



FORMAL STRUCTURES OF POWER IN RURAL ZIMBABWE

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...colonial rule created a 'bifurcated state' that distinguished between citizens on the one hand and subjects on the other. Citizens – largely limited to the urban and European – enjoyed rights in the civil sphere; subjects languished under the 'despotism' of customary law, institutionalised through the indirect rule of chiefs in rural areas. Post-colonial states succeeded in de-racialising but not in democratising, instead reifying the authoritarian characteristics of indirect rule in a variety of ways, and so maintaining the colonial divisions between urban and rural, citizen and subject. This, Mamdani argues, not economic inequity, was colonialism's most dangerous legacy, and it stands as the key obstacle to democratisation, political stability and an accountable state.¹

In February, 2000 ZANU PF's first ever loss at the polls in a nationwide referendum on a new constitution precipitated a political crisis, which has continued to the present. The most alarming aspect of this loss for ZANU PF was that it was apparent that many rural voters, on whom ZANU PF could usually rely, had withdrawn support. A significant proportion of these voters were perceived by ZANU PF to be farm labourers in thrall to their white commercial farmer employers. With a general election pending in June of that year, ZANU PF moved swiftly to re-establish complete control over the country side. Under the guise of land reform, white commercial farms were invaded, farm workers killed, beaten, raped and displaced, and militia bases established on the occupied land. These bases were used as the spring board for a reign of terror in the countryside.

Part of the strategy to regain control over the rural areas included a centrally organised campaign, commencing in 2001, to disrupt local government and to dislodge government personnel seen as an impediment to the reassertion of ZANU PF hegemony. War veterans²

¹ Jocelyn Alexander *The Unsettled Land: State Making and the Politics of Land in Zimbabwe 1893 – 2003* Weaver Press 2006 (Alexander 2006) p2 referring to Mahmood Mamdani's *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* PUP 1996.

² This was the term used at the time to describe the groups engaged in rural violence, though this militia, while often led by a war veteran, usually comprised the "lumpen-proletariat" and ZANU PF youth most of whom would have been too young to have fought in Zimbabwe's independence war.

closed Rural District Council offices, schools and clinics and brought community income generating projects (such as CAMPFIRE³) to a halt. Teachers, nurses, local councillors and district administrators were removed from their posts. Some were re-admitted after vetting by a local war veterans committee, but most were replaced, often by poorly educated persons appointed by the veterans committee on the basis of nepotism and cronyism. Needless to say, the statutory requirements for appointment and dismissal were ignored other than in a few notable instances.⁴

As a complement to this process, in the early to mid-2000s, ZANU PF began to exploit the possibility of co-opting traditional leaders as allies in the campaign for rural control, adopting a carrot and stick approach. Chiefs were encouraged to exercise the extensive powers over rural communities that had been restored to them by way of the Traditional Leaders Act (see below), and were threatened with removal from their positions or discontinuance of state allowances if those under their jurisdiction voted against ZANU PF. These tactics proved successful in by-elections in Gutu (Masvingo Province) and Lupane (Matabeleland North) in 2004, and were adopted nationwide for the general election of 2005. Compliant Chiefs thus have used their powers to evict people from villages, prevent opposition political parties from campaigning and to control the distribution of food aid on a politically partisan basis.⁵ The alliance between traditional leaders and ZANU PF became explicit with the allocation of youth militia as “security” details to Chiefs in the two Matabeleland Provinces and the Midlands in 2004.⁶ This arrangement has been extended geographically and continued to the present, though the militia details have been replaced in some instances by official, but ZANU PF aligned, “Youth Development Officers”.⁷

The elections of March 2008, saw the MDC take control of (and win a significant number of seats on) numerous Rural District Councils (see below) which had hitherto been dominated almost exclusively by ZANU PF. The effect of this on ZANU PF’s prior strategy and ZANU PF’s reaction, requires further research. However, it is presently clear that, with the possibility of elections taking place in 2011, ZANU PF has sought to shore up its alliance with traditional leaders as a means of exercising local control. Furthermore, where local councils are in the hands of MDC, it has sought to use the traditional leadership and central government control over local councils to circumvent rural councils as a focus of local political power. Determining the present extent, mechanisms and success of this strategy will require extensive field research. Remarkably little attention has been paid to this technology of power to date. This paper sets out the formal structures of local governance in this context and exposes current information gaps in the function and dysfunction of local governance as a prelude and invitation to further research in this area.

3 Communal Areas Management Programme For Indigenous Resources - a community based programme centred on the advantageous management of wildlife.

⁴ See *The Politics of Disruption: War Veterans and the Local State in Zimbabwe* Joanne McGregor African Affairs (2002) 101 9-37 (“McGregor: *The Politics of Disruption*”)

⁵ See *Disrupting Democracy? Altering Landscapes of Local Government in Post-2000 Zimbabwe* Amanda Hammar Crisis States Development Research Centre Discussion Paper No.9 June 2005 p.1 (Hammar 2005) pp 14 -15.

⁶ Hammar 2005 p 15.

⁷ The secondment was noted during a tangential project involving field research in select rural areas undertaken by The Research and Advocacy Unit (RAU) in September 2010 in conjunction with another Civic Based Organisation. The research provided some limited information on the present functioning of the structures of power discussed here.

Political Divisions of Land.

For administrative purposes, Zimbabwe is divided into the following geographic areas - Provinces; Districts; Rural Councils; Wards; and Villages.⁸ The President may declare any area to be a Province⁹ and any area within a Province to be a District.¹⁰ The President may establish a Rural Council within a District¹¹ and divide any Rural Council into Wards.¹² Rural local government is thus dependent upon the discretion of the President rather than being constitutionally enshrined and protected. Provinces and Districts so established by the President may also be abolished by him.¹³ These powers effectively allow the President to act as a one-person delimitation commission.¹⁴ The Minister of Local Government has the responsibility to ensure that all Communal Land is surveyed and the boundaries of Villages determined in such a survey.

The areas studied for the purposes of this report all fall within the category of rural land designated as Communal Lands,¹⁵ which have a singular administrative regime, as will be outlined shortly.

All Communal Land vests in the President who “permits” it to be occupied in accordance with statute.¹⁶ Statute gives overall authority over the allocation and use of Communal Land to the Rural District Council within which the Communal Land falls.¹⁷ The Rural Council must consent to the occupation of Communal Land by any individual¹⁸ and should issue a settlement permit to the head of each household in the village.¹⁹ However, in granting such approval or consent, a Council must have regard to customary law relating to the allocation, occupation, and use of land in the area concerned, and consult and co-operate with the Chief appointed to preside over the community concerned in terms of the Traditional Leaders Act (see below).²⁰ It must also grant occupation only to persons who, according to the customary law of the community have traditionally and continuously occupied and used land in the area concerned and are regarded as

⁸ Proceeding from the largest to the smallest.

⁹ Section 3(1)(a) of the Provincial Councils and Administration Act [Chapter 29:11].

¹⁰ Section 6 of Rural District Councils Act [Chapter 29:13].

¹¹ Ibid Section 8(1)(a).

¹² Ibid Section 8(1)(c).

¹³ Section 3(1)(c) of the Provincial Councils and Administration Act and Section 6(c) Rural District Councils Act.

¹⁴ However, in terms of section 9, the Minister has the power to appoint a commission apparently for the purpose of making recommendations on delimitation to the President, and where such commission is not appointed, to solicit views from residents for the same purpose.

¹⁵ Communal Land consists of land which, immediately before the 1st February, 1983, was Tribal Trust Land in terms of the Tribal Trust Land Act, 1979 (No.6 of 1979) – section 3 of the Communal Land Act [Chapter 20:04]. It may be added to or subtracted from by the President through a statutory instrument – section 6 of the Act.

¹⁶ The Communal land Act itself (sections 7 & 8) and the Rural District Councils Act.

¹⁷ Section 26 of the Traditional Leaders Act.

¹⁸ Section 8 of the Communal Land Act.

¹⁹ Section 24 of the Traditional Leaders Act.

²⁰ Chapter 29:17.

forming part of such community, or who, according to such customary law, may be permitted to occupy and use such land.²¹ In effect then, a Rural District Council appears to give its imprimatur to decisions made by the Chief for the district, allowing the Chief to wield enormous power over the inhabitants of the area under his²² jurisdiction.

The Structure of Local Governmental Authority.

The local government in Communal Lands is characterised by a multi-tiered and hierarchical two-strand administrative structure. One strand comprises democratically²³ elected local government councils; the other is that of appointed traditional leaders and appointed officials imposed by central government. There are thus two loci of power in local government running parallel to each other, one democratic and one appointed, with some formal linkages between the two established by statute. The result is that numerous tentacles of power emanating from different sources in this bifurcated system touch upon and control the lives of the inhabitants of rural areas.

There are two significant land marks in the history of the development of the structure of local government of relevance here. The first is the amalgamation of Rural Councils with District Councils. The former had governed small country towns and large-scale commercial farms, while the latter fell within Communal Lands.²⁴ Legislation merging the two was passed in 1988 but only became effective in 1993.²⁵ The second relates to traditional authority. The pre-independence government utilised traditional leaders as primary policy implementers (particularly in regard to land), and they were given extensive powers as means of exercising control over the rural populace. As a result, Chiefs' relations with their communities was often fractious, though the view that Chiefs were completely and successfully co-opted to act as agents for the minority white government does not appear to be supported by close examination.²⁶

Nonetheless, the position of Chiefs had been sufficiently compromised for the post-independence government to strip the Chiefs of most of their powers in 1982,²⁷ leaving them with only three functions of a customary nature. Official policy became one of devolution of local government power to elected representatives in rural areas.²⁸ However, despite this policy, in practice central government found the extensive power of central government over local government structures (outlined below) established in the pre-independence period too seductive to relinquish. As

²¹ Section 8(2) of the Communal Land Act

²² Chiefs are almost exclusively male, though in 1997, for the first time a woman, was appointed as Chief in an Ndebele area of Zimbabwe.

²³ Assuming a free and fair election. This is not, of course, always the case in Zimbabwe.

²⁴ This essentially removed the segregationist policy of local government based on race adopted by the pre-independence government.

²⁵ For this view see *Local Government Reform in Zimbabwe- A Policy Dialogue* in Community Law Centre State, Peace and Human Security Studies (Community Law Centre 2010). A contrary and more plausible view is held by Jocelyn Alexander (Alexander 2006 p 88).

²⁶ Community Law Centre 2010 pp 54, 88 and 91-92.

²⁷ By way of the Chiefs and Headmen Act 29:01.

²⁸ Significant steps towards a decentralization policy rural local government were introduced by Prime Minister's directives in 1984 see also *Thirteen Principles to Guide the Decentralisation Process* adopted by Cabinet in 1996 – referred to in The Zimbabwe Institute *Local Government Policy Review* p. 11 (ZI 2005).

opposition to the rule of ZANU PF has grown, this power has been used with a directly proportional frequency.

Furthermore, noting the pre-independence government's success in exerting control over the rural areas through traditional structures, the Traditional Leaders Act was passed in 1998, becoming effective in 2000. The Act restored the jurisdiction of the traditional leaders in some 19 aspects relating to rural communities, most of which had been removed in 1982.²⁹

Provincial Governance.

The Ministry of Local Government, Rural and Urban Development³⁰ may be regarded as being at the pinnacle of the administrative hierarchy, and both the Minister and Permanent Secretary have extensive powers to make far reaching decisions affecting rural communities. The Minister may give directions to, and demand reports from, Provincial Councils; may send in investigators to examine the affairs of the Provincial Council; and pass regulations to ensure compliance with the Provincial Councils and Administration Act and "good governance."

However, in many instances, the President makes the final decision where an issue is disputed or appealed. This power extends to issues which one would not normally consider as requiring a determination by the head of the executive, such as an appeal against a refusal to allow an individual to occupy Communal Land.³¹

Zimbabwe has been divided into ten provinces with Harare and Bulawayo constituting two "metropolitan provinces." Each non-metropolitan province is governed by a Provincial Council³², headed by a Provincial Governor. The functions of both the Governor and the Provincial Council are essentially the same - to co-ordinate the preparation of development plans for each province and to promote the implementation of such plans by other Ministries, authorities, agencies, or persons.³³ Although a Provincial Governor and Council have virtually identical functions, no hierarchy or chain of command is indicated by the legislation. The somewhat nebulous description of duties, and lack of any indication as to the precise nature of power accorded to carry out these duties, allows for an expansive interpretation by those concerned and the arrogation of considerable power by a Provincial Governor. Provincial Governors are appointed by the President and hold office for two year terms.³⁴

Each province is assigned a Provincial Administrator. The manner of the appointment of these officials is obscure, though their appointments may be authorised by section 33 of the Provincial Councils and Administration Act, and they are part of the Public Service. No legislation sets out the qualifications for, or duties of office, which, if Provincial Administrators are appointed in terms of this section, are simply and broadly described there as being "to perform such duties in

²⁹ Community Law Centre 2010 p 48.

³⁰ Currently, Ignatius Chombo.

³¹ Section 8(4) of the Communal Land Act.

³² The President determines whether to establish a Provincial Council for a Province – section 11 of the Provincial Councils and Administration Act.

³³ Sections 13 and 10 of the Provincial Councils and Administration Act respectively.

³⁴ Sections 4 and 6 of the Provincial Councils and Administration Act. The appointments must be made with the consent of the Prime Minister (section 115 and 20.1.3(p) of the Constitution). The terms of office present Provincial Governors expired on 31st July 2010 and the legitimacy of the current incumbents, reappointed in October, 2010 without the Prime Minister's consent is thus dubious.

relation to the Provincial Council as the Minister may from time to time direct.” They appear to be the Ministry’s liaison point with the Provincial Council and Governor, and act to some extent as a quasi “permanent secretary” to the Governor, often exercising power in areas where statute specifically assigns it elsewhere, for example in the nomination of Chiefs.³⁵

Provincial Councils comprise the Provincial Governor; the chairman³⁶ or mayor of each town or municipal council and one other person nominated by that council; the chairman of each rural district council within the province and one other person from such council nominated by the Minister³⁷, who may be an unelected Ministerial appointee to that council (see below); a Chief from the Province appointed by the Provincial Assembly of Chiefs (see below), and three other persons appointed by the President - one chosen on the basis of skill and experience in the political affairs of the province, one chosen to represent the youth, and one to represent women.

The ZANU PF Minister may thus neutralize the political influence of any chairman or mayor from an MDC-dominated rural district council by using his power to appoint a representative from each rural district council to a provincial council. It thus only requires that the total of representatives to the council comprising the Chief, the Presidential appointees, and ZANU PF controlled *rural and urban* councils exceed the total number of MDC controlled *urban* councils (where the additional representative is nominated by the Council itself) in a province to ensure a ZANU PF controlled provincial council regardless of the fact that the electorate may have given control of the majority of urban and rural councils in the province to the MDC.³⁸

The presence of four presidential appointees to the Provincial Council, plus a Chief, means that five members of a Provincial Council will currently be ZANU PF aligned. Thus ZANU PF may secure a majority on each Provincial Council in the following way.

Each MDC aligned Rural District Council Chairman’s vote on a provincial council may be neutralized by ensuring that the councillor appointed to a provincial council from a rural district council by the Minister is also his appointee to that rural district council. There are 27 Urban Councils in the non-metropolitan provinces and all, bar one, are under MDC control. While the average of six seats accruing to the MDC on a provincial council by virtue of the average three Urban Councils per province, trump the five assured ZANU PF aligned appointees to the Council, the one person majority will be lost if ZANU PF controls only one of the average of seven Rural District Councils in the province. There are 60 Rural District Councils, that is, slightly more than twice as many as the 27 Urban Councils. ZANU PF controls 43 of these.³⁹ Each ZANU PF controlled Rural District Council will provide the two seats on the Provincial Council necessary to neutralize the two seats accruing to the MDC by virtue of its control of the Urban Councils.

³⁵ *The Mutimuri Family v Moses Nyamukanga and Ors* HC 5267/05.

³⁶ The title “chairman” is taken from the Act.

³⁷ This councillor was previously selected by the Council itself, as is the case with Urban Councils – see ZI 2005 p. 11.

³⁸ Further research needs to be conducted to determine the actual composition of the Provincial Councils.

³⁹ Community Law Centre 2010 p 60. There are 1958 wards. In the 2008 elections ZANU PF won 1001 of these and the combined MDCs and other parties 944. Elections were not held in 13 wards. As the figures suggest, where ZANU PF has a majority on a council, it is often by a slim margin.

Hence, as an example, in a province with three urban and seven rural councils, with six of the latter under the control of the MDC, there will be six MDC representatives from the urban councils – the chairperson and one other representative appointed by the Council – and six from the Rural District Council, making a total of 12 MDC representatives. ZANU PF will have 12 appointed representatives (the Governor, the Chief, three presidential appointees, six ZANU PF Ministerial appointees from the MDC dominated Rural District Councils and one from the ZANU PF dominated Council) and one chairman – a total of 13.

Having said this, the function of the Provincial Council is largely one of co-ordination between and amongst Rural District Councils and Urban Councils. The developmental aspects of its mandate are formulated by the Provincial Development Council (see below) and its subcommittees. However, development plans formulated by these Committees tend to be ignored by central government,⁴⁰ and sector Ministries appear to prefer to deal directly with Provincial Governors rather than the Provincial Councils or Development Committees.

a) Rural District Councils

A Rural District Council comprises one elected councillor from each ward within the district.⁴¹ In addition to these elected councillors the Minister has the power to appoint councillors representing “special interests”.⁴² Such Councillors may vote at Council meetings unless their right to do so has been restricted by the Minister.⁴³ These appointees may not exceed 25% of the number of elected Councillors.⁴⁴ The mathematics indicates that where the MDC majority on the Council is 62% or less ZANU PF may acquire a voting majority through the appointed Councillors.

Besides the Rural District Council, two other administrative appointments are important in relation to the governance of a district. Firstly the “Chief Executive Officer” of the Council, whose appointment by a Council must be approved by the Minister. This CEO effectively acts as secretary to the Council is responsible for the keeping of records and minutes and all notifications pass through his or her office. Secondly, but much more importantly, is the post of District Administrator. It is difficult to identify any legislation providing for the appointment of these officials. There is no provision in the Rural District Councils Act equivalent to the provision of the Provincial Councils and Administration Act which may authorise the appointment of Provincial Administrators. Unusually, the definition section of the Rural District Councils Act defines a “district administrator” as being “*the district administrator within whose district the council area or proposed council area lies*” a somewhat circular and unhelpful description. More commonly, definition sections of legislation, when describing officials of this nature, use terms such as “*the person appointed as such in terms of*” a particular section of

⁴⁰ Community Law Centre 2010 p 34.

⁴¹ Section 11(1)(a) of the Rural District Councils Act [*Chapter 29:13*] the Community Law Centre 2010 (p 48) suggests that Chiefs sit on the Councils ex officio, but if this is so, no section of the current Rural District Councils Act authorises this.

⁴² This term is undefined.

⁴³ In terms of section 31 of the Rural District Councils Act.

⁴⁴ Section 11(1)(b) of the Rural District Councils Act.

identified legislation. While District Administrators appear to be public officials whose appointments are thus made by the Public Service Commission and authorised by the Public Service Act,⁴⁵ no other provisions appear to govern their appointment. Yet these individuals wield enormous power and have been described as acting on behalf of the Ministry of Local Government as “*chief implementers, government regulators and monitors*” of Ministerial policy in the districts to which they are assigned.⁴⁶

District Administrators have thus been assigned to chair land and food distribution committees, and generally appear to regard all administrative matters relating to government as falling within their purview.⁴⁷ For example, District Administrators have become involved in disputes over the appointment of Chiefs, have issued instructions to polling officers in elections, and have meddled in the arrangement of venues for the 2010 constitution making outreach programme.⁴⁸ A recent \$8 million facility to provide subsidized agricultural inputs to vulnerable communities through the Grain Marketing Board (see below) is to be accessed by way of vouchers issued by District Administrators.⁴⁹ The District Administrators also chair Rural District Development Committees (see below) and have other powers spread over 13 different pieces of legislation.⁵⁰

A Council has the general powers relating to administration to be expected of a local governmental authority, including the power to make by-laws.⁵¹ However, all by-laws made by the Council must be approved by the Minister⁵², and the Minister himself may make by-laws where he feels the Council ought to have but has not.⁵³ The Minister has substantial control over the finances of a Council and must approve any borrowings.⁵⁴ As with a Provincial Council, the Minister has the power to give directions to a Rural District Council,⁵⁵ to require reports from the Council⁵⁶, and to investigate the affairs of the Council.⁵⁷ In addition to these powers, the Minister may direct any resolution of a Council to be rescinded and give notice that resolutions on notified matters require his approval.⁵⁸ The Minister has the power to dismiss a councillor on certain specified grounds, including if he has reasonable grounds to believe that the Councillor is

⁴⁵ Section 8(1) of that Act.

⁴⁶ ZI 2005 p 9.

⁴⁷ Until 1993 District Administrators were also the Chief executive officers of the Councils.

⁴⁸ See for example *Polling Officers Chased Away* Daily Mirror 26.03.05 *Zimbabwe Constitution-Making Committee Condemns Constitution-Related Violence* VOA News 07.08.10[<http://www.voanews.com/zimbabwe/news/Zimbabwe-Constitution-Committee-Condemns-Voilence-100901939.html>]

⁴⁹ *Subsidised Inputs go On Sale* The Herald 09.11.10.

⁵⁰ In addition to the local government legislation discussed here - The Companies Act [Chapter 24:03], Cemeteries Act [Chapter 5:04] Criminal Procedure and Evidence Act [Chapter 9:07], Criminal Law (Codification and Reform) Act [Chapter 9:23] Suppression of Foreign and International Terrorism Act [Chapter 11:21] Liquor Act [Chapter 14:12] Public Health Act [Chapter 15:09] Mental Health Act [Chapter 15:12] Land Occupation Conditions Act [Chapter 20:11] Land Survey Act [Chapter 20:12].

⁵¹ Sections 71 and 88 of the Rural District Councils Act, as read with the First and Second Schedules to the Act.

⁵² Section 90(1) of the Rural District Councils Act.

⁵³ Section 94 of the Rural District Councils Act.

⁵⁴ See Part XIII and Section 124 of the Rural District Councils Act.

⁵⁵ Section 155(2) of the Rural District Councils Act, including giving directions that certain public works be carried out by a particular government agencies or body section 155(1).

⁵⁶ Section 153 of the Rural District Councils Act.

⁵⁷ Section 154 of the Rural District Councils Act.

⁵⁸ Section 53(1) of the Rural District Councils Act.

responsible for “*gross mismanagement of the funds, property or affairs of the council.*”⁵⁹ Where all the councillors for a council area are unable, for any cause whatsoever, to exercise all or some of their functions as councillors, the Minister may appoint Commissioners to run the Council.⁶⁰ One study identified 250 instances in terms of the Rural District Councils Act where the Minister may interfere in the affairs of a Rural District Council.⁶¹

Rural District Councils are heavily dependent on central government for funding and raise on average only 15% of their revenue from local levies and taxes.⁶² The distribution of these funds from central government follows no set formula, is entirely at the discretion of central government, and is usually disbursed through sector ministries.⁶³ The political and administrative independence of the Councils is severely compromised as a result. The attitude of residents to the councils has been reflected in statements such as the following;

“These councillors do not represent the community. They represent the ruling party, and their own personal interests”

and

“Local government in our area is not good at all. It is not democratic. It has its own powers and it forces matters. It does not work with people, it oppresses them.”⁶⁴

b) Traditional Authority

For rural dwellers the most immediate form of local governance is that of traditional and customary institutions, which have been given the authority of statute and which run parallel to and, in some instances, in conjunction with the Provincial and Rural District Councils.

Traditional structures vest extensive power in appointed individuals who comprise a prescribed hierarchy - Chiefs, Headmen, and Village Heads. These individuals are appointed on the basis of custom which is governed by hereditary, rather than elective democratic principles. In carrying out their duties the traditional leaders must not be “*influenced by any considerations of race, tribe, place of origin, creed, gender or political affiliation*”⁶⁵ and are not eligible for election to parliament or a council.⁶⁶

⁵⁹ Section 157(1)(d)(ii) of the Rural District Councils Act.

⁶⁰ Section 158(1)(b) of the Rural District Councils Act. The Minister has used this provision in conjunction with the power to remove councillors to remove all elected councillor and replace the council with Commissioners appointed by him - see Community Law Centre 2010 p 40 for examples of this.

⁶¹ ZI 2005 p 5.

⁶² Community Law Centre 2010 p 110.

⁶³ ZI 2005 p 19 suggests that for some Rural District Councils on 1% of revenue is derived from taxes.

⁶⁴ ZI 2005 p 28.

⁶⁵ Section 46(1) of the Traditional Leaders Act.

⁶⁶ Section 45 Traditional Leaders Act .18 Chiefs are however appointed to the Senate of Parliament by the President (see below).

The provisions relating to political neutrality are reinforced in the Interparty Political agreement signed by Zimbabwe's main political protagonists in September, 2008. Article 14.1 provides:

Recognising and acknowledging that traditional leaders are community leaders with equal responsibilities and obligations to all members of their communities regardless of age, gender, ethnicity, race, religion and political affiliation, the Parties hereby agree to:-

- (a) commit themselves to ensuring the political neutrality of traditional leaders; and*
- (b) call upon traditional leaders not to engage in partisan political activities at national level as well as in their communities.*

These provisions have been brushed aside by ZANU PF as suggestions of a poll in 2011 have gained traction. In October, 2010 several meetings of traditional leaders have been convened to ensure and utilize the allegiance of traditional leaders to ZANU PF. A meeting of 30 Chiefs and army officers is reported to have taken place at military barracks in Harare to discuss election strategies which would ensure ZANU PF's retention of power;⁶⁷ the annual national conference of several hundred Chiefs in Kariba endorsed Mugabe as their favoured presidential candidate⁶⁸, and, in an address by Vice-President Mujuru at the conference, the Chiefs were specifically informed that they were entitled to engage in politics "as pioneers of the struggle for freedom";⁶⁹ and the army commander of 3 Brigade in Mutare summonsed nearly 200 traditional leaders to a "workshop" at barracks during which they were told to prevent the MDC from campaigning and its members from receiving agricultural inputs from government.⁷⁰ The Brigadier-General, Nyikayaramba, is further reported to have stated: "*I want to make it clear to all Chiefs gathered here today that if President Mugabe loses in next year's elections, they will have a case to answer. Gone are the Rhodesian days when Chiefs were apolitical.*"⁷¹

The Minister of Local Government retains overall authority over traditional leaders as, amongst other powers indicated below, he "*may, by written notice, give to the Chiefs, Headmen and Village Heads such directions of a general character as to the policy they must observe in the exercise of their functions as appear to the Minister necessary in the national interest.*"⁷²

Chiefs

ZANU PF's intention of co-opting Chiefs has been pursued by leaving ultimate authority over traditional leaders and structures with central government; through the restoration of powers to the Chiefs (which can be used against political opponents) and by largesse.

⁶⁷ *Chiefs, Army, Farmers to Plot Zanu Victory* <http://www.thezimbabwean.co.uk> 07.10.10

⁶⁸ *Traditional Chiefs Endorse Mugabe Presidential Re-Election Bid* <http://www.voanews.com> 29.10.10.

⁶⁹ *Take Lead in Identifying Mass Graves, Chiefs Told* The Herald 01.10.10 - a somewhat ironic assertion given the Chiefs notorious co-option by the pre-independence government.

⁷⁰ *Traditional Leaders Summoned to Army Barracks for Indoctrination* <http://www.swradioafrica.com> 28.10.10

⁷¹ *CZI Boss Parrots ZANU PF's Tune* The Zimbabwe Independent 12.11.10.

⁷² Section 49 of the Traditional Leaders Act.

The institution of Chiefdoms is constitutionally recognised and established.⁷³ Chiefs are appointed by the President who must give “*due consideration to the prevailing customary principles of succession applicable to the community over which the Chief is to preside*” and, wherever practicable, must appoint a person nominated by those in the community who traditionally determine issues of succession.⁷⁴ There are 271 such Chiefs.⁷⁵ A Chief may be suspended by the Minister of Local Government, Urban and Rural Development if charged with any offence involving dishonesty or after an investigation by Ministerial appointees into “*misconduct in relation to the customs and traditions observed in his area*” ordered by the Minister. If found guilty of the offence or misconduct, the Minister may recommend to the President that the Chief be removed from office.⁷⁶

Apart from performing the general traditional duties of office that might be exercised by a Chief⁷⁷, the duties and powers of the Chief are extensive and are set out in full, as all manifest the importance of the power of the Chief for a rural dweller.

A Chief shall be responsible within his area for:

- a) promoting and upholding cultural values among members of the community under his jurisdiction, particularly the preservation of the extended family and the promotion of traditional family life;
- b) carrying out the functions of a Chief in relation to provincial assemblies (see below);
- c) nominating persons for appointment as Headmen by the Minister;
- d) approving nominations by Headmen of Village Heads for appointment;
- e) supervising Headmen and Village Heads in the performance of their duties;
- f) discharging any functions conferred upon him in terms of the Customary Law and Local Courts Act;⁷⁸
- g) overseeing the collection by village heads of levies, taxes, rates and charges payable in terms of the Rural District Councils Act;
- h) ensuring that Communal Land is allocated in accordance with the Communal Land Act⁷⁹ and to ensure that the requirements of any enactment in force for the use and occupation of communal or resettlement land are observed;
- i) maintaining up-to-date registers of names of villages and their inhabitants
- j) preventing any unauthorised settlement or use of any land;
- k) notifying the Rural District Council of any intended disposal of a homestead and the permanent departure of any inhabitant from his area, and, acting on the advice of the headman, to approve the settlement of any new settler in his area;
- l) adjudicating in and resolving disputes relating to land in his area;

⁷³ Section 111 of the Constitution.

⁷⁴ Section 3 of the Traditional Leaders Act.

⁷⁵ Community Law Centre 2010 p 48.

⁷⁶ Section 7(5)(a) of the Traditional Leaders Act.

⁷⁷ These are not specified in the Act, leaving considerable room for an expansive interpretation.

⁷⁸ [Chapter 7:05].

⁷⁹ [Chapter 20:04].

- m) and ensuring that the land and its natural resources are used and exploited in terms of the law and, in particular, controlling:
 - (i) over-cultivation; and
 - (ii) over-grazing; and
 - (iii) the indiscriminate destruction of flora and fauna; and
 - (iv) illegal settlements
 and generally preventing the degradation, abuse or misuse of land and natural resources in his area;
- n) ensuring that no public property, including roads and bridges, telephone and electricity lines, dip tanks and animal health centres, clinics, churches, cattle-sale pens, schools and related establishments, is damaged, destroyed or misused by the inhabitants or their livestock;
- o) notifying the Rural District Council for the area concerned, as soon as is reasonably practicable, of the outbreak of any epidemic or prevailing disease, flood or other natural or unnatural disaster affecting the inhabitants, livestock, crops, the land, flora or fauna in his area;
- p) liaising with and assisting development committees established in terms of the Rural District Councils Act in all matters relating to the planning and implementation of local development programmes; and
- q) under the direction of the District Administrator or the Rural District Council, as the case may be, assisting drought and famine relief agencies in coordinating relief and related matters in his area.

Of these powers, the control over who resides within his jurisdiction is probably one of the more significant. The actual allocation of Communal Land is done by the relevant Rural District Council in accordance with the Communal Land Act.⁸⁰ However, every person who, in terms of local customs and traditions, is entitled to reside in Communal Land, and has maintained a homestead there, may continue to do so in accordance with this Act, notwithstanding that he may reside elsewhere.⁸¹ The Chief, as indicated above, is the guardian of the “customs and traditions”. The Chief’s powers in this regard have been (ab)used to evict MDC supporters from villages in several instances, suggesting that ZANU PF’s policy of co-opting Chiefs has been at least partially successful.⁸² This policy has been pursued by leaving ultimate authority over traditional leaders and structures with central government; through the restoration of powers to the Chiefs (which can be used against political opponents); and by largesse. For example, Chiefs at one point received non-taxable allowances 15 times higher than those of Rural District Councillors in addition to benefits from rural electrification schemes and subsidised vehicles.⁸³ The effect has been to elevate the status of Chiefs above that of elected councillors and has exacerbated existing tensions between elected officials and traditional leaders.⁸⁴ This policy continues to the present and the Chiefs’ demand for acknowledgement of their elevated status has been accorded

⁸⁰ Section 26(1) of the Traditional Leaders Act.

⁸¹ Section 27 of the Traditional Leaders Act.

⁸² *Evicted for Supporting MDC – The Case of Six Families in Bindura* Report by the NGO Restoration of Human Rights (ROHR) 10.07.10 <http://www.rohrzimbabwe.org/Latest-News-from-ROHR-in-Zimbabwe/evicted-for-supporting-mdc-the-case-of-six-families-in-bindura.html>

⁸³ The figure is from 2005 - ZI 2005 p 27.

⁸⁴ ZI 2005 p 27.

recognition by the Ministry of Local Government. An official in the Ministry of Local Government explained a recent distribution of vehicles to Chiefs in the following way:

*“Chiefs made the demands for twin cabs, saying it is the only way of restoring their status and that they cannot be seen driving single cabs when legislators are driving twin cabs”.*⁸⁵

He was supported in this by a Chief from Matabeleland:

“It was long overdue, we are more important than legislators and we cannot be seen to be lesser to them”.

Vice-President Mujuru has likewise emphasised the status of Chiefs, stating in an address to them:

*Chiefs are not ordinary people. You are the tower lights of our culture, the icons and our identity.*⁸⁶

Headmen

Headmen are appointed by the Minister, who must appoint nominees selected by the Chief “unless in the opinion of the Minister there are good reasons to the contrary”⁸⁷. The procedure for the removal of a Headman from office is identical to that in the case of Chiefs, save to say that the action taken in this regard is by the Minister rather than the President on recommendation of the Minister.⁸⁸

The Headmen assist the Chief to carry out his duties and have identical powers in many respects, exercised at a ward level. A “sufficient” number of headmen are appointed for this purpose – currently 400.⁸⁹ The Headmen’s duties also include:⁹⁰

- a) to carry out all lawful and reasonable orders given by his Chief;
- b) making a report to the police of the commission of any crime in his area, the presence of a corpse of any person who is found dead or is suspected of having died violently or otherwise in a natural way and any suspicious disappearance of any person and generally to report all criminal acts, acts of misconduct and violations of customs and traditions to the chief and any other appropriate authority;
- c) to recommend to the Chief persons for appointment as village heads and, where appropriate, to recommend their removal from office;
- d) to preside over a ward assembly (see below);
- e) to oversee, through the ward assembly, the disposal of settlement rights in Communal Land and the admission of new settlers in the area under him;

⁸⁵ *Chiefs to get Top-of-the- Range Cars, Salary Hike* The Standard 10.10.10.

⁸⁶ *Take Lead in Identifying Mass Graves, Chiefs Told* The Herald 01.10.10.

⁸⁷ Section 8(1) and 8(2) of the Traditional Leaders Act.

⁸⁸ Section 10(5) of the Traditional Leaders Act.

⁸⁹ Community Law Centre 2010 p 48.

⁹⁰ Section 9 of the Traditional Leaders Act.

- f) to keep an up-to-date register of the villages and Village Heads under him and to keep the Chief and the Rural District Council informed of any changes to the register;
- g) generally, to mediate in local disputes involving customary law on matters such as *lobola*,⁹¹ elopement, burials, domestic disputes, disputes relating to the straying of livestock, the traditional aspects of incest, the performance of customary rites and any other inter-personal disagreements, but only to the extent that such matters are not subject to the general law of Zimbabwe;
- h) to discharge any functions conferred upon him in terms of the Customary Law and Local Courts Act.
- i) to enforce all environmental conservation and planning laws, including local field boundaries, on behalf of the Chief, the Rural District Council and the State.

As with the Chiefs, the Headmen have considerable power over who resides in an area. It is also obvious that the Headmen did not carry out their duties as statutorily required in regard to violence, disappearances, the presence of corpses, and criminal offences perpetrated in their areas during the pre-election violence of 2008, or during any of the previous violent elections in 2000 and 2002.

Village Heads

Village Heads assist the Headmen and Chiefs. Village Heads are appointed by the Secretary in the Ministry of Local Government who must appoint nominees selected by the Headman “*unless in the opinion of the Secretary there are good reasons to the contrary*”⁹² There are 24 000 Village Heads, heavily outnumbering the 1958 elected councillors. The procedure for the removal of a Village Head from office is identical to that in the case of Headmen.⁹³

The duties of Village Heads are similar to those of Chiefs and Headmen and are as follows:⁹⁴

- a) to carry out all lawful and reasonable orders of the chief or headman;
- b) to lead his village in all traditional, customary and cultural matters and to promote sound morals and good social conduct among members of his village;
- c) subject to the Communal Land Act, to consider, in accordance with the customs and traditions of his community, requests for settlement by new settlers into the village and, in consultation with the village assembly, to make recommendations on the matter to the ward assembly;⁹⁵
- d) to ensure that all land in his area is utilized in accordance with any enactment in force for the use and occupation of communal or resettlement land;
- e) to maintain an up-to-date register of names of the inhabitants of his village, and their settlement permits;

⁹¹ Bride price.

⁹² Section 8(1) and 8(2) of the Traditional Leaders Act.

⁹³ Section 13(5) of the Traditional Leaders Act.

⁹⁴ Section 12(1) of the Traditional Leaders Act.

⁹⁵ The Community Law Centre 2010 p 53 holds that notwithstanding that ultimate authority over land allocation lies with the Rural District Councils, Village Heads exercise this power in practice.

- f) to the extent that such matters are not subject to the general law of Zimbabwe, to settle disputes involving customary law and traditions, including matters relating to residential, grazing and agricultural land boundaries and, where necessary, to refer these matters for settlement by the headman;
- g) to preside over the village assembly (see below);
- h) to produce, in consultation with the village assembly, village development plans for his area and to submit them to the ward assembly;
- i) to preside over the village development committee, to co-ordinate its work and to submit the resolutions and plans of that committee to the village assembly for consideration, and where appropriate, implementation;
- j) to collect levies, taxes and other charges payable in terms of the Rural District Councils Act;
- k) to ensure the security of schools, clinics, contour ridges, water points, roads, culverts, public fencing and any other public property and, where necessary, to report any damage or potential damage to any such property to the police; and
- l) to assist, by all means in his power, in apprehending and securing offenders against the law and generally to ensure observance of the law by all inhabitants, and immediately to report any contravention of the law to the police.

It will have been noticed that the qualitative and territorial jurisdiction of Chiefs, Headmen and Village Heads overlap. However, since each is subject to the orders of superior traditional leaders within the hierarchy, it may be assumed that such leaders have a veto power over their decisions. Pen-ultimate authority thus lies with the Chief, whose own decision may be overridden by the Minister.

Village, Ward and Provincial Assemblies

a) The Village Assembly

The village assembly comprises all members of a village over the age of 18, and is presided by the Village Head.⁹⁶ It ought to meet once every three months, or when one third of members request a meeting, or when the ward assembly has instructed the village head to convene a meeting. The village assembly ought to act as a democratic liaison point between the villagers and those charged with responsibility for their well being and development of their area. The village assembly thus “*considers all matters, including cultural matters, affecting the interests and well-being of all the inhabitants of the village*”. It elects and supervises the Village Development Committee and reviews and approves any village development plan before its submission to the Ward Development Committee for incorporation into the ward development plan. There is intended to be a two-way flow of information. Thus, the Village Assembly considers and reports on any matter that is referred to it by:

- (i) the District Administrator for the district concerned; or
- (ii) the Rural District Council; or
- (iii) the Chief or Headman for the area concerned; or

⁹⁶ Sub-sections 14(2) and (3) of the Traditional Leaders Act.

- (iv) the Ward Assembly within whose area the Village Assembly falls; or
- (v) the Village Development Committee established for the village; or
- (vi) any member of the Village Assembly.

It also brings to the notice of the Headman, the Ward Councillor, and the Ward Assembly any matter of local or national interest which affects the inhabitants of the village.⁹⁷

b) The Ward Assembly

The Ward Assembly comprises all Headmen, Village Heads and the Councillors of the ward.⁹⁸ A Headman is elected annually to preside over the meetings⁹⁹ which are convened with the same frequency or in the manner of Village Assemblies, save that a Chief cannot instruct a Ward Assembly to convene while a Headman may instruct the convening of a Village Assembly.¹⁰⁰ The Ward assembly is charged with the responsibility of supervising the activities of the village assemblies within its jurisdiction. It reviews and approves development plans or a proposal submitted by the Village Assembly and submits such plans for incorporation into the rural district development plan. Again, there is intended to be a two-way flow of information. Thus, it considers and reports on any matter that is referred to it by:

- (i) the District Administrator; or
- (ii) the Chief; or
- (iii) the Rural District council; and
- (iv) a member of the Ward Assembly.

The Ward Assembly also brings to the notice of the District Administrator and the Council of Chiefs (see below) any matter of local or national interest which affects the interests and well-being of the inhabitants of the area.

c) The Provincial Assembly

The Provincial Assembly comprises all the Chiefs of a province¹⁰¹, who elect one of their number as chair.¹⁰² The Assembly meets twice yearly at meetings convened by the Minister of Local Government who must convene a meeting if one third of members so request.¹⁰³ The function of the Provincial Assembly is to identify and articulate the needs of the province to the Minister and Council of Chiefs, and to consider and report on any matter referred to it by them. They also elect representatives to the Council of Chiefs and one Chief to the Provincial Council (see above). It will have been noted that the Ward Assembly addresses its concerns directly to the Council of Chiefs, rather than to the Provincial Assembly. The Chiefs have no representation on the Provincial Development Committees (see below). In the absence of any regulatory power,

⁹⁷ Section 15 of the Traditional Leaders Act.

⁹⁸ The Minister may combine any number of wards to form the purpose of forming a Ward Assembly – section 18(1) Traditional Leaders Act.

⁹⁹ Section 18(2) of the Traditional Leaders Act.

¹⁰⁰ Section 18(2) of the Traditional Leaders Act.

¹⁰¹ Section 35(1) of the Traditional Leaders Act.

¹⁰² Section 35(3) of the Traditional Leaders Act.

¹⁰³ Section 35(2) of the Traditional Leaders Act.

the observation that the influence of the Provincial Assembly on local government “is more imagined than real” may well be correct.¹⁰⁴

d) The Council of Chiefs

The Council of Chiefs comprise between three and five members as may be prescribed, elected by each provincial assembly concurrently with general elections. The Council is presided over by a President and Deputy-President elected by Council members. Both are ex officio members of the Senate of Parliament, together with 16 other Chiefs - two elected from each of the eight non-metropolitan provinces. The Council meets at least twice a year on days it determines in consultation with the Minister¹⁰⁵, or when the Minister convenes a meeting as required when two-thirds of the members so request.¹⁰⁶

The functions of the Council are:

- (a) to make representations to the Minister concerning the needs and wishes of the inhabitants of communal and resettlement land;
- (b) to consider any representations made to it by a Provincial Assembly and, in its discretion, to report thereon to the Minister;
- (c) to consider and report on any matter referred to it by the Minister for consideration; and
- (d) to superintend the activities of the Ward Assemblies and Village Assemblies and to give them such directions as it considers necessary.¹⁰⁷

The Senate of Parliament has 100 seats of which 40 are ex officio or appointed. Given that the elected seats in the both Houses of Parliament are split almost equally between the parties, the 18 Chiefs (and ten provincial Governors) will effectively act as king makers should parliament convene as an electoral college¹⁰⁸ to appoint a replacement to Mugabe, should he die or retire.¹⁰⁹ Chiefs currently punch well above their political weight given these circumstances.

¹⁰⁴ The Community Law Centre 2010 p 89.

¹⁰⁵ Section 38(1) of the Traditional Leaders Act.

¹⁰⁶ Section 38(2) of the Traditional Leaders Act.

¹⁰⁷ Section 39 of the Traditional Leaders Act.

¹⁰⁸ In terms of section 28(3)(b) of the Constitution.

¹⁰⁹ It is unclear whether article 20.1.10 of Schedule 8 to the Constitution applies, overrides or operates in conjunction with, the provisions relating to an Electoral College. Article 20.1.10 provides that when a vacancy arises in the executive the vacancy shall be filled by a nominee of the party which held the position before the vacancy arose –see D. Matyszak *Drop Dead Beautiful? Legal Notes on Death and the President* available on the kubatana.net website

The Control of Resources

a) Development Committees

i) Vidcos and Wadcoss

Each of the Assemblies referred to above has an associated Development Committee. At a grassroots level are the Village Development and Ward Development Committees, or Vidcos and Wadcoss. The developmental functions of both are prescribed in terms of the Rural District Councils Act, and are to propose and consider development plans which are forwarded to the next higher level. These structures were perceived to be successors to those established by the ZANLA forces (ZANU PF's military wing) during the liberation war.¹¹⁰ As such, although in theory intended to foster bottom-up participatory democracy, the opposite has been the case. Initially headed by a democratically elected chairperson, the Village Heads have taken over this role in Vidcos following the increase in their power with the passage of the Traditional Leaders Act.¹¹¹ In most instances this has resulted in Vidcos becoming "empty shells" and the Village Head taking all decisions on behalf of the Vidcos, often on instruction of central government and ZANU PF officials.¹¹²

Wadcoss are composed of the councillor of the ward and the chairperson and secretary of the Vidco, or, where no Vidco has been established, persons appointed by the Minister from a list supplied by the Ward Councillor. The Wadco thus represents one of the few formal and statutory links between local government and traditional leadership.

ii) The Rural District Development Committee

This is in theory the most important, practical and functional of all development committees as the next Committee in the hierarchy is the Provincial Development Committee, which is concerned with broad policy issues relating to development and does not consider or authorize development plans from the Rural District Development Committee.

Rural District Development Committee consists of:

- (a) the District Administrator, who chairs the Committee;
- (b) the chairman of every other committee established by the Council;
- (c) the chief executive officer of the Council and such other officers of the Council as the Council may determine;
- (d) the senior officer in the district of:
 - (i) the Zimbabwe Republic Police;
 - (ii) the Zimbabwe National Army;
 - (iii) the President's Department (read CIO);

¹¹⁰ Vidcos are established by virtue of Section 17 the Traditional Leaders Act and Wadcoss by Section 59 of the Rural District Councils Act.

¹¹¹ Section 17(3) of the Traditional Leaders Act and see ZI Policy Review Paper p10.

¹¹² ZI 2005 pp 10 & 13

- (e) the district head of each Ministry and department of a Ministry within the district that the Minister may designate by notice in writing to the district administrator;
- (f) such further persons representing other organizations and interests as the Minister, on the recommendation of the district administrator, may permit.¹¹³

The function of the Committee is to consider ward development plans, prepare annual and long term development plans for submission to the Council, and to monitor implementation.¹¹⁴

The presence of the Police, Army, and Intelligence Services on a Committee charged with developmental issues is obviously anomalous and reflects both the importance of the Committee and the desire to control the distribution of resources by ZANU PF which currently controls the respective Ministries. Equally indicative of this is the fact the Committee is chaired and dominated by ministerial civil servants, and that all persons on the Committee “*hold office at the pleasure of the Minister*”.¹¹⁵

In practice, development plans are formulated in accordance with sector ministries funding requirements and pay little heed to the Councils’ own resources. The result is that plans forwarded from Wadcos are largely ignored and sub-national planning becomes “an exercise in futility.”¹¹⁶ However, where the Committee becomes involved with NGO’s, food distribution, and humanitarian aid it assumes enormous political importance.

iii) Provincial Development Committees.

A Provincial Development Committee consists of:

- (a) the Provincial Administrator for the province; and
- (b) the town clerk, principal officer, secretary or senior council officer of every municipal council, town council, local board, rural council or district council whose mayors or chairmen, as the case may be, are members of the provincial council; and
- (c) the senior officer in the province of:
 - (i) the Police Force;
 - (ii) the organization known as the Central Intelligence Organization;¹¹⁷
and
 - (iii) the Zimbabwe National Army;
- (d) the provincial head of each Ministry and department of a Ministry within the province that the Minister may designate by notice in writing to the provincial governor; and

¹¹³ Section 60(1) of the Rural District Councils Act.

¹¹⁴ Section 60(3) of the Rural District Councils Act.

¹¹⁵ Section 60(3) of the Rural District Councils Act.

¹¹⁶ The Community Law Centre 2010 p 45.

¹¹⁷ While commonly known as the CIO no official organisation of this names exists, the correct title being, it is believed, but not known with any certainty, to be the Department for State Security in the President’s Office.

- (e) such further members representing other organizations and interests as the Minister, on the recommendation of the provincial governor, may appoint.

Again, all members hold office at the pleasure of the Minister and the security sector and Ministerial officials have a strong and anomalous presence. The functions of the this Committee are to make recommendations to the Provincial Council as to matters to be included in the annual development and other long-term plans for the province, assist the Provincial Council in preparing such plans and when instructed to do so by the Council monitoring implementation. The weakness of this Council has already been noted.

b) The Grain Marketing Board

The Grain Marketing Board (GMB) is established by under the Grain Marketing Act¹¹⁸, and comprises between six and nine members appointed by the Minister of Agriculture in consultation with the President.¹¹⁹ As has been noted elsewhere, appointees are frequently retired military personnel who are ZANU PF loyalists.¹²⁰ The Act empowers the Minister of agriculture to declare any agricultural product a *controlled product*.¹²¹

Once an agricultural product is declared a controlled product, the GMB has extensive powers over it – primarily the power to declare a monopoly over the purchase and sale of the product.¹²² This monopoly may include a requirement that no person disposes of any controlled product other than to the GMB, and that the price of the purchase and sale of the controlled product is that set by the GMB.¹²³ The GMB may also restrict the movement of a controlled product in and out of any area.¹²⁴ The GMB has a duty to provide storage, handling and processing facilities for controlled products,¹²⁵ and to maintain such stocks of controlled products as it may consider necessary.¹²⁶ Both maize and the fertilizer necessary to grow it have been declared controlled products in the past. With maize, the staple of most Zimbabweans' diet, the absolute control over the movement, sale and purchase of this product is a powerful weapon which can be, and has been abused for political purposes.¹²⁷ In times of food shortages, the GMB has the power to ensure that only those who show themselves to be favourably disposed politically have access to the product. Chiefs have on occasion instructed the GMB to sell maize only to those authorised by them.¹²⁸ Furthermore, the ability to set prices for the purchase and

¹¹⁸ [Chapter 18:14]

¹¹⁹ Section 5(1) of the Grain Marketing Act.

¹²⁰ See for example The Zimbabwean *Mugabe Sets up Military State* 28.08.2010.

¹²¹ Section 29(1) of the Grain Marketing Act.

¹²² Section 33(1) of the Grain Marketing Act – this monopoly was lifted on 29.01.09 but may be re-imposed at will in terms of the Act .

¹²³ Section 31(1) of the Grain Marketing Act.

¹²⁴ Section 30 of the Grain Marketing Act.

¹²⁵ Section 26(c) of the Grain Marketing Act.

¹²⁶ Section 26 of the Grain Marketing Act.

¹²⁷ The Financial Gazette *Mnangagwa Sucked into Scandal* 16.03.09.

¹²⁸ *It's the Count that Counts: Food for Thought*. A report by the Zimbabwe Human Rights NGO Forum. March 2005.

sale of maize opens the door to large scale corruption.¹²⁹ In a situation where the purchase price of maize is set high enough to encourage cropping, but sold below the purchase price as a subsidy to the poor, reports emerged where farmers were selling maize to the GMB and then buying the same maize back from the GMB at a subsidized price for resale back to the GMB.

c) **The District Development Fund**

The DDF is a Fund under the Trusteeship of the Minister of Local Government, established by the District Development Fund Act.¹³⁰ Its monies derive from provisions made in this regard in the National Budget and various taxes and levies payable under a wide variety of statutes and regulations,¹³¹ such as the Mines and Minerals Act.¹³² The Minister may declare any area to be “a development area”¹³³, and thereafter the Minister has the power to “apply the money and other assets of the Fund for any purpose which he considers to be in the interests of the development of Communal Land or development areas or the inhabitants thereof.” This broad discretion in the application of the funds is replete with opportunities for corruption and cronyism, opportunities which have not been missed, not only in relation to development in rural areas, but the fund has been misused to fund the drilling of boreholes in elite suburbs in Harare and for the politically connected.¹³⁴

Conclusion

It is clear that the current structures of power in the rural areas have been organized so that the determining authority has been shifted away from democratic institutions, such as Rural District Councils, to appointed individuals who are beholden to central government in the form of the Ministry of Local Government and the President. These individuals are Provincial Governors, Provincial Administrators, District Administrators, Chiefs, Headmen, and Village Heads. Where a Council holds any residual power, the exercise thereof is strictly monitored and controlled by the Ministry, and, in the case of their Development Committees, by the security sector, particularly where donors and donor funds are concerned. With Local Government and the appointment of Provincial Governors currently controlled by ZANU PF politicians, and the high probability that the entire local government structure is largely comprised of individuals that hold explicit partisan loyalty to ZANU PF, it is remarkable that any rural dweller, dependent on these individuals for access to scarce resources, and frequently food, should admit to membership of an opposition political party, even in less politically volatile times than those which currently prevail. This is evidenced by the large percentages of opinion surveys that are generally unwilling to disclose their political preferences: for example, in one Afrobarometer

¹²⁹ In addition to the example immediately cited see *Governor Linked to Looting of Fertiliser* <http://www.thezimbabwetimes.com/?p=25504N> 30.11.09.

¹³⁰ [Chapter 29:06]

¹³¹ Section 4

¹³² [Chapter 21:05]

¹³³ Section 5 of the Act.

¹³⁴ Between August 1995 and August 1998 Z\$4.7 million was spent drilling boreholes for politicians and private person with political connections – see Jacob Wilson Chikuhwa *A Crisis of Governance in Zimbabwe* Algora Publishing 2004 p 170.

survey in 2004, 60% of people refused to indicate the party they would vote for in an election¹³⁵, whilst only 25% had this view in 2009.¹³⁶ A similar finding was obtained in a 2009 survey of women, where 21% declined to say which party they supported, and a further 14% stated that they supported no party.¹³⁷ Thus, it is evident that Zimbabwean citizens are cautious about publicly expressing their political allegiances, and this analysis may go some way towards explaining this phenomenon.

The possible and undesirable effects of partisan operation of this administrative structure in rural areas during electoral periods are obvious. All evidence from past elections indicates that the formal structure of rural and local government acts only to support ZANU PF, and is a significant impediment to any opposition party seeking to penetrate and gain support in rural areas. Hence, the structure and process of local government is an area that deserves far greater examination in relation to the conduct of elections than has been the case to date.

¹³⁵ Afrobarometer (2004), *THE POWER OF PROPAGANDA: PUBLIC OPINION IN ZIMBABWE*, Working Paper No. 42. Annie Chikwanha, Tulani Sithole and Michael Bratton.

¹³⁶ Afrobarometer (2009), *SUMMARY OF RESULTS. ROUND 4 AFROBAROMETER SURVEY IN ZIMBABWE*. Compiled by MPOI.

¹³⁷ RAU (2010), *Women, Politics and the Zimbabwe Crisis*, Report produced by Idasa (An African Democracy Institute), the International Center for Transitional Justice (ICTJ), the Research and Advocacy Unit (RAU), and the Womens' Coalition of Zimbabwe (WCoZ). May 2010. HARARE: RESEARCH & ADVOCACY UNIT



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