

Would a Registry Map Hang Comfortably in a Round, Mud Hut?

A Register of Title for Zimbabwe's Communal Areas: Philosophical and Technical Considerations.

Mika-Petteri Törhönen
Helsinki University of Technology
Department of Surveying
Otakaari 1
FIN-02150 Espoo
Finland
E-mail: mika.torhonen@hut.fi

David P. Goodwin
University of Zimbabwe
Department of Surveying
P.O. Box MP 167
Mount Pleasant
Harare
Zimbabwe

ABSTRACT

This paper presents findings of a research project which investigated the granting of title in Communal Areas in Zimbabwe. The research took place between May and June 1996, and, very broadly, it considered the problematic interaction between customary African land tenure, and modern land management systems.

The land issue is probably the most thorny with which the present Government of Zimbabwe has had to grapple in the sixteen post-independence years. This paper recognises the dilemmas and compromises inherent in granting individual titles in communal lands, it summarizes and comments on recommendations made by the Land Tenure Commission, and it attempts to clarify options for issuing a form of title in Communal Lands.

INTRODUCTION TO THE COMMUNAL LANDS

The Communal Land tenure system in Zimbabwe includes three main components, namely arable, residential and common land. Under the Communal Lands Act (1981), communal land legally vests in the State, but secure use rights are held by families, so that ownership effectively belongs to and is administered by tribal chiefs. Land is theoretically not alienable outside of the tribe. A residential parcel, or homestead, usually includes a domestic vegetable garden and fruit trees. Arable land may comprise one or more fields, sometimes widely separated, and sometimes with one or more members of the family having the exclusive use of a certain field or fields. Common land is held under communal tenure and is utilized for grazing and the gathering of firewood and other materials. Land is worked both by families living in the area, and by urban workers originating from the area.

The Communal Areas today cover 16.3 million hectares, which is 42 percent of the total land area in Zimbabwe. Although the soils in these areas are generally the least fertile in the country, 70-80 percent of Zimbabwe's population are concentrated here. It is estimated that there are over three times more people living in the Communal Lands than the environment can sustain (Zimbabwe 1994), with proportionally excessive livestock levels.

HISTORY AND STATUTORY TENURE

The Communal Areas land tenure of today derives from the customary tenure of the precolonial era, although it has evolved over the years. Rights are vested in groups, households, and individuals. Family rights have always been inheritable, and a type of subdivision allowed, and it is also possible to have residual rights to certain fallow land.

In the 1890's, when the English started to settle in Zimbabwe¹, the British government created native reserves, generally in areas that were considered unsuitable for the settlers². It was a mammoth undertaking to transfer native Africans out of the areas reserved for the settlers, and took many years. The Land Apportionment Act of 1930 formalized the racial segregation of land. The statutory development relating to the communal areas included an attempt to individualise land tenure in 1951³, but it faced mass resistance and had to be scrapped in 1961. In 1965⁴ tribal land authorities were created in order to incorporate indigenous leaders to operate under District Commissioners. In 1969⁵ the land area was divided into two, half for whites and half for blacks. (Zimbabwe 1994, vol 1, p. 10).

The independence struggle which led to independence in 1980 called for radical land reform. Consequently, a new legal basis for land tenure in communal areas was created⁶ by the incoming Government. The President became the formal landowner of all communal land, with Administration being done by the Ministry of Local Government, Rural and Urban Development and implemented through the Rural District Councils⁷. The Councils were to supervise use and allocation

of land according to customary law. Two types of committee, the Village Development Committee (Vidco) and the Ward Development Committee (Wadco) were created after Independence to carry out grass roots administration. The idea behind the new statute was for local government to extend its jurisdiction to embrace farm land of all types, including communal land. (Zimbabwe 1994).

PRESENT STATUS

In order to meet the demand for cultivable land by the growing population, the government of Zimbabwe created a commission to carry out a comprehensive land tenure study in the country. The Land Tenure Commission⁸, which published its report in 1994 (Zimbabwe 1994), found that the administrative structure in communal land areas had largely collapsed, and statute was no longer followed. The official land administration had ignored customary tenure and had considered the rule of traditional chiefs over land illegal. Tensions had thus built up between the village committees and traditional leaders.

The main findings of the Land Tenure Commission of 1994 regarding communal lands are as follows:

- *The land is still held under traditional freehold tenure giving ownership rights to families.*
- *Traditional leaders are not recognised in statute, but in practice they are the land administrators.*
- *Vidcos are not democratically elected.*
- *Traditional leaders' knowledge about and power over land is very much stronger than that of the official Vidcos and Wadcos.*
- *The confusion between official and unofficial authorities have resulted in violations in administration.*
- *The village demarcations decided by Vidcos are contradictory to those which traditional Kraalheads recognise.*
- *Traditional tenure has been weakened by the status of all Communal Land changing to State Land, specifically in terms of land acquisition, compensation etc.*

In conclusion, according to the Land Tenure Commission, it is clear that the overlapping interests between traditional and official local government is disturbing the land tenure in Communal Areas. It has caused a situation where rules are not followed and the power of authorities is perceived as confused. There is severe land pressure in communal areas, but there is no further land to allocate in order to alleviate this pressure. Subdivisions are very common due the rapid growth of population, and the holdings of many families are fragmented into a number of separate parcels. However, there are advantages as well as disadvantages in this, for example dispersed fields are considered a way of lowering the risks of failed crops. Consolidation⁹ has been attempted in areas not considered ideal for farming, but it has been ineffectively executed¹⁰. Investment in immovable property has been very rare. Some public sector investments have taken place, for example irrigation schemes, but not on an adequate scale.

FIELDWORK

The research described in this article was essentially field research and analysis, but it is recognised that time constraints did not permit a literature survey as thorough as we would have liked. The writers of this paper carried out comprehensive fieldwork on land tenure in the Communal Lands of Zimbabwe, during May - June 1996. The research team also included a Shona¹¹ speaking surveyor, who took care of interpretations both in terms of the Shona language and the Shona culture. The research included four different areas which were as diverse as possible. However Matabeleland¹² had to be omitted at this stage.

The first, and main, part of the fieldwork included field questionnaires and test cadastral surveys utilizing GPS methods. The first phase of the research was conducted in the Makumbi village, close to Harare city (about 40 km distant). The research team stayed in a nearby Mission during the interview period, and again during the data checking phase. The remainder of the field work involved a number of villages in the Masvingo district, Sabi-valley and Nyanga district.

The Makumbi village typified a communal land in close contact with the capital; the Masvingo area, specifically Glenclova, represented a more remote communal area, generally less fertile and with a lower rainfall; the Sabi-valley was selected as representative of one of the most degraded lowveldt areas in the country, with extremely low rainfall and highly degraded soil; and finally the Nyanga hills were deemed typical of a communal land in the Eastern Highlands with a very high rainfall and fertile soil.

A questionnaire was prepared in order to structure the discussion with interviewees. However, it was soon noticed that relevant issues could best be covered in thematic discussions which roughly followed a few main areas of interest. This kind of approach enabled the discussions to advance in a direction that an interviewee considered important. It was realized that in order to achieve statistically rigorous results, the fieldwork would have needed to take a period of a totally different order to that which we had available for this study. In African conditions it is essential that a researcher has enough time with each interviewee to hear the whole story. It is dangerous to be in a hurry, as we would have been had we been aiming for sufficient filled questionnaires to be statistically meaningful. It is also recognised that a researcher with a background in social sciences would have strengthened our team a great deal, owing to the complex and multidisciplinary nature of the land issues. Having said all this, it must be stressed that the fieldwork results were generally unambiguous, with the few contradictory views mainly concerning the 'official' administration set-up. This sort of ambiguity illustrates the problem only too well.

After the fieldwork the results were discussed in separate interviews with officials from: the Ministry of Lands, the Ministry of Local Government, the Ministry of Agriculture, Agritex¹³, Makumbi Mission, the Survey Institute of

Zimbabwe, the Women's Resource Centre and finally with a Chief (Chasi; Chinamura; Chivore; Mchena; Musodza/Makombe; Nduku; von Nidda and Zhou 1996). These interviews provided the necessary illumination of our research findings and also gave valuable scenarios about the future of land tenure in the Communal lands.

FIELDWORK FINDINGS

Field discussions began with a general discussion about the land tenure in the Communal Areas and the viability of daily life. And responses were found to be very similar throughout. Families farming in the Communal Lands usually live on the land that they cultivate. Often some family members have moved to a town to work, or to seek work. In the areas close to towns, people also commute from their homesteads. Some years ago the family members that lived in a town used to bring back resources to their rural homes, but owing to escalating problems in towns, the position is now reversed, and in many cases the rural homes have to subsidize their town relatives. This is absurd since they can barely produce enough food for themselves. A minority have good access to water, and are able to grow vegetables for town markets and earn a comparatively decent living. In Makumbi, which is close to Harare, land seemed to be quite well utilized, although some conservation problems occurred, always connected with water. In the Sabi-valley, in contrast, hardly anything was growing apart from crops on Government irrigation schemes. The team visited the areas after a very good rainy season which had followed eight or so years of drought. It was sobering to realize that the kind of desperate, hopeless farming which we saw was about as good as things ever got.

The land tenure review did not provide many surprises. Land was usually handled as a family unit, usually with the father acting as a landowner. In case of the death of a father, either his widow or one of his sons inherit the landholdings. Normally all land in the communal lands is controlled by men. Women gain access to land only through their husbands or parents (the latter is often the case if a divorced woman returns to her parents' homestead). Women do not inherit land in cases where there are sons to inherit. A woman landholder, except by virtue of marriage, is always an exception. This is a burning issue in Zimbabwe, since there have been cases where widows have actually been evicted from their homes after the death of their husbands. The problems are most pronounced in cases of polygamous marriages, when a widow is not the principal heir's parent. The case is different if the marriage is registered under the Roman-Dutch law, but this is comparatively rare in the Communal Lands where most marriages still take place under customary law.

Family lands consist of fields, gardens and residential parts. Most families possess only one parcel that is divided into many fields. However, some, perhaps the more influential families, seemed to have a few parcels in reserve. In cases where there are multiple wives, the number of residential

areas in theory multiplies accordingly, but usually in practice this is no longer possible and separate huts for each wife are generally built in the same homestead. The traditional avenue for gaining access to land is by marriage, when young men expect to be allocated their own farms from unallocated arable land in order to house and support their new families. However, except in very remote areas where the demand on land is low, this is often no longer possible since vacant, arable land rarely exists. In practice, a new family is given a share of the existing family land. The big question is whether a family parcel, and interests to it, are fragmented accordingly or whether the original land is dealt with as an undivided unit. And what emerged, is that the cultivated land is in fact usually fragmented into discrete fields for each family unit, but, with very few exceptions, the original family land is still considered as a single administrative unit. Our research team, somewhat to our surprise, was told wherever we went that family tenure in the communal lands is far from collapsing. We did notice, though, signs of stress on family tenure, for example different age and sex groups had rather different attitudes towards it. Young men who had been allocated a piece of family land usually considered it their own, while their parents would consider it family land.

Land administration was found to be very ambiguous, with a variety of executors without clearly defined roles. The village Kraalheads seem to have the most real power. A village consists of several family homesteads. The Makumbi village, with 155 households, is considered a big village, while the Buwu village in Nyanga has only twenty households. Typically, a group of close villages is controlled by a headman, and a Chief controls the whole area. The Chief's power over land is rather blurred. It could perhaps best be described as a spiritual power which, however, should not be underestimated. Officially, no acquisition methods exist other than the allocation of non-allocated or idle land and inheritance. Improvements on land may be sold when land is vacated. Customarily a Kraalhead would have reallocated vacated land for no charge, other than perhaps a small customary tribute. But cash transactions have been occurring. The research team were told of cases where people had bought houses from a family that moved to town, and thereafter the Kraalhead had allocated the cultivated land associated with the house to the newcomer. What, then, was actually bought and what was sold? The house only? The arable land only? Or the complete parcel together with its improvements? Putting this question another way around, who are the beneficiaries of what on the face of it seems to be a hidden land transaction, the original occupant or the Kraalhead? Previously unallocated land does not always appear to be apportioned equitably by the Kraalhead, and it would seem that when land is scarce a Kraalhead has been tempted to get the maximum benefit from these rare allocations. In some cases these allocations were referred to purely and simply as "sales", because while a modest tribute is called for by tradition, some headmen seem to have abused this for their own enrichment. We met some bitter young men, who were getting desperate because they were anxious to get married, but could not do so, since the land was scarce and a price of the "tribute" required for a new allocation was very high. Some renting had occurred, but, as with unofficial

sales, amazingly few cases came to our notice. To sum this up, it can be stated that land in the Communal Areas of Zimbabwe is still only partially commoditized.

The official administration structure involving the Village and the Ward Development Committees seemed to have little real influence. The Vidco and Wadco system has been criticized as being mainly a political tool designed to ensure support for the ruling party in rural areas. The Vidco chairman's role in land administration practice is unclear, although they themselves stress it when asked. The only function of the Wadco seemed to be to collect government dues, such as the dipping fee. All matters concerning the keeping of livestock and the land area possessed are in practice done by the Kraalheads, who seem to provide the link between the traditional and statutory administration. The District Administrator is the highest land official, but seems not to interfere with grassroots level administration. Agritex (the Department of Agricultural, Technical and Extension Services) is charged with extension advice, and it generally plays a very active role, although this does appear to vary from place to place. An inherent weakness would seem to be that while Agritex can advise, it has no means of insisting that its advice is followed. Agritex was reported to be taking part in new allocations, but it transpired that this was restricted to conservation and water management advice rather than issues of land administration. None of the above mentioned administrators' roles is clearly defined. In conclusion, there are clearly too many authorities to function effectively, and this has enabled the headmen to do basically what they want to, a situation open to violation and corruption.

Security of tenure through the granting of title was one of the main issues we wished to investigate, since it is always used as a major justification for agrarian reform. In the Communal Lands, it was found that land holdings are not perceived to be very secure, since all land belongs to the Government and it has been wielding its power openly enough to make people aware of this fact. For example, the possibility of a new game reserve may be a big threat if it is planned on ones valued cultivation. The compensation offered covers improvements on land, but ignores the loss of fields or residential land, which has in the past led to individual tragedies. Political development has been unpredictable in so far as the land question goes, and peasants are extremely aware of this, which naturally detracts from their security. Insecure tenure has without doubt affected to some extent willingness to undertake long term improvements. Rural credit systems do not function well, if at all, and this reflects the security of tenure. However, remarkably, people seem not to be overly alarmed about compulsory acquisitions, and the danger of losing their rights to someone other than Government did not appear to be an issue at all. Having said this, one has to bear in mind that women do not have any rights at all, and if they do, these are very insecure compared with those enjoyed by men.

As mentioned above, rural credit systems presently seem not to be functioning, but we found that the desire for them is smaller than one might expect. Some credit systems existed until recently, mainly providing seeds and fertilizers against an easy pay-back program. However, people reported a

number of problems in paying the money back, and the system has vanished over the years. The Agricultural Finance Corporation (AFC) also issued loans in the past in rural areas, but rallying politicians had interfered with this by announcing that since it was Government's money, people need not pay it back, as it was actually theirs by right.

As well as large irrigation schemes, small private irrigation schemes occur fairly frequently in communal areas, specifically in gardens where valuable vegetables are grown for sale. Vegetable gardening is especially important in the areas close to large towns. However food cultivation still principally depends on rain-fed agriculture. Fertilizers seem to be commonly used, but precisely to what scale remains unclear. Housing development varies from very satisfactory huts of sun dried, mud-bricks, and even cement-block houses in the more fertile/less remote areas, through to rather poor mud and pole huts in areas such as the Sabi-valley. Quite a number of wells and dams are built, usually by communities rather than individuals but in better off areas also by families. In the cases of private boreholes, the water is not denied to the whole community. River water is utilized, usually without limitations, or at least not to members of the village. This appears rather strange considering the huge importance of the water. We observed cultivation that was obviously situated far too close to a river, resulting in loss of topsoil and dam siltation.

Common land is used for firewood collection, common forestry projects and hunting. Access is restricted to village members. Tracks and paths are also all considered to be in the public domain, at least to all villagers. So too is grazing on fallow land, although during the cropping season grazing is restricted to common land.

Boundary lines are in general remarkably clear, and it seems that they are almost never disputed, although some disputes were reported between one village and the next. We were told of one case where adjacent villages could not agree on their common boundary line and finally they had to take the case to the District Administrator. The DA proved to be unsympathetic, and simply drew on the map a curious line which had absolutely nothing to do with the disputed case, and then terminated the proceedings abruptly, saying that the case was closed. Boundaries between families do not in general have accurate turning points, and boundary lines themselves have not been accurately determined. Each farmer can, however, point out the boundaries without hesitation. In one case, the farmer when asked by the research team to point out his boundaries, deputed a young boy, implying that the boy knew the boundaries just as well as he did himself, and there was no need to waste his own valuable time. Demarcation in past times was done by piling up stones in the parcel corners, very possibly a natural extension of the principle of possession by virtue of first clearing of land (Sorrenson 1967), so that the stones cleared off arable land naturally become the boundary markers. The piles seem largely to have vanished by now, but earth banks, grass ridges created by ploughing and hoeing, and also paths which tend to skirt growing crops, appear to have taken over as evidence of the boundaries. The problem is that stones, although they are a natural way of marking turning points, are also useful

for a great many other things, such as walling in cattle kraals and building houses, so they tend not to remain gathered together in one place for very long.

No codified land register, as such, exists for Communal Land, but certain information is collected and kept. For example Kraalheads usually maintain a list of households in their village, which is used by the District Councils for collecting different fees. Although some of these fees relate to the land held by families, the lists are purely descriptive, not graphical.

How would one notify people in the communal areas about an adjudication campaign, or that plans were being displayed for an appeal period? We included certain questions in our questionnaire in order to find a feasible way of contacting villagers. And what emerged was that the main media, as far as the communal lands of Zimbabwe are concerned, is radio, and specifically Channel Two, which provides programs in both major African languages. However, the best way to distribute messages within a village is probably still the traditional method involving the Kraalhead. Although there were minor differences from village to village, we found that all the Kraalheads are accustomed to, and have the means of reaching the whole village within a day or two, for example by messengers or "shouting places".

Peasants' thoughts about the future of the Communal Lands varied a great deal. Many interviewees expressed the wish that the Government would acquire more land from the commercial sector for new resettlement schemes to be reallocated to peasants. We usually ended our discussions by speculating about the possibility of title to Communal Land. For some people the idea was completely foreign, but an amazing number understood the concept, probably because title exists in urban areas of Zimbabwe. Older people were afraid that if individual titles were granted the traditional leaders would lose their control over communities, which would lead to complete anarchy. Many people professed themselves willing to buy or lease land from others, but very few seemed prepared to sell or lease out their own land. The enhancement of security of tenure which Government guaranteed title would provide was approved unanimously. However, many people pointed out that during these undeniably tough times, family tenure ensured that everyone would at least have some place to stay and survive. It is a sort of "basic needs", bottom line existence to fall back upon, and until such time as the State can offer comparable security, abandoning it could be viewed as about as prudent as chopping up the lifeboats on a ship as one approached the hurricane belt. Full commoditisation of land appears to pose a threat to many, starting from the weakest groups. Mortgaging possibilities were welcomed, but perhaps with some hesitation because of the risk of losing the land. On the other hand some people volunteered the opinion that those who failed to pay back loans did not deserve to own the precious land. At the top of any "wish lists" for investment seemed to be water; boreholes, dams and irrigation. It is understandable that the water issue in Zimbabwe is probably even more pressing than that of land.

The idea that land could be held jointly by a man and his wife, and in cases of divorce that compensation or subdivision would occur, was agreed by some women and disagreed by others, who did not want to challenge tradition. The idea was seen by men as a threat to family tenure which would lead ultimately to the fragmentation of Communal Lands into non-viable agricultural units. Men were also unwilling to subdivide land to give to a divorcee, because it was felt that their new wives would need land. Many women felt that the most important place to begin was for a more equal distribution of work and of the crops which they grew.

FUTURE CONSIDERATIONS

Recommendations by the Land Tenure Commission for Communal Areas:

Land tenure

- Communal land tenure should be maintained but security of tenure improved.
- The legal and administrative structures dealing with communal land should be revised and strengthened.
- Customary law on land, ie. traditional freehold tenure, should be formalised in statute.
- State land ownership of Communal Lands should be relinquished.
- Key sets of rights in terms of inheritance, sub-division and compensation should be recorded in statute.
- Management of grazing and other communally owned natural resources should be improved.

Legal Institutions

- The statutory law should be expanded to recognise customary law.
- The principle of a traditional freehold right should be maintained.
- Compensation for improvements when a householder leaves the community should be formalized.
- Rights should be vested in the heads of households, but restricted so that they cannot act without consulting their dependants.

Administrative Institutions

- The traditional village under the Kraalhead should be recognised.
- Village members should have perpetual rights over the land and all resources in the village.
- A procedure should be established for maintaining and updating a permanent record of villagers.
- Communities should have the right to select any new members.
- The Village Development Committee should be replaced with a traditional board¹⁴.
- A Village assembly should be established having all villagers as members and the Kraalhead as Chairman¹⁵.
- An avenue should be established to enable Village Assemblies to obtain technical advice on record keeping etc from the civil service.
- The administrative line from Kraalhead to Headman to Chief should be formalised and codified.

- A village assembly should be created, and integrated with the local court system.
- The entire Communal Lands should be surveyed, including an adjudication and survey of traditional village units, which should then be issued with Village Titles.
- Arable and residential land units should be also be adjudicated and surveyed, and Land Registration Certificates issued for each household, which would then recognise and formalize the traditional customary rights of households.
- Villages' common land should be surveyed and a Land registration issued under the name of the village and held in trust by the Kraalhead.
- Grazing rights should be left up to the villagers themselves to control.
- All transactions, sub-divisions, changes of ownership, inheritance etc. should be recorded.
- The Communal Lands should have their status altered from State Land to Traditional Village land.
- Some kind of development should take place for irrigation schemes.

Inheritance

- Family inheritance should continue, with spouses inheriting primarily, and in polygamous cases each wife retaining her land rights.
- The Village Assembly should act as a court of appeal in cases of dispute, specifically if a dependant ignores his/her duty towards other family members.
- The Village Assembly should protect the rights of widows.
- A family trust should be established if both parents die.

Communal Area Reorganisation

- The Communal area Reorganisation Programme should be revised and redirected.
- Decisions concerning the Communal Lands should be decentralised.

Land Rights for Urban Workers

- Urban workers should maintain their land rights on Communal Lands, at least until their position is much more secure.
- The Village Assembly should assess the relevance of the rights of each member.
- Land acquisition for urban workers should be eased.

Investment and Productivity

- Provision of infrastructure in the Communal Areas should be restored as a political priority in order to encourage more private investment in land.
- To revise the position of rural credit on the strength of a clearer administrative structure.
- The credit system should function on a village level, whereby a villager receiving a loan would be selected by and guaranteed by the Village Assembly.

PRESENT SITUATION AND PLANS

As an outcome of the Land Tenure Commission recommendations, the former Ministry of Lands, Agriculture and Water Development was split into two ministries:

- the Ministry of Lands and
- the Ministry of Agriculture.

The Ministry of Lands has been specifically tasked with implementing the Commission's recommendations. These recommendations have been approved by Government, but they had not been officially discussed in Parliament by June 1996 (Muchena 1994). At present the new Ministry is busy getting itself organised and seeking its final form, so the implementation of the LTC's recommendations may be said to have started by the creation of the administrative set-up. However, the Ministry considers the rest of the implementation to be a extremely difficult task. (Musodza and Makombe 1994)

The basic tenure reforms have been started by a planning phase, firstly of the administrative and secondly the legal reform. The Department of Lands and Technical Services has been established in the Ministry of Lands for the implementation of the actual work, but by June 1996 only two people had been nominated for a post in the department. The legislative reform preparation started with discussions by the Attorney General's office. Originally the idea was to draft a comprehensive land bill, but it was decided to start rather by revising the existing legislation. Presently various professionals that represent every facet of land tenure are being consulted. One of the principal ideas in Government is the establishment of a land taxation system. However, it would be mainly targeted at the land areas that are underdeveloped or even completely idle, and it is not therefore targeted initially at the Communal Lands.

When the Government agreed in principle to the Land Tenure Commission report, they thereby agreed to establish a village title system. According to the present scenario, a village would consist of around twenty households. This was criticized by a Ministry of Local Government official, who pointed out that it would firstly entrench the whole country's village structure, and secondly be too costly since it was unclear where the money would come from for each of the new trustees' allowances that the new system would create (Chivore 1996). The essential idea behind village title is to let the villagers decide certain issues for themselves. The present Communal Land Act and the Chiefs' and the Headman's acts would be amended accordingly, so that the present ambiguous land administration would be clarified. It would recognize the Kraalheads' position as actual land administrators. Land management decisions would be made in a Village Assembly where each villager would have a seat. All village boundaries would be demarcated and surveyed and a village title would be issued to the Kraalheads, following directly the recommendations of the Commission. Each arable and residential parcel would also be demarcated and a Land Registration Certificate for each family be given. The District Administrator would then keep the records of them and give out a copy for the families. A Ministry of

Local Government official pointed out that very little consideration has been given to the cost of technical work. (Chivore 1996).

Contrary to the recommendations of the Commission, all land would remain State Land, and individuals would get only use rights to it. This difference may sound merely cosmetic, but there is an important matter of principle involved, and it is also important psychologically. The Government is interested in enabling banks to issue loans against the use rights, but so far the banks have declared that they would not give out any loans against the kind of certificate described. In the vision that the Government presently has, the land would remain strictly non-marketable, which is also a tougher attitude than the Commission recommended. Banks consider this unacceptable since they want to be able to sell a property to cover any unpaid debt. Apparently they do not consider the village guarantee system, whereby a villager receiving a loan would be selected by and guaranteed by the Village Assembly, to be adequate. Knowing the hardship experienced in the Communal Lands, the banks' concern is understandable. In a poor rainy season it might well be that crops for an entire community fail. In conclusion, the Government on the one hand would like to make land mortgageable, but on the other would not accept it becoming marketable, and there appears to be no easy way of resolving this difference.

The Government claims to be trying to strengthen family tenure by recording existing rights in land. For the village title, each family would be listed under the family head's name. The position of women would not be dealt by the Ministry of Lands, but would be kept as a separate issue. The Zimbabwe Women's Resource Centre and Network which is a donor aided organisation criticize the Government for skirting this difficult issue. They consider the land tenure and gender issue to be inseparable (Essof 1996). In terms of women's rights, the Ministry of Justice has been planning amendments to the present inheritance law. Up to now families have been able to opt to follow customary law or Roman-Dutch law. The aim is now to unify these into a single Act, which makes spouse and children equal heirs of the head of the household (White Paper). (Musodza and Makombe 1996). We also heard some doubts expressed concerning the actual motives behind the Land Tenure Commission work. Even Government employees suspected it to have been just a well publicized campaign calculated to show that the Government had not forgotten the poor in the Communal Lands. Whether or not it ever leads to significant change remains to be seen.

POSSIBLE AREAS OF IMPROVEMENT

STATUS QUO

It is clear that the present form of land tenure in the Communal Lands of Zimbabwe hinders proper utilisation of land. There is inadequate security of tenure, leading to degradation of land, a chronic lack of investment and either under-utilisation or else over-utilisation of land resources.

Consequently, a very significant part of the land area in Zimbabwe is in the hands of people who have no means of utilising it properly. Administrative stagnation, which in any case of improvement has to be the first issue to be dealt with, also permits certain people to benefit more than others, which leads to despair in certain sectors of the population. Having said this, one has also to consider its strengths, particularly its very important life-jacket function. Communal Land Tenure in Zimbabwe provides a social security system for all those born in the Communal Lands. Whatever happens in ones life, there is always a place to return to for a fresh start. Presently every Zimbabwean with family connections in the communal areas perceives this connection vividly. If communal land is commoditised there is a danger that too big a share of the population, and their descendants to come, will be cut off from this traditional security system, at worst resulting in certain sectors of society living in hopeless poverty, with all its attendant social ills.

TITLE

Over half of the land area in Zimbabwe, including large and small scale commercial farms and urban areas, presently enjoy freehold tenure. The formal title registration system, although not state guaranteed, offers secure tenure which increases the care and utilisation of land and most importantly enables the introduction of credit systems. Inevitably, it also leads to better utilized land. As far as developing countries go, it is a fairly well functioning system, and there would be obvious benefits in integrating the Communal Lands into the same system, or else developing a parallel system with cross links. But there are inherent difficulties, and dangers. Firstly those living in the Communal lands are still largely small subsistence farmers, not fully integrated into the cash economy, and secondly if family land were to be commoditised, its sale at market value would arguably not compensate for the loss of what has above been termed its life-jacket function. Before embracing such a system, there would have to be means by which the Government could deal with a new, landless population.

VILLAGE TITLE

The Land Tenure Commission recommended less radical action than the introduction of full, individualised tenure, namely a system of village title. The idea was to decrease the Government's direct administration of land, and to devolve certain powers to villagers. On the face of it this appears commendable, since it would codify and strengthen existing Communal Land Tenure practices. The only question is whether it would provide secure enough tenure to enable the full benefits of title registration to be realised. Recognition by the official credit system is essential. The village guarantee system makes sense, but one questions whether it would work in a society that is largely not yet integrated into the cash economy. These things have to be clarified, otherwise any changes made would be wasted effort. Whatever system is to be created, a new and different kind of stagnation should be avoided. Land Tenure in the Communal Lands is undoubtedly facing pressures for transition. A suitable system for today may not be the optimum system for tomorrow, and

a system for a remote village may not be appropriate for a village on the outskirts of an expanding city. A system which disallows commoditization of land should include the means for upgrading it to permit sale and lease, and ultimately full title, when this is found necessary democratically. Whatever development direction is selected, clearly defined administration is crucial, because if the structure remains as confusing as it is at present, no system will help the peasants, since the only real power is that of the strong over the weak.

TECHNICAL CONSIDERATIONS

INITIAL ASSUMPTION

There is little doubt that if Zimbabwe's cadastral system in its present form was extended to the Communal areas, it would not cope with the volume of new parcels added. On the other hand, if Government overnight granted title to all holders of land rights, without any attempt to adjudicate rights or survey their extent, then there would be limited benefits either to Government or to the new owners, and in the long run as land changed hands there would be escalating confusion.

This paper therefore works on the assumption that, however approximately it is done, the following two things are necessary to the granting of title:

- a). Firstly, some form of adjudication to ascertain what rights belong to whom. This step is necessary before tax may be levied, before orderly development may go ahead, before common land can be managed effectively, and before any reorganisation of land may take place.
- b). And secondly, some sort of picture or diagram needs to be created which shows the approximate shape of land parcels, and their positions relative to each other. Even if this is a very simple picture, it would assist in planning, and provide a vehicle on which to attach attributes such as taxable value, owners etc. Where one or both of these steps have been omitted, serious difficulties have ensued, for example in Malaysia.

For a) and b) it is assumed that at least one visit will be needed to each land parcel, to ascertain what rights exist and to perform some sort of survey or field verification. Ideally, if a surveyor is attached to the adjudication team, the graphical picture can be built up at the same time as rights in land are ascertained. The LTC report recommended a "grassroots" surveyor, on the adjudication team, with minimal qualifications, but supervised and checked at a higher level by a licensed surveyor.

CONTEXT: THE PAST

The Land Tenure Commission (LTC) report found that the surveying of communal land parcels, and village boundaries was technically possible. Having considered a number of options, the method recommended was a digital monoplotted solution from GPS controlled aerial photographs and using digitizers and PC's. The task would be enormous, and it was

estimated that it would take about twenty years to complete, and would cost about 130 Million US dollars with an estimated cost recovery period of ten years.

The following are the main features and principles of the method:

- In general only one visit per parcel, at the time of adjudication, by a low grade surveyor who is part of the adjudication team.
- A subsequent visit by a better qualified surveyor only to a handful of points in an area, to coordinate any points which proved not to be air visible and to fix control for the photogrammetry (enough control would be put in to permit a rigorous solution if it was needed in future).
- Community participation in building airmarks at turning points in boundaries to engender commitment and work against a *handout mentality*. This would also fulfil the need for a public ceremony to advertise where boundaries were.
- Accuracies of about 2 metres relative accuracy, and 25 - 30 metres absolute accuracy, but capable of being done with simple equipment (digitiser and PC). The simple equipment would keep prices down, and also, since no surveyor would be disqualified from undertaking the work on the grounds of capital cost one could expect healthy competition.
- The initial accuracy would be upgradable at any time by rigorous photogrammetry with a stereoplotter to an order of about a hundred times better (10 - 20 cm absolute accuracy) in the case of disputes arising or if land values increased sharply.
- Surveys all to be on the national grid system.
- Public access to the land register.
- Work to be done by the private sector, but on an open tendering basis and with the Department of the Surveyor General tasked with setting standards and quality checking work submitted before inclusion in a national, Land Information System (LIS).
- Approximation of curvilinear boundaries in the field (eg. grass ridges or paths) by a series of straight line boundaries with marked turning points in order to come up with a comparatively small data set of vector information, which was independent of topographical mapping and which could be used as it stood for legal and fiscal purposes but which could also be overlaid as and when the need arose on a variety of topographical base maps (rectified photographs, line maps, rectified satellite imagery).
- A period of appeal before issuing title deeds.
- Not trying to reorganise communal land simultaneously with adjudication; to do this as a separate exercise at a later stage as and when necessary.

THE PRESENT

Two years have passed since the Land Tenure Commission report was published. Most of the principles outlined above still hold good, but technology has not remained static. Differential, handheld GPS measurements (DGPS) are now

possible. The Department of Surveying at the University of Zimbabwe now has a community base station which permits absolute accuracies of 2 - 5 metres with handheld GPS receivers up to several hundred kilometres away. The authors undertook some limited fieldwork to test the viability of this new technology for communal land boundary determination.

The main issues were seen to be as follows:

- i). Whether the 120 observations called for by the manufacturers, with a duration of ten minutes, was strictly necessary for the accuracy we required, or whether fewer measurements would be sufficient. If one is to limit visits to one per parcel, then ten minutes per turning point is probably unacceptably long. A shorter observation time would also permit longer battery life and a smaller data set.
- ii). Whether measurements were possible close to or under trees.
- iii). Whether measurements were possible by surveyors with little specialised training, and whether a *data dictionary* could be designed to lead such a surveyor through a series of measurements without the possibility of mistakes and without forgetting to record any vital information.
- iv). Whether it was relatively easy to identify boundaries on photographs, and whether the photographs meant anything to the peasants.
- v). Whether it was easy to simplify curvilinear boundaries in the field to a series of straight lines (see later).
- vi). What the cost implications were.

A data dictionary was designed before the first fieldwork phase, and modified on the basis of experiences in the field. Different numbers of measurements were taken at each point measured in the field: 10, 30, 60 and 120 measurements. Coordinates used to control these measurements were made by theodolite and EDM on the National trig. system, with accuracies of a few centimetres. This control was considered absolute for the purposes of our comparisons. The base station at the Department of Surveying, University of Zimbabwe was fixed in the same manner. A handheld TRIMBLE Geoplotter receiver was used, but it was ascertained that Garmin and Magellan manufacturers offer comparable accuracies for a similar cost.

Trees were not found to present a problem. Many of the measurements were taken near to trees, and one fix was made right under the thickest tree canopy we could find, and no difficulties were experienced. From this point of view, the method is superior to photogrammetry, even rigorous photogrammetry using a stereoplotter.

Sets of four, penlight (AA) batteries were used in the Geoplotter. A set lasted for about four hours, which comes out expensive, so one or more external, rechargeable battery packs need to be budgeted in for each receiver.

It was felt that more comprehensive tests would be needed at a later date to confirm the rule of thumb that about a metre in accuracy is lost for every hundred kilometres from the base station.

BEACONS AND BOUNDARIES

We found that the existing boundary system in communal areas is most often one of mutually agreed curvilinear boundaries, or in other words boundaries with a physical existence, such as grass strips, earth banks, paths and watercourses, which abutting owners recognise as their common boundary. No difficulties were experienced walking around these boundaries, but further work is needed in the lowveldt where there is a much lower rainfall and there are some boundaries with no physical demarcators. For reasons gone into below, it was felt that although boundaries should be left in the same place, they ought to be delineated in a simplified form by a series of straight lines approximating the boundaries. It was found in the field that it was quite simple to decide on which straight lines best represented a simplified boundary. Provided that a curvilinear boundary is agreed to in the first place by abutting owners, then no difficulties are anticipated in reaching consensus on the simplification of this boundary by a series of straight lines.

The question of whether turning points should be marked or not is debatable. The authors recommend that where there is a path intersection, or a corner in a grass ridge or some physical feature which people agree to, then this should simply be described, and nothing further needs to be placed. But where no physical evidence exists, which is sometimes the case, then drill holes in rock or else iron pegs with cairns of stones are possibilities for marking turning points. Nothing, of course, compares with a drill hole in rock for permanence, but where this is not possible, then iron pegs are probably the next best alternative. They are inexpensive, quite tricky to remove, and have only limited intrinsic and cash value, so it is not thought that theft would be a problem. Where markers were deemed necessary, they could be supported by descriptions such as: "12mm drill hole in rock 3,4 metres SE of Wild Fig tree."

We recommend that at the same time as the survey is done, the position of beacons be pricked on enlarged photographs or photomaps, and boundaries sketched in, land parcels labelled etc. This would firstly provide a check on the GPS measurements, but even more importantly it would show nodes and polygons, to make the topology completely unambiguous. These annotated photos could be archived for future reference, and even used at a later stage for rigorous photogrammetric mapping, since there would be an abundance of identified, pricked and surveyed ground control points.

If a rectified photomap was used, then a copy could possibly be kept at village level for reference purposes.

It is felt that no matter what survey is done, and what monumentation is placed, the existing boundary system will be perpetuated, in that people will continue to recognize grass ridges or paths or piles of stones as their common boundaries. The point or line agreed to on the ground as a beacon or boundary is completely accurate, at a one-to-one scale. However, the essence of a graphical cadastre is that boundaries may be coordinated, and depicted on a plan to a

far lower order of accuracy, and still be useful for a variety of purposes (see below).

So if beacons and boundaries are in general accepted in the field, then what difference would a survey make? The differences would be twofold:

- Firstly, a graphical picture of the boundaries would then have been created, or at least an approximation of them by a series of straight lines, and this graphical record could potentially be used for such tasks such as planning, administration, taxation, mortgaging, transfer and lease of land, and appending attributes such as ownership information.
- And secondly, if any doubt or dispute arose, boundaries could be re-established, not simply by human memory, but by measurement.

Other than these, the system to the peasant would look the same. He would not have to change his idea of what a boundary was, and his rights would for all intents and purposes end and his neighbour's rights begin where they always had done. The difference would be in the new options available to the title holder (subject of course to Government policy), and in the new possibilities open to Government.

Another obvious question, is that if the grass ridge or earth bank or path which is mutually agreed as the boundary was still accepted on the ground to be the effective boundary even after survey, then should it not **BE** the boundary, and be mapped exactly as it is, without simplifying it to a series of

straight lines?

And the answer really hinges upon how one decides to delineate boundary information, or in other words what graphical record one keeps of boundaries. There are two main options. The first is to keep a large scale topographical map or photomap of boundary features. The second option is to separate boundary information completely from topographical information. And there are pros and cons to each of these options, and a photomap is probably the easiest thing to comprehend to the rural farmer. But on the other hand a simplified vector map on the national trig system is more portable, in that one could easily overlay boundaries on any map or image at any scale. To overlay a purely graphical depiction of boundaries, for example from a photomap, onto a map or image at a different scale one would have to change the scale photographically or mechanically, or else digitise and alter the scale digitally. And if one did the latter, the points that one selected to digitise while sitting in office or laboratory could never be as good as those actually decided on in the field with all interested landholders present.

On balance it is felt by the authors that something valuable would be added if consensus was reached in the field at the time of adjudication on a simplified series of straight lines which adequately represented curvilinear boundaries. In other words the boundary would stay the same, but its delineation would be simplified in such a way that there was no material gain or loss to any interested party. There would be comparatively few surveyed points, and a resultingly small data set, so that storage of coordinates, and maintenance and

Point Number	Limit of all 220 observations other than outliers (metres)	Number of outliers outside of these limits	Limit of all observations including outliers (metres)	Widest separation between groups of readings (eg 10 from 120) (metres)
1	2,5 X 1,4	0	N/A	1,0 (10-30)
2	7,5 X 2,5	5	8 X 5	4,2 (10-30)
3	3,8 X 1,3	0	N/A	2,5 (10-120)
4	2,0 X 1,0	3	2,5 X 2,6	1,0 (60-120)
5	4,2 X 0,9	4	4,7 X 0,9	3,9 (10-120)
(Note: All except 14 within 2,5 X 0,9)				
6	3,7 X 1,0	0	N/A	3,2 (10-120)
7	2,4 X 1,6	6	4,5 X 2,4	1,2 (10-30)
8	1,6 X 1,0	9	5,8 X 4,2	1,0 (10-120)
9	3,2 X 1,3	0	N/A	2,8 (10-120)
10	3,9 X 0,7	0	N/A	3,5 (10-120)

Table 1: Comparisons of Observations

Notes:

- 1). Observations were taken at intervals of 5 seconds, i.e. 10 observations would take less than a minute, and 20 slightly over a minute and a half. This should not slow down the adjudication team appreciably.
- 2). It must be stressed again that when one refers to accuracies in the region of five metres, one is referring to the diagram of a land parcel, and not to the boundary of the land parcel itself. Provided that the monumentation is good, the boundary on the ground is completely accurate at a one-to-one scale. For example, the centre of a grass ridge can probably be estimated to twenty or thirty centimetres.
- 3). Relative accuracies are very likely to be better than 5 metres, possibly of the order of 1 - 2 metres, but further tests would be needed to confirm this.

manipulation of data for various tasks would be quick and simple. And in a less developed country (LDC), simplicity counts for a great deal. The LTC report recommended an institutional structure where each district (53 in all) held a PC, with a non-graphics data base and hardcopy General Plans of villages. Villages would also hold copies of General Plans. PC's are now freely available in the country, and repair facilities exist, and although it was felt that computer graphics should certainly not be linked in at this stage, textual information is a comparatively simple matter.

For any specific development project the responsibility would be on those funding the project to produce any topographic mapping which they required. Juridical information could be overlaid, and the millstone of maintaining and updating a large scale topographical map or photomap would be avoided.

Another reason for delineating boundaries with straight lines, is that not all boundaries have a physical existence. The Thailand experience was that 80% of boundaries showed up from the air, and the remaining 20% had to be surveyed by ground methods (Angus-Leppan & Williamson p. 52). Looking at photographs of Thailand this figure might even be higher in denuded areas of Zimbabwe. Undemarcated boundaries would in the course of adjudication be pointed out as a series of straight lines and turning points, and it would be far more efficient if these could be mapped immediately in the same way as the rest of the boundaries, rather than waiting for a field team to come in at a later stage and try to find the marks which had been agreed to on the ground by the adjudicators and survey them and plot them on the photomap. Such a survey team would be moving at a different pace to the adjudicators, so if they came later it would mean more resources, more organisation and more things to go wrong. One ideally needs all survey to take place while the adjudication is being done, and DGPS has now provided us with the enabling technology.

What happens if a boundary disappears, for example if a grass ridge is ploughed over, or a path falls into disuse? In such cases one could replace a boundary either by scaling from a topo map or a photomap, or else by recourse to coordinates if one held those, or else by a combination of both. It must be stressed that relocation will never be necessary for the vast majority of boundaries, but mechanisms for replacing boundaries must be in place for the cases where it does become necessary. The present Roman Dutch law in Zimbabwe recognizes that the survey evidence and any written or graphical description may be ambiguous, approximate or incorrect, and rules that the most weight should attach to the position of the boundary as originally agreed to in the field as well as this can be re-established. Enduring, visible beaconing, regardless of type is therefore very important. Having said that, if physical demarcators are lost or removed, be they pegs or grass ridges, and their original position has to be re-established, or even just in confirming that markers are the original ones in substantially the same position, survey evidence may be crucial.

Acquisitive prescription (i.e. adverse possession) would still apply, so that if a boundary feature moved over time the

position of the boundary would move with it, but perhaps the present period of thirty years should be reviewed for communal areas.

So in short, we recommend that boundaries remain as they are, but that they are delineated by a simplified series of straight lines which at the time of adjudication, are made to approximate the curvilinear boundaries accepted in the field. We recommend that these boundaries be held as a digital, data set which is completely separate from any topographic maps or rectified photographs but which may be overlaid as and when necessary.

COST OF THE EXERCISE:

If one accepts that adjudication must take place regardless, then if the survey is done at the same time it would represent only a small additional cost. A GPS receiver would be needed with external rechargeable batteries, enlarged photographs for labelling and pricking (probably existing blanket photography could be enlarged without re-flying), several base stations to move around the country in support of groups of adjudication teams, and portable computers for downloading to at night to ensure that there had been no problems with the day's data collection. A handheld GPS receiver capable of recording data rather than just points (this is necessary for post-processing with data collected at the base station) is about US\$ 3000, with an additional US\$ 375 for an external battery pack.

The LTC report also noted that one could kill more birds than one with the same stone, and thereby subsidize the costs of the exercise, if at the same time that the surveyor picked boundaries he or she coordinated for example wells and boreholes for one Ministry, or dip tanks for another.

ACCURACIES

The fieldwork done by the research team confirmed the 2 - 5 metre absolute accuracies quoted by the manufacturers. Quite a number of nearby points (about 15 km away from the base station) were in fact correct to below a metre.

Comparing means of the groups of 10, 30, 60 and 120 observations, the following results were obtained, as shown in Table 1.

Of note was the fact that there were normally less than 10 outliers in 220 observations, and that the widest separation between groups of observations was 4,2 metres, with the average being less than 2,5 metres. From this we concluded that 10 - 20 observations is probably sufficient to notice the presence of outliers, and give accuracies in the region of 5 metres.

An advance party would really need to coordinate a point for a base station in a protected place with good visibility, a power supply, and where a computer could be locked up safely.

Data dictionary: After initial testing, it was found that it was better to record points rather than area features. A description of a boundary turning point is necessary, and ideally the numbers of the land parcels to which it is common, and whether it is also part of a village boundary. The creation of the directory was found to be relatively simple, and it was easy to use thereafter even by a surveyor with very little previous experience.

SUMMARY AND CONCLUSIONS

PRESENT SITUATION IN COMMUNAL LANDS

The Communal Land tenure system in Zimbabwe includes three main components, namely arable, residential and common land. Irrigation schemes occur fairly frequently but food cultivation principally depends on rain-fed agriculture. Communal land legally vests in the State, but secure use rights are held by families, so that ownership effectively belongs to and is administered by tribes. The overall situation and life in the Communal Lands is not favourable, as there are over three times more people than the environment can sustain, with proportionally excessive livestock levels. There is no further land to allocate in order to alleviate the severe, land pressure.

The land tenure in the Communal Lands is remarkably homogenous. Families usually live on the land that they cultivate. Owing to extremely hard times in Zimbabwe, in many cases the rural homes have to subsidize their town relatives even though they can hardly keep themselves. Land is usually handled as a family unit, with the father acting as a landowner. Women gain access to land only through their husbands or parents and they do not inherit land in cases where there are sons to inherit. Family lands consist of fields, gardens and residential parts. The traditional avenue for gaining access to land is by marriage, when young men expect to be allocated their own farms from unallocated arable land in order to house and support their new families. In practice, a new family is given a share of the existing family land, since vacant cultivable land is so rare. Other resources such as water are usually communally held and distributed. Tracks and paths are all considered to be in the public domain. During the cropping season grazing is restricted to common land only. Boundary lines are in general remarkably clear, and it seems that they are almost never disputed.

Land administration is very ambiguous, with a variety of executors without clearly defined roles. The village Kraalheads seem to have the most real power. The official administration structure involving the Village and the Ward Development Committees has little real influence. There are clearly too many authorities to function effectively, and this has enabled the headmen to do much as they please, a situation open to violation and corruption. In result the land holdings are not perceived to be very secure and it has without doubt affected to for example willingness to undertake long term improvements. Also the rural credit systems are not functioning at present.

TECHNICAL CONCLUSIONS

There is technically no reason why communal land parcel boundaries could not be surveyed, either on an individual plot level or a village boundary level. In the light of recent technological advances it is thought that 10-20 handheld DGPS measurements are probably the best way for the survey to be done at present, although things are changing the whole time. Survey should be done at the time of adjudication and using comparatively low grade surveying personnel guided by prompts in a suitably designed data dictionary.

What would result, would be a digital map with coordinates on the national grid system depicting straight line boundaries which approximated the curvilinear boundaries which were recognized in the field. This could be easily updated when changes occurred, and could also be overlaid very easily on any rectified map, photograph or image.

A simple and secure mechanism would then exist which would encourage proper utilisation of land and which could be used for:

- taxation
- planning
- borrowing using land as collateral
- sale and leasing of land (subject to any controls which imposed by Government).

Neither does the adjudication of Communal Lands seem to be a particularly difficult task, apart from its scale. The key question is whether community participation can be obtained, and it would seem that this can be assured by involving the traditional leadership in the process. Village boundaries can be agreed by abutting leaders, although some disputes may arise. The peasants in the Communal Lands can quite easily be contacted via the existing traditional leadership, land holders can be determined easily as they or their relatives usually live on their holdings, ownership is seldom disputed, and boundaries are normally not subject to dispute, and in most but not all instances demarcation is clear.

FUTURE CONSIDERATIONS

There is little doubt that the beneficiaries of organised tenure system would include Government and the wealthy. But it is still far from clear how exactly changing this system would benefit the poor and those not completely integrated with the cash economy of the country, especially if communal land kept its status as State land and the holders of title were not able to buy, sell or lease land or raise a mortgage on it. On the contrary, land holders could immediately be taxed, and there is little doubt would be taxed, if for no other purpose than to meet the running costs of the new system. The present titles system in the Communal Areas has one overwhelming advantage, and that is that it costs almost nothing to run. However, the existing situation is unsatisfactory as people struggle with very basic survival.

What about if Government policy changed, and land became fully commoditized? The Title system would serve many

well, but would also endanger the weak, who are the most vulnerable. If speculation in land was not rigidly controlled, then the system would enable families efficiently and irrevocably to lose their birthrights to the rich for the proverbial mess of pottage. It cannot be too strongly emphasised that communal land is the basic needs provision for about 80% of Zimbabwe's poorest people. If this provision were lost where would these people go? And what would they do in order to stay alive? And the answer is that they would go to the large cities to congest the roads and sewers, deplete the water reservoirs, and fleece the wealthy, sooner or later with recourse to violence.

A Village Title system would be a good compromise, but might not provide security strong enough to gain many of the benefits of a title system. It is quite possible that more good would be done by leaving family land substantially as it is, with some modifications, for example to give women, including widows, more recognition in law for their pivotal role in the family, to provide Government or donor guaranteed village loans for boreholes and small dams, and to set up peer pressure, micro-finance schemes along the lines of the Grameen model of Bangladesh.

In the end, there is probably no all embracing solution for the land tenure system of the Communal Lands. In the future there could well be a variety of tenure systems providing various levels of title including the means for upgrading when found necessary democratically. Perhaps the most salient conclusion is that whatever line is taken, the recognition and codifying of the traditional leadership into statute is essential. Perpetuating the existing confusion could ultimately prove to be suffocating.

ENDNOTES:

1. 1889 The Lippert Concession enabled white settlers to acquire land from natives.
2. 1898 Native Reserves Order in Council.
3. The Native Land Husbandry Act (NLHA).
4. The Tribal Trust Land Act of 1965.
5. Land Tenure Act.
6. The Communal Land Act of 1981.
7. The Rural District Councils Act of 1988.
8. Commission of Enquiry into Appropriate Agricultural Land Tenure Systems 1993.
9. Sometimes known as Communal Land reorganisation.
10. Communal Development Plan of 1986.
11. The biggest African tribe in Zimbabwe, originating from the Bantu people.
12. Home of the Ndebele tribe which originate from the Zulu of South Africa.
13. The Department of Agricultural, Technical and Extension Services.
14. A Shona traditional board, *Dare* or a Sindebele traditional board, *Inkundla*.
15. In Shona *Musha* or in Sindebele *Izakhhamizi*.

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