

# The Common Property Resource Digest

NO. 57 QUARTERLY PUBLICATION OF THE INTERNATIONAL ASSOCIATION FOR THE STUDY OF COMMON PROPERTY JUNE 2001

This issue's CPR Forum features papers given at the Public Interest Law and Community-Based Property Rights workshop that was held in Arusha, Tanzania from August 1 – 4, 2000. This conference was sponsored by the Lawyers Environmental Action Team of Tanzania and the Center for International Environmental Law USA, in collaboration with the World Resources Institute and the IASCP. The purpose of the conference was to bring together the growing pool of African legal expertise on community based property rights. *H.W.O. Okoth-Ogendo* starts us off with a discussion of the roots of African common property laws. Then *Andrew Corbett* reviews the commons law situation in Namibia, *Gracian Banda* does the same for Malawi, *Hubert Ouedraogo* for West Africa, and *Isilda Nhantumbo* for Mozambique. Finally, *Owen Lynch* offers his reflections on what we have learned about promoting the legal recognition of community-based property rights and the implications of this for some of our basic common property concepts.

This issue also contains the first announcement and the call for papers for **The Commons in the Age of Globalization, the 9th Biennial Conference of the IASCP** which will be held 17- 21 June 2002 in Victoria Falls, Zimbabwe. The announcement appears on page 14. Be sure and check it out and begin planning your own participation! **Enjoy!**

## CONTENTS

### CPR Forum: Papers from the African Public Interest Law and Community-based Property Rights Workshop

<b>CPR Forum .....</b>	<b>1</b>
The Tragic African Commons: A Century of Expropriation, Suppression and Subversion <i>H. W. O. Okoth-Ogendo .....</i>	1
Community Management of Natural Resources as Common Property in Namibia <i>Andrew Corbett .....</i>	4
Customary Law and Natural Resources Management in Malawi <i>Gracian Banda .....</i>	5
Law and Community-Based Property Rights in West Africa <i>Hubert Ouedraogo .....</i>	7
The Environmental Policy Framework and CBNRM in Mozambique <i>Isilda Nhantumbo .....</i>	8
Promoting Legal Recognition of Community-Based Property Rights: Rethinking Basic Concepts <i>Owen Lynch .....</i>	10
<b>Recent Publications .....</b>	<b>11</b>
<b>Announcements .....</b>	<b>14</b>

## CPR FORUM COMMENTARY

### The Tragic African Commons: A Century of Expropriation, Suppression and Subversion

**H.W.O. Okoth-Ogendo**

**Faculty of Law, University of Nairobi**

#### Legislating the Commons: The Opportunity and the Challenge

The resilience and persistence of indigenous values and resource management institutions presents an opportunity and a challenge for legal engineering in Africa. Opportunity now exists for a rethinking of issues of access, control and management of Africa's primary resource – its land – as part of the general process of land policy reform now taking place in the region. The challenge however, is to provide a framework for the orderly development of customary land law. This will require innovation in at least two directions. The first is the development of customary law as the common law of African jurisdiction. The second is the rationalization of customary land law as the primary regime of land resources held under common ownership.

#### The Development of Customary Law

The development of customary land law will depend, in the first instance, on how customary law continues to be treated in national legal systems. The juridical character of custom will therefore have to be clearly defined. That means, inter alia, that the replacement policies thus far pursued in respect of customary law must give way

# The Common Property Resource Digest

*Published with support from*

*the Ford Foundation*

Douglas C. Wilson

*Editor*

---

to evolutionary and adaptive models of change. That will involve legislative action in at least three directions. The first is to raise the status of customary law in the hierarchy of applicable laws above such received law, as has not been enacted into statute, and to require the courts to apply it, and not merely to “be guided by it.” The second is to accord customary law more general applicability as the personal law of the majority of indigenous people. That would eliminate the general tendency to hop in and out of foreign law on grounds that the application of customary law is inappropriate in certain contexts. The third is to move towards progressive codification of customary rules of law, which apply in specific contexts.

The process of codification, however, must be approached with caution. Customary rules are part of community norms, which govern behaviour in a wide spectrum of spheres. Codification and integration must therefore tread softly among those spheres. Further, there are aspects of customary law relating specifically to land, which tend to discriminate between the sexes. These would have to be eliminated. In recommending that customary law be progressively codified, we have rejected the long-standing argument that reducing its rules to legislative text will fossilise them. Custom, when understood as shared norms and values which have evolved over time and which provide a basis for decision-making on matters of common concern to communities or segments thereof, will always remain an organic system which responds to both internal and external stimuli despite initial capture in textual form.

The starting point is to recognise that many of the differences that are presumed to exist in customary laws of African peoples, are the product of a lack of analyti-

cal rigour in the investigation and interpretation of the social and cultural facts, which define community relations.

## The Domain of Customary Land Law

The restoration of customary law to its legitimate status in national legal systems would have important implications for the domain of customary land law. First it would strengthen and revitalise that domain as a governance framework for land and associated resources held by and for the benefit of communities. A context would thus be available for reforming African agrarian systems instead of converting them to Western property regimes. Second, it would enable policy makers to identify resource constellations that ought to revert to common property management.

The reconstitution of the African commons, which a revitalised domain of customary land law would facilitate, would need to be accompanied by the redesign of a comprehensive land rights system capable of according security to individual and community livelihoods which depend on the resources to which they have access. That system will need to remain faithful to the primary tenets of a regime of common property, namely that:

- the location of radical title to community resources is a function of ontology not sovereignty.
- access to land resources is obtained through community membership, not the free market and,
- access rights are transgenerational, hence carry an obligation of stewardship for the benefit of present and future members of the community.

These tenets must be reinforced by a system of land administration, which ensures community participation in the management of those resources at appropriate levels of social organisation, and which is responsive to community values and processes. Care must be taken to avoid the colonial assumption that African communities have no legal (or corporate) persona hence can only hold or administer land resources through jural entities created by Anglo-American law. Vesting community property in “trusts” whose operational processes are not linked to social hierarchies and structures must therefore be avoided.

## A Number of False Starts

There is evidence to indicate that the reconstitution (or reconstruction) of the African commons is an important item in the land reform agenda of most countries in the region. For example, the last reform effort initiated at the end of the 20th century – the Commission of Enquiry into the Land Law System of Kenya – appointed in November 1999, expressly calls for an investigation into, and recommendations on, customary land law. In

all these countries, issues of community control of particular resource constellations, the role of the state in land ownership and management, and the police power of the state, especially as it relates to environmental auditing, are being debated and refined.

That notwithstanding, countries such as Uganda, Tanzania, South Africa and Zimbabwe that have gone past policy development to legislation, appear to have taken a number of false starts on these issues. First, no real attempts have been made to create complete land rights systems for the commons. The mere recognition of customary land tenure per se as the Uganda Land Act 1998 now does, will not satisfy this concern. Nor will the provision that certificates of customary ownership are now possible, provide sufficient indication of what rights and obligations arise from such ownership.

Second, the protection of community rights in the commons appears to be defined essentially as a political and administrative issue. In Tanzania, for example, the drafters of the Village Land Act, 1999, assume that if radical title to "village land" is vested in Village Councils, and administration of such land was entrusted to Village Management Committees, security of individual and community rights in village land would be assured. No rules setting out the principles upon which these committees will manage village land have been formulated, nor are the community values to which administration must conform, prescribed. In Kenya and South Africa, the establishment of corporations in the form, respectively of "group representatives" and "community property associations," have not prevented the appropriation of community property assets by those outside the community. The same error has been repeated in Uganda where the 1998 Act also sees "community property associations" as a basis for managing the commons.

The only serious attempt to deal with the issue of the creation and security of comprehensive land rights, was the South Africa Land Rights Bill 1999. That Bill would have clarified a number of important issues surrounding common property in that country. It would have identified the category of land constituting community property, defined the incidents of tenure (defined as "commonhold") it was creating, prescribed the nature of tenure security to which rights holders were entitled, established clear rules relating to the exercise of secure tenure rights, and it would have set out in detail how and by who those tenure rights were to be managed. In short, what the Bill set out to create, was a complete land rights system for community property in the former "bantustans" of South Africa. Because the Bill has been shelved, we can only lament its stillbirth!

The explanation for these false starts appears to lie in the failure of draftsmen to fully reflect public demands in the process of legislative design. In Tanzania, for example, it is being widely asserted that legislative design took little or no account of the fundamental principles incorporated in the 1995 National Land Policy and the recommendations of the Commission of Inquiry into Land Matters, which preceded it. What is true is that the Land and Village Land Acts have not fully incorporated community values and principles in the content and structure of the new systems they have created. Greater innovation in design of legislation will therefore be crucial if popular demands for the reconstitution of the African commons are to be met.

### Conclusion

The message we want to convey is that the reconstitution of the African commons will require innovation, flexibility and contextualisation. There are no precedents out there on which to base legislative design. Fundamental concepts, principles and structures will have to be developed and operationalised to reflect the contextual realities on the ground. That is the only way in which the voices of Africa's rural majorities can find their way into national law and policy making.

Excerpted from the keynote address given at the First African Public Interest Law and Community-based Property Rights Workshop

---

## International Association for the Study of Common Property

### Current Officers

President: Susan Hanna

President Elect: Erling Berge

### Council

Arun Agrawal Antonio Diegues

Anil Gupta Owen Lynch

Ruth Meinzen-Dick James Murombedzi

CPR Digest Editor Doug Wilson

Information Officer Charlotte Hess

Secretary Treasurer Michelle Curtain

© 2000 IASCP

WWW.IASCP.ORG

# CPR FORUM COMMENTARY

## Community Management of Natural Resources as Common Property in Namibia

Andrew Corbett

CBNRM Association of Namibia/ Legal Assistance Centre

### Introduction

Namibia still suffers from the legacy of South African colonial rule and the imposition of apartheid policies. On independence in 1990, of the total land area, about 13% consisted of protected areas, 44% freehold farmland and a further 41% supported 70% of the population on communal land. Although there have been some attempts by government to resettle the landless, the land distribution pattern is still skewed with most of the freehold land being owned by 4500 white farmers. Colonialism also resulted in the centralisation of control over wildlife and other resources as well as massive appropriation of communal land for the establishment of national parks and reserves. Despite these controls, wildlife numbers fell greatly in most areas except where long running community-based conservation projects existed. The state found it difficult to regulate wildlife and forestry due to great distances from administrative centres and lack of governmental resources.

The erosion of the status of traditional leaders also contributed to the development of open access situations on significant areas of Namibia's communal land.

The Namibian Government has endorsed CBNRM. This approach aims to provide communal area residents with incentives to use their resources sustainably, and combines policy and legislative reform with implementation at the community level. The challenge has been to develop a flexible system that adheres to national policy to avoid ethnic compartmentalisation, while also using institutional structures that fit traditions of rural society.

Arguably, Namibia has gone further than most African countries in devolving authority over natural resources directly to local rural communities.

### The CBNRM approach in Namibia

The origins of the CBNRM approach in Namibia are to be found in indigenous examples, the experience of neighbouring countries, and common property resource management theory. The impetus came from efforts of Integrated Rural Development and Nature Conservation, which since 1982 has helped local communities establish a network of community game guards to combat

poaching and conserve wildlife while earning tourism revenue. Zimbabwe's CAMPFIRE programme, with its emphasis on the critical link between community income and wildlife conservation, had a significant influence on the development of Namibia's programme. An important lesson from CAMPFIRE was that management authority and rights to benefits need to be devolved to the lowest possible unit to have the maximum impact. Moreover, it would be better if communities retained 100% of the revenue from wildlife and not have to share it with the government.

This led to the development of CBNRM policy and legislation, which provide for rights over wildlife and tourism to be given to communal area residents who form a conservancy. In order to be registered as such, residents of communal land as self-selecting



*A Workshop Panel Responds to Questions  
Photo Courtesy Bonnie McCay*

groups of people within a defined area may establish registered and gazetted "conservancies" which would then have exclusive use of wildlife, conditional upon sustainable use, and the right to engage in commercial tourism on their land. A conservancy must have a recognised and undisputed boundary, a list of registered members, be legally constituted, have a management committee, and a plan for the equitable distribution of benefits.

This legislation has been in place since 1996 and to date ten conservancies have been registered and fifteen more are in the process of being officially recognised. The area of land covered by registered conservancies is 2.5 million hectares, with the potential for this to be increased to 7 million hectares or 9% of the land area of Namibia.

The development of policy and practice has been grounded in experience at the grassroots level, and was not the product of theorists and planners removed from practical implementation issues. The CBNRM approach was "sold" politically as not only

a conservation programme, but also rural development, democratisation and good government.

The legislation can be criticised on the basis that it has not gone far enough. There is still an element of paternalism in that even where communities have a registered conservancy, their rights over wildlife fall short of ownership and the state still plays a role in regulating off take. The requirement that communities define themselves, and agree on boundaries with neighbours often exacerbates existing conflicts over resources and causes delays in conservancy formation. The major weakness is the failure to give recognition to clear CBPRs over the land on which resources are situated. The national land policy, however, does permit legally constituted bodies to exercise joint ownership rights over communal land.

### **The current tenure challenges**

What has been positive about the conservancy approach is the establishment of relatively strong and autonomous wildlife management structures. This has proven that effective management of common property is possible provided that support structures are in place. This approach has provided the impetus for the full recognition of communal tenure over land itself.

In a short span of time, a new model has evolved as part of the national CBNRM programme. This model builds on traditional community management structures without supplanting them. It also provides the opportunity for government and NGOs to cooperate closely in realising conservation and development goals. Community democracy has been strengthened and alternative rural CBPR organisations have developed.

However, there have also been constraints. Tenure insecurity is a serious weakness of the programme. Particularly when elites capture key resources for their personal benefit. A large number of indigenous peoples have also been displaced from their land for the creation of national parks. Negotiations however are underway with the Haikom and the Topnaar tribes to give them long term concessions and certain exclusive rights. Support organisations promoting the protection of CBPRs remain vulnerable to government harassment. Nevertheless, the most significant threat to the national programme is the instability created by the Angolan conflict spilling over into Namibia.

This serves only to re-emphasize that ultimately the free enjoyment of CBPRs depends to a large extent on the socio-political context in which they are exercised. Only time will tell whether the Namibian state's commitment to its CBNRM policies extends beyond its short-term political goals.

Excerpted from the paper given at the First African Public Interest Law and Community-based Property Rights Workshop

## **Customary Law and Natural Resources Management in Malawi**

**Gracian Banda**

**International Union for the Conservation of Nature Regional Office for Southern Africa**

Malawi is undergoing massive socio-economic and political changes that have strained the country's legal system and its ability to respond to these changes. The country can ill-afford to ignore the need to reorient its policy and legal regimes to reflect the interests, aspirations and knowledge of local communities that live with natural resources so they can be involved in enforcement and implementation. Customary law, that body of law and practice with which indigenous local communities are intimately identified, offers a better chance of success. It is socially and culturally developed and easier and more cost-effective to enforce than modern state law.

Under customary law, tenure is inseparable from social relationships, and provides for rights associated with land use. The Nigerian chief who said land in Africa belongs to the living, the dead and the unborn, correctly summarised the social, spiritual and cultural context within which land is conceptualised in Africa.

Customary practices and norms as practised by various tribal groups were the only legal system until the advent of colonialism. The colonizers imposed their legal systems, and all natural resources were brought under their absolute control. In particular, the Nyasaland Protectorate (African Trust Land) Order in Council, 1950, divided land into three categories: public land, native trust land (later renamed customary land), and what later became private land (leasehold and freehold). Customary land was vested in the British Secretary of State. The Governor of the Protectorate had the power to control land held in trust for the common benefit, in accordance with customary law, and to grant leases out of customary land upon consultation with the traditional authority.

### **Resource Conflict, Democracy and the Quest for a New Paradigm of Governance**

Since colonial authorities introduced English property regimes in Malawi, customary tenure and resource management have been criticized by various sources, including the post-independence government. The late President Dr. Banda also said in Parliament in 1967, "new laws are necessary because the government

needs power to control and regulate land.” This speech became the rallying point for major land reforms that brought about three new pieces of land legislation in one sitting of Parliament. The land reforms that were initiated in the latter part of the 1960s have had profound negative impacts on communal land. The Land Act of 1965 gives power to the Minister to control, administer and acquire customary land for use or common benefit of the people of Malawi. The Minister has power to grant private leases of customary land for a period of 99 years, after which land reverts to the public domain. Such land is therefore permanently alienated from the community pool of resources.

Although Section 2 of the Land Act of 1965 defines customary land as land that is held, occupied or used under customary law applicable in the area, Section 26 puts customary land beyond the reach of customary law. Further, indigenous communities’ land rights are insecure as the Minister can remove them at any time. They are at best merely tenants at will.

The process of converting customary land into private leasehold estates has resulted in the loss of over 1 million hectares of customary land between 1973 and 1994. Indigenous communities were further pushed onto marginal lands or into virtual landlessness. What is more worrying however is that while the government has busied itself with privatising customary land it has very little to put in place measures for management the privatised land or the remaining customary land.

Further, while the post-independence government was able to control local communities through its police state, it is now increasingly difficult to do so. Soon after the introduction of democracy in the country in 1994, some forest reserves were cleared almost overnight. Encroachments onto estate land and parks also increased. The government has done little to involve communities in natural resource management, though there are a few initiatives currently underway. In accordance with the new Fisheries Act of 1997, beach village committees have been created in Lake Malawi and Lake Chilwa to act as communal fisheries management organisations. These committees have been given power to make their own rules to control fishing after the government realized that the command and control

measures hitherto employed were not working. The new Forestry Act, 1997 has given power to communities to make rules for forests, although the language seems to suggest the forestry Minister will have an upper hand. Customary rules of management are more effective and have worked in areas where there are taboos attached to cutting down trees.

The challenge is to find a workable paradigm that takes into account the bruising history of customary land tenure in Malawi. There is also a need to develop local governance systems in natural resource management alongside national policies and legislation. The Malawi Constitution has several provisions that could be used to challenge legislation that marginalises rural communities. In order to defend their rights, communities need legal expertise and assistance from NGOs and others.

### Conclusion

The colonial government subjugated local governance systems, including customary law. The post-independence government also perpetuated the laws of the colonizers. It busied itself with creating a middle class that was granted leases out of customary land at the expense of peasant families. The reduction in the pool of communal resources engen-

dered conflicts that have been exacerbated by the advent of democracy.

There is a pressing need in Malawi to allow indigenous communities to develop their own governance systems for resource management. A combination of national legislation and local practices could provide a sustainable management system.

Excerpted from the paper given at the First African Public Interest Law and Community-based Property Rights Workshop



*Artisanal Saw Mill in Malawi Photo Courtesy Doug Wilson*

# CPR FORUM COMMENTARY

## Law and Community-Based Property Rights in West Africa

**Hubert Ouedraogo**

**Professor, Faculty of Law and Political Science,  
University of Ouagadougou, Burkina Faso**

The issue of common property is critical to all development projects in West Africa. Many local communities are using opportunities created by the new democratisation process and are trying to regain the rights taken from them during the colonial period. Common property rights pose a real challenge for African public interest lawyers, as they have to prepare the best arguments in favour of the recognition and legalisation of the rights of local communities, and elaborate the appropriate legal techniques to secure such rights. Promising experiences have occurred in this field, mainly in the Sahelian part of West Africa.

National laws on land and natural resources in West Africa are based on the principle of state ownership of property. The Burkina Faso land law declares that all land within the national boundary is property of the state. The same provision can be found in the legislation of Mali, Mauritania and Chad. This state monopoly over land has been inherited from French colonial law, which was in force in the former AOF colonial territorial entity (French western Africa). Colonial French land law was inspired by an Australian land administration system, called the Torrens system. It was instituted to provide a system of incorporating traditional land into state domain, and then giving it under secure conditions to French companies, as part of the policy of "mise en valeur" (to maximize exploitative use of land and natural resources).

Three main theories have been used under colonial law as the basis for the expropriation of local communities' lands; namely the theory of territorial conquest; the theory of state succession; and the theory of "terra nullius." Most notable, is the theory of "terra nullius" which claimed that the lands belonged to nobody and were therefore available for state control. The colonial administration only considered cultivated lands as owned by the local communities.

Independent African states in the sixties became more severe vis-à-vis the local communities and reinforced the state monopoly, as the state was considered responsible for the guarantee of national unity and economic development.

During the colonial period and at the eve of independence, customary law was expected to disappear; however, an examination of local practices clearly reveals that social relations concerning land and natural resources are still governed by customary laws. Customary laws have persisted due to the non-effectiveness of national laws, and the passive as well as active resistance of local communities. Customary laws are not based on specific and detailed rules, but on a set of fundamental and flexible principles. When those principles are deeply rooted in society, these laws are able to resist any attempts to destroy them.

Traditional African notions about nature believe in balance and not domination, and are based on principles of respect and sacredness. For example, in rural areas in West Africa, space is divided into the humanised part (villages and fields) and non-humanised part (bush and forests), which is often considered as sacred and the domain of all kinds of divinities. These conceptions are deeply rooted in the conscience of local community members, and have a functional significance as they have facilitated the protection of natural resources for centuries.

The African State, sadly though, is not reflecting on the values and principles of local communities. There is a great divide between the conceptions of the state and those of local communities. For instance, local communities consider the right to trees as separate from the right to land; national laws however ignore these subtleties of customary law. African legislators often seek models from Europe and America but do not develop policies tailored to their own local conditions. What is important to be considered is that law is not only techniques; it consists of values, ideals and principles that are considered fundamental by a community or a society.

African legislators need to recognise the importance of customary laws and the creativity of local practices in developing effective laws. Niger has developed some useful legal principles. The rural code of Niger (1991) decided to recognise community-based property rights (CBPRs) as equal to civil property rights. Local land commissions have been created to register individual and collective traditional rights. Relationships between local communities have been developed by the elaboration of the principle of "priority access rights," which implies that use of the same resource by one community does not exclude the use of other communities. This is based on the philosophy of solidarity not exclusion, which

is contained in the code of civil property. Recognition of local forest management practices, especially with regard to sacred forests in Burkina Faso has increased the effectiveness of protection.

Laws must fulfil local communities' economic aspirations. Natural resource policy must achieve the objective of setting the right balance between immediate survival objectives (supported by local communities) and ecological and long-term considerations (supported by state and international institutions). When local populations have economic interests in the resources, they are more inclined to protect and sustainably use them.

The rural law of the Republic of Niger, and the pastoral law of the Republic of Mali have been cited as being adaptive and taking into account the needs and conceptions of local communities using participatory approaches. The participatory process consists of:

- Research into the local practices about land tenure, pastoral rights or sustainable management.
- Analysis of research results in regional forums.
- Preparation of a draft law based on the problems identified in the research, and the debate at the local level; and
- Discussion of the draft law in a national forum, with representatives of all rural stakeholders, state officials, NGOs and other institutions.

Although this participatory approach takes longer, it yields better results in favour of sustainable natural resource management and CBPRs.

The challenge for African lawyers in sensitive matters such as the environment and natural resource preservation, is to be able, not only to prepare technically good legal provisions, but to have the political will and commitment to draft laws in favour of sustainable, equitable and peaceful use of natural resources.

Excerpted from the paper given at the First African Public Interest Law and Community-based Property Rights Workshop

## CPR FORUM COMMENTARY

### **The Environmental Policy Framework and CBNRM in Mozambique**

**Isilda Nhantumbo**

**Eduardo Mondlane University, Maputo, Mozambique**

#### **Historical Background: Resource Ownership**

The colonial period in Mozambique was characterized by strong operational and collective rules. Resources were either owned privately or by the state. Resources such as cash crop plantations and forest concessions were under private ownership. The colonial state controlled protected areas and devolved authority to chieftaincies that allocated land using customary law.

After independence from the Portuguese, the period from 1975-1987 was one of socialist rule, under which strong constitutional top-down rules were instituted. The state nationalized all private land and resources, and abolished chieftaincies. It acquired all concessions over resources and established cooperatives. Efficiency declined and production for many years followed a downward trend, affecting the supply of goods and services. This period then gave way, in 1987, to a period of structural adjustment and open market policies, characterised by privatisation and private sector-led production. While cash crops and wildlife resources were privatised with user rights, control still remained with the state. Conflicts between communities, private entities and the government developed as advocacy for community rights increased.

Currently, resources in Mozambique are owned privately, as well as by the state and community. Customary laws and Community-Based Organizations (CBOs) concerned with natural resource management are legally recognized. Collective licenses and concessions for sustainable utilization and management of forests, wildlife and fisheries resources are issued to different stakeholders through certificates of user rights. The state however, is still the major owner of resources in Mozambique.

The current population of Mozambique is approximately sixteen million, of which 80% is rural and agriculture-dependent. Land expansion is taking place through slash and burn cultivation practices. The entire rural populace and around 70% of the urban populace utilize both timber and non-timber forest products.

By allowing for private user rights, conflicts have escalated in Mozambique, particularly due to the ensuing tensions in South Africa and Zimbabwe. Land is being

sold and leased to South Africans and Zimbabweans for fifty years, over strong objections from local people.

Another problem that results from state ownership is the lack of interest by some local communities in sustainably using the resources. Due to the high incidence of poverty, issues of time preference and discount rates would determine whether CBNRM is sustainable.

### Contemporary legal framework for CBPRs

The current legal framework that is in place is one driven by conservation and sustainable use of natural resources. The goal of the government is to try and make communities the law enforcers and fire controllers, and involve them in anti-poaching activities. The legal land framework provides for the delimitation of community land and



*The author (right) and friends on a Workshop field trip. Photo courtesy Bonnie McCay*

the creation of land councils. The legal framework for forestry and wildlife creates natural resource management committees, and makes provisions for exploitation of forest products, fire control and anti-poaching. It also institutionalises a community-based natural resource management strategy for achieving sustainable use and management of natural resources. The strategy aimed at achieving the social objective of the Forest and Wildlife policy, involves the devolution of control over resources to lower levels, and a method for ensuring that communities benefit from the resources and engage in sustainable resource use. Environmental policy and a law requiring environmental impact assessments compel the government to develop law enforcement mechanisms.

An important question that needs to be addressed is whether the state is merely using local communities as cheap labour to fulfil its functions. It is extremely important to analyse whose interests are being served. Communities need recognition of their rights, but at what ex-

pense? Cost-benefit analyses might be a useful tool for determining whether local communities are deriving any benefits from the current state policies on NRM.

Currently there are forty-one CBNRM initiatives led by government and non-governmental organizations. Most of these projects are funded by foreign donors and deal mainly with forests, as well as fisheries and wildlife. The projects are at various stages of evolution, and though some of them are trying to provide concessions and titles, none of them have been successful. Moreover, none of the projects involve the issuing of certificates for land user rights or concessions. This is because implementation is initiated on the basis of the forestry policy (1997), while enforcement instruments such as laws and regulations are still not in place. In addition, private interests prevail, and there is a lack of coordination between

policies especially those pertaining to renewable and non-renewable resources.

### Challenges and Opportunities

- **Power relations.** Power struggles between natural resource management committees and the community they represent, between the state and local communities, as well as within communities themselves serve to mitigate the efficacy of the process and need to be addressed. The legitimacy of the local structures is a key to the community cohesion that is a necessary condition for access to resources and benefit sharing.
- **Empowerment of the community.** Beyond simple recognition, local communities need authority in decision-making over their resources, in the identification of alternative investments, in the choice of potential partners, and a role in evaluating the capital (land, forests, wildlife, water, etc.), which constitutes the contribution of the local community to the joint venture. Training in management is also essential.
- **Definition of community.** Ambiguity and uncertainty over the definition of “community” still persist. Should the definition be based on a customary or administrative division? What if it is not necessarily a locality, village or district? And how should land, forestry and wildlife be treated?
- **Momentum of resource tenure reform.** The important element is to understand community members’ problems, and try and inform them about their rights before multinational corporations and other interests take over.

Excerpted from the paper given at the First African Public Interest Law and Community-based Property Rights Workshop

# CPR FORUM COMMENTARY

## Promoting Legal Recognition of Community-Based Property Rights: Rethinking Basic Concepts

Owen Lynch

Senior Attorney, Center for International  
Environmental Law

Threats to community-based property rights (CBPRs), particularly for local people in the majority world, i.e., developing countries, are serious, severe, and getting worse day by day. The primary problem arises out of the fact that many, if not most, nation-states in Africa and elsewhere in the majority world ignore CBPRs and instead claim ownership of vast areas of natural resources, including areas inhabited by indigenous and other local peoples.

The enduring denial of any meaningful recognition of indigenous CBPRs, and the very timid initiatives that still characterize most government efforts to promote community-based natural resource management (CBNRM) agreements between local communities and governments in Africa and elsewhere is a serious problem. It poses one of the most fundamental challenges to promoters of democracy and sound environmental governance. When a majority of the citizens in an African nation are denied any say in official decision making processes that directly impact on their lives and livelihoods, their government cannot fairly be characterized as substantively democratic.

### Colonial Legal Legacies

The extent of the sweeping claims of state ownership in Africa is truly staggering. In many countries, the nation-state claims ownership to well over half of the land base. These areas, however, are home to hundred of millions of human beings.

Many rural peoples throughout Africa are guardians and stewards of natural resources, including biodiversity reservoirs and carbons sinks, and possess important local knowledge for managing these resources sustainably. Of course local conditions and cultures vary and not all local people, including indigenous peoples, respect and protect their natural environments. But all of them are human beings and on that basis alone should have a fundamental right to participate in decisions that directly impact on their lives and livelihoods. What process principle could be more democratic? Unfortunately, international and national laws and practices largely ignore rural

peoples in the majority world and many still continue to be forcibly dispossessed from their ancestral homes.

### Rethinking Property Rights

An important strategy for using law to promote better and more just environmental governance involves rethinking prevailing theories of property rights, and that is a primary reason for this workshop. Most property rights theorists and students rely on a four-part typology: private (which is a misnomer because it really means individual), commons, state, and open access (which refers to a situation where no defined property rights exist). This typology has proven to be useful in distinguishing common property from open access, and has played an important part in challenging the impacts of Garret Hardin's influential article,



*Workshop Presentation in Progress  
Photo Courtesy Bonnie McCay*

which is about the “tragedy of open access” and not any “tragedy of the commons.”

The continued and largely uncritical reliance on this four-part typology is however hampering the development of effective legal and policy tools for helping local people gain recognition of their CBPRs. The prevailing typology simply doesn't work well in law and policy making or in project-design processes. It overlooks the spatially and temporally dynamic nature of CBPR systems. It also promotes the disaggregation of individual rights from the community-based systems in which they exist and are legitimated. The World Bank and most other financial lending institutions, as well as most nation states, promote individuation and disaggregation in the belief that individual property rights are superior to group-based rights as they can be bought and sold, i.e. marketed, much more easily.

Another problem with the prevailing four-part typology is that it implies that there is a distinct and separable commons within CBPR regimes. It is almost impossible to isolate “the commons” within a CBPR

system; there are usually many different, and often overlapping, types of commons within such a system.

We need to begin thinking of property rights using two conceptual and interrelated spectra: The first spectrum has public on one end and private on the other. Public means it's owned by the state and private means its not owned by the state. The degrees of private and public ownership, however, vary with some private rights being heavily encumbered by state conditions such as easements and zoning restrictions, and some public rights being largely unregulated. Private titles, therefore, are not necessarily the strongest type of property right. It depends on what's in the bundle. To know what a specific property right entails, whether it's a private title or a public lease, requires that you identify what's in its bundle.

The other spectrum has individual on one end and group on the other. The group end basically refers to CBPR regimes, most of which typically include individual rights as well as common properties. The fundamental characteristic of community-based property rights is that their primary legitimacy is drawn from the community in which they exist, and not from the nation state in which they are located. The concept of CBPRS, therefore, is more focussed on the authoritative basis for the property rights than on their specific characteristics.

Cross-referencing the two spectra allows for the identification of four types of possible property rights. 1. Private-individual. 2. Public-individual. 3. Public-group. 4. Private-group. The last category is the best (although the most rare and difficult to acquire) option for protecting community-based property rights CBPRs, especially for original long-term occupants of a specific area. The goal is to acquire legal recognition of private-group rights, a concept that should encompass individual and common property rights within the perimeter of a community-based property rights regime.

Private rights are less easily cancelled, and less easily controlled by the government. They also provide more leverage when negotiating with governments and wily outsiders, a benefit many poor rural communities surely could use. Private rights, however, whether individual or group-based are not absolute. No property rights are or presumably ever were completely free from some degree of governmental regulation in the public interest.

Excerpted from the paper given at the First African Public Interest Law and Community-based Property Rights Workshop

## RECENT PUBLICATIONS

Charlotte Hess

### Books

- Ahmed**, Mahfuzuddin, and Philip Hirsch, eds. 2000. *Common Property in the Mekong: Issues of Sustainability and Subsistence*. Penang, Malaysia: International Center for Living Aquatic Resources Management (ICLARM). (ICLARM Contribution, no. 1564).
- Alcorn**, Janis B., and Antoinette G. Royo, eds. 2000. *Indigenous Social Movements and Ecological Resilience: Lessons from the Dayak of Indonesia*. Washington, D.C.: World Wildlife Fund. (Peoples, Forests and Reefs (PeFoR) Program, Discussion Paper Series).
- Barbosa**, Luiz C. 2000. *The Brazilian Amazon Rainforest : Global Ecopolitics, Development, and Democracy*. Lanham, MD: University Press of America.
- Becker**, Alfred, and Harald Bugmann, eds. 2001. *Global Change and Mountain Regions: The Mountain Research Initiative*. Stockholm: International Geosphere-Biosphere Programme.
- Buechler**, Stephanie. 2000. *Género y Manejo del Agua y Tierra en Comunidades Rurales de México*. Mexico City: Instituto Internacional del Manejo del Agua.
- Chwe**, Michael Suk-Young. 2001. *Rational Ritual: Culture, Coordination, and Common Knowledge*. Princeton, NJ: Princeton University Press.
- Costanza**, Robert, Bobbi S. Low, Elinor Ostrom, and James Wilson, eds. 2001. *Institutions, Ecosystems, and Sustainability*. Washington, DC: Lewis. (Ecological Economics Series).
- Dorf**, Richard C. 2001. *Technology, Humans, and Society: Toward a Sustainable World*. San Diego: Academic.
- Engel**, Christoph, and Kenneth H. Keller, eds. 2000. *Governance of Global Networks in the Light of Differing Local Values*. Baden Baden, Germany: Nomos Verlagsgesellschaft. (Law and Economics of International Telecommunications, vol. 43).
- Fischer**, Frank. 2001. *Citizens, Experts, and the Environment: The Politics of Local Knowledge*. Durham, NC: Duke University Press.
- Geertz**, Clifford. 2000. *Available Light: Anthropological Reflections on Philosophical Topics*. Princeton, NJ: Princeton University Press.
- Gissurason**, Hannes H. 2000. *Overfishing: The Icelandic Solution*. London: Institute of Economic Affairs.

- Jabbar, M. A., J. Pender, and S. K Ehui, eds.** 2000. *Policies for Sustainable Land Management in the Highlands of Ethiopia: Summary of Papers and Proceedings of a Seminar held at the International Livestock Research Institute, Addis Ababa, Ethiopia, 22-23 May 2000.* Nairobi: International Livestock Research Institute.
- Khare A. et al.** 2000. *Joint Forest Management: Policy, Practice and Prospects.* London: International Institute for Environment and Development.
- Losada, Antón.** 2000. *La Política del Mar: Políticas Públicas y Autonomía, El Caso de la Pesca Gallega.* Madrid, Spain: Ediciones Istmo. (Coleccion Fundamentos, n. 173).
- Muhtaman, Dwi R., Chairil Anwar Siregar, and Peter Hopmans.** 2000. *Criteria and Indicators for Sustainable Plantation Forestry in Indonesia.* Bogor, Indonesia: Center for International Forestry Research.
- Neumann, Roderick P., and Eric Hirsch.** 2000. *Commercialisation of Non-Timber Forest Products: Review and Analysis of Research.* Bogor, India: Center for International Forestry Research.
- Ortiz von Halle, B., and S. Mazzuchelli, eds.** 2000. *Community Wildlife Management in South America: A Regional Review.* London: International Institute for Environment and Development.
- Ross, Michael L.** 2001. *Timber Booms and Institutional Breakdown in Southeast Asia.* New York: Cambridge University Press. (Political Economy of Institutions and Decisions).
- Rumsey, Alan, and James Weiner, eds.** 2001. *Emplaced Myth: Space, Narrative, and Knowledge in Aboriginal Australia and Papua New Guinea.* Honolulu, HI: University of Hawaii Press.
- Sabel, Charles, Archon Fung, and Bradley Karkkainen, eds.** 2000. *Beyond Backyard Environmentalism.* Boston: Beacon.
- Sankar, S., P. C. Anil, and M. Amruth.** 2000. *Criteria and Indicators for Sustainable Plantation Forestry in India.* Bogor, Indonesia: Center for International Forestry Research (CIFOR).
- Shaw, Ramine V. S., ed.** 2000. *IHPD/START International Human Dimensions Workshop: 'Human Dimensions in the Coastal Zones'.* Bonn, Germany: International Human Dimensions Programme on Global Environmental Change. (IHDP Proceedings, no. 3).
- Shotton, Ross, ed.** 2000. *Use of Property Rights in Fisheries Management: Proceedings of the FishRights99 Conference, Fremantle, Western Australia, 11-19 November 1999, Mini Course Lectures and Core Conference Presentations.* Rome: FAO. (FAO Fisheries Technical Paper, no. 404/1).
- Somerville, Peter.** 2000. *Social Relations and Social Exclusion: Rethinking Political Economy.* New York: Routledge.
- Tacconi, Luca.** 2000. *Biodiversity and Ecological Economics: Participatory Approaches to Resource Management.* London: Earthscan.
- Toulmin C., and Quan J., eds.** 2000. *Evolving Land Rights, Policy and Tenure in Africa.* London: International Institute for Environment and Development.
- Victor, David G.** 2001. *The Collapse of the Kyoto Protocol and the Struggle to Slow Global Warming.* Princeton, NJ: Princeton University Press.

### Articles and Papers

- Adams, A.** 2000. "River Senegal: Flood Management and the Future of the Valley." International Institute for Environment and Development, London. (Issue Paper, no 93).
- Agbosu, Lennox Kwame.** 2000. "Land Law in Ghana: Contradiction Between Anglo-American and Customary Conceptions of Tenure and Practices." Land Tenure Center, University of Wisconsin, Madison. (Working Paper, No. 33).
- Alvard, Michael S.** 2000. "The Potential for Sustainable Harvests by Traditional Wana Hunters in Morwali Nature Reserve, Central Sulawesi, Indonesia." *Human Organization* 59:428-440.
- Anderies, John M.** 2000. "On Modeling Human Behavior and Institutions in Simple Ecological Economic Systems." *Ecological Economics* 35:393-412.
- Andersson, Jan Otto, and Mattias Lindroth.** 2001. "Ecologically Unsustainable Trade." *Ecological Economics* 37:113-122.
- Arce, M., and G. Daniel.** 2000. "The Evolution of Heterogeneity in Biodiversity and Environmental Regimes." *Journal of Conflict Resolution* 44:753-772.
- Bainbridge, V. et al.** 2000. "Transforming Bureaucracies: Institutionalising Participatory Approaches and Processes for Natural Resource Management: An Annotated Bibliography." International Institute for Environment and Development, London.
- Baird, Ian.** 2000. "Integrating Community-Based Fisheries Co-Management and Protected Areas Management in Laos PDR: Opportunities for Advancement and Obstacles to Implementation." International Institute for Environment and Development, London.
- Baird, Ian.** 2000. "Towards Sustainable Co-Management of Mekong River Inland Aquatic Resources, Including Fisheries, in Southern Lao PDR." International Institute for Environment and Development, London.

- Baltissen**, Gerard, Electine Wabwile, Margo Kooijman, and Toon Defoer. 2000. "Facilitating Learning Processes in Agricultural Extension: Lessons from Western Kenya." International Institute for Environment and Development-Drylands Programme, Edinburgh, UK.
- Barnett**, Jonathan M. 2000. "Cultivating the Genetic Commons: Imperfect Patent Protection and the Network Model of Innovation." *The San Diego Law Review* 37:987-.
- Bass**, S. 2000. "Participation in the Caribbean. A Review of Grenada's Forest Policy Process." International Institute for Environment and Development, London.
- Bastidas**, Elena P. 2000. "Los Problemas Vinculado con el Género y la Participación de las Mujeres en la Agricultura de Riego: El Caso de Dos Canales Privados de Riego en Carchi, Ecuador." Instituto Internacional del Manejo del Agua, Colombo, Sri Lanka.(Informe de Investigación 31).
- Baumgärtner**, Stefan et al. 2001. "The Concept of Joint Production and Ecological Economics." *Ecological Economics* 36:365-372.
- Baur**, Henning, and Chafik Kradi. 2001. "Integrating Participatory Research Methods in a Public Agricultural Research Organization: A Partially Successful Experience in Morocco." The Agricultural Research and Extension Network, London, UK. (Network Paper No. 109).
- Berkes**, Fikret. 2001. "Religious Traditions and Biodiversity." In *Encyclopedia of Biodiversity*, Vol. 5. S. A. Levin, ed. San Diego: Academic.
- Berkes**, Fikret, Johan Colding, and Carl Folke. 2000. "Rediscovery of Traditional Ecological Knowledge as Adaptive Management." *Ecological Applications* 10:1251-1262.
- Birner**, Regina, and Hasantha Gunaweera. 2001. "Between Market Failure, Policy Failure and 'Community Failure': Property Rights, Crop-Livestock Conflicts and the Adoption of Sustainable Land Use Practices in the Dry Zone of Sri Lanka." International Food Policy Research Institute, Washington, DC.(CAPRI Working Paper, No. 13).
- Bishop**, R. Doak, and Mont P. Hoyt. 2000. "International Dispute Resolution: Drafting Mediation, Choice of Forum and Arbitration Clauses." *The Public Land and Resources Law Digest* 37:353-.
- Boyd**, Charlotte, and Tom Slaymaker. 2000. "Re-Examining the 'More People Less Erosion' Hypothesis: Special Case or Wider Trend." Overseas Development Institute, London. (Natural Resource Perspectives, no. 63).
- Bruce**, John W. 2000. "Conceptos Sobre Tenencia de la Tierra." Land Tenure Center, Madison, WI. (Tenure Brief, no. 1-S).
- Bulte**, Erwin H., and G. Cornelis van Kooten. 2001. "Harvesting and Conserving a Species When Numbers are Low: Population Viability and Gambler's Ruin in Bioeconomic Models." *Ecological Economics* 37:87-100.
- Buschena**, David E., Terry L. Anderson, and Jerry L. Leonard. 2001. "Valuing Non-Marketed Goods: The Case of Elk Permit Lotteries." *Journal of Environmental Economics and Management* 41:33-43.
- Carpenter**, Jeffrey P. 2000. "Negotiation in the Commons: Incorporating Field and Experimental Evidence into a Theory of Local Collective Action." *Journal of Institutional and Theoretical Economics* 156:661-683.
- Castellani**, Luca G. 2000. "Recent Developments in Land Tenure Law in Eritrea, Horn of Africa." Land Tenure Center, University of Wisconsin, Madison. (Working Paper, No. 37).
- Cavendish**, W. 2000. "Empirical Regularities in the Poverty-Environment Relationship of Rural Households: Evidence from Zimbabwe." *World Development* 28:1979-2004.
- Chuenpagdee**, Ratana, Jack L. Knetsch, and Thomas C. Brown. 2001. "Environmental Damage Schedules: Community Judgements of Importance and Assessments of Losses." *Land Economics* 77:1-11.
- Clark**, Charles. 2000. "Land Tenure Delegation and Social Mobility in Tropical Peten, Guatemala." *Human Organization* 59:419-427.
- Cohen**, Michael D., Rick L. Riolo, and Robert Axelrod. 2001. "The Role of Social Structure in the Maintenance of Cooperative Regimes." *Rationality and Society* 13:5-32.
- Crow**, B., and N. Singh. 2000. "Impediments and Innovations in International Rivers: The Waters of South Asia." *World Development* 28:1907-1926.
- Dagan**, Hanoah, and Michael A. Heller. 2001. "The Liberal Commons." *The Yale Law Journal* 110:549-623.
- Dahlberg**, A. C. 2000. "Landscape(s) in Transition: An Environmental History of a Village in North-East Botswana." *Journal of Southern African Studies* 26:759-782.
- Dasgupta**, Susmita, Benoit Laplante, Nlandu Mamingi, and Hua Wang. 2001. "Inspections, Pollution Prices, and Environmental Performance: Evidence from China." *Ecological Economics* 36:487-498.
- Davis**, Diana K. 2000. "Environmentalism as Social Control? An Exploration of the Transformation of Pastoral Nomadic Societies in French Colonial North Africa." *The Arab World Geographer* 3:182-.

Continued on Page 16

# ANNOUNCEMENTS

## Sub-themes

### 1. Globalisation, Governance and the Commons.

Structure, organisation and relationships would be foci for this sub-theme. The nature of governance, the centre-periphery relations, the shifting role of the nation state and the coherence of jurisdictional scale with ecological and functional scale should be examined among other issues.

### 2. Globalisation, Culture and the Commons.

Globalisation provides a rich palette on which to examine the relationship between culture and commons management and use. What role does a deep understanding of culture and globalisation play in common property management and use? Concepts of stewardship, inter-generation equity and sustainability, cultural homogenisation will be examined.

### 3. "Protected Areas" in Constituting the Commons.

The "Protected Area" (PA) approach has been a critical "mainstream" strategy for conservation that is now held out as a paradigm for the developing world. PA advocates have begun to reach out to more people-centred approaches but this initiative has had little impact from social scientists. Papers in this sub-theme are expected to link up local-level issues with globalisation and explore the linkages of Pas and development programs in comparison to people. There is need to rethink protected areas by going beyond wildlife resources.

### 4. Land/Water and Resource Tenure and the Commons in an Era of Globalisation.

Land/water tenure has long been an important issue for common property scholarship because common property regimes are always imbedded within wider sets of property relations. What forms do land/water reform and resource tenure take under globalisation and what impact does this have on CPRs? In what ways do regimes of access and entitlement define the character of arrangements for the use of CPRs. The promotion of equality in access to resources, decentralisation/devolution of management and increasing stakeholder involvement needs examination. What is the effect of such measures in facilitating the improvement of livelihoods of rural poor and to what extent are equity issues addressed?

### 5. New Analytic Tools for Common Property Resource Management.

The past two decades have witnessed technological improvements and the increased use of GIS, Remote Sensing, internet and satellite imaging designed to support the capture, management, manipulation, and analysis of spatially referenced data for solving resource management problems, among others. What role does technology play and what factors inhibit the use of these tools for CPR management and use? Issues of cost and access to technology, data sharing, standardisation for different users and ethical considerations are key.

### 6. Indigenous Knowledge Systems, Integrity of Commons and Emerging Regimes of Intellectual Property Rights in a Globalising World.

The meaning of indigenous remains contested, but however it has implications on issues to do with time, place-specific and personal experiences of particular people within given cultural settings. Case material should highlight social differentiations in common pool resource management, the role of indigenous knowledge systems and their contribution to the future integrity of the commons (e.g. the Aborigines as a distinct ethnic group).

Send Letters and Announcements to Doug Wilson, Editor, CPR Digest. Institute for Fisheries Management, North Sea Center, PO Box 104, DK-9850, Hirtshals, Denmark. dw@ifm.dk Tel: 45 98 94 28 55 fax: 45 98 94 42 68

For membership, dues, back issues, and missing copies Michelle Curtain, P.O. Box 2355 Gary, IN 46409 USA Tel: 01-219-980-1433 Fax: 01-219-980-2801 iascp@indiana.edu

For questions about IASCP papers and research, contact Charlotte Hess, Information Officer, IASCP, 513 N. Park, Bloomington, IN 47408 USA iascp@indiana.edu Tel: 01-812-855-9636 Fax:: 01-812-855-3150

WWW.IASCP.ORG

## IASCP Conference Announcement and Call for Papers

The 9th Biennial Conference of the IASCP will be held 17- 21 June 2002 in Victoria Falls, Zimbabwe. Practitioners, academics, scholars and anyone interested in the study of common property issues and globalisation are invited to participate in the conference. IASCP encourages interested people to submit panel, individual paper and poster abstracts not exceeding 500 words by no later than October 1st 2001 to the Secretariat at the following e-mail address; iascp@cass.org.zw. Final papers should be submitted by April 1st 2002 in Microsoft word or WordPerfect as an e-mail attachment.

### Conference Theme:

#### The Commons in an Age of Globalisation

Globalisation is a pervasive characteristic of the new millennium and highly topical in terms of the attention now being given it in the social and ecological sciences. It is seen as the latest stage of a process where technological, economic, ecological, cultural and military trends, traditionally observable on a geographically limited scale and scope, are extended to the entire globe, leading to the emergence of new players with new and different (power) relationships among them. For the 'developing world', the asymmetrical power dimensions of these relationships are of particular relevance, not only in terms of the cultural and conceptual hegemony associated with globalisation.

The conference theme should be addressed from a broad perspective, not restricted to natural resources management, but to include issues of governance, economic systems and hidden values, tourism and global ideology. The central concepts of cultural diversity, marginalisation, and globalisation deserve attention in this global debate. There are issues of diversity and uniformity, scale issues and nested hierarchies that globalisation as a concept implies which ought to be addressed. Under globalisation, whose interest does the state serve and what are the related implications on traditional resource and intellectual property rights? A major challenge is the use of practical cases that offer practical solutions to the global debate on globalisation and the commons.

How does the social organisation of knowledge systems, indigenous knowledge systems and intellectual property rights impact on the sustainable use and management of the commons? International conventions, bio-piracy issues, the role of diverse knowledge systems and prospects for sustainable natural resource management ought to be discussed.

**7. Trans-boundary resource management and the commons**

Co-operation across boundaries that enhance the management of natural resources for the benefit of all stakeholders (TBNRM) has of late come into the limelight because of increased competition over natural resources by users of various levels; community, national, regional and international. What form should policy making, legislation, laws and governance between national boundaries under globalisation take for effective co-management of CPRs? The TBNRM perspective calls for the creation of common policies, legislation, laws and governance that are in harmony.

Detailed information on the theme and sub-themes can be accessed on the IASCP website; <http://www.indiana.edu/~iascp/2002.html>, while hard copies of the same can be requested from:

**The Secretariat IASCP/ CASS, 5 Aberdeen Road, P.O Box A1333 Avondale, Harare, Zimbabwe Telephone: 263-4-303 080/15 Fax: 263-4-307 720 E-mail: [iascp@cass.org.zw](mailto:iascp@cass.org.zw)**

**Commons Listserve**

The IASCP maintains a simple list serve email facility for passing on announcements. This is a way to send a message to many people at one time through a single email address that the people have signed up for. Users can subscribe (or unsubscribe) by sending a message to [mailserv@aesop.rutgers.edu](mailto:mailserv@aesop.rutgers.edu). In the body of the message they should type: *subscribe commons*. Those wishing to send announcements to the subscribers should send the message to [commons@aesop.rutgers.edu](mailto:commons@aesop.rutgers.edu).

**Site Proposals for the 10th Biennial Conference**

IASCP is now accepting preliminary proposals for our 10th biennial conference scheduled for 2004. Those interested should submit a two-page statement identifying your interests in hosting an IASCP conference. The most useful statement will include the following information: 1. the name of the sponsoring organization; 2. a list of potential co-sponsors; 3. proposed themes and sub-themes; 4. identification of appropriate venues; and 5. budgetary information outlining projected costs. Proposals must be received by the Secretariat no later than September 15, 2001. You may send your proposals via postal mail or e-mail to Michelle Curtain at IASCP, PO Box 2355 Gary, IN 46409 USA [iascp@indiana.edu](mailto:iascp@indiana.edu)

**The Digital Library of the Commons**

You are invited to submit CPR-related materials for publication on the Digital Library of the Commons, the exciting, new search engine and gateway to CPR literature. More info at <http://dlc.dlib.indiana.edu>.

**Inaugural IASCP Pacific Regional Meeting, Brisbane, Australia, September 2-4, 2001**

Theme: Tradition & Globalization: Critical Issues for Accommodation of CPRs in the Pacific Region.

Hosted by the Australian Property Institute, John Sheehan, Pacific Regional Coordinator

Sessions include: regional perspectives on CPRs focused on the CPRs under threat; regional natural resources such as forests, national parks, fisheries, water, carbon sequestration, and biota; CPRs under the control of ethnic and indigenous communities; and the future of CPRs in the Pacific Region.

Contact: Australian Property Institute, Queensland Division, fax: 61 7 3838 0438, email [qld@propertyinstitute.com.au](mailto:qld@propertyinstitute.com.au)

**JULY 1, 2001- JUNE 30, 2002 IASCP MEMBERSHIP CARD**

Renew your membership now and you will not miss any of your membership benefits; including: subscriptions to The CPR Digest; discount registration at our nearly annual meetings; conference abstracts, and the opportunity to contribute to the growth of the IASCP. Contact the IASCP office for additional information or visit our web site.

**MEMBERSHIP INFORMATION:** Renewal  New  (Please check one)

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle \_\_\_\_\_

Address:

City \_\_\_\_\_ State/Province: \_\_\_\_\_ Postal Code/Zip: \_\_\_\_\_ Country: \_\_\_\_\_

Email Address:

**INDIVIDUAL MEMBERSHIP\*** **CHECK MEMBERSHIP YEAR(s):**  
\$50,000 or more.....US \$60.00 \_\_\_\_\_ July 1, 2001- June 30, 2002  
\$20,000 - 49,999.....US \$40.00 \_\_\_\_\_ July 1, 2002 - June 30, 2003  
\$19,000 and less.....US\$10.00 \_\_\_\_\_ July 1, 2003 - June 30, 2004

Total dues payment @US \$60.00.....\$ \_\_\_\_\_

Total dues payment @ US \$ 40.00.....\$ \_\_\_\_\_

Total dues payment @ US \$ 10.00.....\$ \_\_\_\_\_

\*Institutional membership fees are a suggested flat rate of US \$120.00.

**PAYMENT INFORMATION:**

You can return this card to IASCP with:

A check payable to IASCP

MasterCard  Visa  Discover | Card Number \_\_\_\_\_

For either individuals or institutions, if your financial situation prevents you from making a full payment at this time please indicate that and we will contact you.

Signature \_\_\_\_\_ | Exp. Date: \_\_\_\_\_ OR Email, phone or fax the information to:

**THE INTERNATIONAL ASSOCIATION FOR THE STUDY OF COMMON PROPERTY**

P.O. Box 2355 Gary IN 46409 USA Phone: 219-980-1433 Fax: 219-980-2801 e-mail: [iascp@indiana.edu](mailto:iascp@indiana.edu) <http://www.iascp.org>

- Duraiappah, A. K. et al.** 2000. "Land Tenure, Land Use, Environment Degradation and Conflict Resolution: A PASIR Analysis for the Narok District, Kenya." International Institute for Environment and Development, London.(CREED Working Paper, no. 33).
- Fernandez, Pepito R., Yoshiaki Matsuda, and Rodelio F. Subade.** 2000. "Coastal Area Governance System in the Philippines." *Journal of Environment and Development* 9:341-369.
- Ford, Neil.** 2000. "Communicating Climate Change from the Perspective of Local People: A Case Study from Arctic Canada." *Journal of Development Communication* 11:92-108.
- Gemo, Helder, and William M. Rivera.** 2001. "Mozambique's Move Towards a Pluralistic National System of Rural Extension." The Agricultural Research and Extension Network, London, UK.(Network Paper No. 110).
- Goodale, Mark R. G., and Per Kåre Sky.** 2000. "A Comparative Study of Land Tenure, Property Boundaries, and Dispute Resolution: Examples from Bolivia and Norway." Land Tenure Center, University of Wisconsin, Madison. (Working Paper, No. 34).
- Greenberg, Michael.** 2000. "Grassroots Leadership, Personality, and Urban Neighborhood." *Human Ecology Review* 7:21-29.
- Gutierrez, I., N. Ortiz, and A. Imbach.** 2000. "Community Wildlife Management in Central America: A Regional Review." International Institute for Environment and Development, London.
- Karsenty A.** 2000. "Economic Instruments for Tropical Forests: The Congo Basin Case." **International Institute for Environment and Development, London.**
- Kater, Loes, Ibrahim Dembélé, and Idrissa Dicko.** 2000. "The Dynamics of Irrigated Rice Farming in Mali." International Institute for Environment and Development-Drylands Programme, Edinburgh.
- Kaya, Z., and D.J. Raynal.** 2001. "Biodiversity and Conservation of Turkish Forests." *Biological Conservation* 97:131-141.
- Keister, Lisa A., and Victor G. Nee.** 2001. "The Rational Peasant in China: Flexible Adaptation, Risk Diversification, and Opportunity." *Rationality and Society* 13:33-70.
- Kepe, T., B. Cousins, and S. Turner.** 2000. "Resource Tenure and Power Relations in Community Wildlife Contexts: The Case of the Mkambati Area on the Wild Coast of South Africa." International Institute for Environment and Development, London.
- Kerr, John, Ganesh Pangare, Vasudha Pangare, and P. J. George.** 2000. "An Evaluation of Dryland Watershed Development Projects in India." International Food Policy Research Institute, Washington, DC. (EPTD Discussion Paper, No. 68).
- Kite, Geoff, Peter Droogers, Hammond Murray-Rust, and Koos de Voogt.** 2001. "Modeling Scenarios for Water Allocation in the Gediz Basin, Turkey." International Water Management Institute, Colombo, Sri Lanka.(Research Report, no. 50).
- Kline, Ronald M.** 2001. "Whose Blood is it Anyway?" *Scientific American* 284:42-49.
- Kloeck-Jenson, Scott.** 2000. "Locating the Community: Administration of Natural Resources in Mozambique." Land Tenure Center, University of Wisconsin, Madison.(Working Paper, No. 32).
- Korobkin, Russell B., and Thomas S. Ulen.** 2000. "Law and Behavioral Science: Removing the Rationality Assumption from Law and Economics." *California Law Review* 88:1053-1066.
- Korsching, Peter F., Eric O. Hoiberg, and Steven C. Padgitt.** 2001. "Soil Erosion as a Community Issue: Public Perceptions of Off- Site Impacts." *Society and Natural Resources* 14:67-76.
- Kothari, A., N. Pathak, and F. Vania.** 2000. "Where Communities Care: Community Based Wildlife and Ecosystem Management in South Asia." International Institute for Environment and Development, London.
- Libecap, Gary D., and James L. Smith.** 2001. "Regulatory Remedies to the Common Pool: The Limits to Oil Field Unitization." *The Energy Journal* 22:1-26.
- Mainwaring, Lynn.** 2001. "Biodiversity, Biocomplexity, and the Economics of Genetic Dissimilarity." *Land Economics* 77:79-93.
- Pecorino, Paul.** 2001. "Market Structure, Tariff Lobbying and the Free-Rider Problem." *Public Choice* 106:203-220.
- Perrings, C., and D. I. Stern.** 2000. "Modelling Loss of Resilience in Agroecosystems: Rangelands in Botswana." *Environmental and Resource Economics* 16:185-210.
- Perry, C. J.** 2001. "Charging for Irrigation Water: The Issues and Options, with a Case Study from Iran." International Water Management Institute, Colombo, Sri Lanka.(Research Report, no. 52).
- Peterson, Garry.** 2000. "Political Ecology and Ecological Resilience: An Integration of Human and Ecological Dynamics." *Ecological Economics* 35:323-336.
- Place, Frank, and Keiji Otsuka.** 2001. "Population, Tenure, and Natural Resource Management: The Case of Customary Land Area in Malawi." *Journal of Environmental Economics and Management* 41:13-32.

- Plantinga**, Andrew J., and Douglas J. Miller. 2001. "Agricultural Land Values and the Value of Rights to Future Land Development." *Land Economics* 77:56-67.
- Ramaru**, J., Z. Mamabolo, and J. Lekgoro. 2000. "Improving Soil Fertility Management in South Africa: Learning Through Participatory Extension Approaches." International Institute for Environment and Development-Drylands Programme, Edinburgh.
- Richard**, Camille. 2000. "Rangeland Policies in the Eastern Tibetan Plateau." International Centre for Integrated Mountain Development, Kathmandu, Nepal. (Issues in Mountain Development, no. 2000/4).
- Rosser**, J. Barkley. 2001. "Complex Ecologic-Economic Dynamics and Environmental Policy." *Ecological Economics* 37:23-37.
- Sadeque**, S. Z. 2000. "Poverty Assessment, Poverty Reduction, and Sustainable Livelihoods: How Poverty Mapping, Institutional Analysis, and Participatory Governance Can Make a Difference." International Center for Integrated Mountain Development, Kathmandu, Nepal. (Issues in Mountain Development, no. 2000/5).
- Scheffran**, J. 2000. "The Dynamic Interaction Between Economy And Ecology, Cooperation, Stability and Sustainability for a Dynamic-Game Model of Resource Conflicts." *Mathematics and Computers in Simulation* 53:371-380.
- Seidl**, Andrew F., Joao Dos Santo Vila de Silva, and Andre Steffens Moraes. 2001. "Cattle Ranching and Deforestation in the Brazillian Pantanal." *Ecological Economics* 36:413-425.
- Stamm**, V. 2000. "Rural Land Plan: An Innovative Approach from Cote d'Ivoire." International Institute for Environment and Development, London. (Issue Paper, no 91).
- Steenkamp**, C., and J. Uhr. 2000. "The Makuleke Land Claim: Power Relations and Community-Based Natural Resource Management." International Institute for Environment and Development, London.
- Steinmetz**, R. 2000. "Ecological Surveys, Monitoring and the Involvement of Local People in Protected Areas of Laos." International Institute for Environment and Development, London.
- Tachibana**, Towa, Trung M. Nguyen, and Keijiro Otsuka. 2001. "Agricultural Intensification versus Extensification: A Case Study of Deforestation in the Northern-Hill Region of Vietnam." *Journal of Environmental Economics and Management* 41:44-69.
- Tainter**, Joseph A. 2000. "Problem Solving: Complexity, History, Sustainability." *Population and Environment* 22:3-41.
- Tessema**, Worku. 2000. "Stakeholder Participation in Policy Processes in Ethiopia." International Institute for Environment and Development- Drylands Programme, Edinburgh.
- Twyman**, C. 2000. "Participatory Conservation: Community-Based Natural Resource Management in Botswana." *Geographical Journal* 166:323-335.
- Unruh**, Jon D. 2001. "Land Dispute Resolution in Mozambique: Institutions and Evidence of Agroforestry Technology Adoption." International Food Policy Research Institute (IFPRI). Washington, DC. (CAPRI Working Paper, no. 12).
- Walls**, Margaret, and Karen Palmer. 2001. "Upstream Pollution, Downstream Waste Disposal, and the Design of Comprehensive Environmental Policies." *Journal of Environmental Economics and Management* 41:94-108.
- Wang**, X. 2001. "Integrating Water-Quality Management and Land-Use Planning in a Watershed Context." *Journal of Environmental Management* 61:25-36.
- Weisbuch**, Gérard. 2000. "Environment and Institutions: A Complex Dynamical Systems Approach." *Ecological Economics* 35:381-392.
- Whitten**, Stuart M., and Jeff W. Bennett. 2001. "Non-Market Values of Wetlands: A Choice Modelling Study of Wetlands in the Upper South East of South Australia and the Murrumbidgee River Floodplain in New South Wales." School of Economics and Management, University of New South Wales, Canberra, Australia. (Private and Social Values of Wetlands, Research Report No. 8)
- Wily**, Liz Alden. 2000. "The Democratization of Forest Management in Eastern and Southern Africa." *International Forestry Review* 2:287-294.
- Wily**, Liz Alden. 2000. "Forest Law in Eastern and Southern Africa: Moving Towards a Community-Based Forest Future?" *Unasylva* 203:19-26.