

**AN ASSESSMENT OF THE IMPLICATIONS OF LAW, POLICY AND  
INSTITUTIONAL ARRANGEMENTS FOR COMMUNITY PARTICIPATION IN  
TRANSFRONTIER CONSERVATION IN SOUTHERN AFRICA.**

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Environment and Development in the Centre for Environment, Agriculture and  
Development, School of Environmental Sciences, University of KwaZulu-Natal

**Pietermaritzburg 2007**

## **PREFACE**

The past 10 years has witnessed a rebirth of transfrontier conservation in southern Africa. While natural resources management has been going on for a long time at the national level, the new conservation discourse is to manage resources from a regional perspective as some natural resources straddle political boundaries. This new conservation discourse is known as transfrontier conservation. The rebirth of transfrontier conservation is attributed to a number of factors, among them the SADC Treaty of 1992, the prevailing peace in the region as a result of end of civil war in the former Portuguese colonies of Mozambique and Angola and the dawn of a democratic era in South Africa.

Community participation has become an integral part of conservation efforts in southern Africa as a result of the paradigm shift in conservation. This paradigm shift is widely reflected in a concept known as Community Based Natural Resources Management (CBNRM). Laws, policies and institutions play very important roles in facilitating community participation in conservation. With regard to community participation, transfrontier conservation is regarded as offering an opportunity for the lessons learnt at the national level to be applied at a large legal, policy and institutional scale. The effectiveness of community participation in conservation will to a large extent depend on how prescriptive the conservation laws and policies are. It is through prescriptive laws and policies which secure commitment from conservation agencies that community empowerment, the desired outcome of participation will be achieved.

This mini-dissertation consists of two components namely A and B. Component A is a detailed justification of my analysis of the implications of law, policy and institutional arrangements for community participation in transfrontier conservation in southern Africa. The analysis is based on a comprehensive literature review of the concepts of community participation, transfrontier conservation and the law, policy and institutional frameworks under which they are being practised in southern Africa. Component A also consists of an introduction to the research, problem statement, research aims and objectives, methodology and conceptual framework. Component B is written in the form

of a research paper for publication and it complies with the requirements of the selected journal shown in appendix 1.

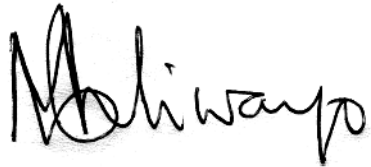
While component B is a stand alone paper in its own right, it draws on relevant information from component A wherever necessary. Component B analyses whether provisions are made for community participation both at the national and regional level in the conservation laws, policies and institutions and their prescriptiveness. This analysis is based on a set of indicators derived for this purpose and uses a case study to illustrate their application. Component B also includes a discussion of the research findings.

The research methodology was mainly a desktop analysis of the intention and content of laws, policies and institutions using primary and secondary data.

## DECLARATION

The research described in this mini-dissertation was undertaken at the Center for Environment and Development (CEAD), University of KwaZulu-Natal, Pietermaritzburg, under the supervision of Professor Charles Breen and Doctor Nyambe Nyambe.

I declare that this mini-dissertation represents the original work of the author and has not been submitted in any form for any degree or diploma at any University. Where use has been made of others' work, it is duly acknowledged in the text.

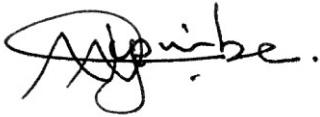


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## **ACKNOWLEDGEMENTS**

In completing this mini-thesis, I am greatly indebted to a number of people, who helped me in various ways. The help ranges from supervision and guidance, provision of resource materials, financial support, love and friendship.

Firstly, I would like to thank my supervisor, Professor Charles Breen and co-supervisor, Dr. Nyambe Nyambe for their visionary supervision, guidance and the high standards they set. They provided and guided me to research materials that proved invaluable in completing this research. It was a pleasure working with, and learning from them. My only regret is that I was only able to work with them for a very limited period of time. I hope that opportunities will arise in the future for us to work together again.

Secondly, I would like to thank the Director of CEAD), Professor Robert Fincham for the financial support that afforded me the opportunity to further my academic studies at CEAD. I hope that my completion of this mini-thesis goes a long way in fulfilling those expectations that you had of me. Thank you very much.

Thirdly, I would like to thank Muthoni Ngotho for introducing me to the Masters in Environment and Development programme at CEAD when we met at the Bearhs Environmental Leadership Programme at the University of California, Berkeley, United States in 2003.

Fourthly, I would like to thank my wife, Millicent and daughter Nyasha, my father and all the other members of my family for all the support and the prayers. It was particularly hard on my wife. Thanks for all the love, encouragement and understanding that the sacrifices I was making were for a better future.

Fifthly, I would like to thank my classmates, colleagues and friends for making me feel home away from home during my studies through moral support, encouragement, sharing of ideas and resource materials.

I would also like to thank God for helping me through especially during the dark days when I seemed to be going nowhere. He provided me with the spiritual guidance.

Lastly, I would like to thank CEAD administrative staff, Philippa McCosh, Kerry Jordaan and Faith Nzimande for their readiness to help when ever I approached them. May long the good work continue.

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## **ACCRONYMS**

ADMADDE	Administrative Design for Game Management Areas
BSP	Biodiversity Support Programme
CAMPFIRE	Communal Areas Management Programme for Indigenous Resources
CBD	Convention on Biological Diversity
CBNRM	Community Based Natural Resources Management
CBPRs	Community Based Property Rights
CITES	Convention on the International Trade in Endangered Species, Fauna and Flora
DEAT	Department of Environmental Affairs and Tourism
DNPWM	Department of National Parks and Wildlife Management
GLTP	Great Limpopo Transfrontier Park
IASCP	International Association for the Study of Common Property
IUCN-ROSA	The World Conservation Union Regional Office for Southern Africa
LBs	Local Boards
LIFE	Living in a Finite Environment
MOU	Memorandum of Understanding
NGO	Non Governmental Organisations
SADC	Southern African Development Community
SANParks	South African National Parks
TBCAs	Transboundary Conservation Areas
TBNRM	Transboundary Natural Resources Management
TBNRMA	Transboundary Natural Resources Management Area
TBPAs	Transboundary Protected Areas
TFCA	Transfrontier Conservation Area
WCPA	World Commission on Protected Areas
ZELA	Zimbabwe Environmental Law Association

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## 1. Introduction

Today, the concepts of community participation and transfrontier conservation are firmly part of the conservation discourse in southern Africa (Griffin *et al* 1999; Metcalfe 2003; Tanner 2003). This was not the case not so long ago. Influenced mainly by an authoritarian perspective, conservation was criticised for inadequate provisions for community participation. This criticism was partly based on the inadequacies of conservation laws, policies and institutional arrangements in providing an enabling framework for community participation in the management, planning and decision-making processes and other key aspects of conservation (Katerere *et al* 2001). Laws, policies and institutional arrangements are important determinants of community participation in transfrontier conservation. Depending on how they are framed, they can either facilitate or hinder community participation (IUCN-ROSA 2002; Magaya and Mandivengerei 2003). It is largely through policies, laws and institutional arrangements that the role of communities in transfrontier conservation is defined.

Laws, policies and institutional arrangements that facilitate community participation and collaboration, are important in sustaining livelihoods. In other words, a conducive policy environment lays the foundation for laws and institutional arrangements that are supportive of community participation. This study evaluates how laws, policies and relevant institutional arrangements are either facilitating or hindering community participation in transfrontier conservation in southern Africa.

Informed by criticisms of inadequate participation by communities in conservation as a result of fortress approach to conservation, countries in southern Africa have in the past two decades or so, initiated policy, law and institutional arrangements reforms at the national level, meant to facilitate community participation in natural resources management. These reforms are today reflected in a concept commonly known as Community Based Natural Resources Management (CBNRM). The significance of CBNRM in natural resources management and as a rural development strategy have been widely discussed (Hulme and Murphree 2001; Fabricius *et al* 2004). According to Hutton

*et al* (2005:345) “CBNRM evolved in southern Africa in several different contexts in response to a wide range of historical, political, social and economic experiences, conditions and challenges”. These contexts include the emergence of the concept of sustainable development, the disenchantment with top down approaches to development and natural resources governance and the emergence of the market as a possible alternative to the state as a tool of delivering policy change (Kumar 2005; Hutton *et al* 2005).

There is need to differentiate between what is regarded as informal, every day or general CBNRM and formal or focused CBNRM (Fabricius *et al* 2004; Turner 2004). Informal or general CBNRM is considered to refer to those indigenous practices by local communities in managing natural resources, which have proved resilient and have been passed from one generation to another. Formal or focused CBNRM practices are those that are recognised by laws, policies and institutions and are the ones that receive the attention of donors, Non Governmental Organisations (NGOs) and governments. However it is argued that focused CBNRM actually serves less people when compared to every day or general CBNRM (Fabricius *et al* 2004 and Turner 2004). It is provisions for formal CBNRM with regard to community participation in southern Africa that is the focus of this study. Zimbabwe has Communal Areas Management Programme for Indigenous Resources (CAMPFIRE) and Zambia has Administrative Design for Game Management Areas (ADMAGE). Mozambique has Tchuma Tchato (Our Wealth), while Namibia has Living in a Finite Environment (LIFE). South Africa has contractual parks and Local Boards (LBs). While the laws, policies and institutional arrangements at national level, may have not gone far enough to sufficiently facilitate community participation (Murombedzi 2003), they have enabled communities to participate in natural resources management from which they had been previously deprived.

For many years formal CBNRM was very popular as it was regarded as a strategy for promoting both conservation and local economic development. However of late, there is some disillusionment with what CBNRM has achieved and whether it can continue to serve both conservation and development interests with some scholars even advocating

for the return to fortress conservation (Oates 1995; 1999; Brandon *et al* 1998). This has led to what is perceived as a crisis in CBNRM (Breen and Dzingirai 2005; Turner 2004)

Community participation in conservation can be understood in a broad sense or narrow sense. In a narrow sense community participation entails limited input into decision making and control of the process while in a broad sense it is understood as encompassing extensive input into the decision making process with the ultimate aim of at least joint control and stewardship of the resources (BSP 1993). The rationale behind community participation is the realisation that community cooperation, participation and management are prerequisites for the achievement of both short term and long term conservation development goals and the management for sustainable use of natural resources (BSP 1993).

While community participation is not unique to the African region, it is of great interest to conservationists as in much of southern Africa the greater majority of people are directly dependent on wild natural resources for the sustenance of their livelihoods (Government of Botswana 1998). Against this backdrop of the significance of natural resources in the sustenance of livelihoods there is therefore need for the development of laws, policies and institutional arrangements that are supportive of community participation in conservation. Of late communities have come to realise that apart from relying on these wild natural resources to meet limited survival needs through barter and trade, they can also exploit them on a commercial basis in the monetary economy.

There is a concern that the policy, legal and institutional framework under which transfrontier conservation initiatives are being initiated, developed and implemented in the region may act as a barrier to community participation, collaboration and partnership (Wolmer 2003; Draper *et al* 2004). Without appropriate policies to provide guidelines supportive of community participation, pro-community participation laws are unlikely to be enacted. Supportive and appropriate institutional arrangements for community participation are also unlikely to be established in the absence of appropriate policies and laws.

Scholarly views on community participation in transfrontier conservation and the expected benefits are diverse. Some regard transfrontier conservation as opening opportunities for communities in the form of job creation, infrastructure development and improvement of livelihoods (Hanks 2003). Others, however, are of the view that the legal, policy and institutional framework under which transfrontier conservation is evolving in the region is going to lead to the reversal of the gains that communities have made through participation in conservation at the national level through CBNRM (Wolmer 2003; Thayer 2005). This is mainly based on the assumption that to some extent, transfrontier conservation is CBNRM at the regional level (Dzingirai 2005; Singh 2002). While it will be incorrect to simply equate transfrontier conservation to CBNRM, the two have some commonalities and CBNRM can be regarded as a forerunner of transfrontier conservation in the region. The main difference between CBNRM and transfrontier conservation lies in scale as CBNRM is conceived at national level although acting at very local level, while transfrontier conservation is conceived at the regional level while still being enacted at the local level. Transfrontier conservation should offer an opportunity for lessons learnt under CBNRM with regard to community participation to be applied and strengthened at a larger policy and legal scale.

The purpose of this research is to evaluate the implications of laws, policies and institutional arrangements in promoting or hindering community participation in transfrontier conservation in southern Africa. However, community participation in conservation should not be regarded as an end itself. Community participation in conservation is a process designed to deliver tangible benefits to communities either through reducing negative effects of conservation or the enhancement of access to resources and opportunities. Some of the benefits resulting from participation are empowerment, equity, and representation in regional institutions on conservation, sufficient recognition of community resource rights and access, consultation and management for sustainable use of natural resources. Ultimately though, community participation can be regarded as successful only when people experience an improved

quality of life. Such benefits should be facilitated through policy, legal and institutional arrangements.

Laws, policies and institutional arrangements will be evaluated to determine whether they are prescriptive enough to deliver measurable outcomes with regard to community participation in transfrontier conservation. The assumption made is that if the policies and laws are sufficiently prescriptive with regard to community participation, then prospects for real benefits accruing to communities are enhanced. This evaluation will be done using the Great Limpopo Transfrontier Conservation Park (GLTP), which was recognised through a treaty in 1992, as a case study. The GLTP is a grand conservation initiative bringing together Zimbabwe, Mozambique and South Africa in the management of shared natural resources that straddle political boundaries.

## **1.2 Background of the study**

This section provides a brief overview of the origins of transfrontier conservation from an international and regional perspective and the context in which these initiatives are being developed in southern Africa.

Transfrontier conservation is not a new phenomenon both globally and regionally (Sandwith *et al* 2001, Dzingirai 2005). The oldest and perhaps most well-known transfrontier conservation in the world is the Waterton-Glacier Park involving the United States of America and Canada. This was established in 1932 through a treaty and was meant to symbolize the long existing friendship between the two countries (Sandwith *et al* 2001). However, it is important to note that despite its prominence, the Waterton-Glacier transfrontier conservation is not the forerunner in transboundary conservation either in terms of the concept or establishment (Tanner 2003). The idea has been in existence as early as 1925. Poland and Czechoslovakia, through the Krakow Protocol of 1925, laid down the foundation for transfrontier conservation between border parks as a concept (de Villiers 1999). In terms of establishment, the Albert National Park established by Belgium between Rwanda and Burundi in 1925 for the purpose of transboundary natural resources is regarded as the forerunner (Sandwith *et al* 2001).

The reasons why these two initiatives do not feature as prominently as Waterton-Glacier is not difficult to find. In the case of Poland and Czechoslovakia, despite having the necessary treaty, it was only after the end of the Second World War that the initiative was implemented, more than a decade after the establishment of the Waterton-Glacier Park. Similarly in the case of Albert National Park, the initiative ceased to exist in the early 1960s after the attainment of independence by the two countries. This resulted in the establishment of two separate parks, Volcanoes and Virunga National Parks in Rwanda and Burundi respectively (Sandwith *et al* 2001).

In southern Africa, it may be proper to talk of a rebirth rather than a birth of transfrontier conservation. The Kgalagadi transfrontier initiative which was officially recognised through a bilateral agreement between the Governments of Botswana and South Africa in 1999, had been going on as early as 1948, albeit informally (Hanks 2003; Sist 2002). This rebirth is attributed to a number of factors including the SADC Treaty of 1992. Article 5(2) of the SADC Treaty calls for and encourages the development of close social, economic and political cooperation and integration among member states. The prevailing peace and stability in the region is also an important ingredient. Transfrontier initiatives by their nature require peace and political stability.

South Africa's desire to reintegrate back into the region after its past policies of destabilisation under the apartheid era, is giving impetus to transfrontier conservation in the region (Katerere *et al* 2001). Other writers have however, interpreted South Africa's involvement in transfrontier conservation as influenced by the need for political and economic domination of the region (Hentz 2004; Buscher and van Ameron 2005). While the assertion that the motive for South Africa's involvement is a quest for political and economic domination of the region is debated, it may be true that it stands to benefit more from transfrontier conservation than any other participant in the region due to its better infrastructure, stronger and larger economy.

Transfrontier conservation initiatives are established for a number of reasons ranging from ecological, political, economic and social (Griffin 1999; Katerere *et al* 2001;

Sandwith *et al*). The main purpose of transboundary conservation however, is the management of natural resources that straddle political boundaries (Duffy 2001; Hanks 2003; Sandwith *et al* 2001). It is thought that through transfrontier conservation the management of shared resources will be enhanced, threats of extinction will be reduced and rural development can be brought to communities. (Katerere *et al* 2001).

While the main aim of transfrontier conservation is the management of shared natural resources, it is hoped that in the process opportunities will arise to develop the rural areas and improve the livelihoods of rural communities mainly through tourism (Hanks 2003). Transfrontier conservation aims at scaling up economic advantages arising from tourism to contribute to development in rural areas while simultaneously promoting conservation. However, as such scaling up might hold adverse consequences for local rural people, there is need for conservation to be more attuned to community interests and to commit to bringing tangible improvements in the quality of life through the development and formulation of appropriate laws, policies and institutional arrangements. The perceived failure of conservation laws, policies and institutional arrangements to direct conservation in ways that entrench community participation, empower communities and bring tangible improvements to the quality of life constitutes the research issue for this study.

### **1.3 Research Issue**

The research issue arises from the view that laws, policies and institutional arrangements for transfrontier conservation in southern Africa as they stand, are not sufficiently prescriptive to secure commitment from conservation agencies to enable communities to effectively participate in transfrontier conservation and in so doing, to empower them. In the sense of Fabricius *et al* (2004) and Turner (2004), I argue that provisions for CBNRM are not sufficiently formalised through law, policy and institutional provisions to direct commitment from implementing agencies.

Proponents and advocates of transfrontier conservation have postulated communities as one of the main potential beneficiaries of transfrontier conservation initiatives in the

region along with the state and the private sector (Griffin 1999; Hanks 2003). This is reflected in the various Memoranda of Understanding (MOU), treaties and agreements establishing these initiatives.

Through policies, laws and institutional arrangements at national level, countries in the region have gone some way in facilitating community participation in conservation. Community participation in conservation has been mainly facilitated under the concept of CBNRM. With this history, it is perhaps somewhat surprising that as transfrontier conservation unfolds, there are suggestions that the policies, laws and institutional frameworks under which transfrontier conservation initiatives are being initiated, developed and implemented may hinder rather than facilitate community participation in conservation (Mohamed-Katerere 2001; Banda 2002). Laws, policies and institutional frameworks are very important in governance relating to the use of natural resources as they lay the basis either for community participation or exclusion from conservation.

Rural communities whose voices are rarely heard in the policy formulation and decision making process (Lynch and Harwell 2002) inhabit and border the areas where transfrontier conservation is taking place. Despite this proximity and survival dependence on natural resources, it should not be assumed that the policies, legislation, agreements and the institutional arrangements that are being developed to implement transfrontier conservation initiatives will reflect the interests and aspirations of these communities. Furthermore, laws, policies and institutional arrangements may not be sufficiently known and understood to gain rural communities inputs, support and collaboration. Ironically, decisions that are made far away from these communities and without their participation, in the form of policies, laws and the resultant institutional arrangements, govern and determine the relationship that they have with natural resources that are pivotal for their livelihoods. This situation of remote policy formulation and decision making creates uncertainty among actors about their roles and responsibilities and it is postulated that it can also lead to complacency in conservation agencies with regard to community participation.

Rather than continue the process of facilitating community participation into conservation started at the national level through CBNRM, some would argue that transfrontier conservation may actually marginalise and disenfranchise them (Dzingirai 2004; Hughes 2002). This is on the basis that the policies, laws and institutional arrangements under which these initiatives are being convened are more reflective of representative democracy than participatory democracy in natural resources management. While both are important and have a role to play in conservation, there is now a general desire in natural resources management to strengthen participatory democracy as a result of the paradigm shift in conservation. Participatory democracy has emerged as a result of crisis in governance. Representative democracy has been criticised for its failure to protect citizens' interests like the poor in the decision making process and this has resulted in them being marginalised. As (Pimbert 2004:4) notes:

Some countries, particularly in the North, are beginning to look for ways to open up policy making by moving beyond representative democracy and traditional forms of consultation to give the historically excluded a voice. The current concerns of donors for good governance and the strengthening of civil society also contribute to increasing interest in the use of inclusive forms of participation in policy making.

It is important to note that while the crisis in governance was initially concerned with political governance, it has now embraced natural resources governance. The right to be heard is now being demanded during the formulation of government policies so as to meet needs in environmentally sustainable ways. While participatory democracy is not a panacea for community participation in conservation, it is more reflective of community interests than representative democracy (Cortner and Moote 1999). There is growing appreciation that achieving participatory democracy in conservation is not as successful as might have been hoped for, particularly as it relates to transfrontier conservation. This research is founded on the postulate that because achieving participatory democracy requires a fundamental change of organisational culture and behaviour, it is difficult to achieve in the absence of prescriptive policies and laws that direct institutional reform.

#### **1.4 Research Aim**

The aim of this research is to determine if there is a legal and policy basis for the establishment of TFCAs in southern Africa and community participation therein and if so, whether it directs participating agencies to empower communities directly affected by the establishment and operations of TFCAs.

#### **1.5 Research Objectives**

The objectives of the research are as follows:

- To synthesise literature on law, policy and institutional frameworks for transfrontier conservation and community participation with emphasis on southern Africa.
- To identify the intended measurable deliverables for community participation in transfrontier conservation and to derive indicators that may be used to assess this.
- To evaluate the implications of current laws, policies and institutional arrangements to determine whether they hinder or facilitate community participation in transfrontier conservation
- To suggest ways in which policy, law and institutional arrangements might be reformed to better promote participatory democracy based on the research findings on how policies, laws and institutions could be improved to facilitate community participation in transfrontier conservation.

## **1.6 Research Questions**

The research was guided by four main questions:

- What is the policy, legal and institutional framework directing community participation in transfrontier conservation in southern Africa?
- What are the commonalities and disparities in laws, policies and institutional frameworks between the three countries of the case study and how do they direct the practices of designated state implementing agencies and what are the implications for community participation in conservation?
- To what extent do the practices of case study implementing agencies conform to the intentions of the various policies, law and institutional frameworks with regard to community participation?
- What are the policy, law and institutional arrangements contributing to success and failure of community participation in transfrontier conservation in southern Africa?

## **1.7 Research Justification**

It is intended that the research findings will further understanding and thereby inform debate on transfrontier conservation in southern Africa as it relates to the role of laws, policies and institutional arrangements in facilitating community participation in transfrontier conservation. Policies, laws and institutional arrangements are key determinants of community participation in transfrontier conservation. They are a measure of whether communities have the opportunity and ability to influence policy and decision making processes so as to fully participate, collaborate and derive and equitably share in the costs and benefits from transfrontier conservation.

## **1.8 Concepts and Terminology**

A number of terms will be used repeatedly in this study. As such, it is proper at the outset to define them in the context of this research.

### **1.8.1 Community**

Despite its wide and popular use, it is not easy to define the term community in relation to natural resources governance (Kumar 2005; Agrawal and Gibson 1999; Leach *et al* 1997) yet its understanding is very important especially in the context of transfrontier conservation where many diverse interests are at play. This situation mainly arises from the difficulty of understanding what constitutes a community. Community is a term used by various people in different circumstances and for different purposes. As such, there is no universally accepted definition of what a community is but what exists are particular views or articulations of what it is and these views either overlap, contradict or compliment each other (Kumar 2005). Some have argued that this complexity in defining what constitutes a community may actually be the “Achilles heel” for community participation in transfrontier conservation (Tanner 2003). Policy makers may use this weakness to sideline communities from participation in conservation whenever it is convenient to them on the basis that the affected people do not constitute a community.

However, the difficulties associated with defining a community because of the differences inherent in communities, should not be used as an excuse to marginalize affected people from conservation. It is still possible despite these difficulties, to define what and who constitutes a community in the context of conservation. As Jones and Murphree (2004:81) correctly point out “CBNRM assumes that despite often high levels of differentiation within groups of people, social units can be identified where people interact directly and have a collective identity”.

The three ways that have been used to define a community involve use of spatial aspects, economic aspects and social and cultural aspects (Kumar 2005; Agrawal and Gibson 1999; IIED 1994). Viewed in spatial terms, a view which is favoured by geographers, a community may be considered as a group of people physically living in the same area

and using the same area to earn a living. A good example of a community defined in spatial terms, is a village. Articulated in terms of social and cultural aspects, which is favoured by sociologists, a community may be considered to be a group of people linked by a number of ties which include kinship, marriage, tribes and clans (IIED 1994). These groups of people may or may not live in the same geographical area and may or may not use the same resources for the substance of their livelihoods. Considered from an economic perspective as favoured by economists, a community is considered as being made up of interest groups that is people who share economic interests and control over particular resources (IIED 1994). In other words what brings these people together is a shared economic interest over one or more resources and their desire to control them. These people may not necessarily live in the same area and neither do they have to be linked by social and cultural ties. In the context of this study, I use the definition provided by the GLTP Treaty. The term community refers to “groups of people living in and adjacent to the area of the Great Limpopo Transfrontier Park, bound together by social and economic relations based on shared interests” (GLTP Treaty 2002:5). This definition is based on spatial, social, cultural and economic considerations.

### **1.8.2 Transfrontier conservation**

A number of terms are used to describe transfrontier conservation to the extent that Tanner (2003) concludes that the description depends on a number of factors, which include the popular terminology in use then and the intended purpose. The assertion by Tanner may be correct as a number of terms like peace parks, transboundary conservation areas (TBCAs), transboundary natural resources management (TBNRM) have at one point or another been used to describe conservation that takes place across national boundaries. With regard to transfrontier conservation terminology, Bakarr (2003) argues TBCAs and TBNRM are used to refer to conservation and management of natural resources across international boundaries. Wolmer (2003) has suggested that the difference in terminology is all about semantics with no real consequences at all. “In the emerging literature on transboundary conservation, much is made of the subtle differences between Peace Parks, TFCAs and TBNRM, but in essence, these all refer to

situations where conservation initiatives straddle national boundaries” (Wolmer 2003:262).

However, I think that there is a lot of merit in pointing out the differences in these terminologies as they may be referring to very different situations. TFCA refers to the area where the conservation activities are taking place while TBNRM is the management process of conservation of shared natural resources across boundaries. TBNRM is the vehicle through which transfrontier conservation is achieved (Katerere *et al* 2001; Griffin *et al* 1999). It is important to note that while TBNRM may include a protected area/s, this is not a necessary precondition (Metcalf 2003; Bakarr 2003). In contrast, TFCAs, which are also sometimes referred to as TBCAs, TBPAs, TBNRMAs must have a protected area as a component for them to be classified as such (Griffin 1999). In the context of this study the term TFCA will be used to refer to the area where transfrontier conservation is taking place while TBNRM will be used to refer to the management process of cooperation in transfrontier conservation.

### **1.8.3 Institutional Arrangements**

Institutions are very important in natural resources management be they at regional, national or local level. Some have even argued that the greatest challenge to sustainable development is not a resource but an institutional crisis (Cortner *et al* 1996). In light of their importance, institutional arrangements therefore need to be designed in a way that enables them to fulfill the values and aspirations expressed in laws and policies so as to achieve the desired objectives which in the context of this study, is participatory democracy achieved through community participation in transfrontier conservation.

Institutions can be defined either narrowly or broadly depending on the intended purpose. A broad definition includes both formal and informal institutions while a narrow one would focus on the formal institutions only (Agrawal and Gibson 1999; Cortner *et al* 1996). The WCPA (2003:14) defines institutions as “the sets of rules that shape the interactions between societies and their governments”. These rules include laws, policies

and regulations and they shape and define relations among individuals, organisations such as government agencies and NGOs.

In the context of this study, a narrow definition of institutions, which mainly relates to formal institutions, will be used. Formal institutions mean those national and regional institutional arrangements that have been formally designated and recognised by the three countries for the effective management of the GLTP. Informal institutions such as customs and practices are not included though this does not in anyway suggest belittling their importance in either facilitating or hindering community participation in transfrontier conservation.

#### **1.8.4 Policy**

Equally important is policy as it determines and defines the context in which communities are either enabled or marginalised in the decision making process in transfrontier conservation. In its broadest sense, public policy can be understood as a political process which involves a tussle over whose interests the state shall agree to advance over an issue (Bromley 1995) and in this case study, the issue is participation in transfrontier conservation. However, as with community and institutions, it is difficult to find a universally accepted definition of the term policy (Brynard 2003; Keeley and Scoones 2003). A working definition of policy is a purposeful course of action or decisions that are taken by those with a responsibility for a given policy area with the aim of addressing particular issues and advance towards specific objectives (Borrini-Feyerabend *et al* 2004; Keeley and Scoones 2003). Policy is usually in the form of statements and pronouncements or formal positions on an issue. It is these statements or formal positions that determine implementation. In that regard, policy is a set of principles that guides courses or plans of action. The policy process involves three critical components namely policy making, implementation and reviewing (Borrini-Feyerabend *et al* 2004; Bromley 1995). Policy making consists of the intentions of the collective will and these are formulated in many ways and at various levels and these are expressed through various policy statements and pronouncements. Implementation involves the incentives and sanctions also known as the rules that are necessary or required to realize

or fulfill those intentions as contained in the policy pronouncements (Bromley 1995). Incentives and sanctions are meant to encourage and force people to comply with the objectives of the policy (Bromley 1995). Reviewing consists of the enforcement structures that ensure that the intentions of the policy pronouncements are indeed carried out or implemented (Bromley 1995). In the case of this study, the desired goal or objective is community participation in transfrontier conservation. The courses of action include laws, policies and institutions.

### **1.8.5 Law**

Law is “the rules of conduct or action laid down and enforced by a government body” (Griffin 1999: 14). The most distinctive feature of law is that its breach attracts punishment by the state. In the context of this study, I will mainly focus on a particular branch of law, called environmental law. Environmental law is defined as “the body of law which contains elements to control the human impact on the environment” (United Nations Environment Programme: Undated). This is a general definition which reflects the broad definition of the environment itself. Included in this definition are norms, statutes, treaties and administrative regulations to ensure or to facilitate the rational management of natural resources and all human interventions on the environment that affect it either negatively or positively. Environmental law is an emerging branch of international law

### **1.9 Structure of the Thesis**

The thesis has two components namely A and B. Component A consists of introduction, context and background of study, problem statement, research aim, objectives of the study, rationale, limitations of the study, concepts and definitions, literature review and methodology and conceptual framework. Component B which is written in conformity with the requirements of a journal, *Journal of Southern Africa Studies*, comprises an abstract, introduction, description of the case study area, methodology, analysis, research findings and discussion, and conclusion.

## **Chapter 2. An historical analysis of the emergence of the concept of community participation**

### **Introduction**

This chapter discusses community participation by giving an historical analysis of the concept, its origins and the theories behind it. There are overlaps with the broad concept of public participation as it is difficult to understand community participation without linking it to the broad concept of public participation. Community participation is a subset of public participation, the difference being that it is focused on the scale of communities even though participation may be required at larger scales. The meaning of community participation in conservation is discussed and distinction is drawn among the types of community participation that can be practised.

The concept of public participation from which community participation emanates, has been in existence for a very long time, doubtless as far back as the origins of human society. In more recent times however, it has achieved prominence through an emphasis on community development as outlined in Table 1. The types and forms and meaning of public participation change from time to time and this is influenced by a number of factors among them laws, policies and institutions. As Hickey and Mohan (2004:5) state “participation has a longer and more varied genealogy in development thinking and practise than is usually acknowledged, and has been periodically regenerated around new schools of thought, institutional agendas and changing political circumstances”.

In its earliest forms, public participation was mainly concerned with politics. However, today the realm of public participation is no longer confined strictly to politics but extends to other endeavours including natural resources management. Some scholars have, however challenged the notion of separating participation in conservation from the main political activities arguing that the two are intertwined. For example, Cortner and Moote (1999) have argued that natural resources management has always been a political process. People and more especially groups of people have participated in managing use of natural resources ever since the origins of people. Resource use was never centralised

until demands grew to an extent that they began to compete and some form of centralised control was necessary.

However, while the argument by Cortner and Moote (1999) may be valid in respect of participation in natural resources management today, this is not the manner in which it has been practised in the past when the concept first emerged. Community participation in natural resources management is a result of the paradigm shift in conservation and the advent of democracy and decentralisation as will be explained later in this chapter. While democracy is a very old concept, it was not until towards the end of the 20<sup>th</sup> century that there was a trend towards democratisation worldwide (WCPA 2003). Democracy and decentralisation have resulted in the emergence of participatory democracy, which has opened opportunities for community participation in natural resources management.

**Table 1. A recent history of emerging rationales for community participation.**

<b>Era</b>	<b>Phase</b>	<b>Rationale</b>
1940s-1950s	Community Development (colonial)	Development requires participation and self-reliance, need for stable rural communities, cost sharing. Participation is an obligation of citizenship, citizenship formed in homogenous communities
1960s-1970s	Community Development (post colonial)	As above plus development of state hegemony, manage rural society, moral economy of state penetration
1960s	Political participation	A state of strength to the political system in new states, form of political education, a right and an obligation of citizens
1960s-1970s	Emancipatory participation Liberation theology	Analyse and oppose structures of oppression through active engagement with poor groups; social action
1970s-1990s	Alternative Development	Participation as a reaction to exclusion; wide ranging critique of mainstream development; proposal of alternatives. Participation as a right of citizenship, citizenship as a key objective of alternative development
1980s-present	Populist/Participation In development	Failure of top down projects and planning. Participation required to empower people, capture indigenous people's knowledge, ensure sustainability and efficiency of interventions.
Mid 90s-present	Social Capital	Participation in trust based networks and associations, basis for deepening civil society. Provides basis for economic growth
Late 1990s-present	Citizenship to participation	Convergence of social and political participation, scaling up of participatory methods, from project participation to policy influence

*Source:* Adapted from Hickey and Mohan (2004:7)

## **2.1 The rationale for community participation in conservation**

The establishment of formal protected areas in southern Africa during the colonial era affected all the people who had relied on wildlife both for commercial and subsistence purposes. With regard to communities, the establishment of formal protected areas is regarded as a landmark in community disempowerment from wildlife conservation and natural resources management in southern Africa (Carruthers 1995). Of course, there were formal protected areas in traditional societies but their scale and the resultant impact

on livelihoods, can not be compared to those that were established during the colonial era. Following their establishment, vigorous efforts were put in place to secure protected areas against human encroachment that was regarded as a threat to conservation in general and wildlife in particular. This approach is popularly known as the fines and fences approach or fortress conservation (Wells and Brandon 1992). Fortress conservation was the practice during the colonial era.

However, there was a shift in the conservation paradigm in the 1980s and it is as result of this shift that communities are viewed in a different perspective in conservation today. The paradigm shift in conservation that has promoted community participation in conservation is attributed to a number of factors. The starting point is the Bali Declaration of 1982, which stated that parks should serve human society (Carruthers 1997; Wells 2003). While parks had always been serving human society since their establishment, this was a change in appreciation of who should be the beneficiaries from park management and how they were to benefit. Before the Bali Declaration, it was mainly the elites and research scientists who benefited from park management (Glazewski 2000). However, after the Bali Declaration, communities among others were recognized as important stakeholders and partners in conservation.

The Bali Declaration was a major shift from the then prevailing ideology which had served conservation interests so well for a time. Despite the misgivings of fortress conservation for community participation in conservation, they have to a large extent managed to fulfill the aim for which they were originally created, that is the preservation and protection of species among them those that were rare and endangered. Without them some rare species of birds, animals and plants would likely have been extinct (Beinart and Coates 1995). In this regard the Bali Declaration was a watershed whose effects have been far reaching including shaping the current conservation approach. This paradigm shift is reflected in the laws, policies and institutions that facilitate community participation in conservation today at the international, regional and national level. The shift in the conservation paradigm was recently reinforced at the 5<sup>th</sup> World Parks Congress whose theme “Benefits Beyond Boundaries” was meant to show how protected

area management should benefit stakeholders and more particularly those who have traditionally been excluded. These stakeholders include communities among others.

The promotion of community participation in conservation was also facilitated by growing appreciation for the limitations of the top down approaches in conservation. Fortress conservation by its nature is a top down approach, which does not take sufficient account of the needs of local communities, their indigenous knowledge and management systems, institutions and organisations (Pimbert 2004). While fortress conservation worked to secure the conservation of wildlife during the colonial era, this approach was no longer tenable in the independent African states and after the Bali Declaration. As a result of the limitations of the top down approach, the governments were increasingly forced to a policy of inclusion rather than exclusion with regard to community participation in conservation (Brinkerhoff and Crosby 2002).

A third contributing factor, in the context of southern Africa, was that the newly independent African states lacked both the capacities and resources to manage the consequences of community exclusion through regulation and sanctions characteristic of fortress conservation (Griffin *et al* 1999, Wells 2003). After being disenfranchised from conservation when formally protected areas were established, communities around protected areas resorted to poaching of wildlife and other resources. Monitoring and enforcement of control over poaching was very costly to the conservation authorities and mechanisms for involving neighbouring communities in the management of these protected areas had to be found (Lockett, Mkhize and Potter 2003).

Faced with these realities, governments in the region were forced to engage communities in the management of natural resources for the good of the communities and for their own good. As Griffin *et al* (1999:6) put it “to be effective as well as popular government had to provide positive incentives to ensure local people participated willingly in the conservation of biological resources as an integral aspect of their land use practices”. It is argued that participation by all stakeholders including communities helps to enhance conservation of biodiversity, promote effectiveness and equity in meeting human needs

and sustaining the environment. This is how CBNRM was born in southern Africa and it resulted in new policies, laws and institutions facilitating community participation in conservation.

## **2.2 The meaning of community participation in conservation**

Participation means different things to different people and this is consistent with the history of participation (Brinkerhoff and Crosby 2002). The diversity in the meaning of community participation is due to the fact that the intentions of community participation are varied at any given time and because it is influenced by many factors among them laws, policies and institutions. This diversity in the meaning of community participation is reflected in the many definitions of community participation, which either define community participation broadly or narrowly, emphasizing certain aspects while down playing or completely ignoring certain others depending on the intended outcome.

Rahman (1993) described participation as a collective effort by people concerned, stimulated by their own deliberations, the creation of free and independent organizations, voluntary pooling of efforts, sharing of risks, responsibilities, resources and benefits. This definition of participation carries with it connotations of the affected people using participation as a means to empower themselves by having a say in the decision making process. The World Bank (1996:3) for example, defines public participation as “a process, through which stakeholders influence and share control over development initiatives, and the decisions and resources which affect them”.

A number of issues emerge from these definitions. Participation is regarded as a process towards an outcome and not necessarily as an outcome in itself. In other words, participation is a means to an end and not an end itself. From whatever perspective public participation is defined, there are two fundamental elements that should be met for the process to qualify as public participation. The first is that involvement by people in the decision making process is a key component of public participation and policymaking. Involvement fosters a sense of legitimacy so that people are likely to agree to and support the resultant policies, programmes, projects and services from a process in which they

were involved in (Pimbert 2004). Secondly, public participation must provide the potential to influence decisions and outcomes for the better (Mohamed-Katerere 2001; Cortner and Moote 1999). Decision-making is a process and the outcomes should reflect the various interests of the stakeholders involved in the process. It is the potential to influence decisions and outcomes that distinguishes public participation from endorsing decisions and outcomes that have already been determined.

Incorporation of the concepts of participation and participatory democracy in conservation dialogue generates expectations particularly among those who have been disenfranchised and marginalised. For the purposes of this study and acknowledging the deliberate and sometimes unintended marginalisation of rural communities in the establishment and management of protected areas through conservation laws, policies and institutions (Metcalf 2003), the purpose of community participation is interpreted as empowering local communities to benefit from conservation (Cook 1997). A set of indicators has been developed from the literature to enable monitoring and evaluation of community participation in conservation. The indicators are in the form of benefits and are underpinned by the principle of community empowerment. For community participation in conservation to be effective, there is need for provisions that are supportive of these indicators to be made in the conservation laws, policies and institutions. Making the intended outcomes of participation explicit through measurable indicators can be expected to reinforce the varied expectations among different stakeholders among them local communities. This raises questions about the extent to which laws, policies and institutions can be realistically expected to capture and prescribe for all of these interests when community participation may mean such different things to different people. However, it may be argued that if laws, policies and the resultant institutions have been prescriptive enough to secure community participation in other sectors of the economy, there is no reason why it should not be so in conservation.

### **2.2.1 Empowerment**

The desired form of community participation in conservation is one that empowers local communities to have influence over the decision making process, access to and use of resources and hence the outcomes of conservation (BSP 1993). Empowerment is now recognised as one of the three pillars of poverty reduction (World Bank 2000b). However, empowerment like participation is a contested concept despite its popularity. Some have even argued that empowerment is very vague and ambiguous (Barnes 1988; Clegg 1989). This ambiguity and vagueness makes it difficult to come up with a precise definition of empowerment. According to Harrison (1995:22) empowerment can be described as “any process by which people’s control over their lives is increased”. The exact meaning of increasing control is determined by the context in which the empowerment will be taking place for example conservation, housing and education (Sommerville 1998). Alsop and Heinsohn (2005:5) define empowerment as “an individual or group’s capacity to make choices and transform those choices into desired actions and outcomes”.

What ever the context, the general theme of empowerment still remains one of increasing the choices and freedoms that are available to the affected people to improve control over their lives. In the context of this study, community empowerment in conservation can be described as a process by which communities gain increased control over natural resources within their localities for the improvement of their livelihoods. So today, instead of participation which for some may only entail passive participation and involvement, information sharing and giving, what is now being advocated for is collaboration and partnerships with communities in natural resources management (Cortner and Moote 1999). Collaboration and partnerships in conservation are intended to result in empowerment. And it is through effective community participation that empowerment in conservation will be achieved. Empowerment is a measure which indicates whether community participation is genuine or not (Brinkerhoff and Crosby 2002). As Harrison (1995:22) observes “empowerment clearly means more than ...participation”.

With regard to the concept of empowerment, Gregis (1999:6) makes the following observations:

The concept of empowerment has evolved within the development discourse. It has dethroned the term participation, which lost some of its currency since the 1980s. Empowerment came into vogue in response to the situation where people could participate in a project without the power to decide on the critical issues related to the project.

Empowerment and the degree to which an individual or a group is empowered are determined by two factors, which are agency and opportunity structures. Agency is an individual or a group's ability to make meaningful choices from a given set of circumstances while opportunity refers to the context whether formal or informal in which an actor or actors makes these choices (Alsop and Heinsohn 2005). The formal and informal contexts in which actors make choices include laws, regulatory frameworks and norms governing behaviour. Accordingly, the degree of empowerment that an individual or a group has can be measured by determining whether a choice exists, whether the opportunity presented by the existence of a choice is used and if yes, whether the use of the choice resulted in the achievement of the desired outcome (Alsop and Heinsohn 2005). The approach in this research on determining the level of empowerment is slightly different from the one used by Alsop and Heinsohn and this is due to the nature of the research, which is purely desktop. This research measures whether a choice exists (that is whether legal, policy and institutional provisions are made) and whether those provisions are prescriptive enough to enable the communities to use the choice. It does not measure whether the existing choice is used and neither does it measure whether the use of the choice led to the achievement of the desired outcome.

Empowerment has a number of objectives. The main objective of community empowerment in conservation is to enable communities to improve the quality of their own lives through sharing equitably in the conservation benefits and costs. While empowerment is not separate from community participation, its aim is to take community participation to a higher level where communities will be able to have influence over decision making that affects their lives. In that regard, empowerment is a required

consequence of community participation. The two are therefore complimentary of each other.

The distinction between participation and empowerment is fundamental. Since conservation policies, laws and institutions were formulated with the intention of promoting participation, it can be anticipated that they may not be adequately formulated to promote empowerment.

Empowerment represents a shift from representative to participatory democracy in natural resources management (Lauber and Knuth 2000; Cortner and Moote 1999). However, for collaboration and partnerships in conservation, which are the basis for empowerment, to be effective, there is need for supportive laws, policies and institutional frameworks. It therefore follows that in order to facilitate community participation in conservation through collaboration and partnerships, there is need for existing laws, policies and institutions to be strengthened or for new ones to be created where need be (BSP 2003). It is through appropriate laws, policies and institutions that the empowerment of communities to engage in the sustainable use of natural resources will result.

Empowerment of communities is often raised in definitions associated with the need to create sustainability in conservation projects even after external partners have left (BSP 1993). This arose from the frustrations with the high levels of failures and lack of continuity that communities experienced at the end of projects. Conservation projects by their nature have a life span. They have a start and end as a result of funding constraints. If communities are not empowered, when the project stops at the end of the funding cycle there is not sufficient capacity resident within the community to sustain the process. Such a scenario does not lead to sustainable development.

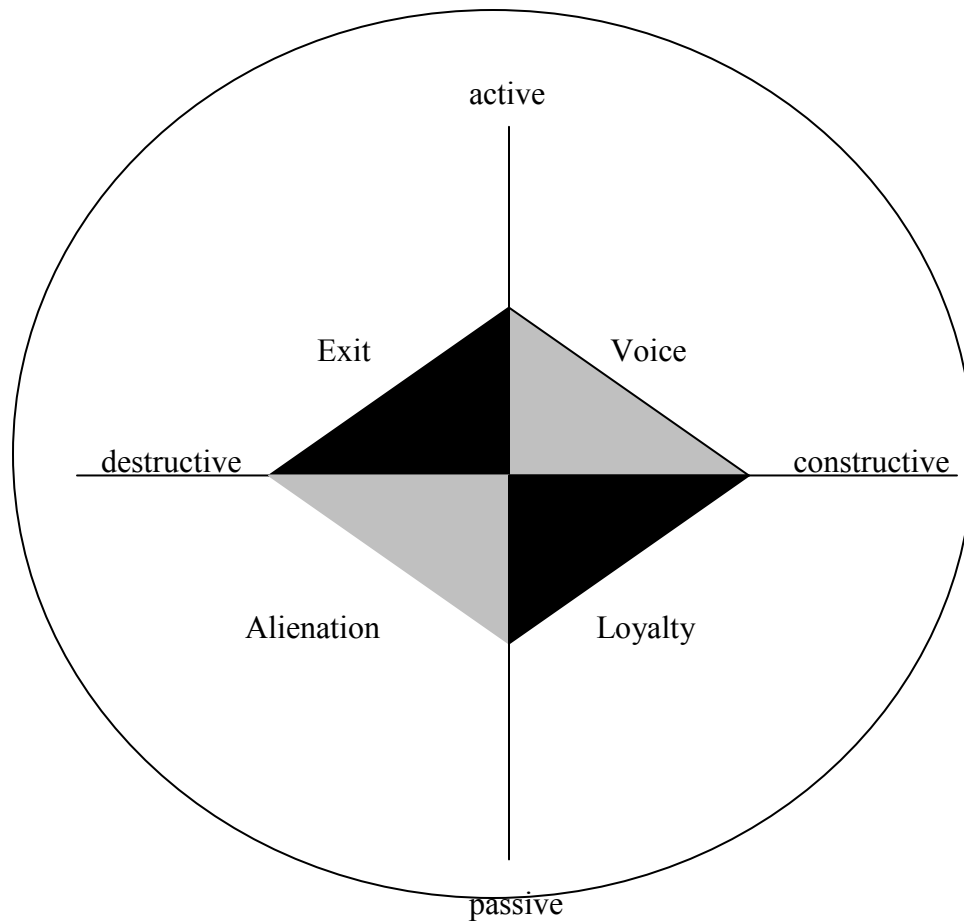
### **2.2.2 Typologies of community empowerment**

Empowerment as a general concept should be understood as a process through which groups of people are given choices and options to deal with more powerful organisations (Harrison 1995). In conservation, empowerment can be interpreted in terms of the choices and options that are available to communities in dealing with the other stakeholders in the conservation process. These include governments, the private sector and Non Governmental Organisations. All these stakeholders are important in the conservation process but, at least in Africa, communities deserve and are given special attention because they have been deliberately weakened and marginalised from the conservation process in the past.

While typologies of empowerment are still evolving, a good starting point is Stewart and Taylor's process model of empowerment (Stewart and Taylor 1995). Although these typologies of empowerment were originally developed for tenant empowerment in housing, the principles are also applicable to conservation. Stewart and Taylor's model classifies empowerment either as active (bottom up) or passive (top down). Groups of individuals have a number of choices and options under these typologies of empowerment. For example, they may choose among exercising a voice, exiting, loyalty or alienation. Depending on the results of their options and choices, the empowerment can either be regarded as constructive or destructive.

Voice as a choice refers to a situation where the affected individuals express their opinions and views and in the process influence the decision making process for the betterment of their lives. Loyalty refers to a situation where by groups people may keep up with a situation not necessarily because it is good but due to lack of better options and choices. Alienation with regard to conservation refers to a situation where communities becomes less friendly or sympathetic to the conservation process while under exit, communities cease to participate in the conservation process altogether as a way of protest in the hope of getting better choices and options.

While Stewart and Taylor’s model yields some very important insights into the processes of empowerment, it also has a number of problems which are well articulated by Harrison (1995). An option or choice that may seem empowering may also be disempowering. For example, exit may be regarded as empowering in that its threat may be used as a leverage to get better options and choices while the exit itself may actually disempower the affected people. In his analysis of Stewart and Taylor’s model, Harrison concludes that “the link between the model and the reality of empowerment processes therefore appears tenuous



**Figure 1.** Modified version of the attributes of empowerment. Source: *Stewart and Taylor, 1995.*

### **2.2.3 Information sharing and consultation**

Information sharing and consultation is also regarded as a form of community participation in some definitions on community participation. However, information sharing and consultation are lower levels of participation and they have been criticized as not going far enough in empowering communities to participate effectively and sufficiently in conservation, as they do not directly influence decision-making (Daniels and Cheng 2004). It is argued that information sharing only provides information to communities and keeps them informed about the issue or problem and what is being done to address it without giving them an opportunity to make an input into the solutions of the problem (Mwango 2004). Under consultation, the aim is for the empowered parties to get feedback from the community about what is being done but not necessarily to develop shared understandings and strategies. The weakness of consultation as a form of participation is that the conservation agencies can consult but still fail to take into account the views of the local communities. Daniels and Cheng (2004) go to the extent of arguing that these lower levels of participation (information sharing and consultation) are nothing more than a platform for communities to either rubber stamp decisions that have already been made by the convening agency or walk away from the process and not support decisions.

While consultation and information sharing have limitations in facilitating community participation, as they do not necessarily result in the active involvement of communities, they form the basis for community empowerment in conservation. According to Cook's model of empowerment (1997), there are three requirements for empowerment namely, opportunity, skills and confidence. Information sharing and consultation provides opportunities for communities to participate, acquire skills and confidence. Information sharing and consultation are the first steps towards community empowerment. The weakness arises when participation and information sharing are regarded as ends in themselves rather than a means to ends. The process of information sharing and consultation should have empowerment as the desired objective.

**Table 2. Typologies of community participation**

<b>A typology of participation</b>	
<b>Typology</b>	<b>Components of each type</b>
Passive participation	People participate by being told what is going to happen or has already happened. It is a unilateral announcement by an administration or project management without any listening to people's responses. The information being shared belongs only to external professionals
Participation in information giving	People participate by giving answers to questions posed by extractive researchers and project managers using questionnaire surveys or similar approaches. People do not have the opportunity to influence proceedings, as the findings of the research or project design are neither shared nor checked for accuracy
Participation by consultation	People participate by being consulted, and external agents listen to views. These external agents define both problems and solutions, and may modify these in the light of people's responses. Such a consultative process does not concede any share in decision- making and professionals are under no obligation to take on board people's views.
Participation for material incentives	People participate by providing resources, for example labour, in return for food, cash or other material incentives. Much <i>in situ</i> research falls in this category, as rural people provide the fields but are not involved in the experimentation or the process of learning. It is very common to see this called participation , yet people have no stake in prolonging activities when the incentives end
Functional participation	People participate by forming groups to meet pre – determined objectives related to the project, which can involve the development or promotion of externally -initiated social organisation. Such involvement does not tend to be at early stages of project cycles or planning, but rather after major decisions have been made. These institutions tend to be dependent on external structures, but may become independent in time.
Interactive participation	People participate in joint analysis, which leads to action plans and the formation of new local groups or the strengthening of existing ones. It tends to involve interdisciplinary methods that seek multiple perspectives and make use of systematic and structured learning processes. These groups take control over local decisions, so that people have a stake in maintaining structures or practices.
Self – mobilization/ active participation	People participate by taking initiatives independent of external institutions to change systems. Such self – initiated mobilisation and collective action may or may not challenge existing distributions of wealth and power
<i>Source:</i> Adapted from Pimbert and Pretty, 1994.	

#### **2.2.4 Representation**

Representation is emphasised in some definitions of community participation to highlight the need for democratic institutions in conservation. Conservation has a long history of authoritarianism and bureaucracy, which excluded local communities and other stakeholders (Glazewski 2000). Influenced mainly by protectionist and preservationist attitudes, conservation was dominated by an authoritarian perspective through out the colonial period, which considered indigenous people living adjacent to protected areas, as posing a threat to conservation through hunting (Cook 1991).

Representation is also linked to another aspect emphasized in some definitions, namely decision making. Where accompanied by accountability, representation in decision-making is consistent with democratic and good governance ethos, which are some of the most important factors leading to the paradigm shift in conservation (Tamburelli and Guillet 2003; WCPA 2003; Brinkerhoff and Crosby 2002). Democracy and good governance, which became more pronounced towards the end of the 20<sup>th</sup> century, have played important roles in loosening the state's hitherto autocratic grip over natural resources management. Democratisation is not only limited to political power but also extends to natural resources management (Cortner and Moote 1999; Lauber and Knuth 2000).

#### **2.2.5 Decentralisation**

From a participatory democracy perspective, community empowerment can be greatly facilitated through devolution of decision-making authority to communities to enable them to participate effectively in natural resources management (Cortner and Moote 2002). The democratic process has resulted in the decentralisation and devolution of power and responsibility to the lower tiers of government and civil society generally and this is opening opportunities for community participation and empowerment in natural resources management.

Decentralisation in its various forms ( Table 3) is one way, through which democracy and good governance, which promote community participation in natural resources

management, are being operationalised (Hickey and Mohan 2004; Ribot 2003). Ribot (2003:53-4) aptly summarises the significance of decentralisation and how it can facilitate community participation in conservation when he states:

Decentralisations are of great interest to environmentalists because they reshape the institutional infrastructure, on which future local natural resource management will depend, potentially establishing institutions for sustainable and equitable community representation. Such decentralisations across Africa are reshaping the local institutions that manage natural resources promising to increase participation in ways that will profoundly affect who manages, uses and benefits from these resources.

Decentralisation has played a very important role in facilitating community participation in natural resources management. Through decentralisation, rights and responsibilities over natural resources are transferred to lower levels of government, civil society and communities (Manfredo *et al* 2004). Decentralisation as a means to promote community participation in natural resources management has particular importance in Africa where the greater majority relies directly on these resources to survive and sometimes earn a living.

**Table 3. Forms of decentralisation**

<b>Political or Democratic Decentralisation:</b> powers and resources are transferred to authorities representative of and downwardly accountable to local populations, aims to increase public participation in local decision making
<b>Deconcentration:</b> powers are delegated to local branches of the central authority. These branches are considered local administrative extensions of the central state, also known as administrative decentralization
<b>Co-management:</b> co-management is a decentralization notion specifically applied to protected areas where officially designated protected areas are managed with the effective engagement of two or more social actors (decision making power is shared, in particular a government agency and indigenous and local communities (Borrini-Feyerabend 2003)

*Source:* Ribot 2002

One of the direct results of decentralisation that has gone a long way in promoting community participation in conservation is co-management. Co-management is also known as collaborative management, participatory management, shared-management, multi-stakeholder management or round agreement (Borrini-Feyerabend 1996). Co-

management or collaborative management is defined as “the sharing of responsibilities, rights and duties between the primary stakeholders, in particular local communities and the nation state, a decentralized approach to decision-making that involves the local users in the decision making process as equals with the nation state”(The World Bank 1999:11). The IUCN World Conservation Congress defines co-management as “a partnership in which government agencies, local communities and resources users, non-governmental organizations and other stakeholders negotiate, as appropriate to each context, the authority and responsibility for the management of a specific area or set of resources (IUCN 1996, World Conservation Congress, Resolution 1.42).

These definitions show that co-management or collaborative management bring together a number of stakeholders to work together in the management of access to and use of natural resources resulting in the sharing of power and responsibilities in the management of natural resources (Brinkerhoff and Crosby 2002). Power sharing and partnerships are forms of natural resources governance. However there is an ongoing debate among scholars as to the stakeholders who should be involved in order for it to constitute co-governance. Stakeholders in co-governance include communities and resources users, government agencies, the private sector and NGOs. Others like (Berkes *et al* 1991) are of the view that both communities and the state are critical stakeholders in co-management while others are of the view that while communities are critical, that is not necessarily the case with the state (Carlsson and Berkes 2004). In other words, the state is an important but not critical stakeholder. As Carlsson and Berkes (2004:67) note “good governance of natural resources can be accomplished both with and without the participation of a formal government”. This argument is given credence by the fact that this used to be the case in pre-colonial times before the advent of the state. Communities effectively participated in natural resources governance without the participation of the state. However, while this view is correct, the only point of departure may relate to state designated protected areas.

Co-management results in changes in relationships between communities and the state and should result in development of viable common property resource management strategies in conservation. While co-management should be regarded as a continuous

problem solving process and not as a panacea for community participation in natural resources governance (Carlsson and Berkes 2004) there are a number of benefits that are associated with it. These include allocation of tasks, exchange of resources, sharing of costs, risk sharing and creation of linkages between different types and levels of organisations.

It is also important to note that co-management is a process which results from mutual understanding and trust building between the parties involved over a period of time (Berkes *et al* 2003). The development of co-management over a period of time as a result of mutual understanding and trust building has resulted in an advanced form of co-management known as adaptive co-management which is defined as “ a process by which institutional arrangements and ecological knowledge are tested in an on going process of trial and error” (Folke *et al* 2002:20).

#### **2.2.6 Secure tenure rights**

Other definitions of community participation put emphasis on provisions for secure tenure rights over land and other resources (Lynch and Alcorn 1994). The relationship between government, the private sector and communities in conservation is increasingly being seen as a partnership (Magome *et al* 2000) in which secure tenure rights are closely linked to recognition of communities as legal entities. These may be Community Based Organisations (CBOs) or Community Trusts capable of holding title to land and other resources. While the resource rights of the state and the private sector are clearly provided for and defined, those of the communities are generally not. Because security of tenure has not been a precondition for partnerships between communities, the state and the private sector, establishing security of tenure can be an effective incentive for community participation in transfrontier conservation. The argument here is that insecure tenure may affect communities' ability to bargain and negotiate effectively for benefits in these partnerships. If the other partners, that is the state and the private sector have secure rights over the resources that they are bringing into the partnership, then communities should also have secure rights over the resources that they are either bringing into or gaining from the partnership.

Secure resource rights and recognition of CBOs are being advocated for through a concept known as Community Based Property Rights (CBPRs) because in this way communities gain access to and use of natural resources (Lynch *et al* 2002). Without secure resource rights and recognition of communities as legal entities through CBPRs, the other partners may use this weakness as leverage against communities during the bargaining process within the partnership. This can lead to what has been hypothesised as “choice less partnerships” between communities, the private sector and the state (Katerere *et al* 2001, Murombedzi 2003) in which communities entering into these partnerships may do so on the basis that “something is better than nothing criterion” (Sist 2002). Such inequitable conditions do not lead to effective participation and empowerment in conservation with the result that communities remain disadvantaged.

### **2.2.7 Equity**

Equity is also emphasised in some definitions of community participation in conservation. Equity entails the sharing of both the benefits and costs associated with conservation (IUCN 2000, Borrini-Feyerabend 1997). Equity is an important component of both conservation and sustainable natural resource use because it eases their burden of bearing the costs with limited benefits. It thus provides incentives for communities to engage in sustainable natural resource use. Equity is also important in representation of minority groups and previously disadvantaged groups such as indigenous tribes and women. So for community empowerment to be achieved there is need for equity in all aspects of the partnerships involving communities, private sector, government and NGOs in conservation (Brinkerhoff and Crosby 2002). Laws, policies and institutions under which transfrontier conservation is being initiated, developed and implemented should therefore explicitly direct that partnerships strive towards the equitable sharing of costs and benefits of natural resources management.

This analysis shows that community participation is understood to mean different things by different stakeholders. This reflects its origins in different sectors of societal structure and functioning and its incorporation into conservation practices in different forms and at different scales. Growing emergence of democracy, good governance and

decentralisation have played important roles in bringing issues of community participation in conservation to the forefront. Many new challenges and expectations are associated with community participation and this suggests there may be weaknesses in the laws, policies and institutions that are established to provide context that enables communities to effectively participate in conservation.

### **2.3 Law, policy and institutional context for transfrontier conservation and community participation**

The understanding of community participation and empowerment elucidated above establishes a platform for analysis of the international and regional policy, legal and institutional arrangements under which TFCAs are being initiated, developed and implemented. The aim of this section is to determine if there is a legal, policy and institutional basis for the establishment of transfrontier conservation initiatives and community participation therein, both at the international and regional level. It also analyses whether the policy, legal and institutional basis directs and requires participating agencies to empower communities directly affected by establishment and operation of TFCAs.

#### **2.3.1 International context**

While it is widely accepted that transfrontier conservation and community participation are now part of the conservation discourse and practice, there is a need to interrogate the legal, policy and institutional arrangements on which they are based (Mohamed-Katerere 2001). The starting point is that there is polarisation among researchers and scholars on the legal basis for the initiation, development and implementation of transfrontier conservation initiatives. The first view is that there is no treaty or convention at the international level that is specifically dedicated towards the promotion of transfrontier conservation (Sist 2002). However, proponents for transfrontier conservation argue that there is enough legal basis in the form of treaties and conventions, which while not necessarily giving the authority for transfrontier conservation, promote their establishment (Griffin *et al* 1999).

The United Nations Charter of 1945 provides a basis for the establishment of TFCA initiatives. In its preamble the Charter calls upon member states to:

Co-operate so as to avoid the scourge of war, re-affirm fundamental human rights, establish conditions under which justice and mutual respect can be maintained and promote social progress. To these ends, states commit to practice tolerance and to live together in peace as good neighbours and to employ international machinery for the promotion of the economic advancement of all people.

(United Nations Charter Adopted in 1945).

Transfrontier conservation initiatives are one way through which nation states can co-operate to promote economic advancement and peace. It is perhaps from the designation of Waterton-Glacier National Parks in 1932 (Singh 2002) and the UN Charter that TFCAs initiatives derive one of their descriptive terms “Peace Parks”. Whereas the former celebrated peace between two nations, the UN Charter was drafted against a background of two devastating wars. One of the anticipated benefits of transfrontier conservation today is that it will contribute to bringing peace among nations (Duffy 2001; Buscher and van Ameron 2004).

The Convention on Conservation of Migratory Species of Wild Animals (The Bonn Convention) is also supportive of TFCAs establishment.

Wild animals in their innumerable forms are an irreplaceable part of the earth’s natural systems which must be conserved for the for the good of mankind and that conservation and effective management of migratory species of wild animals requires the *concerted actions of all States through whose territory they pass*.  
(own emphasis)

(Preamble to the Bonn Convention 1979).

The Convention on the International Trade in Endangered Species, Fauna and Flora of 1973, makes similar provisions;

Wild Fauna and Flora in their many beautiful and varied forms are an irreplaceable part of natural systems of the earth, which must be protected for this and the future generations to come, and that *international co-operation is essential* for the protection of certain species of wild fauna and flora against over exploitation (own emphasis)

Perhaps, the closest that an international convention comes to calling for the establishment of TFCAs for biodiversity conservation is the Convention on Biological Diversity (CBD) of 1992.

Each Contracting Party shall, as far as possible and as appropriate, cooperate with other Contracting Parties, directly or where appropriate, through competent international organisations, in respect of areas beyond national jurisdiction and on other matters of interest, for the conservation and sustainable use of biological diversity.

(Article 5 of the Convention on Biodiversity 1992)

Furthermore, Article 8(a) of the Convention makes provisions for the establishment of a system of protected areas or areas where special measures need to be taken to conserve biological diversity. It can be argued that a system of protected areas forms such a transfrontier conservation area (Katerere *et al* 2001). Sections 8(b), (c) and (d) can all be interpreted to mean a call towards the establishment of TFCAs for the management of the sustainable use of natural resources including those that straddle political boundaries at various scales.

While the provisions of CBD, like those of CITES, Ramsar and the Bonn Convention and indeed those of the UN Charter, can not be said to be giving the legal authority for the establishment of TFCAs, they can be reasonably interpreted to be supportive of collaboration in protected area management including transboundary protected areas (Sist 2002).

Public participation in conservation is also recognised under international conventions and treaties. As Mohamed–Katerere (2001:2) observes “the international law framework recognises the need for local participation that is proactive and that creates opportunities for individuals and groups to participate in the formulation of management strategies as well as the implementation thereof”. This is mainly based on the concept of good governance with the aim of achieving sustainable development (Tamburelli and Guillet 2003). Public participation informs the decision making process, enables the public to have confidence in the decision making process and is also proactive (Kidd 1999). Furthermore, it informs governance and that provides the framework that guides decision

making. This guiding of decision making and participation in decision making is what confers legitimacy and confidence.

The United Nations Conference on Environment and Development of 1992 brought the issue of community participation in management of the use of natural resources to the forefront. Agenda 21 clearly articulated the need for local and indigenous community participation. Principle 10 of the Rio Principles puts it clearly when it notes that “Environmental issues are best handled with the participation of all concerned citizens, at the relevant levels, States shall facilitate and encourage public awareness and participation by making information readily available” (Rio Declaration on Environment and Development 1992). The Convention on Biological Diversity also lays strong foundation for the participation of local and indigenous communities and the role that indigenous knowledge systems play in the management for sustainable use of resources and the need for benefit sharing is recognized (Article 8 (j) of CBD).

### **2.3.2 Regional context**

The Southern African Development Community (SADC Treaty of 1992) establishes a legal, policy and institutional foundation for the establishment of TFCAs. The Treaty lists the development of close social, economic, political and cultural ties so as to bring economic prosperity, development and peace and regional integration among its objectives (Article 5). Another objective is the sustainable utilization and effective protection of the environment. One way through which regional integration, management of shared natural resources that straddle political boundaries and promotion of social and cultural ties which are some of the objectives of the SADC Treaty can be fulfilled, is through transfrontier conservation initiatives (SADC Policy and Strategy for Environment and Sustainable Development 1994).

Whilst the SADC Treaty provides a foundation, it does not provide the legal authority for the establishment of TFCAs. It provides support and the enabling framework, under which TFCA initiatives can be initiated, developed and implemented (Griffin 1999; Sist

2002). It is therefore not surprising that TFCAs are regarded as falling under the ambit of the SADC Treaty even though it does not necessarily provide the legal authority.

However, it is with regard to regional policies and protocols that the specific call for the establishment of transfrontier conservation initiatives is made clear. The SADC Regional Policy and Strategy for Food, Agriculture and Natural Resources (FANR) of 1992 provides the overarching framework under which policies and protocols pertaining to TFCAs are made (Griffin 1999, Terri 2002). Its objectives include:

- (a) To ensure the efficient and sustainable utilisation, effective management and conservation of natural resources
- b) To incorporate environmental considerations in all policies and programs and to integrate the sustainable utilization of natural resources with development needs
- c) To ensure the recognition of the value of natural resources so that they can contribute optimally to the welfare and development of all people of the region

The emphasis given to development needs is particularly pertinent in TFCAs because they are envisaged as primary mechanisms through which local marginalized people can be brought into the opportunities associated with the mainstream economy.

One of the most important regional policies resulting from FANR is the SADC Wildlife Sector Policy of 1997, which later became the SADC Protocol on Wildlife Conservation and Law Enforcement. This protocol makes a clear call for TFCAs in the region. Objective 4(2)(f) promotes the conservation of wildlife resources through the establishment of transfrontier conservation areas. Furthermore, the objectives of one of the institutions of the protocol, the SADC Wildlife Technical Coordination Unit (WSTCU) includes:

- a) Support for programmes aimed at the conservation of regional ecosystems and landscapes especially those that stretch across national boundaries
- b) Support for initiatives that are aimed at the development of transfrontier conservation areas.

Read in conjunction with the objectives of FANR, it can be interpreted that the WSTCU is expected to promote local participation and empowerment in development.

Support for the establishment of TFCAs and community participation is also provided for in the SADC Revised Protocol on Shared Water Courses and the Protocol on Fisheries. The Protocol on Shared Water Courses is of particular significance in TFCAs given the growing competition for water within and between nations and the dependence of biodiversity on water. Most of the regions major rivers in southern Africa are shared by more than one country. Eight countries in the region for example, share the Zambezi River. As a result of water scarcity, there is a real possibility that the existing competition over water resources might turn into conflicts.

From the foregoing, it is evident that support for the establishment of transfrontier conservation in the management of shared resources by the various regional conventions and protocols are abundantly clear. However, this does not go far enough in giving SADC the legal authority it might need to implement and regulate transfrontier conservation. The authority for providing this legal mandate would have to be enshrined in the SADC Treaty itself instead of protocols and conventions as they do not necessarily carry the same weight. This is based on the understanding that it is easier to enforce treaties than it is policies as treaties carry the force of international law through sanctions while policies do not (Klemm and Shine cited in Sist 2002). The absence of a treaty giving specific authority for the establishment of TFCAs in the region can therefore compromise member states' commitment to transfrontier conservation.

The SADC Treaty of 1992 also makes provisions for public participation in natural resources management. Articles 21(3) (e) and 5(2)(b) of the SADC Treaty provides that “member states are to cooperate in the areas of natural resources and the environment and encourage the people of the region and the institutions to undertake initiatives to develop economic, social and cultural ties across the region and to participate fully in the implementation of the programs and projects of SADC”. The treaty addresses participation at a large scale and does not make specific provisions for local community

participation. However, participation of communities in TFCAs is one way through which this goal of public participation can be achieved and this is reflected in the various memoranda of understanding, treaties and agreements establishing transfrontier initiatives, policies and conventions.

However, the same problems that affect establishment of TFCAs with regard to lack of a specific legal authority, also apply to community participation. Policies do not carry the same weight under international law as do treaties and they can be disregarded without serious consequences, such as could arise under a treaty. As Griffin (1999:14) summarises “in most cases, there is a general tendency in the region to be more advanced or progressive in protocols and policies, as they are not as binding as legislation”. This may explain why most countries in the region appear to be more in favour of policies and MOUs than laws and treaties in conservation, as they know that these are not as binding as laws. This can have serious consequences for community participation, collaboration and partnerships as states may ignore the intentions of policy with the comfort of the knowledge that as they are not required by law to promote community participation they will not be held accountable if this does not happen. This in turn may compromise the commitment of implementing agencies of TFCAs to community participation.

This section has done two things. Firstly, it has provided an outline of the international and regional legal and policy framework for TFCAs and community participation. Secondly, it has shown that there is no specific treaty or convention either at international or regional level mandating which explicitly mandates TFCAs and community participation therein. What does exist at both international and regional levels are policies and conventions supportive of the establishment of TFCAs. This lack of specific legal authority for TFCAs has implications for community participation as there is no legal basis explicitly compelling implementing agencies to empower communities through participation in conservation.

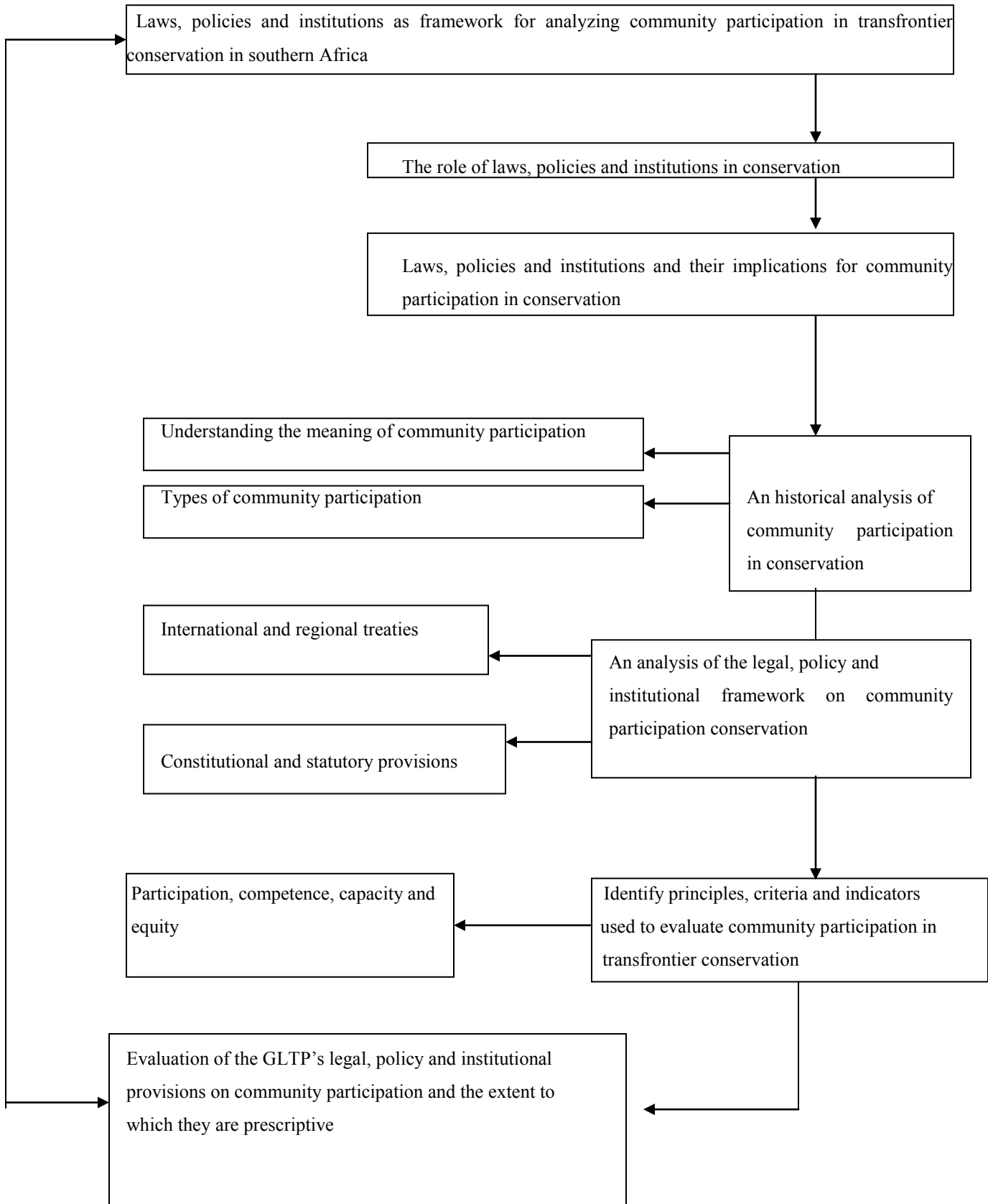
## **2.4 Conceptual framework for analyzing the implications of law, policy and institutional arrangements for community participation in transfrontier conservation.**

This section outlines the conceptual framework (Figure 1) that guided the study. The concept of community participation in transfrontier conservation forms the overarching framework for this research. The study analyses the roles of conservation laws, policies and institutions either in facilitating or marginalising community participation in transfrontier conservation in southern Africa. Provisions for community participation in natural resources management are found at the international, regional and national levels. The strengths or weaknesses of these provisions for community participation at these levels influence the perceptions of the implementing agencies. Strong and prescriptive legal, policy and institutional provisions on community participation are an indication of how policy makers provide direction and incentive for implementing agencies to take the concept seriously. However, weak and ambiguous provisions are an incentive for them not to regard community participation with the seriousness it deserves.

Whilst acknowledging the different views on the interpretation of empowerment, this thesis is based on the assumption that for community empowerment to be achieved in the conservation process there are some criteria that should be met. These are participation, competence, confidence and equity in the conservation process and they are based on Cook's model of empowerment (Cook 1997).

This analysis uses the Great Limpopo Transfrontier Park (GLTP) as a case study. The GLTP is a conservation initiative involving Zimbabwe, South Africa and Mozambique. The study provides an analysis of the origins of the concept of participation and the theories on which it is based. It also considers the factors that have promoted community participation including democracy, good governance and decentralisation. This understanding informs the conceptual framework that provides the platform for analysis of the policy, legal and institutional frameworks under which transfrontier conservation initiatives are being developed and implemented in southern Africa.

**Figure 2. Conceptual framework.**



### **3. Methodology**

This chapter outlines the research methodology and the research methods used in conducting this study. It begins with a justification for critical social thinking approach, which is the methodology used in this study. It also explains the appropriateness of the case study approach and related methodological issues.

#### **3.1 Methodological Framework**

The methodological framework on which this study is based is critical social science. The main aim of critical social science research is the critiquing and transformation of social relations through the revelation of the underlying social relations and in the process, empowering the weak and less powerful people to demand change for the betterment of their lives (Neuman 2000). In the context of this study, the betterment of lives can be translated to mean laws, policies and institutional frameworks that formalize and enhance community participation in conservation through delivery of tangible benefits. There are important links between the methodological framework, southern Africa's political ecology and the case study of TFCAs. Developing regions, of which southern Africa is one, are characterised by colonial conservation practices that marginalised local communities from participating in conservation and this marginalisation was achieved through laws, policies and institutional frameworks. Reforms are currently underway in southern Africa to formally integrate marginalised local communities into conservation and this is reflected through CBNRM.

The choice of critical social science approach for this study was partially influenced by interests and experiences as a public interest environmental lawyer working on community issues in natural resources management and the nature of the research issues addressed by the study. My organisation, the Zimbabwe Environmental Law Association (ZELA) is part of a growing network of public interest environmental lawyers in various countries in Africa in general and southern Africa in particular working on natural resources governance. Their role is to amplify the voices of rural communities in natural resources management and this is achieved through providing legal advice on issues such as land claims, initiating litigation on environmental issues and providing input into

policy and legal reforms. Within southern Africa, one of the key issues that ZELA and its counterparts are working on is protected areas governance. A good example of a case in which ZELA and its counterparts have keen interest, and have followed closely over the years, is the Makuleke case in South Africa. The Makuleke community was forcibly evicted from their traditional homeland to make way for the northern extension of the Kruger National Park. The Makuleke case illustrates how protected area management was previously used as a mechanism to marginalise local communities from conservation (Transfrontier Conservation Consortium 2006)

Furthermore, the objective of the study made the critical theory approach appropriate. The main objective of the research was to analyse the interactive relationship between policy, law and institutional arrangements either in facilitating or hindering community participation in conservation within the context of TFCAs in southern Africa. Thus the study is about people and how they define, understand and participate in the process of formulating and observing laws, policies and institutional arrangements established to implement transfrontier conservation initiatives with the objective of achieving co-governance.

The critical theory approach was used because the social world does not have fixed or static boundaries but it is shifting, changing and dynamic. Laws, policies and institutional frameworks are products of human interactions. Laws and policies can influence institutional frameworks and the opposite is equally true. They are initiated, promoted or opposed by individuals, groups of people or even institutions predisposed to certain world views. Therefore laws, policies and institutional arrangements can not be divorced from the influence of societal relations and the role of power in that regard. Laws and policies for natural resources management often take into account things like access, authority and the level of stakeholder participation and may define and influence the power relations between the stakeholders (IUCN-ROSA 2002). Local communities are some of the stakeholders that are affected by transfrontier conservation and it is imperative that their voices are heard through legal and policy provisions.

At their core, laws, policies and institutional arrangements are all socially produced and should be integrated at international, regional, national and local scales. This applies to all laws, policies and institutional arrangements pertaining to TFCAs in general and the GLTP is not an exception. Transfrontier conservation is practiced for a number of reasons, which include ecological, political, economic and cultural. These reasons provide the context that directs the development of laws, policies and institutional arrangements under which transfrontier conservation is being developed and implemented.

The case study approach was chosen because transfrontier conservation in southern Africa is still in its formative stages. This approach was taken in consistency with the advice that case study research should be taken to investigate a contemporary phenomenon in its context and for which multiple sources of evidence are to be used (Yin 1984). The contemporary phenomenon being investigated in a contextual situation in this study were the laws, policies and institutional arrangements specific to the GLTP with regard to community participation. A case study approach was appropriate given the qualitative nature of this study.

This study considered the experiences and developments surrounding the GLTP. The GLTP is a conservation initiative involving Zimbabwe, South Africa and Mozambique. The study provides an analysis of the origins of the concept of participation and the theories on which it is based. It also considers the factors that have promoted community participation including, good governance, democracy and decentralisation. These factors are not only restricted to politics but also include natural resources management. Furthermore, the study analyses whether international and regional treaties establish a basis for transfrontier conservation and if provisions are made therein for community participation. This understanding informs the conceptual framework that provides the platform for analysis of the legal, policy and institutional frameworks under which transfrontier conservation initiatives are being developed and implemented in southern Africa.

### **3.2 Theoretical Framework**

The theoretical framework is informed by the political ecology of southern Africa in relation to protected area management, and by extension to TFCAs and their implications on local communities. The term political ecology has been defined as blending the concerns of ecology and a broader conceptualisation of political economy (Blaikie and Brookfield 1987) and this is very evident in southern Africa where claims of scaled up social and economic benefits for communities from conservation are common. Political ecology is therefore characterised by a “shifting dialectic between society and land based resources and also within classes and groups within society itself” (Blaikie and Brookfield 1987:17).

The political ecology approach is well suited with the methodological framework of critical thinking. First, it emphasises the appropriateness of the critical thinking approach for this research in that people and protected areas management are about access to land, natural resources and the socio-economic benefits that derive from their use. Law, policy and institutional frameworks determine access to land and natural resources and the associated socio-economic benefits. The critical thinking approach therefore embodies livelihoods in their most basic form. This is so because people living in or surrounding protected areas have since time immemorial depended on the natural resources in protected areas to which their access is normally denied in pursuit of protected area management goals and this is achieved through laws, policies and institutional frameworks (Mohamed-Katerere 2001).

As a result of this denial, the relationship between local communities and conservation authorities has not been harmonious. Tensions, which sometime result in conflict, manifest or otherwise have been a longstanding characteristic of the relationship between communities and conservation authorities (Transfrontier Conservation Consortium 2006). Since the nineteen eighties, the issue of tensions and conflicts has received much attention in southern Africa. Innovations to resolve these tensions and conflicts over access to natural resources at the national by the three countries which are mirrored by the concept of CBNRM have produced mixed result but are still on going. The promotion

and establishment of TFCAs can be regarded as part of ongoing innovations in the conservation sector aimed at ameliorating some of the sources of tensions and conflicts between the local people and conservation authorities. It is postulated that transfrontier conservation should learn valuable lessons from CBNRM with regard to community participation and therefore scale benefits accruing to communities. This is based on the understanding that the principles of transfrontier conservation are the same as those of formal CBNRM the only difference being scale.

### **3.3 Sampling**

This research used purposive or judgmental sampling, which is the characteristic of both critical social science and qualitative research (Neuman 2000). The main advantage of purposive sampling is that it enables the selection of unique, informative and significant cases for an in depth analysis (Neuman 2000; Nyambe 2005). While my research was on TFCAs in southern Africa, I analysed one initiative as a case study. Using purposive sampling, I identified the GLTP as a unique and rich case study. The GLTP is unique in a number of ways. Firstly, part of the area to be incorporated into the GLTP on the Mozambique side is currently inhabited by communities estimated to be between twenty and thirty thousand (Refugee Research Programme 2002). Most of the people in these communities have recently returned home after fleeing Mozambique's devastating civil war and now they face a very uncertain future.

Secondly, on the Zimbabwean side, there is a proposal for a corridor to link up the parks involved in the GLTP. A community called Sengwe currently occupies an area which forms part of the proposed corridor and the community faces an uncertain future. Thirdly, on the South African side the Kruger National Park has no communities resident in its boundaries although there are presently land claims that may have consequences for the delimitation and operation of the park. Fourthly, the GLTP is one of only two initiatives that has been recognised by a treaty and is regarded as southern Africa's flagship transfrontier conservation initiative. Its success or failure is likely to determine the future of these initiatives in the region. All these factors show the uniqueness of the GLTP as a case study.

### **3.4 Data collection methods**

Two data collection methods were used in this research. These were primary literature survey and secondary literature survey. Primary literature survey refers to the analysis of literature survey made by the author. Secondary literature survey refers to the analysis of data and information made done by other researchers. Secondary data entails relying on an earlier researcher's interpretation.

#### **3.4.1 Primary Sources**

Primary literature analysis consisted of an evaluation of documents on the origins and development of the concepts of transfrontier conservation and community participation and the theories behind them. Furthermore, documents that are specific to the GLTP were analysed to determine whether provisions for formal community participation were made (Fabricius *et al* 2004; Turner 2004). The documents specific to the GLTP are the Tri-Nation Agreement, The GLTP Treaty and the Joint Management Policy. There are also other documents which though not specific to the GLTP, have implications on its management. These are the SADC Protocol on Shared Water Courses and the SADC Protocol on Wildlife Conservation and Law Enforcement.

These documents were sourced from a variety of sources which includes the library and respective country units responsible for coordinating the activities on TFCAs in general and the GLTP in particular. For example in South Africa, the documents were sourced from the Transfrontier Conservation Unit in the Department of Environmental Affairs and Tourism (DEAT) and its partner in the GLTP namely South African National Parks (SANParks). In Mozambique, the documents were mainly sourced from the transfrontier conservation unit while in Zimbabwe, they were sourced from the Ministry of Environment and Tourism and the Department of National Parks and Wildlife Management (DNPWM). Literature was also sourced from NGOs that are involved in TFCAs like IUCN-Regional Office for southern Africa (IUCN-ROSA).

Primary literature survey enabled me to interpret the sources at first hand to determine their intent on community participation as reflected in the provisions and how they

influence implementing agencies either to facilitate or hinder community participation in transfrontier conservation. Primary sources played a very important role in my analysis. It was from their analysing them that I was able to determine the adequacy or inadequacy of the law, policy and institutional frameworks for community participation in conservation.

### **3.4.2 Secondary Sources**

Secondary sources used in this study include books, journal articles, research papers, internet sources, maps, conference papers, newsletters and encyclopedias, policy briefs and theses. The reading was subsequently narrowed to southern Africa in general and the experiences of the GLTP in particular using the documents indicated above.

Secondary sources of literature were used to develop an understanding of TFCA initiatives within the broader context of protected area management. Sources of literature were varied but they mainly focused on experiences in different parts of the world and how TFCAs are emerging as an initiative to meet multiple goals of biodiversity conservation, economic development, peace and regional collaboration as well as the promotion of good governance using conservation. Secondary sources of literature were also useful in understanding the meaning of community participation in the conservation sector as well as related concepts like community empowerment and governance. Overall, both secondary and primary sources were useful at various stages of the study.

However, one of the weaknesses of the study is that it was purely a desktop research. While a desktop approach has got its merits with regard to understanding theoretical issues informing community participation in conservation, its major draw back is that it lacks a practical perspective. For example, the research could have been greatly enriched through a field research comprising of interviews with communities living in and around the GLTP and staff of implementing agencies of TFCAs in the region. Local communities' relationship to natural resources is determined by the laws, policies and institutional frameworks and these also guide the conduct of the implementing agencies. As such communities and implementing agencies would have critiqued policies, laws and institutional frameworks from a practical perspective informed by day to day experiences.

#### **4. Conclusions**

As indicated earlier on, this mean dissertation is made up of two components namely A and B. Component A consisted of a comprehensive literature review of the concepts of community participation, transfrontier conservation and the legal, policy and institutional frameworks under which they are being practiced in southern Africa. It also outlined the research issue, aims, objectives, problem statement, methodology and conceptual framework.

The literature review has shown that while there is no specific treaty or convention either at the international or regional level that gives legal authority for establishment of transfrontier conservation initiatives, what does exist are treaties and conventions that promotes their establishment. Examples include the United Nations Charter of 1945 and the SADC Treaty of 1992 and TFCAs have been promoted under their auspices. Furthermore, it has shown that colonialism marginalised communities from the conservation process. This marginalisation was achieved and legitimised through the use of laws, policies and institutional arrangements that criminalised some activities. This was popularly known as fortress conservation.

However, a number of factors worked against fortress conservation. These include among others, the end of colonialism, limited financial and human resources to make fortress conservation effective and the paradigm shift from representative to participatory democracy as a result of the democratisation process. These factors have resulted in communities being recognised as important stakeholders in the conservation process. In as much as laws, policies and institutional arrangements were used to marginalise communities from the conservation process, it is also recognised that the same can be used to remedy the situation to enable communities to participate in conservation. In southern Africa deliberate attempts have been made to address the problem of community marginalisation from the conservation process through a formal CBNRM programme.

The theoretical framework used is critical social science using a case study approach. The theoretical framework used in this study is within the context of the political ecology in

southern Africa with regard to protected area management in general and transfrontier conservation in particular and their implications on local community participation. The case study approach was chosen primarily because transfrontier conservation in southern Africa is still in its formative stages and it faces the challenge of providing for community participation. Community participation in transfrontier conservation is heavily influenced by laws, policies and institutional frameworks.

The study was primarily desktop, hence the data collection methods were a primary literature review survey and secondary literature survey. The data analysis consisted of content analysis and interpretation. Content analysis involves the critical review of published materials for their content in terms of implications of the language used (Neuman 2000). In the context of this study, content analysis meant understanding the intentions of laws and policies and determining whether this is reflected in the provisions. This entailed analysing both primary and secondary data.

Data were analysed to determine the meaning of community participation in conservation. The analysis showed that community participation means different things to different people and this mainly depends on the intended income. However, from these divergent views, there seems to be a consensus that there is a desire to formalise community participation in a form that empowers local communities to have influence in the policy and decisions making process with regard to access and use of natural resources. It is through empowerment that communities will be able to improve their livelihoods and also participate effectively in co-governance.

## References

- Ackoff, R.** (1953). *The Design of Social Research*. Chicago: University of Chicago Press.
- Agrawal, A. and Gibson, C.** (1999). Enchantment and Disenchantment: The Role of Community in Natural Resource Conservation. *World Development*. 27 (4) 629-649.
- Alsop, R. and Heinsohn, N.** (2005). *World Bank Policy Research Working Paper 3510*, Washington D.C.: World Bank.
- Bakarr, M.** (2003). Conservation on the Frontier. *Tropical Forest Update*. 13 (2) 3-5.
- Banda, G.** (2002). Conflict Management in a community-based transboundary natural resources management initiative: A case study of the proposed Mozambique, Zambia and Zimbabwe transboundary natural resource management area.. *Transboundary Natural Resources Management Area in Southern Africa*. IUCN-The World Conservation Union. Harare, Zimbabwe.
- Barnes, B.** (1998). *The Nature of Power*. Cambridge: Cambridge University Press.
- Barrow, B. and Murphree, M.** (2001). Conservation Policies and Institutions. In Hulme, D. and Murphree, M. (eds.). *African Wildlife and Livelihoods: the Promise and Performance of Community Conservation*. Harare: Weaver Press.
- Beinart, W. and Coates P.** (1995). *Environment and History: The Taming of Nature in the United States and South Africa*. London: Rutledge.
- Berkes, F., Colding, J. and Folke, C.** (eds.) (2003). *Navigating Social – Ecological Systems, Building Resilience for Complexity and change*. Cambridge: Cambridge University Press.
- Berkes, F., George, P. and Preston, R.** (1991) Co-management: the evolution of the theory and Practice of joint administration of living resources. *Alternatives*. 18 (2) 12 -18.
- Biodiversity Support Program** (1993). *African Biodiversity Foundation for the Future. A Framework for Integrating Biodiversity Conservation and Sustainable Development*. Beltsville, Maryland.
- Blaikie, P. and Brookfield, H.** (1987). *The Political Economy of Soil Erosion*. London: Methuen
- Bornini – Feyerabend, G.** (1996). *Collaborative management of Protected Areas: Tailoring the Approach to the Context*. IUCN, Gland (Switzerland [http.iucn.org themes](http://iucn.org/themes)).

- Borrini – Feyerabend G.** (1997) (ed.) *Beyond Fences: Seeking Social Sustainability in Conservation*. IUCN, Gland (Switzerland).
- Borrini – Feyerabend, G., Pimbert, M., Farvar, T., Kothari, A. and Renard, Y.** (2004). *Sharing Power. Learning by doing in co-management of natural resources through the world*. IIED and IUCN/CEESP/CMWG, Cenesta, Teheran.
- Brandon, K. K., Redford, H. and Sanderson, S.E.** (eds.) (1998). *Parks in Peril. People, Politics and Protected Areas*. Washington D.C: Island Press.
- Brinkerhoff, D.W. and Crosby, B.** (2002). *Managing Policy Reform: Concepts and Tools for Decision Makers in Developing and Transitioning Countries*. Bloomfield: Kumarian Press.
- Bromley, D.W.** (1995). *Natural Resource Issues in Environmental Policy in South Africa*. Land and Agriculture Policy Center, Johannesburg.
- Brynard, P.** (2003). *Policy Making in the Okavango River Basin*. In Turton, A, P. Ashton and E, Cloete, (eds.). *Transboundary rivers, sovereignty and development: Hydropolitical drivers in the Okavango River Basin*. Pretoria: CSIR African Water Issues Research Unit.
- Carlsson, L. and F. Berkes** (2004). Co-management: Concepts and methodological implications. *Journal of Environmental Management* 75 65-76.
- Carruthers, J.** (1995). *The Kruger National Park: A Social and Political History*. Pietermaritzburg: University of Natal Press.
- Carruthers, J.** (1997). Nationhood and National Parks: Comparative examples from the post-imperial experience. In: Griffiths, T. and L. Robin. (eds.). *Ecology and Empire. Environmental History of Settler Societies*. Pietermaritzburg: University of Natal Press.
- Clegg, S.** (1989). *Frameworks of Power*. London: Sage.
- Cook, J.** (1991). Going Green at the Grassroots: the environment as a political issue. In Cook, J and E. Koch (eds.). *Going Green: People, politics and the environment in South Africa*. Cape Town: Oxford University Press.
- Cook, J** (1997). Empowering people for Sustainable Development. In Fitzgerald, P., McLennan, A. and Munslow, B. (eds.). *Managing Sustainable Development in South Africa*. Cape Town: Oxford University Press.

- Cortner, H. J. and Moote, M. A.** (1999). *The Politics of Ecosystem Management*. Washington D.C.: Island Press.
- Cortner, H.J., Shannon M.A., Wallace, M.G., Burke, S.M. and Moote, M.A.**(1996). *Institutional barriers and incentives for ecosystem management: a problem analysis*. Gen. Tech. Rep. PNW-GTR-354.Portland, OR. U.S Department of Agriculture, Forest Service.
- Daniels, S., and Cheng, A. S.** (2004). Collaborative Resource Management: Discourse-based Approaches and the Evolution of TechnoReg. In Manfredi, J.M., Vaske, J.J., B.L, Bruyere, Field, R. D. and Brown, J. P. (eds.). *Society and Natural Resources Management. A Summary of Knowledge*. Missouri: Jefferson Press.
- De Villiers, B.** (1999). *Peace Parks-the way ahead: International Experience and Indicators for Southern Africa*. Pretoria: HSRC Publishers.
- Draper, M. M., Spierenburg and H. Wels,** (2004). African Dreams of Cohesion: Elite Pacting and Community Development in Transfrontier Conservation Areas in Southern Africa. *Journal of Culture and Organisation* 10 (4) 341-353.
- Duffy, R.** (2001). Peace Parks: The Paradox of Globalisation. *Journal of Geopolitics* 6, (2) 1:26, London: Frank Cass.
- Dzingirai, V. and Breen, C.** (2005). *Confronting the Crisis in Community Conservation: Case Studies from Southern Africa*. University of KwaZulu-Natal: Center for Environment, Agriculture and Development.
- Dzingirai, V.** (2003). The New Scramble for the African Countryside. *Journal of Development and Change* 34 (2): 243-263.
- Dzingirai, V.** (2004). *Disenfranchisement at Large: Transfrontier Zones, Conservation and Local Livelihoods*. Harare: IUCN-ROSA.
- Dzingirai, V.** (2005). *Consultation, Planning and Community Interests in Transfrontier Conservation*. Harare : IUCN-The World Conservation Union.
- Fabricius, C., Koch, E., Magome, H. and Turner, S.** (eds.) (2004). *Rights, Resources and Rural Development: Community Based Natural Resource Management in Southern Africa*. London: Earthscan.

**Fakir, S.** (2001). *Transfrontier Conservation Areas: A new dawn for eco-tourism, or a new form of conservation expansionism?* Pretoria: IUCN Policy Think Tank Series No.3. Available at [www.iucnsa.org.za/our-work/publication.htm](http://www.iucnsa.org.za/our-work/publication.htm)

**Folke, C., Carpenter, S., Elmquist, T., Gunderson, L., Holling, C. S. and Walker, B.** (2002). *Resilience and sustainable development :building adaptive capacity in a world of transformations*. International Council of Science for Sustainable Development. ICSU Series on Science for Sustainable Development No. 3 available at [www.iucnsa.org.za/our-work/publication.htm](http://www.iucnsa.org.za/our-work/publication.htm)

**Glazewski, J.** (2000). *Environmental Law in South Africa*. Durban: Butterworths.

**Gregis, A.** (1999). *Citizen economic empowerment in Botswana: concepts and principles*. BIDPA Working Paper. No.22.

**Griffin, J., Cumming, D., Metcalfe, S., t'Sas-Rolfes, M., Singh, J., Chonguica, E., Rowen, M. and Oglethorpe, J.** (1999). *Study on the development of transboundary natural resources management areas in southern Africa*. Main Report. Washington D.C, USA: Biodiversity Support Program.

**Hanks, J.** (2003). Transfrontier Conservation Areas (TFCAs) in Southern Africa: Their Role in Conserving Biodiversity, Socioeconomic Development and Promoting a Culture of Peace. In Goodale, U.M., Stern, M.J., Margoluis, C., Lanfer, G.A. and Fladeland M.. (eds.). *Transboundary Protected Areas: The Viability of regional Conservation Strategies*. New York: Food Products Press.

**Hentz, J.J.** (2004). South Africa and the political economy of regional cooperation in Southern Africa. *Journal of Modern African Studies*, 43 (1) 21-51.

**Hickey, S. and Mohan, G.** (2004). Relocating participation within a radical politics of development: citizenship and critical modernism. *Journal of Development Change* 36 (2) 237-257.

**Hughes, D.** (2002). *When tourists cross boundaries and peasants don't: Inequality and regional metaphors in the Great Limpopo Transfrontier Conservation Area*. Proceedings of a Workshop Hosted by the Department of Economic History. Harare: University of Zimbabwe.

**Hughes, D.** (2005). Third Nature: Making Space and Time in the Great Limpopo Conservation Area. *Journal of Cultural Anthropology* 20 (2)157-184.

- Hulme, D. and Murphree, M.** (2001) (eds.) *African Wildlife and Livelihoods: The promise and performance of community conservation*. Oxford: James Currey.
- Hutton, D., Adam, W.M. and Murombedzi, J.C.** (2005). Back to the Barriers? Changing Narratives in Biodiversity Conservation. *Forum for Development Studies* No. 2 341:370.
- Institute for Environment and Development and Development Studies** (1994). *Whose Eden? An Over view of community approaches to wildlife management*. London: International Institute for Environment and Development and the Institute of Development Studies.
- IUCN –The World Conservation Union** (1996). *Resolutions and recommendations, World Conservation Congress, Montreal 13-23 October*.  
[www.iucn.org/wcc/resolutions/research.pdf](http://www.iucn.org/wcc/resolutions/research.pdf)
- IUCN-ROSA** (2002). *Strategy for Development for Development of the ZIMOZA TBNRM Area 2002*. Harare: IUCN-ROSA.
- IUCN-The World Conservation Union** (2000). *Policy on Social Equity in Conservation and Sustainable Use of Natural Resources*. Available at  
[www.iucn.org/themes/spg/Files/equitypolicy.pdf](http://www.iucn.org/themes/spg/Files/equitypolicy.pdf)
- Jones, B. and Murphree, M.** (2004). The Evolution of Policy on Community Conservation in Namibia and Zimbabwe. In Hulme, D. and Murphree, M. (eds.). *African Wildlife and Livelihoods: The Promise and Performance of Community Conservation*. Harare: Weaver Press.
- Jones, B. and Murphree M.** (2004). Community-based natural resource management as a conservation mechanism: lessons and directions. In Child, B. (ed). *Parks in Transition: Biodiversity, Rural Development and the Bottom Line*. London: Earthscan.
- Katerere, Y., Hill, R. and Moyo, S.** (2001). *A Critique of Transboundary Natural Resource Management in Southern Africa*. Paper no.1 IUCN-ROSA Series on Transboundary Natural Resources Management. Harare: IUCN-ROSA.
- Keeley, J. and Scoones, I.** (2003). *Understanding Environmental Policy Processes. Cases from Africa*. Earthscan: London.
- Kidd, M.** (1999). *The National Environmental Management Act and Public Participation*. *The South African Journal of Environmental Law and Policy* 6 (1) 21-31.

- Kumar, C.** (2005). Revisiting “Community” in Community – Based Natural Resource Management. *Community Development Journal* 40 (3) 275-385.
- Lauber, T.B. and Knuth, B.A.** (2000). *Citizen Participation in Natural Resources Management: A Synthesis of HDRU Research*. HDRU Series 00-7 Human Dimensions Research Unit, Department of Natural Resources, Cornell University. Available at [www.dnr.cornell.edu/hdru/Pubs](http://www.dnr.cornell.edu/hdru/Pubs).
- Leach, M., Mearns, R. and Scoones, I.** (1997). Challenges in Community Based Sustainable Development: Dynamics, Entitlements, and Institutions. *IDS Bulletin* 28 (4) 4-14.
- Luckett, S., Mkhize, K. and Potter, D.** (2003). Conservation Partnerships. *Parks* 13 (1) 6-15.
- Lynch, O. J. and Chaudhry, S.** (2002). Amplifying Local Voices, Striving for Environmental Justice. *Proceedings of the African Public Interest Law and Community – Based Property Rights Workshop*. Washington D.C.: Center for International Environmental Law.
- Lynch, O.J. and Harwell, E.** (2002). Community Based Property Rights: A Conceptual Note. In Lynch, O.J and Harwell, E (eds.). *Whose Natural Resources? Whose Common Good? Towards a New Paradigm of Environmental Justice and the National Interest in Indonesia*. Washington D.C: Center for International Environmental Law.
- Lynch, O.J. and Alcorn J.B.** (1994). Tenurial rights and community based conservation. In David Western and R. Michael Wright (eds.) *Natural Connections-Perspectives in community based conservation*. pp 373-402. Washington D.C.: Island Press.
- Magaya, W. and Mandivengerei, S.** (2003). Transboundary Natural Resource Management: The Legal and Policy Barriers to Community Participation. *Commons Southern Africa Occasional Paper*. Harare: Center for Applied Social Sciences.
- Magome, H., Grossman D., Fakir, S. and Stowell, Y.** (2000). Partnerships in Conservation: The State, Private Sector and the Community at Madikwe Game Reserve, North West Province, South Africa. *Evaluating Eden Series Discussion Paper No.7*.
- Maier, M.** (1991). *The Data Game: Controversies in Social Sciences Statistics*. Armonk, N. Y.: Sharpe.

- Manfredo, M. J., Vaske, J. J., Bruyere, B. L., Field, D. R. and Brown, P.J. (eds.)** (2004). *Society and Natural Resources: A Summary of Knowledge*. Missouri: Jefferson Press.
- Metcalf, S.** (1999). *Study on the Development of Transboundary Natural Resource Management Areas in Southern Africa – Common Property Perspectives*. Washington D.C. Biodiversity Support Programme.
- Metcalf, S.** (2003). *Impacts of Transboundary Protected Areas on local communities in three Southern Africa Countries* Paper presented at the workshop on transboundary protected areas in the governance stream of the 5<sup>th</sup>, World Parks Congress, Durban, South Africa.
- Mohamed-Katerere, J. and Chenje, M.** (2002). *Environmental Law and Policy in Zimbabwe*. Harare: Southern African Research and Documentation Center.
- Mohamed-Katerere, J.** (2001). *Review of the Legal and Policy Framework for Transboundary Natural Resources Management in Southern Africa*. Paper no.3, IUCN-ROSA Series on Transboundary Natural Resources Management. Harare: IUCN-ROSA.
- Mramba, S. J.** (2002). Challenges and options in the management of transboundary protected areas. A case study of Peace Parks Forum in southern Africa. Unpublished *LLM Thesis*. Faculty of Law, University of KwaZulu-Natal, South Africa.
- Murombedzi, J. and Magome, H.** (2003). Sharing South African National Parks: Community Land and Conservation in a democratic South Africa. In Adams, W. and Mulligan, M. (eds.). *Decolonising Nature: Conservation in post colonial era*. London : Earthscan Publications.
- Murombedzi, J.** (2003). Devolving the expropriation of Nature: The devolution of wildlife management in southern Africa. In Adams, W. and Mulligan, M. (eds). *Decolonising Nature: conservation in post colonial era*. London: Earthscan Publications.
- Mwango, N.** (2004). *An Assessment of the Implementation of the Community Environmental Management Programme in Zambia: A case study of Luansobe Settlement – Mufulira District*. Unpublished MEnv.Dev Thesis Center for Environment and Development, University of KwaZulu-Natal: Pietermaritzburg.
- Neuman, W. L.** (2000). *Social Research Methods: qualitative and quantitative approaches (4<sup>th</sup> edition)*. Boston: Allan and Bacon.

- Nyambe, N.** (2005). *Organisational Culture and its underlying basic assumption as a determinant of response to change: A case study of KwaZulu-Natal's conservation sector, South Africa*. Unpublished PhD thesis, Center for Environment and Development. University of KwaZulu-Natal: Pietermaritzburg.
- Oates J. F.** (1995). The dangers of conservation by rural development: A case study from the forests of Nigeria. *Oryxi*, 29, 115 -122.
- Oates, J. F.** (1999). *Myth and reality in the rain forest*. Berkley: University of California Press.
- Pimbert, M.** (2004). *Institutionalising participation and people –centered processes in natural resource management: Research and Publication highlights*. International Institute of Environment and Development and Institute of Development Studies. United Kingdom.
- Pimbert, M. P. and Pretty, N. J.** (1994). *Participation, people and the management of national parks and protected areas: past failures and future promise*. United Nations Research Institute for Social Development, IIED, WWF, mimeo Protected Areas in the Governance Stream of the 5<sup>th</sup> World Parks Congress. Durban, South Africa.
- Rahman, M. A.** (1993). *People's self development: perspectives on participatory action research, a journey through experience*. London: ZED Books.
- Refugee Research Programme** (2002). *A Park for the People? Great Limpopo Transfrontier Park-Community Consultation in Coutada 16, Mozambique*. University of the Witwatersrand, Johannesburg.. Available at: [www.wits.ac.za/rrp](http://www.wits.ac.za/rrp).
- Ribot, J.** (2003). Democratic Decentralisation of Natural Resources: Institutional Choice and Discretionary Power Transfers in Sub-Saharan Africa. *Journal of Public Administration and Development* 23 53-65. Available at [www.interscience.wiley.com](http://www.interscience.wiley.com)
- Sandwith, T., Shine, C., Hamilton. L. and Sheppard, D.** (2001). *Transboundary Protected Areas for Peace and Co-operation*. IUCN, Gland, Switzerland and Cambridge, United Kingdom.
- Singh, J.** (2002). Transboundary Conservation in the African Context: A Threat to Sovereignty. In Chaturvedi, S and Puri, M.M (eds.). *Rethinking Boundaries: Geopolitics, Identifies and Sustainability*. New Delhi: Manohar.

- Sommerville, P.** (1998). Empowerment through residence. *Housing Studies* 13 (2) 233-257.
- Soto, B.** (2004). *Application of a Framework to Assess Wildlife Policy and its implementation in Mozambique*. Unpublished MEnv.Dev. Thesis University of KwaZulu-Natal, Center for Environment and Development, South Africa.
- Stewart, J. and Taylor, M.** (1995). *Empowerment and Estate Regeneration*. Bristol: Policy Press.
- Tamburelli, G. and Guillet, A.** (2003). *Legal and Institutional Implications of Systemic Planning and Management of Transboundary Protected Areas- a comparative analysis of case studies from the Italian Development Cooperation*. Paper presented at the workshop on Transboundary Protected Areas in the Governance Stream of the 5<sup>th</sup> World Parks Congress, Durban, South Africa, 12-13 September 2003.
- Tanner, R.** (2003). *Transfrontier Conservation Areas of Southern Africa and Community Involvement in the Context of International Law*. Unpublished masters thesis, University of Montana, Missoula, Montana.
- Teri, J. J.** (2002). *Management of Transboundary Watercourses in Southern Africa: A case study of the Zambezi Basin*. Unpublished LLM Thesis, Faculty of Law, University of KwaZulu-Natal, Pietermaritzburg.
- Thayer, M.** (2003). *The Nature of Conflict and the Conflict over Nature: Protected Areas, Transfrontier Conservation and the Meaning of Development*. Skidmore College. Available at [www.sit-edu-geeneva.ch/nature](http://www.sit-edu-geeneva.ch/nature)
- The World Bank** (1999) *Report from the International Report on Community Based Natural Resource Management (CBNRM) Workshop*. Washington D.C. 10 -14 May 1999 [www.worldbank.org](http://www.worldbank.org)
- Transfrontier Conservation Consortium** (2006). *Inception Report. Pre-feasibility study of the proposed Kavango-Zambezi transfrontier conservation area*. Prepared for Peace Parks Foundation on behalf of the Governments of Angola, Botswana, Namibia, Zambia and Zimbabwe. Peace Parks : Cape Town.
- Turner, S.** (2004). *A Crisis in CBNRM? Affirming the Commons in Southern in Africa*. Paper presented at the 10<sup>th</sup> IASCP Conference, Oaxaca 9-13 August 2004.

**United Environment Programme Undated.** UNEP Environmental Law Training Manual. Nairobi, Kenya.

**Van Amerom, M. and Buscher B.,** (2005). *Peace Parks in Southern Africa: Bringers of an African Renaissance?* Journal of Modern African Studies, 43, 2,pp. 159-182. Cambridge: Cambridge University Press.

**Van der Linde, H., Oglethorpe, J., Sandwith, T., Snelson, D. and Tessem A. Y.** (1999). *Beyond Boundaries: Transboundary natural resource management in Sub-Saharan Africa.* Washington D.C, USA: Biodiversity Support Program.

**Wells, M. and Brandon, K.** (1992). *People and parks: linking protected area management with local communities.* Washington D.C: World Bank, World Wide Fund and USAID.

**Wells, M. P.** (2003). Protected Area Management in the Tropics: Can We Learn from Experience? In Goodale, U.M., Stern, M. J Margoluis, C., Lanfer, G. A. and Fladeland, M. (eds.). *Transboundary Protected Areas: The Viability of Regional Conservation Strategies.* New York: Food Products Press.

**Wilkie, D. S.** (2001). *Beyond Boundaries: Regional overview of transboundary natural resource management in Central Africa.* Washington D.C: Biodiversity Support Program

**Wolmer, W.** (2003). Transboundary Conservation: the Politics of Ecological Integrity in the Great Limpopo Transfrontier Park. *Journal of Southern African Studies* 29 (1) 261-278.

**World Bank** (1996).*The World Bank Participatory Source Book.* Washington DC.: World Bank.

**World Bank** (2000/2001) *Attacking Poverty.* World Development Report. Washington D.C.: World Bank

**World Commission on Protected Areas** (2003). *A Guide to Securing Protected Areas in the Face of Global Change. Options and Guidelines. A Draft Report by the Ecosystems, Protected Areas, and People Project.* IUCN- The World Conservation Union, Gland, Switzerland.

**Yin, R. K.** (1984). *Case Study Research: Design and Methods.* London: Sage

# **AN ANALYSIS OF LEGAL, POLICY AND INSTITUTIONAL PROVISIONS FOR COMMUNITY EMPOWERMENT IN TRANSFRONTIER CONSERVATION IN SOUTHERN AFRICA.**

## Abstract

Proponents and advocates of transfrontier conservation in southern Africa have postulated rural communities living adjacent to conservation areas as one of the main determinants of the success of such initiatives and thus they should be potential beneficiaries along with the state and the private sector. This assertion is reflected in the various memoranda of understanding (MOU), treaties, policies and agreements establishing transfrontier conservation initiatives. For community participation to be effective, the laws, policies and institutions establishing transfrontier conservation in southern Africa must lead to the empowerment of these rural communities who commonly subsist on local natural resources and perceive them as opportunities to earn a living. I derive a principle and set of criteria and indicators that are used to analyse the legal, policy and institutional framework and its implications for community participation and empowerment in transfrontier conservation in southern Africa. The Great Limpopo Transfrontier Park provides a case study. I argue that while provisions for community participation are made in the laws, policies and institutions under which transfrontier conservation is being initiated and implemented in the region, they are not sufficiently prescriptive about empowering communities to secure commitment from conservation agencies to enable communities to effectively participate in transfrontier conservation. It is suggested that as presently defined, the laws, policies and institutions may lead to community disempowerment from transfrontier conservation, as they allow too much scope for interpretations that weaken options for censure where agencies are not demonstrating commitment to community participation and empowerment in conservation.

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## **LIST OF ACRONYMS**

BEE	Black Economic Empowerment
CAMPFIRE	Communal Areas Management Programmes for Indigenous Resources
CBNRM	Community Based Natural Resources Management
EMA	Environmental Management Act
FWL	Forestry and Wildlife Law
GLTP	Great Limpopo Transfrontier Park
IKS	Indigenous Knowledge Systems
TMC	Trilateral Ministerial Committee
MOU	Memorandum of Understanding
NEMA	National Environmental Management Act
NEP	National Environmental Policy
SADC	Southern Africa Development Community
TFCAs	Transfrontier Conservation Areas
WBLRP	Wildlife Based Land Reform Policy

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# **AN ANALYSIS OF LEGAL, POLICY AND INSTITUTIONAL PROVISIONS FOR COMMUNITY EMPOWERMENT IN TRANSFRONTIER CONSERVATION IN SOUTHERN AFRICA.**

## **Introduction**

Today, the concepts of community participation and transfrontier conservation are firmly part of the conservation discourse and practice in southern Africa.<sup>1</sup> The desire for community participation in transfrontier conservation is reflected in the various treaties, policies and conventions establishing transfrontier conservation initiatives in the region. However, against this background, there is a concern that the law, policy and institutional arrangements under which transfrontier conservation is being initiated, developed and implemented in the region may act as a barrier to community participation, collaboration and partnership in conservation.<sup>2</sup> There is growing concern that the legal, policy and institutional provisions for community participation are not securing the commitment from agencies involved with transfrontier conservation that are necessary to achieve empowerment of affected communities.<sup>3</sup> This concern is buttressed by the perceived absence of an integrated legal, policy and institutional framework for implementing community participation in transfrontier conservation.

Laws, policies and institutional arrangements have important implications for community participation in transfrontier conservation. Depending on how they are framed, they can either hinder or facilitate community participation in transfrontier conservation.<sup>4</sup> It is through policies, laws and institutions that the role of communities in transfrontier

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<sup>1</sup> Griffin, J., Cumming, D., Metcalfe, S., t'Sas-Rolfes, M., Singh, J., Chonguica, E., Rowen, M., and J. Oglethorpe 1999. Study on the development of transboundary natural resources management areas in southern Africa. Main Report. Biodiversity Support Program, Washington D.C Program. See also and Tanner, R 2003. Transfrontier Conservation Areas of southern Africa and community involvement in the context of international law, University of Montana.

<sup>2</sup> Mohamed- Katetere 2001. Review of the legal and policy framework for transboundary natural resources management in southern Africa. Paper No.3, IUCN-ROSA. See also Banda, G 2002. "Conflict management in a community-based transboundary natural resources management initiative: A case study of the proposed Mozambique, Zambia and Zimbabwe transboundary natural resources management area." In transboundary natural resources conflict management in southern Africa. IUCN-The World Conservation Union, Harare.

<sup>3</sup> Dzingirai, V 2004. Disenfranchisement at Large. Transfrontier Zones, Conservation and Local Livelihoods. IUCN-ROSA, Harare. See also Hughes, D 2002. When tourists cross boundaries and peasants don't.

Inequality and regional metaphors in the Great Limpopo Transfrontier Conservation Area. Proceedings of a workshop hosted by the Department of Economic History, University of Zimbabwe, Harare.

<sup>4</sup> IUCN-ROSA 2002. Strategy for Development of the ZIMOZA TBNRM Area (Draft Copy). See also Magaya, W. and S. Mandivengerei. 2003 "Transboundary natural resources management: The legal and policy barriers to community participation". In Commons southern Africa. Occasional paper, Center for Applied Social Sciences, Harare.

conservation is defined as they lay the basis either for community participation or exclusion. It therefore follows that without appropriate policies to provide guidelines supportive of community participation, pro community participation laws in conservation are unlikely to be enacted. Supportive and appropriate institutions for community participation are also unlikely to be established in the absence of appropriate laws policies and laws.

Rural communities whose voices should be, but are rarely heard in the policy formulation and decision making process inhabit areas where transfrontier conservation is taking place. Ironically, decisions that are made far away from these communities and without their participation establish the policies, laws and the resultant institutions that govern and determine the relationship that they have with natural resources that are pivotal for their livelihoods. These policies, laws and institutions may not be sufficiently known and understood to gain rural communities' inputs, support and collaboration. For this reason, it can not be assumed that the policies, legislation, agreements and the institutions that are being developed to implement transfrontier conservation will reflect the interests and aspirations of these communities and gain their support.

In this paper, I assess the legal, policy and institutional provisions for community participation in transfrontier conservation using the Great Limpopo Transfrontier Park (GLTP) as a case study. Laws, policies and institutional arrangements are analysed to determine whether provisions are made for community participation that will lead to empowerment and to establish how prescriptive they are. To determine whether provisions for community participation are sufficiently prescriptive, I have developed some criteria and indicators based on Cook's model of empowerment.<sup>5</sup> According to Cook's model, participation, confidence and competence are the prerequisite skills for empowerment.

The analysis to determine if provisions for community participation are sufficiently prescriptive to result in empowerment is carried out at three levels. The first level assesses national provisions for community participation among the countries participating in the GLTP. The rationale for assessment at the national level is based on the assumption that

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<sup>5</sup> Cook, J. 1997. "Empowering people for sustainable development". In Fitzgerald, P., McLennan, A. and Munslow, B. (eds). *Managing Sustainable Development in South Africa*. Oxford University Press, Cape Town

unless a country's domestic laws, policies and institutions make strong provisions for community participation in conservation, support and commitment to community participation in transfrontier conservation will be weak. Constitutional and statutory provisions are assessed at this level. The second level is an evaluation of provisions for community participation at the site level. This is in terms of the laws, policies and institutions under which the GLTP is being implemented. They include the Tri-nation Agreement, the GLTP Treaty and the Joint Management Plan. The third level is an assessment of laws, policies and institutions at the regional level. These are not directly related to the implementation of the GLTP but are analysed due to their implications for community participation in the GLTP. These include the SADC Revised Protocol on Shared Water Courses and the SADC Protocol on Wildlife Conservation and Law Enforcement.

### **The imperative for community participation in conservation**

Whereas exclusion was the mechanism used to marginalise and weaken communities from conservation in the past<sup>6</sup> and laws, policies and institutions were established to achieve this intent, inclusion is perceived to be the mechanism for corrective actions that will strengthen communities and engender more supportive attitude to conservation. Clearly this would require reformulation of laws, policies and institutional arrangements. Although much has been written about the importance of community participation in conservation<sup>7</sup>, the implied intent of participation is empowerment of communities so that they can create and sustain benefits from opportunities associated with conservation. Participation is thus the means through which empowerment is to be achieved and so empowerment should be an explicit objective expressed in the principle of community involvement in conservation.

However, community participation or involvement and empowerment are contested concepts despite their popularity, as they mean different things to different people.<sup>8</sup> The

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<sup>6</sup> Mohamed-Katerere, J. 2001 *supra*.

<sup>7</sup> Metcalfe, S.C. 1999. Study on the Development of Transboundary Natural Resource Management Areas in Southern Africa- Community Perspectives. Biodiversity Support Program, Washington, DC, USA. See also Metcalfe, S.2003. Impacts of Transboundary Protected Areas on Local Communities in three Southern African Initiatives. Paper prepared for the workshop on transboundary protected areas in the Governance Stream of the 5<sup>th</sup> World Parks Congress. Durban, South Africa.

<sup>8</sup> For an in depth analysis and debate on the meaning of participation and empowerment see Cerna , M. (ed) 1985. Putting People First: Sociological Variables in Rural Development, Oxford University Press, New York. See also Barnes, B.1998.The Nature of Power .Cambridge Polity Press.

kind of participation that is envisaged here is interactive participation which leads to community empowerment. Empowerment is regarded as a measure which indicates whether community participation is genuine or not.<sup>9</sup> The main objective of community empowerment in conservation is to enable communities to improve the quality of their own lives and share equitably in the conservation benefits and costs. This requires communities to be involved in the decision making process. As Gregis notes:

The concept of empowerment has evolved within the development discourse. It has dethroned the term participation which lost some of its currency since the 1980s. Empowerment came into vogue in response to the situation where people could participate in a project without the power to decide on the critical issues related to the project.<sup>10</sup>

While empowerment is not separate from community participation, its aim is to take community participation to a higher level where communities will be able to have influence over decision making and decision implementation both in governance and management. In that regard, empowerment is a required consequence of community participation.

Although policies, laws and institutions may be explicit about the need for community participation and empowerment, this is insufficient in the absence of specific ways of measuring performance in achieving empowerment. Cook's framework or model of empowerment is a useful way of measuring or testing whether policy, laws and institutional arrangements are prescriptive enough. For the purposes of this research, a single principle was established namely that laws, policies and institutions establishing transfrontier conservation in southern Africa must lead to empowerment of associated rural communities through community participation. Four criteria and indicators for each criterion were established (Table 1). Performance standards can be established for each indicator as has been done under Black Economic Empowerment in South Africa and the Revised Policy Framework for Indigenisation of the Economy in Zimbabwe. However, standards are commonly more in line with strategy than policy and law and so standards have not been drawn for use in this study.

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<sup>9</sup> Brinkerhoff, D.W. and Crosby, B. 2002. Managing Policy Reform: Concepts and tools for Decision Makers in Developing and transitioning countries. Bloomfield: Kumarian Press

<sup>10</sup> Gregis, A .1999. Citizen economic empowerment in Botswana: concepts and principles. BIDPA Working Paper. No.22

## **Rationale for prescriptive law and policy provisions**

It is assumed that if the provisions in conservation policies, laws and institutions are sufficiently prescriptive about constructive engagement, then prospects of benefits accruing to communities are enhanced. Community participation in conservation is a process designed to deliver tangible benefits to communities either through reducing negative effects or the enhancement of access to opportunities. Community participation in conservation can only be regarded as successful when the people experience an improved quality of life and this can be greatly facilitated by policies, laws and institutional provisions that are explicit in their intent so as to engender commitment to shared targets and associated actions. Provisions in laws and policies can range from those in which there are targets through those in which there are no set targets to work towards and to those where they are vague or silent. While the extent to which law and policy should go in being prescriptive with regard to community participation in conservation may be debatable, precedents have already been set in other sectors of the economy against which provisions for community participation could be measured.<sup>11</sup> The motivation for being prescriptive arises from a sense that change leading to empowerment will either happen too slowly or not happen at all in the absence of coercive policies and laws.

It is a stated intent that community participation in transfrontier conservation will promote economic empowerment among disadvantaged rural communities.<sup>12</sup> On this basis one may reasonably anticipate that coercive policies and laws set for other industries might be reflected in the conservation industry. Examples in other sectors of the economy in the region where laws and policies are very prescriptive with little ambiguity in their intent include South Africa's Broad Based Economic Empowerment Act, No. 53 of 2003. It establishes a legislative framework for the promotion of Black Economic Empowerment (BEE). Prescriptive provisions are made for the adoption of the principle of BEE. The criterion for measuring BEE, which includes ownership and management, is clearly defined and the indicators by which progress is to be measured are explicitly established. In support of BEE, Guidelines for Responsible Tourism Development<sup>13</sup> prescribes how communities are to be involved in and benefit from tourism. These include the sourcing of

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<sup>11</sup> Cliffe Dekker Attorneys .Undated. The Way to BEE. BEE Documentation. Available at: [www.cliffedekker.com/litarature/bee/index](http://www.cliffedekker.com/litarature/bee/index) accessed on 20 November, 2005

<sup>12</sup> Transfrontier Conservation Consortium 2006. Inception Report. Pre-Feasibility study of the proposed Kavango-Zambezi Transfrontier Conservation Area. Prepared for Peace Parks Foundation on behalf of the Governments of Angola, Botswana, Namibia, Zambia and Zimbabwe

<sup>13</sup> Department of Environmental Affairs and Tourism 2000

15% of services and 15% of products from communities, increasing by 5 % per year for three years.

The Government of Zimbabwe's Revised Policy Framework for Indigenisation of the Economy of 2004<sup>14</sup> aims to economically empower the historically disadvantaged Zimbabweans so that they can participate effectively in the mainstream economy. In order to achieve indigenisation of the economy, the policy prescribes that 50% share must be set aside for the historically disadvantaged Zimbabweans. Furthermore, Zimbabwe currently has a draft Bill<sup>15</sup> to amend the Mines and Minerals Act (Chapter 21:05). The draft Bill stipulates that:

every mining company shall have a minimum of fifty per-centum of the mining company's assets in the hands of the historically disadvantaged persons in a period of ten years of which 25% shall be achieved in two years and thirty five per-centum shall be achieved in four years, forty per-centum in seven years , and fifty per-centum in ten years.<sup>16</sup>

If laws and policies can be this prescriptive in other sectors of the economy as the South African and Zimbabwean examples have shown, there is reason why this should not be applicable in conservation to facilitate community participation and empowerment

### **The study area**

The GLTP is a conservation initiative involving Zimbabwe, Mozambique and South Africa (Figure 1). It was established by the GLTP Treaty in 2002. It is one of only two transfrontier conservation initiatives that have been recognised through a treaty in the SADC region, the other being the Kgalagadi Transfrontier Park.<sup>17</sup> The GLTP consists of Gonarezhou National Park, Malipati Safari Area, Manjinji Pan Sanctuary and the neighbouring community areas in southeastern Zimbabwe, which constitute the biodiversity corridor linking Gonarezhou to the Kruger National Park further south.<sup>18</sup> In South Africa it consists of the Kruger National Park and the Makuleke Region, formerly a part of the KNP

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<sup>14</sup> Cliffe Dekker Attorneys *op cit*

<sup>15</sup> Mines and Minerals Act Draft Amendment Bill, 2005

<sup>16</sup> Section 250(1) of the Mines and Minerals Act Draft Amendment Bill, 2005

<sup>17</sup> The Kgalagadi Transfrontier Park is a transfrontier conservation initiative between South Africa and Botswana. It consists of the Gemsbok National Park in Botswana and the Kalahari Gemsbok National Park in South Africa. It was formalized through a bilateral agreement between the two countries in 1998.

<sup>18</sup> GLTP Treaty, Article 3(1)(c)

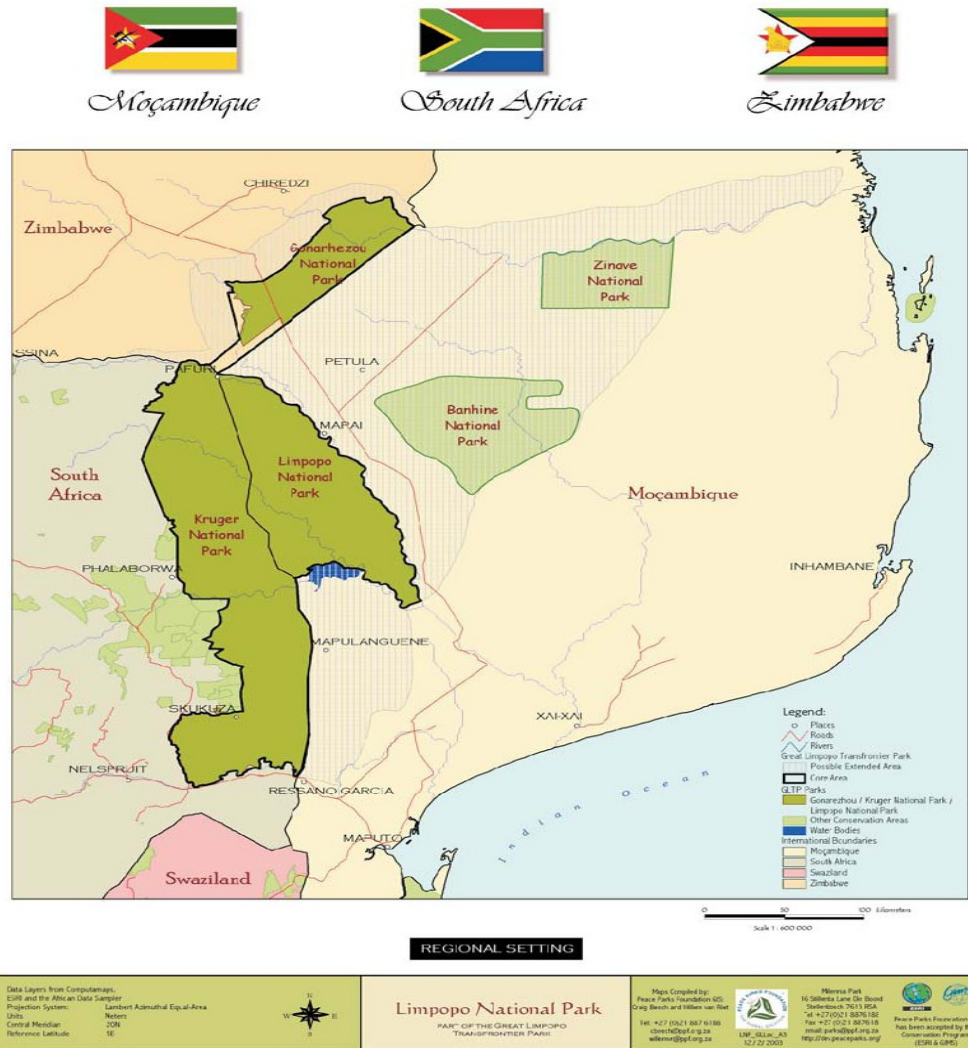
but subsequently returned to the Makuleke people with a condition that land use remains conservation for ninety nine years<sup>19</sup>. The Mozambique component is made up of Limpopo, Banhine and Zinave National Parks and interstitial areas.<sup>20</sup> Measuring 3.6 million hectares, it is the biggest TFCA, not only in the region but also in the world. It is described as southern Africa's flagship TFCA initiative.<sup>21</sup> Carrying this "flagship" designation, one might expect that provision for community empowerment would be unambiguous in policies and law.

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<sup>19</sup> Reid, H. and Turner, S. 2004 "The Richtersveld and Makuleke contractual parks in South Africa: Win-win for communities and conservation?" In Fabricius, C., E. Koch., H. Magome and Turner, S. (eds) 2004. *Rights, Resources and Rural Development: Community Based Natural Resources Management in Southern Africa*. London, Earthscan.

<sup>20</sup> GLTP Treaty, Article 3(1) (b). There are other areas which are adjacent to the GLTP. These will not be managed as transfrontier park but as a transfrontier conservation area. These include the Massingir and Corumana areas, as well as the interlinking regions in Mozambique. In Zimbabwe and South Africa, these areas include the private and state owned conservation land bordering the GLTP. While these areas do not directly form part of the GLTP, their activities have implications on the management of the GLTP and vice versa.

<sup>21</sup> Wolmer, W. 2003. *Transboundary Conservation: The politics of ecological integrity in the Great Limpopo Transfrontier Park*. This is both in terms of its size and what it signifies. The success or failure of the GLTP may determine the future of transfrontier conservation in southern Africa. In *Journal of Southern African Studies*. Volume 29, Number 1. March



**Figure 1.** Map of the Great Limpopo Transfrontier Park. Source: Limpopo National Park Management and Development Plan, 2003.

As an idea, the GLTP has a long history stretching back to the 1920s when General Jan Christiaan Smuts first thought about creating a wildlife paradise. Even the infamous ivory poacher, Cecil Barnard is an earlier advocate of the idea and in the late 1930s a Portuguese ecologist Gomes de Sousa revived the idea.<sup>22</sup> However, the early advocates of the idea did not get political support as the political situation then was not conducive for transfrontier conservation. For example, the Second World War broke out in 1939 and this was immediately followed by the cold war and wars of liberation against colonialism. The attainment of independence in Mozambique and Angola was followed by devastating civil wars while apartheid and its policies of destabilization continued in South Africa. The

<sup>22</sup> See Dzingirai, V. 2005. and Wolmer, W.2003 *supra*

GLTP was not a feasible idea politically under these circumstances as it constituted a threat to sovereignty. It was only with the end of civil war in Mozambique and when apartheid was in its last days that the idea was once more revisited. With the political situation in the region leaning towards regional collaboration, the idea at last came into fruition first through the GLTP tri-nation Agreement and secondly through the GLTP treaty.<sup>23</sup>

## **Methodology**

This research conducted a comparative analysis of the implications of laws, policies and institutions for either facilitating or hindering community participation in transfrontier conservation in southern Africa using the GLTP as a case study. The study employed desktop research and uses qualitative methodology to analyse whether provisions are made for community participation that will lead to empowerment in transfrontier conservation and if so, how prescriptive they are. I used qualitative/comparative content analysis<sup>24</sup> to gain an understanding of the intent of policy, law and institutions with regard to community participation and analysing whether they are prescriptive enough and binding on the agencies implementing TFCAs to achieve the desired outcome of community empowerment through participation.

This was done using a framework based on Cook's model of empowerment.<sup>25</sup> The framework consists of the principle, criteria and indicators (Table 1). The principle, criteria and indicators were developed from the existing literature to enable monitoring and evaluation of community participation in conservation. The indicators are in the form of benefits and are underpinned by the principle of community empowerment. The principle, criteria and indicators are used in this research as a way of assessing how prescriptive policies, laws and institutions arrangements are for community participation and empowerment in conservation. Making the intended outcomes of community participation in conservation explicit through a selected criterion and measurable indicators can be expected to reinforce the expectations of local communities.

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<sup>23</sup> The Tri-nation Agreement was signed on the 10<sup>th</sup> of November 2000 and the GLTP Treaty was signed on the 9<sup>th</sup> of December 2002.

<sup>24</sup> Ackoff, R. 1953. *The Design of Social Research*. Chicago University Press

<sup>25</sup> For a detailed discussion and analysis on community empowerment, see Jonathan Cook's "Empowering people for sustainable development" in Fitzgerald, P., McLennan, A. and Munslow, B. (eds) (1997). *Managing Sustainable Development in South Africa*. Oxford University Press, Cape Town. Pp: 275-292

A principle is defined as a law, rule or theory that something is based on.<sup>26</sup> A criterion is defined as a standard or principle by which something is judged.<sup>27</sup> An indicator is defined as a sign or a measure that shows how a situation is changing.<sup>28</sup> The more clearly these are expressed and the more comprehensive their coverage, the more prescriptive are the requirements that agencies engage and measure performances in community participation and empowerment.

**Table 1.** A key principle, criteria and indicators of effective community empowerment in transfrontier conservation. The principle and criteria are universal but not all indicators are applicable in every situation.

<b>Principle:</b> The laws, policies and institutions establishing transfrontier conservation in southern Africa must lead to the empowerment of rural communities.	
<b>Criteria</b>	<b>Indicators for empowerment</b>
Participation in the conservation process	<ul style="list-style-type: none"> <li>• Provisions for access to information by communities</li> <li>• Provisions made for representation of communities in decision-making institutions.</li> <li>• Requirement for agencies to implement community representation</li> <li>• Levels at which community representation is prescriptive</li> <li>• Provisions for partnerships in conservation between communities, private sector and government.</li> <li>• Requirement for co-management of natural resources between the state through the implementing agencies and communities</li> <li>• Provisions for decentralisation in natural resource management powers to communities</li> </ul>
Competence of participants to participate in the conservation process	<ul style="list-style-type: none"> <li>• Provision for the development of skills and capacity building within communities to participate in conservation.</li> <li>• Requirement for the promotion of conservation knowledge and understanding within communities.</li> </ul>
Confidence of participants in the conservation process	<ul style="list-style-type: none"> <li>• Provisions for Community Based Organisations that are recognized by the national laws and policies to participate in conservation</li> <li>• Provisions and support for communities to have recourse to the courts of law to challenge decisions that do not promote their interests</li> </ul>

<sup>26</sup> Hornby, A.S. 2000 Oxford Advanced Learners Dictionary of Current English , Sixth Edition, Oxford University Press, Oxford.

<sup>27</sup> *Ibid*

<sup>28</sup> *Ibid*

	<ul style="list-style-type: none"> <li>• Provisions for secure tenurial rights to land and other resources by communities</li> </ul>
Equity in the conservation process	<ul style="list-style-type: none"> <li>• Requirement for representation and participation of women and other marginalised groups in natural resources management institutions.</li> <li>• Provisions for the equitable distribution of conservation benefits</li> <li>• Provisions for the equitable distribution of costs arising from conservation.</li> </ul>

Primary data were mainly gathered through analysis and interpretation of the content of laws, policies and institutions at national and regional level. These included the GLTP Joint Management Plan, GLTP Treaty, Tri-nation Agreement, SADC Protocol on Wildlife Conservation and Law Enforcement and SADC Revised Protocol on Shared Water Courses to determine their influence on implementing agencies in facilitating community participation in transfrontier conservation.

The research was partly motivated by experiences in the conservation sector in the region. Countries in southern Africa have over the past twenty years or so, engaged in legal, policy and institutional reforms meant to open opportunities for community participation in natural resources management. These reforms are reflected in a concept known as Community Based Natural Resources Management (CBNRM). Zimbabwe has one of the best known programmes called Communal Areas Management Programme for Indigenous Resources (CAMPFIRE) and Zambia has Administrative Design for Game Management Areas (ADMAGE). Mozambique has Tchuma Tchato (Our Wealth), while Namibia has Living in a Finite Resource (LIFE). South Africa has CBNRM in the form of contractual parks and Local Boards (LBs).<sup>29</sup>

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<sup>29</sup> Mohamed –Katerere, J. 2001. Review of the legal and policy framework for transboundary natural resources management. Paper No.3, IUCN-ROSA.

### **Assessment at national level.**

A starting point for effective community participation is to have policies, laws and institutions at the national level that provide strong mandates for community participation in conservation.<sup>30</sup> The rationale is that such a strong basis will lay a firm foundation for community participation in TFCAs. The strength of support for community participation at the national level determines opportunities for community participation at the regional level. As such, the policy, law and institutional support for community participation must be sufficiently explicit about empowerment so as to gain commitment from conservation agencies both at national and regional level and to permit sanctions in the event of failing commitment. The constitutional and statutory provisions that the three countries, South Africa, Zimbabwe and Mozambique have for community participation in conservation at the national level are analysed using the criteria of participation, competence, confidence and equity in the conservation process.

### **South Africa**

#### **Provisions for participation (Table 2)**

Increasingly, a rights based approach to management, access and use of natural resources is being advocated for by governments, non-governmental organisations and donors.<sup>31</sup> A rights based approach is evident through the recognition of environmental rights as human rights in the constitution. The recognition or enshrinement of environmental rights in the constitution can greatly facilitate community participation in conservation. As the Sustainable Livelihoods Southern Africa Team observes:

With clearly specified legally enshrined and universal rights, it is argued; citizens can voice their demands on the basis of clear, transparent legal provision, sometimes with constitutional backing. With the law providing the basis for negotiation, parties are accountable and decisions are clear. More generally particularly with a constitutionally enshrined framework, there is a basic political

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<sup>30</sup> Banda , G.2002 *supra*

<sup>31</sup> SLISA team 2003. Rights Talk and rights practice: Challenges for southern Africa. Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape available [www.ids.ac.uk/slsa](http://www.ids.ac.uk/slsa). See also "Community Based Property Rights: A Conceptual Note". In O.J.Lynch and Harwell, E. (eds) 2002. Whose Natural Resources? Whose Common Good? Towards a new paradigm of environmental justice and the national interest in Indonesia. Washington DC, USA. pp 1-16 See also Fourie, M. 2002. "Can a rights-based approach improve the practice of transboundary conservation? IUCN-The World Conservation Union. Policy Think Tank Series No.20 available at :[www.iucn.org.za/our\\_work/publications.htm](http://www.iucn.org.za/our_work/publications.htm)

signal that rights matter and that people should organise and claim rights through accountable political and legal process.<sup>32</sup>

A constitutional enshrined environmental right makes community participation in conservation a right rather than a privilege and is much easier to enforce when it is violated. Based on this environmental rights paradigm, it can be argued that those communities who come from jurisdictions where environmental rights are recognised as human rights stand a better chance of participating effectively in transfrontier conservation than those who come from jurisdictions where environmental rights are not recognised as human rights.

With regard to constitutional provisions on environmental rights, South Africa has one of the most advanced constitutions in the region to the extent that it is regarded as a model for a rights based approach to environmental management.<sup>33</sup> The South African Constitution recognises environmental rights as human rights.<sup>34</sup> In terms of section 24(a) everyone has the right to an environment that is not harmful to their health or well being. This environmental right is further strengthened by the provisions of section 24(b) which reads: Every one has the right to have the environment protected for the benefit of future and present generations, through reasonable legislative measures that

- a) prevent pollution and ecological degradation
- b) promote conservation
- c) secure ecological sustainable development and use of natural resources while promoting justifiable economic and social development.

This important provision can be used to promote community participation in conservation. Firstly, the use of Indigenous Knowledge Systems (IKS) for environmental management is one way through which their participation in conservation can be promoted. Secondly, the requirement for the development of *reasonable legislative measures* is another provision that can be utilized to push for pro-community participation laws, policies and institutions in conservation. Based on this provision for the development of reasonable legislative measures, South Africa has developed a number of laws that contain progressive provisions on community participation. These laws, whose provisions are analysed below,

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<sup>32</sup> SLSA team. 2003. Rights talk and rights practice: Challenges for southern Africa. Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape.

<sup>33</sup> *ibid*

<sup>34</sup> Section 24(a) of Act 108 of 1996

include the National Environmental Management Act, No. 107 of 1998, Biodiversity Act No. 10 of 2004, and Protected Areas Act No.57 of 2003. Thirdly, under the new conservation paradigm, there is no prospect of *sustainable development and justifiable economic and social development being achieved* without community participation in conservation.

**Table 2. South African statutory provisions that can be interpreted as support for community participation in conservation**

<b>Provision</b>	<b>Act/Policy</b>
Community well being and empowerment must be promoted.	Section 2 (4) (h) of NEMA
The participation of all interested and affected parties in environmental governance must be promoted.	Section 2 (4) (f) of NEMA
Decisions must be taken in an open and transparent manner and access to information must be provided in accordance with the law	Section 2 (4) (k) of NEMA
To promote participation of local communities in the management of protected areas, where appropriate.	Section 2 (f) of the Protected Areas Act
Procedures that must be used for public participation, including participation by any local community or interested party	Section 41(2)(e) of Protected Areas Act
The management authority may enter into an agreement with another organ of state , a local community , an individual or other party for the co-management of the area by the parties	Section 42(1)(a)(i) of Protected Areas Act
Where appropriate, the implementation of community based natural resources management.	Section 41 (2) (f) of Protected Areas Act.

NEMA makes explicit provisions for community participation in conservation. Provisions on community well being and empowerment are prescriptive. These provisions are strong and definitive and this signals a clear commitment to community participation in conservation. This clear intention is strengthened by the use of “must” which is mandatory. Even access to information is a mandatory requirement. Access to information is an

important component of community participation. Without information, it is difficult to participate and contribute meaningfully in conservation. Clear provisions like those of NEMA facilitate community participation in that they can not be interpreted by conservation agencies in a manner that sidelines communities from conservation as they are a directive. The term “all interested and affected parties” is also inclusive of communities.

The Protected Areas Act makes implicit provisions for community participation. While the provisions are not as strong as those of NEMA, they can be interpreted as facilitating community participation. One of the provisions of the Act requires where appropriate, the participation of local communities in the management and use of protected areas.<sup>35</sup> While this provision is facilitating community participation its effectiveness is some how weakened by the proviso “where appropriate”. This makes it easier for local communities to be marginalised from conservation. Conservation agencies can always justify the leaving out of communities from conservation initiatives that have implications on community livelihoods on the subjectively determined basis that it was not appropriate.

The Protected Areas Act in section 41(2) (f) makes provisions for community based natural resources management (CBNRM) in the implementation of management plans where appropriate. CBNRM has created opportunities for community participation in conservation in the region, among them South African communities. However, this provision can be argued not to be strong enough as it is qualified by the proviso, where appropriate. There are two issues here. Who should determine whether it is or is not appropriate to implement community participation and does CBNRM restrict participation only to conservation processes in areas inhabited by communities? Appropriate is a wide term, which can be interpreted in a number of ways depending on the intended outcome. As this provision stands, it is possible for conservation agencies to justify actions that sideline community participation from conservation on the basis that it was not appropriate to include communities. The intention of the Act could be made more explicit by providing guidelines on what should be understood by appropriate, who should decide and also by setting targets against which the activities of conservation agencies can be measured with regard to community participation.

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<sup>35</sup> Section 2(f) of the Protected Areas Act, No.57 of 2003

The Protected Areas Act also makes provisions for co-management of protected areas with stakeholders among them communities. Co-management of protected areas with communities is one of the indicators of community in conservation. Although the use of the term “may” accommodates situations in which co-management may not be an optimal solution, the provision for community participation is weakened by the use of “may” enter into a co-management agreement and not “shall”. May is not a mandatory provision and conservation agencies can justify not acting and may even act to marginalise communities from conservation.

**Provisions for competence (Table 3)**

NEMA makes strong provisions for the development of skills and capacity that should result in achievement of equitable and effective participation of affected and interested parties in conservation. This provision can empower and enhance community participation in conservation. Skills development and capacity building helps communities to develop the competence to participate effectively in conservation. Inadequate skills and capacity is frequently pointed out as one of the factors affecting community competence to participate in conservation.<sup>36</sup> Communities have to engage with conservation agencies, donors and the private sector in the conservation process but with inadequate skills and capacity, their competence to participate is inadequate.<sup>37</sup>

**Table 3 South African statutory provisions that indicate the intention of developing competence in communities to participate in conservation.**

Provision	Act/Policy
The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation by vulnerable and disadvantaged persons must be ensured.	Section 2 (4) (f) of NEMA

<sup>36</sup> Rihoy, E. and P. Banda. 1999. Capacity Building Strategies for Community Based Natural Resources Management in Southern Africa. Proceedings of the Regional Natural Resources Management Project Workshop , Johannesburg, South Africa

<sup>37</sup> See Dzingirai, V. 2004. Disenfranchisement at Large, Transfrontier Zones, Conservation and Local Livelihoods in which he argues that even if the states want to engage communities in the process of transfrontier conservation, it is difficulty for communities as they do not have adequate skills and know how to engage government agencies.

Decisions must take into account the interests, needs and values of all interested and affected parties and this includes recognizing all forms of knowledge, including traditional and ordinary knowledge.	Section 2 (4) (g) of NEMA
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#### **Provisions for confidence (Table 4)**

The Communal Land Rights Act, No. 11 of 2004 and the Communal Property Associations Act, No. 28 of 1996 are relevant to this study as they have provisions that can build community confidence to facilitate their participation in conservation (Table 4). The provisions are prescriptive. One of the factors that have impeded community participation and empowerment in conservation is insecure tenure over resources. Security of tenure is perhaps one of the most important factors that build the confidence of communities to participate effectively in conservation.<sup>38</sup> Without security of tenure, communities may not have the confidence to challenge the manner in which the resources are being used and to effectively engage in sustainable utilisation of natural resources. The aim of the Communal Land Rights Act (CLRA) is to provide security of tenure to communities either in their individual capacities or as a group.<sup>39</sup> The CLRA establishes a variety of mechanisms through which this security of tenure is to be provided, one of which is the transferring of title of communal land to communities.

South Africa has conservation models that are based on CBNRM principles. These are co-management and contract parks.<sup>40</sup> Under the concepts of contract parks and co-management, SANParks for example, enters into legal binding agreements with communities neighbouring protected areas and this gives communities the confidence to participate in conservation. The Communal Property Associations Act enables communities to constitute themselves into juristic persons, to be known as communal property associations that enable them to acquire, hold and manage property on basis

<sup>38</sup> Lynch, O.J. and Alcorn, J.B. 1994. "Tenurial Rights and Community Based Conservation" In Western, D and, Wright, R.M (eds) 1994. *Natural Connections – Perspectives in community based conservation*. pp373-402

<sup>39</sup> Section 4(1) of the Communal Land Rights Act

<sup>40</sup> Reid, H. and Turner, S. 2004 "The Richtersveld and Makuleke contractual parks in South Africa: Win-win for communities and conservation". In Fabricius, C., E.Koch., H.Magome and Turner, S. (eds) 2004. *Rights, Resources and Rural Development: Community Based Natural Resources Management in Southern Africa*. London, Earthscan.

agreed to by members of a community in terms of a written constitution (Table 4). It is the law under which the Makuleke community was able to constitute themselves into a legal entity to enter into a contract with SANParks to manage their component as an integral part of the Kruger National Park. The Nama community also used the Communal Property Associations Act to constitute themselves into a legal entity and entered into a contract with SANParks to manage their component as an integral part of the Richtersveld National Park.<sup>41</sup>

While constitution into a legal entity is not a precondition for community participation in conservation, it facilitates participation as shown by the Makuleke and Nama cases. Constitution into legal entities is an indicator of the confidence of communities to participate in the conservation process (Table 1). As legal entities that are recognized by the law, they will be able to challenge conservation laws, policies and decisions that do not promote their interests. As Griffin notes, “Until communities are organized and formally recognised through the setting up of their own community based organisations, they can not effectively engage governments, the private sector and other stakeholders”.<sup>42</sup> Through being constituted into legal entities that are recognised by law, communities develop the confidence to engage other stakeholders that are involved in conservation. The private sector has pointed out that one barrier in their dealing with communities is that they commonly do not exist as legal entities and this affects their ability to make binding decisions over natural resources.<sup>43</sup>

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<sup>41</sup> Murombedzi, J. and Magome, H. 2003. “Sharing South African National Parks: Community land and conservation in a democratic South Africa”. In Adams, W. and Mulligan, M. (eds) 2003. Decolonising Nature: strategies for conservation in a post colonial era. Earthsacn Publications, London.

<sup>42</sup> Griffin, J. 1999. Study on the Development of Transboundary Natural Resources Management Areas in southern Africa. Main Report. Biodiversity Support Program. Washington D.C, USA

<sup>43</sup> Griffin, J. 1999. *Ibid*

**Table 4 Provisions indicating an intention to build confidence among communities to participate effectively in conservation.**

Provision	Act/Policy
A community or person is entitled to the extent and in the manner provided for in this Act and within the available resources of the state, either to tenure which is legally secure or to comparable redress if the tenure of land of such community or person is legally insecure as a result of past racially discriminatory laws or practices.	Section 4 (i) of the Communal Land Rights Act.
To enable communities to form juristic persons, to be known as communal property associations in order to acquire, hold and manage property on a basis agreed to by members of a community in terms of a written constitution.	Communal Property Associations Act
Any person or a group of persons may seek appropriate relief in respect of any breach or threatened breach of any provision of this Act including a principle contained in chapter 1, or any other statutory provision concerned with the protection of the environment or the use of natural resources.	Section 32 (i) of NEMA

**Provisions for equity (Table 5)**

Equity is an important incentive for community participation in conservation. NEMA’s provisions on equity are definitive, clear and explicit in their intent with regard to community participation in conservation and the equitable sharing of benefits. The provisions are stated in a manner that requires conservation agencies to act in ways that lead to effective community participation.

The Biodiversity Act makes implicit provisions (Table 5) for equity in the sharing of conservation benefits. One of its objectives, the fair and equitable sharing among stakeholders of benefits arising from bioprospecting involving indigenous biological

resources<sup>44</sup> can be argued to have communities in mind as indigenous knowledge can provide a platform for commercialisation of natural products. A good example is *Hoodia species* from which an appetite suppressing product is obtained and whose commercialisation is based on Khoi-San indigenous knowledge. While the term stakeholders is not specific in its reference to communities, it can be interpreted to include communities who are some of the groups that have been historically disadvantaged from participating in the fair and equitable sharing of conservation benefits. Other implicit provisions include benefit sharing agreements.<sup>45</sup> These agreements are aimed at ensuring that communities get a fair share of the conservation benefits and the Khoi-San community who entered a benefit sharing agreement with a pharmaceutical company to get a fair share from the patenting of *Hoodia* is once more a good example.

**Table 5 Provisions indicating an intention for equity in the conservation process**

<b>Provision</b>	<b>Act/Policy</b>
Equitable access to environmental resources, benefits and services to meet basic human needs and ensure human well being must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discriminations.	Section 2 (4) (d) of NEMA
Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person particularly vulnerable and disadvantaged persons.	Section 2 (4) (c) of NEMA
The fair and equitable sharing among stakeholders of benefits arising from bio-prospecting involving indigenous biological resources.	Section 2 (a) iii of the Biodiversity Act
Environmental management must place people and their needs at the forefront of its concern and serve their physical, psychological, developmental and cultural and social interests equitably.	Section 2 (2) of NEMA
To provide for a fair and equitable sharing by stakeholders in the benefits arising from bio-prospecting involving indigenous biological resources.	Section 81 (c) of Biodiversity Act

<sup>44</sup> Section 2(a) (iii) of the Biodiversity Act. See also section 80(1)(c) of the same Act

<sup>45</sup> Section 83 of the Biodiversity Act

## **Zimbabwe**

### **Provisions for participation (Table 6)**

Unlike South Africa, Zimbabwe does not have constitutional provisions recognising environmental rights as human rights. Zimbabwe's lack of a constitutional provision on environmental rights may hamper effective community participation in conservation both at the national and regional levels. Community participation in conservation is better facilitated in those countries where environmental rights are enshrined in the constitution.<sup>46</sup>

Zimbabwe environmental laws were reformed from 1996 to 2003 which resulted in the enactment of an overarching environmental law framework the Environmental Management Act Chapter 20: 27 of 2003. This Act (EMA) which provides a general framework for environmental management in Zimbabwe makes prescriptive provisions for community participation in conservation as shown by the use of "must and shall" which are mandatory terms. The provisions are clear on their intent with regard to community participation (Table 6). EMA makes provisions that recognise environmental rights as human rights. In terms of section 4(1) (a) of EMA, each person shall have a right to a clean and healthy environment that is not harmful to health. This is similar to section 24 of the South African constitution that recognises environmental rights as human rights. While the Zimbabwean provision captures the new thinking with regard to environmental rights, the difference lies in that whereas it is a constitutional provision in South Africa, it is only a statutory provision in Zimbabwe. A constitutional provision carries more weight and is easier to enforce than a statutory provision, as the constitution is the supreme law of the country. The constitution overrides statutory provisions. The environmental rights provisions in EMA are therefore weak and cannot be used to demand community participation in conservation.

EMA also makes provisions for community participation in terms of section 4, which states, "everyone shall have access to environmental information and protect the environment for the benefit of present and future generations and to participate in the implementation of the promulgation of reasonable legislative, policy and other measures".<sup>47</sup> Access to environmental information and participation in the implementation

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<sup>46</sup> South Africa is a good example where community participation has been greatly facilitated as a result of constitutional provisions recognizing environmental rights as human rights.

<sup>47</sup> Section 4 (1) (a) and (b) of EMA

process are indicators of effective community participation in conservation (Table 1) and EMA makes explicit provisions in that regard. Furthermore, section 4(2) (c) makes provisions which are aimed at promoting the participation of all interested and affected parties in environmental governance. Communities are some of the affected and interested parties in environmental governance and the intention of this provision can be reasonably interpreted to promote their participation.

The Parks and Wildlife Act (Chapter 20:14) also make weak provisions for community participation in conservation. The Act declared owners or occupiers of alienated land as appropriate authorities over the wildlife resources that were under their jurisdiction. This acted as an incentive for investment in wildlife management. However, the Act devolved tenurial rights over wildlife on racial lines, as it was only white commercial farmers who benefited.<sup>48</sup> Upon the attainment of independence, the Zimbabwean government amended the Parks and Wildlife Act in 1982. This resulted in the appropriate authority status over wildlife being devolved to Rural District Councils (RDCs).

The devolution of ownership and management rights over wildlife in Zimbabwe has some weaknesses in establishing a good platform form for effective community participation in conservation. Firstly, instead of devolving the appropriate authority status to communities, it was devolved to RDCs to manage and benefit from wildlife found within the communal areas of Zimbabwe. The aim was to have the RDCs to devolve the wildlife management authority further down to communities. However, over the years, whilst devolution to communities has occurred it has not been at the anticipated pace. The post colonial era has positioned wildlife on the center stage for conflict between communities and RDCs. Communities expect further devolution as originally set out by the amendment to the Parks and Wildlife Act. RDCs on the other hand regard wildlife as an important income stream as a result of a poor national economy that has seen the erosion of other sources of income. This has resulted in RDCs being accused of recentralising management authority rather

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<sup>48</sup> Jones, B. and Mupfhee, M. 2001. "The evolution of policy on community conservation in Namibia and Zimbabwe" In Hulme, D and Mupfhee, M (eds) 2001. African Wildlife and Livelihoods. The promise and performance of community conservation. Weaver Press, Harare. See also Jones, B and Mupfhee, M 2004. "Community-based natural resources management as a conservation mechanism: lessons and direction". In Child, B.(ed) 2004. Parks in transition: Biodiversity, Rural Development and the Bottom Line. Earthscan, London.

than devolving it over wildlife and other resources.<sup>49</sup> As owners and occupiers of communal land, RDCs are deriving substantial revenue from the utilisation and exploitation of wildlife resources and they fear that full devolution of management authority to communities will deprive them significantly of this.<sup>50</sup>

The Draft National Environmental Policy<sup>51</sup> makes implicit provisions for community participation in conservation. The National Environmental Policy (NEP) objectives include among other things the enhancement of food security, reduction of poverty and the improvement of the standards of living of Zimbabweans. Community participation in conservation is one way through which the national policy objective can be fulfilled and as such this provision can be interpreted to encompass community participation. However, the provision is weak as it is not explicit but implicit. Public participation in environmental management is one of the goals that the Draft National Environmental Policy advocates for.<sup>52</sup> As public participation is a broad term that encompasses community participation, it is such a vague provision that it does not direct conservation agencies to ensure community participation in conservation. Community participation is overshadowed by public participation.

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<sup>49</sup> Murombedzi, J. 2003. "Devolving the expropriation of nature: The devolution of wildlife management in southern Africa". In Adams, W. and Mulligan, M. (eds) 2003. *Decolonising Nature: strategies for conservation in a post colonial era*. Earthscan Publications, London.

<sup>50</sup> Murombedzi *ibid*

<sup>51</sup> National Environmental Policy, Second Draft 2003

<sup>52</sup> National Environmental Policy Goal 2(4), second draft 2003

**Table 6 Statutory provisions that can be interpreted as support for community participation in conservation**

<b>Provision</b>	<b>Act/Policy</b>
Environmental management must place people and their needs at the forefront of its concern.	Section 4 (2) (b) of EMA
The participation of all interested and affected parties in environmental governance must be promoted.	Section 4 (2) (c) of EMA, General principles in the Draft National Environmental Policy
Every person shall have a right to access to environmental information.	Section 4 (1) (b) of EMA
Designation of Rural District Councils into appropriate authority in the hope that they will devolve natural resources management powers to communities	1982 Amendment of the Parks and Wildlife Act of 1975

**Provisions for competence (Table 7)**

The EMA makes prescriptive provisions aimed at equipping communities to gain the competence required to effectively participate in the conservation process. Understanding of conservation issues, skills and capacity are some of the indicators for community competence to participate in conservation (Table 1). The Draft NEP principles make implicit provisions for community participation by stating that “... all people must be given an opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation”.<sup>53</sup> Though not specific to communities, the term all people is inclusive of communities. Furthermore, NEP makes provisions for the “promotion of environmental education, environmental awareness, the sharing of knowledge and experience”.<sup>54</sup> These are critical in developing the competence of communities to engage in conservation.

<sup>53</sup> Draft National Environmental Policy Principle 3(3), second draft 2003

<sup>54</sup> Draft National Environmental Policy Principle 3(4), second draft 2003

**Table 7 Provisions that can be interpreted as expressing an intention to build the competence of communities to participate effectively in conservation.**

<b>Provision</b>	<b>Act/Policy</b>
The Participation of all interested and affected parties in environmental governance must be promoted and all people must be given an opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation.	Section 4 (2) (c) of EMA , Draft National Environmental Policy General Principles
Environmental education, environmental awareness and the sharing of knowledge and experience must be promoted in order to increase the capacity of communities to address environmental issues and engender values, attitudes, skills and behaviour consistent with sustainable environmental management.	Section 4 (2) (d) of EMA, General Principles of the Draft National Environmental Policy
Promote public participation and a sense of responsibility for the environment through environmental education and awareness and by promoting environmentally sustainable life styles.	Policy goal 2 (4) of the Draft National Environmental Policy

**Provisions for confidence (Table 8)**

Implicit provisions for confidence are made in the Draft NEP and the Wildlife Based Land Reform Policy (Table 8). The provisions, which are mainly stated as objectives, are aimed at promoting equitable tenure. This desire to promote equitable tenure is as a result of the land reform process. As noted earlier under provisions for competence, secure tenure over land and other resources helps to build the confidence of communities to effectively participate in conservation. Lack of security of tenure over the resources they bring into conservation partnerships is regarded as one of the weakness of community participation in

conservation.<sup>55</sup> Objective 3 of the Wildlife Based Land Reform Policy makes provisions for secure and equitable tenure in the form of leasehold, freehold and communal tenure ranging from 20 to 99 years. This is a strong provision, which may be used to promote the confidence of communities.

The Draft NEP makes provision for the “establishment and support of an effective institutional framework committed to sustainable development”. While not explicit, this provision can be utilised to establish community based institutions like community trusts that facilitate community confidence in conservation. Institutions like community trusts expose communities to democratic practices like voting, transparency and accountability in the decision making processes. All these experiences are invaluable in building the confidence of communities as they venture to deal with external partners and this can make them confident participants in the conservation in conservation.

**Table 8 Provisions indicating intention to build confidence among communities to help them participate effectively in the conservation process.**

<b>Provision</b>	<b>Act/Policy</b>
To promote secure and equitable tenure.	Wildlife Based Land Reform Policy Objective 3
Establish and support an effective institutional framework, committed to sustainable development.	Draft Environmental Policy Objective 2 (5)

**Provisions for equity (Table 9)**

Implicit provisions for equity are made in the Draft NEP and WBLRP (Table 9). For example, the term indigenisation used in objective 1 of the WBLRP (Table 9) is intended to include communities in its ambit. However in practice, communities may be excluded. As it is mainly elites who have benefited from the implementation of the concept of

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<sup>55</sup> Magome, H, Grossman, D, Fakir, S and Stowell, Y. 2000. Partnerships in conservation: The state, private sector and the community at Madikwe Game Reserve, North-West Province, South Africa. Evaluating Eden Series. Discussion Paper No.7

indigenisation <sup>56</sup> it is suggested that provision for community participation is not sufficiently prescriptive to secure equity. The Draft National Environmental Policy calls for the promotion of equitable access to and sustainable use of natural and cultural resources with the aim of enhancing food security, poverty reduction and improving the standards of living.<sup>57</sup> While this provision is not specific to communities, it can be interpreted to be inclusive of them as they are the most vulnerable to food insecurity, lack of basic needs and poor standards of living. However, an implicit provision is not a directive to secure commitment from conservation agencies to involve communities in conservation and ensure that they benefit equitably.

**Table 9 Provisions indicating an intention for equity in the conservation process**

<b>Provision</b>	<b>Act/Policy</b>
To facilitate the indigenisation of the wildlife sector and to ensure more equitable access by the majority of Zimbabweans to land and wildlife resources and to business opportunities that stem from these resources.	Objective 1 of Wildlife Based Land Reform Policy
Promote equitable access to and sustainable use of natural and cultural resources with emphasis on satisfying basic needs, improving people's standard of living, enhancing food security and reducing poverty.	National Environmental Policy goal 2 (2)

## **Mozambique**

### **Provisions for participation (Table 10)**

Mozambique has constitutional provisions that recognize environmental rights as human rights.<sup>58</sup> As a consequence the state is required to develop laws and policies that protect the environment while at the same time promoting the rational use of all natural resources.<sup>59</sup> This provision is further strengthened by the provisions on Environment and Quality of Life.<sup>60</sup> Article 117(2) of the constitution notes with a view to guaranteeing the right to the environment within the framework of sustainable development, the state shall adopt policies aimed at

<sup>56</sup> Lynch, O.J. and E. Harwell. 2002. *supra*

<sup>57</sup> National Environmental Policy Goal 2(2), Second Draft 2003

<sup>58</sup> Article 90(1) of the Mozambican constitution, 2004 states that all citizens shall have the right to live in a balanced environment and shall have right to defend it.

<sup>59</sup> Article 90(2) of the Mozambican constitution

<sup>60</sup> Article 117

- a) preventing and controlling pollution and erosion
- b) integrating environmental objectives with sectoral policies
- c) Promoting the integration of environmental values into educational policies and programmes
- d) guaranteeing the rational utilization of natural resources and the safeguarding of their capacity to regenerate , ecological stability and the rights of future generations
- e) promoting territorial ordinance with a view to ensuring the correct location of activities and balanced socio-economic development”.

These two constitutional provisions (sections 90 and 117) lay the foundation for the development of laws, policies and institutions that facilitate community participation in conservation. It is difficult to envisage how sustainable development, which is one of the objectives of these constitutional provisions on environmental rights as human rights, can be achieved without community participation. These two constitutional provisions like those of South Africa<sup>61</sup> laid the basis for the development of laws and policies that can facilitate community participation in conservation including the Forestry and Wildlife Law (No. 10/99) and the Land Law of 1997( Law 19/97).

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<sup>61</sup> Section 24 (b) of the South African constitution

**Table 10 Statutory provisions that can be interpreted as promoting community participation in conservation**

Provision	Act/Policy
The objectives to be pursued are the protection, conservation, development and the rational and sustainable use of natural resources for the economic, social and ecological benefit of the present and future generations of Mozambique.	Article 4 of The Forestry and Wildlife Law
Socio-economic development and biodiversity preservation and conservation laws shall involve the local communities.	Article 3 (b) the FWL
Promotion of conservation, management and use of forest and fauna resources without prejudice to the customary practices and in conformity to the principles of conservation and sustainable use of forest and fauna resources, within the framework of decentralization.	Article 3 (d) of FWL
The management of protected areas (national parks and national reserves shall be done according to the management plan drafted with the participation of the local communities and approved by the sector tutelage.	Article 10 (5) of the FWL
The management shall ensure the participation of the local communities in the exploration of forest and fauna resources and the benefits resulting from such use.	Article 31 (3) of the FWL

The Forestry and Wildlife Law (FWL) makes strong and prescriptive provisions that create opportunities for community participation (Table 10). This is evidenced by the use of “shall”, which is mandatory making it possible to hold conservation agencies accountable for failing to include communities in conservation. It is intended that through participation in conservation and the resultant benefit streams, communities will improve their livelihoods. The FWL has a number of principles which promote community participation in conservation. The first is the principle of “equilibrium”<sup>62</sup> which promotes socio-economic development and biodiversity preservation through conservation laws. The participation of local communities along with the private sector and civil society is recognised as a requirement for the objectives of the principle of “equilibrium” to be

<sup>62</sup> Article 3(b) of the Forestry and Wildlife Law

achieved. In this provision communities are recognised as important stakeholders who should participate in conservation alongside other stakeholders.

The second principle concerns harmony<sup>63</sup> between local communities and local state bodies. Through decentralisation, conservation and management powers are to be devolved to local communities and local authorities are required to appreciate communities' customary practices in the conservation and sustainable use of forest and fauna resources. This requires the use of IKS in conservation which can only be achieved with active community participation.

Article 10 of the FWL makes provisions for the management of protected areas. A management plan is one of the management tools and the drafting of the management plan is required to be a participatory process and participation of local communities is a prerequisite.<sup>64</sup> However, community participation is a process of which drafting management plans is but one element. Communities therefore need to be involved in the various activities and processes that are involved in drafting and implementation of a management plan other than being restricted to drafting only. The provision also facilitates community participation in that it is mandatory through the use of the word “shall” which makes it problematic for conservation agencies to default from securing community participation.

However, the major weakness of the Forestry and Wildlife Law with regard to community participation in conservation is that it provides for access and use rights only and this may not grant security of tenure<sup>65</sup>.

### **Provisions for competence (Table 11)**

Article 3(h) of the FWL makes provisions for formal and informal education. Though this provision is implicit, it can be utilised to develop the competence of communities by helping them with the necessary skills and capacities to manage and conserve forestry and fauna resources.

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<sup>63</sup> Article 3(d) of the Forestry and Wildlife Law

<sup>64</sup> Article 10(5) of the Forestry and Wildlife Law

<sup>65</sup> Article 9 and Article 18 of the Forestry and Wildlife Law

**Table 11 Provisions that can be interpreted as having the intent to develop the competence of communities to participate in conservation**

Provision	Act/Policy
Education and exchange of experience between the local communities with the aim to build their capacities on the management and conservation of forest and fauna resources.	Article 3 (h) of the FWL

**Provisions for confidence (Table 12)**

Both the Forestry and Wildlife Law and the Land Law Act make explicit provisions that can build community confidence to participate in conservation. It is required that affected communities be afforded an opportunity to be heard and make an input before the allocation of forestry concessions.<sup>66</sup> This is an important provision as not only does it allow them to be heard but it also offers them an opportunity to challenge the allocation of licenses by entitling them to renegotiations. The hearing and renegotiating is done through local state administrative bodies and this can be interpreted to include courts of law.

Participatory management of forestry and fauna resources is a requirement of the FWL.<sup>67</sup> For this to be achieved there is a requirement for the constitution of local resource management councils. Community representatives are some of the stakeholders that constitute the local resource management councils.<sup>68</sup> This should ensure that communities are represented in relevant decision making bodies. The other stakeholders are the private sector, associations and local state authorities.

Community confidence to participate in natural resources conservation in Mozambique is further strengthened by the Land Law of 1997, which accords local communities, either individually or collectively, the right to use and enjoy land and other resources as long as they have occupied such land for more than 10 years.<sup>69</sup> Furthermore, the Land Law recognises community customary practices and this is an opportunity to promote the application of IKS. The recording of the right of land use and benefit in the National Land

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<sup>66</sup> Article 17(2)

<sup>67</sup> Article 31

<sup>68</sup> Article 31(1) of the Forestry and Wildlife Law

<sup>69</sup> Article 10(1) of the Land Law Act of 1997

Cadastre enables a community to hold secure tenure over land and associated other resources and this builds their confidence to participate effectively in conservation.

The prescriptive provisions of the Land Law with regard to ownership of land and other resources are not complemented by provisions in other legislations relating to environmental management like Forestry and Wildlife Law and the Environmental Law. These do not have as strong provisions for building the confidence of communities as those contained in the Land Law as they do not provide security of tenure but only use and access rights.

**Table 12 Statutory provisions that can be interpreted as indicating the intent to build the confidence of communities to participate in conservation**

Provision	Act/Policy
The allocation of the forest concession area is always preceded by a hearing and re-negotiations with the affected local communities in the respective areas through the local state administration bodies.	Article 17 (2) of FWL
Local resources management councils constituted by the representatives of the local communities, the private sector, associations and local state authorities with the aim of protecting, conserving and the promotion of sustainable use of forest and fauna resources are hereby created.	Articles 31 (1) of the FWL
Local communities who occupy land according to customary practices shall acquire the right of land use and benefit.	Article 9 (1) of the Land Law Act
Areas over which a right of land use and benefits has been acquired by occupancy according to customary practices may, when necessary or at the request of the local communities, be identified and recorded in the National Land Cadastre	Article 9(3) of the Land Law Act
National, individual persons who in good faith have used a land area for at least 10 years , shall acquire the right of land use and benefit	Article 10(1) of the Land Law Act

### Provisions for equity (Table 13)

The Forestry and Wildlife Law makes both explicit and implicit provisions for the promotion of equity in the conservation process. The explicit provisions are shown by the use of the word “shall” which is mandatory.<sup>70</sup> One of the intentions of the participation of the private sector principle is to “...foster a greater development to the local communities”.<sup>71</sup> The private sector has been widely accused of securing all the conservation benefits while local communities inherit the conservation costs including environmental degradation.<sup>72</sup> The provision on fostering greater development for local communities postulates communities as one of the intended beneficiaries of the involvement of the private sector. As noted under provisions for confidence, one of the objectives of the FWL is a requirement for participatory management in the conservation and sustainable use of forest and fauna resources. Local communities are required to participate in the exploration and utilisation of forest and fauna resources and to benefit from their use. This promotes equity in conservation as communities will derive benefits rather than only incurring costs.

**Table 13 Provisions that can be interpreted as facilitating equity for communities in conservation**

Provision	Act/Policy
The management shall ensure the participation of the communities in the exploration of forest and fauna resources and in the benefit resulting from such use.	Article 31 (3) of the FWL
Involvement of the private sectors the management, conservation and exploration of forest and fauna resources with the aim of giving more added values and fosters a greater development to the local communities.	Article 3 (f) of the FWL

<sup>70</sup> Article 3(f) of the Forestry and Wildlife Act

<sup>71</sup> *ibid*

<sup>72</sup> Dzingirai, V. 2003. The New Scramble for the African Countryside. *Journal of Development and Change*. 34(2):243-263. Blackwell Publishing, Oxford.

Having analysed legal and policy provisions at the national level and their likely implications on community participation and empowerment in conservation, I now proceed to the regional level assessment.

### **Assessment at the regional level: GLTP case study.**

Transfrontier conservation is expected to scale up benefits deriving from new and greater opportunities and much has been said of how this will improve the welfare of local communities.<sup>73</sup> While provisions at the national level are important, it is ultimately provisions at the regional level that determine whether or not communities can effectively participate at the regional scale of transfrontier conservation or not. This analysis is specific in that it considers the provisions relating to the GLTP as an example of regional cooperation. The GLTP Tri-nation Agreement, the GLTP Joint Management Plan (JMP), GLTP Treaty, the SADC Protocol on Wildlife Conservation and Law Enforcement and the SADC Revised Protocol on Shared Water Courses provide the basis for this analysis.

The Tri-nation Agreement signed on the 10<sup>th</sup> of November 2000, laid the basis for the development of the GLTP Treaty, which was signed on 9 December 2002 and is the legal document for the establishment of the GLTP. The JMP, which came into force in 2002, is the policy document for the management of the GLTP. The Revised Protocol on Shared Watercourses and the SADC Protocol on Wildlife Conservation and Law Enforcement deal with shared transfrontier resources and the provisions made therein have significant implications on community participation in conservation although they are not specific to the GLTP. It should be anticipated that the intentions of these SADC protocols are reflected in the policies and practices of transfrontier conservation.

### **Provisions for participation (Table 14)**

The GLTP Treaty and the Tri-nation Agreement make implicit provisions for community participation mainly through conservation partnerships. Communities are recognised as one of the partners in conservation alongside the states, private sector and non-

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<sup>73</sup> Hanks, J. 2003. Transfrontier Conservation Areas ( TFCAs) in Southern Africa: Their Role in Conserving Biodiversity, Socioeconomic Development and Promoting a Culture of Peace. In Goodale, U., M.J. Stern, C.Magoluis, Lanfer, G.A. and M. Fladeland. (eds). Transboundary Protected Areas: The Viability of regional Conservation Strategies. New York: Food Products Press

governmental organisations. Conservation partnerships involving communities are an indicator of community participation in conservation.<sup>74</sup> There are no clearly defined indicators against which conservation agencies can be judged to determine whether or not they are facilitating community participation and whether the partnerships are delivering on the intentions of the Treaty. For example, it is not clear how the important role of local communities in the promotion of sustainable use of natural resources is going to be implemented and the indicators against which success can be determined.

So while the GLTP Treaty and the Tri-nation Agreement make provisions for community participation, their weaknesses are that they are not definitive and explicit so as to avoid ambiguity which could be utilised by conservation agencies to marginalise communities from participating in transfrontier conservation. Provisions for community participation and how they can be translated into tangible deliverables within a clear timeframe should be made. It is from such clarity that conservation agencies will understand the intent of and make a commitment to empower local communities in transfrontier conservation.

Criteria and indicators of community participation should be based on principles. The principle in the context of this study is that community participation should lead to the empowerment of rural communities. Article 5 of the GLTP Treaty contains the principles upon which development and implementation are based. It is here that one would have expected to find principles on community empowerment. However, community empowerment is conspicuous by its absence. Similarly, there are no provisions for the principle of community empowerment under the Tri-nation Agreement.<sup>75</sup> The absence of an explicit statement of principles on community participation in the Agreement and the Treaty (the founding documents establishing the GLTP) could lead agencies to interpret them in ways that do not require them to actively and effectively promote community participation. Such a situation prejudices accountability for community empowerment.

It is important to note that whereas the legal documents relating to the implementation and management of the GLTP (GLTP Treaty and the Tri-nation Agreement) do not make implicit provisions for community participation, the policy documents (the JMP, the SADC Protocol on Wildlife Conservation and Law Enforcement) make explicit provisions.

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<sup>74</sup> Article 4(b) of the GLTP, article 3(2) of the Tri-nation Agreement and Preamble of the GLTP Treaty

<sup>75</sup> Article 4 of the Tri-nation Agreement

The JMP for example, recognises community participation in natural resources management as one of the common principles upon which the management of the GLTP is based. It notes that “the vision of improving the quality of life of the people around the GLTP can only be achieved if the communities are brought into the process of developing and managing the GLTP in a meaningful way.”<sup>76</sup> This is an explicit provision which avoids ambiguity in its intent. Community participation would have been strengthened if such clear provisions in the JMP were also provided in the GLTP Treaty and the Tri-nation Agreement for the two are more binding than the JMP and other policy documents. Policies are an expression of intention while treaties are an expression of commitment and their breach attract sanctions from other member states. Notwithstanding this requirement, the use of the term “around the GLTP” implies that the focus is people living outside the GLTP. However, in Zimbabwe and perhaps in Mozambique there are people living in the area understood to be incorporated within the GLTP. Interpreting the requirement for community empowerment to apply only to those outside of the GLTP could conceivably be used as a mechanism to marginalise those living within the GLTP pressuring them to relocate.

The SADC Protocol on Wildlife Conservation and Law Enforcement provides guidelines that regulate the management of wildlife resources among member states. The objectives of the Protocol make provision for community participation through the facilitation of community-based natural resources management practices in the management of wildlife resources. This is an explicit provision for CBNRM, an indicator of community participation in conservation (Table 1). In addition, under the institutional arrangements, provisions are made which recognise that the conservation efforts of governments and NGOs for the sustainable use of wildlife will not be successful without the involvement of local communities in such efforts (Table 14). Furthermore, communities are recognised as playing an important role in wildlife management and law enforcement through the integration of principles and techniques derived from IKSs into policies and procedures<sup>77</sup>.

There are also other provisions which although weak, but can be interpreted as facilitating community participation. For an example, one of the purposes for the establishment of the

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<sup>76</sup> 8.1.7 of the Joint Policy and Management Guidelines of the GLTP

<sup>77</sup> Article 7(4) of the SADC Protocol on Wildlife Conservation and Law Enforcement

GLTP is socio-economic development and public enjoyment.<sup>78</sup> It can be argued that socio-economic development and public enjoyment of the GLTP cannot be fully achieved without participation by those communities who live adjacent to it and that this is therefore an implied requirement of implementing agencies. The weakness is that as an implied provision, it is not strong enough to require implementing agencies to actively promote community participation.

While the documents governing the GLTP (GLTP Treaty, Joint Policy and Management Guidelines, Tri-nation Agreement, SADC Protocol on Wildlife Conservation and Law Enforcement and SADC Revised Protocol on Shared Water Courses) make some provisions for community participation, others could be incorporated. For example, there are no provisions made for transparency and access to information that is necessary for communities to participate effectively in conservation. Without these, it will be difficult for communities to make informed decisions regarding their participation in conservation especially given the history of being marginalised.

Article 3 of the SADC Protocol on Wildlife Conservation and Law Enforcement outlines the principles on which the Protocol is based. These principles provide the rationale for, and expectations of the parties that are involved. It does not make explicit provision for community participation. The failure to make such provision is controversial as the other stakeholders that are involved in conservation partnerships, namely the states, non-governmental organisations and the private sector are explicitly provided for. If local communities are to be considered important stakeholders in conservation, it would have been proper to include specific provisions for community participation alongside the other partners. While the objectives of the protocol do make provisions for community participation, these could be further strengthened by making similar provisions under the principles.

Water is another important transboundary resource within the GLTP. Most of the rivers in southern Africa are shared by more than one country<sup>79</sup> and thus require integrated and participatory management. Without such management of shared water courses, particularly where demand for water exceeds supply, it is possible that competition over water

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<sup>78</sup> Article 2 of the GLTP Treaty

<sup>79</sup> The Zambezi River for example is shared by eight countries in the region. These are Angola, Botswana, Malawi, Mozambique, Namibia, Tanzania, Zambia and Zimbabwe

resources could lead to conflicts. The SADC Revised Protocol on Shared Water Courses guides the use of shared watercourses. The Limpopo River is one such watercourse that is shared by the countries participating in the GLTP. There is no clear provision for community participation in decision making concerning the use and management of shared water resources both under the objectives and the principles of the protocol. When the significance of water resources to local livelihoods and for conservation are taken into account, it might be expected that the protocol would have made provisions for community participation in the management and conservation of shared watercourses. The only provision in the protocol which can be implicitly interpreted as indicating a need for making provision for community participation is one which links the management, protection and utilisation of shared water courses as advancing the SADC agenda of regional integration and poverty alleviation.<sup>80</sup> It can be argued that since poverty alleviation cannot be achieved without community participation in water resources management and conservation, the intention for community participation is implied. However, this is a weak provision if indeed it can be interpreted as encompassing community participation.

**Table 14 Provisions that can be interpreted as facilitating community participation at the regional level**

<b>Provision</b>	<b>Act/Policy</b>
To promote alliance in the management of biological natural resources by encouraging social, economic and other partnerships among the parties, private sector, local communities and NGOs.	Article 3 (2) of the Tri-Nation Agreement
To develop frameworks and strategies whereby local communities can participate in, and tangibly benefit from the management and sustainable use of natural resources that occur within the trans-frontier park.	Article 3 (4) of the Tri-Nation Agreement
Each party shall ensure that full stakeholder participation is engaged in within their respective countries, so that that broad acceptance is achieved for the process	Article 4 (3) of the Tri-Nation Agreement
Ensure full participation by all appropriate stakeholders in the preparation of policy recommendations, resources management plans, and other relevant documents relating to the trans-frontier park.	Article 11 (2) (b) of the Tri-Nation Agreement

<sup>80</sup> Overall objective of the SADC Protocol on Shared Water Courses , Article 2

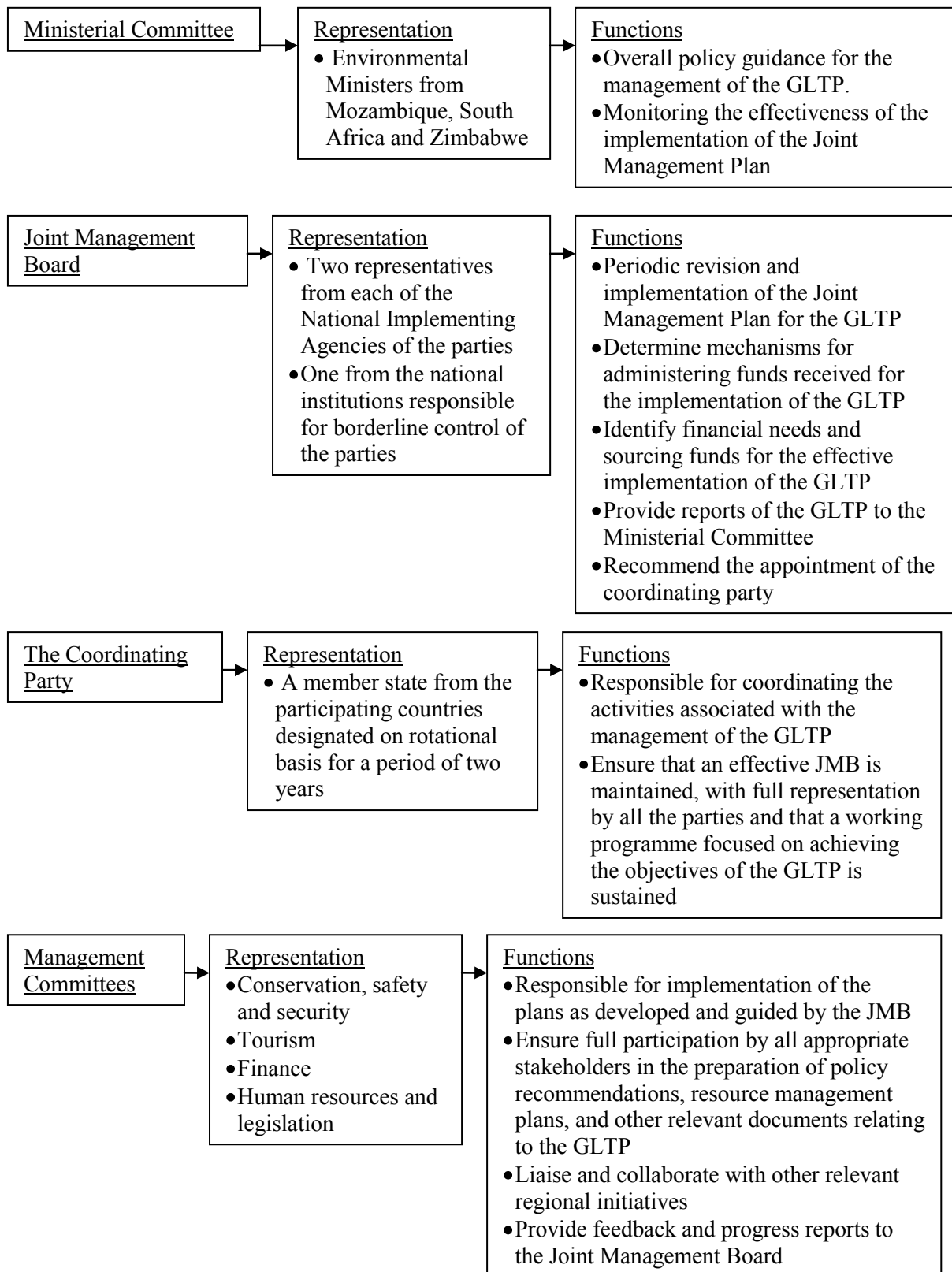
Recognising the important role of the private sector and local communities in the promotion and sustainable use of natural resources.	Preamble of the GLTP Treaty
Promote alliances in the management of biological natural resources by encouraging social, economical and other partnerships among the parties including the private sector, local communities and non governmental organisations.	Article 4 (b) of the GLTP Treaty
Recognizing that the survival of wildlife depends on the perceptions and development need of people living with wildlife.	Preamble of the SADC Protocol on Wildlife Conservation and Law Enforcement
Facilitate community based natural resources management practices for management of wildlife resources.	Article 4 (2) (g) of the SADC Protocol on Wildlife Conservation and Law Enforcement
Support the efforts of governments, and NGOs to ensure the conservation and sustainable use of wildlife and the involvement of local communities in such efforts.	Article 5 (8) (d)
Promote such co-operation between the national wildlife law enforcement, communities and by NGOs, on all issues related to enforcement.	Article 5 (8) (e)
Measures facilitating community based natural resources management practices in wildlife management and wildlife law enforcement.	Article 6 (2) (f) of the SADC Protocol on Wildlife Conservation and Law Enforcement
State parties shall establish or introduce mechanisms for community based wildlife management and shall, as appropriate, integrate principles, and techniques derived from indigenous knowledge systems into national wildlife management and law enforcement policies and procedures.	Article 7 (4) of the SADC Protocol on Wildlife Conservation and Law Enforcement
State parties shall in recognition of the important role played by rural communities in the conservation and sustainable use of wildlife, promote community based conservation and management of wildlife resources.	Article 7 (8) of the SADC Protocol on Wildlife Conservation on Law Enforcement
Promoting sustainable use of natural resources to improve the quality of life of the people of Mozambique, South Africa and	Vision of the GLTP Joint Management Policy

Zimbabwe.	
To collaboratively establish and manage on a sustainable basis a viable GLTP TFCA with full stakeholders participation, including local communities.	Mission Statement of the GLTP Joint Management Policy
The development and management of the GLTP will provide human benefits in keeping with the GLTP mission statement and through this will establish a sense of partnership between the GLTP and its neighbours.	Section II of the GLTP Joint Management Policy.

Another indicator of effective community participation in conservation is provision for community representation in conservation and decision making structures. The GLTP Treaty makes provisions for a number of structures. One is the Trilateral Ministerial Committee (TMC Figure 2) with representatives drawn from environmental ministers from the participating countries. This is the highest decision making structure with regard to the management of the GLTP as it is responsible for policy formulation, which has implications on community participation in transfrontier conservation. As the title suggests, it is only ministers who are members of the TMC. However, the concern is that as an influential policy making body, its policies may not truly reflect the interests of communities who are going to be affected by its decisions unless the agencies reporting to and advising the ministers are directed through other instruments to ensure community participation. The membership of this structure distances communities and makes it difficult for their concerns and interests to be articulated and incorporated at the highest level.

While the argument of representation can be used, it can not be justified as there are no clear and structured mechanisms through which the Ministers are directly exposed to the issues of concern to affected communities. In effect, it means that the Ministers go to the TMC meetings largely equipped with the views of government technocrats and the private sector and not the communities. There is therefore need for special provisions to enable community concerns to be taken into account like submissions and presentations from communities.

**Figure 2. The administrative and management structures for the GLTP, adapted from the GLTP Treaty**



The Joint Management Board (JMB Figure 2) is a very influential structure responsible for the operations of the GLTP and is thus the body that should give effect to and be accountable for community participation. It is chaired on a rotational basis and meets twice a year. There is no provision made for community representation in the JMB. Without this, transparency and access to information can be compromised and with that the influence that communities have on decision making.

The Coordinating Party (Figure 2) is responsible for coordinating the activities of the GLTP and setting the agenda for the issues to be discussed. There is no provision made for community representation and participation in this structure. Since community welfare is claimed to be an intention of the GLTP, it can be anticipated that community issues would feature significantly on the agenda and would have to be coordinated and integrated with other management actions. Involvement of communities in such integrated strategy formulation and decision making would seem to be essential for empowering communities in the broader issues of conservation.

The Management Committees fall under the auspices of the JMB. The management committees are conservation, safety and security, tourism, finance, human resources and legislation. It is perhaps surprising that notwithstanding all the statements of intent elucidated above, there is not a management committee that has specific responsibility for community matters. There are no clear provisions made for community representation in the Management Committees in spite of the fact that these committees are responsible for implementing action plans that directly impact communities. The lack of provisions for community participation is perhaps due to the fact that these committees are technical and therefore considered to be beyond the expertise of communities. However, the need for building confidence is acknowledged and as there is a provision that aims to *ensure full participation by all appropriate stakeholders (own emphasis)* and this can be interpreted to imply community representation, one might reasonably expect that there would be specific provision for engaging communities. The term stakeholder is commonly used in conservation where it usually refers to the states, communities, civil society and the private sector. Nevertheless, even if the term stakeholder is interpreted as making provision for community representation, it is a weak provision as it cannot be regarded as signaling a clear commitment to community representation and participation in the GLTP.

### **Provisions for Competence (Table 15)**

The GLTP Treaty and the Tri-nation Agreement do not make specific provisions for developing the competence of communities to effectively participate in transfrontier conservation. However, the Joint Management Policy and the SADC Protocol on Wildlife Conservation and Law Enforcement do include implicit provisions that can be interpreted as requiring that conservation agencies facilitate development of competence within communities. For example the JMP notes that “the vision of improving the quality of life of the people around the GLTP can only be achieved if the communities are brought into the process of developing and managing the GLTP in a meaningful way”.<sup>81</sup> This implies that the vision of the GLTP can only be achieved if communities develop the necessary competencies including skills and capacity. The protocol acknowledges that community based wildlife management is one avenue through which its objectives will be fulfilled and it regards community participation as an important component of its strategies.

The SADC Protocol on Wildlife Conservation and Law Enforcement also makes implicit provisions that can be interpreted as intending to enable communities to be competent to participate in the conservation process. The Protocol notes that “States Parties shall establish or introduce mechanisms for community based wildlife management and shall, as appropriate, integrate principles and techniques derived from indigenous knowledge systems into national wildlife management and law enforcement”.<sup>82</sup>

**Table 15 Provisions for facilitating the competence of communities to participate in conservation**

<b>Provision</b>	<b>Treaty, Policy, Protocol/Agreement</b>
Community participation and capacity building	8.17 of the GLTP Joint Management Policy

<sup>81</sup> Section 8.1.7 of the Joint Policy and Management Guidelines of the GLTP

<sup>82</sup> Article 7(4) of the SADC Protocol on Wildlife Conservation and Law Enforcement

### **Provisions for Confidence (Table 16)**

Applying the indicators in Table 1, it appears there are no clear provisions in the GLTP Treaty, the Tri-nation Agreement and the JMP that require building the confidence of participants in the conservation process. However, there are implicit provisions made under the GLTP treaty (Table 16). One way through which socio-economic development and public enjoyment which the GLTP envisages can be achieved, is through allowing communities to have rights to access the park resources and the opportunities associated with them for consumptive or non-consumptive purposes or both. This alone however does not build confidence unless explicit provisions for secure rights that allow communities to contest decisions and actions that infringe their legitimate access to and use of resources are made. It is only with growing confidence that support for conservation will be entrenched within these communities.

Under Article 5 of the GLTP Treaty, there is emphasis on sovereign rights of the participating states. These are further reinforced under the provisions of the Tri-nation Agreement.<sup>83</sup> Sovereign rights include resource use rights and these provisions clearly show that control and ownership of the GLTP resources is the prerogative of the three states. Where ownership and decision making is vested with the state as is the case with the GLTP, it is necessary to make explicit the requirement for allocating rights of use to adjoining communities. This is because if each state acts independently and differently in respect of community participation, communities can be expected to feel insecure and their confidence is undermined. Also in the absence of an explicit requirement, the rights of ownership may unreasonably exclude communities from rights of use and therefore from the benefit stream associated with the resources which in turn, may exclude them from decision making structures rendering them powerless.

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<sup>83</sup> Preamble and Article 4(1) of the Tri-nation Agreement

**Table 16 Provisions that can be interpreted as promoting confidence for communities to participate in conservation.**

Provision	Treaty, Policy, Protocol/Agreement
The parties hereby establish the GLTP for the purpose of conservation, socio-economic development and for public enjoyment.	Article 2 of the GLTP Treaty

**Provisions for Equity (Table 17)**

There are no clear provisions promoting community participation in the equitable distribution and sharing of conservation benefits. However, what do exist are implied provisions. While these implied provisions can be interpreted as facilitating equity in the sharing of conservation benefits and costs, they are also open to possible claims by conservation agencies that equity is not required. The Tri-nation Agreement makes provisions, which though weak, can be interpreted as facilitating equity in the sharing of conservation benefits. For example, one of the objectives of the Agreement is the development of frameworks and strategies to enable local communities to participate and *tangibly* (own emphasis) benefit from the management of the GLTP<sup>84</sup> This provision is open to a number of interpretations which can either be viewed as facilitating or limiting communities from benefiting equitably from conservation. On one hand, it can be interpreted as signaling that community participation brings an equitable share of benefits rather than token benefits. However, on the other hand, it is a weak provision in that what constitutes “tangibly benefit” is subject to discussion and can be interpreted differently by the conservation agencies to the detriment of community participation. It is such ambiguity in provisions that provide opportunities for conservation and other agencies to exploit and marginalise communities from benefiting equitably from conservation.

Another weakness may be that no mention is made of equity in carrying the costs of conservation. Communities have in the past carried a disproportionately high cost with little benefit.

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<sup>84</sup> Article 3(4) of the Tri-nation Agreement of 2000

Section 8.1.9 of the JMP also makes provisions for a framework for equitable benefit sharing. However, this is a weak provision in respect of communities in that it mainly focuses on equity among the states themselves perhaps in the hope that they will uphold the same principle when sharing the benefits at the national level with stakeholders including communities. With this focus on member states, it is possible for such a provision on equity to be circumvented at lower scales by the implementing agencies and it may be difficult for communities to have recourse for equity.

Section 12(2) of the JMP provides perhaps the most direct provision for equity because it states that “communities have to be empowered so that they will eventually have equity in business and ultimately the capacity to tender for GLTP contracts”.<sup>85</sup> As conservation partnerships have been criticised for mainly benefiting the private sector and the state at the expense of communities<sup>86</sup>, this section expresses a clear intent for remedial action. However, unlike national legislations addressed earlier, targets are not set and thus the pace of establishing conservation partnerships is determined by the implementing agencies.

**Table 17 Provisions that can be interpreted as promoting equity in conservation**

Provision	Treaty, Policy, Protocol/Agreement
An equitable framework for benefit sharing	8.1.9 of the GLTP Joint Management Policy
To develop frameworks and strategies whereby local communities can participate in and tangibly benefit from, the management and sustainable use of natural resources that occur within the GLTP.	Article 3 (4) of the Tri-Nation Agreement
Local communities as part of the private sector	Section 12.2 of the GLTP Joint Management Policy

<sup>85</sup> Joint Policy and Management Guidelines for the GLTP. p.114

<sup>86</sup> Murombedzi, J. 2003. “Sharing South African National Parks: Community land and conservation in a democratic South Africa” *supra*. See also Magome, H, Grossman, D., Fakir., S and Stowell, Y. 2000 *supra*

## **Summary of Findings**

From the analysis of the legal, policy and institutional provisions both at the national and regional level, eight findings emerge.

Firstly, the three countries do have legal, policy and institutional provisions for community participation in conservation at the national level. However, the nature and extent to which provisions for community participation are prescriptive for community participation vary among the three countries. Comparatively, South Africa and Mozambique have explicit and prescriptive provisions that are clear in their intent with regard to community participation in conservation when compared to Zimbabwe. In the South African case, the explanation may be that legislation and policies were mainly developed after it had emerged from the apartheid era and they were meant to rectify some of the past injustices, which include community marginalisation from conservation. Furthermore, South African legislation and policies were developed when environmental issues had become more pronounced consequent upon for example, publication of the Brundtland Report in 1987, the United Nations Conference on Environment and Development of and the resultant Convention on Biological Diversity.

Secondly, South Africa and Mozambique have constitutional provisions that recognise environmental rights as human rights in their constitutions. These constitutional provisions lay a strong foundation for laws, policies and institutions that fulfill these constitutional aspirations and in the process, facilitate community participation in conservation. Zimbabwe does not have constitutional provisions that recognise environmental rights as human rights and this seems to weaken prospects for community participation in conservation. Based on the provisions at national level alone, it may be argued that Mozambique and South African communities may stand a better chance of participating effectively in transfrontier conservation compared to their Zimbabwean counterparts as their laws and policies are more supportive of community participation.

Thirdly, laws as statutory provisions while weaker than constitutional provisions are stronger than policy provisions. They are much easier to enforce in a court of law than policy provisions. In both Mozambique and South Africa, community participation in conservation is mainly facilitated through statutory provisions. However, in Zimbabwe, community participation in conservation is mainly facilitated through policy provisions

like the Wildlife Based Land Reform Policy and the National Environmental Policy. Zimbabwe's flagship CBNRM programme CAMPFIRE's evolution is as a result of policy developments and not legislation. CAMPFIRE was developed by the Department of National Parks and Wildlife Management to resolve conflicts between humans and wildlife. The lack of legal backing for CAMPFIRE has been one of its weaknesses as policies are not as binding as legislation. Consequently, the sustainability of CAMPFIRE is dependent on the political goodwill of the government of Zimbabwe and not necessarily on legal backing. While all developments are dependent at least to some extent, on political goodwill, programmes solely dependent on policy are more vulnerable to expedient policy changes. Legislative or statutory provisions help to guard against such policy reversals.

Fourthly, provisions for community participation at both national and regional level are more definitive when compared to those for competence, equity and confidence. In some laws, policies and institutions provisions for competence are not only weak, but missing altogether. For example, in the policy documents, that is the JMP and the SADC Protocol on Wildlife Conservation and Law Enforcement, there are both explicit and implicit provisions for competence while the legal documents (GLTP and Tri-Nation Agreement) are to a large extent silent on this criterion of community participation. It can be anticipated that agencies that have responsibility for community issues may either not recognise the need for developing competence or may choose to ignore this. In this way, the ability of communities to participate effectively in conservation is compromised.

Fifthly, while provisions for community participation are made at the regional level, they are not as strong, definitive and prescriptive as those made at the national level, at least for Mozambique and South Africa. For example, NEMA makes mandatory provisions for community participation at the national level and this is shown by the use of "must". Similarly, Mozambique has mandatory provisions for community participation in conservation at the national level which are characterised by the use of "shall". Provisions for community participation at the regional level are not expressed in such definitive and explicit terms as is the case at the national level, at least in the legal documents.

Sixthly, at the regional level, explicit provisions for community participation are made in the policy documents like the Joint Management Policy, the SADC Protocol on Wildlife

Conservation and Law Enforcement but not in the Treaty and the Tri-nation Agreement, which provide the legal grounding for management of the GLTP.

Seventhly, there are no provisions for community representation in policy and decision making structures that determine natural resource management and use at the regional level of the GLTP. All the structures namely the Trilateral Ministerial Committee, the Joint Management Board, the Coordinating Party and the Management Committees, do not include provisions for direct community participation.

Eighthly, laws and policies that have an impact on transfrontier conservation are not harmonised. Harmonisation refers to making systems or rules similar in different countries, organisations or institutions.<sup>87</sup> With regard to transfrontier conservation, harmonisation entails making laws, policies and institutional frameworks similar across the three countries that are involved in the GLTP initiative that is Mozambique, South Africa and Zimbabwe. The rationale for harmonisation is for member states to work towards a shared vision in the management of transfrontier resources. Conflicting legal, policy and institutional provisions between the three countries have implications on community participation and empowerment in conservation. It is also important to note that lack of harmonisation exists despite the existence of provisions for harmonisation in the various regional treaties and protocols. For example the SADC Treaty and the SADC Protocol on Wildlife Conservation and Law Enforcement among many treaties and protocols, calls for the harmonisation of laws and policies.

## **Discussion**

Globally, but perhaps more especially in developing countries of Africa characterised by colonial conservation practices that marginalised local communities, there are moves to effect community participation in conservation. Nowhere is this more evident than in transfrontier conservation where claims of scaled up social and economic benefits for communities are commonly made by transfrontier conservation proponents. However community participation in conservation faces a number of challenges. These include the need to realign laws and policies so as to empower communities, poorly defined

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<sup>87</sup> Hornby, A.S. 2000. Oxford Advanced Learners Dictionary of Current English, Sixth Edition, Oxford University Press. Oxford.

terminology, lack of clearly set goals and targets that can be monitored and lack of prescriptive provisions for community participation in conservation.

This research was motivated by growing concerns that the intent of community participation in conservation expressed in the various laws and policies establishing transfrontier conservation in southern Africa was not being realised. It was postulated that one factor that has resulted in this state of affairs might be ambiguity in policy and legislation that prevent transparency and accountability for community participation among implementing agencies. Implementing agencies may interpret this ambiguity as indicating weak commitment to community participation in conservation by policy makers.

In order to assess the clarity or lack thereof, of laws and policy provisions with regard to community participation in conservation, a framework (Table 1) was developed and applied to provide a deeper, more precise understanding of what is to be understood by the term “community participation” in conservation. The framework was based on a clear outline of the principle, criteria and indicators. This way, the framework enabled a structured analysis of the intent of transfrontier conservation in particular how prescriptive law, policy and institutional provisions or a lack thereof, may either facilitate or hinder community participation in transfrontier conservation in southern Africa. Each criterion was measured against a set of indicators to determine if it was directed to the empowerment of rural communities, which is the intended outcome of community participation.

The research findings have shown that the intent of enabling marginalised local communities in the rural areas to engage and benefit from the mainstream conservation and tourism economy is expressed widely in transfrontier conservation policies and laws. In all of these legal and policy statements of intent, it is anticipated that community participation will lead to community empowerment through the incorporation of local rural communities into the mainstream conservation and tourism economy and improving their welfare in the process. However, what should be understood by community participation has been shown to be ambiguous. This ambiguity is evident both at regional and national levels and in laws policies and practices at the scale of transfrontier conservation.

Community participation and empowerment are processes. This research postulated community participation in conservation as a means to an end. Participation can be

interpreted as an objective or as a means to greater objectives such as community empowerment in regional economy. This research has shown that the conceptual differences between participation and empowerment are not trivial. The implications of using the term “empowerment” have been shown to be significantly different from “participation”. In those cases where provisions for participation are made, it seems as if they mainly concentrate on the outcome rather than the process. The intent underlying the use of the term participation in policy and legal provisions is sufficiently vague so as to allow different interpretations some of which would not lead to community empowerment. This is evident in cases where provisions are made for the criteria on participation while failing to make provisions for other criteria like competency, equity and confidence. For communities to be empowered, which is the desired outcome of participation, provisions should be made for all the criteria.

Another challenge to meeting the intent of community participation in conservation is terminology, which is poorly defined and understood by both the communities and the implementing agencies. Most treaties, agreements and acts have a section of definitions and interpretations where terms that will be used are defined and interpreted. Surprisingly, definitions of the terms “community participation” and “community empowerment” are conspicuous by their absence in respect of transfrontier conservation. This suggests a serious weakness, as there is a lack of clarity on what those charged with implementation should understand by the terms community participation and empowerment. This may explain why the interpretations of community participation vary across levels within countries and between countries. Perhaps a clear definition of the terms and their interpretation will address some of the weaknesses of community participation in conservation.

Perhaps because of this ambiguity about the intent of community participation and poorly defined terminology, there is a failure in setting of goals, targets and establishing clear accountability with regard to community participation in conservation by implementing agencies. The lack of targets and absence of monitoring and reporting systems on community participation leads to uncertainty about the priority and commitment required and this contributes to failure. Under these conditions, it becomes very difficult to prepare strategies for effecting community participation across scales. This lack of goals, targets and monitoring and reporting systems in conservation contrasts with laws and policies

pertaining to other sectors of the economy for example, to Black Economic Empowerment in South Africa or the Revised Policy Framework for Indigenisation of the Economy of Zimbabwe. Provisions under BEE and the Revised Policy Framework for Indigenisation of the Economy are perhaps less ambiguous and the setting of targets have acted to focus attention and develop urgency for understanding.

While it may be argued that it is much easier set measurable targets for economic empowerment than for participation and empowerment, this should not be used as an excuse. All the criteria listed in Table 1 are measurable. For example it should not be difficult to use community representation in decision making structures as a way of measuring community participation and empowerment. The same can be applicable in conservation partnerships involving government, the private sector and communities.

One means of achieving the desired outcome of participation is to have prescriptive provisions that are clear in their intent with regard to community participation in conservation. Clearly, this would require that laws, policies and institutional frameworks be formulated to achieve this intended outcome. As the provisions stand, they make it very difficult for implementing agencies to share an understanding and to develop and adopt a common approach with regard to community participation due to the absence of targets and this result in little urgency to develop shared understanding and implementation strategies. Furthermore, not only are the provisions ambiguous, but also they are not prescriptive enough to require agencies to implement them in a manner that empowers communities to effectively participate in transfrontier conservation. Perhaps it is because of this ambiguity that communities are not empowered to seek redress from the courts where the intent of the provisions is not met.

Another challenge may actually relate to shortcomings in implementation strategies rather than policy shortcomings. The norm is that laws and policies by their nature should focus more on intent that is to make implicit provisions while the implementing agencies make them more explicit. However, this research has shown that this may be one of the reasons community participation is weak. Implementing agencies were for a long time given the opportunity to fulfill the intention of laws and policies with regard to community participation through devising appropriate strategies. Despite their efforts through CBNRM programmes, communities are still marginalised and one way of addressing these

continued shortcomings is maybe to make laws and policies more explicit at the higher level. This will make implementing agencies more accountable.

Furthermore, the research has shown that in other sectors of the economy, laws and policies have moved away from this traditional norm of being implicit at the higher level to being explicit. This has resulted in empowerment being explicit and providing targets with sanction so that implementing agencies respond to explicit intent.

### **Implications for community participation in conservation at the regional level**

It seems probable that the intent of policy statements on community participation is really community empowerment. Therefore, the framework used in this study is founded on a theoretical understanding of empowerment. Applying the criteria for empowerment shows clearly that the established understanding of empowerment is not reflected and articulated in laws policies and institutional frameworks initiating, developing and implementing TFCAs in the region. The result is that those charged with implementing transfrontier conservation are not likely to have a clear understanding of the intent of policies and legislation and neither do they feel pressure to develop this understanding in the absence of sanctions. Under such circumstances, it is reasonable to anticipate levels of commitment by implementing agencies to community empowerment that do not meet expectations of those who espouse the views that transfrontier conservation will indeed lead to disadvantaged communities gaining greater participation in the mainstream conservation and tourism economy in the region.

It is at the regional level where the weaknesses of provisions for community participation are most evident. One would have thought that the regional policies, laws and institutional arrangements would have built and strengthened on the provisions for community participation made at the national level by the three countries. This is on the basis that transfrontier conservation in terms of principles is regarded as CBNRM at the regional level.<sup>88</sup> Mozambique and South Africa seem to have better provisions for community participation at the national level and this should have been reflected in the law, policy and institutional provisions at the regional level.

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<sup>88</sup> See Dzingirai, V. 2004 and Wolmer, W. 2003 *supra*.

The GLTP Treaty and the Tri- Nation Agreement, as the legal documents establishing the GLTP should have been broadly encompassing of community participation and empowerment in transfrontier conservation and make strong and prescriptive provisions to that effect. This is on the basis that a treaty has the force of international law and provisions made in it are more binding than any other provisions that may be made in policies such as the JMP or the SADC Protocol on Wildlife Conservation and Law Enforcement. However as the analysis has shown, this is not the case.

The research has shown that laws, policies and institutional provisions at the regional level are characterised by inadequate, weak and in some instances, non existent provisions for community participation in transfrontier conservation. The fact that there seems to be better provisions for community participation at the national level at least for Mozambique and South Africa when compared to provisions at the regional level, may be interpreted as a sign that community participation is not taken seriously at the regional level. If indeed community participation was an important issue in transfrontier conservation as proponents argue<sup>89</sup>, then why not make strong and prescriptive provisions for it to be effective?

There are examples of TFCAs in the region where there have been attempts to address shortcomings with regard to community participation and empowerment through guidelines and management strategies. These include the Zimbabwe, Mozambique and Zambia (ZIMOZA) initiative and the Four Corners initiative involving Zimbabwe, Zambia, Botswana and Namibia. However these are initiatives, which are being driven by NGOs, the former by IUCN-The World Conservation through their Regional Office for Southern Africa and the later by African Wildlife Foundation (AWF). These initiatives have not been recognised by the governments involved unlike the GLTP, which has been officially recognised through a treaty. Therefore, the use of both ZIMOZA and the Four Corners as models for developing strategies and guidelines for community participation and empowerment should be treated with caution as these may be rejected by the implementing agencies as not binding.

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<sup>89</sup> Hanks, J. 2003.*supra*.

## **Prospects for reforming laws, policies and institutional frameworks to promote effective community participation in transfrontier conservation**

The participating countries are aware of the need to realign laws and policies to promote community participation in the main stream regional economy. This requires laws, policies and institutional frameworks to be reformed, adjusted or transformed (as necessary) to achieve this desired outcome. However, there are a number of challenges that need to be addressed.

One reason why there are not prescriptive provisions at the regional level for community participation when compared to provisions at the national level, is due perhaps to the application of the principle of sovereignty. Transfrontier conservation by its nature impinges on sovereignty, at least for the areas and parks involved in the GLTP. This may explain why there is a strong emphasis on respecting sovereign rights of the parties involved in all the documents that have implications on the GLTP.<sup>90</sup> While it is within the rights of the parties involved to affirm their sovereign rights over the park and areas constituting the GLTP, it seems as if the emphasis on sovereignty is to some extent at the expense of community participation in transfrontier conservation and this may explain why the provisions are less prescriptive than might be desired. As Mohamed-Katerere notes, “Given that title to resources is generally vested in the state, public participation is generally seen as a privilege rather than a right. Consequently, citizens have no legal basis for demanding inclusion”.<sup>91</sup> When communities are marginalised from participating in conservation on the basis that the treaty does not recognise their resource rights, they may be left with no avenue to seek redress.

An important factor that promotes transfrontier conservation is the harmonisation of laws, policies and institutions. As the Transfrontier Conservation Consortium aptly observes:

TFCA aims to strengthen the regional economy and rural livelihoods, sustain biodiversity, and promote a culture of peace. To realise these aims it is necessary to secure the voluntary participation of local communities, and the wise use of the

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<sup>90</sup> Preamble to the GLTP Tri-nation Agreement, the GLTP Treaty and the SADC Protocol on Wildlife Conservation and Law Enforcement

<sup>91</sup> Mohamed-Katerere, J. 2001. Review of the legal and policy framework for transboundary natural resources management in southern Africa p.6. Paper No.3, IUCN-ROSA Series on Transboundary Natural Resources Management, Harare.

region's diverse natural resources base. This can only be realised by harmonising the policies, strategies and practices of conserving and managing the shared resource.<sup>92</sup>

However, as one of the findings noted above shows, the laws, policies and institutional frameworks of the three countries that are involved in the GLTP are not harmonised and this has implications for establishing shared understanding, commitment and targets. Inconsistencies between the national laws, policies and institutional frameworks governing the management of protected areas at the national level may impede community participation in transfrontier conservation. South Africa and Mozambique have a better policy, legal and institutional framework for facilitating community participation in conservation at national level compared to Zimbabwe. This may impact negatively on Zimbabwean communities' ability to participate effectively in transfrontier conservation. For example, Zimbabwe does not have a specific statute under which communities can constitute themselves into legal entities capable of holding land and other resources while South Africa and Mozambique do. This disparity places a limitation on the extent to which Zimbabwean local communities could seek redress. It also has implications on their exercise of tenure rights.

If provisions for community participation in conservation at the national level are an indicator of how communities will benefit in TFCAs, it appears as if the Zimbabwean communities will be disadvantaged. If Zimbabwean communities can not participate effectively, then this affects their ability to benefit equitably from the conservation benefits resulting from the GLTP. One of the fundamental principles on which transfrontier conservation is founded is equity particularly when it comes to benefit sharing of the proceeds. Without provisions in laws, policies and institutional frameworks that promote equity, there is a real possibility that communities in one member state may derive more benefits than others whose laws and policies may not provide an enabling environment for them to participate effectively.<sup>93</sup>

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<sup>92</sup> Transfrontier Conservation Consortium 2006. Inception Report. Pre-Feasibility Study of the Proposed Kavango-Zambezi Transfrontier Conservation Area p. 9. Prepared for Peace Parks Foundation on behalf of the Governments of Angola, Botswana, Namibia, Zambia and Zimbabwe. Cape Town, South Africa.

<sup>93</sup> Mramba, S.J. 2002. Challenges and options in the management of transboundary protected area. A case study of Peace Parks Forum in southern Africa. Unpublished LLM Thesis. Faculty of Law. University of KwaZulu-Natal, South Africa.

This disparity in the provisions of laws, policies and institutions on community participation in conservation at the national level, may in the long run act as a source of conflict rather than bringing peace, as is one of the intended objectives of TFCAs. As Fakir notes: “perhaps a more realistic assertion is that TFCAs may not only contribute to peace, but possibly to conflicts as well, if land disputes and economic benefits are not shared equitably between different participating countries”.<sup>94</sup> This demands committed response at the regional level by those member states that are lagging behind to put in place measures that will scale up community participation in conservation.

A number of regional policies, laws and protocols call for the harmonisation of laws and policies.<sup>95</sup> In terms of Article 6(c) of the GLTP treaty “the parties shall use their best endeavours to harmonise legislation and policies to facilitate integrated and complementary conservation and socio-economic development activities”. However, while harmonisation is a desirable thing for consistency and effectiveness in transfrontier conservation and community participation and empowerment, it is not easy both in terms of cost and feasibility. The harmonisation of the laws, policies and institutions should only apply to the particular TFCA. TFCAs are usually implemented in border areas. It is the laws, policies and institutional frameworks of those border areas and communities involved in the TFCA that should be harmonised. The harmonisation process should be within the confines of the national laws, policies and institutional frameworks of the participating countries or else they will fall foul of the sovereignty principle enshrined in the SADC Treaty and reinforced in subsequent treaties and protocols.

Prescriptive provisions that are clear in their intent are perhaps one way to promote community participation in conservation. Clearly, this would require a reformulation of laws, policies and institutional frameworks to achieve this desired outcome. However, experiences in other sectors of the economy like BEE have shown that prescriptive provisions alone are not enough. There is need to set targets and this and this will force

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<sup>94</sup> Fakir, S. 2001. Transfrontier Conservation Areas: A new dawn for eco-tourism, or a new form of conservation expansion? p.2. IUCN-The World Conservation Union Policy Think Tank Series No. 3 available at: [www.iucnsa.org.za/our\\_work/publications.htm](http://www.iucnsa.org.za/our_work/publications.htm). See also Katerere, Y., Hill, R. and Moyo, S. 2001. A critique of transboundary natural resources management in southern Africa. Paper no.1, IUCN-ROSA Series on Transboundary Natural Resources Management.

<sup>95</sup> Article 5(2) (a) of the SADC Treaty, Article 8(1) and 2(d) of the SADC Protocol on Shared Water Courses and Article 4(b) of the SADC Protocol on Wildlife Conservation and Law Enforcement.

implementing agencies to develop focus and strategies with regard to community participation and empowerment.

### **Conclusions**

This research has shown through the use of the framework of principle, criteria and indicators and the GLTP as a case study that the legal, policy and institutional frameworks as they stand, will not necessarily lead to community participation and empowerment in transfrontier conservation. The framework facilitated a structured analysis, thereby exposing weaknesses inherent in the understanding of and use of the terms participation and empowerment, and inconsistencies of their use in policies and legislation at various levels. Empowered communities are the desired outcome of community participation in conservation. The framework was a very useful way of assessing whether law, policy and institutional provisions are likely to lead to empowerment. It provided a structured means of assessing prospects for community participation in transfrontier conservation through monitoring and evaluation of the provisions.

Perhaps, the major finding is the absence of an integrated regional policy, law and institutional framework that informs and directs strategic planning and implementation relating to community participation and empowerment in transfrontier conservation. Such a framework will be needed to transcend the spatial concerns between countries and within countries relating to the issue of sovereignty. Until such a framework is developed it would seem that the intentions of community participation will not match the expectations that are being fostered by proponents of transfrontier conservation.

The research demonstrated that while provisions for community participation do exist in the various laws and treaties, they are not prescriptive and this has implications on community participation in conservation. As a result of their not being prescriptive, they leave too much room for interpretation to the conservation agencies. In addition, they do not create a sense of urgency for developing shared understanding and harmonizing. Due to their ambiguity, they can be interpreted in ways that can intentionally or unintentionally, marginalise communities from effectively participating in conservation. Furthermore, the research has shown that despite the existence of provisions for community participation in the various laws and policies, it is not clear what should be understood by the term as it is not defined. As such, a good starting point is perhaps to have the term community

participation and empowerment defined so that implementing agencies understand the meaning and intent of community participation.

Despite its strengths, the framework developed and applied in this research had some weaknesses. One of the weaknesses of the framework is that it posits that “community participation” and “empowerment” should be explicit at all levels. In a way this does not really take into account the need for policies and laws to become more general as the scale of application increases. Laws and policies by their nature provide a general framework that can be interpreted by the implementing agencies to suit the situation on the ground. This suggests that perhaps the implementing agencies have not adequately interpreted the intentions of these laws and policies with regard to community participation in conservation and incorporated them into binding regulations and by-laws at the lower level.

Furthermore, the weakness of the framework may be that it requires community participation and empowerment to be explicit at all levels. However, as this research has shown, community participation means different things to different people. This raises questions about the extent to which laws, policies and institutions can realistically be expected to capture and prescribe for all these interests.



## References

- Ackoff, R.** (1953). *The Design of Social Research*. Chicago: University of Chicago Press.
- Agrawal, A. and Gibson, C.** (1999). Enchantment and Disenchantment: The Role of Community in Natural Resource Conservation. *World Development*. 27 (4) pages.
- Alsop, R. and Heinsohn, N.** (2005). *World Bank Policy Research Working Paper 3510*, Washington D.C.
- Bakarr, M.** (2003). Conservation on the Frontier. *Tropical Forest Newsletter*. 13 (2) pages.
- Banda, G.** 2002. Conflict Management in a community-based transboundary natural resources management initiative: A case study of the proposed Mozambique, Zambia and Zimbabwe transboundary natural resource management area. *Transboundary Natural Resources Management Area in Southern Africa*. IUCN-The World Conservation Union. Harare, Zimbabwe.
- Barnes, B.** (1998). *The Nature of Power*. Cambridge: Cambridge University Press.
- Barrow, B. and Murphree, M.** (2001). 'Conservation Policies and Institutions'. In **Hulme, D. and Murphree, M.** (eds.). *African Wildlife and Livelihoods: the Promise and Performance of Community Conservation*. Harare: Weaver Press.
- Beinart, W. and Coates P.** (1995). *Environment and History: The Taming of Nature in the United States and South Africa*. London: Rutledge.
- Berkes, F., Colding, J. and Folke, C.** (eds.) (2003) *Navigating Social – Ecological Systems, Building Resilience for Complexity and change*. Cambridge: Cambridge University Press.
- Berkes, F., George, P. and Preston, R.** (1991) Co-management: the evolution of the theory and Practice of joint administration of living resources. *Alternatives*. 18 (2) 12 -18.
- Biodiversity Support Program** (1993). *African Biodiversity Foundation for the Future. A Framework for Integrating Biodiversity Conservation and Sustainable Development*. Beltsville, Maryland.
- Blaikie, P. and Brookfield, H.** (1987). *The Political Economy of Soil Erosion*. London: Methuen
- Bornini – Feyerabend, G.** (1996). *Collaborative management of Protected Areas: Tailoring the Approach to the Context*. IUCN, Gland (Switzerland <http://iucn.org/themes>)
- Borrini – Feyerabend G.** (1997). (ed.) *Beyond Fences: Seeking Social Sustainability in Conservation*. IUCN, Gland (Switzerland)

- Borrini – Feyerabend, G., Pimbert, M., Farvar, T., Kothari, A. and Renard, Y.** (2004). *Sharing Power. Learning by doing in co-management of natural resources through the world.* IIED and IUCN/CEESP/CMWG, Cenesta, Teheran.
- Brandon, K. K., Redford, H. and Sanderson, S.E.** (eds.) (1998). *Parks in Peril. People, Politics and Protected Areas.* Washington D.C: Island Press.
- Brinkerhoff, D.W and Crosby, B.** (2002). *Managing Policy Reform: Concepts and Tools for Decision Makers in Developing and Transitioning Countries.* Bloomfield: Kumarian Press.
- Bromley, D.W.** (1995). *Natural Resource Issues in Environmental Policy in South Africa.* Land and Agriculture Policy Center, Johannesburg
- Brynard, P.** (2003). *Policy Making in the Okavango River Basin.* In **Turton, A, P.Ashton and E, Cloete,** (eds.). *Transboundary rivers, sovereignty and development: Hydropolitical drivers in the Okavango River Basin.* Pretoria: African Water Issues Research Unit.
- Carlsson, L. and F. Berkes** (2004). Co-management: Concepts and methodological implications. *Journal of Environmental Management* 75 65-76.
- Carruthers, J.** (1995). *The Kruger National Park: A Social and Political History.* Pietermaritzburg: University of Natal Press.
- Carruthers, J.** (1997). Nationhood and National Parks: Comparative examples from the post-imperial experience. In: Griffiths, T and L. Robin. (eds.). *Ecology and Empire. Environmental History of Settler Societies.* Pietermaritzburg: University of Natal Press.
- Cleggy, S.** (1989). *Frameworks of Power.* London: Sage
- Cock, J.** (1991). Going Green at the Grassroots: the environment as a political issue. In Cock, J and E.Koch (eds.). *Going Green: People, politics and the environment in South Africa.* Cape Town: Oxford University Press
- Cook, J** (1997). Empowering people for Sustainable Development. In Fitzgerald, P., McLennan, A and Munslow, B (eds.). *Managing Sustainable Development in South Africa.* Cape Town: Oxford University Press.
- Cortner, H. J. and Moote, A. M.** (1999). *The Politics of Ecosystem Management.* Washington DC: Island Press.
- Cortner, H.J., Shannon M.A., Wallace, M.G., Burke, S.M. and Moote, M, A.** (1996). *Institutional barriers and incentives for ecosystem management: a problem analysis.* Gen Tech. Rep. PNW-GTR-354. Portland, OR. U.S Department of Agriculture, Forest Service.

- Daniels, S., and Cheng, A. S.** (2004). Collaborative Resource Management: Discourse-based Approaches and the Evolution of TechnoReg. In Manfredo, J.M., Vaske, J.J., B.L, Bruyere, Field, R. D. and Brown, J. P. (eds.). *Society and Natural Resources Management. A Summary of Knowledge*. Missouri: Jefferson Press.
- De Villiers, B.** (1999). *Peace Parks-the way ahead: International Experience and Indicators for Southern Africa*. Pretoria: HSRC Publishers.
- Draper, M. M., Spierenburg and H. Wels,** (2004). African Dreams of Cohesion: Elite Pacting and Community Development in Transfrontier Conservation Areas in Southern Africa. *Journal of Culture and Organisation* 10 (4) 341-353.
- Duffy, R.** (2001). Peace Parks: The Paradox of Globalisation. *Journal of Geopolitics* 6, (2) 1:26, London: Frank Cass.
- Dzingirai, V. and Breen, C.** (2005). *Confronting the Crisis in Community Conservation: Case Studies from Southern Africa*. University of KwaZulu-Natal: Center for Environment, Agriculture and Development.
- Dzingirai, V.** (2003). The New Scramble for the African Countryside. *Journal of Development and Change* 34 (2): 243-263.
- Dzingirai, V.** (2004). *Disenfranchisement at Large: Transfrontier Zones, Conservation and Local Livelihoods*. Harare: IUCN-ROSA.
- Dzingirai, V.** (2005). *Consultation, Planning and Community Interests in Transfrontier Conservation*. Harare : IUCN-The World Conservation Union.
- Fabricius, C., Koch, E., Magom, H. and Turner, S.** (eds.) (2004). *Rights, Resources and Rural Development: Community Based Natural Resource Management in Southern Africa*. London: Earthscan.
- Fakir, S.** (2001). *Transfrontier Conservation Areas: A new dawn for eco-tourism, or a new form of conservation expansionism?* Pretoria: IUCN Policy Think Tank Series No.3. Available at [www.iucnsa.org.za/our-work/publication.htm](http://www.iucnsa.org.za/our-work/publication.htm).
- Folke, C., Carpenter, S., Elmquist, T, Gunderson, L., Holling, C. S. and Walker, B.** (2002). *Resilience and sustainable development :building adaptive capacity in a world of transformations*. International Council of Science for Sustainable Development. ICSU Series on Science for Sustainable Development No. 3 available at [www.iucnsa.org.za/our-work/publication.htm](http://www.iucnsa.org.za/our-work/publication.htm)
- Glazweski, J.** (2000). *Environmental Law in South Africa*. Durban: Butterworths.
- Gregis, A.** (1999). *Citizen economic empowerment in Botswana: concepts and principles*. BIDPA Working Paper. No.22.
- Griffin, J., Cumming, D., Metcalfe, S., t'Sas-Rolfes, M., Singh, J., Chonguica, E., Rowen, M. and Ogletorpe, J.** (1999). *Study on the development of transboundary*

- natural resources management areas in southern Africa*. Main Report. Washington D.C, USA: Biodiversity Support Program.
- Hanks, J.** (2003). Transfrontier Conservation Areas (TFCAs) in Southern Africa: Their Role in Conserving Biodiversity, Socioeconomic Development and Promoting a Culture of Peace. In Goodale, U.M., Stern, M.J., Margoluis, C., Lanfer, G.A. and Fladeland M. (eds.). *Transboundary Protected Areas: The Viability of regional Conservation Strategies*. New York: Food Products Press
- Hentz, J.J.** (2004). South Africa and the political economy of regional cooperation in Southern Africa. *Journal of Modern African Studies*, 43 (1) 21-51.
- Hickey, S. and Mohan, G.** (2004). Relocating participation within a radical politics of development: citizenship and critical modernism. *Journal of Development Change* 36 (2) 237-257.
- Hughes, D.** (2002). *When tourists cross boundaries and peasants don't: Inequality and regional metaphors in the Great Limpopo Transfrontier Conservation Area*. Proceedings of a Workshop Hosted by the Department of Economic History. Harare: University of Zimbabwe.
- Hughes, D.** (2005). Third Nature: Making Space and Time in the Great Limpopo Conservation Area. *Journal of Cultural Anthropology* 20 (2)157-184.
- Hulme, D. and Murphree, M.** (2001) (eds.) *African Wildlife and Livelihoods: The promise and performance of community conservation*. Oxford: James Currey .
- Hutton, D., Adam, W.M. and Murombedzi, J.C.** (2005). Back to the Barriers? Changing Narratives in Biodiversity Conservation. *Forum for Development Studies* No. 2 341:370.
- Institute for Environment and Development and Development Studies** (1994). *Whose Eden? An Over view of community approaches to wildlife management*. London: International Institute for Environment and Development and the Institute of Development Studies.
- IUCN –The World Conservation Union** (1996). *Resolutions and recommendations, World Conservation Congress, Montreal 13-23 October*.
- [www.iucn.org/wcc/resolutions/research.pdf](http://www.iucn.org/wcc/resolutions/research.pdf)
- IUCN-ROSA** (2002). *Strategy for Development for Development of the ZIMOZA TBNRM Area 2002*. Harare: IUCN-ROSA.
- IUCN-The World Conservation Union** (2000). *Policy on Social Equity in Conservation and Sustainable Use of Natural Resources*. Available at [www.iucn.org/themes/spg/Files/equitypolicy.pdf](http://www.iucn.org/themes/spg/Files/equitypolicy.pdf)
- Jones, B. and Murphree, M.** (2004). The Evolution of Policy on Community Conservation in Namibia and Zimbabwe. In Hulme, D. and Murphree, M. (eds.). *African Wildlife*

- and Livelihoods: The Promise and Performance of Community Conservation*. Harare: Weaver Press.
- Jones, B. and Murphree M.** (2004). Community-based natural resource management as a conservation mechanism: lessons and directions. In Child, B. (ed). *Parks in Transition: Biodiversity, Rural Development and the Bottom Line*. London: Earthscan.
- Katerere, Y., Hill, R. and Moyo, S.** (2001). *A Critique of Transboundary Natural Resource Management in Southern Africa*. Paper no.1 IUCN-ROSA Series on Transboundary Natural Resources Management. Harare: IUCN-ROSA
- Keeley, J. and Scoones, I.** (2003). *Understanding Environmental Policy Processes. Cases from Africa*. Earthscan: London
- Kidd, M.** (1999). *The National Environmental Management Act and Public Participation*. *The South African Journal of Environmental Law and Policy* 6 (1) 21-31.
- Kumar, C.** (2005). *Revisiting "Community" in Community – Based Natural Resource*. Oxford University Press and *Community Development Journal* 1-11.
- Lauber, T.B. and Knuth, B.A.** (2000). *Citizen Participation in Natural Resources Management: A Synthesis of HDRU Research*. HDRU Series 00-7 Human Dimensions Research Unit, Department of Natural Resources, Cornell University. Available at [www.dnr.cornell.edu/hdru/Pubs](http://www.dnr.cornell.edu/hdru/Pubs).
- Leach, M., Mearns, R. and Scoones, I.** (1997). Challenges in Community Based Sustainable Development: Dynamics, Entitlements, and Institutions. *IDS Bulletin* 28 (4).
- Luckett, S., Mkhize, K. and Potter, D.** (2003). Conservation Partnerships. *Parks* 13 (1) 6-15.
- Lynch, O. J. and Chaudhry, S.** (2002). Amplifying Local Voices, Striving for Environmental Justice. *Proceedings of the African Public Interest Law and Community –Based Property Rights Workshop*. Washington D.C: Center for International Environmental Law.
- Lynch, O.J. and Harwell, E.** (2002). Community Based Property Rights: A Conceptual Note. In Lynch, O.J and Harwell, E (eds.). *Whose Natural Resources? Whose Common Good? Towards a New Paradigm of Environmental Justice and the National Interest in Indonesia*. Washington D.C: Center for International Environmental Law.
- Lynch, O.J. and Alcorn J.B.** (1994). Tenurial rights and community based conservation. In David Western and R. Michael Wright (eds.) *Natural Connections-Perspectives in community based conservation*. pp373-402. Washington D.C.: Island Press.
- Magaya, W. and Mandivengerei, S.** (2003). Transboundary Natural Resource Management: The Legal and Policy Barriers to Community Participation. *Commons Southern Africa Occasional Paper*. Harare: Center for Applied Social Sciences.

- Magome, H., Grossman D., Fakir, S. and Stowell, Y.** (2000). Partnerships in Conservation: The State, Private Sector and the Community at Madikwe Game Reserve, North West Province, South Africa. *Evaluating Eden Series Discussion Paper No.7*.
- Maier, M.** (1991). *The Data Game: Controversies in Social Sciences Statistics*. Armonk, N.Y.: Sharpe.
- Manfredo, M. J., Vaske, J. J., Bruyere, B. L., Field, D. R. and Brown, P.J. (eds.)** (2004). *Society and Natural Resources: A Summary of Knowledge*. Missouri: Jefferson Press.
- Metcalfe, S.** (1999). *Study on the Development of Transboundary Natural Resource Management Areas in Southern Africa – Common Property Perspectives*. Washington D.C. Biodiversity Support Programme.
- Metcalfe, S.** (2003). *Impacts of Transboundary Protected Areas on local communities in three Southern Africa Countries* Paper presented at the workshop on transboundary protected areas in the governance stream of the 5<sup>th</sup>, World Parks Congress, Durban, South Africa.
- Mohamed-Katerere, J. and Chenje, M.** (2002). *Environmental Law and Policy in Zimbabwe*. Harare: Southern African Research and Documentation Center.
- Mohamed-Katerere, J.** (2001). *Review of the Legal and Policy Framework for Transboundary Natural Resources Management in Southern Africa*. Paper no.3, IUCN-ROSA Series on Transboundary Natural Resources Management. Harare: IUCN-ROSA.
- Mramba, S. J. (...)**. Challenges and options in the management of transboundary protected areas. A case study of Peace Parks Forum in southern Africa. LLM Thesis, School of Law, University of KwaZulu-Natal, Pietermaritzburg, South Africa.
- Murombedzi, J. and Magome, H.** (2003). Sharing South African National Parks: Community Land and Conservation in a democratic South Africa. In Adams, W. and Mulligan, M. (eds.). *Decolonising Nature: Conservation in post colonial era*. London : Earthscan Publications.
- Murombedzi, J.** (2003). Devolving the expropriation of Nature: The devolution of wildlife management in southern Africa. In Adams, W. and Mulligan, M. (eds). *Decolonising Nature: conservation in post colonial era*. London: Earthscan Publications.
- Mwango, N.** (2004). *An Assessment of the Implementation of the Community Environmental Management Programme in Zambia: A case study of Luansobe Settlement –Mufulira District*. Unpublished MEnv.Dev Thesis Center for Environment and Development. University of KwaZulu-Natal: Pietermaritzburg.
- Neuman, W. L.** (2000). *Social Research Methods: qualitative and quantitative approaches (4<sup>th</sup> edition)*. Boston: Allan and Bacon.
- Nyambe, N.** (2005). *Organisational Culture and its underlying basic assumption as a*

- determinant of response to change: A case study of KwaZulu-Natal's conservation sector, South Africa.* Center for Environment and Development. University of KwaZulu-Natal: Pietermaritzburg.
- Oates J. F.** (1995). The dangers of conservation by rural development: A case study from the forests of Nigeria. *Oryxi*, 29, 115 -122.
- Oates, J. F.** (1999). *Myth and reality in the rain forest.* Berkley: University of California Press.
- Pimbert, M.** (2004). *Institutionalising participation and people –centered processes in natural resource management: Research and Publication highlights.* International Institute of Environment and Development and Institute of Development Studies. United Kingdom.
- Pimbert, M. P. and Pretty, N. J.** (1994). *Participation, people and the management of national parks and protected areas: past failures and future promise.* United Nations Research Institute for Social Development, IIED, WWF, mimeo
- Rahman, M. A.** (1993). *People's self development: perspectives on participatory action research, a journey through experience.* London: ZED Books.
- Refugee Research Programme** (2002). *A Park for the People? Great Limpopo Transfrontier Park-Community Consultation in Coutada 16, Mozambique.* University of the Witwatersrand, Johannesburg.. Available at: [www.wits.ac.za/rfp](http://www.wits.ac.za/rfp).
- Ribot, J.** (2003). Democratic Decentralisation of Natural Resources: Institutional Choice and Discretionary Power Transfers in Sub-Saharan Africa. *Journal of Public Administration and Development* 23 53-65. Available at [www.interscience.wiley.com](http://www.interscience.wiley.com)
- Sandwith, T., Shine, C., Hamilton. L. and Sheppard, D.** (2001). *Transboundary Protected Areas for Peace and Co-operation.* IUCN, Gland, Switzerland and Cambridge, United Kingdom.
- Singh, J.** (2002). Transboundary Conservation in the African Context: A Threat to Sovereignty. In Chaturvedi, S and Puri, M.M (eds.). *Rethinking Boundaries: Geopolitics, Identifies and Sustainability.* New Delhi: Manohar.
- Mramba, S. J.** (2002). Unpublished LLM Thesis. Faculty of Law, University of KwaZulu-Natal, South Africa.
- Sommerville, P.** (1998). Empowerment through residence. *Housing Studies* 13.(2) 233-257
- Soto, B.** (2004). *Application of a Framework to Assess Wildlife Policy and its implementation in Mozambique.* Unpublished MEnv.Dev. Thesis University of KwaZulu-Natal, Center for Environment and Development, South Africa.
- Stewart, J. and Taylor, M.** (1995). *Empowerment and Estate Regeneration.* Bristol: Policy Press.

Comment [C1]: Incomplete title

- Tamburelli, G. and Guillet, A.** (2003). *Legal and Institutional Implications of Systemic Planning and Management of Transboundary Protected Areas- a comparative analysis of case studies from the Italian Development Cooperation*. Paper presented at the workshop on Transboundary Protected Areas in the Governance Stream of the 5<sup>th</sup> World Parks Congress, Durban, South Africa, 12-13 September 2003.
- Tanner, R.** (2003). *Transfrontier Conservation Areas of Southern Africa and Community Involvement in the Context of International Law*. Unpublished masters thesis, University of Montana, Missoula, Montana..
- Teri, J. J.** (2002). *Management of Transboundary Watercourses in Southern Africa: A case study of the Zambezi Basin*. Unpublished LLM Thesis, Faculty of Law, University of KwaZulu-Natal, Pietermaritzburg.
- Thayer, M.** (2003). *The Nature of Conflict and the Conflict over Nature: Protected Areas, Transfrontier Conservation and the Meaning of Development*. Skidmore College. Available at [www.sit-edu-geeneva.ch/nature](http://www.sit-edu-geeneva.ch/nature)
- The World Bank** (1999) *Report from the International Report on Community Based Natural Resource Management (CBNRM) Workshop*. Washington D.C. 10 -14 May 1999 [www.worldbank.org](http://www.worldbank.org)
- Transfrontier Conservation Consortium** (2006). *Inception Report. Pre-feasibility study of the proposed Kavango-Zambezi transfrontier conservation area*. Prepared for Peace Parks Foundation on behalf of the Governments of Angola, Botswana, Namibia, Zambia and Zimbabwe. Peace Parks : Cape Town.
- Turner, S.** (2004). *..A Crisis in CBNRM? Affirming the Commons in Southern in Africa*. Paper presented at the 10<sup>th</sup> IASCP Conference, Oaxaca 9-13 August 2004.
- United Environment Programme Undated.** UNEP Environmental Law Training Manual. Nairobi, Kenya.
- Van Amerom, M. and Buscher B.,** (2005). *Peace Parks in Southern Africa: Bringers of an African Renaissance?* Journal of Modern African Studies, 43, 2,pp. 159-182. Cambridge: Cambridge University Press.
- Van de Linde, H., Oglethorpe, J., Sandwith, T., Snelson, D. and Tessem A. Y.** (1999). *Beyond Boundaries: Transboundary natural resource management in Sub-Saharan Africa*. Washington D.C, USA: Biodiversity Support Program.
- Wells, M. and Brandon, K.** (1992). *People and parks: linking protected area management with local communities*. Washington D.C: World Bank, World Wide Fund and USAID.
- Wells, M. P.** (2003). Protected Area Management in the Tropics: Can We Learn from Experience? In Goodale, U.M., Stern, M. J Margoluis, C., Lanfer, G. A. and Fladeland, M. (eds.). *Transboundary Protected Areas: The Viability of Regional Conservation Strategies*. New York: Food Products Press.

- Wilkie, D. S.** (2001). *Beyond Boundaries: Regional overview of transboundary natural resource management in Central Africa*. Washington D.C: Biodiversity Support Program
- Wolmer, W.** (2003). Transboundary Conservation: the Politics of Ecological Integrity in the Great Limpopo Transfrontier Park. *Journal of Southern African Studies* 29 (1) 261-278.
- World Bank** (1996). *The World Bank Participatory Source Book*. Washington DC.: World Bank.
- World Bank** (2000/2001) *Attacking Poverty*. World Development Report. Washington D.C.: World Bank
- World Commission on Protected Areas** (2003). *A Guide to Securing Protected Areas in the Face of Global Change. Options and Guidelines. A Draft Report by the Ecosystems, Protected Areas, and People Project*. IUCN- The World Conservation Union, Gland, Switzerland.
- Yin, R. K.** (1984). *Case Study Research: Design and Methods*. London: Sage