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**DECENTRALIZATION, DEVOLUTION AND DEVELOPMENT:  
REFLECTIONS ON THE WATER REFORM PROCESS IN  
ZIMBABWE<sup>1</sup>**

by

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## INTRODUCTION

Management of natural resources, including water, requires understanding the complex intersections of global, national and local management regimes situated within a context of rapid economic, political and institutional transformation. In addition, water is a highly variable natural resource subject to seasonal as well as longer term climatic changes. Because water is essential for all life, alterations in its management regime are particularly significant. Zimbabwe, responding to domestic as well and international circumstances, has opted to decentralize water management and has launched a multifaceted water reform which includes legal, institutional, economic, and political (in the broad sense) change. Decentralization can be viewed as making the state more responsive to regional and local needs than has been the case in the past with the concentration of administrative power and responsibility in the central state (Webster 1992: 129). Decentralization (or devolution) involves a shift in how power is held and legitimated. It is linked to a broad process of democratization (locally and globally defined) which facilitates development. In this sense, development becomes not a precondition of democracy but rather:

...a process that needs democracy if any headway is to be made against the continuing economic and political problems of high unemployment and underemployment, bias in the distribution of resources, growing inequality in the benefits from increases in production, bureaucratic mismanagement and corruption, widespread malnutrition and much more (Webster 1992: 130).

Many of these problems are due to the appropriation of development resources by vested interests who do not use them for the benefit of the poor. Decentralization and democracy are now increasingly viewed as inextricably linked to genuine development.

As perhaps the most fundamental natural resource, water constitutes a critical arena for exploring how decentralization proceeds in this tumultuous time in Zimbabwe's history.<sup>2</sup> The promises of water reform are great. They are to provide equity in access, to create sound national strategies for water management and to provide greater economic realism water management. Although it is early in the process of reform, it is not too soon to reflect on the effects of these shifting strategies to date.<sup>3</sup> The process has been under way for five years and some clear outlines are now apparent.<sup>4</sup>

The purpose of this paper is to explore how the water reform process is incorporating decentralization and development in its policy and practice. In our perspective, the reform will

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<sup>2</sup> There is not the space here to describe the electoral defeat of a draft constitution, the rise of an opposition party to the ruling one and the spate of land invasions and violence that preceded the elections of June 26 & 27 of 2000. In these elections the Movement for Democratic Change won 59 seats and the ruling ZANU-PF party 62.

<sup>3</sup> We are deeply appreciative of the three Catchment Councils and their respective subcatchment councils as well as officials of WRMS and DWD for their willingness to let us to participate in a small way in this process. We are, even if it may not always appear so, highly supportive of this process and to be constructive in our analyses.

<sup>4</sup> CASS published two initial reports: Derman 1998 and Nhira and Derman 1997.

not be worth the effort and time of participants unless it results in increased decentralization and development as well as more efficient water management.

By comparison with other African countries, Zimbabwe's waters are highly managed through an intense system of dams, weirs, irrigation and other supply systems. There has been a rapid increase in the amount of land under irrigation since the drought years of the early and mid-1990s. This has involved the continued construction of large dams by government and numerous smaller dams through the private sector.

Occurring simultaneously with these alterations are major shifts in thinking in the science of ecology (Scoones 1999). These have resulted in a shift away from the metaphors of balance, regulation and harmony toward those of impermanence, conflict, risk, uncertainty and indeterminacy. As Holling and others have suggested, our knowledge will always be incomplete, we will always be surprised, and the systems we study are themselves always changing (Holling 1993: 553). The implications are that previous conceptions underlying the management of water - in Zimbabwe supply based management - will need to become more open and flexible. While the notions of participation, local management, accountability, transparency and efficiency associated with decentralization are central, they must be combined with an understanding of the nature of water as a natural resource. Zimbabwe has opted to use catchments (watersheds) - an ecological unit - as the management entity, a choice which requires understandings of an entire water system and its human and physical components. From this perspective, there will be continued need for scientists, specialists, and technicians to study and manage water systems. Their expertise, however, must be coupled with deepening the engagement, participation and decision-making roles of water users in the new management structures.

In these new and evolving circumstances, we will explore how the water reform is organized, how it is proceeding, the degree to which it is decentralized and whether or not it is leading to development. To address these issues, the paper is organized into five parts. In Part I we explore the goals of the water reform process and the notions behind decentralization. The key elements of Zimbabwe's past water management strategy are explored in Part II. Here we focus on three central themes - property relations, equity issues and sustainability. In Part III we examine the same set of issues in relationship to Zimbabwe's new water act. Part IV discusses how the processes of decentralization and deconcentration are working at the catchment and subcatchment levels. We conclude this section with a discussion of what powers are or are not being devolved. The last section of the paper contains brief conclusions on the water reform process.

## **PART I: THE GOALS OF WATER REFORM IN ZIMBABWE**

According to the Water Resource Management Strategy Steering Group (WRMS)<sup>5</sup>, the goals of Zimbabwe's water reform process are to 1) promote equal access to water for all Zimbabweans;<sup>6</sup>

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5. The Water Resources Management Strategy Group is a donor funded (Netherlands, Norway, United Kingdom and Germany) technical group to support the water reform process in Zimbabwe. It just completed three national workshops on a draft document on water policy. While many challenges were raised to the document, the guiding principles were not explicitly questioned..

2) encourage stakeholder participation and involvement in the decision-making process; 3) adopt an integrated approach to land and water resources planning and management on a catchment basis; 4) enhance the availability of a suitable quality and quantity of water when and where it is needed; 5) project the role water resources can play in poverty alleviation; 6) institute strategies that will promote the production of accurate data on water use and demand for surface waters and groundwater; 7) provide guidelines for private sector financing in the water sector as well as to improve opportunities for self-financing and reduction in public sector financing; 8) institute water pricing policies and mechanisms which recognize water as an economic good; and 9) encourage integration of sector and regional water policies (WRMS 1999: 10-12).

The managerial, economic and political process underlying these goals can be termed decentralization or devolution of authority. The underlying assumptions of decentralization stem from international, national and local forums, and, in some cases, the objectives can be contradictory. For example, while the emphasis in decentralization is on shifting the bases of water management to lower administrative levels, these same changes often necessitate the creation of new centralized organizations to oversee the process. In Zimbabwe, for example, decentralization has involved a dual approach consisting of the formation of a central national planning and management organization, ZINWA, and decentralized stakeholder driven organizations called Catchment and Subcatchment Councils.

The rationale for decentralization usually includes at least some of the following arguments: those who are dependent upon resources manage them better; those whose livelihood depend upon resources should have greater decision making over them; democratic principles should apply to natural resource management; the knowledge of local users is more contextualized than that of government bureaucrats, and the efficiency of resource use will be improved through local management. Typically, it is argued that a decentralized approach is more cost effective than a centralized one. At the very least, the tax burdens are shifted to user fees and away from the general national taxation system.

Only part of the water reform process has to do with decentralization. The other aspects of the reform include national water planning, shifting the understanding of water from a social good to an economic good and implementation of new approaches. Central to this new organization are two principles: users pay and polluters pay. These two principles have very significant managerial implications to be discussed below. The government of Zimbabwe has created a new structure, ZINWA, to improve national and regional planning, to obtain needed data and to reduce government spending in the water sector through the levying and sale of water. ZINWA is to be a self-funding national parastatal which inherits all government owned and operated dams. It will be responsible for the sale of raw and treated water and the setting of prices for all waters used for non-primary purposes. In short, ZINWA is to be a streamlined and self-supporting national organization. How and in what ways it might be considered to be decentralized is problematical.<sup>7</sup> As ZINWA is not fully operational, no conclusions can be drawn at this point in time.

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<sup>6</sup> This refers to opportunity not equal volumes. It does, however, suggest what the meaning of “equity” is in these reforms. Insufficient attention has been devoted to this issue to date.

<sup>7</sup> The functions of ZINWA can be divided into two categories: commercial functions and non-commercial functions. The former will be financed from the Water Levy Fund. These monies will be obtained by

Water management, unlike forestry and wildlife, involves thousands if not millions of users and numerous ecosystems. Because water is essential to all life processes, it poses theoretical and practical management issues that are significantly different from other resources. Agrawal and Ribot (1999) contend that decentralization constitutes any act whereby a central government formally cedes powers to actors and institutions at lower levels in a political administrative and territorial hierarchy. The substantive issues, therefore, are first, to identify which realms of authority and decision-making are actually ceded to lower levels, and, second, to determine to whom those that receive these powers are accountable. Are they accountable to their superiors in a line organization or do they answer primarily to their constituents? Ribot and Agrawal differentiate political decentralization, involving the shift of real authority to lower levels, from deconcentration, which consists of transferring power to other appointees of the central government who remain accountable principally to their superiors. This is a useful analytic distinction in considering Zimbabwe's water reforms, as it represents an issue of current debate and potential conflict among actors in the reform process.<sup>8</sup> Such tensions are common in the course of any reform of this magnitude and require debate among participants. In this paper, we identify several points of contestation in the spirit of stimulating such discussions. There is, after all, little agreement in the academic literature as to what works and what does not.

The purposes of decentralization vary greatly. In Zimbabwe's water reform, the following potential benefits are implicit in many discussions at Catchment Councils, but have not yet been openly agreed upon by all participants. Rather, it has been the most active stakeholders who have made their positions clear, emphasizing the value of localized decision-making. While it would appear self-evident that the commercial farmers would support local-decision-making they often did not as they were more fundamentally opposed to the water reform process in total. Many benefitted more from the old Water Act than their understanding of the new one.

In general, decentralization is supported because it is thought to increase efficiency and to reach populations who might not see benefits otherwise if they were carried out by a national government on their behalf. The argument is that the participation by citizens and potential beneficiaries in activities on their own behalf would be more effective than government control. In the arena of conservation and natural resource management, other international experiences suggest that the new technologies for such efforts as soil conservation are too costly and are insufficiently adapted to the circumstances of those who are to actually employ them. Imposed models seem to have failed. Consequently, there has been a shift to participatory methodologies

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levying the permits issued to water users. There will also be waste water discharge permits. Commercial functions include the sale of raw water, clear water and the provision of engineering services. Government was to transfer some funds to ZINWA especially during the transition years. Given the land crises, it is unlikely that sufficient monies to support this new infrastructure will be raised from the commercial farming sector, the largest water user.

<sup>8</sup> Murphree (2000) distinguishes between devolution and decentralization. Decentralization in his conceptual framework represents Agrawal's and Ribot's definition of deconcentration. He defines devolution as "the creation of relatively autonomous realms of authority, responsibility and entitlement, with a primary accountability to their own constituencies (Footnote 3 p.6)."

which permit local populations to select changes.<sup>9</sup> In Zimbabwe these changes include shifting revenue generation and fiscal responsibility downward along with decision making about the environment. These programs include wildlife, grazing land and forestry management.<sup>10</sup> In order to better understand Zimbabwe's new water strategy a brief review of the past approaches to water management is necessary.

## **PART II. KEY ELEMENTS OF ZIMBABWE'S PAST WATER MANAGEMENT STRATEGY**

Zimbabwe is a water scarce nation which has numerous seasonal rivers. Because the economy depends so heavily upon irrigated agriculture, water management is of critical importance. Other elements of the economy, mining and urban development, also require intensive water use and management.

Water management is influenced by total quantity and how water is distributed in a country or region. Efforts to even out or move this resource are expensive and require substantial investment. The flow features of a river (or other water body) need to be consistent with the spatial and temporal requirements of water users. If, for example, water is needed during times when the river is dry then storage works must be built. Or, if the river is distant from appropriate irrigable soils or a factory then provision must be made to move it. If water is to be moved or stored those who finance such works need assurance that they will continue to have access to the water after making the investment. At the same time, potential users may successfully petition a government to assist in the financing and/or construction of water works to make their enterprises flourish.

We have identified three critical components by which to examine Zimbabwe's past Water Act. These same features can also be used in considering the new Water Act and in drawing comparisons between or among water reforms in different countries. They are property relations, equity, and sustainability. Moreover, while these three factors reflect societal values and policies, they also must be in accordance with Zimbabwe's complex hydrology and the flow and availability of water resources.<sup>11</sup>

### **Property Relations:**

The Water Act of 1976 recognized different categories of water and ownership. Water could be owned by the state, by decentralized public bodies and by individuals and private bodies (syndicates or corporations). All surface waters were vested in the Head of State; ground waters

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<sup>9</sup> The book *Fertile Ground: The Impacts of Participatory Watershed Management* documents why and how conservation practices can be changed through involving local people in planning and decision-making about how to manage soils, water and other resources.

<sup>10</sup> Shackleton, Shackleton and Cousins (1999); Nhira 1988, Hulme and Murphree (1999);

<sup>11</sup> This is a slightly modified framework taken from Bolding, Manzungu and van der Zaag's excellent article entitled "Realistic Approach to Water Reform in Zimbabwe" in Manzungu et al. 1999.

were in the hands of those owning the land. The latter was also true of private water.<sup>12</sup> Reflecting the dual land tenure system of Zimbabwe,<sup>13</sup> residents of commercial farming areas applied for and received water rights as individuals or members of corporations or syndicates. Communal area residents could not apply for water rights on their own behalf but depended upon civil servants to do so for them. On irrigation schemes, the irrigators obtained only a usufruct right to the land while the Minister held the water right in trust. Most often an irrigation scheme had only one right, and individual plot holders would receive a share. Water rights could not be bought and sold. They did, however, pertain to a given area of land so if that land were transferred the water rights were transferred as well. The importance of Government as a water owner is great because of the large number of government dams. In 1999 it was estimated that government held 60% of all water stored in the country in its dams (Taylor draft document: 6). Water from government dams can be purchased on a temporary basis (up to five years) or supplied on a more regular basis to urban, industrial and mining users. The issue of pricing will be discussed in the context of the new Water Act, although prices per se are not addressed in either the old or new act.

### **Equity:**

The 1976 Act made a fundamental distinction between primary and other uses of water. Primary uses include drinking water, watering of domestic livestock, brick making for homes and watering of small-scale gardens. Primary uses actually consume only a small percentage of Zimbabwe's waters. These are waters that are not planned for nor incorporated into either the past or present water management strategies.

Under the 1976 law, Zimbabwe's waters were divided into surface water, ground water and private water. Land owners had to obtain a water right if the water was to be used for other than primary purposes. The water right could not be bought or sold other than when the land it was associated with changed hands. However, farm land with water rights greatly enhanced the land's value. Water rights were granted under the Priority Date System in absolute volumes for specific beneficial purposes. The earlier the right granted, the higher the priority that the right would be fulfilled.<sup>14</sup> The phrase used was "first in and last out" referring to access to water. Under this system when water scarcity prevailed, those who held the most recent rights would lose access to some or all of their water.

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<sup>12</sup>. Private water is surface water which originates on someone's land and does not leave that land. It comprises an insignificant component of Zimbabwe's water resources. Nonetheless both the old and new Water Acts recognize its existence.

<sup>13</sup>. We refer to Zimbabwe's different land categories: private ownership with title deed to be found in the large-scale commercial farming areas and small-scale commercial farming areas, cities and towns; the communal areas in which land cannot be bought and sold and land is not titled. There are also the resettlement areas in which residents do not own land but have permits for use and the national parks estate, which is government, owned.

<sup>14</sup>. The tension between the best way to manage a river and fulfilling of rights by date of priority is illustrated in a paper by Jim Latham (2000) and will be discussed briefly below.

Access to water can also be obtained through the purchase of water held behind government owned dams. Government thus has water rights (storage rights for those dams which it financed). Users of this water had to pay government if it was to be used for agricultural (commercial purposes, not household food requirements), urban, industrial or mining. However, water accessed through a private dam or directly from a river was not paid for but rather subject to a system of prior rights. The priority date system became an important target in the new Water Act as it was considered to prevent access by new users or to unjustly utilize too much of the waters in a river.

Under the 1976 law, the Zimbabwean government attempted to act on behalf of communal area farmers by forming irrigation schemes. Government held the water right to these schemes. Little attention was paid to informal irrigation activities (stream banks, wetlands, household gardens, etc) even though they involved ten to thirty times the number of participants in any one season than formal irrigation schemes in the communal lands.<sup>15</sup>

Direct management of waters took place through River Boards. River Boards were legislatively made possible by the Water Act of 1976.<sup>16</sup> They were composed of Water Rights holders, almost all of whom were large-scale white commercial farmers. They served primarily to ensure that those who had Water Rights were not taking more than their allocated share, and assure that adequate tools for measurement were in place. River Boards functioned only on those sections of rivers where there were water distribution issues. They operated on minimal budgets and when necessary hired water bailiffs to ensure compliance with River Board instructions. River Boards allowed many farmers and water specialists to gain valuable experience in managing water. They were not always successful in preventing farmers from bypassing a River Board and going directly to the Administration Court (also known as the Water Court) for their water rights.

### **Sustainability:**

Sustainability has environmental, developmental, institutional and market-based dimensions. While it is a critical contemporary concept, the 1976 Water Act did not address it. Difficult issues of access, the relationship between pricing practices and the maintenance of dams and irrigation works were not tackled. The critical relationships between access to water and poverty alleviation were not addressed. The question of who is best placed to plan and ensure for sustainability was similarly absent. In addition, the water needs of the environment did not receive serious consideration. Issues of sustainability will be addressed more fully later in the paper.

## **PART III. DECENTRALIZATION**

Part of institutional reform of the water sector involves decentralization. The new water act has replaced the old one, and the Zimbabwe National Water Authority Act is to largely replace the

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<sup>15</sup>. This is the conclusion drawn by Peter Robinson in Targeted Water Prices Subsidies (1998 p. 34-35).

<sup>16</sup> These are detailed in Statutory Instrument 384 of 1988: Water River Board Regulations



Department of Water Development.<sup>17</sup> ZINWA will be run by a chief executive, a chairman of a Board of Directions (both of whom will be appointed by the Minister of Rural Resources and Water Development) and a ten person Board of Directors. Four representatives of the newly formed Catchment Councils will also sit on the board. (see below).<sup>18</sup> One of the objectives of decentralization is to improve the functioning of the water sector through expanded stakeholder participation in management, in this case via elected bodies known as Catchment Councils (CC) and Subcatchment Councils (SCC). Their functions are set out in the 1998 Water Act and are further delineated in the Statutory Instruments.<sup>19</sup>

Catchment Council responsibilities include collaborating with ZINWA in preparing and updating catchment plans; deciding on and enforcing all water allocation and reallocation; developing and supervising programs for catchment protection; issuing and overseeing permits for water use; establishing, and maintaining a database and information system (together with ZINWA); and overseeing operations and functions of Subcatchment Councils.

Subcatchment Councils are to monitor the exercise of permits, water flows and use. They also are to assist in pollution control, catchment protection, data gathering, and are to collect fees which will be used for the performance of their duties.

Catchment and Subcatchment Councils are to be composed of representative stakeholder groups. The current list of stakeholder groups, as established under the new water law, includes: Rural District Councils, communal farmers, resettlement farmers, small-scale farmers, large-scale commercial farmers, indigenous commercial farmers, urban authorities, large-scale miners, small-scale miners, industry and any other stakeholder group the CC or SCC may wish to identify. SCC are to have fifteen members. The number of members of CCs is not fixed by legislation, nor are the procedures for how stakeholders are to be selected from within their constituent group. There are no regulations which require that there be a balance of stakeholders from different interest groups on Catchment Council except the provision that all Subcatchment Councils must be represented.

In the transition period from the early discussions of a new Water Act to its actual gazetting two pilot catchments were established – the Mupfure (now part of the Sanyati) and the Mazowe. Both the Mupfure and the upper reaches of the Mazowe had very active River Boards. The Mupfure was chosen by the government and the Royal Netherlands Embassy to be a pilot project to demonstrate how water reform could be carried out. The Mazowe, on the other hand, took it upon itself to lobby until it obtained government recognition as a second pilot project with funding from the German GTZ.<sup>20</sup> Both pilot projects affirmed the need for a planning,

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<sup>17</sup> There is no doubt that a Department of Water Development is essential. The government of Zimbabwe in coordination with “donor nations” are trying to have it both ways: to keep all the services but to have it done by a parastatal. Government can then count employees transferred to ZINWA as a reduction in civil servants.

<sup>18</sup> Currently the planned transfer of personnel from the DWD to ZINWA is on hold due to a ruling by the Public Service Commission that the transfer has not been carried out according to law.

<sup>19</sup> These are for Water Catchment Councils SI 33 of 2000, Water Subcatchment Councils SI 47 of 2000. SI 34 sets out the boundaries for the seven river systems of Zimbabwe. These are the Manyame, Mazowe, Save, Runde, Mzingwane, Gwayi and Sanyati.

<sup>20</sup> The funding came after the actual formation of the group and its initiation of multiple activities.

administrative and management level below Subcatchment Councils in order to reach more water users. It was immediately recognized that engaging non-water rights holders in the reform process would not be easy.<sup>21</sup> Mazowe formed a third level institution called Water User Boards while in the Mupfure Ward Water Associations (WWAs) were created. In the latter, donor funds were made available for micro-projects whereas in the Mazowe the promise of greater participation and reform was thought to be sufficient to attract participation. No legislative recognition of these third tier institutions exists. However, they are not prohibited by law and CCs and SCCs can form new organizations designed to assist them in specific tasks. Thus, it is most likely that the Third Tier will become institutionalized.

The functions and accounts of the River Boards are to be turned over to Subcatchment Councils. SCCs incorporate far larger areas than the former River Boards, and often include communal lands where communication is more difficult than in the commercial farming areas. While River Boards grouped adjacent farmers who, typically, knew each, this is not the case with SCCs. Scale, social knowledge, and trust are important elements in water management.<sup>22</sup>

Having briefly described the new law and statutory instruments, we will briefly consider their property relations, equity, and sustainability dimensions.

### **Property Relations:**

As with the old Water Act, the head of state serves as the custodian of all of Zimbabwe's waters. In the new act, all waters are public, including ground water.<sup>23</sup> Thus, all water is placed under the trusteeship of the state.<sup>24</sup> The major shift that is to occur is from the old system of water rights to water permits. Permits will be issued under the same terms as rights were – that is for commercial and/or non-primary water uses.<sup>25</sup> The permits will be issued by Catchment Councils and not by the court system.<sup>26</sup> The most important difference between a permit in contrast to a right, is that it will be issued for a specific time period. It will also, like a right, be issued for

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<sup>21</sup> Bevelyne Sithole (2000) has described some of the difficulties in this process in the Mazowe Catchment.

<sup>22</sup> There were seven separate river boards coordinated by the Mazowe River Catchment Board in 1995. With the expansion of the Mazowe to include all portions of the Catchment the number of Subcatchment areas is still seven. The former River Board areas tend to be smaller as well.

<sup>23</sup> WRMS puts it this way: "All water is part of a cycle: evaporation, clouds and rainfall are linked with underground water, rivers, dams and wetlands. Many people think that 'private' water is the property of the landowner but this is not true. A person may be the only one able to use the water at a particular place but he or she does not own the water. The water belongs to the whole nation as it passes through a particular point on its continuous journey through its cycle. The theory of private water is abolished." (WRMS March 1998: 37)

<sup>24</sup> The previous category of private water continues to exist since to permit appropriation of something private would be unconstitutional. The amount of water in this category remains negligible.

<sup>25</sup> Precisely what constitutes "commercial" has not yet been finalized. It would appear that the definition will be nation wide, not catchment in scope.

<sup>26</sup> It appears that different application forms will be required for different purposes – agricultural, industrial, mining, and urban consumption. The information required for each type of form has not been finalized.

specified purposes. All permits will be legally equal, and, in times of scarcity, allocation mechanisms will be designed to assure fairness.<sup>27</sup>

It would appear that anyone can now ask for a water permit no matter what property system he or she relies on. Thus, it should be significantly easier for communal and resettlement area farmers to apply for water permits. While the new application forms are not completed, they will still require reports from Agritex on the economic viability of a particular irrigation plan, and from Hydrology on the availability of water. What land tenurial changes may emerge are, as yet, unclear. The future of governmental run irrigation schemes is in doubt given the loss of funding for small-scale agriculture, and the difficulties irrigators face in paying for water.

Under the new legislation, water rights still cannot be bought and sold. They are attached to a given land area, and when it is transferred the water rights are as well. It is likely that, under the new law, it will be possible to rent water storage space. This would be advantageous to farmers who are unable or do not want to build a dam as they could gain secure water by renting space and obtaining a water permit for water stored in someone else's dam. It appears that this is potentially legal although it has not been officially done.

ZINWA is to take possession of all former government owned dams and water works. The Government thus remains the largest dam owner in the nation with over sixty percent of the commercially used water supplied by these dams. This water, known as Agreement Water, most likely will be purchased through permits from Catchment Councils.<sup>28</sup> Thus even though the purchase of water and renting storage space is not allowed, government allows purchase of the waters behind its dams. What has changed though is the increased pressure upon government to obtain the full costs of the operation, maintenance, and construction of its dams.<sup>29</sup> The cost of water has now risen to \$270.00Zim per megalitre. In addition, a levy of \$40.00 per ml is charged for the administration of the new act and for whatever purposes the Minister may decide. Pricing remains a highly contentious issue (see below). Pricing also divides users of government agreement water behind government (now ZINWA owned) dams and users of private dams.

### **Equity:**

The 1976 Water Act made a fundamental distinction between primary and other uses of water. This distinction remains unchanged in the new act. As discussed above, primary uses include

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<sup>27</sup> This has been an arena of intense disagreement. The smaller issue has been the movement away from the Priority Date System. The larger issue concerns those who have built private storage dams for water security. They worry that they will now be storing water for other people at their own expense. Their fears seem to have been allayed by the fractional allocation system.

<sup>28</sup> Unfortunately in the most update listing of numbers of dams no separation was made between government and private dams. Nation wide there are 12,521 dams of which 168 are great than 5,000ml and 587 are between 1,000 and 5,000ml.

<sup>29</sup> Zimbabwe has had a blend price system for its waters. There is one for agricultural purposes and another for urban, industrial and mining uses. The purpose of the blend price system was to ensure that the costs of water from dams built for newer and smaller communities is not too high. From an economic point of view, however, the cost of water to government has not and is not being recovered. Water policies have thus resulted in a series of cross-subsidies which result in distorted patterns of investment in water (Robinson 1999).

water for human consumption, watering of domestic livestock, brick-making for homes and watering small-scale gardens near residences. In urban areas where water is metered, Zimbabwean residents do, in fact, pay for primary water. Catchment Councils have the power to limit the use of primary water when and where necessary.

It would appear that in at least four catchments (the Mazowe, Manyame, Sanyati and Save) the problem of access to water is not due to scarcity but rather to lack of capital to move and store it. Even though since 1980 the government has carried out an impressive dam building program, the number of acres of irrigated crops from these waters is small. The informal irrigation sector remains much larger. The new Water Act is unlikely to change current practices whereby, as Robinson (1998) notes, irrigation along stream banks, wetlands, household gardens involves many more people than formal schemes.

Equity issues could potentially be addressed through the subsuming of River Boards by Subcatchment Councils, or by strengthening third tier organizations. Subcatchment Councils, however, are not legislatively charged to facilitate the entry of new water users but rather to carry out monitoring functions. They are designed principally to provide information to Catchment Councils, ensure that those who have water permits are not taking more than their allocated share, and to see that adequate water measurement tools are in place.

Many issues related to equity and stakeholder representation remain unaddressed in the reform to date. Government identified the stakeholder categories that have been used in the reform and it did so without consultation. In essence it mandated participation along certain lines. What expectations do these different stakeholder groups have of the water reform? What other groups might wish to be represented? What kind of accountability exists between stakeholders and the groups they represent? The pilot Mupfure and Mazowe Catchment Councils adopted different systems of representation, yet no evaluation of the strengths and weaknesses of these two approaches was carried out.

Zimbabwe is characterized by very different systems of agricultural production, different systems of land tenure, and by varied ecologies. Both the old and the new system of water management relies upon trained engineers and hydrologists in government (formerly in the Department of Water Development and now to be transferred to ZINWA), private sector farmers, irrigation specialists, and water specialists. The majority of water users in Zimbabwe consume only a small amount of the total water used while a small number of mostly commercial farmers accounts for the major part of the water used. How are the interests of the majority best taken into account and balanced with the needs of the relatively small number of large water users?

The interests of women deserve more attention in discussions of how to strengthen the equity dimensions and promote the developmental aspects of the reform. Women constitute a significant proportion of communal area farmers and are major users of primary water as well. Many of them practice small-scale informal irrigation described above, and they depend on water for other income generating activities as well. Evidence suggests that strengthening women's production and income generation capacities are crucial to improving levels of child nutrition. Access to sufficient quantities of water are also influential in improving women's economic status and the well-being of children. Women's use rights rather than primary rights to land suggest that, under current circumstances, few are likely to become water permit holders, yet they constitute a significant proportion of water users. While it appears that women are active

members of third tier organizations, very few have been elected to SCCs or CCs. Who speaks for their interests on SCC and CCs? What might be done to facilitate their direct participation in the new water management bodies and support their access to and use of water for productive activities? These are not issues that have commanded the attention of those most active in planning and implementing the water reform program.

### **Sustainability:**

The emphasis placed upon sustainability, with its multiple and contested meanings, represents one major change in development thinking that has taken place over the last two decades. The new Water Act partly reflects these changing ideas. An underlying principle of the Act is that the polluter is to pay. Each catchment will have a pollution control manager hired by ZINWA. ZINWA and Catchment Councils are to formulate a Catchment Plan which will include an emphasis upon reducing water pollution, increasing catchment protection and other conservation measures. Subcatchment Councils are to ensure that anyone discharging wastewater into the rivers has a permit. Much work remains in drawing up plans and in deciding what kinds of environmental protection should be implemented. To date, little discussion has occurred regarding the state of ecological health which is appropriate for the different catchments. This responsibility may ultimately fall upon the Minister as he or she is charged with ensuring the availability of water to meet the needs of aquatic and associated ecosystems along with all human requirements.

Sustainability is not simply an ecological concept. It also has social and economic dimensions. It may, for example, refer to the capacity of institutions to be economically viable and socially legitimate. The new water levies and Subcatchment Councils' right to levy permit holders provides, in principle, this economic viability. The identification of stakeholder groups with vested interests in water similarly contains the potential for these councils to be recognized as legitimate and representative units even though, as discussed above, they are not directly representing the majority of the population.<sup>30</sup> Institutional sustainability is linked to having natural resource management be undertaken by those closest to the resource. The complexities in this perspective will be examined below.

Lastly in our view, successful water management in Zimbabwe must incorporate development by which we mean genuine and substantial efforts to diminish rural poverty. While this is not explicitly stated in the Water Act, it underlies many reservations about the old act, in particular the establishment of highly differential access to water which was symbolically encoded in the priority date system. This came to be viewed as the most important systemic bias against new users.<sup>31</sup>

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<sup>30</sup> There are major criticisms that can be leveled at issues of representation and definition of stakeholders. However, since this is the beginning of the process we will leave that for another paper after more detailed examination of the functioning of the CCs and SCCs.

<sup>31</sup> How and to what extent the Priority Date System prevented new users from gaining access to water depends upon the catchment, subcatchment and tributary being discussed. Bolding, Magadlela, van der Zaag and Manzungu document instances where the PDS posed problems for new users. On the other hand, in well-watered subcatchments in the Mazowe it is unlikely that it did so.

## Decentralization and Devolution or Deconcentration?

The new Water Act thus marks a substantial change from the old act. The new management entities - Catchment and Subcatchment Councils - created by the new law have been a major focus of our research. Methodologically we began our studies by attending the meetings of the two pilot catchments, the Mazowe and the Mupfure (now part of the Sanyati Catchment). We have added the Manyame Catchment Council to the study to be able to examine how the process of council formation proceeds under the new laws. We have also been observing the Subcatchment Councils. These include the Nyagui and the Nyadiri in the Mazowe, and CUF 2 and CUF 3 in the Mupfure/Sanyati. In addition, we attend the Lower Manyame Subcatchment Council meetings and the meetings of two River Boards.<sup>32</sup>

Prior to the formation of the two pilot projects, the Ministry of Lands and Water Resources (as the Ministry was then known) through the Water Resources Management Strategy Technical Secretariat (WRMS) began developing a national water resource policy. Workshops were held in all provinces to solicit stakeholder input into a draft of the proposed water policy. Simultaneously the Department of Water was writing a new Water Act. The first consultative workshop on national water resources development policy was held in mid-May of 1997 at Mazvikadei. There were no poor farmers present at the meeting from communal, resettlement or small-scale irrigation areas. There were many experts from the appropriate government agencies, members of WRMS, one representative from the Commercial Farmers' Union and one from the Zimbabwe Farmers' Union. Subsequent workshops did have broader representation but the same general pattern prevailed. In the survey assessing the effective of the consultation process in Water Sector Reforms (1999) the same pattern was repeated. A large number of people interviewed were themselves involved as actors in the process. While more small-scale farmers, chiefs and Rural District Council members were interviewed, they had been active in the reform process. Surveys we carried out in rural areas in 1999 indicated that most people know little or nothing about the new Acts and the water reform process in general.

While one can easily fault this process, two issues should be borne in mind. First, did WRMS and the Department of Water Development make a serious effort to consult? While limited in scope, the consultations that did take place represent a change in policy formulation in Zimbabwe. In addition, there are significant economic constraints to consultative processes which involve expense, time and preparation of materials. How should the need for consultation and dissemination be weighed against moving ahead with "the programme?" Whose programme was this to be - the established leadership in water resources? Or were new actors and interests to play a major role? Having observed the inception of the reform process where WRMS wrote a draft policy and then conferred with stakeholders to revise it, we concluded that a genuine effort at consultation took place, even if it was not as broad-based as it perhaps could have been. Clearly a policy document cannot and should not be expected to reflect the views of all affected. Users, after all, do not speak with one voice as there are substantive differences among them. Their views and the policies they support are sometimes contradictory. It should be noted that the views expressed by the Department of Water were quite different than those, for example, of commercial farmers. The Department of Water advocated abolition of the priority date system,

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<sup>32</sup>As noted above, River Boards assets, records, and some functions are to be transferred to Subcatchment Councils. However, it is possible they will become the Third Tier in the Manyame, renamed Water User Boards, although they will lose some of the functions of the old River Boards.

generation of new pricing systems for water rather than “agreement water,” an end to the distinctions between ground and surface water, and other changes. However, this is not to say that the Department’s conceptualization of “stakeholders” and their views on participation should not be revisited (see below).

The operational concept in water reform has been stakeholder participation. At the same time anyone who uses water might well be considered a stakeholder. Under the new Water Act, it is clear that stakeholders are to be drawn from identifiable categories of users which represent economic sectors (urban, industrial, agricultural, small-scale farmers along with ensuring better representation from black Zimbabweans). This system of representation makes it difficult to move away from existing strong vested economic interest in water management toward a more inclusive model. In this process, it appears that government has assumed the role of speaking for the “disadvantaged” or those without the means to insure their own access to water. This represents a continuation of the long-standing pattern of the Zimbabwean state of speaking for “the people.” In the area of irrigation, such a practice has produced poor results marked by declining government investment, a pattern that is likely to continue. Thus, both for reasons of policy and practice, mechanisms need to be found for the poor to speak for themselves.

The poor like the advantaged, however, are a diverse group facing different problems with respect to water. Here again gender plays a role as men’s and women’s interests in water may overlap in some areas but vary considerably in others. For women, for example, a key issue may be the small amount of water available for irrigating vegetables during the dry season; for others it is access to healthy and clean water for drinking; for others it is the distance to a borehole. For men, concerns with livestock or with larger-scale irrigation may be paramount. But no matter what their concerns, there has not been an easy point of entry for these viewpoints in Catchment Councils and Subcatchment Council deliberations.

The clearest provision for linking the water reform process to issues of poverty was the Dutch-funded micro-projects in the Mupfure pilot area. In Bolding’s report on micro-projects, he refers to the Centre for Applied Social Sciences’ (CASS) own preliminary work that found that in the pilot catchments

...it will be difficult to generate meaningful participation from communal area stakeholders, since most communal areas have little stake in river water at present and harbour only rudimentary infrastructure (dams and furrows) to enable a future stake (Bolding 1998: 2)<sup>33</sup>

The answer was to form committees at the Ward level to identify and prioritize potential projects. Two Community Development Officers, both women, were trained to work with what was then known as the Mupfure Catchment Integrated Water Management Project. When Mupfure Catchment was merged into the larger Sanyati Catchment in 1999, the funding for micro projects was extended to all of the Sanyati Catchment. The Royal Netherlands Embassy, however, now proposes that attention be shifted from micro-projects to capacity building, a focus which may not garner the same level of local support. It is evident that when water projects, if not water reform, moved to the grassroots level, women took on active roles. Will capacity building efforts be directed to them, and does this new focus reflect their interests? While the

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<sup>33</sup> Bolding is referring to B. Derman’s 1998 Preliminary Reflections on a Comparative Study of the Mazowe and Mupfure Pilot Catchments in the Context of Zimbabwe’s New Water Act. CASS: 1998.

Wards, which are indeed the “grassroots,” have now been structurally connected to the Subcatchment Councils, the sustainability of this system is in doubt as there is no secure source of funding for these third tier organizations.

Our analysis of Catchment and Subcatchment Council meetings indicates that they focus on a limited number of topics. These themes have changed over time, in part responding to the stage in the reform process, i.e. whether or not the Water Act had actually been presented to Parliament, whether or not donor funds had been transferred (the Mupfure Catchment) and several other context dependent emphases. Underneath them is the issue of who is driving the discussions. Who is setting the agenda of topics discussed at Catchment Council and Subcatchment Council meetings? Who is advocating issues to the Department of Water, to members of Parliament and to the donors? How do development and poverty alleviation concerns emerge in discussions? In general who raises what kinds of issues, how are they considered, and what decisions ultimately get made? Clearly, decision-making takes place outside of meeting contexts as well as within them. Nonetheless, the meetings and workshops we have attended provide an excellent platform to examine how and in what ways the water reform process is being understood, accepted, modified or rejected by different participants.

#### **PART IV. DECENTRALIZATION IN THE WATER REFORM PROCESS**

How do we then assess the state of decentralization in the water reform to date? How have the new institutions incorporated the key dimensions of the new Water Act? These questions will be considered in this and the next section. First, we will address the characteristics and extent of the decentralization taking place in Zimbabwe’s water sector. Our observations are tentative as they are based on the early stages of what will be a long term process. In their article on decentralization, Agrawal and Ribot (1999) identify the different powers that might or might not be granted to lower units. They propose that decentralization be characterized by the powers that are granted to lower units. These powers are to:

1. Create new rules or modify old ones,
2. Make decisions about how a particular resource or opportunity is to be used,
3. Implement and ensure compliance to new or altered rules,
4. Adjudicate disputes that arise in the effort to create rules and ensure compliance. These types of powers correspond to legislative, executive and judicial authority. They suggest that the notion of checks and balances have corollaries in these different kinds of power.
5. Lastly, Agarwal and Ribot ask whether the accountability for the exercise of these powers is up or downward in nature. To whom are decision and policy makers answerable - to lower level constituents or actors or to their superiors in a hierarchy? They suggest that if accountability is downward, decentralization works better.<sup>34</sup> The justification for this proposition is moral, economic, political and ecological. To reach their potential and to live in a condition of freedom, people require greater say over their own affairs. Decentralization provides the opportunity to locate decision-making closer to those who live with the consequences of those decisions and to

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<sup>34</sup>Ribot is currently engaged in a series of studies to explore the empirical consequences of decentralization.



expand human freedom. Decentralization is said to promote increased equity, efficiency and development in resource management.

How does this framework fit Zimbabwe's water reform?

### **1. Power to create new rules or modify old ones:**

The new national laws - the Water Act and the Zimbabwe National Water Authority Act - resulted from a long process. The power to undertake the reforms rested in a very centralized national government. It is possible that downward based decentralization requires decentralized legislative authority. In any case, the actual writing and ultimately passing of the new acts were completed only after numerous drafts and interventions by stakeholders. These interventions, however, tended to be from water experts, multinational and national companies whose businesses would be affected by the new water act, and those with large water rights. Since the majority of Zimbabweans (as in most nations) are not politically active in the water arena, their silence is not altogether surprising. As discussed above, Government assumed the role of advocating for the interests of the poor, noting the numerous obstacles they faced in obtaining access to water. This situation was pointed out in the Land Tenure Commission's Report as well, where the relationship between water, land, and smallholder agriculture was highlighted.

Two areas where stakeholders have partially succeeded in changing the law are the composition of ZINWA's Board and the possible institution of third tier organizations in water management. In the first instance, Sanyati and Mazowe Catchment Councils effectively argued that ZINWA's Board should have representatives from the Catchment Councils. The Catchment Councils wanted to choose these people themselves. Ultimately the new legislation granted ZINWA (together with the Minister) the right to select four members from at least three names submitted by each of the Catchment Councils.<sup>35</sup> This is a small victory, however, as there are a total of twenty one representatives on the Board. Second, the third tier organizations (Ward Water Development Associations, Water User Boards, and others) will be permitted to form although they are not listed as management units in the new legislation with specific functions as is the case for Catchment and Subcatchment Councils.

Despite these victories, some notably set-backs have occurred. Catchment Councils argued forcefully that the newly created position of Catchment or River Manager should be fully accountable to them, and that the Councils should have powers to hire and remove them. But the law was not modified. It states: "For the day-to-day management and administration of the affairs of a Catchment Council, there shall be a catchment manager who shall be an employee of the National Water Authority" (1998, Number 28: p. 481).

The Act clarifies that the Catchment Manager shall act on the "advice" of Catchment Council but will be supervised by ZINWA. ZINWA itself appears to be accountable to the Minister and not to the Catchment Councils.

In sum, little downward accountability is apparent in these procedures, at least in terms of hiring and firing the Catchment Manager. Good working relations are, of course, possible with Councils. However, they are not the body to whom the Manager is ultimately accountable. The

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<sup>35</sup> This certainly does not represent much trust by government in its own created institutions. Selecting four out of twenty-one gives the ZINWA Board very wide discretion.

Catchment Manager will have a very large staff, and, once again, it will not directly answer to the elected Councils but rather to the Manager. Catchment Councils and Subcatchment Councils will have little voice in determining personnel hiring, budgets, etc. of this staff. As this will be done at the national level. Here again the emphasis seems to be on upward rather than downward accountability. The more cynical stakeholders comment that this change means that there will be seven water departments rather than one.

The new statutory regulations for the operations of Catchment and Subcatchment Councils have now been gazetted. These are, for the most part, elaborations of what is contained in the Water Act itself. However, rather than permitting each Catchment Council to determine its own procedures, all are to follow the same set of nationwide rules. The Department of Water Development, with some consultation, has now adopted Statutory Instruments for the implementation of the Water Act including CC, SCC, pricing and river instruments (SI 33,34, 47 2000). The actual amount of flexibility in the rules and regulations cannot be determined at this point in time.

At first glance, Catchment and Subcatchment Councils appear to be downwardly accountable, as they are elected by stakeholders. However, who they represent and criteria for this representation are poorly defined for the moment. The most active and best organized stakeholder group are the commercial farmers. They have defined the agenda for the new institutions. However, much of that agenda also has been determined by the new Acts.

## **2. Power to make decisions about how a resource or opportunity is to be used:**

Most decisions about water use will not be made by ZINWA or Catchment councils but will be made by individuals, organizations and companies in line with their water requirements. If the use is for commercial purposes or involves urban water supplies, users will be charged. The Subcatchment and Catchment Councils will be responsible for accepting or rejecting permit applications. Since no permits have yet to be issued, we do not know how carefully permit applications will be scrutinized or what different catchments will decide is the appropriate supervision and control. Moreover, the availability of water will vary from catchment to catchment and tributary to tributary. It is most likely that old water rights issued separately according to date will now be grouped together and converted to permits.

There will be ongoing discussions and debates about criteria for giving permits, pricing policies, new users, water storage rental, and the appropriate roles of the private sector. The basis for such decision making is to be rooted in the Outline Catchment Plans which will indicate how much water is available, water needs for different kinds of crops, and how development might proceed. How these plans are in fact developed and what data bases are relied on, will probably vary from catchment to catchment but this planning is the job of Catchment Councils. Considerable effort is involved in doing an Outline Catchment Plan. Some Councils will be content to let ZINWA do most of the work, while others will want to do as much on their own as they can. The assumption is that the Catchment and Subcatchment Councils are representative bodies so there is no need to consult again with a wider population, at least in the immediate future.

## **3. Power to implement and ensure compliance with new or altered rules:**

The most important power that will be assumed by Catchment Councils is that of issuing or revoking water permits. Councils will also have the power to police. They (or their agents) have

the right to enter all property to ensure that the conditions of a permit are being met. Since no permits have yet been issued, enforcement has not been a point of debate. It is clear, however, that enforcement requires acceptance of the law's and the CCs fairness. It is also clear that the fees charged for water need to meet with widespread acceptance. A growing conflict is apparent between what government (which decided the new prices and levies before ZINWA was operational) wants to charge and what users, especially commercial farmers, think is necessary. Users also have to accept that their waters -both ground and surface - will be measured and they must pay for the measuring devices.

#### **4. Power to adjudicate disputes that arise in the effort to create rules and ensure compliance:**

As with enforcement, the power to adjudicate disputes exists at the catchment level. The Catchment and Subcatchment Councils have been given the legal authority to issue permits for specific amounts of water for specified purposes. The past system of water allocation has been terminated although as yet there is no fully defined fractional allocation system to replace it. Consequently, there may be deliberate or accidental misunderstandings regarding how the new system works. As CCs are the legal authorities, it is likely that they will have to resolve disputes involving implementation issues. The Councils will have to respond (as Water Boards did in the past) to accusations that someone is using more than his or her allocated amount of water. For example, some commercial farmers have raised the level of their dams without permission thus increasing the amount of water impounded. Other major subjects that all CCs will have to confront are illegal dams and people who use water for commercial purposes without obtaining permits. These will be challenging issues for the new institutions. If the past is any indicator, most disputes will be resolved at lower levels rather than going to the ultimate arbitrator, the Administrative Court. It will be significant and interesting to see how disputes between farmers will be dealt with in these new bodies.

## **PART V. CATCHMENT AND SUBCATCHMENT COUNCILS: ISSUES DEBATED**

In this section we will examine selected issues taken up by the new water management entities, how they dealt with them in the light of the new Acts, and what the implications are with regard to decentralization.<sup>36</sup> In addition, we will consider whose interests have captured the CCs' time and energies.

### **Issues of representation:**

To date, CCs have focused overwhelmingly on commercial farm interests and secondarily on issues presented by technical experts from the Department of Water Development. Although this is presently the case, there is room for change in the future. It is possible that over time other interests and concerns will complement those of the large -scale farmers. Catchments differ significantly in regard to their ecologies, social compositions and whether they rely on private

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<sup>36</sup> In the future, we will do a more detailed analysis of the numbers of issues considered, the times that the issue was discussed, how councils tried to solve the problem and whether or not anything was done. This will provide firmer empirical evidence how decentralization is proceeding.

dams or government dams. Thus there ought to be significant differences among the CCs themselves.

In the early stages of the two pilot catchment projects, large-scale commercial farmers expressed concern about whether or not “the stakeholders” or the “users” would be able to influence the new draft water bill legislation. This was an issue only for those competent and knowledgeable enough (mostly large-scale water users) to be able to engage in these debates and to lobby first the Department of Water and then Parliament. And indeed, active members of the Mazowe Valley Catchment were able to influence the legislation and gained the backing of most CC members. The other CC members, while not fully aware of the issues being debated, nevertheless thought that it was more preferable to have decentralized decision-making than not.

The Mazowe Catchment Council also focused on the nature of representation on the new Board of Directors for the Zimbabwe National Water Authority. It lobbied at workshops and other venues where “stakeholders” from around the country met, urging them to have their newly forming Catchment Councils adopt the same position. Once again, as noted above, this lobbying was partly successful. The outcome was that four members of ZINWA’s Board were to be recommended by and come from Catchment Councils. Although the large-scale farmers were the organizers of this effort, most other stakeholders appeared to agree that they wanted a more representative ZINWA.

The donor organizations funding the reform (the Norwegians, Swedes, Germans and British) placed emphasis on giving women greater access to water and voice in the reform process. This has not happened. It appears that the WRMS gender specialists have not been successful in having gender issues raised, debated and incorporated into catchment planning and policies despite the inclusion of gender in some consultants’ reports. For example, at the WRMS workshop on their strategic planning document gender issues were brought up only at the end of the document. No single working group addressed women’s access to the new institutions, their interests in water or gender relations with regard to these issues of access.

### **Water Allocation Principles:**

The central issue for commercial farmers, once it became clear there was to be a new Water Act, was the system of allocation. As noted above, access to commercial water previously depended upon the Priority Date System (PDS). Once a water right was granted, it was permanent, and could only be withdrawn if the right holder failed to pay for water or did not have it measured. In the initial stages of the reform process, it was unclear what system would replace the PDS. A few proposals were drafted, including ones from Mazowe, from Mupfure, from consultants and from the GTZ advisor to the Department of Water.

A special workshop was held on the 21 and 22 of January in 1999 to discuss allocation issues. Since this workshop was held prior to the formation of most Catchment Councils, only the then existing Mupfure, the Mazowe, and the Chiredzi Turkwi Mkwasine Subcatchment Council were represented. In addition, representatives from a small number of mines and urban areas were present along with Provincial Administrators, DWD, GTZ and WRMS. The strengths and weaknesses of the various water allocation proposals were discussed. Since it was a workshop, no decisions were made, and the DWD reserved judgment.

A final decision has not yet been gazetted as a Statutory Instrument, but it appears that consensus has been reached on a system of proportional allocation. That is, whenever there is

insufficient water to meet all water permits, everyone's share will be reduced by the percentage as they hold of the total permitted flow and storage. This system requires excellent measuring devices and a catchment-wide means of rapidly assessing the amount of water in the system. These parameters exist in the Mazowe Catchment but much work remains to make comparable systems functional in the Sanyati, Manyame and other catchments.<sup>37</sup> Difficult issues remain to be resolved even in Mazowe Catchment, including differentiating between farmers who might suffer irreversible losses (citrus tree growers) from reductions in water allocations, and those whose losses would be seasonal (wheat and tobacco farmers). How the system should be adapted to these important variations has not yet been resolved.

Latham's studies (2000) provides one of the few empirical considerations of how a River Board operated under the 1976 Water Act, and its efforts to understand and adapt to the new Water Act. The example he discusses is of a relatively well-watered tributary. The fears and concerns of rights holders in other catchments may be quite different, especially in areas where water is scarce. Latham's case study demonstrates that the conflicts between upstream users and downstream ones (even in commercial farm areas) is an ongoing one. He anticipates that a fractional allocation system will replace conflicts stemming from the priority date system and result in less conflict ridden and more equitable relationships. This issue, however, only affects those who formerly held water rights which are now being converted to permits.

### **New Entrants:**

In Mazowe Catchment, the issue of new commercial water users, or entrants, has been a major topic of discussion. Mazowe Catchment Council has promoted a plan whereby five percent of permitted water will be set aside and made available for new users. The idea is to encourage black farmers to use water for irrigation by making it available free for a certain time period. While, there are many complexities in this proposal, it is the clearest instance of relating water management to the development needs of black farmers (both large- and small-scale) who want to irrigate their crops. This "hook" has made the allocation discussions at CC meetings relevant to those who want access to more water. Otherwise the Council discussions appear abstract, technical and of unclear relevance to small-scale farmers and other rural people.

The focus on these issues is a requirement of the Acts. Catchment Councils must draw up Outline Catchment Plans. They must allocate water, and they must issue rights. To do this at the same time that some of the statutory instruments are still being formulated is challenging and time-consuming. After all, members of these new Councils are donating their time. Nonetheless, there is the real danger that the needs and interests of those located down-river in the communal areas will be ignored.

### **Funding of the New Management Structures:**

Another wrinkle in the process is that Catchment Councils are to be funded through ZINWA while Subcatchment Councils are to be supported through levies on permits. Since many subcatchments have few or no permit holders, they will need to depend on either ZINWA or

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<sup>37</sup> Mazowe created this water management system on its own. It can be argued that the private sector could take over these functions and perform them at least as well and perhaps more cheaply than government and/or ZINWA.

Catchment Councils for funds. This is problematic since these areas tend to be remote, and will most likely want a third tier organization as well to make the reform process more relevant to people in communal and resettlement areas. ZINWA's and government's position on the third tier institutions is not fully defined. For the moment, donors have stepped in to help finance the beginning of the process because ZINWA currently has no funds. Through all these complexities the voices of primary water users and small-scale farmers, many of them women, are muted.

### **Concerns of Communal and Resettlement Area Farmers:**

Among the issues brought to CCs by non-commercial farmers, the most critical ones were: broken down boreholes, eroded or silted dams and the need for irrigated agriculture. The past two heavy rainy seasons have made transportation difficult or impossible, including areas close to Harare like Mhondoro. Subcatchment Council members do not have the transport or other resources needed to cover large areas. These concerns, expressed frequently at CC meetings, tend to be greeted with little interest by commercial farmers. The scale of these problems is such that even with the best of intentions, it will be very difficult for Catchment Councils to address them. They reflect much deeper problems that require a fuller analysis than we can provide here of what has gone wrong and what has gone right in these areas.

Quite a number of times there was far more discussion of money than water at CC meetings. These discussions tended to focus on payments for bus fares, meals and other expenses. Many members from communal areas have to spend two days going and coming to a meeting; thus their costs are high. At the same time, many claims have not been accurate, e.g. based upon real distance traveled, real costs of bus fares, etc. All three Catchment Councils report to their donors on their expenditures, and their accounts are closely audited. Donors are now setting both a reduced over-all budget and limits on certain kinds of claims. Whether or not these practices are fair is unclear, but discussions surrounding expenses have for the most part ended. One Council Chair requested sitting allowances for all members. This was quickly turned down by Council.

Overall despite the common focus on water, there remain huge gaps in understanding, knowledge and priorities between the different sectors, but primarily between the large-scale commercial farmers and the smaller-scale farmers. The silent partner of government, its holdings of large amounts of water (still primarily used by commercial farmers) will be decisive in making it possible for these new entities to work. However, government's positioning itself to "speak for the people" and to be their intermediary will need to be seriously reconsidered. This is, in part, because government is itself seen as a major part of the problem by all stakeholders. Its shortcomings include inadequate resources to respond to communal area water needs, an inability to collect revenues from these areas to make government programs sustainable, an inability to make the large amounts of dam waters available for productive purposes and an unwillingness to be transparent in its financing.<sup>38</sup>

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<sup>38</sup> A good example is the Kuwaiti Water Fund aimed initially at small-scale commercial farmers to assist them in financing water development. These monies were made available in 1995 but the government and its departments have still not succeeded in how they should be dispersed and who should be eligible for these funds.

In general, despite a stated emphasis upon integrated water management little attention has been paid in practice to date to the interface of land and water.<sup>39</sup> This is of particular interest since different dimensions of the issue arise in Catchment and Subcatchment Council meetings either from an environmental or developmental perspective. For example, a major problem for smaller dams, particularly in the communal and resettlement lands is siltation or improper maintenance. Dams silt early in their lives and the amount of water stored is greatly reduced due to the agricultural practices in the watershed. And, in heavy rainfall years, there is a loss of many small dams built for communal area residents by government due to their being washed away. These are critical issues for small farmers but traditionally has not been part of those concerned with “large water” and “big water works.”

We are concerned that the water reform process will not be sufficiently engaged with issues of poverty and the land-water interface. In the rush to do permits and formulate catchment plans the interest of communal area farmers and those who are not interested in permits per se may get lost. It is important to insist on development because without such an emphasis while putting in place specific, doable programs, there will be no real changes in water management in Zimbabwe. At the same time, government will have to make more resources available for these efforts without seeking to over-manage them.

## CONCLUSIONS

One promise of decentralization has been to facilitate and enhance development. One of the major rationales underlying the reform is to permit greater equity and therefore greater development for those structurally deprived of access to water due to the land and water tenure framework inherited from colonial Rhodesia. It is too early in the process of water reform to reach any firm conclusions about the impact of the reform on racial, class or gender equity. We have found on the whole that Catchment and Subcatchment Council members are dedicated to their basically voluntary work.

In the initial stages of this reform attention has centered on “commercial” water,” changing water rights to permits and the development of a new water allocation and pricing system. These are issues which most immediately affect commercial farmers and other large-scale water users whose activities underpin Zimbabwe’s economy. While these stakeholders use most of Zimbabwe’s waters, they comprise only a small percentage of the total number of users. The majority of water users - communal, resettlement and small-scale commercial area residents - use the resource for domestic purposes and for small-scale (but often also commercial) agriculture, livestock and other production.

The marginal position of these communal area, resettlement and other small-scale farmers in the reform process is further reinforced by two factors. First, they rely on boreholes, wells and small dams which also serve as sources of primary water supply and have yet to receive much attention in the reform process. Second, many of these users are unlikely to become water permit holders and therefore may not contribute significantly to the new water management institutions. Yet, if the new Water Acts and policies are to achieve their stated equity and development goals

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<sup>39</sup> A major exception has been the work of Mr. Shepherd Sithole a planner who currently works with WRMS. He has been working on a catchment plan including land for the Nyagui Subcatchment of the Mazowe Catchment.

through this new decentralized system, a more inclusive approach to water management will need to be instituted.

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