



RESEARCH ARTICLE

Exploring the Tenure - Democracy Nexus on Customary Land Right Holders

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ABSTRACT

In Zimbabwe, as in many African countries, land remains a basic strategic asset for those who live in the rural areas. Particularly, for those people in customary tenured areas, access to land is negotiated through identity. Most Zimbabweans either live or have land rights in customary tenure areas. Here, land is not a commodity that can be traded nor is it regarded as an individual asset. Disputes related to access, ownership and use of customary tenure land are handled in traditional courts presided over by chiefs and their subordinate structures. Those who dwell in customary tenure areas have no direct relationship with civil courts, where private property disputes are resolved, but instead, must go through the traditional courts. In one of my earlier publications, I have argued that the involvement of traditional courts in customary land tenure issues is the hallmark of classical citizenship. While I continue to proffer this argument in the current study, the study also illustrates how traditional authority has, over the years become an appendage of the state through strategic measures which include salaries for chiefs, vehicles, rural electrification, and power that comes with being entrusted with the role of distributing subsidies. Additionally, the exclusion of customary tenure areas from formal financial services means that households are at the mercy of government led subsidies which are steeped within the political interests of the ruling party ZANU-PF. In many cases, government subsidies end up being used as incentive to support the incumbent party. In such instances, elected officeholders take the lead in the distribution of these subsidies. The relationship between land tenure and democracy is perhaps the most compelling for reforms, but rarely discussed. In this study I expand on my previous interventions by arguing that the ways in which land is held in customary tenure areas and the existing subsidy regimes have played a critical role in restricting rural residents' autonomy to make autonomous political choices. I further argue that the autonomy to choose is mostly compromised in contexts where access to productive resources such as land, markets, mechanical, financial, and physical capital are negotiated through subservience to traditional authorities who are politically affiliated.

Key words: Zimbabwe, tenure, customary land rights, democracy

INTRODUCTION

According to the recent results from the recent census conducted by the Zimbabwe National Statistics Agency (ZIMSTAT, 2022), most Zimbabweans (61.4%) have customary land tenure or live in the rural areas (ZIMSTAT, 2022). The ruling ZANU-PF has since the turn of the century managed to win both parliamentary and presidential elections based on overwhelming rural support. The urban population on the other hand, has mostly voted for the opposition parties. In the 2018 elections, ZANU (PF) won 144 parliamentary seats and 132 (91.6%) of these were rural whilst the MDC Alliance won 64 parliamentary seats and 58 (90.6%) of these were in the urban areas. In addition, most votes for the ZANU-PF presidential candidate came from the rural areas (ZESN, 2018). Many questions have been posed to try and explain the popularity of ZANU-PF in the rural areas as well as its unpopularity in urban areas. Many have advanced widespread allegations of election rigging to dismiss the claims of ZANU-PF popularity in the rural areas. These claims, although widespread and popular, remain unsubstantiated. There has been no systematic evidence-based approaches to expose widespread election rigging. In this paper, while this study does not dismiss rigging claims, it explores other ways in which the ruling party has either by coincidence or a cunning strategy ensured its dominance in the rural areas. The study argues that the ways in which land is held in customary tenure areas and the existing subsidy regimes have played a critical role in ensuring widespread support for ZANU-PF. The various legal and non-legal reforms pertaining to rural social organisation, inclusive of land and agrarian reforms, measures to do with traditional leaders and various forms of production of support, have contributed to the

entrenchment of ZANU-PF rule within these areas.

The study also argues that the level of autonomy in making decisions on who to vote for is one of the most important measures (if not sacrosanct) of 'free and fair' elections. The autonomy to choose is compromised in contexts where access to productive resources such as land, markets, mechanical, financial, and physical capital are negotiated through political party affiliation or where the support is seen because of the benevolence of a leader rather than national policy funded by public resources. Although this is changing, legally customary tenure land cannot be a commodity that can be traded or used as collateral. The generation of agriculturally based livelihoods depends on belonging within a certain clan to attain usufruct rights over land and productive inputs from the government on an annual basis. Smallholder agriculture is yet to achieve total independence from the circuits of subsidies. The argument presented in this study is focused on a long-term project of ensuring that elections are free and fair thus, the study does not make any claims of providing silver bullet solutions.

UNPACKING CUSTOMARY TENURE

Traditional authority usually thrives in customary tenure areas. Customary tenure is based on what was once perceived as the dominant form of rural sociability in rural Africa, that is, a pristine structural relationship within a lineage grouping and an ethnic clan (Murisa, 2022). At the helm of the customary model is the office of the chief and its subordinate structures. The organisation for access to

natural resources, production and consumption is based on principles of inclusion in or exclusion from the clan or lineage group. The hierarchy of institutions within the traditional framework establishes the criteria for access to land and the norms for defending land rights. The clan asserts political and ritual rights over land, followed by the lineage, which establishes concrete claims over land supported by actual ties of consanguinity and corporate interests. Land use rights which are conferred on the household are in most instances conferred through the male household head.

Only the products of social labour such as crops and livestock, are objects of appropriation (Mafeje, 2003, p.3). Recognition of certain clan domains makes it easy for lineages to maintain a steady pool of land to control any influx of strangers (non-kinspersons). In this kind of framework, production, consumption and accumulation are organised at household level and sharing of labour or produce in instances of distress is done among those who already have certain commonalities in movable and immovable property and are bound together by exclusive ties of mutual obligation. Thus, the lineage framework provides a mechanism of cooperation and fosters mutual sharing. The distribution system encapsulated within the lineage framework functioned as a method for reconciling the individual's total interests with those of the community (Adholla, 1962, p.22). This form of social organisation also provided norms of cooperation centred on the idea of sharing between the richer and poorer members of the lineage group (Von Freyhold, 1979, p.81).

These forms of social organisation provide a platform for mobilisation around production, social and political events. The existing

hierarchies combined with group-based forms of access to land and other productive assets create opportunities for political messaging through the chiefs and other clan heads. Perhaps, this explains why chiefs are now on the payroll of the state and receive other benefits such as vehicles.

TRADITIONAL AUTHORITY, INDIRECT RULE AND DEMOCRACY

Transitions from colonialism have, in many cases, failed to comprehensively de-racialise civil society and democratise the local state by reforming customary authority. In the urban areas, the onset of independence from colonial rule de-racialised the state but left civil society racially intact to the extent that historically accumulated privilege (usually racial), was embedded and defended in civil society (Freund, 1997, p.102). On the subject of countryside reforms, Mamdani (1996) argued that:

“a consistent democratisation would require dismantling and re-organising the local state, the array of the Native Authorities organised around the fusion of power, fortified by an administratively driven customary justice and nourished through extra-economic coercion (p.24-25).

Mahmood Mamdani's (1996) seminal work remains relevant in challenging the idea of citizenship in the countryside. At the centre of Mamdani's project is an analysis of the extent to which the structure of power, especially in rural areas in contemporary Africa, was shaped in the colonial period rather than born of the anti-colonial revolt. Mamdani rightfully explains the

features of contemporary politics through an analysis of the modes of state power, domination and resistance. According to Mamdani, state power in colonial Africa was derived from the imperatives of dealing with the native question, that is, “how to maintain foreign control over large indigenous populations” (Mamdani, 1996, p.22). Mamdani further argues that the common response across Africa entailed the devolution of power to indigenous rulers in the name of custom and tradition, creating a ‘decentralised despotism’. In the case of Zimbabwe, the independent state initially sought to minimise the influence of the chiefs by establishing modern bureaucracies that operated within the confines of civil law (Alexander, 1993 & 2006). However, those reforms were quickly halted at some point and instead, Zimbabwe joined the rest of Africa in promoting the re-assertion of traditional leadership. The Traditional Leaders Act (1999) formally restored customary chiefs’ land allocation role in communal areas (although still notionally subject to approval by the Rural District Council), and created a governance structure that resembled a hybrid between the 1982 District Development Committees and the 1969 model for ‘tribal’ governance by customary chiefs. The Traditional Leaders Act (1999) extended to “Model A” resettlement areas. The Traditional Leaders Act (1999) provided a system of local governance in which ‘headmen’ and ‘chiefs’ in communal areas, were imposed in places where elected officials had represented villages for the previous 20 years (Kinsey, 1999). These measures helped to reaffirm the role of the chief and their subordinate structures. Moyo (2001b, as cited in Yeros, 2002a) says that there was a legitimacy problem in customary tenure areas due to the absence of a clear role of the chief, and consequently, rural mobilisation for ‘developmental’ projects was constrained. The

reversal of policy served to ensure further co-option of the office of the chief towards the logic of the state in terms of both the political and development agendas. These reforms are similar to the 1967 Tribal Land Authority Act which elevated the authority of the chief in land matters and local administration. The foregoing discussion provides information on the challenges associated with the nexus of elected and hereditary structures in local government. The reforms were part of the state’s broader political agenda to win over the support of the chiefs. Indeed, ever since these reforms chiefs have become beneficiaries of state largesse. Besides a monthly wage, chiefs were provided with brand new vehicles and their rural homes were given priority in the rural electrification programme (Murisa, 2007).

These reforms led to the restoration of a bifurcated state of ‘citizens’ and ‘subjects’. The ‘subjects’, primarily peasant households in the countryside, had to contend with the wrath and arbitrariness of post-colonial structures of power in the form of chiefs and their subordinate structures which mimic native authorities. Thus, the bifurcation of the state has been bequeathed to the post-colonial state and ‘indirect rule’ continues to be the dominant form and creates a situation in which the state has been ‘de-racialised’ but not ‘democratised’.

THE AGENDA TO REFORM CUSTOMARY TENURE

In Zimbabwe, the term ‘customary’ is also used to refer to communal areas as a legal sphere in which traditional and/or customary laws are observed under the administration of traditional authorities who include chiefs, sub-

chiefs, village heads, traditional authorities and spirit mediums. The chieftainship is divided into smaller units headed by sub-chiefs or headmen. These are divided into smaller villages headed by a sabhuku/kraalhead/village head (Holleman, 1969; O’Flaherty, 1998; Andersson 1999).

Customary tenure does not only stifle prospects for democratisation, but it is also near impossible to implement operationally. Murisa (2022) has argued that implementing customary tenure is akin to wading in murky waters. Over the years, traditional authorities, market and the state policies and globalisation have modified the provisions of this otherwise egalitarian system of land administration. Colonial and post-colonial governments maintained customary land tenure to retain political control over productive resources especially land and to prevent the residents from becoming economically independent (Cousins, 1990; Cheater and Gaidzanwa, 1996; O’Flaherty, 1998). In this way, the State retained control over rural population and has capacity to confine it to a specific space.

Whereas in its pristine form land is not sold to those outside the clan, in practice, illegal land sales presided over by chiefs and other lineage elite have been a common feature across the length and breadth of Zimbabwe. Different studies record the practice of illegal land sales. For example, Dzingirai (1994) in Binga (Matabeleland North), Yeros (2002a) in Shamva (Mashonaland Central), and Chimhowu and Woodhouse (2008) in Svosve (Mashonaland East). What is interesting is the fact that it is not only chiefs who are engaged in the practice but other rural elites and Rural District Council (RDC) officials, even though there is no provision in the Communal Land Act for outright land sales. These actors take advantage of the weaknesses,

incoherencies and inconsistencies of the Act and the institutional challenges to enforce them. The Rural District Councils do not have the capacity to follow up on these processes nor the moral influence to oppose such land transactions.

Moreover, there is lack of clarity on institutional mandates and roles in the administration of land under customary tenure in Zimbabwe. For example, the contestations between Traditional Authority, Rural District Councils (RDCs) and other state institutions responsible for land governance. The Communal Land Act (1982 amended in 2002) fails to appreciate the real contestations and competition between RDCs and traditional authority. The Act stipulates that the RDCs should:

grant consent only to persons who, according to the customary law of the community that has traditionally occupied and used land in the area concerned, are regarded as forming part of such community (Communal Land Act, 1982 amended in 2002).

Conversely, the act does not specify how the RDCs will verify the complex issue of identity especially because lineage and clan affiliations are determined by the elders of those groups. In fact, smallholders in customary tenure areas are subordinated to a fusion of authority revolving around an awkward ‘institutional mélange’ in a similar situation to practice under late colonialism. This fusion of authority included elected Rural District Councils (RDCs), traditional chieftainships and the local ruling party cell structures from 1980 until 1996 (Tshuma, 1997, p.90). The Government of Zimbabwe (GoZ) was at some point similarly disgruntled with traditional authority. In 1985, the Ministry of Lands passed

the Communal Lands Development Plan which promoted the establishment of surveyed and planned 'economic units', consolidated villages, and state control of tenure through a leasehold system. The plan condemned communal tenure and dismissed customary leaders as the "conservative guard of an unproductive system" (GoZ, 1985).

The forms of social organisation developed through customary tenure have also come under attack. Archie Mafeje was one of the early and forefront critics of the forms of social organisation that emerge out of customary tenure, arguing that it was highly undemocratic, patriarchal and, in many instances, oppressed women (Mafeje, 1993 & 2003). Although the lineage-based form of organisation has made provisions in the event of the death of the male head of the family, in practice, the surviving widow and minor children have often had to renegotiate their land rights after the death of the primary land rights holder. This notion of a form of social organisation that is in equilibrium, was mostly dominant prior to the introduction of petty commodity-based forms of rural production that compete to serve capitalist markets. The introduction of a market value of rural goods and the practice of trade in rural goods has contributed to exploitative social relations within the lineage group, where the more competent prefer to use their surplus to establish relations which bring more tangible benefits while those left behind find themselves exploited. Rather than viewing the lineage-based forms of social organisation as sustainable mechanisms of balanced social reproduction, it has become an instrument of accumulation

by establishing a criteria of 'inclusion' and 'exclusion' when issues of access to natural resources such as land are under consideration. These are considered crucial criteria for gaining access to vital resources and organising forms of social reproduction.

Customary tenure has also widely been abused by traditional authorities. Initially, the post-colonial government's underlying objective of the local government reforms was to officially usurp the land-allocating powers of chiefs in a manner very similar to the Native Land Husbandry Act¹ (NLHA), and to introduce new social relations of production that were not defined by belonging to a lineage grouping. In terms of land allocation, the Communal Land Act as read in the Regional, Town and Country Planning Act², requires a rural district council to "have regard to customary law relating to the use and allocation of land allocation"³. These measures were, however, resisted by chiefs who had enjoyed land allocation powers in the final decade of colonial rule. Such allocation of land has been restricted in terms of the Traditional Leaders Act.⁴ The traditional leaders have regularly involved themselves in land administration and they are often at 'loggerheads' with elected authorities (Alexander, 2003, p.587).

The above conditions challenge the assumptions on the possibilities of a smooth transition from feudal relations of power to an electoral based system. The underlying forms of social organisation, power structures and means of access to land challenge the idea that an individual can make a decision on their

1. Native Land Husbandry Act of 1951.

2. [Chapter 29:12].

3. Section 8(2)(b) of the Act.

4. Section 26(1) of the Traditional Leaders Act [Chapter 29:17].

own regarding who should have power when everything else is done in group settings. Access to land and related production implements is clearly organized around the concept of belonging. In this instance the ruling party has inserted itself in rural life. It looks and behaves as if it's at the centre of everything to do with the social, cultural, economic aspects of rural life. The voting patterns in the rural areas suggest that there has not been adequate and clear separation between party and government especially when it comes to the provision of agricultural inputs.

ASSUMPTIONS ABOUT ELECTORAL DEMOCRACY

Democracy is a social rather than a political term used to refer to a society marked by equality of social conditions with no ascriptive aristocracy, and all careers open to all citizens including the opportunities to be in government (Tocqueville, 1835). Democracy is based on balancing power, making trade-offs, and ensuring civil liberties and more importantly it is about making sure that citizens are engaged in solving problems in society. Elections, which are central to democratic practices, are supposed to ensure that the will of the majority takes precedence in the choice of office holders and ongoing accountability of those elected to office. Citizens always retain the right to vote out underperforming leaders and elect new actors.

Furthermore, it is a widely held belief that electoral democracy thrives in contexts where there is full citizenship. In this instance citizenship, refers to the existence of civil laws governing property rights and equality of opportunity. Citizens are those people with legally defined autonomy over their property or

able to sell their labour in return for sustainable wages. Citizenship in this case is directly linked to the existence of a legal framework that creates a basis to approach civil courts for relief in the event of a grievance related to relations of production.

The liberation mantra was mostly about 'one man one vote' as opposed to the colonial period when racial identity determined who had the right to vote. The 'one man one vote' has since been accomplished but there are still concerns about some citizen groups' autonomy to exercise their right to decide on who to vote for. Existing frameworks of access to land and inputs for agricultural production in customary tenure areas should be further analysed to determine the extent to which they allow for autonomous political decision making especially during elections.

There are other threats to democracy in the rural customary tenure areas. These threats, which also apply to other areas but are acutely felt in customary tenure areas where peasants' dependence on traditional land and government subsidies makes them more vulnerable, range from manipulation of laws, abuse of incumbency, use of violence and capture of electoral processes by an elite few (Olukoshi, 2022). Vote buying is another serious threat to democracy in Zimbabwe, and rural residents are more susceptible to vote buying because of their economic vulnerability. Most customary tenure land in the former Tribal Trust Lands or Native Reserves (now formally called Communal Lands) is located in barren and unproductive parts of the country. As a result, many rural households have remained vulnerable and are either in a condition of chronic food insecurity or have just enough to survive. Although officially banned at

law, many political parties engage in this practice. According to a 2017 report produced by the Anti-Corruption Trust of Southern Africa several political parties were engaged in (i) dishing out free food and other goodies to the electorate, (ii) promising housing stands and (iii) giving money to would be voters.

OPPORTUNITIES FOR REFORMS

The Chilonga case provides a compelling opportunity to rethink land relations and their potential impact on democracy. The fact that by one decree people can be alienated from land that they have occupied for more than one century is disturbing. Yet, as already established, electoral democracy thrives in a context where property rights exist and can be protected through the courts. In this instance the Chilonga community, like many others in the customary tenure areas could not enforce their rights in courts. What are the other means of survival in such instances—probably to align with the dominant political party interests.

It is perhaps the Fast Track Land Reform Programme and other ongoing tenure reforms that provide an opportunity to consider a long-lasting land tenure solution for the rural areas in Zimbabwe. The GoZ has committed to a permissive land tenure through the issuance of permits to land beneficiaries. The permit that is being issued for A1 farmers creates a more direct relationship between the land beneficiary and the issuing authority which is government, through the Ministry of Lands. In the process the land beneficiary has recourse to civil courts in the event of a dispute. This is in direct contrast to trends within the customary areas where the

chiefs' historical claim to certain land allocation and adjudication powers holds sway, especially after the promulgation of the Traditional Leaders Act (1999) which restored their land allocation powers.

The land tenure reforms that accompanied 'fast track' land reform contribute towards some of the initial steps in the creation of what Mamdani calls 'citizens' although there are still contradictions, for example, the expansion of traditional authority functionalities suggests the need for a more cautious examination of the significance of these reforms. Traditional authority, deriving its legitimacy from the state, has been weakly inserted into areas where there is no countervailing force on the ground to oppose such state led efforts. This could undo the intended purposes of the permit and obliterate the potential for creation of the rural based citizen.

Currently, there is no organized platform agitating for improved tenure arrangements in customary tenure or fast track areas. The Chilonga community court challenge potentially provides an entry point into the type of advocacy and reforms required. In February 2021, the Government of Zimbabwe (GoZ) passed several legal instruments (refer to Table 1) aimed at setting aside 12 940 hectares (ha) in the district of Chiredzi initially for the purpose of 'Lucerne production' but this was later changed to 'setting up an irrigation scheme'. However, there has emerged several global formations engaged in struggles for indigenous land rights which the UN is recognizing. The Chilonga agitations for tenure reform are part of a bigger challenge around the rights of indigenous communities and the broader struggles for expansion of rights into customary tenure areas.

Table 1- Legal Instruments Used to Appropriate Land in the Chilonga Area

Date	Legal Instrument	Description
26/02/2021	SI 50 of 2021 ⁵	Amendment to section 10 of the Communal Land Act, the instrument designated 12 940 hectares of land in Chiredzi for exclusive lucerne production. The Act also prohibited the utilization of this land for any purposes except for mining activities due to the superiority of mining rights. Once the SI was instituted, occupiers of land were required to promptly vacate with all their property. An exception was made for persons who would have duly acquired permits in terms of section 9(1) of the Communal Land Act.
26/02/2021	SI 51 of 2021 ⁶	Highlighted that an area of land approximately 12 940 hectares, in the administrative district of Chiredzi ceased to be part of the Chiredzi Communal Land. This legal instrument follows up on SI 50 of 2021 by enforcing its provisions
09/03/2021	SI 63A of 2021 ⁷	Corrected the purported irregularities in SI 51 of 2021. The purpose of the land was changed from 'Lucerne production' to 'establishment of an irrigation scheme'. The previous SI did not include the eviction order of land occupants and this new instrument enforced their immediate eviction from the land.
16/03/2021	SI 72A of 2021 ⁸	Repealed SI 50 of 2021 by reassigning the purpose of the land in question. Under this SI, the land was now exclusively meant for irrigation activities.

The applicants, Chituku and others, argued that the GoZ's intentions breached fundamental rights and freedoms enshrined in the Bill of Rights and the applicants' case was motivated by several queries. Firstly, the applicants argued that Chilonga was their ancestral land which they occupied for over 500 years without any disruption. Their occupancy had weathered the upheavals associated with the land displacements of the colonial period. The applicants further insisted that their land should not be categorised under Tribal Trust Lands which were eventually converted into customary land through the

Communal Land Act of 1982. Despite not expressly identifying specific provisions of the constitution against which the Act was ultra vires, applicants submitted before the court that the Communal Land Act violated the right to life,⁹ right to human dignity, right to property,¹⁰ right to equal protection and benefit of the law¹¹ and the right to culture and language.¹² Secondly, the applicants challenged the colonially and racially exclusionary frameworks of customary tenure and especially how it mis-conceptualised the systems of land ownership amongst Africans.

5. SI 50 of 2021 (Communal Land [Setting Aside of Land] [Chiredzi] Notice 2021).

6. SI 51 of 2021 (Communal Land [Excision of Land] Notice 2021)

7. SI 63A of 2021 (Communal Land [Setting Aside of Land] [Chiredzi] Notice 2021: Correction of Errors).

8. SI 2021-072A Communal Land (Setting Aside of Land) (Chiredzi) Notice, 2021.

9. Section 48 of the Constitution.

10. Section 71 of the Constitution.

11. Section 56 of the Constitution.

12. Section 63 of the Constitution.

In the process, the applicants raised glaring weaknesses in state policy making such as the title change from Tribal Trust Lands Act to Communal Land Act without attending to the major flaws and grievances that informed the land question during the war of liberation. Remarkably, the respondent (GoZ) agreed with the applicants' critique of the Tribal Trust Land Act as well as the flawed nature of the racist colonial ideology that informed it.

Thirdly, the applicants' case rested on a constitutional provision for the right to self-worth and human dignity. They argued that the GoZ's intended move would deprive them of the right to live. The respondent (GoZ) articulated that no one would be displaced because the targeted land was largely uninhabited and that in the event of eviction, adequate compensation would be provided.¹³ The GoZ proceeded to argue that the courts were not the proper platform for the resolution of this kind of dispute. The presiding judge agreed with this position and in his judgment, he referred to several cases that reinforced the argument that there is a long-held tradition in which land disputes are resolved politically. The judge concluded the case by recommending a commission of inquiry as the first step to finding a possible political solution.

CONCLUSION: CUSTOMARY TENURE AND DEMOCRACY

The discussion has made a case for considering the prevailing conditions of social organisation and power as potentially contributing towards giving the ruling ZANU-PF or any other incumbent political party an unfair advantage in electoral politics because

of its indirect control over access to customary tenure land through traditional authorities who are appointed by the Government. Admittedly, there are other factors at play. However, the norms of social organisation have the potential to make significant contributions on this issue. The discussions on tenure reform have yet to embrace the democracy dimensions discussed in this study. The democratisation agenda has been preoccupied with the rules of elections and possibly missed out on the systemic constraints that seem to have a more enduring influence on voting patterns.

As already stated, the majority of Zimbabweans eke out an existence in customary tenure areas and have mostly voted for ZANU-PF. The question that is raised is whether ZANU-PF has contributed to significant rural transformation in the past and is thus, being duly rewarded through votes. Existing evidence demonstrates that there has been very limited progress in terms of rural transformation since 1980. Most rural households remain vulnerable and are either in a condition of chronic food insecurity or have just enough to survive. This perpetuates their reliance on the government and increases their vulnerability to manipulation. Most rural households are not independent producers as they depend on government's subsidy regimes. This raises further questions on whether their vote is merely an endorsement of the ongoing subsidy programs.

The process of re-imagining democracy will also have to tackle ways of ensuring that those in customary tenure areas have; (i) property rights at the same level as their urban counterparts which are recognised and can be defended in the formal courts (ii) can independently

13. This is an important part of the affidavit by government which can be used for later litigation in the event of evictions and lack of compensation.

secure financial, markets, collateral and other institutions necessary to ensure efficient agricultural production without dependence on the government (iii) can secure membership and negotiate access to resources which are not linked to traditional authority. These three conditions will contribute towards a realisation of democracy for those holding customary land rights. Besides, this is nothing new in Zimbabwe. The Fast Track Land Reform Program led to the introduction of permissory tenure that is statutorily defined within A1 areas. The permissory tenure, when fully implemented will

have a direct relationship with government (and especially civil courts). The land beneficiaries are strangers to one another, and they have created new forms of social organisation undergirded by local farmer groups (see Murisa, 2009; Murisa, 2013 & Moyo et al., 2009). These developments give the immediate impression of an expansion of citizenship to the countryside, suggesting that the hallmarks of civil society have been attained. The concluding question then would be: what stops the government from implementing similar reforms in the customary tenure areas?

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