Institute of Environmental Studies

A Critique of by-law development and implementation in Chivi District, Zimbabwe

Chivi

2001

DFID Department for International Development

CARE ZIMBABWE

CIFOR CENTER FOR INTERNATIONAL FORESTRY RESEARCH

INTERMEDIATE TECHNOLOGY

Institute of Hydrology

R&SS

A critique of by-law development and implementation in Chivi District, Zimbabwe.

A. Mandondo

2001

IES WORKING PAPER No19

Published by the Institute of Environmental Studies,
University of Zimbabwe,
Harare, Zimbabwe

Funding for the publication of this study was provided by DFID Project No. R7304 Zimbabwe: Micro-catchment Management and Common Property Resources

Institute of Environmental Studies
University of Zimbabwe
P O Box MP167
Mount Pleasant
HARARE

Telephone 263-4-302602/332039 (direct) or 302603 ext. 1937
Fax 263-4-332835/333407
E-mail: fnengo@africaonline.co.zw

All Working Papers of IES are peer reviewed. For reviewing documents in 2000 we thank: Simon Choge, Delalie Dovie, Guilford Hapanyengwi, Grant Hauer, Taelo Letsela, Marty Luckert, Elias Madzudzo, David Maindi, Patrick Mamimine, E. Manzungu, Sibongile Moyo, Nontokozo Nemarundwe, Sheona Shackleton and Terry Veeman

TABLE OF CONTENTS

A critique of by-law development and implementation in Chivi District, Zimbabwe

Alois Mandondo

Institute of Environmental Studies, University of Zimbabwe, Box MP 167, Harare, Zimbabwe

Abstract

The proper alignment of authority and responsibility within and between various levels of social organization is a fundamental governance problem. This study used a review approach to critically interrogate the political economy of the allocation of environmental jurisdictions among the Zimbabwean state, local communities and Rural District Councils through the conferment, to the latter, of the authority to enact conservation and landuse planning by-laws. The subsidiary aim was to investigate, through a field study, the practical operation of the by-laws in everyday social life, in an analysis that situates the effectiveness of the by-laws within the theme of proximity to citizens. Several flaws and contradictions are evident in the political economy of the allocation of authority and responsibility among the above actors. Assignment of the responsibilities is framed within a top-down structure in which entrustments are transferred solely to Rural District Councils at the expense of other levels of social organization, particularly those close to the citizens. Although parent legislation allocates broad powers to Rural District Councils, monitoring of the effectiveness of such allocations is done on the basis of whether the governance arrangements deliver on the state's goals, and not on local people's goals and aspirations. But there is not much scope for communities to effectively participate in governance at the Rural District Council level. There also is not much scope in parent legislation for revising these governance arrangements, with higher level actors enjoying the prerogative to effect amendments, and not the communities. Governance arrangements fostered by the by-laws punish citizens for not respecting arrangements that the citizens do not effectively participate in crafting. Revenues accruing from fines imposed on people violating such arrangements accrue to the Rural District Councils, and not to the communities from which they are extracted. The study argues for innovative governance approaches that entail fundamental changes in by-law articulation.

Introduction

Hierarchy is the dominant form in which human societies are generally organized (Brett, 1996). Differences in power and interests, however, abound within and between various levels of most tiered regimes (Hasler, 1993; King, 1994). The contours of such power and interests are dynamic as they are subject to contestation and negotiation. It is difficult, from a governance perspective, to secure the proper alignment of authority and responsibility within and between the various levels of such systems (Hasler, 1993; Coglianese, 1999). A central question of the political economy of the assignment of jurisdiction within tiered governance contexts relates to when an allocative arrangement becomes optimal or effective. Answers to the question vary depending on ideological standpoints, but debate on the issue has been dominated by two contending policy thrusts - the big government ideals of centralization and the "small is beautiful" standpoint of decentralization (Murphree, 2000).

Proponents of the former see consolidation into unitary jurisdictions giving greater scope to units enjoying consolidated jurisdictional endowment

to coordinate policies more effectively, address spill-over effects and to exploit economies of scale (Crook and Manor, 1998; Agrawal and Ribot, forthcoming). In addition, consolidation carries the appeal of sovereignity, i.e. promoting and integrating the benefits of shared values and interests across large areas (Coglianese and Nicolaidis, 1996). Consolidated jurisdictions unfortunately have inherent tendencies to over-centralize - "they aspire to assert authority over large areas but their authoritative reach often exceeds their implementational grasp" (sensu, Murphree, 2000). Decentralization, on the other hand, is expected to create small units that are more responsive to local needs and preferences, provide opportunities and incentives for policy innovation, lower the costs of planning, and give citizens a greater voice in governance by fostering direct face to face democracy (Crook and Manor, 1998). The quest for smallness, however, seldom fully addresses problems of social difference and variegated interest - its merits notwithstanding. Moreover, too much cleavage is likely to result in many small jurisdictions and related failure to achieve effective coordination amongst such jurisdictions.

The centralization-decentralization dichotomy, nevertheless, appears to be of limited analytical value in understanding operational aspects of the assignment of jurisdiction in tiered regimes. The dichotomy is implicitly based on a source-sink model. Such a model appears to assume a one-off allocational process in which entrustments are permanently abstracted from one level and retired into another level. A related assumption of the model is that the purposes of such transfers are automatically met once the transfer is done, or that conditions elsewhere are static such that, once assigned, jurisdictions will always remain secure and effective. But this rarely happens in a complex and dynamic world in which policy intent seldom fluently translates into intended outcomes (Berry, 1993; Ferguson, 1994). Moreover the goals of governance may be expected to vary from time to time, and from one governance system to another. This implies that there can never be a universal governance goal that will continue to be satisfied in perpetuity by a particular centralization or decentralization arrangement. Studies on the assignment of governance, therefore, need to move beyond the appropriateness of centralization or decentralization or from static notions of one-off assignments of jurisdiction to dynamic and process-based analytical approaches (Coglianese and Nicolaidis, 1996). Particular governance arrangements may result in unintended outcomes, and changes in related socio-political and other environments may supercede the goals for which given governance systems were originally crafted.

Coglianese and Nicolaidis (1996), therefore, hold that governance arrangements can best be conceived as "punctuated equilibria" characterized by a "pendulum effect" in which power flows back and forth between levels. They argue that it is important to understand allocation mechanisms of any governance context and how these are crafted, combined and traded off against each other. Using principal-agent theory they propose four mechanisms through which jurisdiction can be allocated within tiered governance regimes including delineation, monitoring, sharing and reversibility mechanisms. Principal-agent relationships develop when authority is shifted from one set of players - representing the principal, to another set - representing the agent, with mechanisms being put in place to ensure that the authority gets used for purposes underlying the delegation, and not usurped or abused for other purposes (Agrawal, 1997).

Delineation ensures that delegated authority is not usurped or abused by providing a clear specification of the scope of the delegation, as well as the standards and guidelines for the exercise of that authority. Among other things, monitoring helps ensure: whether the agent is operating within the confines of the scope of delegation; whether the assignment is achieving the goal for which it was intended; or whether set standards and guidelines are being followed. The principal may also reduce the agent's discretionary powers by sharing in the activities of the delegated unit. Sharing mechanisms include: separation of powers e.g. between legislative, judiciary and executive arms of a jurisdiction; representation of lower units in higher units; and decision-making arrangements

within sharing arenas, i.e. whether by majority or unanimity. Reversibility provides for a corrective measure to help ensure re-alignment of other allocative mechanisms so that governance arrangements meet the goals for which they are intended. Examples of reversibility arrangements include provisions specifying the expiry date1 of a particular delegation to allow for scrutiny and review or revocability arrangements that allow the endowed level to step in to revoke the delegation under certain circumstances.

Allocation mechanisms may, from time to time or from place to place, vary in their extent, intensity or explicitness. For instance, delineation could

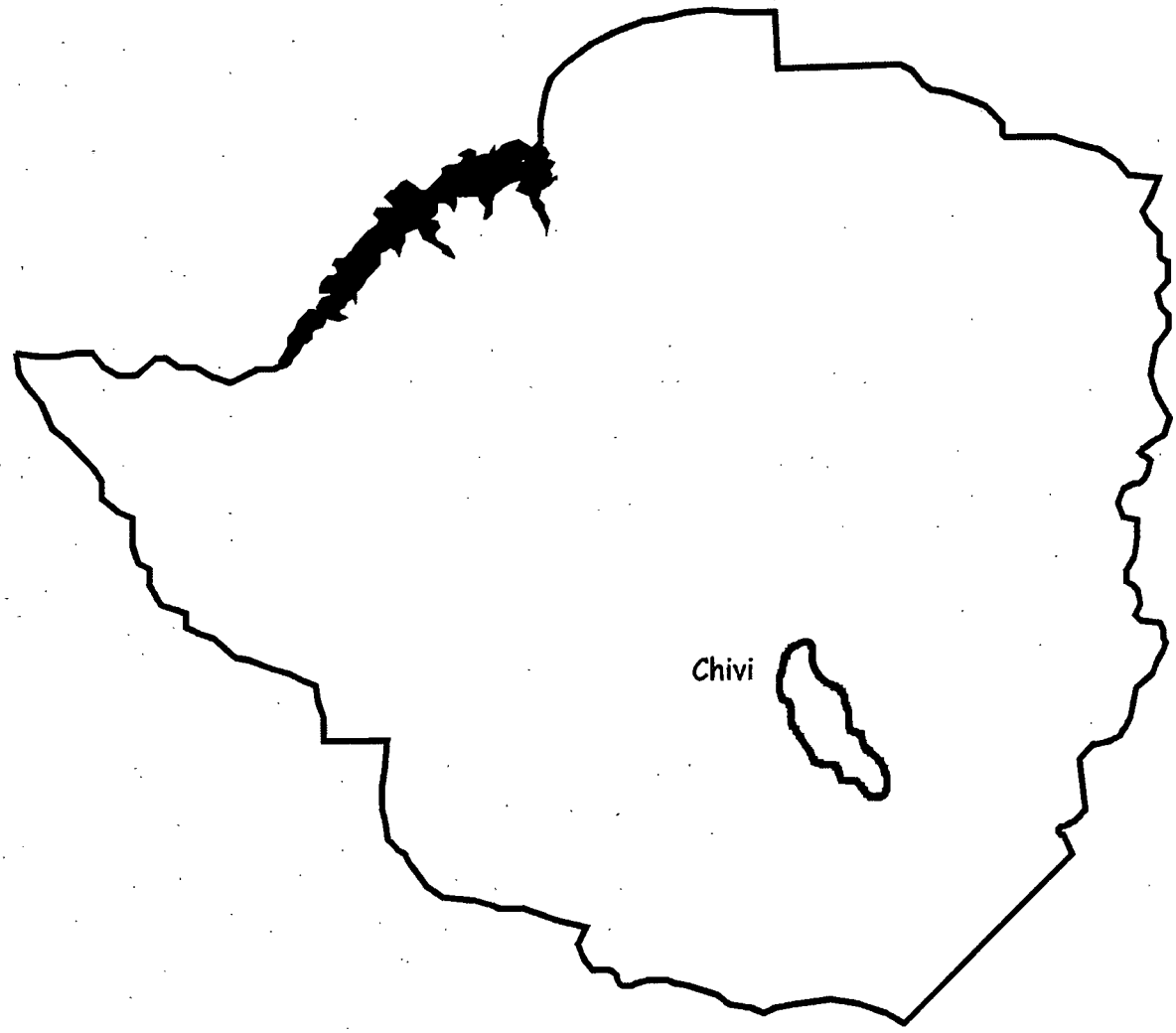

Figure 1: Map of Zimbabwe showing the location of Chivi District

[1] Coglianese and Nicolaidis terms such arrangements "sunset provisions" in which delegated authority automatically reverts to the endowed level upon the tolling of a specific deadline.

be narrow or broad, monitoring may range from loose to tight or from regularized to ad hoc, whilst reversibility may be explicit or implicit. Permutations of sharing mechanisms can therefore be variously traded-off against each other to ensure cost-effective governance - e.g. broad delineation may be complemented by tight monitoring and explicit sharing arrangements could be matched with less reversibility. Decisions made within a cost-effective governance system also need to be as suitable and as efficient as possible. In general, these conditions are better optimized if jurisdictions remain as close to the citizens as possible. The theme of closeness of jurisdictions to citizens is enshrined in the principle of subsidiarity, which holds that problems are best solved in the subsystem in which they arise2. Alternatively phrased, the principle states that in order to protect basic justice upper level actors should undertake only those initiatives that exceed the capacity of lower level actors (Schilling, 1995).

The main aim of this study was to critically interrogate the political economy of the allocation of environmental jurisdictions among the Zimbabwean state, local communities and Rural District Councils through the transfer, to the latter, of authority to enact conservation and landuse planning by-laws. Questions considered go beyond principal-agent ties of how the state holds local governments accountable, to include the implications of such transfers on how local government can be held accountable to local populations, since the transfers are ostensibly done to create local autonomy. A subsidiary aim of the study was to relate practical aspects of the formulation and operation of the by-laws to the theme of proximity to citizens and how this impinges on the effectiveness3 of the by-laws. By-laws are treated within a generic frame of reference for the former aim since aspects of the allocation of jurisdictions by way of by-laws apply in similar fashion throughout the country's 55 districts. The study relied on review of secondary material, including relevant legislation, for the former aim. The subsidiary aim mainly relied on fieldwork conducted in Chivi District in which informal interviews were held with Rural District Council officials, councillors, council resource monitors, headmen, village heads and other ordinary men and women.

The next section of the article gives a broad overview of Chivi District, with an emphasis on some of the features that impinge on the operation of the by-laws. The subsequent six sections cover the main aim - they consider questions of what is being transferred, to whom, how, and with what effect. The penultimate section considers the issue of practical political economy of the by-laws in everyday social practice, in an analysis that situates the relevance and observance of the by-laws within the theme of proximity to citizens.

The study area, Chivi District

Chivi District, in south-central Zimbabwe, is one of the seven districts comprising Masvingo Province (Figure 1). Much of the district experiences marginal environmental conditions characterized by low and erratic rainfall, frequent droughts and generally poor soils and these are generally constraining to many forms of agriculture (Anderson et al. 1993). The last national census of 1992 recorded a population of 157 277 persons from the district's 30 wards, with much of the population being concentrated in administrative and service centres and communal areas (Central Statistical Office, 1992). Twenty six of the wards lie in communal areas, three in resettlement areas and one in a small-scale commercial

[2] Murphree (University of Zimbabwe, Centre for Applied Social Sciences - in a personal communication) captures the essence of the principle in somewhat different but related terms - "administrative self-sufficiency".

[3] The criteria for effectiveness are likely to depend on the goals for which a particular governance system is put in place, but in this study effectiveness is considered within the contexts of relevance, respect and observance of the by-laws by the communities - since the by-laws are ostensibly meant to ensure local autonomy.

ing area. Because of population pressure much of the woodland in the communal areas has been opened up for cultivation. Subsistence farming forms the predominant livelihood activity throughout much of the district, but it is often augmented by marketing of surplus, production of cash crops and selling of woodcrafts. The latter has become significant along the Harare-South Africa main road, which runs along the southern portion of the eastern part of the district (Braedt and Standa-Gunda, in press). The drainage of the district is dominated by two major rivers flowing towards the south east, the Tugwi and the Runde rivers. Sections of the former mark parts of the district's eastern border while the latter flows along the western parts of the district.

Transferring authority upwards or downwards?

The direction of delegations has important implications on proximity of governance systems to the citizens, with potential implications on relevance and effectiveness. In federated regimes delegations occur from lower units, which are closer to the citizens, to upper unions and federal bodies. Lower level units delineate the scope of the delegation, monitor its exercise and they hold the prerogative to withdraw or revise the delegated authority. But because of historical and other factors, governance systems in most developing countries, including Zimbabwe, are over-centralized (Mandondo, in press). Various forms of pressure are being exerted on such regimes to decentralize but most such decentralizations are effectively directed in top-down mode by state-level and other external actors who are remotely located from the citizens. It could be argued that, in spite of their remoteness from citizens, state-level structures embody a democratic spirit since they consist of parliament, the supreme law-making body, which is comprised of democratically elected individuals. The separation of powers between the legislature, the executive and the judiciary arms of government may additionally be seen as providing checks and balances for the proper exercise of authority. In practice, such arrangements only provide very broadly for democracy and accountability (Ribot, 1999). Thus, although laws and policies from the state may purportedly champion the cause of citizen participation "the chorus of such participation has a distinct upper class accent" (Coglianese, 1999).

The above is broadly the context characterizing the top-down allocation of environmental jurisdictions through the conferment, to Rural District Councils of the authority to enact by-laws that are legally-binding to areas under their jurisdiction. Parliament is the supreme law-making organ and lower level bodies like the Rural District Councils (and municipal authorities) are subordinate bodies which enjoy delegated authority to make subsidiary regulations, rules, orders and by-laws. By-laws seek to provide more fully for issues addressed in parent legislation. They are an elaboration of the council's mandate to manage, protect and conserve natural resources (Mohamed-Katerere, 1999). Various acts grant Rural District Councils with legal personality and legally defined areas of competence within which it has authority to plan, tax, and spend and enjoy limited or minor legislative competence. The next section outlines some of these acts.

Instruments for conferment of authority to enact by-laws:

The Rural District Council is the level at which effective decentralization ends, at least in terms of the legal framework. The Communal Lands Act vests control over land in the president, but devolves its administration to the Rural District Councils. The act therefore designates Rural District Councils as de jure land authorities. The Rural District Councils Act reinforces the powers that a variety of other laws vested in the councils: the Communal Lands Act defines them as land authorities, with powers to allocate land under their jurisdiction, in conjunction with district administrators; the Parks and Wildlife Act designates them as appropriate authorities over wildlife resources in their areas; the Communal Lands Forest Produce Act vests them with the power to grant licenses for timber concessions in communal ar-

farmeas; the Natural Resources Act designated them as authorities for the conservation of resources within their districts; and, the draft Environmental Management Act seeks to grant them appropriate authority status over a broad range of resources. The Rural District Councils Act additionally vested councils with the following powers: raising revenues through taxes, levies and tariffs from their areas; acting as local planning and development authorities; enacting legally-binding landuse planning and conservation by-laws that apply for areas under their jurisdiction. The next section considers how the Rural District Councils' legal personality and organizational setups have impinged or impinge on grassroots participation.

Rural District Councils as units enjoying designation as legal persons

Rural District Councils are therefore vested with legal personality through a variety of acts. Most of the Rural District Councils were created from the amalgamation of colonial rural councils, which represented the interests of white settlers on private land - and district councils, which represented the interests of the black majority in communal lands. The colonial predecessors of district councils were native boards, which were later succeeded by African Councils, and these were put in place to extend settler colonial administration through a system of indirect rule (Holleman, 1968; Weinrich, 1971). The founding philosophy of indirect rule was "governance on the cheap" (Chanock, 1998; Ranger, 1983). Indirect rule was entrenched under the guise of enhancing the role of indigenous administrative forms in governance but it was meant to entrench colonial control and to secure easy collection of taxes. These so-called African boards and councils consisted of headmen and chiefs who were supervised and kept under tight administrative and fiscal control by colonial native administrators. Rural District Councils as legal persons enjoying minor legislative authority to make legally binding by-laws therefore have their roots in undemocratic structures, which were designed to entrench colonial domination.

Local government reform in the postcolonial period did seek to infuse some democratic elements into such structures. The implications of such reforms on the scope for popular participation will have to be critically examined in terms of the extent to which they allocate effective power to citizens at the grassroots, since statutory existence seldom equates with the advancement of public interest (Brett, 1996). Community or popular participation is about communities having decision making powers or control over resources that affect that community as a whole (Ribot, 1998). An analysis of how the Rural District Councils are constituted and how they function gives insights on whether they are bodies that effectively represent or are accountable to the communities.

In terms of membership, the Rural District Councils consist of elected councillors representing the interests of their constituent wards, district heads of line ministries, council executives, chiefs as ex officio members, and co-opted NGOs, in some districts. Thus, far from being homogenous, the Rural District Councils potentially represent a complex mix of grassroots, customary, bureaucratic and technocratic interests. In principle, the composition of the RDC should not entail any contradiction since it potentially provides for a sharing forum that blends the top-down visions of sectorally-deconcentrated technocrats and bureaucrats with the bottom-up visions of elected community representatives. In practice, such sharing does not, on its own provide for full-proof accountabilities since related electoral processes are fraught with their own flaws. For instance, elite political interests in Zimbabwe have, during the postcolonial period, patronized the process resulting in the election of politicized councillors, who owe allegiance to, and are upwardly accountable to the major political party that endorses their candidature (Mandondo, in press).

The Rural District Councils operate through a system of committees, each tasked with a specific mandate. Chivi Rural District Council has the following committees: finance and staffing; planning; social services; natural resources; licensing; and an "advisory" Rural District Development Committee (RDDC). The Rural District Development committee is a powerful arm of council consist-

ing of district heads of government ministries, chairpersons of the Rural District Council's other committees and district heads of national security organs. It is presided over by the District Administrator, a bureaucrat representing the Minister of Local Government and National Housing. Councillors as representatives of grassroots communities are thus under-represented in the Rural District Development Committee, and yet the RDDC is the district's supreme planning body charged with consolidating various grassroots plans from the wards into the district's annual and five year plans. In principle the RDDC is supposed to discharge its mandate within an advisory context but in practice the body normally operates in the directive mode - the RDDC simply reports unilateral resolutions without being effectively accountable to council. Thus, although the Rural District Development Committee is potentially a forum for melding community and sectoral plans, in practice, it attenuates the spirit of popular participation and sidelines community plans and visions. The dominance of technocrats at the district level partly underlies the technicist content and orientation of the set of by-laws adopted and endorsed by Chivi Rural District Council. The issue of the content of by-laws is considered in later sections of this article. Suffices to note at this point that Rural District Councils, as legal persons with minor legislative competence over by-law formulation in areas under their jurisdiction, do not effectively represent the visions and aspirations of grassroots communities, neither are they effectively accountable to them.

Any other alternative legal persons out there?

Although most political and administrative systems have multiple tiers (Hasler, 1993; Brett, 1996), most of Zimbabwe's decentralization laws presently only recognize two nodes of social organization between which legal entrustments can be transferred - basically from the state to the district. The only exception is the Parks and Wildlife Act which assigns legal authority over wildlife resources among the state, district councils and private individuals, and this is only so because of specific historical circumstances. The 1975 version of the act had vested custodianship over wildlife resources in white farmers on freehold land who were designated as the "appropriate authorities". A 1982 amendment to the act sought to address the discriminatory nature of the act by extending the benefits of the act to peasant communities in wildlife-rich areas. But because of the peculiar nature of communal land tenure in peasant areas, the amendment extended appropriate authority status to Rural District Councils in which the peasant communities lived. Communal land tenure[4] combines a system of traditional freehold[5] entitlements to arable and residential land, beyond which lie communally-owned land and resources (Government of Zimbabwe, 1994; Moyo, 1996). In such a system a variety of actors may hold rights to resources which others, as individual or communities of individuals, may morally or legally be obliged to respect. The complexity of overlapping rights and the fuzzy and amorphous memberships and interests in such systems probably constitute major hurdles to their designation as autonomous legal persons. This is could be one of the reasons why Rural District Councils, moulded as they were around relatively clearer structures with more concrete mandates, have tended to be empowered at the expense of grassroots structures.

But several studies have argued that the so-called participatory or decentralized management systems at district level are essentially state management writ small (Murombedzi, 1991, 1992, 1994; Murphree, 1990, 1991, 1997; Mandondo in press). In spite of a veneer of accountability, participatory resource management systems implemented through district structures are generally practised on the terms and conditions of actors who are far removed from the resource use setting (Schroeder, 1999). Hence, Murphree (2000) decries the absence of bodies that can be defined

[4] After Murombedzi (1990), tenure, in this context, is defined as a bundle of rights entitlements to the use of land and its products by a clearly defined individual or group

[5] Legally, the "private" arable and residential holdings are only usufruct entitlements as, under the Communal Lands Act, all communal land is state land.

as legal persons below the district and above the level of the household. This is a call for plurality in the locus of conferment of minor legislative competence, from the conventional state to district focus, to new approaches that affirmatively recognize other levels in social hierarchies, particularly those closer to the grassroots. But the confounding question relates to the criteria on which such units can be defined.

In theory, the best setup is that which defines users of resources as owners and managers of the resources so that the costs and benefits accrue directly to them (Ostrom, 1990; Murphree, 1991). Achieving such an arrangement is, in practice, easier said than done because of the multiple and dynamic nature of forms of social organization below the district level. The Communal Areas Management Programme for Indigenous Resources, Zimbabwe's flagship to community-based management of wildlife resources, is based on the concept of the "producer community" - held as the basic unit of social organization through which communities can be empowered to manage local resources (Peterson, 1991). Explicit in preliminary programme designs was the need to focus on democratic units at the sub-district level as the producer communities (Martin, 1986). The programme's implementation, however, reflects fuzziness of scale and institutional (organisational) focus - CAMPFIRE was variously implemented at the levels of demographically-defined administrative units including village development committees, ward development committees or even entire districts (Peterson, 1991; Murphree, 1997).

CAMPFIRE essentially evolved as a social experiment. Its implementation, mainly through wards, was the result of strategic compromise between insular sectoral interests - particularly the local governance interests of the Ministry of Local Government and National Housing and the conservation and other interests of the Department of National Parks and Wildlife Management (Murphree, 1997). Allocative problems and conflicts are among some of the major problems bedeviling CAMPFIRE (Murombedzi, 1994). Such problems mainly arise from the implementation of the programme through arbitrarily defined administrative units that fail to "marry social and ecological topography" (sensu, Murphree, 1997). A fundamental shortcoming of most of Zimbabwe's devolution laws and policies is their failure to identify appropriate structures closer to the grassroots and vest them with minor legal privileges. A related shortcoming is their reliance on encouragement for district authorities to devolve authority further and their failure to legally compel district authorities to devolve authority further (Murphree, 1997). As will be shown later devolution through persuasion results in top-down orientations in the articulation of by-laws, which Rural District Councils are legally-mandated to enact. Both of the above shortcomings are rooted in the top-down nature of the allocation of environmental jurisdictions as opposed to bottom-up delegation.

The portfolio of minor legislative competence with regards to by-laws

The legislative authority of Rural District Councils is subsidiary to national statutes, and it has to be consistent with such statutes. The Rural District Councils Act includes a schedule that clearly specifies the areas in which the Rural District Councils enjoy privileges to enact legally binding by-laws. The schedule lists 116 areas, falling under a fourteen-part category of issues, over which council may enact the by-laws (Appendix 1). Part 2 of the schedule, circumscribes the range of issues over which council can enact by-laws relating to property including natural resources held under common property arrangements in peasant areas. Additional sections of the schedule that are directly linked to other aspects of the environment include: part 6, relating to water resources; part 7, which relates to sewage reticulation and waste disposal; part 8, relating to wildlife; and, part 13 relating to fire management. By-laws are, therefore, meant to provide more fully for these and other issues. This section, and a preceding one, has already outlined the sources and elements of the subsidiary legislative roles conferred upon Rural District Councils. The next section considers the by-law formulation processes and examines the extent to which the processes

allow for downward accountability to local communities, for whom the by-laws are ostensibly meant.

Representation and accountability relations in by-law formulation

Rural District Councils have the option of formulating the by-laws, with the participation of local communities, or adopting model by-laws from the Communal Lands (Model Landuse and Conservation by-laws, 1985). Model by-laws provide for the preparation of landuse plans in council areas, and they are similar to those promoted by the state in the 1930s (Scoones and Matose, 1993). They are based on a landuse planning system that makes use of aerial photographs to divide landscapes into an 8-class system of landunits, with a matching portfolio of suitable uses for each unit. Model by-laws are prescriptive and they do not embody the spirit of community participation. Because of their top-down orientation the plans often do not accord with the priorities and coping strategies of peasant communities (Scoones and Matose, 1993).

The process of formulating the by-laws with the "participation" of the communities does not turn out to be genuinely participatory or democratic either. In principle, by-law formulation should be preceded by a preparatory stage in which the need for formulating any set of by-laws is identified, ideally by communities, who can then notify council through their representative (Kundhlande, 2000). A relevant standing committee of council, e.g. the Natural Resources Committee, then gets assigned the role of examining the justification of the need for such by-laws, consulting expert opinion6, if necessary, and then making recommendations to council. On face value this is a potentially democratic process in which local communities can demand to have the by-laws through their "democratically" elected representatives. In practice, by-laws are formulated at the district level, without effective participation by the communities, and this occurs in most of the districts that opt not to adopt model by-laws (SAFIRE, 1999). Although councillors sit in council as elected representatives, the actual formulation of the by-laws is mapped onto the contour of power within council structures, in which council bureaucrats and technocrats have a much stronger voice. "Community" is a constituency of subordinate and weakened forms of power in local governance structures - it reflects fragmentary memberships and interests, and it represents a weakened and marginalized voice in key local government decision making fora, like the RDDCs (Mandondo, in press).

In spite of recognizing the need for local participation in the authorship of by-laws, the framework legislation does not provide authoritative guidelines on participation - it neither specifies minimum acceptable thresholds of participation nor the ways and means of achieving such participation. The legislation, therefore, does not fully embrace the case for more public participation as a way for increasing democratic involvement in local government at the local level. It leaves Rural District Councils with considerable discretionary powers about the extent and scope of community involvement in deciding whether or not any proposed set of by-laws is necessary.

The actual formulation of by-laws is a tortuous and extended process, with much of the time being allocated to allow for higher level provincial officials, and the relevant minister, to scrutinize the by-laws before they endorse them. Out of the bulk of this time local communities are only given 30 days within which to inspect the by-laws and, if necessary, lodge objections. To facilitate the inspection of the by-laws by the local communities the framework legislation obliges Rural District Councils to display the by-laws at the Council offices for the specified period and to publish them in a newspaper. Communities rarely inspect the by-laws partly because they are left out of the formulation process, whilst the by-laws themselves can only be inspected at the district level, or from obscure sections of newspapers that the peasants cannot easily access, let alone read.

[6] The Chivi Rural District Council by-laws stipulates that the council seeks advice from the following government offices in the preparation of plans for communal and resettlement areas: the provincial planning officer; the provincial Agritex officer and the regional officer in the Ministry of Environment and Tourism.

Objections from the community, if any are raised, are unilaterally deliberated upon by the council, which can adopt them in whole or in part, without further dialogue with the communities. The legislation bestowing Rural District Councils with the power to enact by-laws, therefore, gives the councils wide discretionary powers, and denies the communities a sound basis on which to actively participate in the formulation of the by-laws. Fast-tracking of the inspection of the by-laws by the communities also undermines the spirit of popular participation in by-law formulation.

Endorsement of the by-laws is not done with the involvement of the communities - it is the exclusive preserve of the relevant minister, to whom the Rural District Councils are accountable for the by-laws they formulate on behalf of the local communities, and the decisions that they make on local people's objections. Whilst by-law inspection is fast-tracked at the community-level, with no "set pauses"7, the Minister and the Attorney General's office enjoy a set pause of up to 6 months, in which to thoroughly scrutinize the by-laws before approval. Rural District Councils submit the following documentation for ministerial scrutiny: the proposed set of by-laws; proof of consultation in the form of a notice in the press; list of all objections received; minutes of the council meetings where the by-laws were discussed; and, the final council resolution. The minister enjoys the discretion to modify or amend the by-laws or to recommend council to adopt model by-laws if the council's by-laws are not substantially different from the model by-laws. Ministerial amendments to by-laws are not subject to negotiation or contestation by the Rural District Councils or from the community.

Effective legal systems are best founded on the beliefs and values of societies of which they are part (McAuslan, 1993). But the Rural District Councils Act provides for a process in which Rural District Councils are upwardly accountable to the minister in the formulation and approval of by-laws, instead of being downwardly accountable to the local communities. But the minister is far-removed from the resource use setting and is thus not best placed to ensure that the by-laws embody the values and beliefs of the communities for which they are meant. Although vesting the minister with wide discretionary powers over the endorsement of by-laws may be well-intentioned - e.g. to ensure that the by-laws are consistent with parent legislation - there is no system of checks and balances to ensure that such powers are exercised in the interests of the grassroots communities. Vesting the minister with the prerogative to replace council by-laws with a model template of by-laws also defeats the purpose of starting on the process in the first place. It is a sheer waste of time and resources, since vesting councils with by-law formulation privileges is ostensibly done to take care of context specificity (Mohamed-Katerere, 1999).

Chivi Rural District Council by laws, the content

Although the framework legislation confers very broad delineations, the Chivi Rural District Council's by-laws only provide in detail for landuse planning. The by-laws are rather silent with regards to the use and management of natural resources in communal and resettlement areas, for which the by-laws apply. They include just a few oblique restrictions on - owning, using and possessing a sleigh, cutting of trees and collection of firewood and timber, and damage and destruction of fences and conservation works. The council's schedule of fines, however, shows that the council imposes fines over areas that are not clearly provided for in the by-laws including causing of veld fires, poaching of game and fish, pulling of ploughs on ground and cutting down of protected tree species. Although findings from the field study indicate that various forms of illegal allocation/utilization of land and felling of trees were amongst the major natural resource management problems, there are other important issues that are neither provided for in the council's set of

[7] "Set pauses" relate to allocation of sufficient "lag time' during any stage of the process to give positive opportunity public reaction and participation and presentation of alternative choices (McAuslan, 1993). Note, however, that it implies context of conditionality in which people are passive subjects with higher level authority in driving seat.

by-laws nor the schedule of fines. Natural resource management issues not included in the by-laws, but reported to have become increasingly important include those that were widely associated with the advent of the economic structural adjustment programme. Prominent among such issues were sand extraction for the construction industry, alluvial gold panning along the Runde and the Tugwi rivers, and extraction of soapstone (munyaka) and timber for the craft industry. The current Chivi Rural District Council by-laws, which were gazetted in February 1996, repealed model by-laws that had been adopted in 1987. In addition to their top-down orientations, and their failure to comprehensively provide for all the important natural resource management issues, the by-laws also appear somewhat static. Although the framework legislation provides scope for review and amendments, the extended and tortuous nature of the process imposes disincentives[8] for the councils to regularly undertake such reviews and amendments.

In spite of being formulated in a "participatory" manner the Chivi Rural District Council by-laws have a strong technicist content and are based on patronizing as well as command and control approaches to natural resource governance. They treat users of natural resources in peasant communities as passive objects requiring assertive guidance from a more "rational' outside. For instance, provisions relating to setting aside of grazing areas empower council to prescribe: stocking rates; grazing rights across owners; grazing periods; rest periods; and, appropriate conservation measures. Provisions relating to planning of cultivation areas additionally allow council to specify the following: cultivation rights; means or implements to be used in given cultivation area; types of crops to be grown, and their rotation; contour ridging and land protection measures; and, when to leave the cultivation areas fallow. This means that decisions are effectively made outside the subsystems in which related problems occur, and this has implications on the relevance and effectiveness of the by-laws.

8 From a transaction cost perspective.

Enforcement, legitimacy and effectiveness of the by-laws

In addition to their technicist content and their origin in external imposition, the by-laws further criminalize local use of resources. They impose fines in order to restrict use of natural resources instead of putting in place voluntary systems of local regulation with incentives to ensure sustainable use. Local communities are, however, expected to cooperate with council monitors who impose fines for various violations, with the revenue accruing to the Rural District Council. The arrangement therefore places the costs of an imposed governance system close to the people but not the benefits, which accrue to the Rural District Council, where income may be used for any other purpose, and not to address the environmental problems for which the fines would have been exacted.

Council employs two resource monitors per ward. The monitors assume duty after being elected with the "participation" of the local communities and being subsequently vetted by the police. Most local people, however, denied having participated in the election of monitors mainly because the process was not widely publicized. Others claimed to have just ignored the exercise because of other overriding priorities on their time and effort, and others because they saw the by-laws as being "oppressive". For instance, a headman remarked that much of what the by-laws did was to prevent people from using trees "...but no-one ever became pregnant to give birth to a tree...the trees are there for us all to use and care for... and the fact that we use the trees does not necessarily mean that we do not care for them". Thus, in spite of a veneer of local involvement in the election of the resource monitors, such monitors are largely seen as enforcing externally imposed regulations, and this impinges on the effectiveness of enforcement of the by-laws.

The process of enforcement of by-laws involves issuing of tickets that impose fines on violators based on a schedule given to the monitors by the council. Personal details of the violator, including the postal address, are entered onto two tick-

ets - one of which is to be retained by the violator after signing, and the other sent to the Rural District Council. The person issued with a ticket is supposed to deposit the stipulated fine at the council offices within a given period. Council officers are supposed to make follow-ups to ensure that people deposit their fines on time. Those who do not pay the fines risk being handed over to the police or to formal courts. Most of these arrangements seldom work in practice. People issued with tickets often just quietly ignore the tickets without paying the fines, and council officials rarely make follow-ups mainly because of logistical constraints. Not surprisingly, three council monitors interviewed estimated high default rates, with one estimating it to be over 60%. Council records of payment of fines, over a 21-month period between October 1996 and July 1998, also do not suggest high payment levels considering that these represent collated statistics for all the district's 29 communal land and resettlement wards for which the by-laws apply (Table 1). Meanwhile, the study found no evidence of anyone having been handed over to the police for flouting the by-laws, and only one case of someone who opted to pay only after being threatened with a court case. Overall, the allocation of enforcement responsibilities to monitors by the council, without effective involvement by the communities implies that the monitors are upwardly accountable to the council and not to the communities to who the by-laws apply.

The enforcement picture is further worsened by the fact that most people, including the monitors, felt that the proportion of cases that went undetected was far higher than those apprehended. This is underlain by several factors, not least because of low morale among the monitors. Low morale mainly arises from the failure by council officials to effectively complement the work of the monitors by following up on the people issued with tickets, and poor levels of remuneration to the monitors. Each of the resource monitors earns a

Table 1 : Schedule of fines and records of payment of the fines for flouting the Chivi Rural District Council landuse planning and conservation by-laws between October 1996 and July 1998

Offences	Penalties in $	Number Apprehended	% of total
Damage to roadside establishments	300	7	2.1
Causing veld fires	500	30	9.2
Stream-bank cultivation	100	5	1.5
Settlement, illegal homestead	100	61	18.7
Poaching, game and fish	100	61	0.3
Cutting down of trees, protected species	102 - 213	0	0
Cutting down of trees not protected	40	85	26.0
Possession of sleighs, pulling plough	100	17	5.2
Unauthorized gardens	100	68	20.8
Unauthorised extension lands	100	44	13.4
Raising wire/fencing to go through	25	9	2.7
Unauthorised grazing	100	0	0

basis fee of $100 per month plus 10% commission on the amount of the fines the monitor will have caused to accrue to the council. Monitoring is therefore largely ad hoc and not intensive and regularized, as resource monitors invest their time and effort in other gainful activities. In general, there was greater evidence of the monitors relying on indirect methods of accounting for violators, like reliance on tip-offs from third parties and historical evidence of violations compared to direct red-handed apprehension. The over-reliance of monitors on indirect evidence of violations was reported to often result in disputes between the monitors and suspected violators, as the latter do not easily own up.

Even when the suspects do own up and agree to pay fines, they mostly do so under protest as they perceive the fines to be punitive and unfair. The levels of the fines are arbitrarily pegged by the council - and not indexed to levels of community outrage to various forms of breach, or to community perceptions of the legitimacy of such fines. All the monitors interviewed reported that they faced tremendous amounts of pressure from suspects, with all of them having, at one time or another, been threatened with bewitchment or threats of physical violence. On some occasion, one of the monitors was extricated9 from a brawl in which he was about to be axed by an enraged suspect. The fear of violence or bewitchment may inhibit monitors from apprehending some suspects, although some of them did not readily acknowledge this.

All the monitors indicated that it was more effective to enforce the by-laws by enlisting the support of traditional leaders compared to relying on council officials. One monitor argued that the traditional leaders were generally more well-respected than elected representatives "...because councillorship is basically nothing beyond a show of hands, but chiefly powers are deeper since the chiefs own the land and its people". The threat of expulsion from a chief's areas was widely acknowledged as one of the most effective instruments of chiefly power, which the chiefs could invoke against habitual offenders. Support from traditional leaders was reported to be easily forthcoming when the by-laws were similar to local rules, which the leaders wanted enforced e.g. prohibitions against felling fruit trees, big trees and trees that grow in riverine areas. Enlisting the support of traditional leaders in enforcing council by-laws legally entails no contradiction since the Traditional Leaders Act confers such a role on chiefs and headmen. Two sources of contradiction are, nevertheless, apparent.

First, the Rural District Council system of enforcing by-laws exists side by side with "traditional" systems for enforcing local rules. The traditional systems include implicit norms and mores as well as explicit rules and enforcement arrangements in which the chiefs' and headmen's police have the role of apprehending violators. Local enforcement also includes the spiritual belief that even if one evaded being apprehended by other mortals, one could not evade the spirit guardians of the land, who are believed by some to unleash divine visitations upon violators. Suspects accounted for by the chief's police are either warned, made to pay goat or traditional beer fines, or expelled from the community if they are habitual offenders. The efficacy of these mechanisms was not assessed but most people interviewed reported that such arrangements were generally better well respected than council by-laws. There is, however, no coordination between the two natural resource regulation systems since suspects can find themselves being censured under either of the systems or both. Fines in the traditional system were reported to have historically been used to mitigate the transaction costs of convening courts at which cases of violations were heard, but of late people alleged increased incidents whereby some traditional leaders exacted the fines for their own benefit.

A second contradiction arises from the fact that whilst the Traditional Leaders Act recognizes traditional leaders as allies in enforcing top-down by-laws, other acts like the Communal Lands Act and the Rural District Councils Act still effectively retain land allocation powers that were taken away from chiefs in the immediate post-independence period. But chiefs have, over the years, continued

[9] This was done by a headman after the suspect had refused to obey the impassioned pleas of many other people.

to allocate land on the basis territorial, customary and other forms of claims to the land. The source of irony is that the chiefs are expected to uphold by-laws but such by-laws dilute and erode their major power base i.e. the authority to allocate land. The formal process of allocation of land entails that the prospective settler should bear a clearance letter from the district of origin before approaching the headman and councillor for local approval. Final approval is done by a council land allocation committee consisting of the relevant VIDCO committee, the chief, the councillor and Agritex (national agricultural extension service). There is rampant flouting of this arrangement by chiefs and headmen, as borne out by statistics in Figure 1, which show that various forms of illegal landuse were amongst the most frequently flouted by-laws in Chivi over an 18-month period. One of the councillors interviewed in this study estimated illegal land allocations to constitute 60-70% of the new settlements in communal areas close to his home.

The latest wave of illegal land allocations was reported to have assumed elements of an informal real estate in the land, with some traditional leaders charging fees to prospective settlers. Several high profile cases of illegal land allocation were provided including one from the Barura area and another from an area close to the turn-off from the Chivi-Mhandamabwe main road to Mutangi. Resolution of both of these cases involved intervention by the district administration and the Rural District Council. The Rural District Council requires traditional leaders who illegally allocate land to ensure the vacation of such land, or else face prosecution. If charges are preferred, the settlers are made to pay fines for the trees they will have felled at a rate of $40 per tree.

This study also recorded cross-border ambiguities in regimes of levies charged for sand extraction by the Chivi and the Masvingo Rural District Council. Both Districts have important sand extraction sites along the Tugwi River. The Chivi Rural District Council, on one side of the river was charging $2 for every cubic metre of sand extracted, whilst the Masvingo Rural District Council on the other side charged $7.50 per cubic metre. The Chivi Rural District Council employs locals to monitor and keep records of sand extracted. The monitors get a 10% commission. Disparities in levies are unfair to the monitors on the Chivi side and these monitors sometimes end up conniving with new contractors, other than those licenced by council, from whom they obtain kickbacks.

Discussion

Several flaws and contradictions are evident in the political economy of the allocation of authority and responsibility among the Zimbabwean state, local communities, and Rural District Councils through the conferment, to the latter, of authority to enact by-laws that apply to areas under their control. Most of these problems arise from the top-down orientations of the assignment of such authority. First, although framework legislation confers very broad delineations over authority to enact by-laws, monitoring is done on the basis of whether governance delivers on technicist goals of environmental conservation and "rational" landuse planning, and not on the priorities and aspirations of the local communities. Second, the entrustments are transferred solely to Rural District Councils at the expense of other forms of social organization, particularly those that are closer to the citizens. Third, although there is scope for sharing in governance, through popular representation at district level, effective decisions at the district are made in bodies that are not accountable to the council, since council is the forum in which the local representatives have a greater voice.

Fourth, there is no provision for reversibility, through amendments of the by-laws by the communities, but by the Rural District Councils and the relevant minister. Such amendments can only be made on the basis of whether the governance is delivering on technical goals envisioning "rational" landuse planning and legal goals of consistency with broader legislation. There is no explicit provision for amendments on the basis of community priorities, interests and goals. Fifth, in addition to being highly prescriptive the governance system punishes citizens for not respect-

ing arrangements that were put in place without their effective involvement and consent. Sixth, the revenue from the fines imposed on the local communities are siphoned to Rural District Councils, without accruing to the communities from which they are collected or directly addressing the environmental problems for which they will have been imposed. Lastly, the by-laws appear to fail to provide room for the coordination that is necessary to address cross-border problems and spill-over effects. Overall, such governance arrangements are not widely respected since they are largely viewed as being illegitimate and oppressive. Innovative approaches to governance are required to address most of these flaws and contradictions.

Reversing top-down orientations in the assignment of jurisdiction through the by-laws would be amongst the most radical approaches. It would involve reversals in by law articulation in which the formulation and operation of the by-laws are effectively placed in the hands of the citizens, with the council playing monitoring and coordination roles. The Institute of Environmental Studies is pioneering with such reversals on its DFID-funded Micro-catchment Management and Common Property Resources Project. The research objectives of the project include: identifying a range of technical, institutional and other options for the management of micro-catchments; evaluating the impacts of the options on various biophysical, economic and institutional variables that have implications on the micro-catchments, and interactions among them; and, evaluating the poverty alleviation and environmental management tradeoffs of the various options. The development objective includes providing policy makers, extension staff and communities with the tools with which to make sound management decisions, and promoting the implementation of such decisions (Frost and Mandondo, 1999).

Accomplished stages in the process of seeking institutional reversals on this project include exercises in which the study communities developed their visions on governance, at first separately, and later jointly, with their Rural District Council. The joint initiative yielded a wonderfully democratic vision of by-law articulation in which communities would: formulate the by laws with council endorsing them; harmonize the multiplicity of rules at the local level, with the council endorsing; peg, collect and manage fines, with council monitoring the effectiveness; decide on the disposal of the revenues collected from fines, with council negotiating a percentage depending on its levels of input; enforce, monitor and amend the by-laws, with the council giving necessary support; negotiate on cross-border and spill-over effects with the council coordinating and advising; etc. Clearance has already been secured from the Rural District Council to facilitate the crafting of such a vision, with a view to implementing it and documenting major lessons for wider uptake in other districts and related contexts. The support and interest of both the local communities and the Rural District Council have been, and will continue to be key to the initiative.

Another radical approach would be to lobby for the extension of legal mandate for local natural resource governance to units that are closer to the citizens below the district level. A question that receives scant attention in the literature, though, is the mode through which the fuzzy, diffuse and ever-changing forms of social organization at the grassroots level can coalesce into resource management units than can receive legal mandate. Murphree (1997) advocates for a strategy of community identification involving self-definition through the processes of dialogue and negotiation. He argues that such a process should take cognisance of long-established traditional jurisdictions and resource management aggregations that make sense, in order to match social geographies with spatial resource configurations. The widespread lack of respect for imposed by-laws as well as poor enforcement and high default rates in the payment of fines all lend weight to "long established traditional jurisdictions" as potential appropriate units. The emphasis on these bodies also shares close resemblance to the recommendations of the Land Tenure Commission, set up in the early 1990s, to investigate appropriate agricultural and land tenure systems across Zimbabwe's land tenure categories (Government

of Zimbabwe, 1994). The Commission concluded that the traditional villages, under village heads, were the legitimate and appropriate units for natural resource management below the district level. The Commission recommended for the granting of legal titles to well-mapped village units with clearly defined boundaries. Most of the recommendations, except that relating to legal titles, were subsequently adopted by the government, and formed the basis of the Traditional Leaders Act of 1998, which provided for the empowerment of traditional authorities like chiefs and headmen.

Considerable ambiguity still characterizes the assignment of jurisdiction across a number of Zimbabwe's environmental and other acts. Uncertainty still exists, in spite of the merits of the above units as possible candidates for legal mandate, the demerits of the units notwithstanding10. Jurisdiction over mineral resources, according to the Mines and Minerals Act, is still the exclusive preserve of the state. The Rural District Councils Act assigns authority to enact by-laws between the state and the Rural District Councils. The Parks and Wildlife Act assigns jurisdiction over wildlife resources among the state, the Rural District Councils in peasant areas, and the landed class in the freehold sector. The draft Environmental Management Bill broadens the portfolio of "appropriate authority" to include a wider range of resources other than just wildlife. In spite of having been preceded by the Traditional Leaders Act, the draft bill does not complement the bold attempts of the former at defining potential legal units below the district level. The bill further seeks to vest such authority in Rural District Councils, without extending it to units below the district level.

Other approaches could be incremental - with an emphasis on securing and consolidating community gains from lobbying for changes in those aspects of current governance arrangements that are potentially maneuverable. Such an approach could, for instance, involve: lobbying for better community representation in the RDDC, the district's supreme planning body; lobbying for changes to ensure that the RDDC reports to, and is effectively accountable to council; or lobbying the relevant minister to give greater attention to criteria for community empowerment when he/she endorses, amends or seeks the amendment of the existing sets of the Rural District Council by-laws.

[10] Indigenous governance forms were co-opted into colonial governance forms, and were often remoulded to advance the designs and intentions of colonial administration to the extent whereby it may be misleading to speak of "authentic indigenous forms" but "attenuated indigenous forms" (Chanock, 1998).

References

Agrawal, A. 1997. Shepherds and their leaders among the Raikas of India: A principal-agent perspective. Journal of Theoretical Politics, 9: 235-263.

Agrawal, A. and Ribot, J. forthcoming. Accountability in decentralization: a framework with South Asian and West African cases. Journal of Developing Areas.

Anderson, I.P.; Brinn, P.J.; Moyo, M. and Nyamwanza, B. 1993. Physical resource inventory of the communal lands of Zimbabwe. Natural Resources Institute Bulletin 60. Natural Resources Institute, Chatham Maritime, Kent.

Braedt, O. and Standa-Gunda, W. (in press) Woodcraft in Zimbabwe Submitted to the International Tree Crop Journal. Academic Publishers, Oxton.

Berry, S. 1993. No Condition is Permanent: The Social Dynamics of Agrarian Change in sub-Saharan Africa. University of Wisconsin Press, Madison.

Brett, E.A. 1996. The participatory principle in development projects: the costs and benefits of cooperation. Public Administration and Development, 16:5-19.

Central Statistical Office, 1992. Zimbabwe population census 1992: preliminary results. Central Statistical Office,Harare.

Chanock, M. 1998. Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia. Heinemann, Portsmouth.

Coglianese, C. 1999. Transforming global governance: from nation states to international institutions. A discussion paper for the 4th Annual Visions of Governance for the 21st Century Conference, Bretton Woods, New Hamp-

shire, July 11-14, 1999.

Coglianese, C. and Nicolaidis, K. 1996. Securing subsidiarity: legitimacy and the allocation of governing authority. John F. Kennedy School of Government, Harvard University.

Crook, R.C. and Manor, J. 1998. Democracy and Decentralization in South Asia and West Africa: Participation, Accountability and Performance. Cambridge University Press, Cambridge.

Frost, P.G.H. and Mandondo, A. 1999. Improving rural livelihoods in semi-arid regions through management of micro-catchments. Institute of Environmental Studies, University of Zimbabwe.

Ferguson, J. 1994. The Anti-Politics Machine: Development, Depoliticization and Bureaucratic Power in Lesotho. University of Minnesota Press, Minneapolis.

Government of Zimbabwe, 1994. Report of the Commission of Inquiry into Appropriate Agricultural Land Tenure Systems. Government Printer, Harare.

Hasler, R. 1993. Political ecologies of scale and the multi-tiered co-management of Zimbabwean wildlife resources under CAMPFIRE. Centre for Applied Social Sciences, University of Zimbabwe.

Holleman, J.F. 1968. Chief, Council and Commissioner. Koninkelijke Van Gorcum and Company, Netherlands.

King, L.A. 1994. Inter-organisational dyanamics in natural resource management: a study of CAMPFIRE implementation in Zimbabwe. Centre for Applied Social Sciences Occasional Paper. Centre for Applied Social Sciences, University of Zimbabwe.

Kundhlande, S. 2000. Implementing natural resource management by-laws and legislation/ policies: opportunities and constraints. Paper presented at an ITDG National Level workshop on Natural Resources Management and Sustainable Livelihoods, Harare, 27 April 2000.

Mandondo, A. in press. Forging (un)democratic resource governance systems from the relic of Zimbabwe's colonial past. (Forthcoming in Environmental History).

Martin, R.B. 1986. Communal Areas Management Programme for Indigenous Resources (CAMPFIRE). Department of National Parks and Wildlife Management, Harare.

McAuslan, P. 1993. The Ideologies of Planning Law. Urban and Regional Planning Series, Vol 22. Pergamon Press, Oxford.

Metcalfe, S. 1995. Livestock, wildlife and the forage commons: prospects for rangeland reform in a semi-arid communal area of Zimbabwe. Centre for Applied Social Sciences, University of Zimbabwe.

Mohamed-Katerere, J. 1999. Using Rural District Council by-laws to promote community-based natural resource management. In Proceedings of a National Workshop on Rural District Council and Community-level By-Law Formulation for Community Based Natural Resource Management. Organized by SAFIRE and held at OTD, 20-21 July 1999.

Moyo, S. 1996. The Land Question in Zimbabwe. Southern Africa Regional Institute for Policy Studies. SAPES Books, Harare.

Murombedzi, J. 1991. Decentralizing common property resources management: a case study of the Nyaminyami District Council of Zimbabwe's wildlife management programme. IIED Paper, No. 30. IIED, London.

Murombedzi, J.C. 1992. Decentralization or recentralization? - implementing CAMPFIRE in Omay Communal Lands of the Nyaminyami District. Centre for Applied Social Studies, University of Zimbabwe.

Murombedzi, J.C. 1994. The dynamics of conflict in environmental management policy in the context of CAMPFIRE. Unpublished Ph.D thesis, University of Zimbabwe.

Murphree, M.W. 1990. Decentralizing the proprietorship of wildlife resources in Zimbabwe's communal areas. Centre for Applied Social Sciences, University of Zimbabwe.

Murphree, M.W. 1991. Communities as institutions for resource management. Centre for Applied Social Sciences, University of Zimbabwe.

Murphree, M.W. 1997. Congruent objectives, competing interests and strategic compromise: concept and process in the evolution of Zimbabwe's CAMPFIRE programme. Paper presented to the Conference on "Representing Communities: Histories and Politics of Com

munity-Based Resource Management" Unicoi Lodge, Helen, Georgia, USA.

Murphree, M.W. 2000. Boundaries and borders: the question of scale in the theory and practice of common property resource management. Paper presented at the 8th Biennial Conference of the International Association for the Study of Common Property. Bloomington, Indiana, 31 May-4 June 2000..

Peterson, J.H. 1991. CAMPFIRE: A Zimbabwean approach to sustainable development and community empowerment through wildlife utilization. Centre for Applied Social Sciences, University of Zimbabwe.

Ranger, T. The invention of tradition in colonial Africa. In E. Hobsbawm and T. Ranger (eds) The Invention of Tradition, pp 211-262. Cambridge University Press, Cambridge.

Southern Alliance for Indigenous Resources (SAFIRE), 1999. Report on the proceedings of a national workshop on Rural District Council and Community-level by-law Formulation for Community Based Natural Resource Management, Harare, 20-21 July 1999.

Schilling, T. 1995. Subsidiarity as a rule and a principle, or: taking subsidiarity seriously. Harvard Law School, Harvard University.

Schroeder, R. 1999. Geographies of Environmental intervention in Africa. Progress in Human Geography, 23: 359-378.

Weinrich, A.K.H. 1971. Chiefs and Councils in Rhodesia: Transition from Patriarchal to Bureaucratic Power. University of South Carolina Press, Columbia.

Appendix 1: Areas over which Rural District Council enjoy legal mandate to enact locally-binding by-laws (As per Rural District Councils Act, 1988).

Part 1, Council proceedings and financial matters	***Part 2, Controls over property 8. Protection of property controlled by council***
1. Proceedings at meetings 2. Disclosure of documents and publication of proceedings 3. Financial 4. Contracts 5. Tenders 6. Capital development funds 7. Allowances for councillors and members of committees	9. Protection of common property 10. Vegetation 11. Conservation of natural resources 12. Congregation, entry and parking on property controlled by council 13. Permits for certain activities on land controlled by council 14. Removal of unauthorized buildings on land controlled by council 15. Advertisements 16. Depreciation of property 17. Overcrowding 18. Limitation and control of occupation and use of land and buildings 19. Excavations 20. Masts and poles 21. Hedges and trees 22. Fireplaces and chimneys 23. Cooking and washing facilities 24. Occupation or use of buildings 25. Dangerous and neglected buildings 26. Public buildings 27. Fire-fighting equipment and fire escapes 28. Numbering of premises and buildings

Part 3, Planning, construction and use of buildings and structures 29. Interpretation in Part 2 30. Location and situation 31. Plans, specifications and structural calculations 32. Nature, design and appearance of buildings 33. Drainage and sewerage provision 34. Water supplies 35. Materials and construction 36. Conduct of building operations 37. Inspections, samples and tests 38. Temporary structures 39. Use of buildings 40. Completion of buildings 41. Use of scaffolding, hoarding or protective devices 42. Administration of by-laws relating to certain matters 43. General	***Part 4, Roads and traffic*** 44. Work in vicinity of roads 45. Scaffolding and decorations on roads 46. Gatherings and noises in roads 47. Prevention of use of pavements for unauthorized purposes 48. Trees, shrubs, in relation to roads and road traffic 49. Regulation of use of roads 50. Naming of roads 51. Obstruction of roads and other public places 52. Processions and public meetings 53. Driving of stock 54. Loading and unloading 55. Use of warning devices 56. Parking of vehicles 57. Regulating and licensing cycles and certain other vehicles 58. Taxi-cabs and omnibuses 59. Drivers of taxi-cabs 60. Omnibuses
Part 5, Amenities and facilities 61. Public sanitary conveniences 62. Parks, recreation grounds, caravan parks, camping grounds etc 63. Boating establishments 64. Fish and fishing 65. Creches 66. General 67. Pollution of water 68. Wells and boreholes	***Part 6, Water*** 69. General 70. Pollution of water 71. Wells and boreholes
Part 7, Sewerage, effluent, the destruction of insects and vermin and the removal of refuse and vegetation 72. Sewerage and drainage 73. Sanitary fittings 74. Effluent and refuse removal 75. Cleansing of private sewers, roads and yards 76. Crops, vegetation, rubbish and waste material 77. Disease-carrying insects and vermin 78. Noxious insects	***Part 8, Animals, bees, reptiles, birds*** 79. Keeping of animals, bees, reptiles and birds 80. Public riding stables and kennels 81. Dog tax 82. Slaughter of animals and slaughter houses 83. Dipping tanks 84. Stock pens

Part 9, Food, food premises or vehicles and markets 85. Sale and supply of food 86. Premises, vehicles and employees 87. Food introduced from outside council area or particular areas 88. Market gardens 89. Markets	***Part 10, Trades, occupations and other activities*** 90. Dangerous trades 91. Employment bureaux and compulsory medical examination and treatment of workers 92. Disinfection and fumigation 93. Infectious diseases 94. Hawkers and street vendors 95. Electricians 96. Plumbers and drain layers 97. Hairdressers, barbers and beauty saloons 98. Launderers, cleaners and dyers 99. Funeral parlours and mortuaries 100. Boarding houses 101. Public auctions 102. Control of collections
Part 11, Nuisances 103. General 104. Horn, bells, etc 105. Use of loudspeakers 106. Objectionable advertisements, etc	***Part 12, Functions, performances and amusements*** 107. Performances dangerous to the public 108. Amusements 109. Open-air events
Part 13, Fires, combustible materials and explosives 110. Fires 111. Bonfires and burning of rubbish 112. Combustible or inflammable material and explosives	***Part 14, General*** 113. Control of any service, institution or thing 114. Inspections 115. Charges 116. Offences and penalties