



WORKING PAPER SERIES

ENVIRONMENTAL GOVERNANCE IN AFRICA

**ALLOCATION OF GOVERNMENTAL AUTHORITY
AND RESPONSIBILITY IN TIERED
GOVERNANCE SYSTEMS:
THE CASE OF ENVIRONMENT-RELATED
LAWS IN ZIMBABWE**

by
Alois Mandondo
and
Everisto Mapedza
January 2003



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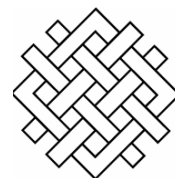


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ABSTRACT

Based on an analysis of relevant legislation, this study reviews the political economy of the allocation of powers over natural resource management between the Zimbabwean State, rural district councils and local communities. The allocations are critically examined in relation to citizen empowerment. An analytical toolkit, derived from a review of relevant literature, is provided for holistically scrutinizing the extent and operation of accountability between and within decentralized governance units and other units above and below them. These theoretical tools are then used to argue that, contrary to establishing the institutional infrastructure for decentralized natural resource management in Zimbabwe, most legislation re-centralizes power at the district level, doing so at the expense of meaningful citizen participation in natural resource governance. Only the “privilege” of initiating development plans appears to have trickled down to the grassroots level. The state and its closest actors still retain the complementary roles of approval, implementation, and fiscal control. The study concludes by considering ways of addressing the contradiction between the decentralization which the state claims to have achieved and the re-concentration of power at the district level which is actually taking place, assessing the scope for both incremental and radical approaches.

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ACRONYMS

CAMPFIRE	Communal Areas Management Program for Indigenous Resources
CEO	Chief Executive Officer
MDC	Movement for Democratic Change
NGO	Non-governmental organization
RDC	Rural District Council
RDDC	Rural District Development Committee
VIDCO	Village Development Committee
WADCO	Ward Development Committee

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INTRODUCTION

The proper allocation of powers within and between various levels of society is central to debate about governance. In the area of natural resource governance, such debate is dominated by an analytical dichotomy between centralization and decentralization. Although the merits of decentralization are now readily understood and appreciated, there is still need to critically consider the actual impact of the so-called enabling or decentralizing laws on empowerment. More often than not, the spirit, if not the letter, of such laws reinforces the concentration of power in the state and its organs, contrary to espoused notions of citizen empowerment.

This study explores the political economy of the allocation of natural resource governance powers among actors at a variety of scales of organization in Zimbabwe. It examines natural resource legislation along with a broad set of other relevant laws, since control over natural resources is intricately linked with other components of local governance. Much of the study is a review of the 1988 Rural District Councils (RDC) Act, which is based on the ideology of decentralization and provides structural and operational arrangements for rural local governance. The Act provides the legal basis for, among other things, the demarcation and establishment of distinct spatial units for rural administrative purposes, designated *rural districts*, and the establishment of *rural district councils* (RDCs) to preside over such districts. It also prescribes the structure of these councils and the process for constituting their membership, specifies the roles and responsibilities of the councils—which include the planning and implementing of development programs and related taxing and fiscal authority—and bestows on them minor legislative powers that enable them to enact by-laws.

We analyze how roles and responsibilities are allocated to actors at many scales, including the national state, the district and the locality. We analyze whether such allocations hinder or strengthen citizen empowerment. A second analytical concern is the degree to which various elements of the structure and operational arrangements fulfill the criteria of democratic performance. Building on Murombedzi's (1992) insights, we argue that the RDC Act does not establish the institutional infrastructure for decentralized natural resource management in Zimbabwe but rather re-centralizes power at the district level, thereby restricting meaningful citizen participation in local governance. For instance, the Act specifically prohibits the devolution of legal and fiscal authority to units below the district level. It thus effectively precludes policy experiments that entail robust devolution, in which the state transfers some of the power to the “lowest accountable units” so that “authority get[s] linked to responsibility” and “cost gets linked to benefit” (Murphree 1991, 1999). A complementary thesis is that an additional set of laws related specifically to natural resources further reinforces the re-centralization of power at the district level. Our analysis also takes into consideration recent efforts at reforming rural local government, based on the “re-empowerment” of traditional leaders. We argue, however, that the overall effect of such reforms is to subordinate elective legitimacy to customary fiat under the guise of building on existing cultural forms, thus recreating the administrative model of the colonial era, one that was decentralized and despotic (Mamdani 1999).

The rest of the paper is divided into three sections. The first section, which is based on a literature review, develops an analytical template with which to critically examine the relationship between governance and citizen empowerment. It stresses the need to create a toolkit for more holistically scrutinizing the structure and operation of accountability between and within decentralized governance units. The following section examines the Zimbabwean situation. It traces the historical bases of local governance in Rhodesia and assesses the extent to which successive postcolonial reforms in Zimbabwe have created citizen empowerment. The final section summarizes the findings and discusses two alternative ways of addressing the contradiction between the state's claims to have decentralized and the observed results of the concentration of power at the district level.

ELEMENTS OF ACCOUNTABLE NATURAL RESOURCE GOVERNANCE

Devolution, Political Representation, Electoral Participation and Electoral Monitoring

The proper alignment of powers within and between various levels of society is a fundamental issue in discussions about governance. Since the 1980s, social scientists and activists have examined it from an environmental and development planning perspective (Conyers 1990; Crook and Manor 1998). For them, decentralization is one of the most popular modes of properly aligning governmental powers between over-centralized states and a variety of actors on their fringes (Murphree 1991; Murombedzi 1991). Decentralization is the process by which regulatory and executive powers, responsibility and authority in decision making, institutional infrastructure and assets, and administrative capacity—collectively described as “bundles of entrustments”¹—are variously transferred to local groups, governments or communities. In most decentralization processes, state and allied actors direct and control the extent and mix of powers to be transferred to local actors, as well as specifying the actors to receive them. This often results in *deconcentration*, which means that states are extending themselves into the local arena by the transfer of some entrustments to local branches of government that remain responsible and accountable to central government (Ribot 1999). *Devolution*, or *democratic decentralization*, on the other hand, involves the transfer of resources, tasks and decision-making power to democratically elected, lower level authorities that are largely or wholly independent of central government (Bosuyt and Gould 2000).²

Devolution means placing effective powers closer to the citizens—a complex process of social empowerment in which individuals and their interests and aspirations are the building blocks on which democratic governance is crafted. It is easier to talk about this concept than to achieve it. For instance, individuals’ interests often aggregate into group interests, since the individual is by nature a social being bound at multiple levels into families through civic, political, professional and other associations (Follesdal 1999). Moreover, there are as many interests and aspirations as there are

1 The concept of entrustments was introduced by Ribot (1999), and was adopted by Mandondo (2001) in an article that gives a historical overview of natural resource governance in Zimbabwe.

² We use a Weberian definition of the state as a clearly defined set of institutions with official powers. Admittedly, based on Gramscian perspectives, it is not easy to draw neat lines between the state, civil society and civil society organisations (see also Holm et al. 1996). The state is an amorphous entity of elected politicians and non-elected civil servants and other actors with different interests and often conflicting preferences (see also Halser 1993).

groups and it is impractical to have each and every one of them participate in daily governance. Electoral participation then becomes a proxy for democracy, since it is cumbersome to secure direct individual participation in daily decisions (Ribot 1999). Furthermore, for genuine participation there should be universal adult suffrage and equality in voting during regular and scheduled elections (Follesdal 1999).

Political representation is therefore the primary justification for democratic decentralization, since the elected representatives can then be held downwardly accountable to electoral majorities. In practice, however, electoral processes usually provide only broadly for accountability (Ribot 1999). For instance, in examining political domination, many recent publications emphasize the need to pay careful attention to what lies beneath the surface of visible public behavior. In public, the oppressed may seem to accept their own domination, but they always question it offstage. According to Scott (1985), “public transcripts” describe the open, public interactions between dominators and oppressed—the outer shell of power relations. Scott uses the term “hidden transcript” to describe the critique of power that takes place offstage, where the power holders cannot see it.³ Though these covert practices sometimes enhance democracy rather than oppose it, their overall effect is often to distort and subvert democracy in electoral events and processes, particularly in postcolonial settings (Scott 1985; Hyden and Bratton 1992; Marcussen 1996). Furthermore, in developing societies elected leaders may insulate themselves from everyday criticism. In Zimbabwe, for example, the recent enactment of draconian media laws and a state monopoly over television and radio broadcast services both serve to stifle dissenting viewpoints. Thus, contrary to democratic ideals, the voices making up the chorus of representation still remain heavily dominated “by a distinct upper class accent” (Coglianese and Nicolaidis 1996). What is often paraded as majority rule, frequently turns out to be elite minority rule secured through coercion of the majority.

Genuine enfranchisement requires rearranging, in a more democratic manner, the entire structure and operation of accountability relations in governance systems. Placing decision-making powers closer to the citizens is indispensable. Though necessary, regular elections and local decisions alone are not sufficient conditions for genuine empowerment. For instance, Mutamba et al. (2000) show how elections may even entrench despotism. Their work on committees and leadership in community-based micro-credit schemes in the Romwe area of Chivi District, in south-central Zimbabwe, depicts electoral cycles that always bring back traditional leadership, which arguably is not always “democratic” in its comportment. Regular elections are not enough on their own unless they are transparent and the outcome is broadly seen as being legitimate. And in order to be considered transparent, there is need for third party monitoring supported by credible oppositions, a vibrant local media, an active civil society, and vigilant local citizens (Follesdal 1999).

Equipping civil society and local citizens with the information and other tools with which to effectively monitor elections requires supporting material, technical, and financial resources. The tremendous costs involved partly account for the general lack of monitoring, particularly at sub-national levels, where elections ostensibly form the

³ A range of terms have been used to describe such relations – patrimonialism, neopatrimonialism, cronyism, prebendism and economies of affection (Hyden and Bratton 1992; Marcussen 1996; Medard 1996).

basis on which democratically decentralized units are constituted. It also seems, in Africa at least, that the lack of investment in monitoring reflects government's reluctance to let go of power. The monitoring of national-level electoral events may be augmented by international monitoring missions, which boast superior technical and financial resources. These missions, where they are allowed or invited, surf from one electoral event to another and seldom have adequate time. In addition, in spite of the good intentions of such "safaris", the locals inevitably suspect "cut and paste" verdicts (Follesdal 1999). Moreover, monitoring electoral malpractices is often confounded by the intermixing of interests and agendas among the monitors and the monitored, and the complicity between the supposed villains and victims of such malpractices (Fatton 1995).

Reversibility and Subsidiarity

The formal and systematic process of democratically decentralizing powers seldom has much to do with where effective control should lie. Neither are those on the periphery of formal systems of power permanently in the minority in terms of effective power. The so-called "weak and powerless" often adroitly insert themselves into political processes, exerting significant pressure on upper-class tenurial, territorial and other interests that are supposedly protected by formal systems of power (Moore 1993; Nhira et al. 1998; Li 1999). But "local" and "community" continue to dominate the environment and development debate as idioms of the assumed powerlessness of those ostensibly on the fringes of formal systems of power.

Nor are the weak invariably equal in their powerlessness. Several studies conducted at the local level, demonstrate social differences across a variety of axes: age, ethnicity, gender, religious affiliation, political influence, and socio-economic status (Shipton and Goheen 1992; Nabane 1994; Madzudzo and Dzingirai 1995; Price and Campbell 1998). Effective power, therefore, is a plural and dynamic outcome of the contestation and negotiation of interests within and between various levels of society. Unraveling the actual balance of power requires a systematic assessment of everyday processes and events, a task that cannot be accomplished in our present study. This study highlights the large gap that exists between the Zimbabwean government's stated goals and the laws, procedures and structures it is putting in place ostensibly to achieve these goals.

Promoting democracy requires much more than the mere transfer of entrustments from one level to another, as is implicit in the term decentralization. In the multiple-stakeholder arenas of everyday social life, particular governance arrangements may result in unintended outcomes, as the work by Escobar (1995) clearly shows. Furthermore, other socio-political changes may override the goals for which governance arrangements were originally crafted. At the most practical level, democratic decentralization entails the forging of strategic compromises that firmly secure the interests of the most disadvantaged sectors—a process most appropriately pursued on an incremental basis with outcomes regularly reviewed, rather than in a "quick fix" or piecemeal fashion (Thomson and Freudemberger 1997). However, although review is important, it can also be a means of achieving hidden agendas. For instance, Madzudzo (2002) describes a councilor in Matabeleland who "read" a non-existent letter summarizing a minister's view about contentious issues relating to grazing rights. The provision for review must also be complemented by that for reversal: the power to realign governance arrangements so that they meet the goals for

which they were intended and to revoke certain arrangements or entrustments if they fail to satisfy these goals (Coglianese and Nicolaidis 1996)⁴. In addition, there is the central question of who, among multiple stakeholders, should wield the prerogative to revoke such arrangements. The answer depends on a variety of factors, including the extent to which the various stakeholders are immersed within their respective socio-political milieu.

The question of who should have the power to make policy changes is related to the more general issue of *subsidiarity*. The principle of subsidiarity means that, to protect basic justice, the most significant sets of powers should be placed at the local level, where citizens are closest to the resources. Upper-level actors should undertake only those decision-making roles that are beyond the scope of lower-level actors (Schilling 1995). Subsidiarity envisions a sort of “nesting of powers” (Ribot 2001), as in Chinese boxes or like a zoom lens that telescopes down to the appropriate scale of focus. The principle takes into account that, in spite of the emancipating (and “trendy”) appeal of the term “local” in environment and development interventions, effective empowerment preserves a role for upper-level (non-local) actors, especially in providing the coordination that is needed to address trans-boundary issues and spillover effects across localities. Conceptual and theoretical debates about state-local relations tend to dichotomize the two as disparate entities, with the state’s presence at the local level often considered at best as intrusive, and at worst as inefficient, unaccountable, insensitive, obtrusive, and hegemonic (Phimister 1989).

Distrust of the state’s local presence is rooted in Africa’s historical processes. For instance, the imposition of the state from the outside has tended to reinforce the view of governments as imperial organizations aspiring to control the entire national jurisdiction (Marcussen 1996). Moreover, partly because of their quest to exert enduring and far-reaching political control, governments have indeed aspired to establish single center administrations. Thus, over the years, state visions of the appropriate way to manage resources have generally been implemented in peasant areas through a centrally directed structure and process (Moyo et al. 1991). Supporters of decentralization often advocate empowering local communities by pushing back and scaling down the state’s role—“rolling back the state.” However, this solution seems based on certain unrealistic assumptions: that the state has the political willingness to agree to a roll-back; that communities have the know-how and wherewithal to step in and fill the gaps left by this scaling back; and that communities, *a priori*, have qualities that the state lacks in terms of accountability, representativeness and efficiency (Hesseling 1996). Several studies conducted at the local level, however, indicate a lack of capacity (Campbell et al. 2001) and inequalities in access to resources based on gender, ethnicity, and political influence (Fortmann and Nabane 1992; Nabane 1994; Madzudzo and Dzingirai 1995; Mukamuri 1995).

Thus, the state still has a crucial, supportive role to play, according to the principle of subsidiarity, provided that it is moderated by checks and balances to counteract state-aligned actors’ predilection for overwhelming dominance. Moreover, the state and the local have permeated each other to the extent that “there is some statishness in the local and much that is local in the state” (Medard 1996). The existence and support of

⁴ Coglianese and Nicolaidis (1996) also refer to regular and scheduled revocability arrangements, “sunset provisions,” which allow powers to revert to another level on the attainment of specific dates.

a strong state is also necessary for effective democratic decentralization, given the reluctance of mid-level actors to devolve effective powers to the lowest levels (Murphree 1991; Hirschmann 1999; Murombedzi 1999).

Frameworks for Decision-Making

The way in which decisions are made in decentralized units is as important as transparent electoral processes and the transfer of real powers. Decision-making in these units needs to be as appropriate and efficient as possible. In general, the quality of decision-making is optimized within “deliberative” frameworks, where there are extensive, open discussions with citizens who have pertinent *information* before anything of strategic importance is voted for (Musekiwa 1997; Follesdal 1999). Under normal conditions, deliberation before voting is the best way of allowing the majority to express their will and airing the interests of all affected parties (Follesdal 1999). McAuslan (1993) advises against fast-tracking such processes, arguing instead for “set pauses”, or periods that adequately allow for effective deliberation, consultation and lodging of objections.

Regarding cost-effectiveness, the merits of deliberative decision-making need to be balanced against associated increases in transaction costs (Brett 1996). If less red tape is the virtue of unilateral or directive decision-making, arbitrariness and opacity tend to be their vices, with the opposite tending to hold true for deliberative decision-making (Brett 1996). In practice, however, whether hurried or not, deliberation seldom assures the complete expression of the will of the majority. The dominance of upper class interests in hidden transcripts of everyday social practice often results in an elite stranglehold of deliberations.

Also important is the manner in which issues for deliberation enter the decision-making process. Agenda setting is often a vehicle by which powerful internal and external actors exert their appropriative and other interests. Thus common people’s resource claims may not even get addressed. Free agenda setting is therefore another key attribute of downwardly oriented, democratic decision-making (McAuslan 1993). Free agenda setting allows expression of citizens’ diverse needs and aspirations, enabling them to form, assess and choose options and fostering internal coalescence and legitimacy.⁵ However, leaders who are not well meaning, may manipulate “free” agenda setting, using it as a tool for inserting their interests at the expense of those not able or entitled to speak publicly (Mutamba et al. 2000).

Power Sharing and Fiscal Authority

Although no person or institution is all-powerful, nobody should be entrusted with wide discretionary powers, since nobody knows what is best for everybody. Equally, no level of social organization should wield unfettered powers over other levels; the individual as a social being must be heard and represented at all levels (Follesdal 1999). The articulation of citizens’ views and interests in higher-level units through representative leadership ideally constitutes part of power sharing arrangements, guarding against the arbitrariness associated with the exercise of unfettered powers. Placing powers in customary or bureaucratic forms promotes the arbitrariness and opacity that attenuates the spirit of citizen enfranchisement (Mamdani 1996, 1999).

⁵ Institutions are legitimate if affected persons unanimously consent to them under conditions that secure and recognise their status as appropriately free and equal (Follesdal 1999).

Ideally, representation also empowers citizens by enhancing the scope for elected leaders to monitor, on citizens' behalf, whether authority is usurped or abused and whether standards or guidelines are followed in decentralized units.

A fundamental means of empowering democratically decentralized units is to grant them planning, taxing and implementation authority, together with the legal and fiscal powers for the effective discharge of such authority. In practice, decentralization reforms often turn out to be piecemeal and complex; some roles and mandates are devolved while others are left hanging at levels far from the citizens (Murphree 1990; Murombedzi 1991). In general, upper level actors in bureaucratic hierarchies want more power from the levels above them but are reluctant to devolve their powers to lower ones (Murphree 1992). They also tend to devolve mandates and functions that are costly to operate, retaining the ones with "good" benefits. Murphree (2000) argues, "Authority and responsibility should be linked, when they are de-linked and assigned to different institutional actors both are eroded. Authority without responsibility becomes meaningless and obstructive; responsibility without authority lacks the necessary components for its effective exercise."

Calls for more thoroughgoing modes of empowerment, in which authority and responsibility are linked in decentralized arenas, should not, however, be misconstrued to imply that the state should be absent from the business of overseeing decentralized units. In some cases, the entrusted authorities may lack the capacity to manage large sums of money or deal with sophisticated partners, and require some form of surveillance and central government intervention and cooperation.

ENVIRONMENTAL REGULATION IN ZIMBABWE

The previous section reviewed some of the critical elements of accountable natural resource governance: democratic decentralization, political representation, transparent electoral processes, reversibility of reforms, allocation of powers within social and political hierarchies on the basis of subsidiarity, independent decision-making, sharing of powers, and matching of planning and implementation with the related fiscal authority. This section uses the conceptual tools thus developed to critically examine the political economy of power allocation in the case of Zimbabwe's environment-related laws, with special emphasis on the 1988 Rural District Councils (RDC) Act (Chapter 29:13), which is Zimbabwe's main decentralization law and provides the institutional infrastructure for environmental regulation.

Historical Roots of RDCs

The RDC Act provides for the establishment of a rural local governance superstructure consisting of 57 rural districts. Each is run by a rural district council (RDC). It eliminated the racially-based dualistic system of rural local governance inherited from the colonial period, creating a single non-racial system of territorially-based local governments. Before independence in 1980 there were two systems of rural local government. Elected local authorities, known as *rural councils*, represented the interests of white landowners, who enjoyed a set of rights that included freehold title to land, freedom to engage in commerce, recourse to justice, and forms of administration based on electoral representation (cf. Mamdani 1999). Local governance for Africans, however, was based on a cohort of representatives of hereditary lineages (chiefs and headmen), often co-opted into such positions and

always appointed and approved by colonial administrators. This system of “native” administration, called indirect rule, was purportedly meant to champion the “interests” of the black majority in peasant areas; but, apart from a few cases, it did not.⁶ In practice, indirect rule was designed to ensure “governance on the cheap.” Through it, the colonial administrative structures—including those designed for the extraction of taxes—could reach all the black peasantry under the guise of maintaining existing customs and traditions (Chanock 1998). Towards the end of the colonial period, *African Councils* were established. Although there was an element of accountability in these structures, the chiefs and headmen co-opted onto them were basically functionaries of the colonial administration. “Patronizing goodwill” was thus disguised as “local empowerment” in a system designed to subjugate the black peasantry as a disenfranchised underclass of subjects (cf. Mamdani 1999).

After independence, the power base of traditional leaders was seriously eroded by the creation of new, popular-based structures to which most of their powers were transferred. The most important of these structures were *village development committees* (VIDCOs) and *ward development committees* (WADCOs). This was purportedly done to punish the traditional leaders for their role as functionaries of colonial rule (Makumbe 1998). However, in spite of the “disruption” of the colonial encounter, subsequent patronage under indirect rule, and disempowerment by the post-independence Marxist government, chiefs and headmen still command considerable confidence and legitimacy among their followers (Matowanyika 1991; Government of Zimbabwe 1994; Mandondo 1997). The persistent political strength of these traditional institutions has little to do with their democratic orientation. It results mostly from the fact that they were more closely associated with the African cultural identity than the socialist VIDCOs and WADCOs. The composition and roles of VIDCOs and WADCOs will be described later.

Reforms designed primarily to de-racialize agendas retain the stigma of “patronizing goodwill” unless they also significantly improve the plight of ordinary citizens, particularly the disenfranchised underclass who were colonial subjects until less than 25 years ago. The significance of such reforms has to be assessed in terms of the extent to which they have delivered such returns; for example, by giving voice to the ordinary citizens. This is by no means an unreasonable analytical standpoint, since the policy rhetoric underlying such reforms usually justifies them in terms of broader democratization.

Citizen Involvement in the Establishment of Rural Districts

We argue that the Rural District Councils Act, despite providing for a seemingly consultative framework for the establishment of RDCs, vests wide discretionary powers in the executive, granting ordinary citizens a minor, token, consultative role, which the Act's other provisions undermine. The establishment of RDCs is preceded by the designation of distinct spatial units in rural localities as *rural districts*. Section 6 vests in the Presidency the power to declare any area within a province to be a *district*, to assign the district a name, to alter the boundaries or name of a district, or to abolish a district. The President's prerogative is not an entirely unilateral decree, since section 7 requires the relevant minister to consult the residents of the area before

⁶ David Hughes (2001) suggests how some smallholders enjoyed official protection from pillaging farmers.

advising the President. The subject matter over which citizens' views are solicited include:

- a district's potential for local governance;
- the extent of the proposed council area;
- the number of councilors to be elected or appointed;
- the need for subcommittees;
- the council's name ;
- the headquarters location;
- the number and professional background of staff required to carry out the council's functions;
- the allocation of assets and liabilities between councils being reconstituted into one council; and,
- any other matters relevant to the establishment of councils (Section 9).

However, this does not necessarily constitute proper "checks and balances", since it is merely optional, not obligatory, that such advice is taken into account when formulating the Presidential decree.

Subsections 1 and 2 of section 7 give the minister two options as to how, through consultations, to ensure citizen participation in the establishment of rural districts. Both options accord the minister broad discretionary powers (and also assume the minister's goodwill). Subsection 1 gives the minister the non-compulsory option of consulting with a commission of residents of the area, who are appointed by and reporting to the minister. Although the establishment of commissions may be well intended, the history of state-sanctioned commissions of inquiry in Zimbabwe is not rosy, especially when political or other vested political interests are involved. Indeed, some reports are never made public, while the recommendations of others are quietly ignored. Furthermore, the appointment of ministerial nominees to such commissions potentially compromises their independence. They are more likely to be "upwardly" accountable to the minister than commissions with members nominated by other procedures. These weaknesses might have been less significant if Zimbabwe's rural leadership, particularly the popularly elected district council representatives, had developed a mature civic culture, in which they interacted meaningfully with the government, members of parliament, non-government organizations (NGOs) and civic groups. They would then be able to contribute effectively to such commissions. However, these actors still have a lot to learn in this respect, a point also stressed by Makumbe (1996, 1998).

Subsection 2 compels the minister to "take such steps as reasonably necessary" to notify area residents of the proposal to establish a rural district, a seemingly clear if dubiously stated provision. The subsection further contradicts the essence of citizen empowerment by requiring the minister to publish such notice in at least three issues of a newspaper, a medium that peasant communities in communal areas cannot easily obtain, let alone read. It is unrealistic to expect broad-based citizen participation based on notices that usually appear in obscure sections of newspapers.

When commissions of residents are appointed by the minister to deliberate on proposals for the establishment of rural districts, they have at least six months to report to the minister (subsection 1 of section 7). If, however, the minister opts to

solicit residents' views, an unclear and seemingly open-ended timeframe of at least one month after the publication of the notice in a newspaper is given. Fast tracking such consultations by requiring rural residents to submit "written" opinions at least one month after the publication of the notice appears to further hinder citizens' input (subsection 2 of section 7). The overall effect of such a provision is exclusionary with regards to citizen empowerment. Although empowerment is no doubt an underlying reason for instituting such consultations, what is recorded as law on paper appears to contradict such a goal.

Opinions secured through the above provisions, together with the minister's comments, provide the basis on which the President establishes rural districts (Subsections 3 and 4 of section 7). In the hands of a well-meaning president, such sweeping powers may be regarded simply as a cost-effective means of decision-making; alternative arrangements that gave citizens more effective power would inevitably be more complex and thus more costly. However, in a despot's hands, even seemingly benign powers in obscure statute books can be invoked to subvert the will of the citizenry. Moreover, vesting the President with sweeping powers undermines the basis for starting consultations as citizens' views might simply be ignored.

RDC Membership, Electoral Processes and Representation

RDCs comprise one popularly elected councilor per ward (section 11a), together with a ministerial quota of nominated councilors representing special interests, which should not exceed one quarter of the elected councilors (section 11b). At first glance, this blend of election and nomination provides a broad-based representation, in which elected councilors can be held downwardly accountable to electoral majorities while nominated councilors cater for the needs of special interests. Although not specified in the Act, these special interest groups could include women, the disabled and other such disadvantaged social groups. In practice, however, council elections are highly politicized, with political parties endorsing and sponsoring their nominees, while, for the special-interest slots, ministers usually appoint those faithful to the party in order to maintain the party's dominance of the council.

The overall effect of such provisions was to entrench one-party political domination during the 1980s and 1990s. The watershed parliamentary elections in 2000 ended the *de facto*, one-party system, ushering in a credible opposition that garnered about 50 percent of the contested parliamentary seats. However, the minister's power to appoint a proportion of councilors might hand the ruling party a tool with which to erode the opposition's political visibility in local governance.⁷ The point is not that the opposition's ideology is more compatible with community empowerment but rather that its presence will create more competitive and vibrant rural local governance. Such changes will occur only when a culture of political tolerance emerges, in which the party in power no longer demonizes the opposition as enemies but rather as partners in governance and development. Political violence marred the build-up to the March 2002 presidential elections, resulting in questions about their legitimacy. The notable post-electoral trend is one of politically-motivated reprisals,

⁷ The opposition MDC won all the seats (except one) of the Harare Municipal Council during elections run concurrently with the March 2002 Presidential elections. The government, however, disqualified two of the opposition councillors on grounds that they were not citizens, a charge denied by the disqualified councillors who are Zimbabweans of European descent.

occurring against a backdrop of an unprecedented economic meltdown. This culture of finger-pointing and post-electoral reprisals falls far short of such tolerance.

The RDC Act specifies (sections 13-43) electoral procedures at length. Section 16 of the Act unambiguously states that voting shall be based on universal adult⁸ suffrage among residents of communal and resettlement wards. Section 15 extends the right to vote by proxy to associations, societies, companies, and adult owners of immovable property within the district. Section 17, however, denies voting rights to certain categories of people: the mentally ill, ex-convicts for three years after conviction, and those defaulting on payment of RDC rentals and levies. To be eligible to vote, people's names should appear on the district voters' roll. The first roll is compiled and certified by the district administrator, who also officially declares the appointment of the first councilors (Section 13). Subsequently, the chief executive officer (CEO) of each RDC runs the elections, updates the master roll after every six years, and compiles supplementary rolls annually (Section 19).

Section 21 provides for the inspection of the voters' rolls and the lodging of objections. These provisions, however, are deficient in several respects. Notices about the availability of the rolls must either appear in newspapers or be displayed as public notices at the council offices and objections have to be lodged no more than 14 days after the appearance of such notices. Notices in newspapers are, as already noted, an inappropriate way of disseminating information in typical rural settings, where the majority cannot read and comprehend the English language, let alone the legal jargon in notifications. Often the newspapers in which the notices are placed serve better as wrappers for home-made cigarettes and toilet paper than as reading material advancing democracy. Moreover, they do not arrive on time or in sufficient quantities because of poor road networks in rural areas. Displaying notices at council offices is also a weak dissemination mechanism because most people cannot afford the time and bus fare to travel to the district offices to inspect the voters' roll.

Section 22 gives the council chairperson, together with two other councilors nominated by the council, the responsibility for dealing with objections about the voters' roll and making determinations thereon. The overall effect of this section is to make councilors both players and referees in the electoral process. The question is how can they make independent judgments when they have a vested stake in being re-elected. Furthermore, while purportedly providing for transparent electoral processes, the RDC Act also takes with one hand what it appears to be giving to citizens with the other. For instance, in spite of section 21 clearly providing for voter rights and the related privilege to assert such rights through inspection of the voters roll, section 26 nullifies such rights by stating that "failure to notify or advertise the voters roll shall not render the roll invalid." Considered together, these clauses are as illogical as they are confusing. Our interpretation of the legal text might appear to be unnecessarily critical; however, postcolonial electoral experiences in Zimbabwe consistently show processes associated with the management of the voters' roll to be the most scandalous and contentious.

Council elections are held once every four years (section 33). Those who wish to stand for election should be qualified and registered voters and district residents. They

⁸ An adult in Zimbabwe, according to the Legal Age of Majority Act, includes anyone who is 18 years of age or over.

should not have any conflict of interest in council affairs; for example, legal practitioners acting against council and employees of council may not stand, although council-employed teachers may. Members of parliament and anyone who has been insolvent or bankrupt up to three years prior to nomination are also disqualified (section 28). Nominations must have the supporting signatures of at least five people on the electoral roll for their ward, with signatures endorsed by the candidate's election agent, and must be submitted with the candidate's name and symbol of the party, if representing one (section 35). Subsection 4 of section 35 gives returning officers wide discretionary powers to reject the candidates. For instance, they can be rejected on suspicion that they are imposters of political parties or that their party symbol is too complex, indecent or obscene – seemingly arbitrary criteria through which ruling parties have frustrated their oppositions at the national level in both Rhodesia and Zimbabwe. Returning officers are obliged to publish notice of the election date at least 45 days before the election, with the nomination date being fixed at least 30 days after the publication of such notice (Section 34). Again, newspapers are the prescribed media for disseminating such notifications. In practice, however, councilors spread much of the information about the district electoral happenings by word of mouth rather than through newspapers.

Voting is conducted on a “one man one vote” basis, with the proxy vote for organizations also being restricted to one per organization (section 39). The secret ballot is the prescribed method of voting, although the minister enjoys the prerogative of establishing alternative voting methods (section 38). We hope that the logic of vesting such a prerogative in the minister is to enhance the relevance and the cost-effectiveness of voting, since the councils shoulder the costs associated with their own elections (section 43).

Despite the deficiencies in electoral procedures identified above, the overall impression is one of an elaborate and seemingly transparent electoral process. In practice, however, RDC elections often turn out to be mere endorsements of nominees, variously selected by their own parties, with the tactful influence of powerful party elites (Mandondo 2000). This seems to be a vestige of socialist practices, when the vanguard party selected dedicated cadres. It reduces voting to an exercise of “electing the selected”, who owe allegiance to their political benefactors⁹ and are therefore upwardly accountable to them instead of downwardly accountable to electoral majorities. Partyism and cronyism seem to equate with centralization. Furthermore, Zimbabwean voters, especially those who are politically less sophisticated and illiterate, are often scared by state agents, including chiefs and national intelligence operatives, into voting for particular candidates. This may serve to sanitize electoral fraud, especially in rural areas. For example, during the March 2002 presidential elections, most rural areas were “no go” areas for the opposition, barricaded by youth and war veteran¹⁰ units of the ruling party.

⁹ In ruling party (ZANU-PF) parlance, these powerful political elites are *chefs* (chiefs), a patronising endearment with its roots in the party's involvement in the Mozambican war of liberation, during the later phases of which Zimbabwe's liberation struggle started in the late 1970s.

¹⁰ The war veteran movement shot to prominence towards the turn of the century when they wrenched an enhanced system of gratuities from the government, which had ostensibly dispensed of them in spite of their self-proclaimed contribution to the liberation struggle. Since the award of such gratuities, the movement has been a key ally of the ruling party, championing violent seizure of white-owned commercial farms in a Third *Chimurenga* (liberation struggle) aimed at addressing historical

This section suggests that the state seems never to have wanted genuine decentralization. Our reading of the legal text reveals a flawed design. The government's representatives ask for voters' opinions through inappropriate media such as newspapers, those who make decisions about objections to the voters' roll have vested interests in seeking re-election, and elections are prone to manipulation. Furthermore, the concentration of considerable discretionary powers in the minister appears ill conceived. Given the extent of polarization in the national political arena, narrow party interest often triumphs at the expense of principle and salience of decisions to national interest.

Accountability, Council Deliberations and Council Committees

The councilors elect a chairperson and deputy from among themselves, with the minister reserving the right to appoint the council leadership if council fails to elect them (section 45). This clause is potentially useful in areas where traditions of equality run counter to minimal forms of hierarchy. The clause, however, allows the minister to select party-oriented figures. To ensure independence, the district administrator, who lacks deliberative and voting rights, presides over the inaugural meeting during the election of council leaders.

The council must meet at least once every three months, with the chairman reserving the right to call for special meetings at the request of no less than a third of the councilors (section 46). As long as the chairperson or deputy is present, a third of the councilors constitute a quorum during deliberations (section 47). Most ordinary council meetings are open to the public unless council resolves to meet as a committee, in which case attendance is through invitation. Resolutions made in the exclusive committee-type council meetings are binding (section 50). Section 51 stipulates the need to record all council deliberations, with the minutes being openly available to the local residents, except in the case of committee proceedings. Regarding independent scrutiny and review of council deliberations, subsection 8 of section 51 requires councils to submit minutes of proceedings to the minister within six weeks of a meeting. The minister has the power to approve or disapprove council resolutions. English is the predominant language of council business, although speakers can opt to use indigenous languages that are recognized as official languages, namely Shona and Ndebele. This policy tilts the balance of power in favor of those members of council who are conversant in both English and the indigenous languages, making them cultural brokers at the expense of those solely competent in the indigenous languages.

The above description may misleadingly portray councils as unitary decision-making entities when they are actually composites of constituent bodies and interests. Sections 55 to 62 provide for the creation of committees, including committees responsible for finance, roads and natural resource conservation, *area and town boards* to administer urban zones under the council's jurisdiction, *ward development committees* (WADCs) in rural areas, and a *rural district development committee* (RDCC). WADCs and RDCCs are noteworthy because their functioning has direct implications for citizen participation in local government.

imbalances in the distribution of land. The movement also orchestrated a violence-ridden campaign for the re-election of the sitting President.

WADCOS were established as a result of a directive made in 1984 by the Prime Minister, which outlined the structure through which peasant communities at sub-district level could participate in local governance. The directive established both village development committees (VIDCOs) and ward development committees (WADCOS)—units based on popular representation that are intended to democratize local development planning. The VIDCO—the lowest unit of government administration—is expected to identify village needs and translate them into a plan. It normally consists of 100 households, presided over by an elected chairperson. Six VIDCOs constitute a WADCO, which draws its membership from leaders of the constituent VIDCOs and is presided over by the elected councilor, who represents the ward at the district level. A WADCO receives the VIDCO plans and consolidates them into a ward plan. Councilors then forward the plans to the district for submission to the RDDC, the district's supreme planning body, which consolidates the various ward plans into the district's annual and five year plans. Although the Prime Minister's directive gave peasant communities representation in planning for local development, the members of VIDCOs and WADCOS are selected by a curious mix of election and nomination. Residents elect only four of the six members of any VIDCO; the remaining two positions are reserved for women and youth and are usually filled by representatives of the ruling party's women and youth leagues (Makumbe 1998). Thus, VIDCOs and WADCOS have provided the ruling ZANU-PF party with a means of strengthening one-party political domination rather than accountable representation. Although the nominated positions are intended to protect and advance the roles of women and youth in politics and development, they serve primarily to entrench narrow party interests at the expense of broad-based participation.

The RDDC is a powerful council advisory arm, consisting of district heads of sectoral ministries, chairpersons of the RDC's other committees, district heads of national security organs (including the police, army and intelligence service) and NGOs involved in development activities in the countryside. The district administrator, a bureaucrat representing the Minister of Local Government and National Housing, presides over it. Although councilors are the elected representatives of grassroots communities, only those who chair other council committees are represented on the RDDC, despite the fact that it is the district's planning and coordination body where key decisions are made about the citizens' priorities. At RDDC meetings, a majority of members constitute a quorum (subsection 8 of section 60), but the composition of its membership is such that the elected representatives of grassroots communities can never constitute the majority.

In principle, the RDDC is supposed to play an advisory role. In practice it tends to operate in a directive mode, simply reporting unilateral resolutions without being effectively accountable to council. Moreover, it pits very highly educated technocrats and bureaucrats against numerically fewer councillors, most of who possess basic literacy qualifications. Thus, although potentially a forum for melding community and sectoral plans, in practice the RDDC erodes the scope for popular participation by marginalizing people's representatives and sidelining popular visions and plans. It is possible that in some districts there is more participation, leading to synchronized planning and adequate exchanges of information between RDDCs and RDCs. However, evidence from districts such as Chivi and Bikita (Makumbe 1998) suggests

that this is rare. Another common weakness of RDDCs is that in many parts of the country NGOs conduct much of the development work and, although these NGOs are officially RDDC members, the RDDCs often find it difficult to keep track of their activities.

The lack of effective coordination between the various organizations involved in planning and implementation, severely weakens attempts to achieve the goals of empowerment associated with decentralized planning and called for in both the RDC Act and the Prime Minister's directive. Although development plans are initiated by the general citizenry, they are approved by institutions like the RDDC, in which few representatives of the people participate. Furthermore, the plans that progress beyond the RDDC stage, to provincial and national levels, often end up sidelined in favor of top-down plans produced by line ministries. The sectoral plans which these ministries craft gain the financial support needed for implementation through votes in the national budget, thus making local or decentralized planning redundant. As Murphree (2000) emphasizes, such contradictions can only be addressed by securing parity between planning and implementation so as to ensure that "authority and responsibility are matched and not assigned to different institutional actors." We are not suggesting that this is part of a deliberate plan by the state to control people, merely that certain flaws in the design of structures and procedures appear to contradict fundamental notions of empowerment and participation.

Although the RDC Act provides for the establishment of subunits of council, in the form of area committees, local boards and WADCOs, sections 55-61 of the Act have clauses that specifically prohibit RDCs from conferring minor legal status or fiscal authority on such units unless authorized to do so by the Minister. This is further evidence to suggest that the law regards community level institutions as merely initiators of development plans, not as adopters or implementers of such plans. Such provisions reinforce the re-centralization of power at district level at the expense of other levels, particularly those closer to the grassroots (cf. Murombedzi 1992). Because of financial constraints, RDCs are seldom inclined to devolve fiscal authority to lower levels, leaving central government ministries as the only possible vehicles for implementing the much vaunted policy of "devolution to the lowest possible units" (Murphree 1991).

This section has identified several impediments to citizen empowerment within RDC operational systems: infiltration of the popular-based grassroots structures of RDCs by the ruling ZANU-PF party; marginalization of community representatives in district level fora where crucial decisions are made about local people's plans; failure to match the planning responsibilities accorded to the citizenry with comparable fiscal and implementation authority; and the erosive effect of overbearing ministerial powers of approval on council autonomy.

Citizen Participation in the Formulation of By-Laws

RDCs have minor legislative powers that enable them to enact by-laws on, among other things, environmental conservation and land use planning. According to the RDC Act, councils have the option of formulating these by-laws, with the participation of local communities, or of adopting model by-laws from the Communal Lands (Model Land Use and Conservation) By-Laws, 1985, which are designed to enable the state to control people and solve land use problems. The model by-laws,

which provide for the preparation of land use plans in council areas, are similar to those promoted by the colonial state in the 1930s. They are based on a system of land use planning that uses aerial photographs and divides land into eight classes, each with a matching portfolio of suitable uses. These model by-laws are as prescriptive as they are extractive and they do not embody the spirit of community participation. Because of their top-down orientation, the resulting plans often fail to match the priorities and coping strategies of peasant communities (Scoones and Matose 1993).

However, the alternative option of formulating by-laws with the “participation” of local communities does not turn out to be either genuinely participatory or democratic. In principle, there should be a preparatory stage, during which the need for the by-laws is identified, ideally by communities, who then notify the council through their representative. The relevant standing committee of council, the *natural resources committee*, then examines the justification for such by-laws, consults an expert opinion if necessary¹¹, and then makes recommendations to the council (subsection 3 of section 88). Cursorily, this is a potentially democratic procedure, since communities can *demand* to have by-laws through their democratically elected representatives. However, although the legislation recognizes the need for local participation in the authorship of the by-laws, it does not provide authoritative guidelines; it specifies neither minimum acceptable thresholds of participation nor the ways and means of achieving participation. It therefore leaves RDCs with considerable discretionary powers about the extent and scope of community involvement in deciding whether proposed by-laws are necessary.

In practice, the level of participation in the formulation of by-laws is generally low. Although there are some districts that have formulated their own by-laws—for example, Nyanga District in eastern Zimbabwe (SAFIRE 1999), the majority simply adopt the model by-laws. Although councilors are elected representatives, the process of formulating by-laws is in practice determined primarily by the structure of power within a council. Community interests tend to be weak and fragmented, and thus to be marginalized in key local government decision-making (Mandondo 2000). In some cases, moreover, communities are themselves reluctant to craft by-laws. This certainly is the case in the Communal Areas Management Program for Indigenous Resources (CAMPFIRE), a wildlife management program discussed in more detail below. Councils often end up being forced to draft by-laws related to CAMPFIRE without any inputs from communities. Such reluctance clearly shows that the legislative deficiencies are part of a more complex problem that involves people’s livelihoods and their priorities (Madzudzo 2002).

The approval of by-laws is a tortuous and extended process. Local communities have the right to inspect the by-laws and lodge objections (subsection 4 of section 88). To facilitate such inspection, RDCs are obliged to display the by-laws at council offices for the specified period and publish them in a newspaper. However, communities only have 14 days to inspect the by laws and, if necessary lodge objections, thus further undermining the spirit of popular participation in by-law formulation. In practice, communities rarely do inspect the by-laws, partly because they are left out of their

¹¹ The Chivi Rural District Council by-laws, for example, stipulate that the council seeks advice from the following government offices in preparation of plans for communal and resettlement areas: the Provincial Planning Officer; the provincial Agritex officer and the regional officer in the Ministry of Environment and Tourism.

formulation and partly because the by-laws are only available at a district office or in obscure sections of newspapers that the peasants cannot easily access, let alone read. There is no provision for further feedback after communities have voiced their objections, and no guarantee that these objections will have an impact, since the council has the right to decide whether or not to adopt the objections in whole or in part (subsection 7 of section 88). The legislation, therefore, gives the councils wide discretionary powers and denies the communities an effective opportunity to actively participate in the formulation of by-laws.

The draft by-laws have to be scrutinized by provincial level officials, the relevant minister and the attorney general's office before they are endorsed (subsection 2 of section 90). This tends to be a lengthy process. Whilst very little time is allowed for by-law inspection at the community level, with no provision for "set pauses", the minister and attorney general's offices have up to six months in which to scrutinize the by-laws before approval. While it is true that the minister has to examine by-laws countrywide, the fact remains that the local people have little time for their inspection. RDCs have to submit the following documentation for ministerial scrutiny: the proposed set of by-laws, proof of consultation in the form of a notice in the press, a list of all the objections received, and minutes of the council's deliberations on the by-laws (subsection 1 of section 90).

Endorsement is the exclusive preserve of the relevant minister. Neither the RDCs nor the communities can contest or negotiate ministerial amendments to by-laws (subsection 2 of section 90). Thankfully, the minister rarely makes amendments, except in those cases where the proposed by-laws are obviously inadequate or out of line with other legislation or the constitution. The council's inability to contest amendments partly explains why most councils adopt model by-laws rather than formulate them locally. The RDCs are, therefore, upwardly accountable to the relevant minister for the by-laws they formulate and the decisions that they make regarding local people's objections. However, the minister is far removed from the resource use setting and thus not well placed to ensure that the by-laws embody a community's values and beliefs. Although vesting the minister with wide discretionary powers may have good intentions (for example, to ensure that the by-laws are consistent with parent legislation), there are no appropriate and accessible checks and balances to ensure that such powers are exercised in the interests of the grassroots communities. Furthermore, giving the minister the prerogative to replace council by-laws with a template of model by-laws defeats the whole purpose of the process of by-law formulation, even if arguments of cost effectiveness are considered. It is a sheer waste of time and resources, since the state and its lawmakers presumably give councils the power to make by-laws in order to ensure that laws take account of local variations in resource use.

This section has highlighted defects in provisions regarding by-law formulation that fundamentally contradict ideals of community empowerment and participation. Of particular concern is the fact that the minister wields enormous veto powers. Although in the past these powers have not been frequently invoked, the recent tendency to use such powers to frustrate decisions by the opposition MDC-dominated Harare City Council is an ominous development. Sternford Moyo, the current chairperson of the Law Society of Zimbabwe, has described this scenario as "using law to subvert the law" (Moyo 2002). Although this case relates to an urban authority, there is no

guarantee that such powers will not be invoked with respect to RDCs, should the opposition make significant inroads into such councils. Other concerns are fast-track consultations and inappropriate use of the media for feedback, which preclude meaningful citizen involvement in the development of the so-called “participatory” by-laws at the grassroots level.

Concentration of “Decentralized” Powers over Natural Resources at the RDC Level

In spite of its occasional marginalization by the central state, the RDC remains the “re-centralizing” locus of many of the supposedly “decentralized” powers. The RDC is the level at which decentralization ends, at least in terms of the legal framework. This section looks at some of the laws related to natural resources that reinforce the re-centralization of power at the RDC level.

The Communal Land Act (Chapter 20:04) of 1982 vests the custodianship of land in communal areas in the President (section 4), but it devolves the administration of such land to RDCs (subsection 1 of section 8). RDCs are therefore *de jure* land authorities. Their responsibilities in terms of the administration of communal land include overseeing the allocation of land and the establishment of new settlements (subsection 2 of section 8), which were functions of chiefs during the colonial era. As already noted, the postcolonial government allegedly deprived chiefs of their power to allocate land in order to punish them for their pre-independence role as functionaries of colonial oppression (Makumbe, 1998). Although RDCs should have “due regard to customary law” when they allocate land (subsection 2a of section 8), the overall effect of the Act is to transfer power from actors at the grassroots and re-centralize it at a level that is further from the citizens.

A 1982 amendment to the 1975 Parks and Wildlife Act (Chapter 20:14) was designed to empower communities in wildlife-rich areas to manage and benefit from wildlife through their RDCs, by giving RDCs the “appropriate authority” to manage wildlife resources (subsection 4 of section 59). The original version of the Act was racially discriminatory in that it restricted the benefits of resource custodianship to white farmers enjoying individual title over land. The 1982 amendment has provided the basis for the Communal Areas Management Program for Indigenous Resources (CAMPFIRE). CAMPFIRE is acclaimed worldwide as a participatory wildlife management initiative, in which communities jointly manage wildlife resources with their respective RDCs. In practice, however, the role of local communities is very limited. Even if we factor in what Murphree (1997) calls “strategic compromise”, CAMPFIRE is embedded in the power structures of RDCs. Councils and other external actors, including the CAMPFIRE unit in the Department of National Parks and Wildlife Management, retain effective control over several critical areas, including setting hunting quotas, awarding hunting and other licenses, and control of revenues from wildlife related activities (Murombedzi 1991, 1992).

The Communal Lands Forest Produce Act of 1987 further reinforces the re-centralization of power at the district level. It gives RDCs the power to issue licenses for the exploitation of forest products in their districts, including those on communal lands, and to retain the royalties accruing there from (subsection 3 of section 20). While the Act thus provides a clear framework for the commercial exploitation of forest produce at the RDC level, it also has provisions that specifically disallow such

exploitation at the grassroots level. Thus, although the Act allows peasants to open up land for cultivation and residential purposes, it prohibits them from extracting forest produce for sale (subsection 1 of section 4). It also (section 13) restricts poor people's access to woodland resources by prohibiting "the exploitation of forest produce within one hundred meters of the bank of any public stream", unless authorized to do so by the minister. The pro-council and anti-poor inclination of the Act creates considerable animosity between councils and the citizenry, particularly in areas with commercially valuable forest products. In some parts of western Zimbabwe, councils even issue concessions for commercially valuable hardwood timber trees in peasant farmers' fields (Nhira et al. 1998). Revenue generated from the royalties accrues to the RDCs; none is ploughed back to the farmers who conserve the trees.

Other legislation reinforcing the re-centralization of power at the RDC level includes the Natural Resources Act and a draft Environmental Management Bill. The former designates RDCs as *natural resource conservation committees* for purposes of environmental management within their areas. These committees appear to be renamed *environmental committees* in the first draft of the Environmental Management Bill (sections 44 and 45), which regulates resource management in areas designated as *environmental protection areas* (section 43). The Bill broadens the range of resources over which appropriate authority can extend, including soil, water, trees, etc. However, it seeks to concentrate such authority in RDCs, rather than in organizations below the district level, such as interest-based, user-defined groups. The present legislation does not allow for devolution to any other levels.

The Traditional Leaders Act: Genuine Decentralization through Local Governance Reforms?

Preceding sections have argued that little meaningful citizen participation has occurred in RDCs to date, and that it will not do so without a fundamental restructuring of representation and accountability within councils or a radical shift in power structures by devolving the power to decide, plan, implement and control money to the lowest accountable units. Several environment-related laws even reinforce the RDC Act's re-centralization of power at the district level, at the expense of the citizenry at the grassroots. This section evaluates recent reforms in local governance, which enhance the role of traditional leaders, and asks whether they will succeed in empowering the lowest accountable units.

The reforms emerged from the recommendations of a Land Tenure Commission, set up in the early 1990s to investigate appropriate agricultural and land tenure systems (Government of Zimbabwe 1994). The Commission recommended that traditional villages, presided over by village heads, should be the legitimate and appropriate units for natural resource management below the district level. It recommended that the boundaries of such villages should be clearly defined and mapped and given legal title. The government adopted most of the recommendations, except those relating to legal titles, and combined them with measures to re-empower traditional authorities, like chiefs and headmen, resulting in the 1998 Traditional Leaders Act (Chapter 29:17).

In the Traditional Leaders Act, the concept of well-mapped villages, with clearly defined boundaries, forms the basis for the creation of *village assemblies*, comprising all adults in a village and presided over by a hereditary lineage head, the *village head*

(section 14). The former VIDCOs become sub-committees of the village assemblies (section 17), in an arrangement seemingly subordinating the elective legitimacy of the VIDCOs to the customary legitimacy of the assemblies. Several village assemblies constitute a *ward assembly*, which comprises village heads, hereditary superiors in the customary system (*headmen*), and the ward councilor (section 18). The leader presiding over the ward assembly is elected by the members in what appears to be a highly circumscribed “democracy of nominees.” The ward assemblies are responsible for supervising the development of WADCO plans, directing local customary administration and enforcing environmental legislation on behalf of RDCs and the state (sections 9, 12 and 15). However, the assemblies cannot allocate land and, although the RDC Act requires them to collect head taxes, they have no taxing or fiscal authority. The vision for the re-empowerment of the traditional leadership, therefore, falls way short of genuinely decentralizing or democratizing natural resource governance.

The reforms did, however, significantly benefit chiefs and headmen individually, since their implementation was accompanied by substantial increases in their salaries and allowances and pledges of free vehicles. This, together with the nature and timing of the reforms, suggests that the government’s primary objective was to strengthen its control of the countryside. Considered in the context of the crucial 2002 elections and the rapidly waning political fortunes, they do not appear to be much more than the state’s political courtship of chiefs and headmen. They may eventually offer, even though unintentionally, a window of opportunity for effective representation and interaction with the state. For now, however, their goal is to sort out political problems.

CONCLUSION

The object of this study was to review the political economy of the allocation of natural resource governance powers among the various actors and scales of social and political organization in Zimbabwe and, in particular, to examine the impact of postcolonial reforms in local governance. Our analysis has shown that, although most of the reforms score quite highly with regard to abolishing the racial dualism characteristic of the colonial system, they have, in several ways, fallen far short of genuinely decentralizing or democratizing natural resource governance. The main shortcomings are summarized below.

First, almost all forms of community consultation, however well meaning, are conducted in a fast-track mode through media that are mostly inappropriate for peasant settings, thus precluding effective citizen involvement. They are further critically undermined by the vesting of sweeping powers in the minister and the President, who are autocratic and centrist.

Second, paternalistic manipulation of the choice of candidates for local government plebiscites by the elite reduces the elections to barely democratic exercises involving no more than “electing the selected.” Furthermore, the fact that control of the voters’ rolls is in the hands of a select group of councilors, who have a vested stake in re-election, makes the councilors both players and referees.

Third, the ruling party has penetrated popular-based VIDCOs and WADCOs, where decentralized planning should start, resulting in them merely echoing party interests. Furthermore, plans from the grassroots require the approval of the RDDC, where community representatives are numerically and technically under-represented and the plans are often sidelined in favor of sector-based plans.

Fourth, the Minister's enormous discretionary powers to annul participatory by-laws in favor of a prescribed set of model by-laws weakens the democratic spirit behind the involvement of communities in the formulation of conservation and land-use planning by-laws. Fortunately, the minister has rarely invoked these frightening and massive powers, especially before the March 2002 presidential elections.

Fifth, several other laws reinforce the concentration of power at the district level. This is in contradiction to the principle of subsidiarity, which asserts that local people can efficiently and equitably undertake resource management and make resource use decisions.

Lastly, although it may be too early to pass judgment, the latest local governance reforms, designed ostensibly to re-empower traditional leaders, appear to have served only to subordinate elective legitimacy to customary fiat, thus falling far short of democratizing natural resource governance.

There are various possible ways of addressing the above problems. We divide them into two types: *incremental* and *radical*.

Incremental approaches are pragmatic. They are based on the recognition that, in spite of a veneer of accountability, enormous inertia hinders genuine empowerment in supply-led decentralization contexts. Central government and other powerful actors, who define the powers to be given to lower levels, are usually reluctant to devolve meaningful entrustments to lower levels, as evidenced by their retention of enormous veto powers over local decisions. This seems to be the situation in Zimbabwe. The anti-poor inclination of the present legislation appears to be due less to default and unintended defects in legal drafting than to the state's reluctance to relinquish its grip on the countryside.

Incremental change results from a tactful approach, in which attempts are made to secure and consolidate community gains in those aspects of current governance that look potentially maneuverable. In the Zimbabwean context, there are a number of areas where such gains could be achieved. For instance, participatory resource assessment (PRA) methodologies, despite shortcomings,¹² offer techniques, such as visioning and scenario building,¹³ which could provide more relevant and pro-poor modes of public consultation than notices in obscure sections of low circulation newspapers. And such consultations would be meaningful if the state guaranteed that citizens' views would not be unilaterally reversed by revoking the enormous powers bestowed on the President, minister and other higher-level offices. Advocacy of policy reform benefiting the poor could ideally be a platform for championing the

¹² See Goebel (1998) for a critique of PRA methodologies based on her work on natural resource governance in a Zimbabwean resettlement area.

¹³ Visioning and scenario building are PRA techniques in which people can build their visions about the future based on current development pathways.

infusion of checks and balances against the unfettered exercise of such powers. Other areas where there is scope for change include lobbying for better community representation in the RDDC, the district's supreme planning body, or changes to ensure that the RDDC reports to, and is effectively accountable to, the council inasmuch as it represents the repository of the people's will.

Some types of policy reform, however, are likely to be very difficult to achieve. For example, any attempt to curtail elite manipulation of the choice of election candidates and the ruling ZANU-PF party's penetration of grassroots structures is a potential minefield. Monitoring of RDC elections at district level is needed, since elections presumably form the basis on which rural governance grows. However, experience during the March 2002 presidential elections has shown that the monitoring of electoral malpractices is a deeply polarized and highly political activity. Local NGOs could be used as monitors; however, most of them do not currently enjoy official favor because, irrespective of their actual political orientation, the government suspects them of siding with the opposition.¹⁴

An incremental approach, therefore, involves slowly working for change from within. Thus, while pragmatic, it is a painful, costly, and extended process, and the impacts are inevitably limited. The alternative is to adopt a radical approach. In the Zimbabwean context, a radical strategy would be to devolve decision making and fiscal and tax authority to accountable institutions at the lowest possible level. There is no doubt as to the need for such a move. We have seen that, currently, most of our decentralization laws recognize RDCs as the lowest possible recipients of a decentralization of powers and responsibilities. We have also seen that, despite a patina of accountability, participatory resource management implemented through district structures generally precludes meaningful citizen involvement. As Murphree (2000) points out, there is a marked absence of socio-political groups that can receive legal status and some form of fiscal autonomy below the district but above the household level. Hence the need to shift the focus of decentralization to other levels of social organization, particularly those closer to the grassroots.

However, the implementation of this strategy raises a number of problems. First, it raises an important issue which is infrequently addressed in the literature about governance, namely the mode by which fuzzy, diffuse and ever-changing forms of social organisation at the grassroots level can be coalesced into resource management entities and thus receive legal mandate (Hasler 1993; King 1994). Murphree (1997) argues for the difficult strategy of community self-identification, in which communities define themselves through dialogue and negotiation. Such a process should take account of long-established, traditional jurisdictions and resource management aggregations that make sense in order to match social and spatial resource configurations. The Land Tenure Commission made some attempt to do this but, as we have seen, its recommendations were only partially implemented.

Second, given the elite's entrenchment, devolution to community-based organizations is only likely to occur as a result of adversarial, "social-movement" type strategies, in which citizens *demand* to be empowered. Zimbabwe - unlike some parts of the world,

¹⁴ For example, the Masvingo Chapter of the Zimbabwe Red Cross Society was banned from distributing food aid to starving villagers in the province because it was suspected of clandestinely supporting the opposition.

such as Latin America - has no vibrant history of social movements who stake out their rights in such a manner. The only possible exception was the liberation war, which united most tribes. The current wave of land-grabbing, which has seen large numbers of people invade white-owned commercial farms, has a populist character. However, it falls far short of qualifying as a “social movement”, because it is part of a government agenda of ostensibly reviving waning political fortunes under the guise of addressing colonial relics of unjust land distribution.

Thirdly, the moral appeal of devolution to the lowest accountable units needs more critical analysis. It does not necessarily follow that relations in genuinely decentralized natural resource governance will be more egalitarian. There will still be a need, perhaps more than ever, for monitoring and review of accountability, even at this level. The notion of lowest accountable units and the criteria for their formation deserve further research and debate. Murphree (1997) offers broad insights, based on the CAMPFIRE experience, but these need further critical examination, as in the works of Agrawal and Gibson (1999) and Li (1999).

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- To promote national-level administrative, legislative, and judicial reforms necessary to accomplish environmentally sound decentralizations and to enable public interest groups to hold governments and private actors accountable for their environmental management performance; and
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The Non-Governmental Organization Capacity-Building component of the EAA initiative aims to strengthen a select group of independent policy research and environmental advocacy groups and their networks. This group includes, for example, the Lawyers' Environmental Action Team (LEAT) in Tanzania, Green Watch, Advocates for Development and Environment (ACODE) and the Center for Basic Research in Uganda, and the African Centre for Technology Studies (ACTS) in Kenya. These environmental advocacy organizations seek to improve environmental management and justice by contributing to policy and legislative reform, and ensuring compliance to environmental laws and norms. The groups use a range of approaches and tools to influence policy formation, including policy research and outreach, workshops and conferences, public debates, press releases, and litigation. This EAA project component supports efforts in organizational development, capacity building in advocacy approaches and skills, and technical competence in specific environmental matters. Federations and networks of such NGOs, joint initiatives, and South-South collaborative efforts are also facilitated and supported.

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