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THE HISTORIC ENVIRONMENT, Vol. 3 No. 1, April, 2012, 42–63

Who Owns the Special Area at Victoria Falls World Heritage Site? Political, Organizational and Governmental Interests

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This article examines the dispute between the National Museums and Monuments of Zimbabwe (NMMZ) and the Zimbabwe Parks and Wildlife Management Authority (ZPWMA) over the ownership of a part of the Victoria Falls, a transboundary world heritage site located between Zambia and Zimbabwe. It scrutinizes efforts by the NMMZ to take over the management of the site from the ZPWMA based on its designation as a national monument. Different interests are examined and the history of management is traced, showing how part of the site ended up under the custodianship of the ZPWMA and why the NMMZ is being refused its ownership. Finally, ways of resolving this protracted dispute are suggested for the better management of this celebrated world heritage site.

KEYWORDS dispute, management, ownership, Victoria Falls, world heritage site

Introduction

Two different administrative agencies representing the Zimbabwean government assert ownership and management responsibility for the Zimbabwean side of the Victoria Falls world heritage site (VFWHS). In this article, I review the history of this dispute, its effects on the management of the site, and the possible approaches to resolving the impasse.

This dispute is not present on the Zambian side of the site; there the site is currently administered by the National Heritage Conservation Commission (NHCC). On the Zimbabwean side it is administered by the Zimbabwe Parks and Wildlife Management Authority (ZPWMA). The NHCC preserves and collects entry fees to view the falls from the Eastern Cataract, while the ZPWMA carry out similar duties from the Special Area in the Rainforest. Both the Eastern Cataract and the Special

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Area are proclaimed national monuments, and they are located in the Mosi-oa-Tunya National Park and the Victoria Falls National Park respectively. On the Zambian side of the world heritage site, the Zambia Wildlife Authority (ZAWA) is in charge of the entire Mosi-oa-Tunya National Park, while on the Zimbabwean side the ZPWMA is also in charge of the Victoria Falls National Park and the entire Zambezi National Park. The Victoria Falls National Park covers 23.4 km², extending from the larger Zambezi National Park about 6 km above the falls and to about 12 km below. However, a separate organization, the National Museums and Monuments of Zimbabwe (NMMZ), which is in charge of the administration of monuments and heritage sites in the country, wants to take over the management of the Special Area, arguing that it is a declared national monument. The ZPWMA, responsible for the management of all national parks, is refusing to give up its management, counter-arguing that it owns the area because it is part of the Victoria Falls National Park, which was established in 1952.

The conflict between the NMMZ and the ZPWMA has been made more complicated because the two organizations belong to two different government ministries. The NMMZ is under the Ministry of Home Affairs while the ZPWMA is under the Ministry of Environment. Under the Ministry of Home Affairs are also the Zimbabwe Republic Police (ZRP) and the National Archives of Zimbabwe. Previously, the ZPWMA belonged to the Ministry of Tourism and Environment before the formation of the current Unity government in February 2009, which involves the political parties of the Zimbabwe African National Union, Patriotic Front (ZANU PF) and the two Movements for Democratic Change (MDC) opposition parties. The ministry was split into two — tourism and environment — to accommodate the formation of the current Unity government. The two ministries are headed by ZANU PF ministers while the Ministry of Home Affairs is headed by two ministers, one from ZANU PF and the other from one of the MDC formations. As a result of these changes, the responsibilities of the ministries concerned change from time to time, making the dispute between the NMMZ and the ZPWMA difficult to solve.

Here the ownership dispute of the Special Area is discussed, as well as the management history of the contested area, showing how it was declared a national monument but ended up under the management of the ZPWMA. Various reasons are presented why the NMMZ has not been able to take over the ownership of the Special Area and why the ZPWMA has been reluctant to surrender the administration of the site. While there have been efforts to solve the conflict between the NMMZ and the ZPWMA, these have been largely unsuccessful because of a lack of political willingness to have the matter solved.

Location and description of the Victoria Falls

The site is located in south-western Zambia and north-western Zimbabwe at 25°35′–25°57′ east and 17°45′–18°00′ south (Figure 1). At Victoria Falls, the Zambezi River course is interrupted by the falls at approximately 1300 kilometres from the river's source in the northwest province of Zambia close to northeast Angola and south of the Democratic Republic of Congo. Below the falls, the river traverses for another 1500 kilometres to its delta on the Indian Ocean south of Quelimane and close to

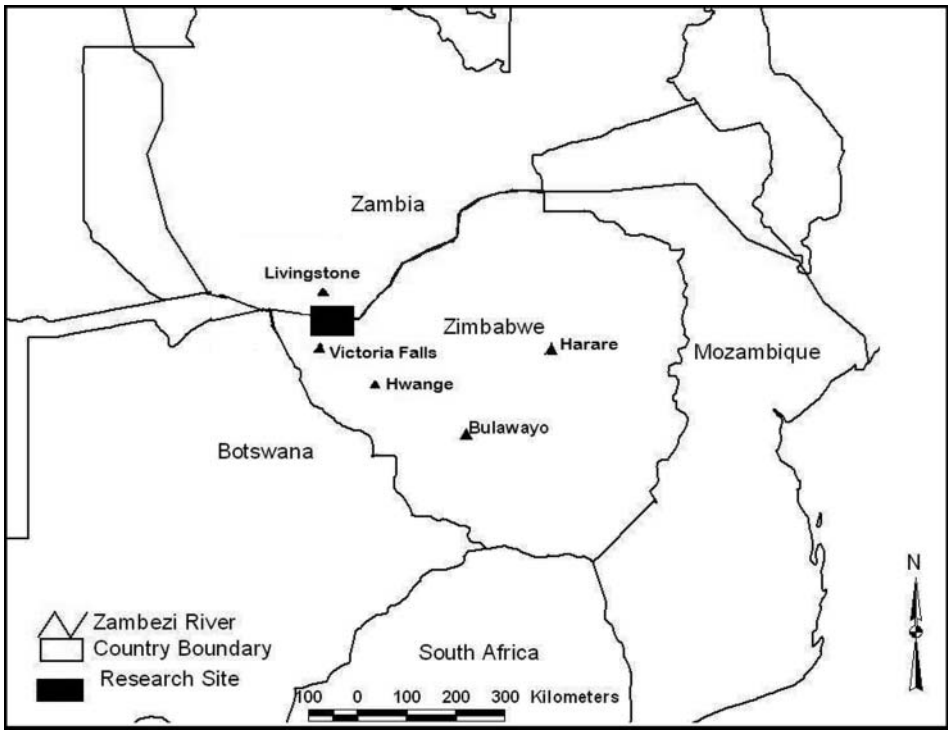


FIGURE 1 Part of southern Africa showing the location of the Victoria Falls.
SOURCE: author

Chinde in Mozambique. In 1855, the Victoria Falls was named by a Scottish missionary-explorer, David Livingstone, in honour of Queen Victoria. The falls are also known by their local Kololo name, Mosi-oa-Tunya, meaning the 'Smoke that Thunders', because of the water's roar and clouds of rising mist.

The falls are the most significant feature within the nominated area (Figure 2). They are approximately 1708 metres in width, and they fall over 62 metres in the Devil's Cataract, 83 metres in the Main Falls, 108 metres in the Rainbow Falls, and 98 metres in the Eastern Cataract.[1] The Devil's Cataract and the Main Falls are best viewed from the Rainforest.[2] In 1870, the cliff area facing the leaping waters and the Main Falls was named the Rainforest by a German explorer, Edward Mohr, because of its lush vegetation supported by the constant spray of water.[3] Above the falls, the river has eroded away much of the Kalahari sand cover from the valley, carving out small islands.[4] In this area the river flows in a broad calm course before it plunges in the gorge.[5] Within the range of spray of the falls, a bridge was constructed over the gorge in 1905 at a height of over 100 metres above the flowing water, carrying a road and a railway line linking Zambia and Zimbabwe.[6]

After descending the falls, the Zambezi water surges into the Boiling Pot and then proceeds along its tortuous route through the gorges, in which its waterway is only one-thirtieth of the width above the falls.[7]

When the Zambezi River is in full flood, generally between February and March, the waterfall is the world's largest, with a mean maximum flow of approximately

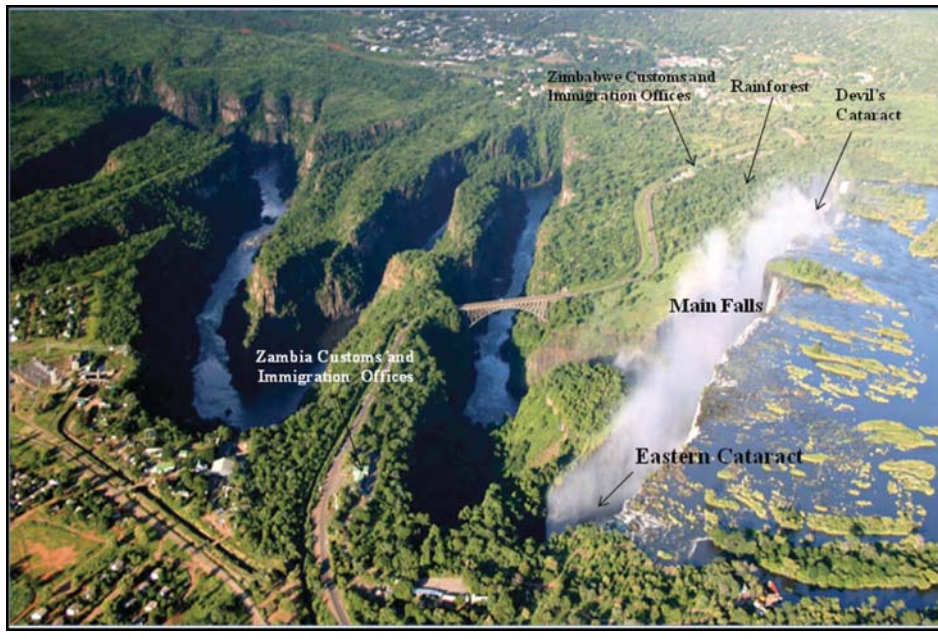


FIGURE 2 A modified aerial view of the Victoria Falls.
SOURCE: www.treckearth.com/. . ./photo 214952.htm

6500 cubic metres per second. When at its full height of 500 metres, the cloud of spray can be seen from a distance of 30 kilometres along the main roads to Lusaka and Bulawayo, and as far away as 50 kilometres at certain vantage points. The falls experience their lowest water levels generally in late November to early December. During this dry period, the flow of water over the falls is less than 150 cubic metres per second and it is also at this time that the geological formations can easily be observed and appreciated.[8]

Proclamation of the Victoria falls as a world heritage site

The Victoria Falls was inscribed on the World Heritage List (WHL) in 1989 as a transboundary site shared between Zambia and Zimbabwe. The site was evaluated by the World Conservation Union (formerly the International Union for Conservation of Nature and Natural Resources, IUCN). During the evaluation, it was deemed that the proposed area submitted to the World Heritage Committee for nomination was too big and covered areas, such as the Victoria Falls urban area, which do not contribute to the outstanding universal values of the site.[9]

On the Zambian side, the proposed area covered the Mosi-oa-Tunya National Park, which extends over an area of 6880 hectares from the Zambezi and Sinde Rivers confluence along the left bank as far as the Songwe gorge. It is abutted by the Dambwa Forest Reserve to the north, the municipal area of Livingstone to the east, and trust land to the south.[10] On the Zimbabwean side, the proposed boundary covered the Zambezi National Park and encompassed 56,400 hectares just above the falls, extending upstream to a point beyond the confluence with the Saminungu

River, a small south-bank tributary. It is bounded to the west by the Panda-Masuie Forest Reserve, to the east by state land, and to the north by the Zambezi River. The Zambezi National Park is linked by a narrow riparian strip around the riverside edge of the Victoria Falls urban area to the Victoria Falls National Park, which occupies an area of 1900 hectares along the south bank. This park stretches from the falls to a point below the Songwe gorge to the west, and is bounded to the south by Hwange communal area, from which it is separated by a game fence, and to the west by state land and the town of Victoria Falls from which it is delineated by the road from Hwange and the railway line (Figure 3).

In order for the site to be nominated on the WHL, the IUCN recommended that its boundary should be reduced to include only the Victoria Falls National Park, the northern half of Mosi-oa-Tunya National Park, and a small portion of the riverine strip of the Zambezi National Park, 'to better concentrate on the core features of the falls area and the downstream gorges'.[11] Zambia and Zimbabwe were requested to consult with each other and with IUCN and report back on the agreed boundary of the site. After the boundary was agreed as was recommended by the IUCN, the World Heritage Committee accepted the joint inscription of the site on the WHL on the basis of its outstanding natural waterfall and the associative gorges (Figure 4).

Tourism activities in the VFWHS area

With the growth of heritage tourism, described as special interest travel, which ranges from the examination of physical remains of the past and natural landscapes to the

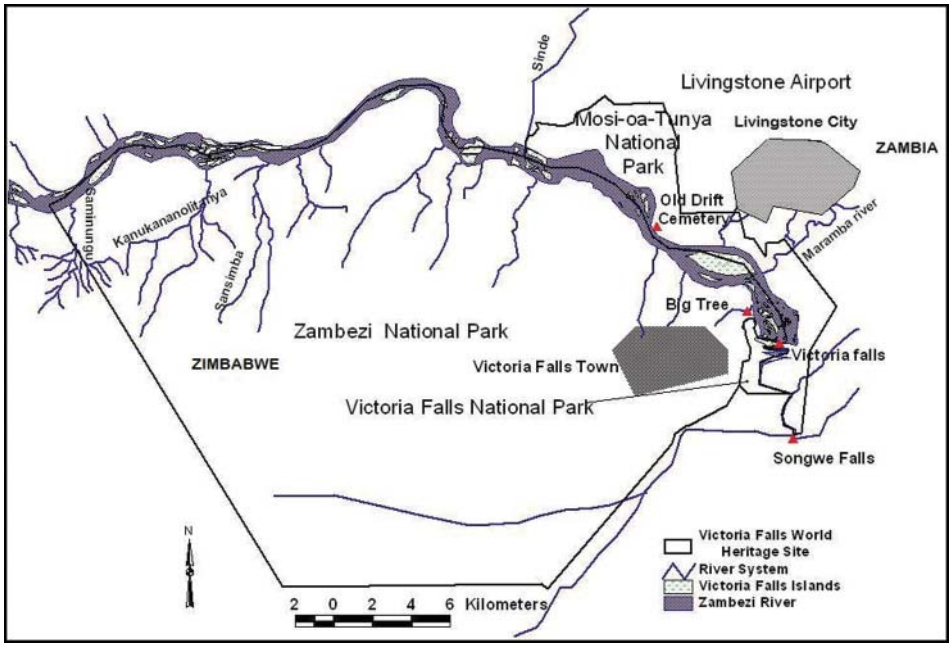


FIGURE 3 A modified map of the proposed VFWHS area.
SOURCE: after IUCN, Victoria Falls/Mosi-oa-Tunya Nomination Document for Listing the Site on the World Heritage List (UNESCO World Heritage Centre, 1989)

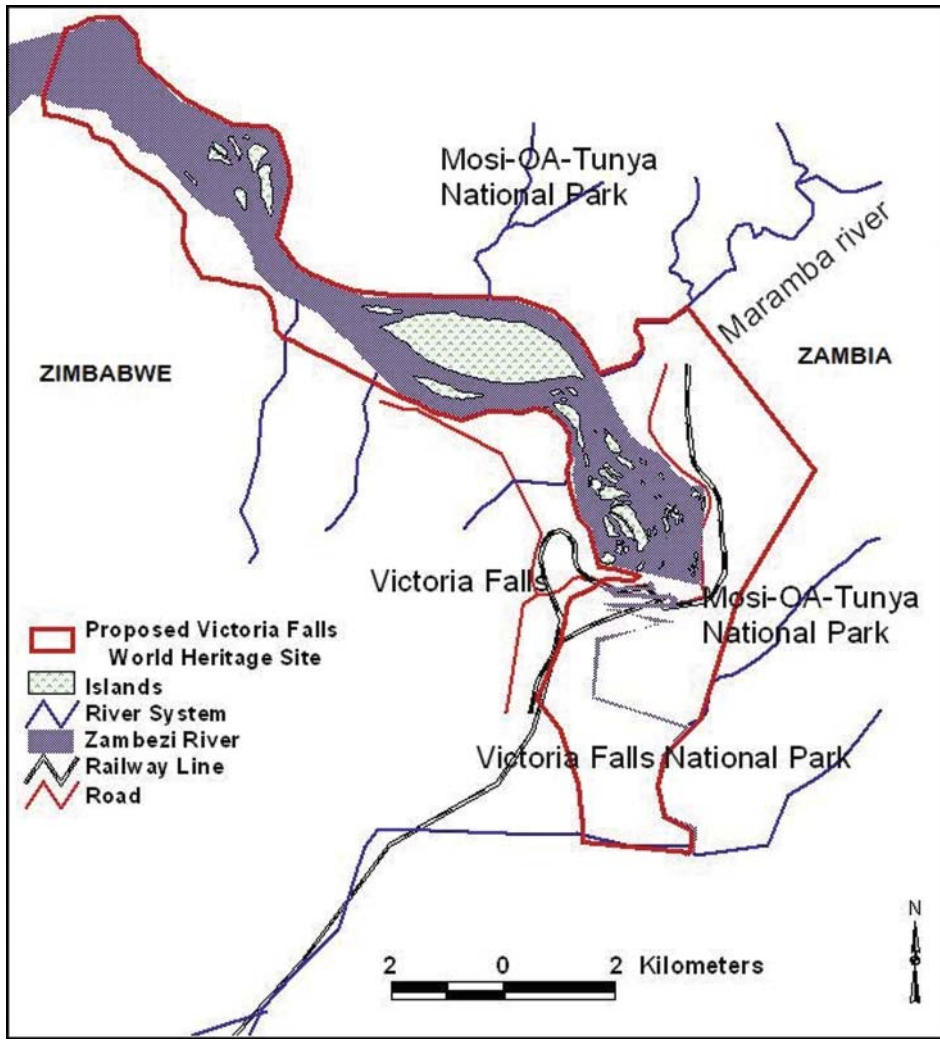


FIGURE 4 A modified proposed VFWHS boundary.
SOURCE: after IUCN, Victoria Falls/Mosi-oa-Tunya Nomination Document for Listing the Site on the World Heritage List (UNESCO World Heritage Centre, 1989)

experiencing of local cultural traditions,[12] the Victoria Falls have become an increasingly popular tourism site. They have attracted visitors from many parts of the world. Visitors to heritage places are motivated by unique experience, exclusivity, differentiation, personal experiences, nostalgia for the past, and the desire to experience diverse landscapes and forms.[13] Until a few decades ago, the only important tourism activities at Victoria Falls were to walk and view the falls and gorges from a few selected points. In recent years, however, a broad range of activities has been offered within the world heritage site area, including the Special Area to cater for the different needs of the visitors. Some of these activities include white water rafting, canoeing, bungee jumping from the bridge, and activities called flying fox, gorge swing, foofie slide, abseil, and zipline (see Figure 5).



FIGURE 5 A notice showing some of the of the tourism activities offered in the Special Area. *SOURCE: author*

As a result of these tourism services, hundreds of visitors are attracted to the site and pay to experience them each year, generating a lot of revenue for the administrative organizations and tour operators.

The dispute

The disagreement over the ownership of the Special Area has its origins in the late 1980s when the government of Zimbabwe made efforts to stop parastatal organizations from depending wholly on government funding for their operations and salaries. It became clear that the post-independence government of Zimbabwe did not have the financial, technical and human resources to establish effective heritage management structures in the country.[14] Being under the Ministry of Home Affairs, the NMMZ had to compete for resources with the ZRP, which over the years weighed heavily against the NMMZ.[15] The subsequent imposition of 'targeted' or 'smart' sanctions on ZANU PF politicians and government by the European Union countries and the United States of America, in order to impede the implementation of what they regarded as unfounded land reform programmes and human rights abuses during elections, worsened the NMMZ's financial position. Targeted sanctions are intended to force those responsible for transgression to change their way of governing, while minimizing unplanned negative impacts on the general population. These sanctions include financial restrictions (freezing of funds and other financial assets, ban on transaction and investments), trade restrictions on particular goods and by particular

persons/organizations, arms embargoes, travel bans, diplomatic constraints and limiting of cultural or sports activities.[16] As a result of these sanctions, the priority of the Zimbabwean government shifted to 'fixing' the collapsing economy and improving the security of the country, allegedly threatened by the imposition of sanctions. Funding of the heritage sector became a luxury and a peripheral issue. Thus the NMMZ has not been able to fund its activities and pay workers adequately. As funds diminished the most senior and experienced staff, both natural and cultural scientists, began to look for greener pastures in the neighbouring states of South Africa, Botswana, Namibia and elsewhere. To address this problem, the NMMZ quickly opted for direct engagement in commercial operations in the tourism sector, then a growing and perceived profitable part of the national economy. To achieve this objective, the NMMZ approached the ZPWMA and proposed to take over the management of the Special Area (404 hectares), arguing that the Special Area is the country's first national monument, which was declared in 1937 under the then Commission for the Natural and Historical Monuments and Relics. The Special Area (Figure 6) is part of the Victoria Falls National Park and consists of the Rainforest, some islands and the downstream gorges.

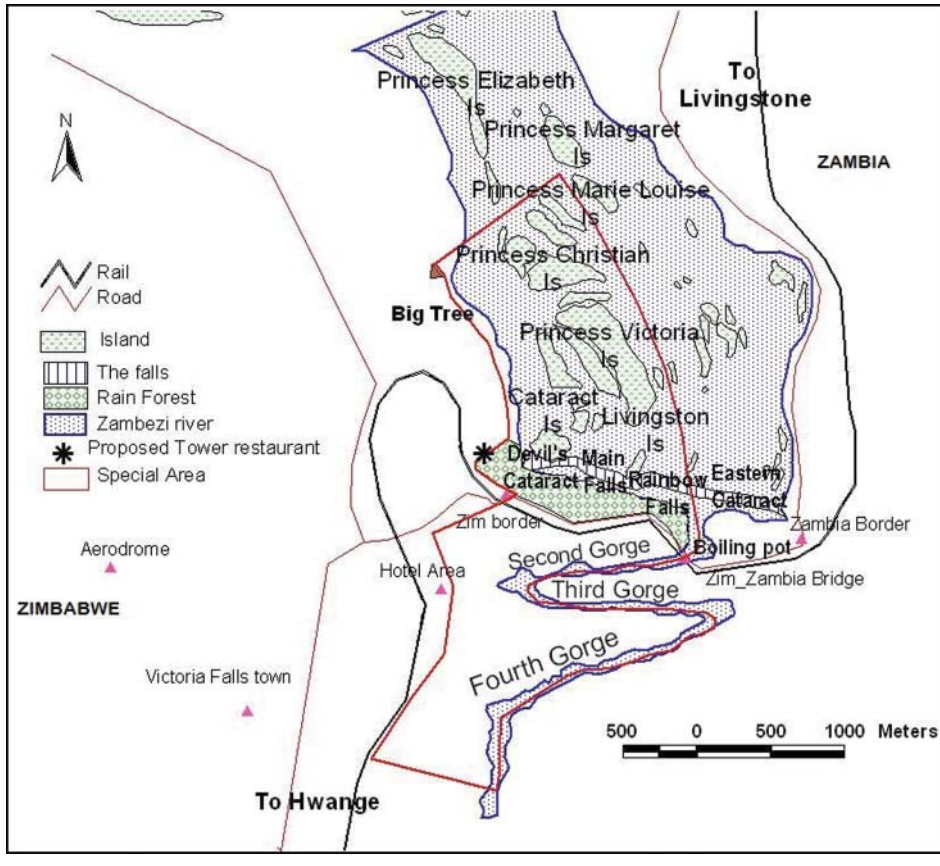


FIGURE 6 The Special Area proclaimed as the country's first national monument in 1937.
SOURCE: author

The NMMZ further asserted that, as is the case with other national monuments which are located in national park lands nationwide, the land category in which the Special Area is located does not affect its national monument status. The NMMZ regards a monument as any area of land of archaeological or historical interest or containing objects of such interest; any land which has a distinctive or beautiful scenery or a distinctive geological formation; any area of land containing rare or distinctive or beautiful flora or fauna; any waterfall, cave, grotto, avenue of trees, old tree or old building, or any other object of aesthetic, archaeological or scientific value or interest.[17] Based on this definition as argued by the NMMZ, the area accordingly remains the property of its board of trustees. The NMMZ also asserted that its responsibility of managing the Special Area together with the duty of the ZPWMA of managing the surrounding environments was acknowledged by the World Heritage Committee when the site was conferred with world heritage status. It further argued that in terms of managing transboundary world heritage sites, the 1972 World Heritage Convention requires that they be administered by the states parties concerned: that is, in the case of the Victoria Falls, by Zambia and Zimbabwe. On the basis of this requirement, the NMMZ further contended that the Zambian side of the Victoria Falls is managed by a state agent, the NHCC, a counterpart and sister organization of the NMMZ, and given its experience of managing world heritage sites in the country, it is most appropriate for the organization to jointly administer the site with its Zambian counterpart.

The ZPWMA refused to surrender the management of the Special Area to the NMMZ, counter-arguing that as a government organization it has always managed the area from the time when the Victoria Falls National Park was established in 1952. The ZPWMA Act considers a park as any botanical garden, recreational park, safari area or sanctuary. Its objectives are to make provision for the preservation, conservation, propagation or control of the wildlife, fish and plants of Zimbabwe and the protection of the natural landscape and scenery.[18] Based on this definition, the park's authorities further argued that the land in which the Special Area (a natural landscape) is located is part of the national park, and as such the administration of the site is its legislative responsibility under the Act; hence the status quo should be accepted as a *fait accompli*.[19]

Negotiations to change the administration of the area from the ZPWMA to the NMMZ resulted in a stalemate. In efforts to have the matter resolved amicably, the ZPWMA sought legal expertise from the Office of the Zimbabwe Attorney General to explain which organization should be the administrative authority of the Special Area and be allowed to levy admission fees for entry to view the impressive national monument. In response, the office of the Attorney General cited the NMMZ Act and advised that it has the right to administer the site and levy fees, provided that such fees and bylaws are approved by the minister and duly gazetted. The Office of the Attorney General also advised that the modalities of payment of the entry fees into the national park and into the national monument constitute administrative details, which could be practically worked out between the two contesting departments. After further consultations between the two departments, the ZPWMA was not satisfied with the explanation and had to seek further clarification of the matter from the Office of the Attorney General.[20] The Office of the Attorney General reaffirmed its

previous position and further advised that the issue is not a legal one and that the NMMZ has the statutory obligation and the right to manage the Special Area.[21]

Following this confirmation of the NMMZ's right to administer the Special Area, the Permanent Secretary of the Ministry of Home Affairs set 1 September 2000 as the date on which the NMMZ was to establish its physical presence at the site. This date was also communicated to the Secretary for Mines, Environment and Tourism, under which at that time the ZPWMA fell, as well as to the Acting Director of the ZPWMA, the Chairman of the Board of Trustees for the NMMZ, and the Attorney General's Office.[22] The NMMZ quickly established a task force whose mandate was to establish the physical presence of the organization at the site. However, as the matter unfolded, on arrival at the world heritage site, the NMMZ task force discovered that the ZPWMA members of staff were not aware of its mission and they had not been issued with instructions by their head office to permit the NMMZ officials to establish their physical presence at the site. The task force decided to test the strength of the judgement by demanding free entry into the Special Area as required by section 39 of the NMMZ Act. This was denied, but the demand prompted reaction by the Acting Director of the ZPWMA, leading to an agreement between the contesting departments that the task force should halt all attempts to take over the administration of the site by force but instead be allowed access into the Special Area for a week, working closely with the Victoria Falls National Park Warden, and should put in writing a set of recommendations on the way forward. It was also made clear to the task force that the ZPWMA was not going to relinquish its authority over the Special Area unless it was directed to do so by a political decision.[23] A report was produced and the NMMZ felt that although the task force was not able to take over the administration of the area, the action triggered an effective communication between the two departments. One of the recommendations in the same report was that the NMMZ directorate or their appointees should begin working on a comprehensive Cabinet memorandum to facilitate the suggested political decision.[24]

However, as the matter unfolded, no political decision was made to allow the NMMZ to take over the administration of the Special Area from the ZPWMA. The matter was taken to the President's Office where a mediator was appointed. The mediation process was carried out and it was recommended that the NMMZ and the ZPWMA should co-own and administer the Special Area together for an agreed period until the NMMZ completely took over its administration. The mediation recommendations have never been implemented and the ZPWMA has continued to own and manage the Special Area while the NMMZ has continued to pursue strategies to ensure that its mandate of administering the monument is implemented.

On 5 November 2010, the NMMZ made another attempt to take over the Special Area from the ZPWMA. Escorted by ZRP officers, the NMMZ officials led by their chief curator were reported to have pulled down the ZPWMA flag at the Rainforest entrance. They also ordered that a newly constructed restaurant inside the Rainforest be closed. The ZPWMA, partnered with a private company called Shearwater Adventures and trading as Zambezi Helicopter Company, had constructed a restaurant to sell curios and food right in the core area of the Rainforest. In ordering the closure of the restaurant, the NMMZ officials argued that its construction was not in line

with laws governing the management of world heritage sites and that the building negatively impacted on the integrity of the site. The ZPWMA management was threatened with detention if they opened the restaurant. Two police officers were then deployed to guard the restaurant while the NMMZ officials began preparations to manage the area.[25] However, the taking over of the Special Area by the NMMZ was short lived, as it was reported in the local press on the following day that a decision was made by the Cabinet for the ZPWMA to continue managing the site until the conflict is amicably solved.

History of management on the Zambian side

On the Zambian side of the world heritage site, the management of the Victoria Falls began in 1934 when the Victoria Falls Executive Committee was set up under the Victoria Falls Reserve Preservation Ordinance. Its main objectives were to promote tourism by managing visitor rondavels previously located at the now defunct Rainbow Lodge as well as to manage the Zambia Electricity Supply Company hydropower station and the customs post. As a result of these developments, in 1948 the Northern Rhodesia Commission for the Preservation of Natural and Historical Monuments and Relics (now NHCC) set up a Victoria Falls Conservancy Committee. In the following year, the committee enacted bylaws and extended the protected area to the Songwe gorge below the falls.[26]

To improve the management of the Victoria Falls and to boost tourism, a statutory trust was established between 1953 and 1971. During this period, the National Monuments Commission deproclaimed the area as a national monument as a result of the pressure to develop the area, but several archaeological sites remained declared as national monuments. In 1971, the area was declared Mosi-oa-Tunya National Park, managed by the National Parks and Wildlife Services (now ZAWA) until the present. The focus of the management was to cover the entire Victoria Falls ecosystem. However, the National Monuments Commission continued to manage the proclaimed national monuments in the area.[27]

In 1980 the Zambian government promulgated the Decentralization Act, which made it possible for district councils to be responsible for state land. As a result, the Livingstone District Council inherited control over the entire Mosi-oa-Tunya National Park as well as management responsibility for the Zoological Park. Nine years later in 1989, the National Monuments Commission was changed to become the NHCC through an Act of Parliament, Chapter 23 of the laws of Zambia, which is now Chapter 173.[28] In the same year, the Victoria Falls was proclaimed as a world heritage site. It was at the time of its nomination that the NHCC assumed full responsibility over the world heritage site, but the ZAWA continued to be responsible for the management of the entire park. In 1996 a joint management committee, which comprised the NHCC, ZAWA and the Livingstone City Council, was put in place to manage the VFWHS. However, after a few years in operation, the committee was dissolved and the legal protection of the site was separated, with the NHCC managing the world heritage site (Eastern Cataract) area while the rest of the park continued to be managed by the ZAWA.[29]

History of management on the Zimbabwean side

After the appropriation of land and eviction of the local people from their original settlements around Victoria Falls was completed,[30] rules to govern the site on the Zimbabwean side began to be enacted. A specific act to protect the Victoria Falls Reserve (now the Special Area), called the Victoria Falls Reserve Preservation Act, was enacted in 1928.[31] The law was repealed in 1936 when the new legislation called the Monuments and Relics Act 8, Chapter 64 was promulgated. The promulgation of the Act followed the formation of the Commission for the Preservation of Natural and Historical Monuments and Relics, popularly known as the Commission. Under this Act, a site could be proclaimed as a national monument by the Minister of Internal Affairs on the basis of the Commission's recommendations. In addition, the Commission was empowered to acquire and erect tablets giving historical information about sites and exercise control over any monument or relic as it deemed desirable.[32]

A year after the formation of the Commission and the enactment of the law, the Victoria Falls Reserve was proclaimed as a national monument in 1937 by the Minister of Internal Affairs under Section 10 of the Monuments and Relics Act 8, Chapter 64.[33] In the same year, through government notice no. 317, the Minister of Internal Affairs approved bylaws which were to be in force and effected within the Victoria Falls Reserve.[34] Using the new concept of ranking sites, the Victoria Falls Reserve was proclaimed as the country's first national monument followed by the Zimbabwe Ruins (Great Zimbabwe). The values of Victoria Falls Reserve and that of Great Zimbabwe were considered to be of national importance and as such were to be prioritized in terms of protection and development. At that time the Commission felt that the enactment of the 1936 law was not adequate for the full protection of heritage sites in the country. Physical intervention was therefore essential in cases where these sites would collapse or deteriorate. An Inspector of Monuments was to be employed and the duties included carrying out regular inspection of all monuments and undertaking works of repair, maintenance or protection of monuments.[35] In line with this approach and under section 16 (3) of the Act, the minister immediately approved the employment of a curator and the bylaws which were to be enforced within the Victoria Falls Reserve.

Transfer of the Special Area to the National Parks Advisory Board

A major challenge during the formative years of the Commission's work was its lack of equipment to repair and carry out maintenance work on monuments. It therefore had to delegate some of its duties to certain ministries or departments within whose lands monuments were located. In 1949, the National Parks Advisory Board (NPAB) was constituted and, because of the Commission's resources constraints, it became inevitable that the NPAB would administer some monuments located in park lands. As a first step towards relieving the Commission of the burden of administering tourist visitation to monuments, an arrangement was made for the NPAB to take over the management of Victoria Falls and the Zimbabwe Ruins (Great Zimbabwe) on 1 April 1951. In the same year, the NPAB also took over the management of rest camps that were previously built by the Commission at Great Zimbabwe, at Victoria Falls, and in the Matopos National Park.[36] However, the transfer of these monuments

to the NPAB came after the realization by the Commission that some form of cooperation had to be established between the two bodies in order to divide responsibility and prevent overlapping of duties. To this end, the Commission Secretary drew up a memorandum of understanding, which was fully agreed by both bodies. Of the fifty-nine declared national monuments, 17 per cent were situated in the national park's lands and the remaining outside Crown lands. At a meeting in March 1961, both bodies unanimously agreed that:

1. Adequate protection could be afforded to natural and historical monuments by either the Commission or the National Parks Advisory Board.
2. Monuments on private land did not fall within the purview of the National Parks Advisory Board and should remain under the Commission.
3. When a national park was proclaimed in any area, archaeological remains constituting a monument within that area should continue to be under the Monuments Commission.
4. Any such remains discovered in the future in national parks should similarly be in the care of the Commission.
5. Rest huts and camping facilities were essentially a matter for the National Parks Advisory Board and not for the Commission.
6. Close cooperation between the two bodies would be essential and that would best be secured by continuing the arrangements under which there was mutual representation.

After considering a schedule of the national monuments in the light of these proposals, it was agreed that certain national monuments should be handed over to the NPAB (Table 1). Other national monuments were to remain under the administration of the Commission (Table 2).

TABLE 1

MONUMENTS HANDED OVER TO THE NATIONAL PARKS ADVISORY BOARD IN 1951

Registered number	Name of monument
1	Victoria Falls Reserve
2	Zimbabwe Ruins
4	World's View Hill–Matopos
9	Sinioa (Chinhoyi) Caves
10	Rhodes–Inyanga Estate
12	Pungwe Falls
29	World's View Farm–Nyanga
35	Chirinda Forest
42	Mtoa Ruins–Hwange
44	Mjelele Valley Road Cave
46	Ewanrigg Aloe Garden
51	Rupisi Hot Springs

TABLE 2

MONUMENTS THAT REMAINED UNDER THE ADMINISTRATION OF THE COMMISSION IN 1951

Registered number	Name of monument
7	Bambata Cave
8	Nswatugi Cave
19	Silozwane Cave
20	Gulubahwe Cave

According to the annual report of the Commission, this agreement was arrived at willingly, and at that time it was confidently believed that a relationship was established between the two bodies whose functions were to be coordinated and result in mutual and advantageous cooperation.[37] However, the Victoria Falls Reserve was subsequently included in the Victoria Falls National Park through Proclamation 25 of 1952. The monument was eventually effectively controlled by the NPAB through the Parks and Wildlife Act of 1975. Although some duties were delegated to the NPAB in cases where the development of local amenities would be for the benefit of the visiting public, the Commission had by and large remained responsible for the management of the Special Area at Victoria Falls and Great Zimbabwe.[38] From this arrangement, the Special Area, Great Zimbabwe and other monuments assumed dual custodianship protected by both the Commission and the NPAB. However, in 1975 the Commission resumed the full and sole responsibility of managing Great Zimbabwe through a 'walk in, walk out' transfer arrangement agreed by both the then Department of National Parks and Wildlife Management and the National Museums and Monuments of Rhodesia (NMMR) and facilitated by the Treasury Department. Through this transfer arrangement, all assets were transferred to the NMMR.[39] This arrangement was not, however, extended to the Special Area at Victoria Falls, Chinhoyi Caves, and other sites previously given to the NPAB in 1951.

Deproclamation and reproclamation of the Special Area as a national monument

Even before the transfer of the Special Area to the NPAB, the entire Victoria Falls landscape had begun to experience management problems because of the increasing number of visitors and the pressure of developing tourist facilities. However, the Commission had continued to be consulted by the government, the NPAB and interested parties wishing to develop inside and around the Special Area. It also continued to make decisions on how the Special Area and the entire landscape should be governed and preserved until 1972.[40]

In 1940, an American company called United Utah Industries Corporation applied for and was given permission by the Northern Rhodesia government to construct a £500,000 hotel and casino on the edges of the Eastern Cataract.[41] Although the project was planned on the Northern Rhodesian side, the Commission felt that this project would ruin the entire landscape in similar ways that the Niagara Falls were ruined by commercial developments on both the American and Canadian sides.[42] A joint

effort to contest the building of the hotel was mounted by the Northern Rhodesia Commission for the Preservation of Natural and Historical Monuments and Relics and their Southern Rhodesian counterpart. In contesting the project, the Director of the Rhodes-Livingstone Museum, Desmond Clark, had suggested that the site could be proclaimed a federal monument to ensure that it was effectively protected from commercial developments.[43] However, this idea could not be implemented because the political decision of 1953 to amalgamate the colony of Southern Rhodesia (later Rhodesia and now Zimbabwe) and the territories of Northern Rhodesia (now Zambia) and Nyasaland (now Malawi) into a large and powerful economic unit was collapsing.[44] The project was also rejected by the public. Although the Northern Rhodesia government had agreed to lease the land close to the Eastern Cataract, the American company failed to implement the project partly because of public outcry against the idea.

In 1963, the Commission faced yet another challenge to preserve the Victoria Falls when plans were tabled to build new customs and immigration structures on the south bank of the Victoria Falls. The customs and immigration building was to be constructed between the bridge and the Devil's Cataract immediately behind the centre of the Rainforest.[45] The suggested project in practice meant that tourists had to hold passports if they wished to view the falls from the northern bank. Although the public had opposed the idea of building the customs and immigration building, the project was implemented and the Northern Rhodesia government responded by constructing similar structures at the edge of the beginning of the second gorge.

During the latter part of the 1960s there were two major developments planned for Victoria Falls: the construction of the observation tower, and the development of the chip-and-putt golf course. In 1968, a company called African Panorama Limited applied for three acres of land to erect a 320 ft (95 m) observation tower and a restaurant about 100 ft (30 m) from the western end of the Devil's Cataract and adjacent to the railway line.[46] The idea to construct the observation tower at Victoria Falls originated from the Eiffel Tower in Paris and the Post Office Tower (now the British Telecom Tower) in London, where people obtain a panorama of the cities. The Victoria Falls Tower was to be modelled on the London Post Office Tower, with a restaurant below it to serve tourists. The land was to be leased to the company for 99 years, beginning on 1 January 1968 and terminating on 31 December 2066.[47] The main objective of constructing the observation tower in this area was to earn foreign currency through the collection of revenue from tourists coming to view the waterfall and the gorges below. It was also contended that the tower would enable the elderly and the disabled to clearly view the waterfall and the gorges.[48] The observation tower was to be constructed in the Special Area at a cost of between £200,000 and £250,000.[49] A series of meetings was held in which the Ministries of Tourism, Mines and Minerals, Agriculture and Lands, and Internal Affairs were involved. All these ministries unanimously agreed that the tower should be constructed. Although some members of the Commission had contested the project, they were coerced into supporting it on the basis that it would bring needed foreign currency in the country. Unfortunately, the Commission could not invoke the 1936 Monuments and Relics Act to impede the project because Members of Parliament who supported the idea had argued that the government was not bound by its own law to construct the tower.[50]

A motion was put in parliament to debate whether the project should go ahead or not. During the debate some parliamentarians argued that the construction of the tower would promote tourism in the country while others strongly asserted that the tower would ruin the beauty of the Victoria Falls. After a considerable debate the parliamentarians eventually voted against its construction.[51]

In 1968, Southern Rhodesia Railways applied for 4.5 acres of land to develop a chip-and-putt golf course. In addition to the golf course, it was also proposed that bowling greens, tennis courts, a discotheque, a refreshments bar, and an amusement centre for children would be developed.[52] The area in which these facilities were to be developed was entirely situated within the Victoria Falls Reserve and also in the national park lands between the southern and eastern extensions of the Victoria Falls hotel grounds and the two adjacent gorges of the Zambezi River.[53] The application was placed before the NPAB which recommended that it should be granted subject to an agreement with the Commission.[54] At a meeting to consider the application, the Commission did not approve it on the basis that the area to be developed entirely lies in the Special Area.[55] However, this decision was reversed when members of the Commission inspected the area. After the inspection of the area they concluded that these developments would not in any way threaten the Special Area but instead would enhance it. For this reason they agreed that the project could be implemented.

These and many other projects threatened the future preservation of the Victoria Falls in general and the Special Area in particular. In order to preserve the beauty of the natural and cultural surroundings of the site, the Commission made a decision in 1968 to reduce the size of the original boundaries of the Special Area. Accordingly, in order to change the boundaries of the national monument, the original site was deproclaimed as a national monument, cancelling the previous Government Notices no. 318 of 1937, no. 922 of 1947 and no. 453 of 1970. A smaller area was reproclaimed as a national monument by Government Notice 640 of 1970. In proclaiming the new boundaries of the site, Cooke had earlier stressed that no buildings other than those already agreed could be erected and that the area must remain undeveloped except for work to prevent soil erosion and the destruction of indigenous trees and other vegetation.[56]

After the reproclamation of the Special Area as a monument, both the National Parks Advisory Board and the Commission continued to co-manage the Special Area by carrying out preservation work to prevent human-caused degradation of the area. This work included restoration of the severely eroded area in the vicinity of Livingstone statue, the creation of suitable footpaths and routes to view the falls, the implementing of methods to control visitors, and fencing around the area.

Amalgamation of the Commission and the National Museums of Rhodesia

In 1972, a decision was made to amalgamate the Commission for the Preservation of Natural and Historical Monuments and Relics with the National Museums of Rhodesia, to establish the National Museums and Monuments of Rhodesia (NMMR). The new organization was divided into five administrative regions, namely western, central, southern, northern, and eastern, headquartered in Harare (then Salisbury). The Victoria Falls Special Area came under the administration of the western region of the NMMR, until in 1980 when the name was changed to the NMMZ. After independence, the monuments that were not transferred back to the Commission still

remained under the administration of the Zimbabwe Parks and Wildlife Management until the NMMZ began to make efforts to take over the administration of the Special Area.

Discussion and conclusion

The management of world heritage sites is associated with controversy because different groups of people and organizations embracing diverse narratives seek to assert symbolic or economic ownership over them. For this reason, the relationship between world heritage sites and economics is often characterized by disagreements and conflicts about their management, ownership and control. The conflict between the NMMZ and the ZPWMA over the ownership of the Special Area is not so much about its designation as a national monument, a world heritage site with its associated values, a section of a national park or its proper conservation, but is more to do with the economic value that the site embraces through tourism. The attempts by the NMMZ to take over the administration of the Special Area from the ZPWMA is a reaction to the continuous reduction of operating funds by the Zimbabwean government and the subsequent collapse of the country's economy. By taking over the administration of the Special Area from the ZPWMA, the NMMZ had hoped to address its financial problems with the money generated from tourists entering the Rainforest to view the Victoria Falls.

The ZPWMA's reasons for refusing to hand over the ownership of the Special Area to the NMMZ are not very compelling as the site is clearly a declared national monument. The NMMZ Act clearly states that its board of trustees is in charge of all monuments in the country. The Act also has provision for the board of trustees to compulsorily acquire a national monument or relic or any land in connection with a national monument or any right over any land in the vicinity of a national monument.[57] The ZPWMA Act states that the purpose for which national parks are or may be constituted under this Act shall be: (a) to preserve and protect the natural landscape therein; and (b) to preserve and protect wildlife and plants and the natural ecological stability of wildlife and plant communities therein for the enjoyment, education and inspiration of the public. The Act also clearly stipulates that the board is in charge of all national parks and its duties are to examine and report on, among other things, the preservation and protection of natural landscapes, wildlife and plants and the natural ecological stability of wildlife and plant communities in national parks.[58] As clearly stated in these two Acts and in principle, there is no conflict of definition between the NMMZ and the ZPWMA Acts on what constitutes a monument or a national park.[59] Based on these definitions, the NMMZ should have been allowed to take over the administration of the Special Area as was arbitrated by the Attorney General in 2000.

The continuous refusal by the ZPWMA to allow the NMMZ to exercise its mandate over this national monument possibly arises from the parks authority's desire to collect revenue from the Rainforest in order to cushion themselves from the harsh economic conditions prevailing in the country. Another explanation for refusing the NMMZ ownership of the Special Area may possibly be that the parks authority suspects that if allowed to happen the case could be a precedent for claiming back other national monuments situated in national parks, such as the Chinhoyi

Caves, Pungwe Falls and Ewanrigg Aloe Garden. This would shrink the ZPWMA's revenue collection base and place the organization under financial constraints.

The involvement of the President's Office and the Cabinet in the quest to find a lasting solution to the conflict means that the dispute has acquired a political dimension. Indeed, as demonstrated by the management history of the Victoria Falls, decisions to develop or not to develop within the Victoria Falls area have always been political. The reason for this is that the Victoria Falls have always been regarded by both the colonial and the postcolonial governments as a strategic foreign currency earner in the country. The major problem with political intervention to solve the conflict between the NMMZ and the ZPWMA is that it does not give the concerned parties an opportunity to express their views, as illustrated by the recent Cabinet decision that the ZPWMA should for now continue to manage the Special Area. The fact that no political decision has been made over who should administer the Special Area suggests that there may be politicians who have economic interests not only in the Special Area but in the entire world heritage site.

The imposition of targeted sanctions against the ZANU PF politicians, party and government must have pressured them to find solutions to the financial and trade restrictions. The problem with sanctions applied to individuals who are themselves the governing authority is that the authorities have the power and the ways to defend against the consequences of the sanctions by altering national policies. The resultant effect will always be the application of pressure on local resources due to restricted access to other sources of funding. This increased pressure in turn leads to competition for local and limited resources, and in the end it is the same powerful and governing authorities who get more than the ordinary people.[60] The split of the Ministry of Environment and Tourism into two, each headed by ZANU PF ministers, could have been a calculated political move by the party to control resources such as the Victoria Falls for revenue generation at a time they are under targeted sanctions. The reluctance to make a political decision on which organization should administer the Special Area suggests that personal business interests could be disrupted if ownership is transferred to the NMMZ. This is perhaps one of the reasons why the NMMZ authorities subsequently lost the political backing to take over the administration of the Special Area by their parent Ministry of Home Affairs.

Perhaps the other reason why this dispute is protracted is the NMMZ's approach to take over the administration of the Special Area, which has tended to sideline other interested parties such as tour operators, hoteliers and the local communities. This problem could have emanated from an earlier mediation process which did not consider public interests in the ownership of the Special Area. Research has shown that the problem of applying mediation as a method of solving disputes of this nature is that it does not adhere to any procedural rules, rules of evidence or substantive law.[61] The other problem with mediation is that the settlement process usually bypasses public interests, which are not necessarily represented by the parties to a negotiated settlement.[62] If the key parties involved in the ownership dispute of the Special Area reach an agreement with which they are pleased but fail to take into consideration others who are not represented directly in the negotiations, the agreement could be seriously flawed. For that reason, the mediation process to solve the NMMZ and the ZPWMA impasse over the ownership of the Special Area from the beginning should have brought to the negotiating table representatives of all the parties that

could make or break the dispute. Four generally inclusive groups of parties who should be invited to contribute in such disputes should be: 'those with sufficient political power to draw elected and appointed officials in the dispute', 'those with the necessary standing to claim legal protection', 'those with the power to block implementation of a negotiated agreement', and 'those with the moral claim to generate public sympathy'.[63] This approach would ensure an effective settlement which is capable of implementation and is not liable to disruption, whether by the parties failing to ratify or subsequently defaulting, or by unrepresented interests taking unilateral legal, political or direct action. The involvement of the larger constituency safeguards against reviewable agreements escaping judicial scrutiny or agreements that are objectionable on policy grounds escaping political oversight.[64]

The difficulty with this dispute is that it is greatly affecting the proper management of the site as more attention is being given to administrative issues than to its actual conservation. To solve the dispute between the NMMZ and the ZPWMA, it may perhaps be necessary to carry out a new mediation process, which is inclusive of larger constituencies such as tour operators, hoteliers, politicians and the local communities. This new mediation process would consider various views of other interests, which are based on their experiences and knowledge of living around the falls and managing their part in it. This would ensure an effective settlement, which can be implemented and in turn improve the management of this exceptional world heritage site. Success in solving the dispute between the NMMZ and the ZPWMA over the ownership of the Special Area at Victoria Falls essentially depends on their cooperation and on the willingness of Zimbabwean politicians to have the matter solved.

Acknowledgements

This article is based on my Master of Science dissertation submitted to the School of Biology and Environmental Science, University College Dublin. In this regard I would like to thank my supervisor, Dr Elene Negussie, for advice during the writing of the thesis. I would also like to thank Dr Claire Cave, the Programme Director for World Heritage Management, who offered me a place to pursue this programme. I am also grateful to Professor Gary Haynes of the Nevada State University, USA, who not only read but also suggested many ways of improving this study. The production of maps was done by Albert Chirima of the Matopos International Crops Research Institute for the Semi-Arid Tropics (ICRISAT). He accurately drew the maps and made sure that my deadline for the maps was met. I would like to sincerely thank him for that. Prof Dr Willem, J.H. Willems, Dean of the Faculty of Archaeology at Leiden University suggested that I approach a special journal on The Historic Environment to have this paper published. In this case, I would like to thank him and Dr Roger White, one of the editors of this journal, together with anonymous reviewers for editing and helping to have this paper finally published. I would also extend my sincere gratitude to UNESCO for awarding me a 2008 Vocations Patrimoine Fellowship for World Heritage Site Managers. It would have been impossible for me to carry out this study without the support of the fellowship. Finally, I would extend my sincere thanks to my former employers, the National Museums and Monuments of Zimbabwe, for granting me a generous study leave to pursue my studies in a foreign country.

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