



administrative status of Borno has varied, it has been dominated by a Kanuri aristocracy for most of its existence. Traditionally, the Kanuri administration has played a crucial role in allocating access to farm land. In recent years, the Kanuri administration has not only maintained its pre-colonial authority over farming on the lake shore, but has also expanded it to cover new areas of the lake floor, as well as the increasingly lucrative fishing opportunities which the federal government has been unable to regulate. This success suggests that collaboration with the traditional administration is essential to the success of future natural resource management efforts.

### Introduction

Institutions are social constructs which guide human behaviour. They range from laws which are formal and with which compliance is obliged, to informal conventions to which conformance is expected. The importance of such institutions in shaping the livelihoods of the poor has been increasingly recognised (e.g. Swift 1989; Moser 1998; Scoones 1998). The aim of this paper is to examine the evolution of the institutions which govern access to farmland and fishing rights on the Nigerian shore of Lake Chad. These have been examined within a 'sustainable rural livelihoods' (SRL) framework (Sarch 1999).

In focusing on the systems of access to farmland and fishing rights at Lake Chad, the paper aims to assess the applicability of different institutional approaches to natural resource management on the lake shore. This is important, because natural resource development initiatives in the Sahel have frequently been based on institutional approaches that may not have been appropriate to the situations in which they were used and, in any event, are rarely universal. A total of four institutional approaches to natural resource management are considered in the first section of this paper. These are followed by a review of the natural and social contexts of Lake Chad, as well as research into the fishing and farming livelihoods there. The third section presents an analysis of resource access institutions on the lake shore. The paper concludes with a discussion of the relevance of different institutional approaches to systems of natural resource access on the Nigerian shore of Lake Chad.

### Institutional approaches to natural resource management

Like Malthus (1803) almost two centuries earlier, Hardin (1968) expressed a pessimistic view of the capacity of the environment to support population growth. Although not the start of the debate, the 'Tragedy of the Commons' which Hardin described in 1968, has focused much attention on the issue of access to natural resources.' The 'Tragedy of the Commons' model predicts dire environmental consequences as a result of the human inability to restrict personal gain for societal benefit: 'Ruin is the destination toward which all men rush, each pursuing his own best interest... (Hardin 1968:1244). Rather than advocate population controls such as Malthus and subsequent supporters have done, Hardin advocated controlling access to the environment. He recommended privatisation of natural resources and state enforcement of exclusion from them. The implications of this are that natural resources exhibit a fixed carrying capacity and that producers will not develop their own systems regulating access to shared resources.

Although many recent approaches to natural resource management have reflected this approach, a growing literature has developed, both in support of and critical of Hardin's thesis. Several distinct approaches can be identified. The first includes work critical of the confusion surrounding the nature of the property rights described by Hardin (1968). A spectrum of property rights have subsequently been defined and distinguished from the shared resources to which they apply (see Ciriacy-Wantrup & Bishop 1975; Bromley & Cernea 1989; Schlaeger & Ostrom 1994 etc.). The next group broadly concurs with the model of impending 'tragedy', and has attempted to devise the most appropriate ways to privatise and/or impose state regulation of RNRs. The experience of these approaches is examined next, with particular reference to the Sahel.

Other authors have rejected the static notion of resource access arrangements implied by many economists, and envisage more complex and dynamic relationships between resource tenure and developments in resource use. Two contrasting approaches are considered here: those which envisage institutional adaptation as a process which responds to developments such as population growth; and those which perceive the institutions which govern access to natural resources as a crucial determinant of social and economic development, and are themselves manipulated to serve the interests of the powerful members of the societies in which they operate.

### Institutional intervention

Despite many instances where common property regimes have been successful, there are several recent examples of 'tragedies' which have occurred in natural resource management. Fish stock collapses in the Scottish herring fishery, the Canadian cod fishery, and the Peruvian anchovy fishery, each provide examples of 'tragedy' (Caddy & Gulland 1983; Whitmarsh et al. 1995; Charles 1996; Roy 1996; and see Cushing 1982 and 1988 for the history of fish stocks). Although some have pointed to the large fluctuations which occur naturally in RNRs and have suggested that equilibrium in them is not natural or normal, equilibrium frequently remains the objective of resource managers. Many theorists have concluded that state regulation and the privatisation of property rights are the only options to sustain these resources, and great effort has been concentrated on defining how the limits of resource use should be set (Mahon 1997).

There have been successful state attempts to regulate access to fisheries. The transferable quota system introduced in Iceland has been noted for its success in sustaining the demersal fishery (Amason 1994). However, there are many more which have either failed in their objectives – for example, the British Columbia salmon fishery (Fraser 1979) – and/or have led to considerable dissatisfaction among fishing communities (Bailey & Jentoft 1990). Despite the mandate provided by UNCLOS in 1982, there have been comparatively few attempts at state regulation of African fisheries (Lawson 1984). In west Africa, these have been associated with the sale of offshore fishing rights to the European Union. The information available on the outcomes of state attempts to regulate African fisheries shows mixed results (Johnstone 1996).

The forest reserves created throughout the Francophone Sahel during the colonial era, are examples of state regulation of natural resources in sub-Saharan Africa. They were established in areas which were thought to be vacant and under-used, and were subsequently managed by the state forest service with the objective of obtaining sustainable timber yields. These have generally failed, not least of all because their use and management by local villagers were underestimated (Shepherd 1991). Villagers were reluctant to leave land fallow in case it should be seen as vacant and were inclined to overwork it, rather than let it return to woodland (Thomson 1983). A lack of enforcement allowed many reserves to become open access (Freudenberger & Mathieu 1993). The decline of systems of access to the forests, seasonal pastures and fisheries of the Niger Delta in Mali, as well as their subsequent over-exploitation, have also been attributed to the intervention of the colonial

authorities and their nationalisation of natural resources (Kone 1985; Brinkerhoff 1995; Williams 1998). Licenses issued by post-colonial governments for cutting wood and fishing in the Delta have further undermined the customary management of these resources (Moorehead 1989; Quiénière et al. 1994). This process has also been observed in Senegal, where the government has permitted the conversion of both rangeland and forests to peanut fields (Freudenberger 1991; Williams 1998).

Exogenous adjustments to the institutions which govern access to natural resources have been initiated in anticipation of a range of potential benefits. Very generally, these can be divided into two attempts: those described above, which aim to achieve sustainable production through state regulation; and those which aim to improve the productivity of natural resources through the introduction of private property rights. In Africa, a well known example of an external attempt to improve agricultural productivity is Kenya's strategy of land registration for smallholders initiated after the Mau Mau rebellion in the 1950s (Swymerton 1954). However, Haugerud (1989) argues that although agricultural productivity did improve in Kenya, this happened in spite of land registration, rather than because of it. Although Tiffen et al. (1994) illustrates how population has grown and how individualised tenure has spread in Machakos District, this has been criticised for masking differentiation within Machakos (Rocheleau 1995; Murton 1999).

### Institutional erosion

Overall, the alternatives of state regulation and private ownership of natural resources have frequently had little success in Africa, and in some cases, the reverse outcome has resulted: environmental degradation and reduced productivity. Several authors depict a situation where the depletion of natural resources has been the direct result of intervention from outside agencies. External organisations, such as powerful rulers, colonial agencies and emerging nation states, have either eroded or dissolved community-based access arrangements in order to appropriate them or to create more productive arrangements. This process has been observed not only in the rangelands, forests and fisheries of the Sahel, but also in the access arrangements of many natural and 'common' resources in other parts of the world. (Bromley & Cernea 1989; Jodha 1986, 1992; Platteau 1996).

Whether or not external attempts to regulate access to natural resources can improve their sustainability and/or their productivity, there is consensus that, in Africa, external intervention has had an important impact on the

institutions which govern access to natural resources. However, in many situations, the systems of access introduced during the colonial and post-colonial eras have not replaced customary systems. Rather, both systems have persisted and the administrative dualism of overlapping state and community systems of resource tenure has increased the vulnerability of community-based systems to abuse (Platteau 1996; Williams 1998; IIED 1999).

### **Institutional adaptation**

Despite the considerable effort expended in improving the resource access institutions of the developing world, there is a wide body of literature which documents and explains processes of endogenous institutional adaptation and evolution.

The concept of adaptation has been used in the development of natural resources policy, where in contrast to Hardin's (1968) picture of resource users 'rushing to ruin', systems of resource access are envisaged as evolving in response to the costs and benefits associated with resource exploitation. Boserup's (1965) theory predicts that as the population grows, land tenure will increasingly become individualised in the process of agricultural intensification. Netting (1993:158) describes a range of examples which he uses to show that 'land use determines land tenure'. Demsetz's (1967) 'Theory of Property Rights' suggests an alternative outcome to the inevitable 'tragedy', where demand on a resource increases (for example, through population increase), with the result that its value increases and the relative cost of excluding others from its use decreases. It becomes worthwhile for producers to develop their own systems of regulating access to the resource (Demsetz 1967).

Wade's theory (1988) differs from other theories of property rights, in that neither environmental tragedy nor increasing exclusion is inevitable. Rather, common property can be the end result of institutional adaptation. He describes how systems of property rights develop in response to risk, where the costs of privatisation and exclusion are high and the benefits uncertain. A fundamental difference in this approach is that it allows for individual and community interests to coincide. Runge (1981; 1984), Ostrom (1990), Quiggin (1993) and others have also identified circumstances where communal forms of property are economically efficient and have been successful in avoiding environmental 'tragedies'.

There are many examples which show how resource users can and do adapt systems of access to natural resources when it is in their best interests to do so.<sup>2</sup> These have validated the adoption of community-based approaches

by both national and international development agencies, which have advocated and sponsored a range of local-level resource management initiatives, or 'community based sustainable development' around the world (Leach et al 1997a). There have been several such initiatives in the Sahel.<sup>3</sup> However, the outcomes of such processes vary as widely as the natural resources and resource users themselves (Toulmin 1991; Painter et al 1994; Brinkerhoff 1995; Leach et al 1997a). They have, however, often fallen short of expectations and their experiences do not point to easily applicable policy measures (Western et al 1994; Leach et al 1997a).

### **Institutional manipulation**

In contrast to models of institutional adaptation, North (1990) considers the process of institutional evolution as a determinant, rather than a result of economic development. North (1990) argues that rather than being socially efficient, institutions are created to 'serve the interests of those with the bargaining power to devise new rules'. More specifically, Leach et al (1997b:4) argue that the assumptions of distinct and consensual communities, as well as relatively stable local environments – which are fundamental to most community-based resource management initiatives – are incorrect. They suggest that the failure of such initiatives can be attributed to these assumptions, and propose an 'Environmental Entitlements Framework' in which co-users of natural resources use their varying rights and resources to negotiate for different levels of access (Leach et al 1997b). The processes of codifying 'native' arrangements for access to land, which Berry (1993) examined in former British colonies, fit this framework well. She describes how this process generated a blizzard of claims and counterclaims, and placed enormous power in the hands of those with contacts in the British administration. Both North's (1990) and the environmental entitlements approach point to the crucial role of power relations in shaping the institutions that determine the use and management of natural resources. Although the community-level focus on resource users remains valid, consensus and cooperation between them cannot be assumed.

### **Lake Chad**

The Lake Chad basin covers a large part of central Africa. The lake itself lies at the south-east extreme of the Sahara Desert, and traverses the Saharan,

Sahel and Sudan-Savannah agro-climatic zones. Although rainfall is low and variable in these zones, it has little impact on the volume of the lake which is 'an accumulator of positive departures from the mean Chari/Logone discharge, rising in response to runs of wet years, falling with successive years of drought' (Grove 1985:146). Water from the Chari/Logone Rivers flows into the lake at its southern extreme, and flows northwards and outwards, encouraged by the lake's gradient and prevailing winds. This inflow peaks in October/November, following the end of the rains in the southern catchment area, and reaches a minimum in May/June, at the start of the next year's rains. These flood waters take between one and two months to reach the Nigerian shore, where water levels peak in January and reach their minimum in July (Olivry et al 1996). In the past 25 years, annual rainfall in much of the catchment area has been reduced and the surface area of the Lake has varied considerably, both on an intra- and interannual basis (Sarch & Birckett 2000). Although the limits of different ecological zones in the lake are determined by its level, the map in Figure 1 indicates the approximate location of these zones, as well as the study area in the swamps of the Nigerian shore.



Figure 1. Map of the Lake Chad Basin

The western shore of Lake Chad has been under the jurisdiction of Borno since the end of the fourteenth century. Borno State is currently one of 36

states in the Federal Republic of Nigeria. Although the administrative status of Borno itself has varied, it has been dominated by the Kanuri ethnic group for most of its existence. (McEvedy 1995). Migration during the latter part of the millennium has brought to the lake basin, Shuwa Arabs from the east and Fulani pastoralists from the west. Recent settlers on the lake shore include Hausa families from across northern Nigeria, who were attracted by fishing opportunities at the lake during the 1970s (Meeren 1980; Neiland & Verinmbe 1990). Although certain ethnic groups have particular traditions (for example, the fishing traditions of the Hausa), households from a variety of ethnic groups fish, farm and/or herd cattle (Harris 1942). This paper focuses primarily on the communities who have settled on the south-west lake shore. They mainly include Kanuri and Hausa households, but also smaller numbers of Fulani, Shuwa and Yedina.

The Kanuri hegemony of Borno was named the 'Native Administration' by the British colonists (and is called the 'traditional administration' in this paper), who collaborated with them to develop their system of taxing the rural population (Temple 1919). This was based on a system of fiefs – either territorial or by association (by trade, for example) – which were allocated by the *Shehu* or suzerain to members of his family, favoured courtiers, or high ranking slaves. Under this system, the population was obliged to pay a variety of taxes to the fiefholder, who administered the fief through a tax collector or *Chima*, as well as a hierarchy of village heads, *Lauans* or *Bulamas* (Brenner 1973). Brenner (1973:112) describes how mutual interest was the primary justification for these administrative links:

'Barring drought or other causes of crop failure, the peasantry could support itself without the aid of the state, which in any case did little to plan against possible famine. But the protection which the ruling classes provided was crucial, for without it a village might be the constant target of slave raids and looting forays'.

Under the colonial system of taxation, the *Shehu* nominated District Heads or *Ajia*, who were responsible for collecting tax from the various regions throughout Borno. The *Ajia* delegated this task to sub-district heads or *Lauans*, who usually delegated to local agents known as *Bulama*, all of whom were expected to channel revenues upwards to the *Shehu*. Initially, when this system was set up in 1905/6, the *Shehu* was required to pass half his receipts to the British (Palmer 1929).

Since Nigerian independence in 1960, a modern government has

operated in parallel with the traditional administration and consists of three tiers: Local, State and Federal. Although State and Local Governments can and do raise their own revenue, they mostly rely on Federal Government allocations. In contrast, the traditional administration raises most of its revenue at a local level, predominantly by taxing the rural population.

There are five Local Government Areas (LGAs) which are adjacent to the Nigerian shore of Lake Chad. Although LGAs have a fishing and agriculture remit, the level of involvement in fishing and/or farming varies between each LGA. The study region includes the middle three: Kukawa, Mongonou and Marte.

The Borno State Government has a minimal involvement in the administration of the Lake, as well as its immediate vicinity. This is partly due to international tensions. Outbreaks of armed clashes and rebel activity on islands in the lake have persisted since the 1970s, and are largely associated with the succession of civil wars in the Republic of Chad. A multi-national 'Joint Patrol' has been created in response to these outbreaks, and it has been monitoring the lake to prevent further violence. Along the western shore of the Lake, the Nigerian Army dominates the Joint Patrol.

Despite huge investments in irrigation (and smaller investments in fisheries) during the 1970s, development initiatives have achieved little lasting change at Lake Chad (Azeza 1976; Kolawole 1986; Hutchinson et al 1992; Sarch 1999). Although linked to the Nigerian economy through the marketing of their produce, the households making their living on the Nigerian shores of Lake Chad are geographically and politically remote from Nigerian policymakers. The villages in which this study was based, have hardly been acknowledged by Federal Government. They have received negligible public investment in their welfare: most wells are hand dug; education is restricted to Koranic schooling for boys; medical facilities are only available in the large towns; and the security services usually monitor only transport nodes. The villages are reached either on unmarked tracks on the lake bed, or via channels in the swamp vegetation.

#### Research at Lake Chad

Fishing and farming livelihoods have been analysed using household survey data collected in 1993, as well as findings of participatory research conducted with four communities on the lake shore during 1995. These exercises were undertaken as part of the British Government fisheries research project (Neiland & Sarch 1993). The subsequent analysis examined the data in the wider context of the environmental fluctuations, socio-economic

development and institutional changes described above (Sarch 1999).

Unlike the systems described in many text books, the farming systems at Lake Chad are not readily assessed as 'shifting', 'semi-permanent' or 'permanent', or extensive or intensive (Sarch 1999). Farming systems in the study area have been developed to exploit the seasonal flooding of the lake shore (Sarch & Birkett 2000). In key respects, the farming techniques used are extensive: farmers rely on 'new' land to maintain fertility levels and labour is an important constraint to production; whereas in other respects, farming systems are intensive, with three or more crops often relayed within the season. Although farming is largely unmechanised, production is commercialised, with high levels of cash input and crop sales. In 1993, the value of farm sales represented more than three-quarters of the mean household output within the study region (Sarch 1999).

Similarly, the fishing systems on the lake shore have been developed to exploit seasonal flooding (Ibid.). Although estimates of fish production from the lake vary, and the exact impact of the lake's contraction and the exploitation of fish stocks is difficult to ascertain, at least part of the reduction in production during recent decades is accounted for by the contraction of the lake (Sarch 1977; Olivry et al 1996).<sup>4</sup> Following this contraction, the *damba* method of fishing has become increasingly popular. A *damba* is a row of fish traps which are placed across a channel of receding lake water. The traps are linked by small meshed netting, which forces the fish in the retreating flood water into the traps. The *damba* is especially effective as fish retreating with the receding flood cannot escape them, and they do not need to be baited.

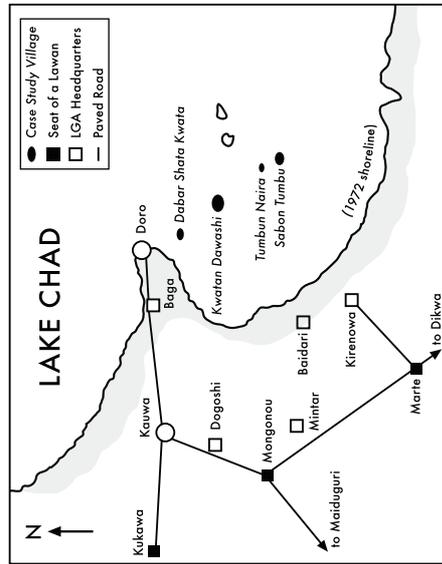
The investigation of systems of access to farmland and fishing rights in the study area was based on the findings of participatory appraisals conducted in four case study villages within the study area during 1995 (Figure 2). The appraisals were designed to understand the institutional channels of resource access, and their context and evolution, as well as the contrasts and comparisons between them. The later stages of the investigation used predominantly secondary sources to examine access institutions at the district, regional, and national levels.

#### Resource access institutions at Lake Chad

The results of this investigation are presented in this section. Systems of access to farmland are considered first, and exclusive access to fishing rights

is considered next. Analysis of secondary sources at national and regional levels have been used to explain the evolution of the de jure or theoretical systems of access, and this contrasts with what was learned at a village and district level regarding the subject of how access to farmland and fishing rights operates in practice.

**Access to farmland in theory**



**Figure 2. Map of case study villages at Lake Chad**

Under the provisions of the 1978 Land Use Decree, all land in Nigeria was nationalised: 'All land comprised in the territory of each State in the Federation are hereby vested in the Military Governor of that State and such land shall be held in trust and administered for the use of common benefit of all Nigerians'. (cited in Uchendu 1979:69).

In theory this decree removed land from the trusteeship of families, communities and community leaders, and replaced them by the State

Governor: it also restricted individual interests in land to one of occupancy ... and [to] the sole right to and absolute possession of all the improvements on the land'. (Ibid:70). The decree vested the management and control of all non-urban land in the Local Government. Individuals utilising non-urban land were assigned rights of customary occupancy, which may be certified by the Local Government. The Local Government may also grant rights of occupancy of up to 500 hectares per individual or organisation for agricultural purposes. As there are few 'urban' centres at Lake Chad, most of the land in the Nigerian Sector comes under the jurisdiction of the Local Governments adjacent to the Lake.

**Access to farmland in practice**

In practice, the Kamuri aristocracy has retained almost total autonomy with regard to the allocating of land on the shores of Lake Chad. Apart from land acquired in 1973 by the federally-sponsored South Chad Irrigation Project (SCIP), farmland is allocated in much the same way as before the 1978 decree. Currently, *Bulamas* act as ward or hamlet heads. They allocate land and collect taxes under the jurisdiction of the local *Lawan*, also known as a sub-district head. In addition to the revenue received from *Bulamas*, *Lawans* may also receive dues of various kinds from representatives who receive taxes from non-village sources, such as pastoralists and fishermen. These tax bases parallel the territorial and associational fields granted by the *Shehu* in the pre-colonial era. Currently, *Lawans* are obliged to channel their tax revenues to the Local Government.<sup>5</sup> However, where *Lawans* do pass on a proportion of their revenue, they do so to the *Ajia* or the District Head.

Although this system has evolved since Nigerian independence, it is similar to the system which operated before colonisation. It differs, however, in one important respect. Whereas in the past the system was balanced by the need to defend itself — the aristocracy depended on the peasantry to replenish their armies, and in return the peasantry was protected from the slave raids of hostile neighbours; however, when the British colonised Borno and undertook its defence, taxation and protection were divorced. The current State and Local Governments receive little, if anything, from land taxation (see for example, the report of the Borno State Local Revenue Committee 1982). The Joint Patrol receives nothing from these taxes either. It is officially funded by the Federal Government, and is also unofficially funded by the charges which its officers levy on movement around the lake basin.

Details of the land access arrangements in four case study villages are provided in Table 1. The table shows that the arrangements for allocating the land have changed little since the settlement of each village. Although the first settlers did not need to request land to farm with, local aristocrats were quick to claim their taxation rights, especially where disputes over land had arisen. In most cases, the local *Lawan* – nearly always a Kanuri – asked the community to nominate a *Bulama* whom they could channel their annual taxes through. In return, the *Bulama* was given the *Lawan's* authority to allocate residential property and farmland, as well as authority to settle disputes within his community. Disputes over the right to allocate farmland, such as that between the *Bulamas* of Daba Shata Kwata and Dabar Shata Gari, are usually settled in the favour of the Kanuri community. In the case of Sabon Tumbou, similar disputes within the Hausa community have been settled in favour of the candidate with the ability to deliver the largest tax payment to the *Lawan*.

The size of the tax payments made to the *Lawan* is subject to annual negotiations: the *Bulama* must satisfy both the *Lawan* (on whose authority his position depends) and the community on whose support he relies. If taxes are too high or low, he risks alienating one or the other. Although taxes are never welcome, they were not unexpected by settlers, since many of the lake floor farmers had come from home regions where similar systems had operated in the past (Hill 1972; Mortimore 1997).

**Access to fishing rights in theory**

No national legislation regarding the licensing or regulation of inland fisheries was enacted until the Inland Fisheries Decree of 1992. The decree changed the Commissioner for Agriculture in each state with the responsibility for licensing and regulating inland fishing. Certain regulations on gear were introduced in the decree, and there is provision for the creation of further regulations at Federal level. Nonetheless, there remains no provision in the law for the ownership of water bodies. Rather, through assigning responsibilities to license and control inland fishing within each state to the Commissioner for Agriculture, it implies he is the trustee of the inland water bodies of each state (Inland Fisheries Decree 1992, Supplement to the Official Gazette Extraordinary No.75, Vol.79, 31 December 1992). Notwithstanding this, each LGA also has a remit for fishing, which is usually a concern for the Department of Natural Resources (Madakan & Lada 1996).

Since the promulgation of the Federal Decree on Inland Fisheries in

Source: Key interviews and group discussions during the participatory rural appraisals of the four case-study villages in 1995

Village	Land allocated by	Taxes handed by	Taxes passed to	Year farming started	Major Changes	Conflicts
Dabar	<i>Bulama</i> of neighbouring Dabar Shata Gari	<i>Bulama</i> of Dabar Shata Gari	The <i>Lawan</i> of Boga	1981	None	Initially, with <i>Bulama</i> of Dabar Shata Gari over right to allocate land
Kwata	The <i>Bulama</i>	The <i>Bulama's</i> assistants are overseen by the <i>Lawan's</i> assistant	The <i>Lawan</i> of Dogoshi	1984	None	Periodically, between villagers and Fulani herders over access to lake water over farming land
Sabon Tumbou	One of three <i>Bulamas</i> representing the main ethnic groups	The <i>Bulama's</i> assistants are overseen by the <i>Lawan's</i> assistant	The <i>Lawan</i> of Baidari	1985	None	Recently, between transhumant farmers and Fulani pastoralists; and periodically within Hausa community over <i>Bulamaship</i>
Tumbou	The 'acting' <i>Bulama</i>	The <i>Bulama's</i> brothers and the <i>Bulama</i>	The <i>Lawan</i> of Mintar	1984	1994: Village flooded and abandoned; 1995: Few had returned to farm	None

Table 1. Access to farmland in four case study villages on the Nigerian Shore of Lake Chad

1992, the damming of inland water (and in effect – *dambas*) has been prohibited:

‘The appropriate authority shall regulate and control the building of dams, weirs or other fixed barriers or obstruction to ensure the free movement of fish, and where permission is granted to a person to build a dam, weir or other fixed barrier or obstruction, fish ladders shall be built to ensure free movement of fish’ (Inland Fisheries Decree 1992, Section 10 [1]).

The Lake Chad Basin Commission’s Joint Regulations on Fauna and Flora also effectively prohibit *dambas*.<sup>6</sup> The regulations specify that member states will take the necessary measures to prohibit ‘... dikes, dams or other obstacles which hinder or prevent the migration of fish’ (see part B, aquatic fauna, article 6; cited in Moschetta 1991).

#### Access to fishing rights in practice

Both Federal and Local Government have attempted to manage fishing at Lake Chad. The LGAs in the study region endeavour to play an active role in regulating and taxing fishing in their areas. In 1995, for example, Mongono and Marte LGAs changed a 200 Naira license fee to fishermen within their jurisdiction. However, compliance with measures such as these is limited by a lack of LGA resources, and by an inability of their staff to reach the most productive fishing areas on the lake to enforce them. The Federal Fisheries Department has attempted to enforce the regulations of the 1992 decree at Lake Chad through visits to the lakeside Local Government areas to explain the stipulations of the 1992 decree to LGA staff.

In practice, access to fishing at Lake Chad varies with the season (Tables 2 and 3). Fishing during the rising flood is more or less open access. Anyone with the means to do so, can fish the rising flood waters. Rising flood fishing does not require permission and is not charged for directly. There are, however, indirect costs. For example, the discretionary charges imposed by the Joint Patrol.<sup>7</sup> As the flood peaks and begins to subside, fishermen have the option to either fish the area of open water remaining at the centre of the lake basin, or to fish the pools and channels of residual flood water which remain around the villages of the study area (Table 3). Access to these fishing grounds is restricted to those who pay for it, usually in advance.

The allocation and taxation of *damba* sites has become an important focus of fisheries regulation since they were introduced in the 1980s. Since

Table 2. Access to rising flood fishing from four case study villages on the Nigerian Shore of Lake Chad

Village	Restrictions enforced	Taxes/Fees	Taxes/Fees passed	Year fishing started	Major Changes	Conflicts
Dabar	None	The <i>Bulama</i> expects an acknowledgement from fishermen staying in the village	No further	1978	None	None
Shota	None				None	None
Kwata	None				None	None
Kwaton	None				None	None
Dawashi	None				None	None
Sabon	None	Fee paid to one of the three <i>Bulamas</i>	Used to meet tax demands of <i>Lawan</i> of Baidari	1985	None	None
Tumbun	None				None	None
Naira	None				None	None

Source: Key interviews and group discussions during the participatory rural appraisals of the four case-study villages in 1995

Table 3. Access to *Dumba* fishing during the receding flood from four case study villages on the Nigerian Shore of Lake Chad

Village	Restrictions enforced	Taxes/Fees	Taxes/Fees	Major Changes	Conflicts
Dobara	Fishing at <i>Dumba</i> sites is restricted	Negotiated through his village-based assistant and paid in cash to <i>Lawa</i> 's representatives. A further fee is also paid to the Army	The <i>Lawa</i> of Baga	In 1993, conflict led to regulation and licensing of <i>dumba</i> site allocation, which had previously been on a first-come, first-served basis	<i>Bulama</i> involved in <i>dumba</i> licence which he paid for in 1995 and was subsequently ignored and <i>dumba</i> rights denied
Kwara	Fishing at <i>dumba</i> sites is restricted	Fees negotiated with the Army	Kukawa LGA	In 1994, Kukawa LGA took over <i>dumba</i> licensing revenues from the Army. Recent enforcement of 1992 decree challenges the LGA taxation of <i>dumbas</i>	None mentioned
Dawashi	Fishing at <i>dumba</i> sites is restricted	Fees negotiated with the <i>Bulama</i> who issues a LGA receipt	1989/1990	In 1994, Marte LGA took over direct allocation and licensing of <i>dumbas</i> , and then had to stop after the enforcement of the 1992 decree. The system then reverted back to its current status.	None mentioned
Sabon	Fishing at <i>dumba</i> sites is restricted	Negotiated through <i>Lawa</i> 's rep. decides whether to issue licence & accepts payment in cash	A proportion of the <i>Lawa</i> of Baidari (& Head)	In 1994, Marte LGA took over direct allocation and licensing of <i>dumbas</i> , and then had to stop after the enforcement of the 1992 decree. The system then reverted back to its current status.	None mentioned
Tumbun	Fishing at <i>dumba</i> sites are allocated & by acting <i>Bulama</i> for an initial fee	Taxes assessed in relation to catches and paid to acting <i>Bulama</i>	A proportion of <i>Lawa</i> of Mitor (& to District Head)	The system of <i>dumba</i> regulation had evolved by 1993. Mongonou LGA considered taking over <i>dumba</i> licensing, but considered it too problematic	None mentioned
Nara	Fishing at <i>dumba</i> sites are allocated & relation to catches	Taxes assessed in relation to catches and paid to acting <i>Bulama</i>	A proportion of <i>Lawa</i> of Mitor (& to District Head)	The system of <i>dumba</i> regulation had evolved by 1993. Mongonou LGA considered taking over <i>dumba</i> licensing, but considered it too problematic	None mentioned

Source: Key interviews and group discussions during the participatory rural appraisals of the four case-study villages in 1995

then, there has been considerable competition for suitable sites in which to locate *dumba*. Until 1993, *dumbas* had been a source of conflict between *dumba* fishermen and those downstream of them. In 1993, the conflict was resolved by a wealthy *Lawa*ns, who agreed to issue a written license which could be checked and (the exclusive rights of the licensee) enforced by the Joint Patrol or Army.

Then in 1994, Kukawa and Marte LGAs attempted to license and tax the *dumbas*, and confusion developed over who had the right to license them. This was resolved when, in early 1995, Federal fisheries officers visited the LGAs and explained the regulations of the 1992 decree. These prohibit *dumbas* and thus prevent LGAs from taxing them (Table 2). Nonetheless, the use of *dumbas* persists. The 'traditional' administration filled the void created by the withdrawal of Local Governments and expanded its authority over fishing, particularly with regard to the allocation of *dumbas*.

Although there was considerable variation in the systems of access to *dumbas* which operated from each case study village, the profits to be made from *dumba* fishing were reflected in the ubiquitously high license fees which were charged for them. In 1995, the exclusive rights to operate a *dumba* at a particular site were sold for as much as 10,000 Naira, or more than US\$100. Not surprisingly, the focus of access institutions has shifted away from other methods of recession fishing. In general, the exclusive rights to the fishing from a *dumba* site were sold for cash (in advance) on a seasonal basis. Purchasers of these could then sub-let these rights for various time periods during that season. *Dumba* sites are allocated by various agents of the local *Lawa*ns, although rarely the *Bulama*, with the objectives of revenue collection and conflict prevention. The second of these objectives is shared with the Joint Patrol, whose officers also profit from their endorsement of the *dumba* licenses issued by certain *Lawa*ns.

### Discussion and conclusion

Rather than evolving from communities in response to their production strategies, the system of access to farmland on the current Nigerian shore of Lake Chad has been imposed by an aristocracy, which is based in the towns and villages along the former lake shore. This system was familiar to most in the case study communities and, since much of the agricultural production at Lake Chad is for sale, the system does not seem totally unworkable. However,

it is, largely arbitrary, because farmers have no say in who receives their taxes, or how they are spent. Unlike during the pre-colonial era when peasants received protection from the Kanuri aristocracy, the farmers of the lake shore receive nothing (other than access to farm the recently revealed lake shore) in return for the taxes paid to the *Lawaan*.

Unlike the case for farmland, the systems of regulating access to fishing have only been created recently. They developed in response to the introduction of the highly profitable method of fishing, which led to conflict and confusion. Conflict between fishermen developed over the impact of *dambas* on downstream fisheries, as well as confusion between modern administrative agencies over *damba* regulation and taxation. Large *damba* profits were both a source of conflict and a motive for the traditional administration to resolve the conflict in order to benefit from the profits.

The institutions for access to resources at Lake Chad do not readily conform to existing models of resource tenure. The following discussion considers the extent to which those discussed at the start of this paper offer an explanation of resource access at Lake Chad. The first model to be considered was outlined by Gordon (1954) and described as the 'Tragedy of the Commons' by Hardin (1968). This was based on the notions that environmental carrying capacity is finite, 'tragedy' ensues once this capacity has been exceeded and as the users of a resource will not voluntarily restrict their exploitation of it, the state must impose and enforce exclusive rights to the resource. This theory cannot be applied to Lake Chad, where a major determinant of environmental carrying capacity is the extent of the flood, which fluctuates from year to year. The impact of resource exploitation on the capacity of the lake to support its population is unclear and in any event, is restricted by a variety of institutions which control access to the lakes resources.

The second model to be considered was the historical process of institutional erosion observed in the Francophone Sahel. The degradation of forests and rangelands throughout the region has been attributed to the partial imposition of 'modern' statutory measures to ensure their sustainability. These not only failed in their objectives, but undermined the customary tenure arrangements that did exist. The result has been a dual system, in which the many areas where tenure is either unclear or not enforced, have been over-exploited. A similar institutional dualism exists at Lake Chad and this also has had gaps in its coverage. For example, in the allocation of fishing rights. However, the fortunes of the traditional administration at Lake Chad

differ from those of the systems of customary tenure in the Francophone Sahel.

The first difference is in the relationship between the traditional administration and the state. Rather than being undermined by 'modern' tenure arrangements, the British colonial policy of collecting tax through the traditional administration served to strengthen it. This legitimised what is essentially a system of feudal exploitation. The current system differs very little. However, in the past the 'Native Administration' passed on a proportion of the tax collected to the British, whereas today, very little of the revenue from farm taxes reaches the Local Government or Nigerian Army, which now defends the lake.

A second lies in the objectives of the two systems. Systems of customary tenure have been characterised as broadly benevolent, in that they sustained rural livelihoods. At Lake Chad, however, the overriding and overt objective of institutions for resource access is profit. *Lawaans* collect taxes as rent on 'their' fields. The ability of such fieldholders to acquire and extend their fields has not been the result of any investment in, or historical association with the lake floor. After all, the floor was only revealed after the lake began to contract in the 1970s. Essentially, their ability to instigate the institutions of access to the resources of the lake floor is a function of the power of the 'traditional' administrators to pursue their own interests.

The third model considered was that of the institutional development which Boserup (1965) and Netting (1993) linked to the process of agricultural intensification generated by population growth and an increased demand for land. The model predicts that the intensity of resource exploitation will determine the exclusivity of property rights, as resource users will develop institutions to exclude others from benefiting from their resource investment. Agriculture at Lake Chad has not experienced intensification or institutional development in the way that Boserup, Netting and others have described. The contraction of the lake has prevented the establishment of long-term rights to farmland, and while farmers use a high level of working capital and sell a large proportion of their output, they have made minimal investments in fixed capital.

The process of institutional development at Lake Chad conforms most closely to the model propounded by North (1990), in which institutional evolution determines the outcome of economic development, rather than *vice versa*. North maintains that where the evolution of institutions is driven by the interests of those with the power to devise them, nepotism, monopolies and

underdevelopment results. For households making their living at Lake Chad, the result of this process is arbitrary taxation. The taxes imposed by the traditional administration are illegitimate, because the obligation to pay them is not matched by a duty to provide. Such taxes are inimical to livelihoods, because revenues are not used to provide the schools, health centres and other social and physical infrastructure that would enable households to build on their assets.

Despite the exploitation inherent in it, the system of land tenure at Lake Chad has important advantages over the system of fisheries management. The most important of these is that it works. The institutions for access to land are widely understood, they have almost complete compliance and they are stable. The households of the lake shore know when they will be expected to pay their farm tax, they know who they will pay it to, they know roughly what proportion of their harvest will be required and roughly what other households in the village will be paying. In contrast, the allocation of fishing rights varies from village to village, has required the Army to prevent conflict, and has swung between the control of Local Government, the 'Native Administration' and the Army.

Although broadly benevolent and similar in their aims to sustain fish stocks and fishing livelihoods, the efforts of the Federal Fisheries Department and Local Government have conflicted and resulted in failure. Federal attempts to enforce a ban on *dumba* fishing at the beginning of 1995, prevented Local Government regulation of *dumba* fishing. Consequently, the traditional administration resumed their allocation and taxation of *dumba* licenses, and where disputes arose, the Nigerian Army were paid to endorse these 'traditional' licenses. *Dumba* fishing persists and Local Government has little control over it. Fisheries management, like the other modern administrative institutions at Lake Chad, cannot operate effectively because there is confusion over which agencies have jurisdiction over which areas. In addition, the formulation of regulations cannot to keep up with dynamics of the Lake.

Although farm taxes are neither accounted for, nor invested in the communities who pay them, the understanding which all involved have about the way they are collected is an advantage. Most of the other taxes imposed at Lake Chad are not only illegitimate, but inconsistent too. The allocation of exclusive fishing rights is one example of this. The inconsistent nature of these taxes severely constrains the ability of farmers and fishermen to plan for them.

These conclusions indicate a radical route forward with regard to the



problem of addressing the inconsistent nature of much taxation at the lake. Whether the taxation is legitimate or not, is not the real issue. Rather, if the taxation is at least transparent, then households could plan for it. Lowering the transaction costs involved in both acquiring and allocating access to fishing grounds would be in the interest of both the households making their living on the lake shore, and the organisations whose agents rely on fishing revenues. This would not require rigid regulations. The comparative success of the traditional administration in allocating farmland can be partly attributed to their flexibility in adapting to the changing environment at Lake Chad. If formulae (rather than fixed amounts or dates) could be established and disseminated for taxes which must be paid, this would reduce the transaction costs for all involved.

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### Endnotes

1 In a similar vein to Hardin, Olson (1965) argued that if an individual can derive a benefit from a public good, there would be no reason for s/he or he to contribute to the good. Other authors have described this theory using the 'prisoners' dilemma', where individuals are offered a choice between cooperation with each other or defection. If both cooperate and stint in their use of the common resource, its over-exploitation is not inevitable. However, the theory predicts that joint users of a common resource have no incentive to stint in their use of it, as they cannot be sure that their co-users will do likewise. Instead, they will pursue the 'free-rider' strategy and will ultimately over-exploit, leading to 'tragedy'. (Runge 1984, Moorehead & Lane 1993, Wade 1988)

2 For example: Acheson (1975) describes how 'trad' holders have created exclusive rights to the lobster on the Maine coast; McGoodwin (1983) describes a variety of indigenous mechanisms of self regulation in unmanaged fisheries; Wade (1988) shows how users have developed a system of managing access to irrigation; Child (1993) describes how rural



- communities in Zimbabwe now manage and market their wildlife successfully; and Kurien (1995) describes how communities are acting collectively to rejuvenate coastal fisheries.
- 3 For example, the *Programme National de Gestion des Terrains Villagais* in Burkina Faso (see Toulin 1991) and a similar strategy for forestry management in Mali (see Brinkerhoff 1995). The TMAF project, through which research for the thesis was conducted, is an example of such an initiative funded by the UK DFID to promote community-based solutions to perceived fisheries management problems. The recent UK DFID sponsored Capacity Building for Decentralised Development (CBDD) project, based in central Nigeria, is another example.
  - 4 Extrapolating from figures for the fish sold in the two key, lake-side markets, Siguia (1991) estimated an average annual production of 56,000 tons (fresh weight equivalent) between 1986 and 1989. This is a fraction of the figures calculated by Duran (1980) for the 1970-1977 period, which allow a comparable estimate for an average annual production of 243,000 tons.
  - 5 Since 1976, village heads (i.e. *Lauans* rather than *Bulamas*, who are officially described as ward or hamlet heads) have, in theory, been the paid employees of Local Government (see Thomas, Jimoh & Matthes 1993). This is not, however, always the case for the *Lauans*, whose areas of jurisdiction are adjacent to Lake Chad. The power and status of individual *Lauans* varies considerably: those with least are most likely to attend LGA sessions, and those with most will not. LGA officials may even seek audiences with the most powerful *Lauans*. For example, the *Lauan* of Baga.
  - 6 Although the Lake Chad Basin Commission's Joint Regulations on Fauna and Flora were ratified by the member states (Nigeria, Niger, Cameroon and Chad) in 1988, they have not been enforced in Nigeria.
  - 7 In theory, fishers were required to have licences issued by the LGA. In practice, the LGA does not enforce compliance with this however members of the Joint Patrol can ask to see these licences and can extort payment when they are not presented immediately.

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**Legislation**

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# Water Wars: Enduring Myth or Impending Reality?

Anthony Turton

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## Introduction

There is a fascination with the notion of a Water War, and the existence of such a false phenomenon seems to prevail, despite irrefutable evidence to the contrary. This concluding chapter will suggest that it is time for us to debunk the myth of Water Wars for two important reasons. Firstly, such things tend to be highly emotive, and as such, they lure us away from the real issues that we should be focussing on. Water Wars are nothing more than a red herring, consuming our collective research energy when there are other more pressing problems which we need to attack. Secondly, this construction of knowledge is actively fed into the media, who then propagate the myth as if it were reality. As such, the media is doing us a grave disservice, because such untested information informs an already negative perception that exists about Africa, which undermines investor confidence and continues to marginalise the continent. Who, after all, would want to invest in a region when the popular belief is that it is likely to slip into a quagmire of water wars during the twenty-first century?



### The myth of water wars

Water Wars are nothing more than a myth. There is not a shred of evidence to support their existence in any of the chapters in this book. True, there is a lot of conflict, or potential conflict, over water resources. This is particularly true where these water resources are found in shared river basins or aquifers. However, this does not mean a war over water. In this sense, we need conceptual clarity (Turton 2000a). Water scarcity, as both a necessary and sufficient condition for going to war, is an almost non-existent phenomenon.

In this regard, it is illuminating to read the revealing findings of a comprehensive research project which used the Transboundary Freshwater Dispute Database. One of the main conclusions was that, 'the actual history of armed water conflict is somewhat less dramatic than the water wars literature would lead one to believe: a total of seven incidents, in three of which no shots were fired. As near as we can find, *there has never been a single war fought over water*' (emphasis in the original text), (Wolf 1998:255) This has been the case since at least 2,5000 BC, when the Sumerian city-states of Lagash and Umma went to war over the right to exploit boundary channels along the Tigris River (Cooper 1983 as cited in Wolf 1998:255). However, that was not even a true water war (Turton 2000), falling neatly, instead, into the definition of a quasi water war. These seven incidents are briefly as follows (Wolf 1998:256):

- The 1948 partition between India and Pakistan saw the Indus Basin being divided in a convoluted fashion. No less than 12 years of negotiations, led by the World Bank, resulted in the Indus Waters Agreement.
- Between 1951 and 1953, Syria and Israel exchanged sporadic fire over Israeli water development in the Huleh Basin. Israel moved its freshwater intake to the Sea of Galilee.
- In 1958, Egypt mounted an unsuccessful military expedition into disputed Nile riparian territories. Tensions eased when a pro-Egyptian government was elected in Sudan and the Nile Waters Agreement was signed.
- Between 1963 and 1964, border skirmishes between Somalia and Ethiopia erupted over disputed territories in the Ogaden Desert, which included some critical water (and oil) resources. Several hundred deaths occurred before the ceasefire. One element in this conflict was the fact that the 1948 boundary had left Somali nomads

- under Ethiopian rule.
- Between 1965 and 1966, Israel and Syria exchanged fire over the 'all-Arab' plan to divert the Jordan River headwaters, presumably in order to counter the Israeli plans to develop the 'national water carrier'. Construction of the Syrian diversion halted in July 1966.
- In 1975, Iraq claimed that their water from the Euphrates was insufficient, citing upstream dam construction as the cause. This resulted in Syrian-Iraqi hostility with military posturing, but successful mediation by Saudi Arabia eventually eased tensions.
- Between 1989 and 1991, two Senegalese peasants were killed in a dispute over grazing rights on the Senegal River. This sparked off ethnic and land reform tensions in the region, resulting in the death of several hundred people. Significantly, the fighting was not between two armies, but between civilians from opposing sides. The army intervened and order was restored.

We can therefore safely conclude, that based on available evidence, Water Wars as defined by Turton (2000) are very rare indeed. In fact, their existence is nothing more than a myth which deserves to be debunked. The conclusion of Wolf's comprehensive study serves as a wise warning in this regard — he said that, 'while water wars may be a myth, the connection between water and political stability certainly is not' (Wolf 1998:261). Consequently, we should accept that water and conflict are deeply intertwined, therefore we need to focus more sharply on the finer nuances of this if we are to move forward with the discipline of hydro-politics as a distinct branch of political science.

When it comes to water as a target of war, there is vast literature to show that this is indeed true. However, this is not a water war. It can be regarded as a conventional form of war, with hydraulic installations as a tactical component (Turton 2000). The best examples of this in southern Africa at present are in Angola, where major hydraulic installations on the Kunene River are either damaged or malfunctioning, directly as the result of military action (Meissner 2000).

The existence of quasi Water Wars can also be found in southern Africa. In this case, the conflict is not over the resource itself, but the theatre of the conflict happens to coincide with aquatic environments. The best example of this is the Kasikili/Sechudu Island issue, which was dealt with in the chapter by Ashton (2000). These are interesting cases in their own rights, because despite the fact that the International Court of Justice has made a ruling on

the cases, the fundamental dynamics of the conflict have not been considered in the judgements. The conflict can return, in response to fluvial dynamics and tectonic movements, which can in fact affect a number of other islands in the area. Clearly this is an interesting area of future work, and one that will yield rich pickings for the researcher.

### The important emerging issues

So, if Water Wars are unlikely – at least in the true sense of the definition – what are the really important hydropolitical issues that we should concern ourselves with? At least six distinct issues can be isolated at this time.

The first major issue is that which relates to the role of civil society. Recent work (Turton & Meissner 2000) suggests that civil society has become an increasingly important role player within the water sector. Nowhere is this more evident than in the activities of NGOs. In this regard, NGOs are likely to play a key role in at least three areas – the environment, human rights and water service delivery – and should be regarded as legitimate hydropolitical role players. This implies that conflict is inevitable as more role players become involved in what used to be the exclusive domain of the government. This conflict is likely to centre on the interaction between, and definition of, legitimate roles for each actor. Consequently, there is the need to conduct research into this problem, in order to map out the processes at work and suggest viable solutions.

The second major issue is that regarding environmental security, which is alluded to in the Chonguica (2000) contribution. Elements of this are expanded on in the contribution by Du Plessis (2000). This is likely to become a major thrust of political science studies in the future, especially as Environmental Diplomacy is increasingly brought to bear by the developed countries of the world. To this end, the words of Rodal (1996) are illuminating:

[T]he environmental issue symbolises the logic and complexity of the new agenda, a defining element in the emergence of a different shaping spirit of world politics. ... Environmental issues symbolise what appear to be among the salient features of the post-Cold War [and] the emergence of an agenda comprising truly global issues. In the West, at least, the health of the global environment is commonly perceived to be critical for the sustainability of civilisation, and yet to be in deepening crisis. Integral to this conception

is the idea that meeting the environmental challenge will require new conceptions of security and of the national interest, and new forms of action and coordination. The existing international political and economic system, grounded in the parochial interests of states and industries, is seen as a major part of the present environmental problem. Indeed, the environment is seen as the quintessential global issue. ... It is seen as being above ideology. It serves as something of a unifying concept linking a range of problems which need connected, transnational, complex strategies if they are to be treated. It is an element in statecraft, foreign policy, Canada's relations with other states and in Canada's participation in international bodies<sup>7</sup>.

If environmental security is increasingly becoming an issue, and if Environmental Diplomacy is becoming a post-Cold War phenomenon, then the whole issue of conflict mitigation becomes relevant. Thus, the third major issue relates to conflict mitigation, with two sides of the coin being evident. The one side relates to conflict resolution, whereas the other side relates to conflict mitigation. A number of key issues are central to both of these components:

- We need to reach consensus on what a hydropolitical hotspot is and how we define it. This is complicated and not easy to develop. The chain reaction of cascading problems is evident in Mozambique, where dams that are built downstream as the direct result of reduced flow (caused by upstream use), in turn result in flooding and unseasonal water supply on peasant land (Leestemaker 2000). The contribution by Meissner (2000) shows the value of developing a hydropolitical history of each major river basin. This will help contextualise each conflict within a broader historical and geographical setting, and will assist with the generation of enduring conflict mitigation strategies.
- The role of good governance is also highlighted under this broad heading (Mochelbelele 2000). We need to understand what good governance entails, and then transplant it from one basin setting to another if we are to effectively mitigate conflict. An element of good governance is the establishment of a clear set of institutional guidelines that embrace the values of society (Nundwe & Mulendema 2000). In this regard, the concept of the 'hydro-social contract' is of critical importance (Turton & Meissner 2000). Thus, we need to

- understand this better.
- When talking of hotspots, the issue of geographic scale immediately comes to mind. What is a crucially important issue at the water-hole or household level, seems to pale into insignificance at the international level. Wolf's (1998:261) finding – that there is an inverse relationship between the level of geographic scale (ranging from the international down to the household or farmer) and the degree of violence – is therefore highly relevant. In other words, an individual is more likely to resort to violence over water than a country is. Yet each level is relevant, and each is potentially a source of endemic conflict. Thus, we need to map these out and understand them better as part of a comprehensive conflict mitigation strategy at the SADC level.
  - An age-old coping strategy has been the use of trade. In hydropolitical terms, this trade in 'Virtual Water' – the water that is used to produce a crop or product – has offered a viable way of balancing the water budget at the strategic level. 'Virtual Water' is therefore likely to become increasingly relevant to conflict mitigation. Yet we understand little of this process. Whereas a lot of work has been done in the Middle East/North Africa (MENA) region, most notably by Professor Tony Allan, very little has been done in southern Africa. We need to ask this central question: can 'Virtual Water' trade be an effective alternative to augmentation within the SADC Region, and if so, what do we need to do in order to implement this as a coherent strategy? In truth, this is a complex problem, deserving a major research initiative. One critical issue which needs to be understood is the implication of changing from a policy of national self-sufficiency in food production, to one of food security. There are far-reaching ramifications regarding this issue, and we have not yet begun to map these out in a coherent way.

This leads on to the fourth emerging hydropolitical issue, namely that of Sovereignty. At the heart of normal international political interaction is the concept of sovereignty, which is said to be indivisible and absolute, resulting in an international political milieu in which all states are treated as legal equals. This is a myth however; as states are equal only in terms of legal fiction. Nowhere is this problem more evident than in international river basins, where you have two major issues confronting one another. On the

one hand, state sovereignty as embodied in the United Nations Charter is taken to be absolute; whereas on the other hand, the changing consensus on the desirability of Integrated Catchment Management places the emphasis on the entire river basin as an integral unit. Thus, these two concepts are mutually exclusive of one another if interpreted in extreme forms. Consequently, acceptable middle ground needs to be found. In terms of this issue, the following are becoming increasingly relevant:

- The need to deconstruct the concept of sovereignty was expressed at the Second World Water Forum at The Hague. In this regard, there has been a call for the acceptance that national sovereignty is limited by the respect for the sovereignty and rights of other states (GCI 2000b:61). We need to map out the ramifications of this new trend.
- Related to this is the emerging debate on rights versus needs, which was also evident at both the 1999 Stockholm Water Symposium and the Second World Water Forum at The Hague. Whereas the absolute sovereignty paradigm focuses on the rights that states have to appropriate water in a given international river basin, the alternative needs-based paradigm suggests that we should approach the issue of allocation in a more humane way. An example of the former is the Harmon Doctrine, and an example of the latter is the principle of equitable utilisation as found in the Helsinki Rules. This is gaining credibility and is extremely important from a conflict mitigation perspective, because the rights-based approach is inherently conflictual (being based on the zero-sum principle), whereas the needs-based approach is inherently conciliatory. This debate is likely to find ready supporters in the southern African region. Downstream states which have a heavy reliance on exogenous water are likely to support the rights-based model, while upstream states are likely to support the needs-based model. There are clearly implications for this which we need to start understanding in a more profound manner.
- Linked to the notion of sovereignty is the problem of international border disputes. These typically fall into the category of quasi-water wars, as defined by Turton (2000a), and southern Africa has a number of potential hotspots under this heading. At the time of writing, there are tensions over the various islands in the Zambezi Basin around the Caprivi Strip, and the ramifications of shifting the South African/Namibian border to the centre of the Orange River

(Ashton 2000) are only starting to be appreciated by government. We need to unravel the dynamics of these issues further, so that we can effectively resolve them in a peaceful and sustainable manner.

The fifth emerging hydropolitical issue is directly related to water scarcity at the regional level. Southern Africa is characterised at present by the development (or planning) of major inter-basin transfers of water, some of which cross international borders. Some of these projects are extremely ambitious. The Eastern National Water Carrier in Namibia is a complex system of dams, pipelines, canals and aquifers. Plans exist to augment supply by building a pipeline from the Okavango River at Rundu. There is a network of pipelines and canals which take water from the Kunene River into Owamboland. Plans exist for harnessing water from the Congo (Zaire) River and transferring it to Namibia. This would traverse Angola, linking at least three different southern African countries, one of which (Angola) has been the centre of an ongoing civil war that appears to be unstoppable. The first phase of the North-South Carrier has been completed in Botswana, and additional phases are being planned (Chenje & Johnson 1996:202). The Matebeleland Zambezi Water Project is planned to take water from the Zambezi River to Bulawayo (Chenje & Johnson 1996:174) (Berry & Nel 1993), but at present no funding is available. Indications are that this may be linked, at some future date, with the North-South Carrier in Botswana. Then there is the Lesotho Highlands Water Project which is already in existence. These pipelines are getting increasingly complex, costly and vulnerable to the vagaries of international political tensions. Thus, we need to develop a deeper understanding of the politics of pipelines (Turton 2000b) within the context of SADC. The central questions here are:

- Who benefits?
- Who pays?
- To what extent is resource capture justifiable?
- What are the impacts on the environment?
- Can 'Virtual Water' trade be a viable alternative to pipeline development, and if so, what needs to be done to make this sustainable?

Sixthly, we need to grasp the fact that the problems we are being confronted with are becoming increasingly complex. As Wolf (1998:263) notes, water is an interdisciplinary resource, therefore the attendant disputes can only be resolved through active dialogue between and among disciplines. This is of

critical importance if we are to effectively mitigate against the conflict potential in the southern African region. Consequently, we need to focus on the development of a multidisciplinary capacity, across international borders, between bureaucratic entities, and within the broader framework of SADC. To this end, we need to look to the SADC Water Sector and ask what needs to be done to empower this structure in order to make it an effective vehicle for delivery? One important element of this problem is the establishment of a set of concepts and models which can be used to link the various disciplines. Another critical element is how we deal with the issue of historically advantaged versus historically disadvantaged institutions. Thus, we are confronted with the challenge of developing capacity – against the trends of the historically skewed patterns which characterise southern Africa – between countries, institutions and disciplines.

These six issues are the important ones, deserving of our undivided attention. Therefore, to focus any more energy on Water Wars will merely dilute those efforts and undermine the long-term need to develop effective coping strategies to ensure social stability in a region facing increasing levels of water scarcity.

### Proposed research project for southern Africa

Having noted that the Water War debate is largely sterile, and then having suggested six more fruitful areas of hydropolitical research, it now becomes possible to propose a focussed research agenda for consideration by various funding agencies, governments and institutions. It seems that what is needed in southern Africa is a regional map of existing and potential hydropolitical hotspots. In short, we need an atlas of such problem areas, capable of overcoming the issue of scale. Such a venture would provide decision-makers with a solid foundation of empirically derived data on which they can base future decisions. This will go a long way to mitigate conflict before it flares up to unmanageable proportions. We therefore need a three phased approach to the problem.

Phase 1 would entail the development of a clearer conceptual understanding of what we actually mean when we refer to a 'hydropolitical hotspot'. Ideally, this would be consensus-based and would cross all of the international borders within SADC. The outcome of this initial process would consist of two distinct items: Firstly, there would be a general understanding

of what is meant by the term 'hydropolitical hotspot'. If sufficient consensus has been achieved, then this concept would be legitimate; Secondly, there should be a clearly defined research methodology, capable of being used in every river basin in southern Africa. This will have to be developed in close consultation with a wide spectrum of role players.

Phase 2 would then consist of a number of independent studies, at the level of the respective river basins, but using the agreed methodology that emerged from Phase 1. Ideally these studies would focus on the major river basins, but if possible, the entire SADC region should be covered. The end product of this process would be a series of basin-wide studies, all using the same methodology and sharing a common terminology.

Phase 3 would then entail the synthesis of these basin-wide studies into one coherent Atlas. Ideally, this phase would result in three distinct end products: Firstly, a Hydropolitical Hotspot Atlas would be generated, which would show up every existing and potential problem area; Secondly, a coherent conflict mitigation plan will be developed for consideration by SADC and member countries; Thirdly, scientists from a wide variety of disciplines, from across the entire SADC region, would be able to see the problem in a more holistic way, and attack it with an arsenal of newly-defined concepts and models that are both indigenous and appropriate.

## Conclusion

This book has been an attempt to start the journey towards the establishment of a regional hydropolitical conflict mitigation/resolution capability. The authors have covered a wide variety of topics, some of them from a broader African perspective. While it seems doubtful that Water Wars will happen, this does not mean to say that conflict over water will simply go away. It won't! In fact, conflict over water resources is likely to escalate, but probably only at the sub-national level. It is abundantly clear that within southern Africa, we already have the necessary goodwill to cooperate in a peaceful way. Our combined challenge is to transform the prevailing negative peace – the mere absence of open hostility – to a condition of positive peace – the existence of all the necessary pre-conditions for prosperity, investment, job creation and social stability.

For this to happen, at least four key elements are needed. SADC must get fully involved in the process. We also need the full political commitment



of all of the regions' leaders. From this, the development of solid institutional structures must evolve. These, in turn, must be empowered with the necessary intellectual and financial capital. In short, the so-called second-order reasons are likely to be the key determinants of our joint futures. For that reason, a unique and specific research project has been proposed — the Hydropolitical Hotspot Atlas of Southern Africa. If adopted, it will foster cooperation across international borders, develop intellectual capital and redistribute this scarce resource in a more equitable way, which will ultimately help generate the blueprint for sustainable peace. In short, unless we effectively develop second-order resources where they are needed in the water sector, social instability is likely to result from increasing levels of water scarcity.

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Dr. Peter Ashton trained as a botanist at Rhodes University in Grahamstown and received his PhD in aquatic plant ecology in 1983. He is a Professional Member of the South African Institute of Ecologists and Environmental Scientists, and is also a member of eight other South African and international scientific associations. He has been employed by the CSIR since 1975 as a water quality and resources specialist, and was appointed as Divisional Fellow on 1 January 1998. He has carried out environmental studies and consultancies in several African countries. Peter Ashton was elected as Vice-President of the International Commission on Water Quality (ICWQ) of the International Association of Hydrological Sciences (IAHS) (1999-2003), and was also appointed as Honorary Professor of Water Resources Management at the University of Pretoria for a three-year term (1999-2002). He has studied the impact of land use and development projects on the quantity and quality of water resources and, in particular, their effects on aquatic ecosystems, as well as their role in integrated catchment management. He has a special interest in the role of aquatic ecological issues in decision-making processes for conflict prevention or resolution, and the management of water resources in shared river basins. Peter Ashton is the author and co-author of more than 80 articles on aquatic plant ecology and management, phytoplankton succession patterns, nutrient cycling, saline lakes, general limnology, the impacts of development on aquatic ecosystems, water resource management in shared river basins. In addition, he is the author and co-author of more than 70 technical reports for external contract

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Southern African Panel at the Second World Water Forum which was held at The Hague during March 2000. Mr. Turton is currently doing his D.Phil. in International Relations at the University of Pretoria, with his thesis being on the politics of the international river basins in South Africa, with an emphasis on conflict mitigation, regime creation and institutional development. An element of this is the proposed development of a Hydropolitical Hotspot Atlas for use at the regional level. He also has an active interest in the development of hydropolitical theory, specifically where this can be used to assist with the development of policy for developing countries in water-scarce regions. Mr. Turton also works as a consultant in the water sector, and is a member of the International Union of Anthropological and Ethnological Sciences (IUAES), the South African Institute of International Affairs (SAIIA), the Southern African Society of Aquatic Sciences (SASAQS), the Africa Institute (AI), Pigwash and the Professional Association of Dive Instructors (PADI).