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Chapter 13

Decentralization, Tenure and Sustainable Use

Simon Metcalfe

LIVESTOCK VERSUS WILDLIFE

The prospects for the conservation of Africa's wildlife depend on the establishment of an efficient, equitable and sustainable system of community-based wildlife property rights. Such a system does not exist at present. The current distribution of ownership rights typically leads local people to favour livestock over wildlife.

Much of Africa (and two-thirds of southern Africa) is made up of dry savanna ecosystems. It is suitable as extensive rangeland for use by domestic livestock or wildlife. At present, most rural people prefer livestock management because domestic animals can be easily owned, used, marketed and are integral to the household production system. The state regards property rights over livestock as sacrosanct. Potentially, wildlife has economic and ecological advantages over livestock, but in practice, it is not regarded as a valuable form of land-use because communities lack secure tenure rights over wildlife. Across the continent, local people have little formal standing in relation to rangeland or wildlife. In consequence, state, community and free-riding individuals (whether subsistence hunters or commercial poachers) typically contest the ownership of wildlife. In these circumstances local people will generally prefer livestock production to keeping land under wildlife. This creates a long-term threat to wildlife habitat, as there will be an incentive to convert that habitat to livestock use. This threat is likely to extend to protected areas.

The denial of proprietorship over wildlife to local communities also raises equity issues. The Maasai communities living on the Simanjiro Plains near Tarangire National Parks do not presently have

the right to use the abundant wildlife on 'their' communal rangelands. They witness private companies licensed by the government marketing big-game hunts. Their permission is not sought, they receive no benefits, naturally feel angry toward the system that allows this and are hostile to the resource which uses their land yet gives nothing back. In the words of a Maasai elder, the government's wildlife policy is 'like a multistoried building without a ground floor'. So, the present system of tenure is inequitable and provides no incentive to local communities to conserve either wildlife or wildlife habitat.

✓ THE ROLE OF THE STATE

The fact that local communities do not possess proprietorship over wildlife is a direct consequence of state policies. For most of this century the state has claimed formal proprietorship over wildlife. This has led to a 'command and control' style of conservation policy as the state has attempted to exert actual control over the resource it formally lays claim to. It has been very difficult for the state to succeed in this, not least because the local communities living closest to wildlife have had little reason to support the state's ownership claims. In consequence, illegal trade has sometimes threatened wildlife. This has been notably so in the case of elephants and rhinos. Local communities have not always been directly involved in this trade. In Tanzania and Zambia, during the 1980s, illegal commercial hunting was run by gangs rewarded by wealthy traders, often in collusion with corrupt government officials. Nevertheless, local communities often remained silent, in part because they had been warned off, but more importantly, because they had little stake in the ultimate fate of the wildlife. So, while commercial poaching has certainly been a threat to Africa's wildlife, it is not the underlying cause of species depletion. The fundamental reason lies with state policies that alienated wildlife from local landholders, while the state itself was unable to protect the resource.

BUILDING THE GROUND FLOOR

The conservation of African wildlife requires that the system of tenure be directly addressed. In particular, there are two elements that are necessary for any solution to the problems of habitat conversion and commercial poaching. First, there must be a clear devolution of

ownership rights over wildlife to local communities. The unit of proprietorship should be the unit of production, management and benefit. Second, there must be an established market for wildlife products. The combination of clear resource entitlements and trade in wild species provides a positive incentive package to develop and conserve wildlife. Just as ownership of wildlife without trade would provide little incentive for conservation, so trade without well-defined ownership is insufficient to ensure sustainability. As long as wildlife is state property, local communities can not and will not invest in it. But, as communal property, wildlife can compete with or complement the use of communal rangelands for livestock.

Some states in southern and eastern Africa are devolving property rights in this way, although on occasion these attempts lack sincerity and commitment. State support is essential not only to achieve the transfer of property rights, but also to provide sanctions against those who would violate the new rights. The combination of state enforced negative sanctions and community-based positive incentives is the optimal solution to the problem of wildlife conservation. The shift from livestock production to wildlife management has implications for the distribution of benefits and burdens within local communities. Most livestock is owned by a minority of the community, who pay little for their access to forage and who have a strong vested interest in livestock production. A common property approach would be a threat to this rural power elite, be it a traditional or modern leadership. But, for the majority, such an approach would be attractive inasmuch as communal ownership would provide a redistributive mechanism from those who have stock to those who have the forage on which the stock depends.

Although livestock is differentially owned between households, local cattle 'barons' have customarily been accountable to the community. A fiscal arrangement, such as a community trust, could provide a formal approach to the issue. Users could be charged for a given period of access to the forage. In return, the community would have the funds with which to meet the costs of social security and a managerial control with which to insist on sustainable use. This model could be applied, not only to rangeland resources, but also to all natural resources where a defined user group wants access to communally owned resources. Tenure over common forage resources is at the heart of a sustainable multispecies approach to African savanna ecosystems. The worst case scenario would be a perpetuation of the blurred boundaries between state and community, democratic and traditional authorities, as well as between resource users and producers. In these

circumstances only drought can assert control over stocking levels, humbling human management effort.

THE ROLE OF CITES

CITES assumes that international trade is a significant threat to species. When species are threatened it acts to restrict or halt trade in that species. For example, in 1989, when the poaching of elephants had reached unsustainable proportions (for some populations), CITES reacted by imposing a trade ban at the seventh COP in Lausanne. However, in responding in this way, CITES was treating the symptom rather than the underlying problem. It was the inadequate tenurial regimes of the range states that were the fundamental cause of the problem. Consequently, CITES policies of restricting or banning trade have limited effects in solving long-term problems. International trade controls provide no incentive for either local communities or range states to conserve wildlife habitat. Moreover, by banning trade in high-value species, CITES denies range states and local communities a vital source of revenue that might be devoted to conservation. The black rhino was placed on Appendix I in 1977, but, although trade was banned, the numbers continued to decline, because states had neither the will nor the incentive to devote the necessary resources to protecting them from poachers. Similarly, the elephant in southern Africa is the most prized species from a sustainable-use perspective, and the rent it can pay for its land use can help ensure the extensive range it needs is preserved. But, if local communities do not benefit from its conservation, then its range is threatened.

What CITES ought to do is to support both the devolution of tenure to local communities and a regulated trade in wildlife. At present, CITES provides no direct avenue for communities to express themselves except through their governments. It is assumed that states will represent the interests of local communities whether or not the communities have use rights. During the African elephant debate in Lausanne, community leaders who had been assisted to witness proceedings and give their views were astounded that the whole world could debate and determine the land use in their 'backyard'. Nor does CITES currently encourage governments to develop policies that devolve use rights to local landholders. When the Tanzanian and Kenyan governments argued for the ivory trade ban, there was no space in the CITES arena for communities in those countries, alienated from wildlife, to contend that they should have use and trade rights.

If trade is to be beneficial both to the conservation of wildlife and human development, then CITES has to address a total package of positive incentives (trade combined with secure tenurial arrangements) as well as protection (negative trade sanctions). Trade sanctions should be used to encourage the evolution of positive and efficient incentives aimed at conserving habitat and species. Trade sanctions on nations that are not accompanied by positive policy changes remove wildlife management as a land use option. More land for cattle is not what CITES should be about! Most southern African states are struggling to implement effective devolution of wildlife use rights and CITES should assist, not impede this. When local communities, range states and CITES work together the potential for positive policy and institutional synergy is much greater than when range and non-range states simply contest issues in the absence of local communities.

When a range state is practising good management, importing states should encourage trade; equally they should restrict trade with range states whose policies are patently not working. Trading states must share information to ensure policies are efficient, equitable and sustainable. A blunt instrument of punishing good and bad policies alike is unacceptable. The elephant trade ban, imposed in 1989, seriously undermined good management practices in southern Africa, while doing nothing to require that poor practices elsewhere were improved. No one should be fooled into thinking that the establishment of communal wildlife property rights is a simple exercise. But, in the end, it is more realistic and less problematic than attempting to conserve wildlife at national and international levels while neglecting the local landholders. A multistoried building of wildlife conservation must have a ground floor based on clear and unequivocal rights and responsibilities.

A THREAT FROM GLOBAL MARKET LIBERALIZATION

One threat to the establishment of solutions based on the devolution of tenure comes from the global trend towards market liberalization. As liberalization advances, 'developing' countries have little choice but to enter the neo-liberal world of market economics and international trade. This drives poor countries, with large debts to service, toward export-led policies. For many parts of southern Africa this includes tourism, based on the region's unique and diverse wildlife. The danger is that this creates incentives to further alienate resources from communities in pursuit of joint ventures with foreign investors.

This has consequences for both equity and conservation. A state can use joint ventures to empower itself (politicians, bureaucrats and economic elites) at the expense of its rural people. If rural communities are alienated from their resource base their survival instincts could force an 'open access' resource scramble in Africa. The only way to counter the lure of joint ventures is to decentralize authority and responsibility over wildlife to local communities. Fortunately, in southern Africa there is some ground for optimism, as the policies in several countries reflect a desire to decentralize authority over natural resources and, as a consequence, we are witnessing a partial renaissance in relations between communities and their wild, open spaces. But, this is not the case in all of southern Africa.

LESSONS FROM SOUTHERN AFRICA

Two southern African nations present contrasting pictures. Mozambique appears vulnerable to the effects of liberalization, while South Africa seems to be more committed to devolution of tenure. In Mozambique there is no formal recognition of customary land rights for rural communities. The government can abrogate community rights of access to land and the natural resources in their neighbourhood at will. Although there was a community-based wildlife utilization experiment in Mozambique's Tete province, this required a special legislative diploma to permit the active participation of the community in a sport hunting enterprise. The general danger is that in a situation of state debt and structural adjustment, the government will mortgage the country's natural resources to foreign investors. This threatens indigenous local communities with no formal title to land, wildlife, forests, and coastal and marine resources. They may lose not only their present productive base but also their future land-use options. With the erosion of customary tenure, communities lose their negotiating power over resources desired by the state and international investors, and face the prospect of becoming merely a source of cheap labour. Moreover, even if local communities are legally alienated from their own resources, they are likely to try to assert their access to those resources. This forces the state into expensive and often futile protectionist approaches in order to enforce the exclusion of local people. At present, the continued presence of the tsetse fly in parts of Mozambique is doing more to conserve biodiversity (by preventing the conversion of wild habitat to livestock grazing ranges) than any national or international policy initiatives.

The present situation in South Africa is unique in post-independence Africa. The authorities have recognized traditional community land claims, going as far back as 1913. Consequently they have had to negotiate with communities who had been forcibly removed to make way for the establishment of protected areas. The most celebrated case involves the Makuleke community's claim to the northern part of the Kruger National Park. The national park authority has recognized the legitimacy of the claim and accepted a co-management arrangement by which benefits will flow to the community. In return, the community has accepted that the land remain within the overall area protected as wild land. The protected area status remains but the participation in management costs and benefits are both local and national. Communities do not just benefit from activities outside the park but from those inside as well.

Outside protected areas, community land in South Africa, as in most of southern Africa, is legally state land, but the South African government recognizes that, whatever its legal status, the underlying right remains with the community, whether traditionally or democratically defined. The Minister of Lands is the nominal owner of the land on behalf of the government but intends to transfer the land in an 'orderly and transparent manner' to local communities. Pending the finalization of land transfer, investors can obtain legal security of tenure through long-term leases that will be registered in their favour by the Minister of Land Affairs as the nominal owner of the land. Once the land is transferred to communities from the state, they will 'step into the shoes' of the minister, inheriting all his legal rights and obligations relating to the land. From the outset, communities will be intimately involved in the negotiation process to ensure they are satisfied with all the agreements. The underlying principle is that communal land rights are retained by the users (ie, the farmers) and not the institutions that represent them, traditional, democratic or statutory. Elsewhere in the region the situation is that land is held through the institutions first and the users second.

This example indicates a way through the present impasse around communal tenure. Rather than the state alienating communities in favour of partnership with the private sector, the state acts in partnership with communities first and works with them in negotiations with those who want private access to the resource. The intent is clear – the state recognizes communal tenure, facilitates its evolution and underwrites its interests. The state's land policy and its spatial development plans can be linked directly to the tenurial interests of local communities. Assuming that the state is acting in good faith,

this appears to be a viable approach. Nevertheless, many of the problems of implementation remain to be solved.

CONCLUSIONS

Successful conservation requires the successful devolution of ownership rights over wildlife to local communities. This, in turn, requires the support of both individual national states and CITES. These two can combine to provide the combination of positive incentives and negative sanctions that can make the policy a success.

This would require a considerable change in CITES. CITES cannot continue to look at trade in isolation from sustainable use issues such as communal wildlife property rights. Trade without secure tenure rights is unlikely to be sustainable because the basis of efficient management and equitable distribution of costs and benefits would be absent. Tenure may not be a sufficient condition for sustainable use but it is a vitally necessary one. Unless equity within a generation is addressed, equity between generations (sustainability) cannot be achieved. There may also be tensions between local communities and national states. In particular in the context of market liberalization, local communities should be prepared to defend their newly devolved rights against national elites who may use their power to alienate communities from their natural resources in order to secure short-term gains for themselves. Local communities might even look to a reformed CITES for support in the face of such conflicts. In any case, CITES must either address these issues or accept that it is as much a part of the problem as a part of the solution.

Chapter 14

Global Regulation and Communal Management

Barnabas Dickson

INTRODUCTION

During the colonial period in Africa a particular approach to wildlife conservation emerged. It assumed that the main threat to wildlife came from the human exploitation of wildlife and that the appropriate policy response lay in the creation of protected areas and wide-ranging restrictions on hunting. CITES, which was first signed in 1973, accepted some of the assumptions of the colonial approach. It treated the international commercial trade in wildlife as the chief threat to many species and it imposed further restrictions on that trade on top of the existing domestic restrictions. This approach to wildlife conservation has been coming under strain in recent years. The enforcement of restrictions has become increasingly difficult and some protected areas have become the stamping grounds of poachers. It has also become apparent that, for many species, the major threat comes, not from trade, but from the loss of habitat. This has led some to propose a new way of conserving wildlife, based on the notion of sustainable use. The central idea is that unless wild species can provide benefits to humans they will not be conserved in the long run.

The debate between the opponents and proponents of use has often been fierce. But, within CITES, the supporters of sustainable use do seem to be gaining ground. At the most recent COP, in Harare in 1997, a decision was made to partially revoke the eight-year ban on the international trade in ivory, and to allow Botswana, Namibia and Zimbabwe to sell some of their stockpiles. If this decision signals a lasting shift, then it could also herald the start of a new debate. This will not be about the pros and cons of use, but about the way in

ENDANGERED
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THE PAST, PRESENT AND FUTURE OF CITES,
the Convention on International Trade
in Endangered Species of Wild Fauna and Flora

Edited by JON **HUTTON** and BARNABAS **DICKSON**



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