawing attention to what are reported as pernicious famines and Africa's poverty. The politicians have followed this movement with a series of summits on poverty and African development. Easterley (2008) puts forward two broad descriptions of the aid approach:

The predominant "transformational" approach (West saves Africa) to occasional swings to a marginal" approach (West takes one small step at a time to help individual Africans). Evaluation of "one step at a time" initiatives is generally easier than that of transformational ones either through controlled experiments (although these have been much oversold) or simple case studies where it is easier to attribute outcomes to actions. We see two themes emerge from the literature survey: (1) escalation. As each successive Western transformational effort has yielded disappointing results, the response has been to try an even more ambitious effort. (2) the cycle of ideas. Rather than a progressive testing and discarding of failed ideas, we see a cycle in aid ideas in many areas in Africa, with ideas going out of fashion only to come back again later after some lapse long enough to forget the previous disappointing experience. Both escalation and cyclicity of ideas are symptomatic of the lack of learning that seems to be characteristic of the "transformational" approach. In contrast, the "marginal" approach has had some successes in improving the well-being of individual Africans, such as the dramatic fall in mortality. The 'transformational approach' is then the classic top-down application of aid, which has been largely debunked, yet still has its stubborn adherents promising ever larger sums of money, while the marginal, more cautious and more easily monitored, through randomised evaluation, is a decentralised approach that appears to be more successful.

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<sup>81</sup> URL:<http://www.miga.org>, accessed: 2010-02-27. Archived by WebCite®:  
<http://www.webcitation.org/5nqyobXmo>.

<sup>82</sup> Gamefields, the Landsafe originator and investor, was, at the time, the sole member in Zambia.

<sup>83</sup> I.P.A. Manning, 23 March 2006. E-mail to Mohan Kahl, member of ZIBAC.

## 2 THE INTERNATIONAL AND REGIONAL FRAMEWORK FOR CONSERVATION

### 2.1 The World Conservation Strategy

The World Conservation Union produced their vision for the integration of development with conservation objectives and the participation of customary communities (IUCN 1980):

- i) To maintain essential ecological processes and life-support systems (i.e. atmosphere, soil and water cycles).
- ii) To preserve genetic diversity (including preventing extinctions and preserving representative biotic communities).
- iii) To ensure the sustainable utilisation of species and ecosystems.

Superficially, it appeared to provide an internationally acceptable framework for conservation and human development. However, in reality it merely presented as a gold standard, a very narrow conservationists' view of what humans should aspire to, suggesting that society should transform and mould itself into a rigid conservationist society which has a strategy of limitation of resource use and human population increase so as to attain the World Conservation Strategy goals (Bell cited in Anderson & Grove 1989, p.79). No mention is made of the social and political changes that are necessary to achieve these goals, a fault lying at the heart of most conservation endeavours.

### 2.2 UN Millennium Development Goals (MDGs) and the Copenhagen Consensus

The first of the MDGs, agreed on in 2000, was to halve, between 1990 and 2015, both the proportion of people whose income is less than \$1 a day and the proportion of people who suffer from hunger. Yet the neoliberal insistence on privatisation of water and electricity simply place a massive burden on the urban poor, added to in rural areas by education, health and agricultural inputs (Bond 2006, p.138). Hyperbole and the lack of real commitment have exposed the MDGs severe limitations. And, in the light of its original objectives, the situation has deteriorated. As has been pointed out:

The Millennium Development Goals are broad outcome measures where it is very difficult to attribute social outcomes to aid efforts, since the outcomes also depend on many other things, including the important but often-overlooked incentives of local public and private actors to make progress in the areas covered by the Goals. Hence, the incentives for action created by international targets seem to be very weak indeed (and even then the action seems to be more oriented toward increasing total aid dollars rather than improving effectiveness of that spending to produce better outcomes) (Easterley 2008, pp. 45-46).

Zambia's National Policy on Environment (NPE), guided somewhat by the MDGs, views the importance of socio-economic and environmental issues that affect ecosystems as follows:

- i) Protection of the Nation's current asset base.
- ii) Improvement and possible expansion of the asset base.
- iii) Introduction of cross-sectoral approaches for co-management with communities.
- iv) Development of mechanisms for re-investment and revenue sharing with the poor.
- v) Promotion of infrastructure and technology development without damaging the environment.
- vi) Identify and prioritise impoverished areas and develop compensatory mechanisms and incentives for rehabilitation.



- vii) Introduce effective environmental information, education and communication nation-wide.<sup>84</sup>

More attainable goals, scientifically based, and extremely rigorous in their selection as a result of the inputs of a panel of Nobel prize winners, is the Copenhagen Consensus 2008, which puts forward the following as the most important areas on which to concentrate development and remedial action, of which the first seven are extremely important in rural areas:

- i) Air Pollution
- ii) Diseases
- iii) Education
- iv) Global Warming
- v) Malnutrition and Hunger
- vi) Sanitation and Water
- vii) Women and Development
- viii) Subsidies and Trade Barriers
- ix) Terrorism
- x) Conflicts

### **2.3 SADC: Southern African Development Community**

SADC was formed in Lusaka, Zambia on 1 April 1980 following the adoption of the Lusaka Declaration. The Declaration and treaty establishing the Southern African Development Community (SADC) was signed at the Summit of Heads of State or Government on 17 August 1992 in Windhoek, Namibia. Member states of SADC are Angola, Botswana, Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. The SADC has proved to be a massive failure in dealing with the tyranny of Mugabe, in allowing cheap goods to destroy manufacturing, in its failure to reduce intra-regional tariffs, and in its use as a Trojan horse by mining interests in South Africa to 're-colonise' the SADC members (Bond 2000, p.234).

The SADC Biodiversity Support Programme, supposed to establish capacity and institutional mechanisms for SADC members to collaborate by producing innovative financing mechanisms, developing regional strategies and establishing national and regional expert groups, has thus far achieved little.

### **2.4 NEPAD: New Partnership for Africa's Development**

In 2001, the African Union approved a merger between two African development initiatives: Millennium Partnership for the African Recovery Programme (MAP) and Omega Plan, now called the New Partnership for Africa's Development (NEPAD). The salient features as far as the development of the customary commons is concerned, is fully supportive.

The failure of most NEPAD members to allow the African peer-review mechanism to report on them has severely dented its reputation. Whatever doubts exist have been confirmed by the Zimbabwe disgrace. In 2004, a meeting of Jubilee Africa members expressed their concerns that South Africa was using NEPAD to further its sub-imperialist neoliberal role, serving the interests of trans-national corporations. In Zambia, the Chiluba MMD Government merely brought in market rule at the expense of the interests of the poor.

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<sup>84</sup> National Policy on Environment. 2005. Ministry of Tourism (MTENR), Zambia, p.14.

## 2.5 The African Convention on the Conservation of Nature and Natural Resources

The African Union signed up most of its members to this convention in Maputo in 2003. The convention has as its objectives the following:

- i) To enhance environmental protection;
- ii) To foster the conservation and sustainable use of natural resources; and
- iii) To harmonise and coordinate policies in these fields with a view to achieving ecologically rational, economically sound and socially acceptable development policies and programmes.

This Convention is now rarely referred to, if ever mentioned.

## 2.6 WSSD: World Summit on Sustainable Development

The basis of the 1980 World Conservation Strategy document was sustainable development. Since then the concept has been emboldened, notably at the World Conference on Environment and Development in Rio de Janeiro in 1992 and the World Summit on Sustainable Development in Johannesburg in 2002, the concept extended to make explicit reference to justice, equity, and the elimination of poverty.

The WSSD was held in Johannesburg from 24 August to 4 September 2002, carrying on from the Rio de Janeiro Earth Summit in 1992, and before that from the World Commission on Environment and Development (the Brundtland Commission) in 1987 which called for us to 'fulfil the needs of the present without compromising the ability of future generations to meet their own needs'. This was in the hope of both placating the rich consumptive north - with its fears of unsustainable and environmentally damaging survival strategies of southern subsistence peoples and their corrupt and undemocratic leadership; and to mobilise the 'haves' - the North, into doing something about their own pollution and the growing disparity between themselves and the poor South. The main theme of the WSSD was to foster sustainable development through the triumvirate supports of economic growth, social development and environmental protection.

A call for the alleviation of poverty was made by various African Ministers at the Nairobi meeting held in October 2001 (African Preparatory Conference for the World Summit on Sustainable Development), saying that they would not dwell on the failure to implement Agenda 21, nor wish to renegotiate the outcomes, but that the WSSD 'should result in a concrete programme of action with time-bound measures and well-specified sources of funding to implement them'. It affirmed that it is the New African Initiative (NAI) that should be the framework for sustainable development in Africa, and that the eradication of poverty really means the following:

- i) The eradication of Northern import restrictions;
- ii) Debt reduction/cancellation;
- iii) A review of the conditionalities of the Bretton Woods Institutions;
- iv) The promotion of small to medium businesses;
- v) Gaining access to energy resources;
- vi) Promotion of micro-finance;
- vii) Enhancing access to basic health services;
- viii) Sustainable rural development, agricultural development and food security;
- ix) Greater access to safe water and sanitation;
- x) Reducing the vulnerability of people to natural disasters and environmental risks;
- xi) Access to and improved standards of education.

Under the heading human development, acknowledgement was given to the fact that Africa is currently straining under the burden of communicable diseases that are disabling our economies,

ascribing the reasons to poor environmental conditions, or in the case of HIV/AIDS to a need to incorporate the disease in poverty reduction/eradication, sustainable development and economic growth strategies.

Taking as their cue the African Ministers' exhortation to provide a concrete programme of action with time-bound measures and well-specified sources of funding to implement them, a coalition of African - mainly Southern African - environmental and biodiversity interests would be formed, tasked to provide programmes which could contribute to sustainable development, i.e. the alleviation of poverty. A menu of these projects, developed in a growing partnership with business, rural communities and donors was presented at the WSSD.

However, the summation of the WSSD together with the hopes raised in Rio de Janeiro in 1992, was of a massive failure to carry through with global environmental reform. Johannesburg merely signalled a defeat and a long campaign ahead against neoliberalism and a sustainable future. The actions of the host nation, South Africa, which had only just thrown off the yoke of apartheid, and to whom the poor and marginalised looked for relief, sided with the Washington Consensus, privatizing its water, much of the Kruger National Park, and doing nothing for the plight of the poor majority (Bond 2000, p.294). With the US refusing to ratify the Kyoto Protocol and the Convention on Biodiversity – the two main conventions emanating from Rio - and embarking on war against the terrorism which had struck on September 11, 2001, it was clear that environmentalism was very low on the priority list, something the global South – due to neoliberal globalisation – were caught in worsening economic crises over which they had no control (Foster 2009, p.130).

## **2.7 Convention on biological diversity**

The establishment and effective management of a global series of protected areas was a key element of the 7<sup>th</sup> Conference of the Parties (CoP) to the Convention on Biological Diversity (CBD) in 2004. However, such a policy is contradictory to an improvement in rural livelihoods, as the alteration of land use from customary to protected status causes the foreclosure of future land use options, with potentially significant economic opportunity costs. The 7<sup>th</sup> CBD CoP called for an assessment of the economic and socio-cultural costs of protected areas (including the cost of livelihood opportunities foregone), and policies to ensure that they are equitably compensated (Adams 2004). For Zambia this remains the key for people who were essentially divested of their land under various pretexts.

The principle that the needs of local people should be systematically integrated into protected area planning was agreed to at the third World Parks Congress in Bali in 1982. Yet by the 5<sup>th</sup> World Parks Congress in September 2003, little had changed.

Zambia ratified the Convention on Biological Diversity on 28 May 1993, which makes Zambia responsible for the conservation of biological biodiversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources. It has signed the Convention on International Trade in Endangered Species of Fauna and Flora (CITES), and the Convention on Wetlands of International Importance (Ramsar Convention). It has also ratified the African Convention on Nature and Natural Resources (2003), an African Union initiative.

## **2.8 UN Declaration on the Rights of Indigenous Peoples (UNIDO)**

UNIDO was adopted by General Assembly Resolution 61/295 on 13 September 2007. Although it was clearly meant to protect the rights of particular people such as the bushmen or the pygmy - some of the former perhaps still surviving in Barotse, in a modern context - Zambian Africans living a traditional life under the authority of chiefs and headmen (as opposed to Zambians living in towns) should also fall under the UN's protection. In particular, the following resolutions are germane to the circumstances of the people of the chiefdoms:

- i) Concern that indigenous peoples have suffered from historic injustices as a result of, *inter alia*, their colonisation and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,
- ii) Recognising the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,
- iii) Recognising also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,
- iv) Welcoming the fact that indigenous peoples are organising themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,
- v) Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,
- vi) Recognising that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment.

### **3. ZAMBIA'S NATURAL RESOURCES FRAMEWORK AFFECTING CUSTOMARY COMMUNITIES AND WILDLIFE CONSERVATION**

#### **3.1 Current state of the customary commons**

##### **3.1.1 Introduction**

In Zambia land is either state or customary land – the latter making up 94% of the land - where land rights are obtained from a headman by residence in consultation with a chief. Once acquired, the land is protected by the community and should the individual leave the land, it reverts once more to the community under the control of the headmen and their chief. No person owns customary land in the Western sense. And the chief usually does not extract taxes or surpluses from individuals or headmen, every person producing their own food, the society therefore being generally egalitarian. Less common is where land rights are held under the control of lineages. This defines a system where access to agricultural land is exclusively reserved for the use of people able to trace their heritage from a common ancestry. However, they may in some areas also sell land to people outside of the common ancestry, i.e. outside a matrilineage or patrilineage (White 1959, pp. 171-178).

Europeans have since their first arrival in Central and Southern Africa embraced two major misconceptions of the native African land tenure system, 1) belief that the system is communal, with every tribesman having an equal right in every piece of the tribe's land, and 2) believing that the chief is the owner of the land, his subjects without rights in it and cultivating 'at the caprice of their overlord', a belief which, with the arrival of Europeans seeking concessions, persuaded chiefs that they stood to gain if they put themselves forward as the person controlling the land (Gluckman 1945, p.1). The other misconception is to believe that the chiefdoms and the chiefs have always, in one form or another, been in place, ignoring the evidence of the existence of ancient tenure rights to land, lagoons, fisheries and wildlife. Today in Zambia some chiefs sell off land with the help of pliant local authorities – though it is actually sold on leasehold, not freehold. On customary land the rights are over the use of the land, rather than its ownership, i.e. usufruct. Moreover, chiefs should act as the chairmen of their headmen in its allocation, headmen being chiefs in all but name. The chief does not use the land for his own benefit and should not therefore sell it or allow others to use it without the

agreement of his people. His rights in turn are to demand allegiance from those to whom he allocates land, to hold sway over all the land within his country, and to take over and allocate land - after a reasonable period of time - not utilised. Customary land is therefore a mixture of usufruct on residential and agricultural land, and controlled-access to the rest. State land defines private (leasehold) land, protected land - the latter now rapidly being privatised in isolation of its original traditional owners, and other land not classified as customary land. The customary commons is made up agricultural and village land held under usufruct by residents owing allegiance to a particular headman and chief, and the remaining part of chiefdoms to which all residents have access to renewable resources not under the direct control of the Government of Zambia (GRZ) such as the fishery, timber and wildlife. In addition to this competition with their own government, residents of the customary commons must contend with outside plunderers in search of charcoal, fish, bushmeat, timber and ivory, a state of affairs often described as the 'tragedy of the commons' (Hardin 1968), often used to justify interventions by outside forces, or greater centralised government control (Ostrom 1991a, p.182).

In addition to protected areas, one reviewer defined the regimes in Zambia as private property, controlled open-access and regulated common-property regimes (Bwalya 2002). In fact what is happening is that limited-access, common-property resources (i.e. customary lands), have been converted to open-access resources. Bwalya cites others (Baland et al 1996) supporting his views that the customary commons should be privatised, provided that there is full income compensation for those who lose out if the traditional resource owners are made private resource owners, concluding his review of Community Based Wildlife Management (CBWM) by saying:

It is therefore difficult for CBWM programs to demonstrate that biodiversity conservation and sustainable rural development, the most inspired objectives of CBWM, have been achieved in Southern Africa. The basic reason for this lack of clear success partly lies in government's failure to institute and provide secure property rights to local communities, not only with respect to wildlife resources but also to entire ecosystems in coexistence with wildlife resources.

The lack of leasehold or freehold rights being given as the reason for resource degradation is echoed elsewhere by policy analysts who believe that common-property resources should be privatised if the 'tragedy of the commons' is to be avoided. It is the same thinking which led to the nationalisation of much of the traditional natural resource ownership rights by a highly centralised government oligarchy, followed by considerable resource depletion and poverty. Furthermore, the recent adoption by the National Constitutional Conference (NCC) of the report by the Land and Environment Committee lends no support against the forces of alienation as it recommends under the section for customary land, section 330, that 'Customary land shall not be alienated or otherwise used until the approval of the chief and the local authority in whose area the land is situated has first been obtained and as may be provided by, or under, and Act of Parliament...an approval (that) shall not be unreasonably withheld'. This retrograde step would allow for the continuation of land alienations allowed for under the Lands Act of 1995 by crooked or ignorant chiefs, the latter possibly unaware that they are selling their people's birthright. The continuing saga of some of the Nyendwa clan chiefs of Nyimba District who continue alienating land without the approval of their headmen clearly illustrate the present lack of protection afforded customary villagers.

Given the lack of ownership rights in respect of renewable natural resources resident 'free-riders' are encouraged to join the irresponsible harvesting, encouraged by the natural human proclivity of *time preference*, where people prefer to consume now, rather than later. The *time preference rate* measures the strength of this preference, being the percentage by which the amount of consumption of a good next year must be higher than consumption this year for people to be indifferent between consuming now rather or later (Clark 2007). People of the present customary commons are essentially subsistence and peasant forage-farmers with the typically high *time preference rates* of pre-industrial societies. Encouraged by the absence of ownership rights, it is extremely common to find instances of behaviour

which show scant regard for future benefits: fruit trees being cut down for a handful of fruit; mosquito nets and poison being used to kill all age classes of fish and other life. Clearly this is in part a function of the destruction of the traditional systems in place to manage natural resources as a result of the near total decline of the hunting guilds (*aChiwinda*) and other guardians of nature; followed by the imposition under Indirect Rule of the chiefdom commons, but a commons with no ‘ownership’ of nature and the weakening of the authority, incentives and controls necessary for maintaining the customary commons. The theory is that coercion is required, or some other special device, to make rational self-interested individuals act to achieve their common or group interest (Ostrom 1991, pp.6, citing Olsen 1965, p.2). This is largely disproved in chiefdoms where the traditional authority does curb some ‘free-rider’ activity but is simply overcome by the eco-imperialism of its own government, by capitalist raiders, crime syndicates and, in some cases, venal chiefs operating within an open-access regime. And again the NCC Committee on Land and Environment managed to ignore the whole ownership issue of the natural resources being supported on customary land, opting rather to ‘provide for the utilisation and management of a natural resource by a local authority in the area where the natural resource is located’ (340 (a)). Were this to become law, District Councils would join the plunder, invading the customary commons without hindrance. Moreover, quite how those having been allowed access to natural resources would be able to adhere to the provisions in 341 (a) that ‘where the right or concession is in respect of a renewable natural resources, the holder of the right or concession shall replenish the natural resources that is exploited’, is not explained.

However, it is in Zambia’s fishing grounds that the existence and protection of the group interest is seen. In the Mweru-Luapula fishery, where ‘resources were never ‘common property’ before colonialism, complex tenure systems linked to clan groups governed the use of the lands, lakes and lagoons (Gordon 2006, p. 4). These rights were largely sidelined by the colonial authority when a chiefs’ commons was created as a result of the appointment of senior members of Paramount Chief Kazembe’s family as chiefs. A dual control system then operated with the colonial appointed chiefs and headmen placed in charge of people, but with the traditional guardians of the resources still in control of nature. However, social networks based on entrepreneurial Big Men and their families and evangelical Christian Churches had begun to challenge the authority of both colonial chiefs and owners, and

State attempts to intervene in the economy and environment in the form of marketing boards, nationalisations, closed fishing seasons, and restricted areas failed due to a lack of capacity alongside the resilience of trader-fisher networks (Gordon 2006, p.169).

Since self-government, the Government, as the owner and manager of wildlife and other natural resources, has manifestly failed to support the customary commons, its functions increasingly privatised under quangos, embarking in a highly selective and opaque manner on unequal ‘partnerships’ with hunting safari operators and customary communities on customary land, with or without the permission of the customary owners; awarding Tourism Concession Agreement (TCA) leases to investors in National Parks - without benefit to the former owners of the land - for increasingly longer leases at higher fees such that they all but resemble leasehold alienations; entering dubious and illegal ‘partnerships’ with investors in national and local forests; and the start of large scale alienations of land to the Chinese, Arabs and others for such agricultural schemes as jatropha production with all its proven monocultural damage and damaging effects on food production.

The nationalisation of forests and the similar expropriation of 34 Game Management Areas (GMAs) within the customary commons have merely created open-access regimes where limited common-property resources had previously existed. This is well documented in other parts of the world for forests that were once communal forests, and for inshore-fisheries when national agencies presumed that they had exclusive jurisdiction over all coastal waters (Ostrom 1991, p.23).

### 3.1.2 Strategies for customary community resource ownership

A seminal report suggests the following course of action for customary communities to follow when seeking to regain natural resource ownership on their lands (HURID 2002, p.32).

- i) In the area of policy and legislative formulation, Cabinet Office to be courted and, in particular, an input made into the ongoing review of policy and legal formulation processes by the Management Development Division under which the Public Sector Capacity Building Project, inaugurated in October 2000, is being managed. This will allow non-state actors to feature prominently in policy and legislative formulation, especially during the initial stages.
- ii) Customary stakeholders need to understand the policy and legal formulation procedures of Government so as to implement a tracking system for the current state of policy, and legislation.
- iii) The Parliamentary Subcommittee entrusted with natural resources sectors needs to be lobbied, and the Executive checked through the Action Taken mechanism.
- iv) Friends of the stakeholders within government and beyond need to be identified so that public opinion may be influenced. These should include technocrats within Government line Ministries entrusted with the initiation of policy and legislation, as well as co-operating partners of the State capable of providing both financial and technical support necessary for effecting change and new developments.
- v) Small working groups need to be set up that will specialise in specific natural resources so as to enhance effectiveness and efficiency and to build the requisite expertise and contact with relevant authorities. Close contact should be maintained with Cabinet Liaison Officers of line Ministries dealing with natural resources, as well as with staff of the Policy and Analysis Co-ordination Division at Cabinet Office, and lawyers within the Attorney-General's Chambers, in particular, the Legislative Drafting Department.
- vi) Customary community stakeholders should facilitate the establishment of community based resource boards or institutions so as to enhance the flow of information between the local and the national level. They will require legal persons as well as capacity building in understanding policy and legislative measures in the natural resources sector. To assist this process, policies and laws affecting the various community resource boards should be simplified and translated into languages local communities can read and understand best.

### 3.1.3 The Customary Authority

The *de facto* customary control of Zambia covers 94% of the territory; the *de jure* control is total in both the cultural and moral sense.

The Chiefs Act (1965) defines a chief as a person who is recognised by the President under the provisions of the Act, the President being empowered to withdraw recognition of Chiefs, i.e. withdrawing 'subsidiaries' set out under the Chiefs Act, as well as other entitlements such as subsidised vehicle loans. The Zambian Constitution, amended in 1996, defines the institution of chief as 'a corporation sole with perpetual succession and with capacity to sue and be sued and to hold assets or properties in trust for itself and the peoples concerned'. And the Local Government Act (1995) and the Development and Registration of Villages Act (1971) provides the main institutional framework on how chiefs are supposed to be integrated in development at the local level, the latter Act being an instrument of one party rule in 1972, remaining unchanged to this day.

From their elevation – and in many cases, their creation - by the Provincial Administration within the Native Authority under Indirect Rule, to their marginalisation by the Kaunda regime and the removal of their administrative and business development role, chiefs and chiefdoms are now once more in the ascendant. It is not surprising therefore that at a workshop in June 1997, the fifty attending chiefs called for the House of Chiefs to be instituted as an Upper Legislative Chamber. Yet, in 2007, the chief's annual allowance was a derisory US\$4.00 a day - little wonder that some of them found licence under the Lands Act of 1995 to sell off land which they were supposed to guard in perpetuity for their people. That they now have a House of Chiefs, and are courted by the politicians - the Movement for Multi-Party Democracy (MMD) Government being elected by the rural vote – is indicative of their increasingly elevated status. However, the MMD Government still appoints the clerk to the House, and the House merely serves the bidding of the President, as the recent *volte face* over the removal and re-appointment of Senior Chief Luembe of the Ambo people reveals.

Chiefs now hold sway over a largely sedentary people, the guardians of culture and religion, and a bulwark against rent-seeking and the blatant profiteering of customary land and natural resources. Increasingly, however, as in the Sichifula GMA, incursions of new unsanctioned settlers pose a threat to the stability of chiefdoms. And some chiefs continue to act as partners in the illegal removal of land, timber, game meat and ivory and other natural resources, much of this due to the lack of supporting institutions able to negotiate some benefit from sustainable offtakes with Government.

To some 'this continuation of the chieftaincy's rule is an instance of undemocratic despotism' (Negi 2008); to others, therein lies Africa's salvation:

In the end really we will never achieve political or economic independence until we develop a distinctly Zambian idea to solving our economic problems. We are struggling to achieve local development because there's no local idea of development and no vision of what institutions can deliver a more harmonious route to getting there.<sup>85</sup>

The local idea of development is the one currently in place: rule through chiefs and headmen, backed by a local court and the traditions which seek equitable solutions to common problems, something statutory courts find impossible to deliver.

### **3.1.4 Customary land**

Customary land is made up of Open Areas and GMAs – the latter provided for in the Wildlife Act of 1998, although the misconception that GMAs are state land, and that all customary land is Open Area land, is widely held (Mbewe 2007).

With the acquiescence of the local District Council, provisional title of 14 years can be awarded to outsiders initially, expanded to a 99-year renewable lease period once cadastral surveys and other requirements are completed. The latter is automatic and out of the hands of the chief, unless he were to place a *caveat* to that effect, for, although a chief can agree to alienate land, the lessor is the Commissioner of Lands who controls the lease and should receive ground rents from it, not the customary authority of the community from whom it has been wrested (Metcalf 2005).

In 1985, the Ministry of Lands issued Administrative, Circular No. 1, 1985 that set out the procedure by which customary land could be alienated to a private person or body. In 1995, the Lands Act lent this substance by providing for the recognition and continuation of customary tenure, and providing – under (8) 3, for the 'right to use and occupation of land under customary tenure'. However, should

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<sup>85</sup> URL:<http://zambian-economist.blogspot.com/2007/08/cultural-approch-to-zambias-development.html>. Accessed: 2010-02-04. (Archived by WebCite® at <http://www.webcitation.org/5nIDkHSRI>).



land be alienated, and bankruptcy be declared by the owners, the land reverts to the state and not back to customary tenure.

The President, in whom all land is vested, cannot, according to the Lands Act, alienate customary land unless it is with the Chief's and the local authority's consent, and only after consulting affected bodies or persons, and – in the case of GMAs - the Zambia Wildlife Authority (ZAWA). Article 16 of the Constitution forbids the compulsory seizure of state land or acquiring it in the absence of the authority of the law. This is laid out in the Lands (Compulsory Acquisition) Act of 1970 (Cap 189), which the President uses to acquire alienated land for public interest. Customary law does not have the same powers - the chief having to ask for it from the subject in question. In this respect, customary tenure enjoys superiority relative to leasehold in protecting the rights of customary landholders.

Contrary to the Lands Act, and provided it is for agricultural development, the President can, under Article 16 (2) (ii), take or acquire land from its owner or occupier, be it state or customary land:

But the next paragraph is even more categorical in emphasising the overarching powers of the President on behalf of the State. In his bid to pursue the ends of a comprehensive land policy, the President can dispossess any occupier or owner of land, including the Chief, who enjoys rights in that land 'and person claiming through and under them' of the rights in that piece of land. It is remarkable these extensive provisions have not been used before by successive Presidents in customary areas. Nevertheless, the policy theme behind the clause is that in the interests of the public, the State should have higher hierarchy than the individual or even group of people as in customary areas (Hansungule 2007).

Under the Land Acquisition Act of 1970 (Cap 189), the President may also compulsorily acquire land if required for petroleum production. Indeed the Petroleum (Exploration and Production) Act 2008 under Part VI, section 41, requires written consent from a chief for petroleum mining activities in his chieftom, from the Forestry Department (FD) in protected forests, and from ZAWA in National Parks, the licence holder being able to obtain a lease from the chief or the Ministry of Tourism, Environment and Natural Resources (MTENR) should he so wish. But where the mining licensee causes damage he is not required to compensate anyone for the removal of timber on protected forest land (Cap 199), nor for damage to customary land (Cap 198), only on land alienated under the Lands Act of 1995. It is this lack of compensation that causes some chiefs to call for the statutory alienation of their land to leasehold, in their name.<sup>86</sup>

Customary authorities made up of Chiefs and their headmen, may place the 'right to use and occupation' of land held to an individual, but ideally – as is proposed here - to a statutory institution, ideally a Trust Company under the Companies Act, for a period, therefore supplying the necessary incentive for investment partnerships. For land to be alienated to non-citizens through leasehold, application has to be made to establish an investment facility through the Zambia Development Agency within the Ministry of Commerce, who may then issue an investment certificate making possible the alienation.

The constant clamour for the release of customary commons for state development is not based on audited figures available at the Ministry of Lands. Were they available, it would be seen that large swathes of the country have been subsumed by GRZ. The 'alienation' of all or part of customary areas – once Trusts lands - and their replacement by Game Reserves, then National Parks and GMAs, being a good example.

The Fifth National Development Plan concentrates on the issue of attaining land, saying little about customary land and the culturally grounded rights of its people. This shows clearly that Chiefs were

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<sup>86</sup> Reporter. 2007. Zambia: Chiefs Pursue Title Deeds, The Times of Zambia (Ndola), 4 October.

not listened to, an example being the failure to respond to the House of Chiefs' request that their decision to accept chieftom trusts would allow their land to be protected, yet at the same time, allowing investors to have security of tenure through the issuance of customary leases.

And then where is the value system? A Plan that is tailored to work in Zambia should articulate Zambia's values. The title deed which the Plan advocates proposes to fast-track land delivery is good but it is still not the main value system to the majority of people in Zambia. Most people still share land and therefore de-emphasises individuality which is why there is relative security in the country. Even as they develop and adopt new ideas and systems, a Plan should plan for people based on their civilisation. You can't impose alien ideas on people and expect to succeed. There is serious need to contextualise the Plan so that it can reflect the society it is going to operate. It must not only aim to attract money as the sole motive for the land reform. More than that, to create, recreate and deepen the value system in land as in society generally as the primary objective (Hansungule 2007).

The Land Alliance, a civil society organisation made up of a number of Non-Governmental Organisations (NGOs), weighed in with the following:<sup>87</sup>

In relation to the over ambitious aim to promote title deeds in rural areas, the policy should consider leasing of land under customary tenure system directly without first converting such land to the state land. Such lands must continue to be in the hands of traditional rulers without the local communities losing their customary rights to the leased land. Failure to do this could perpetuate whole selling of agricultural land by speculators to the rich minority, as has been the experience in the last seven (7) years under the 1995 Lands Act (Zambia Land Alliance 2003).

The Lands Policy has unfortunately been much delayed, in part because the Land Alliance lobbied the government to adopt the Draft's current form but only to do so after making some amendments, particularly in relation to customary land. The Ministry of Lands also said they wanted to wait for the on-going constitution review process to be finalised before proceeding to adopt draft land policy so that the policy does not contradict the former.

Of particular concern is the plight of women in general, and widows in particular, with land-grabbing being a particularly pernicious custom in Zambia - and Africa as a whole - whereby on the death of her husband, a woman is descended on by her husband's family and other parasites, and divested of land and chattels. Under the Intestate Succession Act of 1989, where a will has not been left, the widow is entitled to receive 20% of the deceased's estate, the children share 50%, his parents 20%, and other relatives receive 10%. However this does not apply to customary land and the houses built thereon. Rural women are also ill-served by contradiction in the Constitution whereby article 11 guarantees the equal status of women, yet article twenty-three permits discriminatory laws to exist in the area of personal and customary law. And as a rule, rural women only have recourse to the Local Court, where their lack of human rights are unenviably exposed. Clearly this is an issue which needs to be addressed – given the failings in the law – by assisting in the provision of wills and in the registration of customary held properties in the name of women, independent of their husbands.

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<sup>87</sup> Henry Machena. 18 May 2009. Land Alliance e-Mail to I.P.A. Manning.

*i)* Open Area

Open Areas are that portion of customary area not designated GMA i.e. areas considered to have highly depleted populations of animals within settled areas. They comprise 42% of Zambia. These are the areas that are targeted for large-scale alienation, along with the national and local forests with which they are associated.

*ii)* Game Management Area

GMA's were created in 1971 under the National Parks and Wildlife Act of 1968 by statutory instrument within a number of customary areas with significant wildlife populations as a planning framework for integrated community and biodiversity development on customary land, and not as another distinct category of protected state land. In 2008 there were thirty-six GMA's. The 1998 Act states that the Minister in consultation with the local community and ZAWA may declare a GMA for the 'sustainable utilisation of wildlife and for the purposes of this Act.'<sup>88</sup> Although the Wildlife Act No.12 of 1998 allows for co-management of GMA's between ZAWA and their proxy, the Community Resources Board (CRB), and devolves authority to CRB's for wildlife management, in practice they are currently viewed by ZAWA as state land under their control, a view supported by their importance in providing them income from hunting leases. While this has served to hamper untrammelled alienation, it also blocks development generally, a mixed blessing.

However, few management plans of any substance have been forthcoming for GMA's and National Parks under ZAWA's management, and little credible scientific work carried out to provide the basis for sustainable off-takes of wildlife for hunting, cropping or capture. Attempts by the Luembe and Nyalugwe CRB to even obtain the ZAWA template for wildlife management plans proved fruitless.

The Wildlife Act makes certain legal assumptions of the control of GMA's and customary land, although contradicted by both customary and statutory law (the Lands Act of 1995) and by such traditional practices under African law as contracts of agistment whereby owners of livestock are obliged to pay rental for grazing rights (Derrett et al 1968). Furthermore, ZAWA has by dint of statutory instruments attempted to further control customary people by laying out draconian punishments for setting or not reporting fires. ZAWA as the 'owner' of wildlife pays no such rental, rather extracting concession rentals and game trophy fees. Originally, 50% of concession and trophy fees were paid to CRB's, but concession fees were later reduced by an ad hoc CRB committee to 20% - in both cases 5% going to the chief. In late 2006, at a meeting held between CRB's and ZAWA, it was agreed that the income would in future be shared equally.

The state of the biodiversity in the GMA's found on customary land 'commons' - in which hunting concessions are placed, has seriously deteriorated under ZAWA. Fortunately though, a few hunting concessions continue to hold their own generally, particularly of the strongly interactive keystone wildlife species such as buffalo that are of immeasurable importance to the ecosystems on which a myriad of other species are dependant, now reaching very low levels in some areas, resulting, with the assistance of uncontrolled fires, in the increasing brittleness of rangelands and a deterioration in carrying capacity (Savory & Butterfield 1999). Most seriously of all, the rural communities, although still with access to a plentiful supply of land and adequate rainfall in much of the country, are denied ownership or proper access to the benefits of the natural resources supported on their customary land, are criminalised in their subsistence hunting and find their land sold off by unscrupulous chiefs, district councils and corrupt officials in the Commissioner of Lands. They continue therefore to be ensnared in poverty, their hopes for tourism revenues now diminishing with that of the wildlife.

The fact that customary residents of GMA's - and the attendant Open Areas - are 30% poorer than the national average indicates that living in wildlife areas, rather than benefiting villagers from wildlife

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<sup>88</sup> Part V: (26) 1, The Wildlife Act No. 12 of 1998.

resources, makes them considerably poorer than everyone else. In the case of women, 28% of GMA households are female-headed, compared to 22% in non-GMAs, and female-headed households living near National Parks, either in GMAs or in non-GMAs, on average enjoy 19% less per capita consumption than male-headed households (Simasiku 2008, p.17). The reasons for this massive discrepancy, supported by the author's experience on the ground in Luembe, is (apart from the presence of tsetse fly, due to animal depredations on villagers and their crops<sup>89</sup>) the depletion of wildlife by criminal syndicates to feed the ivory and bushmeat trade, making it difficult for villagers normally dependent on wildlife for their food to adapt to the change. And ZAWA anti-poaching scouts - many of whom are involved with the crime syndicates, harass villagers, supported by the many unpaid and 'free-agent' Village Scouts. In addition to the generally negative presence of ZAWA in the customary areas, ZAWA in 2006 spent only 8% of its budget on GMAs, although they generate more than 50% of ZAWA's revenues and constitute more than 70% of the land under its stewardship. ZAWA's salaries and administration costs in 2006 took up almost 70% of total expenditure. The conclusion here is that ZAWA is a factor in this poverty differential, urgently suggesting a revolutionary socio-ecological change now required in GMAs if the customary community is to see any improvement in its life prospects (yet without destroying native culture), and if the wildlife and other natural resources are to be conserved so as to provide part of the sustainable solution.

An additional factor is that CRBs do not benefit the poor, with the rural elite capturing, by way of travel allowances, accommodation and meetings most of the money received by CRBs from ZAWA (Simasiku et al 2008, pp. 17-19). Moreover (as mentioned in Chapter 2), most CRBs remain unpaid, the Nyalugwe and Luembe CRBs with 43 Village Scouts being owed 14 months salary on average, with some not paid for more than three years. The Simasiku report summarised its findings as follows:

This report paints an alarming picture of Zambia's GMAs in terms of economical, sociological and ecological benefits. Chapter 2 reveals that the commercial flow to GMAs is probably decreasing. Chapter 3 illustrates that natural habitats and wildlife are decreasing at an alarming rate in most GMAs. Chapter 4 shows that GMA communities are 30% poorer than the average Zambian rural communities. Chapter 5 shows that 31 out of 36 GMAs fail to meet the requirements for minimum management effectiveness.

This particular report on the impact of wildlife management policies on communities and conservation in GMAs, was preceded in 2007 by a report on the real economic input of nature tourism in Zambia (Hamilton et al 2007), and followed in May 2009 by a paper put out by the World Bank Environmental Department 'assessing household welfare and natural resource management around National Parks in Zambia' (Bandyopadhyay & Tembo 2009). The two latter authors are also co-authors of the 2007 and 2008 reports - yet failing to include them in their list of references - and contradicting some of the results of the 2008 study. The 2008 study confirmed the 2007 study's findings that households were on the average better off in GMAs, but then concluded in a contradictory manner that these benefits were captured by the elite residents and the CRB/VAG members. The 2008 report found that GMA residents were 30% poorer than the national rural average.

The 2009 report began in ignorance of the facts concerning GMAs: stating that 1) GMAs are areas where subsistence hunting is allowed (not true); 2) that land use in GMAs submit to the provisions of management plans (this being with rare exceptions, non-existent); 3) that the Wildlife Conservation Revolving Fund was the financial facility being used to pay CRBs (this corrupted facility having disappeared in the 1980s); and 4) referring to the wide latitude of CRBs spending their funds, when in fact there is no official allowable latitude, as the percentages are stipulated that have to be spent on

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<sup>89</sup> In 2005, a total of 56 people were killed by wild animals with crocodile (34 victims), hippo (12), elephant (7), lion (2) and hyena (1). NRCF, June 2008 p.21.

community development, administration and anti-poaching (the only latitude being in respect of monies stolen or misappropriated).

The 2009 report further concluded that average household earnings in the 50:50 sampling of GMA and non-GMA residents was K846, 000 per annum (about 50 cents a day); and that the Bangweulu and Luangwa GMAs were appreciably better off than the Zambezi and Kafue GMAs. Why this should be so when parks like Isangano and Lavushi Manda have been long denuded of their wildlife and with no safari hunting or tourism taking place, when compared to the tourism and investment activity in Kafue and Zambezi, is a mystery. They did find that GMAs and their institutions (CRBs/VAGs) do not benefit the poor in the slightest, but then said that there were substantial gains associated with GMAs and participation in the CRB/VAGS. Their conclusion that the gains are unevenly distributed, is well known; but they made no suggestion of the measures required to improve matters.

*iii)* Alienated Trust land (Protected Areas)

On 20 April 1950, the Governor of Northern Rhodesia proclaimed the Kafue National Park as the first National Park in the country, being ‘set aside and not excised from it’ within what was Native Trust Land. The Order in Council defining Trust Land stated, “land set apart for the sole use and benefit, direct or indirect, of the natives of Northern Rhodesia...” and further: ‘out of the profits or rents accruing from any area of native trust land set aside as a forest or Game Reserve... there shall... be paid first the expenditure necessarily incurred by the Government in connection with the said area, whether by maintenance, development or otherwise, and the balance shall be paid into the (Native Trust Land) Fund, or into the treasury of the native authority concerned, as the Governor shall direct’ (Darling 1960, p. 128).

In 1954, parts of Nsefu and Luambe were put aside as Game Reserve at the request of the chiefs for their people’s benefit. They were later converted to National Park status, the benefit element ignored.

Given the historical and moral imperatives, it is therefore necessary for the CRB in the customary area adjoining a National Park to both take on responsibilities for the support of ZAWA in the protection of the National Park as well as to derive benefits from it. For this to happen the CRB should sign a Memorandum of Understanding (MoU) with ZAWA.

## **4 LEGAL AND INSTITUTIONAL FRAMEWORK FOR NATURAL RESOURCES**

### **4.1 Introduction**

The Constitution of Zambia is the guide to policy and legislation: Article 50 awards responsibility for policy formulation to Cabinet; Article 44(3)(b) allows the President to put forward laws for consideration to Parliament; Article 62 vests legislative power in Parliament i.e. the President and the National Assembly; and Part IX, Article 112(i) deals with natural resources: ‘...the State shall promote sustenance, development and public awareness of the need to manage the land, air and water resources in a balanced and suitable manner for the present and future generations’. The Ministry of Tourism, Environment and Natural Resources (MTENR) shares responsibility for natural resources along with eleven other government ministries, backed by thirty-three sets of legislation and the notional twenty-one international conventions to which it is signatory. The following are the sectors by Ministry (HURID 2002):

- i) Fisheries: Ministry of Agriculture and Co-operatives;
- ii) Lands: Ministry of Lands;
- iii) Mineral resources: Ministry of Mines and Mineral Resources;
- iv) Water: Ministry of Energy and Water Development;

- v) Wildlife, forestry and environment: Ministry of Tourism, Environment and Natural Resources.

Legislation and the mechanisms of implementation available to rural people community for natural resource management are largely absent. And to this must be added the fact that the country remains essentially hostile to private sector investment in environmental and natural resource management, particularly if it deals - as it must - with questions of resource ownership on customary lands and the inequitable distribution of benefits. The prospects therefore for poverty reduction, the improvement of livelihoods and sustainable development will remain illusory in the absence of fundamental change in the urban/rural power nexus.

It is obvious therefore that procedures are designed to allow the executive near total control of the policy and legislative process, ensuring that citizens have little say in the laws and policy which govern them. In 2005, the Natural Resources Consultative Forum (NRCF) hosted a workshop to allow ZAWA to receive stakeholders' inputs to statutory instruments providing regulations on GMAs, National Parks, hunting, game ranching and captive breeding, which they wished to be approved and so be passed into law. In general, the draft regulations inflated ZAWA's powers at the expense of the stakeholders: noteworthy were the powers – backed by draconian punishments - assumed by ZAWA in the GMA regulations over customary landowners dealing with bush fires, further highlighting the contradictions of the Lands Act of 1995 and the Wildlife Act of 1998; the powers assumed by ZAWA in the Game Ranching and Captive Breeding regulations – already unimaginatively conflated - of withholding full ownership of wildlife on registered game ranches and of requiring that they pay hunting licence fees for hunting these animals; and again in the GMA regulations, ZAWA being under the impression that GMAs were state land.<sup>90</sup> The legal consultants to ZAWA took full notes during the workshop, yet subsequently no workshop reports were issued, nor a workshop held to sign the regulations off, and by mid 2009 no regulations had been issued on these subjects.

#### **4.2 Policy and legislative formulation process (after Mulonda 2003, p.5)**

There are four stages in formulating policy: formulation, adoption, implementation, and monitoring and evaluation. Unfortunately, there are severe systemic weaknesses in this process:

- i) Article 50 of the Constitution empowers Cabinet to advise the President, to formulate policy and to assign responsibility for policy to the executive, a highly centralised process.
- ii) Policy procedures are the function of an internal executive act, with no requirement for consultation with non-Government stakeholders or civil society.
- iii) Those who formulate and evaluate policy are all state operatives. This process ensures that policy which is not in the public interest can be gerrymandered, resulting in both flawed legal instruments and legislation, and legislation biased against the disenfranchised, the poor and illiterate.

Some of the flaws are:

- i) There is virtually no information exchange between Government and the governed, the procedures in place to arrive at statutory instruments, bills and the passage of legislation are screened from public view, and may rapidly pass into law unless newspapers happen to take an interest.
- ii) Once an issue or instrument has passed to Cabinet, it is regarded as top secret and no public debate or scrutiny is possible, unless authorised. In addition,

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<sup>90</sup> Director-General, ZAWA (Hapenga Kabeta). 2005. Statement made at NRCF workshop, Lusaka.

consultation is restricted to line ministries, and scrutiny to the Legal Committee of Cabinet.

- iii) Article 44 (3) (b) of the Constitution gives the Executive, through the President, power to initiate laws for consideration by the National Assembly. Legislation formulation is therefore an executive act.

#### **4.2.1 Environmental Protection and Pollution Control Act (EPPCA) of 1990**

The Natural Resources Act Cap 315 of 1962 - now much diminished and known as the Environmental Protection and Pollution Control Act (EPPCA) of 1990 - provided for community participation in the conservation of natural resources through the establishment of a Natural Resources Board and a Natural Resources Tribunal: their function, to provide for the preparation and implementation of conservation plans in designated areas. Power was in turn devolved to the grass roots in the form of Natural Resources Committees and Sub-Committees; in addition, conservation committees were established in specific areas by petition to the board. Members of the community elected the committee members, and the committee itself was a corporate body able to sue or be sued. Under this Act, natural resources were defined as soils, water, vegetation and its products, and all animal life: mammals, birds, reptiles, fish, insects and natural products derived from them. These committees therefore existed to assist in the planning and management of all natural resources, directed by an executive body - with what was essentially an ombudsman - to hear community grievances.

This Act was repealed and replaced by the Natural Resources Act of 1970, which, *inter alia*, established a Natural Resources Advisory Board and Provincial and District Natural Resources Committees drawn from GRZ and the private sector, but which could be dissolved by the Minister. These were based on political boundaries and were supposed to provide conservation plans and their oversight. In essence the two Acts performed much the same functions, but with the latter clearly being under political control. Twenty years later, in 1990, the objectives and functions of the Act of 1970 was completely changed by the repeal of all parts of the Act except parts IV, V, and VI dealing with conservation and management of natural resources, fire control and planning. The Act, now transmogrified into the Environmental Protection and Pollution Control Act of 1990, is evidence of the abandonment of any attempt at devolution and decentralisation.

Critics of the 1970 changes to the Natural Resources Act argue that the changes resulted in compromising the independence and roles of community based organs. The character and composition of these organs was changed. For example, public officers were brought in to work as an integral part of committees, and all members were appointed by the Minister, in contrast with the 1962 arrangement where members of the community elected persons within their communities as members of the committees. The functions of the committees changed to those of an administrative body covering established political boundaries, supervising the use of natural resources (more regulatory), and managed by the Minister and the Natural Resources Advisory Board as opposed to the former arrangement where the community was engaged in the wise use of the natural resources. Any form of development and management of natural resources came under direct Government control, unlike the former arrangement. Furthermore, these committees were subject to dissolution by the Minister whilst the benefits for resource use was not directly or easily identifiable to the community. The scenario ushered in was therefore that of Government organs with community representation, as opposed to community-based organs (Mulonda 2003, p.p. 25-29).

The Environmental Protection and Pollution Control Act (EPPCA) of 1990, the principal environmental legislation, is currently being reviewed in order to align it with the National Policy on Environment, the latter now beginning to be absorbed into the policy and legislative process. It is hoped that much of the legislation that supported community empowerment in the original Natural Resources Act of 1962, will be included.

As has been pointed out previously, there has occurred

...the transfer of many regulatory functions from thematic legislations to the more generic Environmental Protection and Pollution Control Act. While this focuses legislation, it weakens the field controls of line departments, and particularly agriculture - on land use planning and management controls such as cultivation near water courses, shifting cultivation, and other catalysts of deforestation, damage to headwater catchments, river sedimentation and soil degradation (Pope 2006).

While the Policy produced in 1998 for the NPWS recognises local community participation in wildlife conservation by the election of CRBs, they are merely arms of convenience for GRZ, being neither supervised nor supported, with elections manipulated, largely unpaid. Moreover, where CRBs, such as Luembe, do take up positions contrary to their ZAWA masters' wishes, they are removed in defiance of democratic principles. Furthermore, the National Forestry Policy of July 1999 which encourages partnerships between State agencies, local communities and individuals, has yet to be implemented. However the aforementioned policy did provide for the formation of the Environment Council of Zambia (ECZ), which advises GRZ on the policies and projects needed to further the sustained development of the natural resources. In 1994, The National Environmental Action Plan (NEAP) was supposedly adopted, its objective to integrate environmental concerns into national development planning.

#### **4.2.2 *Tourism and Hospitality Bill***

The Tourism and Hospitality Act of 2007 came into operation on the issue of a statutory instrument. It was clear after first sight of the Bill in September of 2007 that the Tourism Enterprises and Licencing Committee (TEALC) should have a representative from the Zambia Development Agency (ZDA) so as to balance a heavily politicised Immigration Department, plus two representatives from the private sector, in addition to the Tourism Council of Zambia (TCZ). However, this is yet another highly centralised committee, yet another quango, seeking to impose 'central planning' on the nation, in defiance of the urgent need to decentralise. The inclusion of the term 'empowerment' means that the CEE Act and the Commission will direct the way the TEALC conducts its business. The agenda is political and will therefore not serve the interests of tourism development. The fact that some half a dozen Tourism Concession Agreements (TCAs) in the Kafue NP are already held by native Zambians, but who are not operating due to their lack of expertise and capital, shows that the problem does not lie with a lack of empowerment - now so dear to the political heart - but with insufficient levels of expertise, interest and investment capital.

Under section 14 - concerning the organisations that the Director should consult - it is notable that conspicuously absent are the Zambia Business Forum (ZBF), the House of Chiefs (H of C) and District Councils.

It is clear that this bill has not registered the concerns and inputs of stakeholders. While the TEALC clearly has an empowerment agenda, there is little consideration for bringing in the poorer Zambians into the tourism sector, and for the implementation of the Decentralisation Policy. Pages of regulations, followed by details of the punishments to be meted out if the licensee does not comply, will not result in a thriving tourism industry. The trend in Zambia is for the production of legislation in support of newly created commissions, boards and committees - all quangos, and all under highly centralised political control: the CEE Act, the NGO Bill, the Anti-Terrorism Bill, the Zambia Development Agency Act; even business initiatives such as the Private Sector Development Programme (PSDP), taken up by the Zambia Business Forum, are beholden to the CEE Act.

All this legislation, including the Immigration and Deportation Act, is there to control foreign investors and non-Zambia residents, ensuring that they remain as investors, but held well within the power of centralised control. And the Act, when taken with other developments, will simply siphon



off more money from the national purse, create ever more bureaucracy at a time when the Government of Zambia becomes ever more dysfunctional, and so hinder investment.

#### **4.2.3 Forestry Act No. 39 of 1973**

The Act of 1973 remains in force until such time as a commencement order for the Forestry Act No. 7 of 1999 - which will establish the Zambia Forestry Commission, define its functions and provide for the establishment of national forests, local forests and joint forestry management areas - is issued by the Minister. Once in operation, this Act will provide for the participation of local communities, traditional institutions, NGOs, and other stakeholders in sustainable forest management. Part V of Act No. 7 of 1999 deals with joint forest management, allowing considerable devolution of powers to customary communities over forests and local forests.

Under the proposed new act, as with wildlife, trees will be 'owned' by the republic's president on behalf of all Zambians, with powers of administration delegated to either chiefs or the Director of Forestry. The 1973 Act mirrors the weaknesses in the legislation of other natural resource sectors, being highly centralised, removing and disenfranchising customary communities who had previously agreed to make the land available for conservation, and restricting customary authorities and District Councils from receiving benefits from sustained forest conservation.

Since 2002, the Provincial Forestry Action Programme (PFAP II) has been supporting the Forestry Department (FD) of the Ministry of Tourism, Environment and Natural Resources (MTENR), to pilot Joint Forest Management (JFM) in seven districts in Zambia.

The legislative framework for Joint Forest Management activities in Zambia are the Forestry Policy of 1998, the Forests Act of 1999, and the local forests (Control and Management) Regulations, Statutory Instrument No. 52 of 1999 - the programme stalled for years due to the lack of an adequate legal framework to enable some aspects of JFM to be implemented. However, the failure to implement the Forests Act of 1999, which provides the legal framework for JFM, is one of the principle causes of customary communities not being able to benefit from forest resources. In particular, the issue of how communities may be empowered to collect licence revenue on behalf of government, and how the benefits arising from JFM can be shared between the government (FD) and the local communities is untested. As the NRCF advisory note on JFM to the Minister (a note never acknowledged) advised in 2005, the Forests Act of 1999 ought to be brought into force through the passing of a commencement order under the hand of the Minister of MTENR specifying an exact date of commencement. This would then create the Forestry Commission in place of the Forestry Department; facilitate the transfer of user, control and management rights to participating communities and stakeholders through joint forestry management, and allow for the sharing of costs and benefits of forestry management with participating stakeholders (NRCF 2005).

With current legislation unable to accommodate the implementation of joint forestry management, the Local Forests (Control and Management) Regulations, Statutory Instrument No. 47 of 2006 was gazetted in April of 2006 to accommodate their establishment.

As far as normal utilisation is concerned, the Director of Forestry can transfer the right of utilisation to any individual or institution through a licence, four types being in operation:

- i) Production licences: - These are saw milling licences or pit sawing licences.
- ii) Concession Licence - This is a right given to harvest trees in a given area for a specified period (usually five years), subject to the production of a forest management plan. This licence is mostly used to produce timber for export..
- iii) Conveyance Licence - This allows for the movement of forest produce (raw timber, firewood and charcoal) from one area to another.
- iv) Casual Licence - Allows the harvesting of rough forest produce for domestic use

and commercial use.

The critically important mechanism of timber certification has been introduced as a result of global pressures. The 1992 United Nations Conference on Environment and Development (UNCED) recognised that problems of poverty and food security were linked to deforestation and the indebtedness of developing countries, resulting in the development of certification standards, which in turn gave access to foreign markets. This gave birth to the Forest Stewardship Council (FSC) in 1992 with the mandate to validate the claims of timber certifiers and with the goal of promoting sustainably conserved forests. It is unlikely that many customary communities have been told of certification. Also, Government might question it as a ploy by developed countries to control access to markets.

Donors, NGOs and the WB/IMF/WTO trinity naturally support pre-market economies obtaining an FSC Certification (Forest Stewardship Council). FSC is an association of voting members registered in Mexico with the aim of promoting environmentally appropriate, socially beneficial and economically viable management of the world's forests. Membership is open to organisations and individuals who are supporters of the FSC's work, being assigned to one of three chambers:

- i) The Economic Chamber – those with a commercial interest.
- ii) The Environmental Chamber - non-profit, NGOs and individuals dedicated to biodiversity and environmental conservation or studies, with a demonstrable commitment to environmentally appropriate, socially beneficial and economically viable forest stewardship.
- iii) The Social Chamber - for indigenous organisations and social movements and individuals involved in such organisations that are active in the promotion of environmentally appropriate, socially beneficial and economically viable forest management.

The establishment of a forest management system is usually the first step before the certificate is awarded, certification being still in its infancy. Zambian organisations have to rely on expensive foreign-based certifiers. The tenure system is also seen as a severe constraint for companies who seek security of tenure for their investment.

Making use of the Local Forests (Control and Management Regulations, Statutory Instrument No. 47 of 2006, Forest Trusts under Joint Forestry Management (JFM) in Zambia may be registered as Societies, and are bound to the Forestry Department through a memorandum of understanding (MoU). But in theory development partners may apply to the Forestry Department (FD) to have National Forest reserved for their use in a joint arrangement with the FD.

Trees on Customary Land and in Local Forests can freely be cleared, burned, or used for home consumption or local use but not those in National Forests and National Parks. However, if a forest product is to be used for commercial purposes, the State (through the Department of Forestry), has to issue a licence. Thus, individuals or communities are only given use and management rights over forests, but not ownership (Mbewe 2007).

In March, 2009 the Minister MTENR informed the National Assembly that the Forestry Policy of 1998 was under review; and that: 'It is expected that the revised Forestry Policy will be in place towards the end of the 2009. The revised Forestry Policy will inform the revision of the Forests Act No. 27 of 1999 to strengthen its provisions including the restructuring of the Forestry Department'.<sup>91</sup>

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<sup>91</sup> Minister's speech to National Assembly, 17 March 2009, page 5 of 7.

#### **4.2.4 The Fisheries Act of 2007**

The Fisheries Act Chapter 200 of the Laws of Zambia of 1974 provided for fisheries management at a departmental level, but did not incorporate community participation. Prior to that, it was administered from 1941 by the Department of Game and Tsetse Control. The amended Fisheries Act of 2007 gives powers to the Minister to declare Fisheries Management Areas (FMAs) through a statutory instrument – in consultation with riparian communities, and subject to the provision of a fisheries management plan, with special care for endemic fish. No fishing is allowed within an FMA without a licence. The Minister appoints Fisheries Management Committees (FMCs) as co-management structures in FMAs, with members comprising six villagers, one chief's representative, one from the local authority, one from an NGO operating in the FMA, one each from the fishing industry and aquaculture industry, plus two other persons vetted by the Minister who also appoints the Chairman and Vice-Chairman. The FMA may, in consultation with the Director, enter into co-management agreements with industrial fishing companies, or with NGOs. The Committee is responsible for the production of the management plan and the creation of a fund into which will be paid all licence money for the economic and social well-being of the riparian community. The committee is required to prepare an annual report and audited accounts to be submitted to the Minister. The Act also covers aquaculture, requiring that ventures be licenced and operate under certain conditions. Government is required to provide an Aquaculture Development Plan for Zambia.

The Act further provides for a Fisheries Department to co-ordinate the development of commercial fishing, fishing control and the registration of fishermen and their boats.

#### **4.2.5 The Water Act No. 34 of 1948**

Water resources management in Zambia is governed by the Water Act, which makes provision for the ownership, control and use of water. In terms of jurisdiction, the Act is not applicable to (a) the Western Province; (b) the Zambezi River; (c) the Luapula River; and (d) that portion of the Luangwa River that constitutes the boundary between Zambia and Mozambique.

The Water Act of 1948 (As amended by Nos. 5 and 39 of 1950, S.I. No. 55 of 1964 and No. 69 of 1965) vests ownership of all water in the President – no right of property in water existing – except for domestic use. The Act provides for a Water Board and Registrar to whom applications must be made if a public stream is to be diverted or stored. Water therefore remains an essential part of the commons.

As admitted by the Minister of Finance in 2009, 42% of Zambians do not have access to potable water, with the result that trachoma and cholera are the biggest disease killers of children after malaria. The level of water related disease is worsened by the HIV/AIDS epidemic (official figure is approx. 20%) with its associated infectious diseases, making interventions targeted towards poor communities a high priority (Sievers 2006).

A donor support partnership on water resources management in Zambia identifies some major issues affecting rural communities:

- i) Lack of an integrated approach to water resources management.
- ii) Lack of decentralised and sustainable structures that are accessible and provide for the participation of stakeholders/communities.
- iii) Lack of effective awareness programmes for all levels of water users/stakeholders including policy makers and legislators.
- iv) Lack of involvement of traditional authorities in water resources management (customary law).

Zambia is addressing this through institutional, legal and regulatory reform of the Water Resource Management sub-sector, with the Water Resources Action Program (WRAP) under the auspices of the Ministry of Energy and Water Development (MEWD) heading this process. WRAP has been finalising the new draft of 'The Water Resources Management Bill, 2004', which proposes an institutional framework for water resources management comprising:

- i) An autonomous National Water Resources Management Authority (NWRMA) to replace the existing Water Board. The NWRMA will be responsible for all water resources management functions except policy formulation and guidance as well as issues relating to shared water sources (notably Zambezi River).
- ii) Catchment Councils (where feasible) substituting the present Provincial set-up for water management.
- iii) Sub-Catchment Councils (where feasible) complementary to the District set-up.
- iv) Water User Associations, which should be formed on a demand driven basis.
- v) A Water Resources Development Fund to make investments benefiting the poor (e.g. dam/canal construction for small-scale irrigation schemes etc.) managed by an autonomous board with NWRMA as secretariat.
- vi) A Department of Water Resources to substitute the present DWA and be responsible for policy formulation and guidance as well as international rivers.

The Danida Water Sector Programme Support (WSPS) is specifically trying to link proposed catchment/sub-catchment based institutions for water resources management to existing decentralised local government institutions such as the local authorities.

#### **4.2.6 National Biodiversity Strategy and Action Plan (NBSAP)**

In 1997 work began on the NBSAP Plan for the years 2000-2004. The plan acknowledged the need to incorporate the best of indigenous traditional conservation practices. The following needs were identified:

- i) Conservation of ecosystems and protected areas.
- ii) Sustainable use and management of biological resources.
- iii) Equitable sharing of benefits arising from the utilisation of biodiversity.
- iv) Conservation of crop and livestock genetic diversity.
- v) Provision of an appropriate legal and institutional framework and the required human resources to deal with bio-safety.

Zambia's vision is to have a progressive and enlightened nation where its people value and derive sustenance and prosperity from the sustainable management and use of its biological resources. One of the six goals of the NBSAP was to ensure the equitable sharing of benefits from the use of Zambia's biological resources.

#### **4.2.7 National Conservation Strategy (NCS) 1985**

The NCS made proposals on policy, plans, organisation and the actions needed to integrate conservation with development; in particular, it recognised that customary communities and the private sector should be enjoined in the management of Zambia's natural resources.

#### **4.2.8 National Environmental Action Plan (NEAP) 1994**

The NEAP reiterated the need for local community and private sector participation in managing Zambia's natural resources by way of sustainable policies, incentives and guidelines in the management and maintenance of ecosystems, ecological processes and the biological diversity of the country. It also acknowledged that rural people, not the GRZ were the *de facto* managers of the natural

resources and that what was therefore needed were certain practical steps, including institutional and policy reforms, a reduction of central government's role in the management of natural resources, a devolution of responsibilities over natural resource management to local authorities and communities, and the privatisation of public enterprises involved in natural resource utilisation.

#### **4.2.9 National Policy on Environment (2005)**

The NPE recognises the requirements set out in the Constitution, its aim being to ensure sound environmental management within a holistic framework of sustainable development in Zambia. It emphasises the duty of any institution, government or non-governmental organisation, any community group or people's organisation or any individual that uses or otherwise carries out activities that affect the environment in any way, to exercise proper control to maintain the productivity and integrity of the environment. Of all the plans, this is the most comprehensive and unifying. And were GRZ to follow its prescriptions, the result could be a major positive change. Government finally announced the launch of the NPE on 30 June 2009, having adopted it in 2007 (Chulu 2009c).

#### **4.2.10 Zambia Poverty Reduction Strategy Paper (PRSP) - Fifth National Development Plan, 2006 - 2010**

The IMF, having failed with Stabilisation and Adjustment, has now invoked central planning with the Department of Planning and Economic Management within the Ministry of Finance and Planning having the mandate to implement the FNDP. This Plan was launched in 2006. What is noteworthy is that questions of land policy were not included in the main area of focus, the House of Chiefs' recommendations to the FNDP formulation falling on barren ground. The plans make the usual broad set of objectives on the ushering in of development for all, though, as with all plans, GRZ is not legally bound to carry them out (Hansungule 2007). The Plan endorses the African customary land system. Furthermore, paragraph g) of the objectives: 'the State shall promote sustainable development and public awareness of the need to manage the land, air and water resources in a balanced and suitable manner for the present and future generations, etc.' clearly places an obligation on the Government regarding sustainable development.

#### **4.2.11 Zambia National Action Plan (NAP) for Combating Desertification (2002)**

Zambia signed and ratified the United Nations Convention to Combat Desertification (UNCCD) on 15 October 1994 and 19 September 1996. The objectives of this programme is: 1) to reduce degradation of land resources in affected areas; 2) to promote the sustainable use of the land resources for the well being of the local communities; 3) to strengthen the capacity of all stakeholders so as to promote their participation in the national action plan (NAP); 4) to introduce and improve assessments, planning and monitoring systems for the effective management of the NAP process.

#### **4.2.12 Climate change**

Mubanga Kasakula, a small-scale farmer and leader of the Zambian Small Scale Farmers' Forum, told an international forum that in recent years in Zambia they have noticed a shift in the start of rainy season:

..rains do not begin until December and stop by early March, and rain is interspersed with dry spells; most crops grown are late maturing, like local varieties of maize and sorghum; yields are going down due to lack of rain; and that this has brought about a critical situation: in 2005, Zambia has a food deficit of 85,000 metric tonnes.

He then catalogued a list of negative impacts of this assumed climate change: reduced food supplies and hunger, no money for school fees, increasing malnutrition, women and girls walking far to fetch water. The amelioration measures which he suggested were to enhance the capacity of the Zambian

Meteorological Agency to give accurate, timely information, funding for small-scale irrigation schemes that are affordable for poorer farmers, funding to develop early maturing and drought tolerant crop varieties through farmer led research, encouraging the growing of drought resistant crops instead of hybrid maize, and support for appropriate farming, not just more food aid. He further stated how this support should be given:

- i) More resources and investment to agriculture sector and transparency in its allocation.
- ii) Improved rural infrastructure relevant to poorer people, to enable income generating activities (access to water and electricity).
- iii) Give space and capacity for farmers to engage in policy issues from local level to international level.<sup>92</sup>

The World Meteorological Organisation predicted that temperatures in Petauke district – the greater area in which the Landsafe project falls - will increase by between 5°C and 10°C (9.0°F and 18.0°F).<sup>93</sup> These predicted temperature increases were gleaned from the Hadley Centre, a Climate Research Facility who chose the 'HadCM2' computer model from a variety of choices. But the only evidence for a rise in temperature in the world has been in the last quarter of the twentieth-century, following a slight cooling between 1940-1975. But the Hadley Centre now admit, at a time when CO<sup>2</sup> emissions are rising, that the climate models they used did not take adequate account of natural temperature variability, yet still claimed that global warming will resume from 2009 (Lawson 2008). The science of global warming or climate change is problematic, based as it is on highly sophisticated computer models. Atmospheric concentrations of carbon dioxide did increase substantially in the twentieth-century, as it continues to do now, but CO<sup>2</sup> is only one of the 'greenhouse gases', water vapour making up most of the greenhouse gas and well nigh impossible for computer programmes to deal with. The difficulty is to quantify the amount which man is producing, the so-called anthropogenic effect, the amount that may be harmful should temperatures be increasing, and then to compute the cost – if the prediction is correct, of amelioration. The Intergovernmental Panel on Climate Change (IPCC), established by the United Nations (UN) in 1988, is supposed to settle this question by synthesising the available information. But, as quoted by Lawson, the IPCC stated that, 'Most of the observed increase in globally averaged temperatures since the mid 20<sup>th</sup> century is very likely due to the observed increase in anthropogenic greenhouse gas concentrations' (Lawson 2008, p.13).

Zambians have accepted newspaper headlines warning of the dire effects of global warming, as Europeans did in the 1970's - urged on by flat-earth journalism - of the dire dangers of pollution, species extinction, a looming ice-age, and before that of DDT, and more recently, of the Millennium Bug (Booker & North 2007), (Davies 2008). Thus Zambians, like most people, appear prone to accept information provided to them by journalists and politicians, groups notoriously subject to the phenomenon of 'group polarisation' be it genetically-modified (GMO) maize in times of extreme food scarcity – in itself trumpeted by aid agencies - or now, climate change (Sunstein 2009). Significantly, a major work that contains 2,311 scientific references reveals the missing science in the global warming debate (Plimer 2009).

However, it is apparent from the findings of the Copenhagen Consensus that statistically significant anthropogenic climate change has been detected in every continent except Australia, with a probable increase of between 2 and 5 degrees centigrade by the turn of the century (if there is no change in carbon emissions) - this means that the matter must be taken seriously. But, as they point out, there are decisions to be made on what action to take, but at vastly different levels of cost (Yohe 2008).

The Copenhagen Consensus have derived the following response options:

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<sup>92</sup> URL:<http://The Global Warming 8 – GW8>; <http://www.practicalaction.org/?id=gw8>. Accessed: 2010-02-04. (Archived by WebCite® at <http://www.webcitation.org/5nIEbvfAc>).

<sup>93</sup> URL:<http://www.climate-charts.com/Locations/z/ZA67673PETA00010.php>. Accessed: 2010-02-04. (Archived by WebCite® at <http://www.webcitation.org/5nIEfJCW0>).

- i) Business as usual (the TAU reference case):  
This provides a baseline scenario against which other policy options can be assessed.
- ii) Mitigation only (annual) (the TAU Limited Mitigation case):  
Economic instruments such as a carbon tax are used to reduce annual emissions to the extent that the cost matches the Copenhagen Consensus annual budget each year, with no Research and Development (R&D) investment or proactive adaptation.
- iii) R&D plus mitigation (annual) (the ATP Limited Mitigation case):  
Invest immediately in R&D to make carbon reduction and sequestration technologies available to increase the effectiveness of mitigation in the longer term.
- iv) Adaptation plus R&D plus mitigation (annual) (a portfolio approach):  
A combination of case 3 above with measures designed to ameliorate various health impacts related to other CC topics and respond to the likely exacerbation of health hunger problems. This option illustrates the value of simultaneously "fighting the disease" and "treating the symptoms".

What is known is that Zambia exports black carbon from biomass burning, which results in plumes of atmospheric brown clouds (ABCs) containing sub-micron size particles, i.e. aerosols, as well as the perennial dry season haze over Zambia. ABCs and the haze intercepts sunlight by absorbing and reflecting it, leading to surface dimming. One researcher claims that Southern Africa is one of the five global hotspot sources of green house gases.<sup>94</sup> Another researcher found that anthropogenic sulphur emissions have decreased (Stern 2006). It is very likely that the fires which burn continually in Zambia from July to the onset of the rains in November do affect surface temperatures, and also affect photosynthesis and plant productivity, the latter perhaps negated by the increase in carbon dioxide levels. It is thus critical that Zambia places biomass burning and forestry protection at the top of its agenda.

Zambia has signed the United Nations Framework Convention on Climate Change (UNFCCC) and also the Kyoto Protocol. In early 2009, the President of Zambia announced that the National Adaptation Plan of Action (NAPA), 'Adapting and mitigating the impacts of climate change, particularly on small scale farmers who are some of the hardest hit', was being implemented, and that 'in support, a national response strategy will be prepared to coordinate all the various efforts aimed at addressing the impacts of climate change.'<sup>95</sup>

Using Multi-Criteria Analysis (MCA) to arrive at a list of urgent and immediate needs for adaptation, Zambia has analysed agriculture and food security (Livestock, fisheries and crops), energy and water, human health, natural resources and wildlife.

The Zambia programme advances the following adaptive measures and projects as being necessary:

**i) Agriculture and food security**

- i) Adaptation of crops (cereals, legumes, root and tuber crops, and horticultural crops) to climate change variability including promotion of early maturing/drought resistance crops. Develop sustainable and appropriate programmes for both crops and livestock in the face of climate change.

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<sup>94</sup> Global Dimming by Air Pollution and Global Warming by Greenhouse Gases: Global and Regional Perspectives. V. Ramanathan Scripps Institution of Oceanography University of California at San Diego Extended Abstract of the Plenary lecture presented at the 17th International Conference on Nucleation and Atmospheric Aerosols, Galway, Ireland, August 13th-17th, 2007.

<sup>95</sup> Speech to the Tenth National Assembly by His Excellency (HE) President of Zambia, 16 June 2009.

- ii) Promotion of irrigation and efficient use of water resources.
- iii) Water harvesting.
- iv) Use of technologies for fertility improvement and moisture storage (including soil conservation measures).
- v) Improving post-harvest storage and marketing of produce.
- vi) Strengthening of early warning systems and preparedness.
- vii) Development of dams and dip tanks and sustainable supply of feed to mitigate the effects of droughts.
- viii) Promotion of Improved crop and livestock management practices.
- ix) Introduction of well-adapted livestock.
- x) Boosting the Zambezi River Water System to increase delivery.
- xi) Application of GIS/remote sensing in mapping of drought and flood prone areas.
- xii) Fish breeding to restock the lakes, rivers and dams.
- xiii) Promotion of aquaculture.
- xiv) Using species suitable for aquaculture in vulnerable areas.

**ii) Human health**

- i) Crop diversification and fortified food supplementations for under-fives other vulnerable groups.
- ii) Use of Insecticide Treated Nets (ITNs) to prevent malaria.
- iii) Water treatment for quality control (to prevent waterborne diseases).

**iii) Water and energy section**

- i) Adaptation Measure.
- ii) Use of renewable energies.
- iii) Efficient use of charcoal and expanded use of ethanol stoves.
- iv) Inter-Basin Water Transfers.
- v) Regional Integration of Electricity Infrastructure from Biomass Sources.

**iv) Wildlife and forestry<sup>96</sup>**

- i) Improved fire management in Game Reserves.
- ii) Construction of watering points e.g. boreholes for watering wildlife.
- iii) Breeding programme for selected species in National Park.
- iv) Translocation of animals.
- v) Community based ranching in order to protect vulnerable species.
- vi) Culling to maintain sustainable animal populations.
- vii) Identifying and protecting migratory routes of wildlife.
- viii) Undertaking protective management measures to protect displaced wildlife populations.
- ix) Developing small dams, and other storage facilities, to mitigate droughts/flooding, to harvest water and to initiate community-based fish farming and breeding.
- x) Improved extension services to ensure sustainable land and forest management.
- xi) Promotion of community forest management.
- xii) Forest fire management at the community level.

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<sup>96</sup> NAPA Zambia gives as the existing programmes under natural resources that are relevant to climate change: the Integrated Land Use Management project under the Forestry Department, the Natural Resources Management Component under the Environment and Natural Resources Management Department and the SADC Biodiversity Support Programme.



- xiii) Targeting afforestation and re-afforestation programmes to control siltation of streams and rivers as well as to provide fuel wood to minimise encroachment of the forests.
- xiv) Promotion of community woodlots for the provision of fuel wood and as sources of alternative cash income.
- xv) Improving energy access and security, especially in rural areas (e.g., through the Rural Electrification Agency, promotion of energy-efficient stoves).
- xvi) Developing and implementing strategies for drought preparedness, flood zoning and mitigation works.
- xvii) Restocking of depleted game areas.

Giving an equal weighting to economic, environmental and social factors, the Ministry came up with the following priorities for wildlife and forestry:

**i) Wildlife**

- i) Early warning – establish weather stations and improving capacity to gather climate-related information;
- ii) Baseline study to collect data to establish critical habitats;
- iii) Provide water points in critical habitats;
- iv) Dredge lagoons and streams for sand to increase volume of water in these water bodies;
- v) For communities around the parks food security and alternative incomes are important;
- vi) Maintaining the available water infrastructure and provision of water for communities to reduce Human Wildlife Conflict (HWC);
- vii) Empowerment of women through access to microfinance to diversify earning potential;
- viii) Ensuring easier access to water and energy sources by drilling boreholes and planting trees in woodlots; and
- ix) Use of electricity provided through the rural electrification programme.

**ii) Forestry**

- i) Conservation farming;
- ii) Reforestation programmes;
- iii) Projects to promote natural regeneration of miombo woodlands;
- iv) Programs targeting participatory forest management of indigenous forests;
- v) Program of beekeeping as a conservation strategy and most importantly creating markets linkages for honey and other products;
- vi) Household woodlots for firewood; and
- vii) Fish farming initiatives to reduce pressure on fish stocks in Luangwa River.

NAPA lists the possible constraints to the implementation of NAPA as follows (MTENR 2007):

- i) The lack of financial resources and extreme poverty, coupled with an HIV/AIDS pandemic and limited capacity.
- ii) The lack of a clear and specific legal and policy framework for climate change issues in the country. There is no legal framework or institution that has been directed to ensure that climate change issues at various levels are properly institutionalised in the planning process.
- iii) The lack of public awareness activities on climate change and their potential impact on the social-economics, livelihood, and the ecosystem.

- iv) Inadequate human resources and skills at the community level where the impacts of climate change are the greatest. This also follows coping strategies by the communities, which, although useful, lack adaptive planning tools which are needed to empower communities to deal with new threats and risks.
- v) The lack of private sector involvement.
- vi) A limited understanding of concrete or best practices activities of what constitutes an adaptation to climate change;
- vii) Monitoring and evaluation plans - including environmental impact assessments - are weak and lack best standards and practices that consider climate change implications and climate as a non-static element. Current deliberate efforts to address the problem of climate change are more reactive than futuristic

The NAPA programme for Zambia lists the many adaptations required to combat climate change, as well as the massive constraints mitigating against success, adaptations which would be listed in any central planning wish list of a country adapted to begging – as it is in the inadequate 5<sup>th</sup> National Development Plan – for an African nation’s development. Wholly absent is an appreciation of the structural and institutional requirement needs, and of the massive potential of customary communities as a catalyst and driver of development. And the prescriptions for wildlife are derisory. However, specific projects within chiefdoms, which could be said to be an adaptation to climate change, would receive the favourable attention of the donors. In the absence of a chiefdom statutory institution, one backed by a landuse plan, this would merely be a waste of time and money.

As world leaders debated climate change and the course of action they would follow in December 2009, the Minister of Tourism and Environment (MTENR), Catherin Namugala, called for industrial nations to cut their greenhouse emissions by 40% saying that this ‘should be sealed in a legal binding document that will make them accountable’ (Chulu 2009d). In June 2009, Japan committed itself to reducing its greenhouse gas levels by 8% by 2020. This would require Japan building nine new nuclear power plants (increasing their use by a third), building more than a million new wind-turbines and installing solar panels on nearly three million homes (Lomborg 2009, p. V1). This in itself is already an unrealistic goal, and the fantastical 40%, were it to be seriously adopted, would destroy the world’s economy.

#### **4.2.13 Forest and carbon protection<sup>97</sup>**

The fact that Three-rifts in Eastern Province (where Landsafe is currently being implemented) has some of the finest miombo forest in the region, forest presently escaping the assault of charcoal burners, the timber trade and chitemene (except in the riparian forest), and that global dimming from unrestricted burning of the forest poses the greatest danger to this massive carbon sink, makes carbon trading a possible option for both protecting the forest and its wildlife, and for generating income for its people caught in a development time warp. The theoretical opportunity that exists would be to take advantage of the situation where developed nations wishing to reduce carbon emissions have two choices, 1) they can reduce emissions through more efficient operations or 2) they can ‘buy’ carbon credits to meet reduction deficits. If choosing the latter, carbon credits can be purchased or they can support Clean Development Mechanism (CDM) projects that reduce or prevent emissions in developing countries.

The CDM will allow developed countries to invest in ‘carbon projects’ that reduce emissions in developing countries as an alternative to more expensive emission reductions in their own countries. Present sources of funding for this are available from Official Development Assistance (ODA) funding, implemented through the Global Environment Facility (GEF) and non-ODA private sector

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<sup>97</sup> Carbon sequestration: defined as the uptake from the greenhouse gas carbon dioxide (CO<sup>2</sup>) from the atmosphere in growing biomass in afforestation and reforestation or the protection of existing carbon sinks by sustainable forest management practices.

funding through the CDM. However, Zambia does not have the capacity to access these funds or investments.

But Zambia has yet to domesticate the Kyoto Protocol, making investment under the CDM problematic due to the considerable risks and cost of doing business in Zambia. It has been suggested that a case be made for presenting climate change activities to GEF under its new strategic priority on adaptation. Adaptation options, such as better water and natural resources management in rural areas and improving agricultural productivity will reduce vulnerability to droughts, famine and loss of income, put down to the effects of climate change (UNDP 2007). Zambia has now adopted this course.

A note of warning has been sounded that one should not confuse the carbon in trees and that of fossil fuels and that trees supply only temporary storage of carbon, while that of fossil fuels is permanent and requires man to unlock it. The charge is also made that the Kyoto protocol encourages the establishment of temporary plantations in order to earn carbon credits and so increases the ecological debt of the developed countries. This same report stresses that:

...real and lasting solutions to the forest crisis and the climate crisis lie in providing incentives for forest-dependent communities and indigenous peoples to restore their forests and practice sustainable forest management. Small-scale pilot projects are already showing positive results, while large-scale carbon sink projects are attracting criticism and protest.<sup>98</sup>

It also requires that government manage their electricity grid efficiently, for any major increase in tariffs will increase charcoal production and forest depletion. The recent announcement by the Energy Regulation Board that tariffs will be increased by 35% between 2009 and 2010; and a further 26% between 2010 and 2011, is alarming (Nchito 2009).

The Indigenous Environmental Network at the United Nation's Framework Convention on Climate Change talks in Bangkok in October 2009, called for the rejection of the programme Reducing Emissions from Deforestation and Degradation (REDD) in Climate Treaty and predicted dire consequences for Indigenous peoples, biodiversity and the climate alike if the new, post-2012 climate treaty being debated there allows tradable carbon credits to be produced from projects such as the REDD and the CDM. Moreover, at the same talks, Rising Tide North America, Carbon Trade Watch and the Mobilisation for Climate Justice exhorted people to join global climate action to spread the word about one of the biggest financial scams in history – carbon trading.<sup>99</sup>

In Zambia the official line on REDD is reported:

The REDD policy board has approved the budget allocation of US \$4.49 million for the Zambia national programme ...and with the support of UNDP, FAO and UNEP, the tourism ministry has produced a national programme document for the new UN-REDD programme that would prepare Zambia to combat climate change through financial initiatives to protect forest areas (Kapekele 2010).

#### **4.2.14 Genetic resources**

The Bonn Guidelines on access to genetic resources and benefit sharing arrangements and their implementation adopted by the Conference of the Parties to the Convention on Biological Diversity at its sixth meeting in April 2002, was reviewed in four African countries - Zambia being one of them. The equitable sharing of benefits being of Paramount importance for rural people, the Zambia review

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<sup>98</sup> URL:<http://www.fern.org/node/262> . Accessed: 2010-02-04. (Archived by WebCite® at <http://www.webcitation.org/5nICd5C86>).

<sup>99</sup> URL:<http://IEN Online News: October 23, 2009, http://www.ienearth.org/>. Accessed: 2010-02-04. (Archived by WebCite® at <http://www.webcitation.org/5nIDAlqMV>).

is vitally important (UNEP 2008). Clearly Three-rifts is a genetic treasure trove, the GMA being particularly undisturbed.

#### 4.2.15 Malaria

Prior to the discovery in 1898 that the mosquito transmitted malaria, the territory was deadly to Europeans. Only later was it realised that Blackwater Fever was connected to malaria and could be similarly treated. The Ambo nation of the Three-rifts, like other Bantu, were originally largely resistant to malaria, though it is likely that child mortality was very high.

After WWII, aided in particular by the World Health Organisation (WHO) in 1955, a global programme using DDT allegedly reduced mortality rates by 95% worldwide. In Zambia it was used in townships and villages alike, being sprayed annually on the walls of huts and houses. DDT was banned in the early 1970's, causing it to fall into disuse (Carson 2002). This, coupled with the improper use of malarial prophylactics in a population already resistant to malaria, greatly reduced the efficacy of chloroquine. The recent widespread introduction of mosquito nets, most of them treated with insecticide, and their subsequent use as fishing nets, has caused widespread but as yet unquantified damage to the fisheries and other wildlife. No EIA of such a perturbation has ever been published or called for by the Environmental Council of Zambia (ECZ). One of the chemicals used is Fendona<sup>100</sup>, which is highly dispersible in water and contains the hazardous ingredient Alpha-cypermethrin, for which there is no known antidote. The manufacturers, BASF, warn in its Priority Identifier warning that it is to be kept out of reach of children; and in its Secondary Identifiers warning that it:

- i) May be harmful if swallowed, inhaled or absorbed through the skin. May be an irritant to individuals with sensitive skin. Skin contact may cause temporary skin numbness (paraesthesia).
- ii) May cause sensitisation by skin contact.
- iii) May cause organ damage from repeated oral exposure at high doses.
- iv) Very toxic to aquatic organisms, may cause long-term adverse effects in the aquatic environment.
- v) Toxic to terrestrial invertebrates.

Mosquito nets – or bed-nets as they are referred to in the USA – are frequently stitched together and used to Hoover out all age classes of fish. The increased incidence of attacks on people and on lion crossing the river by crocodiles in the Three-rifts, and other such unusual incidents in rivers where it was once safe to wade until recent times in the dry season, is evidence of massive overfishing (Manning 2007e). The manufacturers have produced a pamphlet showing villagers how to deal with the chemical.<sup>101</sup>

The United States and the Global Business Coalition on HIV/AIDS, Tuberculosis and Malaria donated \$2.9 million to distribute more than 500,000 insecticide-treated mosquito nets in Zambia, saying that they would greatly reduce the number of Zambians a year who die from malaria – their estimate being 50,000. This figure was not substantiated. The nets, enough for a tenth of the country's population, would be handed out before November, the beginning of the malaria season (Dugger 2009). Furthermore, other agencies also distributed nets, with the Red Cross of Canada claiming that the 'leakage' of nets was less than 10% (i.e. used for other purposes) (J Clarke, personal communication 2007, 6 November).

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<sup>100</sup> URL:<http://www.rentokil.com.fj/images/pdf/Insecticide/Fendona.pdf>. Accessed: 2010-02-04. (Archived by WebCite® at <http://www.webcitation.org/5nIClYJDH>)

<sup>101</sup> URL:[http://www.basfpublichealth.com/products/resource\\_files/Fendona\\_DIY\\_Africa\\_English.pdf](http://www.basfpublichealth.com/products/resource_files/Fendona_DIY_Africa_English.pdf). Accessed: 2010-02-04. (Archived by WebCite® at <http://www.webcitation.org/5nICszTsO>).

Bill and Melinda Gates were interviewed by the Financial Times and claimed that malaria was down 50-60% in Zambia, Rwanda and Ethiopia. But (as pointed out by William Easterley) they were quoting ‘a dubious report’ by Dr. Arata Kochi, chief of malaria for the WHO, whose report was never finalised by WHO, with its specific claims contradicted by WHO’s own September 2008 World Malaria Report which stated that the effects of malaria control in Zambia were ‘less clear’.<sup>102</sup> As there is virtually no data on malaria cases available in Zambia, WHO merely took a guess, precipitating an avalanche of nets – this damaging the fisheries and bringing added complications to the lives of rural people.

## **5 GOVERNMENT POLICY AND CHIEFDOMS**

### **5.1 Public-private partnerships (PPP)**

The absence of PPP policy and a legal framework remains a major hindrance to the fostering of PPP partnerships in protected and customary areas. At a seminar held in Lusaka in 2006, an action plan was tabled to begin addressing the legal and regulatory obstacles to PPPs in Zambia. Since then GRZ has developed policies, laws and regulations that define the scope of authority within the various spheres of government to enter into PPP contracts; and designed an institutional framework to support and streamline PPP implementation, which will be guided by a set of institutional development principles.

Subsequently, a draft Cabinet Paper was prepared proposing specific actions that could be undertaken by GRZ in order to establish such PPP frameworks. Following the completion of this assignment GRZ is preparing detailed operating procedures and guidelines, illustrating the steps to be followed when implementing a PPP project, processes for approval and model transaction documents.<sup>103</sup>

In November 2008, GRZ launched the national Public Private Partnership (PPP) policy under the Ministry of Finance and National Planning where a PPP unit would be set up. The Public-Private Partnership (PPP) Policy Bill is in the offing.

### **5.2 Decentralisation**

The Decentralisation policy of 2002 has not been followed through with any vigour, in fact focus has been on the opposite process of centralisation. It was recently announced that the Decentralisation Implementation Plan will be adopted, forming the primary basis for financial and technical assistance to Local Government.<sup>104</sup>

### **5.3 Non-Governmental Organisations Bill (Manning 2007f)**

The NGOs Bill of 2007 has been sent back for re-drafting but has yet to be completed. Complaints have been received from civil society organisations that GRZ does not respond to submissions, and that subsequently a bill is presented once more to parliament without the necessary amendments, and this then passed into law.

The present bill will require that NGOs register with the NGO Board and apply for a certificate to operate. Should the certificate be cancelled an appeal can be made to the Minister, thence to the High Court. The Act then declares that there shall be created a Zambia Congress of NGOs, and a Council of NGOs answering to the Congress with a code of conduct published in the gazette. Any person found

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<sup>102</sup> URL:<http://aidwatchers.com/2009/02/did-bill-and-melinda-gates-claim-malaria-victories-based-on-phony-numbers/>. Accessed: 2010-02-04. (Archived by WebCite® at <http://www.webcitation.org/5nID27kwi>).

<sup>103</sup> Public Private Partnerships (PPP) Awareness Workshop. March 2006. Public-Private Infrastructure Advisory Facility, PPIAF Program Management Unit. The World Bank, Washington.

<sup>104</sup> Speech to the Tenth National Assembly by H.E. The President of Zambia on 16 January 2009.

to have provided incomplete information may be struck from the register for three years, and if a non-Zambian, may be deported by the Minister.

The Foundation for Democratic Process (FODEP) has urged the government and parliamentarians to listen to concerns and appeals from majority stakeholders that the NGO bill in its current form gives excessive discretionary powers to individuals rather than to an institution. It also remarked that any process of legislating laws with a preconceived intention of targeting and stifling the operations of key actors in democracy would be retrogressive and against the virtues of the hard-earned democracy and the freedoms that must be cherished by all interest groups in the nation (Chakwe 2009a & 2009b). The Zambia Council for Social Development (ZCSD) is implementing the Civil Society Index (CSI), an analytical country report on the state of civil society organisations in Zambia, their weaknesses and strengths, operating environment and the perceived impact they make to social change in the country.

#### **5.4 Freedom of information Bill**

The freedom of Information Bill of 2002 has yet to be enacted. Its objectives are to:

- i) Establish the Public Information Commission and define its functions;
- ii) Provide for the right of access to information;
- iii) Set out the scope of public information under the control of public authorities;
- iv) Be made available to the public in order to facilitate more effective participation in the good governance of Zambia;
- v) Promote transparency and accountability of public officers; and
- vi) Provide for matters connected with or incidental to the foregoing.

A Cabinet Minister has said that delays in enacting the Freedom of Information bill are necessary to ensure that GRZ officials are trained on how the legislation will work.<sup>105</sup>

#### **5.5 Bio-Safety Act**

The Bio-Safety Act is intended to control genetically modified organisms generally, and particularly in the light of problems over GM food crops such as maize. Recently GRZ has allowed the Food Reserve Agency (FRA) to import 100,000 metric tonnes of white non-GMO maize from within the region (Chirwa 2009).

#### **5.6 National Constitution Conference (NCC)**

The National Constitutional Conference (NCC) was established under the NCC Act No. 19 of 2007. According to Part II Clause 3 of the NCC Act, the NCC is a forum for the examination, debate and adoption of proposals to alter the Constitution as contained in the Draft Constitution submitted by the Mung'omba Constitutional Review Commission. The NCC began its work on 19 December 2007. Part III Section 16 clause (3) gives the Conference powers to delegate its work through eleven committees that shall debate and make recommendations on the provisions in the Mung'omba Draft Constitution. The Committees are: General Constitutional Principle, Citizenship, Human Rights, Democratic Governance, Executive, Legislative, Judicial, Local Government, Public Service, Public Finance and Land and Environment Committees. Of particular importance to customary communities are the Local Government, and Land and Environment Committees.

In September 2009, the Report of the Land and Environment Committee was adopted by the Conference – said report unfortunately a reflection of a committee with little expertise in land and environment. Hence, it confirmed the Lands Act of 1995 in the matter of customary land, allowing it

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<sup>105</sup> Commonwealth News and Information Service. 4 April 2008. 'Zambia: Govt Seeks Help to Enact Freedom of Information Laws'. London.

to be alienated with the approval of the chief and the District Council, ‘An approval under clause (be 3) shall not unreasonably withheld’.<sup>106</sup> It also, under 336: (j) advised Parliament to enact legislation to ‘provide for security of tenure for customary land, which shall be issued by the chief’; though the President may override this should he so wish in the case of setting aside agricultural land and land for mining. An extraordinary recommendation was for the State to encourage carbon trading, seemingly oblivious of its pitfalls and the vehement criticism from numerous quarters.

The NCC further adopted the committee’s recommendation: ‘...that Parliament shall enact legislation to provide for the utilisation and management of natural resources by a District Council in the area where the natural resource is located’ (340 (a)). Were this to be adopted by Parliament, District Councils would likely plunder the chiefdoms.

## 5.7 Local Government Acts

District Councils are the lowest tier of government. Though established under the Local Government Act, Councils perform most of their land administration functions under the Lands Act and the Town and Country Planning Act. The Housing Act was introduced to augment the function of housing delivery to poor communities within a council’s jurisdiction. Under this Act, land arrogated to councils could be categorised as either Statutory or Improvement Areas according to purely political considerations; Councillors declaring a given area i) Statutory, and thereby committing itself to provide basic amenities and residents to receive council certificates of title to residents, or ii) an Improvement Area, where holders of land are entitled to Land Record Cards, a form of title deed. Problematically though: ‘But councils are extremely corrupt. Party officials outside councils allocate land to residents without authority to do so. Individual councillors also allocate land outside councils. Councils are ‘simply chaos when it comes to land administration’ (Hansungule 2007b).

Three Acts are crucial to the functioning of District Councils – rural councils of varying size situated in customary areas – and, to some extent, chiefdoms: the Local Government Act No. 22 of 1995, the Election Act of 1991 and the Registration and Development of Villages Act of 1971, the latter an artefact of the moves towards a one-party state in December 1972.

Responsibility for administering the Acts lies with the Minister, and District Commissioners (political contract appointees) provide a government presence at the district level to coordinate development. Councils are corporate bodies with perpetual succession and powers subject to the provisions of the Local Government Act. The larger councils are designated city councils. Urban councils are called municipal councils and the smaller ones, rural-based, are called district councils. In February 2004, Parliament voted to extend the tenure of office to five years in order to bring local government elections in line with presidential and parliamentary elections. Each ward elects one member in a democratic system that is universal throughout Zambian local government. Each council is made up of all the members of parliament of the district and all the elected councillors in the district. In rural councils, all the chiefs in the district appoint two representatives. Reporting and decision-making operate through the committee system.

Below the council - established by the Registration and Development of Villages Act of 1971 - are Ward Development Committees (WDCs) that are chaired by one of the ward councillors. Section 61 of the Act outlines up to 63 functions, most of them discretionary, that local councils are supposed to perform: general administration, advertisements, agriculture, community development, public amenities, education, public health, public order, sanitation, drainage, etc.

Under Section 45 of the Local Government Act, the Government must make grants to local authorities, but this is rarely fulfilled; finance being provided on an *ad hoc* basis.

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<sup>106</sup> Report of the Land and Environment Committee of the September 2009. Part XIX: Land and Property: 330 (3 & 4), National Constitutional Conference.

According to Section 45(3), central government shall make specific grants to councils for:

- i) Water and sanitation.
- ii) Health services.
- iii) Fire services.
- iv) Road services.
- v) Police services.
- vi) Primary education.
- vii) Agricultural services.

Education and health are the responsibility of central government and although there have been attempts to decentralise these services, they are not part of the local government system.<sup>107</sup>

## 6 PARASTATALS (QUANGOS), CHIEFDOMS AND INVESTORS

### 6.1 Zambia Development Agency

The Zambia Development Agency Act No. 11 of 2006 created the Zambia Development Agency, a corporate body able to sue or be sued, its primary function to bolster the economy and attract investment to Zambia, but also to deal with such controversial matters as privatisation. Overseeing its operations is a sixteen-member board, its members drawn from the public and private sector. Under Section 65. (1), an investor who invests a minimum of two hundred and fifty thousand United States Dollars or the equivalent in convertible currency, and who employs a minimum of two hundred persons is entitled to a self employment permit or resident permit; provided that such number of the persons so employed by the investor as may be prescribed shall hold managerial and technical positions. This amount was later changed by decree by the Minister of Home Affairs (Shikapwasha), doubling the amount required per investor, without consultation with the ZDA or its parent Ministry, Commerce.

Government responsibilities to foreign investors are poorly delineated, leaving the investor, should anything go wrong, at the mercy of the Arbitration Act, a process anyhow avoided by a Government Executive in which power remains highly centralised, where foreign investors are able to be deported under emergency powers introduced to deal with a state of emergency under a previous regime. There is thus a dire need for a special committee of the judiciary, set apart from the Executive, to deal with matters affecting investors who are targeted by corrupted political elements (Manning 2007d). This agency has proved that it will not defend its investors should they have immigration difficulties, with the Ministry of Commerce being wholly subservient to the Ministry of Home Affairs, guardian of the political establishment. Numerous *bona fide* investors have been targeted for take-over by Zambian partners and summarily deported, with the profits and shareholding purloined.

### 6.2 Zambia Business Forum

The Zambia Business Forum consists of seven Member Associations: the Zambia National Farmers Union (ZNFU), the Chamber of Mines of Zambia (CMZ), the Zambia Association of Manufacturers (ZAM), the Tourism Council of Zambia, (TCZ), the Zambia Chamber of Small and Medium Business Associations (ZCSMBA), the Zambia Indigenous Business Association (ZIBA), and the Bankers Association of Zambia (BAZ). It takes its cue from the CEE Act and the public statement of its Chairman, Sherry Thole, “Zambia for the Zambians”.

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<sup>107</sup> URL:[http://Country profile: Zambia. ‘The Local Government System’, www. clgf.org.uk. Accessed: 2010-02-04. \(Archived by WebCite® at http://www.webcitation.org/5nIDiv7uF\)](http://Country profile: Zambia. 'The Local Government System', www. clgf.org.uk. Accessed: 2010-02-04. (Archived by WebCite® at http://www.webcitation.org/5nIDiv7uF)



### 6.3 Anti-Corruption Commission

Zambia was ranked the 17th most corrupt country in the world on the Transparency International Corruption Perception Index (CPI) for 2007.

The ACC was established in 1980 as an independent body to promote transparency and minimise corruption. It has since achieved very little, being highly centralised and under political control. Reports and interviews of the author with them regarding the illegal alienation of part of the West Mvuvye National Forest and the Mosi oa Tunya National Park did not result in any action. The recent decision to drop charges of theft against the Food Reserve Agency Executive Director brought criticism from TIZ (Changala 2009).

The ACC in late 2009 absorbed the Taskforce on Corruption.

### 6.4 Commission for Investigations

This Dickensian Commission operates in total obscurity in well-hidden offices. Requests to it to investigate the illegal alienation of West Mvuvye National Forest and Mosi oa Tunya National Park did not receive acknowledgement or action of any kind.

### 6.5 Citizens Economic Empowerment Commission

This Commission is lent its statutory powers by the Citizens Economic Empowerment (CEE) Act No. 9 of 2006. Some of the salient pillars of the CEE Act are as follows:

- i) An Act to establish the CEE Commission and to define its functions and powers; to establish the CEE Fund; and to promote the economic empowerment of citizens, in particular, *targeted citizens* - defined as someone who is or has been marginalised or disadvantaged and whose access to economic resources and development capacity has been constrained due to various factors including race, sex, educational background, status and disability.
- ii) In the performance of the Commission's functions under this Act, the Commission shall effectively liaise and consult appropriate State institutions and shall have the power to give such instructions or directions to any State institution or a company.
- iii) The President may give to the Commission such general or specific directions with respect to the discharge of its functions as the President considers necessary and the Commission shall give effect to such directions.
- iv) The Commissioners shall be appointed by the President.
- v) The Commission shall be empowered to take whatever actions necessary to ensure broad based economic empowerment of targeted citizens, citizen empowered companies, citizen influenced companies, citizen influenced companies and citizen owned companies.

The Zambian CEE Act of 2006 is legislation which centralises further power in the Presidency, gives wide powers to a Commission reporting directly to him, enriches, in the short term, the political elite, discourages foreign investment, ensures the continued impoverishment and unsustainable use of natural resources, and greatly exacerbates the already unacceptable erosion of national life by corruption and theft in the name of black economic empowerment.

The aforementioned is also currently the case in South Africa where the imposition of the South African legal instrument: Broad-based Black Economic Empowerment Act No. 53 of 2003, is being implemented by the Black Economic Empowerment Advisory Council directly under the control of the South African President. Broad Based Black Empowerment Act (BBBE) is now considered by the

Peer Review Mechanism Report (NEPAD) on South Africa to pose a serious obstacle to that country's development, something the South African Government is at pains to downplay (Hutchings 2008).

In South Africa – as has been seen in Zambia – moves by the black elite were not influenced by socialism but rather on statist economic models that they saw as necessary for breaking the power of white-owned corporations and for harvesting what the latter had sown. That they were successful is evident in the small class of an unproductive black elite and the lack of entrepreneurship evident in South Africa. The supreme irony is that the originators of black economic empowerment were the white economic oligarchs controlling the mining, finance and engineering industries, who sought to 'buy-off' the ANC leadership by a massive transfer of assets to them at no cost. This effectively weaned the ANC away from any massive re-distribution of economic largesse to the poor, allowed the oligarchs to move their assets outside of the country, to have first access to government contracts and, by closing off international competition for consumer goods and the manufacturing sector, gave them a competition-free environment in which to do business (Mbeki 2009, p.67).

In Zambia, prior to the promulgation of the CEE Act, the civil service were instructed to start implementing it, this resulting in a racial bias on such issues as lodge leases and the illegal issue of a massive TCA lease in the tiny Mosi oa Tunya National Park to Legacy Holdings Zambia, whose Chairman was also the Chairman of the CEE Commission. As in South Africa this mantra of the supposed 'disadvantaged person' has been taken up avidly by the elite, particularly by its corporate raiding vehicle, the Zambia Business Forum, justifying elite Zambians access to the same things given the elite in South Africa.

The CEE Act was introduced to Zambia at a time when the Commission for Africa was formed to assist Africa raise the living standards of its people. After extensive consultations and lobbying it persuaded the G8 group of nations at the Gleneagles Summit to write off much of Africa's debt in return for undertakings by African countries to improve standards of governance. Thus, once Zambia achieved the Highly Indebted Poor Country Initiative (HIPC) Completion Point in April 2005, most of the Paris Club creditors cancelled Zambia's public debt, and the African Development Bank, the IMF and the World Bank - under the Multilateral Debt Relief Initiative born out of the 2005 Group of 8 Gleneagles proposal, are currently doing the same. If to this is added the agreed commitment to the mission of NEPAD, the UN Millennium Development Goals and the African Peer Review Mechanism, Africa is supposedly bent on self-improvement – with the help of the world.

Zambia played a full role in the consultations with the Commission, and through its Zambia International Business Advisory Council (ZIBAC) – a member of which sits on both the Business Council of Zambia and ZIBAC (and is also Chairman of the CEE Commission – as well as Chairman of the Tourism Council of Zambia - and what may be described as the first Indigenous Zambian business group), therefore appeared set to become a role model for Africa.

The CEE Act appears therefore to wish to rectify a mythical colonial wrong, to remove some of the control and ownership of businesses from those who came to Zambia more recently and who are not native Africans, in the case of some of the first European settlers, fifty years after the arrival of the Ngoni in 1835. It will negate a wave of new investment, of innovative new partnerships with tribal communities that do not alienate the land; and will diminish the growth of democracy.

The CEE had hampered the work of such bodies as the Natural Resources Consultative Forum (NRCF), a neutral platform for stakeholder participation in the management of natural resources - particularly policy formulation - established by the Ministry of Tourism, Environment and Natural Resources (MTENR). Now civil servants of that Ministry are unwilling to participate in its deliberations, knowing that they and the private business sector will be subject to the control and direction of the CEE Commission, itself directly under the control of the President.

The CEE will have an especially deleterious effect on businesses that employ 25 or more people by a deluge of regulations and bureaucratic restrictions, discouraging firms from employing more than this arbitrary number. This adds to the onerous labour laws that effectively ensure that workers are paid for fourteen months but only work for eleven months of a year.

## **6.6 Drug Enforcement Commission**

The Drug Enforcement Commission was established in 1989 by an Act of Parliament and enforces the Narcotic Drugs and Psychotropic Substances Act, the Prohibition and Prevention of Money Laundering Act, and the Penal Code Act. It acts, confusingly, as a parallel organisation to the ACC.

## **7 GOVERNMENT, CHIEFDOMS AND INVESTORS**

The sheer scale of the MMD Government's dysfunction and immersion in grand patronage, now criminalised, may be gleaned from the reports of the Auditor-General and from the experience of investors and of civil society generally in Zambia.

The aforementioned far exceeds the rather benign state of African patrimonialism and clientelism where rule is regarded as being conducted through personal patronage rather than law or ideology, this now having mutated beyond the imperatives of culture, survival patterns, simple patronage and economic reciprocity, but also being beset by the commoditisation policies of the WB/IMF and the ravaging of natural resources by the amalgam of international investors/donors and the urban elite, the compradors. It is this group, the Washington Consensus of WB, IMF and WTO, the donors, the large foreign capitalists, who join with the compradors to restrict rural development. For, as can be seen in this section, there is no shortage of money or resources, but merely of principle and accountability to the country. Instead, as the Gini coefficient clearly shows, Zambia exceeds a 0.50 Gini score placing it with South Africa and a few others at the top of global rankings (at number 0,0: everyone has the same income; and at 1: one person has all the income and everyone else has nothing) (World Bank 2006, p.39). This in a country beset by systemic poverty and inequality, where women are adversely affected by a hundred years or more of male migrant labour flows and culturally oppressive practices (Bond 2006, p.7).

However, it is the theft of public money, particularly within those Ministries and Departments having responsibility for the poor and the natural resources which sustain them, that remains an abiding national disgrace (Appendix 2). The amount of public money stolen since self-government is simply unknown. That it is a staggering amount, particularly since 1974 when civil service controls and expertise became severely impaired by the Zambianisation policy, is beyond doubt. But it was in the age of neoliberalism, in the time of President Chiluba, that grand corruption became institutionalised. And that it is rural people who have had to suffer most cannot be contested. The evidence is in plain view in the Auditor-General's reports and in the comprehensive analysis of the years 1984-2004 by Transparency International Zambia (TIZ) (Djokotoe & Chama 2007).

The risk of being held accountable for theft is virtually non-existent, protecting the kinships and clans with such dubious excuses as being hampered by a 'statute of limitations'. The former President, Chiluba, although found to be guilty of the theft of \$46 million in a London Court, continues to live in retirement with all state privileges, and recently found not guilty in a magistrate's court of the theft of \$500K, the State declining to appeal. Yet those who have lent support to customary communities or who have attempted to interfere with the web of corruption have been targeted by corrupt elements in the State and, in the case of investors, deported. The corruption is therefore one of theft and the abuse of State powers under the hegemony of the MMD party.

## **7.1 Legislation supporting primary stakeholders**

### **7.1.1 The Co-operative Act**

This Act may be deemed an entry level legal mechanism for binding a small or large group, not necessarily bound up with the sale and purchase of goods. In the past Co-operatives have performed poorly in Zambia.

### **7.1.2 Societies Act**

A community may register a Society with the Registrar of Societies requiring that the Chief, the District Council, the Police and the Office of the President (OP) – the state security arm – and finally, the Registrar of Societies, give their assent. Therefore, Societies - and Trusts under the Lands (perpetual succession) Act as shall be seen later - unlike Trust Companies registered under the Companies Act, are under the control of the Office of the President, and by Section 13 of the Societies Act, CAP 119, the Minister may cancel the registration of any society.

### **7.1.3 Lands (perpetual succession) Act**

A Trust may be formed by trustees on application to the Minister of Lands under The Land (perpetual succession) Act Chapter 186 of the Laws of Zambia and may be granted a certificate of registration as a body corporate. Any community of persons may apply, as long as the Minister deems that their incorporation would benefit Zambia. For the Trust to acquire any land, its amount and the purpose for which it is required, requires the assent of the Minister, which then vests in the Trust. The Minister may require the document outlining the details of the land to be lodged with the Registrar of Lands and Deeds. The Trust is allowed to acquire, and to convey, assign and demise any land in which it holds an interest. Being able to assign (i.e. transfer the rights to receive benefits in land), is helpful in accommodating investors. However, the fact that the Minister may remove such right under political influence may limit the Act for the building of the customary commons.

### **7.1.4 The Companies Act: limited by guarantee**

A not-for-profit company registered under the Companies Act CAP 388 of the Zambian Laws is one limited by guarantee. It may appoint a maximum of ten Trustees with a quorum of two-thirds, and may establish a Trust Fund. It requires an annual audit by a firm registered with the Zambia Institute of Chartered Accountants, appointed by the Trustees. The Company may enter into any partnerships for sharing profits with any person, firms or companies that the Trustees deem would benefit the Trust. Should any Trustee leave Zambia then – by approval of the remaining Trustees – a resident (or co-trustee) may be delegated as Trustee through Power-of-Attorney.

This arrangement, having the necessary rigour and protection under the Companies Act might be the ideal vehicle - being less prone to political influence - for a community to conduct its business of building the customary commons.

## **8 INTERNATIONAL COMMUNITY, CHIEFDOMS AND INVESTORS**

The efficacy of donor and capitalist effort in trying to either profit or develop African nations, has been comprehensively assessed and, in most cases, skewed: (Adebajo et al. 2006), (Giles 2008), (Chang 2007), (Moyo 2009), (Bond 2006), (Hancock 1989), (Kingsnorth 2004), (Collier 2007), (Stephan et al. 2006), (Calderisi 2006), and (Easterly 2006). In particular, a brilliant analysis of the conditions which gave rise to the Industrial Revolution poses considerable questions on any possible outcome of donor aid on societies that have not been long settled and are without the necessary institutions, training and education (Clark 2007); while another, much earlier work questions the

economic controls imposed on free societies, views which led to the Washington Consensus (Hayek 2001).

Although Zambia is not a partner of the Paris Declaration, endorsed on 2 March 2005 (an international agreement of both countries and organisations to improve aid delivery with a set of monitorable actions and indicators), it is hoped that the Declaration will assist development by bringing a motley group, behaving much as those who originally scrambled for Africa, into some sort of order.

However, the Harmonisation in Practice (HIP) and the Joint Assistance Strategy for Zambia (JASZ) (it is claimed) is focusing aid efforts. Although donors concentrating on wildlife and environmental matters are left by other donors to deal with their area of speciality, this does lessen their interest and funding. 'While the intention is for them instead, to mainstream environmental issues into all their programmes, there is a significant risk of marginalisation of important environmental issues until environmental mainstreaming is better defined and articulated as a sector-wide, cross-cutting issue' (Pope 2006).

As outlined in Chapter 2 and 5, donors have a very poor record in the natural resources and wildlife management area, both in Zambia and in Africa.

## **9 ZAMBIAN NGOs, CHIEFDOMS AND INVESTORS**

### **9.1 The Zambia Land Alliance**

The Land Alliance is made up of 30 civil society organisations in Zambia that participated in a National Civil Society Consultative (NCSC) meeting on the Zambia's draft Land Policy of October 2006 on 21 and 22 August 2007 in Lusaka. Perhaps central to its findings was their view that the equality of rights of all people to land, protection for disability care, gender equality and resource conservation - as provided for in the Constitution of Zambia - needs to be provided for in the dual tenure system. They proposed the following (Zambia Land Alliance 2007):

- i) Government should establish a mechanism to revise and align the draft land policy before adoption.
- ii) The Land Policy data should acknowledge that present data is old and invalid; this data should be omitted from the Land Policy. The Policy should state that a national land audit should be conducted and results fed into the Land Policy.
- iii) The completed draft Land Policy should be widely disseminated through the media, that is television, radio and newspapers, in both English and local languages. It should also be made available on the Internet.
- iv) The draft Land Policy should be discussed at public meetings.
- v) Comments from the general public should be solicited and complied with by the Committee.
- vi) A National Conference should be held to validate the content of the draft, and finalise the Land Policy.

### **9.2 Transparency International Zambia**

TIZ plays a major role in corruption whistleblowing. Recently it has begun to assist the Anti-Corruption Commission with the preparation of cases so that the ACC has more time to prosecute them.

### **9.3 The Human Rights Commission**

The Commission is an autonomous body established under article 125 of the Constitution of Zambia and under the Human Rights Commission Act, 1996. It was permanently created in March 1997 and is

headed by a Supreme Court Judge. According to section 9 of the Act, the functions of the Commission include:

- i) The provision of basic human rights information to the public;
- ii) The investigation of human rights violations and maladministration of justice;  
and,
- iii) Making proposals for effective measures to prevent human rights abuses.

The Commission has the power to send written reports of its findings to the parties concerned and, dependent on the findings made, to make such recommendations, as it considers necessary, to the appropriate authority (section 13 of the Act).

Recently it was reported:

The Human Rights Commission have resumed their charge that there's a general disrespect for the rule of law by some chiefs (alongside enforcement agencies). They are calling on Government to seriously stop the illegal detention, torture and arbitrary arrests of innocent people being perpetrated by some chiefs... only government state agencies are allowed to detain people at respective supervised detention facilities and not at chiefs' palaces. There's certainly an issue about traditions and human rights, but I am not sure a confrontational approach is the way forward. The HRC needs to work with chiefs to bring about the necessary reforms.<sup>108</sup>

A Commission seeking to ensure that universal notions of human rights are respected has the difficulty of dealing with issues of customary law, culture and religion. Chief Macha pointed out that Chiefs need schooling on many legal issues that will save them from embarrassment and even prosecution in the courts.<sup>109</sup> Statutory law, which supports human rights – as opposed to customary law supporting the rights of the group being Paramount over the individual, presents difficulties.

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<sup>108</sup> URL:<http://www.houseofchiefs.com/2009/05/traditions-vs-human-rights-2nd-edition.html>. Accessed: 2010-02-04. (Archived by WebCite® at <http://www.webcitation.org/5nIC3Ss6w>)

<sup>109</sup> URL:<http://www.lusakatimes.com/?p=11567>. Accessed: 2010-02-04. (Archived by WebCite® at <http://www.webcitation.org/5nICLOU7P>)

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## 11 APPENDICES

### Appendix 1: Corruption in Ministries affecting customary residents

## **Appendix 1: Corruption in Ministries affecting customary residents**

### **1 MINISTRY OF HOME AFFAIRS: DEPARTMENT OF IMMIGRATION**

This Department, and its Ministry of Home Affairs, remains one of the greatest obstacles to investment in Zambia, despite now having a customer service charter and an Integrity Officer in place. The Auditor General reports its relatively minor ‘official’ peccadilloes in 2007: that in that financial year \$992,000 could not be accounted for, and that numerous receipt and visa books were missing. In the Ministry Headquarters (HQ), further misappropriation was noted: \$25,000 paid to suspended officers, supposedly on half pay; \$183,000 paid out as loans and not recovered by December 2008; \$94,000 in imprests not recovered; \$178,000 expended on two brick machines which had not been utilised.<sup>110</sup> However, its disregard for the rights of investors, its obvious embroilment in what is now a common practice of investors being deported for little reason, or being imprisoned, leaving behind businesses and in many cases, Zambia partners who benefit from the removal, is a scandal which appears to have no end.<sup>111 112</sup> Moreover, those with long years of residence may suddenly find that their status is changed.

It is instructive that the service charters adopted by the Zambia Revenue Service, the Minister of Lands and Immigration have not fulfilled their pledges to produce quarterly reports.

### **2 OFFICE OF THE PRESIDENT AT CABINET OFFICE**

During 1984 – 2004 the Presidential Fund, which took up 86% of the total budget of the office, was simply used as a private account. Expenditure on education, health, agriculture and local authorities comprised a miserly 12.59%, with money on traditional ceremonies outstripping agriculture by 0.8%, with more being spent social clubs, NGOs and churches than on municipal councils. Furthermore, it was revealed in the 2004 A-G report that the Task Force on Corruption under the Cabinet Office could not account for massive sums of money.

In Lusaka Province in 2007, \$2.47 million was made available for a poverty reduction programme, \$2.15 million was released, and the A-G reports stated as follows: \$42,000 was spent on unrelated activities; \$25,000 in unlawful wages; \$76,000 in unretired imprests; \$21,000 paid for stores with no receipts.<sup>113</sup>

### **3 MINISTRY OF LANDS**

Ground rent paid by owners of alienated land is essential for both good governance and for income generation. In 2006, the Ministry failed to collect \$71 million<sup>114</sup>; in 2007, \$63 million remained uncollected; a further \$33,000 remitted from the provinces was unaccounted for.<sup>115</sup>

The Ministry, bedevilled by corruption, with one of its Minister’s convicted of obtaining land illegally, has now put in place an Integrity Officer, as well as an overly ambitious customer service charter. Attempts to inquire about the cancellation of the illegal alienation of portion of the West Mvuvye National Forest were not given the cooperation expected of the Integrity Officer.

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<sup>110</sup> A-G report December 2007.

<sup>111</sup> <http://zambian-economist.blogspot.com/2008/06/ian-manning.html>.

<sup>112</sup> <http://zambiagamefieldsjournal.blogspot.com/2007/08/zambia-to-remove-crew-of-ssmbeza.html>

<sup>113</sup> HEAD: 90. OFFICE OF THE PRESIDENT report by the A-G 2007.

<sup>114</sup> Paragraph 21 of the Auditor General’s report of 2006.

<sup>115</sup> Paragraph 18 of the Auditor General’s report of 2007.

#### **4 MINISTRY OF COMMUNITY DEVELOPMENT AND SOCIAL SERVICES**

The Department of Social Welfare in 1994 developed the Public Welfare Assistance Scheme in order to improve the welfare of the vulnerable in society. The scheme works through a decentralised system with the participation of NGOs and established Community and Area Welfare Assistance Committees in twenty-six districts. In 2007, \$2.4 million was provided, of which \$2.1 million was sent to the districts. Of the twenty-six districts, only seven districts received \$290,000, with very little of it being accounted for, and if so, illegally spent.

Street Children in 2007 were provided for in the Estimates of Revenue and Expenditure with \$1.68 million, \$1.5 million being actually released. A review of the records maintained at headquarters and in eight towns revealed that there were no guidelines for the administration of the Street Children Fund, nor targets or budgets. The A-G stated, “It is therefore questionable if the Ministry will achieve its goal of no child sleeping on the street by 2010”.

#### **5 MINISTRY OF HEALTH**

In 2007 amounts totalling \$950,000 had been disbursed to ten District Health Management Teams (DHMTs), however the DHMTs acknowledged receipt of only \$483,000, leaving \$468,000 unaccounted for.

As far as the overall performance of the DHMTs: \$434,000 was expended without receipts being available; \$372,000 worth of imprests had not been retired; \$161,000 was paid out and not signed for by the warrant holders; \$361,000 was paid out to officers illegally; \$180,000 was paid out for items that could not be accounted for; \$338,000 was paid out as staff salary advances and not recovered; \$567,000 for store items with no receipt or disposal records; \$65,000 worth of drugs allowed to expire; and \$100,000 was paid to staff employed without treasury authority.

At headquarters more records of the theft and misappropriation of funds are recorded for 2007 by the A-G. In 2009, an investigation was mounted into the misappropriation of K27 billion, prompted by Sweden and the Netherlands withdrawing all aid as a result.

#### **6 MINISTRY OF JUSTICE**

In the 2007 report of the A-G, the following irregularities were uncovered: \$8,000 stolen by staff through the falsification of receipts; and \$57,000 owed on uncollected rents from the Judiciary’s flats.

#### **7 MINISTRY OF AGRICULTURE**

The single most significant loss reported between 1984–2004 occurred in 1995 with the gross mismanagement of the strategic food reserves: the non-repayment of loans for fertiliser purchases, mismanagement of the Agriculture Credit Management Programme, non-collection of interests and principals for the Crop and Fertiliser Marketing and Financing Revolving Fund, and irregularities in the procurement of strategic maize reserves and its transport to strategic storage sites. A minimum of K2.48 billion could not be accounted for.

Given that maize is the staple diet, that it attracts state intervention on pricing, that it is vulnerable to climatic conditions and animal impacts, that the poor rely on hybrid and fertiliser deliveries, that villagers rely on the state to collect the maize itself, makes it a human rights scandal. Such mismanagement continues to this day, the A-G reeling out an endless litany of theft and misappropriation. Notably, as these are important for rural people, the Veterinary Department released \$1.57 million in 2007, with \$160,000 worth of vaccines purchased outside of the tender process, and \$284,000 issued without receipts; while Fisheries were given \$249,000, with \$241,000 expended with no accounting and with unretired imprests.

## 8 MINISTRY OF INFORMATION AND BROADCASTING SERVICES

Lack of information being one of the most significant factors in the continuing impoverishment and disenfranchisement of rural people, this Ministry has a crucial role to play. The A-G report of 2007 chronicles the purchase of four Nissan Mobile vans at a contract price of \$207,000. When the A-G inspected in October 2008 they found that the vehicles supplied were in fact four Ford Ranger Double Cabs. These vehicles cost \$109,000 less than the specialist Nissans, and as at December 2008, the difference had not been refunded. “Further, although the vehicles were procured to be used for dissemination of information in the districts, the vehicles were being used as utility vehicles at Zambia National Information Service (ZANIS) headquarters, as the vehicles were considered not suitable for the districts. Therefore, the activity of information dissemination in the districts was adversely affected”.<sup>116</sup> The Ministry had also entered into a contract with suppliers for wireless communication equipment for \$103,000. Although the equipment was intended to be used by the districts to transmit text, pictures and voice messages from any location to Lusaka, they were never used. In addition the A-G found that \$152,000 in imprests had not been retired; \$35,000 worth of stores had disappeared; \$13,000 worth of office equipment had not been delivered one year after payment; and cameras were purchased from the UK at a cost of \$300,000 - \$38,000 more than the local purchase price for the same cameras. In October 2008, the A-G revealed that the cameras were for domestic and not industrial use as they could not be connected to an external microphone.

## 9 MINISTRY OF FINANCE AND NATIONAL PLANNING

In June 2003, Government entered into an agreement with the International Development Association (IDA) and the Nordic Development Fund (NDF) to provide support for the Copperbelt Environmental Programme (CEP) for a period of five years. The total project amount was estimated at USD\$52.6m. The project consisted of two components, namely the Environmental Management Facility (EMF) and the Strengthening of the Environmental Regulatory Framework (SERF). EMF was used as a primary mechanism for addressing environmental and social mitigation measures arising from the operations of Zambia Consolidated Copper Mines (ZCCM) prior to privatisation to meet the environmental obligations of the Government and ZCCM-Investment Holdings plc (ZCCM-IH). The executing agency for this component is ZCCM-IH Environmental Coordinating Unit (ZECU). SERF was aimed at strengthening the institutional capacity of Environmental Council of Zambia (ECZ), Mine Safety Department and delegated authorising agencies in reviewing environmental impact assessments. The executing agency for this component is the Environmental Council of Zambia.<sup>117</sup>

A provision of \$6.3 million was made in the Estimates of Revenue and Expenditure for the financial year ended 31<sup>st</sup> December 2007 to cater for various activities under the Copperbelt Environmental Programme and the whole amount was released. A \$2 million contract to build houses was awarded to a contractor - the A-G reported that no tender authority was obtained from the Zambia National Tender Board; the contractor failed to account for usage of \$184,000; and the project was not completed two years after the original completion date, resulting in the loss of \$70,000 from renting accommodation for displaced staff. Moreover, management had made no claims from the contractor for damages as a result of the delay.

## 10 MINISTRY OF SCIENCE, TECHNOLOGY AND VOCATIONAL TRAINING

In the Department of Planning and Development responsible for the bursary scheme to enable students to have vocational training, the following was reported by the A-G report of 2007: \$1.18 million had been made available, but only \$966,000 had been released.

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<sup>116</sup> 26/01 Ministry of Information and Broadcasting Service, A-G report, 2007.

<sup>117</sup> 21/01 LOANS AND INVESTMENTS MINISTRY OF FINANCE AND NATIONAL PLANNING. A-G Report, 2007.

As a blogger recently opined:

...the Technical Education and Vocational and Entrepreneurship Training Authority (TEVETA) have now embarked on a program, ostensibly aimed to improve the quality of training in the country, but which will have the opposite effect. Only about 40,000 of the over 250,000 students that graduate from Grade 12 are catered for each year in colleges and universities. The many Grade 7 and Grade 9 children that do not make the cut off point marks to move on to the next grade, are destined for the streets of our towns and cities to become unskilled workers, roadside vendors, and street kids. The future is very bleak for this lot. This program launched by TEVETA introduces new Registration fees, Accreditation fees, Trainer Accreditation fees, Curricula Approval fees, and the associated Penalties for Non Compliance. The move is exactly what the Government has been trying to eliminate in the ongoing reforms on Public Sector services.<sup>118</sup>

These programmes are being funded by Irish Aid and other donors, who give their funds directly to Government.

## 11 MINISTRY OF LOCAL GOVERNMENT

In the 20 years reviewed by TIZ, massive sums went missing from the Constituency Development Fund managed at the district level.

### 11.1 House of Chiefs Department

The House of Chiefs is a department of massive importance given that it advises the head of state on 94% of the area of Zambia. The following table gives some idea of the theft of money.

DETAILS	2005	2006	2007
Misapplied and not spent on chiefs	\$775,000	\$782,000	
Bank transfers sent To accounts not on official schedule Retained by Ministry	\$1,353,000 \$130,000		
Unidentified debits	\$30,000		
Released to H of C Payment for Chiefs Actually sent to chiefs Retained by Ministry			\$5.7 million \$2.3 million \$1.66 million \$683,000
Released for car procurement for chiefs			\$1.73 million
Remitted to Zambian Embassy, Japan Balance unaccounted for			\$1.65 million \$79,000

In November 2007, the Ministry gave vehicle loans to chiefs. Subsequently, the Ministry entered into a contract with Japanese Vehicles Supplies Limited for the supply of 150 used motor vehicles at a contract price of US\$800,000. Although the contract sum was US\$800,000, the Ministry disbursed amounts totalling US\$1,678,359 to the Zambian Mission in Tokyo out of which US\$1,314,200 was paid to the supplier, leaving a balance of US\$364,159. Out of 138 invoices provided, 60 invoices in amounts totalling US\$555,500 were not signed by the supplier, making their authenticity

<sup>118</sup> Zambia Economic Development Blog: <http://zecdev.blogspot.com/c>

questionable.<sup>119</sup>

The House of Chiefs is looked on by fellow chiefs as being unresponsive to their inputs. Recently however, the House of Chiefs, in a report compiled in October, 2008, accused politicians and some government officials of fanning succession wrangles in the Kalindawalo Chieftaincy of the Nsenga people of Eastern Province, a recommendation being made that the government should direct its officials and all politicians to stop fanning trouble in the Kalindawalo Chieftaincy.<sup>120</sup> It is likely that the same report has made the same accusations in the matter of the Luembe Chiefdom.

## **11.2 District Council**

In 2006, the Ministry issued \$2.3 million to Councils, which by the end of 2007 had not accounted for the funds. In addition, retrenchment funds to the amount of \$658,000 were sent to the 72 Councils, but 23 Councils had not received the funds by the end of 2007.

## **11.3 Constituency Development Funds**

These funds are absolutely essential for the villages of the hinterland for such basic necessities as water supplies, sanitation, primary education, health, agriculture, road and other essential services. Funding provisions of \$2.3 million were made for 2005 and 2006. In 2005, \$2.37 million was sent, and in 2006, no funds were available as they were released late. An audit of the actual projects on which the money was spent revealed widespread theft and misappropriation.

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<sup>119</sup> 29/8 Ministry of Local Government and Housing, House of Chiefs Department. Report of the Auditor – General on the accounts for the financial year ended 31st December 2007

<sup>120</sup> Silkwamba, Chibaula. February 27, 2009. The Post Newspaper, Lusaka.





**CHAPTER 5:**  
**INTEGRATED CONSERVATION AND DEVELOPMENT PROJECTS IN ZAMBIA**

## ACRONYMS

<b>ADC</b>	Area Development Committee
<b>ADMADE</b>	Administrative Management Design for Game Management Areas
<b>ALERT</b>	African Lion and Environment Research Trust
<b>AWF</b>	African Wildlife Foundation
<b>CAMPFIRE</b>	Communal Areas Management Programme for Indigenous Resources
<b>CBNRM</b>	Community-base Natural Resource Management
<b>CBO</b>	Community-Based Organisation
<b>CBWM</b>	Community-based Wildlife Management
<b>CCSC</b>	Communities for Conservation Society of Cologne
<b>CLA</b>	Chiawa Leaseholders Association
<b>CLZ</b>	Conservation Lower Zambezi
<b>CONASA</b>	Community-based Natural Resource Management and Sustainable Agriculture
<b>CPPP</b>	Community Public-Private Partnership
<b>CPR</b>	Common-Property Resource
<b>CRB</b>	Community Resource Board
<b>CTA</b>	Concession Tourism Agreement
<b>DED</b>	German Development Service
<b>D-G</b>	Director General ZAWA
<b>ECZ</b>	Environmental Council of Zambia
<b>EIA</b>	Environmental Impact Assessment
<b>EPPCA</b>	Environmental Protection and Pollution Control Act
<b>EU</b>	European Union
<b>FNDP</b>	Fifth National Development Plan
<b>FZS</b>	Frankfurt Zoological Society
<b>GMA</b>	Game Management Area
<b>GRZ</b>	Government of Zambia
<b>HCA</b>	Hunting Concession Agreement
<b>HQ</b>	Headquarters
<b>ICDP</b>	Integrated Conservation and Development Project
<b>IRDNC</b>	Integrated Rural Development and Nature Conservation
<b>JFGE</b>	Japan Fund for Global Environment
<b>JFMA</b>	Joint Forest Management Area
<b>JMC</b>	Joint Management Concession
<b>JMCA</b>	Joint Management Concession Agreement
<b>KAZA</b>	Kavango-Zambezi
<b>LIRD</b>	Luangwa Integrated Rural Development Project
<b>LZNP</b>	Lower Zambezi National Park
<b>MCA</b>	Mwanachingwala Conservation Area
<b>MD</b>	Managing Director
<b>MET</b>	Ministry of Environment and Tourism
<b>MoU</b>	Memorandum of Understanding
<b>MP</b>	Member of Parliament
<b>MTENR</b>	Ministry of Tourism, Environment and Natural Resources
<b>NA</b>	Native Authority
<b>NGO</b>	Non-Governmental Organisation
<b>NHCC</b>	National Heritage Conservation Commission
<b>NLCP</b>	North Luangwa Conservation Project
<b>NP</b>	National Park
<b>NPWS</b>	National Parks and Wildlife Service
<b>NRCF</b>	Natural Resources Consultative Forum of Zambia
<b>PFAP</b>	Provincial Forestry Action Programme

<b>PH</b>	Professional Hunter
<b>PPP</b>	Public-Private Partnership
<b>REMNPAS</b>	Reclassification and Effective Management of the National Protected Areas System
<b>SADC</b>	Southern African Development Community
<b>SEED</b>	Support for Economic Expansion and Diversification
<b>SRT</b>	Save the Rhino Trust
<b>TC</b>	Tourism Concession
<b>TCA</b>	Tourism Concession Agreement
<b>TFCA</b>	Transfrontier Conservation Area
<b>UK</b>	United Kingdom
<b>UN</b>	United Nations
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organisation
<b>UNDP</b>	United Nations Development Programme
<b>UPND</b>	United Party for National Development
<b>USA</b>	United States of America
<b>VAG</b>	Village Action Group
<b>WCS</b>	Wildlife Conservation Society (USA)
<b>WECSZ</b>	Wildlife and Environment Conservation Society of Zambia
<b>WSSD</b>	World Summit on Sustainable Development
<b>WWI</b>	World War One
<b>WWII</b>	World War Two
<b>WWF</b>	Worldwide Fund for Nature
<b>ZAWA</b>	Zambia Wildlife Authority
<b>ZESCO</b>	Zambia Electricity Supply Corporation

## 1 REGIONAL INTEGRATED COMMUNITY-BASED CONSERVATION AND DEVELOPMENT

Integrated Conservation and Development Projects (ICDPs), that had their beginning at the 1982 World Congress on Parks and Protected Areas, have been thoroughly reviewed (Hughes & Flintan 2001), and the failures to deliver of ICDPs (called Community-based Natural Resource Management (CBNRM)), explicitly dealt with (Blaikie, 2006). Second generation ICDPs such as CBNRM and CBWM (Community-based Wildlife Management), are usually donor-funded Non-Governmental Organisation (NGO) managed biodiversity conservation projects with rural development components. This is an approach seeking to attain conservation goals by delivering socio-economic development to rural people in wildlife areas, a *quid pro quo*, and a clearly apolitical approach.

In Southern Africa, the present leaders in the field of community ICDPs are Namibia and Botswana – having taken over that mantle from Zimbabwe - though paradoxically they are the two countries adjudged to have the highest disparity between the haves and the have-nots (Bond 2006, p.39). South Africa, through the CITES Implementation Project which established the Chamber of Wildlife (now defunct) to act on behalf of all civil society and government stakeholders having to do with the utilisation of wildlife resources, found the Professional Hunters Association of South Africa and the European game ranching industry resisting customary community membership and empowerment (Manning 2001). This was a sad development as game ranches had in many cases been set up in the post-apartheid era as a political strategy to thwart land reform, private game estates being exempt from land reform under South Africa law (Brinkate 1996, cited in Brechin 2003, p. 10).

### 1.1 Rhodesia/Zimbabwe

Despite the generally unsustainable nature of donor led projects, grass roots initiatives in Zimbabwe up to the mid-90s provided some success. In the former Rhodesia, the Communal Areas Management Programme for Indigenous Resources (CAMPFIRE) was once a fairly successful example of benefit flows to local people from hunting. This scheme operated in approximately a quarter of the districts of Zimbabwe where significant wildlife populations existed. The initiative grew out of the 1975 Parks and Wildlife Act, legislation greatly influenced by the pioneering game ranching work carried out on the Henderson brothers' Doddieburn Ranch. In 1959, the Fulbright Scholars, Raymond Dassman and Archie Mossman begun an experimental game cropping scheme there (I Henderson 2010, personal communication, 26 February) - encouraged by Rhodesia's Chief Wildlife Research Officer, Alan Savory, and Thane Riney of F.A.O., and with the full support and guidance of Ian Henderson. The success of this scheme saw other ranchers begin sustained cropping operations, notably by George Styles and Ray Sparrow, and the establishment of Wildlife Utilisation Services Limited by Mossman, Savory and Robinson with the cropping of game on Liebig's Ranch and in the Forestry Commission's Gwaai Forest Reserve (Manning 1995).<sup>121</sup> The 1975 Wildlife Act, containing a major de-centralisation shift to allow private ranchers ownership of their wildlife, eventually allowed those living on the communal lands to receive benefits from hunting and other wildlife utilisation. This was then taken up by South Africa with a massive ongoing investment in wildlands and wildlife.

CAMPFIRE was highly successful until 2000, with village and district wildlife committees writing land use plans incorporating the conservation and sustained use of wild species, as well as the raising of livelihoods. They recognised that project management alone would not establish sustainable management without local commitment:

Communally situated wildlife management has been threatened by uncontrolled access to its flow of resources for some time. The state and its bureaucracy, through unrealistic or manipulative demands for control, technical competence and financial accountability, have often played an undermining role. Wildlife could be part of the

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<sup>121</sup> The author was a contract hunter to Wildlife Utilisation Services Ltd, Bulawayo, in 1965/66.

rural means of production, and therefore an integral part of the social organisation of rural communities. Material and aesthetic aspects have been, and could again be, much more clearly linked. Assumptions of human selfishness and an inevitable 'tragedy of the commons' are possibly the result in circumstances where neither individuals nor social groups have been allowed to exercise control over their resources. Where a local group has the right, and the means, to manage resources, socially supportive behaviour may be mutually reinforcing, but there can be no guarantee, in the real world, that the 'playing field' will ever be level enough for the communal people to overcome their disadvantages in the face of political and economic elites. Elites however, political and economic, cannot ensure sustainable management of the local environment, without the full cooperation of communal people. The objective of establishing a cooperative management structure between government and rural people rests on communities having an assumed right of group proprietorship to 'their' resources. It also depends on both parties ensuring that access rights can be made exclusive. Successful conservation and development activities are unlikely unless government provides appropriate legislation and policy as well as efficient and effective technical assistance and support to local rule enforcement. The private sector also has a critical role in developing ethical, stable, and accountable joint marketing ventures with communities (Metcalf 1994).

However, post 2000, Zimbabwe has seen an almost total dismantling of CAMPFIRE, and where once 90% of hunting revenue went to the community, this has dried up following a complete take-over of CAMPFIRE leadership by the new totalitarian elite. However, there are some signs – as in the Nkanyi and Lupane districts - that it was not just political factors alone which led to the decline, but also historical issues which shaped people's views and resistance to CAMPFIRE initiatives (Hughes 2001). In the lowveld of Zimbabwe, and around Mahenye 'People are deeply disillusioned with the CAMPFIRE project on other grounds - in particular a feeling that it has not delivered on its promises to transfer either money or political authority to the local level' (Wolmer 2007, p. 179).

## 1.2 Namibia (Appendix 1)

In Namibia, a programme of conservancy establishment is in place whereby wildlife quotas are made available and ownership rights awarded to organised communities within specific geographical bounds. However, they too do not address true devolution and the shoring up of the customary commons.

In Namibia, guided by Common-Property Resource (CPR) management theory (Ostrom 1991), the CAMPFIRE programme and the successes of the NGO, Integrated Rural Development and Nature Conservation (IRDNC), CBNRM policy legislation was approved by the Namibian Cabinet in March 1995 (Appendix 1). This entitled residents of communal areas to form conservancies, a 'conservancy' in Namibia being defined as 'a community or group of communities within a defined geographical area who jointly manage, conserve and utilise the wildlife and other natural resources within the defined area' (Jones 1995, cited by Forslund 2007). The conservancy members, suitably elected and institutionalised as a corporate body, with the traditional authority included, are awarded exclusive use rights over game and commercial tourism within a defined conservancy on both communal and privately owned property. The first four conservancies were registered in 1998, increasing to thirty-one in 2004. Presently more than eighty communities (fifty-five are registered) have established conservancies in which they are able to utilise their wildlife, with in excess of 3,700 animals translocated there by government.<sup>122</sup>

However, the rights enjoyed by registered conservancies are limited. They are allowed the ownership

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<sup>122</sup> Kunene Conservancy Safaris publicity booklet: URL:<http://www.kcs-namibia.com.na>. Accessed: 2010-02-27. (Archived by WebCite® at <http://www.webcitation.org/5nqqvi96t>).

of game; the sale of government approved hunting quotas; the powers to lease out the area as a tourism concession; and are allowed to control common problem animals, other than endangered species. A criticism of the policy and legislation is that it does not take land use planning into consideration, nor does it allow for hired community game guards to be legally mandated as law enforcement officers. In addition, the policy framework for land reform in communal areas is unclear. In some areas there is no broadly accepted authority over land with 'growing tension between those who are fencing large areas of land for their private use, and the majority who are thereby excluded from access to this land' (Corbett & Jones 2000).

Confusingly, not all communal area residents are registered conservancy members, Wildlife Councils being established in order to manage wildlife for the benefits of non-conservancy members (Forslund 2007).

### **1.3 Malawi**

Malawi, with 85% of the population living on customary land, approved a Strategic Plan for CBNRM in November 2001, implementing some fisheries and forestry projects. In the case of fishery ICDPs, this led to 'unexpected and detrimental outcomes for fishing communities' (Blaikie, 2006). This is further evidence that as far as fisheries exploitation is concerned, bottom-up and abstract co-management development ideas may be compromised by broader social, political and economic contexts, as found in Namibia's Caprivi fishery (Gordon 2006, p.169).

### **1.4 Botswana**

In Botswana the preferred model since the start of CBNRM projects in 1998 is the formation of community trusts, being registered as a Cooperative or as a non-profit trust, enabling access to sustained use quotas that can then attract investment partners. However, cattle lands have not attracted any form of ICDP, due to their high traditional value among the Motswana elite, the cause of disastrous schemes mounted in the past at Ncojane and Makalamabedi (Manning, 1978). Not surprisingly, the rangelands are being privatised due to the neoliberal agenda mounted by the elite, cynically putting forward claims of supposed overgrazing by villagers' cattle and therefore the need to introduce a 'modern' system that will not degrade the land (Blaikie 2006).

### **1.5 Tanzania**

The ICDP route taken by the Tanzania 1998 Wildlife Policy was to establish Wildlife Management Areas (WMAs). There are 16 WMA pilot projects.

The process of establishing a WMA involves the following main steps: creation of awareness among villagers of the merits and disadvantages of having a WMA; a village assembly's approval of an application for WMA formation taking into consideration village council recommendations; formation of a Community-Based Organisation (CBO); preparation of a strategic plan; preparation of a land-use plan; carrying out of an Environmental Impact Assessment (EIA) prior to approval of a land-use plan; preparation of village by-laws that support a land-use plan; and preparation of a resource management zone plan. The CBO then makes application to the director of wildlife for designating part of village land as a WMA; the director considers the CBOs application and sends his recommendation to the Minister of Natural Resources and Tourism; and finally the minister declares a designated WMA by order in the gazette. After this, the CBO applies to become an Authorised Association (AA), and the AA applies for a user right and hunting block to the director of the Wildlife Division. The AA may also enter into investment agreements with potential investors. However, from local people's perspective, this seems to be a complicated process,

which may delay the formation of WMAs and the realisation of tangible benefits accrued from them. (Wilfred 2010)

The 1998 Policy gives control of wildlife hunting quotas to local communities, which tends to produce conflict between village groupings and clans. In an area around the Selous an attempt was made to enjoin a number of disparate communities into a co-operative society, meeting with little enthusiasm. The fact that Government refuses to compensate villagers for wildlife damage led to increased opposition from them to the WMA scheme (Songorwa 1999). Like so many ICDPs elsewhere, Government avoids land and wildlife ownership decentralisation issues, the WMAs therefore hamstrung. By 2007 none of the 16 projects were operational. An assessment of the situation in the same year recorded the following:<sup>123</sup>

- i) Recent history of conflict over land alienation for parks and game reserves has contributed substantially to the lack of progress on the establishment of WMAs in areas such as Tarime and Loliondo.
- ii) Capacity building is the main issue emerging after the WMAs have attained an AA status and resource User Rights. All such WMAs do not have business and strategic plans to manage the WMAs and run business.
- iii) Poor governance with little transparency and accountability is the general condition of many of the local level institutions. In some villages CBOs have distanced themselves too much from the Village Councils and hence also from the local communities. On the other hand, some of the Village Councils lack transparency in income and expenditures.
- iv) In villages with rich wildlife and/or potential for investors there are strong anti-WMA establishment sentiments often fostered by individual investors and conflicting interests from some NGOs. Innovative and flexible ways need to be devised by facilitators to raise awareness among the local communities and promote the WMA option as a more attractive and viable economic venture.
- v) Benefit sharing between the Central Government and the local communities, and between villages with different land sizes contributed to the WMAs, or with different resource bases, is still not well enough defined.
- vi) The focus of Regulations on wildlife management ignores the importance of other resources such as forests, water, minerals, and land, which could as well contribute to poverty alleviation. The situation calls for an integrated approach to the management of these resources and to the formation of resource management teams at the AA, district and national levels.
- vii) Lack of harmonisation of policies and legislation has made harmonisation of the management and exploitation of the natural resources inherent in a WMA riddled with uncertainties and conflicts, as has been the case of forest resources in Ipole and Uyumbu WMAs, or the licencing of mineral exploration in the Songea WMA.
- viii) WMAs are not homogeneous. There are different socio-economic conditions and cultural lines within and between WMAs that need to be properly understood as they each demand different approaches to planning Best Practices.

## 2 ZAMBIA

The history of formal Public-Private Partnerships (PPPs) of an integrated conservation and development nature in the country had their beginning after World War Two (WWII) with the Provincial Administration's efforts to see that local people benefited from game cropping, from fee-

<sup>123</sup> Tanzania Ministry of Tourism and Natural Resources : Wildlife Division 2007. Assessment and Evaluation of the Wildlife Management Areas in Tanzania. Institute of Resource Assessment.

paying hunters, and from properly organised and conducted hunting safaris. This was one of the pioneer schemes of its kind in Africa. In May 1949, the District Commissioner at Lundazi, Errol Button, suggested that it would be advantageous to nurture non-hunting tourism for the benefit of the local people, saying that it would not interfere with the activities of local hunters. This was accepted, and the Director of the Game Department, T. Vaughan-Jones, instructed a Game Ranger, Norman Carr, to take over the Department's camp, Chipera, in Nsefu, and convert it to tourist use, with all revenue accruing to the Nsefu Native Authority. Senior Chief Nsefu, having been a willing partner in these important developments, subsequently requested that his area be converted into a National Park. This was at first refused. Unfortunately, having entered into a scheme for his people's benefit, Chief Nsefu became an unwitting partner in the alienation of his tourism customary land into a Game Reserve in 1954, and a National Park in 1972, from which they now receive little benefit, and with the loss of a large and massively valuable piece of their wildlife customary common.

The Game Department in 1949 also initiated the Government Controlled Hunting Scheme, which conducted safari-hunting operations in the Eastern Province, with a large percentage of the income accruing to the Native Authority (NA). In 1962 it was privatised, with the local authorities receiving no further direct income until the late 1980s. The next potentially significant scheme was the establishment of the Black Lechwe Project in 1973 (Grimsdell & Bell 1975), of which Phase III was intended to allow the local people to utilise black lechwe - this never achieved as the scheme was abandoned by Government on the departure of the author as a result of the strictures of the Watershed Speech of 1975 (Manning 1976). In the 1980's the Wildlife Conservation Society (WCS-US) with its Administrative Management Design for Game Management Areas project (ADMAGE), and Worldwide Fund for Nature (WWF) with its Wildlands and Human Needs project, sought to derive direct benefits from wildlife for villagers, this aspect not being successful. Later, the Luangwa Integrated Rural Development Project (LIRDP) was mooted, attempting on a far grander scale what ADMAGE had attempted. It too proved unsuccessful.

The Zambian leadership (though not legislation and policy) is ambivalent both in its attempts to devolve power from the centre to the regions – despite the Decentralisation Policy of 2002 - in particular to land under the customary authority, and to attract investment, wary of being swamped by aggressive outsiders whom they believe will capture the opportunities for wealth creation.

Zambia under current laws provides opportunities for investors to enter into joint ventures with customary authorities and District Councils. Unfortunately, the 1995 Lands Act allows the alienation of customary land to leasehold for 99 years, renewable, with the permission of the chief and the District Council, and with the additional permission of the Zambia Wildlife Authority (ZAWA) should this be in a Game Management Area (GMA) – though the latter is more honoured in the breach than the observance. This attracted a certain level of investment in the form of payments to Chiefs, particularly from the sale of lodge sites and land for game ranches, resulting in some cases in the permanent alienation of the land and the removal of any possible future sustained income for customary communities. The usual purpose of investors is to obtain large areas of land on 99-year leasehold – freehold ownership having been abolished by Kaunda in 1975, something to which customary Africa as a whole should unite in rejecting. In order to avoid such a pitfall, it is necessary to have a development model available that does not alienate land under statutory law, but which encourages investment under usufruct instead.

At present, virtually the only income received by customary areas - and then only a small percentage of those in wildlife rich areas - is from hunting safari concessions, though the amounts are paltry considering that communities must shoulder the cost of protecting their areas as part of the bargain, as well as bear the pillaging by wildlife on themselves, their houses and crops. And despite legislation and policy affirming the rights of customary authorities, and despite its ratification of international and Pan-African conventions, Government resists giving greater autonomy to chiefdoms.



## 2.1 Customary areas investor partnerships

Investment by way of PPPs in those parts of customary areas classified as GMA, which make up 22% of the protected area estate but which contribute some 70% of the funding, presents a number of constraints. Chief of these are the legally questionable and contradictory claims ZAWA has staked on those GMAs by tendering them out as hunting concessions to safari outfitters, bound by a Hunting Concession Agreement (HCA) which serves the ZAWA interest and not that of the community or the safari operator; and by creating proxy CRBs that report and serve their interests, rather than the communities themselves. The fact that the Wildlife Act specifically empowers them with the final decision on tourism development or alienation, is contradicted by the more senior Lands Act of 1995, which gives chiefs the power over land allocation in all of their customary areas. In many areas, ZAWA has turned a blind eye to alienations (e.g. Chiawa) and obtains ground rentals, as do some CRBs. GMAs also, in terms of land use planning, if not of natural resource management, fall within the ambit of Council planning.

### 2.1.1 Nyawa Community Trust

The Nyawa Trust was established in 2001 by John Tolmay and James Hubert Young, the latter a grandson of a former Governor-General of Northern Rhodesia, and Chief Nyawa. Later, Kalaluka Mulyakela, then the ZAWA Southern Province Warden, joined, facilitating the process with Tolmay. Unfortunately, the chiefdom, and the Sichifula GMA contained in it, being an important hunting concession, fell within the remit of corrupt elements in ZAWA who saw the Nyawa Trust as a threat to their profiteering from illegal safaris.

In early 2002, The Hunting Report stated that hunting might soon commence but a possible hindrance might be the announcement that Professional Hunter (PH) John Tolmay and the Nyawa Community Trust had filed a court injunction to stop ZAWA from allocating areas, claiming that it would perpetuate a system that is unfair to local chiefs. The magazine opposed any 'abrupt effort to place complete control of the wildlife in Zambia in the hands of local chiefs', equating it to grants of land made by the US Government to American Indians. It then made the serious allegation that Tolmay and his group were motivated by the money to be made from hunting. They were also dismayed that Safari Club International in the USA appeared to be supporting the Nyawa Trust project idea (Causey 2002).

On 23 March 2003, a meeting of the customary community was called by ZAWA on the instructions of State House, its purpose being to vote on the issue of the Nyawa Trust project. The District Governor of Kazangula at the time – still in place in early 2009 – Fred Siasuntwe, did not call for a vote to begin with, and many people left, knowing that Government had decided to quash their wishes for a decentralised system of natural resource management in Nyawa, an area which contained part of the prime hunting concession, Sichifula. Tolmay, who had been assisting voters to attend the ballot, was threatened with deportation (J Tolmay 2009, personal communication), which duly took place. Subsequently, the Trust declined, the wildlife situation deteriorated, more people invaded the area, and the prospects for Nyawa's people diminished. In October 2008, 8,500 people within 72 villages, commonly known as the 'Nduzya community', were evicted from the Sichifula GMA (shared by Chief Nyawa and Chief Siachitema) after defying ZAWA's orders to relocate. In this extraordinary action, some reports claimed that Government were supported by the two Chiefs (the current Chief Nyawa, not the one who had formed the Trust). The Nduzya claim they had been allowed to settle there by the chiefs in 1985. It is likely that this is true.

On the 26<sup>th</sup> February 2009, Siasuntwe, now the District Commissioner of Kazangula, made a statement that GRZ (ZAWA) had evicted squatters in the Sichifula GMA, and that wildlife had begun to increase, appealing to investors to take up game ranching in the GMAs. Recently Southern Province Minister, Daniel Munkombwe, said that he would use his powers as Minister to forcibly evict anyone who encroached on GMAs (Mbulo 2009a). Since this statement, 44 opposition parliamentarians have

petitioned the President of Zambia to order the Minister (MTENR), Catherine Namugala, to halt further brutality against the residents of Sichifulo in Kalomo and Kazungula.

We, the undersigned members of parliament, hereby petition Your Excellency and seek your redress to the plight of the landless poor people in Sichifulo whose humanity has been degraded, their ego and self-esteem eroded beyond redemption. On Wednesday, 11 February 2009, the Minister of Tourism, Environment and Natural Resources, Hon. Catherine Namugala, MP presented a Ministerial Statement in the National Assembly on the forced removal of the settler community in Sichifulo which has lived in that Game Management Area (GMA) since 1985. ...She said that she would like to reserve Sichifulo for hunting expeditions and photographic safari, a preserve of a foreign company called Alfa Recreation Safaris... However, she did not mention the fact that the game scouts who removed those people at gunpoint, also burnt down their houses, grain barns and crops. She further did not reveal that in a place called Dindi, game scouts raped some women and tortured men and children... and since GMAs are not state land by definition, it follows, therefore, that chiefs Siachitema, Nyawa IV and V were all legally constituted to authorise settlements in their traditional areas of Sichifulo. In all 36 GMAs across the country, people live side by side with wildlife... how come Hon. Namugala, singled out the people of Sichifulo without risking being accused of segregation. The future of those two thousand two hundred (2,200) helpless kids who were going to fourteen (14) schools, will need to be borne in mind. (Kalaluka 2009a)

Chief Nyawa, one of three Southern Province chiefs, met with Munkombwe and told him that the law should uphold the eviction of the 'squatters'. The Kalomo MP, Request Muntanga, accused Munkombwe of coercing the chiefs to issue a statement against their people who had been evicted from Sichifulo GMA. Muntanga said,

Chief Siachitema of his constituency had phoned him to inform him that Mukombwe had sent a vehicle from Livingstone so that he could be picked together with other chiefs so that they could go and issue the statement in support of the government. Chief Siachitema, Mukuni and Nyawa are not part of what has happened to the people and their support was not voluntary because when Mukombwe sent a vehicle to pick Chief Siachitema in my constituency, he phoned me saying "I am being told to go and make a statement" (Kalaluka 2009b).

Chief Nyawa was reported as denying these claims.<sup>124</sup>

In 2007, both Chief Nyawa and Chief Siachitema had made strenuous calls for the owner of Alfa Safaris and ZAWA to leave the area, claiming that they and their CRBs had received no benefits from the hunting - or pay - for 20 months. In particular they stated that the owner of Alfa, G. Kaweche (former Chief Research Officer of the NPWS), had sub-leased the area without their permission and had not fulfilled his pledges under the HCA (Manning 2007c).

Major Chizhyuka, the Namwala UPND member of parliament, who was suspended from parliament for 60 days as a result of his supposedly intemperate outbursts in the House in support of the evicted people, filed an injunction in the High Court to restrain ZAWA and Chief Nyawa VI from taking any foreign or local investor to the area from which the 8,500 settlers had been forcibly evacuated. He explained that the injunction, if granted, would remain in effect until President Banda had responded to the petition from over 40 opposition parliamentarians on the matter (Kalaluka 2009b).

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<sup>124</sup> URL:<http://www.lusakatimes.com/?p=8556>. Accessed: 2010-02-27. (Archived by WebCite® at <http://www.webcitation.org/5nqrCkSeI>)

### 2.1.2 Luembe Conservancy Trust (Appendix 3)

In November 2003, The author, seeking to provide a single grass roots community structure as a first step towards the provision of a platform to usher in investment into the Luembe chiefdom of Nyimba District in Eastern Province, suggested the formation of the Luembe Natural Resources Conservation Society. The decision was subsequently made to register the Luembe Conservancy Trust as a Company (limited-by-guarantee), a non-profit company under the Companies Act. The founding trustees of this Trust were Senior Chief Luembe, the Gamefields Ltd MD (the author), the ProjectsAfrica (a virtual facility formed at the World Summit on Sustainable Development) representative (C.A.Manning) - (WSSD), the Norman Carr Foundation represented by J. Carr (established to assist ZAWA), the Chairman of the Nyimba District Council and the Chairman of the Luembe CRB.

The Landsafe Chiefdom Partnership Model was developed in 2003 by the author after wide consultation (then known as the Chipuna model). Essentially, investors, chiefs, Government, NGOs and CRBs would form development trusts to oversee landuse and investment plans, attract investment, and receive rentals - earmarked as development funds - into a trust account, all without alienating the land. In addition, so as to allow customary landowners to have more security and access to credit, and to counter the increasing clamour for customary landowners to convert to leasehold tenure - something that would ultimately impair traditional culture - the imposition of a customary land registry book was considered mandatory.

The Landsafe Trust model has, in principle, now been accepted by the House of Chiefs of Zambia, their representative stating: 'The land leased for commercial use should attract royalties and fees which will form part of the income and resources for financing administration and development projects in their areas' and '...we should be allowed to retain absolute title to our land while giving investors and non-subjects renewable lease rights under various chiefdom trusts'.<sup>125</sup>

### 2.1.3 Royal Empowerment Foundation

This Foundation was formed by Chief Chibesakunda (North Luangwa Valley and plateau), and aims at the socio-economic empowerment of rural communities under their customary authority (Manning 2007d). The author was a trustee.

### 2.1.4 Itumbi-Kaingu Community Trust

The Trust was established on 1 June 2007 in the Kaingu Chiefdom (Itezhi Tezhi District) within Namwala GMA, incorporated as a Company (limited-by-guarantee). The Trustees are drawn from the investors and the local community, with an Executive Committee that consists of the above Trustees, together with Chief Kaingu as Patron, and two other voting members, plus a non-voting member representing the Area Development Committee (ADC). The Executive of five members, including the Trust's founder, T. Heinecken, runs the affairs of the Trust, which includes a representative of the Kaingu CRB. Some project funding was sourced from the Danida Itezhi Tezhi CBNRM program and partly from Kaingu Safari Lodge. A newly formed Dutch Trust in Holland may possibly fund a school building project.

The Trust operates on the Kaingu customary land within the Namwala GMA, with no land alienated, and currently forms part of a Hunting Concession Agreement (HCA) between ZAWA, Nsonga Safaris and the Kaingu Community Resource Board. A landuse plan with a zoning plan for the Namwala GMA has been drawn up and is awaiting final support from ZAWA before being gazetted.

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<sup>125</sup> James Matala. 2006. Verbal recommendations of the House of Chiefs at the Fifth National Development Plan (FNDP) Stakeholders' Meeting. Lusaka, Zambia.

### **2.1.5 West Lunga Trust**

The Trust is incorporated under the Lands (perpetual succession) Act with three trustees drawn from the Rea family. It operates in the Chibwika and Ntambu GMAs, and, recently, in Sikufele. The first draft of a landuse plan has been completed.

### **2.1.6 Mwanachingwala Conservation Trust**

This Trust concerns the 20% of the Blue Lagoon GMA that falls under Chief Mwanachingwala in the Mazabuka district.

In November 1999, WWF Zambia under the WWF – Partners for Wetlands Project, facilitated the creation of the Mwanachingwala Conservation Area (MCA), an area of 55,000 ha, 40,000 of which was contributed by Chief Mwanachingwala without the agreement of his headmen. In addition, in 2001, the commercial farming operations of CERES, Nanga Zambia Sugar, Zambezi Ranching and Cropping, and Messrs Pinkney and Bignell in Mazabuka, also donated land and entered into a partnership with the Mwanachingwala community and WWF for the management of the conservation area. However, over 100 families and 17,000 cattle of Kabanje village, on land claimed by Nanga Zambia Sugar, faced eviction. Chief Mwanachingwala allegedly supported the evictions; also threatening not to give the Kabanje people customary land once they were evicted (Mpundu undated).

There is a cruel historical irony apparent. The Soldier Settler Scheme after WWI opened a land rush in the Magoye Sub-district on the Batoka plateau with 69 farms taken up by 1921. Kapasos (chiefs' messengers) sent to speed matters up were brutal, burning villages, though some villagers clung to their land. Although most of Chief Mwanachigwala's land had been surveyed for settler farms, the chief refused to move, having done so once already, despite the Administrator's orders to move again. Many of their cattle were impounded by the few settlers who had taken up land in their area. Finally, a curate's egg settlement was reached whereby they were given more land, moved themselves from some of the land, and continued to live on the land as 'squatters' (Vickery 1986, pp.122-129).

### **2.1.7 Nyakolwe Trust**

In order to establish a game ranch, the Petauke District Council obtained the old Petauke Secondary Hunting area, Kaundi, from Chieftainess Mwape, and incorporated it under a Trust - with trustees made of the Chieftainess and various notables – including members of the Petauke District Council. The Council then handed over Kaundi to a Mr Iqbal Alloo (owner of Sable Transport), who allegedly bought out the trustees, operating the unfenced area as a hunting concession, leasing it out to a safari operator, with hunting quotas supplied by ZAWA. The Nyimba District Council now has the Mwape area under its jurisdiction. This alienation of prime wildlife customary land supposedly under the protection of a community and local authority Trust, reveals great dangers to progressive moves to build the customary commons under secure Trusts. Some chiefs and District Councils are unfortunately not to be trusted where there is a possibility of enriching themselves.

### **2.1.8 Shinganda-Lumba Conservancy**

The Shinganda-Lumba Conservancy is situated within the Mushima Chiefdom in the Mufumbwe District of North-Western Province. It is approximately 50km north-west of the Kafue National Park, adjacent to the Kasonso-Busanga GMA, with a total size of 20,000 ha, comprising a 4,000 ha "core" under a 99-year leasehold title, with a 16,000 ha 'remainder' managed under a MoU with Senior Chief Mushima. The conservancy is demarcated by a 56 km government-surveyed boundary outline. The conservancy was established with the express purpose of restoring wildlife in the area, while contributing to rural development, with the longer-term intent of establishing a wildlife-based eco-tourism venture to ensure project sustainability. Crucially, the Conservancy supports the promotion

and retention of local Kaonde traditions and culture; as well as contributing on an annual basis to Chief Mushima's Makundu Traditional Ceremony held at Lalafuta.

Initial negotiations were held in 2001 with Chief Mushima. The Mushima Council and Mufumbwe District Council and approval obtained for the establishment of the conservancy. The area was surveyed in 2002, and an Operational Management Plan and a Socio-Economic Plan completed in the same year. In 2006, a 4,000 ha portion of the conservancy was alienated to the Conservancy. The project has close links with the Mubambe Community Resource Board in the Mufumbwe District.

In ecological terms, the project area fulfils the role of an ecological corridor for the movement of large animals in and out of protected areas, and potentially between protected areas such as the Kasonso-Busanga GMA to the south and the Chizela GMA to the north-west of the conservancy (MacDonald 2007).

### 2.1.9 Royal Luembe Trust

On 24 June 2006, Senior Chief Luembe called an extraordinary meeting at his HQ attended by a Nyimba District Councillor, 27 headmen, his two *kapasos* (messengers), the Chairman and secretary of the Luembe CRB and the ZAWA community liaison officer. The purpose of this meeting was to choose, from a number of candidates, the community's business partner for the take-over of part of the West Mvuvye National Forest No. 54 that lies between M'nyamadzi Game Ranch in Luembe and Chimalesa Ranch (illegally alienated from the West Mvuvye to a Mr Zaeed Patel). The chief stated that, 'The Government has advised the chief over the same piece of land that if this area is to be given to any investor the community must be a shareholder in order to benefit with a certain percent'. The applicants were listed as Gerald Mulowa (brother of the chief – and brother of Chieftainess Mwape), Jack Kawinga, M'nyamadzi Game Ranch and Messrs Baldry and Younger (Royal Luembe Trust and directors of M'nyamadzi Game Ranch, which adjoins the Mvuvye)). The chief and the Nyimba councillor then put forward the following:

- i) There would be a camp built for hunting purposes;
- ii) The ranch would be fenced;
- iii) The ranch would have two managers, one representing the community;
- iv) Shareholding would be split as follows: 60% for the Royal Luembe Trust; 10% for the chief; 30% for the community;
- v) The ranch would be run by a board comprising the investor, the CRB chairman and the chief;
- vi) Title to the land would be applied for;
- vii) Three of the applicants had refused to have the Luembe Community as partners, therefore Baldry/Younger were selected;
- viii) The community could hunt on the ranch, provide they held a licence;
- ix) The CRB Chairman said that the headmen had decided on the issue democratically (later he stated that he had been forced to agree with the decision on Baldry under duress, i.e. fear of chiefly witchcraft).<sup>126</sup>

In 2007, the Royal Luembe Trust met with President Mwanawasa and received permission for the Trust to 'have' the Luembe section of the West Mvuvye National Forest (T Younger 2007, personal communication). Later in 2007, the author wrote to the Anti-Corruption Commission:

Another attempt at alienation was made by the Royal Luembe Trust, who, despite knowing it was a National Forest, had tried to have it de-gazetted so that they could take ownership of it along with Patel - who is involved with them in the M'nyamadzi

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<sup>126</sup> Axon Lungu. 24 June 2006. Luembe CRB Chairman hand-written minutes of meeting, Luembe.

Game Ranch - which the former Minister of Lands had told Chief Luembe had had its provisional lease corruptly extended.<sup>127</sup>

Fortunately, adverse publicity over the illegal alienation by Mwape, Patel and the Forestry Department over Chimalesa persuaded Baldry and Younger to drop their attempts. However, Baldry in particular, made numerous attempts to wrest away the Luembe Conservancy Trust's custodianship of the Open Area land and to have the Mbeza safaris concession cancelled.

### **2.1.10 Nyakaulu Mwape Community Trust**

Gerald Mulowa was informed that the title given to Z. Patel for the northern part of the West Mvuvye National Forest had been cancelled, though no prosecutions for the act of corruption had yet occurred. With the author's help, Mulowa then formed the Nyakaulu Mwape Community Trust and has been attempting to have the forest de-gazetted from a national to a local forest, despite the author's advice that any removal of its protective state should be very carefully considered. The Forestry Department, complicit in the one alienation – and in an attempt on another – have ignored the original verbal agreements reached with the Luembe Conservancy Trust in respect of establishing a Joint Forest Management Agreement.

### **2.1.11 Sioma Falls PPP**

Sioma Falls, part of the Kavango Zambezi Transfrontier Conservation Area (TFCA), has embarked on the establishment of a Community Public-Private Partnership (CPPP) between the Royal Barotse Establishment, ZAWA and the customary community in the area. The proposal is to develop a large tourist lodge and other amenities that will 'benefit' the local community. The institutional framework is for the signing of a co-management agreement between ZAWA and the community (two villages).

### **2.1.12 Nyalugwe Conservation Trust (refer Chapter 8: Part II)**

This chiefdom Trust, with the assistance of Gamefields Limited, was formed by the Nyalugwe customary community in 2009 under the Lands (perpetual succession) Act. Much of what was the Chilinga Native Reserve in the Open Area is now vested in this Trust and registered with the Ministry of Lands. In August of 2009 it was leased to Gamefields, with the latter having oversight of Trust development funds. Gamefields will continue to assist with a critical mass of development projects, one of them being to link Nyalugwe with the customary authority across the border in Mozambique.

## **3 INTERNATIONAL DONOR FUNDING**

### **3.1 The Kabuwebulwe Trust**

The Kabuwebulwe Trust (Mumbwa) was registered as a Society in December 2003 and incorporated as a Trust in November 2005. The Kafumba Kwale Community Lodge was then built with funding from DANIDA on proposed alienated land in the GMA. The general objective of the Trust is to provide a legal framework for integrated conservation and development in the Kabuwebulwe Chiefdom. The CRB was the community partner for the Project, but when an application for land was made, the Department of Lands advised that the CRB could not legally hold land and that they should form a Trust under the Lands (perpetual succession) Act. Trustees are drawn from the headmen, a representative of the chieftainess, the CRB and the ZAWA Ranger-in-Charge. The District Council has been charged with oversight of the accounts and the selection of a business partner. In 2010, the lodge was leased to a businessman.

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<sup>127</sup> I.P.A. Manning, 1 November 2007. E-mail message to Gibson Chizanda of the Anti-Corruption Commission.

### 3.2 Mpumba Conservancy Trust (Appendix 4)

Mpumba was first organised as the Mpumba Natural Resource Conservation Society in 2000, a process driven by Leonard Bowa with the assistance of Mutinondo Wilderness, owners of alienated land in Mpumba. Later a Trust was created under the Lands (perpetual succession) Act into which the chief wished to alienate all the remaining land in his chiefdom. However, it was finally decided to alienate 8,940 ha to the Trust and approval was obtained from the Mpika District Council in October 2002. On 27 November 2003, the first meeting of the Trust was held. Application was then made to the Commissioner of Lands, caveats being registered as follows: the land cannot be sold; it cannot be mortgaged; it reverts to customary land if the Trust dissolves; and it must only be used for conservation. The title has yet to be issued.

WWF-USA had assisted in funding the process, carried out by Mano Consultants, who were motivated by the fact that villagers could not convert their traditional land rights into modern 'deeds' and were therefore unable to obtain loans or to sell their land. Mano wished to address the issue of the exploitation of rural areas with nothing being invested there for development, identifying the existing legal institutional framework governing rural lands and villages as the main impediment. Their second objective was to create a government mechanism by which villages could receive revenue from safari hunting. Mano then established the Trust so that Mpumba land could be alienated to it for the benefit of the customary community. The second objective - increasing responsiveness and accountability for the distribution of safari revenues - was addressed successfully through legal action taken on behalf of specific village plaintiffs. Mpumba has since languished, the trustees from the Mutinondo Wilderness and Shiwa Ngandu having resigned, the land awaiting alienation; and the legal actions begun, not taken up by other CRBs and communities who are owed money by ZAWA. Having alienated the land, there is now the very real danger of the scheme being taken over, as is the case already with the Kaundi portion of the Mwape Chiefdom by Alloo.

### 3.3 Chikuni Community Partnership Park

At the instigation of the ZAWA/UNDP project: Reclassification and Effective Management of the National Protected Areas System (REMNPAS) in September 2007, the customary communities within the Bangweulu and Chikuni GMAs agreed to create the Chikuni Community Partnership Park. This was done so as to ensure that the area would be protected and kept free of permanent human settlement and cultivation, and managed by a partnership between the chiefdoms of Senior Chief Kopa, Chiefs Chitambo, Nsamba, Bwalya Mponda, Kabinga and Chiundaponde, and ZAWA and one or more private sector partners.

On the 25<sup>th</sup> of February 2008, African Parks was invited by over 30 community representatives and ZAWA representatives to be the private partner:

The customary communities, African Parks and ZAWA will agree on the terms of the partnership and form a company that will take over the management of the Chikuni Community Partnership Park. The company will be granted management authority through agreements with ZAWA and the Ministry of Tourism, Environment and Natural Resources. The Ministry, through the REMNPAS project, will fund the Park in its development phase for a period of four years.<sup>128</sup>

At a meeting of the African Parks Board on 26<sup>th</sup> May 2008, the organisation agreed to accept the invitation by the communities and ZAWA to be the partner for the management of the Chikuni Community Partnership Park.

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<sup>128</sup> Newsletter May 2008. REMNPAS: Reclassification and Effective Management of the National Protected Areas System, MTENR, Zambia.

Agreement was reached on the Articles of Association to form and register the Bangweulu Wetlands Management Board. The Board is made up of seven Directors (three each from the community and African Parks, and one from ZAWA) and will be registered as a Company (limited by guarantee). The D-G of ZAWA is currently Chairman of the Board. Once registered, the Board will negotiate a management agreement with ZAWA to manage the Chikuni Community Partnership Park within the Bangweulu GMA.<sup>129</sup> The African Parks, United Nations Development Programme (UNDP) and WWF (Netherlands) are funding the project.

Currently, Chikuni Island, formerly the site of the Black Lechwe Research Project, is being developed as the African Parks/Chikuni CCPP headquarters. An application has been made to ZAWA for hunting quotas for the 2009 season. The Chikuni CPP will have a similar status to that of a National Park but with regulated fishing and hunting permitted. The six chiefdoms have put aside for the project approximately 3,000 km<sup>2</sup> in the Chikuni CPP and about 3,000 km<sup>2</sup> in the Bangweulu. ZAWA remain the governing authority and will approve quotas and oversee the sale of licences. However, this will be based on recommendations made by the Bangweulu Board.

These developments have occurred in complete ignorance of the Black Lechwe Project of 1972-1976; ZAWA, REMNPAS, UNDP, and African Parks at the outset, not being aware of the project's work or publications. The Black Lechwe Project recommended a different solution to the one presently being implemented (Grimsdell & Bell 1975, pp.170-174).

### **3.4 Chiawa Community Partnership Park**

The REMNPAS proposal for the Chiawa Community Partnership Park (CCPP) - taking up the eastern part of Chiawa and adjoining the Lower Zambezi National Park (LZNP) - first required that a Trust be established and given responsibility for the area. The first steering committee for a proposed Lower Zambezi Conservation Trust (LZCT) handed over the project to the nominated trustees on 12 February 2008. The Trust deed was only signed on 1 April 2010 and will now be registered under the Companies Act (limited by guarantee). The equal beneficiaries of the Trust are the biodiversity of the proposed Chiawa Community Partnership Park (CCPP) and the Chiawa Customary Community. Chieftainess Chiawa signed a land declaration on 30 June 2009 and released it to the Trust on 16 March 2010. This declaration, which lists the leaseholders and their land, still needs to be corrected, and a business plan produced before the CCPP can be gazetted. The agreement between ZAWA, the Chiawa Community Resource Board, the Trust, the Chiawa Leaseholders Association (CLA) and the management still needs to be drafted and ratified. The CLA is the civil society partner representing its members in the eastern Chiawa GMA. Funds will be raised for the Trust through bed-levies; GEF/UNDP matching the levies raised for a period of four years (S Featherby 2010, personal communication, 4 April). A management plan was drafted in March 2008 and is currently being revised.

The proposal by Protea Hotels Zambia – under the Chairmanship of Mark O'Donnell (currently both chairman of the Tourism Council of Zambia and a member of the ZAWA Board) – to construct a 144-bed hotel and conference centre designed in the military/industrial style on the Zambezi, some ten km upstream of the Lower Zambezi National Park and directly across the river from the Mana Pools National Park (a World Heritage Site), has evoked the anger of those who value this primary wildlands area where tourism development is appropriately small and relatively eco-friendly. The area is already part of the AWF Zambezi Heartlands programme that is attempting to create the Mana-Lower Zambezi Transfrontier Conservation Area involving the Governments of Zimbabwe, Zambia and Mozambique. Protea Hotels has provided a prolix EIA report supporting its building and operation proposal, requiring civil society inputs to be made to the Environmental Council of Zambia by 14 April 2010. The fact that Mana Pools National Park, the LZNP and the planned Chiawa Community

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<sup>129</sup> Newsletter. July 2008. REMNPAS: Reclassification and Effective Management of the National Protected Areas System, MTENR, Zambia.



Partnership Park are to become the Mana-Lower Zambezi Transfrontier Conservation Area - was sufficient to persuade the NECZ that the planning decision has already been made for the area, any deviation requiring changes to the Chiawa Management Plan and the agreement of the Zambian Government (ZAWA), the Zimbabwe Government, UNESCO and members of the future Lower Zambezi Conservation Trust. The Protea EIA and application, widely regarded as *ultra vires*, has been withdrawn.

### 3.5 Kazungula Heartland Trusts

The African Wildlife Foundation (AWF) Kazungula Heartlands programme has created five community trusts in chiefdoms in southern Zambia and in the Lower Zambezi area in Chiawa GMA and Rufunsa GMA and the Siavonga Open Areas. However, what they have fostered and delivered are land alienations, one to a private investor and others to the customary communities themselves, justifying the latter on the grounds that:

...the trusts are designed to avoid land converted from customary to leasehold tenure slipping out of the control of the community by using the advantages of private title for its own purposes... Chiefs agreed that allocating leases on customary land alienated it in perpetuity (sic) and further agreed that a community trust structure could hold a “head lease” and directly manage sub-leases to private sector investment partners. AWF has invested in the trusts as common property institutions because it believes that secure and effectively managed property rights can help determine conservation and development outcome. (Metcalf 2005, p.8)

But such alienations brought about by AWF have placed chiefdom customary commons at great risk elsewhere. And there are other considerations, not least the fact that statutory leasehold alienations are prone to takeover by corporate raiders, even with *caveats* in place.

#### 3.5.1 Mukuni Trust

The Mukuni Development Trust formed under the Lands (perpetual succession) Act in the Livingstone area was registered in 2003 and is located in an Open Area. The allocation of land to the Trust by Chief Mukuni was formalised in a petition signed by the Trustees to the Minister of Lands and deposited with the Registrar of Deeds. Each of the 12 villages in the Mukuni chiefdom elects a board that sends a representative to the board of Trustees at chiefdom level. The Chief has earned notoriety by his full support of the illegal alienation of 220 ha of the Mosi oa Tunya National Park, and of plans to build an 18-hole golf course and 350 chalets in the World Heritage Site. AWF made no criticism of this development, nor would they answer emails from the author and other conservationists to explain their position.

The Trust has negotiated contracts with local investors so that it receives a percentage of tourist takings for the use of facilities built within the chiefdom. AWF has assisted the Trust in proposal development and negotiations for a partnership with Sun International for an up-market lodge and for the development of a 100,000 ha Bweenga conservancy below Victoria Falls.

#### 3.5.2 Sekutu Development Trust

The Sekute Trust, registered with the Registrar of Societies in March 2003, developed out of the CONASA project (of which AWF was a part) that concentrated on the three southern GMAs adjoining Kafue NP. According to AWF, their support to Sekute Development Trust is helping halt illegal allocations of land, democratise land rights, enforce natural resource management practices and effectively partner with the private sector in the area. Metcalfe (2005) reports that:

A private sector consortium has been negotiating with Chief Sekute with a proposition to form a partnership between itself and the Chiefdom to establish a conservancy. Part of the conservation logic of the conservancy is that it would contribute to the proposed corridor. Population density in Sekute is low with 60% settled near one peri-urban area leaving a lot of the 230,000 hectares uninhabited. The Sekute investment group sees this as a pilot scheme for the whole conservancy. The arrangement hinges not so much on the alienation of land but on exclusive use rights to the wildlife. Despite its bold vision the scheme has not progressed for several reasons. Firstly, negotiating directly with Chief Sekute and his advisors on such a bold concept is problematic because the “deal” is based purely on customary authority and may be subject to several vagaries and misunderstandings over time and not a sound basis for a big project. Whereas a community can think in terms of perpetuity what is the life of a “partnership” and what provision is there for conflict resolution. The Sekute Trust would facilitate the possibility of a contractual relationship between two legal personalities and provide for structured community participation and more clarity on roles, responsibilities and beneficiaries. The private sector group undoubtedly has entrepreneurial skills that the trust lacks but it is also clear that the private sector group is depending on the trust to raise substantial capital investment from donors.

### **3.5.3 *Siluwe Trust***

Chief Musokotwane has supported the establishment of the Siluwe Trust. The Chief has negotiated an investment with a private sector operator who has constructed a lodge, drilled boreholes and installed pumps. A system of anti-poaching patrols has been established on a 20,000 ha site. The investor has acquired leasehold title to 5,000 ha of the area with exclusive use rights over the other 15,000 ha and an option to apply for leasehold title.

### **3.5.4 *Other Trusts***

The AWF also mention having formed the Musokotwane, Simwatachela and Inyambo Trusts, though no information on these was made available by AWF.

## **3.6 Joint Forest Management Areas (JFMAs)**

Five Joint Forest Management Areas (JFMAs) in Zambia have been gazetted: Lukangaba, Mwewa, Dambwa, Ndoni and Kastaino. It had taken four years since the onset of the Provincial Forestry Action Programme (PFAP), funded by the government of Finland, for the necessary legal instrument to be put in place allowing for the establishment of the JFMAs.

In the case of the Dambwa forest, the Forestry Department entered into an agreement with ALERT, the ‘walking with lions’ business (Shenton 2006). Such an agreement, posing a real threats to humans, required an EIA, mandatory in accordance with the Environmental Protection and Pollution Control Act (Cap 204 of the Laws of Zambia), Regulation 3 (1) of the Environmental Impact Assessment (EIA) Regulations, Statutory Instrument No. 28 of 1997. In April 2008, a review of an Environmental impact statement was held by the ECZ on the use of Dambwa for the lion project, but this was done after permission had been given by the Forestry Department for the project to commence. The EIA was subsequently passed. The mayor of Livingstone has now appealed to Government to de-gazette part of the Dambwa forest reserve due to the shortage of land after the creation of Kazungula District (Mbulo 2009b). However ZAWA currently are pursuing an extension of the Mosi oa Tunya National Park into the Dambwa. In April 2010, ALERT were advertising for donations from the public in order to purchase antelope for release into the Dambwa so that their captive lion could hunt them.

Attempts by the Luembe Conservancy Trust to establish a JFMA in the West Mvuvye National Forest was unsuccessful as a result of the forest being illegally alienated, subsequently (after a campaign)

supposedly cancelled by the Surveyor-General. A recent visit to the area by the Minister of MTENR had her railing against the fact that the land was still held under leasehold by Z. Patel (W Njobvu 2010, personal communication, January)

#### **4 MAFUNTA CBNRM PROJECT**

In the Mafunta GMA (gazetted in 2007), WWF-Zambia, funded by the Norwegian Embassy and with the co-operation of Chief Kahare of the Nkoya people of the western buffer zone of the Kafue National Park, are busy converting the area into a multi-production zone making use of VAG groups and the CRB elected for the area. Here they have established about 154 commodity groups in order to provide 'alternative livelihoods' - i.e. as opposed to commercial poaching - and income generation activities to members of the local communities. After training, some VAGs have embarked on a number of ventures such as horticulture, poultry, piggery, honey and wax production, fish farming, carpentry, tailoring and handicrafts.

An area with poor soils and little water available, criticism has been levelled as to the suitability of the development programme and its likely impact by way of increased fire on the GMA and the adjoining National Park.

#### **5 TRANSFRONTIER CONSERVATION AREAS**

##### **5.1 Kazangula and Zambezi Heartlands**

AWF partners in Kazangula are Peace Parks Foundation, the Southern African Trust, The Nature Conservancy, USAID / Regional Centre for Southern Africa, the Wildlife and Environment Conservation Society of Zambia; and in Botswana they are the Botswana Department of Wildlife and National Parks, the Elephant Pepper Development Trust, Integrated Rural Development and Nature Conservation (IRDNC Namibia) and the Japan Fund for Global Environment (JFGE).

In the Zambezi Heartland, AWF, with funding from USAID, has embarked on a conservation project incorporating Mozambique, Zimbabwe and Zambia. In Zambia it includes the Rufunsa GMA, the Lower Zambezi National Park and the development of the Chiawa cultural village within the Chiawa GMA where it has shared interests with the Chiawa Community Partnership Park. AWF's principal interest is in elephant conservation and on their website they state that the elephant population in the Zambezi Heartland is on the rise - with an 8% increase overall since 2002, and a dramatic 137 % rise in Zambia, claiming that landscape-wide management techniques and poaching prevention efforts are working. This flies in the face of the information presented at the CITES CoP15 meeting in Doha which revealed the area to be one of the most heavily poached in Zambia.

The Landsafe programme in Nyalugwe and Luembe chiefdoms, the former adjoining the Luangwa district within Tete Province of Mozambique, has plans to create a customary commons transfrontier area there. AWF is currently creating the 138,000 ha Chawalo Community Conservation Area in Tete Province.

##### **5.2 Malawi / Zambia TFCA**

On 13 August 2004, the Zambian and Malawian Governments signed an MoU agreeing to the establishment of this TFCA, and an international coordinator was appointed to steer the TFCA's development. The Global Environmental Facility approved a project preparation grant of \$328,000, which the two governments requested the Peace Parks Foundation to manage and oversee to implementation phase. The legal agreement between the World Bank and the Foundation has since been signed, as has the letter of agreement initiating the process to establish an endowment fund for the project that will receive a capital injection of \$5.9 million once established. In the first component,

management and tourism plans have been drafted and a joint law-enforcement project combats commercial poaching in the Nyika TFCA (Nyika and Vwaza/Lundazi component of the TFCA). A wildlife-restocking programme for Lundazi Forest Reserve and Vwaza Marsh Wildlife Reserve commenced in 2007. In May 2008, the ministerial committee approved the investment framework and logo for the Malawi-Zambia TFCA, as well as the Nyika TFCA joint management, integrated tourism development and restocking plans, and the Kasungu-Lukusuzi project plan.

AWF is working with the Wildlife Conservation Society (USA) to support the implementation of COMACO, in the area between Kasungu National Park in Malawi and Lukusuzi National Park in Zambia in the Kasungu-Lukusuzi TFCA (the second component of the Malawi-Zambia TFCA). They hope that this will provide a secure wildlife dispersion route between the two parks.

### **5.3 KAZA (Kavango - Zambezi TFCA)**

Angola, Botswana, Namibia, Zambia and Zimbabwe are establishing a 278,000 km<sup>2</sup> TFCA in the Okavango and Zambezi river regions. The MoU was signed at Victoria Falls on 7 December 2006. KAZA TFCA includes the Okavango Delta, and the National Parks of Chobe, Makgadigadi, Kafue, Sioma Ngwezi, Mosi oa Tunya, Hwange, Chizarire, Bwabwata and the Moremi and Luiana reserves. AWF Kazungula Heartlands is part of the project along with Conservation International, Integrated Rural Development and Nature Conservation, Peace Parks Foundation, Roots of Peace and WWF. It has the CBNRM objectives of community assistance: support to local communities through the development of income-generating opportunities such as community-run tourism enterprises, cultural and eco-tourism villages, and basketry projects within ecological corridors linking protected areas.

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## 7 APPENDICES

- Appendix 1: The CBNRM Policy and Legislation for Namibia**  
**Appendix 2: Objectives of the Luembe Conservancy Trust Limited.**



## Appendix 1: The CBNRM Policy and Legislation for Namibia

Wildlife Management, Utilisation and Tourism in Communal Area Policy of 1995 (i.e. the CBNRM policy). The policy objectives are as follows:

- i) To establish an economically-based system for the management and utilisation of wildlife and other renewable living resources on communal land so that rural communities can:
  - participate on a partnership basis with the Ministry of Environment and Tourism (MET) and other Ministries in the management of, and benefits from, natural resources;
  - benefit from rural development based on wildlife, tourism and other natural resources;
  - benefit from rural development based on wildlife, tourism and other natural resource management; and
  - improve the conservation of natural resources by wise and sustainable resource management and the protection of biodiversity.
- ii) To redress the past discriminatory policies and practices which gave substantial rights over wildlife to commercial farmers, but which ignored communal farmers.
- iii) To amend the Nature Conservation Ordinance of 1975 so that same principles that govern rights to wildlife utilisation on commercial land are extended to communal land.
- iv) To allow rural communities on state land to undertake tourism ventures, and to enter into cooperative agreements with commercial tourism organisations to develop tourism activities on state land.

The policy states:

- The right to utilise and benefit from wildlife on communal land should be developed to a rural community that forms a conservancy in terms of the Ministry's policy on the conservancies.
- Each conservancy should have the right to utilise wildlife within the bounds of the conservancy to the benefit of the community. Once a quota for each available species has been set, the conservancy members may decide how these animals may be utilised. They may decide to allow hunting by members of the conservancy, culling game for meat, the sale of animals for trophy hunting, or the live sale of game.
- The conservancy should be able to enter into business arrangements with private companies to carry out some or all of these activities.
- The conservancy would also have the right to establish tourism facilities within boundaries or engage in a commercial arrangement with registered tourism operator to act on its behalf.

And the Nature Conservation Amendment Act (i.e. the CBNRM legislation).allows the following:

- i) To match the rights over wildlife between residents on communal land to the ones enjoyed by private land-owners, the Nature Conservations Amendment Act amends the Nature Conservation Ordinance from 1975.
- ii) To provide legal provision for any group of persons residing on communal land to have, upon permission from the MET, the area they inhabit, declared a conservancy. The Minister is to declare a conservancy in the Government Gazette if:

- the applying community have provided the MET with the names of the elected representative committee listed.
- the conservancy boundaries are decided and agreed upon.
- the applying conservancy area is not subject to any lease or proclaimed a game or nature reserve.
- the community comply with to the legal constitution requiring sustainable management and utilisation of game in the conservancy.
- the conservancy committee has the capacity to manage funds
- the conservancy committee has an appropriate method for equitable benefit distribution derived from consumptive and non-consumptive use of wildlife.

If the requirements are met the Act confers on the conservancy committee similar rights, privileges, duties, and obligations that the Nature Conservation Ordinance from 1975 confers on commercial farmers.

## Appendix 2: Objectives of the Luembe Conservancy Trust Limited.

- i) To work closely with its principal partners in Luembe Landsafe conservancy development, Gamefields Limited, who will attract appropriate investment and the partnerships and assistance necessary for the sustained development of the conservancy.
- ii) To contract Gamefields Limited for the development and management of the conservancy.
- iii) To support an active and fully capacitated Community Resource Board which will assume responsibility – in close co-operation with the national line Ministries - for all natural resource management in the area.
- iv) To promote integrated conservation and development projects (ICDPs).
- v) To co-operate with NGOs who have similar development objectives as the Trust.
- vi) To enter into joint-ventures with other investors and partners, particularly ZAWA and the Department of Forestry.
- vii) To seek to achieve the UN Millennium Development goals, recognizing that ecosystems stability is essential for improving human livelihoods. This in particular to:
  - Reduce by half the proportion of people who suffer from hunger.
  - Reduce by two thirds the mortality rate among children under five.
  - Reduce by three quarters the maternal mortality rate.
  - Halt and begin to reverse the spread of HIV/AIDS and the incidence of malaria and other major diseases.
  - Integrate the principles of sustainable development into country policies and programmes.
  - Reverse the loss of environmental resources; reduce by half the proportion of people without sustainable access to safe drinking water.
  - To support the World Conservation Strategy in:
    - Maintaining essential ecological processes and their support systems;
    - Preserving genetic diversity and;
    - Ensuring the sustainable utilisation of species and ecosystems.
- viii) To encourage the growth of appropriate tourism, conservation agriculture and the sustained use of the natural resources.
- ix) To foster education in traditional knowledge, the ecology and biodiversity conservation for future investment projects, as well as to take advantage of resulting opportunities.
- x) To foster education in traditional knowledge, the ecology and biodiversity conservation.

The Trust will be guided by the following:

- i) The existing legal and political framework, supporting government's capacity and its implementation process.
- ii) Inculcate a 'rights-based' approach: protecting local communities by way of such principles as 'prior informed consent.'
- iii) Impact positively on women and youth.
- iv) Promote accountability and responsibility.
- v) Provide financial investment incentives that will benefit all investors in a proportional manner.
- vi) Take action to reverse the loss of environmental resources.



**VOLUME II: THE LANDSAFE CUSTOMARY COMMONS**



**CHAPTER 6:**  
**THE LANDSAFE INTEGRATED CONSERVATION AND DEVELOPMENT MODEL**

## ACRONYMS

<b>CA</b>	Customary Authority
<b>CATFCA</b>	Central African Transfrontier Conservation Area
<b>CBO</b>	Community-Based Organisation
<b>CBWM</b>	Community-Based Wildlife Management
<b>CC</b>	Customary Community
<b>CONASA</b>	Community-Based Natural Resource Management and Sustainable Agriculture
<b>CRB</b>	Community Resources Board
<b>DC</b>	District Commissioner
<b>FD</b>	Forestry Department
<b>FMA</b>	Fisheries Management Area
<b>FMC</b>	Fisheries Management Committee
<b>GMA</b>	Game Management Area
<b>GRZ</b>	Government of Zambia
<b>HURID</b>	Institute of Human Rights, Intellectual Property and Development Trust
<b>ICDP</b>	Integrated Conservation and Development Projects
<b>JFM</b>	Joint Forestry Management
<b>JFMA</b>	Joint Forest Management Area
<b>MMD</b>	Movement for Multi-Party Democracy
<b>MoU</b>	Memorandum of Understanding
<b>MTENR</b>	Ministry of Tourism, Environment and Natural Resources
<b>NBSAP</b>	National Biodiversity Strategy and Action Plan
<b>NCC</b>	National Constitutional Conference
<b>NGO</b>	Non-Governmental Organisation
<b>NP</b>	National Park
<b>NRCF</b>	Natural Resources Consultative Forum of Zambia
<b>OP</b>	Office of the President
<b>PPP</b>	Public-Private Partnership
<b>PWE</b>	Private Wildlife Estate
<b>REMNPAS</b>	Reclassification and Effective Management of the National Protected Areas System
<b>TCA</b>	Tourism Concession Agreement
<b>UN</b>	United Nations
<b>USAID</b>	United States Aid
<b>ZAWA</b>	Zambia Wildlife Authority

## 1 THE EVOLUTION OF LANDSAFE

The author's concept for ushering in investment into chiefdoms with significant populations of wildlife was originally conceived as a structure based on the traditional three-legged African stool - in Bemba, named *Chipuna* – a stool carved from a single piece of wood, providing strength, stability and comfort, and impervious to attack (termites), its three legs made up of the chief and his people, the District Council, and the Community Resource Board, the latter empowered under the Wildlife Act of 1998.

### 1.1 The Chipuna Investment Model for Chiefdoms (Appendix 1)

In developing the idea for a suitable institutional structure the author realised that it would have to be registered as a society or as a non-profit trust company having as its trustees the sitting chief, an investor, and representatives of the main partner NGO, the CRB, the District Council in which the Chipuna would be conducted, and other key stakeholders. The rationale for this was self-evident with many of the chiefdoms being rich in wildlife, yet being plundered. These areas have not been developed, and the opportunities for raising living standards are few in a place where villages are scattered and lie far from markets. Moreover, the Zambian government has had neither the money nor the capacity to deliver development, and donor support has merely provided a crutch.<sup>130</sup>

Thus, the way forward was to encourage investment in these areas, but investment that came in as a partner of communities, that would support the traditional structures and that would not alienate the land. Furthermore, a Chipuna could make use of the current wildlife and land laws – apart from customary rights to the land - as well as the Forest Act of 1999 and the National Biodiversity Strategy and Action Plan (NBSAP), to lay the groundwork for future development.

The Customary Authority was clearly the key as the senior partner of the conservancy development, with responsible for ensuring that secure access and use of the land was possible, and that the customary residents were partners with investors in the process. In wildlife areas, the CRB was essential to gaining rights to wildlife and to those parts of customary land designated GMA, as well as for deploying and managing Village Scouts, protectors of the very resource that was to be sustainably utilised.

Further then, the main investor/manager was essential to provide the seed money to start the project, and to recruit additional investors. For this to happen there had to be an incentive to do so, as well as the necessary protection and security of tenure for the investors. The main investor/manager would also have the crucial role of managing a large chiefdom, one containing scattered villages, and possibly endangered species and valuable forest and water resources. This would be holistic development requiring experience in wildlife management, biodiversity protection, tourism development, artisanal and commercial agriculture, forest exploitation, community development, small business development and so on. In addition, the services of an NGO would be necessary to act as an umpire between managers and investors, the customary authority, the Community Based Organisations (CBOs) and Government. They would assist the scheme to grow, and lay the groundwork for long-term sustainability. Crucially, they would be empowered to carry out community development, drawing on money built up and secured in a development trust fund.

It was envisaged that all of this would create a business partnership between the chiefdom and an investor, expressed in the form of a trust company in which the chiefdom, the investor/manager, NGOs, CBOs and the District Councils are subscribers, with the 'use and occupation of the land' being placed in the hands of the trust company.

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<sup>130</sup> This point is included in Appendix 1 – the document handed to the chiefs.

## 1.2 The Chipuna Partners (Appendix 2)

It was apparent that there should be an NGO that understood the local conditions and the history of Public-Private Partnerships (PPPs). ProjectsAfrica, an online facility for conservation investment introduced by the author at the World Summit, had been established for this purpose. It was, however, necessary to have a local NGO, thus the Norman Carr Foundation was established in 2002 at the request of the eldest daughter of Carr (Judy) and the eldest son of Barry Shenton (Rolf) (Norman Carr and Barry Shenton had run the early ICDP projects in Nsefu in 1949), with the founding President of Zambia, Kenneth Kaunda, as its Patron<sup>131</sup>. Its mission was to support ZAWA in assisting the CRBs, in encouraging PPPs for protected areas and for empowering customary people by lobbying for a return of their customary rights to wildlife. Initial funding was received from Gamefields Limited, an international company formed by the author and Khalid Al Tajir, and dedicated to integrated conservation and development work, with branches established in Zambia and Tanzania. The mission of the Foundation was as an integral part of an investor and NGO partnership with the customary authorities in the development of land under customary tenure, but with a major role in providing leadership and direction in the sustainable management of Zambian wildlife resources. To guide future activities a simple Chipuna roadmap was produced (Appendix 3).

Because of the rather restrictive language and its limitations as a purely investor driven model, the Chipuna was later renamed the Landsafe model, whereby a community institution is formed in which the chief and his headmen vest land (and the responsibility for its management) according to an agreed participatory landuse plan. This institution then enters into a series of co-management agreements with Government, capturing the management rights to protected land, wildlife, fish, forestry and water and, inevitably, some rights to its minerals as well, all of this leading steadily towards a form of devolution which would provide for Zambia a canton-type structure of semi-autonomous chiefdom commons embraced within a federal state, lending it stability and cultural, economic and ecological integrity.

## 2 LANDSAFE

What separates Landsafe from other models and plans is that it considers the customary commons (and the associated protected areas once part of it) to be sacrosanct. It will not alienate land on leasehold to investors or to the customary authority or to chiefdom residents, and it is unequivocal in its support for the re-instatement of customary ownership rights to wildlife and all renewable resources being supported on customary land, but, critically, stressing its co-management with Government.

### 2.1 The Focused Objectives

- i) To safeguard customary land and its associated protected areas.
- ii) To strengthen the traditional authority and encourage the democratic structures.
- iii) To conserve the wildlife and natural resources for the benefit of the chiefdoms.
- iv) To provide a land and business management plan for the appropriate development of chiefdoms, one that fully respects the ecology and the traditional, cultural and religious norms.
- v) To facilitate chiefdom institutions that may enter into co-management agreements with Government over land and renewable natural resources, in conformity with the prescriptions of the Fisheries Act Chapter 200 of the Laws of Zambia of 1974 and the Fisheries (Amended) Act of 2007, The Forestry Act No. 39 of 1973, Forestry Policy of 1998, the Forestry Act No. 7 of 1999, the Local Forests (Control and Management) Regulations, Statutory Instrument No. 47 of 2006, the

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<sup>131</sup> Kaunda had formerly been the Patron of the Wildlife Conservation Trust, established by the author, his son - Panji Kaunda, and Norman Carr.



Lands Act Chapter 184 of the Laws of Zambia of 1995, the Water Act Chapter 198 of the Laws of Zambia of 1948 and the Zambia Wildlife Act No. 12 of 1998.

- vi) To provide the necessary incentives for both investors and the chiefdoms to enter in to mutually beneficial partnerships and investments.
- vii) To identify, propose and facilitate small businesses able to harvest natural resources.
- viii) To establish a development trust fund and the implementation of development projects required by the customary community .
- ix) To foster education in the chiefdom’s history, culture and religion, and in its ecology.
- x) To re-instate the traditional system of nature guardians.
- xi) To foster conservation agriculture, health and education.

## 2.2 The Expected General Outcomes

- i) The creation of community Trusts in which land may be vested and safeguarded.
- ii) The production of a chiefdom landuse plan.
- iii) Where appropriate, the conversion of part of the unutilised Open Areas into community game ranches or conservancies and assigned under law of contract to investors.
- iv) The conversion of these same ranches into a single game conservancy .
- v) The vesting of GMAs into these Trusts and their assignment to a limited liability company – to be used as an exclusive wildlands tourism area.
- vi) Where feasible, the creation of transfrontier conservation areas.
- vii) The creation of a critical mass of appropriate development projects for the socio-ecological well-being of the two chiefdoms.
- viii) An investment trust fund account for the sustained investment in the chiefdoms established with a sound system of fiduciary management in place.
- ix) The establishment of co-management agreements between the Trusts and Government departments and ministries responsible for fisheries, forestry, wildlife and water, and as a result, the conservation of these resources for the benefit of the people.
- x) The two chiefdoms customary commons established and sustained over time.

## 2.3 The Expected Benefits

- i) The protection and conservation of customary land.
- ii) Avoidance of the forces of accumulation by dispossession and negative externalities in the form of poverty, pollution, despair and illness.
- iii) Inculcating a sense of ownership and responsibility in residents for the land and the natural resources being supported on it.
- iv) The provision of the necessary structures to attract responsible aid and investment.
- v) The re-imposition of pre-colonial guardians of nature, i.e. resource guilds and other indigenous forms of title.
- vi) Villagers to be shareholders in chiefdom funds.

## 2.4 The Expected Constraints

- i) Failure to protect and control the chiefdom trust funds.
- ii) The capture of these funds and development opportunities by the chief and a local elite of Big Men.
- iii) The destruction of an egalitarian society and the continued impoverishment of the villagers.

- iv) Failure to ring-fence the common's benefits so that an open-access regime continues in operation in one form or another.
- v) Failure of Government to lend impetus to decentralisation and devolution.
- vi) The unwillingness of Government to enter into co-management agreements and revenue sharing with the Trusts.
- vii) Failure of Government to adhere to hunting concession agreements and to make payments under these agreements to Community Resource Boards.
- viii) The gerrymandering of the membership of CBOs – critically, the Trusts – and the failure to hold proper, free and fair elections.
- ix) The unwillingness of chiefs to fully accede to a more democratic process, seeing it as a threat to their authority.
- x) The alienation of the land by chiefs, particularly when the chiefdom trust has entered into land user agreements for the same land with investors.
- xi) Heterogeneous chiefdom areas where residents are made up of an admixture of different people (particularly close to urban areas), would encounter greater difficulties than homogenous and far-flung rural groups.
- xii) The failure to allow for the full emergence of the traditional guardians of nature as a counterpoint to any over-modernisation of the commons.

## 2.5 Outputs and Activities to Implement Landsafe

### OUTPUT 1: FORMALISATIONS

- Activity 1: Vesting of land in the Trusts and registration with the Registrar of Deeds.
- Activity 2: Trusts make application to ZAWA, through the CRB, for registration of appropriate land as community game ranches, with all the conditions and regulations implied. ZAWA inspects and surveys proposed areas.
- Activity 3: Trust signs co-management agreement with CRBs and ZAWA over the GMA section, which provides support to the CRBs.
- Activity 4: Trusts – with the assistance of the embryonic Landsafe Foundation – provide a management plan.
- Activity 5: Trusts sign a co-management agreement with the Forestry Department in respect of protected forest areas.
- Activity 6: Trusts sign a co-management agreement with the Department of Fisheries within the Ministry of Livestock and Fisheries; requiring the following:
  - Declaration of a Fisheries Management Area.
  - Election of a Fisheries Management Committee.
- Activity 7: Trusts sign a co-management agreement with Water Affairs Department.
- Activity 8: Trusts enter into assignment or lease agreements with investors, or take up joint ventures. Ideally these would be auctioned by the Trusts.

### OUTPUT 2: THE COMMUNITY GAME RANCHES

- Activity 1: Conduct a rapid rural appraisal and sensitisation exercise.
- Activity 2: Survey of proposed reserves and agreement with Trusts and chiefs on boundaries.
- Activity 3: Record boundary co-ordinates and mapping.
- Activity 4: Compile baseline data on wildlife and forestry.
- Activity 5: Survey the riverine stretch as to suitable lodge and camp sites.
- Activity 6: Assess current poaching activities.
- Activity 7: EIA assessment of adjoining private game ranch fencing.
- Activity 8: Cost various options.

**OUTPUT 3: GMAs**

- Activity 1: Use village scout reports and other intelligence to assess the current state of wildlife, including threats and utilisation.
- Activity 2: Provide a wilderness use and protection plan.
- Activity 3: In addition to the Njinga reports provided by the Village Action Groups (VAGs), carry out a rapid rural appraisal.

**OUTPUT 4: TRANSFRONTIER CONSERVANCY**

- Activity 1: Initiate contacts with the neighbouring government and chiefs for the creation of a joint chiefdom TFCA .
- Activity 2: Establish the TFCA according to the Central African Transfrontier Conservation Area planning framework or to a similar framework elsewhere.
- Activity 3: Vest the necessary land for such a TFCA in the chiefdom Trust.
- Activity 4: Develop the TFCA.

**OUTPUT 5: SOCIO-ECOLOGICAL DEVELOPMENT**

- Activity 1: Provide a participatory/social landuse plan for the Trust.
- Activity 2: Provide capacity support to the Trust and appoint an executive officer.
- Activity 3: Provide capacity support to the CRBs on animal depredation reports (Appendix 2), wildlife protection, quota production and monitoring, accounts management, project development, etc.
- Activity 4: Implement villager landuse registration with the use of a GPS, and open a land registration books.
- Activity 5: Provide support to education by bolstering of teacher-assistants cum natural resource officers based in the Village Action Groups (VAGs).
- Activity 6: Support health clinics.
- Activity 7: Implement conservation farming.
- Activity 8: Implement honey production and aquaculture, and establish furniture co-operative.
- Activity 9: Encourage village-based tourism businesses.
- Activity 10: Implement some micro-credit schemes, particularly one serving women – but only if an EIA of the process encourages it

**OUTPUT 6: BUSINESS PLANS AND MARKETING**

- Activity 1: Produce business proposals for the respective Trusts for the game ranches and conservancies, the GMA and the TFCA.
- Activity 2: Produce project proposals and business plans.

**3 TOWARDS INVESTOR/CHIEFDOM TRUSTS EQUITABLE FINANCIAL SOLUTIONS**

**3.1 Introduction**

Theoretically, with customary land vested in customary area Trusts, and with co-management agreements entered into with Government in respect of forestry, fisheries, wildlife, and tourism - both consumptive and non-consumptive – the basis for a degree of semi-autonomy and the provision of development incentives should be in place. Environmental goods and services may therefore – according to a landuse plan which remains the intellectual property of the community - be leased out to suitable business partners. The income from these leases, placed within a secure Trust fund, will

then be drawn upon for development. However, without capacity support from investors and other interested parties, both within and outside of the customary community area, the theft of development funds would be inevitable. Thus, whilst there will be an income, this would also have to be balanced against the costs of delivering the Landsafe scheme for equitable socio-ecological development. However, in advancing Landsafe, it is necessary to learn from the current experience of other African countries who now experience land grabbing under suspect and inequitable contracts with agribusiness, investment funds and government agencies.

Together with applicable national and international law, contracts define the terms of an investment project, and the way risks, costs and benefits are distributed. Who has the authority to sign the contract and through what process greatly influences the extent to which people can have their voices heard. And the terms of the deals can have major and lasting repercussions for agriculture and food security in recipient countries. Yet very little is known about the exact terms of the land deals. Negotiations usually happen behind closed doors. Only rarely do local landholders have a say in those negotiations. Few contracts are publicly available...In relation to many of these issues, a number of the contracts reviewed appear not to be fit for purpose: some are short, unspecific documents that grant enforceable, long-term and largely transferable rights to extensive areas of land, and in some cases priority rights over water, in exchange for little public revenue and apparently vague and potentially unenforceable promises of investment and/or jobs. Also, a number of the deals are being negotiated in legal contexts where safeguards for local interests are weak, and some contracts do not properly address social and environmental issues. As a result, there is a substantial risk that local people internalise costs without adequately participating in benefits, and major environmental issues are not properly factored in (Cotula 2011, p. 1)

### 3.2 Landsafe Land Lease

Some of the variables to be taken into consideration when assessing land rentals in Zambia are:

- i) the size of the land;
- ii) the game stocks;
- iii) the carrying capacity and habitat; accessibility;
- iv) villager populations;
- v) habitat and wildlife impacts;
- vi) Open Area or GMA;
- vii) the length and security of lease;
- viii) fenced or unfenced;
- ix) the distance from tar roads and centres; and
- x) the agricultural capability.

Rental and lease payments, once agreed upon within an equitable contract with the necessary stabilization clauses, would be paid into the Trust fund – with a percentage to the chief to support his critical role - and used according to the customary community's development plan. Increasingly, the scarcity value of land, in particular that of 'primary nature', will attract great value.

Most land leases in Africa are for agricultural purposes (whereas Landsafe is wildlife and wildlands based), land rentals ranging from less than \$1/ha in Sudan, less than \$2/ha in Ethiopia (payment exempt for the first five years), \$5/ha in Liberia, \$13.80/ha in Cameroon – with the rates periodically adjusted for inflation. And where payment is made, it is to the host government with little going to the local villagers. In all of the cases non-payment of the land fee is a reason for contract termination. However Senegal and Mali charge no land rentals, and the low Sudan and Ethiopia payments suggest that what the host country wants to do is to attract investment in the form of capital and infrastructural

development (Cotula 2011, p. 23)

In Zambia prime agricultural and livestock land may obtain a rental of 5% of the land's value per annum, with land considered to increase by at least 3% per annum. However, in the case of land in the Three-rifts, which is non-agricultural and unsuitable for domestic stock, a rental amount of 1.5% - 3% (max.) would be reasonable, escalating annually (good agricultural land adds 3% or so of its value a year). The question of stabilization clauses however remains problematic.

Stabilisation clauses included in the contract should require that a process of dispute resolution takes place (as in the highly theoretical Hunting Concession Agreement between hunting operators and ZAWA) i.e. good faith negotiations, followed by mediation and then arbitration, failing which the investor will have redress in the courts, and failing that, access to the available international arbitration instruments to which Zambia is signatory. In the case of a contract entered into on customary land which has been passed as a game ranch by ZAWA the contract should prevail over 'any new law' which may affect project implementation 'and that no new law or measure will be applied to the project if it affects the rights of the parties in a way to cause direct or indirect prejudice to the project' (Cotula 2011 pp.38-39).

What is important is to work towards making direct and regular payments to villagers so that the connection between wildlife and natural resource conservation is indelibly imprinted and enforced. Ideally a subsistence amount of a dollar a day, in return for the villagers working for the maintenance of their land's integrity, would produce results. Given the scarcity of prime game land with striking physical attributes, Trusts should look to an auction system to obtain the highest land rents.

Financial management and security should be second only to the protection of the land from alienation - an investment system that would protect the principle but allow for the careful use of investment returns is vital. This system may not be suitable for Trusts established under the Lands (perpetual succession) Act as these exist at the discretion of the Minister, it perhaps being better suited to Trusts established under the Companies Act (limited by guarantee). However, it is important to explore the efficacy of all the statutory instruments available.

Land may either be leased from the Trust, or from a joint-venture initiated with the Trust for the land's development. Should the first option be chosen - once a reasonable lease amount is arrived at for a given piece of land, and subject to a landuse plan - this amount, projected for the period of the lease, would be discounted and paid by the investor into an investment trust fund, with the interest being paid to the Trust for its projects. This would have the dual effect of safeguarding the capital and ensuring investor security by way of an investment that has paid for the full tenure of the lease.

Phase I: Unfenced situation - For a unit of virgin game land of a reasonable size (and unsuitable for agriculture) leased out to investors, a lease amount of 1.5% - 3% of the land's value would be appropriate, escalating according to increasing land values or inflation.

Phase II: Fenced ranch in Open Area - This phase could consider a full 50-year customary lease paid up-front but discounted by 50%. For example: placing a value on a unit of virgin land for game ranching at \$1,000,000 would provide \$500,000 if paid over in a lump sum - some of it in cash but most of the sum invested securely at interest by a Community Trust. Additional to this would be the purchase of existing game stocks from the Trust (who would have received them free and gratis from ZAWA), local employment benefits and contributions to the development of the Trust, and infra-structural investment. Should four of these units be established (provided there is adequate unpopulated land available), real and sustainable income will follow. A GMA could be leased out as a wilderness area, remaining unfenced and bring in further income. All of this would far surpass the present dismal state of affairs where no development takes place at all, the CRB remains unpaid and dysfunctional, poaching is rampant, agriculture relies on antiquated techniques, the clinics ill-serve the people, schooling is rudimentary, etc.

In ensuring an economic and ecological equilibrium it is of considerable importance that an assignee covenants with the Trust for the following:

- i) To adhere to all existing laws.
- ii) To provide a liaison officer as the representative.
- iii) To adhere to a fire management and landuse plan with the Trust.
- iv) To allow any Trust official, chief or Government representatives of those departments responsible for wildlife, forestry, fisheries and water to inspect the property, with reasonable notice to be given of such intention.
- v) To actively patrol and safeguard the area with the mutual support of the Community Resource Board and its village scouts.
- vi) To employ persons in accordance with Zambian legislation.
- vii) To allow as far as possible (in compliance with the landuse plan and under the Trust permit) the continued operation by the customary community of communal access rights to natural resources on the leased property and the encouragement of traditional guardians of nature. This would include:

- Annual thatching harvest;
- Honey production concessionary rights;
- Seasonal medicinal plant harvest;
- An annual game harvesting quota for meat and traditional use;
- Community access to hydro power;
- Community access to religious and traditional heritage sites; and
- Any other rights normally accorded the residents of the chiefdom who have full access to those renewable resources not owned by the government. *Were this not enshrined and guaranteed, then the leasing of land should not be considered as it would merely be alienation by another name.*

### 3.3 Other Comparative Lease Costs in Zambia

#### 3.3.1 An Operating Agribusiness

Currently, to lease an operating irrigation farm in the Choma district, 12% of annual turnover is required.

#### 3.3.2 Concession Tourism Agreements (CTAs)

ZAWA are currently awarding tourism concessions in the Kafue National Park for an initial term and in consideration of a fixed charge, a variable payment per bed night per person and capital investment as follows. One lodge on a fifteen year concession basis, Rose of Sharon (24 bed/six month operation annually) pays the following:

Fixed annual charge (2010):	\$4,320
Variable charge:	\$25 per person per bed night inclusive of Park entry fees (\$10 for local tourists). The minimum variable charge is based on the bed occupancy in the first two years of operation, 15% in the third year, 20% in the fourth and subsequent years. Certain rebates are considered for occupancies above 55 per cent.
Capital investment	The concessionaire committed itself to a capital investment in fixed assets outlined in a business plan. In the case of permanent structures the concessionaire agrees to turn over to

ZAWA at the end of the initial term or at the termination of the agreement, all the structures erected by him.

ZAWA is generally asking for large payments in both operating and capital investment for its new Luangwa and Kafue leases which bear little relationship to investment returns (G Shaw 2008, personal communication.). Smaller operators, having signed leases at reasonable levels, suddenly find their lease amounts doubling.

### 3.3.3 *Hunting Concession Agreements*

These leases run to ten years and are not area based, but rather on whether they are classified as Prime, Secondary or Understocked areas. The charges are levied by ZAWA on the number of classical and mini hunts on offer, this being related to the ‘quota’. A safari company would therefore pay in the range of \$10,000 - \$100,000 concession fee per annum, with further payments for trophy fees. Fifty percent of all fees are in theory supposed to be shared with the CRBs.

## 4 THE FORMALISATION AND IMPLEMENTATION OF LANDSAFE

### 4.1 Statutory Institutional Structures for Natural Resource Management

Support for Landsafe has come from a recent survey of current efforts in the region that concluded that customary residents should be accorded full management rights to the natural resources in their chiefdom. Furthermore:

When a community structure is recognised as the holder of devolved rights, negotiations should be held with the state and traditional authorities to confer the status of “holders of land and resource rights’ subject to agreed conditions (DSI 2008).

This does not imply alienation of customary land but formalising such an allocation of land through a legal document. It is here that the difficulty lies, for it is conservation and rural development lying at the heart of the political process. Moreover, there are no guidelines available for chiefs and their subjects to provide the structures for future development without destroying the chiefdoms, and along with it Zambian culture and religion. However Landsafe charts the formalisation process in the Luembe Chiefdom, and now the adjoining Nyalugwe Chiefdom, providing a manual on the way forward, this being updated on an ongoing basis in the light of the current implementations.

### 4.2 Facilitation

Persuading chiefs and their people of the merits of a particular guide to development offering greater control of its resources as well as some protection for investors, is a slow and arduous process. However, the culmination of this process, however achieved, is the signing of an MoU by a chief and his headmen with the assistance of a facilitator, be it a future investor or *pro bono* assister, this being a contract of their willingness to proceed with implementation (**Form 1**).

**Table 1: Agreement on the implementation of a Landsafe chiefdom conservancy**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<b>Stage 1:</b> <b>Lobbying for Landsafe</b>	Facilitation of an agreement with a <b>Customary Authority (CA)</b> for the establishment of a Landsafe conservancy.	MoU for the implementation of a Landsafe signed by the CA and facilitator and/or investor.	<b>Form 1</b>

### 4.3 The Land

Where greater investment and development security is required, land in a chiefdom needs to be institutionalised in a customary community statutory structure, rather than being dealt with under usufruct as in customary law and practice. The first step is for the formation of a chiefdom specific Society with the Registrar of Companies, one drawn from the customary community itself, with its elected representatives sitting as members. Following this, the customary authority then cedes the land to the Society (**Form 2**), the first stage in moving towards a Trust structure in which the land is vested. A chiefdom – when choosing the security of the Companies Act, may proceed directly to the formation of a Trust limited by guarantee, with land then vested in it by the customary authority.

**Table 2: Registration of a customary community primary institution**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<p><b>Stage 2:</b></p> <p><b>Customary Community institution creation</b></p>	<p>Formation of a chiefdom specific and <b>Customary Community (CC)</b> representative structure in which customary land may be vest by the CA, and which may negotiate natural resource co-management agreements with government. This requires registration of a Society by way of the following:</p> <ul style="list-style-type: none"> <li>• Elect twelve members from <b>CC</b> – including, woman and men and youth, and two chief’s representatives, details and signatures of which to be appended to the Registrar of Societies application form.</li> <li>• Provide a constitution.</li> <li>• National registration cards of elected members to be copied and certified by the District Registration Officer.</li> <li>• Obtain the written endorsement for the Society application from the District Community Development Officer. Thence make application to the District Council, the Zambia Police and the Office of the President in the district.</li> </ul>	<p>Registration of a chiefdom Conservancy Society.</p> <p>Obtain a registration certificate as a result of the registration of a chiefdom-specific Society with the Registrar of Societies (Societies Act).</p> <p>Agreement by the <b>CA</b> that the Society will hold land – its usufruct- on behalf of the chiefdom, and will be responsible for being the co-manager of GMAs, forests, fisheries and water in the chiefdom.</p>	<p><b>Form 2</b></p>

The next step is for the formation of a chiefdom specific Trust, either by way of a petition to the Minister of Lands and the issue of a certificate of incorporation under the Lands (perpetual succession) Act, the Society members then forming the Board of Trustees (**Form 3**), or by way of a Company (limited by guarantee) (Table 4).



**Table 3: Trust formation under the Lands (perpetual succession) Act**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<p><b>Stage 3:</b></p> <p><b>Customary Land</b></p>	<p>The Society may petition the Minister of Lands for the incorporation of the Society as a Trust under Section 2 of the Land (perpetual succession) Act CAP 186 of the Laws of Zambia.</p> <p><i>“...to hold and acquire, and by instruments under such common seal to convey, assign and demise, any land or any interest therein now or hereafter belonging to, or held for the benefit of, such community, body or association of persons, in such and the like manner, and subject to such restrictions and provisions as such trustees or trustee might, without such incorporation, hold or acquire, convey or assign, or demise the same for the purposes of such community, body or association of persons...”</i></p> <p><b>“...upon registration shall vest in such body corporate all land or any interest therein...”</b></p> <p>Make application to the Minister of Lands for a specific area of land to be vested in the Trust.</p> <p><b>N/B.</b> The application forms for the Trust should be completed at the same meeting called to form a Society, so saving time and expense. Once the Society is registered, then the Trust petition made is submitted.</p>	<p>Requirements for petitioning the Minister of Lands for incorporation of the Society as a Trust. (Appendix 3)</p> <p>Petition to the Minister of Lands for incorporation of the Society as a Trust and of the Minister’s assent for the Trust to have the land ceded to it by the Society/CA, vested in it. <i>Legal advice - a Vesting Deed is required to be signed by the Society, vesting the land in the Trust – though this was not needed for Nyalugwe and Luembe.</i></p> <p>Obtain certificate of incorporation and deposit with the Registrar of Lands and Deeds within three months. <b>THE LANDS AND DEEDS REGISTRY ACT CHAPTER 185</b></p> <p>3) Probate of a will affecting land <b>or any interest in land shall be registered within twelve months of the grant</b> thereof or the sealing thereof under the provisions of the Probates (Resealing) Act, as the case may be. (As amended by No. 5 of 1943, S.I. No. 65 of 1965 and No. 47 of 1970) Cap. 61.</p> <p>6. Any document required to be registered as aforesaid and not registered within the time specified in the last preceding section shall be null and void: documents to be void for want of registration.</p>	<p><b>Form 3</b></p>

**OR**

**Table 4: Registration of a Trust Company Limited by Guarantee**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<b>Stage 4:</b>  <b>Customary land</b>	Forming a Trust Company limited-by-guarantee that then leases out land or forms partnerships for its development.  <i>“to carry on or engage in or to enter into any partnership or into other arrangements for sharing profits, union of interests, co-operation, joint venture or otherwise with any person, firm or company carrying or engaged in or about to carry out or engaged in any business transaction which the trustees in their sole discretion shall deem capable of being conducted so as directly to benefit the Trust.”</i>	Registration under the Companies Act (Cap 388) with a suitable constitution by up to ten Trustees drawn from the chiefdom; the opening of a Trust Fund and the appointment of auditors.	

#### 4.4 Wildlife

In order for the community institutions to sign wildlife management co-management agreements, they need to have an elected Community Resource Board registered for that chiefdom. Should there not be one in existence application should be made for its formation (**Form 4**). ZAWA will carry out its own surveys, 1) ecological (should a game ranch be applied for) and 2) social, a scoping survey carried out to sample the views of the population and to assure themselves that the headmen and community are in favour. However, if there is no intention to establish a game ranch then this is not required; and if hunting is an option, then a quota can be applied for. But if the intention is simply to assign the land user rights to investors ZAWA is not involved at all.

**Table 5: Application for registration of a CRB**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<b>Stage 4:</b>  <b>Wildlife (CRB formation)</b>	Facilitate the election of a Community Resource Board in order to deal with wildlife issues, the production of a management plan for the Game Management Area, and to carry out its responsibilities by the establishment of co-management agreements with the Trust (The Wildlife Act Part 3: (6)) <ul style="list-style-type: none"> <li>• The CC to elect 7-10 members.</li> <li>• To include one representative of the chief and the District Council respectively.</li> <li>• Establish a fund for the social and economic well-being of the CC.</li> </ul> The chief of the area to be the Patron of the CRB (The Wildlife Act: Part 3: (6) 3 and Part 3 (9) 1).	Application to ZAWA for registration of a chiefdom CRB.  Establishment of the CRB Board by the Minister of Tourism, Environment and Natural Resources.	<b>Form 4</b>

The Trust then enters into a wildlife co-management agreement with the CRB and ZAWA for the consumptive and non-consumptive use of the wildlife stocks in the chiefdom (**Form 5**). This will

require the application for a game quota, to be made by the Trust to ZAWA (**Form 6**), and a cession of such quota to the Trust (**Form 7**), and possibly also an application to establish a community game ranch (**Form 8**). This would of necessity require the provision by the CRB of a game management plan under the ZAWA template for that purpose – currently unavailable - but a Landsafe guide is provided instead (**Form 9**).

**Table 6: Wildlife co-management agreements**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<p><b>Stage 5:</b></p> <p><b>Wildlife management and investment through the CRB/ZAWA</b></p>	<p>The CRB/ZAWA to enter - with the powers vested in it by the Wildlife Act - into a co-management agreement with the Trust, and, in turn, with an investor, for the management and appropriate consumptive and non-consumptive utilisation of the wildlife resources being supported on the Customary Trust land.</p> <p>As allowed under the Wildlife Act of 1998: Part 3: (7), the elected CRB being empowered to promote and develop an integrated approach to the management of human and natural resources in a Game Management Area or an Open Area and with the power to:</p> <p>(2) (a) negotiate, in conjunction with the Authority, co-management agreements with hunting outfitters and photographic tour operators; (b) manage the wildlife under its jurisdiction, within quotas specified by the Authority; c) appoint Village Scouts to exercise and perform the duties of a wildlife police officer under the supervision of ZAWA; (d) in consultation with the Authority, develop and implement management plans which reconcile the various uses of land in areas falling under the board's jurisdiction; (e) perform such other functions as the Authority or Director-General may direct or delegate to it; (3) preparation and implementation of management plans in Game Management Areas and Open Areas.</p>	<p>MoU application by the Trust for a Wildlife Co-Management Agreement with the CRB/ZAWA</p> <p><i>The purpose of this agreement is for the CRB/ZAWA to pass the consumptive and non-consumptive use of wildlife to the CC Trust in time, i.e. to 'internalise' the hunting concession as part of the community institution, but still paying ZAWA land user fees, hunting concession and game licence fees,</i></p> <p>Game quota application by Trust.</p> <p>Game quota cession by Trust/ZAWA to the investor.</p> <p>Community Game Ranch application by Trust to ZAWA/CRB, i.e. application for game ownership which requires the fencing of the area Copies of the Certificate of Incorporation, the names of the Trustees, minutes of meetings reflecting the agreement of the headmen to the ranch. If land has been vested in a Trust under the Lands (perpetual succession) Act, a copy of the document certified by the Minister to the effect and deposited with the Registrar of Deeds.</p> <p>CRB Management Plan template for management plan submission to ZAWA.</p>	<p><b>Form 5</b></p> <p><b>Form 6</b></p> <p><b>Form 7</b></p> <p><b>Form 8</b></p> <p><b>Form 9</b></p>

#### 4.5 Game Management Areas

The Trust would need to 1) either sign a co-management agreement with the CRB and ZAWA for the management of a GMAs wildlife in the chiefdom and for the retention of full tourism use (**Form 10**), or 2) vest the GMA in a Society/Trust and then assign it under lease to a joint-venture Company, or 3) follow the procedure for a community game ranch or 4) follow the procedure for a Community Partnership Park. One of these approaches is essential if the community is to maintain the socio-ecological integrity of customary land, but yet allow Government to derive continued income.

**Table 7: GMA co-management agreement**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<b>Stage 6:</b>  <b>GMA</b>	<p>The CRB/ZAWA to enter, with the powers vested in it by the Wildlife Act, into a co-management agreement with the Trust – and they, in turn, with an investor, for the management and appropriate consumptive and non-consumptive utilisation of the wildlife resources being supported in the GMA section of the CA (as already allowed in Section 3 of the Wildlife Act of 1998). All land rents, concession and trophy fees to be paid to ZAWA.</p> <p><b>Option 2: Vesting of land in a Community Trust and then into a joint- venture Company.</b></p> <p><b>Option 3: Application for the GMA to be classified as a Community Game Ranch.</b></p> <p><b>Option 4: Application for a Partnership Park (e.g.: Chikuni and Chiawa).</b></p>	<p>MoU application by the Trust for a GMA Co-Management Agreement for the consumptive and non-consumptive use of wildlife with the CRB/ZAWA.</p> <p>Having surveyed the area, the final procedure is for the Chief to register it with the Registrar of Lands and Deeds in the Ministry of Agriculture, and deposit a copy with the District Council</p>	<b>Form 10</b>

#### 4.6 National Parks

Where the chiefdom adjoins a National Park, that chiefdom, through its community structures, should persuade Government to agree to a flow of benefits from the NP to the chiefdom, as originally allowed for when the Trust Land was converted to protected area status – with the agreement of the chiefs – i.e. to Game Reserve status, and later, National Park. Thus an MoU for a Co-Management Agreement between the particular Trust and ZAWA is necessary (**Form 11**).

**Table 8: National Park co-management agreement**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<b>Stage 7:</b>  <b>National Park</b>	<p>With regard to historical agreements entered into by CAs and government for the conversion of Trust land to protected status, i.e. Game Reserve followed by National Park, ZAWA should therefore honour the promised benefits to the chiefdom in question.</p>	<p>MoU application by the Trust to ZAWA for a Co-Management Agreement in respect of all or part of the National Parks on their boundaries.</p>	<b>Form 11</b>

#### 4.7 Local Forests and Forests on Customary Land

Statutory Instrument No. 47 of 2006 lays out regulations for Joint Forest Management Areas (JFMAs). These Regulations require that Forest Trusts be established for proposed Joint Forest Management Areas, registered as Societies – given that actual Trusts may also be necessary, i.e. under the Lands (perpetual succession) Act – a confusing requirement. For each Forest Trust (Society), there is a requirement to appoint a Forest Committee, which will comprise representatives of the chief, the local forest office, the District Council and one representative of each village committee, the latter comprising the headman, a representative of the user group and a forestry officer. The Village Committee – the regulations state - may advise the forestry officer on the issue of licences, elect members to the Forest Management Committee (although the S.I. defines no such committee, confusing it with the Forest Committee) and appoint honorary forest rangers. JFMAs are bound to the Forestry Department through an MoU. (**Form 12**)

**Table 9: Forestry co-management agreement**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<b>Stage 8:</b>  <b>Forestry</b>	The Trust negotiates with Forestry Department: <ul style="list-style-type: none"> <li>• Forest Trusts under Joint Forestry Management (JFM) in Zambia are registered as Societies and are bound to the Forestry Department through a memorandum of understanding (MoU).</li> <li>• Society manages forestry and all licencing and income under its control.</li> <li>• Application to the Forest Stewardship Council for certification.</li> </ul>	MoU application for a Co-Management Agreement between Trust and the Forestry Department concerning the Trusts/chiefdom's forestry resources.	<b>Form 12</b>

#### 4.8 National Forests

For co-management in protected forests to occur, an MoU needs to be signed by the Customary Community Society/Trust with the Forestry Department in the form of a Joint Forest Management Agreement. However, to do so the forest would first have to be de-gazetted, possibly a retrograde step. However, attempts should be made to enter into some sort of co-management with Forestry over land that had originally been given over to forest protection for the supposed benefit of the customary community (**Form 13**).

**Table 10: Protected forest co-management agreements**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<p><b>Stage 9:</b></p> <p><b>Protected forest</b></p>	<p>The Trust negotiates JFM with Forestry Department and the production of a management plan. Where part or all of the protected forest was given over to protected status by a particular chieftdom, a share of benefits should be mandatory.</p> <p>Consideration may be given to the formation of a Forest Trust, for which FD has laid out the steps.</p>	<p>MoU for a Joint Forestry Management Agreement between the Trust and the Forestry Department for the management of Local Forest. For National Forest, de-gazetting would be first required to Local Forest. However, some sort of co-operative arrangement should be possible in light of the prescriptions of Statutory Instrument No.47 of 2006 which lays out regulations for Joint Forest Management Areas.</p>	<p><b>Form 13</b></p>

#### 4.9 Fisheries

**Table 11: Fishery co-management agreements**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<b>Stage 10:</b>			
<b>Fishery</b>	<p>The Trust applies to FD for declaration of Fisheries Management Areas (FMAs) and election of Fisheries Management Committees (FMC). Minister ratifies area and FMC subject to consultation with Society (or/and riparian communities involved). The Committee is responsible for the production of the management plan and the creation of a fund into which will be paid all licence money for the economic and social well-being of the riparian community. The committee is required to prepare an annual report and audited accounts to be submitted to the Minister.</p> <ul style="list-style-type: none"> <li>• Members of FMC comprise six villagers, one chief's representative, one from District Council, one from an NGO operating in the FMA (the Trust NGO partner), one each from the fishing industry and aquaculture industry, plus two other persons, vetted by the Minister who also appoints the Chairman and Vice-Chairman.</li> <li>• The FMC may, in consultation with the Director, enter into co-management agreements with industrial fishing companies, or with NGOs.</li> <li>• Aquaculture ventures require to be licenced and operate under certain conditions.</li> </ul>	<p>MoU Application by the Trust to the FD for a Fisheries Management Area (FMA) Co-Management Agreement.</p> <p>MoU Application by the Trust to FD for a Fisheries Management Committee (FMC).</p> <p>Statutory Instrument recognising these establishments issued by way of Regulations.</p>	<p><b>Form 14</b></p> <p><b>Form 15</b></p>

#### 4.10 Water

The Society should endeavour to enter into a co-management agreement with the Department of Water Affairs so that the chiefdom may best manage its water resources (**Form 16**). At present moves are afoot by Water Affairs to create Catchment Councils and Sub-Catchment Councils, which will provide a sound basis for decentralisation.

**Table 12: Water co-management agreement**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<b>Stage 11:</b>  <b>Water</b>	The Trust seek a joint management agreement with the Department of Water Affairs <ul style="list-style-type: none"> <li>• Provide basic water management plan.</li> <li>• Specific applications on water projects submitted to the Water Board.</li> </ul>	MoU application by the Trust for a Co- Management Agreement with Water Affairs, or directly with the Catchment Council when established.	<b>Form 16</b>

#### 4.11 Chiefdom Land user Rights (Usufruct)

Should investors wish to make use of the land and natural resources of the chiefdom – as provided in the management and development plans – they would be required to enter into a land user rights agreement with community Trusts established either under the Lands (perpetual succession) Act (**Form 17**), or under the Companies Act limited by guarantee (**Form 18**), once they had received approval by the chiefdom Trust for the particular investment they were interested in, as laid out in project proposal format (**Form 19**).

**Table 13: Land user rights**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<b>Stage 12:</b>  <b>Land-leases</b>	The Trust as holders of land and the co-managed use of renewable natural resources, it provides the overall land use and business plans for the chiefdom. Leases and business concessions are then entered into with investors.	Under the Lands (perpetual succession) Act.  Under the Companies Act limited by guarantee.	<b>Form 17</b>  <b>Form 18</b>



#### 4.12 Business Development

Investors are required to tender a business proposal to the Trust, the preliminary requirement leading to the compilation of a full business plan.

**Table 14: Business development**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<b>Stage 13:</b>  <b>Business development</b>	Template for project proposal required to be submitted by potential investors to the Trust.	Project proposal template.	<b>Form 19<sup>132</sup></b>

#### 4.13 Appointment of Chiefdom Advisory Committee

**Table 15: Chiefdom Advisory Committee**

STAGES	THE STATUTORY PROCESS	FORMALISATION	FORM
<b>Stage 14:</b>  <b>Appointment of advisory committees drawn from all stakeholders: CA, the Trust, NGOs, CBOs (CRB), District Council and GRZ Departments.</b>	Consideration might be given to forming it as a Trust, though, it would likely be better to form an advisory group that meets once a year, or when required.	Appointment and registration at a district and national level.	

## 5 CONCLUSION

Landsafe is a social and political process, yet a process rooted in the value-added usage of customary land. This is its great strength as it is institutionally based within a chiefdom. However, any project is a perturbation and an inevitable victim of the law of unintended consequence. ICDPs in particular are a minefield of good and dishonest intentions, of ignorance, of utopian ideas crafted at a distance, of Big Men and patrimonialism, of Government rent seeking and weak institutions, of donors seeking projects to fit their annual quota, of consultants manufacturing work...the list is endless. Landsafe is all about protecting nature, with man an essential and intrinsic part of it. But it will have to deal at some stage with the modernising wishes of the people with whom it works, with the forces at work seeking to convert it into 'Big Man'- entitlements and an endless target of begging. It has to deal with the machinations of those who wish to take hold of the natural resources, of the land. And it has to find ways to deal with those who take on the Landsafe model and use it for their own benefit.

There are a number of key concepts that should be kept in mind when dealing with biodiversity conservation and social justice (Brechin et al 2003, pp.252- 259):

<sup>132</sup> See Addendum 1 for all 19 forms.

- i) Human Dignity – Establishing a Strong Moral Foundation for Social Processes.
- ii) Legitimacy – Constructing Authority.
- iii) Governance – Establishing Modes of Decision Making and Power Sharing.
- iv) Accountability – Guaranteeing Responsibility and Performance.
- v) Adaptation and Learning - Institutionalizing Reflection and Self-Correction.
- vii) Non-local Forces.

Landsafe pays attention to all of these, and more, but problems and challenges not yet envisaged will emerge and be dealt with as they do.

## 6 REFERENCES

- BRECHIN, STEVEN R., WILSHUSEN, PETER, R., FORTWANGLER, CRYSTAL L., WEST, PATRICK C., (Editors). 2003. *Contested Nature. Promoting International Biodiversity with Social Justice in the Twenty-First Century*. State University of New York Press, Albany
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## 7 APPENDICES

- Appendix 1: Introduction for chiefs to Chipuna conservancy development for customary and protected land in Zambia**
- Appendix 2: Chipuna main partners**
- Appendix 3: The Chipuna roadmap**

## **Appendix 1: Introduction for chiefs to Chipuna conservancy development for customary and protected land in Zambia**

### **The Chipuna model**

As mentioned earlier, a traditional Zambian chair (Chipuna) has three legs, providing strength, stability and comfort. Development in a chiefdom, in order for it to be sustainable, needs to be carried out by a Chipuna partnership, its supports made up by the traditional leadership and local government, investors, and local and international NGOs. It is a sustainable business partnership of equals who share a common goal of integrating community development with that of biodiversity management. It is not donor driven or funded; and it will not alienate the land.

### **The operating partnership**

This partnership must be registered as a trust company (limited by guarantee), in full compliance with the Companies Act (non-profit), having as its trustees the present chief, an investor, and representatives of the main partner NGO, the Community Resource Board, the District Council in which the programme is being conducted, and other key stakeholders.

### **Why do chiefdoms need Chipuna development?**

The chiefdoms cover more than 94% of the land in Zambia and contain a wealth of natural resources. Despite this, development has not come to these areas, and the opportunities for the raising of living standards are few in a place where villages are scattered and lie far from markets. The Government does not have the money or the capacity to deliver full development to these areas, and donor support merely provides a crutch for a man who can walk. The way forward is to encourage investment in these areas, but investment which comes in as a partner of communities, that supports the traditional structures and that does not take away the land.

### **How can a Chipuna assist development?**

The Chiefdoms are empowered under the Lands Act No. 29 of 1995 to dispose of land for up to 99 years on leasehold tenure. Driven by a need to generate income, chiefs have sometimes sold off land, removing it for many years from the community. The Chipuna model ensures that land remains in the chiefdom's control, except perhaps for small areas needed for buildings. Chiefdoms also do not own the wildlife of their areas, this resource being held by Government and given out as yearly hunting quotas. In support of GRZs policy of de-centralisation, the Wildlife Act of 1998 offers an opportunity for the community to obtain more powers over its own wildlife resources, its main opportunity for raising living standards and for wealth creation, giving as one of its main objectives "to facilitate the active participation of local communities in the management of the wildlife estate". This Act also allows for the recognition of Community Resource Boards (CRBs), which, working with the Zambia Wildlife Authority (ZAWA), may obtain and make use of game quotas. Chipuna makes use of both the Acts – as well as the proposed Forest Act of 1999 and the National Biodiversity Strategy and Action Plan (NBSAP) - to lay the groundwork for the future development of conservancies so as to conserve the biodiversity and, simultaneously, stimulate much needed rural development.

### **What is the role of Chipuna partners?**

- i) The Customary Authority:  
The Authority is, along with the investor, the senior partner of the conservancy development and is responsible for ensuring that secure access to and use of the land is possible, and that the community are partners in the process.
- ii) The Community Resource Board:  
The CRB, being empowered only under the Wildlife Act, is there to assist in the sustained use of the wildlife resources for the benefit of the community – in particular in taking ownership of game quotas and for deploying and managing Village Scouts, protectors of the very resource which is being sustainably utilised.

- iii) **The Investor/manager:**  
The role of the investor/manager is to provide the seed money to start the project, and to recruit investors. For this to happen there has to be an incentive to do so, as well as the necessary protection and security of tenure for the investors. The manager will also have the crucial role of managing a large area of conservancy, one containing scattered communities, endangered species and national forest. This is a holistic development requiring experience in wildlife management, biodiversity protection, tourism development, artisanal and commercial agriculture, forest exploitation, community development, small business development and so on.
- iv) **The NGOs:**  
The NGOs act as umpires between managers and investors, the customary authority, the community based organisations (CBOs) and Government. They assist the scheme to grow, and lay the groundwork for long-term sustainability. Crucially, they are empowered to carry out community development, drawing on money built up in a development fund.

**What will Chipuna conservancy development do in Zambia?**

- i) It will create a business partnership between the chiefdom and an investor, expressed in the form of a trust company (limited by guarantee), in which the chiefdom, the investor/manager, NGOs, CBOs and the District Councils are subscribers.
- ii) It will place the ‘use and occupation of the land’ in the hands of the trust company for a determined period of time.
- iii) It will help to empower the CBOs so that they are better able to conserve the natural resources of the chiefdom for the benefit of all concerned.
- iv) It will provide for sustainable agricultural and natural resource development.
- v) It will improve livelihoods and, in comparative terms, create wealth.
- vi) It will provide food security.
- vii) It will provide a framework for donor involvement.
- viii) It will provide a model and framework for the delivery of true rural development, particularly in resource rich areas.

**Appendix 2: Chipuna main partners (over page)**

<b>GAMEFIELDS</b>	<b>PROJECTSAFRICA</b>	<b>NORMAN CARR FOUNDATION</b>
<p style="text-align: center;"><b>MISSION STATEMENT</b></p> <p>To provide - in partnership with the Customary Authority - investment support for the development of game conservancies.</p> <p><b>OBJECTIVES</b></p> <ul style="list-style-type: none"> <li>• To identify potential game conservancy areas requiring investment and development.</li> <li>• To identify and promote potential conservancy partnerships (joint-ventures) with the CA, the community and government.</li> <li>• To provide training and capacity support to the local community for the sustained management of its natural resources.</li> <li>• To provide investment models that do not alienate land from the community, but offer security of tenure and sustained incomes for the joint-venture partners.</li> <li>• To foster its partnerships with ProjectsAfrica and, in Zambia, the Norman Carr Foundation, so as to ensure both sustainable development and the delivery of ICDPs – particularly those involving community food security.</li> <li>• To foster sound game management practices and the sustained yield off-takes of game species.</li> <li>• To conduct ethically sound trophy hunting safaris of high quality.</li> <li>• To promote and conduct low-impact tourism.</li> <li>• To enter into PPPs for the protection and tourism-development of protected areas.</li> <li>• To enter into PPPs with government for the building of private/public sector dialogue and the building of private sector capacity.</li> </ul>	<p style="text-align: center;"><b>MISSION STATEMENT</b></p> <p>To provide for Africa, through partnerships forged between business, conservation institutions, government, donors and indigenous communities - specific, time bound and investor targeted conservation projects aimed at poverty alleviation and food security.</p> <p><b>OBJECTIVES</b></p> <ul style="list-style-type: none"> <li>• To promote integrated conservation and development programmes and projects (ICDPs).</li> <li>• To promote PPPs in order to deliver both investment and management support to ICDPs.</li> <li>• To render assistance and support to conservation institutional capacity.</li> <li>• To lobby for the political support of ICDPs.</li> <li>• To promote and support optimum conservation governance.</li> <li>• To provide accurate, analytical and unbiased information.</li> <li>• To prioritise trans-frontier conservation area programmes.</li> <li>• To support and contribute to the United Nations (UN) Millennium Development goals (as listed on page 247) - recognising that an ecosystem's stability is essential for improving human livelihoods.</li> </ul>	<p style="text-align: center;"><b>MISSION STATEMENT</b></p> <p>To support the Zambian constitution and ZAWA in protecting National Parks, and in promoting the sustained use of the biodiversity – particularly within a Chiefdom.</p> <p><b>OBJECTIVES</b></p> <ul style="list-style-type: none"> <li>• To actively manage, in partnership with ZAWA, certain specified National Parks.</li> <li>• To actively seek, in partnership with the Customary Authority and their CRBs, investment for the biodiversity conservation and economic development of certain specified game management and open areas.</li> <li>• To foster the notion of a Central African Transfrontier Conservation Area (CATFCA) linking Zaire, Zambia, Malawi and Mozambique.</li> <li>• To improve livelihoods in GMAs and Open Areas.</li> <li>• To lend assistance to ZAWA in such matters as policy formulation, the drafting of legislation and other processes which directly affect the integrity of the protected areas, tourism development and the biodiversity supports of the people.</li> <li>• To promote effective communication and co-ordination between all the role-players.</li> <li>• To encourage appropriate research so as to enable the Foundation to achieve its objectives.</li> <li>• To encourage and participate in the growth of appropriate tourism.</li> <li>• To foster education in traditional knowledge and culture.</li> </ul>

### Appendix 3: The Chipuna Roadmap<sup>133</sup>

<p style="text-align: center;"><b>WHERE WE ARE</b> <b>1</b></p>	<p style="text-align: center;"><b>HOW WE ARE TO GET THERE</b> <b>3</b></p>	<p style="text-align: center;"><b>WHERE WE ARE GOING</b> <b>2</b></p>
<p>1 The Chieftdom, without the means to raise investment for development, or the contacts and knowledge to interest NGOs.</p>	<ul style="list-style-type: none"> <li>Form a joint-venture (JV) conservancy company with an investor, with a NGO partner as referee, give land usage concessionary rights to the JV company, and in some cases lease land to the JV company.</li> </ul>	<ul style="list-style-type: none"> <li>The Chieftdom brings long-term investment to the area but does not unnecessarily alienate the land from the community, achieving it through the joint-venture approach.</li> </ul>
<p>2 The lack of properly empowered community organisations able to advise the Chieftdom on the sustainable use of the natural resources.</p>	<ul style="list-style-type: none"> <li>Organise CRBs nationally, fully trained and empowered with regulations and administrative procedures; and support them at Chieftdom level through Chipuna. Take seriously the obligations and opportunities outlined in the Wildlife Act 1998 and the Forestry Act 1999.</li> </ul>	<ul style="list-style-type: none"> <li>National Natural Resources Board formation, and Community Resource Boards advising the Chieftdom and driving all natural resource sustainable development as originally intended under the Natural Resources Act of 1962.</li> </ul>
<p>3 The steady reduction in the biodiversity supports to local communities.</p>	<ul style="list-style-type: none"> <li>Form Chipuna JV conservancies which give wildlife usage and ownership rights to such JVs, and which thus will naturally conserve wildlife.</li> </ul>	<ul style="list-style-type: none"> <li>High biodiversity levels supporting, not threatening, the food security and survival of local communities.</li> </ul>
<p>4 CRBs unable to take up the opportunities under the Wildlife Act of 1998 and therefore impeding development.</p>	<ul style="list-style-type: none"> <li>CRBs to be fully supported by Chipuna. Where Chipuna enters into investment partnerships, the CRBs will apply for quotas and through co-management agreements, Will be placed in the conservancy company.</li> </ul>	<ul style="list-style-type: none"> <li>The CRBs fully operational having obtained wildlife usage rights in return for its management of the wildlife and natural resources, a process spreading to its joint-partnerships with forestry.</li> </ul>
<p>5 Large parts of Chieftdoms 'locked out' of development through the allocation of hunting concessions for little financial returns.</p>	<ul style="list-style-type: none"> <li>The Chipuna partners and ZAWA to persuade concessionaires to join with the conservancy development movement.</li> </ul>	<ul style="list-style-type: none"> <li>The adoption by concessionaires of the Chipuna principles, voluntary joining JV conservancies – supported by new policy on PWEs, with greatly expanded financial returns.</li> </ul>

<sup>133</sup> Order of reading roadmap: column 1, column 3 and then column 2.





<b>WHERE WE ARE 1</b>	<b>HOW WE ARE TO GET THERE 3</b>	<b>WHERE WE ARE GOING 2</b>
6 GMAs and Open Areas depleted of wildlife, bringing no income to communities.	<ul style="list-style-type: none"><li>• Full support by the Chiefs and the CRBs for JV conservancies; and full support by ZAWA of the Chipuna development.</li></ul>	<ul style="list-style-type: none"><li>• Depleted parts of the Chiefdom brought back to health and earning incomes for communities.</li></ul>
7 The lack of sustained supports to micro-development projects which raise living standards.	<ul style="list-style-type: none"><li>• Chipuna partners to install capacity in the CRBs, and to broker the projects with donors which are identified.</li></ul>	<ul style="list-style-type: none"><li>• Full community capacity and support within the Chipuna model for the identification, proposal, donor funding and implementation of ICDPs.</li></ul>



**CHAPTER 7:**  
**THE THREE-RIFTS LANDSAFE PROJECT AREA**



## ACRONYMS

<b>AG</b>	Auditor General
<b>ARDRA</b>	Adventist Development and Relief Agency International
<b>BSA Company</b>	British South Africa Chartered Company
<b>COMACO</b>	Community Markets for Conservation
<b>CRB</b>	Community Resource Board
<b>DC</b>	District Commissioner
<b>D-G</b>	Director General ZAWA
<b>DMU</b>	Disaster Management Unit
<b>ECZ</b>	Environmental Council of Zambia
<b>EIA</b>	Environmental Impact Assessment
<b>FRA</b>	Food Reserve Agency
<b>GMA</b>	Game Management Area
<b>GRZ</b>	Government of Zambia
<b>HQ</b>	Headquarters
<b>JFM</b>	Joint Forest Management
<b>MMD</b>	Movement for Multi-Party Democracy
<b>MoU</b>	Memorandum of Understanding
<b>MP</b>	Member of Parliament
<b>NCE Company</b>	North Charterland Exploration Company
<b>NPWS</b>	National Parks and Wildlife Service
<b>OP</b>	Office of the President
<b>PACU</b>	Provincial Accounting Control Unit
<b>REMNPAS</b>	Reclassification and Effective Management of the National Protected Areas System
<b>RHC</b>	Rural Health Clinic
<b>SLAMU</b>	South Luangwa Management Unit
<b>SS</b>	Sleeping sickness
<b>WPO</b>	Wildlife Police Officer
<b>ZAWA</b>	Zambia Wildlife Authority
<b>ZIC</b>	Zambia Investment Centre

## **PART I: Environment and Natural Resources**

### **1 INTRODUCTION**

The three rift valleys of Zambia's Eastern Province – Luangwa, Luano and Lukusashi - have extremely high biodiversity and habitat richness, encompass three perennial rivers, alluvial plains, hills and scarps, with a fertile plateau area on the east bank, as well as abundant forest and wildlife resources. The Luembe chiefdom, which includes much of it, is readily accessible by a five hours drive from Lusaka on a tar road, with 40 km of good dirt road linking Nyimba with the Chief's HQ; or – both chiefdoms - from the Great East Road near Rufunsa (two hours drive), access being across the Lunsemfwa River; and, as well, from Mkushi on the Great North Road. Perhaps its chief attraction is that it encloses the Luangwa River for some 128 km (80 km on one side), a river famous for its alluvial zone of riparian forest, its meandering course and ox-bow lagoons, and, in addition, it takes in much of the pristine Lunsemfwa (321 km) and Lukusashi (96 km) rivers. The Nyalugwe Chiefdom lies to the south of Luembe, taking in part of the Lunsemfwa, a stretch of the Luangwa, and its southern sector bordering Mozambique. It is cut off from the rest of the Open Area by the Great East Road.

Two thirds of the development area is under Senior Chief Luembe, the southern third under Chief Nyalugwe. To the north is the Mwape chiefdom of Luembe's sister, and to the west, his Nyendwa clan relations, Paramount Chief Mboroma (Upper Luano) and Chief Chisomo.

### **2 THE ENVIRONMENTAL FRAMEWORK**

#### **2.1 Physiography and climate**

Three-rifts consists of a small area of eastern plateau in Petauke district lying at about a 1,000 metres with giant granite kopjes (Inselbergs) intruding, and towards the Luangwa the old plateau is dissected and denuded by numerous tributaries falling to about 730 metres or lower in the Mvuvye basin and below; the incised rift valleys of the Lukusashi, Lunsemfwa and Luangwa on three sides, riven by a plateau area of the Muchinga Escarpment at about 300 metres. The Luangwa rift is a trough some 645 km long, an ancient depression occupied by Karoo beds, lowered at the centre during a post-karoo period of faulting and folding. The other two valleys are similar in structure. Large sections of the Luangwa are filled with colluvial soils brought down from the escarpment, while old areas of alluvial deposits lie closer to the river. Great banks of barren shingles and water-worn stones cover parts of the eastern escarpment and parts of the Lukusashi and Lunsemfwa valleys. The main valley is enclosed by an almost solid wall of the western escarpment and hills to the east; finally, about 40 km upstream of the Lunsemfwa/Luangwa confluence, the hills from both sides meet and the Luangwa is cut off from the other two rivers by the high western range.

Although the climate of Zambia is generally equitable, the valleys grow hot in the period before the onset of the rains in November, which typically last until early April – though mid-season droughts do occur. All life is therefore adapted to the long dry season. The rainfall is generally lower in the valleys than on the plateau to the east or west. Humidity is also lower than in the northern part of the Luangwa Valley.

#### **2.2 Geology and soils**

Zambia was once covered by sedimentary rocks of the Karoo and Katanga systems, now largely denuded. In the west the basement of ancient rock has been covered by Kalahari sands, brought from the south-west during the last arid period of the mid-Pleistocene. The troughs of the Gwembe, Luangwa and Lunsemfwa are covered by younger Karoo soils washed down from the

escarpment areas. The soils classified as Lower Valley soils dominate in the three valleys, being characterised by the mature and heavy brown soils of mopani woodland that have a tendency to form nodular lime concretions, interspersed by recent intrusions of alluvium of different origins and without concretions. typically The area is also notable for thicket covered colluvial sandy soils. The area generally has been cut into and denuded by the numerous watercourses (revealing shingle belts of water-worn stones), replaced by a wide variety of immature soils that generally are members of the same series as the brown pedocal soils. The soils of the brown pedocal class have been formed on the sedimentary beds of the Karoo formation and on old colluvial and alluvial deposits derived from them. With a tendency to sheet erosion they are poor for agriculture, developing into deep gullies.

In the Lunsemfwa Valley pinker brown loam soils with a fine sand fraction occur and paler brown or greyish-buff, generally fine-textured, sandier soils are found elsewhere, but in the subsoil assume a stronger texture and colour. Lime nodules commonly occur near watercourses. Between the rivers, the drainage system is often indefinite and soils may remain waterlogged in the rains. Old anthills packed with lime nodules are found in the upper areas. The soils of the western flank of the Luangwa appear to be of a much greater age than the normal valley soils. The more recent alluvial soils are locally derived from the Karoo beds - their origin often being mica schisms, granites or gneisses and other rocks of the Basement complex of the escarpments whose residues have been brought down by flood waters. These alluvial beds, being added to annually, tend to be higher than the fringing mopani belts. These recent alluvial soils, particularly on the eastern side of the Luangwa, are extremely fertile (Trapnell 1943, p.31).

## **2.3 Three-Rift's rivers**

### **2.3.1 *Lunsemfwa***

The Lunsemfwa River rises at an elevation of about 1,250 metres to the north of Mkushi and just south of the Congo Pedicle, and flows south. It is impounded at the Mita Hills Dam for hydroelectric power generation with a reservoir of about 30 km long by 3-5 km wide, and with an additional power station at Lunsemfwa Falls.

About 30 km below the dam it enters the Lunsemfwa Wonder Gorge which is 20 km long, up to 500 metres deep, and about 1km wide at the top. The Lunsemfwa is later joined by the Lukusashi River, which in turn flows into the Luangwa.

### **2.3.2 *Lukusashi***

The Lukusashi, which rises on the Congo/Zambezi divide, runs parallel to the Luangwa. The river is crystal clear with fertile river banks used by scattered and small villages to grow two crops a year.

### **2.3.3 *Luangwa***

The Luangwa rises in the Mafinga Hills in north-east Zambia near the Tanzania and Malawi borders, and flows in a south-westerly direction through a broad valley. The river continually shifts its course, leaving behind ox-bow lagoons and abandoned meanders, an area of alluvium recognised as being of considerable importance by the Ramsar Convention. It is bounded to the west by the Muchinga Escarpment, and low hills to the east. At the southern end of the Luembe Chiefdom it enters a gorge, then later meanders through a narrow sandy plain where it joins the Zambezi.

## 2.4 Vegetation

### 2.4.1 Soil associations

Villagers are keen judges of vegetation and soils as a guide to good agricultural areas. Miombo (*Brachystegia-Isoberlinia* woodland), associated with the older plateau soils, as in Luembe is found on the flanking escarpments and on the Muchinga mountains that cleave the Lukusashi and Luangwa valleys. Local dense thickets belts of *Kirkia*, *Pterocarpus*, *Combretum* and *Commiphora* are distributed through the mopani areas on sandier soils derived from the Karoo, while *Acacia* and the associated *Combretum* occur in alluvial areas; one spectacular climax forest of *Acacia tortilis* gracing the east bank of the mid-Lukusashi River south of Chinika.

Villagers recognise stands of *Hyparrhenia*, which form dense and tall beds in the rains, as being areas of potentially high soil fertility. On the other hand, species such as *Trichopteryx superba* and *T. simplex* indicate poor soils and are avoided. *Acacia*, an efficient nitrogen fixer, is a sure guide to fertility, while *Uapaca* spp. denotes poor soils, usually associated with impermeable ironstone pans. Native agriculturists look for old high woodland or dense thicket, including bamboo thickets *Oxytenanthera abyssinica*, of which watercourses are well stocked; and tall and luxuriant grass with open rather than closed tree canopies, and the presence or dominance of well grown *Brachystegia hockii*, *B. Burtii*, with *Baphia* spp, *Bauhinia petersiana*, large *Erythrophloeum*, *Combretum* with trees of the family *Papilionaceae*, *Bauhinia thonongii*, *Zizyphus* and *Sclerocarya caffra*; and the absence of miombo or mopani (Trapnell 1943, p.35).

### 2.4.2 Physiographic associations (after Trapnell 1943)

Roughly speaking, the areas above 3,000 feet are covered generally with miombo, deciduous woodland comprising mainly *Brachystegia-Isoberlinia* associations, while other species belonging to such families as *Acacia*, *Colophospermum* (mopani), *Afrormosia*, *Pterocarpus*, *Combretum* occur lower down, in particular as follows:

Permanent streams	<i>Adina microcephala</i> , <i>Khyya nyassica</i> (Mururu), <i>Trichilia emetica</i> (Musikili)
Dry streams	<i>Acacia</i> , <i>Ficus</i> and <i>Kigelia pinnata</i> (Mufungwa), <i>Tamarindis indica</i> (Musika)
Higher ground	<i>Brachystegia</i> (Musamba), <i>Isoberlinia</i> (Sandwe), <i>Dyosperos mespiliformis</i> (Muchenja), <i>Cordyla Africana</i> (Mtondo)
Stony ground	<i>Terminalia</i> (Kabesya), <i>Commiphora</i> , the ubiquitous <i>Diplorhyncus mossambicensis</i> (Mwenje), <i>Afzelia quanzenzis</i> (Mupapa), <i>Pterocarpus angolensis</i> (Mulombe)
Valleys	The grass, <i>Pennisetum purpureum</i> (Malenge), the reed, <i>Phragmites communis</i> (Mitete)
Small streams	The bamboo, used for making grain bins and hut construction, <i>Oxytenanthera abyssinica</i> (Ntere)

## 2.5 Agriculture

Agricultural land is confined mainly to the plateau terrace on the eastern side of the Luangwa, and to the dense thicket areas found on sandy soils on Karoo beds, noteworthy in the

Lunsemfwa, and the alluvial belts derived from the Basement rocks of the escarpment and adjoining plateau areas (Trapnell 1943, p.31). In 1904, note was made of the bounteous crops<sup>134</sup> grown by the Nsenga of the plateau, these people now much intermarried with the Ambo of Mwape and Luembe, and with the Tande of Nyalugwe. From the Luangwa Bridge to Nyimba there are agricultural soils on miombo on either side of the road, with the area between Kachalola and the Mozambique border long known for its cotton, maize, soya and sunflower planted by the pioneer, Kachalola Broomfield. With the development of rural electrification and ready access to a good road, this area, that of the Nyimba River Valley in Luembe and the land bordering the West Mvuvye National Forest holds out great promise for agriculture.

## 2.6 Wildlife and hunting (Appendix 1)

All of the Three-rifts is good game country, though, as most of the human settlement is in the more accessible Open Area on the east bank of the Luangwa, it is generally depleted. The west bank of the Luangwa is taken up by the West Petauke GMA, classified as a supposedly Prime safari hunting area, but in reality much plundered - although promising potential for a return to its former status as well populated game country.

West Petauke is one of the few GMAs that do not adjoin a National Park, and is therefore at a disadvantage in not receiving a steady flow of wildlife immigration. It carries most of the common Luangwa species, except wildebeest, and it is likely that it contained some of the last black rhino in Zambia, unconfirmed reports still being received by the author of their spoor.<sup>135</sup> Elephant are now rare visitors to the Lukusashi Valley as a result of poaching, though they are common on the Luangwa. Buffalo numbers are much reduced, their behaviour - in going hard downwind of hunters - evidence of severe predation by man. Hippo - particularly alpha males - have also been heavily reduced by poachers and hunters, as have adult male lion. All other species are depleted due to the poaching and excessive fires - particularly grazers.

## 3 KEY ENVIRONMENTAL ISSUES

### 3.1 Fire

Three-rifts and the rest of the country today suffers from dry season pyromania. Whatever controls were once exerted by the Native Authority and the Provincial Administration; or by the government departments responsible for National Parks and protected forest areas; or before that, the chiefs, are now wholly absent. In Protectorate days the influence of the Forestry Department on fire policy was considerable, early burning being promoted so as to protect forests from damaging late fires. Furthermore, the Game Department in Northern Rhodesia, without the finance and manpower, and with a massive protected area estate to care for, were forced to carry out a concerted early burning campaign so as to avoid the late dry-season hot fires that removed much of the grazing at a time when grazing species were more concentrated around water and therefore more vulnerable. Additionally, they set fire to the grass in order to produce green grass for the game (Savory & Butterfield 1999, p.184). However, it was then generally accepted policy that fires should not be lit after mid to end July.

The effects of early burning are considerable: the soil is exposed, rendering the surface biologically inactive; vegetation is converted to ash and, although it does encourage plant growth when the rain finally comes, it dissolves the ash and transports it into the soil, but the only mineral contribution is potash and a little phosphorus, the nitrogen being completely lost; organic colloids are also lost

<sup>134</sup> Mapira and Chimanga were the staple crops, with a variety of beans, sweet potatoes and yams also grown. Petauke District Notebook, 1904, P. 462.

<sup>135</sup> Animal sign.

subjecting the soil to much more violent leaching when the rains set in, the salts being washed away; erosion of the plateau soils with their poor crumb structure increases through the destruction of organic material; water run-off is increased considerably; legumes and large leaved herbs disappear; annual, palatable grasses are burnt off, as are some sensitive perennials; the land drifting inexorably into a xeric and de-hydrated state. (Darling 1960, p.82).

The fact that fires now consume the whole country in the dry season; and that the once great herds of buffalo, other grazers and their predators have declined so precipitously (greatly reducing the natural disturbance to soil surfaces and vegetation essential to re-seeding), is one of the prime factors leading to desertification (Savory & Butterfield 1999, p.182). The reduction of buffalo in the southern part of the Kafue National Park and its environs may be ascribed to predation by man and the effects on the savannah by rampant fires. In the Three-rifts, a naturally dry area with low rainfall and humidity, a similar situation is ongoing - the land, with its one great converter of woody stem to palatable leaf depleted, fire being rampant, is becoming ever more brittle and thus ever more unproductive.

One of the areas where some fire records exist is the Kafue National Park, which together with its GMAs, is twice the size of Belgium and comprises 10% of Zambia. After a thirty-three year absence from the Park, a former Kafue biologist reported the Nkala River and Shakalongo Plain areas near the old Park HQ as being desertified and vacant, where once reedbuck and waterbuck existed in profusion. He also reported the Nkala Forest as being seriously damaged - the result of repeated fire. 'Without a concerted effort by us all to control bush fires Kafue National Park will continue to burn every year and allow desertification in Zambia's giant National Park to carry on as part of an annual tragedy' (Moss 2009).

This burning of vegetative biomass, which creates a pall of smoke over the savannah and grasslands of Africa in the mid to late dry season, contributes to the phenomenon of global dimming, where a percentage of sunlight is reflected back into the atmosphere from this screen of smoke. Alarmists have concluded that this global dimming is masking the alleged effect of global warming and that the global warming problem was therefore much worse than expected.

### 3.2 Tsetse fly

The Luangwa has only been populated by tsetse fly for the last hundred years, cattle being regularly driven down from the north until the end of the nineteenth-century. BSA Company officials reported cases of Sleeping Sickness (SS) and the first recordings of deaths in 1910, and from about 1925-1935 it was a significant mortality factor, eventually leading to the removal of much of the population from the lowlands of the Luangwa. From 1912-1925, the Luangwa was declared a 'sleeping sickness area' and was closed to non-residents (i.e. Europeans). From June 1911 to April 1912, a commission was based at Nabwalya to investigate the reasons for the outbreak. The final movement of people took place in 1931 from the 10,000 square mile North Charterland Exploration Company concession (NCE Company) on the east bank of the Luangwa (which had taken over Mwape and what is now Luembe's country), to the Ambo Reserve. In a tour of the District in 1935, five people in the last throes of SS were found in the Ambo Reserve, the symptoms being swollen faces and abdomen, and extreme lassitude. The mortality in this area was 66/100, a villager in Lisati village commenting, 'If they keeps us here another year there will be no need to worry to move us. We shall all be dead'. This village had shrunk from 34 people in 1930 to 16 people in 1935. The area particularly hard hit in Petauke district lay between the Luangwa/ Mvuyve Rivers and the Lusangazi/Luangwa confluence. In October 1930, the Assistant-Director of Medical Services had advised that villages should move closer for protection and that the bush around the villages should be cleared. This was carried out in the area around Katipa on the Mvuyve/Luangwa confluence. However instead of improving matters, it made them worse. The DC wrote, 'Grave error in condemning these



natives to live in an area known for many years to be infected with sleeping sickness and humanity demands that they should be moved elsewhere without delay' (Watmore 1935, p.380).

In 1936, Chieftainess Mwape requested the Acting Governor to allow her and her people to return to their former home. This was refused on the grounds that Mwape's ancestors had sold the land to the NCE Company. However, he said that they would make moves to deal with the tsetse fly in her old home as well as in the reserve where she was presently situated (Dundas 1936, p.363).

In January - November 1978, a tsetse survey of the Lunsemfwa Valley was undertaken as cases of sleeping sickness had been reported there (cattle being absent from the area since 1939). Overall, 2,877 *Glossina morsitans morsitans* and 182 *G. pallidipes* were caught. An infection rate of 6.6% of *morsitans* and 6.0% of *pallipedes* by *Trypanosoma vivax* was recorded. Only 1 *G.m. morsitans* was infected with *T.congolense*; and no brucei-group trypanosomes were found. It was observed, however, that because identifications were based only on the site of infection and, as it is difficult to detect trypanosomes in the gut and salivary glands of preserved flies (unless very heavily infected), this could mean that some infections, apparently only in the proboscis, were in fact *T.congolense* or even perhaps of the *brucei* group (Hudson et al 1981).

### 3.3 Animal predation on villagers

The problem of damage to life and property by wildlife - given increased human populations and ZAWA incapacity - is poorly attended to, leaving villagers exposed and subject to greater food insecurity, this exacerbated by the refusal of the Government to pay compensation on the pretext that it is not covered in the Wildlife Act. The aforementioned - a major factor in rural poverty where populations of wildlife exist - is not even mentioned in Zambia's Poverty Reduction Strategy. However, legal opinion is that ZAWA (as the 'owner' of wildlife being supported on their land), and therefore Government, is liable to pay compensation for losses incurred through legal precedent under English Common Law (on which Zambian statutory law is based) (P Mvunga, 2006, personal communication, April). The likely effect of this will be to persuade ZAWA that devolution in respect of wildlife ownership is inevitable. All of this highlights the need for rural communities to be afforded legal representation and an organisation that will fight for their eco-social rights.

In the Three-rifts, as elsewhere in Zambia, there is an uneven, though mutually parasitic, relationship between wildlife and people; the one preying on the other, and in turn being supported by the other. This relationship was altered by the British occupation and the inherited template of Westminster Government that the native Africans continued with after British departure, with restrictions on hunting certain species being imposed, as well as restrictions on certain areas of settlement. However, in British times, in the 1930's and onwards, it was recognised that in certain areas large populations of elephant threatened villagers' food security, with action being taken in the form of the Game Control Department and eventually evolving into a highly centralised quango (ZAWA), where income generation predominates over villager protection.<sup>136</sup>

The fact that animal impacts on villagers is a highly emotive issue, is confirmed by a speech of a rural MP:<sup>137</sup>

“Mr Speaker, ZAWA goes into rural areas to cheat the people that the wildlife belongs to the nation and not local people, when, in fact, it is not true. They

<sup>136</sup> Chief Luembe thanks acting Governor for assistance rendered by the Elephant Control Department, 30 November 1936, in the Petauke District Notebook, p. 363.

<sup>137</sup> Mr Nguni (Chama South), Daily parliamentary debates for the first session of the Ninth Assembly, Thursday, 5<sup>th</sup> December 2002.

collect, for example, money through licences for hunting. They eat even the little portion they allocate for the local people, leaving hopeless people exposed. How will the local people understand the value of the inconvenience they sustain from wildlife that loots their fields? I can rest assured that one of these fine days, they will shut the doors to ZAWA in rural areas so that, maybe, we can deliberately deplete those animals because we do not see economic benefits from the inconvenience of an elephant coming to gore somebody. I have not seen the advantages of keeping lions that are going to eat people and if you kill it, you are going to be hanged. They are using the most primitive methods of torture. Mr Speaker, the situation that exists on the sharing of the portions of revenue generated from wildlife leaves much to be desired. If K1 billion has been generated, 20 per cent goes to the rural area and 80 per cent remains with ZAWA. ZAWA does not provide any social facilities in the rural areas. They claim that they own the wildlife, people walk in footpaths at the risk of snakes, lions and buffaloes which we are not allowed to kill. When people die, they do not respond. On the contrary, when an elephant dies, they come in huge numbers. We cannot accept that kind of situation.”

To this, in Nyimba district, was added the voice of its former MP (Gray): ‘where most of the land has been turned into game ranches and people cannot grow any food... in the previous season, the district only produced 10 per cent of its annual maize production’.<sup>138</sup> In fact only two game ranches existed at the time in the area totalling some 40,000 ha, this being in the region of 2% of the land available for planting; a good example of the sort of misinformation and deliberate lying in order to exact a benefit: food relief.

In Three-rifts, villagers are prone to attack by hippo, crocodile, lion, elephant and buffalo. In 2008, the local political official at Chitumbi village was killed and eaten by lion while on his way back from the river where he had gone to collect meat from a hippo shot by ZAWA.

In the dry season of 2006, a study of animal-human conflicts was initiated by the author in the Open Area/GMA interface on the Luangwa River, within Luembe. In the Nyambweka, Musharira and Chitumbi villages it was confirmed that damage to crops and fruit trees was caused by hippo, elephant, baboon, bushpig and porcupine, with the villagers inland in the Open Area suffering limited damage from bushpig, baboon and porcupine, all of this confirming facts long known (Frauman 2008).

### **3.4 Human predation on wildlife**

People have, since their arrival in Three-rifts, eaten a wide variety of insects, birds, mammals and fish, using an equally varied means of capturing or killing what they hunt. They tend not to eat any animal with claws; or hares, lemurs, rats and mongoose, though they do eat monkeys, and some of them baboon. Unlike the Kunda tribe further up the Luangwa, they also eat hippo. Such bush-food is not a factor in the depletion of the animals supported on these customary lands, whereas a major factor is the failure of ZAWA to monitor hunting and fishing licences issued by them and the Fisheries Department to citizen non-residents (who simply keep killing animals on the same licence), the overshooting of lion, hippo and elephant under the hunting safari system, and the serious plunder by commercial gangs for bushmeat and ivory. These gangs include Village Scouts within the CRB and their supervisory ZAWA Wildlife Police Officers (WPOs), with the tacit support of ZAWA hierarchy, the Zambia Police and their paramilitary, and other links in the patronage chain. The principal animals targeted are buffalo, hippo and in particular, elephant (Manning 2007a), (Manning 2007b), (Manning 2007c),

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<sup>138</sup> Mr R. Gray, MP Nyimba, Maiden speech to Parliament, 5<sup>th</sup> December 2002.

(Manning 2007d). In instances where ZAWA officers have been caught red-handed, they have not been prosecuted (Manning 2007e).

The meat from these elephant, hippo and decimated herds of buffalo, apart from what is used locally, is carried to the villages of Rufunsa and Lukwipa on the Great East Road and sold openly. Much of it is also used locally to purchase favours or the labour of villagers, or sent on to Nyimba ZAWA HQ where it is sold or shared out (Manning 2007f). The ivory, as already established, follows the traditional route through Malawi and on to one of Singapore, Manila, Hong Kong, Taiwan and eventually, Japan and China.

The CRB for the Luembe Chiefdom of Zambia's southern Luangwa Valley took the decision to suspend all their 12 Village Scouts on Thursday, 30 August 2006. This action by the CRB and its Chairman, Axon Lungu, was highly significant, for along with the Nabwalya CRB further up in the Luangwa (who opposed the removal of Mbeza Safaris by ZAWA without due legal process), it showed the beginnings of resistance by rural people - on whom GMAs were imposed - against the increasingly heavy hand of ZAWA and that of some corrupt chiefs, in the management of their lives.

Zambia has been in the grip of patronage harvesting by the very people supposed to protect wildlife for over 30 years. On 3 July 2007, the Secretary of the Luembe Headmen Traditional Committee wrote in outrage to the Director-General of ZAWA, saying that nothing was being done about the poaching of elephant and other game. In particular, he produced proof of the involvement of the ZAWA WPO Ben Mwale in the killing of two elephant, and of the ZAWA official in Nyimba, Collins Chibeka for collecting bags of meat and taking it to Lusaka. He also supplied an affidavit signed by 27 men and women, admitting that they had worked in Ben Mwale's fields in return for elephant meat. The Association has yet to receive a reply, and Mwale, Mbo and Chibeka have not been suspended, nor prosecuted. A few months later, Ben Mwale was given a pair of tusks recovered from an elephant by a fisherman (Ghandi), the latter later alleging that he had not been paid, nor the tusks sent in to Nyimba ZAWA office. Furthermore, no action has been taken by ZAWA to suspend the Village Scouts. In a previous incident the author had caught Mbo and Village Scouts at their meat filled poaching camp, and had found Chibeka waiting nearby at another camp for delivery of the meat. Although taken to the police, they declined to press charges on the grounds that no bullet could be found in the impala. Village Scouts poach excessively as they are not being paid by ZAWA.

A report compiled by the SLAMU CBNRM unit in Nyimba reported that forty-four former and current Village Scouts, bookkeepers and boatmen had not been paid for an average of fourteen months (Nkhoma 2009). Some former Scouts have been owed money for three years or more.

### **3.5 HIV/AIDS**

That HIV/Aids is a significant mortality factor in Zambia is indisputable, though it manifests mainly along the truck routes and in the towns. In the villages of Three-rifts it appears to have less of an impact than alarmist literature would have one believe, for there are traditional supports which discourage the behaviour that leads to HIV/Aids. The fact that villagers there do not differentiate between magic and therapeutic components to medical (*muyanda*) prescriptions, may form a bulwark against a disease such as HIV/Aids, as opposed to tuberculosis, for which they have no antidote. However, infected villagers are left to their own devices with no support from the chief, the state or donors; and conventional work carried out by churches tends to be top-down palliative efforts that are not utilised by villagers to any great extent.

### 3.6 Mining and hydro-electric generation

The spectre of major perturbations to land untouched by man is close at hand. The Luano Valley Uranium-Coal Project – in the Lunsemfwa rift - comprises two licence areas, Lunsemfwa and Bulonga, and is part of the Exploration Agreement with Albidon Limited. The two areas cover part of two Albidon Prospecting Licences (Bulonga covers part of PLLS.246 Kamoto, and Lunsemfwa covers part of PLLS.247 Lunsemfwa), and have a combined area of 6,970 km<sup>2</sup> covering Karoo sediments.<sup>139</sup> Were these to be developed, particularly uranium with the impossibility of curbing the pollution inherent to this, this prime wilderness area would be destroyed.

The Lunsemfwa lends itself to hydro-schemes and it is therefore very likely that plans are already afoot to dam the area where it enters the gorge.

## PART II: Luembe

### 4 LOCATION

The Luembe chiefdom falls within Nyimba District in the Eastern Province of Zambia, taking up all of the Luembe part of the West Petauke GMA (west bank of the Luangwa). Its boundaries are as follows: from the Petauke-Serenje district boundary intersection with the Luangwa River at the Chisani Rapids, down the Luangwa to a line leading west to a point below the Lunsemfwa/Lukusashi rivers confluence, thence up the Lukusashi to the Mulembo River, then up the Mulembo to its intersection with the Petauke-Serenje boundary and back to the Luangwa. Luembe consists only of customary land in which both leasehold (99-years renewable) and customary tenure applies. Within this area are two categories of land imposed by the Zambia Wildlife Act of 1998:

#### 4.1 Luembe Open Area (Luangwa East bank)

This takes in all the land between the West Mvuvye National Forest to the east and down to the Luangwa, and south as far as the Mbizi Ranch boundary at Ndevu, and north to the M'nyamadzi River, the southern boundary of the M'nyamadzi Game Ranch. Both these game ranches were once Luembe customary land.

#### 4.2 GMA section (Luangwa west bank)

This takes in Luembe's country on the west bank of the Luangwa within the West Petauke GMA between the Luangwa and the Lukusashi Rivers, and south to the Nyalugwe Chiefdom and north to the Chisomo Chiefdom.

#### 4.3 West Mvuvye National Forest

West Mvuvye lies just north of the land alienated to M'nyamadzi, and to the east of much of the Open Area.

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<sup>139</sup> URL:<http://Publicity:African Energy Resources Limited, Perth, Australia>.  
<http://www.africanenergyresources.com/projects/zambia.html>. Accessed: 2010-02-04. (Archived by WebCite® at <http://www.webcitation.org/5nIDrVCgT>).

## 5 THE AMBO TRIBE

### 5.1 Location

Luembe forms the core of the Ambo tribe's country which consists of five chiefdoms straddling three districts: Mkushi, Serenje and Petauke; and two provinces: Central and Eastern, with Chief Chisomo falling within Serenje, Chiefs Mwape and Luembe in Petauke, and Chiefs Mboshya and Mboroma in Mkushi. To the west, the Ambo country includes the Chifukunya Hills, to the north the South Luangwa National Park, to the south the Lunsemfwa River, and to the east some twenty kilometres or so of the eastern bank of the Luangwa.

### 5.2 History

The Ambo are a Bantu people of Congolese origin (Luba), who, because of land pressure and food shortages, moved to the Luapula in the early 1800's, then into the Congo Pedicle (Bukanda), and later moving east into the Nsenga country that then incorporated the Lukusashi, Lunsemfwa<sup>140</sup> and Luangwa valleys, tarrying first on the Mlembo River. This movement was remarkably similar in time and motivation to that of the tribes to the south that spread out far and wide in a diaspora known as the *Difaquane* – some of them, such as the Ngoni and Kololo, moving into the territory as well. The immigration of people still continues today with refugees escaping to present day Zambia from Angola, Congo and Zimbabwe, and in pre-self-governing days, immigrants still arriving there from Congo as late as the 1940's. The chiefdoms are ruled by matrilineages of the Nyendwa Clan, the first four originating from the founder, Kunda Mpanda, who, coming from the Mulembo River, defeated some minor Nsenga chiefs, probably headmen (as in 1902 the Nsenga appeared to have no recognised chiefs<sup>141</sup>), and took up their territory, and was then himself killed and subsequently buried on the Mulembo. Today the descendants of Kunda Mpanda have the honorific title of *Kankomba* (scraper of pots), with the Paramount chief of the Nyendwa royal clan (Mboroma as the line is presently called) still referred to by that name (Stefaniszyn 1956, p.17).

### 5.3 The Luembe chiefdom

Luembe is the senior chief of the Ambo in the Petauke/Nyimba area, forming a closely knit political unit with the Mwape Chiefdom - a chiefdom inherited in the female line and which supplies a son for the Luembe seat. On the death of an Ambo chief, the successor is selected from the surviving matrikin (family on the female side) of the family. In the case of Luembe, on his death or impeachment, his successor is selected from the surviving sons of Chieftainess Mwape – a chief subordinate to Luembe, and to Mboroma – the latter the Paramount chief of the Ambo in whom the right to trade in ivory was held and used to trade for 'the wealth' - this being guns and calico (this monopoly was called *Kulya nsofu*, the meat of the elephant, but from the time of the original Paramount Chief Mboroma, this monopoly faded). A candidate for an Ambo chieftainship from a minor matrilineage, other than that of the deceased or impeached, is inconceivable. A chief is selected by headmen of the land – whom he has no power to appoint - as well as by his close matrikin. The selection of a chief is supposed to be primarily by people of the land since village headmen acting as councillors, *mpemba*, either accept the proposed heir, or else he is passed over in favour of a man of more equitable temperament and greater ability (Stefaniszyn 1964, p.53).

Recently, the Luembe Chiefdom was in the midst of a major attempt to remove its chief, Senior Chief Luembe, for selling off their land and a litany of complaints concerning human rights abuses carried out by him against them. Removed once from office, then replaced without

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<sup>140</sup> Now incorrectly called the Luano Valley, the name taken from the Lala speaking, Lwano tribe, people inhabiting the valley's western end.

<sup>141</sup> Petauke District Notebook, National Archives, Lusaka, 1902, P. 461

recourse to traditional systems by the Minister of Local Government, he was due to appear in the Kabwe High Court in June 2007. Investigations were also at one time underway against him for his attempt to illegally alienate part of the adjoining West Mvuvye National Forest No. 54 by promised. He also failed to place a caveat against the 99-year alienation of the M'nyamadzi Game Ranch. At the time the chief was a co-director and trustee of the Luembe Conservancy Trust (not to be confused with the Royal Luembe Trust) - whose mission was to conserve the wildlife and land for the benefit of the villagers – and had at the same time given his blessing for the same area to be taken over by the Trust in a joint forest management agreement with the Department of Forestry.

At the end of May 2008, the House of Chiefs conducted a two-day inquiry at Kalanshya School in Luembe. Six chiefs interviewed Luembe, the community and the family line headed by Develias Besa Phiri – allegedly the legitimate chief. In October of 2008, the House of Chiefs reported as follows:<sup>142</sup>

The late Senior chief Luembe (White Chibuye) – deceased 1990 - had appointed Develias Besa Phiri to take over from him as Senior Chief Luembe upon his death and had requested Phiri, a teacher, to be transferred to a nearby school so that he could groom him for the chieftaincy, the Ministry of Education complying with the request. On his death, the chieftaincy was passed by Chieftainess Mwape to her son, Francis Kalungu Njovu, who has been acting chief since 1991, though his appointment having not been recognised by government. In 2005, the House of Chiefs removed Njovu's stamp as Senior Chief Luembe. The Nyimba District Council had failed to safeguard important documents in the wrangle, many having gone missing.

The House then recommended the following:

- i) The original arrangement where the lineage of the senior sister succeeded to the Luembe throne and the junior sisters' lineage succeeded to the Mwape throne should be maintained.
- ii) The family of Develias Besa Phiri from the senior sister should select a person to succeed to the Luembe throne.
- iii) Chieftainess Mwape should only play an advisory role in matters concerning succession to the Luembe throne.

In March of 2009, the Zambian President took the advice of the House of Chiefs and gave orders for the removal of Njovu, confirmed by a notice in the Government Gazette. The inauguration of Develias Besa Phiri as the new Senior Chief Luembe was expected in July 2009 but political machinations continue to tamper with due traditional process, the Nyimba District Commissioner being removed after numerous complaints that he was delaying the inauguration, having formed a liaison with Chieftainess Mwape, Luembe's sister. In November, the State President re-appointed Francis Njovu as Senior Chief Luembe. The family of Develias Phiri then made a legal declaration on the matter, and now await a High Court decision.

#### **5.4 Land tenure**

The Ambo people, in common with other tribal nations in the territory, have the right to a garden within their chief's country, the individual choosing the land under the direction of the headman and in consultation with the villagers. This allocation would be reported to the chief, something he would not refuse. The elderly and widows are given land close to the villages by headmen; village sites being apportioned by the chiefs since the 1940's or earlier. In the early

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<sup>142</sup> House of Chiefs report on the succession wrangles in Petauke and Nyimba district, October 2008.

part of the BSA Company administration, new village sites required the permission of the Native Commissioner in order to prohibit the establishment of small and isolated villages.<sup>143</sup>

## **5.5 Customary land alienations**

### **5.5.1 Introduction**

Mwape and Luembe were the first chiefdoms to sell off all of their land on the east bank of the Luangwa River to the North Charterland Exploration Company (NCE Company). More than a hundred years later, having been given back their land, Chiefs Luembe, Mwape and Nyalugwe have all sold off customary land greatly in excess of 250 ha. without the agreement of their headmen and subjects, but with the consent of the District Councils and the Commissioner of Lands. One current case involves Chieftainess Mwape: she sold that part of the West Mvuvye National Forest (No. 54) once under the Mwape chieftainship – even though it is now fully protected state land. The buyer, Zaeed Patel, with the assistance of land agents (Thomas Mwendwe), the Council of Mwape chieftainship and a few headmen agents, signed an MoU on 12 March 2005, and with the assistance of their Lusaka-based attorney received 99-year leasehold title from the Commissioner of Lands. This was done despite the fact that the Luembe Conservancy Trust was negotiating a Joint Forest Management (JFM) lease with the Department of Forestry in respect of all of the Mvuvye, as well as for an MoU with the Mwape Chiefdom. This would have allowed the latter to derive benefits from its former traditional area of ownership. And carried out despite the Luembe Trust assisting the Chieftainess in her efforts to reclaim another area of land alienated by her late mother to the Petauke District Council, and later obtained by a Mr Iqbal Alloo. Following complaints from the author and the brother of Mwape and Luembe, the Patel lease was supposedly cancelled by the Attorney-General on the advice of the Surveyor-General. But this was not done. No investigation has ever been conducted by the Anti-Corruption Commission or the Commission for Investigations concerning the actions of the Forestry Department, the Nyimba Council, the Chieftainess, the Commissioner of Lands, or the attorney who facilitated the process. Furthermore, certain reporters of The Post Newspaper, normally vigilant in these matters, also declined to report the matter.

On the 24 June 2006, Senior Chief Luembe signed an MoU establishing a partnership between the land speculators, Messrs Baldry and Younger and the Luembe customary community, for the future alienation of that part of the West Mvuvye National Forest that had once been part of the Luembe chiefdom. This did not eventuate in alienation.

### **5.5.2 Mbizi Ranch**

Mbizi Ranch – bordering on the Nyalugwe Chiefdom in the Open Area - was obtained by Indian businessmen in 1995 under 99-year leasehold. In this they were assisted by the Lands Act of 1995 that made such alienations possible for the first time. No evidence exists of any benefit of the sale to the customary community. The property was later sold to an American businessman for a considerable sum, again with no benefit accruing to the community from the purchase. The present owners have built a clinic and computer facility, and maintain a road to Ndevu. The property is once more up for sale.

### **5.5.3 M'nyamadzi Ranch**

The 10,500 ha. ranch in question (property No. f/10005; certificate of title No. L9879), is on a 25-year provisional lease, registered 9<sup>th</sup> March 2001, though obtained in 1998, without any

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<sup>143</sup> Land tenure, Petauke District Notebook, 1912, P. 218.

benefit to the community and with Senior Chief Luembe failing to place a caveat with the Ministry of Lands preventing it being alienated to 99-year leasehold.

In a letter written in 2004, by the Luembe CRB to ZAWA, they stated:

The M'nyamadzi section of Luembe was given to a foreigner by Senior Chief Luembe, with the agreement of the Nyimba District Council, and the obtaining of an investment licence from the Zambia Investment Centre (ZIC) for a provisional lease of 14 years. The agreement with the ZIC required the owner to fence the property and develop certain infrastructure. This has not been done and we have discovered that the lease has been illegally extended to 25 years on the original document held by the Commissioner of Lands. And more, without consulting us as required by the Wildlife Act, a hunting quota was issued to the Company to conduct hunting safaris without our involvement and without the knowledge of local ZAWA officers. And we understand that certain species have been shot without ZAWA officers being present, some of these species (such as lions) which are very scarce in our open area, and for which we have received no income. As well, we have discovered that workers employed by M'nyamadzi have been poaching animals.

The Luembe CRB therefore urgently request the following:<sup>144</sup>

- i) That no quota be issued in the future to M'nyamadzi.
- ii) That a copy of the quota and the species shot be given to us.
- iii) That all money from licence and concession fees be given to the CRB, as well as compensation for our having to come to Lusaka and to hire lawyers to represent us.
- iv) That M'nyamadzi report on how the meat from the animals was given to the community.
- v) That the M'nyamadzi do what they have agreed to do under their investment permit, meaning they must fence the property in such a way that it is with our agreement, and within the next six months.
- vi) That they must then buy the species inside the fence and pay the full price to the Luembe CRB/ZAWA.
- vii) That any other species within the Luembe hunting block and Open Area which they may wish to buy to be agreed to only with our permission and with certain conditions given by us, and that the price be negotiated by us and ZAWA.
- viii) That ZAWA supports us and our patron and his headmen, in obtaining direct benefits from our wildlife for our community.

No reply was ever received to this letter, nor to an application by the community for harvesting rights to wildlife in the remaining part of the Open Area, as allowed under the Wildlife Act.

The Luembe Trust then took the matter further, inquiring of ZAWA as to the actual boundaries between the game ranch and the GMA across the river, and ZAWA confirming that the entire river was included in the GMA. The Surveyor-General in the Ministry of Lands stated that private land may not encroach closer than 60 metres from the Luangwa, although hippo and crocodile are annually issued on quota by ZAWA to the ranch for safari hunting, ZAWA therefore issuing licences for animals to be shot outside of unfenced private land, and on customary land, or by their own definition, on GMA land. No EIA by the Environmental Council of Zambia (ECZ) of the present fence construction has been carried out, nor any

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<sup>144</sup> Letter by Chairman Luembe CRB and Senior Chief Luembe to ZAWA, 9 November 2004.



consultations with the local community, the Mbeza concessionaire, or the Forestry Department; as is required by the Fencing Ordinance of the Agricultural Lands Act. Furthermore, the quotas issued for the ranch are not sustainable for the area, with offtakes obviously denuding the West Mvuvye National Forest to the north, the Nyimba Open Area to the south and the West Petauke Hunting Concession to the west (the Nyimba Open Area in Luembe having been set aside for use as a community game ranch under a usufruct lease managed by the Luembe Conservancy Trust and negotiated in 2003). Scrutiny of the two quota sets is evidence of corruption within ZAWA/SLAMU.

## **6 KAZUMBA OPEN AREA SECTION**

The lower terrace of the Open Area lying between M'nyamadzi Ranch and Mbizi Ranch was vested in the Luembe Conservancy Trust in 2003 for use as a community game ranch. In 2005, on the removal of Luembe from the chieftainship, he arranged to sell part of the area to a Petauke trader, Ridwaan Munshi, bribing headmen and receiving an undisclosed sum and promises of a new vehicle. Munshi then allegedly bribed a Nyimba District Councillor who backdated the application.<sup>145</sup> Munshi later withdrew as a result of threats of legal action. As a result of this, relations between the author and Luembe was strained to the extent that the Trust was unable to function for four years. In early 2009, the Trust agreed to continue working for the benefit of the community and the chief was once more paid an allowance as co-director of the Trust. In February 2009, a chief's councillor reported to the Trust that Luembe had again applied to the Nyimba District Council for their approval on the sale of the land to the same Ridwaan Munshi. This application was refused by the Council. In June 2009, with the removal of Chief imminent, the pair made a last effort to complete the sale, with Munshi allegedly donating a vehicle to the Council and bicycles to the councillors, who then agreed to the sale. A writ of summons was issued in July 2009 by the Luembe Trust attorneys, and injunctions placed against Ridwaan Munshi and the Nyimba District Council. In August of 2008, a Catholic Church Taskforce investigated the sale of 4,500 ha by the chief to a Ridwaan Munshi, discovering that only 50 out of 219 headmen had approved the sale of the land, that the land encroached on village farming lands, that the community was not widely consulted and that headmen were given \$10 in local currency to sign. As of September 2010, the Luembe Trust and Gamefields, having obtained an injunction stopping further building on the land, still await the decision of the High Court.

## **7 PROTECTED AREAS**

### **7.1 Luembe section: West Mvuvye National Forest**

The author met with one of the new investors in the M'nyamadzi Game Ranch, Tom Younger (originally invited to invest through the Luembe Conservancy Trust), who had formed the Royal Luembe Trust to act as the vehicle for taking over the Luembe section of the West Mvuvye National Forest. He told the author that the forest was a local forest, that he had made the necessary application (with the agreement of Senior Chief Luembe and the Nyimba District Council) for a 14 year provisional lease and that this had, after an interview, been personally granted to his Royal Luembe Trust by State President Mwanawasa (T Younger 2007, personal communication, 24 April). The application for alienation of the national forest did not materialise, and at the time it had not been de-gazetted from a national to a local forest (Manning 2006a).

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<sup>145</sup> Richard Besa. 10 March 2009. Letter to the Commissioner of Lands, Lusaka.

## 7.2 West Petauke GMA

It has been mooted by the REMNPAS reclassification project to increase the protected area status of some remote GMAs by making them National Parks or wildlife reserves having an intermediary status between GMA and National Park. One of the three areas under consideration is the three GMA block in the southern Luangwa-Lukusashi-Lunsemfwa Valleys, Chisomo, West Petauke and Luano GMAs (Pope 2006).

## 8 KEY LEGAL ISSUES

### 8.1 Luembe CRB

The Luembe CRB is elected by the community and hold a seat on the Luembe Conservancy Trust. On 20<sup>th</sup> January 2008, Lewis Saiwana, the D-G of ZAWA, called a meeting of the Nyalugwe and Luembe CRB in Lusaka to agree on the termination of Mbeza Safaris hunting concession in the West Petauke GMA. Saiwana stated that the meeting had been called so that the CRBs could assist ZAWA with the re-allocation of the West Petauke, Nyampala and Msoro hunting blocks to new investors by endorsing letters of termination addressed to the present operators. The Luembe CRB Chairman refused to agree with the move for termination as:

- i) The operators were not present at the meeting to defend themselves as they should be, given that hunting agreements are signed between three parties - ZAWA, the CRBs and the Operators;
- ii) The Luembe community did not want Mbeza Safaris out of the area, having previously submitted to ZAWA three CRB letters in favour of the operator; and
- iii) He was not given enough time to consult the rest of his CRB before the meeting was called.

The Luembe Chairman stated that he therefore had nothing more to add.

Saiwana responded by accusing the Chairman of receiving money from Mbeza and having his children sponsored for schooling in South Africa. The D-G further alleged that Mbeza had not hunted for one year and that ZAWA could not allow this. Saiwana added that they could not wait until they received back their self-employed work permits. He concluded by saying that “the government had informed him that the Mannings would not get another work permit, hence they cannot wait”. Saiwana then repeated that instructions had been given for the termination of the hunting agreements and that the areas would be advertised before the end of January. He further insisted that the CRB members should sign the termination letters. The Luembe CRB Chairman spoke up and stated that they could not do so without community/CRB consultation first.

On 24 August 2008, Chief Luembe and ZAWA called a public meeting in Luembe where they removed the CRB Board. In April, a new board was elected amidst threats by the ZAWA Nyimba official, Andrew Nkhoma, against the previous Board Chairman. Since that time the new CRB Board have refused to have any dealings with Mbeza Safaris or the Luembe Trust, though the current Chairman has been employed as a teacher by the Trust since that time.

There are three game camps in Luembe: Chisanga, Ndevu and Kalanshya (recently torched by villagers) with nine village scouts, five assistants, three ferrymen and a bookkeeper, all of whom are owed an average of 14 months salary. CRB Scouts say that the reason given by ZAWA for not paying them is that the hunting operator in the Luembe section of the hunting block, Bimm’s Travel, had failed so far to hunt. As of the end of August 2009, the ex-Chairman of the

Luembe CRB reported that Bimm's Travel's sub-lessee was clearing tracks preparatory to hunting. As the Hunting Concession Agreement requires an operator to pay his concession fees in advance, this explanation by ZAWA is a fabrication.

## 9 THE STATE OF LUEMBE

Luembe is besieged by rumours of witchcraft. Reports on the 'fire of witchcraft that Francis (the chief) has set blazing in Luembe' suggest a chiefdom severely stricken. Rumours of twisted sorcery have also spread to the chief's sister, Chieftainess Mwape (in the adjacent chiefdom), who was recently set upon by villagers and beaten for failing to protect them (with her witchcraft) from elephant, which had killed ten people. Thirteen villagers were arrested and are to be charged (Anonymous villager 2009, personal communication, June).

From year to year conditions remain much the same - the villagers dealing with floods or droughts, severe animal depredations, very poor and restricted education and health facilities, a lack of motorable tracks and transport, the lack of markets for crops and honey (the people of Nyambweka have a bee project but cannot sell their produce), a people caught in a time warp where the Government of Zambia is to them largely irrelevant. Women bear the brunt of the continuance of sexual cleansing and are pestered even during the funerals of their husbands. There are a far greater number of women than adult men in the villages, with the men working elsewhere as migrant labour, an unhealthy situation.

On the western side of the Luembe is the Mbilisao community. They live in isolation a few kilometres away from the banks of the Lukusashi River. The community numbers 1,350, living under four headmen. As there is no shop, people have to walk twelve km to buy salt and soap. There is no health centre.

The education scenario is equally grim: the school consists of 120 children taught in two classrooms, with four teachers grappling with seven grades, these teachers paid by Gamefields. There are no Government teachers. There are no toilet facilities, no windows and no desks, paper, pens or seats, and the nearest potable water is four km away. The parents have no money to improve the situation. The teachers started spending more and more time away from their duties until the villagers removed them in August 2009. Gamefields subsequently replaced them. The closest clinic is eight km away on the west bank of the Lukusashi at the Chingombe Rural Health Centre. Very ill patients must be carried there - this with great difficulty in the rainy season, with the river high from November to May, and with crocodile attacks frequent. Malaria is prevalent, and possibly some HIV/AIDS and tuberculosis, with no sensitisation programme ever conducted in the area. Deaths are ascribed to sorcery.

Food crops planted on the rich alluvium are prone to flooding, thus food security is based on bush fruits. Sorghum, rice, millet, sweet-potatoes, groundnuts, pumpkins, cassava and two crops of maize are grown annually. Chitemene is practiced, but much reliance is placed on the alluvium. Baboon, monkeys and buffalo are the main raiding animals. As the fields are on the river and the villagers located a few kilometres away, the maize cobs have to be carried out on flooded paths, then shelled and carried for three to four days to market. There are no boreholes, no hammer mills, and no extension officers - though the author sent one village leader on a conservation farming course - and the last Government official to visit was during the elections in 2006. The local MP has never visited. The area, rich in wildlife, is an open-access area plundered by bushmeat gangs coming from the Great East Road whom villagers greatly fear.

The other community of the GMA are the people living on the east bank of the Luangwa River on the Chisanga River - the villagers of Chitumbi and Mushalira, considerably better off than Mbilisao. They have a large school, a health clinic, a flying doctor airstrip, a school in which

there are two Government teachers and an additional two paid for by Gamefields, though the headmaster is absent two weeks out of four as a result of his journeys to Petauke to fetch the pay. There is one ZAWA game camp, Chisinga, which at the time of the author's operation of safaris in 2005-2006 was an outpost of a crime syndicate collecting ivory and bushmeat for onward transmission to Nyimba.

The Open Area on the eastern side of the Luangwa is easily accessible from Nyimba, the villagers better off than their fellows on the Luangwa, and certainly very much so when compared with Mbilisao. There are a few villages along the Luangwa (Nyambweka), and near Kalanshya wildlife camp further inland. Children must walk some eight km daily through lion and elephant country to the Ambo school near the Chief's HQ. This school has 351 pupils. Although it is short of teacher housing and toilets for the pupils, it is better off than Chitumbi, and in turn, Mbilisao. The nearby Chalubilo Heath Centre has one nurse and three untrained assistants. Further down the road towards Nyimba are a series of villages served by the Chinambi Clinic and the Chinambi Basic School.

Most of the agricultural activity in the area takes place along the Chief's HQ to Nyimba road, served by a truck / taxi service on a daily basis.

### **PART III: Nyalugwe**

#### **10 THE CHIEFDOM**

The Nyalugwe Chiefdom lying to the south of Luembe should have been the chiefdom of Chieftainess Chitambo, a Nyendwa clan member, but the Provincial Administration appointed Nyalugwe, a Chikunda elephant hunter, as chief. The Chikunda were formed as a result of the slaving activities from the 1880's of the Goanese *prazo* land-holders of the Zambezi Valley. The Goanese captured slaves for their estates and commanded a mixed force of slaves, ex-slaves and mercenaries called the Chikunda, whom they formed into raiding companies and set loose in search of slaves and ivory. The Chikunda subsequently operated as mercenaries-for-hire to the Valley chiefs. They were mightily feared and one of them, Matakenya, was still recalled with dread in the Mfuwe area of the mid-Luangwa eighty years or so later (Astle 1999, p.6). By 1902 however, the Chikunda appear to have attained tribal status, being found scattered amongst the Asenga whom they had raided in the past, with Nyalugwe being a major stronghold.<sup>146</sup> Current residents speak a mixture of Tande and Nsenga languages - the Tande having been brought up in the past by the early Chikunda from present day Zimbabwe. Pure Tande has now almost completely disappeared (P Nyalugwe 2009, personal communication).

#### **11 CUSTOMARY LAND ALIENATIONS**

Encouraged by the new Lands Act of 1995, Chief Nyalugwe alienated some 20,000 ha. of land bordering the Luangwa and Nyimba River to Leopard Ridge Safaris (owned by Ross Michelson). The latter then fenced and stocked the area, conducting a few hunting safaris. In 2005, villagers informed the author that Rashid Randera was fomenting the removal of Michelson due to a long standing wrangle over the Nyampala hunting concession, and that the commercial cooking oil company, Amanita, was seeking land on leasehold for an oil palm plantation. The author opposed such moves on the grounds that the people of Nyalugwe had not agreed to it, and that such an alienation would remove a large area of land from the people forever. On 8 March, Chief Nyalugwe, in an interview with a Post reporter, called for the removal of Mbeza Safaris from the area (Phiri 2006a). When questioned by the same journalist,

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<sup>146</sup> Petauke District Notebook (1902), National Archives, Lusaka, P. 461.

the author replied that this request by the chief was due to the author's opposition to leasehold alienations and not for the reasons the chief had put forward – that he had not been paid the necessary hunting fees (Phiri 2006b). In early June, Nyalugwe wrote a letter to the President – leaked to a reporter on The Post newspaper (a self-admitted OP operative), calling for the author's and Michelson's deportation – as well as the deportation of a leading opposition politician, Guy Scott (Phiri 2006c). This followed Rashid Randera taking the chief to the D-G of ZAWA (Saiwana) to have Mbeza and Michelson removed, and thence to State House for a meeting with the President's Principal Private Secretary, Webby Chipilli.

In 2007/8, Michelson and his partner, harried and hounded by corruption, sold the ranch.

## **12 LEGAL ISSUES**

### **12.1 Nyalugwe CRB**

On 17 April 2008 a meeting of the CRB was called to discuss the issue of the Board Secretary (Lameck Zulu), who had been taken to ZAWA HQ in January for a meeting called by the ZAWA DG, Saiwana, to terminate the Mbeza concession; and of the Chairman (Frederick Tembo), who signed the letter of termination without due permission of the Board or the Patron, Chief Nyalugwe. Although the chief appeared unhappy at the events, he did not resist any further and ZAWA summarily gave out concessionary rights to Hunting Horizons Ltd. The serving term of the current board expired in March 2009, but no new board has been elected. ZAWA owes CRB scouts their salaries, causing many of the trained scouts to take up employment with Piamanzi Ranch – now called Nakeenda Ranch, under its new owners. The CRB has ceased functioning, crop raiders are not dealt with and poaching proceeds uncurbed. A letter from the Secretary of the CRB to the D-G ZAWA on 1 April 2006, stated the following:

In 2003, Nyalugwe did not receive a share of the 'underachievement' of quota utilisation by the operator, Mbeza Safaris (owned by the Mehta bros.) In 2004, Mbeza safaris under new ownership, paid an 'underachievement' fine of \$42,560 in June of 2005. Yet at the time the CRB was owed K86,776,314, or approximately \$27, 000.

The Nyalugwe CRB Audit report by ZAWA for September 2004 – May 2007 revealed that for most of the period the CRB had not received funds, and that the theft of money from the funds held in the account was a serious issue. In addition, a hammer-mill bought with CRB funds, kept no books of account. The same situation persists to the present time.

In 2009 no hunting took place in Nyalugwe, and the concession fees supposedly paid by Hunting Horizon Safaris (Tony Masutu) were not used to settle the salary arrears of the Nyalugwe Village Scouts. Hunting Horizons carried out one three-week hunt on the Nakeenda Game Ranch. In 2010 no hunting took place and Chief Nyalugwe has finally taken his complaints to the Minister.

### **12.2 Nyalugwe Conservation Trust**

On 20 December 2008, an application was made to ZAWA/REMNPAS by Chief Nyalugwe (assisted by Gamefields), for registration of the Nyalugwe Community Game Ranch. It was proposed in the letter that this land would be sub-leased to Gamefields Limited who had developed the Landsafe development model for Zambian chiefdoms. On 27 May 2009, Chief Nyalugwe signed an agreement with the Landsafe facilitator, Japher Mbewe, for the future implementation of a Landsafe Chiefdom Conservancy in his chiefdom. The purpose of this agreement was for the Nyalugwe Customary Authority to agree to have Gamefields assist it in

implementing a Landsafe conservancy system in Nyalugwe whereby the Nyalugwe Conservation Trust Society would be established, followed by a petition to the Minister of Lands for the creation (initially) of the Nyalugwe Conservation Trust and the vesting therein of the former Chilinga Native Reserve, followed by other land considered suitable for development. Once ZAWA had cleared the way for the game ranch, Gamefields – under an agreed set of conditions, terms and payments – would sub-lease the land. With the Landsafe Foundation, it would assist the Trust to enter into co-management agreements with the Nyalugwe CRB over wildlife and the GMA, and with the Departments of Fisheries, Forestry and Water Affairs. Subsequently, on 24 April 2009, the Nyalugwe Conservation Trust received its registration certificate from the Registrar of Societies; and on 25 June 2009, the Minister of Lands signed the certificate incorporating the Trust under the Lands (perpetual succession) Act, the Chilinga thus being vested in the Trust.

In July, ZAWA completed a survey of the ranch, and has recommended its registration. In September a social scoping exercise was carried out by ZAWA that gave assurance of the community's support. Unfortunately, the documentation from the Ministry of Lands was not available to include in the application, and the Trustees were unaware that ZAWA HQ wished to be present at the initial signing. As yet no official document has been produced by ZAWA, though they have accepted that the community are free to do as they choose with their land.

## **13 THE STATE OF NYALUGWE**

### **13.1 Education**

There are six basic government schools in the chiefdom: Nyalugwe, Muchamadzi, Mombe, Mkoma, Unyanya, and Kasansamula; and four community schools: Nyamwalika, Mkoma (GMA), Ucha and Chimilala. A Secondary school is currently under construction at Mombe. Most of the existing schools were built before 1964. According to the registers, attendance is good. Government provides some financial grants. For grade one, GRZ introduced a curriculum to ensure that pupils can read and write in the vernaculars of Nyanja, Bemba, Lozi, Tonga, Kaonde and Luvale. Most of the schools lack staff housing - one of the main reasons teachers are reluctant to serve in rural areas, although the late or total failure to pay hardship allowances is another.

### **13.2 Agriculture**

In April, 2006, at the request of Chiefs Nyalugwe and Luembe, the author met with the Disaster Management Unit (DMU) in the office of the Vice-President to determine why food relief had not been forthcoming for some communities in the West Petauke GMA, hard hit by animal depredations and flooding of villages and cropland. The investigation revealed that money had been released to agents – the Adventist Development and Relief Agency International (ARDRA) - in January, but that they had not yet delivered. The army then promised to deliver food. In addition, undertakings were given to villagers by the DMU and ZAWA in March 2005 to empower specified community members and professional hunters to undertake crop protection; these promises were not kept. The author had assisted the Director of Conservation in ZAWA at that time (Lewis Saiwana), in providing training guidelines originally written by Barry Shenton, former Senior Warden and veteran of the elephant control group in the Department of National Parks & Wildlife. Later some professional hunters had assisted with the training of control guards.

In the 2008/2009 season, there was no flooding. Chitemene is followed widely along traditional lines, no agricultural extension officer visiting since 1992. Wildlife crop damage remains a critical factor in limiting yields. During times of drought food relief is supplied, with ARDRA

providing cooked wheat and maize. The poor receive no inputs of seeds or fertiliser, though the COMACO project is assisting with rice production.

### **13.3 Health**

The chiefdom is served by two health clinics: Nyalugwe Rural Health Clinic (RHC) and Kachalola RHC. The former is at the Chief's HQ 23 kilometres from the Great East Road, and the latter 500 metres from the Great East Road. At each RHC there should be four members: the clinical officer, nurse, cleaner and a watchman, but only two of these are in place. Malaria remains the main problem due to a shortage of drugs, particularly for the under-fives. ARDRA left ten health posts not functioning after a three-year project, the buildings abandoned.

### **13.4 Wildlife**

There are wildlife camps at Kasolo, Mulilanama and Fundo with a ZAWA WPO in charge and manned by nine Village Scouts, four assistant Village Scouts and one bookkeeper. Seven former Village Scouts and bookkeepers are still owed salary arrears after three or more years. ZAWA occasionally provide rations for patrolling, but as they have not been paid for many months these patrols are likely poaching operations for meat and ivory. In 2005, Mbeza Safaris supported the patrolling with an input of US\$21,000, assistance that the D-G of ZAWA refused to recognise as being part of the pledges made in the Hunting Concession Agreement. Elephant crop damage is particularly severe in the villages of Chilinga, Nyalugwe, Cholibe, Kamatukila, Nyangwele and Musonda with little help forthcoming from ZAWA for the protection of villagers.

### **13.5 Forestry**

Since the 1980's illegal timber offtakes of Mukwa (*Pterocarpus angolensis*) have been prevalent. The Forestry Department occasionally confiscates illegal offtakes.

### **13.6 Justice**

The local court holds its sessions in an abandoned council house. There is one clerk acting as a messenger, with one presiding Assessor. They travel monthly to Petauke to collect their pay.

### **13.7 Extension services**

An officer from ZAWA/SLAMU attends meeting of the Nyalugwe CRB but no extension officers do agriculture visits.

### **13.8 Credit availability**

The only time credit has been made available was in 1988 when Global 2000 provided funds for agriculture.

## **PART IV: State of the Three-rifts and Government services**

### **14 OFFICE OF THE PRESIDENT – EASTERN PROVINCE**

In 2007, the Auditor-General reported on the Provincial Administration, stating that:

The Constituency Youth Development Fund was created by Government to finance and support community youth projects in all constituencies in the

country in order to promote youth participation in social economic development and empower them to improve their livelihood. Each constituency would have its own Constituency Youth Development Committee that would be responsible for among others to receive, consider and approve project proposals. However, the administration of the funds was to be done by Local Authorities.

The funds were provided for under the Ministry of Sport, Youth and Child Development, and were disbursed to Local Authorities through Provincial Accounting Control Units (PACU). During the year under review, PACU received an amount of \$190,476 for various youth projects in 19 constituencies. In turn, PACU transferred the funds to Local Authorities according to the number of constituencies in each district. Each constituency received \$10,000. An examination of financial, stores and other related records maintained by PACU, Local Authorities and some selected youth groups that were funded, as well as a physical verification of the projects carried out in selected constituencies in Petauke, Lundazi, Katete, Chama, Mambwe, Nyimba and Chadiza revealed the following:

Amounts totalling \$20,000 were paid by four councils to various suppliers for the delivery of materials for youth projects such as piggery, carpentry, tailoring and fish farming among others. However, visits to the sites in September 2008 and enquiries made revealed that the projects were non-existent. And various materials in amounts totalling \$2,630 were unaccounted for. One council had only disbursed 50% of the funds after a year; and although \$251,000 given to rehabilitate schools in five councils had been released various works were either not completed or not attempted.

## **15 HEALTH**

In 2007, the A-G reported that \$9 million in grants were given to the Provincial Health Office in Eastern Province, \$83,000 in withholding tax had not been deducted from officer allowances, \$1 million third party payments were made without supporting documentation, and \$18,000 in salary advances were not recovered.

## **16 AGRICULTURAL AND COOPERATIVES**

The Auditor-General's report of 2007 revealed that the Chipata Agricultural Coordinating office received a provision of \$3 million for its programmes, but only \$2.78 million was released. The five district Coordinating Offices received \$942,000, although \$1.19 million had been provided; \$47,000 in payment vouchers was not made available for audit; \$139,000 in imprests were unretired; \$4,000 in salary advances were not recovered; \$23,000 had been spent on stores without receipts. In the Chipata district office \$53,000 was not accounted for; in Petauke \$20,000; in Katete \$27,000; Lundazi \$31,000; and Mambwe \$28,000.

In 2009, the state of crop collection and marketing was dire, with complaints that the Food Reserve Agency (FRA) only became active during the marketing season - and as in Nyimba, very late - and not when the rains start; and that they have reduced the number of bags of maize that would be purchased. Furthermore, the tobacco planters, who have borrowed money to grow their crops, find there are no buyers at the tobacco sheds (Miti 2009). The same state affairs took place in 2010.



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**18 APPENDICES**

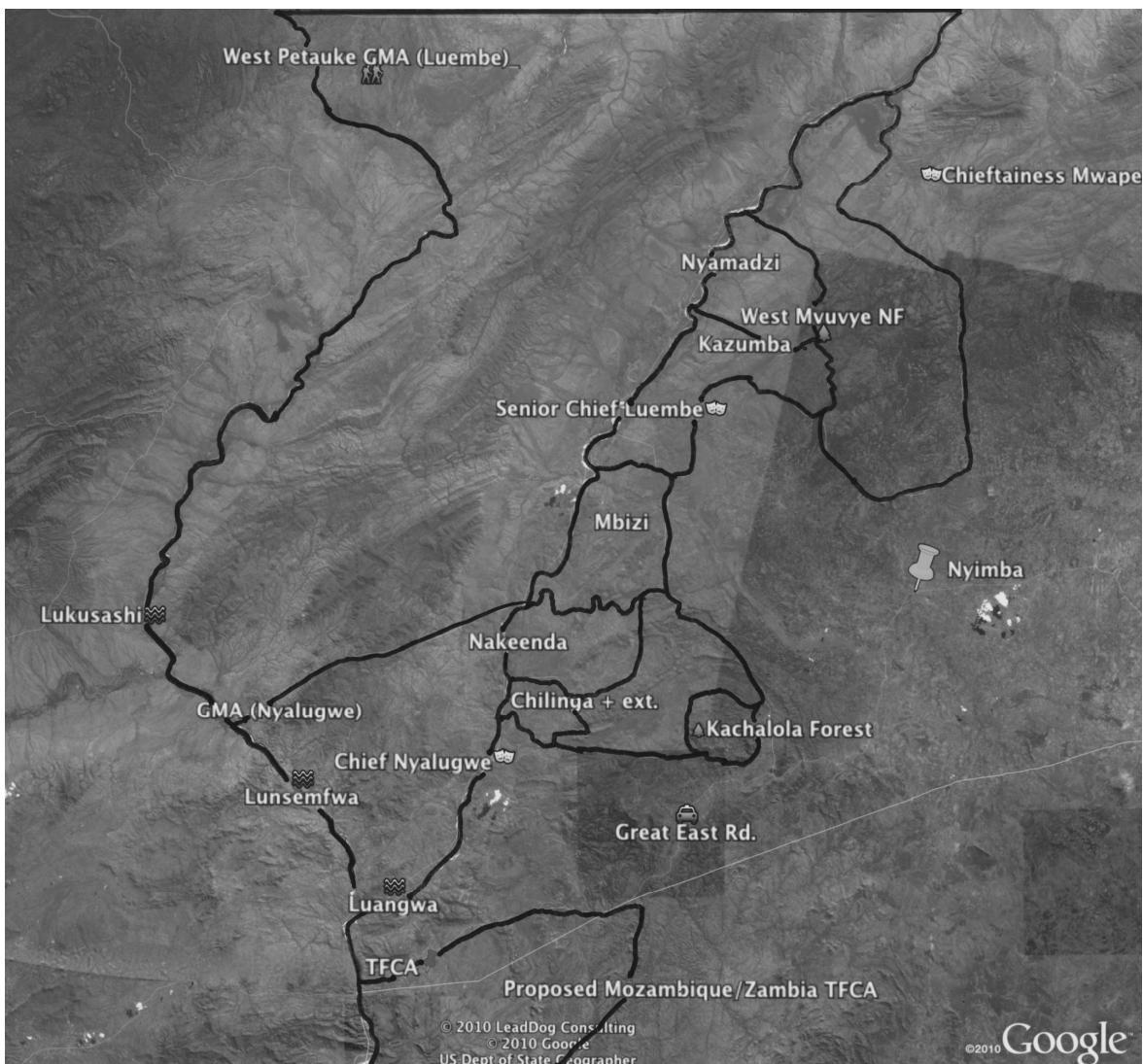
**Appendix 1: Common game species and hunting quotas for 2007 in the West  
Petauke GMA and the M'nyamadzi Game Ranch**

**Appendix 1: Common game species and hunting quotas for 2007 in the West Petauke GMA and the M'nyamadzi Game Ranch**

		<b>M'NYAMADZI GAME RANCH 10, 500ha</b>	<b>WEST PETAUKE GMA 610, 000ha</b>
Baboon, Yellow	<i>Papio cynocephalus</i>	4	16
Buffalo, Cape	<i>Syncerus caffer</i>	3	14
Bushbuck, Chobe	<i>Tragelaphus scriptus</i>	4	11
Bushpig, Southern	<i>Potamochoerus larvatus</i>		4
Crocodile, Nile <sup>147</sup>	<i>Crocodylus niloticus</i>	8	10
Duiker, Common	<i>Cephalopus</i> sp.	4	2
Eland, Livingstone's	<i>Taurotragus oryx</i>	1	
Elephant	<i>Loxodonta africana</i>		
Giraffe, Thorneycroft's	<i>Giraffa camelopardalis</i>		
Grysbok, Sharpe's	<i>Raphicerus sharpei</i> .		4
Hartebeest, Lichtenstein	<i>Alcelaphus lichtensteini</i>	2	4
Hippo	<i>Hippotamus amphibious</i>	6	16
Hyena, Spotted	<i>Crocuta crocuta</i>	3	8
Impala, Southern	<i>Aepyceros melampus</i>	4	22
Klipspringer	<i>Oreotragus oreotragus</i>		4
Kudu, Greater	<i>Tragelaphus strepsiceros</i>	2	10
Leopard	<i>Panthera pardus</i>	2	6
Lion	<i>Panthera leo</i>	2	6
Puku	<i>Kobus vardoni</i>	2	4
Reedbuck, Common	<i>Redunca arundinum</i>		
Roan	<i>Hippotragus equines</i>	2	2
Sable	<i>Hippotragus niger</i>		
Steenbok	<i>Raphicerus campestris</i>		
Warthog	<i>Phacochoerus aethiopicus</i>	4	16
Waterbuck , Common	<i>Kobus ellipsiprymnus</i>	4	7
Wild dog, Painted	<i>Lycaon pictus</i>		
Zebra, Burchell's	<i>Equus burchelli</i>	10	8

<sup>147</sup> M'nyamadzi's Luangwa River frontage is about 5km, compared with 300km for the West Petauke GMA.

**CHAPTER 8:**  
**IMPLEMENTING LANDSAFE IN THE LUEMBE AND NYALUGWE CHIEFDOMS**



**Three-rifts Landsafe Project Area**



## ACRONYMS

<b>CARITAS</b>	Roman Catholic relief, development and social service organisation
<b>CATCA</b>	Central African Transfrontier Conservation Area
<b>CC</b>	Customary Community
<b>CRB</b>	Community Resource Board
<b>CTA</b>	Concession Tourism Agreement
<b>D-G</b>	Director General
<b>GMA</b>	Game Management Area
<b>GPS</b>	Global Positioning System
<b>GRZ</b>	Government of Zambia
<b>HCA</b>	Hunting Concession Agreement
<b>HQ</b>	Headquarters
<b>JFMA</b>	Joint Forestry Management Area
<b>MMD</b>	Movement for Multi-Party Democracy
<b>MoU</b>	Memorandum of Understanding
<b>NCF</b>	Norman Carr Foundation
<b>NGO</b>	Non-Governmental Organisation
<b>REMNPAS</b>	Reclassification and Effective Management of the National Protected Areas System
<b>TFCA</b>	Transfrontier Conservation Area
<b>VAG</b>	Village Action Group
<b>ZAWA</b>	Zambia Wildlife Authority

## 1 THE OBJECTIVES

Implementing the Landsafe chiefdom model is motivated by the belief that Zambia's future destiny and well-being is directly related to the healthy socio-ecological state of the customary commons and the protected areas with which they are associated. The particular objectives for the project area are:

- i) To safeguard the Luembe and Nyalugwe customary land, the West Petauke GMA, the West Mvuvye National Forest and the Kachalola local forest.
- ii) To strengthen the two traditional authorities and to encourage the increasingly democratic operations of the Luembe Conservancy Trust and the Nyalugwe Conservation Trust, and also the Community Resource Boards advising each chiefdom.
- iii) To conserve the wildlife and natural resources for the benefit of the chiefdoms.
- iv) The respective Trusts to provide land and business management plans for the appropriate development of the chiefdoms, plans that fully respect the ecology and the traditional, cultural and religious norms.
- v) To assist the chiefdoms' Trusts to enter into co-management agreements with Government over land and renewable natural resources, in conformity with the prescriptions of the Fisheries Act Chapter 200 of the Laws of Zambia of 1974 and the Fisheries (Amended) Act of 2007, The Forestry Act No. 39 of 1973, Forestry Policy of 1998, the Forestry Act No. 7 of 1999, the Local Forests (Control and Management) Regulations, Statutory Instrument No. 47 of 2006, the Lands Act Chapter 184 of the Laws of Zambia of 1995, the Water Act Chapter 198 of the Laws of Zambia of 1948 and the Zambia Wildlife Act No. 12 of 1998.
- vi) To provide the necessary incentives for both investors and the chiefdoms to enter into mutually beneficial partnerships and investments.
- vii) To identify, propose and facilitate small businesses able to harvest natural resources.
- viii) To establish development trust funds under the control of the Trusts and their advisory boards, and the implementation of development projects required by the customary community.
- ix) To foster education in the chiefdom's history, culture and religion, and in its ecology.
- x) To foster conservation agriculture, health and education.
- xi) To ensure the maintenance of a land registration book in each VAG.

The two chiefdoms of Luembe and Nyalugwe in the lower Luangwa Valley are ideal chiefdoms in which to try and establish Landsafes. Here are found small homogenous nations of extremely poor people living wholly traditional lives within a large area of wilderness with reasonably abundant wildlife stocks, yet its southern margins are readily accessible from the Great East Road, and a reasonable distance from Lusaka. Between 2002 and 2009, Luembe was the focus of development efforts, with Nyalugwe coming on stream from 2008.

## 2 RESPECTIVE RESPONSIBILITIES OF PARTNERS

- i) The Luembe Conservancy Trust and the Nyalugwe Conservation Trust are the custodians of the land vested in it, and are responsible for developing co-management agreements with Government over natural resources and over the GMA sections.

- ii) Gamefields is responsible for investment support, management and implementation.
- iii) Mbeza Safaris Limited is the rightful hunting safari concessionaire who should continue operating – subject to a decision of the courts, though on a much reduced quota.
- iv) A proposed Landsafe Foundation will be responsible for guiding the Trust, Gamefields, Mbeza, and the Luembe Chiefdom on matters of Landsafe Chiefdom Conservancy Development.

### **3 STAKEHOLDERS INVOLVED IN PROJECT**

#### **3.1 Primary Stakeholders**

- i) The Customary Authority: Senior Chief Luembe and Chief Nyalugwe and their headmen
- ii) The village residents
- iii) The Luembe Conservancy Trust and the Nyalugwe Conservation Trust

#### **3.2 Secondary Stakeholders**

- i) Ministry of Lands
- ii) Ministry of Agricultural and Cooperatives
- iii) Ministry of Livestock and Fisheries
- iv) Ministry of Tourism, Environment and Natural Resources, including the Zambia Wildlife Authority (ZAWA), and the Department of Forestry
- v) Ministry of Local Government
- vi) Ministry of Water and Energy Development

#### **3.3 Key Stakeholders**

- i) Luembe and Nyalugwe Community Resource Boards (CRB)
- ii) The Nyimba District Council
- iii) The Landsafe Foundation
- iv) Gamefields Limited
- v) Mbeza Safaris

### **4 THE EXPECTED GENERAL OUTCOMES**

- i) The creation of the Luembe and Nyalugwe chiefdom Trusts in which land may be vested and safeguarded and the renewable natural resources used sustainably.
- ii) The establishment of chiefdom trust funds under the joint control of the Trusts and advisory bodies for sustained investment in the chiefdoms established and run within a sound system of fiduciary management and with expenditure approved by the residents.
- iii) The production of chiefdom landuse plans and their integration.
- iv) The conversion of part of the unutilised Open Areas into community game ranches or conservancies and assigned under law of contract to investors.
- v) The conversion of these same ranches into a single game conservancy, taking up much of the two chiefdoms Open Area as well as the Kachalola local forest and the West Mvuvye National Forest – the latter under a joint forest management agreement with the Forestry Department.



- vi) The vesting of the GMA into these Trusts and their assignment to a limited liability company made up of the Trusts and investors – to be used as an exclusive wildlands tourism area.
- vii) The creation of a transfrontier conservancy linking Nyalugwe with Mozambique, and subsequently linking it with Luembe and the other chiefdoms - joining with the Luangwa National Parks, allowing for the development of a Central African Transfrontier Conservation Area.
- viii) The creation of a critical mass of appropriate development projects for the socio-ecological well-being of the two chiefdoms.
- ix) The establishment of co-management agreements between the Trusts, Government departments and ministries responsible for fisheries, forestry, wildlife and water, and as a result, the two chiefdoms' customary commons established and sustained over time.

## **5 THE EXPECTED BENEFITS**

- i) The strengthening of the chiefdoms by way of support to the customary authorities, the Trusts, the CRBs and other community-based organisations.
- ii) Safeguarding the land through a land vestment process.
- iii) Gaining some measure of control and income from the renewable natural resources.
- iv) The considerable reduction in open-access to the chiefdom's resources.
- v) The strengthening of the ancient indigenous forms of title to natural resources.
- vi) The provision of incentives to limit offtakes of the renewable resources so as to ensure their long-term economic and environmental sustainability.
- vii) An improvement in the supply of basic needs of the villagers.
- viii) The implementation of appropriate villager-developed landuse plans and the emergence of an ecological ideology that integrates discourses about society with those about nature.
- ix) Improved education, health and agriculture.
- x) Nationally, the strengthening in the local government of 94% of Zambia.

## **6 ONGOING AND ACHIEVED GENERAL OUTPUTS**

- i) Confidential report to the Vice-President of Zambia on wildlife conservation situation.
- ii) Support to ZAWA on CITES implementation.
- iii) Registration of the Norman Carr Foundation (NC) and general pro bono support to ZAWA.
- iv) Assistance provided to ZAWA in the development of guidelines on the establishment of public-private partnerships in the management of non-flagship National Parks.
- v) Proposals for the development of PPPs in the Isangano and Lavushi Manda National Parks.
- vi) Consultations with government, the private sector, NGOs and customary authorities. SWOT analysis of customary law and the Zambian legislation and policy affecting land tenure, investments and collaborative partnerships in the development and protection of customary land and associated protected areas.
- vii) Developer of a proposed planning framework for the proposed Central African Transfrontier Conservation Area.

- viii) Proposal for the establishment of a participatory conservancy trust in the Kopa chiefdom, one incorporating the Luitikila National Forest.
- ix) Proposal for the development of private sector and customary authority tourism development capacity.
- x) Proposal for the building of strategic partnerships (PPPs) within depleted Game Management Areas.
- xi) Advocacy in the Victoria Falls World Heritage Site relative to proposed development and impacts in the Mosi oa Tunya National Park. Future funding, stakeholder communications and development of a management trust with local and international stakeholders.
- xii) Co-opted steering committee member (2006/7): The Natural Resources Consultative Forum, cross-sectoral forum advising the Ministry of Tourism, Environment and Natural Resources of Zambia. Development of project proposals for the implementation of the National Policy on Environment, and for donor support.
- xiii) Development with Luembe customary authority, Nyimba District Council and Luembe Community Resource Board of institutional structures for sustainable livelihoods programme within a conservancy.
- xiv) Registration of the Luembe Conservancy Trust.
- xv) Development of institutional formalisations for customary communities in respect of their land and its renewable resources.
- xvi) Development of a business plan.
- xvii) Recruitment of investor/management partners.
- xviii) Proposal for the establishment of a collaborative conservancy trust in the Nyalugwe Chiefdom – particularly in the former Chilinga Native Reserve.
- xix) Development of the participatory Landsafe integrated conservation and development model design for land held under customary tenure and protected areas and its application to the Luembe customary area of Luangwa Valley.
- xx) Supervision of food security study and animal impacts amelioration plan and ongoing development of a participatory landuse plan.
- xxi) Registration of a branch of Gamefields Limited (Gibraltar) in Zambia to carry out Landsafe.
- xxii) Signing of Memorandum of Understanding (MoU) and landuser agreement for 60 years for the Luembe Chiefdom - and for the Kazumba Community Game Ranch within it - with the Luembe Customary Authority, the Nyimba District Council and the Luembe Resource Board.
- xxiii) HQ projects in Lusaka concerning community upliftment through a community brick-making project and a home for HIV/AIDS affected children.
- xxiv) Development of a sustainable natural resource management planning framework to be undertaken as a rapid participatory rural appraisal (PRA) – based on secure customary and community land tenure rights and a sustainable livelihoods strategy; and carrying out of landuse plan – including food security strategy.
- xxv) Development and enactment of preliminary action plan: bureaucratic constraints, legislation and policy, lobbying.
- xxvi) Distribution and adoption of the Chipuna/Landsafe Chiefs’ manual by the House of Chiefs .
- xxvii) Training of an accountant, mechanic, paralegal, and liaison officers for the two chiefdoms in conservation farming.
- xxviii) Purchase of the company holding the West Petauke hunting concession, Mbeza Safaris, and obtaining investment certificates for three of the shareholders.
- xxix) Operation of hunting safaris in 2005 and 2006.
- xxx) Negotiations with the Forestry Department for a Joint Forestry Management Area (JFMA) in the West Mvuvye National Forest.

- xxxvi) Blocking the alienation of further land in both chiefdoms, and of the West Mvuvye National Forest.
- xxxvii) Continued development of the formalisation procedures required to establish statutory community structures and the Landsafe development manual.
- xxxviii) Writing of the preliminary Luembe and Nyalugwe landuse plan.
- xxxix) Registration of the Nyalugwe Conservation Society made up of the community and endorsed by them.
- xl) Petition to the Minister of Lands by the Society and the registration of the Nyalugwe Conservation Trust and the vesting of the Chilinga Reserve in that Trust for the purposes of game ranching, both endorsed by the Minister.
- xli) Receiving the approval of ZAWA for the Chilinga to be used as a game ranch.
- xlii) The Nyalugwe Trust reassigning the lease to Gamefields Limited.
- xliiii) Building the Nyalugwe Trust Fund under secure fiscal control.
- xliiii) Negotiating with the Ministry of Health for the building of a medical clinic and maternity facility.
- xliiii) Negotiating with the Department of Forestry for a joint management agreement of the Kachalola forest.
- xliiii) Facilitating the recovery of funds owed the Nyalugwe CRB and Chief Nyalugwe by ZAWA.
- xliiii) Implementing a process to strengthen the operations of the CRB and its working relationship with the Nyalugwe Trust, and to provide it with operating funds.
- xliiii) Facilitating negotiations between ZAWA, the Ministry of Tourism, the Nyalugwe CRB, ZAWA and Chief Nyalugwe for a co-management agreement in respect of the Nyalugwe portion of the West-Petauke GMA.
- xliiii) Legal training (LLB) of Gamefields' manager in the School of Law, University of Zambia.

## **7 PROPOSED LANDSAFE OUTPUTS REQUIRED FOR THE CHIEFDOMS**

### **OUTPUT 1: FORMALISATIONS**

- Activity 1: Vesting of land in the Trusts and registration with the Registrar of Deeds.
- Activity 2: Trusts make application to ZAWA, through the CRB, for registration of appropriate land as community game ranches, with all the conditions and regulations implied. ZAWA inspects and surveys proposed areas.
- Activity 3: Trust signs co-management agreement with CRBs and ZAWA over the GMA section, which provides support to the CRBs.
- Activity 4: Trusts – with the assistance of the embryonic Landsafe Foundation – provide a management plan.
- Activity 5: Trusts sign a co-management agreement with the Forestry Department in respect of protected forest areas.
- Activity 6: Trusts sign a co-management agreement with the Department of Fisheries within the Ministry of Livestock and Fisheries; requiring the following:
  - Declaration of a Fisheries Management Area.
  - Election of a Fisheries Management Committee.
- Activity 7: Trusts sign a co-management agreement with Water Affairs Department.
- Activity 8: Trusts enter into assignment or lease agreements with investors, or take up joint ventures. Ideally these would be auctioned by the Trusts.

**OUTPUT 2: THE COMMUNITY GAME RANCHES**

- Activity 1: Conducting a rapid rural appraisal and sensitisation exercise.
- Activity 2: Survey of proposed reserves and agreement with Trusts and chiefs on boundaries.
- Activity 3: Recording of boundary co-ordinates and mapping.
- Activity 4: Compilation of baseline data on wildlife and forestry.
- Activity 5: Survey of the riverine stretch as to suitable lodge and camp sites.
- Activity 6: Assessment of current poaching activities.
- Activity 7: EIA assessment of adjoining private game ranch fencing.
- Activity 8: Costing of various options.

**OUTPUT 3: WEST-PETAUKE GMAs**

- Activity 1: Using village scout reports and other intelligence, assess the current state of wildlife, including threats and utilisation.
- Activity 2: Provide a wilderness use and protection plan.
- Activity 3: In addition to the Njinga reports provided by the VAGs, carry out a rapid rural appraisal.

**OUTPUT 4: TRANSFRONTIER CONSERVANCY**

- Activity 1: Initiate contacts with the neighbouring government and chiefs for the creation of a joint chiefdom TFCA .
- Activity 2: Establish the TFCA according to the Central African TFCA planning framework or to a similar framework elsewhere.
- Activity 3: Vest the necessary land for such a TFCA in the chiefdom Trust.
- Activity 4: Development of the TFCA.

**OUTPUT 5: SOCIO-ECOLOGICAL DEVELOPMENT**

- Activity 1: Provision of a participatory/social landuse plan for the Trust.
- Activity 2: Capacity support to the Trust and appointment of an executive officer.
- Activity 3: Capacity support to the CRBs on animal depredation reports (Appendix 2), wildlife protection, quota production and monitoring, accounts management, project development, etc.
- Activity 4: Implementation of villager landuse registration with the use of a GPS, and the opening of land registration books.
- Activity 5: Further support to education by bolstering of teacher-assistants cum natural resource officers based in the VAGs.
- Activity 6: Support to health clinics.
- Activity 7: Implementation of conservation farming.
- Activity 8: Implementation of honey production and aquaculture, and establishment of furniture co-operatives.
- Activity 9: Establishment of village-based tourism businesses.
- Activity 10: Implementation of micro-credit schemes, particularly serving women.

**OUTPUT 6: BUSINESS PLANS AND MARKETING**

- Activity 1: Production of business proposals to the respective Trusts for the game ranches and conservancies, the GMA and the TFCA.
- Activity 2: Production of project proposals and business plans.

## 8 NATURAL RESOURCES PROTECTION

In the process of building a semi-devolved customary commons in which its residents act as true custodians of the natural resources, a minimum investment of \$50/ km<sup>2</sup> would be required so as to provide a basic protective shield for wildlife, fisheries and forestry. This translates into a required \$200,000 per annum for the 4,140 km<sup>2</sup> West-Petauke GMA, which is mostly Luembe customary land. This targeted income would be used in the manner currently being adopted for eleven school teacher/natural resource officers - i.e. paying a number of family heads in villages at the rate of \$1 a day for various community activities. The funds would employ 550 villagers, with employment directly linked to the building of the customary commons. Currently, a start has been made by employing teacher-assistants cum natural resource officers who are also responsible for the Njinga reports on the area (Appendix 2).

Hunting safaris might achieve gross earnings of \$250K, but its recurrent and capital replacement costs on the safari operations alone make it a break-even operation. This projection is based on 2006 quotas - quotas now in decline - as was predicted by Mbeza in 2005 meetings with ZAWA. In Gamefields' case, when considering all of the GMA and the Open Areas of the chiefs, some \$500 / km<sup>2</sup> has been spent since 2002 in Zambia - arriving at the present situation where very little has been achieved. What is now required is the development of a critical mass of schemes which will provide the necessary base income, but without negatively affecting the people's sense of community, culture and religion.

## 9 AGRICULTURE

An urgent priority is the adoption of conservation agriculture techniques that stress self-sufficiency and some cash cropping. The GMA section is a subsistence area of low agricultural potential (with the notable exception of the alluvial zone), which needs specific measures to meet community food security. It will require that village fields be rationalised and that they be protected in some areas from animal depredations by solar-powered fencing and other means. As food security is also a function of income, serious consideration would be given to establishing an organic honey outgrower scheme and other business ventures that would not impact negatively on the GMA, and that would completely protect it as relatively pristine wildlands. The Open Area has moderate to high agricultural potential and is ideal for the establishment of smaller outgrower (organic cotton and tobacco) schemes. As Nyimba now has power, some potential exists for irrigated commercial crops lying close to Nyimba town.

The use of cattle to increase the carrying capacity of the range is well known, though it requires high standards of management and control if it is not to have the opposite effect. As the proposed game ranches and future conservancy might be game fenced - and in the absence of many large herbivores (buffalo) - consideration will be given to running a herd of indigenous cattle under reasonable rotational time management and adhering to strict holistic management criteria (Savory & Butterfield 1999). This is required to improve range carrying capacity, and as an income earner and ready source of protein. As cattle cannot survive in a tsetse area, they would have to be treated. A ready market for meat waits at Nyimba and on the Great East Road.

## 10 HUNTING SAFARIS

ZAWA leases out the GMA parts of customary areas as hunting concessions, charging concession fees based on their classification as Prime, Secondary or Understocked. West Petauke is classified as a Prime Concession, although it is clearly Secondary and moving downwards to being Understocked. As a Prime concession able to utilise an annual quota which should provide for the requisite number of four Classical and eight Mini safaris – something not

possible in West Petauke because of the low buffalo numbers and the overshooting of adult bulls – an annual fee for the 4,140 km<sup>2</sup> area of \$34,500 is charged (based on \$5,000 for five Classical hunts and \$1,000 each for seven Mini hunts) - 50% of this is retained, 45% (theoretically) is to be paid to the CRBs, and the remaining 5% should be paid to the chiefs. In addition, trophy fee income is split according to the same ratio.

Refer to Appendix 1 for an analysis of the Nyalugwe section of the West Petauke hunting block.

## **PART I: Luembe Chiefdom**

### **11 BACKGROUND**

On 12 June 2003, at a meeting of Senior Chief Luembe, 153 headmen, the Luembe CRB, the Nyimba District Council, a Norman Carr Foundation representative and the author (representing Gamefields), it was agreed to establish a community wildlife estate. The following was also agreed: to establish a joint venture company involving the community, the Foundation, Gamefields International and ProjectsAfrica, so as to conserve the natural resources in Luembe and to uplift the livings standards of the customary community; to establish a private wildlife estate in the Open Area - the community to hold shares – and with the Luembe CRB instructed to deal with any project start-up problems.<sup>148</sup>

On 31 July 2003, an MoU was signed by Senior Chief Luembe, five headmen, the Chairman of the Nyimba DC, the Chairman of the Luembe CRB and the author for the transfer by the customary authority of all land user rights for the Luembe Chiefdom to the author for a period of six months until such time as the Luembe Conservancy Trust was established, at which time the usufruct rights would be transferred to the Trust.

On 3 September 2003, the Luembe Customary Authority – with the agreement of the Nyimba District Council and the Luembe Community Resource Board - ceded the land user rights for all of Luembe chiefdom to the Luembe Conservancy Trust for a period of 60 years.

On 9 September 2003, these land user rights were signed over by the author to the future Luembe Trust with the agreement of the Nyimba District Council representative and the Luembe CRB.

On 30 September 2003, Senior Chief Luembe wrote to the Director General (D-G) of ZAWA requesting that the GMA portion of his chiefdom be placed under the management of the Trust. No reply was received.

On 3 November 2003, the chief wrote to the District Council to have them endorse a proposed MoU between the Trust and the Forestry Department for the joint management of the West Mvuvye National Forest. The decision of Council was that both Luembe and Chieftainess Mwape should first agree to share in any joint forest management agreement. Subsequently Chieftainess Mwape sold much of her traditional section under 99-year leasehold, and Luembe attempted to do the same with the Luembe section

On 4 June 2004, the Luembe Trust Certificate of Incorporation (limited by guarantee) was issued.

In September 2004, the Trust decided that the concessionaire for the West Petauke GMA should be invited to join the Trust, failing which they were to be bought out by Gamefields. On their

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<sup>148</sup> Handwritten minutes all Luembe headmen meeting held on 12<sup>th</sup> June 2003, venue: Chief's own palace.

refusal, they were then made an offer for their company, Mbeza Safaris, which held the hunting concessionary rights until 2012. They accepted the offer and Gamefields bought the company.

On 5 March 2005, application was made to the Zambia Investment Centre by the author and his family for the issue of investment certificates in the name of Mbeza safaris. These were later granted.

Hunting safaris were conducted in 2005 and 2006 but did not resume thereafter due to the removal of the concessionary rights by Government (Manning 2007b).

## 12 PRESENT OUTPUTS

- Activity 1: Employment of eight teachers/natural resource officers, a liaison manager and the compilation of Njinga rural appraisal reports.
- Activity 2: Maintenance of basic safari camp in the GMA, and employment of care and maintenance staff.
- Activity 3: Payment of Trust allowances to liaison officers and Chief Luembe (recently terminated).
- Activity 4: Financial support for travel and meetings of community and District Council.
- Activity 5: Liaison with Government offices.
- Activity 6: Writing of landuse plan.

## 13 PROJECTED INVESTMENT OUTPUTS

### OUTPUT 1: FORMALISATION

- Activity 1: Formation of joint-venture company owned by the Trust and an investor for the lease of the community game ranch.
- Activity 2: Registration of Kazumba Community Game Ranch with ZAWA following community meetings and a land survey.
- Activity 3: Signing of either a co-management agreement with the Luembe CRB/ZAWA, or the creation of the Luembe Community Game Reserve taking up the whole GMA.

## 14 CONSTRAINTS TO PROGRESS

- i) Continuing Luembe chieftom succession wrangles and the failure of the MMD Government to follow custom and the findings of a House of Chiefs committee of inquiry.
- ii) Human rights abuses by ZAWA not resolved.
- iii) Increasing villager and headmen opposition to the present Luembe chieftom incumbent.
- iv) The alienation of part of the Kazumba Community Game Ranch to Ridwaan Munshi without the sanction of the Luembe villagers and despite the Luembe Trust holding the land user rights.
- v) The failure of ZAWA to pay the CRBs and the chief.
- vi) The continued illegal offtake of bushmeat and ivory.
- vii) A considerable increase in the activities of sorcerers.
- viii) The failure of Government to return the hunting concessionary rights to Mbeza Safaris.

## **PART II: Nyalugwe Chiefdom**

### **15 BACKGROUND**

On 20 December 2008, Chief Nyalugwe made an application to ZAWA's Reclassification and Effective Management of the National Protected Areas System project (REMNPAS), for registration of the Nyalugwe Community Game Ranch. On 27 May 2009, Chief Nyalugwe signed an agreement with the Landsafe facilitator, Japher Mbeve for the future implementation of a Landsafe Chiefdom Conservancy in his chiefdom. The purpose of this agreement was for the Nyalugwe Customary Authority to agree to have Gamefields assist it in implementing a Landsafe conservancy system in Nyalugwe, whereby the Nyalugwe Conservation Trust Society would be established. This would be followed by a petition to the Minister of Lands for the initial creation of the Nyalugwe Conservation Trust and the vesting therein of the Chilinga Reserve, followed by other land considered suitable for development.

Once ZAWA had cleared the way for the game ranch, then Gamefields – under an agreed set of conditions, terms and payments – would rent such land for game ranching purposes. Moreover, with the Landsafe Foundation, it would assist the Trust to enter into co-management agreements with the Nyalugwe CRB over wildlife and the GMA, and with the Departments of Fisheries, Forestry and Water Affairs. Subsequently, on 24 April 2009, the Nyalugwe Conservation Trust received its registration certificate from the Registrar of Societies; and on 25 June 2009, the Minister of Lands signed the certificate incorporating the Trust under the Lands (perpetual succession) Act.

In July, ZAWA completed an 'ecological survey' of the ranch, as well as a 'sociological scoping exercise'. It has now notified the Ministry of Tourism that they consider the game ranch as part of the national inventory of game ranches.

### **16 EXPECTED OUTCOMES**

These conform to the projected Outcomes for Luembe.

### **17 PLANNED OUTPUTS AND ACTIVITIES TO ACHIEVE OUTCOMES (REFER TO SECTION 7)**

**OUTPUT 1:** Formalisations

**Activity 1:** Petition to Minister of Lands for registration under Lands (perpetual succession) Act of the Nyalugwe Conservation Trust, with the Chilinga community game ranch land vested in the Trust. Deposit certificate of incorporation and details of vested land with the Registrar of Deeds and Lands.

**Activity 2:** Registration with ZAWA of the Chilinga community ranch.

**Activity 3:** Signing of contract with an investor for the use of the Chilinga Community game ranch land.

**Activity 4:** Vesting of unutilised land in the Trust.

**Activity 5:** Registration of other ranches in the Nyalugwe Open Area.

**Activity 6:** Signing by the Trust of co-management agreements with Government over fisheries, forestry, water and wildlife.

**Activity 7:** Conversion of Nyalugwe section of West Petauke GMA into a co-managed wildlife area.

**OUTPUT 2:** Nyalugwe development



- Activity 1: Preparation by the partners of a Nyalugwe landuse plan.  
Activity 2: Preparation of investment project plans and proposals.  
Activity 3: Basic needs assessment in respect of education, health, agriculture and environment.

## 18 CONSTRAINTS TO PROGRESS

Progress in Nyalugwe is excellent with the full support of the chief, the Nyalugwe Trustees and local ZAWA and forestry officials. The chief and the Trust, with the support of local ZAWA officials, are electing a new CRB, whose Chairman will have a seat on the Nyalugwe Board of Trustees. However, the cost of progress is high, given the slow pace at which the process progresses..

## PART III: Conservancy expansion: the Central African Transfrontier Conservation Area (CATCA)

### 19 BACKGROUND

Trans-boundary conservation and development initiatives are essential to the development of a critical mass of integrated conservation and development projects, as recognised at the World Summit on Sustainable Development. As isolated development and tourism projects are prone to failure, linking them within a geographic and planning framework, will lend greater chances of progress.

Given the need for the building of critical conservation and development mass, a proposed CATCA area which takes in part of the Congo Pedicle, the Bangweulu estuaries and National Parks, joined with the Luangwa was mooted in the Landsafe process. At present, the proposed Zambian portion of the CATCA has one major tourist node at Mfuwe, isolated development projects and few linkages of any sort. This area covers one of Africa's major wetlands, the upland source of the Congo and Luangwa rivers and the southern part of Africa's rift valley, an area of major historical and biodiversity importance. Endeavours to bring development to local communities have been attempted in isolation and have not led to sustainable development. It is therefore proposed to create the CATCA as a planning framework, requiring the following:

- i) Engage with all relevant stakeholders so as to secure the needed partnerships and linkages.
- ii) Create a CATCA Association.
- iii) Create and formalise the necessary community institutions on which development may be based.
- iv) Identify projects for presentation to investors and donors.
- v) Alleviate poverty through investment in integrated conservation and development programmes and projects which provide clear time frames for delivery.
- vi) Promote public private partnerships, investment and management.
- vii) Provide support to institutional capacity.
- viii) Engender political will and support.
- ix) Provide accurate, analytical and unbiased information.

## 20 EXPECTED OUTCOMES

A minimum conservation area requirement could be the establishment of a Central Africa TFCA. This would include the north-eastern portion of the Zairean pedicle lying between Kapalala on the Luapula, and south along the Muniengashi River, thence due east through Kimaki to the border (alternatively, the original proposal of the Serenje District Commissioner, J.S. Moffat in 1937 that efforts be made to persuade the Belgians to declare the area between the Luombwa and Luapula rivers a reserve, to join up with the Kasanka reserve) - given the use made of the areas by elephant; the Mansa and Kalasa Mukosa GMAs, Kasanka, Lavushi Manda and Isangano National Parks, attendant GMAs and communal areas; the plateau area lying east of the Great North Road bordering the North and South Luangwa National Parks and the M'nyamadzi Corridor; the Luangwa Rift down to the Zambezi and Mozambique, including the Chisomo, Sandwe, West Petauke, Luano and Rufunsa GMAs, and the chiefdom Open Areas. The AWF Zambezi Heartlands Project has already obtained the agreement of Zambia, Mozambique and Zimbabwe for a TFCA, though it only extends as far as the Rufunsa GMA and Mozambique lying opposite the Nyalugwe Chiefdom. It is proposed that Nyalugwe is essential as the bridge to a future CATCA, and perhaps a vast elephant and people commons of the future.

The development of the customary areas by way of the Landsafe formalisation path, and the increasing participation of customary communities in the management and benefit flows from the GMAs and the National Parks system would produce a mosaic of investor-customary community partnerships based on sound co-management agreements, rather than the present approach of the privatisation of massive parts of the wildlife estate, or simply the avoidance of any kind of development and investment support at all.

### **PART IV: Critical analysis comparing Landsafe theory to practice**

Current critical analysis theory regarding the Sustainable Livelihoods Approach (SLA) seeks to measure the progress of development projects. SLA suggests the following areas for measurement: Natural Capital (natural resources and environmental services), Social Capital (social relations and networks), Human Capital (skills, knowledge, labour), Physical Capital (infrastructure) and Economic Capital. However a preview of SLA concluded that:

...putting SLA into practice is not as easy as it may so often appear, and there are many overlaps with the problems long-reported of making policy in general more evidence-based. Surprisingly there are relatively few reported attempts to take a more critical stance as to the feasibility of SLA and its ability to help deliver real change for people in the developing world (Morse et al. 2009).

Landsafe has not yet achieved much in measurable terms on the ground, and being a programme, rather than a project, SLA assistance must await future developments. However, as far as the theory and objectives of Landsafe is concerned – when compared with the present situation, a brief critical analysis reveals the following:



THEORY	PRACTICE
1. Chiefs will sign up for Landsafe because they believe it will benefit them and their people.	Chiefs Luembe and Nyalugwe and their headmen have signed up for Landsafe.
2. Chiefs will support the establishment of chiefdom statutory trusts that are elected and which represent all the villagers.	Chief Luembe at first refused formation of a people's society – through the Office of the President - when the villagers attempted to do it themselves, without his permission.
3. Chiefs and their headmen will agree to vest land in these trusts provided it is not being alienated.	Chief Luembe not as yet, Chief Nyalugwe agreed.
4. Chiefs and their people will not opt for land alienations to 99-year leasehold.	Chief Luembe did so (to a local Big Man), despite having agreed to place land in the Luembe Trust under usufruct.
5. The Societies Act and the Lands (perpetual succession) Act will provide a mechanism to secure the land without political interference.	As it is in the village residents' Trust, it is assumed so far that it is safe.
6. Chiefdom Trust fund accounts may be secured, with the chief having no control over them.	Nyalugwe Fund is secure under a Gamefields signatory. The villagers are very happy about this.
7. Any expenditure will have the full agreement of all trustees.	Yes, in Nyalugwe. Luembe still does not have a fund set up.
8. Chiefs will support the appointment of a chiefdom advisory committee to advise on appropriate development and livelihoods improvement.	This is supported, though it is yet to be done.
9. The land now vested in the trusts may now be leased out.	Nyalugwe – yes.
10. The lessee rights will be respected by government, the chiefs and by the Trusts.	The rule of law is weak, with investors who threaten the patrimonial system being deported.
11. The land leased will have very strictly defined uses, and will not bar villagers who have traditional access to the land from continuing to extract resources and have usage of it for cultural purposes – including hunting.	Included in the lease document, to be overseen by the Trust, the Advisory Committee and the chiefs.
12. The chief will support a land registration exercise and the keeping of headmen land registration books.	This is taking place in Nyalugwe.
13. The pre-colonial guardians of nature and tenure will be allowed to re-assert themselves.	So stipulated in the lease.
14. Bottom-up co-management agreements with the government departments responsible for wildlife, fisheries, forestry and water will not have precedence over traditional guardians of nature or current local Big Men networks that are functioning efficiently.	Co-management agreements for fisheries and for some species of game not protected must allow for traditional guardian rights. This stage is yet to be reached.
15. Government departments will actually sign the	ZAWA has signed over rights for game ranching in



THEORY	PRACTICE
<p>necessary agreements and will allow the Chiefdom Trusts to have a great deal of autonomy.</p>	<p>an area outside of the GMA. The matter of hunting quota re-assignment is yet to be dealt with.</p>
<p>16. ZAWA will sign co-management agreements over GMAs.</p>	<p>In Nyalugwe this is being negotiated, but held up by ZAWA HQ failing to pay the CRB and now threatening the Gamefields facilitator. ZAWA district officials are co-operating.</p>
<p>17. ZAWA will co-operate with regard to the election and functions of CRBs.</p>	<p>Yes, in Nyalugwe. In Luembe they summarily removed a CRB who were in support of the author after having revealed ZAWA corruption.</p>
<p>18. ZAWA will decentralise powers to the CRBs - as provided for in the Wildlife Act.</p>	<p>This is in process, but it is arduous.</p>
<p>19. ZAWA will respect the terms of HCA agreements.</p>	<p>ZAWA does not respect any legal process when it suits them.</p>
<p>20. ZAWA will provide scientifically acceptable quotas for commercial as well as villager use.</p>	<p>They will do so only if it does not affect their income.</p>
<p>21. ZAWA and other government departments will fully consult with Chiefdom Trusts and the villagers over any intended changes to policy or legislation affecting the resources.</p>	<p>Highly unlikely.</p>
<p>22. Government will support de-centralisation.</p>	<p>Only if they benefit financially and it does not threaten the patrimonial system.</p>
<p>23. Government will support the establishment of a National Fund into which 25% of all revenue from mining is paid, and from which dividends are paid in a wholly transparent manner.</p>	<p>Will be dealt with only on the election of a new government in August 2011. Highly likely that they will do so as they have suggested something similar already.</p>
<p>24. The issue of externalities and environmental services will be dealt with such that the rights, clearly defined, may be auctioned off to mining companies.</p>	<p>To be dealt with in 2011.</p>
<p>25. Government will support the decisions of Chiefdoms and their Trusts for a ban on mining - such as uranium extraction.</p>	<p>Unlikely.- yet thus far they have not taken on chiefdoms who have refused.</p>
<p>26. Government or the President will not appropriate customary land and award it to corporates or other land grabbers.</p>	<p>They will appropriate unless Trusts are in place to protect the land.</p>

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## 22 APPENDICES

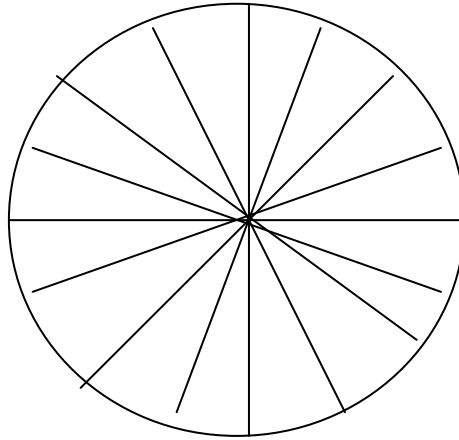
- Appendix 1: Nyalugwe hunting block quotas, fees and potential earnings**
- Appendix 2: Landsafe Njinga reports**

### Appendix 1: Nyalugwe hunting block quotas, fees and potential earnings

	2004	2005	2006	2007	2008	2009	SAFARI LICENCE FEES	MAXIMUM POSSIBLE EARNINGS FROM QUOTA	NYALUGWE POSSIBLE EARNINGS FROM QUOTA 2009	NYALUGWE PROJECTED EARNINGS BASED ON 40% UTILISATION OF QUOTA in 2009	ACTUAL EARNINGS IN 2008
<b>Baboon</b>	6	6	6	6		6	60	360	180		90
<b>Buffalo</b>	4	6	6	6		5	1600	8000	4000		
<b>Bushbuck</b>	4	4	4	4		2	380	760	380		380
<b>Bushpig</b>	4	2	3	2		1	320	320	160		
<b>Crocodile</b>	4	5	5	5		2	1600	3200	1600		800
<b>Duiker C.</b>	2	2	2			2	350	700	350		
<b>Grysbok</b>	2	2	2	2		2	250	500	250		
<b>Hartebeest</b>	2	2	2	2		1	780	780	390		
<b>Hippo</b>	4	6	4	6		4	1600	6400	3200		800
<b>Hyena</b>	3	2	4	4		1	250	250	125		
<b>Impala</b>	5	6	8	10		10	120	1200	600		120
<b>Klipspringer</b>	3	2	2	2		1	680	680	340		
<b>Kudu</b>	4	2	3	4		3	1600	4800	2400		1600
<b>Leopard</b>	2	2	2	2		3	2650	7950	3975		1325
<b>Lion</b>	2	2	1	2		2	4200	8400	4200		
<b>Puku<sup>149</sup></b>											210
<b>Roan</b>	4	2	2	1		1	4000	4000	2000		
<b>Warthog</b>	4	3	6	6		5	360	1800	900		
<b>Waterbuck C</b>	4	3	3	3		3	840	2520	1260		
<b>Zebra</b>	3	2	4	4		2	720	1440	720		
<b>TOTAL US\$</b>								54060	27030	10812	6425

<sup>149</sup> Puku were not on quota; therefore poached?

## Appendix 2: Landsafe Njinga reports



### SPOKES

1. **Health:** villagers health and current problems and diseases; distance and name of nearest clinic; presence of health and traditional birth assistant, medicines etc and costs of treatment; supply and use of mosquito nets.
2. **Food security:** crops being grown with/without fertiliser and insecticides; harvests; food storage and shortages; outgrower schemes; relationship with outgrowers; income; food aid.
3. **Education:** schools; names, number of pupils and teachers; state of school and staff housing; text books; pupils at secondary school; payments by parents.
4. **Water:** drinkable water situation.
5. **Wildlife:** common animals in area; animal effects on people, crops etc; problem animals; bushmeat poaching by outside gangs; ivory poaching; animals shot by safari hunters.
6. **Honey:** Number of villagers harvesting; where do they sell; at what price?
7. **Fish:** Villager numbers who fish; fish increasing or decreasing; selling of fish at what price?
8. **GRZ:** Visited by government officials, when and by whom?
9. **Nyimba:** how do you get to Nyimba and back?
10. **Employment** in area.
11. **Clans in area.**
12. **Headmen** and villages in area.
13. **Development:** what development would villagers like to see in area?
14. **Woman and youth:** their problems and the opportunities.
15. **Safari companies:** what do they think of them?
16. **Relations** with ZAWA.
17. **Weather:** floods and droughts.





## **PRINCIPAL RECOMMENDATIONS**

## 1 COMMON-PROPERTY TRUSTS (THE CHIEFDOMS)

The principal task is for government to provide the necessary policy and legislative framework making customary common property rights unassailable. In this, common property rights are fully assigned over land and renewable natural resources to responsible guardians, i.e. the chiefdoms, on behalf of all Zambians for customary land over all the natural resources except mining, which is dealt with through the proposed Zambia Permanent Fund. They, through their Trusts, then control market environmentalism, the chiefdoms having had the property rights to them fully assigned. They therefore internalise the negative externalities (costs) of pollution or over-harvesting, charging the necessary fees to concessionaires through an auction system.<sup>150</sup> Government must therefore recognise *public goods* and *ecosystem services* as things of considerable value. Such services cannot under any circumstances be privatised, but are to be held under common property by the chiefdom trusts on behalf of the people.

## 2 THE ZAMBIA PERMANENT FUND

Following the example of the state of Alaska, the Zambian Government elected in 2011 should establish the Zambia Permanent Fund with legislation affirming that 75 percent of all mining royalties be paid to government as a replacement for taxes, and 25 percent paid to the Zambia Permanent Fund. Annually, dividends would be paid to the registered residents of the chiefdoms in the form of a living grant to heads of families resident in the villages, the balance - being subject to a means test - paid to those living outside of the chiefdoms. As a *quid pro quo*, chiefdom residents would be responsible for the protection of the renewable natural resources, following a Landsafe or similar landuse plan supervised by their Trust and their customary authority. It is critical to this exercise that the mining compradors and any corrupt politicians overseeing the mining taxes are sidelined, so that mining taxes reflect international financial reality.

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<sup>150</sup> BARNES, PETER. 2006. *Capitalism 3.0: A guide to reclaiming the commons*. Berrett-Koehler Publishers, San Francisco.



## **ADDENDA**

## **Addendum 1: Landsafe forms**

- Form 1: MoU: Establishment of a Landsafe Chiefdom Conservancy
- Form 2: Landuser rights cession: customary authority to chiefdom society
- Form 3: Petition to the Minister of Lands
- Form 4: Community application for a CRB to the Zambia Wildlife Authority
- Form 5: MoU: wildlife co-management agreement between a Chiefdom Landsafe Trust and a Community Resource Board
- Form 6: Community Resource Board game quota application to ZAWA
- Form 7: Game quota cession by CRB to a Trust
- Form 8: Application for registration of a Community Game Ranch by a Chiefdom
- Form 9: Conservancy land-use planning template
- Form 10: Game Management Area co-management agreement between a chiefdom Trust and a Community Resource Board
- Form 11: Application for the co-management of an adjoining National Park by a CRB to ZAWA
- Form 12: MoU for a Joint Management Agreement for chiefdom forests
- Form 13: MoU for a Joint Management Agreement for gazetted forest
- Form 14: MoU for a Joint Management Agreement with the Fisheries Department
- Form 15: Community application for a Fisheries Management Committee
- Form 16: MoU for a co-management agreement with the Department of Water Affairs
- Form 17: Chiefdom landuser rights assignment under Lands (perpetual succession) Act
- Form 18: Chiefdom landuser cession to Trust Company (limited by guarantee)
- Form 19: Project proposal template



# Landsafe

## Form 1: MoU: Establishment of a Landsafe Chiefdom Conservancy

### 1 PARTIES

This document constitutes an agreement between Chief.....  
of the .....Chiefdom, and a Landsafe facilitator..

### 2 PURPOSE

The purpose of this agreement is for the Chief, with the assistance of the facilitator, to agree to the establishment of a Landsafe Chiefdom Conservancy.

### 3 MUTUAL INTEREST OF THE PARTIES

The Chief, who is entrusted with the care and development of the land and people of the chiefdom, needs to have the necessary support so that the land and natural resources may be co-managed with Government and the lives of the customary community improved.

The facilitator wishes to assist the chiefdom in the establishment of the Landsafe conservancy system for Chiefdoms so as to encourage investment in the chiefdom.

### 4 SUBSTANCE OF AGREEMENT

The parties agree, in principle, to fully explore the possibilities of establishing a Landsafe conservancy in future that will incorporate all of the .....Chiefdom held under customary tenure for an initial period of six months, by which time formalisation procedures should have begun.

Name: **For Customary Authority: Chief** .....

**Date:** \_\_\_\_\_ **at** \_\_\_\_\_

**Signature:** \_\_\_\_\_

Name: **Landsafe Facilitator** .....

**Date:** \_\_\_\_\_ **at** \_\_\_\_\_

**Signature:** \_\_\_\_\_

Name: **Witness** .....

**Date:** \_\_\_\_\_ **at** \_\_\_\_\_

**Signature:** \_\_\_\_\_



## Landsafe

### Form 2: Landuser rights cession: Customary Authority to Chiefdom Society

<p><b>1 PARTIES</b> This document constitutes an agreement between the ..... Customary Authority responsible for land held under customary tenure known as.....and the ..... Society, appointed as custodian of the said chiefdom lands and due to petition the Minister of Lands for incorporation under the Lands (perpetual succession) Act CAP 186 of the Laws of Zambia.</p>	
<p><b>2 PURPOSE</b> The purpose of this agreement is for the Customary Authority to grant the <b>‘right to use and occupation of land under customary tenure’ (Lands Act of 1995: Section 8(3))</b>, for the following land.....under its authority to the ..... Society in which the Customary Authority (chief and headmen) is represented.</p>	
<p><b>3 MUTUAL INTEREST OF THE PARTIES</b> The .....Society is in existence to oversee the development of the conservancy and its management. Its objectives are:</p>	
<p>i) To safeguard customary land and its associated protected areas ii) To strengthen the traditional authority and encourage the democratic structures iii) To conserve the wildlife and natural resources for the benefit of the chiefdom iv) To provide a land and business management plan for the appropriate development of chiefdoms, one that fully respects the ecology and the traditional, cultural and religious norms v) To facilitate chiefdom institutions that may enter into co-management agreements with Government over land and renewable natural resources, in conformity with the prescriptions of the Fisheries Act Chapter 200 of the Laws of Zambia of 1974 and the Fisheries (Amended) Act of 2007, The Forestry Act No. 39 of 1973, Forestry Policy of 1998, the Forestry Act No. 7 of 1999, the Local Forests (Control and Management) Regulations,</p>	<p>Statutory Instrument No. 47 of 2006, the Lands Act Chapter 184 of the Laws of Zambia of 1995, the Water Act Chapter 198 of the Laws of Zambia of 1948 and the Zambia Wildlife Act No. 12 of 1998 vi) To provide the necessary incentives for both investors and the chiefdom to enter in to mutually beneficial partnerships and investments vii) To identify, propose and facilitate small businesses able to harvest natural resources viii) To establish a development trust fund and the implementation of development projects required by the customary community ix) To foster education in the chiefdom’s history, culture and religion, and in its ecology. x) To foster conservation agriculture, health and education</p>



*Form 2 - continued*

**4 SUBSTANCE OF AGREEMENT**

The ..... Customary Community agrees to cede to its Society, the usufruct rights to the ..... Chiefdom.

<p><b>Name: For Customary Authority: Chief</b>          .....</p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p> <p><b>Name: For Customary Authority: Headman</b>          .....</p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p> <p><b>Name: For Customary Authority: Headman</b>          .....</p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p>	<p><b>Name: For District Council Representative</b>          .....</p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p> <p><b>Name: or Representative CRB</b>          .....</p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p> <p><b>Name: For Representative Customary Community Society</b>          .....</p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p> <p><b>Name: For Landsafe Facilitator</b>          .....</p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p>
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## Landsafe

### Form 3: Petition to the Minister of Lands

#### COMMUNITY TRUST INCORPORATION

#### PROPOSED TRUST DEED THE ..... TRUST

**THIS TRUST DEED** is made the \_\_\_\_\_ day of \_\_\_\_\_ Two Thousand and Three by  
.....residents of the  
.....Customary Authority, .....District of the Republic of Zambia (hereinafter called “the original Trustees”) which expression shall where the context so permits include the trustees for the time being of this Deed)

#### **WHEREAS**

- (1) The original Trustees Indianred to declare a trust for the purposes hereinafter specified
- (2) The cash sum of Kwacha 1,000,000 has been paid to the original Trustees to be held by them on the trusts to be declared hereby and it is contemplated that further monies will be paid or transferred to the Trustees for the time being of this Deed to be held on the same trusts.

**NOW THIS DEED WITNESSETH** and **IT IS HEREBY AGREED AND DECLARED** as follows: -

1. The Trust hereby constituted shall be called the \_\_\_\_\_ **TRUST** (hereinafter called “the Trust”) and shall be registered under the Land (Perpetual Succession ) Act (Cap. 186 of the Laws of Zambia)
2. Its mission is to actively support the conservation of the natural resources of the Customary Authority for the benefit of its human residents. In this Deed Unless the context otherwise require :-
  - (a) “Trustees shall mean the original Trustees or other Trustees hereof for the time being
  - (b) “ the Trust Fund “ shall mean:-
    - (i) the said cash sum hereinbefore recited;
    - (ii) all property money invested or other assets at any time or times hereafter paid or transferred to or otherwise vested in the trustees to be held on trusts hereby declared; and
    - (iii) the property for the time being representing the sums property investments money and other assets referred to in the sub-paragraphs (i) and (ii) of this sub-clause and of accumulation of income or capital and any accretion or other addition derived there from
  - (c) “ the Trust Assets” shall mean such assets as the Trustees may decide to acquire pursuant hereto
3. **The trust shall be a non-profit making organisation and the objects of the Trust shall be: -**
  - (1) To support and advise the .....Customary Authority in the sustained management of the land and natural resources in its custody
  - (2) To liaise with Government – in close consultation with the Customary Authority, on all matters affecting natural resource use
  - (3) To provide the Customary Authority with a land-use development plan
  - (4) To advise the Customary Authority in its negotiations and participation in joint-venture investments affecting land-use and biodiversity conservation; and to be represented on the boards of any such joint-venture companies which may be established as a result
  - (5) In conformity with the prescriptions of the Fisheries Act Chapter 200 of the Laws of Zambia of 1974, The Forestry Act No. 39 of 1973 – and when repealed, the Forestry Act No. 7 of 1999, the Lands Act Chapter 184 of the Laws of Zambia of 1995, the Water Act Chapter 198 of the Laws of Zambia of 1948 and the Zambia Wildlife Act No. 12 of 1998, to fully comply with the opportunities, responsibilities and obligations enunciated therein
  - (6) To foster partnership supports from civil-society organisations and donors in supporting the optimum natural resource and human development in the area
  - (7) To identify, propose, facilitate funding and implementation, of integrated conservation and development projects within the chiefdom.





*Form 3 - continued*

- (8) To promote effective communication and co-ordination between all the role-players.
- (9) To obtain all the necessary information, legal and otherwise, which will allow it and the Customary Authority to best serve the interests of the area and its human community
- (10) To foster education in traditional knowledge, the ecology and biodiversity conservation.

Etc... etc... etc.

- 4. **This deed shall not be amended, altered or added to except by special resolution passed by a Two-Thirds majority of the board of Trustees at a special general meeting convened for that specific purpose, and which notice of the meeting shall specify the nature of the alteration or amendment. Any such alteration or amendment may thereafter be affected by the trustees providing always that such alteration, addition or amendment does not constitute any revocation of the trust or its terms, and provided it does not constitute a right of conferring the Trust Fund, the income or any portion thereof; otherwise than for the objects of the Trust as hereinbefore set out, and provided further that the capital and/or income of the Trust shall always be used for the purposes and objects of the Trust as set out in Clause Three (3) hereof.**
- 5. **The Trust shall be a body of perpetual succession and the Trustees or their successors shall not have the right or power to terminate the Trust. Notwithstanding, however, that the Trust is created in perpetuity, all the remaining movable assets of the trust (in the event of the Trust being terminated for any reasons whatsoever) shall be distributed to any independent organisation with similar objectives within Zambia to be determined by Two Thirds of the Trustees Board at or before the time of dissolution, which bodies or organisation are themselves exempt from the payment of income tax.**

**IN WITNESS** whereof the parties hereto have hereunto set their hands and seals the day and year first before written.

<p><u>SIGNED, SEALED and DELIVERED</u></p> <p>by the said .....</p> <p>in the presence of: .....</p> <p><u>WITNESS:</u></p> <p>Name: .....</p> <p>Address: .....</p> <p>Occupation: .....</p>	<p><u>SIGNED, SEALED and DELIVERED</u></p> <p>by the said .....</p> <p>in the presence of: .....</p> <p><u>WITNESS:</u></p> <p>Name: .....</p> <p>Address: .....</p> <p>Occupation: .....</p>
<p><u>SIGNED, SEALED and DELIVERED</u></p> <p>by the said .....</p> <p>in the presence of: .....</p> <p><u>WITNESS:</u></p> <p>Name: .....</p> <p>Address: .....</p> <p>Occupation: .....</p>	<p><u>SIGNED, SEALED and DELIVERED</u></p> <p>by the said .....</p> <p>in the presence of: .....</p> <p><u>WITNESS:</u></p> <p>Name: .....</p> <p>Address: .....</p> <p>Occupation: .....</p>
<p><u>SIGNED, SEALED and DELIVERED</u></p> <p>by the said .....</p> <p>in the presence of: .....</p> <p><u>WITNESS:</u></p> <p>Name: .....</p> <p>Address: .....</p> <p>Occupation: .....</p>	<p><u>SIGNED, SEALED and DELIVERED</u></p> <p>by the said .....</p> <p>in the presence of: .....</p> <p><u>WITNESS:</u></p> <p>Name: .....</p> <p>Address: .....</p> <p>Occupation: .....</p>
<p><u>SIGNED, SEALED and DELIVERED</u></p> <p>by the said .....</p> <p>in the presence of: .....</p> <p><u>WITNESS:</u></p> <p>Name: .....</p> <p>Address: .....</p> <p>Occupation: .....</p>	<p><u>SIGNED, SEALED and DELIVERED</u></p> <p>by the said .....</p> <p>in the presence of: .....</p> <p><u>WITNESS:</u></p> <p>Name: .....</p> <p>Address: .....</p> <p>Occupation: .....</p>



# Landsafe

**Form 4: Community application for a CRB to the Zambia Wildlife Authority  
(in terms of the Wildlife Act of 1998: Part 3 of Act no. 12)**

<i>DATE</i>	
<b>CUSTOMARY AUTHORITY</b>	
<b>DISTRICT</b>	
<b>PROVINCE</b>	
<b>GAME MANAGEMENT AREAS</b>	
<b>OPEN AREAS</b>	
<b>NATIONAL PARKS</b>	
<b>NATIONAL FOREST</b>	
<b>LOCAL FOREST</b>	
<b>ALIENATED LAND</b>	
<b>ELECTED MEMBERS</b>	
<b>Chairman</b>	
<b>Chief's rep.</b>	
<b>Co-ordinator</b>	
<b>Member</b>	
<b>Member</b>	
<b>Member</b>	
<b>Member</b>	
<b>Member</b>	
<b>Member</b>	
<b>Member</b>	
<b>Member</b>	
<b>REGISTRATION NAME</b>	
<b>APPLICANT</b>	<b>NAMES</b> <b>SIGNATURES</b>
<b>Chief</b>	..... _____
<b>Chairman District Council</b>	..... _____
<b>Chairman CRB</b>	..... _____
<b>ZAWA APPROVAL For Director-General</b>	
<b>Date:</b> _____	



# Landsafe

## Form 5: MoU: Wildlife Co-Management Agreement between a Chieftom Landsafe Trust and a Community Resource Board/ZAWA

### 1 PARTIES

This document, proposes an agreement between the.....Trust and the .....Community Resource Board (CRB)/ZAWA

### 2 PURPOSE

For the CRB/ZAWA and the Trust to develop a co-management agreement for the ..... chieftom whereby the Trust is given sole user rights - under certain conditions - to wildlife.

### 3 BACKGROUND

As allowed under the Wildlife Act of 1998: Part 3: (7) 2: the elected chieftom CRB being empowered to promote and develop an integrated approach to the management of human and natural resources in a Game Management Area or an open area falling within its jurisdiction and with the power to:

- i) negotiate, in conjunction with ZAWA, co-management agreements with hunting outfitters and photographic tour operators;
- ii) manage the wildlife under its jurisdiction, within quotas specified by the ZAWA;
- iii) appoint Village Scouts to exercise and perform the duties of a wildlife police officer under the supervision
- iv) in consultation with the ZAWA, develop and implement management plans which reconcile the various uses of land in areas falling under the board's jurisdiction;
- v) perform such other functions as ZAWA may direct or delegate to it.

### 4 THE PRINCIPLES

The parties to abide by the following principles in the development of a contract:

- i) The CRB to take on the Trust as its exclusive partner in the management of the wildlife resources, agreeing not to issue hunting licences or any other rights of access to any other person or organisation.
- ii) The Trust agrees to conserve the wildlife resources and to follow a management plan agreed to by the parties and approved by ZAWA.
- iii) The Trust will oversee the equitable sharing of benefits between the chieftom and ZAWA and the CRB.
- iv) To jointly provide a management plan, approved by ZAWA.

### 5 MUTUAL INTEREST OF THE PARTIES

To ensure the conservation of the wildlife and its sustained use for the benefit of the customary community.

### 6 AGENCY RESPONSIBILITIES

To jointly ensure the socio-ecological conservation of the Chieftom:

- i) The Trust has the responsibility for seeing that an agreed management plan for the area is implemented
- ii) The CRB is responsible for carrying out its mandate as laid out in the Wildlife Act with the full support of ZAWA
- iii) The CRB/ZAWA to give exclusive use of the wildlife resources to the Trust



*Form 5 – continued*

**7 SHARED CONCERNS**

The Parties share a common concern for the conservation of wildlife and the welfare of the customary community agree to share information of mutual concern.

**8 EXPECTED OUTCOMES**

- i) The protection of a national asset
- ii) The scientifically managed sustained use of its wildlife resources
- iii) The protection of its biodiversity
- iv) A stable and increasing source of income for communities
- v) A well managed area based on sound conservation principles
- vi) Support to GRZ policies of de-centralisation, as well Government policies concerning decentralisation and PPPs

**9 STANDING COMMITTEE**

To facilitate the implementation of this agreement, the cooperating agencies each agree to designate a liaison officer to serve on a standing committee that will meet as needed. Matters for consideration by the standing committee are to include a review of each agency's participation in this agreement, an assessment of the agreement's effectiveness, and modifications that might be necessary. As appropriate, the committee will address urgent issues and specific cases of serious non-compliance.

**Chairman CRB** .....

**Date:** \_\_\_\_\_ **at** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Name: Chairman of Trust** .....

**Date:** \_\_\_\_\_ **at** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Name: Chief** ..... **Patron of CRB and Trust**

**Date:** \_\_\_\_\_ **at** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Name: FOR ZAWA**.....

**Date:** \_\_\_\_\_ **at** \_\_\_\_\_

**Signature:** \_\_\_\_\_



# Landsafe

## Form 6: Trust Game Quota application to ZAWA

SPECIES	#	DISTRICT LICENCE	ESTABLISHED RESIDENT	COMMUNITY GAME QUOTA	TOTAL
Buffalo					
Bushbuck					
Crocodile					
Duck & Geese					
Duiker B C Y					
Eland					
Game birds					
Grysbok					
Hartebeest					
Hippo					
Hyena					
Impala					
Jackal					
Klipspringer					
Kudu					
Lechwe Black					
Lechwe Red					
Lechwe Kafue					
Leopard					
Lion					
Oribi					
Puku					
Reedbuck					
Roan					
Sable					
Sitatunga					
Steenbok					
Tsessebe					
Warthog					
Waterbuck E D					
Wildebeest C B					
Zebra					

<p>.....TRUST CHAIRMAN</p> <p>.....Patron</p> <p>.....FOR ZAWA</p> <p>DATE: _____</p> <p>FOR .....SEASON</p>	<p>SIGNATURES</p> <p>_____</p> <p>_____</p> <p>_____</p>
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# Landsafe

**Form 7: Game Quota cession by Trust to the investor  
(in terms of the Wildlife Act of 1998: Part 3: (7) 2a of Act no. 12)**

QUOTA		MEAT HUNTING						TROPHY		T
SPECIES	#	DISTRICT RESIDENT		GMA RESIDENT		CITIZEN/ ESTAB RESIDENT		SAFARI CLIENT		
		GMA	OPEN	GMA	OPEN	GMA	OPEN	GMA	OPEN	
Baboon										
Buffalo										
Bushbuck										
Crocodile										
Duiker B C Y										
Eland										
Game birds G F										
Grysbok										
Hartebeest										
Hippo										
Hyena										
Impala										
Jackal										
Klipspringer										
Kudu										
Lechwe Black										
Lechwe Red										
Lechwe Kafue										
Leopard										
Lion										
Oribi										
Puku										
Reedbuck										
Roan										
Sable										
Sitatunga										
Steenbok										
Tsessebe										
Warthog										
Waterbuck E D										
Wildebeest C B										
Zebra										
.....CRB CHAIRMAN .....CRB Patron .....ZAWA: DG. Date: _____						SIGNATURES _____ _____ _____				



# Landsafe

## Form 8: Application for registration of a Community Game Ranch by a Chiefdom

1. Chiefdom:.....
2. Open area/Game Management Area:.....
3. District:.....
4. Location:.....
5. Boundaries.....
6. Area (approximate).....

We, the .....Trust do hereby make application for the registration of our designated area as a Community Game Ranch, and, subject to the erection of fencing suitable to yourselves, the transfer of the ownership of designated game species to ourselves, to be managed for the benefit of our community.

Name: **Chairman** .....

**Date:** \_\_\_\_\_ **at** \_\_\_\_\_

**Signature:** \_\_\_\_\_

Name: **Secretary** .....

**Date:** \_\_\_\_\_ **at** \_\_\_\_\_

**Signature:** \_\_\_\_\_

Name: **Chief** .....

**Date:** \_\_\_\_\_ **at** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Attached documents:** Trust Certificate of Incorporation and list of Trustees; landuser rights cession document and list of headmen signatories; certificate of land vestment under the Lands (perpetual succession) Act; list of headmen, signatories and minutes of game ranch application, including District Council, the CRB and local ZAWA office.



## Landsafe

### Form 9: Conservancy land-use planning template

<b>1 INTRODUCTION</b>			
1.1	Reasons for the conservancy development	3.2.1.1	Proposed food security programme
1.2	Aims and objectives	3.2.1.2	Methods of cultivation
		3.2.1.3	Livestock programme
<b>2 PRESENT SITUATION</b>		3.2.1.4	Irrigation programme
2.1	Physical data	3.2.1.5	Cost/profit analysis
2.1.1	Area and situation	3.2.1.6	Credit facilities
2.1.2	Soils and vegetation	3.2.1.7	Transport and marketing
2.1.3	Water resources	3.2.2	Conservancy members use
2.1.4	Livestock potential	3.2.2.1	Camp rentals
2.1.5	Irrigation potential	3.2.2.2	Vehicle roaming
2.1.6	Crop potential	3.2.2.3	Services
2.1.7	Wildlife potential	3.2.3	Hunting safaris
2.2	Socio-economic data	3.2.4	Tourism lodge-based
2.2.1	History of the area	3.2.4.1	Site leases
2.2.2	Demographic structure	3.2.4.2	Vehicle roaming
2.2.3	Existing land-use and land tenure	3.2.5	Tourism village-based
2.2.4	Type and level of animal and crop production	3.2.6	Tourism educational and scientific
2.2.5	Wildlife consumptive and non-consumptive use	3.3	Administration of the scheme
2.2.6	Sources and levels of income	3.3.1	Organisation
2.2.7	Market possibilities (local and regional)	3.3.2	Management
2.3	Existing social services	3.3.3	Staff requirements
2.3.1	Education	3.3.4	Labour requirements
2.3.2	Health	3.3.5	Form and conditions of contracts or agreements
2.3.3	Marketing and requisites supply	3.3.6	Fees and charges
2.3.4	Extension and services	3.4	Auxiliary services required
2.3.5	Transport and communications	3.4.1	Education
		3.4.2	Health and nutrition
		3.4.3	Community development
		3.4.4	Housing
		3.4.5	Repair workshops
		3.4.6	Transport
<b>3 PROPOSED CONSERVANCY SCHEME</b>		<b>4 ECONOMIC APPRAISAL</b>	
3.1	Physical Layout	4.1	Costs (capital and recurrent)
3.1.1	General plan total area	4.2	Returns
3.1.2	Type and size of enterprises	4.3	Cash flow budget
3.1.3	Roads	4.4	Social cost/benefit analysis
3.1.4	Clearing	4.5	Monitoring and evaluation
3.1.5	Fields fencing	<b>5 IMPACTS ASSESSMENT</b>	
3.1.6	Water supplies and irrigation	5.1	Short
3.1.7	Conservation works	5.2	Medium
3.1.8	Buildings sighting and layout	5.3	Long term
3.1.9	Lodge sites		
3.1.10	Camp sites		
3.1.11	Airstrips		
3.2	Conservancy Plan	<b>6 SUMMARY AND CONCLUSION</b>	
3.2.1	Agriculture		





## Landsafe

### Form 10: Game Management Area Co-Management Agreement between a Chiefdom Trust and a Community Resource Board/ZAWA

#### 1 PARTIES

This document, proposes an agreement between the..... Trust and the

.....Community Resource Board (CRB)/ZAWA

#### 2 PURPOSE

For the CRB/ZAWA and the Trust to sign a co-management agreement for the .....GMA, whereby the .....Trust is given sole user rights - under certain conditions – for the consumptive and non-consumptive use of wildlife with joint responsibility for biodiversity and community development.

#### 3 BACKGROUND

As allowed under the Wildlife Act of 1998: Part 3: (7) 2: the elected chiefdom CRB being empowered to promote and develop an integrated approach to the management of human and natural resources in a Game Management Area or an open area falling within its jurisdiction and with the power to:

- (a) negotiate, in conjunction with ZAWA, co-management agreements with hunting outfitters and photographic tour operators;
- (b) manage the wildlife under its jurisdiction, within quotas specified by the ZAWA;
- (c) appoint Village Scouts to exercise and perform the duties of a wildlife police officer under the supervision
- (d) in consultation with the ZAWA, develop and implement management plans which reconcile the various uses of land in areas falling under the board’s jurisdiction;
- (e) perform such other functions as ZAWA may direct or delegate to it.

#### 4 PURPOSE OF THIS AGREEMENT

That the .....Trust and the.....CRB jointly provide a management plan, approved by ZAWA, to manage the GMAs wildlife resources.

#### 5 THE PRINCIPLES

The parties to abide by the following principles in the development of a contract: The CRB to take on the.....Trust as its exclusive partner in the management of the GMAs wildlife resources....., agreeing not to issue hunting licences or any other rights of access to any other person or organisations. That the.....agree to conserve the wildlife resources and to follow a management plan agreed to by the parties and approved by ZAWA. The .....to oversee the equitable sharing of benefits between the.....chiefdom and the CRB/ZAWA. And that the Trust continue to pay such land rents, concession and licence fees as would normally be payable to ZAWA, to be shared with the CRB and the Chief according to an agreed formula.

#### 6 MUTUAL INTEREST OF THE PARTIES

To ensure the conservation of the wildlife and ecology of the GMA, and its continued sustained use for the benefit of local communities.



**Form 10 – continued**

**7 SHARED CONCERNS**

The Parties share a common concern for the conservation of wildlife and the welfare of the community in the GMA.

**8 SUBSTANCE OF AGREEMENT**

The cooperating agencies agree to share information of mutual concern and interest regarding this agreement.

**9 EXPECTED OUTCOMES**

- i) The protection of a national asset GMA
- ii) The scientifically managed sustained use of its wildlife resources
- iii) The protection of its biodiversity
- iv) A stable and increasing source of income for communities
- v) A well managed area based on sound conservation principles
- vi) Support to GRZ policies of de-centralisation, as well Government policies concerning decentralisation and PPPs

**10 STANDING COMMITTEE**

To facilitate the implementation of this agreement, the cooperating agencies each agree to designate a liaison officer to serve on a standing committee that will meet as needed. Matters for consideration by the standing committee are to include a review of each agency's participation in this agreement, an assessment of the agreement's effectiveness, and modifications that might be necessary. As appropriate, the committee will address urgent issues and specific cases of serious non-compliance.

<p>Name: <b>For Chairman:</b> ..... <b>Community Resource Board</b></p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p> <p>Name: <b>For Secretary Natural Resources</b> .....<b>CRB</b></p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p> <p>Name: <b>For Chairman of the</b> .....<b>Trust</b></p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p> <p>Name: <b>For District Council Representative</b></p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>	<p>Name: <b>For Chief</b> .....</p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p> <p>Name: <b>For Zambia Wildlife Authority</b></p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p> <p>Name: <b>For Chief</b>.....</p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>
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## Landsafe

### Form 11: Application for co-management of adjoining national park by Trust to ZAWA

#### 1 PARTIES

This document, proposes an agreement between the Zambia Wildlife Authority and the .....Trust

#### 2 PURPOSE

For the Trust and ZAWA to develop a co-management agreement for the .....section of the .....National Park.

#### 3 BACKGROUND

In 1950, the Kafue National Park was proclaimed as the first national park in the country by the Governor of Northern Rhodesia in April of that year, being 'set aside' within what was Native Trust Land. The Order in Council defining Trust Land stated, "land set apart for the sole use and benefit, direct or indirect, of the natives of Northern Rhodesia..." and further: "out of the profits or rents accruing from any area of native trust land set aside as a forest or game reserve... there shall... be paid first the expenditure necessarily incurred by the Government in connection with the said area, whether by maintenance, development or otherwise, and the balance shall be paid into the (Native Trust Land) Fund, or into the treasury of the native authority concerned, as the Governor shall direct".

In 1954, parts of Nsefu and Luambe were put aside as Game Reserve at the request of the chiefs for their people's benefit. They were later converted to National Park status.

#### 4 PURPOSE OF THIS AGREEMENT

That ZAWA, in the light of past historical agreements, and in the light of present PPP policy and the need for ZAWA to share responsibilities and benefits with chiefdoms in adjoining National Parks, that they agree to enter in co-management agreements for that section of National Park formerly part of a particular chiefdom.

#### 5 THE PRINCIPLES

That ZAWA agrees to have the .....Trust as a full partner in a public-private partnership for the co-management of the ..... portion of the ..... National Park. And that if an existing PPP is in force with investors, that all efforts be made to include the Trust in that agreement, but certainly to see that the Trust, and the community whose interests it represents, benefits from any commercial activities being carried out by investors in that section, this to include a share in any Tourism Concession Agreements (TCAs) in force.

#### 6 MUTUAL INTEREST OF THE PARTIES

To ensure the continued preservation of the .....National Park and the sustained benefit streams to the .....chiefdom.

**Form 11 – continued**

**7 AGENCY RESPONSIBILITIES**

- 7.1 ZAWA to ensure the historical rights of the .....chiefdom are respected in terms of benefit streams
- 7.2 The Trust to ensure that people of the chiefdom respect the National Park

**8 SHARED CONCERNS**

The Parties share a common concern for the protection of the National Park and the welfare of the chiefdom’s people.

**9 SUBSTANCE OF AGREEMENT**

The cooperating agencies agree to share information of mutual concern and interest regarding this agreement.

**10 EXPECTED OUTCOMES**

- i) The protection of the national park
- ii) A stable and increasing source of income for communities
- iii) A well managed chiefdom and national park based on sound conservation principles
- iv) Support to GRZ policies of de-centralisation, as well Government policies concerning decentralisation and PPPs

**11 STANDING COMMITTEE**

To facilitate the implementation of this agreement, the cooperating agencies each agree to designate a liaison officer to serve on a standing committee that will meet as needed. Matters for consideration by the standing committee are to include a review of each agency's participation in this agreement, an assessment of the agreement's effectiveness, and modifications that might be necessary. As appropriate, the committee will address urgent issues and specific cases of serious non-compliance.

<p>Name: <b>For Chairman:</b> .....Trust</p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>	<p>Name: <b>For District Council Representative</b></p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>
<p>Name: <b>For Chairman</b> .....CRB</p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>	<p>Name: <b>For Zambia Wildlife Authority</b></p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>
<p>Name: <b>For Secretary of the</b> .....Trust</p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>	<p>Name: <b>For Chief</b>.....</p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>



## Landsafe

### Form 12: MoU for a Joint Management Agreement for chiefdom forests

#### 1 PARTIES

This document, proposes an agreement between the.....Trust and the Forestry Department

#### 2 PURPOSE

For the FD and the Trust to develop a co-management agreement for the forests of the .....chiefdom

#### 3 BACKGROUND

The legislation and policy documents that form the base for piloting Joint Forest Management activities in Zambia are the Forestry Policy of 1998, the Forests Act of 1999, and the local forests (Control and Management) Regulations, Statutory Instrument No. 52 of 1999 and Statutory Instrument No.47 of 2006, the latter laying out regulations for Joint Forest Management Areas. In the process of piloting JFM it is clear that the legislative foundation for JFM is faulty; because the Forests Act of 1999, which provides the legal framework for JFM, is not yet in force. However, the respective parties may enter into an agreement based on best practice so that community empowerment and co-management with Government may flourish.

#### 4 PURPOSE OF THIS AGREEMENT

That the .....Trust and the Forestry Department jointly provide a management plan in which eco-tourism and the appropriate management and use of the Forest take place under the general supervision of the Trust and the Forestry Department.

#### 5 THE PRINCIPLES

The Forestry Department to take on the .....Trust as its exclusive partner in the management of the.....forest, agreeing not to issue logging licences or any other rights of access to any other person or organisation. That the Trust agrees to conserve all the resources and to follow a management plan mutually to be agreed upon.

#### 6 MUTUAL INTEREST OF THE PARTIES

To ensure the conservation of the forest and an equitable sharing of benefits between the Trust and the Forestry Department.

#### 7 AGENCY RESPONSIBILITIES

- i) To jointly ensure the conservation of the Forest
- ii) The Trust would have responsibility for seeing that an agreed management plan for the area is implemented
- iii) The Forestry Department would be responsible for full assistance and advice on any controlled exploitation of the forest for the benefit of the local economy

#### 8 PROHIBITIONS

The FD to give exclusive use of the forest to the Trust, who will assume, with the FD, full responsibility for its management.

#### 9 SHARED CONCERNS

The Parties share a common concern for the preservation of the forest and the avoidance of any further illegal settlement or occupation for subsistence agriculture. They also wish to see the forest be of long-term benefit to the local community through appropriate tourism development, forest utilization and the production of products from such utilisation.

**Form 12 – continued**

**10 SUBSTANCE OF AGREEMENT**

The cooperating agencies agree to share information of mutual concern and interest regarding the Forest.

**11 EXPECTED OUTCOMES**

- i) The protection of a national asset
- ii) The scientifically managed sustained use of its timber and eco-tourism potential
- iii) The protection of its biodiversity
- iv) A stable and increasing source of income for communities
- v) A well managed area based on sound conservation principles
- vi) Support to GRZ policies of de-centralisation, as well the Forestry Department's progressive policies around co-management of national and local forests

**12 STANDING COMMITTEE**

To facilitate the implementation of this agreement, the cooperating agencies each agree to designate a liaison officer to serve on a standing committee that will meet as needed. Matters for consideration by the standing committee are to include a review of each agency's participation in this agreement, an assessment of the agreement's effectiveness, and modifications that might be necessary. As appropriate, the committee will address urgent issues and specific cases of serious non-compliance.

Name: <b>Chairman of the</b> .....Trust Date: _____ at _____ Signature: _____	Name: <b>Chief</b> ..... Date: _____ at _____ Signature: _____
Name: <b>Secretary of the</b> .....Trust Date: _____ at _____ Signature: _____	Name: <b>Director Forestry</b> <b>Department</b> ..... Date: _____ at _____ Signature: _____



# Landsafe

## Form 13: MoU for a Joint Management Agreement for gazetted forest

<p><b>1 PARTIES</b> This document, proposes an agreement between the.....Trust and the Forestry Department (FD).</p>	
<p><b>2 PURPOSE</b> For the FD and the Trust to develop a co-management agreement for the .....Forest contiguous to the .....chiefdom.</p>	
<p><b>3 BACKGROUND</b> The legislation and policy documents that form the base for piloting Joint Forest Management activities in Zambia are the Forestry Policy of 1998, the Forests Act of 1999, and the local forests (Control and Management) Regulations, Statutory Instrument No. 52 of 1999 and Statutory Instrument No.47 of 2006, the latter laying out regulations for Joint Forest Management Areas. In the process of piloting JFM it is clear that the legislative foundation for JFM is faulty; because the Forests Act of 1999, which provides the legal framework for JFM, is not yet in force. And it is understood that a JFMA cannot be entered into with a national Forest, it first requiring de-gazetting. As this may be counterproductive – given the reason for its original promulgation – the Trust and Forestry Department should sign an agreement of co-operation based on best practice so that community empowerment and co-management with Government may flourish.</p>	
<p><b>4 PURPOSE OF THIS AGREEMENT</b> That the Trust and the FD jointly provide a management plan in which the protection and the use of the Forest for the benefit of the contiguous community take place under the general supervision of the Trust and the FD.</p>	
<p><b>5 THE PRINCIPLES</b> The Forestry Department to take on the Trust as its exclusive partner in the protection of the Forest. That the Trust agrees to conserve all the resources and to follow a management plan mutually to be agreed upon.</p>	
<p><b>6 MUTUAL INTEREST OF THE PARTIES</b> To ensure the conservation of the forest and an equitable sharing of benefits between the Trust and the FD.</p>	
<p><b>7 AGENCY RESPONSIBILITIES</b> To jointly ensure the conservation of the Forest</p> <ul style="list-style-type: none"> <li>i) The Trust would ensure that an agreed management plan for the area is implemented</li> </ul> <p>The FD would be responsible for full assistance and advice regarding forest management</p>	
<p><b>8 SUBSTANCE OF AGREEMENT</b> The cooperating agencies agree to share information of mutual concern and interest regarding the Forest</p>	
<p><b>9 EXPECTED OUTCOMES</b></p> <ul style="list-style-type: none"> <li>i) The protection of its biodiversity and its management on sound conservation principles</li> <li>ii) A stable and increasing source of income for communities</li> <li>iii) Support to GRZ policies of de-centralisation, as well the co-management of national and local forests</li> </ul>	
<p><b>10 STANDING COMMITTEE</b> To facilitate the implementation of this agreement, the cooperating agencies each agree to designate a liaison officer to serve on a standing committee that will meet as needed. Matters for consideration by the standing committee are to include a review of each agency's participation in this agreement, an assessment of the agreement's effectiveness, and modifications that might be necessary. As appropriate, the committee will address urgent issues and specific cases of serious non-compliance.</p>	
<p>Name: <b>Trust Chairman</b> .....</p> <p>Date: _____ at _____</p> <p>Signature: _____</p> <p>Name: <b>Secretary of the Trust</b>.....</p> <p>Date: _____ at _____</p> <p>Signature: _____</p>	<p>Name: <b>Chief</b>.....</p> <p>Date: _____ at _____</p> <p>Signature: _____</p> <p>Name: <b>Director FD</b>.....</p> <p>Date: _____ at _____</p> <p>Signature: _____</p>



## Landsafe

### Form 14: MoU for a Joint Management Agreement with the Fisheries Department

#### 1 PARTIES

This document, proposes a Co-Management Agreement between.....Trust of the .....chiefdom, and the Fisheries Department of the Ministry of Agriculture, Food & Fisheries.

#### 2 PURPOSE

An application to the FD to register the riparian areas of the .....chiefdom as a Fisheries Management Area under the .....Trust, the latter being the approved for the management of the land and natural resources of the chiefdom.

#### 3 BACKGROUND

The Fisheries Act Chapter 200 of the Laws of Zambia of 1974 provided for fisheries management at a departmental level but did not incorporate community participation. Before that it was administered from 1941 by the Department of Game and Tsetse Control.

The amended Fisheries Act of 2007 gives powers to the Minister to declare Fisheries Management Areas (FMAs) through a statutory instrument – in consultation with riparian communities, and subject to the provision of a fisheries management plan, with special care intended for endemic fish. No fishing is allowed within an FMA without a licence. The Minister appoints Fisheries Management Committees (FMC) (as co-management structures in Fisheries Management Areas (FMA)), with members comprising six villagers, one chief's representative, one from the local authority, one from an NGO operating in the FMA, one each from the fishing industry and aquaculture industry, plus two other persons, vetted by the Minister who also appoints the Chairman and Vice-Chairman. The FMA may, in consultation with the Director, enter into co-management agreement with industrial fishing companies, or with NGOs. The Committee is responsible for the production of the management plan and the creation of a fund into which will be paid all licence money for the economic and social well-being of the riparian community. The committee is required to prepare an annual report and audited accounts to be submitted to the Minister.

The Act also covers aquaculture, requiring that ventures be licenced and operate under certain conditions. Government is required to provide an Aquaculture Development Plan for Zambia.

#### 4 PURPOSE OF THIS AGREEMENT

To register a CMA with the Department of Fisheries which, inter alia, would involve the application by the .....Trust, representing .....chiefdom, for the registration of a Fisheries Management Committee, which would comprise the elected members of the Society, with the addition of three members of riparian fishing communities within the chiefdom.

#### 5 THE PRINCIPLES

See Background.

#### 6 MUTUAL INTEREST OF THE PARTIES

To ensure the conservation of the .....chiefdom fishery and its sustained use for the benefit of the customary community.





*Form 14 – continued*

**7 AGENCY RESPONSIBILITIES**

- i) The Trust to take on full responsibility, through a Fisheries Management Committee, for the management of the fishery in the Fisheries Management Area
- ii) The Fisheries Department to enter into a co-management agreement with the Trust for the management of the fishery in the FMA

**8 SHARED CONCERNS**

The Parties share a common concern for the conservation of fish resources and the benefits to be derived from its legal usage for the primary stakeholders.

**9 EXPECTED OUTCOMES**

- i) The protection and scientifically managed sustained use of a national asset
- ii) Derived ecological benefit flows from its conservation
- iii) A stable and increasing source of income for communities'
- iv) A well managed FMA based on sound conservation principles
- v) Support to GRZ policies of de-centralisation, as well the Fisheries Department's progressive policies around co-management of the fishery

**10 FISHERIES MANAGEMENT COMMITTEE**

Subject to the FDs agreement, to recommend the FMAs declaration by the Minister.

<p>Name: <b>For Customary Authority: Chief</b></p> <p>Date: _____ at _____</p> <p>Signature: _____</p>	<p>Name: <b>For District Council Representative</b></p> <p>Date: _____ at _____</p> <p>Signature: _____</p>
<p>Name: <b>For Chairman of the .....Trust</b></p> <p>Date: _____ at _____</p> <p>Signature: _____</p>	<p>Name: <b>For the Director of Fisheries</b></p> <p>Date: _____ at _____</p> <p>Signature: _____</p>
<p>Name: <b>For Secretary to the Trust</b></p> <p>Date: _____ at _____</p> <p>Signature: _____</p>	



# Landscape

## Form 15: Community application for a Fisheries Management Committee

CUSTOMARY AUTHORITY	SIGNATURE	REG. CARD	DATE
DISTRICT			
PROVINCE			
FISHERIES MANAGEMENT AREA			
CUSTOMARY COMMUNITY SOCIETY			
FISHERIES MANAGEMENT COMMITTEE			
<b>APPOINTED MEMBERS</b>			
CHIEF'S REPRESENTATIVE			
DISTRICT COUNCIL REPRESENTATIVE			
THE STAKEHOLDER SOCIETY			
FISHING INDUSTRY			
AQUACULTURE INDUSTRY			
<b>ELECTED MEMBERS</b>			
VILLAGE FISHERMAN			
VILLAGE FISHERMAN			
VILLAGE FISHERMAN			
VILLAGE FISHERMAN			
VILLAGE FISHERMAN			
VILLAGE FISHERMAN			
<b>MINISTER APPROVED MEMBERS</b>			
MEMBER (SOCIETY)			
MEMBER (SOCIETY)			
CHAIRMAN			
VICE-CHAIRMAN			



## Landsafe

### Form 16: MoU for a Co-Management Agreement with the Department of Water Affairs

#### 1 PARTIES

This document, proposes a co-agreement between the.....Trust representing the .....Chiefdom and the Department of Water Affairs.

#### 2 PURPOSE

For the WAD and the Trust to develop a co-management agreement for the optimum management of the chiefdom's water resources.

#### 3 BACKGROUND

Water resources being an essential support to life, common resource regimes and the ecology, there is a need for the creation of a public-private partnership for its management, whereby chiefdoms take on their responsibilities for its care and management A major support project to Government concludes that in Zambia there is a:

- i) Lack of decentralised and sustainable structures that are accessible and provide for the participation of stakeholders/communities.
- ii) Lack of effective awareness programmes for all levels of water users/stakeholders including policy makers and legislators.
- iii) Lack of involvement of traditional authorities in water resources management (customary law).

**N/B: Component 3** of the Danida Water Sector Programme Support (WSPS) is specifically addressing how to link proposed catchment/sub-catchment based institutions for water resources management to existing decentralised local government institutions such as the local authorities.

#### 4 THE PRINCIPLES

The parties to abide by the following principles in the development of an agreement:

- i) The Department to consult the Trust on all matters affecting the water resources of the chiefdom
- ii) The Trust to co-operate with the Department on all water affairs and related matters

#### 5 EXPECTED OUTCOMES

- i) The protection of a national asset
- ii) Establishing lines of communication between a chiefdom and Government
- iii) A contribution to customary community development and the conservation of the chiefdom
- iv) Support to GRZ policies of de-centralisation and public-private partnerships



*Form 16 – continued*

**6 STANDING COMMITTEE**

To facilitate the implementation of this agreement, the cooperating agencies each agree to designate a liaison officer to serve on a standing committee that will meet as needed.

<p>Name: <b>For Customary Authority: Chief</b>.....</p> <p>Date: _____ at _____</p> <p>Signature: _____</p>	<p>Name: <b>For District Council Representative</b></p> <p>Date: _____ at _____</p> <p>Signature: _____</p>
<p>Name: <b>For Chairman of the</b> .....Trust</p> <p>Date: _____ at _____</p> <p>Signature: _____</p>	<p>Name: <b>For the Director of Water Affairs</b></p> <p>Date: _____ at _____</p> <p>Signature: _____</p>
<p>Name: <b>For Secretary to the Trust</b></p> <p>Date: _____ at _____</p> <p>Signature: _____</p>	



**Landsafe**

**Form 17 : Chiefdom landuser rights assignment under Lands (perpetual succession) Act**

**CHIEFDOM LANDUSER RIGHTS ASSIGNMENT**

of

.....COMMUNITY GAME RANCH

.....CHIEFDOM

by

.....TRUST

TO

.....

.....DISTRICT

**ZAMBIA**

**Form 17 – continued**

**WHEREAS** the .....Customary Authority and its successors in title (hereinafter referred to as “The Customary Authority”) has adopted the Landsafe chiefdom conservancy development model whereby it has created a duly registered institution as the custodian of land and natural resources of the chiefdom in order to attract investment partnerships and to enter into co-management agreements with the Government of the Republic of Zambia for the management of its renewable natural resources.

**WHEREAS** the Customary Authority having been granted the ‘**right to use and occupation of land under customary tenure**’ (**Lands Act of 1995: Section 8(3)**), has vested land known as the Community Game Ranch in that registered institution known as the .....Trust pursuant to the provisions of the Land (Perpetual Succession) Act of the Laws of Zambia.

**WHEREAS** the Chief .....has made application to ZAWA for registration of the Community Game Ranch, land vested in the Trust, with the rights to receive hunting quotas should the land remain unfenced (paying the requisite safari licence), or, if fenced, to receive the ownership of the wildlife stocks - for which a certificate of ownership will be issued and renewed annually - and also receiving a game ranch outfitters licence every year entitling it to conduct non-resident hunts.

**WHEREAS** the assignee is Indianrous of obtaining the assignment of certain contractual rights in respect of land from the Trust more particularly described in the terms and conditions hereunder specified.

**WHEREAS** the assignee has agreed to be assigned the contractual rights defined below.

**Definitions**

- i) **Assignor means the .....Trust**
- ii) **Assignee means .....**
- iii) **Chiefdom** means land under customary control
- iv) .....means the Community Game Ranch located  
.....
- v) **Game ranch outfitters licence** means the permit issued by ZAWA entitling a fenced ranch to conduct non-resident hunting
- vi) **Landsafe** means the Landsafe customary commons model for development
- vii) **Assignor** means Chief ..... and his headmen
- viii) **Quota** means the number of animals that can be hunted in a given year without reducing the ability of the remaining population to maintain or increase its numbers in the future
- ix) **Safari licence** means the permit issued by ZAWA entitling the unfenced ranch to conduct hunting safaris for non-residents
- x) **Trust** means the .....Trust



*Form 17 – continued*

**1 REPRESENTATIONS AND WARRANTIES**

On ....., the .....Trust, a registered institution representing the .....Customary local community, received its registration certificate from the Registrar of Societies; and on ....., the Minister of Lands signed the certificate incorporating the Trust under the Lands (Perpetual Succession) Act and deposited it with the Registrar of Lands and Deeds.

**2 COMMENCEMENT**

The commencement of this assignment is .....

**3 GOVERNING LAW**

This agreement shall be governed by and construed in accordance with the Laws of the Republic of Zambia.

**4 ASSIGNEE OBLIGATIONS**

The assignee covenants with the Trust and the .....chiefdom as follows:

- i) To ensure that he adheres to all existing laws
- ii) To provide a liaison officer as the representative
- iii) To adhere to a fire management and landuse plan with the Trust
- iv) To allow any Trust official, Chief ....., or Government representatives of those departments responsible for wildlife, forestry, fisheries and water to inspect the property, with reasonable notice to be given of such intention
- v) To actively patrol and safeguard the area
- vi) To employ persons in accordance with Laws of Zambia, or through the Community Resource Board by secondment.
- vii) In compliance with the landuse plan, and under Trust permit only, to allow, as much as possible, the continued operation by the.....customary community of controlled communal access rights to natural resources on .....
  - Annual thatching harvest
  - Honey-production concessionary rights
  - Seasonal medicinal plant harvest
  - An annual game harvesting quota for meat, subject to game stocks, and to be taken off by ranch management
  - Community access to hydro power
  - Community access to religious and traditional heritage sites

Or any other rights normally accorded the residents of the chiefdom who have full access to those renewable resources not owned by Government

**5 TRUST CONTRACTUAL OBLIGATIONS**

The Trust and the .....local customary community and its Customary Authority covenants with the assignee as follows:

- i) That the Trust adheres to all existing laws, fully recognizing its rights and that of the assignee under the Law of Contract
- ii) That the assignee be assigned the full rights to the use and enjoyment of the ....., in particular for the sustained use of its natural resources
- iii) That it agrees to communicate any problems it may be encountering with the assignee or its representative and workers and activities in an open and ready manner



*Form 17 - continued*

**6 PERFORMANCE SECURITY BOND AND FEES**

The Assignee undertakes to guarantee the following:

**7 CUSTOMARY COMMUNITY BENEFITS**

- i) To provide as full local employment as possible
- ii) To maintain public liability insurance
- iii) To allow controlled access to renewable resources

**8 DISPUTE RESOLUTION AND ARBITRATION**

The Parties resolve, in the event of a dispute, to adhere to the following:

- i) Good faith negotiations in the customary manner
- ii) Recourse to the Nyalugwe Advisory Committee
- iii) Mediation
- iv) Arbitration under the Arbitration Act No. 19 of 2000, which implements the model law on international commercial arbitration adopted by the United Nations Commission on International Trade Law in 1985 as well as the Geneva Protocol on Arbitration Clauses and the Geneva Convention on the Execution of Foreign Arbitral Awards and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards
- v) Adjudication in the Zambian Courts

**9 VARIATION OF THE AGREEMENT**

A change in the agreement would require the agreement of the Parties hereto in writing.

<p>Name: <b>For Customary Authority:</b> <b>Chief</b>.....</p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p>	<p>Name: <b>Secretary:</b> .....<b>Trust</b></p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p>
<p>Name: <b>Chairman,</b>.....<b>Trust</b></p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p>	<p>Name: <b>Chairman,</b> .....<b>Community Resource Board</b></p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p>
<p>Name: <b>For</b> .....</p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p>	<p>Name: <b>For ZAWA</b></p> <p><b>Date:</b> _____ <b>at</b> _____</p> <p><b>Signature:</b> _____</p>





**Landsafe**

**Form 18 : Chiefdom landuser cession to Trust Company limited by guarantee**

**CHIEFDOM LANDUSER CESSION**

of

.....COMMUNITY GAME RANCH

.....CHIEFDOM

by

.....TRUST

TO

.....

.....DISTRICT

ZAMBIA

**Form 18 – continued**

**WHEREAS** the .....Customary Authority and its successors in title (hereinafter referred to as “The Customary Authority”) has adopted the Landsafe chiefdom development model whereby it has created a duly registered institution as the custodian of land and natural resources of the chiefdom in order to attract investment partnerships and to enter into co-management agreements with the Government of the Republic of Zambia for the management of its renewable natural resources.

**WHEREAS** the Customary Authority having been granted the ‘**right to use and occupation of land under customary tenure**’ (**Lands Act of 1995: Section 8(3)**), has vested land known as the .....Community Game Ranch in that registered institution known as the .....Trust pursuant to the provisions of the Companies Act limited by guarantee of the Laws of Zambia

**WHEREAS** the Chief .....has made application to ZAWA for registration of the Community Game Ranch, land vested in the Trust, with the rights to receive hunting quotas should the land remain unfenced (paying the requisite safari licence), or, if fenced, to receive the ownership of the wildlife stocks - for which a certificate of ownership will be issued and renewed annually - and also receiving a game ranch outfitters licence every year entitling it to conduct non-resident hunts.

**WHEREAS** the assignee is Indianrous of obtaining the assignment of certain contractual rights in respect of land from the Trust more particularly described in the terms and conditions hereunder specified.

**WHEREAS** the assignee has agreed to be assigned the contractual rights defined below.

**Definitions**

- i) **Usufruct lessor** .....**Customary Authority**
- ii) **Assignee means** .....
- iii) **Chiefdom** means land under customary control
- iv) .....means the Community Game Ranch located  
.....
- v) **Game ranch outfitters licence** means the permit issued by ZAWA entitling a fenced ranch to conduct non-resident hunting
- vi) **Landsafe** means the Landsafe customary commons model for development
- vii) **Assignor** means Chief ..... and his headmen
- viii) **Quota** means the number of animals that can be hunted in a given year without reducing the ability of the remaining population to maintain or increase its numbers in the future
- ix) **Safari licence** means the permit issued by ZAWA entitling the unfenced ranch to conduct hunting safaris for non-residents
- x) **Trust** means the .....Trust



**Form 18 – continued**

**1 REPRESENTATIONS AND WARRANTIES**

On ....., the .....Trust, a registered institution representing the .....Customary local community, received its certificate of incorporation from the Registrar of Companies.

**2 COMMENCEMENT**

The commencement of this

**3 GOVERNING LAW**

This agreement shall be governed by and construed in accordance with the Laws of the Republic of Zambia.

**4 LESSEE OBLIGATIONS**

The assignee covenants with the Trust and the .....chiefdom as follows:

- i) To ensure that he adheres to all existing laws
- ii) To provide a liaison officer as the representative
- iii) To adhere to a fire management and landuse plan with the Trust
- iv) To allow any Trust official, Chief ....., or Government representatives of those departments responsible for wildlife, forestry, fisheries and water to inspect the property, with reasonable notice to be given of such intention
- v) To actively patrol and safeguard the area
- vi) To employ persons in accordance with Laws of Zambia, or through the Community Resource Board by secondment.
- vii) In compliance with the landuse plan, and under Trust permit only, to allow, as much as possible, the continued operation by the.....customary community of controlled communal access rights to natural resources on .....:
  - Annual thatching harvest
  - Honey-production concessionary rights
  - Seasonal medicinal plant harvest
  - An annual game harvesting quota for meat, subject to game stocks, and to be taken off by ranch management
  - Community access to hydro power
  - Community access to religious and traditional heritage sites

Or any other rights normally accorded the residents of the chiefdom who have full access to those renewable resources not owned by Government

**5 TRUST CONTRACTUAL OBLIGATIONS**

The Trust and the .....local customary community and its Customary Authority covenants with the lessee as follows:

- i) at the Trust adheres to all existing laws, fully recognizing its rights and that of the assignee under the Law of Contract
- ii) That the lessor be assigned the full rights to the use and enjoyment of the ....., in particular for the sustained use of its natural resources
- iii) That it agrees to communicate any problems it may be encountering with the assignee or its representative and workers and activities in an open and ready manner



*Form 18 – continued*

**6 PERFORMANCE SECURITY BOND AND FEES**

The Lessor undertakes to guarantee the following:

**7 CUSTOMARY COMMUNITY BENEFITS**

- i) To provide as full local employment as possible
- ii) To maintain public liability insurance
- iii) To allow controlled access to renewable resources

**8 DISPUTE RESOLUTION AND ARBITRATION**

The Parties resolve, in the event of a dispute, to adhere to the following:

- i) Good faith negotiations in the customary manner
- ii) Recourse to the.....Advisory Committee
- iii) Mediation
- iv) Arbitration under the Arbitration Act No. 19 of 2000, which implements the model law on international commercial arbitration adopted by the United Nations Commission on International Trade Law in 1985 as well as the Geneva Protocol on Arbitration Clauses and the Geneva Convention on the Execution of Foreign Arbitral Awards and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards
- v) Adjudication in the Zambian Courts

**9 VARIATION OF THE AGREEMENT**

A change in the agreement would require the agreement of the Parties hereto in writing.

<p>Name: <b>For Customary Authority: Chief</b>.....</p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>	<p>Name: <b>Secretary</b>,.....<b>Trust</b></p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>
<p>Name: <b>Chairman</b>, .....<b>Trust</b></p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>	<p>Name: <b>Chairman</b>, .....<b>Community Resource Board</b></p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>
<p>Name: <b>For</b> .....</p> <p><b>Date:</b> _____ at _____</p> <p><b>Signature:</b> _____</p>	



## Landsafe

### Form 19: Project proposal template

<p><b>1 PROJECT NAME</b> The name should capture the project's broad objectives</p> <p><b>2 PROTECTED AREA</b> Supported by a map</p> <p><b>3 IMPLEMENTING PARTNER</b></p> <p><b>4 PROPOSED PROJECT DURATION</b></p> <p><b>5 BRIEF BACKGROUND</b></p> <p><b>6 PARTNERS INVOLVED IN PROJECT AND THEIR RESPECTIVE RESPONSIBILITIES</b> These are the principal members – having signed an MoU - promoting accountability and good practice, requiring a degree of mutuality and care in order to respect, protect, and make use of a fellow partner organisation's identity. Partners must be tolerant of sharing some power and be willing to adapt and be flexible in the interests of maximizing the project partnership efficiency in order to achieve the project's agreed objectives.</p> <p><b>7 STAKEHOLDERS INVOLVED IN PROJECT</b> Briefly describe stakeholder groups that will be involved in the project, and also those that will be affected by the project.</p> <p><b>8 PROJECT RATIONAL AND OBJECTIVES</b> State why the project is being put forward and just what it proposes to achieve.</p> <p><b>9 EXPECTED OUTCOMES</b> Describe the expected results of the project.</p> <p><b>10 PLANNED OUTPUTS AND ACTIVITIES TO ACHIEVE OUTCOMES</b> Identify what specific outputs (name of main task) and activities (actions under each main task) the project will undertake in order to achieve the expected outcomes (results) i.e. (main heading: Outputs; sub-heading: Activity).</p> <p><b>11 TIME FRAME FOR OUTPUTS AND ACTIVITIES SO AS TO ACHIEVE OUTCOMES</b> This should identify what specific activities and their completion dates the project will undertake to achieve expected outcomes in detail, for example.</p> <table border="1"> <thead> <tr> <th>Output: Activity</th> <th>Responsible person /org.</th> <th>Duration</th> <th>Expected start and completion dates</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <p><b>12 ESTIMATED BUDGET</b> This should include the estimated project development and executing costs over the projected life of the project and should indicate both the potential sources of funding as well as funds already sourced.</p> <p><b>13 MONITORING AND EVALUATION OF PROJECT PROGRESS</b> This should identify the way in which the results of the project will be assessed against the stated objectives.</p> <p><b>14 ILLUSTRATION OF PROTECTED AREA</b> Provide a map</p> <p><b>15 FINANCIAL PROJECTIONS (THREE YEARS)</b></p>				Output: Activity	Responsible person /org.	Duration	Expected start and completion dates				
Output: Activity	Responsible person /org.	Duration	Expected start and completion dates								