

*Review*

# **Crisis of communal leadership: Post-colonial local government reform and administrative conflict with traditional authorities in the communal areas of Zimbabwe, 1980-2008**

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Rural local government reform measures adopted by the new Government of Zimbabwe at independence in 1980 were largely inspired by the state's modernization initiatives and the need to create a framework for expanded delivery of services to the peasant communities in order to redress the imbalances of colonial neglect. However, the reform measures also sought to undermine the authority of traditional institutions in judicial and land matters in the communal areas; firstly because of their perceived pre-independence role as functionaries of colonial oppression; secondly, because some elements within the new Government viewed traditional institutions as antithetical to their modernization project to transform rural society; and thirdly because other elements in the new Government perceived traditional institutions as centers of alternative authority to that of the formal state. The failure by the new Government to incorporate and co-opt traditional institutions into formal state institutions in the first two decades of independence lies at the heart of the confusion surrounding land administration in the communal areas after independence. This confusion at the local administrative levels was characterized by a lack of clarity on roles and functions between the traditional institutions of chief, headman and village head, and the elected leadership of village development committees (VIDCOs) and ward development committees (WADCOs) in land matters. It precipitated a crisis of communal leadership in the communal areas of Zimbabwe, whereby, on one hand, elected rural institutions had little real legitimacy according to traditional grassroots perspectives, while traditional leaders were not always acknowledged or respected by the formal state's modernization initiatives. However, in many areas of the country, chiefs, headmen and village-heads illegally reacquired some of their defunct authority over land and proceeded to clandestinely allocate land. This crisis of communal leadership manifested itself in many land dispute cases that occurred at district level throughout the country for more than two decades, where there was clear evidence of hostility between the new and the old land administration structures.

**Key words:** Traditional leaders, communal areas, village development committees, ward development committees, district councils, Chiefs and Headmen Act.

## **INTRODUCTION**

Since the inception of rural local government reform in 1980, communal leadership in Zimbabwe has been characterized by a profusion of overlapping and incongruent local organizational structures, each with its

own boundaries, and drawing on different sources of legitimacy, which has created weak and disparate local institutions. It has been noted in other studies that, in principle, Zimbabwe's local government system now has

three formal hierarchies, existing side by side, spanning from the state to the grassroots, that is a decentralized local government system encompassing provincial development committees, rural district development committees, ward development committees (WADCOs), and village development committees (VIDCOs); a customary chiefly system encompassing chiefs, headmen and village heads; and a multi-sectoral hierarchy of government ministries; all fanning out at the local level into several administrative, developmental, social, political, and other bodies (Sithole, 1997; Mandondo, 2000).

Consequently, at the local level, institutions administering land tenure and natural resources have been characterized by conflicts, particularly between the traditional authorities and elected leadership of the VIDCOs and WADCOs. Much of the administrative conflict can be traced back to the combined effect of the Communal Lands Act of 1982, which had divested the chiefs of the land allocation powers vested in them by the Rhodesia Front regime in the 1960s; and the earlier Customary Law and Primary Courts Act of 1981, which had transferred the determination of customary law from the Chiefs' courts to new local bodies appointed by the Minister of Justice under the Act. The Communal Lands Act vested control over land in the President and devolved land administration to rural district councils (RDCs) and district administrators under the then Ministry of Local Government, Rural and Urban Development. Rural district councils therefore became the rightful land authorities. By removing the application of customary law regarding access to and use of land from customary institutions (chieftaincy) to newly elected local government institutions (the rural district councils), the new Government of Zimbabwe was effectively vesting the application of customary law in non-customary institutions (Nyambara, 1997a). Rather than incorporate and co-opt traditional institutions into state institutions, the Government sought to marginalize them by denying them, among other things, the power to allocate land. In the long term, the combined effect of the Customary Law and Primary Courts Act, and the Communal Lands Act, introduced profound changes in the land tenure situation in the communal lands and left the traditional, conservative leaders with little more than a spiritual function (Communal Lands Development Plan, 1986). In practice, however, chiefs and headmen always inserted themselves into the process by clandestinely allocating land on the basis of customary, territorial and other claims to the land (Mandondo, 2000).

This lack of clarity on the roles and functions of various institutions at the local administrative levels, particularly over issues of land, precipitated a crisis of communal leadership in the communal areas of Zimbabwe,

whereby, on one hand, elected rural institutions (VIDCOs, WADCOs etc.) had little real legitimacy according to traditional grassroots perspectives, while traditional leaders were not always acknowledged or respected by the formal state's modernization initiatives (Mukamuri and Mavedzenge, 2000). Although the Chiefs and Headmen Act (1988) excluded traditional leaders in land administration, the inhabitants of communal areas still referred most land matters and requests to traditional leaders. Furthermore, the Chiefs and Headmen Act (1988), did not recognize the institution of village head, but the village heads remained particularly defiant to their non-recognition and to the imposition of the new structures, and they continued to be involved in the allocation of land, encouraged by both chiefs and headmen who considered the position of village head to be very necessary in traditional local administration (Dore, 1995).

The VIDCOs, on the other hand, faced serious problems from their inception in carrying out some of their functions and in most cases they gave up because they were widely viewed as illegitimate structures with no credibility or respect, and no real effective power and resources to implement their roles (Nyambara, 1997a). This crisis of communal leadership manifested itself in many land dispute cases that occurred at the district level throughout the country, where there was clear evidence of hostility between the new and the old land administration structures. Evidence gathered by the commission of inquiry into appropriate agricultural land tenure systems in 1994 showed that the most serious land conflicts in the communal areas had been worsened by the acute breakdown in local administrative structures, and the resultant erosion of authority and responsibility. The commission "found no legal basis for the VIDCOs in land matters" and observed that there was widespread resistance to VIDCO/WADCO structures as credible authorities over land (Report of the commission, 1994).

## **DECENTRALIZATION AND THE DISEMPOWERMENT OF CHIEFS**

The restructuring of government at the local level took three forms. First there was a significant de-concentration of central government activities by the creation of new Ministries, such as the Ministry of Local Government, Rural and Urban Development, and the Ministry of Community Development and Co-operatives, which were formally represented down to the district level (Stewart et al., 1994). Secondly, a series of legislative enactments and directives were introduced, which sought to democratize and strengthen local government. The major post-independence legislative enactments in local

government reform have been: the District Councils Act of 1980 (amended in 1981 and 1982); the Communal Lands Acts of 1981 and 1982; the Customary and Primary Courts Act of 1981; the Prime Minister's Directive on Decentralization of 1984 and 1985; the Provincial Councils and Administration Act of 1985; the Rural District Councils Act of 1988; the Chiefs and Headmen Act of 1988; the Customary Law and Courts Act of 1990; and the Traditional Leaders Act of 2000 (Stewart et al., 1994; Nyambara, 1997a; Mandondo, 2000). Thirdly, a participatory organizational structure was established to permit local participation in development planning. The participatory structure was established following the issuance of the Prime Minister's Directive on Decentralization (1984/1985), which outlined the structure through which peasant communities at sub-district level fitted into the district local governance framework. The directives created VIDCOs and WADCOs, units based on popular representation and envisaging a democratic orientation to the process of planning for local development (Stewart et al., 1994; Nyambara, 1997a; Mandondo, 2000).

The most important piece of legislation that was passed to restructure local government at independence was the District Councils Act of 1980. Through this Act, the new Government of Zimbabwe reconstituted and consolidated over 220 previously fragmented colonial African councils into 55 district councils. By and large, the post-independence local government structures were crafted from colonial forms (Helmsing, 1991). The District Councils Act 1980 (amended in 1981 and 1982) set up elected district councils as key institutions of rural local government in the communal lands. Each district council was an apex of a local governance structure that encompassed peasant communities. The Act helped to revive rural local government after the decade-long guerrilla war against the Rhodesia Front regime which had led to the collapse of many African Councils in the early 1970s (Nyambara, 1997a; Stewart et al., 1994). The district councils became the principal planning and development agencies in the communal lands, while the district administrator, as the Chief Executive of the council, was responsible for overall planning, development and co-ordination. Although the traditional leaders, who had dominated local government during the colonial era, were not removed, their powers of adjudication and land allocation were transferred to the district councils (Mandondo, 2000; Nyambara, 1997a).

The District Councils Act 1980 (amended 1981, 1982) and the Communal Lands Act of 1981 (amended in 1982), were the two most important pieces of legislation that governed land use and land allocation in the communal areas of Zimbabwe soon after independence. The Communal Lands Act of 1981, vested ownership and

control of communal land in the President and devolved its administration to district councils and district administrators under the then Ministry of Local Government, Rural and Urban Planning. The Communal Lands Act of 1982 divested the chiefs of their land allocation powers vested in them in the 1960s by the Rhodesia Front regime, and gave them to the district councils. In the new district councils, which consisted predominantly of elected members, the traditional leaders became ex-officio members nominated under the Act, with greatly reduced powers (Stewart et al., 1994; Mandondo, 2000). District councils were given new powers to grant permits to occupy land for residential or agricultural use, with due regard being given to customary law and customary rights to land. The district councils therefore became the rightful land authorities (Nyambara, 1997a).

The District Councils Act was later complemented by the Rural District Councils Act (1988) which sought to eliminate the colonial dualism in local government structures, which was based on the separate development of the Black and White races, by combining the structures into a single system of local government. The Act amalgamated the rural councils, which formerly represented White land owners, with the district councils, which represented African interest in the communal lands, into rural district councils (RDCs). The Act gave the RDCs, the power to enact land-use and conservation by-laws in their jurisdictions (Stewart et al., 1994; Mandondo, 2000). Thus, it further endorsed the RDCs as the 'de jure' land authorities instead of the traditional leadership structures. The Rural District Council Act [Chapter 29; 13] established a local government structure that excluded traditional leaders. It is somewhat ironic that many of these structures were inaugurated with the blessing of traditional leaders.

Traditional authorities were further dis-empowered by the Customary Law and Primary Courts Act of 1981, which formally transferred the determination of customary law from the Chief's Courts to new local bodies appointed by the Minister of Justice, under the Act. While the government affirmed its support for customary law regarding access to and use of land, it removed the authority for its allocation from customary institutions (the traditional leadership of Chiefs and Headmen), and vested it in elected local government institutions. The application of customary law was thus vested in non-customary institutions: the district councils. It has been observed that the combined effect of the District Councils Act (1980/81/82), the Communal Lands Act (1981/82), and the Customary Law and Primary Courts Act of 1981, introduced profound changes in the land tenure situation in the communal lands that left the traditional leaders with little more than a spiritual function (Communal Land

Development Plan, 1986; Nyambara, 1997). All these legal enactments were part of the process of the disempowerment of 'traditional' institutions, a measure purportedly adopted in order to punish chiefs for their pre-independence role as functionaries of colonial oppression (Makumbe, 1998).

Another reform measure which was adopted in order to further disempower the traditional leadership in the communal lands was the creation of a participatory structure for peasant communities at sub-district level that excluded traditional leaders in the district local governance framework. This participatory structure entailed the creation of Village Development Committees and Ward Development Committees under the provisions of the Prime Minister's Directive on Decentralization of 1984 and 1985. As elected bodies, the VIDCOs and WADCOs excluded traditional leadership structures and were generally accountable upwards to the rural district council, and not to their local constituencies. The VIDCO became the lowest unit of government administration which was expected to identify the needs of the village and articulate the needs through the development of a local village plan. The VIDCO normally consists of 100 households and is presided over by an elected chairperson. The WADCO is usually comprised of six VIDCOs per ward and draws its membership from leaders of its constituent VIDCOs. It is presided over by an elected councilor representing the ward at the district level.

The WADCO receives the plans of its constituent VIDCOs and consolidates them into a ward plan. Councilors then forward the plans to the district where they are submitted to the rural district development committee, which is the supreme planning body of the district that consolidates the various ward plans into annual and five-year plans for the district (Stewart et al., 1994; Nyambara, 1997a; Mandondo, 2000). As a consequence of this lack of downward accountability, the VIDCOs have little credibility at the local level. This may be attributed to the fact that the traditional leadership, despite their history of involvement in the colonial administration, continued to have significant support at the local level (Mohamed-Katerere, 1996). Thus, there is evidence of an increasing struggle between traditional leadership and the VIDCOs, WADCOs, RDCs around issues of authority and power.

A land tenure commission which was set up in the early 1990s to investigate appropriate land tenure and agricultural systems for various parts of the country, reported in 1994 that many administrative conflicts were taking place between traditional leadership structures (chiefs, headmen, and village-heads) and elected local government institutions (VIDCOs, WADCOs) throughout the country. The Commission cited one of the causes of

the administrative conflict between customary institutions and elected local government institutions as the co-existence, side by side, of VIDCOs and WADCOs with traditional institutions of chief, headman and village-head at the local level, making administrative overlap inevitable. It further observed that the two systems did not have clearly defined mandates and communication processes, and relied on different sources of legitimation (that is the state for VIDCOs/WADCOs, and tradition for the customary institutions), making conflict between them inevitable. While VIDCOs derived their land allocation powers from a statutory instrument, the Communal Lands Act, traditional leaders, on the other hand, derived their land allocating powers from custom, claiming that the land belonged to their clan for generations, from whom they had inherited ownership and authority. There is evidence countrywide that for this reason, some traditional authorities continued to allocate land independent of the VIDCOs (Report of the commission, 1994).

Conflict with the VIDCOs was also caused by the fact that although the Chiefs and Headmen Act (1988) had defined the roles and functions of chiefs and headmen, and restored some of the original powers that had been vested in them by the colonial regime in the 1960s, e.g. limited judicial functions, it nevertheless did not recognize the institution of village-head, which both the chiefs and headmen considered to be vital in customary administration. From evidence gathered by the Commission, people repeatedly stressed in the Shona Language that, "Hapana Ishe kana Sadunhu asina maSabhuku", which translates to; "there is no chief or headman without a village-head" (Report of the commission, 1994; Dore, 1995; Nyambara, 1997). Despite their non-recognition by law, village-heads enjoyed wide traditional support in the communal areas over the VIDCOs, and continued to perform wide-ranging functions, including land allocation and conflict resolution. Although the law excluded traditional leaders in land administration, the inhabitants of the communal areas still referred most land matters and requests to traditional leaders. Furthermore, although traditional leaders were not clearly mentioned in the land laws, the requirement that land administration was to be done by the VIDCOs and WADCOs with regard to customary law, implied some role for traditional leaders, given their status as executors of customary law (Report of the commission, 1994; Sithole, 1997; Frost and Mandondo, 1999).

Consequently, in practice, chiefs and headmen continued to clandestinely allocate land on the basis of customary claims to the land (Mandondo, 2000). The conflict surrounding the institutional administration of communal land manifested itself in the form of numerous land dispute cases that occurred at district level

throughout the country, where there was clear evidence of hostility between the new and old land administration structures (Nyambara, 1997).

Conflicts also emerged as a consequence of spatial and jurisdictional overlaps between the domains administered by the traditional village-heads and VIDCOs. Most people interviewed by the commission in the communal areas complained that the delineation of VIDCO boundaries had ignored the existence of traditional villages and often split traditional villages. This had damaged relations between traditional village heads and VIDCO leaders (Report of the commission, 1994). These communal land disputes were further complicated by the superimposition of the ruling party ZANU-PF's local structures in land allocation (Tshuma, 1997). Although VIDCOs and WADCOs were elected local governance bodies, in many cases regular elections were not held and the VIDCOs and WADCOs were imposed in accordance with ZANU-PF party cells at the local level. As a result VIDCO and WADCO boundaries tended to ignore traditionally accepted social and administrative units such as village boundaries. The strategy employed was aimed at usurping the role of traditional leaders on the land. The resultant crisis of communal leadership in land matters created land anarchy, serious land disputes within communities, and increasing conflicts between village-heads and the VIDCO over the allocation of land (Reynolds, 1996).

However, chiefs did not take their disempowerment lying down. Throughout the 1980s, chiefs used their representation in the 150-member Legislature by 10 senator chiefs to fight for the return of their powers in judicial and land matters (Tshuma, 1997). From the early 1980s, chiefs began to voice their demands for the return of their powers in the print and electronic media. They argued that before the attainment of independence in 1980, the land had been looked after properly by traditional leaders. But after all their powers had been taken away from them in 1980, they could neither control the land nor the people. They argued that after the authority to distribute land had been transferred from them, the problems of land degradation, river bank cultivation, deforestation and siltation had escalated to such an extent that the Government was now spending thousands of dollars trying to remedy the situation (Nyambara, 1997). In 1987, the Minister of Local Government, Rural and Urban Development announced that Government would soon reinstate limited judicial powers to the chiefs, but would not reinstate their powers to allocate land. He emphasized that land allocation would still remain the responsibility of the district councils (Correspondent, *The Herald*, 1987). This was followed soon after by the enactment of the Chiefs and Headmen Act (1988) which restored some of limited judicial powers

to the chiefs and headmen, but did not recognize the allied traditional institution of village-heads. In 1990, the Customary Law and Primary Courts Act (1981), which had stripped chiefs of their judicial powers, was repealed and replaced by the Customary Law and Courts Act (1990), which restored the judicial authority of chiefs and headmen to preside over civil cases in customary law courts, but denied them jurisdiction over disputes relating to land. Despite these limited concessions to chiefs' demands by the Government, the chiefs still felt that the institution of chieftainship had been reduced to that of a mere symbolic figurehead, and they continued to fight for the restoration of their full powers in land matters (Nyambara, 1997).

### **OPPOSITION POLITICS AND THE RESTORATION OF CHIEFS' POWERS**

It has been observed that democratic considerations did not feature highly in the decision to re-empower chiefs in the late 1990s, and that chiefs were most probably courted to shore up sagging political fortunes of the ZANU-PF government which was facing a serious political challenge from an emergent popular opposition movement in the late 1990s, which culminated in the formation of the movement for democratic change (M.D.C.) in 1999. Faced with the real threat that the growing opposition would garner support from the communal lands; the traditional support-base of the ruling party. The state opportunistically moved quickly to incorporate the traditional leaders, as an important, but hitherto alienated, political constituency. It has also been noted that the land tenure commission (1994) was part of the official political courtship of chiefs and allied traditional institutions because chiefs were heavily represented in the composition of the commission which was appointed by the president, thereby giving them an unfair advantage over other sections of society in defining the shape and form of the powers that were eventually vested in them through the Traditional Leaders Act (1998) (Mandondo, 2000).

The report of the land tenure commission made the following observations and recommendations with regard to powers of traditional leaders since independence. It reported that "traditional leaders used to carry more meaningful authority over the use of natural resources but this has now been eroded" (Government commission report, 1994). The commission also found overwhelming evidence of serious conflicts within the communal areas which had been worsened by the acute breakdown in administrative structures, and the erosion of traditional authority and responsibility. It reported that senior authorities in the Ministry of Local Government down to

the lowest units of local government (VIDCOs) believed that they had the 'de jure' exclusive authority over communal land. While the rural district councils were expected to take cognizance of customary law in administering communal land, in practice traditional leaders were not expected by the RDCs to play a role in land administration. Despite this, chiefs, headmen and village-heads in many areas had illegally reacquired some of their defunct authority over land and were allocating land in return for fees, thereby creating tension and conflict with the VIDCOs (Government commission report, 1994). After presenting its findings, the Commission recommended that traditional villages under village-heads were the legitimate and appropriate units for local natural resource management in the Communal Areas, and that village-heads should be given exclusive legal authority over natural resources in their areas (Government commission report, 1994). The recommendations of the land tenure commission (1994) culminated in the formal re-empowerment of chiefs, headmen, and village-heads through the Traditional Leaders Act of 1998.

The roles of chiefs, headmen, and village-heads under the Traditional Leaders Act (1998) were an exact re-enactment of the colonial roles of chiefs and allied traditional leaders. Under the Traditional Leaders Act 1998, chiefs became Presidential appointees who were tasked to supervise headmen, promote and uphold cultural values, oversee the collection by village-heads of taxes and levies for the rural district council, and ensure land and natural resources were used in accordance with national legislation, especially legislation prohibiting over-cultivation, overgrazing, and deforestation (Mandondo, 2000). The political courtship of the chiefs increased in 2000 following the emergence of a very powerful opposition party, the Movement for Democratic Change in 1999, which posed a serious political challenge to the ZANU-PF government in the rural constituencies. In this political atmosphere, chiefs' powers were further increased by the Traditional Leaders Act 2000, and chiefs became very powerful actors in Zimbabwe's development, usurping that role from locally elected councilors who were now considered to be weak. The Traditional Leaders Act 2000 sought to strengthen the role of traditional leaders over local planning and development issues. It gave the chiefs, headmen and village-heads the powers to coordinate development, allocate land as agents of the RDC, manage natural resources, preserve and maintain family life, culture, health and education, keep population records, try a range of crimes, and collect all levies and taxes payable to the RDC. The Act also gave chiefs a wide range of powers in the planning system. Nevertheless, it has been debated whether the Act can successfully link traditional

leadership to the democratically elected RDC structures in a manner that can remove rivalry, tensions, and conflicts in the planning process (Masendeke et al., 2004).

The political move to re-empower chiefs and allied traditional leaders in 2000, paid huge political dividends for ZANU-PF, by guaranteeing the support of chiefs in rallying rural constituencies as vote banks for the ruling party in the elections of 2000, 2002 and 2008. Since 2000, traditional leaders, led by the President of the Zimbabwe Chiefs' Council, Fortune Charumbira, have repeatedly openly expressed their support for the ruling party (Padera, 2007). The political expediency inherent in the new wave of flirtations between the state and chiefs is betrayed by the array of privileges that have been given to chiefs, including a salary equivalent to that of a University graduate; Mazda B1800 pick-up trucks; and homesteads constructed by the Ministry of Rural Housing; all of which underline the perceived importance of chiefs as sources of political mileage (Wines, 2007). However, in the recent past, some chiefs that supported the main opposition movement, the MDC-Tsvangirai, have had these privileges withdrawn. For example, Chief Ziki of Bikita District and Chief Sengwe of Chiredzi District, both in the southern Masvingo Province, had their monthly allowances withdrawn for backing the MDC party in the run up to 2008 Presidential and Parliamentary elections (BBC News, 2008). Such developments underline the serious adulteration that the institution of chieftainship has undergone in the post-colonial period, and the extent to which it has been patronized by the ruling party since 2000. In the process, chiefs have lost their historical role as custodians of tradition and culture, and become political agents and puppets of the post-colonial state, often participating in the oppression of their subjects.

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