

Competing roles and responsibilities between Ministry of Rural Development, and, Preservation of National Cultural Heritage, Ministry of Local Government, Public Works and National Housing, and Ministry of Lands and Rural Resettlement over the authority to plan and administer communal land surrounding Growth Points in rural Zimbabwe

1. Executive summary

This paper is directed to the Ministry of Rural Development, and, Preservation of National Cultural Heritage, Ministry of Local Government, Public Works and National Housing, and Ministry of Lands and Rural Resettlement the new Local Government Act, and the Regional Town and Country Planning Act being formulated. The major challenge being laid out by this paper relates to lack of clarity of the roles and responsibilities for land management in rural areas, in particular land acquired through land reform program around Growth points. This creates conflict between above mentioned Ministries and RDCs over authority to plan, and manage rural land surrounding Growth Points (GPs).

2. Introduction

Because of colonial policies, independent Zimbabwe inherited a highly unbalanced development of urban and rural communities. In the early 1980s, the new government started a process of decentralisation and in 1984/85 adopted the Growth Pole policy to facilitate the development of neglected rural areas. The Department of Physical Planning was responsible for the advising Rural District Council in the identification and designation of growth potential centres for designation into Growth Points.

Once designated as a Growth Point the centre become a controlled development centre in terms of Section 80 of the Regional, Town and Country Planning Act. The Development and Land Allocation of land at the designated Growth Points was based on plans prepared and approved by the Department of Physical Planning.

The Rural District Councils allocate, administer leases and manage services and developments at Growth Points in order to encourage development of commerce and small-scale industry at these centres, and to slow rural-urban migration. The decentralization policy is still supported by the Constitution Amendment 20 and African Charter on the Values and Principles of Decentralization, local governance and Local Development of 2014.

In the early 2000's, the fast track land reform affected the land management of acquired former commercial farms under the Ministry of Lands, Agriculture, and Rural Resettlement rural areas. The rural land acquisition and resettlement programme brought new occupants and planning authorities into rural areas. Resettled and land allocated Farmers like their communal lands

counter did not own the land allocated to them but were entitled to the use of land as the land now belonged to the state. The nationalization of all agricultural land created confusion as to the transferability of land. In some cases, those holding ownership rights to land at the time of nationalization continued to operate as landowners, including selling land. In other cases, the state has exercised its status as the landowner, precluding sales of land by user beneficiaries.

The newly established Ministry of Lands took on the planning and management of acquired commercial farming land. Resettlement land is classified as A1 or A2 land.

- Land classified as A1 is allocated in villages and in small, self-contained parcels up to 5 hectares. A1 land is allocated to small farmers and is inheritable, but cannot be sold, as is the case with communal lands.
- Land classified as A2 is intended for commercial farming. The government allocates A2 land in parcels of 2 to 2000 hectares to individuals who can demonstrate that they have the experience and access to resources necessary to farm successfully¹

In terms of the current law in Zimbabwe, The Ministry of Land and Rural Resettlement is responsible for the acquisition, distribution, administration and management of the State agricultural Land Resources on a long lease basis but without the mandate to sale the land resources

The Rural District Councils together with the Traditional Leadership are by law only mandated to administer and management land use and leases in Communal Lands including A1 Resettlement Areas (Villages)².

In both Communal and Commercial Farms, the State retains the responsibility and right to decide and determine land tenure.

The ownership of non-urban land remains a state resource through Long Term Leases for large-scale famers and usufruct rights for communal areas. Beneficiaries in both circumstances do not have the right to ownership and or benefit from the sale of land.

Title ownership of land is according to current law is only attainable in Zimbabwe through the State Lands Office for urban land through leases with option to purchase.

¹ Masiwa 2004; Chimhowu and Woodhouse 2008.

² Communal Lands Act Section 3

The responsibility of all line Ministries which include the Ministry of Lands Land Acquisition and Rural Resettlement and the Ministry of Local Government, Public Works and National Housing and their respective departments and divisions including Rural District Councils retaining the responsibility to manage and administer the land resource for and on behalf of the State.

Although some Growth Points have metamorphosed to become towns through proper planning procedures, many failed to develop both physically and economically. Stagnation and lack of development in the majority of the Growth Points has been attributed mainly to conflicts between planning authorities in the land management sector. Local Authorities, Physical Planning and Ministry of Lands are working within the same jurisdiction with overlapping mandates, roles and responsibilities.

In order for Zimbabwe to realise the full potential, and benefit of Growth Points in the matrix of human settlements development, there is need for government to streamline access to land and land ownership at Growth Points. This will create a win-win situation for both Central Government, Rural Local Authorities and the Communal people affected by the current and future expansion of Growth Points into Communal Lands.

Increasing pressure on land resulting from population growth fundamentals is making the need to resolve the grey and cumbersome areas pertaining to the use, development and ownership of land in the country especially at and around potential growth areas.

This will help address the challenges of illegal land markets as communal people engage in a pre-emptive illegal sale of land around potential growth centres which further complicates the development of these centres.

There is also need to come up with a clear policy on the management of the Land resources identified for the expansion of Growth Points to ensure that affected people do not feel hard done by the state when they are relocated and/resettled to make way for urban expansion.

This will also help villagers to understand their role in the full spectrum of land ownership and compensation to avoid unnecessary delays and protracted arguments when the land they occupy is due for Township/Urban Development at Growth Points.

3. Methodology, Approaches and Results

The following findings are based on transformation intervention, carried out by CCMT in Mataga, Mberengwa District from 2013 until 2015, and a 2016 baseline survey conducted in Mberengwa, Zvishavane, Runde and Tongogara³.

³ Nurturing a democratic culture through community advocacy: baseline survey. www.ccmt.org.zw

The intervention revealed policy gaps, policy inconsistencies and overlapping roles of RDCs, Physical Planning and Ministry of Lands in the implementation of the GP policy, which negatively affected the development of Growth Points and has led to clash of interests between these stakeholders around the country.

Key findings from the intervention and the research

Land management and challenges to service delivery rural communities.

The delineation of land management authorities roles is not clearly defined, which has resulted in the creation of overlaps and parallels in the administration of 'rural land' between the Ministry of Lands and Rural District Councils. As part of the land reform program, government enacted the Land Acquisition Act, which empowers Ministry of Lands to acquire land for the purposes of addressing colonial land imbalances and ensuring fairer access to resources. The Ministry now owns and manages tracts of land in areas that are within the boundaries and the jurisdiction of Rural District Councils. Rural District Councils are empowered by the Rural District Council Act to administer land within their areas of jurisdiction, including former commercial areas that have become resettlement areas. The overlapping land management authority result in conflicts between stakeholders, which usually manifest in the dual collection of development levies, because both authorities have the mandate to collect levies from farmers. Ultimately, these conflicts have contributed to poor service delivery particularly in resettlement areas, as it is unclear which authority is responsible for service delivery.

Policy gaps in the Regional Town and Country Planning Act (RTCP Act), Rural District Council's Act (RDC Act) and the Land Acquisition Act (LA Act) - Planning and Establishment of Growth Points (Business centres)

The analysis also noted that there are policy gaps in terms of the authority to plan and establish GPs. Ministry of Lands is responsible for the equitable and socially just access to land in resettlement areas⁴. The Ministry is further given authority under the Land Acquisition Act to determine land use in the resettlement areas and state land⁵. The law also give powers to Physical Planning Department through the RTCP Act, to oversee all planning processes as outlined under section 11, which states that the *LAs through the RDC and RTCP Acts should carry out the planning of rural communities*. PART III, 10, (1) of the RTCP ACT⁶ further defines planning authorities as

⁴ <http://www.lands.gov.zw/department/land-acquisition-transfers/land-acquisition>

⁵ Land Acquisition Act section 40 on Provision relating to derelict land; (3) The Chief Land Officer and any land officer appointed in terms of subsection (1) may at all reasonable times enter upon any land to ascertain the nature and extent of occupation thereon and for other purposes reasonably connected with their functions in terms of this Act...

⁶

Local Authorities (RDC, Municipal). Ministry of Lands is not defined as a planning authority, but carries a planning function on land acquired through the land reform program.

The results are criss-cross overlapping authorities in terms of planning: The land being managed by the Ministry of Lands is supposed to be planned by the Department of Physical Planning / Local Authorities. At the same time, the Communal Lands Act and Rural District Council Act give powers to the RDCs to have administrative powers for the development of communal areas.⁷ The challenge is particularly evident on the expansion of GPs, as some of the GPs are surrounded by land that was acquired through the land reform program. LAs cannot facilitate the physical expansion of GPs on land that is owned and managed by the Ministry of Lands. In terms of the law, when LAs require land for the expansion for GPs, they are supposed to apply to the Ministry of Lands for the transfer land for them to have authority over the land. However this has proved to be a futile exercise, as no land has been transferred from Ministry of Lands to LAs to facilitate urban development. The result has been a snail pace development in most GPs around the country, thereby slowing down the process of urbanisation and development of rural communities.

4. Regional protocols

4.1 AFRICAN CHARTER ON THE VALUES OF DECENTRALISATION, LOCAL GOVERNANCE AND LOCAL DEVELOPMENT 2014 which consists of 26 Articles, promotes the values and principles of decentralisation, local governance and local development in Africa, as a means for improving the livelihood of all people on the continent.

- **Article 5** on Local Governance acknowledges that local authority boundaries are not static. It states that, **Geographical boundaries** of areas falling within their jurisdiction of local governments or local authorities **shall be modified** in accordance with the provisions of the law.
- **Article 14 on Transparency, Accountability and Ethical Behaviour**, states that, Measures for the promotion of transparency and accountability by local governments or local authorities shall clearly be defined by national legislation. Such **legislation shall clearly define** the respective **roles and responsibilities of national and subnational governments, public agencies, service providers, elected and administrative officials**, and civil society organisations.

⁷ (1) A rural district council may, with the approval of the Minister, issue a permit authorizing any person or class of persons to occupy and use, subject to the Regional, Town and Country Planning Act [Chapter 29:12] and any order issued in terms thereof, any portion of Communal Land within the area of such rural district council...

5. Conclusions

Zimbabwe's rural local governance system is infused by a dense, complex array of authorities, with different source of legitimacy and authority. Current legislation on land management does not clearly delineate the responsibilities and relationships between RDCs, and, Government Ministries. The physical expansion of growth points has been stalled in some cases due to the conflicts emanating from the lack of clarity of roles. In view of this, government through the Ministry of Rural Development, and, Preservation of National Cultural Heritage, Ministry of Lands and Ministry of Local Government can modify the Local Governance Bills, and the Regional Town and Country Planning Act to reflect in clarity, the roles of each of these stakeholders in rural land management.

6. Recommendations

- a. Clarification of the roles and responsibilities of the different land management authorities on the planning and management of communal land.
- b. Reframing of the policies that affect the planning process and give meaning to the sections around land management.