

BLOOD AND SOIL

Land, Politics and Conflict Prevention in
Zimbabwe and South Africa



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Zimbabwe and South Africa

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Foreword

The International Crisis Group's mission to prevent the outbreak, continuation and recurrence of deadly conflict fits naturally with the issue of land policy in Zimbabwe and South Africa. The stakes involved in both nations are of tremendous economic and social consequence. As the situation in Zimbabwe has painfully demonstrated, if land issues are handled poorly, conflict of one kind or another is almost inevitable. Land redistribution is an issue across much of southern Africa, but Zimbabwe and South Africa continue to stand out as the vitally important – and very different – test cases.

Few topics in these countries have been more widely discussed but less understood than land reform. While agronomists, land tenure specialists, economists and political scientists have done much excellent work, there has been little systematic effort to synthesise their findings and combine them with intensive field research to produce practical policy recommendations for both local actors and the international community. This is what we have endeavoured to do in this report, placing land policy in its real-world political and economic context. Two key propositions underpin our approach. First, the colonial and white rule periods created tremendous injustices in the patterns of land use in both countries with blacks suffering a terrible degree of displacement; second, land reform efforts should advance within the rule of law and as part of a broader effort to realise the social and economic potential of the countries concerned.

In the case of Zimbabwe, sadly, it will be virtually impossible to get land policy on the right track until it experiences new leadership or a fundamental change in the ruling party's approach. But outside observers have oversimplified the story of land policy in Zimbabwe. The focus on the plight of white commercial farmers has obscured the even more acute suffering of millions of black citizens who face hunger, increasingly severe repression and bleak economic prospects. It is critical that the international community be prepared to help Zimbabweans act decisively on land reform when a political transition eventually takes place.

Putting in place plans that will allow Zimbabwe to boost its agricultural production will be crucial given the country's structural food deficits. A Land Commission will need to be established, with technical, and as far as possible non-partisan, expertise. It will need not only to conduct a national survey to determine the status of land use and current

holdings, but also to adjudicate rapidly a myriad of claims and counter-claims that have the potential to tie the legal system in knots for years. The international community will need to support a process of binding arbitration that allows reasonable payment to those whose farms have been illegally seized, while acknowledging that any sensible policy will be a compromise balancing production, legal concerns and fair compensation.

In the case of South Africa, partly in response to the heightened attention to land issues consequent on the seizures in Zimbabwe, leaders have committed themselves to significantly accelerating the pace of land redistribution while minimising illegal occupations. South Africa has set the bar high in promising to redistribute roughly one third of all commercial farmland by 2015, part of a major effort to increase black economic empowerment and ownership across a range of economic sectors. Even though such a land program is feasible, it will require increased resource commitment from the government, a wide range of local stakeholders and international partners.

There has been in South Africa something of a shift in emphasis away from poverty reduction and a focus of the land redistribution program on commercial beneficiaries. The objectives of poverty reduction and encouragement of a new generation of black commercial farmers should not be mutually exclusive, but these approaches must be coordinated to ensure a balanced and effective program. Despite the complexities, it is both possible and desirable to implement a more broad-based reform program on both private and communal land that will encompass the landless poor as well as black commercial farmers.

Zimbabwe and South Africa have contrasting histories in some key respects, and they are very different societies today. While events in Zimbabwe are not likely to be replicated in South Africa any time soon, it is clear that countries across the region are burdened with chronic land problems that are frustrating attempts to promote economic development and eradicate poverty. Uncertainty over ownership and access to land deeply discourages productive investment, and the massive dispossession of blacks under colonialism and white rule has left a bitter legacy of dislocation. The colonial exploitation of land and resources for the narrow benefit of favoured groups helped perpetuate the underlying poverty of the black population, and tenure insecurity remains linked to the limited economic prospects of many in the region.

Greater equality in access to land ownership would increase economic growth and reduce poverty, while minimising the risk of a future land crisis such as Zimbabwe's. Small and medium-sized farms should thus be a central element of land reform and of a diversified livelihoods strategy. Simply putting more people into the commercial

agricultural model as collectives – or merely changing the racial profile of individual commercial farmers – will not reverse poverty and inequality.

This report, like all ICG publications, has been a collective team effort, relying heavily on field work and close consultation with external specialists. I would like to thank all those – too many to name, and in some cases inappropriate to do so – who participated in interviews and provided peer review. ICG Special Adviser John Norris was the principal author of the Zimbabwe section and the report's lead editor, while ICG Special Adviser John Prendergast was the principal author of the South Africa text (and a major contributor to ICG's earlier reporting on Zimbabwe on which this report partly draws). ICG Vice President (Research and Publications) Jon Greenwald and Africa Program Director Stephen Ellis made major contributions to the editing process, and Nathalie De Broyer, Jen Leonard, and Dan Vexler to the production stage. Numerous others within ICG devoted many hours to the report, including Philip Roessler, Gideon Maltz, Jessica Bowers, Greg Pollock, Dara Francis, Paul Verzillo, Brenda Bradberry, Sasha Lezhnev, Jamal Jafari, Alison Rose, Erin Hunt, Fanta Toure, Elizabeth Martin, Jan Bachmann, Newton Kanhema, Shannon Field and Director of Advocacy and Research Nick Grono. I thank them all for an immense collaborative effort.

ICG will continue to track land policy issues in southern Africa as they directly relate to conflict and the possibility of conflict, assisted by our recently opened project office in Pretoria. We have been reporting on the political situation in Zimbabwe since 2000 and will continue to follow events closely, in land reform and more generally, as the country navigates this very difficult period. Much will depend on South Africa's democratic leadership being prepared to play a leadership role in helping Zimbabwe emerge from its current plight.

Gareth Evans
President
Brussels, September 2004

Executive Summary

Across southern Africa, the question of land use, ownership and access are of vital importance. In the region, the land question is rightly and invariably viewed in light of the tremendous historic injustice inflicted on black Africans during the colonial period. This is particularly the case in South Africa, Zimbabwe and Namibia, where white settlers seized prime land and pushed the indigenous black populations onto overcrowded and often inferior lands. White economic elites in the region were also often able to essentially codify their gains when they transferred political power to black majority rule.

The countries of southern Africa have utilised a variety of approaches in their efforts to redistribute land to a broader and more representative cross-section of their populations. These efforts have not been easy, and they entail significant costs, lingering racial tensions, fundamental questions of fairness, complicated international relationships and the rule of law. Purchasing land for redistribution can be enormously expensive, sometimes totalling billions of dollars. If handled poorly, land redistribution can sharply undercut agricultural production and badly shake international investor confidence. Equally clearly, simply transferring land to new black political and economic elites, or turning a blind eye to the gross economic disparities in these societies, will do little to help advance longer term national interests. It has been repeatedly demonstrated that a failure to grasp the nettle of land issues with foresight and fairness risks pushing a nation toward conflict.

This report, while acknowledging the importance of land across the whole of southern Africa, focuses largely on two countries that offer important insight into the land debate not only in the region, but across the globe: Zimbabwe and South Africa. While these cases are dramatically different in many respects, they are not without some commonalities, and both demonstrate the difficult political, economic and social choices entailed in the land debate.

ZIMBABWE

The History. Zimbabwe suffers from a long tradition of racially skewed patterns of land use and access. At the beginning of black majority rule in 1980, 6,000 large-scale white farmers controlled roughly 40 per cent of the country's territory. Some seven million blacks were crowded into largely

dry and infertile communal areas. Blacks suffered profound discrimination during the period of white minority rule, and land issues were a central concern of black liberation groups operating in Rhodesia.

The 1979 Lancaster House talks, which led to internationally recognised independence and established Zimbabwe's constitution, shaped many contours of the initial approach to the land issue. The Declaration of Rights provided the new government powers to compulsorily acquire underutilised land for resettlement purposes when prompt and adequate payment was made in foreign currency. The constitution also provided the right to exercise eminent domain, or expropriation, (with compensation) for a number of other purposes including "town and country planning". Subsequent redistribution would largely focus on trying to redistribute underutilised properties rather than establishing a comprehensive land use strategy. Maintenance of the status quo with regard to land appeared to be part of the price of independence, and both the United Kingdom and U.S. ultimately gave far less financial support for land redistribution than most of the parties at Lancaster House had envisaged.

Despite his frequent reliance on leftist rhetoric during the liberation struggle, Prime Minister (later President) Robert Mugabe adopted a conciliatory approach upon taking office, encouraging white farmers to remain an important part of Zimbabwe's economy. Mugabe was adamant that his government would neither nationalise companies nor seize private property, and his moderate stance was rewarded with considerable international financial aid. However, real estate prices remained depressed in the early 1980s, largely due to the uncertain political and security climate. In retrospect, this period was a lost opportunity, when considerable land was available at reasonable prices for potential redistribution.

The new government pursued a land redistribution program based on the willing seller, willing buyer principle of voluntary sales by owners and voluntary purchase by the government. During the early 1980s, Zimbabwe established upwardly revised targets for land redistribution and resettlement. In 1982, the government planned to resettle 162,000 families on 9 million hectares by 1985. Given the lack of planning, particularly with regard to support for relocated families, this was unrealistic. During this period, military adventurism by South Africa's apartheid government in the region fuelled tensions within Zimbabwe. The government of Zimbabwe launched a broad offensive against the Ndebele population in Matabeleland that produced widespread atrocities and 10,000 to 20,000 mostly civilian deaths.

Despite Matabeleland and other disturbances in the early and mid-1980s, white commercial farmers regained confidence, and commercial farming generated significant profits. Real estate prices began to climb around 1984. Many new white commercial farms emerged, as did a small

class of wealthy black farmers, many with ties to the ruling party, Zimbabwe African National Union-Patriotic Front (ZANU-PF). The resettlement of families displaced by the independence struggle had largely been completed, and growing stability reduced the availability of affordable land for additional policy purposes. The government, which had failed to put in place a systematic approach to overall agricultural policy, directly scaled back its commitments to land redistribution. The foreign exchange earned by white farmers became an integral part of the economic and political system, and in effect, white farmers were encouraged to make money and stay out of politics.

Toward the end of the first decade of majority rule, the British conducted a full evaluation of the government's land program: it concluded that redistribution was fundamentally worthwhile, but also revealed London's growing scepticism of Zimbabwe's administrative capabilities even as the UK was insisting on an overly bureaucratic farm-by-farm model of acquisition, planning and redistribution. More importantly, there were troubling signs that land distribution and access were being tilted to favour a new black elite – connected to the ZANU-PF leadership – able to take advantage of the lack of clear guidelines for the land reform program. Prompted by these concerns, the UK suspended disbursements to the first phase of the land program in 1989.

The 1990s were a lost decade for land programs. Political and economic crises succeeded one another, progress on redistribution largely ground to a halt and the Mugabe government increasingly relied on brinkmanship to maintain its hold on power. Government, donors and landowners all found convenient reasons for not making land redistribution a priority. Land policy discussions between Harare and London degenerated into squabbles about who bore primary responsibility for addressing inequities.

Despite international diplomatic pressure, Zimbabwe adopted constitutional amendments in 1990 and 1993 that made compulsory land acquisitions easier and freed the government from the willing seller, willing buyer formula. The government also increasingly emphasised the importance of economic returns in land redistributions, signalling a shift to favouring larger "capable farmers" rather than the landless poor. The constitutional amendments and a 1992 redraft of the Land Acquisition Act empowered the government to compulsorily acquire rural land in full use, not only underutilised properties. However, growing controversy dogged the land program, as it came to light that many prime beneficiaries of redistribution were senior government officials, including ministers and military officers, who received properties well below market value.

When a Labour government came to power in the UK in 1997, a sharp chill developed in British-Zimbabwean ties. While much has been

made of this, the following points must be made to put it in context. First, during the initial phases of land reform in the 1980s, a less cumbersome British approach to funding could have allowed far more land to be redistributed at a time when the Zimbabwean government actually seemed more committed to an equitable policy. Secondly, the sums spent by the British on redistribution were remarkably low given the historical benefit the British Empire gleaned from Rhodesia's fertile land. Thirdly, the sometimes bellicose language employed by British aid officials was counterproductive. Finally, however, the main share of blame for the deterioration of relations must be placed on the Mugabe government, which vacillated between ignoring the land issue and misusing it for partisan political gain. The practice of redistributing valuable land to ZANU-PF insiders also revealed an increasing corruption. The government's own funding priorities indicated that land was being used as a powerful tool to retain the loyalty of senior political and military officials.

In August 1997, President Mugabe promised large unbudgeted payments to liberation war veterans who had been outraged at the plundering of a war victim's compensation fund by high ZANU-PF officials. In November of the same year, 1,471 commercial farms were listed for compulsory acquisition. These factors helped trigger a severe economic crisis that was intensified by crushing foreign and domestic debt; investor concerns about threats to seize half the commercial farms; slumping commodity prices; a public angry with rising prices and corruption; fraying relations with the UK; and general alarm among international financial institutions. On 14 November 1997, the national currency lost half its value in a single trading day.

Between 1998 and early 2000, donors undertook a last ditch effort to salvage Zimbabwe's land policy. Amid a series of externally initiated negotiations, President Mugabe grew increasingly reactive and embraced a radical land reform agenda. While squatting had occurred periodically since independence, by mid-1998 thousands of blacks were camped on white-owned farms. The president's on-again, off-again insistence that the government would not pay "a penny" for newly acquired land played a key role in encouraging the occupations. Though some occupations may have been spontaneous, and the government occasionally threatened, and even carried out, evictions, "war veterans" and ZANU-PF party officials encouraged and physically facilitated squatting as a means to amplify pressure on farmers and the donor community while enriching themselves.

Despite an agreement struck at a 1998 UNDP-led donors conference on land policy, the situation continued to deteriorate. The majority of land redistribution beneficiaries were absentee landlords and ZANU-PF faithful with little farming experience. In the latter half of 1999, the Zimbabwean government released the list of the names of the "capable" indigenous

farmers who had received commercial leasehold farms during the 1990s; it showed that 272 farms had been allocated to top ruling party and government officials. There was also much international concern about Zimbabwe's largely mercenary role in a war in the Democratic Republic of Congo and demonstrable evidence that senior ZANU-PF and military officials were profiteering from diamond interests linked to the war.

In September 1999, the Movement for Democratic Change (MDC) was launched and quickly became the main opposition party. Political questions – a constitutional referendum and parliamentary elections – dominated the first half of 2000. ZANU-PF suffered a stinging defeat in its effort to push through constitutional revisions that, among numerous provisions, would have made it easier to seize land. This first major election loss suffered by ZANU-PF since independence dramatically altered the political landscape. With annual inflation now topping 70 per cent, frequent fuel shortages, a doubling of health care fees and unemployment around 50 per cent, public anger was considerable.

ZANU-PF reacted to the defeat by rushing a new constitutional amendment through parliament that freed the government from providing compensation to owners if properties were acquired for land reform. The legal basis for "fast track" procedures was put in place in May 2000 by amendments to the Land Acquisition Act, and farm occupations rose sharply. While the ZANU-PF did not engineer all of these occupations, the government was quick to take advantage of the process. Occupations have often been blamed on "war veterans", but those conducting the seizures were usually members of lightly-armed militias and included a range of government, parastatal and military personnel. Indeed, many of the alleged war veterans were far too young to have fought in the liberation struggle.

The Supreme Court ruled against the land occupations in March 2000, and courts directed police to assist with the evictions of squatters and ignore any countermanding directive from President Mugabe. Home Affairs Minister Dumiso Dabengwa said the farm invaders were threatening farmers and workers and obstructing cultivation, and requested that the occupations end. However, Mugabe overruled both the courts and his lands minister, telling squatters to ignore eviction orders. More than 400 farms were occupied in the wake of the government's referendum defeat, and more than 1,000 properties had experienced squatting by the time parliamentary elections were held in June 2000. Under the fast track program, the government proposed to redistribute some ten million hectares, mostly large-scale white farms, by December 2001. A select group of wealthy white land owners who directly supported ZANU-PF were spared, as were "indigenous commercial farms" and large farms leased from the government. As a result of the fast track program, Western donors suspended assistance for land redistribution.

The MDC fared well in June 2000 parliamentary elections, despite intimidation and gerrymandering. It captured 57 seats to ZANU-PF's 62, although the government's working majority was 35 (92-57) because of the president's prerogative to appoint a portion of seats in the legislature. ZANU-PF was left facing its most determined opposition since independence.

Despite the growing unrest and real concerns, particularly about refugees should its neighbour collapse, South Africa maintained quiet diplomacy with Zimbabwe. President Thabo Mbeki sought to contain, rather than resolve, the situation while ensuring that the ZANU-PF – a liberation party like his own ANC – retained power. This approach also grew out of the strong solidarity created between the liberation movements in southern Africa during the years of struggle. In addition, black South Africans were by and large sympathetic to the fundamental principle of land redistribution in Zimbabwe. Mbeki's preferred solution was not an election, or the MDC coming to power, but a government of national unity in which the MDC was subordinate.

Land seizures moved forward largely unabated. President Mugabe and ZANU-PF sought to accelerate them, silence the free media and undercut a judiciary that they viewed as too independent. Through 2001, the prospect of an internationally brokered deal on land reform cropped up repeatedly but, in retrospect, the Mugabe administration had already made the decision to "go it alone" and hence its approach to the negotiations was mostly an effort to limit international condemnation.

Critical food shortages soon developed and even previously patient institutions such as the World Bank openly suggested that only a political transition could get the country back on track. In August 2001, the UN World Food Program declared that Zimbabwe would soon face an exceptional food emergency. Hundreds of thousands of black farm workers and their families were soon out of work and often homeless due to the farm seizures and the collapse of commercial agriculture.

Late 2001 and early 2002 were dominated by presidential campaign manoeuvres. Repeated international attempts to negotiate a settlement failed to defuse the land problem or change the government's course. As the fast track program continued, the cost of the economic and political upheaval became increasingly evident in unprecedented inflation, a large national debt, an exodus of professionals and shortages of essential commodities. This came at a time when a rapidly decaying health system was struggling to deal with the HIV/AIDS pandemic. The food crisis and eviction of thousands of farm workers fed an environment of violence, intimidation and human rights abuses, while thousands of farms lay idle, and the best land was doled out to the ZANU-PF elite and urban residents.

ZANU-PF engaged in widespread violence and intimidation throughout the 2002 presidential election campaign. Almost all victims were MDC supporters. The election was marred by what was described as "slow motion" electoral theft, as the government deliberately slowed voting in urban areas that were MDC strongholds and disenfranchised large numbers of voters. Not surprisingly, President Mugabe secured re-election. Meanwhile, the IMF began moving forward with formal expulsion plans. Commonwealth leaders showed increasing frustration with the Mugabe government when they met in Abuja in December 2003. More developing nations were willing to back Zimbabwe's suspension from the Commonwealth, although Mugabe retained a core of support, particularly within southern Africa. On 8 December 2003, Zimbabwe withdrew from the Commonwealth, hours after its suspension was renewed by that group.

Zimbabwe's economy approached free fall. At the beginning of 2004, Zimbabwe had the highest inflation and the fastest shrinking economy globally. Corruption was rampant, as party officials exploited a parallel exchange rate. GDP shrank 13.6 per cent in 2003, foreign exchange reserves dwindled to a mere \$60 million and external debt reached \$4.1 billion.¹ Annual inflation peaked at 623 per cent in January 2004, before levelling off around a still staggeringly high 470 per cent in mid-2004. GDP was anticipated to fall slightly over 8.2 per cent in 2004, and another 3.1 per cent in 2005. More than 5 million people will likely need food aid in 2004. Dangerously, the government ordered a United Nations World Food Programme assessment team out of the country in May 2004, and President Mugabe and other senior officials made transparently false claims that Zimbabwe's agricultural production had recovered to earlier levels. Zimbabwe insisted that it no longer required food aid, despite compelling evidence to the contrary.

With the country under less intense scrutiny after the presidential election, international fatigue seemed to have set in. American and British diplomats appeared to feel that Mugabe was increasingly resistant to efforts to influence him, whether positively or negatively. The space for democratic expression continued to diminish, while the government and security forces appeared to remain committed to holding on to power at all costs. A brokered deal between ZANU-PF and the MDC leading to a transition government and eventual elections remains the preferred option, but its likelihood diminishes with time, and President Mugabe has given indications that he would like to remain in office until 2008. It appears that President Mugabe is more interested in manipulating a sizable ZANU-PF win in parliamentary elections tentatively scheduled for March 2005 than engaging in a credible dialogue with the MDC. Serious infighting within

¹ Unless otherwise noted, dollar figures in this report refer to the U.S. dollar.

the ZANU-PF also erupted during 2004 as the battle to succeed Mugabe gathered steam, and Mugabe looked to slow the political rise of rivals within his own party.

Land acquisition since 2000 has far exceeded the scope of any planning laid out in the 1980, 1991 and 1996 land policy documents. Indeed, by June 2004, the government was issuing contradictory statements on whether it intended to nationalise all land in Zimbabwe and totally eliminate private title in favour of government-issued leases. Zimbabwe's ill-conceived land efforts have sent shockwaves through an economy that will take years, and maybe decades, to recover. Agriculture had long been an engine of Zimbabwe's growth, and an ideal land redistribution program would have been implemented through a measured and controlled process that limited damage to food production and foreign exchange earnings. The current process, however, has spun out of control. It will be much more difficult to rebuild the agricultural economy than it has been to take it apart, and the scars from Zimbabwe's political violence and rampant corruption will likely linger for years to come.

Moving Forward. While a change in government will have to be the starting point if Zimbabwe is to emerge from crisis and credibly address the land issue, the international community should begin now to develop a program. Bringing in a variety of stakeholders is important, but there should not be an endless series of conferences and debates that bog down the process when a transition does occur. The overall design should create a more rational pattern of land use and a land market that is flexible and effective enough to maximise the entrepreneurial potential of Zimbabweans.

The complexity, scale and cost of such an effort should not be underestimated, as it has in the past. A responsible government will need coherent plans for freeing up the agricultural market and eliminating the high price of state-imposed planning.

Farms of all types and sizes will need substantial capital infusion during a transition phase. Even successful white commercial farmers have had many assets looted. They and black farmers who have been legitimately resettled will need help to re-establish themselves, especially access to capital. The importance of providing social and extension services cannot be underestimated. The failure to support land redistribution with such services, including health care and education, sent redistribution off track during the 1980s. Failure to learn this lesson would undermine any future effort.

Across the board, more flexibility in the design of farm sizes and an appreciation of the importance of farming skills are both necessary. Records relating to land will have to be regularised and a functioning system of administration re-built. These issues will require urgent attention, not only to allow reconstruction, but also to prevent future disputes. Without claims

resolution, little investment will occur, reconstruction will remain slow and social and political stability will remain at risk.

ZIMBABWE CONCLUSIONS AND RECOMMENDATIONS

Land Commission: Mandate

- ❑ The logical first step in moving the land process forward during a transition or post-transition period is to establish a Land Commission with a clear mandate, which is able to swing into action quickly. All parties should start planning its operations and earmarking funds so that significant action on land can immediately follow an eventual political settlement, whatever its form.
- ❑ The Commission should have a strong technocratic base and include a wide representation of Zimbabwean stakeholders. A special UN envoy, appointed by the Secretary General, should be detailed to the Commission to act as an observer and to help boost this body's administrative capacity.
- ❑ The Commission's mandate should be to:
 - conduct a comprehensive inventory of land, built around a determination of productivity, who holds what land, the status of redistributions, and compensation paid for leases and to owners;
 - organise land tribunals to mediate claims on the ground, with the help of considerable field staff;
 - incorporate broad public input through a series of town hall meetings on the topic;
 - develop a compensation formula for seized farms, recognising that 100 per cent compensation will not be possible;
 - develop new enterprises and lending expertise to new farmers, while establishing incentives for former farmers to return to their land (or smaller versions thereof); and
 - set the parameters of a new law to govern land reform procedures.

Disposition of Seized Commercial Farms

- ❑ Farms that are substantially underutilised and whose leases were acquired substantially below market value: these distributions should be declared unlawful, and the farms should be taken under control either for return to previous owners or, if the original owner is unwilling or unable to return, for further redistribution. Pending decisions on the allocation of such lands, such property would be vested in a statutory body – a National Land Trust – that would hold the farm until allocation decisions are made. Compensation for former

farmers, derived in part from assets seized from individuals associated with the current government, would be delivered on the basis of need, with the poorest commercial farmers given priority. Older former farmers could benefit from a pension package in lieu of a one-off financial compensation.

- ❑ Farms that are currently productive but were acquired substantially below market value: in these cases, the current occupants would need to add the difference between what they paid and fair market value if they wished to continue operations. If they refused, the land would revert to the National Land Trust either for return to the original owner or redistribution. If the previous owners did not receive compensation, they would be given a compensation package and expedited treatment to purchase new land.
- ❑ Farms that are being utilised and were acquired at fair market price paid to the government: these would be left alone. Previous owners should be compensated and given expedited option on a new farm.
- ❑ Farms acquired for fair market price but substantially underutilised: these (few) would be left with current owners, and former owners would receive a compensation package. If the current owners show no interest in farming, their leases might be suspended after a probationary period and eventually returned to the National Land Trust.

Distribution of A1 Plots (Small Subsistence Farms)²

- ❑ The past distribution of A1 plots, although deeply flawed in many cases, is probably best left alone.
- ❑ Past and future A1 redistributions should be treated as 'homesteads', whereby the government would hold the lease for ten years, after which if the resettled farmer was still on the land and had demonstrated capability, he or she would be given title and access to loans and other forms of capital.
- ❑ Farmers from communal areas and farm workers should be the primary beneficiaries of A1 redistributions. Farm workers, in particular, should be targeted for future A1 distributions, since they often have a good understanding of commercial agriculture and could become mid-sized holders under the right conditions. By using the ten-year homestead period, the government could ensure commitment to working the land, while making it more likely that the farmers might eventually be able to move beyond subsistence.

² For an explanation of A1 and A2 plots, see Chapter 6.

- ❑ In general, there should be a pattern of A1 distributions around larger existing commercial farms. This would allow A1 holders to emerge as contract farmers working in conjunction with established farms. By being co-located with commercial enterprises, these small farmers would also gain knowledge of the standards required to sell goods on the larger market. The phase-in of private title for small farmers clustered around larger commercial farms should encourage a more rational land market.
- ❑ A modest loan package should be made available upon receiving title, and substantial inputs of resources and services including health care, education, seeds, tools and fertilisers would be needed from both the government and the international community.

Distribution of A2 Plots (Larger Commercial Farming Properties)

- ❑ Zimbabwe should move toward more intense production from smaller plots. Future A2 distributions should use established farmers with larger properties to train and educate subsistence farmers clustered around them. In determining eligible candidates for A2 distributions, the emphasis should be on finding people who have the right skills to become successful farmers. Priority should be given to those willing to live and work on the farm and who do not hold substantial urban properties.
- ❑ Fair market prices should be paid for properties, although these might include long-term loans to some A2 recipients. The lands should be held under private title. If new A2 farmers default on loans or otherwise let their properties go derelict within a ten-year period, the government could reacquire the land and place it in the National Land Trust.
- ❑ New A2 farmers, and even some returning commercial farmers, should be eligible to receive capital and other inputs to get operations running again, given that many former commercial farms have been stripped of their assets. While the cost of such a land redistribution program would be substantial, donors are already spending hundreds of millions of dollars on emergency feeding programs. Getting Zimbabwe back on its feet is both cost effective and more desirable.

Grain Marketing Board

- ❑ The Grain Marketing Board should be phased out and replaced by a more modest body that would oversee a strategic national grain reserve. In managing this, priority should be given to buying crops from A1 farmers and other small producers.

Role of the International Community

- ❑ The international community should tighten sanctions until there is a political transition. The continuing omission of many families and business associates from the list of targeted senior officials has made the sanctions regime far too porous. A joint U.S.-EU task force, led by the U.S. Treasury Office of Foreign Asset Control and the UK Treasury International Financial Services Team, should better identify the flow of assets. The U.S. target list should include families of relevant officials, and any U.S. and EU accounting firms operating in the region should be required to annually document transactions involving listed individuals or entities.
- ❑ It would be helpful for the UK to acknowledge publicly its historical role in land inequalities within Zimbabwe and express willingness to lend financial and technical support to land reform under a transitional government. The UK should begin planning now for a four to six-month support program designed to promote rapid disbursements as soon as political conditions allow.
- ❑ The U.S. should lead the effort to provide resources for decentralised extension and social services to farming communities and farm workers hoping to return to work. These efforts should be undertaken in conjunction with other donors, notably the World Bank and the UN, who could lead the implementation phase.

SOUTH AFRICA

The History. Zimbabwe and South Africa differ in crucial respects. South Africa has the largest population in the region and the most developed economy on the continent, accounting for nearly half the GDP of sub-Saharan Africa. The likelihood of a Zimbabwe-style rural land grab in the foreseeable future is low. Nevertheless, the land issue remains politically explosive, not least because levels of land dispossession over the last century-and-a-half rival those anywhere in the world. Apartheid was driven in large part by land-related motives, as was the colonial system before it. Land expropriation was the central tool of social control and economic subjugation.

As apartheid ended a decade ago, there was general acceptance that it was politically unsustainable for 87 per cent of the land to remain in the hands of whites, who comprised roughly 10 per cent of the population. This historical inequity was further dramatised by the contrast between the high-input commercial farms of 50,000 whites, and the subsistence livelihoods being scratched out by a third of the country's population on the

impoverished former homelands. How that would be transformed has been the subject of debate ever since.

To their credit, the administrations of Nelson Mandela and Thabo Mbeki have undertaken a substantial land reform program that is rooted in the rule of law and has not alienated large-scale farmers or foreign investors. They have passed laws to protect the rights of farm workers and farm dwellers and attempted to decentralise administration of the land reform process. Recently, efforts have been made to accelerate redistribution and restitution programs. However, the vast majority of land remains in the hands of white commercial farmers and a few black commercial farmers. The first post-apartheid decade has seen the transfer of no more than 3 per cent of total agricultural land to blacks. On present projections, there is little prospect of transferring 30 per cent of agricultural lands to blacks by 2015, as some figures in government have cited as a goal. Tenure rights on commercial farms and in communal areas remain precarious for the vast majority of inhabitants.

If more is not done – or perceived to be done – the land question will inevitably become a larger political issue linked to widespread dissatisfaction over employment, poverty and housing. This is especially true in the former homelands, where holdings are contracting because of environmental degradation and demographic pressure.

If South Africa is to achieve its stated goal of 30 per cent agricultural land redistribution by 2015, it will need to commit much larger resources: for staffing and administration, land purchases, dispute adjudication and post-transfer support. It will have to accelerate the pace of transfers significantly and make difficult political choices.

Violence on farms and in rural areas remains unacceptably high, and the potential for future conflict is significant. Land conflict takes many forms, from urban squatting to rural farm violence and occupations. Although there are tensions within the tripartite governing coalition and with civil society, the ANC is not likely to be challenged by a significant political opposition in the foreseeable future, as was demonstrated by its sweeping victory in the April 2004 national election. The ANC's record in government has been responsible, particularly on economic policy. The party that most obviously has land as its organising issue is the very weak Pan African Congress.

There are three elements of the land reform program: restitution, redistribution and tenure reform. South Africa has made progress in formally settling restitution claims – the process is more than half completed, although those still outstanding are primarily the more complex and costly rural claims. Land redistribution is slowly accelerating, although the last fiscal year was the first since 1994 in which the budget for land redistribution constrained delivery. Over \$67 million in prepared projects

could not be processed, more than the annual budget of \$58 million. Tenure reform in the former homelands has not made significant progress, largely due to reluctance to squarely confront the division of power between the state and traditional authorities. Serious shortcomings in public administration and staffing also remain, including problems in joint budgeting, planning, implementation and delivery of integrated public services as a whole. Legislation to protect farm workers and labour tenants has had little impact on illegal evictions because there is insufficient support to implement it. A law designed to secure the land rights of those using and occupying land in the former homelands has been introduced in parliament to severe criticism from a number of constituencies.

Making Land Reform Work. The reform issue has been clouded by debates about the merits of "black empowerment" versus "land for the landless poor", largely obscuring the fact that in South Africa's extremely diverse agricultural sector these are not mutually incompatible objectives. In fact, both are essential for a more sustainable rural economy. If only the former were pursued, it could make real changes in ownership of commercial agricultural assets but would leave relatively untouched the central injustice of the colonial and apartheid eras: millions of landless South Africans with little hope of improving their livelihoods in either the rural areas or the cities. At present, many people simply pass from one area to the other.

The government will need to prioritise assistance to the landless and other poorer segments of society, especially those in the former homelands, so that they can become small farmers, particularly through land redistribution. De facto exclusion of many potential small farmers from current land reform efforts undercuts social justice and equity imperatives, undermines poverty alleviation and job creation agendas, and leaves dormant a potential segment of the population that could contribute greatly to economic growth and development. Efforts can be targeted to areas where violence is most prevalent or likely, such as KwaZulu-Natal and Mpumalanga, and elsewhere where rural poverty is deepest, such as Limpopo and the Eastern Cape. This should not be at the expense of support for newly emergent black commercial farmers, who are critical to change in the overall structure of asset ownership.

SOUTH AFRICA CONCLUSIONS AND RECOMMENDATIONS

South African Government

- Particularly for rural restitution claims still to be addressed, efforts should be made to provide in any package either suitable land for small-scale production and housing, a public works job, education or credit for micro-enterprise activity. Less emphasis should be placed on cash settlements.

- ❑ Increased support for the redistribution program should be made available. Given the flexibility of the subsidy system on which it is based, the redistribution program can accommodate a wide variety of models, including partnerships and joint ventures between white commercial farmers and new land reform beneficiaries. The program should include innovative approaches such as contract farming, share-equity schemes and municipal schemes, sharecropping, company-supported programs and other training strategies, as long as land is actually and directly transferred to the beneficiaries. Support for joint ventures must be linked to more stringent criteria and more systematic monitoring.
- ❑ Land reform beneficiaries should receive support on production and marketing, for example on livestock rearing, horticulture, and organic fruits and vegetables, as well as production of staple crops for subsistence. They also should receive greater access to the land market, for example through a program that provides incentives for large-scale farmers to subdivide their properties, such as a tax on farms above a certain size. Eminent domain, or expropriation – in accordance with the constitution – should be used in some cases to encourage greater cooperation by landowners. The above mentioned new tax should be calibrated to penalise those who hold large tracts of unused land for speculative purposes. Rates should be set within the tax according to agro-climatic region to take account of natural productivity differentials.
- ❑ Innovation should be encouraged by making resources available for pilot projects and new models for land acquisition, as well as for transfer and support for land use.
- ❑ Given the enormous impact of the HIV/AIDS pandemic on land reform, ensure that victims of the disease are given access to land reform programs, support land reform beneficiaries with HIV/AIDS so they can remain productive and target prevention and treatment efforts on beneficiaries. Inheritance laws must protect and give ownership rights to women whose husbands die of AIDS (and widows in general).
- ❑ Improve planning, coordination and staffing for land reform efforts. In particular, ensure that many more qualified personnel are recruited, trained, deployed and – most importantly – retained for the various government entities involved in land reform.
- ❑ Revive and support the Municipal Commonage program, a promising, but underutilised, means of making state land accessible to poorer South Africans on a lease basis.

- ❑ Relevant government departments, in coordination with interested stakeholders, should seek to amend the current Integrated Sustainable Rural Development Program to take into account the poverty alleviation, food security and job creation potential of land reform.
- ❑ Build on the Communal Rights Land Act, passed by parliament in February 2004, with the aim of eventually having a land administration system in the communal areas. This involves ensuring that there are legal protections against uncompensated evictions; assurances that housing can be improved on location; guidelines for property inheritance; a framework for selling or transferring land; proper government services such as sanitation, water, electricity, roads, schools and clinics; a system of administering property rights; and a means to address property disputes.
- ❑ Prioritise inclusion of women in restitution and redistribution initiatives and ensure that their land rights are more secure in tenure reform efforts, particularly by strengthening community access to communally owned land.
- ❑ Perhaps most importantly, increase significantly the land reform budget. Countless projects are unfunded and delayed, leaving the overall program less credible. The Land Bank and Department of Land Affairs' provincial land reform offices should be more fully funded to help potential smallholders purchase and manage land. The government should also provide more resources for and better organise post-transfer support of beneficiaries. Departments should work together to create a joint approach so that beneficiaries can submit one proposal to be co-financed and supported by a range of programs, rather than have to apply to each program separately.
- ❑ Engage representatives of civil society – farmers and farm workers unions, landless people, NGOs, commercial banks, research bodies and traditional chiefs – in an enhanced dialogue regarding national land policy. This could most helpfully take place in the context of the "Land Summit" called for by land advocacy NGOs and agreed to by the government. Enhancing and accelerating the delivery and impact of the current program will require more public debate, a stronger consensus on a vision for land reform and a more intensive partnership between government, farmers, landless advocacy groups, civil society and donors. A comprehensive rural development strategy is essential for improving and accelerating land reform.
- ❑ Recognise that the principal constraint to land reform continues to be inadequate commitment by the government, and that South Africa must decide to give a higher priority to this issue. Otherwise, violence fuelled by inequality and unfulfilled expectations could become a

much larger factor in its future, as the emotive issue of land becomes linked to dissatisfaction over the country's basic ills: unemployment and poverty.

South African Civil Society

- ❑ Build more cooperative working relations with government, campaign for a thoroughgoing review of national land reform policy and work constructively with government in any review that might occur.
- ❑ Channel lessons learned from civil society review and evaluation into the public debate by making specific recommendations aimed at enhancing existing land reform efforts and champion innovative approaches – a kind of learning-by-action process that is urgently needed to provide fresh momentum and inform new policy directions.

South African Commercial Farmers and Multinational Agribusiness

- ❑ Make much more land available for purchase at reasonable prices, with government more directly involved in the valuation process, which would enable greater numbers of smaller farmers to benefit from redistribution.
- ❑ Give more support to joint ventures and more post-transfer help to land reform beneficiaries.

South Africa's Donors

- ❑ Form a partnership with the government on shared objectives related to equity, poverty alleviation and economic development and, in that context, provide increased resources for its land reform efforts.
- ❑ Provide budget support to the land redistribution program for land acquisitions, particularly for small farmer initiatives.
- ❑ Help build capacity for land reform by assisting in improving staffing for relevant departments at the national and provincial level.
- ❑ Assist establishment of a forum in which land reform policy can be subjected to ongoing review, built on an improved monitoring and evaluation system.

PART 1

INTRODUCTION



1. The Context of Land Reform in Southern Africa

A. A QUESTION OF JUSTICE

Throughout southern Africa, questions relating to the control, ownership and use of land have become increasingly embedded in the wider challenges of development, livelihoods, governance and HIV/AIDS. Despite post-independence and post-apartheid promises of equitable redistribution, the vast majority of land in some countries in the region remains in the hands of white commercial farmers. In others, ownership patterns are concentrated among a small segment of the population, particularly the new political elite.

The land issue is pressing for a number of reasons. First and foremost, countries across southern Africa are wrestling with a fundamental question of justice and fairness: how best to broaden patterns of land use and ownership to include black majorities who were pushed to the margins during the colonial period, without undermining investor confidence or negating the rule of law. Purchasing land for redistribution can be enormously expensive, sometimes totalling billions of dollars, and the international community has repeatedly made clear that, while it is willing to offer some financial support, this will often be limited by their own domestic political realities.

Throughout the southern African region, the land question is commonly viewed through the lens of historic injustice. This is especially so in South Africa, Zimbabwe and Namibia, where white settlers backed by the former colonial powers of Europe were able to secure great economic privileges when they transferred political power to black majority rule. Hence, the land question invariably also includes racial elements; appeals for a more balanced land use were a powerful element of liberation discourse throughout southern Africa.

In Anglophone southern Africa, land tenure is governed by a blend of traditional customary law and law brought to the continent by the European colonial powers.³ In addition, most countries have developed a

³ The imported legal tradition in Botswana, Lesotho, Namibia, South Africa, Swaziland and Zimbabwe is Roman Dutch with some elements of English common law. (Roman Dutch legal codes were originally introduced by Dutch settlers in southern Africa, and after acquiring common usage, many of these elements were retained by subsequent

considerable body of their own statutory law applicable to land since independence. Colonial legal codes attempted to regulate land rights on privately owned or leased land and often mixed uneasily with traditional practices that allowed indigenous groups access without ensuring ownership or title. The continuing divide between traditional and European forms of tenure has created a deep rift between the haves and have-nots. Unfortunately, local groups that enjoyed traditional rights to use land have all too often been shunted aside, either losing their access to land altogether or being pushed to more economically marginal territories.

Further, land redistribution and land reform efforts are, by their very nature, highly charged politically. They involve very difficult questions of economics, political representation and the relative value a society places on traditional systems of land tenure versus imported systems governing use, access and ownership. Issues of land ownership often bring major commercial interests, public expectations, politics, the law and international concerns into direct and open conflict. At times, political parties have not been shy about invoking land policy for partisan advantage.

Several fundamental issues are at the core of the debate. What should be the basis or objective of land reform? Is it simply to transform the racial ownership patterns of existing farms, or are the creation of livelihoods and the reduction of poverty for the landless the central goals? Or are both? What strategies should be employed to accelerate land transfers and allow greater numbers of people to benefit? Should programs be targeted at larger-scale black farmers or poorer and landless individuals who could become small farmers? Will vested interests prevent reform of tenure arrangements?

Land reform efforts across southern Africa have also been complicated by the generally moribund state of agriculture. Small farmers continue to face a number of structural constraints and terms of trade that make competition within the global economy quite difficult. Further, while producers in most countries of the region are vulnerable to rainfall shortages, ill-advised government policies can often make the impact of drought much worse. Botswanan President Festus Mogae complained that Zimbabwe was suffering a "drought of good governance".⁴ Across the region, the quality of governance varies widely.

British colonial authorities. The Roman Dutch tradition remains influential with regard to property laws.) Malawi inherited English law, Mozambique and Angola the Napoleonic code.

⁴ Zimbabwe recalled its High Commissioner to Botswana after Mogae's comments. Southern Africa Documentation and Cooperation Centre, 2 December 2002.

The situation in Zimbabwe has intensified the debate across southern Africa by raising the expectations of the landless and increasing uncertainty among white commercial farmers. For example, the lack of a more robust response by South Africa's leaders to the land grabs and wider crisis of governance in Zimbabwe has diminished prospects for foreign investment in southern Africa as a whole and placed the continent's own blueprint for relations with donors and investors, the New Partnership for Africa's Development (NEPAD), at risk.

Zimbabwe has also demonstrated that disputes over land can quickly turn violent, particularly when they are manipulated for short-term political gain at the expense of long-term stability. This report focuses directly on Zimbabwe and South Africa because land has been a conflict issue in Zimbabwe and has the potential to be one in South Africa. Sadly, the mishandling of land reform has accelerated racial and ethnic polarisation, and such missteps will make the achievement and maintenance of completely equitable and racially non-discriminatory societies all the more difficult. Organised pressure in support of sustainable land reform in most of southern Africa is underdeveloped. However, civil society organisations are an important source of knowledge and expertise on the issue, and the history of land reform supports the notion that they can be vital in strengthening government resolve and commitment – just as it was in South Africa in 1994.⁵

Although land policies are complex, expensive and politically challenging, a failure to take more meaningful action to resolve landlessness among the rural poor and growing numbers of urban squatters could inflict high long-term costs through increasing unemployment and crime, further entrenching fundamental social inequities and generally reinforcing a lingering sense that the issue of land is emblematic of unfulfilled post-independence promises. This will be exacerbated by the HIV/AIDS pandemic, which leaves some of the poorest and most vulnerable people in society liable to lose their land in the aftermath of a death of a family member. HIV/AIDS also has a devastating impact on the staff and budgets, and therefore the capacity, of land reform institutions.

One size does not fit all with regard to land reform. The issues of land and agrarian reform faced by Zimbabwe, South Africa, Botswana, Angola and Namibia, while bound by some common threads, are distinct. The countries have important differences in terms of levels of urbanisation, the economic significance of the agricultural sector, wealth inequality, climate and even HIV/AIDS prevalence. For example, land reform has received less attention in South Africa than in Zimbabwe because agriculture is a

⁵ Report of the Southern Africa Regional Conference on Farm Workers' Human Rights and Security, 3 May 2001. Available at www.oxfam.org.uk.

smaller part of the economy. South Africa's level of urbanisation is also much higher, and disputes in shantytown settlements have been as much a flashpoint as rural land disputes.

Namibia, Botswana, Angola and Mozambique

Before turning to the specific cases of Zimbabwe and South Africa, it is useful to glance at the situation elsewhere in the southern Africa region. The Namibia government made headlines in February 2004 when Prime Minister Theo Ben-Gurirab announced acceleration of the land reform program. Though he defined the new approach as a blend of a willing seller, willing buyer plan and a more aggressive expropriation scheme, and officials insisted any actions would conform to the rule of law, the announcement concerned white commercial farmers. There has been some suggestion Namibia's government is stepping up redistribution due in part to forthcoming elections, although it also seems clear that the commitment of white commercial farmers has been less than ideal. The bottom-line is that the current dynamics unfolding around the land issue in Namibia between SWAPO war veterans, government technocrats, former colonial power Germany and the white commercial farmers show an eerie resemblance with the Zimbabwean downward spiral that started in the late 1990s.⁶

Botswana, which has been able to keep its 1.7 million citizens relatively satisfied with land policy, provides an important regional model. Customary land makes up more than 70 per cent of the total, and the country has emerged largely as a management success story. A very low population growth rate has considerably eased the pressures on land faced in some other countries in the region. The use of Land Boards as a regulatory body has been widely accepted by the public, and traditional chiefs have maintained relevance in the administration of customary lands. Land Boards have aimed to improve administration of customary land and make economic opportunity available to a wider range of citizens, including through farming, tourism and hunting.

In addition to many other challenges, Angola and Mozambique have wrestled with land policy as part of the broader effort to emerge from years of war. Land conflicts in Angola stem from the large flow of returning refugees and the confusion that has resulted from unclear tenure legislation. The problem has been exacerbated by confusion over the legal framework as returnees have often staked claim to land that is occupied and farmed by more recent inhabitants. Over 50 per cent of Angolans live in urban areas,

⁶ See John Reed, "Namibia Follows Zimbabwe in Targeting White Owned-Farms", *Financial Times*, 18 June 2004.

and many individuals hold receipts for urban property purchased during the war that the government does not recognise as title because they were usually acquired from individuals who did not have the right to sell the land in the first place.

Mozambique has struggled with many of these same title issues. However, unlike Angola, it has formally addressed the matter by a July 1997 law, which allows the state to lease land to individuals, companies or communities for up to 100 years. While Mozambique has been quite successful in encouraging fairer treatment of both women and the rural poor in land policy, returnees still generally still have problems defending their rights against large landholders and foreign investors.

The Impact of HIV/AIDS

Finally, in every country of the region, HIV/AIDS makes land reform – and indeed a range of other social and economic issues – enormously more difficult. In South Africa, for example, some analysts predict the population will fall from 44 million to 35 million by 2025. By 2005, 1,000 people will die daily of the disease.⁷ The life expectancy of a twenty-year old South African is 36.6 years, and the country is only at the outset of the pandemic. Demographers project that adult life expectancy could be reduced to 26 by 2010, with 75 per cent of teenagers failing to reach the age of 16.⁸ Economic projections do not yet take fully into account the negative impact of these demographic trends on savings and poverty rates, returns from education, the ability of institutions to function and the stability of family structures.⁹ The lack of an integrated land use policy can only be exacerbated by the HIV/AIDS pandemic.

The many early deaths that will certainly result from HIV/AIDS have a different effect on men and women for historically grounded legal reasons. Many rural populations throughout southern Africa still rely on customary law to determine the inheritance of farmland. In many cases, the treatment of men and women under customary law is quite disparate. Although practice varies within the region, male household heads are usually entitled to land for their homesteads, cultivation and grazing.¹⁰

⁷ Health Systems Trust, "South Africa Population Expected to Drop by 26 per cent by 2050", 2003. Available at www.hst.org.za.

⁸ R. Dorrington, D. Bradshaw and D. Budlender, "HIV/AIDS Profile in the Provinces of South Africa: Data for 2002", University of Cape Town, Centre for Actuarial Research, 2002.

⁹ See remarks by Alex de Waal, program director, Commission for HIV/AIDS and Governance in Africa, "Macro-Economic Implications of HIV/AIDS", delivered in Addis Ababa, Ethiopia, 29 May 2003.

¹⁰ The Human Sciences Research Council of South Africa and the Food and Agriculture Organisation of the United Nations, "Seeking Ways Out of the Impasse on Land Reform

When a man dies, his male children inherit his land. Usually, women, regardless of their marital status or age, cannot acquire land or landed property on their own, even in matrilineal systems.¹¹ In cultures ravaged by the HIV/AIDS pandemic, this often means that women are victims of land-grabbing upon their husband's death.

Under modern statutory law, men have often proved adept at securing their interests. Even women from elite groups face difficulties in defending their legitimate property rights. Across the region, women and children suffer from even more severe poverty on the death of their husbands and the subsequent repossession of land use rights by male relatives of the deceased. Inheritance laws must protect women whose husbands die of AIDS. If not, the numbers of permanently impoverished female-headed households will explode, generating further inequality, not least in South Africa, and increasing dependency on state welfare mechanisms.

Given the enormity of its impact on the region, HIV/AIDS policy must be integrated into land reform analysis and planning, including by making particular provision for widows. The disease affects decision-making processes regarding beneficiaries, the use of land within the program and future patterns of redistribution.¹² It impacts land reform directly in the following ways:

- It will impact potential beneficiaries of land reform who are removed from programs because of their illness, while others will fall out of the program later due to sickness. This can lead to their families losing, underutilising or even disinvesting in land.¹³
- Women are "dispossessed" of their land by relatives after the death of their spouse.¹⁴
- Families impacted by HIV/AIDS are often evicted as farm workers because of illness, and their bargaining power is

in Southern Africa", notes from an informal think tank meeting, Pretoria, 1-2 March 2003. Available at www.oxfam.org.uk.

¹¹ This is a generalisation that does not always apply across Africa. For example, in matrilineal communities in Malawi, a husband will generally move to his wife's family's residence, and the man does not inherit land in his original village. New trends are also emerging in some areas in Tanzania with patrilineal societies where some fathers prefer to pass their land to daughters feeling they will be better caretakers for family members.

¹² Report prepared by the Food and Agricultural Organisation for a workshop on gender and land reform in Pretoria, 17 June 2003.

¹³ Dan Mullins, "Land Reform, Poverty Reduction, and HIV/AIDS", paper presented at South African Regional Poverty Network conference, 4 June 2001, p. 1. Mullins points to anecdotal evidence throughout Africa that demonstrates higher rates of infection among mobile, relatively highly paid civil servants.

¹⁴ "Women Fight Back Against Traditional Land Grabbing", IRIN, 19 June 2003.

often lessened when negotiating sharecropping terms or other arrangements.¹⁵

- ❑ High rates of infection will decimate staff of the institutions involved in land reform, which will undercut future capacity, finances, human resources and planning.¹⁶
- ❑ Illnesses related to HIV/AIDS prevent current and potential beneficiaries from participating in community meetings and activities.
- ❑ State budgets will require major increases for treatment and prevention, leaving land reform and other initiatives to fight for diminished resources.

B. ZIMBABWE

For years, Zimbabwe was a bright spot on the African continent. It was a steady agricultural exporter, and its population was well-educated. The capital, Harare, was the image of a modern African city, and communication and other infrastructure networks were well-developed. Although the country remained in the middle of the global pack with regard to indicators such as gross national product, Zimbabwe's prospects appeared bright. With the advent of majority rule in 1980, then Prime Minister (now President) Robert Mugabe spoke compellingly of the need to preserve Zimbabwe as a multi-racial and multi-ethnic state, and he increasingly projected himself as a statesman able to exert a positive role in ending conflicts within southern Africa.

However, in recent years Zimbabwe's position has been sharply reversed amid intertwined economic and political crises.¹⁷ President

¹⁵ Michael Roth, "Integrating Land Issues and Land Policy with Poverty Reduction and Rural Development in Southern Africa", paper prepared for the World Bank Regional Workshop on Land Issues in Africa and the Middle East, September 2002, p. 8.

¹⁶ Ibid.

¹⁷ See ICG Reports on Zimbabwe: N°22, *Zimbabwe: At the Crossroads*, 10 July 2000; N°32, *Zimbabwe: Three Months after the Elections*, 13 July 2001; N°40, *All Bark and No Bite: The International Response to Zimbabwe's Crisis*, 25 January 2002; N°41, *Zimbabwe at the Crossroads: Transition or Conflict?*, 22 March 2002; N°47, *Zimbabwe: What Next?*, 14 June 2002; N°52, *Zimbabwe: The Politics of National Liberation and International Division*, 17 October 2002; N°60, *Zimbabwe: Danger and Opportunity*, 10 March 2003; and N°78, *Zimbabwe: In Search of a New Strategy*, 19 April 2004 all available at www.icg.org. See also Lloyd M. Sachikonye, "Whither Zimbabwe? Crisis and Democratisation", *Review of African Political Economy*, no. 91, 2002; Edward Lahiff, "The Regional Implications of the Crisis in Zimbabwe: Rationale and Principles of Regional Support for Land Reform; Political and Economic Spill Over", Zimbabwe Conference, Institute of Security Studies, 27 November, 2002.

Mugabe and the ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF) party have increasingly relied on selective enforcement of the law and political violence to maintain their hold on power. Zimbabwe's economy has been in virtual freefall, with annual inflation climbing over 600 per cent at the end of 2003 before dipping down around 500 per cent in April 2004. Real gross domestic product declined by more than 13 per cent in 2003 and, according to the International Monetary Fund (IMF), Zimbabwe's economy contracted by 40 per cent between 1999 and 2003 – making it the fastest shrinking economy in the world.¹⁸ Commercial agriculture, once responsible for up to a quarter of gross domestic product, has become one of the sectors hardest hit. As commercial agriculture withers, service industries have also suffered. More than 5 million Zimbabweans will likely require food assistance in 2004, although the government has cynically announced that agricultural reproduction has tripled in a single year and that Zimbabweans will not need international food aid. Virtually every social indicator is in steep decline. Political deadlock between ZANU-PF and the leading opposition party, the Movement for Democratic Change (MDC), has amplified the economic malaise and threatens to escalate into far broader political violence. Zimbabwe has become further isolated internationally following its withdrawal from the Commonwealth in December 2003 and its efforts to block food from reaching the country's neediest citizens during 2004.

The issue of land use and ownership – already deeply contentious given the British colonial legacy and the Rhodesian government's approach to race – has become inextricable from the twin economic and political crises. While virtually every observer has maintained since the onset of majority rule that addressing the serious land inequities between white and black Zimbabweans was of fundamental importance, very little progress was made between 1980 and the late 1990s. There is plenty of blame to go around. Despite President Mugabe's redistributive socialist rhetoric, his government displayed little interest in assembling a credible land reform program. White commercial farmers generally failed to realise that maintaining the status quo, with a small minority of whites holding around 40 per cent of the country's territory, was fundamentally unsustainable. Donors, particularly the United Kingdom, failed to put significant hard cash on the table to finance a credible land redistribution program.

Compounding these difficulties, President Mugabe began aggressively confronting rising challenges to his authority in the second half of the 1990s. In an astute political manoeuvre, he increasingly exploited genuine sensitivities about the land issue to divert attention from growing dissatisfaction with his government. While this may have been an effective

¹⁸ "Pensioners Hurt by Record Inflation", IRIN, 26 December 2003.

tactic to ensure political survival, it came at a very high cost. Accelerated seizures of white commercial farmland devastated agricultural production and left hundreds of thousands of black commercial farm workers without a livelihood. Intense international media scrutiny on the plight of white commercial farmers largely neglected the black victims of the political violence and economic disruption, playing into the government's "us against them" rhetoric.

The mishandling of land reform has exacerbated racial and ethnic polarisation and will make it more difficult for Zimbabwe to move toward an equitable and racially non-discriminatory society. Instead of a much needed redistribution under the rule of law that protected food security, politically powerful individuals have acquired prime properties and established themselves as a new landed elite. Top party officials, including cabinet ministers, army officials and senior police, have received choice land. In many cases, they have ordered formerly landless poor citizens to vacate the properties they were initially encouraged to occupy.

Zimbabwe even now is a largely rural, peasant society. Land ownership has been an explosive issue in its politics since the inception of colonial rule and served as an important mobilising factor in anti-colonial politics and the liberation movement throughout the 1970s. The liberation struggle was to a large extent based on a rhetorical appeal for the indigenous owners of the land, black Zimbabweans, to reclaim what belonged to them. The implicit promise was that a majority rule government would give peasant farmers more land.

However after independence in 1980, ZANU, while maintaining the old rhetoric, actually encouraged large-scale commercial agriculture as a source of foreign exchange, which it used to fund a hugely expanded system of state employment, thus attracting people to the cities where they benefited from state largesse of various sorts, including food subsidies. In many ways, sanctions put in place against the white Rhodesian government had helped pave the way for this by encouraging the development of a largely inward-oriented economy in which import-substitution industries could develop. Mugabe's declarations at independence in 1980 that whites remained welcome in the new state were partly intended to keep them earning foreign exchange. While white farmers were encouraged to remain an important engine for economic growth, they were required to take a much lower political profile. Zimbabwe is by no means the only African country in which such a post-colonial settlement broke down in the 1980s and 1990s.

In Zimbabwe, the problem of land redistribution was historically articulated in the context of broader questions of human and political rights, which were equally central to anti-colonial agendas. The fact that ZANU-PF pushed for land redistribution while actually undercutting

human rights and democracy has left a bittersweet taste among many of those who fought for liberation. The 2002 ZANU-PF election slogan, "The Land is the Economy; the Economy is the Land", was a clear attempt to make land the central issue while pushing questions of democratic accountability to the margins.

President Mugabe's disputed 2002 re-election and the controversial land program have opened up important fissures within the international community. He has had significant success with appeals to anti-imperialist and pan-African themes in defence of his actions. Although some of his support among fellow African leaders has begun to wane as the crisis has worsened, his claim to be standing up to imperialist outsiders has resonance in many developing countries against a backdrop of steady economic difficulties across Africa, which many leaders have been quick to blame on restrictive IMF policies and Western market protectionism – not their own economic policies. This debate is being played out not least in two important new African institutions, the New Partnership for Africa's Development (NEPAD) and the African Union.¹⁹ Further, African and Western leaders have often been at odds regarding the role of promises of Western assistance to land reform during the crisis.

Land seizures continue in 2004, albeit at a slower pace. Zimbabwe may face a structural food crisis for years to come. Crop production on the redistributed farms is a fraction of former levels, and many of the most skilled agriculturalists are no longer directly involved in farming or have left the country altogether. Donors, while willing to offer generous food aid, remain understandably reluctant to engage with the government and provide assistance to increase production at farms that were seized through questionable means. In early May 2004, Zimbabwe's government began insisting that there was no food shortage in the country and ejected a UN food assessment team from the country. Citing the "success" of land redistribution, President Mugabe insisted that Zimbabwe would not accept international food aid in the coming year. While there have been marginal improvements in harvests, the UN estimated by mid-2004 that more than 5 million Zimbabweans still required food aid, with almost half of the neediest being in urban areas. Zimbabwe likely faces the prospect of ZANU-PF using food as a blunt instrument of its political power in the run-up to parliamentary elections tentatively scheduled for March 2005.

Equally troubling, the government appeared bent on nationalising virtually every scrap of land. In December 2003, it introduced amendments to the Land Acquisition Act that allowed it to acquire large commercial agro-businesses. In April 2004, the government evicted more than 1,500 farm workers and their families as they seized the multi-million dollar

¹⁹ The African Union replaced the Organisation of African Unity on 10 July 2002.

Kondozi farm in eastern Zimbabwe. In June 2004, lands minister John Nkomo declared that the government did not intend to become mired in disputes with farmers about the legality of land seizures, stating that eventually there would be no such thing as private land in Zimbabwe. However, the government backed off from Nkomo's statements later in June 2004, insisting there was no change in existing policy.

High rates of HIV/AIDS and persistent drought have added to Zimbabwe's general woes, at a time when life expectancy has dropped to 37 years – from a high of over 67.²⁰ The vast majority of Zimbabweans are caught in a social and economic trap of growing severity, where staggering inflation, sharply reduced economic opportunities and political tensions combine to make life a daily struggle.

This report surveys the broad history of land issues within Zimbabwe and analyses how land redistribution programs have been conducted since 1980. Special consideration is given to the political and economic dynamics that have converged to make the land issue uniquely explosive in Zimbabwe. In addition, practical policy recommendations for overhauling the land redistribution process are considered. Although many of these policy recommendations will only be feasible with either a new government or a substantial overhaul of personnel and orientation within the current government, the time for planning the sound implementation of such steps is now. Land redistribution and agricultural reform must ultimately be part of any credible effort to resolve the country's political and economic difficulties, and sensible land planning can only come about as part of a broader response to the previous decade of economic mismanagement, erosion of good governance and dismantling of the rule of law. In light of Zimbabwe's steadily deteriorating position, the international community should be poised with considerable resources if the country is willing to embark on a new course.

Fortunately, the Zimbabwe crisis has not yet erupted into a full-blown armed conflict. Given the government's firm hold over the military and security apparatus, as well as its increasing use of militia forces directly under ZANU-PF control, such a prospect still appears somewhat distant. However, the steady undercurrent of state-sponsored violence and dire economic conditions define a fundamentally unstable situation. Unless the overall dynamic changes soon, violence will almost certainly escalate.

²⁰ See World Health Organisation selected health indicators at www3.who.int/whosis/country/indicators.cfm?country=zwc.

C. SOUTH AFRICA

In South Africa, few issues are more contentious or loaded with historical baggage than land use and ownership. Land policies relate to fundamental aspects of economic, legal and political power. Although South Africa contributes nearly half of the gross domestic product of sub-Saharan Africa, its land inequalities are the greatest on the continent.

At South Africa's 1994 transition, roughly 60,000 white commercial farmers held 72 per cent of the agricultural land.²¹ The need for land reform received much attention during the political settlement that led to the end of apartheid. The best means to achieve it was unclear. Commercial farming was highly mechanised, making it problematic simply to redistribute the land to small-scale farmers who lacked the training or financial assets to sustain the system.

Since then, the seizure of white farms in Zimbabwe, where racial disparities in land holdings were less severe, has brought the need for land reform in South Africa into considerably sharper focus. Approximately 42 per cent of the population lives in rural areas; of that, about 35 per cent are in the former homelands. In total, 70 per cent of those South Africans living beneath the poverty level are rural. Nearly 70 per cent of the land is used for commercial agriculture, most of which is controlled by white farmers.²² In the former homelands, there are nearly 1 million small farming operations, according to the Congress of South African Trade Unions (COSATU), severely limited by the small size of land parcels and inequitable access to means of production.²³ But reform is not just a rural issue; it also involves the demand for land from urban and peri-urban populations, who want it for housing, micro-enterprises and supplementary subsistence agriculture.²⁴

²¹ Statistics South Africa reports that between 1990 and 1996 the number of large-scale farmers went from 62,084 to 60,938. This number plummeted to 45,000 by 2001. See www.statssa.gov.za.

²² Cheryl Walker, "The Land Question in South Africa: The Challenges of Transformation and Redistribution," presented at the Harold Wolpe Memorial Trust Conference, Cape Town, 25-27 March 2004. Available at www.sarpn.org.za/documents/d0000823/P926-Wolpe_Walker.pdf; South African Institute of Race Relations, "South African Survey (2000-2001)", Johannesburg, 2001. See also South African Department of Land Affairs, "Medium Term Strategic and Operational Plan: 2003-2007", 2003.

²³ COSATU is the Congress of South African Trade Unions, the largest union umbrella organisation in Africa. It defined farming operations as those meeting one of the following criteria: access to land for farming; ownership of livestock; or growing crops. COSATU, *Ways to Take Land Reform Forward*, February 2003, p. 3.

²⁴ Deborah James, "Land for the Landless: Conflicting Images of Rural and Urban in South Africa's Land Reform program", *Journal of Contemporary African Studies* 19, no. 1 (2001), p. 93.

Despite the fact that land issues were fiercely debated by South African liberation movements and the African National Congress (ANC) in the hardest days of oppression under apartheid rule, land reform has largely been placed on the back burner in the ten years since the end of National Party rule. The difficulties of making land reform work and the low political priority it has been accorded, according to former land official Cheryl Walker, have led:

the grand unity of the "land question" [to fragment] into a kaleidoscope of particular, localised, messy often conflictual and personality-inflected projects....This failure has, in turn, led to a growing erosion of confidence, across the political spectrum, in the ability of the state to manage a significant land reform program, whether in the interests of redistributive justice or of political and economic stability.²⁵

Part of the reason why land reform received relatively little attention after 1994 is because agriculture is a relatively small part of the economy when compared to Zimbabwe and the rest of southern Africa. South Africa's level of urbanisation is much higher and increasing rapidly. Land disputes in shantytown settlements as much as rural land disputes have been a flashpoint. South Africa faces extreme challenges in providing land for these rapidly growing urban and peri-urban populations. Conversely, there has been less demand for subsistence agriculture than in other parts of Africa, and the wage economy is better established. Nevertheless, resentment of overwhelming inequities, need for capital and underestimation of the land issue could – if left unattended – lead to explosive circumstances, particularly when combined with rising unemployment and poverty. This also affects the former homelands, where land rights will continue to be a source of potential conflict between traditional authorities and local governments.

The gap between government's promises and its capacity to deliver land looms large, particularly as the focus of reform efforts has shifted from providing land for the "poorest of the poor" to also include land for the development of black commercial farming as a means of black economic empowerment.

South African land reform has not kept pace with expectations. Only 3 per cent of the total agricultural area has been redistributed since 1994, and much broader progress is imperative. The comprehensive land reform program foreseen in the 1996 constitution and set forth in the White Paper

²⁵ Cheryl Walker, "The Limits to Land Reform: Rethinking the Land Question", in Jo Bcall and Shirreen Hassim (eds.), *State and Society in South Africa: Faultlines of Crisis and Sites of Stabilisation* (forthcoming).

on South African Land Policy of 1997 has largely been unrealised. A meagre 0.4 per cent of the annual budget is dedicated to land reform, and the issue has not been given prominence in the government's economic and social development program. Unlike illegal squatting by the landless poor in shantytowns around cities, which is a major policy challenge in itself, farm invasions have not been a major feature of the rural landscape, but thefts of stock, attacks on commercial farmers and more general rural violence show no sign of abating. Many South Africans have been reluctant to equate the land crisis with the urban housing crisis – lack of land on which to build – because of its implications, and the potential complications of land restitution to those who were dispossessed following the implementation of the Group Areas Act of 1950. However, demonstrators at the August 2002 World Summit on Sustainable Development in Johannesburg – frustrated at the slow pace of redistribution – called for Zimbabwe-style land occupations.

Macroeconomic changes also suggest the greater urgency of land reform. Large-scale commercial farming has become increasingly capital intensive, reducing the need for labour. Minimum wage legislation has driven even more workers out of the labour market. New laws and regulations governing rights and responsibilities on the farm have caused many commercial farmers to cut out social services for their farm dwellers and expel workers from their land.²⁶ Farm sector employment has dropped by over 30 per cent since the end of apartheid.²⁷

Deregulation in 1997 led to the systematic removal of many subsidies and state supports for white commercial farmers. State investment was dismantled, which changed overnight the risk profile of agriculture. South Africa now has one of the lowest rates of agricultural subsidisation in the world – an effective rate of 4 per cent, compared with 45 per cent in Europe. Profits are being eaten by high interest rates and input costs, as well as security issues.²⁸ There has been further concentration of ownership in the commercial agricultural sector, as multinational agribusinesses have bought their way in. A smaller pool is available for reform programs because less competitive white farmers have mostly sold their land to larger South African and international producers rather than making it available to be purchased for redistribution.

In short, while capital-intensive agriculture flourishes in certain profitable sectors such as wine-growing, rural poverty and landlessness

²⁶ ICG interview with Peter Jacobs and Ruth Hall, Program for Land and Agrarian Studies (PLAAS), 27 November 2003.

²⁷ McIntosh Xaba and Associates, "A Scoping Study of Current Freehold and Farming Communities in South Africa", DFID, 25 September 2003, p. 3.

²⁸ *Ibid.*, p. 9.

continue to increase. Over 25 per cent of households are mired in long-term poverty, according to recent research. Half of South Africa's blacks are unemployed, and the income of the bottom half of the black population has dropped by 60 per cent in the last 25 years, as the gulf between richer and poorer widens.²⁹ The Chronic Poverty Research Centre and the University of the Western Cape concluded, "The most important obstacle to escaping from poverty was the lack of access to basic economic resources like land". The South African Human Rights Commission voiced similar concerns.³⁰ President Mbeki has talked about "two economies" in South Africa "without a connecting staircase". Institute for Democracy in South Africa (IDASA) research indicates that over 80 per cent of the population view economic inequality as the key issue that should be addressed by government.³¹

As the urban population increases, the poor often migrate between shantytowns and impoverished former homelands. By comparison with Zimbabwe, land reform is a lesser priority than urban housing, water and electricity, social services and job creation. Households increasingly seek to spread risk by straddling both rural and urban livelihoods. HIV/AIDS and retrenchments in government services are requiring people to fall back on meagre safety nets that demand reliance on subsistence agriculture. These strategies need to be supported with more targeted assistance, often including small parcels of land.³²

A two-year study by the South African Human Rights Commission, released in 2003, criticised farm living conditions and noted an increase in violence against black workers.³³ The Commission put most of the blame for this violence on the government's slow enactment of land reform, which it said should be accelerated to avoid ultimately the corruption and violence that has resulted from fast track land redistribution in Zimbabwe. There is increasing public awareness that land occupation is a potential means for forcing the pace of land reform. This is accompanied by a growing consensus among landowners, business people and political parties that land reform must be greatly speeded up.³⁴

But it is not a matter of simply accelerating the pace of the current program. Fundamental questions related to target populations and program

²⁹ "Africa's Engine", *The Economist*, 15 January 2004.

³⁰ "South Africa: Blacks Getting Poorer, Says Cape University Study", IRIN, 14 May 2003.

³¹ "South Africa: Special Report on the Widening Poverty Gap", IRIN, 3 November 2003.

³² Ruth Hall, Peter Jacobs and Edward Lahiff, *Evaluating Land and Agrarian Reform in South Africa: Final Report*, PLAAS, 2003.

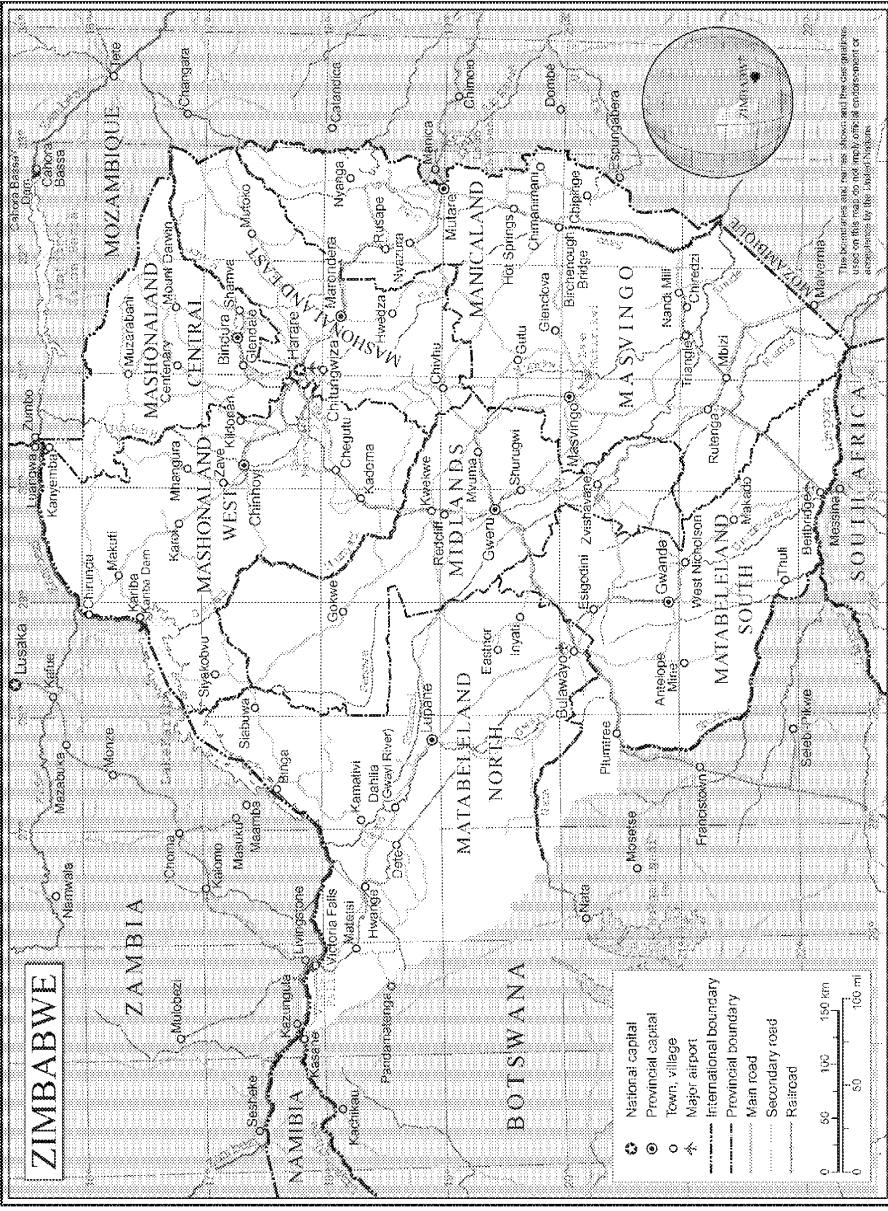
³³ "South Africa's Violent Farms", BBC, 3 September 2003.

³⁴ ICG interviews in South Africa, May and December 2003.

objectives must be addressed and basic elements such as post-transfer support and greater tenure security prioritised. Ten years into the post-apartheid era, which began with such great expectations, land reform is still very much up for grabs. The government and other stakeholders have much more to do to ensure that it becomes an engine of economic transformation rather than political conflict.

PART 2

ZIMBABWE



Map No. 1420 Rev. 1 UNITECH MATIGAS
 January 2004
 Department of Personnel, Operations
 Cartographic Section

2. A Bitter Colonial Legacy: 1889-1980

Gross racial discrimination during the colonial and pre-independence periods inflicted an enormous toll on Zimbabwe's black population. The inequitable distribution of land, dating back to colonial times, sowed the seeds of discontent that became the first rallying cry of the liberation movement in the 1970s. Later, these same inequities provided the rhetorical justification for President Mugabe's fast track program that began in the late 1990s.

A. FUNDAMENTAL UNFAIRNESS

The origins of Zimbabwe's land problem trace directly back to the earliest colonial settlement. In 1889, the British South Africa Company, under the direction of Cecil Rhodes, was granted a charter by the British government to develop commerce and settlements in the territory that would later become Zimbabwe.³⁵ Rhodes hoped these territories would be rich in mineral wealth, although this ultimately was not true. After only limited discoveries of gold, the British South Africa Company shifted its economic focus from mining to agriculture. White settlers were offered substantial land, regardless of whether blacks were already living on it. The view of settlers toward the indigenous population was nakedly racist, as a newspaper item from 1895 made clear:

For the Rhodesian, it was absurd to take the untutored savage, accustomed as he is from time immemorial to superstitious and primitive ideas of law and justice, and suddenly try to govern him by the same code of laws that govern a people with many centuries of experience and enlightenment.³⁶

Much of the land was claimed by companies engaged in speculation, and the most fertile tracts – particularly in Mashonaland – were usually the first preference. The British asserted sovereignty over all land in 1894 under the Matabeleland Order in Council.

³⁵ Southern Rhodesia largely corresponds with the territory of today's Zimbabwe, and Northern Rhodesia corresponds with today's Zambia.

³⁶ *The Rhodesian Herald*, 19 April 1895, as cited in the *Report of the Presidential Land Review Committee under the Chairmanship of Dr. Charles M. B. Utefe* (hereafter called the Utefe report), August 2003.

The indigenous population was regularly brutalised as part of the settlement process, which helped spark a violent uprising against white settlers, known as the first *chimurenga*. People from both the Ndebele and Shona population groups revolted against the British in 1897. The uprising was violent and sustained but ruthlessly put down by the British. (The *chimurenga* later became a rallying cry for liberation fighters in southern Africa in the 1960s and 1970s and a rhetorical reference point for ZANU-PF during the fast track land seizures.) In 1898, the British government issued an Order in Council requiring the British South Africa Company to set aside Native Reserves – areas where black Africans could maintain a communal existence. While originally designed as a temporary measure, the Native Reserves helped cement a pattern of unequal land access in the region for years to come.

The British South Africa Company largely ignored the provisions of the 1898 Order that required the Native Reserves to provide indigenous groups with adequate land for cultivation, grazing and watering. In some areas, the Company allocated the better parts of the reserves directly to white settlers. Though many whites benefited from the Company's policies, they also sought to diminish its economic control over their property. With hopes of future sovereignty and self-governance, the settlers challenged the Company's claim of commercial ownership over land in the territory, which was now known as Rhodesia. A legal conflict between the Company, the settlers, black Africans and the Crown over rightful control of the land came to a head in a celebrated 1919 case.³⁷ The Privy Council decided that the Company could not acquire title to land it acquired by conquest, because such occupations could only take place on behalf of the Crown. At the same time, the Privy Council held that because individual ownership was foreign to blacks, they had no right of title. Thus, black Africans could only use and occupy land with the Crown's consent.³⁸ This solidified a system of dual land tenure, where whites enjoyed private title and access to land, and blacks continued to be governed by customary law. Something of this legacy survives today as land ownership and access are regulated by a blend of traditional customary law and Roman Dutch legal codes and English common law imported by the British.

As the British settlers began to enjoy economic success from expanded agricultural production, they sought to distance themselves from the meddling British South Africa Company and increase their relative autonomy from the British Crown. In 1922 they rejected a referendum proposal to incorporate the region into the Union of South Africa, instead

³⁷ See UK court case: *Re Southern Rhodesia* [1919] A.C.211.

³⁸ Department of Lands and Agriculture, "National Land Policy Framework", Harare, November 1998.

electing to make Rhodesia a self-governed British colony. Thus, as Robin Palmer writes, "the era of Company rule came to an end...[and] effective political power had passed into the hands of the white settlers, for the Rhodesian Civil Service and armed forces were responsible to Salisbury and not, as in other colonies, to London".³⁹

After asserting greater independence, the settlers moved to entrench their domestic dominance and further marginalise the black population. The Land Apportionment Act of 1930 essentially codified the white colonial seizures; some 51 per cent of Rhodesia's territory was set aside for less than 3,000 white European farmers. Black Africans were prohibited from owning or occupying land in the European areas, and much of the white-held land continued to be underutilised.⁴⁰ The white territories included a large portion of the high veld, the most fertile farming land. Much of the country's infrastructure was developed to facilitate the productivity of white farms, part of a broader system of generous government subsidies that farmers used to their advantage.

As whites seized large tracts of the most fertile and productive land, they pushed several million black Rhodesians into the remote drier zones of the Native Reserves, whose limited area ensured gross overcrowding and declining agricultural productivity. By 1948, 300,000 blacks still lived in white areas, prompting the colonial government to step up black evictions and the Land Settlement Board to reserve land for the settlement of British servicemen returning from World War II. Between 1945 and 1955, the number of white farms increased by almost 60 per cent, peaking at just over 6,200.

Racial splits in land ownership and access were also replicated in urban areas, where residential, industrial and commercial areas were divided between black and white. Blacks in the Native Reserves, on the other hand, continued to occupy the land only with the "permission" of the Crown. Tenure was insecure, and whenever the state desired, consent to

³⁹ Robin Palmer, *Land and Racial Domination in Rhodesia* (Berkeley: Univ. of Calif. Press, 1977), p. 132.

⁴⁰ The Land Apportionment Act 1930 took token steps to placate Africans while creating a de facto buffer zone of co-opted African farmers between white and black areas. About 1.8 million hectares were set aside as Native Purchase Areas where Africans could privately own or lease land. This was seen as an effort to balance legal provisions forbidding blacks from owning or purchasing land in white areas (something which few blacks could afford). In 1965, the Native Reserves were renamed Tribal Trust Lands, to be held and administered by the colonial government. After majority rule in 1980, the Tribal Trust Lands were established as communal lands under the Communal Lands Act 1981. Sandwiched between the communal lands and the mostly European-owned large-scale commercial farming areas, the former Native Purchase Areas primarily became small-scale commercial farming areas.

occupy or access the land could be withdrawn. The over-crowded communal lands continued to suffer over-cultivation, over-grazing, deforestation and frequent drought. Little thought was given to effective land use planning, and demographic pressures only made the situation more difficult. In 1901, the population was 712,600.⁴¹ By 1937, it stood at approximately 1.35 million, more than 56 per cent of whom lived in native reserves, where population density was 14.2 per square kilometre.⁴² By 1951, the population had again more than doubled to nearly 2.83 million. Despite Rhodesia's inability to attract the colonial population it sought, the huge farms awarded to white settlers and the swelling native population combined to produce very high competition for diminishing fertile plots. As the number of white farmers and their cattle herds expanded, viable farm territory available to blacks grew increasingly scarce.

In 1953, Rhodesia became a member of the Federation of Rhodesia and Nyasaland. However, the federation disbanded in 1963, when majority governments came to power in Nyasaland and Northern Rhodesia, which became Malawi and Zambia, respectively. In 1964, a more confrontational white government under conservative Prime Minister Ian Smith and the Rhodesian Front Party came into office. Smith made his Unilateral Declaration of Independence for Rhodesia on 11 November 1965, eventually triggering British sanctions against the breakaway colony. Racial disparities in Rhodesia at this time were stark; white per capita income was ten times that of blacks, and educational expenditures were at a similar ratio. A series of negotiations with the United Kingdom was unsuccessful in setting acceptable terms for increased black political participation, and Rhodesia became increasingly isolated. Sanctions had limited effect, though they did make it more difficult to export agricultural commodities such as tobacco. Rhodesia's white farmers compensated by saturating the domestic market, often at the expense of black rural farmers producing maize.

The long history of discrimination and the government's increasingly recalcitrant position on majority rule provoked resistance from the black population. A guerrilla war against Rhodesia's white-dominated government erupted in the 1970s. Led by Joshua Nkomo's Zimbabwe African Patriotic Union (ZAPU) and Robert Mugabe's Zimbabwe African National Union (ZANU), the rebel leaders pledged to bring about radical land reform in an insurgency that came to be known as the second *chimurenga*.⁴³

⁴¹ 1982 Population Census, "10 Per Cent Report Sample".

⁴² Southern Rhodesia Department of Statistics, *Southern Rhodesia Statistical Year Book 1947* (Salisbury: Government Stationery Office, 1947), p. 5; *Southern Rhodesia Statistical Year Book 1938*, p. 2.

⁴³ Although Mugabe did not fight in the field for ZANU, he was one of the group's founders. He was imprisoned by the Rhodesian government for eleven years beginning

Neighbouring Mozambique and Zambia provided crucial bases of support for the guerrillas. More than 25,000 people were killed in the insurrection. While the government enjoyed a clear advantage in firepower, its minority status, international isolation and increasing white emigration eventually left it with few alternatives to negotiating with the rebels.

Smith vehemently opposed majority rule. In a 1976 radio broadcast he declared, "I don't believe in black majority rule in Rhodesia – not in a thousand years". Nevertheless, the white minority government belatedly recognised that its situation was politically untenable. In a desperate attempt to maintain the status quo and postpone the transfer of power to the black majority, the Smith regime sought to co-opt black farmers. In 1978, it abolished the Land Tenure Act, and land ownership ceased to be based on race. This received the support of the Commercial Farmers' Union (CFU) and was clearly designed to head-off more sweeping reforms. Before negotiations to establish black majority rule commenced at Lancaster House in London, the government also approved a process whereby blacks could acquire middle- and upper-class suburban land and large-scale commercial farms, as well as financing. In a 1978 move to garner rural support, the government subsidised staple foods and proposed a land redistribution program of 4 million hectares. At the end of the 1970s, however, more than 40 per cent of the country remained in the hands of white farmers. Without most of the privileges enjoyed by white farmers, land use in communal areas remained largely inefficient and underproductive.

The late 1970s also sparked a flurry of sales of white commercial farmland, most often to new white commercial farmers. The growing insecurity in the country and anxieties about majority rule (both ZAPU and ZANU espoused strong socialist rhetoric) caused many farmers to leave the business. Real estate prices dipped appreciably as land transactions became much more frequent. Half of Rhodesia's white population fled during the violence, and economic production slumped by 40 per cent between 1976 and 1979.⁴⁴

Successful farming continued to be viewed as partly a matter of scale, with large-holders seen as more efficient than small. Large estates could only be subdivided with permission under the Regional, Town and Country Planning Act of 1976, which originally intended to prevent fragmentation of farms and the emergence of a class of poor whites on smaller farms. But the notion of setting farm sizes to achieve minimum or maximum returns

in 1964. ZANU's military wing was ZANLA, ZAPU's was the ZIPRA. For ease of use, the two political/military factions are referred to as simply ZANU and ZAPU.

⁴⁴ Patrick Bond and Manyanya Masimba, *Zimbabwe's Plunge* (Harare: Africa World Press, 2003), p. 9.

was based on questionable assumptions, including fixed prices and a failure to account for technological change. The acquisition and redistribution of underused tracts could have had a positive impact on aggregate production and provided opportunities for resettlement and a mix of farm sizes. For any land market to work effectively, however, owners require flexibility to dispose of less intensively used portions of farms. Laws sharply restricting subdivision prevented the price of underused land from falling toward its low-use value and severely limited the number of small affordable properties available for purchase. As noted, blacks were not allowed to buy land in the areas reserved for whites until 1978.⁴⁵

Although in 1979, the government conducted elections in which blacks could exercise limited civil rights, the ballot was designed to exclude insurgent groups. Black Bishop Abel Muzorewa emerged as the prime minister after the ballot, but his government was widely viewed as a puppet of Ian Smith and the Rhodesian Front. This left the UK and the U.S. with a delicate task: both governments wanted a more genuine majority government in power, yet neither wanted to tilt unduly toward insurgent groups widely seen as leftist. Thus, the table was set for the 1979 Lancaster House negotiations that created Zimbabwe.⁴⁶

B. LANCASTER HOUSE

The Lancaster House talks were conducted from 10 September to 15 December 1979 and included some 47 plenary sessions and innumerable sidebar discussions. Britain's Lord Carrington chaired the negotiations, which took place in an often fractious environment. Although ZANU and ZAPU were officially allied as members of the Zimbabwean Patriotic Front, their mutual distrust ran high. Indeed, Robert Mugabe's ZANU movement would have preferred to settle independence on the battlefield, but leaders of neighbouring Mozambique and Zambia that were providing ZANU with military sanctuary pressured the militant leader to participate in the political talks. In contrast, Joshua Nkomo's ZAPU party was far keener to negotiate. Nkomo, in an effort to broker his own rise to head of state, had actually entered into secret talks with Ian Smith in 1978, much to Mugabe's annoyance. The Rhodesian government was at the negotiating

⁴⁵ Michael Roth, "Critique of Zimbabwe's 1992 Land Act", in Mandivamba Rukuni and Carl K. Eicher (eds.), *Zimbabwe's Agricultural Revolution* (Harare: University of Zimbabwe Publications, 1994).

⁴⁵ Roger Riddell, *The Land Question* (Gweru: Mambo Press, 1978).

⁴⁶ The Lancaster House conference was modelled after an earlier series of three meetings in 1960, 1962 and 1963 that established Kenya's constitutional framework and independence.

table largely due to considerable international pressure, including from South Africa.

After extended and difficult bargaining, the parties reached a series of agreements that would shape Zimbabwe as a sovereign republic. A ceasefire, to be monitored by some 1,200 troops from countries including Australia, New Zealand, Kenya and Fiji, was signed on 21 December 1979. The constitution was abolished in favour of one designed to install a democratic government. Until the full transition could be carried out with an election in March 1980, the country reverted to being governed as a British colony. Insurgent forces were to be demobilised and join the government military.

The issue of land was a particularly tough sticking point at Lancaster House, as was the article in the Declaration of Rights dealing with property.⁴⁷ The Declaration of Rights allowed Zimbabwe's new government to acquire underutilised land for resettlement purposes by compulsion as long as prompt and adequate payment in foreign currency

⁴⁷ Article V of the Declaration of Rights, "Freedom of Deprivation of Property", is as follows:

1. Every person will be protected from having his property compulsorily acquired except when the acquisition is in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development or utilisation of that or other property in such a manner as to promote the public benefit or, in the case of underutilised land, settlement of land for agricultural purposes. When property is wanted for one of these purposes, its acquisition will be lawful only on condition that the law provides for the prompt payment of adequate compensation and, where the acquisition is contested, that a court order is obtained. A person whose property is so acquired will be guaranteed the right of access to the High Court to determine the amount of compensation.
2. Exception will be made for the taking of possession of property during a period of public emergency.
3. Compensation paid in respect of loss of land to anyone who is a citizen of or ordinarily resident in Zimbabwe (or to a company the majority of whose shareholders are such persons) will, within a reasonable time, be remittable to any country outside Zimbabwe, free from any deduction, tax or charge in respect of its remission, but subject always to
 - a. its attachment, by order of a court, in connection with civil proceedings; and,
 - b. reasonable restrictions as to the manner in which the payment is to be remitted.
4. The Constitution will, on the same basis as in other Declarations of Rights, make clear that a number of transactions which might be considered to involve an element of compulsory acquisition will not be so regarded for the purposes of the Declaration of Rights.
5. It will be made clear, for the avoidance of doubt, that the property covered by this constitutional guarantee includes rights, whether vested or contingent, of individuals to receive benefits under a law, contract or scheme relating to the payment of pension benefits.

was made to the property holders.⁴⁸ The constitution gave the government the right of expropriation (with compensation) for a number of purposes including "town and country planning". This right seems to have been rarely exercised, and subsequent land redistribution efforts would focus much more heavily on underutilised lands rather than trying to craft a logical national strategy for reshaping the patterns of agricultural use. The constitution also provided a ten-year grace period during which the protective provisions of the Declaration of Rights were extraordinarily difficult to amend.⁴⁹

In order to persuade the Patriotic Front to accept the constitution, Lord Carrington made a public offer to commit British aid funds – within the limits of Britain's financial resources – for land settlement purposes. He stressed that funds would be forwarded that would permit government purchase under a willing seller, willing buyer principle of voluntary land sales and purchases. This was a bitter pill for the Patriotic Front to swallow since it circulated proposals at the conference that would have given the government far more sweeping powers. Many within the insurgent ranks hoped for a more revolutionary approach. Simply put, many black Zimbabweans found it outrageous that they would be expected to pay for something they felt had been stolen from them.

The amount of financial support pledged by the international community to support land redistribution remains a historical sore point.⁵⁰ The Lancaster House agreement does not contain any binding or clear statement of such support, although UK and U.S. assurances were essential in helping secure agreement. In 1977, UK and U.S. envoys David Owen and Andrew Young had called for the establishment of a "Rhodesian

⁴⁸ Such compensation would be exempt from exchange control restrictions.

⁴⁹ The constitution notes under Article 30, "Legislative Powers of the Parliament": "The protective provisions of the Declaration of Rights will for a period of ten years be amendable only by the unanimous vote of the House of Assembly and, subject to paragraph 27, the votes of not less than two thirds of the members of the Senate. But a Bill which amends the Declaration of Rights in such a way as to reduce the qualifications or exceptions to those provisions will be subject to the procedure in paragraph 28 above".

⁵⁰ What was promised before and during the negotiations is the subject of disagreement. There are several versions: Brian Donnelly, the British High Commissioner to Zimbabwe, documents the government's version in his commentary, "Land Reform: Not If But How?", *Sunday Mirror*, 31 October 2002. Alex Callinicos, *Southern Africa after Zimbabwe* (London: Pluto Press, 1981) refers to "a vague promise of Anglo-American Aid to buy out the white farmers" and the acrimonious atmosphere and brinkmanship of Lord Carrington when he summarily adjourned the conference indefinitely on 11 October 1980, frustrated with what he saw as a lack of progress. See also Robin Palmer's "Land Reform in Zimbabwe, 1980-1990", *African Affairs* 89 (April 1990), pp. 163-81; and Sam Moyo, *The Land Question in Zimbabwe* (Harare: Sapex Trust, 1995).

Development Fund" of at least \$1 billion to help aid a settlement, essentially echoing earlier calls by U.S. Secretary of State Henry Kissinger.⁵¹

At the same time, however, Carrington did his best to temper expectations, noting that a serious land resettlement program would be "well beyond the capacity" of any individual donor country. He added that the British government would also support Zimbabwe's efforts to obtain assistance from other donors. Importantly, and contrary to popular myth, neither the Lancaster House agreement nor Lord Carrington's statement mentioned specific sums or made reference to Britain paying compensation to white farmers. A number of Zimbabweans close to the talks argue that informal understandings for such support were reached, but ZANU and ZAPU negotiators likely overstated any commitments to justify their concessions on the very difficult land issue. Mugabe and Nkomo, perhaps trying to put the best face on the deal, issued a statement indicating that British reassurances and the likelihood of support from other donors were sufficient to persuade the Patriotic Front to accept the Declaration of Rights. In essence, the price for independence was largely maintaining the status quo with regard to land. That said, both the UK and U.S. would ultimately provide far less financial support for land redistribution than anyone at the Lancaster conference envisioned.

The transition to majority rule sparked considerable apprehension among investors. Reflecting concerns about Mugabe's radical socialism, the country's largest newspaper ran a banner headline in January 1980 claiming that he planned to "ban Christmas" if elected.⁵² Many feared the new Mugabe-led government would exact vengeance against the white population for its century of violent and discriminatory rule. Ironically, motivated by the need to maintain economic production and consolidate political power, Mugabe's government would employ large-scale violence against blacks, while adopting a *laissez-faire* attitude toward the white farmers.

⁵¹ See Paul E. Masters, "Carter and the Rhodesia Problem", *International Social Science Review* (Fall-Winter 2000).

⁵² Stephen Chan, *Robert Mugabe* (Ann Arbor: Univ. of Michigan Press, 2003), p. 17.

3. Unrealised Potential: The 1980s

A. TRANSITION OPPORTUNITIES

In early March 1980, Robert Mugabe and the ZANU-PF won a landslide election victory with over 90 per cent voter participation.⁵³ ZANU-PF gained 57 of the 80 black seats contested (the constitution set aside twenty seats for whites) and were able to form a government without entering into a coalition.⁵⁴ Nkomo was deeply distressed by ZAPU's poor showing. However, Mugabe offered them an informal alliance. Tensions between the two leaders would eventually result in dire consequences. Mugabe officially became prime minister on 18 April 1980, when the country was declared independent.

With much of the world looking on in both anticipation and apprehension, Prime Minister Mugabe took a remarkably conciliatory approach in office. He met repeatedly with Ian Smith, spoke convincingly of the need for coexistence and reconciliation between blacks and whites and entered parliament together with Smith when it opened session in May 1980. In comments clearly designed to reassure the more than 200,000 whites remaining in Zimbabwe, Mugabe told the nation on independence day, "If yesterday I fought you as an enemy, today you have become a friend with the same national interest, loyalty, rights and duties as myself. If yesterday you hated me, today you cannot avoid the love that binds you to me and me to you".⁵⁵

Mugabe also worked to reassure the international financial community to a degree that surprised many of his core supporters, and the government made sure that it did not default on Rhodesia-era international debts. The prime minister insisted the government would embrace capitalism and neither nationalise companies nor seize private property. Prime Minister Mugabe, while officially taking a non-aligned position, generally gave the Soviet Union a cold shoulder, increasing the likelihood of Western support. Mugabe's relatively moderate stance resulted in considerable aid commitments: at a March 1981 donors conference more

⁵³ In the run up to the Lancaster House, ZANU and ZAPU had negotiated as a common "Patriotic Front". ZANU subsequently amended its own party name to ZANU-Patriotic Front, or ZANU-PF.

⁵⁴ The ZANU-PF took 63 per cent of 2.7 million black votes cast during the three-day election.

⁵⁵ "Zimbabwe: A Final Priceless Reward", *Newsweek*, 28 April 1980.

than \$1.8 billion was pledged to assist Zimbabwe during a three-year period, with the World Bank responsible for nearly one quarter of that total.⁵⁶ These pledges included overall development programs, with relatively modest amounts allocated for land compensation or redistribution. Prime Minister Mugabe had largely assuaged international concerns about his stewardship and in doing so, effectively pushed land redistribution to the back burner.

At independence, a few thousand white farmers still occupied some 15.5 million hectares of land, and the flight of whites continued, while uncertainty surrounding Mugabe's Marxist leanings depressed real estate prices. Although much of the white-held land was underutilised, overall the white commercial farms were productive and profitable. Large scale farming dominated the economy, producing up to 40 per cent of export earnings and 90 per cent of food on local markets. White commercial farmers demonstrated considerable agricultural expertise and proved resilient in the face of shifting markets. With the cessation of violence in the countryside, their farms were positioned for increased growth and success. The new government took particular care not to alienate commercial farmers. For example, Dennis Norman, the white president of the Commercial Farmers' Union, was appointed minister of agriculture.

Even after independence, white commercial farmers continued to benefit from a playing field distinctly tilted in their favour. Black Zimbabweans, unable to subsist on the crowded marginal land in the Native Reserves, offered a plentiful supply of artificially cheap labour to white commercial farms. Further, given the declining productivity in the communal areas, where an estimated half million rural blacks lived with little access to land and no title, large farms increased their share of the domestic market.⁵⁷ In some strategic cases, blacks were prohibited from competing in the market by law, leaving the settlers to reap monopoly profits.⁵⁸ The government also provided direct and indirect subsidies to the commercial farm sector, reducing farmer expenses.⁵⁹ A steady transfer of white commercial farms to a younger generation of white commercial farmers continued during the post-independence period. A white Zimbabwean commercial farmer noted: "A hell of a lot of whites left after

⁵⁶ "Aid Flows Overflow", *The Economist*, 28 March 1981.

⁵⁷ Riddell, *The Land Question*, op. cit.

⁵⁸ A 1934 amendment to the Maize Control Act of 1931 taxed black smallholders to subsidise exports by white farmers. Palmer, *Land and Racial Domination in Rhodesia*, op. cit.

⁵⁹ For example, a land bank was created in 1912 for white immigrants. Black smallholders were excluded from using this facility until 1980. From 1935 to 1956, a 50 per cent subsidy was introduced to encourage white farmers to build soil and water conservation works.

1980. We stayed because we didn't have a problem with race, and those leaving offered a lot of incentive for young farmers to buy and invest".⁶⁰

With the transition to majority rule, the moment was ripe for the government to implement a far-reaching land policy that would allow black farmers a greater chance of commercial success. As one donor official remarked about the land situation at independence, "There was never a shortage of land in this country. There was a need to deal with the equity issue, and much of the land was underutilised".⁶¹ Indeed, according to one systematic survey, more than 3.8 million hectares of land in eighteen commercial farming areas were identified as underutilised based on three rigorous criteria: population density per square kilometre, planted area as percentage of total area and hectares per head of cattle.⁶² Thus, from the start, the government had substantial land available for purchase and redistribution – almost one third of the amount necessary to resettle its goal of 162,000 families.

The new government pursued a land redistribution program based on the willing seller, willing buyer principle of voluntary sales by owners and voluntary purchase by the government. Zimbabwe set a series of upwardly revised targets for land redistribution and resettlement during the early 1980s: in 1980 it aimed to resettle 18,000 families within five years; this target was then elevated in 1981 to 54,000; and in 1982 the target was expanded to resettling 162,000 families on nine million hectares of land by 1985.⁶³ The British government viewed these rapidly climbing targets as unrealistic, as did some Zimbabwean officials who expressed concern at the lack of strategic planning, the arbitrariness of the 162,000 figure and the government's capacity to resettle so many successfully.⁶⁴ Indeed, the program eventually proved itself too ambitious to implement effectively.

The new Ministry of Lands, Resettlement and Rural Development developed several phases and plans for land redistribution: Model A, the most common form of resettlement, focused on small (five to six hectare) plots for individual households; Model B on communal farms; Model C

⁶⁰ ICG interview, Harare, 5 December 2003.

⁶¹ ICG interview, Harare, 11 December 2003.

⁶² Cited in Jeffrey Herbst, *State Politics in Zimbabwe* (Berkeley: Univ. of Calif. Press 1990), pp. 53-54.

⁶³ In 1980, the Zimbabwe government proposed that some 18,000 households be resettled over five years; a year later, in 1981, the government tripled this figure to 54,000 families. By March 1982, the government had revised its figures again, to 162,000 households, which it hoped to resettle by 1985. The British considered this figure totally impracticable, and they were right: it has proved something of a millstone ever since. See Palmer, "Land Reform in Zimbabwe, 1980-1990", op. cit., pp. 163-81.

⁶⁴ Jeffrey Herbst, "The Dilemmas of Land Policy in Zimbabwe", in Simon Baynham (ed.), *Zimbabwe in Transition* (Stockholm: Almqvist & Wiksell, 1992).

on a core commercial estate surrounded by smaller holdings; and Model D on pastoral grazing plots.⁶⁵ It was hoped that the land redistribution plans would relieve population pressures in the communal areas and begin to provide a greater sense of racial balance in land ownership. A key priority for the government was also to resettle families displaced by the war.

A great deal of land was available during this period, particularly in the war-affected areas of Manicaland, bordering Mozambique, where owners had either been abandoned the land or were eager to sell.⁶⁶ Costs were still depressed because of the large numbers of sellers and lingering concerns that the government would take a hard Marxist line. Unfortunately, neither the government nor owners appeared to take a strategic view toward land redistribution. The government put ambitious plans on paper, but implementation was poor. Despite a long history of socialist rhetoric, the government was fairly muted about how it would conduct the land redistribution program and often seemed distracted. When the bureaucracy did try to resettle landless peasants, it became bogged down by organisational problems since as many as 25 ministries, departments and parastatals were involved in the complicated process.⁶⁷

The government's failure to craft and implement a workable program made it easier for both commercial farmers and donors to shirk their responsibility to establish a more equitable system of land use and ownership. Land owners were more eager to sell off underutilised land of marginal commercial value than to embrace a wholesale redistributive effort. A MDC parliamentarian lamented the lost opportunities of the immediate post-independence period, "In 1980, Mugabe was a hero, he was a liberator. He could have made a moral case for demanding aid for land redistribution".⁶⁸ Blame did not rest solely with Mugabe. A Zimbabwean social scientist maintains that the commercial farmers were equally to blame for not taking the situation more seriously: "The white farmers shot themselves in the foot by not being sincere in their approach to the first stage of land reform".⁶⁹

To assist the new government's resettlement program, in 1980, the British government committed a grant of \$47 million for land resettlement. UK matching funds were made available, for, among other things, acquisition of land.⁷⁰ Unfortunately, the British funds came with a

⁶⁵ See Bertus de Villiers, *Land Reform: Issues and Challenges* (Johannesburg, South Africa: Konrad-Adenauer-Stiftung, April 2003).

⁶⁶ Roughly a third of all families resettled in the 1980s were given land in this region. Herbst, *State Politics in Zimbabwe*, op. cit., p. 53.

⁶⁷ *Ibid.*, p. 48.

⁶⁸ ICG interview, Harare, 8 December 2003.

⁶⁹ ICG interview, Harare, 6 December 2003.

⁷⁰ Up to 1988, land acquisition expenses amounted to 44 per cent of total program costs.

somewhat onerous formula. Instead of putting money for land purchases up front, London wanted the Zimbabwean government to pay 100 per cent of the cost to purchase land and be reimbursed subsequently for 50 per cent. While British officials could make an accounting case for this approach, it tended to mire the bureaucratic process and contribute to both donors and government missing the window when land redistribution could have been most effective. A British diplomat acknowledges that "opportunities were missed on both sides".⁷¹ An additional \$56 million was granted as program aid, \$23 million of which was used to finance Zimbabwe's share.

The government of Zimbabwe, donors and white commercial farmers seemed to realise collectively that resettling 162,000 families – and making them viable farmers – demanded far more resources, capacity and support than they were willing to commit. Buying the land proved to be the easy part; land purchases accounted for only 44 per cent of the total resettlement costs in the first years of the program.⁷² More costly and more complicated was turning landless peasants into successful farmers, which required technical training, extension services and reliable infrastructure (e.g., roads, schools and health clinics). The high costs beyond purchase meant that some of the underdeveloped land acquired by the government simply sat idle because it did not seem economical to resettle families on it. As international financing tightened in the early 1980s, many commercial lenders pulled out, leaving the IMF to become an increasingly prominent lender.

In 1985, the government introduced the first Land Acquisition Act. Among other things, this measure obligated farm owners to obtain a "certificate of no present interest" from the state before selling or leasing land to another party. This gave government the right of first refusal on all large commercial farms for sale. Government consent was sometimes opportunistically withheld, resulting in foreclosure by the Agricultural Finance Corporation and acquisition of the farm at less than market value. However, these regulations were subject to considerable litigation. It is also important to note that the "no present interest" certificates did not include any suggestion that the government could reverse its position at a later date and retroactively declare official interest in obtaining the property. Real estate changed hands at a relatively brisk pace during the 1980s. Many farmers' groups rightly argue that the claims of "historical injustice" in land ownership patterns were belied by the fact that the majority of commercial farmers in Zimbabwe held these certificates issued after independence.

⁷¹ ICG interview, Harare, 10 December 2003.

⁷² B.H. Kinsey, "Forever Gained: Resettlement and Land Policy in the Context of National Development in Zimbabwe", in J.D.Y. Peel and T. Ranger (eds.), *Past and Present in Zimbabwe* (Manchester: Manchester Univ. Press, 1983), p. 104.

Many of the whites that now held farms in Zimbabwe were new investors who had paid for their farms and were not direct beneficiaries of colonial land seizures (although they were likely indirect ones). While the government may have decent grounds to argue that farmers were reluctant to sell commercial land at what government officials viewed as a reasonable price, it is difficult for it to maintain that only marginal lands were available when it repeatedly issued no present interest certificates on some prime land. Further, while thousands of families were resettled in the early 1980s, it was clear that the rate of resettlement could not keep pace with the growth of population in the communal areas.⁷³

Land and white farmers were far from the most pressing issues on the government's mind. Prime Minister Mugabe and the ZANU-PF were increasingly occupied with handling what they perceived as their two greatest threats: Joshua Nkomo's ZAPU party and South Africa's white minority government.

B. ENEMIES WITHIN; ENEMIES WITHOUT

In the late 1970s and early 1980s, South Africa's white minority government embraced a "Total Strategy" to destabilise regional governments and prevent them from supporting the liberation movement within South Africa. Pretoria repeatedly relied on military operations outside its borders to advance this agenda. While Zimbabwe was not the primary target – more resources were invested in supporting the Mozambican National Resistance (RENAMO) and the Union for the Total Independence of Angola (UNITA) – South Africa employed former members of the Rhodesian security and intelligence services and exploited the rivalry between ZANU-PF and ZAPU.⁷⁴ By masterminding attacks on the government within Zimbabwe, South Africa did not aim to achieve outright conquest, but simply hoped to keep the country fundamentally destabilised. Among its most notorious attacks, in 1981 South Africa had a hand in the sabotage and destruction of a large arsenal at the Inkomo barracks. Later that year, ZANU-PF headquarters in Harare were heavily damaged in a bomb blast that some suspected was designed to kill Mugabe. In July 1982, a majority of Zimbabwe's air force – thirteen aircraft at the Thornhill air base – was destroyed by sabotage, surely planned with insider knowledge.

⁷³ Zimbabwe's population grew more than 3 per cent annually for much of this period, with some 7 million people living in communal areas. See the United Nations Development Program, *Zimbabwe Land Reform and Resettlement: Assessment and Suggested Framework for the Future*, Interim Mission Report, January 2002.

⁷⁴ White ex-Rhodesian officers were integrated into the South African security services, as were thousands of rank and file white and black former Rhodesian soldiers.

While it was difficult to prove South Africa's involvement in the Thornhill raid, there seems little doubt that it was part of that country's broader "Total Strategy".⁷⁵ South African collaborators also regularly disseminated disinformation linking ZAPU to violent incidents within Zimbabwe, heightening the risk of a direct clash between ZAPU and ZANU-PF. In an environment replete with enemies both real and imagined, tensions between white and blacks and between the two former insurgent movements steadily escalated.

Prime Minister Mugabe assiduously attempted to reassure the international community of his moderation and importance as a regional statesman, but he remained deeply distrustful of his ZAPU partner and rival, Joshua Nkomo. Although some ZAPU members, including Nkomo, had received relatively token government positions, Mugabe viewed the group as a threat and painted it as eager to serve as a South African collaborator.⁷⁶ These tensions had considerable ethnic overtones, since ZANU drew most of its support from the majority Shona population, while ZAPU was largely supported by the Ndebele in Matabeleland. The Catholic Commission that investigated the Matabeleland violence, discussed below, that erupted during the early 1980s observed:

The antagonisms between the two guerrilla armies hardened into hostilities between their political parties, as ZANU-PF became convinced that ZAPU was supporting a new dissident war in order to improve its standing in the country. ZAPU, in turn, has expressed its belief that ZANU-PF used the pretext of the disturbances as a long-awaited opportunity to crush ZAPU once and for all. There is no denying the political nature of events as they unfolded in the 1980s, as the Shona-speaking, ZANU-PF-supporting 5 Brigade ruthlessly persecuted the Ndebele-speaking, ZAPU-supporting residents of Matabeleland.⁷⁷

Mugabe's first election, and the reconfiguration of the security services to include elements of ZANU-PF, ZAPU and the former military, increased tension between former guerrilla fighters. Both ZANU-PF and ZAPU took provocative steps in the early post-independence period, and limited clashes broke out during the demobilisation process as early as 1980. Government officials close to Mugabe spoke publicly of the need to act

⁷⁵ The chief of staff of the Zimbabwe Air Force was accused of assisting the raid. He was detained and tortured although the case against him was dismissed for lack of evidence.

⁷⁶ The ZAPU party received four portfolios in the 23-person cabinet.

⁷⁷ Catholic Commission for Justice and Peace in Zimbabwe, *Report on the 1980s Disturbances in Matabeleland and the Midlands*, March 1997.

against ZAPU, and Mugabe himself struck a clandestine deal with North Korea to train elite ZANU-PF units for counter-insurgency. This force – 5 Brigade – was trained to act with a ruthless disregard for the law. Some militant elements within ZAPU cached arms in anticipation of a violent confrontation. Banditry by both sides during 1980 and 1981 contributed to the tension and a general sense of lawlessness. While the government faced some disturbing security challenges during this period, including the recruitment of limited numbers of former ZAPU fighters as South African provocateurs, its response was excessive and disproportionate to the threat.

Instead of targeting the violent dissidents – several hundred former ZAPU fighters – the government launched a full-scale military campaign in Matabeleland, killing and intimidating the Ndebele population. Prime Minister Mugabe accurately presaged the violence in a 1982 speech to parliament: "An eye for an eye and an ear for an ear may not be adequate in our circumstances. We might very well demand two ears for one ear and two eyes for one eye".⁷⁸ Government atrocities against civilians were widespread, and between 10,000 and 20,000 people died in the fighting.

The 1985 elections ratcheted up tensions. When Ian Smith's Conservative Alliance won fifteen of the twenty parliamentary seats set aside for whites, Mugabe spoke harshly against the Lancaster House constitution saying, "We will not live with that indignity and insult very much longer. That dirty piece of paper [the constitution] will be cleansed".⁷⁹ However, ZANU-PF also did well, taking 63 of the 80 remaining seats. ZAPU continued to show strength in Matabeleland, but other parties largely disappeared. There were marked incidents of violence against opposition party supporters by ZANU-PF backers.

By the end of 1987, the Matabeleland campaign was over. A proper investigation of the violence was never officially conducted. ZANU-PF and ZAPU papered over their differences and merged, keeping the name ZANU-PF. Nkomo was made one of two vice presidents, although Mugabe and his trusted ZANU-PF advisers remained very much the senior partners. South Africa had modified its "Total Strategy" by this point. The Lancaster House provision that set aside twenty seats for whites expired in 1987, and Prime Minister Mugabe was made executive vice president, initially for a term of three years, to expire at the regularly scheduled 1990 election. Importantly, with the removal of the white parliamentary seats and the absorption of ZAPU, the ruling party no longer faced an effective opposition.

All too often, the violence of the 1980s has gone unconsidered in discussions of the land problem. Certainly, the focus on South African adventurism and ZAPU dissidents helps explain why Mugabe and his party

⁷⁸ Martin Meredith, *Our Votes, Our Guns* (New York: Basic Books, 2002), p. 65.

⁷⁹ *The Financial Times* (London), 21 August 1985.

were distracted from land policy. It is also telling that Mugabe was more than willing to use widespread violence and intimidation in the countryside to undermine ZAPU while diverting public attention from serious woes, including several years of drought, growing inflation and a steadily rising tax burden. Worse still, the fact that the Matabeleland violence received very little international condemnation sent a dangerous signal to Mugabe that he could get away with internal repression. The early 1980s also saw an end to his rhetoric of reconciliation toward the white minority.

Within three years of independence, half that minority had left the country and those that remained were increasingly detached from civic life.

Despite the tumult of the early and mid-1980s, however, white commercial farmers grew increasingly confident that the government would not embark on wholesale nationalisation or land seizures. Commercial farming continued to generate significant profits, and real estate prices, which had fallen between 1977 and 1984, bounced back. Many new faces were involved both in the white commercial farms and the small but emerging class of wealthier black farmers who often had connections to ZANU-PF. Resettlement of those displaced by the independence struggle was largely accomplished. Growing political stability sharply reduced the availability of affordable land for resettlement plans and made acquiring additional properties more expensive for both government and donors. It is ironic that the government succeeded so well in reassuring investors that it undercut its ability to move forward with land redistribution. Further, the government had still failed to institute a systematic approach to agriculture, and Zimbabwe's budgetary commitment to the Ministry of Lands, Resettlement and Rural Development was curtailed. It appeared that the government was directly scaling back expectations for land redistribution as part of its central political agenda.

The land resettlement program, particularly with regard to small Model A farmers, actually fared rather well. As a Zimbabwean official connected with the land program during that period noted, the Model A farms had "better than reasonable production", despite the fact that "the production picture on cooperatives was not as bright".⁸⁰ Between 1980 and 1989, some 3.3 million hectares were redistributed to 54,000 families. Though sizable, this was well below the government's stated target of redistributing land to 162,000 families by 1985. Nevertheless, with an infusion of donor funds, over 80 per cent of this land had been acquired by 1984 on the willing seller, willing buyer basis in the Lancaster House constitution.⁸¹ The largely orderly resettlement of more than 50,000

⁸⁰ ICG interview, Harare, 10 December 2003.

⁸¹ Martin Adams et al., *Report of ODA Land Appraisal Mission to Zimbabwe*, British Development Division, Harare, October 1996. Not all the \$47 million was disbursed by

families in such a relatively short time was impressive, and the majority of those families had benefited from increased opportunities for income generation, as well as health and educational facilities.⁸² *The Economist* enthused that with an economic return of approximately 21 per cent, the program was "one of the most successful aid schemes in Africa" but also warned of stark economic challenges ahead: "real incomes are little above 1980 levels, real wages have fallen and unemployment is expected to treble to three million by the end of the century".⁸³

Toward the end of the first decade of majority rule, in 1988, a British evaluation of land redistribution reached mixed conclusions. Citing the concept as fundamentally worthwhile, the evaluation found that the performance of small land holders on redistributed land had in some areas exceeded expectations, and that land redistribution involving poor, land-hungry farmers from communal areas had the potential to generate significant social and economic benefits. Ongoing studies by Bill Kinsey and colleagues systematically comparing the welfare of farmers in resettled areas to a control group from original communal areas have demonstrated increases in crop production and revenues, larger livestock equivalents and more equitable distribution of incomes for resettled farmers.⁸⁴ Yet, the initial phase of Zimbabwe's program also underscored the importance of providing basic infrastructure and support services to new farmers. Research confirmed that whether in communal or resettled areas, when appropriate extension services and agricultural policies were established, real improvements in yields, productivity, incomes and human development were feasible.⁸⁵

However, the UK evaluation also revealed growing British scepticism of Zimbabwe's administrative capabilities and its ability to sustain its level

the UK during the 1980s. It was reported that a remaining sum of UK assistance amounting to \$5.7 million was suspended in 1989 after questions were raised about Zimbabwe's capacity to implement the program effectively.

⁸² John Cusworth and Judy Walker, *Land Resettlement in Zimbabwe: A Preliminary Evaluation* (London: Overseas Development Administration, 1988).

⁸³ "Land-hungry", *The Economist*, 28 October 1989.

⁸⁴ One downside to the success of the resettlement program is it attracts extended family members and increases household sizes on the resettled farms. This has driven down income levels and consumption in the resettled areas. J.G.M. Hoogeveen and B.H. Kinsey, "Land Reform, Growth and Equity: Emerging Evidence from Zimbabwe's Resettlement Program – A Sequel", *Journal of Southern African Studies* 27, no. 1 (March 2001), pp. 127-136; B.H. Kinsey, "The Implications of Land Reform for Rural Welfare", in T.A.S. Bowyer-Bower and Colin Stoneman (eds.), *Land Reform in Zimbabwe: Constraints and Prospects* (Burlington: Aldershot, 2000).

⁸⁵ For example, see B.H. Kinsey, "Land Reform, Growth and Equity: Emerging Evidence from Zimbabwe's Resettlement program", *Journal of Southern African Studies* 25, no. 2, pp. 173-196.

and pace of achievement. Due to the scarcity of funds and general mismanagement, the country suffered a critical loss of qualified public service personnel, a serious shortage of technical specialists, including land surveyors and engineers, and concerns grew about the quality of fiscal management. There were also troubling signs that land distribution and access were tilting to favour a new black elite.⁸⁶ And despite the government's socialist rhetoric, the inequity of ownership was increasingly compounded by the desire of new black political leaders to become large landowners. These new elites appeared more than willing to take advantage of the unclear definition of "underutilised land" and the absence of guidelines for land reform.⁸⁷ In 1989, these concerns led the British to suspend disbursements to the first phase of the program.

Resettlement slowed sharply in the late 1980s, dipping below 5,000 families a year. The government also struggled to help newly relocated farmers succeed over the long haul, including provision of infrastructure and basic social and agricultural extension services. While the total number of resettled people was significant, population pressure on the communal areas (where the annual growth rate was over 3 per cent during the 1980s) had not diminished. A civil society activist argued, "Despite the rhetoric and despite being an issue where they could burnish their socialist credentials with little harm to their international economic position, the government just did not make land reform much of a priority".⁸⁸ Further, the Matabeleland violence had left raw wounds across society that would not heal for years.

Zimbabwe was also increasingly squeezed by economic forces that would help set the table for the political turmoil of the late 1990s. The World Bank encouraged export promotion and urged Zimbabwe to adopt a series of austerity measures to reduce the country's perennially high fiscal deficit (around 10 per cent of gross domestic product). However, because the government largely spared both the military and inefficient parastatals from budget cuts, it slashed important social services. Further, because the new government relied heavily on international loans in the early days of independence, debt service was consuming 37 per cent of export earnings by 1987. Smallholders had defaulted on more than 75,000 of 94,000 government loans, aggravating the fiscal crisis. As international

⁸⁶ Moyo, *The Land Question in Zimbabwe*, op. cit.

⁸⁷ See for example, Thomas Munjoma, *Zimbabwe Independent*, 12 May 2000. The government's support for black commercial farms – through loans made available by the Agricultural Finance Corporation – was directed to a number of new black farmers with large holdings. Some of these new black holders acquired farms of up to 5,000 hectares in prime agricultural areas.

⁸⁸ ICG interview, Harare, 2 December 2003.

borrowing conditions – in particular the reduction of the fiscal deficit – were increasingly imposed, the government sharply cut food subsidies and trimmed spending on health and education. With elections in 1990 and the tenth anniversary of the Lancaster House constitution looming, land would re-emerge as a potent political issue.

4. The Lost Decade: The 1990s

In many respects, the 1990s was a lost decade. Major political and economic crises steadily gained steam, land redistribution largely ground to a halt and the Mugabe government increasingly engaged in brinkmanship and demagoguery that kept ZANU-PF in power at a steep cost. The government, donors and landowners all found convenient reasons for not prioritising land redistribution, increasing the likelihood it could be exploited for political purposes. The government adopted an increasingly reactive approach, creating new crises as it sought to fend off threats to power. Amid these tensions, discussions between Harare and London dissolved into long arguments about who bore primary responsibility for addressing Zimbabwe's land inequities.

A. THE 1990 ELECTION, CONSTITUTIONAL REVISIONS AND COMMONWEALTH SUMMIT

In many ways, the 1990 election foreshadowed problems that would arise as Zimbabwe veered dangerously close to becoming a one-party state.⁸⁹ In 1989, a new opposition party, the Zimbabwe Unity Movement (ZUM) was launched by Edgar Tekere, a former secretary general of the ZANU-PF and long-time associate of Mugabe. ZUM aimed to fill the vacuum left by the absorption of ZAPU into ZANU-PF. Tekere gained notoriety for his role in a farm invasion shortly after independence that resulted in the death of a white farmer. Tekere was found guilty for his role in the death, but charges were dropped by courts under a provision that protected ministers acting to suppress terrorism. Yet, as an opposition leader Tekere maintained support from many conservative whites who despised Mugabe as a radical socialist since the liberation war.

In some regards, the 1990 election was a referendum on the first decade of independence. Zimbabwe had maintained economic growth rates of 3-4 per cent annually, stability had generally returned after the Matabeleland violence and President Mugabe had maintained a solid international reputation. However, many Zimbabweans appeared somewhat

⁸⁹ For a fuller discussion of the 1990 election, see Lloyd Sachikonye, "The 1990 Zimbabwe Elections: A Post-Mortem", *Review of African Political Economy* 17, no. 48 (Summer 1990).

uncomfortable with the notion of a one-party state, and rising prices and credible corruption charges at senior government levels combined to mute the excitement that was prevalent at independence.

With white commercial farmers still holding some 30 per cent of the land, Mugabe again turned to the land issue to generate political support. Advocating a bolder approach to redistribution, he commented before the election, "It makes absolute nonsense of our history as an African country that most of our arable and ranching land is still in the hands of our erstwhile coloniser, while the majority of our peasant community still live like squatters in their god-given land".⁹⁰ Given that the constitution would likely be much easier to amend after 18 April 1990 (when some Lancaster House provisions would expire), the prospect of a more radical approach to land redistribution loomed large.

Mugabe also continued his pattern of managed intimidation, rather than massive voter fraud, to bolster his position at the ballot box. ZUM was prevented from holding rallies in the capital, opposition candidates were consistently harassed and nine candidates withdrew within days of the vote as a result of violent threats. Mugabe targeted civil servants who supported the ZUM, stating "give us their names. We will kick them out".⁹¹ Predictably, ZANU-PF virtually swept the elections, taking 116 of the 120 seats, and Mugabe secured 78 per cent of the vote.⁹² By almost any accounting, ZUM was poorly organised and had uninspiring leadership.⁹³ Former political scientist Jonathan Moyo observed: "The problem is not an opposition party now. ZUM is finished. But the potential opposition is there, because the economic liberalisation program is going to be very painful, and next year 400,000 school-leavers are coming on to the job market with no hope of employment".⁹⁴ Moyo, a steady critic of the government before he became an ardent ZANU-PF defender as Mugabe's information minister, also said, "Mr. Mugabe and his party are not as popular as many observers thought", and "Zimbabweans do not want a one-party state".⁹⁵

⁹⁰ Meredith, *Our Votes, Our Guns*, op. cit., p. 121.

⁹¹ *The Independent* (London), 23 March 1990.

⁹² In the run-up to the election, the government reconfigured the legislature to consist of a 150-member unicameral parliament consisting of 120 elected seats, eight provincial governors, ten chiefs elected by a Council of Chiefs and twelve seats appointed by the president. Given that many of these appointees were Mugabe and ZANU-PF loyalists, the new system made it even more difficult for an opposition to gain a voting majority.

⁹³ In addition to the dismissed murder charge, ZUN leader Edgar Tekere was known for his violent temper and had been repeatedly arrested for drunken driving.

⁹⁴ *The Independent* (London), 16 August 1990.

⁹⁵ *The Guardian* (London), 20 April 1990.

A record low turnout of 54 per cent seemed to indicate an undertow of dissatisfaction. Nonetheless, convinced that the overwhelming result gave him a mandate to move forward with plans to create a one-party state, Mugabe declared that Zimbabwe's future would be "better guaranteed under one single, monolithic and gigantic political party".⁹⁶ Mugabe's pronouncement seemed all the more remarkable given the tide of democratic change sweeping across Central and Eastern Europe at the time. However, Mugabe's plans were scotched by resistance within the ZANU-PF politburo – primarily from former ZAPU party members.

In late July 1990, Minister of Agriculture Witness Mangwende, acknowledging that mistakes had been made throughout the 1980s, unveiled a new plan to resettle 110,000 families on 5 million hectares.⁹⁷ As 54,000 families had already been resettled on 3.3 million hectares, Mangwende in essence was restating the old goal of 162,000 families on roughly nine million hectares. If the figures were familiar, the legislation would make it considerably easier to acquire land (e.g., striking down the provision that land purchases had to be in foreign currency) and move beyond the willing seller, willing buyer formula. With the expiration of the Lancaster House Agreement, these plans would serve as the model for land redistribution in 1991 and 1992.

In the wake of the election, Zimbabwe hosted a meeting of the heads of state of the Commonwealth – the group of some 53 nations, mostly former British colonies. The Harare Declaration issued by the heads of state articulated the organisation's commitment to the principles of democracy, good governance and rule of law. The Commonwealth declared "democracy, democratic processes and institutions which reflect national circumstances, the rule of law and the independence of the judiciary, just and honest government" as fundamental principles for member states.⁹⁸ President Mugabe warmly welcomed Queen Elizabeth II to the summit and in the closing address declared, "Let the Commonwealth live and live forever".⁹⁹ That phrase would stand in stark relief as his government and the Commonwealth repeatedly clashed over democratic principles during the decade.

⁹⁶ *The Financial Times*, 31 March 1990.

⁹⁷ "New land policy bans ownership by foreigners", BBC Summary of World Broadcasts, 7 August 1990.

⁹⁸ See www.thecommonwealth.org/whowcare/declarations/.

⁹⁹ Chan, *Robert Mugabe*, op. cit., p. 68

B. NEW DIRECTIONS; SIMILAR RESULTS

In an effort to make its land policy more sweeping, the government pursued constitutional revisions. Despite diplomatic pressure by the British, the parliament adopted several constitutional amendments in 1990 and 1993 to make compulsory land acquisition easier and release the government from the willing seller, willing buyer formula.¹⁰⁰ The amendments watered down the strict payment provisions in the Lancaster House Agreement. In addition to repealing the requirement to disburse foreign currency for farms compulsorily acquired, parliament only required government payment to be "fair compensation" in a "reasonable time" rather than "adequate compensation, paid promptly". Parliament was given significantly more latitude in determining "fair compensation", and in an unprecedented infringement of the judiciary's independence, a provision was included that "no law shall be called into question by any court on the ground that the compensation provided by the law is not fair".¹⁰¹ Former Supreme Court Chief Justice Enoch Dumbutshena complained that the 1990 amendment went against, "all accepted norms of modern society and the rule of law", particularly questioning the right of parliament to establish land prices.¹⁰² Still, the government would later complain that the acquisition process remained "slow, cumbersome and expensive, largely because of the commercial farmers' resistance".¹⁰³

Following the amendments, a New National Land Policy was formulated in 1991 that recognised the economic role of the large-scale commercial farming sector and acknowledged the growing population and land pressures in the communal areas.¹⁰⁴ The government promised that changes, including greater emphasis on economic returns, would be instituted in the land reform program. It proposed to redistribute more land to "capable farmers", rather than merely redistribute it to the landless poor. The land for "capable farmers" would largely be drawn from existing white commercial farms, which would be cut roughly in half, from 11.5 million (approximately one-third of the entire country) to 5 million hectares. Resettlements were planned to increase from 3.3 to 8.3 million hectares. The government promised a land tax to discourage speculative holdings and a commission to examine land tenure issues. It also made

¹⁰⁰ Constitutional Amendment no. 11, 1990; Constitutional Amendment no. 12, 1993.

¹⁰¹ Section 6 of Act 30 of 1990.

¹⁰² *The Guardian* (London), 13 December 1990.

¹⁰³ Utete report, op. cit.

¹⁰⁴ A coherent statement of the New National Land Policy is contained in a paper by Ngoni Masoka (1991) that draws on the policy address delivered by Agriculture Minister Witness Mangwende at an emergency meeting of the Commercial Farmers' Union in the Harare Sheraton, 11 January 1991.

statements about reducing foreign and absentee land ownership and limiting the size of farms and the number that an individual or company could own. To ease planning and implementation, the government said it would designate several farms at a time for acquisition and resettlement.

The 1985 Land Acquisition Act was also redrafted in 1992 and set out new conditions and procedures. The legislation was pushed through parliament in less than three weeks. Under considerable international pressure, partly at the behest of white commercial farmers, the government deleted a provision that would have restricted the court from overturning government financial assessments of confiscated farms. Together with the constitutional amendments, the revised act explicitly authorised compulsory acquisition of rural land that was in full use, not merely underutilised. Land owners could not sell or make permanent improvements without written notice from the government.¹⁰⁵ Rather than requiring a one-time payment, compensation could be paid in stages, over five years, significantly reducing the actual value realised by sellers.¹⁰⁶ The revised act's complicated clauses were often challenged in court by the Commercial Farmers' Union.

Despite possessing greater legal latitude, formidable social and economic problems limited the government's actual capacity to implement its new strategy. Under the World Bank Economic Structural Adjustment Program instituted in 1991, which pressed the government to reduce spending and expensive subsidies, liberalise the foreign exchange system and eliminate its monopoly on the sale of agricultural commodities, the government had difficulty raising funds for land reform. The abolition of subsidies and controls significantly benefited rural producers, but urban consumers felt the effects acutely: the price of maize meal nearly tripled between 1990 and 1993; the price of bread shot up 250 per cent from 1992 to 1993; and delivering a baby in a hospital, once free, now cost \$75.¹⁰⁷ The structural adjustment program led to higher interest rates but, due to the government's reluctance to reduce the fiscal deficit, did not lower inflation, which hit 30 per cent by 1991. To compound problems, a devastating drought struck all of southern Africa in 1992. The government badly mishandled the first signs of the drought, and food stocks were perilously low. It also manipulated the distribution of food aid, giving clear preference to ZANU-PF supporters – a ploy that would be used repeatedly during political crises over the next decade. Although widespread starvation was

¹⁰⁵ The government had a one-year window to acquire land before the notice would need to be renewed.

¹⁰⁶ The slower timetable for compensation became increasingly problematic as inflation began to skyrocket from late 1997 onward.

¹⁰⁷ *The Economist*, 2 October 1993.

avoided, the cynical use of hunger as a political tool signalled trouble to come.

There are also suggestions that the government's rhetorical focus on radical land redistribution during this period reflected a desire to blame white farmers for the growing food crisis. Commercial farmers pointed to the drought and slump in overall food production to suggest the dangers of a poorly planned redistribution effort. White commercial farmers again raised concerns about government land redistribution plans that were accompanied by limited planning. It was relatively easy to assail the credibility of the plans given that there were few companion efforts to extend the support services vital to making relocated farmers successful.

While stakeholders continued to debate land policies, land redistribution was not keeping up with the continued brisk population growth. The first post-independence census in 1982 showed that Zimbabwe's population had ballooned to more than 7.6 million.¹⁰⁸ Population density had increased by nearly 50 per cent since 1969. In some areas, like Mashonaland East, the change was more than 70 per cent.¹⁰⁹ By 1992, the population was more than 10.4 million, with over 50 per cent living within the communal areas, indicating a clear need to boost economic productivity to support a rapidly growing population.

Land reform efforts in the early 1990s replicated those of the early 1980s: despite thundering rhetoric, the government did very little. The 1991 New National Land Policy spurred creation of a presidential commission, under the chairmanship of Professor Mandivamba Rukuni, to conduct a thorough review.¹¹⁰ Acceptance of its recommendations, including secure and legal land tenure for communal farmers, the subdivision of large farms and an appropriate system of land taxation might have improved policy in both resettlement and communal areas, yet most were ignored. Ironically, like the colonial courts, the cabinet ruled that the state should retain ownership of Communal Land. Communities that had used and occupied the land for centuries would only have access with government approval. While the cabinet urged that procedures for the subdivision and sale of commercial farms be streamlined, it kept the centralised land subdivision committee in place. Overall, the cabinet response to the Commission's findings was slow and incomplete; the

¹⁰⁸ 1982 Provincial Population Data Sheets, cited in the 1992 census.

¹⁰⁹ *1982 Population Census: A Preliminary Assessment* (Harare: Central Statistical Office, 1984).

¹¹⁰ Mandivamba Rukuni, et al., *Report of the Commission of Inquiry into Appropriate Agricultural Land Tenure Systems* (also known as the Rukuni report), 3 volumes, October 1994.

government rejected any recommendations viewed as a threat to its broad powers over land and natural resource allocation.

With the population booming, economy deteriorating (official unemployment rates had reached 50 per cent) and structural adjustment reforms unpopular, the Mugabe government began to face public protest. Economists Patrick Bond and Masimba Manyanya contend that in the early 1990s, "the legitimacy of the government was fading fast, as regular corruption scandals and growing hardship for urban residents began to breed discontent".¹¹¹ As it cut services, the government alienated labour unions it had pressured to keep wages down, while students at the University of Zimbabwe took to the streets to protest plans to take over the school's administration. But as consumers, students and labourers suffered, white farmers continued to do well, with large scale commercial farmers benefiting from policy reforms aimed to promote agricultural exports.

Pressure on the government budget was also growing from other quarters: for example, the Zimbabwe Liberation War Veterans' Association lobbied for its members' war service to be compensated. Following negotiations, several laws were passed in their favour, including the 1993 War Victims Compensation Act, which promised access to land. While it received relatively modest attention at the time, this act played a central role in triggering the economic and political crisis of the late 1990s.

C. LAND FOR THE ELITE?

In April 1993, the government published a list of 70 farms it intended to seize with its expanded land acquisition powers. However, controversy dogged the plan. The farm of Ndabaningi Sithole, a black Zimbabwean opposition politician, was included on the list, immediately sparking speculation that politics played a more powerful role than social equity. There were also legal challenges. A significant proportion of the 70 farms tagged for seizure would later be delisted after court appeals. In May 1994, the Zimbabwean *Daily Gazette* ran an expose revealing some of the new beneficiaries of redistribution. The paper disclosed that land had been redistributed to senior government officials, including ministers, military officers, cabinet secretary Charles Utete and former Agriculture Minister Witness Mangwende. In almost all cases, properties were received at well below market value. Sensing a political firestorm, President Mugabe quickly sought to distance himself and called for leases to be cancelled as of October 1994. After initial public anger subsided, however, senior ZANU-PF officials continued to receive considerable tracts of land.

¹¹¹ Bond and Manyanya, *Zimbabwe's Plunge*, op. cit., p. 87.

Whether land redistribution should be tilted toward small farmers or toward creating a new class of more successful black commercial farmers has always been a key focus of debate. Some argued for providing large numbers of poor people with small parcels, while others preferred redistributing larger parcels to black commercial farmers. All agreed, however, that commercial farmers should pay commercial rates to lease the land. Yet, this never happened – many farmers never paid the leases or, since the leases were never adjusted for inflation, paid derisively low rates. The secretive manner in which leases were allocated and the lack of a transparent system to advertise the availability of farms led to concerns about the process as a whole. The prominence of government officials and army officers on the list of those gaining access to leased farms prompted frequent accusations of cronyism, replicating those levelled against the former colonial authorities. Critics claimed that the program was becoming a land grab to benefit elites.

Budget scarcities heightened tensions between the agencies responsible for the land program. Resettlement rates were falling short of the revised targets established in the early 1990s. The 1991 New National Land Policy had changed targets again, to 220,000 households on 5 million hectares, but the government only settled some 20,000 families on 0.3 million hectares acquired from commercial farmers. It became increasingly clear that without donor funds for land acquisition and settlement, the program could not proceed. Apart from the basic costs of the actual land purchase, it was expensive to resettle small farmers from the communal areas on former commercial farms. Housing, water, seed, fertiliser and basic infrastructure such as roads, buildings, drainage, irrigation systems and land clearance accounted for more than half the total costs of land redistribution and resettlement. At the same time, the pattern of giving land to political, military and economic insiders raised sharp questions among donors about the program.

ZANU-PF maintained overwhelming dominance over public office after sweeping the parliamentary elections in 1995 and the presidential election in 1996.¹¹² Again, ZANU-PF tilted the playing field in its favour despite facing a relatively weak opposition, which was denied public financing and harassed. Opposition parties remained ineffective as they were plagued by weak leadership, poor organisation and a lack of cohesion. In an attempt to draw international attention to governmental interference and manipulation, the two main opposition presidential candidates – Bishop Abel Muzorewa and Ndabaningi Sithole – boycotted the election.

¹¹² The parliamentary and presidential elections had been separated by constitutional amendment. ZANU-PF took 117 of 120 seats in the parliamentary elections, but with only just over 29 per cent voter participation.

Seeking political mileage from the land issue in the 1996 campaign, President Mugabe linked the lack of British funding for land redistribution to threats to seize the land of white commercial farmers without compensation. Even though Mugabe won another six-year term with over 90 per cent of the vote, turnout was only 32 per cent, and domestic and international critics expressed concerns he was becoming a president for life. While he was quick to blame the impact of structural adjustment for Zimbabwe's ills, Mugabe's budget priorities were open to question. At a time when the HIV/AIDS crisis was growing severe, the government slashed the health ministry's funds by more than 20 per cent but increased cabinet salaries and the military budget. *The New York Times* observed:

Zimbabwe is at a crossroads. It could go the way of South Africa – an immensely popular president heading a multi-party democracy with room for dissent and a free press, overseeing an economy in which private enterprise is largely free to produce profits and jobs. Or it could go the way of Kenya – a once robust country with an unrestrained president who has dissidents whipped or threatened, controls the press and lets corruption siphon off so much state money that very little works as well as it used to.¹¹³

In a 1996 interview, President Mugabe insisted, "I would hate myself if I discovered my people regarded me as an oppressor or autocratic. The system we have allows as much freedom for an individual as possible. We do not just tolerate the whites, we accept them".¹¹⁴ However, the 80,000 whites left in the country would increasingly become the focus of intense political rhetoric as a growing economic storm gathered around the president.

D. RISING TENSION BETWEEN LONDON AND HARARE

The 1990s were marked by steadily rising mistrust between the UK and Zimbabwe, with land redistribution a predominant source of this friction. As far as the UK was concerned, land policy and resettlement were pushed to the sidelines between 1989 and 1995 because of Zimbabwe's failure to respond formally to concerns expressed in the 1989 review of the phase-one program. Britain re-engaged on land redistribution funding in March 1996 when Kenneth Clarke, Chancellor of the Exchequer in John Major's administration, stopped in Harare on his way home from a trade

¹¹³ Donald McNeil, "Zimbabwe's Leaders Scoff at Critics of Iron Rule", *The New York Times*, 27 April 1996.

¹¹⁴ *Financial Times* (London), 24 October 1996.

mission in South Africa. He met with President Mugabe, who prodded the British to fulfil their commitment to support land redistribution.¹¹⁵ The British delegation reacted strongly to Mugabe's earlier comments suggesting that farms could be seized without adequate and prompt compensation. Clarke warned that this would have serious consequences and strongly deter foreign investment.

In June 1996, the Minister for Overseas Development, Baroness Lynda Chalker, visited Harare for follow-up discussions with Minister of Lands and Water Kumbirai Kangai. The British Development Division in Harare used the meeting to revisit discussions on options for releasing \$5.4 million of funds and planning for a second phase of resettlements. The British emphasis on land redistribution as a means to alleviate poverty ran sharply counter to Zimbabwe's putative effort to create a new class of black commercial farmers and its increasing allocation of large commercial farms to wealthy blacks.

In a September 1996 policy paper on land redistribution and resettlement, Zimbabwe moved to clarify its policy framework – particularly its commitment to land redistribution for the poor – but this did little to reconcile British and Zimbabwean policy differences. The Zimbabwean government, now with far more sweeping powers to acquire land, hoped that the British would fund land purchases, even for compulsory acquisitions. The British remained wedded to the willing seller, willing buyer principle. Their resistance stemmed not only from aversion to compulsory acquisitions, but also from reluctance to be responsible for compensating white farmers. As one senior British diplomat explains, "It would be seen as Britain being directly responsible for white Zimbabweans; we are not".¹¹⁶ Rather the British, like the World Bank, remained firmly committed to the idea of a market-based approach to land reform.¹¹⁷

In an attempt to overcome the impasse in September 1996, the British government fielded an appraisal mission to develop proposals for a new phase of the UK-supported land resettlement program. The assessment's primary objective was to lay the groundwork for a round table conference

¹¹⁵ *The Herald*, 22 March 1996.

¹¹⁶ ICG interview, Harare, 9 December 2003.

¹¹⁷ There has been a lack of alternatives to World Bank land policy for countries in the region. Many bilateral donors lack technical expertise in the area, and the UN Food and Agriculture Organisation, which has a mandate within UN to handle land and agrarian reform, has so far not played a role in the land question in Southern Africa. A more critical examination by donors of World Bank policies could well produce better policy over the long run.

on land resettlement.¹¹⁸ The proposed conference was designed to expedite debate on land policy and obtain support from a wider circle of donors, which would also help ease political and financial pressures on London. In its final document, the field mission outlined the essential elements of a decentralised resettlement project aimed to benefit the rural poor. It would involve 25,000-35,000 households and cost \$150-\$230 million, or \$5,000-\$6,000 per settler household. On compulsory purchases, the document observed that the international community would be unwilling to bankroll land seizures, "Donors are most unlikely to fund the compulsory purchase of land, for example that arising out of designation".¹¹⁹ The report made no firm offer of funding and indicated that financial considerations would need to be negotiated between the UK and other donors at the proposed conference, which, it suggested, would be followed by a six to twelve-month period to finalise technical considerations for a five-year implementation program.

As the British assessment was being prepared, Zimbabwe's capacity to implement land reform continued to be hampered by bureaucratic constraints and infighting. At one stage, nineteen departments and agencies were involved in the resettlement program. There was also a debilitating rivalry between the Ministry of Agriculture and Lands, responsible for land acquisition, and the Ministry of Local Government, responsible for settler selection, infrastructure development and support. The conflicts within the government were also apparent in discussions with the UK and helped fuel London's growing reluctance to fund another phase of land resettlement.

Despite internal disputes, however, Zimbabwean authorities responded to the British planning overtures promptly and positively in December 1996. Mugabe's government agreed the British report provided a basis for further negotiations and accepted the notion of a donors conference. However, Zimbabwe was concerned the British might use the conference as a tactic to delay and pass their "responsibility" to others. While accepting the concept of a preparatory phase, officials insisted that full implementation and financial assistance for land reform should be resumed by July 1997. Bilateral negotiations continued in the first four months of 1997, and British aid officials held detailed discussions with interested donors. There was uniform scepticism regarding the capacity of Zimbabwean ministries

¹¹⁸ ODA Land Appraisal Mission to Zimbabwe, *Agreed Terms of Reference for British Appraisal Mission for Further Assistance to Land Settlement Program in Zimbabwe*, October 1996, Annex 1.

¹¹⁹ Since no donor other than Britain had previously funded land purchase, this diplomatic reference to "donors" not funding land acquisition was a reminder that the position of the British government had not changed since the Lancaster House negotiations in 1979.

to deliver a substantial resettlement program. It was also clear that land settlement could not be funded outside the government budget at a time when Zimbabwe had serious difficulties with the IMF over its deficit.

In May 1997, just prior to the July deadline Zimbabwe issued for Britain to resume funding land reform, UK elections resulted in a Labour majority and the subsequent appointment of Clare Short as secretary for international development. Relations would prove less cordial under Labour than the Conservatives. In November 1997, in response to a Mugabe remark that Britain would have to "look after" the white farmers, Short wrote Minister of Agriculture and Land Kumbirai Kangai:

I should make it clear that we do not accept that Britain has a special responsibility to meet the costs of land purchase in Zimbabwe. We are a new government from diverse backgrounds without links to former colonial interests. My own origins are Irish and as you know we were colonised not colonisers. We do however recognise the very real issues you face over land reform. We believe that land reform could be an important component of a Zimbabwean program designed to eliminate poverty. We would be prepared to support a program of land reform that was part of a poverty eradication strategy but not on any other basis.¹²⁰

Short's comments, particularly the "colonised not colonisers" remark, triggered a stormy reaction in Zimbabwe. The 2003 Utete report, commissioned by the Mugabe government to review the land program, references Short's comments to support its claims that "The Labour government refused to advance the process of land reform, in effect revoking Britain's obligations as per the Lancaster House understanding".¹²¹ British High Commissioner in Zimbabwe Brian Donnelly insisted the new government did not represent a sea change in policy. He also maintained that the principal new element introduced by Labour was to emphasise partnership with Zimbabwe, on the basis of sovereign equality, rather than a historical relationship rooted in colonialism.¹²² Nevertheless, the exchange increased tensions, which were further exacerbated by Zimbabwe's November 1997 notice that it would compulsorily acquire 1,471 farms, amounting to close to 4 million hectares.¹²³

¹²⁰ This letter appears in an appendix of the Utete report, *op. cit.*

¹²¹ Utete report, *op. cit.*

¹²² Donnelly, "Land Reform: Not If But How?", *op. cit.*

¹²³ Of these 1,471 farms, only 109 were acquired; many were offered for sale voluntarily. Most were de-listed after appeal or legal challenge with support from the Commercial Farmers' Union.

No British funds were made available to the government for land reform between 1990 and 1999, and both the British and Zimbabwean governments suffered from a lack of direction on the issue. Assessing responsibility for the breakdown between London and Harare over the land issue is one of the most divisive debates surrounding Zimbabwe's downward slide. Consider the divergent remarks of two white commercial farmers in Zimbabwe: "Blair washed his hands of land reform. There was absolute commitment in terms of Lancaster House and this was a historical commitment....You can't wash your hands of a historic culpability".¹²⁴ Another insists that the British first soured on supporting land redistribution after the visit by Baroness Chalker, who discovered that the situation was "absolutely about politics. The British are convenient scapegoats".¹²⁵

Clearly, both sides deserve a share of the blame. As a senior British diplomat observed, "The donor community underestimated some of the politics going on at the time, and perhaps missed the bigger picture, the forest for the trees...in light of the large amounts of humanitarian aid Zimbabwe now receives, it certainly would have been less expensive in the long run to put the money on the table and get on with it".¹²⁶ During the earliest phases of land reform in the 1980s, a less cumbersome British funding mechanism could have allowed far larger amounts of land to be redistributed equitably at a time when the Zimbabwean government seemed more committed. The actual sums spent by London remain remarkably low given the benefit the British Empire gleaned from the fertile land of Rhodesia. Further, Clare Short's often bellicose language seems to have miscalculated the land issue's political volatility in Zimbabwe and the lengths to which Mugabe would go to use it for his survival.

While the British certainly made missteps and influenced the EU and the international community to do likewise, the fundamental blame for deterioration of relations must still be placed on the Mugabe government, which vacillated between ignoring the land issue and using it solely for narrow partisan advantage. Worse still, the pattern of redistributing valuable land to ZANU-PF insiders was indicative of a government that increasingly strayed far from the principles of liberation and black empowerment which it rode into power. Admittedly, the government faced periods of drought and difficult economic conditions, which were at times exacerbated by dubious advice from international financial institutions; but Zimbabwe's funding priorities made clear that its interest in land was to bolster a powerful patronage system that ensured the loyalty of senior political and military officials. As London and Harare bickered back and

¹²⁴ ICG interview, Harare, 3 December 2003.

¹²⁵ ICG interview, 5 December 2003.

¹²⁶ ICG interview, 9 December 2003.

forth over funding for land redistribution, a cascading economic crisis was about to unfold.

E. BLACK FRIDAY

It was the lobbying power of Zimbabwe's war veterans that triggered the next domestic crisis. With the 1993 War Veterans Compensation Act, the government had agreed to provide a package of benefits to those who had suffered serious physical or mental injury during the liberation war of the 1970s. However, the administration of the compensation fund was deeply corrupt, and the veterans became increasingly critical of the ZANU-PF leadership. Disbursements were suspended in 1997 amid indications that the money had been almost completely looted by senior party officials, many of whom had not fought in the liberation struggle but claimed large payouts while veterans in real need were neglected.

This provoked a sharp dispute between the government and the War Veterans' Association, even though the latter's protests were spearheaded by Chenjerai Hunzvi, who directed many of the fraudulent payments himself. Hunzvi gave himself the nom de guerre "Hitler" for his alleged fearsome prowess on the liberation battlefield, although it appears he spent a large part of the independence struggle studying in Europe and saw little or no combat. Fond of fiery rhetoric, Hunzvi was more than willing to grandstand on the issue, and in July 1997 the veterans protested in the streets of Harare, leading the government briefly to ban public rallies. On 11 August 1997, President Mugabe was deeply embarrassed when war veterans disrupted his nationally televised speech on Heroes Day, a national holiday marking the liberation war.¹²⁷ Veterans subsequently vandalised ZANU-PF headquarters, and Mugabe quickly realised that he was uniquely vulnerable to the war veterans, whose liberation credentials were impeccable and whose anger over corruption and economic malaise resonated with the broader public.

In August 1997, a commission of inquiry headed by the chief justice of the Supreme Court was appointed to investigate abuses in the payment system. The War Veterans' Association was divided over the investigation.¹²⁸ The veterans forced a meeting on 21 August with Mugabe to insist that if they did not receive land and other compensation by July 1998, they would begin to seize white commercial farms. Mugabe appeared to accede to the

¹²⁷ Richard Cornwell, "Zimbabwe: Mugabe's Choice", *African Security Review* 7, no. 2 (1998).

¹²⁸ *Report of the Commission of Inquiry into the Administration of the War Victims Compensation Act*, Chairperson Mr. Justice Godfrey Gua Chidyausiku, Judge President, May 1998, Chapter 11.16.

demands and, at a ZANU-PF summit in September 1997, announced a package for veterans that included a one-time payment of \$4,100 to each individual and a \$163 monthly life pension. While it was not clear how the state would pay for this commitment, particularly as the IMF and the World Bank were expressing concern at the government's failure to rein in public spending, the pledge gave many war veterans a clear stake in continued ZANU-PF rule.¹²⁹ Mugabe's effort to buy off the war veterans would have dire economic consequences.

In October 1997, Mugabe and Tony Blair met at the Commonwealth summit in Edinburgh. Mugabe was eager for the British to provide \$250 million for land acquisition, but his request was largely given the cold shoulder. The British wanted to see a program that not only benefited the poor but also made broad economic sense, and they believed the Zimbabwean program failed these tests.

In mid-October, President Mugabe told the agriculture minister to identify and list some additional 1,500 commercial farms for rapid acquisition. He also made clear that he expected the British to pay, stating "We are going to take the land and we are not going to pay for the soil. This is our set policy. Our land was never bought and there is no way we could buy back the land. However, if Britain wants compensation, they should give us money and we will pass it on to their children".¹³⁰ The general chaos was further fuelled by Chenjerai Hunzvi's 10 November court appearance during an inquiry into whether he had embezzled funds from the war veterans' fund. Several hundred war veterans disrupted the court, marking the beginning of a steady onslaught on the independent judiciary.

Economic pressures on the government were mounting: a crushing load of foreign and domestic debt; investor concerns about threats to seize half the country's commercial farms; slumping commodity prices; the aggressive posture of the war veterans; a public increasingly fed up with rising prices and corruption; fraying relations with the UK; and general alarm among international financial institutions.¹³¹ Mugabe's unbudgeted payments to the war veterans finally broke the economy. Black Friday occurred on 14 November 1997. In the course of a single trading day, the national currency lost more than half its value. The chief economist at the finance ministry observed, "That currency crash was so severe – quite possibly, outside of wartime, the worst ever experienced in such a short

¹²⁹ Human Rights Watch, "Fast Track Land Reform in Zimbabwe", *HRW Report* 14, no. 1(A), March 2002.

¹³⁰ *The Guardian* (London), 15 October 1997.

¹³¹ Prices for tobacco, gold, lithium and cotton all slumped badly in the late 1990s.

time in modern history".¹³² Zimbabwe was caught in a perfect storm of eroding economic conditions and bad decision-making. The central bank was compelled to make a wholesale intervention, and corporate foreign currency account holders were required to sell their hard currency for Zimbabwean dollars in an effort to stabilise the currency.

In an increasingly desperate scramble to pay the war veterans, President Mugabe sought to push major tax increases through parliament. Despite controlling 147 of 150 seats, the government could not get its entire package approved. The income and sales tax hikes were rejected on 27 November. The following day, a list of more than 1,500 commercial farms to be targeted for compulsory acquisition was released, further upsetting investor confidence.

As the economic crisis worsened, political resistance increased. On 9 December 1997, amid growing dissatisfaction with escalating food costs and unemployment, the Zimbabwe Confederation of Trade Unions (ZCTU), chaired by General Secretary Morgan Tsvangirai, led a general strike against the proposed tax increases. The widely supported strike provoked a violent reaction. On 11 December, Tsvangirai was badly beaten in his office, an attack widely perceived to have been directed by Mugabe. Tsvangirai complained, "It is a military government and behaves as such. When people show their unhappiness with the way things are run it doesn't know how to respond except with force".¹³³ The government withdrew its backing for a number of the proposed tax increases in response to the growing outcry. But in a sign that it would not respond to events lying down, Home Affairs Minister Dumiso Dabengwa accused the trade unions of forming an "unholy alliance" with white employers.¹³⁴

By the end of 1997, Zimbabwe was in serious economic and political crisis. Spiralling food and fuel prices triggered urban strikes and political protests and radicalised the trade union movement. By 1998 about 400 elite blacks were leasing 400,000 hectares of state land, and about 350 blacks had bought their own farms.¹³⁵ Mugabe's mishandling of the war veterans issue, corruption and the economy had created something that elections since independence had not: a mobilised and united opposition.

¹³² Bond and Manyanya, *Zimbabwe's Plunge*, op. cit., p. xii.

¹³³ *The Guardian* (London), 19 December 1997.

¹³⁴ *The Times* (London), 11 December 1997.

¹³⁵ Sam Moyo, "The Interaction of Market and Compulsory Land Acquisition Processes with Social Action in Zimbabwe's Land Reform", in Ibbo Mandaza and Dan Nabudere (eds.), *Pan Africanism and Integration in Africa* (Harare: Sapco Books, 2003).

5. Turns for the Worse: 1998-2000

In retrospect, the tumultuous period from 1998 to early 2000 was a last ditch effort by donors to salvage a moderate land reform effort. President Mugabe, reacting from crisis to crisis and faced by opposition forces whose popularity was growing, instead exploited populist rhetoric and embraced a radical redistribution agenda.

A. DESPERATE TIMES

In late January 1998, rising food prices sparked major riots in Harare. Riot police used tear gas to disperse the demonstrators while the Home Ministry stated it would be more than willing to authorise live ammunition. Officials were quick to blame white farmers for the food price increases, although the financial crisis and plummeting exchange rates were the most obvious forces driving inflation. The government indicated that it would seek to roll-back increases in food prices, but it was under acute economic and political pressure from a variety of sources. This also marked the first time in post-independence Zimbabwe that the army had been mobilised.

Mugabe was increasingly caught between two poles. On the one hand, he wanted to reassure international financial institutions to secure desperately needed funding. In order to do so, he had to appear to take a reasonable course on the rule of law and land redistribution. On the other hand, he was eager to find any issues that he could employ to undercut labour opposition, appease the war veterans and neutralise commercial farmers. Radical land redistribution seemed useful to distract the public from increasingly serious and often self-inflicted domestic woes. Consequently, the government bounced back and forth between conciliatory and confrontational stances on land redistribution.

A January 1998 IMF mission made clear farmers would have to be compensated for land if the country was to expect further support, and Mugabe announced that the government would consult farmers and donors before proceeding with the acquisitions announced in late 1997. The shaky relationship with the IMF intensified currency speculation and drove the Zimbabwean dollar down further. In March 1998, Agriculture Minister Kumbirai Kangai said the government would not confiscate land without

adequate compensation, and all redistributions would be transparent and in accordance with the rule of law.¹³⁶ Large protests continued to erupt through May and June 1998, and students grew increasingly active in denouncing the government. The government responded by trying to make most strikes illegal, although the idea was dropped after it generated a hailstorm of protests.

In a further sign of increasing desperation and recklessness, President Mugabe deployed the army to the Democratic Republic of Congo (DRC) to help President Laurent Kabila against insurgencies backed by Uganda and Rwanda. Zimbabwe's parliament did not authorise the deployment. Mugabe justified the costly intervention on the grounds that Zimbabwe had to protect an ally in the Southern African Development Community (SADC) from external aggression. This fell on deaf ears at home with citizens unwilling to sacrifice to send more than 10,000 troops to fight in a brutal war in a distant country. The intervention was in part a regional power play and challenge to Nelson Mandela, South Africa's president, who opposed SADC military involvement. Ultimately Mugabe was motivated by the prospect of enormous material gain; the UN uncovered convincing proof the deployment was in direct exchange for allowing Zimbabwean military and business officials to obtain considerable resources, primarily diamond concessions. Zimbabwean and Congolese elites were reported to have transferred illegally \$5 billion of mining assets from the DRC state to private companies between 1999 and 2002.¹³⁷

Eventually, more than 10,000 Zimbabwean troops would be deployed in the Congo, despite disgruntlement by the rank-and-file. Rumours of a possible coup by disaffected troops in response to the unpopular intervention circulated in the press.¹³⁸ The government consistently tried to keep stories of the mounting Zimbabwean casualties in the Congo out of the media and increasingly relied on intimidation of journalists to do so. In the end, however, Zimbabwe's costly adventure, though devastating to the economy, allowed Mugabe to buy off the generals and thus guarantee their crucial support during the forthcoming parliamentary and presidential elections.

¹³⁶ *Financial Gazette* (Harare), 25 March 1998.

¹³⁷ United Nations Security Council, *Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo*, S/2002/1146, 16 October 2002, paragraph 22.

¹³⁸ Chan, *Robert Mugabe*, op. cit., p. 139

B. THE BEST LAID PLANS

In the summer of 1998, thousands of squatters settled on white commercial farms. Squatting had occurred periodically since independence but never at this level. There were several instances of violence against white farming families and frequent occurrences of war veterans leading the occupations. Many commentators suggested the government was directly encouraging the squatters, particularly with President Mugabe's on-again, off-again insistence that the government would not pay "a penny" for the land. Though some occupations may have been spontaneous and the government occasionally threatened and even carried out evictions, it was clear that the government and local ZANU-PF party officials tolerated and facilitated squatting to amplify pressure on farmers and donors before a UNDP conference.

That land policy conference, held in Zimbabwe in early September 1998, aimed to forge consensus among stakeholders. The conference was initially scheduled at an earlier date, but it was postponed after World Bank officials convinced the government it would be disastrous to hold a conference at which there were no pledges. A senior UN official described the conference and the UNDP's more prominent role as "a deliberate effort, at the request of the Secretary-General, to try to see if we could lay the groundwork for political dialogue via a technical discussion".¹³⁹ Representatives from more than twenty countries participated, along with emissaries from the IMF, the World Bank and the EU. A broad spectrum of local groups also attended. In its assessment, the UNDP acknowledged some shortcomings in previous land redistribution efforts. It said that the willing seller, willing buyer formula ensured that settlements were small and scattered and made it difficult to achieve economies of scale as well as to provide infrastructure. Only a fraction of needed roads had been built, and many schools were too far away from communities to be reached by foot.¹⁴⁰ Concerns were also raised by farmers and donors about land the government had acquired but had failed to redistribute.

Mugabe used the conference to unveil a remarkably ambitious land redistribution program that called for 150,000 families to be resettled on 5 million hectares during a Phase II Land Reform and Resettlement Program, at an estimated cost of \$1.9 billion, most of which he hoped donors would fund. (In official planning documents, the number of families targeted by Zimbabwe was 91,000 on the same amount of land.) This massive proposal rather blithely overlooked the country's major economic and political woes but correctly documented that severe

¹³⁹ ICG correspondence, 2 July 2004.

¹⁴⁰ UNDP Interim Mission Report.

inequities still plagued land ownership.¹⁴¹ More than 80 per cent of these poor households were in communal areas. Scaling back the extremist rhetoric in the run-up to the meeting, the Zimbabwean delegation agreed that white farmers would be compensated for their land.

Donors unanimously endorsed the need for land redistribution and resettlement for poverty reduction, economic growth and stability, but quickly dampened expectations. They adopted a new set of principles to govern a Phase II program and pushed to have redistribution decisions made by an independent land commission rather than Mugabe's cabinet. Key conditions intended to guide the program were respect for the rule of law, transparency, poverty reduction, affordability and consistency with Zimbabwe's wider economic interests. Donors were decidedly cool to Mugabe's grand vision, and their scepticism was fuelled in part by the ongoing Congo intervention, estimated to be costing more than \$1 million daily. With hard funding commitments of less than \$1 million, the conference established a 24-month pilot implementation, or "inception phase", and spelled out the following steps for moving forward:¹⁴²

- rapid acquisition of 118 farms that were for sale on a willing seller, willing buyer basis to allow for resettlement;
- employment of existing government resettlement models while testing alternative approaches, as proposed by the World Bank;
- exploration of alternative land distribution methods;
- integration of land redistribution plans into national macroeconomic policies and poverty alleviation strategies;
- equal access and ownership of land for men and women; and
- implementation of the program in a legal, transparent, fair manner with broad stakeholder participation.

A UNDP Technical Support Unit was to assist in carrying out the inception phase. After the rather inconclusive conference, however, the situation continued to erode. Less than two months later, in November 1998, two large union-led strikes shut down most of the industry in the country, and the government again moved forward with plans to seize farms. The agriculture minister issued notices for seizure of 841 commercial farms that were vague on compensation and timing, in clear violation of agreements made at the UNDP conference. Each seizure

¹⁴¹ With one of the most inequitable patterns of income distribution in the world, 46 per cent of households were below the food poverty line. *Financial Times* (London), 9 September 1998.

¹⁴² Centre on Housing Rights and Evictions, *Land, Housing and Property Rights in Zimbabwe* (Geneva, Switzerland: COHRE, 2001).

notice was to be confirmed by the courts within 60 days, an eventuality that seemed administratively remote and added further confusion. The announcement prompted the IMF to suspend \$55 million in earmarked assistance.¹⁴³ Yet, quick action by the donors proved insufficient to change the government's course. Some twenty farms were occupied during November 1998, and the violence and intimidation appeared to be increasingly coordinated.¹⁴⁴ Amid the uncertainty, President Mugabe departed for three weeks of foreign travel, including a shopping trip to London with his new wife.

C. AN EMERGING OPPOSITION; MORE LAND NEGOTIATIONS

In early January 1999, the Zimbabwean *Standard* detailed the arrest of 23 military officers for allegedly planning a coup against President Mugabe. The government arrested the editor and the author of the newspaper account, and both men were tortured while in military police custody. The Supreme Court soon intervened on behalf of the journalists, requesting an account of their status from the government and, in February, ordering their release. Several justices wrote to Mugabe warning that by ignoring the rule of law, the government could trigger a "descent into anarchy".¹⁴⁵ This presaged a long series of skirmishes between government and judiciary and, although the journalists were eventually released, the government soon widened its crackdown on the media.

It was clear that land policy would be central to the ongoing social upheaval. Mike Auret, the national director of the Catholic Commission for Justice and Peace, warned, "Race and land are the two arrows left in the ZANU-PF quiver. They have nothing else left to offer the people. 'We are going to take the white land' – it's the only thing left".¹⁴⁶ President Mugabe's rhetorical attacks on the 70,000 remaining whites mounted. In a spontaneous address to the nation on 6 February, Mugabe squarely blamed whites for the growing crisis: "Some white people of British extraction have been planted in our midst to undertake acts of sabotage aimed at affecting the loyalty of not just our people in general, but also that of the vital arms of government, like the army, so these can turn against the legitimate government of this country".¹⁴⁷

By early 1999, it became clear that the government had done little or no follow-up on the September 1998 Donor Conference. While a World

¹⁴³ *The New York Times*, 1 December 1998.

¹⁴⁴ *The Times* (London), 16 November 1998.

¹⁴⁵ *The Times* (London), 8 February 1999.

¹⁴⁶ *Financial Times* (London), 31 March 1999.

¹⁴⁷ *The Guardian* (London), 21 March 1999.

Bank team had appraised a project to support the conclusions of the conference, which would pilot alternative approaches, the government did not revise its policy framework to reflect the 1998 conference agreements. In February 1999, a team from the National Economic Consultative Forum, a public-private partnership funded by the World Bank, was appointed to design a new policy framework to guide the inception phase. It was approved by the cabinet in April 1999. In the last session of parliament that same month, payment for the counterpart contribution to the Bank project was approved: the purchase cost of land. Ironically, in the same session, the constitution was amended so the government was no longer required to pay for the land. Instead, Zimbabwe wanted the UK to provide for such payments.

In April 1999, the U.S. suspended its aid program, and its annual State Department *Human Rights Report* cited serious concerns, particularly for the deteriorating respect for the rule of law:

The Government's overall human rights record worsened significantly and there were serious problems in a growing number of areas. There were incidents of police killings. Security forces tortured, beat and otherwise abused persons. Prison conditions remained harsh, and arbitrary arrest and detention and lengthy pre-trial detention remained problems. Executive branch officials repeatedly refused to implement court decisions; after three Supreme Court judges called on the President to require executive branch officials to obey the law, the President publicly suggested that they resign.¹⁴⁸

President Mugabe also continued to wrestle with international financial institutions. He announced that he had severed ties with the IMF in April 1999 and then reversed himself less than two weeks later. That same month, Mugabe announced the formation of a constitutional commission, eager to amend the constitution to strengthen his control over land acquisition, the media and the judiciary. Like the government as a whole, the 400-person commission was heavily stacked in ZANU-PF's favour, including all the ruling party's parliamentarians.

As opposition groups became increasingly well-organised, a rival constitutional push emerged. An array of groups had met under the umbrella of the National Constitutional Assembly (NCA), and they were eager to weaken the grip of ZANU-PF on the levers of state. As early as March 1999, the Zimbabwe Congress of Trade Unions, under Morgan Tsvangirai, decided to enter mainstream electoral politics. The party would

¹⁴⁸ U.S. Department of State, *1999 Country Reports on Human Rights Practices, Zimbabwe*, 25 February 2000.

officially emerge as the Movement for Democratic Change (MDC), headed by Tsvangirai, in September 1999.

By May 1999, the World Bank and the International Fund for Agricultural Development were the only donors that had prepared actual land projects under the inception phase.¹⁴⁹ A UK assessment mission during this period recommended that donors give further consideration to supporting the inception phase of the government's land resettlement project by providing support for infrastructure and agricultural training, the purchase of land (including for land acquired under the Bank's project), the establishment of three independently administered "funds" to facilitate NGO and private sector involvement; and program monitoring and evaluation.¹⁵⁰

The high cost of inaction was among the considerations weighed by the British team. Even without donor support, it was clear that Zimbabwe would proceed with resettlement. Without adequate resources to support the program, it was unlikely that Zimbabwe's social or economic objectives would be met. Abuse of the land allocation process would increase, and the environmental impact of resettlement would intensify. A key argument in favour of the program was that external support could help temper the program's impact and make it more likely to achieve its core goals. World Bank consultants had reached the same conclusion, feeling that the risk of doing nothing was worse than a failed attempt. However, in their eagerness to see some sort of program succeed, the consultants conducting the assessments looked past the increasingly severe problems facing Zimbabwe as a whole. The country's land policy was not being developed in a vacuum; the growing threat of the opposition and an increasingly severe economic crisis meant more to Mugabe than donor funding. Mugabe's repeated promises to conduct land redistribution in a fair and transparent manner were hollow.

The internal management of the land program continued to be in substantial disarray. Most of the 841 farms listed for acquisition in November of 1998 were delisted, after having run into legal snags or being deemed inappropriate for redistribution. Even the 118 farms scheduled for acquisition under the agreement reached at the September 1998 UNDP conference faced numerous delays. The Office of the Attorney General noted that it would be very difficult to negotiate compensation for land

¹⁴⁹ The Bank was moving forward with a \$5 million Learning and Innovation Loan that would support resettlement on lands both acquired through compulsory acquisition and voluntary sales, and IFAD had provided funds to support capacity-building in civil society for the Bank's approach.

¹⁵⁰ Martin Adams, John Cusworth and Robin Palmer, *Zimbabwe Land Reform and Resettlement Program*, Inception Phase (LRRP-2), Identification Report, DFID, Harare, 1 June 1999.

since the proper mechanism for valuation was not in place.¹⁵¹ Further, the government continued to under-fund the bureaucracies and institutions responsible for implementing land policy, undercutting the commitment to redistribution.

In 1998-1999, under the accelerated land resettlement program, farm families from the communal areas were left without much support. Far from schools and clinics, they were often cut off from familiar support networks in the communal areas. In the absence of basic support services, progress was slow, and the position of the beneficiaries was precarious. Beneficiaries had to construct homes and then hope local physical infrastructure would be expanded. On former ranch lands, farmers needed to clear stumps before ploughing and planting. Where beneficiaries had to rely on draft animals (animals used to pull heavy loads), the development of arable fields progressed slowly. Nonetheless, land allocated to small-scale farmers from the communal areas was valuable and had potential to substantially benefit the landless poor.

On 17 May 1999, the World Bank agreed to release \$5 million as a "learning and innovation loan" using community-initiated and market-assisted approaches to help start resettlement. The World Bank would support the inception phase that included additional funding for the Technical Support Unit and alternative resettlement activities, but not land acquisition. An editorial in the government-controlled paper noted that "the World Bank has just opened a window into the future for us....The ball is now firmly in our court to use the money strictly for the agreed intended purpose. Openness and transparency in this regard is of utmost importance".¹⁵² World Bank President James Wolfensohn wrote to IMF Managing Director Michael Camdessus: "If the land reform program does not deliver visible results during 1999, political pressure will mount to openly tolerate farm invasions. To deliver, the program needs donor support".¹⁵³ That same month, Zimbabwe fell into arrears with the IMF and the World Bank, triggering the suspension of all World Bank projects, including the land reform project.

Two days after the World Bank announcement regarding the learning and innovation loan, the Netherlands, Norway, Sweden and the U.S. signed agreements with the government to provide \$230,000 assistance each to support establishment of the Technical Support Unit, the key management component for program implementation. U.S. Ambassador Tom McDonald promised an additional \$1 million and welcomed consultations between stakeholders, saying they were now

¹⁵¹ Charles Rukuni, "Reform Derailed", *The Insider* (Zimbabwe), 26 February 1999.

¹⁵² *The Herald* (Zimbabwe), 22 May 1999.

¹⁵³ *The Financial Gazette*, 20 May 1999.

moving together in implementing land reform.¹⁵⁴ The Zimbabwe Farmers' Union commented, "It's a good start; we've been waiting for this. We hope it's the key to open bigger doors to resource flows".¹⁵⁵

The IMF's role in 1999 is open to question. In August, it released a fourteen-month \$193 million loan, giving the government an important boost. The IMF approval, despite increasingly critical U.S. concerns about Zimbabwe's governance, came after it again received assurances on land acquisition, budget cuts and Zimbabwe's military role in the Congo, and after it received letters in support of the program from the Zimbabwean business community and the Commercial Farmers' Union. Michael Nowak, the IMF's assistant director for Africa, said land was "no longer an issue" between the institution and the government, and suggested that President Mugabe's rhetoric did not worry the Fund, which preferred to judge "what is happening on the ground".¹⁵⁶ The IMF appeared pleased with the initial conduct of Phase II, in which some 43 farms were purchased according to the laws of the land, and owners were fairly compensated.¹⁵⁷ The *Financial Times* was left to object that Mugabe had received, "a bail-out he does not deserve, on terms he is unlikely to implement, offered by lenders who should know better. It does a disservice to Zimbabwe and makes the Fund look foolish".¹⁵⁸ Indeed, the agreement would immediately unravel when Zimbabwe violated a number of its provisions, and the IMF claimed to have been misled about expenditures for troops in Congo. Overall, the year saw a continuation of the long economic slide, as per capita GDP, \$645 in 1995, declined to \$437 in 1999.

¹⁵⁴ *The Daily News*, 20 May 1999; *Business Day* (South Africa), 20 May 1999. In October, Washington concluded a cooperative agreement under which USAID and the Land Tenure Centre of the University of Wisconsin were to provide \$1.5 million in technical assistance, training and research in support of Phase II. Available at www.wisc.edu/lrc/zimpfl.html.

¹⁵⁵ This statement came from Emmerson Zhou, deputy director of the ZFU in "Zimbabwe: Donors Back Land Reform", IRIN Report, 19 May 1999. Available at www.irinnews.org.

¹⁵⁶ *The Financial Gazette*, 20 May 1999.

¹⁵⁷ *Ibid.* According to another report, "reliable sources say between September 1998 and March 23 this year, the government paid Zimbabwean \$79 million [U.S. \$2.2 million] in cash for 27 farms", while, according to the Commercial Farmers' Union President, Nick Swanepoel, the government had "during the past three weeks also bought 40 farms, and the owners were happy with the market value amounts they were paid". *The Mirror*, 21 May 1999. Minister of Local Government John Nkomo indicated that the government had bought 37 farms covering 50,000 hectares at a cost of \$2.5 million. *The Herald*, 20 May 1999. Finance Minister Herbert Murerwa indicated 43 farms had been bought "with compensation fairly paid to the owners". *The Financial Gazette*, 20 May 1999.

¹⁵⁸ *Financial Times* (London), 6 August 1999.

At a June 1999 workshop and with the support of UN Food and Agricultural Organisation, the Ministry of Lands and Agriculture tabled a comprehensive draft National Land Policy that aimed to ensure just and equitable access to land, democratise tenure systems and ensure security for all forms of land holdings.¹⁵⁹ It also recommended relaxing subdivision restrictions and implementing a land tax. As has often proved the case in Zimbabwe, the policy was never implemented. The technocrats had already been set aside in favour of a violent and radical approach to land redistribution. Donors were cautious in pledging funds, and the EU had yet to step forward and insignificant resources were made available for land reform to proceed.¹⁶⁰ Britain remained the only country willing to fund land purchases, but never actually did during this period. The inception phase was to last for two years during which time an orderly and studied approach was to be followed for both government schemes and alternative models.

A study by Zimbabwe's Centre for Applied Social Sciences and the University of Wisconsin found that during 1996-1999, the private land market was becoming an increasingly effective source of transfers to black farmers.¹⁶¹ The private market saw 25,000 to 80,000 hectares sold to black farmers each year. The report also noted that with the advent of fast track programs in 2000, "the private market for both black and white farms has all but collapsed".

As the land reform program evolved, donors watched closely to assess the government's seriousness in fulfilling the agreements reached at the 1998 donors conference, especially on issues like land taxation and subdivision. Fearing a broad breakdown in the rule of law, donors were deeply and understandably wary of the Mugabe government. These concerns were driven by demonstrable evidence that funds were being diverted to ZANU-PF party faithful, as well as by Zimbabwe's largely mercenary role in the Congo war. Donors were also watching to see if the process was going to be conducted in a transparent, consultative and legal manner. The majority

¹⁵⁹ The work on the National Land Policy was led by Professor Issa G. Shivji and funded by UNDP/FAO.

¹⁶⁰ In October 1999, the U.S. concluded a Cooperative Agreement with Zimbabwe under which USAID and the Land Tenure Center of the University of Wisconsin would provide U.S. \$1.5 million in technical assistance, training and research in support of phase two.¹⁶⁰ The funds offered by the U.S., Sweden, the Netherlands and Norway were designed to support the establishment of the Technical Support Unit, the key management component for program implementation.

¹⁶¹ Lovemore Rugube, et al., "Government Assisted and Market-Driven Land Reform: Evaluating Public and Private Land Markets in Redistributing Land in Zimbabwe", Centre for Applied Social Sciences, University of Zimbabwe and the Land Tenure Centre, University of Wisconsin, March 2003.

of redistribution beneficiaries continued to be absentee leasers with no apparent experience in farming. In late 1999, the Zimbabwean government released the list of the names of the "capable" indigenous farmers who received commercial leasehold farms during the 1990s. The list showed 272 farms had been allocated to top ruling party and government officials.¹⁶² In protest, a war veteran and independent parliamentarian, Margaret Dongo, subsequently released a statement revealing that more than 400,000 hectares of government-acquired land had been leased to numerous officials, business people and politicians – including deputy ministers and the speaker of parliament, Charles Utefe.¹⁶³

As noted, the Movement for Democratic Change was officially launched in September 1999, coincident with conclusion of the National Constitutional Assembly (which had boycotted the work of the government-sanctioned constitutional committee). The MDC and the broader National Constitutional Assembly pushed for major revisions in the constitution: proportional representation; abolishment of non-constituency parliamentary seats; equal media access for all parties; much stricter limits on government control of the voting process; and the holding of presidential and parliamentary elections in the same year.¹⁶⁴ The official constitutional commission was ultimately reduced to something of a farce. After the 400-person commission had deliberated for months, the drafting committee of senior ZANU-PF officials rushed a version to Mugabe that deleted many key clauses. Commissioners were never allowed to vote on provisions. While President Mugabe ultimately controlled the draft of a constitutional referendum that he would put to a national vote on 12-13 February 2000, he had raised expectations for change.¹⁶⁵ The duelling constitutional committees had held many hearings around the country, and there was growing public support for ending de-facto one-party rule. Indeed, a key provision removed by ZANU-PF officials at the eleventh hour of the constitutional commission process called for Mugabe to resign by April 2000.

D. BREAKDOWN

With both a constitutional referendum and parliamentary elections in the first half of 2000, political questions dominated the landscape. Yet

¹⁶² *Sowetan*, 30 March 2000. The list was released in late 1999.

¹⁶³ Margaret Dongo, "Message from Margaret Dongo, President of Zimbabwe Union of Democrats, and founder member of the War Veterans' Association, to the landless masses of Zimbabwe", 1999.

¹⁶⁴ Charles Rukunui, "MDC Vows to Contest 2000 Elections No Matter What", *The Insider* (Zimbabwe), 20 December 1999.

¹⁶⁵ The Lancaster House constitution had already been amended fifteen times by 1999.

again, the issues of land and race became inextricably linked with President Mugabe and ZANU-PF's bid to maintain their hold on power. With an opposition gathering momentum, the president received a shock at the ballot box. He would respond with force.

As late as October 1999, five months after the joint British/EU mission report became available, the British government was still soliciting bids from consulting firms to work with Zimbabwe on Phase II of land reform. Contrary to the Department for International Development's (DFID) normal bidding process, however, the UK and Zimbabwe still lacked an agreement on whether to proceed. In the end, consultants were never appointed, and in January 2000, DFID announced it was planning to allocate \$8.2 million for resettlement projects through a Civil Society Challenge Fund.¹⁶⁶ The decision to confine UK support to civil society initiatives and to distance itself from the government's program was a serious rebuff to Mugabe.

ZANU-PF perceived DFID's decision as a British scheme to force Mugabe to hold elections without letting him have the funds to fulfil his promises on land, thus undermining his popular support.¹⁶⁷ Whatever drove the UK decision, Mugabe remained intent on moving forward with land seizures. These came as the economy was feeling pressures that pushed it toward a freefall: the mounting cost of the Congo intervention, the British decision to withhold funds, ballooning disbursements for war veteran pensions and sharply declining investor confidence. In a further sign of deteriorating bilateral relations, President Mugabe reacted with anger after being accosted by gay rights activists in London, after which he accused Prime Minister Blair of being "a little man running a government of gay gangsters".¹⁶⁸

In December 1999 protests against the constitutional referendum disrupted Harare, with riot police again using tear gas to disperse demonstrators. Spiralling fuel prices and a government announcement that it planned to dismiss 20,000 civil servants and raise salaries for the remaining employees – a step long urged by international financial institutions – fed growing public resentment.

In January 2000, the MDC held its first party conference, and over 5,000 people attended. Despite intensive lobbying by the government in support of its constitutional referendum, primarily through state-controlled

¹⁶⁶ DFID, *Briefing: Land Resettlement in Zimbabwe*, March 2000. Available at www.oxfam.org.uk/landrights/ZimDFIDbrief.rtf.

¹⁶⁷ Stanley Mudenge, Zimbabwe Foreign Minister, presentation to an OAU meeting in Abuja on 9 May 2000, cited in Simon Barber, *Business Day*, 26 May 2000.

¹⁶⁸ President Mugabe had long used very strong language in denouncing homosexuality. *The Herald* (Glasgow), 13 November 1999.

media, there were deep reservations about the process. The original impetus for constitutional reform had been to lessen the power of the presidency and proposed amendments offered largely did the opposite. The new constitution would have provided Mugabe the right to stand for two more terms, greater power to censor the press and restrict individual rights in the name of public morality, sweeping emergency powers and almost blanket immunity from prosecution. Clause 57 of the constitutional draft would have allowed the government to seize farms without compensation and pushed responsibility for compensation to the "former colonial power". The government claimed that adoption of the referendum would make it possible to give land to poor rural families. The proposed constitutional redraft would also have maintained the first-past-the-post electoral system, rejecting calls from many quarters to institute proportional representation. The government employed elaborate machinations to hijack the constitutional reform process.

However, white commercial farmers mobilised against the referendum, joining forces with the MDC and a range of other civic groups. A member of the Commercial Farmers' Union observed, "White farmers actively campaigned against the referendum and were thrust into the political arena".¹⁶⁹ This same farmer added that many land owners now view this as something of a tactical error: "We made ourselves a convenient target". White farmers provided the MDC financial support, which gave them a disproportionate impact in the emerging organisation. Images of whites writing checks at MDC campaign rallies were widely circulated in the national press, and President Mugabe capitalised on them in arguing that the MDC was a front for the farmers. On the eve of the referendum, South African President Thabo Mbeki arrived in Harare offering a \$126 million loan to purchase fuel and electricity, which was widely viewed as an effort to bolster President Mugabe's political position. Mbeki soon backtracked from this financial support amid fears that it would undercut South Africa's own standing with international lenders.

The referendum on the draft constitution was held on 12-13 February 2000. Voter turnout was fairly low – only 1.3 million, slightly over 20 per cent of the electorate, cast ballots. The government's proposal was defeated by a 55 to 45 per cent margin. This was the first major ballot defeat suffered by ZANU-PF and dramatically changed the political environment. "Not only was this the first time that the people said 'no'", commented a U.S. official, the public had also resisted "the money and the show that the ZANU-PF had created".¹⁷⁰ The opposition was quite effective in making the ballot a referendum on President Mugabe's rule itself, and the result

¹⁶⁹ ICG interview, Harare, 5 December 2003.

¹⁷⁰ ICG correspondence, 15 March 2004.

represented a public commentary on corruption, the Congo intervention and the difficult economic climate as much as on the actual constitutional draft. With annual inflation rising above 70 per cent, frequent fuel shortages, a doubling in the cost of health care fees and an unemployment rate around 50 per cent, there was much reason for discontent. In an opinion poll shortly after the referendum, 63 per cent of respondents supported a change in government, and 80 per cent said it was not sensible to blame whites for the country's woes, although the notion of equitable land redistribution maintained solid support. Even in communal areas, a traditional ZANU-PF stronghold, 57 per cent indicated they wanted a change of government.¹⁷¹

A senior opposition figure maintained, "The referendum was the first and largest gain by civil society in Zimbabwe".¹⁷² Lupi Mushayakara of the National Constitutional Assembly declared triumphantly after the vote, "This is the end of an era. We have broken the back of the elephant".¹⁷³ While the MDC had scored an impressive victory in its first major organisational effort, it still had a steep hill to climb. Backed by trade unions, a range of non-governmental organisations and church groups, it would need to put forth a full slate of candidates and a platform that went beyond dissatisfaction with the Mugabe government. To secure a workable majority in the parliamentary elections rescheduled for June 2000, it would have to secure almost two-thirds of the 120 elected seats because the president retained the prerogative to name 30 non-constituency parliamentarians. In addition, shocked by the referendum loss, President Mugabe and the ZANU-PF understood they were fighting for their political survival, and they would use all the government's resources to protect their position. A Zimbabwean social scientist commented, "The referendum awakened ZANU-PF. They thought they had the public hook, line and sinker". Government officials were quick to blame whites for the result. While white organisational efforts had been important, the margin of defeat for the referendum was far higher than the total number of whites in the country. While there were some calls from within ZANU-PF for him to step down, and even some hints that he was contemplating retirement, Mugabe decided to stay and fight.¹⁷⁴ The ZANU-PF politburo called an emergency meeting at which Mugabe sacked six cabinet ministers and twenty parliamentarians.

¹⁷¹ From a Probe Market Research poll (Gallup International) conducted on behalf of the South African Helen Suzman Foundation.

¹⁷² ICG interview, Harare, 8 December 2003.

¹⁷³ *The Christian Science Monitor*, 18 February 2000.

¹⁷⁴ In a television interview on his 76th birthday in late February 2000, Mugabe said, "I do not want to wait to retire until I am back on all fours, in my second childhood. I want to have energy to write my memoirs and do many things, so there will come a time when it will be appropriate to retire". *The Guardian* (London), 24 February 2000.

Sam Moyo, director of the African Institute of Agrarian Reform, argued that the IMF's structural adjustment program was seen by many Zimbabweans as driving up food costs and unemployment. With growing dissatisfaction among war veterans, the more radical wing of ZANU-PF exploited the situation.¹⁷⁵ Moyo claimed, "It was vengeance and anger in the context of a collapsing economy that drove ZANU-PF to extremes".¹⁷⁶ The agenda of the radical wing was strengthened by its insistence that land invasions would undermine the political opposition.¹⁷⁷

The issue of whom to blame for the collapse of the agreements reached at the 1998 donor conference remains contentious. The journalist Vincent Kahiya argued, "The Harare authorities had not taken the 1998 document seriously, preferring populist posturing to actual implementation". Kahiya also claimed that Zimbabwean officials who worked on Phase II planning believed that it was Mugabe who scuppered the program.¹⁷⁸ In contrast, during a meeting with fellow heads of state in April 2000, Mugabe insisted that the British government reneged on the agreement. One of the simplest explanations may be the most insightful. As a black farm worker representative explained, "When the MDC became more popular; the ZANU-PF panicked and started seizing farms".¹⁷⁹

¹⁷⁵ Sam Moyo, "The Land Occupation Movement and Democratisation in Zimbabwe: Contradictions of Neoliberalism", *Journal of International Studies* 30, no. 2 (2001).

¹⁷⁶ ICG interview, August 2002.

¹⁷⁷ ICG interviews in Zimbabwe, April and August 2002.

¹⁷⁸ Vincent Kahiya, "Government Abandons Donors' Land Reform Proposals", *Zimbabwe Independent*, 12 May 2000.

¹⁷⁹ ICG interview, Harare, 3 December 2003.

6. Fast Track: 2000-2001

Following the February 2000 defeat of the constitutional referendum, ZANU-PF rushed a subsequent constitutional amendment through parliament, freeing the government from responsibility for compensating owners if land was acquired for reform.¹⁸⁰ The MDC was positioned to make substantial gains in the parliamentary elections slated for later in the year, but President Mugabe and his party were determined not to leave the stage quietly. Accelerated land invasions, a rising tide of political violence and a continuing economic crisis amplified the pressure. In May, after enabling amendments to the Land Acquisition Act were promulgated, Mugabe had successfully put in place the legal basis for fast track land acquisition and resettlement. An MDC parliamentarian explained, "Every time there has been pressure, the government has responded with pressure of its own, and white farmers are a soft target".¹⁸¹

A. THE BARED FIST

In the immediate wake of the referendum, the pace of farm occupations spiked sharply. A former government official involved in the land redistribution program argues that not all were engineered by ZANU-PF but, "the government definitely took advantage of a process that had started".¹⁸² While these farm occupations have often been simply attributed to "war veterans", it would be more accurate to describe those conducting them as lightly-armed militias. Many of those mobilised were far too young to have fought in the liberation struggle. The war veterans, under Chenjerai Hunzvi, played a very active role, and ZANU-PF vehicles were utilised to facilitate the occupations. Party officials often played a coordinating role, and the fact that commercial farmers known to support the MDC were some of those attacked earliest and most violently forces the conclusion that the occupations were driven as much by politics as smouldering resentment of land distribution. White commercial farmers known to cooperate with the ZANU-PF were largely spared during this period. Though President Mugabe obviously did not control the entire

¹⁸⁰ See ICG Report, *Zimbabwe: At the Crossroads*, op. cit.

¹⁸¹ ICG interview, Harare, 7 December 2003.

¹⁸² ICG interview, Harare, 9 December 2003.

process, his willingness to exploit it sent a powerful message that the rule of law would continue to be treated with disregard.

The Supreme Court ruled against the land occupations on 17 March 2000, and Judge Paddington Garwe gave the squatters a day to leave the farms. The court order specifically directed the police to assist with the evictions of squatters and ignore any countermanding directives from President Mugabe. Even Home Affairs Minister Dumiso Dabengwa stated that the occupations endangered farmers and workers and obstructed farming, requesting that they end. However, Mugabe over-ruled his minister of lands and the courts, telling squatters to continue their actions despite eviction orders. "We want the whites to learn that the land belongs to Zimbabweans", he said.¹⁸³ This led the British Foreign Office junior minister, Peter Hain, to complain that the Mugabe government was trying to "put a pistol to Britain's head". The British government grew so concerned that it announced plans to airlift white farmers from Zimbabwe if necessary.¹⁸⁴ The chief justice of Zimbabwe's Supreme Court, Anthony Gubbay, later commented:

"It was declared that the occupation of farms was unlawful, and the Commissioner of Police was directed to instruct his officers and members to enforce the law. It was not, however, obeyed. The President criticised it as nonsensical. That it certainly was not. To have ruled any other way would have amounted to a violation of the law. The unlawful occupations, with the encouragement of the government, have continued at an accelerated pace. This and a subsequent similar order – also ignored – were not meant to prevent the government from pursuing land resettlement. Not at all. This has never been the policy or objective of the courts. The effect of the order was that land resettlement should be carried out within the framework of the constitution and in compliance with the provisions of the Land Acquisition Act, and not by unlawful invasion".¹⁸⁵

On 5 April 2000, the ZANU-PF-controlled parliament passed a constitutional amendment giving the government a much freer legal hand in land acquisition. The amendment, which essentially replicated Clause 57 of the failed constitutional referendum, was quickly signed into law. The new law declared, "the former colonial power [the UK] has an obligation to pay compensation for agricultural land compulsorily acquired for resettlement,

¹⁸³ *The Christian Science Monitor*, 30 March 2000.

¹⁸⁴ *The Independent* (London), 28 March 2000. In early March 2000, Zimbabwe government officials seized a British diplomatic pouch that contained surveillance equipment, further souring relations between London and Harare.

¹⁸⁵ Edited version of speech by Zimbabwe's former Chief Justice, Anthony Gubbay, delivered 20 June 2001. See *Sunday Times* (South Africa). Available at www.suntimes.co.za/business/legal/2001/07/08/carmel03.asp.

through an adequate fund established for the purpose; and if the former colonial power fails to pay compensation through such a fund, the Government of Zimbabwe has no obligation to pay compensation for agricultural land compulsorily acquired for resettlement".¹⁸⁶ With this new law, Zimbabwe placed land reform on the notorious fast track, and vocal British and other foreign opposition allowed Mugabe to paint his stance in anti-imperialist tones: ZANU-PF promised to return the land to the people and blamed white farmers and Britain for blocking the process. All these efforts were designed to camouflage the illegitimacy of the invasions while serving as a direct assault on the MDC's supporters.

On 13 April, the parliament was formally dissolved, and after considerable confusion, elections were eventually rescheduled for June. In mid-April, Mugabe again defied the judiciary, telling a rally, "This is not a problem that can be corrected by the courts; it is a problem that must be corrected by the government and the people of Zimbabwe".¹⁸⁷ This seemed to override Vice President Joseph Msika, who had announced three days previously that it was no longer necessary to carry out the demonstrations on the farms. President Mugabe's statement also came shortly after the World Bank and the UK had offered increased financial assistance in an effort to prevent seizures. Despite the bellicose language and the rapacious

¹⁸⁶ Amendment 16 to the Constitution states: "(1) In regard to the compulsory acquisition of agricultural land for the resettlement of people in accordance with a program of land reform, the following factors shall be regarded as of ultimate and overriding importance – (a) under colonial domination the people of Zimbabwe were unjustifiably dispossessed of their land and other resources without compensation; (b) the people consequently took up arms in order to regain their land and political sovereignty, and this ultimately resulted in the Independence of Zimbabwe in 1980; (c) the people of Zimbabwe must be enabled to reassert their rights and regain ownership of their land; and accordingly – (i) the former colonial power has an obligation to pay compensation for agricultural land compulsorily acquired for resettlement, through an adequate fund established for the purpose; and (ii) if the former colonial power fails to pay compensation through such a fund, the Government of Zimbabwe has no obligation to pay compensation for agricultural land compulsorily acquired for resettlement. (2) In view of the overriding considerations set out in subsection (1), where agricultural land is acquired compulsorily for the resettlement of people in accordance with a program of land reform, the following factors shall be taken into account in the assessment of any compensation that may be payable. (a) the history of the ownership, use and occupation of the land; (b) the price paid for the land when it was last acquired; (c) the cost or value of improvements on the land; (d) the current use to which the land and any improvements on it are being put; (e) any investment which the State or the acquiring authority may have made which improved or enhanced the value of the land and any improvements on it; (f) the resources available to the acquiring authority in implementing the program of land reform; (g) any financial constraints that necessitate the payment of compensation in installments over a period of time; and (h) any other relevant factor that may be specified in an Act of Parliament".

¹⁸⁷ *The New York Times*, 17 April 2000.

behaviour of militias on farms, many observers stubbornly clung to the notion that Mugabe was posturing, and the farm invasions were primarily a negotiating tool. Sam Moyo of the African Institute of Agrarian Reform said, "They are not prepared to go to war to take land. They don't really believe in destroying property rights".¹⁸⁸ Mugabe had a long history of talking tough in public at home but being far more conciliatory to international interests behind closed doors. A senior land policy expert at the World Bank noted at the time, "Despite all the talk and all the threatening, on the ground, the government has always followed the law. It hasn't taken a title deed for which it hasn't paid cash".¹⁸⁹

Zimbabwe's 20th anniversary of independence on 19 April 2000 evoked more sadness than celebration. Respected South African Archbishop Desmond Tutu lamented that Mugabe was, "almost a caricature of all the things people think black African leaders do. He seems to be wanting to make a cartoon of himself".¹⁹⁰ On 22 April, the office of the *Daily News* in Harare was firebombed, adding to the sense of the rule of law under siege.

On 21 April, a summit meeting took place at Victoria Falls between Mugabe, South African President Mbeki, Namibian President Sam Nujoma and Mozambican President Joaquim Chissano. Mbeki maintained that a deal had been reached: Mugabe would end the farm invasions and stop his rhetorical blasts at the UK, and Mbeki would try to get the British to free up funds for land reform while pushing the IMF to support Zimbabwe.¹⁹¹ Less than a week later, prior to a meeting on 26 April in London between representatives of the British and Zimbabwean governments, Foreign Secretary Robin Cook said the UK would insist that land reform be carried out within the rule of law and on the basis of fair compensation to farmers. It would have to benefit the "rural poor and not public officials with the right connections".¹⁹² Cook also noted that Britain would actively support wider international backing for land reform only if Zimbabwe held free and fair elections. He reiterated that there would be no further talks on land reform until the violence and occupation of white-owned farms ceased.

In conjunction with the constitutional amendment, the government applied growing pressure through the farm invasions. More than 400 farms were occupied in the wake of the referendum, and more than 1,000 properties experienced some form of squatting by the time parliamentary elections were held in late June 2000. Thousands of squatters moved to

¹⁸⁸ Ibid, 11 April 2000.

¹⁸⁹ Ibid.

¹⁹⁰ Ibid, 30 April 2000.

¹⁹¹ R.W. Johnson, "Mugabe, Mbeki and Mandela's shadow", *The National Interest*, Spring 2001.

¹⁹² Reuters correspondents reports, 26-28 April 2000. Available at www.news.africa.com.

occupy farms, and the government clearly played a decisive organising role. Although many of the farm invaders were led by war veterans and were armed with axes and clubs, the violence was kept at a low boil. Although occupations were often peaceful, the murder of several white farmers sparked sharp international press reaction.¹⁹³

In May, after receiving the consent of both Mugabe and Blair, President Mbeki suggested that UN Secretary General Kofi Annan appoint a mediator. Instead, Annan announced that to "depoliticise" the land issue, he would ask the UNDP to get involved as a neutral player. Mbeki also asked Saudi Arabia and Norway to pledge \$13.6 million through the UNDP to expedite the acquisition of the 118 farms identified at the 1998 conference. Both agreed to commit these funds with an understanding that they would be repaid once violence ended, elections were held and the results respected. Mbeki's initiative had the potential to relieve the impasse with no obvious "linkage or conditionality" that risked sparking further squabbling between London and Harare.¹⁹⁴

On 23 May 2000, the government gazetted revisions to the Land Acquisition Act, despite the fact that parliament had been dissolved.¹⁹⁵ With this and the constitutional amendment, it was now free to move forward with land redistribution as it saw fit. Only a week after Mbeki's apparent breakthrough, the situation broke down. Annan called off a Harare visit by UNDP administrator Mark Malloch Brown to protest the publication of a list of 841 white-owned farms slated for uncompensated seizure.¹⁹⁶ The owners first received notice in the government-controlled press. Malloch Brown's visit had been intended as a first step in reactivating a two-year UNDP program. However, ZANU-PF accused the UN of allowing itself to be used by Britain as part of a plot to derail long overdue land reform. Spokesman Jonathan Moyo said the UNDP efforts appeared designed to "thwart legal moves toward land acquisition" and to "entrench the status quo".¹⁹⁷

Under the fast track program, the government proposed to redistribute some 10 million hectares, mostly large-scale white farms, by December 2001. A select group of wealthy white land owners who directly supported ZANU-PF was spared, as were existing "indigenous commercial farms"

¹⁹³ For example, "'I Could Just Hear Screaming, That's All I Heard...'", *The Scotsman*, 10 May 2000; Manoah Esipisu, "Two More Slain in Zimbabwe", *Toronto Star*, April 26, 2000.

¹⁹⁴ Simon Barber, "Mbeki's Creative Solution in Zimbabwe", *Business Day*, 6 May 2000.

¹⁹⁵ Mugabe took this action under the Presidential Powers (Temporary Measures) Act.

¹⁹⁶ ZANU-PF spokesman Jonathan Moyo argued that these 841 farm expropriations were pursuant to the April 2000 amendment to the constitution and therefore legal.

¹⁹⁷ *Business Day*, 5 June 2000.

and large farms leased from government.¹⁹⁸ In light of the obvious politicisation, Western donors suspended all aid for land reform.

To redistribute confiscated land, the government created a two-pronged strategy: the A1 model would be used for 220,000 small-scale farmers from the communal areas, with an average farm size of 25 hectares; the A2 model would be used for 54,000 indigenous commercial farmers, who would receive farms averaging about 100 hectares.¹⁹⁹ Much of the planning for the fast track program appeared to have been done on the back of an envelope. It was not clear how the government would select the 54,000 indigenous commercial farmers destined to benefit from the A2 model or how they would be trained to farm.²⁰⁰

Technical and economic problems would obviously be encountered in subdividing former commercial ranches. In the southern parts of the country, the livestock-carrying capacity of the savannah is low. The costs of settling families with small herds and flocks on individual farms with reasonable standards of infrastructure would be high and economic returns likely negative. Subdivision of the mainly arable farms could be more straightforward, but water, basic farm buildings and roads would be needed. It was not clear when this investment would be forthcoming due to the shortage of trained personnel and government funds. The high cost of farm credit and the lack of tenure security associated with the anarchic land administration arrangements further complicated the situation, and Zimbabwe's farm production suffered devastating losses. Even under ideal arrangements, farm production would have slumped severely for several years while land tenure and infrastructure problems were sorted out.

The June 2000 parliamentary elections were a central part of the equation, and the land invasions were very much designed to impact their outcome. As a U.S. official commented, "having lost the referendum, ZANU-PF knew they had to take the parliamentary elections seriously".²⁰¹ The ZANU-PF amplified the tactics it had employed in earlier elections, stepping up a campaign of intimidation, uniformly using the state-run media to its advantage and gerrymandering districts. By using all of these methods, the ZANU-PF hoped to avoid the need for gross ballot stuffing on the day of the election itself. Kenneth Wollack of the U.S. National Democratic Institute commented, "I think that most groups who have

¹⁹⁸ *Africa Confidential* 44, no. 4 (21 February 2003).

¹⁹⁹ This information was also contained in Nigerian President Olusegun Obasanjo's letter to Australian Prime Minister John Howard, 13 February 2003. The target for farmers in the A2 model changed to 51,000 in a statement made by Minister of Agriculture Joseph Mado, *The Independent*, 4 February 2003.

²⁰⁰ Official government statistics from this point lack credibility given the chaotic nature of the process and notional planning.

²⁰¹ ICG correspondence, 15 March 2004.

monitored elections throughout the world have come to the same conclusion, and that is that the environment leading up to the election day was fundamentally flawed. It was an environment of fear and anxiety. You had a campaign of violence and intimidation directed primarily at the opposition".²⁰²

Between the referendum's defeat in February and the parliamentary ballot, some 30 black Zimbabweans – almost all MDC supporters – were killed in violent incidents. Many of these murders were committed by individuals with clear ties to the ruling party. However, the international media's focus on violence committed against white farmers during this period when black opposition figures and black farm workers suffered more severely made it easier for Mugabe to portray the international community as driven by quasi-imperialist concerns. A louder outcry on behalf of the indigenous opposition and against ZANU-PF violence would have helped underscore that the government's policies had more to do with political survival than historical injustice and were inflicting a grave cost on black Zimbabweans. An MDC parliamentarian commented on the tendency to highlight the plight of white farmers, "The press reports show Mrs. Brown standing by her house; they don't show the 500 farm workers who have been displaced. This allows the government to appeal to anti-colonialism and displaces traditional liberal thinking about democracy".²⁰³

The election was almost a dead heat, a remarkable achievement for the recently formed opposition in light of the intimidation. The MDC captured 57 seats; ZANU-PF, 62 (one went independent). However, because of the 30 non-constituency parliamentarians appointed by the president, the government had a 92 to 57 majority.²⁰⁴ The election also revealed a country that was increasingly polarised: the opposition won every seat in Harare and Bulawayo, the largest cities, and largely dominated Matabeleland – the traditional heartland of the minority Ndebele where memories of the government-directed violence of the 1980s remained fresh. The majority Shona areas mostly remained loyal to the ZANU-PF. The deep bifurcation of loyalties in Zimbabwe remains explosive.

In July 2000, whites offered 600 farms for sale as part of an effort to take the steam out of the land seizures. However, they refused to make the details of these farms available, fearing that they would be immediately confiscated or invaded without compensation. The Commercial Farmers' Union stressed that this would allow the government to move forward with land redistribution without having to conduct illegal occupations. This was one of several such attempts by the farmers but in the superheated political

²⁰² PBS Newshour with Jim Lehrer, "Zimbabwe's Election", 27 June 2000.

²⁰³ ICG interview, Harare, 7 December 2003.

²⁰⁴ A number of election results were challenged in protracted court cases.

climate, the offers were mostly too little too late. As a civil society activist remarked, "The white farmers had been in denial for twenty years, and they woke up and really got bit by the land seizures".²⁰⁵ While there was no great love for white farmers in many parts of society, a large segment of blacks had deep reservations about Mugabe's approach. A social scientist who has conducted extensive polling around the country commented on attitudes toward land seizure: "many feel it was justified, but feel it was done poorly; that land redistribution was unplanned and uncoordinated....I was surprised by the extent to which people saw through the land reform exercise".²⁰⁶

Although Mugabe overhauled his cabinet in July 2000, bringing in some respected technocrats, the downward slide continued. Chenjerai Hunzvi, who had played such a key role both in looting pensions funds designed for veterans and mobilising those same veterans to confront first President Mugabe and later white commercial farmers, was not included. In essence, Mugabe had outflanked Hunzvi and outmanoeuvred both the MDC and white farmers by embracing the farm invasions. But with annual inflation hitting 80 per cent that month, the pressures aligned against Mugabe did not ease.²⁰⁷ If the president had hoped to use farm invasions for short-term tactical advantage before returning to business as usual, he had badly miscalculated.

B. SOUTH AFRICA'S ROLE

While the EU and the National Democratic Institute, among others, sharply questioned the conduct of the June 2000 parliamentary elections, South Africa had a muted response. Where the EU had objected to "serious flaws and irregularities in the electoral process", a South African parliamentary delegation judged the elections to be "legitimate", even though many individual members would not judge the elections "free and fair".

Mbeki also moved quickly to quash objections within his own ANC party about the events in Zimbabwe, and South African diplomats continued to insist publicly and privately that quiet diplomacy was the only way to bring Mugabe back to a more reasonable course. Mbeki often cloaked his position in cultural terms, suggesting it would be inappropriate for younger leaders to lecture a senior African president. Despite the increasingly serious situation, virtually no African statesman had raised concerns publicly about President Mugabe's dangerous missteps by the middle of 2000. Yet, with

²⁰⁵ ICG interview, Harare, 2 December 2003.

²⁰⁶ ICG interview, Harare, 4 December 2003.

²⁰⁷ Hunzvi died on 4 June 2001 of AIDS.

Mugabe's entire career at stake, quiet diplomacy seemed to have little influence.

The crisis was taking an increasingly heavy toll on South Africa's interests: the rand hit a new low against the U.S. dollar in May 2000, and foreign investment in South Africa slumped badly, largely due to concerns turmoil might spill over.²⁰⁸ By December, Zimbabwe was deeply in arrears for oil purchased from South Africa, and more and more commentators observed that Pretoria was positioned to bring political change in Harare simply by switching off Zimbabwe's power supply. South Africa provides some 40 per cent of Zimbabwe's imports and 20 per cent of its power. The fast track program and related political instability created a sizeable Zimbabwean refugee population, much of which went to South Africa. Pretoria became increasingly aggressive in trying to seal the border, further emphasising the need for Mbeki to act.

A South African economist estimated that Zimbabwe's economic decline cost the southern Africa region \$2.6 billion between 2000 and 2002, with much due to cancelled exports and failure to pay for services.²⁰⁹ Tourism across the region also was hurt by the situation in Zimbabwe. That said, the rest of the region has benefited from the exodus of academics, farmers and business professionals from Zimbabwe. Indeed, neighbours, notably Mozambique and Zambia, have actively tried to lure white Zimbabwean farmers, offering favourable packages of land and tax benefits. More than 60 have resettled in Mozambique and are already producing export crops.

Mbeki and some ANC members were concerned about the possibility of a liberation movement losing power to a labour union party. They noted that some of Zimbabwe's political dynamics were replicated in South Africa, where the Congress of South African Trade Unions (COSATU), although formally allied with the ANC, has some deep tensions with the ruling party. Although South Africa did have legitimate concerns about the potential of Zimbabwe collapsing, particularly in terms of refugees, President Mbeki was eager to contain the situation there while ensuring that ZANU-PF remained in power. Much of his approach was also driven by the popularity of the land invasions within South Africa where public support for them remained high. Indeed, more black South Africans supported the land grabs than did black Zimbabweans, likely due to the fact that South Africans did not have to view ZANU-PF violence up close or personally experience the economic hardships created by the land program.

²⁰⁸ The rand recovered once these concerns dissipated.

²⁰⁹ *The Economist*, 6 November 2003.

A Zimbabwean political scientist noted, "Mbeki is sitting on a powder keg. The soft touch pays dividends at home".²¹⁰

C. CHAOS

Despite the fact that the MDC held close to half the elected seats in parliament by mid-2000, violence and anarchic land seizures continued largely unabated. President Mugabe and ZANU-PF sought to accelerate land seizures, silence the free media and undercut a judiciary that they viewed as far too independent. Throughout 2001, prospects for an internationally brokered deal on land reform arose, but, in retrospect, the government did not take them seriously.²¹¹ Negotiations seemed to be more an effort to limit the fallout from international condemnation, although the high economic cost of the fast track program became clear during this period.

By November 2000, more than 2,200 farms had been listed for acquisition. The fast track program was moving with great speed despite little planning. The actual plan was no more than ten pages long, and there was almost no planning in place for redistributing the seized land. A black farm worker complained, "When these people are given land, they aren't given capital. They can't even till the land. First you need to be trained to do farming, and then you can be given the land".²¹² Provincial governors had a great deal of leeway in conducting the fast track program, despite the fact that many publicly acknowledged they lacked expertise and resources. Local political leaders treated the exercise largely as a land grab, with police, military officials and well-positioned ZANU-PF politicians the most frequent beneficiaries. MDC supporters were barred from receiving land.

Land redistribution distinguished sharply between the small A1 and larger A2 properties. The large commercial A2 farms were mainly doled out to key figures within the government and security services. These once productive farms often became little more than weekend retreats for the Harare elite. The term "briefcase farmers" described the many senior ZANU-PF officials who enjoyed large properties but demonstrated little interest in actually farming. A farm worker observed, "As far as I can see the redistribution has not been fair. Many of these new farmers have not produced anything. As long as you can raise your fist up in the air you are being given land".²¹³ An MDC parliamentarian derided the fast track program as "the VIP scheme" that benefited "a who's who in the ZANU-PF

²¹⁰ ICG interview, Harare, 6 December 2003.

²¹¹ See ICG Report, *Zimbabwe: Three Months after the Elections*, op. cit.

²¹² ICG interview, 4 December 2003.

²¹³ ICG interview, 4 December 2003.

and parastatals".²¹⁴ Another MDC parliamentarian claimed that the ZANU-PF reasoned that if civil servants were not interested in acquiring land, "they must be opposition".²¹⁵

The smaller A1 plots were often directed to people loyal to the local power structures, but in most cases these individuals were given the land with almost no additional resources to help them farm. A1 farmers have traditionally lacked access to credit, and such a possibility largely collapsed with the general deterioration of the economy. The lack of investments in the A1 plots is cited again and again as a central obstacle to more effectively developing small farms. "The state's failure to assure inputs – credit, fertilisers and pesticides, irrigation, farm implements, seeds, marketing support and transport – meant that, instead of contributing to surpluses, the best that most new land recipients could hope for was to grow enough food for their own consumption".²¹⁶ In many cases, subsistence was not even possible, and some who received land soon found themselves forced to pay rent to power brokers. A social scientist commented: "Many feel they would be better off if they stayed where they were, given the way the exercise was conducted".²¹⁷

The treatment of white commercial farmers grew even harsher, as the government regularly rode roughshod over its own laws and regulations. Most farmers were given 30 days to leave, despite the fact that the clear majority had purchased their land after 1980 and had government certificates of "no present interest". There was no legal standing for the government to rescind the "no present interest" certificates. An MDC politician complained, "The government wants to eliminate the need to demonstrate a public good in seizing land; that is fascism".²¹⁸ Farmers received no notice of the seizures other than what was posted in the government newspapers. Similarly, a number of individuals complained that they had seen their names published in the paper as beneficiaries of land redistribution but had never actually received anything. One farmer complained, "After 53 years on our farm, we came out with three tractors and some implements".²¹⁹ This was at a time when the government was already the proprietor of very large amounts of land, including substantial underutilised properties. Many farms that were not listed were occupied. Because of the fundamental uncertainty surrounding the status of such land, looting became the most attractive option for those seizing it. Often

²¹⁴ ICG interview, Harare, 7 December 2003.

²¹⁵ ICG interview, Harare, 3 December 2003.

²¹⁶ Bond and Manyanya, *Zimbabwe's Plunge*, op. cit., p. 281.

²¹⁷ ICG interview, Harare, 5 September 2003.

²¹⁸ ICG interview, Harare, 7 December 2003.

²¹⁹ ICG interview, Harare, 5 December 2003.

crops were uprooted and herds and other assets were quickly sold off. One farmer explained, "They broke down my house because they didn't know if they could stay on the land".²²⁰

The list of farms to be seized rose to over 3,000 on 31 July 2000, by which time at least 1,600 were occupied, and the government announced intention to redistribute at least 75 per cent of white commercial farms by the end of the year. In early August 2000, the trade unions, the MDC and white farmers organised a one-day general strike that brought much of Harare and many other cities to a standstill but did little to stop the escalating seizures. The situation also sparked murmurs of dissent within the ZANU-PF about the course down which Mugabe was leading the party. The technicalities of the government program aside, the land seizures were part of a broad government program of intimidation and terror that affected the entire country. Edison Zvobgo, a former cabinet minister and member of the ZANU-PF politburo, complained in September:

We have tainted what was a glorious revolution, reducing it to some agrarian racist enterprise. We have behaved as if the world owes us a living. It does not. We have blamed other people for each and every ill that befell us. As every peasant, worker, businessman or woman now stares at the precipice of doom, let us wake up and draw back.²²¹

Commercial farming suffered major setbacks as a result of fast track. Large fields remained barely cultivated, and yields on most major crops fell sharply. A Zimbabwean food security expert noted, "Prior to 2000, large scale farms provided 40 to 60 per cent of the country's maize, and in the first year of fast track, maize production dropped 50 per cent".²²² Livestock herds were decimated, and those that survived were much more susceptible to disease because of the breakdown in both service structures and the so-called cold chain – refrigeration facilities necessary to keep vaccines fresh. Crops were routinely destroyed and properties looted. As a result, new crops were often not planted, which posed a long-term threat to the country's economy and ability to feed itself. The fast track program turned the balance of agricultural production on its head, and a nation that had long been a major producer of food quickly became a major consumer of emergency food aid.

In spite of these developments, international efforts continued to be made to deal with Mugabe. Victor da Silva Angelo, head of the UNDP mission in Zimbabwe, insisted in November 2000 that the situation "can

²²⁰ ICG interview, Harare, 6 December 2003.

²²¹ *The Guardian* (London), 13 December 2000.

²²² ICG interview, Harare, 8 December 2003.

be brought under control very quickly if resources are made available as well as the technical manpower....We need money to leverage the dialogue."²²³ This was followed by a visit to Zimbabwe in December 2000 by UNDP Administrator Mark Malloch Brown, at the request of the UN secretary general, to explore whether a technical, development-focused approach could lay the foundation for subsequent political dialogue. He put it to Mugabe that Zimbabwe faced a clear choice between the fast track program with limited gains and a more systematic, investment-backed approach, arguing that the latter would produce a well-established community of newly resettled communal farmers, minimum disruption to farming and the broader economy, payment of fair compensation to commercial farmers and support for displaced workers. This could incorporate the fast track target of 5 million hectares, he said, but would proceed at a pace that allowed orderly provision of infrastructure and services. Building on the recommendations of a UNDP technical team, Malloch Brown proposed a trust fund to provide a clear, transparent and accountable mechanism for financing land acquisition and resettlement. The UNDP trust fund would have two primary components. The first would provide financing for resettlement including the provision of farming equipment, extension services and basic infrastructure. The fund's second component would finance compensation to farmers for acquired land and improvements while providing displaced farm workers with support.²²⁴

In a follow-up letter dated 15 December 2000, the UNDP chief also insisted that President Mugabe stop the haphazard land redistribution if he wanted international financial support. He maintained that his organisation supported the principle of land reform but not the Zimbabwean government's method of parcelling out land without planning or compensation: "Neither the secretary general [of the UN] nor I will be able to secure any donor financial support until outstanding law and order issues are being brought under control. Every donor I have consulted with has been adamant on this point".²²⁵

The UNDP's efforts have been criticised on a variety of grounds, from the quality of its technical team's effort,²²⁶ to the very attempt to

²²³ *The Christian Science Monitor*, 8 November 2000.

²²⁴ See UNDP's interim assessment mission report at www.undp.org/rba/pubs/land_reform.pdf.

²²⁵ Dumisani Muleya, "UNDP Offers Mugabe a Last Chance on Land", *Zimbabwe Independent*, 5 January 2001. See also www.undp.org/dpa/frontpagearchive/dccember00/4dcc00/. The full text of the Malloch Brown letter can also be found as an appendix to the Ute report, op. cit.

²²⁶ One U.S. official was sharply critical of the UNDP technical team's effort, calling it a "shoddy piece of work from the UNDP at a critical time". ICG correspondence, 15 March 2004.

engage Mugabe at a time when other governments were cutting off access.²²⁷ In its defence, the UN has argued that "The technical mission was also not intended to be a comprehensive technical report", but rather "a political document to give the government some cover to reengage with donors and downshift off the fast track process"; and that UNDP engagement "was not a go-it-alone policy, but a carefully and mutually agreed tactic on the grounds that the international community could not afford to cut off all lines of communication."²²⁸ The same senior official commented that "in the period after the elections there was a genuine but misguided hope by some key donors that somehow Zimbabwe would take a 'Milosevic option' – mass action in the streets that would trigger a Serbia style revolution. To most political observers that was never on the cards, but it did for a while open up genuine differences of opinion between some donors and international agencies on tactics...."²²⁹

In the event, the UNDP attempt at mediation came to nought, and the situation remained turbulent, with land invasions continuing amid widespread international condemnation, though not without a further diversionary manoeuvre from the president.

In a 21 December 2000 address to the nation, President Mugabe announced that the land seizures were at an end, and the government had enough land for redistribution. With some 2,500 farms formally listed for compulsory acquisition, he proclaimed, "Now we have reached our target, the main focus will be to ensure that people are properly resettled".²³⁰ The performance was all the more remarkable in that it came just six days after the ZANU-PF party conference, where the president had railed against "an evil white alliance" working against black government in southern Africa. Mugabe appeared to hope that by declaring fast track completed, he could lure donors back. However, the land seizure campaign continued. Sadly, the communal areas that were long meant to be the intended beneficiaries of redistribution continued to be pushed to the margins of the national and international debate. A Zimbabwean political scientist commented that the entire fast track program "has hinged upon lawlessness", and now, "the biggest problem is the chaos".²³¹

Demographic pressures continued to provide an important subtext to the crisis. Despite the impact of the HIV/AIDS epidemic, Zimbabwe's

²²⁷ Victor da Silva Angelo's pro-engagement views, and relations with the Mugabe government, have been particularly sharply questioned within the diplomatic community in Harare.

²²⁸ ICG correspondence, 2 July 2004.

²²⁹ Ibid.

²³⁰ *The Times* (London), 21 December 2000.

²³¹ ICG interview, Harare, 6 December 2003.

population doubled, from 6.1 million to 12.6 million, between 1975 and 2000. Likewise, population density leapt from 16 people per square kilometre in 1975 to 32 in 2000.²³² This vigorous growth, which Zimbabwean historian David Beach called "a gigantic increase by anybody's standards", created increased demand for land, as population density within the communal areas reached proportions that would have "staggered the imagination of earlier generations, who were already complaining of overcrowding by 1900".²³³ This, in turn, has forced increasing numbers into urban areas, yielding a host of public problems, including strained water and power supply. As Beach put it:

The increase from 1920 to 1992 was on such a scale that, if an equivalent increase had taken place during the same period....Britain would now have a population of 473,000,000. A similar increase in the USA would have led to a population of 1,236,000,000. I do not think that even the latter economy could have supported such an increase. Is it any wonder that the far less developed economy of Zimbabwe cannot do so either?²³⁴

D. ASSAULT ON THE JUDICIARY

President Mugabe's interest in overhauling the judiciary stemmed not only from his interest in protecting the fast track program but also from acute awareness that the courts could rule on 37 contested parliamentary seats from the 2000 election as well as any potential challenges to the 2002 presidential contest. If the courts found in favour of the MDC, the party could gain a majority in the legislature. In one of many steps to intimidate his opponents, Mugabe offered a blanket pardon to those who had invaded the white commercial farms in October 2000.

The Commercial Farmers' Union challenged the land redistribution program, calling it an unconstitutional process conducted in a lawless environment. It appealed further to the courts by arguing that it was being implemented with heavy racial and political bias and that the government was not observing its own regulations. In November 2000, the Supreme Court ruled that the fast track program was indeed illegal because proper procedures were not being observed, and it again ordered the removal of squatters.

²³² Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat, *World Population Prospects: The 2002 Revision and World Urbanization Prospects: The 2001 Revision*, 1 March 2004. Available at www.csa.un.org/unpp.

²³³ David Beach, "Zimbabwe: Pre-colonial History, Demographic Disaster and the University", *Zambezia* 26, no. 1 (1999), pp. 11, 16.

²³⁴ *Ibid.*, p. 15.

The next month a ZANU-PF-directed mob barged into the Supreme Court to disrupt further proceedings on fast track land seizures. The police failed to act – yet another sign that the government would offer its own militia forces impunity. On 21 December 2000, however, the court found the land program "entirely haphazard and unlawful".²³⁵ It objected to the clear favouritism demonstrated toward ZANU-PF allies in redistributing land, but acknowledged that trying to right the historical wrongs in land ownership was acceptable. This again made the Supreme Court a central focus of the government's anger, particularly Chief Justice Anthony Gubbay and fellow Supreme Court Justice Nick McNally, both of whom are white.²³⁶ That same month Mugabe tried to assert that the MDC's efforts to challenge parliamentary election results were invalid. The Supreme Court quickly ruled his move unconstitutional. Also in December 2000, a ZANU-PF meeting essentially ratified Mugabe as the party's preferred candidate for the March 2002 presidential election.

Militia groups repeatedly called on Gubbay to resign or risk physical assault. In early March 2001, he finally succumbed to the threats and agreed to take early retirement in June. The government pressured other judges it considered too independent-minded. After forcing several more out, President Mugabe expanded the court to eight seats (from five) and appointed three judges known to support ZANU-PF, stacking the bench in his favour. The court quickly reversed its decision that the fast track program was unconstitutional. This series of actions led Welshman Ncube of the MDC to complain that the government was attempting to create a "puppet judiciary".²³⁷ The Legal Resources Foundation of Zimbabwe commented on the systematic assault on the legal system:

The government said it was trying to rid the legal system of its colonial, reactionary elements so that it would support, rather than obstruct, reforms aimed at advancing the rights of the black majority, especially the program of land redistribution. In fact, however, the main aim seems to have been to remould the legal system into a pliant instrument of state power that would allow the government to curtail organised political opposition and clamp down on criticism and dissent.²³⁸

In March 2001, the Commercial Farmers' Union considered a plan to offer a third of its members' land for resettlement, allowing 20,000 black

²³⁵ See Chan, *Robert Mugabe*, op. cit., pp. 154-169, for a good discussion of the confrontation in the courts.

²³⁶ Gubbay was appointed chief justice in 1990 by Mugabe's government. He had enjoyed a solid reputation as a liberal judge even in the most repressive periods of the Ian Smith government.

²³⁷ *The Washington Post*, 3 March 2001.

²³⁸ Legal Resources Foundation, *Justice in Zimbabwe*, Zimbabwe, 30 September 2002.

farmers to be resettled on 100,000 hectares. The CFU was increasingly torn by dissent about the best means to respond to the fast track seizures, and this rift would grow as the crisis wore on. By that time, the MDC was also toning down its confrontational approach. Morgan Tsvangirai commented, "Rallies are out, protests are out. We're not going to give him [Mugabe] a reason to clamp down on us".²³⁹ Nevertheless, in May, in a move that the ZANU-PF hoped would prevent him from running for president in 2002, Tsvangirai was charged with treason because of remarks that the government said encouraged its overthrow. This period also saw extended attacks on civil society groups, international NGOs and even foreign diplomatic missions. A Canadian diplomat was assaulted during the occupation of a CARE International office by government militia forces, and the offices of the Konrad-Adenauer-Stiftung, a German foundation, were also assailed. International condemnation of these attacks on internationals was strong, and the government soon took a different tack.

In South Africa on 25 May 2001, U.S. Secretary of State Colin Powell said that President Mugabe appeared unwilling to "submit to the law and the will of the people".²⁴⁰ A short time later, the U.S. pulled Peace Corps volunteers out of the country. Critical food shortages soon loomed large, and even exceedingly patient institutions such as the World Bank were now openly suggesting that the country would not get back on track without a successful political transition. In August 2001, the UN World Food Program declared that Zimbabwe would soon face an exceptional food emergency. Despite the death of Defence Minister May Moven Mahachi (a key hardliner supporting Mugabe) in a car crash in May 2001 in suspicious circumstances and Hunzvi's death from HIV/AIDS in June 2001, the government remained committed to the fast track agenda.

The economic toll of fast track and international isolation escalated steadily. Speaking on his 77th birthday in February 2001, Mugabe acknowledged that the country was going through a "bad patch", but insisted that "this will be the final year of hardship".²⁴¹ The statistics painted a different picture. By March 2001, unemployment was 60 per cent. An estimated 100,000 jobs were lost in 2000, the national debt had climbed to 35 per cent of GDP and more than 75 per cent of the population was living below the poverty line.²⁴² Zimbabwe's GDP declined by 4.9 per cent in 2000 alone.²⁴³ Tourism, an industry that had accounted for 8 per cent of GDP earnings, suffered badly. Direct investment had largely

²³⁹ *Scotland on Sunday*, 4 March 2001.

²⁴⁰ "Zimbabwe Election Chronology", *Congressional Research Service*, 26 March 2002.

²⁴¹ *The Times* (London), 22 February 2001.

²⁴² *The Insider* (Zimbabwe), 27 March 2001.

²⁴³ Economist Intelligence Unit, December 2003.

ground to a halt, and agriculture was rapidly collapsing. On 1 June 2001, the government increased the fuel price 70 per cent. Inflation dipped briefly in mid-year but soon resumed its assault on earnings and savings. The lawless environment seemed to trigger a wave of government-directed corruption as senior ZANU-PF officials increasingly sought direct enrichment. Government officials and their business connections exploited the parallel exchange rate as inflation grew. The Congo intervention, while directly benefiting a coterie of Mugabe advisors and cronies, continued to drain the treasury, claiming up to 12 per cent of tax revenue.²⁴⁴

E. THE PLIGHT OF FARM WORKERS

As Mugabe pursued the fast track, there was no effort to address the plight of the hundreds of thousands of farm workers and their families rendered homeless and unemployed by the land invasions. Zimbabwe's farm workers have long lingered near the bottom of the socio-economic ladder, and they have largely been marginalised from the political process. Many of these individuals were originally migrants from Malawi, Zambia and Mozambique, and even though many of their families have been in Zimbabwe for more than a generation, they still lacked proper identity documents.

Although the very large majority of Zimbabwe's farm workers were born in Zimbabwe and viewed themselves as Zimbabwean, the government continued to treat them as a "foreign" population that could easily be taken advantage of and disenfranchised. According to one survey, only 78 per cent of the farm workers claimed to have citizenship, suggesting a large population of workers without full political rights.²⁴⁵ Importantly, a 1997 study noted that less than 10 per cent of Zimbabwe's farm workers were foreign born.²⁴⁶ A farm workers' group noted, "The story of farm workers in Zimbabwe is the story of a people excluded, exploited and poor".²⁴⁷ Farm workers and their families have limited educational opportunities, often living far from schools, trapping them in a cycle of poverty. They were especially hard hit by the government's land program, and often singled out for attacks because they were considered sympathetic to white farmers.²⁴⁸

²⁴⁴ *Financial Times* (London), 22 September 2000.

²⁴⁵ Office for the Coordination of Humanitarian Affairs, "The IDP Situation in Zimbabwe: Current Trends and a Strategy for the UN System", 27 May 2002. Available at www.reliefweb.int/idp/docs/reports/Zimbaberep.pdf.

²⁴⁶ Panos Southern Africa, *Zimbabwe's Farm Workers: Policy Dimension*, 2001), p. v.

²⁴⁷ *Ibid.* p. i.

²⁴⁸ Lloyd M. Sachikonye, *The Situation of Commercial Farm Workers after Land Reform in Zimbabwe*, Farm Community Trust of Zimbabwe, March 2003.

It is estimated that there were 300,000 to 460,000 commercial farm workers in Zimbabwe when the fast track program was initiated. With their families, they constitute approximately 2 million people, a sixth of the population. The number affected by fast track resettlement is surely well more than 1 million.²⁴⁹ The livelihood of farm workers is inextricably linked with the fate of farms. Almost all these workers' food and cash income come from farm activities: their houses are on the farms; they pay low or subsidised prices for foodstuffs from the farm store; and some are assisted with access to health and education services. Ordinarily, employed workers have food security, but their ability to cope with unexpected shocks is limited and has been severely tested by the current crisis.²⁵⁰ An international group that studies the issue of internally displaced observed, "The social safety net that the commercial farms provided has more or less disappeared", hitting the elderly, households headed by women, orphans and HIV/AIDS victims the hardest.²⁵¹ The UNDP cited a sharp spike in domestic violence and alcoholism among displaced farm workers.²⁵²

Farm workers have been largely shut out of the land redistribution programs under fast track, primarily because the government viewed them as politically suspect. Given the summary nature of most evictions, few farm workers were given "retrenchment packages" mandated by appropriation legislation and meant to help them resettle.²⁵³ The Citizenship Act of 2001 barred "migrant" farm workers from voting in the presidential election. The government suggested that up to one-third of the farm workers should be considered foreign, despite the fact that they had lived and worked in Zimbabwe for more than a generation. Due to pressure from neighbouring states, the government acknowledged the act's flaws, and citizenship was granted to many farm workers after that election. "There were not enough white people to sway the election", a diplomat observed, "but there were enough farm workers to do that, and that is why farm workers have been violently attacked, excluded from resettlement and deprived of their basic rights, including the right to vote".²⁵⁴ Some farm workers remain on their farms, but their existence is extremely tenuous, and they are now largely dependent on food aid.²⁵⁵ The government

²⁴⁹ IRIN, 13 February 2003.

²⁵⁰ Farm Community Trust of Zimbabwe, *The Impact of Land Reform on Commercial Farm Workers Livelihoods*, March 2001.

²⁵¹ "Zimbabwe: Country Profile", The Global IDP Data Base, 25 July 2003.

²⁵² UNDP, *Zimbabwe Land Reform and Resettlement: Assessment and Suggested Framework for the Future*, UNDP Interim Mission Report, January 2002.

²⁵³ Robin Palmer, "History Repeating Itself in Zimbabwe? Evictions in Zimbabwe, December 2002 and 1948", February 2003. Available at www.oxfam.co.uk.

²⁵⁴ ICG correspondence, April 2003.

²⁵⁵ *The Chronicle*, 18 February 2003.

continues to view them as serious potential opposition and consequently gives them a low priority when allowing food aid to be distributed.

The human costs of Zimbabwe's crisis have been very high, with farm workers suffering gross injustices and persistent violence. Those trying to work on redistributed farms have had a difficult time. A representative notes, "It is hard for workers to negotiate with ministers and generals".²⁵⁶ While tales of plucky white farmers standing up to the ZANU-PF have often captivated the international press, it is farm workers' who have borne the brunt of the government repression and policy missteps. A farm workers group argues that the land invasions and clashes with war veterans have:

...left the farm workers in a precarious position, many have been displaced, they now have no jobs, no wages or a roof over their heads. Inadvertently, this has affected their health facilities, their education programs and other social programs. But ironically also, this development has left the farm workers, for the first time, being recognised in the politics of the country as evidenced by the attention they are getting from the different political parties who want their vote. This, however, has seen the different parties using different campaign methods on them, from persuasion, coercion and violence, including brutal beatings.²⁵⁷

Relieving the considerable sufferings of this community, giving it far more equitable treatment and determining how to better harness its considerable agricultural skills are all essential to any long-term recovery plan for Zimbabwe.

²⁵⁶ ICG interview, 4 December 2003.

²⁵⁷ *Zimbabwe's Farm Workers: Policy Dimension*, op. cit.

7. Accelerating Toward Catastrophe: Since 2001

The tail end of 2001 and the beginning of 2002 were dominated by manoeuvres surrounding the presidential campaign. Repeated attempts to negotiate an international settlement that would defuse the land problem did not change the government's course. As the fast track program continued unabated, the consequences became more and more painful for average Zimbabweans. This came at a time when a rapidly decaying health system was struggling to deal with the HIV/AIDS pandemic. The food crisis and evictions of thousands of farm workers exacerbated the high unemployment in an environment of violence, intimidation and abuse of human rights. Meanwhile, thousands of farms and millions of hectares of productive land – with the best doled out to the ZANU-PF elite – lie idle.

A. ABUJA

A September 2001 conference of Commonwealth Foreign Ministers in Abuja, Nigeria seemed to offer both Zimbabwe and the UK a last opportunity to agree over the funding of the land program. Zimbabwe's foreign minister, Stan Mudenge, pledged that his government would end farm invasions and violence on occupied farms, restore the rule of law and abide by earlier land agreements while undertaking reform in a gradual, fair and transparent manner.²⁵⁸ Commonwealth Secretary General Don McKinnon called the commitment from Zimbabwean representatives "very strong".²⁵⁹ In response, the British government agreed to make substantial funds available to compensate displaced farmers and finance infrastructure in the resettled areas.²⁶⁰ However, President Mugabe himself did not take part in the talks, and the effort to reach an agreement seemed to stem

²⁵⁸ In 1995, the Commonwealth countries approved the Millbrook Action program in order to put into practice the principles adopted in the Harare Declaration concerning the promotion and protection of democracy and human rights. An action group composed of ministers of foreign affairs was set up as a mechanism for dealing with and coordinating collective responses to serious and persistent violations of these principles.

²⁵⁹ *The Independent* (London), 7 September 2001.

²⁶⁰ *The Guardian* (London), 7 September 2001.

largely from a desire to avoid condemnation of Zimbabwe at the forthcoming Brisbane Commonwealth Heads of Government Meeting.²⁶¹

The short-lived Abuja agreement tied the question of land to governance, provided a new standard by which to judge Zimbabwe's good faith and promised farm workers 20 per cent of redistributed land. However, it failed to spell out conditions for restoring the rule of law and holding free and fair elections. It appeared to condone previous farm invasions and occupations, provided that such lands were listed for redistribution.²⁶² It also failed to address one of main forces driving the crisis: sponsorship of violence and lawlessness by the ZANU-PF in an effort to ensure its electoral victory.²⁶³ The agreement allowed for "fair" land reform "within the law and constitution of Zimbabwe", without taking into account that most laws (and indeed the judiciary itself) were being explicitly tailored by the government to accommodate wholesale land seizures.

In retrospect, Mugabe was largely buying time with the Abuja agreement, which largely dissipated calls to have Zimbabwe suspended from the Commonwealth at the Brisbane meeting. Mugabe used negotiations on land policy as his most effective means to delay international sanctions. He understood that the mere promise of reform was often enough to divide the international community.²⁶⁴

B. THE ELECTION

With the presidential election imminent and Abuja offering a glimmer of promise, donors tried to move President Mugabe toward a more conciliatory position. In December 2001, the U.S. offered \$26 million – \$20 million for land reform and \$6 million for a democratic transition, debt relief and economic reforms – if the conditions in its Zimbabwe Democracy and Economic Recovery Act were met.

In January 2002, Mugabe announced that the presidential election would be held on 9-10 March. By then, the elected parliamentary seats were evenly divided between the MDC and ZANU-PF because the courts had overturned a number of the latter's victories. If Tsvangirai won the presidency, he would be able to name the 30 non-constituency

²⁶¹ The Brisbane meeting was scheduled for 6-9 October 2001 but was moved to 2-5 March 2002 after the 11 September 2001 terror attacks in the U.S.

²⁶² The agreement stated that invaders were to be moved off farms that were not officially designated for seizures. As the government had listed 90 per cent of the farms for seizure, this did not leave many from which current occupiers were to be moved.

²⁶³ See, for example, an article in the *Daily News*, 7 September 2001, that describes police involvement in the looting of commercial farms in the Mhangura area.

²⁶⁴ See ICG Report, *All Bark and No Bite: The International Response to Zimbabwe's Crisis*, op. cit.

parliamentarians, giving the MDC a wide majority, but Mugabe and ZANU-PF were determined to retain that office. By January, inflation had hit 100 per cent, and the government introduced new laws that served to limit press freedom, ban strikes that were held without permission, prohibit the public expression of hostility toward President Mugabe and gave the security services sweeping new powers. The military sent public signals that it might not recognise a MDC victory. Additionally, throughout the previous year, the government had formed youth brigades, effectively giving ZANU-PF a young militia to serve as a more malleable alternative to the war veterans.

On 13 February, a video of Tsvangirai allegedly plotting against President Mugabe appeared on Australian television that resulted in a second charge of treason. The opposition leader was shown meeting with Ari Ben-Manashe, a former member of Israeli intelligence who headed a Canadian lobbying firm, Dickens and Madson, which eventually secured a large contract with the government of Zimbabwe. Ben-Manashe insisted that Tsvangirai was intent on assassinating Mugabe, although the tape seemed to indicate an active attempt to lure him into making or acknowledging incriminating statements.

In the run-up to the ballot, the EU and the government engaged in an escalating war of words about elections, the nationality of election monitors and the latitude with which monitors could operate.²⁶⁵ In February the EU withdrew its observers, and in mid-month the EU and U.S. imposed sanctions that limited the travel and froze the assets of some senior officials.²⁶⁶ However, these sanctions have not been strictly enforced, and

²⁶⁵ Zimbabwe demanded that observers from the UK, Sweden, Germany, Finland, Denmark and the Netherlands not participate because they were "hostile".

²⁶⁶ On 18 February 2002, the EU imposed a one-year travel ban and froze the assets of President Mugabe and nineteen close associates. The sale of arms and the provision of arms-related expertise to Zimbabwe were also prohibited during this period. The sanctions were a direct response to the ejection of the head of the EU election observer mission, Pierre Schori, three days earlier. In mid-February 2003, France accepted renewal of the EU sanctions for an additional year after it was agreed that President Mugabe would be permitted to attend the Franco-African summit in Paris. By September 2002, the names of those on the sanctions list had grown to 79. On 22 February 2002, the U.S. imposed a travel ban on Mugabe and nineteen associates and froze their assets. Like the EU, the U.S. also prohibited the sale of arms and weapons technology to Zimbabwe, although these measures took considerable time to put in place. On 6 March 2003, the U.S. extended the asset freeze and travel ban to 76 individuals. Unlike the EU sanctions, the U.S. sanctions carry no end-date and will stay in place until they are specifically lifted. In April 2003, the U.S. government released a list of companies that have been fined for violating the sanctions against Zimbabwe and nine other countries, including Citibank, Caterpillar, Bank of New York and others to a total of \$1.1 million. The U.S. sanctions list from March 2003 can be found at

senior ZANU-PF officials have been able to circumvent many of these restrictions. A senior U.S. official acknowledged that the U.S. Treasury Office of Foreign Assets Control has been preoccupied by the terrorism issue and has not dedicated significant staff time to Zimbabwe.²⁶⁷ The absence of measures regarding spouses and closest business associates of senior government officials is a considerable loophole in both U.S. and EU sanctions.

At the Brisbane summit, from 2-5 March 2002 and one week before Zimbabwe voted, African leaders refused to suspend it from the Commonwealth, arguing that the step would dim hopes for a free election. But ZANU-PF had already engaged in a widespread campaign of violence and intimidation in the run-up to the election. There were 24 political murders, almost all of MDC supporters, in February alone. As noted, the government tinkered with citizenship laws to make large numbers of farm workers ineligible to vote. Citizens living abroad were also largely prevented from voting. The government minimised the number of polling stations in areas of MDC strength thus creating long lines in many urban areas and essentially disenfranchising large numbers who could not reach the ballot box because of the wait. Commentators described this as "slow motion" electoral theft. Although the courts ordered that polling stations be kept open for an additional day, the government responded unevenly.

President Mugabe was declared to have received 1.6 million votes to the 1.2 million for Tsvangirai. Given the systematic abuses, the election could not be considered either free or fair. However, a number of African observers took a tolerant approach. An observer team from the Organisation of African Unity concluded, "In general, the elections were transparent, credible, free and fair". A Namibian observer went so far as to call the election "watertight", and President Moi of Kenya said to Mugabe that the election was "testimony of the confidence and high esteem the people of Zimbabwe hold in you".²⁶⁸ In contrast, Desmond Tutu maintained, "I am

www.ustreas.gov/offices/eotffco/fac/sanctions/t11zimb.pdf. A list of companies violating the sanctions can be found at www.treas.gov/offices/eotffco/fac/civpcn/penalties/2003.html. See also Jason Tulk, "Crisis and Coercion: The Political Economy of Sanctioning Zimbabwe", unpublished paper, September 2003, made available to ICG. In early March 2004, the U.S. government designated seven additional businesses owned or controlled by key government figures for sanctions. These included commercial farms seized by Information Minister Jonathan Moyo; Zimbabwe Defence Industries, a government owned arms manufacturer; M&S Syndicate, a holding company owned by ZANU-PF; and two companies representing the interests of retired Defence Forces General Vitalis Zvinavashe. U.S. State Department, Press Statement by spokesman Richard Boucher, Washington, D.C., 2 March 2004.

²⁶⁷ ICG interview.

²⁶⁸ "Zimbabwe Election Chronology", *Congressional Research Service*, 26 March 2002.

deeply, deeply distressed and deeply disappointed that our country could be among those who say the election was legitimate or free".²⁶⁹ The Commonwealth found the election severely problematic, with high levels of violence and intimidation, a flawed legislative framework, widespread repression of expression and thousands disenfranchised.

Tsvangirai thanked the people of Zimbabwe, appealed for calm and stated, "Rarely in the history of mankind have people faced such brutality while retaining gracious exuberance".²⁷⁰ After being sworn in, President Mugabe declared, "The land reform program must proceed with greater speed and strength".²⁷¹ Presidents Mbeki of South Africa and Obasanjo of Nigeria travelled to Zimbabwe to encourage Mugabe and Tsvangirai to form a government of national unity. South Africa and Nigeria were under growing pressure from the U.S. and the UK to bring Mugabe around, but their proposal never got off the ground, with Mugabe apparently willing to consider giving the MDC only a very junior role.

On 19 March 2002, a spokesman noted that U.S. President George W. Bush was disappointed that some African heads of state were "willing to turn a blind eye to what happens in Zimbabwe".²⁷² That same day Prime Minister John Howard of Australia, Mbeki and Obasanjo, heading the three-nation task force the Commonwealth charged with looking into the situation, announced Zimbabwe's suspension for twelve months. In what seemed to be a direct reaction, Tsvangirai was ordered to appear at police headquarters and surrender his passport as the second treason count was lodged.

In July 2002, a select committee of the British Parliament reflected on the collapse of the Abuja accord:

We accept that the efforts of successive British Governments did not produce an outcome which was agreeable to Mr. Mugabe, but this does not in any way excuse the illegal campaign of violence, intimidation and forcible seizures of land orchestrated by ZANU-PF. In any case, Mr Mugabe was offered a good deal at Abuja, which at the time he appeared to accept – if only to buy time – but which he later rejected. The prime responsibility for the crisis in Zimbabwe is his.²⁷³

²⁶⁹ *The Daily Telegraph*, (London), 25 March 2002.

²⁷⁰ Chan, *Robert Mugabe*, op. cit., p. 204

²⁷¹ *The Daily Telegraph* (London), 18 March 2002.

²⁷² "Zimbabwe Election Chronology", *Congressional Research Service*, 26 March 2002.

²⁷³ Extract from UK Parliament Select Committee on Foreign Affairs, Tenth Report, 31 July 2002.

By way of reply, President Mugabe declared at the September 2002 World Summit on Sustainable Development in Johannesburg, "We have not asked for any inch of Europe, not any square inch of that territory. So, Blair, you keep England, and let me keep my Zimbabwe".²⁷⁴

Also in September, Commonwealth Secretary General McKinnon listed five minimum conditions for Zimbabwe's readmission: overturning legislation that limits freedom of speech and the press; ending harassment of civil society and political opposition; reforming the electoral system; working with the Commonwealth and the UN on land policy; and initiating negotiations with the MDC as part of an effort toward national reconciliation. Mugabe's African support was starting to fray. The leaders of Botswana, Ghana and Kenya publicly criticised him, and behind closed doors there was apparent erosion among some long-time backers. Nevertheless, September municipal and district elections were marred by heavy intimidation, with half the 1,400 MDC candidates physically prevented from registering.²⁷⁵ Making matters worse, hunger seemed to be one of the most immediate products of the fast track program.

C. THE FOOD CRISIS

As early as August 2001, the World Food Programme (WFP) paced Zimbabwe under the status of an "exceptional food emergency" and begun formulating plans to deal with looming shortages. Maize production had already been cut almost 30 per cent below the 2000 level, and drought had the potential to make the situation worse. The decline in GDP, an unemployment rate between 60 and 80 per cent and crippling inflation combined with reduced food production created severe food insecurity across most of the country. A food security expert in Zimbabwe observed that, "Seed and fertiliser are just unaffordable....People with nothing have been put on farms and they have to sell off the assets".²⁷⁶ The government steadfastly ignored the growing indicators of hunger and constructed roadblock after roadblock to the delivery of food assistance to the needy.

In November 2001 the WFP announced plans to begin large-scale food deliveries, even as the government made it illegal for more than 1,000 farmers to tend their fields and gave them three months to leave their properties. Banning farming at a time of increasingly serious shortages may have made electoral sense but was dangerous public policy. In December, the government demanded that farmers deliver all their maize and wheat to

²⁷⁴ Bond and Manyanya, *Zimbabwe's Plunge*, op. cit., p. 275.

²⁷⁵ Ibid, p. 270.

²⁷⁶ ICG interview, 5 December 2003.

its Grain Marketing Board within two weeks. This further disrupted normal activities, making it difficult to feed livestock without breaking the law.

In March 2002 the WFP indicated that more than half a million Zimbabweans needed food aid. The reaction from the Grain Marketing Board director, Justine Mutasa, suggested remarkable denial: "There is so much maize in the country, and we may not even need to import if we manage to impound all the maize from commercial farmers".²⁷⁷ However, the number of those needing food continued to rise sharply, as did concerns the government was manipulating food aid to its political ends.

In 2002, WFP Director James Morris and other UN officials requested that Mugabe lift the state monopoly on importing grain so the UN could create an \$85 million fund designed to allow private companies to borrow money and import more than 400,000 tons of grain. Morris also requested that food relief be channelled to the cities and former commercial farm workers and their families displaced by the land seizures. Yet, Mugabe continued to resist the free import of food. In fact, the government implemented additional restrictions to prevent donors from delivering aid²⁷⁸ and confiscated maize that the opposition attempted to import for relief purposes. It permitted the marketing board to sell the maize in February 2003, although it appeared also to resume stockpiling food.

Due to the growing urgency of the humanitarian crisis, the WFP's Morris visited in late January 2003 as a special envoy of Kofi Annan. In unusually blunt language, he blamed the government for the escalating food shortage, which he called "almost beyond comprehension".²⁷⁹ Morris argued that the situation could have been avoided, and the fast track resettlements "along with restrictions on private sector food marketing and a monopoly on food imports...are turning a drought that might have been managed into a humanitarian nightmare". He urged the government to reverse policies hampering the delivery of food aid and pressed Mugabe to scrap the state monopoly on importation of maize and wheat.²⁸⁰ Under that monopoly, only the Grain Marketing Board can import "strategic" grains, while the private sector is prevented from importing any of these staple grains, giving the state nearly full control over the food supply. A food security expert insisted that the Grain Marketing Board is "actually making the situation worse. They are centralising the distribution of agricultural inputs, and with millions of people needing inputs, some people are getting

²⁷⁷ *The Guardian* (London), 22 January 2002.

²⁷⁸ Government restrictions prevented the Catholic Fund for Overseas Development from delivering tons of maize. ICG interview with Catholic Archbishop of Bulawayo, Pius Ncube, 2003.

²⁷⁹ BBC, 26 February 2003.

²⁸⁰ "UN envoy to meet Mugabe, Tsvangirai", *The Financial Gazette*, 23-29 January 2003.

fertiliser and seed after the planting season is done. We can't all be farmers. Let the people who can farm, farm".²⁸¹ Instead, the Grain Marketing Board – which appears to be an important source of revenue for ZANU-PF party loyalists – has been given greater and greater power, despite a track record of almost complete failure in its critical operations.

Production of maize, wheat, soy and tobacco plummeted, often to levels that were a third of previous production. Agriculture, long the core of the economy, once contributed 40 per cent of the country's foreign exchange and 30 per cent of its annual production. With the impact of land seizures and wholesale displacement compounded by drought, some seven million Zimbabweans were facing famine in January 2003.²⁸² Food shortages and price distortions might also have encouraged individuals both to use seed for food and export it to Zambia. It was expected that less than half the soybean requirement would be met, causing a further downturn in intensive animal production systems. The 2002 wheat harvest was 160,000 to 170,000 tons, well below the 300,000 ton average. Less than 10 per cent of arable land was producing some sort of grain. The commercial beef herd had declined from 1.2 million to less than 150,000, with foot-and-mouth disease also a serious problem, little money available for vaccines and increasing disruptions in the cold chain.²⁸³

Farm disruptions caused by land seizures reduced the 2002 tobacco crop to about 162,000 tons, down 40,000 tons from 2001. The sharp reduction of tobacco output further devastated the already reeling economy. Tobacco has traditionally produced over 30 per cent of foreign exchange earnings, and the industry is the country's largest employer. With fertilizer in short supply and the overall cost of production rocketing, banks were reluctant to lend to farmers due to the pervasive environment of risk.²⁸⁴ The impact of the political and economic chaos on tourism revenues was equally disastrous. A senior Western diplomat observed, "There will be a food deficit in this country for years to come.... There is not much point in providing a lot of aid to farmers at this point and pretending that we can improve food production in the face of so many counter-productive government policies".²⁸⁵

There is ample evidence that the Grain Marketing Board has channelled scarce food to ZANU-PF supporters while denying it to

²⁸¹ ICG interview, Harare, 6 December 2003.

²⁸² Fergal Keane, "Famine plagues Zimbabwe", BBC News World Edition, 21 January 2003.

²⁸³ Agri-SA, press conference statement, 31 January 2003.

²⁸⁴ "Zimbabwe tobacco crop to halve", BBC Business News, 24 October 2002. Agri-SA in February 2003 estimated that it would drop to 35 per cent of the previous year's crop.

²⁸⁵ ICG interview, Harare, 8 December 2003.

suspected opposition supporters.²⁸⁶ There are widespread and credible accusations that the government has required food recipients to have a ZANU-PF party card. A food security expert comments, "Food aid is politicised all over the country", and MDC supporters have literally been cut off from government supplies.²⁸⁷

The WFP noted at the end of 2003: "The supply of maize available through the government's Grain Marketing Board is erratic and scarce. The price of maize on the parallel market has risen by more than 200 per cent over the last year. ... Government price controls have caused or exacerbated urban shortages of staple foods, such as maize and wheat".²⁸⁸ In January 2004, it again asked the government to release more than 200,000 tons of maize from stocks.²⁸⁹ With more than 7 million short of food, and donors more and more reluctant to deliver assistance given other pressing humanitarian crises around the globe, the government's refusal to feed its own people was all the more damning.

In 2004, the food situation took another dangerous turn. In a continuing effort to use hunger as a political weapon, the government again began insisting that there was no food shortage in the country. In early May, Zimbabwe ejected a UN food assessment team from the country, and Agriculture Minister Joseph Made issued a series of wildly optimistic, and obviously false, crop estimates. Crediting the "success" of land redistribution, Minister Made claimed that Zimbabwe's maize production would double to more than 2.5 million tons, several times what was produced in either 2002 or 2003. Most outside observers view these claims as a physical impossibility given the many redistributed farms that continue to lay fallow. President Mugabe, in a rare interview with a British journalist, insisted that Zimbabwe would not accept international food aid in the coming year. "Why foist this food upon us?" said Mugabe, "We don't want to be choked. We have enough".²⁹⁰ Mugabe suggested food should "go to hungrier people, hungrier countries than ourselves".

While there have been marginal improvements in harvests, the UN estimated by mid-2004 that more than 5 million Zimbabweans still required food aid, with almost half of the neediest being in urban areas (a traditional hotbed of MDC support). Clearly, President Mugabe and ZANU-PF have

²⁸⁶ ICG interviews with food aid recipients in Seke, Rusape, Hwedza, Matobo, Nkayi, Binga, 2003. ICG interviews with World Food Program, Save the Children (UK) and World Vision, 2003. See also ICG Report, *Zimbabwe: The Politics of National Liberation And International Division*, op. cit.

²⁸⁷ ICG interview, Harare, 6 December 2003.

²⁸⁸ WFP, Zimbabwe country information. Available at www.wfp.org/country_brief/index.asp?region=3.

²⁸⁹ *The New York Times*, 23 January 2004.

²⁹⁰ *The Times* (London), 24 May 2004.

determined that they can and will use food as a blunt instrument of their political strength in the run-up to parliamentary elections tentatively scheduled for March 2005. Elections may well be moved up to late 2004 as the government attempts to secure more parliamentary seats before the crisis grows even more severe. There were also indications that the government was attempting to circumvent international sanctions to trade tobacco and minerals with international companies in order to secure imports of maize and wheat.²⁹¹ By maintaining a monopoly over food distribution, ZANU-PF hopes that the hungry will make docile political opponents. James Morris of the WFP noted in June 2004 that the combination of AIDS, food shortages and poverty had left southern Africa as "the most serious humanitarian crisis in the world today" with Zimbabwe at its epicentre.²⁹²

D. THE STATE OF FARMING AND LAND REDISTRIBUTION

By January 2002, as President Mugabe moved to secure his re-election, even institutions prepared to be more patient with the government, such as the UNDP, were warning of the impact of fast track land programs in stark terms: "The economic consequences of trying to implement such a large program, without considerably extending the time frame, will be highly negative because of the resources it would drain from the government's budget and from private capital".²⁹³ The UNDP also acknowledged that providing infrastructure and agricultural services to the resettled within even five years "will be impossible on the basis of the government's past track record and its current implementation capacity....Most settlers are not well-prepared for farming, since infrastructure development in most cases is totally inadequate".²⁹⁴ The UNDP complained that "the policy-making process and program implementation have become so eclectic that it is no longer possible to predict, on the basis of objective criteria, who is likely to be affected by the program or benefit from it".²⁹⁵

In fact, it was not that difficult to identify beneficiaries. Justice for Agriculture, a commercial farmers' group, released a list in late February 2003 that identified 1,000 farms, their location and size and the names of the new farmers and former owners.²⁹⁶ The land on the list approached 2

²⁹¹ *Africa Confidential* 45, no. 10 (14 May 2004).

²⁹² *The Washington Post*, 23 June 2004.

²⁹³ UNDP, *Zimbabwe Land Reform and Resettlement: Assessment and Suggested Framework for the Future*, UNDP Interim Mission Report, January 2002.

²⁹⁴ *Ibid.*

²⁹⁵ *Ibid.*

²⁹⁶ Justice for Agriculture split off from the Commercial Farmers' Union in early 2002, frustrated with what it saw as its overly accommodating approach in dealing with the

million hectares, with an average farm size of 1,975 hectares.²⁹⁷ Mugabe's relatives, numerous ZANU-PF parliamentarians, high-ranking military and police officers, senior civil servants, commissioners, provincial governors, councillors, war veterans, farmers and businessmen all received farms. The majority of allottees did not appear to be farmers. Within a few days of the report's release, the leak of a confidential presidential audit appeared to confirm that widespread corruption and lawlessness was involved in the farm seizures.²⁹⁸ An insider explained:

A number of ZANU-PF officials want to settle the chaos on the farms. They want to expose the looters and the thieves within the ruling party. Those who want to resolve the chaos are the real ZANU-PF; the real liberation guys. They detest the indiscipline that has resulted from the hijacking of the party by extremist elements".²⁹⁹

Between May 2000, when Mugabe pushed the fast track program through parliament, and February 2003, the agriculture minister reported that 2,670 farms totalling 5,069,782 hectares had been acquired for resettlement of small-scale communal area farmers under the A1 model. For A2 resettlements, 2,209 farms had been acquired, totalling 4,934,892 hectares. Under the A2 model, a maximum farm size of 300 hectares in Mashonaland and 750 hectares in Midlands had been established for the new class of indigenous commercial farm owners.³⁰⁰ In practice, however, the limits have been breached, in terms of both farm size and number of farms per farmer. At the local land committee level, there continues to be much confusion over the A1 and A2 designations, resulting in disputes between small-scale farmers from the communal areas and indigenous commercial farmers.³⁰¹

government. Justice for Agriculture has consistently taken a harder line and fought land acquisitions in court. See www.swradioafrica.com/pages/farms.htm

²⁹⁷ Presumably many of these farms are scheduled to be subdivided then allocated to several farmers, though it is not clear how.

²⁹⁸ *Africa Confidential* 44, no. 4 (21 February 2003). The leaked report was entitled *The Addendum to the Land Reform and Resettlement Program National Audit Interim Report* and dated February 2003. The source of the leak and the authenticity of the report were the subjects of an article in *The Sunday Mirror*, 16 March 2003.

²⁹⁹ ICG interview in South Africa, March 2003.

³⁰⁰ Although the government initially indicate that A2 farms would average about 100 hectares, the maximum size of farms under this plan was constantly adjusted upwards as key figures associated with the government amassed larger and larger holdings.

³⁰¹ *Africa Confidential* 44, no. 4 (21 February 2003).

More than 300 commercial farmers were arrested in 2002 for defying orders to vacate their farms.³⁰² In December 2002 and January 2003, the government continued to publish orders for the compulsory acquisition of farms in its gazette and the state newspaper, *The Herald*.³⁰³ In early 2003, it repeatedly stated that the land seizures were over, and the issue had become one of supporting resettled farmers and restoring productivity.³⁰⁴ In spite of this, the seizure process continued, with the best farms still going principally to officials in the ruling party and military, and many small-scale farmers originally resettled from communal areas being expelled because those officials coveted their property.³⁰⁵

Justice for Agriculture claimed that 77 farms had been listed for seizure in January and February 2003, and ZANU-PF youth militias were enforcing illegal evictions.³⁰⁶ On 9 May 2003, another 38 farms were listed for compulsory acquisition.³⁰⁷ The government has become increasingly sensitive to the charges of massive corruption, however. In July 2003, President Mugabe ordered top ZANU-PF officials with multiple farms to relinquish all but one within two weeks, but in September it was reported that out of all these ZANU-PF officials, only one provincial governor had surrendered any property.³⁰⁸ Even some of those farms that had not been issued with acquisition orders continued to have problems with war veterans, army officers and other prominent government supporters demanding them.³⁰⁹ Stability and the rule of law had not reappeared in the farming sector, and the government had lost any credibility that its redistribution was

³⁰² BBC, 7 November 2002.

³⁰³ *The Herald*, numerous issues. Government gazettes for December 2002 and January 2003.

³⁰⁴ *Sunday Mail*, front section, 19 January 2003. ZANU-PF Secretary for Information Nathan Shamuyarira, BBC, 20 January 2003.

³⁰⁵ The Zimbabwe government itself has produced an audit of the fast track resettlement program that found countless abuses by senior ZANU-PF and military officials against the "one man, one farm" principle, often at the expense of small-scale farmers who were resettled and then driven off the land. This report was prepared by the minister of state for land reform in the vice president's office, Flora Buka. *Financial Times* (London), 20 February 2003 and *Africa Confidential* 44, no. 4, 21 February 2003. In May 2003, Mugabe appointed a team of experts to undertake a comprehensive review of the fast track land distribution program and the alleged irregularities and to make recommendations for corrective measures: *Mail & Guardian*, 15 May 2003. Available at www.mg.co.za.

³⁰⁶ News24 (South Africa), 19 February 2003.

³⁰⁷ Justice for Agriculture Legal Communiqué 2/2, 9 May 2003.

³⁰⁸ "Officials forced to implement, 'one man, one farm'", IRIN, 31 July 2003; "Resettled farmers are returning to communal areas", IRIN, 4 September 2003.

³⁰⁹ Situation reports from the Commercial Farmers' Union and Justice for Agriculture during 2003 and 2004 amply demonstrate the threats of violence and arrest that farmers continue to face. In most cases, the police have failed to help.

real reform. Consequently, a return to agricultural productivity remained distant.

In 2000, 4,500 commercial farms existed, mostly white-owned. As of late 2003, it was estimated that 2,500 commercial farmers remained in Zimbabwe, with over 1,000 still owning their properties, but less than 900 commercial farms still operating, and most well below capacity. Almost all members of the Commercial Farmers' Union (CFU) have been affected by land acquisition in some form. The CFU says 700 to 800 farms are reasonably active, although that number is shrinking. Few farmers have been compensated for land, and most have received about 20 per cent of the value for improvements on the land such as buildings or equipment. Most have registered formal complaints about land seizures and resisted pressure to turn over formal titles. Many white commercial farmers still operating bribe ZANU-PF officials. Others have entered into arrangements to farm land the government has acquired and share the profits. These cases are under-reported, largely because farmers engaged in such arrangements are embarrassed. The remaining commercial farmers are waiting in the cities or towns to see what the government intends and whether legal action or CFU negotiations will make any progress.

A poll released in December 2003 by the Konrad-Adenauer-Stiftung found that the "land reform program as conducted by the government is viewed by significant percentages as having been a vote buying exercise that is likely to fail".³¹⁰ However, there remained strong support for redistribution that was fair, transparent and depoliticised. Given the government's approach, it is difficult to imagine how commercial agriculture will recover in the near-term. Donors are unwilling to fund projects on seized commercial farms that, although they would help agricultural production recover, would be seen as legitimising Mugabe's land seizures. As a donor official stressed, "We will not touch the former commercial farms other than humanitarian relief".³¹¹

Further uncertainty and destabilisation was caused by the government's apparent intention to embark upon large-scale – and perhaps ultimately complete – land nationalisation. In December 2003, it introduced amendments to the Land Acquisition Act that allowed it to acquire land and agro-businesses in the Export Processing Zone (commercial areas receiving assorted government incentives to increase competitiveness) and repeal the Hippo Valley Agreement Act of 1964, which encouraged development of large-scale sugar production in the low veld.³¹² In April

³¹⁰ Konrad-Adenauer-Stiftung, *Zimbabwe's Land Reform Program: An Audit of Public Perception*, December 2003.

³¹¹ ICG interview, 8 December 2003.

³¹² *Zimbabwe Independent*, 5 December 2003.

2004, the government evicted more than 1,500 farm workers and their families as they seized the multi-million dollar Kondozi farm, a large export-processing agricultural operation in eastern Zimbabwe. In June 2004, lands minister John Nkomo declared that the government did not intend to "waste time and money" in disputes with farmers about the legality of land seizures, saying, "In the end all land shall be state land and there will be no such thing called private land".³¹³ Nkomo indicated that all title deeds would be voided in favour of state-controlled leases, and that even wildlife conservancies outside of national parks would be managed through 25-year leases – an approach that would likely devastate Zimbabwe's wildlife population. Further signalling its confused approach to land, the government backed off from Nkomo's statements later in June 2004, with a government spokesman insisting "there has not been any change of government policy or law in respect of land tenure and ownership".³¹⁴ Despite its constantly shifting statements, it was clear that President Mugabe and his party supporters now viewed all land in Zimbabwe – whether it was held by black, white, commercial enterprises or conservation groups – as their personal domain, available to be taken with violence and exploited for private gain.

E. THE UTETE REPORT

In August 2003, the government released the Utete report, a presidential review of the land program commissioned to stem controversy regarding an earlier report by the minister of state for land reform in the vice president's office, Flora Buka.³¹⁵ The Buka report had caused public resentment and ZANU-PF infighting since it made clear that much redistributed land had gone directly to senior government officials, some of whom it named. A University of Zimbabwe professor said the Utete report was used "to absorb the critiques and present enough criticisms that it is seen as credible, but it is also a document that can be managed by the government. I don't think the government is serious about implementing this, but it has quieted debate within the party....ZANU-PF wants land reform to be put on the back burner".³¹⁶

A ZANU-PF parliamentarian claimed the Utete report was "sugar-coated but tough", and that "agricultural production has declined significantly, and that is a worry".³¹⁷ This same parliamentarian, while

³¹³ *The Daily Telegraph* (London), 9 June 2004.

³¹⁴ *The Herald*, 15 June 2004.

³¹⁵ Utete report, op. cit.

³¹⁶ ICG interview, Harare, 9 December 2003.

³¹⁷ ICG interview, Harare, 6 December 2003.

defending the government's approach, added that the "take-up rate has been pathetic", and far too many farms remain idle. He stated: "One could say that the program has destroyed the land market, and we need to rebuild it and rebuild it carefully". A former government official associated with the land redistribution program said of the take-up rate (the number of reallocated properties actually being farmed) on A2 farms, "30 per cent would be generous".³¹⁸ Nevertheless, more than 1,000 members of the ZANU-PF elite received farms.

To an extent, the Utete report was indeed a damage control exercise. It also provided a more reasonable face to the public and international community than much of the hardline government rhetoric over the last several years. It was clearly an effort to limit the internal ZANU-PF spats that had erupted over land benefits, while also trying to serve as a bridge to eventual reconciliation with the international community. In this sense it was a fairly shrewd ploy. The document reads very much as a broad defence of government policy but also offers some surprising candour. For example, although ZANU-PF and the government had long claimed that 300,000 families had been resettled, the report cited 134,000, and the government has since increasingly adopted that figure as its own. This broke down into 127,000 A1 beneficiaries of whom about 2.3 per cent were farm workers ("good party people" a person close to the report commented) and 7,000 resettled A2 farms.³¹⁹

The Utete report was also tough in a number of other areas, calling for land that had been redistributed but was underutilised to be returned to the government, removal of squatters from national parks and closer compliance with government regulations concerning acquisition and redistribution. In addition, it acknowledged that "political interference" had been common in land reallocation and called for fuller cost recovery, closer monitoring to ensure that people were not claiming multiple farms and substantial overhaul of the Grain Marketing Board. A member of the Utete team admitted that "the volume and speed of the program to meet a political imperative led to more people benefiting from the strength of political connections" and that within the government there is a "false belief we can go it alone", when broader economic pressures demand international cooperation.³²⁰

At the end of the day, the Utete report again demonstrated that the government can craft effective and reasonably persuasive rhetoric on land planning, but thus far it has been uncommitted to following through. That it would push through the sweeping amendments to the Land Acquisition

³¹⁸ ICG interview, Harare, 8 December 2003.

³¹⁹ ICG interview, Harare, 5 December 2003.

³²⁰ ICG interview, Harare, 6 December 2003.

Act, many directly counter to the report, again made clear its unwillingness to compromise on land.

F. AN ECONOMY IN FREEFALL

The breathtaking economic freefall has also continued. Zimbabwe now has the highest inflation and the fastest shrinking economy in the world. The IMF is moving forward with formal expulsion plans. A senior MDC politician argued plausibly, "Corruption is as bad as AIDS here".³²¹ The government seems to be almost systematically stripping assets, and any successor will be saddled with a heavy burden. An academic complained, "The biggest player in the parallel market – surprise, surprise – is the government".³²² Similarly, a farmer observed, "ZANU-PF is a business as much as it is a party".³²³ The World Economic Forum rated Zimbabwe as one of the worst investment climates in Africa, and the international corruption monitoring NGO Transparency International cited only the Democratic Republic of the Congo and Angola as more corrupt African states.³²⁴

Life, particularly for those on fixed incomes, is becoming extraordinarily difficult. With inflation peaking at an annualized rate of over 620 per cent in January 2004, many incomes were erased before they could be spent. The government even ran out of banknotes during the year, and investors increasingly rushed to withdraw whatever they could from local banks.

Real GDP shrank 0.7 per cent in 1999, 4.9 per cent in 2000, 8.4 per cent in 2001, and 13 per cent in 2002. It fell another 13.2 per cent in 2003 and is expected to decline 8.2 per cent in 2004. Foreign exchange reserves were down to \$60 million by year's end, and external debt was over 4.1 billion.³²⁵ Economists predict that inflation, which has cooled slightly, will remain over 400 per cent through 2004.³²⁶ All this occurs in a country with the world's second highest rate of AIDS prevalence and, as noted, more than 5 million people in need of food aid.

Nevertheless, the government spends more on military and police pay than health care.³²⁷ It emerged in June 2004 that the government was also

³²¹ ICG interview, Harare, 3 December 2003.

³²² ICG interview, Harare, 7 December 2003.

³²³ ICG interview, Harare, 5 December 2003.

³²⁴ *Zimbabwe Independent*, 4 June 2004.

³²⁵ "Zimbabwe Country Report", Economist Intelligence Unit, December 2003; and "Zimbabwe Country Report", Economist Intelligence Unit, June 2004; GDP was predicted to fall by a smaller 3.1 per cent in 2005.

³²⁶ *Ibid.*

³²⁷ *Ibid.*

moving forward with plans to purchase \$200 million of Chinese fighter jets. Yet, adjusted for inflation, public spending was cut more than 50 per cent between 2000 and 2003.³²⁸ With the government doing its best to protect the budgets of the security services, that cut has fallen heaviest on social services.

The Economist Intelligence Unit complained that the government was resorting to "odd and ineffective methods of trying to resolve crises as they arise. Moreover, the bizarre nature of these measures reveals that there is now little constructive policy planning, merely ad hoc crisis management coupled with a hefty dose of wishful thinking".³²⁹ A senior Western diplomat echoed, "There is just no meeting of the minds within the cabinet about what constitutes a sane economic policy".³³⁰

While there has been a great deal of talk about international diplomacy and the MDC's political protests, it may well be the economy that ultimately forces change. Simply put, the current economic situation is remarkably unstable, and decades of capital and social investment are being lost. The ZANU-PF has consistently relied on patronage as the primary means to ensure the loyalty of its own senior members and the security services. As the funds that can be doled out to them run dry, President Mugabe could well face a rebellion, or more and more members of the elite may begin positioning themselves to leave with their profits. And the terrible economic pressures may push more MDC supporters into the streets.

G. THE SHAPE OF THINGS TO COME

Most of 2003 and the first half of 2004 brought only more bad news. With the country somewhat off the international radar screen after intense scrutiny during the presidential election, a sense of fatigue seemed to have set in.³³¹ U.S. and UK diplomats appeared to feel that Mugabe was increasingly resistant to both carrots and sticks, and efforts to initiate an effective dialogue between the ZANU-PF and MDC generated more press than progress. A senior diplomat lamented that "the radicals are in charge", and "President Mugabe is increasingly cantankerous and unwilling to listen. He is impervious to pressure from both friends and allies". The space for democratic expression continued to diminish, while the government and security forces remained committed to keeping power at all costs. Much of the government's current efforts are dedicated to manipulating the playing field for forthcoming parliamentary elections.

³²⁸ Ibid.

³²⁹ Ibid.

³³⁰ ICG interview, 8 December 2003.

³³¹ See ICG Report, *Zimbabwe: In Search of a New Strategy*, op. cit.

Whether a coordinated international approach could help depends greatly on South Africa. There is growing irritation in Pretoria about Mugabe. President Mbeki reportedly offered direct assurances to President Bush during a July 2003 meeting that the Zimbabwe situation would be resolved by the end of 2003. By toning down his rhetoric on Zimbabwe, the U.S. president gave South Africa the diplomatic lead, but there has been almost no progress, and the notion of any deadline continues to slip. Mbeki's credibility has eroded among U.S. officials. The fact that SADC continues largely to disassociate itself from international condemnation gives Mugabe considerable succour. Indeed, Mugabe received a standing ovation while attending President Mbeki's swearing in to his second term on 27 April 2004. At the Geneva meeting of the UN Commission on Human Rights in April 2004, South Africa led the charge to turn back an EU proposal to investigate reports of systematic human rights abuses in Zimbabwe. Mugabe even went out of his way to denounce Desmond Tutu as "an angry evil and embittered little bishop" in May 2004. However, some SADC leaders are devastating in their private criticism, and a growing circle of African leaders, less rooted in liberation movements and more wed to democratic politics and market economics than their predecessors, are willing to acknowledge that Mugabe's behaviour plays into the worst stereotypes that damage the continent's image.

A brokered deal between ZANU-PF and the MDC leading to a transition government and eventual elections remains the preferred option, and South Africa is still the single country with the capacity to help guide Mugabe and the parties. But negotiations would not be easy. Mugabe wants the MDC to drop any election challenges as a precondition, and he clearly desires an immunity guarantee, recognition as the father of the country and ability to pick his own successor. The MDC has pushed for abolition of the laws limiting civil rights that were adopted in the run-up to the 2002 presidential election, an inclusive transitional authority, a neutral electoral supervisory commission and considerable international economic aid, which it would no doubt claim credit for delivering. There is a great temptation for governments to regard any deal that could be worked out with ZANU-PF as acceptable, but reaching a compromise that would actually help Zimbabwe emerge from the crisis is more complex. A senior Western diplomat maintained that claims of a South African-brokered deal have "exaggerated both the extent and success of these discussions – particularly the prospects for their ultimate success". President Mbeki would rather pacify than resolve the situation, and his preferred solution is not an election, or the MDC in power, but a government of national unity with the MDC in a subordinate role. A senior diplomat insisted, "The ZANU-PF needs to recognise the MDC as a legitimate political force, and there is no sign of

that".³³² As the country moves toward parliamentary elections, Mugabe has become more repressive, cutting off international food aid, again overhauling election laws to his advantage, seizing properties and relying on militia groups to intimidate the general population and opposition politicians.

There is growing frustration with the lack of progress toward a negotiated settlement. An August 2003 survey by the Mass Public Opinion Institute found strong public support for dialogue between the MDC and ZANU-PF: "The two major parties are expected to compromise and climb down from the positions so far maintained".³³³ However, the MDC has stuck to its position that Mugabe should not be removed by violence, and a ZANU-PF parliamentarian commented, "A transition government will not work. The party opposes that in terms of ideology, and I don't think negotiations are going anywhere. We will have to wait for general elections to take place".³³⁴ ZANU-PF's unwillingness to embrace a negotiated solution is a recipe for further deterioration that could push the MDC to mass action strategies. Every day that the ZANU-PF fails to take power-sharing seriously, the likelihood that the crisis will be resolved by violent upheaval instead of discussions grows larger. While many would argue that public criticism of South Africa's role will only make the situation more difficult, Pretoria must be aware that it runs the risk of a major debacle. A senior UN official maintained, "It has been clear for the last couple of years that any solution to the land problem needs to be preceded by a political solution rather than the other way around".³³⁵ This same official continued, "my worry is that in practice there will be some kind of co-opted, cobbled, ZANU-PF-dominated coalition government after the election following which Mugabe 'retires' – which will be portrayed by everybody as transition but not in practice be a new broom".

The military has remained loyal to the ZANU-PF throughout the crisis, and few have seen fault lines emerging there. The Congo adventure, while deeply unpopular with the rank and file that did the fighting, served as a powerful mechanism to buy off the senior leadership. The army has frequently been deployed as the first resort for dealing with demonstrations and public unrest. While it seems unlikely that the military would actively support the MDC, it is possible that ordinary soldiers may have a growing distaste for such activity if economic conditions continue to deteriorate.

³³² ICG interview, Harare, 9 December 2003. On President Mbeki's preferences and motivations, see ICG Report, *Zimbabwe: In Search of a New Strategy*, op. cit.

³³³ Mass Public Opinion Institute, "Issues Surrounding the Formation of a Transitional Government in Zimbabwe", Harare, August 2003.

³³⁴ ICG interview, Harare, 6 December 2003.

³³⁵ ICG correspondence, 2 July 2004.

Within ZANU-PF there are multiple tensions regarding succession, and major infighting broke out within the party during the first half of 2004.³³⁶ Members would clearly like to see the party's rule survive Mugabe, and there must be serious concerns that his approach will make that more difficult. Emmerson Mnangagwa, the parliamentary speaker, had often been mentioned as a possible successor, although he is deeply unpopular. However, Mnangagwa became a target of a 2004 "anti-corruption" drive announced by President Mugabe. Finance Minister Chris Kuruneri was also a target of this initiative. Given the pervasive nature of corruption, much of it clearly sanctioned by Mugabe, the anti-corruption drive is a notable political development in that it appears Mugabe is increasingly concerned about threats to his rule emerging from within his own party. In addition to Mnangagwa, General Vitalis Zvinvashe, another hardliner, has also long eyed the presidency. They are the key leaders of one ZANU-PF faction. The other includes ZANU-PF party chair John Nkomo, former Finance Minister Simba Makoni, retired Army Commander Solomon Mujuru and Edison Zvobgo. This latter faction is usually seen as more palatable in the West, and many of its members are concerned that Zimbabwe's growing isolation is irreparably harming their long-term business interests. They would prefer a negotiated return to relations with the West that would keep them in power. But President Mugabe should not be expected to leave quietly, and some analysts have overplayed party divisions in suggesting that his government is in immediate danger of collapse. In June 2003, Mugabe told South African television, "As long as there is that fight, I am for a fight. And I can still punch".³³⁷ In 2004, Mugabe indicated that he hoped to remain in the presidency until 2008. Mugabe also continues to build a luxurious mansion in the Harare suburbs – another indication that he might plan on staying on the scene for some time.

On 8 December 2003, President Mugabe announced Zimbabwe's permanent withdrawal from the Commonwealth just hours after that body announced it was renewing the country's suspension. However, the Commonwealth meeting in Abuja indicated a growing level of frustration with the Mugabe government. More developing nations backed the suspension, although Mugabe retained a core of support. The SADC condemned the continued suspension as unhelpful, saying the position of some member states toward Zimbabwe was "dismissive, rigid and

³³⁶ For a fuller description of tensions within ZANU-PF, see ICG Report, *Zimbabwe: Danger and Opportunity*, op. cit.

³³⁷ *The Economist*, 12 June 2003.

intolerant".³³⁸ Initial signs that Mugabe was considering severing diplomatic ties with the UK appear to have been a bluff.

The platform distributed at the ZANU-PF congress in December 2003 was unrepentant in tone and in sharp contrast with the Utete report on land issues. It scoffed that a "tedious legal process has tended to pour icy cold water on what is a noble and lofty scheme" and said any notion that the land program could be reversed was "delusion".³³⁹ Combined with the on-again, off-again statements by the government in June 2004 that it intended to nationalise all land, ZANU-PF's land policy remains wholly subsidiary to its naked attempts to maintain power.

The MDC fared well in 2003 mayoral contests but has had trouble in 2004. MDC did take a majority of seats in urban council ballots during 2003 despite intimidation and rigging. Courts have begun to hear the complaints it lodged after the 2002 presidential contest, and the party has presented substantial evidence of vote rigging and intimidation. However, the MDC faces its share of challenges as it continues to try to define a sense of identity other than opposition to Mugabe. It released an extensive policy document to serve as a roadmap for reconstruction and development in the event of a transition.³⁴⁰ A credible effort by a party in opposition to establish some basic markers as to how it would govern, it maintains that the MDC would "rationalise" land policy:

The rationalisation of land allocation will reconcile the MDC's policy principles with on-the-ground realities of farm occupation by applying the principles of justice, accountability, need and ability. In carrying out this task, the Land Commission will – on a farm-by-farm basis or by dealing with categories of farms – adjudicate on the fairest and most practical course of action. Those who already own land, or who can afford to buy land, or who have an alternative source of livelihood, will not be eligible for resettlement. The views of local popular structures will be taken into account, as will the character of the land itself, which might be better used for non-agricultural purposes.³⁴¹

³³⁸"African Body Slams Commonwealth", BBC News, 9 December 2003. Available at news.bbc.co.uk/1/hi/world/africa/3304461.stm.

³³⁹ ZANU-PF, *Land and Land Reform*, ZANU-PF Central Committee Report, presented at the ZANU-PF Seventh Annual National People's Conference, December 2003. There was, however, a steady undercurrent of backbiting about Mugabe's leadership and the land issue at the party conference.

³⁴⁰ Movement for Democratic Change, *RESTART: Our Path to Social Justice*; The MDC's *Economic Program for Reconstruction, Stabilisation, Recovery and Transformation*, Harare, January 2004. See also ICG Report, *Zimbabwe: In Search of a New Strategy*, op. cit.

³⁴¹ Movement for Democratic Change, *RESTART*, op. cit.

The MDC's desire, as a besieged opposition party, to craft policies that appeal to a common denominator and do not alienate potential supporters can be seen in its approach to land. For example, the recent platform document also argued:

There is no possibility that the rationalisation will result in the pre-February 2000 status quo being restored on the land, but equally the current status quo arising from the fast track land grab will not be maintained. In other words, the MDC will neither return to the pre-2000 land-ownership patterns nor endorse or condone the inequitable and inappropriate land distribution arising from the fast track process.³⁴²

In short, the MDC's position on land is a careful strategic hedge that tries both not to alienate the international community and to avoid the ZANU-PF charge that it does the bidding of white outsiders.

However, the MDC did suffer a series of setbacks in by-elections during 2004, with some of them occurring in areas that had previously been MDC strongholds. The by-elections saw intense pressure by the government, including the mobilisation of youth militias, violence, highly selective law enforcement and a range of other tools of intimidation. The MDC has difficult choices to make about how best to tailor its resistance to the government. Much of the optimism of early protests has dimmed as the government hardened its position and employed more violence. The MDC has not had an easy time developing back-up plans when its primary strategies have come under pressure. Protest is difficult in a country where "you can get killed and nothing happens", as one agronomist put it.³⁴³ Increasingly desperate economic conditions have forced many individuals to concentrate on daily survival at the expense of political organising. Given the economic climate, President Mugabe may also engage in efforts to buy off some members of the opposition.³⁴⁴ The MDC needs to determine if it will contest the forthcoming parliamentary elections. This is an agonising decision that has opened some faultlines within the MDC. Certainly, Mugabe and the ZANU-PF have amply demonstrated that they can and will manipulate elections. Equally true, the MDC is reluctant to allow Mugabe to move forward uncontested or to create a vacuum that another opposition party might fill.

³⁴² Ibid.

³⁴³ ICG interview, 8 December 2003.

³⁴⁴ Interviews in Harare suggested that a small number of MDC members have benefited from the land redistribution program as part of a broader effort by the government to pacify the opposition.

The international community has had a difficult time striking the right balance in its dealings with the MDC. Some are unabashed cheerleaders and demonise ZANU-PF. Others seem to welcome every real and imagined MDC flaw and to rationalise continued reluctance to push for substantial change in Zimbabwe. A more balanced analysis would suggest that the MDC has taken a responsible and non-violent approach to its opposition role, but it does suffer some growing pains, and it is at a crucial fork in the road regarding the degree of its militancy against a government growing more authoritarian daily.

Amid the chaos, President Mugabe continues to try to keep his critics off balance. Hopefully, the international community has learned hard lessons from the broken promises of recent years and will not interpret token pauses in repression as a genuine breakthrough. President Mugabe began his tenure with tremendous promise and apparently genuine desire for national reconciliation, but his leadership has steadily decayed. Collective corruption and personal aggrandisement have made Zimbabwe a failing, and potentially failed, state.

In embracing the politics of land, President Mugabe picked very emotive causes – land, race, economic exploitation and historic injustice – which resonate deeply in the region. However, his invocation of these themes was entirely self-serving and not designed to achieve meaningful redress for lower- and middle-class blacks, but simply to indefinitely secure his hold on power. Major political change must come to Zimbabwe if it hopes to avoid turning an extended crisis into a violent conflict and broad social collapse. When political transition occurs, the land problem will be front and centre, and it is vital that both Zimbabwe and the international community are poised to deal with this thorny issue openly and with a sense of lasting vision, something that both have repeatedly failed to achieve.

8. Picking up the Pieces

A. THE NECESSARY TASK

The need to balance fairness in righting historical wrongs and to maintain productive farming capacity has always been central to the land redistribution debate. Sadly, Zimbabwe's program has achieved neither fairness nor productivity. Instead, it has virtually destroyed agricultural capacity while simply rewarding senior ZANU-PF, military and business circles with a windfall of land they often neglect.

The origins of the land problem lie in the cruel and unequal treatment of the indigenous population by white settlers, who took the best farmland for themselves and crammed the indigenous blacks into marginal areas. Important chances to right these inequities were lost through lack of commitment by the post-independence government, white commercial farmers, the UK and the international financial institutions, none of which was sufficiently willing to fund and implement a credible program of land redistribution and resettlement.

The problem is not that a long overdue radical redistribution of land has taken place, but rather the manner in which it has been carried out, with the beneficiaries being a small number of politically well-connected individuals. While the eviction of white commercial farmers was surely not more terrible than that endured by indigenous blacks over the last 100 years, neither wrong can be condoned. In both cases, a small group of elites of the politically and economically powerful benefited at the cost of the wider population.

Land acquisition since 2000 has gone far beyond the scope of anything envisaged in the 1980, 1991 and 1996 land policy documents. Ill-conceived actions have sent shockwaves through an economy that will take years to recover. Agriculture had long been an engine of growth in Zimbabwe, and ideally land redistribution would be implemented in a measured and controlled manner to limit major damage to food production and foreign exchange earnings. Yet, the current process has spun out of control. Local land allocation committees have exceeded their authority, farms have been ransacked and costly infrastructure frequently destroyed. Farm production has sharply declined, and a food crisis has ensued throughout the country. It will be much more difficult to rebuild the agricultural economy than it has been to take it apart.

President Mugabe has demonstrated that it is possible to create a new class of black commercial landholders by administrative fiat and strong-

arm tactics. The real challenge is actually to create a new generation of black commercial farmers and to allow small, medium and large commercial holdings to evolve rationally and compete in an increasingly competitive global market. Zimbabwe will need to scramble to recapture its lost market niche in many areas. Leap-frogging to the next generation of agricultural production – allowing smaller, more intensively cultivated and more sophisticated commercial crops and eco-tourism to develop as mainstays – may well be the best approach. All this will need to take place as the country also restores the production of basic food crops, so essential to combating what is now a huge food security problem.

One of the most immediate needs is to boost agricultural capacity quickly and enduringly so that the country does not remain in chronic food deficit. Reviving non-productive farms should be the first priority. However, land is just one part of Zimbabwe's wider political and economic crisis and cannot be addressed in isolation. While some diplomats and even white commercial farmers insist that a change in policy is more important than a change in government, this is little more than a rhetorical nicety. Simply put, a change in government will have to be the starting point if Zimbabwe hopes to emerge from its current crisis and credibly address the issue of land. The current government has exhausted the good will of donors, investors, commercial farmers, genuine aspiring or current land reform beneficiaries and average citizens. While the next government could obviously assume any number of permutations, the departure of President Mugabe and key members of his inner circle is the *sine qua non* for meaningful progress on the land issue.

Discussions between UNDP and the government on a possible second land conference "to restore ties with donors and restart agricultural production" are misplaced without broader progress in dealing with the crisis of governance.³⁴⁵ While the UNDP has stressed that the rule of law must be restored and reasonable compensation paid to landowners, one wonders what credible assurance the Mugabe government could provide. Further, the UNDP and others need to take a hard look at their past approaches to ascertain whether dialogue has actually helped President Mugabe extend his stay in power while trampling on the rule of law. For the time being, UNDP would be better served by focusing attention on the increasingly pressing humanitarian situation and planning for an eventual transition.

Land issues cannot be tackled effectively until an inclusive transitional administration and a timeline for new elections are established

³⁴⁵ Vincent Kahiya, "UNDP Calls for 2nd Land Conference", *Zimbabwe Independent*, 14 March 2003.

in consultation with the MDC and civil society.³⁴⁶ The international community should begin immediately to develop a program for a post-Mugabe Zimbabwe.³⁴⁷ An ambassador observed, "You are almost starting with a clean slate as far as commercial agriculture is concerned". With regard to a post-transition land program, he stressed that, "It must be imaginative and it must be quick".³⁴⁸ Bringing in a variety of stakeholders is important, but planning should not be consumed by an endless series of donor and consultant driven conferences that deteriorate into tedious academic debates about ideal farm size, marginal taxation rates or entirely theoretical discussions on the ideal form of tenure. As one farmer observed, "When change comes, we need to be running – not standing around with our pants around our ankles".³⁴⁹

By almost any reckoning, a sizeable amount of land will be available if a stable transition to democracy occurs and the rule of law returns. Many farms now sit derelict; the bottom has generally dropped out of the land market. While some farmers who still hold title will take a wait-and-see approach, equally many will be eager to realise any form of cost recovery. In addition, many farms that were redistributed solely as forms of patronage would presumably be returned to the original owner or used for proper redistribution. Such considerations would obviously figure in any calculation of a negotiated transition. The overall design of eventual land plans should strive to create a more rational pattern of use and a land market that is flexible and effective enough to maximise the remarkable entrepreneurial potential of Zimbabweans.

The complexity, scale and cost of such an effort should not be underestimated, something of which both the Mugabe government and the international community have often been guilty. A Zimbabwean political scientist commented, "The incoming government will be under so much pressure to make amends to both locals and the international community that I feel sorry for whoever heads the country next".³⁵⁰ The government will need coherent overall plans for moving agricultural markets forward, while freeing up the market to make rational decisions and eliminate the high cost of government-imposed planning. There will also need to be a renewed emphasis on the two groups that have not only been big losers in the fast track program but have always been pushed to the margins of

³⁴⁶ See recent ICG reports on Zimbabwe, at fn. 16 above.

³⁴⁷ The Restitution of Land Rights Act was the first law passed by the new majority rule government of South Africa in 1994, possibly because the preparatory work was done in advance of the transition.

³⁴⁸ ICG interview, 8 December 2003.

³⁴⁹ ICG interview, Harare, 5 December 2003.

³⁵⁰ ICG interview, Harare, 6 December 2003.

society: residents of the communal areas and farm workers. An aid official notes, "Productivity on communal lands is extremely low, and they keep trying to work using a commercial farming model including lots of fertiliser. With a boost in research, the communal areas could be self-sufficient, although they will never be huge surplus producers".³⁵¹ Communal land has never really received proper planning. While much of it is obviously not of the highest quality, expanding communal territories and embracing a much stronger sense of planning could go a long way toward optimising production, minimising overcrowding and generally making these territories much more hospitable. There should be zoning that matches up with development potential.

Measures must also be found to assist displaced farm workers in finding livelihoods and shelter. If resettled small-scale farmers are to bring the land back into production, they will require secure tenure, basic social services and agricultural inputs. Currently, donors remain rightly wary of supporting long-term development projects in resettlement areas for fear of legitimising a central government that is widely viewed as illegitimate.

Farms of all types and sizes will need a substantial capital infusion during a transition phase, particularly for legitimately resettled black farmers. Even successful white commercial farmers have had many of their assets looted and will require a heavy infusion of capital and equipment to get up to speed. Access to capital is equally vital for smaller farmers. The importance of providing social and extension services cannot be underestimated. It was the failure to back land distribution with appropriate extension services, health care and education that sent land redistribution awry in Zimbabwe during the 1980s, and failure to learn this lesson will undermine any future effort.

Across the board, there must be more flexibility in farm sizes and emphasis on the suitability of skills. There is no ideal farm size, and a healthy economy will develop on a strong mix of small, medium and large farms. Small subsistence producers can play an important role in providing their surplus of staples to the local market while larger commercial farms focus on export markets. It will also be necessary to acknowledge a certain level of acceptable failure when encouraging the development of new farmers on redistributed land. Farming is hard work and demands special skills. Not all will succeed. As a member of the Utete commission acknowledged, "Some will fall by the wayside; it is not all roses".³⁵² Indeed, one of the greatest problems with the new briefcase farmers has been their romanticised view of farming and agriculture in general. The notion that farming provides identity is still very strong, and a remarkable

³⁵¹ ICG interview, 8 December 2003.

³⁵² ICG interview, Harare, 6 December 2003.

number of successful urban dwellers want a place in the city and a small farm in the country.

A new government will have to regularise land records and rebuild a functioning system of land administration. This is necessary not just to allow reconstruction to move forward, but to prevent future transactions from becoming highly disputed. Without the resolution of claims, little investment will take place, reconstruction will remain slow and social and political stability will be at risk. Resolution of property claims presents a host of complex issues. As a civil society activist observed, "Until tenure issues are addressed, even the resettled new farmers are not secure. There will be a fourth *chimurenga*".³⁵³

B. A LAND COMMISSION

Almost all agree that the logical first step in moving the land process forward during a transition or post-transition period is to establish a Land Commission. It will need a clear mandate and should be ready to swing into action quickly. While political negotiations over the shape of the future government will obviously be centre-stage, the interested parties should not fool themselves into thinking that an elite agreement alone will solve the land problem: it is much too fundamental for that. All need to start planning how a Land Commission would work and earmarking funds for it, so that major action on land can immediately follow an eventual political resolution, whatever its form.

The Land Commission should have a strong technocratic base; as an MDC parliamentarian observed, "We need to remove politics from land. The land can't be a continual election tool".³⁵⁴ A wide spectrum of stakeholders should be included but, again, the selection criteria should be technical skills, not political orientation. A special UN envoy appointed by the secretary general should be detailed to the Commission to act as an observer and help boost its administrative capacity. This would reassure donors that the land process was moving forward transparently. By sending an envoy from New York, the Secretary General could make clear that the land issue transcends the borders between UN agencies such as UNDP, FAO and WFP, though all those as well as the EU and the World Bank will have to be key players.

The Commission's Mandate

The Land Commission should have a clear mandate and timetable for achieving its goals. Its tasks should include:

³⁵³ ICG interview, April 2003.

³⁵⁴ ICG interview, Harare, 3 December 2003.

- conducting a comprehensive inventory of land, built around a determination of who holds what, the status of redistribution, compensation paid for leases and to owners and whether farms are being used productively;³⁵⁵
- organising land tribunals to mediate claims on the ground as well as considerable field staff to assist in the process;
- incorporating broad public input;
- developing a compensation formula for farms that were seized, recognising that 100 per cent compensation will likely not be possible;
- developing new enterprises, making sure new farmers have access to needed expertise and establishing incentives for former farmers to return to their land (or smaller versions of thereof); and
- establishing the parameters of a new law to govern land reform procedures.

Given the hunger facing Zimbabweans and the chaotic nature of the fast track program, resolving the final status of properties will obviously be difficult and sometimes contentious. An expert on hunger in the country acknowledges that the situation will be a "political bombshell" for an incoming government, and that the best process will be one of "restructuring, not totally reversing" what has occurred.³⁵⁶ The following guidelines should be used to determine the future disposition of lands that have been seized. In each case, this matrix is driven by a belief that rapidly increasing agricultural production is fundamentally in Zimbabwe's national interest. While resources are finite and any plan will ultimately be imperfect, it must strive to provide the greatest good for the greatest number; this matrix also represents a compromise that seeks to square production, legal concerns and fair compensation.

Seized Commercial Farms

Farms that are substantially underutilised and whose leases were acquired substantially below market value by President Mugabe's associates and other political and administrative elites: these distributions should be declared unlawful and of no effect. These properties should be seized either for return to their previous owner or for further redistribution if

³⁵⁵ Fortunately, despite the chaotic situation, a great deal of documentation is available, including the Utete and Buka reports, reports produced by Justice for Agriculture and the Commercial Farmers' Union, and material from court cases.

³⁵⁶ ICG interview, 8 December 2003.

the original owner is unwilling or unable to return. Multiple farm ownership would also be considered as a factor in determining farm status. Pending decisions on allocation of such lands, property would be vested in a statutory body – a National Land Trust – to hold until decisions regarding its allocation could be made. Compensation would be directed to former owners in part from assets seized from individuals associated with the current government and from a more aggressive enforcement of the international sanctions regime.³⁵⁷ Compensation for former farmers should be delivered on the basis of need, with the poorest commercial farmers given priority. Realising that full compensation may not be possible in many cases due to financial constraints, those farmers willing to return either to their property or another piece of land would be given settlement packages (as would new black commercial farmers) to encourage commercial farming.

Farms that are currently productive but were acquired substantially below market value: in these cases, the current farm occupants would need to provide the difference between what they paid and fair market value to continue operations. Should they refuse, the land would revert to the National Land Trust either for return to the original owner or further redistribution. The previous owners, if they have not received compensation, would be given expedited treatment to purchase new land and some compensation package.

Farms that are being utilised and were acquired at fair market price paid to the government: these should be left alone, and the previous owners compensated and given expedited option on a new farm.

Farms that are substantially underutilised but were acquired for fair market price: these should be left with their current owners, and the former owners should receive a compensation package. There are probably few such cases. If the current owners show no interest in farming, their leases could be suspended after a probationary period and eventually returned to the National Land Trust.

Zimbabwe's white farming population is aging and while the exact number of white farmers willing to return to farming is unknown, it certainly is sharply dwindling.³⁵⁸ While some commercial farmer groups insist that up to 60 to 80 per cent of their members would return to farm on property if it was returned, these estimates seem very high. While

³⁵⁷ While it is important not to overstate the amount of seized funds that could be used for these purposes or the speed with which they could be disbursed, it would be in the long run interests of the international community to take a more forceful approach to combat the current asset-stripping.

³⁵⁸ Many have stayed in Zimbabwe, waiting to see how the political crisis will be resolved.

obviously a great deal would depend on the contours of returns or any compensation package, the desire to return may well be limited to a small but productive core of white commercial farmers willing to work the land. Based on extensive interviews, a realistic estimate is that perhaps 30 per cent would actually return if the political and economic climate stabilised. Nevertheless, under the law, the government should provide reasonable compensation for seized land. Donor support will be critical, and realism should be the order of the day. As a white farmer acknowledged, "There will never be a big pile of money sitting in a corner where we can hold out our hands and say, 'I want to go to Australia'".³⁵⁹ The debate must also focus as much energy and resources as possible on providing the expertise and inputs needed to make new black farmers successful on commercial farms.

It will be vital to streamline the bureaucratic process wherever possible. As South Africa has made clear, even well-intentioned land redistribution programs can quickly become bogged down in red tape, legal appeals and poor coordination. Both donors and the government should make clear that the most immediate funding for those involved in land disputes will go to those who are willing to accept binding arbitration by the land commission and under the formulas spelled out above. Binding arbitration could be a powerful tool in clearing what will obviously be a heavy caseload of property disputes. Such an approach would also have benefit of showing that fair and impartial actions can be taken quickly to address land policy, restore agriculture and re-establish investor confidence.

The best way to move squatters may be for the government to make clear that individuals remaining on land determined to be illegally occupied will not be eligible for services. This should eventually prompt an exodus from such lands without recourse to force. Squatters willing to relocate voluntarily would be eligible for redistributed land if they went through the legal process and were not implicated in serious crimes.

A1 Subsistence Plots, Past and Future

The redistribution of A1 plots, although obviously deeply flawed in many cases, is probably best left alone. Subsistence farmers on A1 plots should be allowed to stay. However, as noted below, they should take on both greater opportunity and responsibility than the current system allows. The government should give them opportunity by providing the social and extension services they need to be successful. But they should demonstrate that they are investing the time and effort to succeed if they are to be allowed to keep the land.

³⁵⁹ ICG interview, Harare, 5 December 2003.

Both past and future A1 redistributions should be treated as "homesteads", whereby the government would hold the lease for ten years, at which point if the resettled farmer was still on the land and had demonstrated the capability to farm it, he or she would be given title and access to loans and other forms of capital. As originally envisioned, farmers and farm workers in the communal areas should be the primary target of A1 redistributions. Farm workers, in particular, should be targeted since they often have a greater understanding of commercial agriculture and could well develop into middle-sized holders under the right conditions. A Zimbabwean agronomist noted that there is a "fear that the poor will sell off title and become even poorer".³⁶⁰ However, by using the ten-year homestead period, the government can ensure an abiding commitment to working the land while making it more likely that these individuals might eventually be able to move beyond subsistence. In addition, a package of modest lending should be made available along with title if the small farmer wishes to expand or intensify operations.

In general, there should be a pattern of A1 distributions around larger existing commercial farms. This would allow the A1 holders to emerge as contract farmers working in conjunction with the larger commercial farms. By being co-located with commercial farms, these small farmers would also gain knowledge of the standards demanded to sell goods on the larger commercial market. It would also allow the small farmers and larger commercial farms to engage in natural exchanges of services. For example, an emerging contract farmer could gain access to mechanised ploughing services through the adjacent commercial farm. Over time, the phase-in of private title for small farmers clustered around larger commercial farms should also encourage a more rational land market. Those A1 holders who could gain a foothold in commercial farming would be able to buy the land from existing commercial farms; one or more A1 plots could merge; and medium-sized properties could emerge. In short, while obviously not foolproof, this should encourage more rational land use over time. In addition, by giving small farmers the chance to gain private title, it would encourage the government to get out of the business of micromanaging land. As one MDC agricultural expert observed, "You want people to demand title through development".³⁶¹

Obviously, for A1 farming to be successful, indeed even to achieve subsistence, substantial resources and inputs in the form of extension services, health care, education, seeds, tools and fertilisers are needed from both the government and the international community. In allocating A1 plots, the Land Commission should avoid being overly wed to a fixed

³⁶⁰ ICG interview, Harare, 7 December 2003.

³⁶¹ ICG interview, 3 December 2003.

size. Given the extreme range of arability of land within Zimbabwe, considerable flexibility and common sense should be employed in allocating small farms.

A2 Redistributions

Zimbabwe should move toward more intense production of smaller plots. European and North American markets consistently demand higher labour and production standards, which in turn require a better educated and better paid workforce, something that Zimbabwe has traditionally been in a good position to provide. By increasingly meeting modern production standards, it can surge in agriculture. A2 distributions should use middle-class farmers with larger properties to train and educate subsistence farmers clustered around them. Under the right set of conditions, a subsection of subsistence farmers could emerge as the next generation of commercial farmers.

In determining eligible candidates for A2 distributions, the central emphasis should be on finding people who actually have the right skill set to become successful farmers. Priority should be given to individuals who do not hold substantial urban properties. Fair market prices should be paid for properties, although these prices may include long-term loans to some A2 recipients. The land should be held under private title. If new A2 farmers default on their loans or otherwise let their properties go derelict within a ten-year period, the government would have the option of reacquiring the land and placing it in the National Land Trust.

New A2 farmers, and even some returning commercial farmers, should be eligible for an infusion of inputs and capital to revive operations, given that many former commercial farms have been stripped of their assets. While the cost of the land redistribution program outlined in these pages would be substantial, the international community already spends hundreds of millions of dollars on emergency feeding programs in Zimbabwe. Getting the country back on its feet is ultimately both cost effective and more rational, but a new Zimbabwe government, the UK, the EU, the U.S. and UN will all have to show leadership with their chequebooks when the time comes.

Obviously, no solution to the current situation will meet every standard of fairness and equity. What is important is that a program be instituted quickly, with substantial international and government backing, which makes a reasonable effort to be fair, consistent and quickly address the economic situation. While it will be tempting to start a massive planning exercise with an implementation phase that will take years to get off the ground, this would be short-sighted.

C. THE GRAIN MARKETING BOARD

A Zimbabwean agronomist observed that the Grain Marketing Board has always been used as a tool by whichever group is in power, that it was "good for Ian Smith, good for Robert Mugabe and good for the government."³⁶² Currently, the parallel market prices of commodities are usually three to four times higher than that offered by the Marketing Board. Its operating system is remarkably inefficient in that all products have to be delivered, off-loaded, resold, reloaded and then moved on. This is the worst sort of middle-man inefficiency. Prices offered by the Grain Marketing Board have lagged far behind inflation, pushing more and more producers on to the black market. Perpetually on the brink of insolvency, the Board is also very slow in making payments, a further incentive to farmers to sell through illegal mechanisms. And, as it ends up selling below actual market price, its financial haemorrhage continues.

The Grain Marketing Board should be phased out and replaced by a far more modest body that would oversee a strategic national grain reserve. It is highly corrupt and, as currently structured, a cumbersome mechanism that inhibits marketing and production and serves little role in actually assisting the sale of crops. The Board has always been a money loser for the government despite its monopoly position, although much profit is skimmed off the top by its managers. Indeed, most agricultural experts acknowledge that crops not governed by the Board have generally been more successful. The strategic grain reserve should give special priority to buying crops from A1 farmers and other small producers, thus helping to maintain some function of the social safety net. Obviously, such small producers would be able to sell to markets beyond the strategic reserve if they judged it in their best interests. Phasing out the Board when the country is receiving massive inputs of food aid can also help avoid an overwhelming inflationary shock in terms of prices for basic foodstuffs. Further, the economic distortions inflicted on the general public as a result of corruption are likely larger than the price hikes in food that would accompany abolishment during a transition period.

D. THE ROLE OF THE INTERNATIONAL COMMUNITY

The international community has a key role to play in both maintaining pressure on the current government and helping to put the land plans discussed above into rapid operation when it becomes possible to do so. In the immediate term, tightening the sanctions regime would be of great utility. The travel ban has been frequently circumvented, and the

³⁶² ICG interview, Harare, 7 December 2003.

continuing omission of many families and business associates of those senior officials named as targets for sanctions has made them porous. President Mugabe has made use of a loophole in the sanctions that has allowed him to attend UN sponsored conferences and events. A joint U.S.-EU task force to identify the flow of assets better would be useful. The U.S. Treasury Office of Foreign Asset Control and the UK Treasury International Financial Services Team, given the breadth of their expertise, should be given the lead within such a joint task force.

Senior ZANU-PF, business and military officials continue to move with relative ease money they have plundered from state coffers and black market currency speculation. Expanding the sanctions target lists to include senior ZANU-PF affiliated business people would increase pressure on the government and could allow for the seizure of considerable assets currently being stripped from the state. The U.S. and EU lists should include the families of relevant officials, and any U.S. and EU accounting firms operating in the region should be required to provide annual documentation of transactions involving individuals or entities on the sanctions list. While accounting firms may resist, this measure would allow closer tracking of funds and potentially greater seizure and recovery of assets that belong to the people of Zimbabwe.

The EU and U.S. should deepen their engagement with South Africa and press it to take a more forceful approach behind the scenes with President Mugabe while the broader community of democratic states within Africa should more publicly make the case that his failed leadership is hurting the continent as a whole. This is especially important in the context of the launching of the peer review process in the New Partnership for Africa's Development, Africa's own collaborative effort at security and development: at present Zimbabwe provides a damaging example of peer inaction.

In a transition period, it would be helpful for the UK to acknowledge publicly its historical role in Zimbabwe's land inequalities and express willingness to lend financial and technical support to land reform. The UK should begin planning now for a program of intensive support for land reform over a period of four to six months during a transition period that would be designed to promote rapid disbursements and fast action. After eventual elections, a longer-term program of support for land and agricultural development could be developed in partnership with the new government and other donors.

The U.S. should lead the effort to provide resources for extension and social services to farming communities and farm workers hoping to return to work. This should be done in conjunction with other donors, notably the World Bank and the UN, which could lead the implementation phase. However, it is vital that such services be decentralised, not overly

managed by central authorities. Ultimately, the cost of investing in a land redistribution program should be contrasted with the high costs of maintaining open-ended food aid programs.

E. CONCLUSION

The story of land in Zimbabwe is a tale of lost opportunity and all too frequent tragedy. For too much of the post-independence period, the international community, white commercial farmers and the Mugabe government ignored the plight of the country's permanent underclass: the residents of communal areas and farm workers. Vandalisation of the economy by President Mugabe and the ZANU-PF has ensured that the land issue will need to be revisited in a comprehensive fashion.

While it would be easy to dwell on the losses of the last several years, there should also be a sense that hope exists. The people of Zimbabwe have remarkable strengths and skills and are well positioned to re-invent and restore their commercial and subsistence agricultural sectors once a political transition occurs. The international community should offer full support for this endeavour, not simply to right historical wrongs, but also to recognise the tremendous potential the country still possesses.

PART 3

SOUTH AFRICA



Map No. 3/68 Rev. 5 UNITED NATIONS
 January 2004
 Department of Peacekeeping Operations
 Cartographic Section

9. The Legacy of White Rule

During the colonial period and under apartheid, native South Africans were subject to a level of dispossession unparalleled in the region. The right to own, rent or even sharecrop land in South Africa depended upon a person's race, and millions of blacks were forced from their ancestral lands and resettled in overcrowded and environmentally degraded reserves where they served as a source of cheap migrant labour for white-owned farms and mines. As one recent study concluded, "The extent of the impact of this policy on the whole social, economic and political fabric of South African society is impossible to measure; the resentment it caused is too deep to fathom, its scars too sensitive to touch".³⁶³

Colonial occupation, dispossession and racial discrimination lasted longer in South Africa than in Zimbabwe. More than 250 years of Dutch and British conquest and settlement deprived native South Africans of most of their original territory. In the latter part of the nineteenth century, indigenous farming responded to the increased demand for agricultural products generated by the mining towns. Family farms supplied the major towns of the colony of Natal with grain and exported the surplus to Cape Town. In 1860, over 83 per cent of the nearly half million hectares of white-owned land was farmed by black tenants. Black-owned and tenant farms proved as efficient as large-scale settler farms that utilised hired labour. Black farmers adopted new agricultural technologies, entered new industries and successfully competed with large-scale settler farming. In fact, settlers argued that because of labour shortages, they could not compete with their black counterparts, who had lower costs. White transporters also decried competition from their black counterparts.³⁶⁴

The accumulation of wealth by black farmers compelled the Native Affairs Commission to conclude that blacks were becoming wealthy, independent and difficult to govern. Consequently, the authorities made it difficult, then impossible, for blacks to use land outside the crowded reserves that had been set aside for them. A series of laws to this end culminated in the Natives Land Act of 1913. This restricted blacks to 7 per

³⁶³ Bertus de Villiers, *Land Reform*, op. cit., p. 46.

³⁶⁴ Masiphula Mbongwa, Rogier van den Brink and Johan van Zyl, "Evolution of the Agrarian Structure in South Africa", in Johan van Zyl, Johann Kirsten and Hans Binswanger (eds.), *Agricultural Land Reform in South Africa* (Cape Town: Oxford University Press, 1996).

cent of the national area, where the principal mode of tenure was "customary" and administered by chiefs. While retaining the appearances of indigenous authority, many chiefs were effectively coerced into becoming agents of the state. With the stroke of a pen, the government had eliminated competition from black farmers and created a wealth of inexpensive black labour for white farms and mines.

In 1916, the Beaumont Commission reported that the reserves could support only half the black population.³⁶⁵ Eventually, the 1936 Native Trust and Land Act expanded the total reserve area to about 13.8 per cent of the country and made provision for small additional areas to be added under the auspices of the South African Native Trust. This laid the foundations for the process of "homeland" consolidation that continued into the 1980s.³⁶⁶ Under the law, blacks lost the right to purchase land even in the reserves and were forced to use land administered by tribal authorities appointed by the white government.

The process of dispossession did not end with creation of the reserves. Between 1950 and 1980, an additional 1.4 million blacks were evicted from white farms. The Surplus People Project estimates that 1.3 million were evicted from the white farming areas, and 614,000 blacks were resettled during the abolition of "black spots" and homeland consolidation processes that took place between 1960 and 1983.³⁶⁷ Between 1960 and 1980, the population of the native reserves rose from 4.5 to 11 million.³⁶⁸ The population of these areas, about 13 per cent of the land area of the country, is now estimated at 12.7 million, or about 32 per cent of the total population.³⁶⁹ This land is often agriculturally marginal and has grown increasingly so as a result of over-cultivation and over-stocking.

The twentieth century rural experience led to different kinds of poverty for blacks. In white farming districts, covering most of rural South Africa, blacks were largely unable to farm for themselves but stayed on in

³⁶⁵ The Beaumont Commission emerged from the 1913 Native Land Act. Sir William Beaumont assembled advisors to determine the needs of indigenous communities and how much land should be given to them.

³⁶⁶ The expression "homelands" is used to describe the eleven former "independent and self-governing" states, otherwise known as "Bantustans".

³⁶⁷ The Surplus People Project, originally established to fight forced removals, continues to be engaged in land reform efforts.

³⁶⁸ Francis Wilson, "A Land Out of Balance", in Mamphela Ramphele and Chris McDowell (eds.), *Restoring the Land: Environment and Change in Post-Apartheid South Africa* (London: Panos, 1991), pp. 27-38.

³⁶⁹ Martin Adams, Ben Cousins and Siyabu Manona, "Land Tenure and Economic Development in Rural South Africa: Constraints and Opportunities", in Ben Cousins (ed.), *At the Crossroads. Land and Agrarian Reform in South Africa into the 21st Century* (Cape Town/Johannesburg: Programme for Land and Agrarian Studies, University of the Western Cape/National Land Committee, 2000), pp. 129-142

substantial numbers as poorly paid farm workers. In the homelands, a dwindling proportion of the overall population scratched out a living through marginal farming despite lacking access to the market opportunities, credit facilities, infrastructure and other services regularly available to white farmers.

As democracy emerged in the 1990s, the challenge of bringing development to these areas became increasingly complex. White farmers evicted growing numbers of farm dwellers in response to market conditions, increasingly capital-intensive production methods and in anticipation of legislation to improve security and working conditions for farm workers. As the role of agriculture in the homeland economy continued to shrink, people sought to earn income in small towns and shantytown settlements. Marijuana cultivation and livestock theft became more common in some areas, and the fabric of rural homeland governance continued to deteriorate. By 2000, the former homelands were suffering South Africa's most serious poverty while desperately requiring major agrarian reform. The severe loss of rural employment opportunities across the region – in Zambia, Namibia, Zimbabwe, Lesotho and Swaziland in particular – was becoming a crisis to which industrial employment and urban migration could no longer provide a solution, especially as declining gold prices and more capital-intensive methods meant fewer mining jobs.³⁷⁰

Research conducted in the late 1990s indicated that 72 per cent of the poor were living in rural areas and that poverty was most severe in the provinces containing the former homelands. These studies also found that 61 per cent of South Africa's black population was poor (compared to only 1 per cent of whites). The poor in South Africa were largely black, rural and women.³⁷¹ Land shortages also fed urban unemployment, with many of the poorest splitting their time between the former homelands and urban shantytowns. As one land activist observed, "The history of land dispossession is the driving factor" in the growth of urban shanty settlements.³⁷² In short, the land crisis in South Africa today is both urban and rural.³⁷³

³⁷⁰ Edward Lahiff, "The Regional Implications of the Crisis in Zimbabwe", op. cit.

³⁷¹ Julian May, "The Structure and Composition of Rural Poverty and Livelihoods in South Africa", in Adams et al. (eds.), *At the Crossroads*, op. cit., pp. 21-34.

³⁷² ICG interview, South Africa, May 2003. See also National Land Committee, *South Africa's Land Reform Quagmire: What is to be Done?*, February 2003. Available at www.nlc.co.za.

³⁷³ Demand for urban housing far outstrips supply, which is another factor fuelling land occupations. The numbers applying for housing are increasing faster than delivery of new housing, COSATU, *Ways to Take Land Reform Forward*, op. cit., p. 6.

10. The Mandela Era: 1994-1999

Redressing colonial and apartheid land dispossession was always a central principle of South African liberation movements. From the mid-1950s and the establishment of the Freedom Charter (Table 1), the African National Congress (ANC) argued that nationalisation could serve as the mechanism for righting decades of dispossession and destruction of black property rights.³⁷⁴ In 1986, anti-apartheid activist Joe Slovo argued: "The redistribution of the land is the absolute imperative of our conditions, the fundamental national demand. It will have to be done, even if it involves some economic cost, in order to continue to mobilise the people whose support has brought the democratic forces to power".³⁷⁵

Table 1. Excerpt from the African National Congress Freedom Charter of 1955

The land shall be shared among those who work it!
Restrictions of land ownership on a racial basis shall be ended, and all the land re-divided amongst those who work it to banish famine and land hunger.
The state shall help the peasants with implements, seed, tractors and dams to save the soil and assist the tillers,
Freedom of movement shall be guaranteed to all who work on the land.
All shall have the right to occupy land wherever they choose.
People shall not be robbed of their cattle, and forced labour and farm prisons shall be abolished.

³⁷⁴ The Freedom Charter set out the manifesto of the African National Congress and defined its objective as the establishment of a multiracial democratic state. The preamble declares that "South Africa belongs to all who live in it, black and white".

³⁷⁵ Masiphula Mbongwa, "Nationalisation of the Land", in Selebano Matlhape and Angelika Münz (eds.), *Towards a New Agrarian Democratic Order. A South Africa Economic Research and Training Project (SAERT) Reader on the South African Land Question* (Amsterdam: SAERT Project, 1991). This book was the outcome of a SAERT policy-workshop at the University of Wageningen in November 1989. Slovo, who was born in Lithuania and came to South Africa at the age of nine, was a founder of the armed wing of the ANC and general secretary of the South African Communist Party in the 1980s.

However, by 1992, the ANC leadership abandoned the notion of nationalising land, largely due to widespread concern among white farmers, the business community and foreign governments and investors.³⁷⁶ Based on less than salutary experiences in Mozambique and the Soviet Union, returning exiles also opposed nationalisation and expropriation.

While nationalisation was not the ANC position in the constitutional negotiations that led to black majority rule, many politicians and land rights activists blamed the eventual settlement for the government's inability to resolve racial inequities in land ownership. The settlement effectively legalised more than a century of seizures by white European settlers that uprooted millions from their ancestral lands, almost always without compensation. This meant that subsequent reapportionment would require the consent of the very elites that had benefited from racially-directed land seizures in the first place. The South African government would have to raise revenue to buy farms and provide land to those who had become landless, even as property prices rapidly rose when major post-independence instability did not materialise.

The South African constitution provides for the expropriation of property "in the public interest", which is defined to include land reform intended to bring about "equitable access to all South Africa's natural resources".³⁷⁷ Compensation and its manner of payment must be "just and equitable, reflecting an equitable balance between the public interest and the interests of those affected"; however, at least one high-ranking official in the Department of Land Affairs suggested that "just and equitable" is not identical to "market value" and may represent a lower or higher payment.³⁷⁸ An amendment to the Restitution of Land Rights Act simplified expropriation procedures, without prejudice to the constitutional rights of landowners.³⁷⁹

As democracy became a reality in the early 1990s, the ANC engaged in intensive debate about how to address land reform. The most basic – and fundamentally political – question facing the incoming government was

³⁷⁶ Anthony Sampson, in *Mandela: The Authorised Biography* (New York: Alfred A. Knopf, 1999), describes how the ANC leadership abandoned in 1992 ideas of nationalisation designed to redress decades of dispossession and destruction of black property and economic rights.

³⁷⁷ Section 28 of the Constitution of the Republic of South Africa, Act 200 of 1993 This section became known as the "property clause" in the chapter of the act on fundamental rights. The "final" constitution was the subject of further negotiations and was passed as Act 108 of 1996. Rights to land and property are dealt with under its Section 25.

³⁷⁸ ICG interview, South Africa, 29 April, 2004.

³⁷⁹ Circumstances to be considered when expropriating property included: its current use; the properties historical acquisition; market value; direct state investment and subsidy in the property; and the purpose of expropriation.

how radical it could afford to be in redressing land injustices without endangering the fragile compromise that had produced majority rule. The concern that drastic redistribution could spark a collapse of the commercial farming sector was equally important.³⁸⁰ In theory, the government had a choice between imposing reform and inducing reform. Imposing reform would entail forced redistribution of land, with or without compensation to current owners, and could be advanced by legislation that substantially altered the conditions for land ownership and agricultural production. For example, minimum or maximum limits could be set on farm size or the number of farms owned. Taxes on land transfer or land ownership could also be tailored to ensure wholesale redistribution.

Alternatively, reform could be induced by using market instruments and state subsidies. For example, state-owned land could be sold or capital provided to lending institutions for certain categories of land acquisition. Official records show that the state owns 24 million hectares of land, of which about 13 million are in the former homelands, and another 3.5 million are national parks and protected areas. The Department of Land Affairs (DLA) regularly refers to 4 million hectares that potentially could be redistributed.³⁸¹ The type of resettlement of small-scale farmers from communal areas that had taken place in Zimbabwe in the first decade after independence was ruled out. The ANC argued that South Africa had seen quite enough social engineering under apartheid.³⁸²

A. ANC COMPROMISES

On coming to power in April 1994, the ANC government was quick to reassure landowners that redistribution would proceed according to market principles and in line with the interim constitution and the bill of rights negotiated by the main political groups during 1993. That constitution, as noted, provided that every person could acquire and hold rights in property, that no deprivation of property rights was permitted except by law, and that expropriation would be permitted only for public purposes and would be subject to "just and equitable" compensation.

³⁸⁰ This section draws heavily on the work of Stephen Turner and Hilde Ibsen, *Land and Agrarian Reform in South Africa: A Status Report* (Belville, South Africa: Programme for Land and Agrarian Studies, University of the Western Cape, 2000).

³⁸¹ The state does not have proper records regarding the scale of land ownership by parastatals and municipalities, both of which are major holders, though most of their land would not be available for redistribution. It is also important not to overemphasise the potential of state land to address land needs.

³⁸² ICG correspondence with Ruth Hall, a researcher at the Program for Land and Agrarian Studies (PLAAS), 6 March 2004.

In general, the government would pursue three primary paths for addressing the land issue: *restitution* for land that was seized in the twentieth century; *redistribution* of land to blacks; and adjustments to the nation's *land tenure* laws. These categories were not mutually exclusive. For example, land could be redistributed to an individual or group under general redistribution plans or to specifically address a restitution claim.

Restitution was a key point of debate for the new government. The purpose of the land restitution program was to provide remedy, whether through land or cash compensation, to people dispossessed by racially discriminatory laws and practice. A restitution claim qualified if the claimant was dispossessed of a right in land or was not paid just and equitable compensation as a result of racially discriminatory laws or practices after 19 June 1913 (the date of the 1913 Natives Land Act).³⁸³ Restitution could be in the following forms: the land from which claimants were dispossessed; alternative land; compensation; alternative relief comprising a combination of the above; or priority access to government housing and land development programs. Owners whose land was expropriated for the purposes of restoring land to successful claimants were to be compensated in a just and equitable manner.

The program was designed to support the process of reconciliation and development, with due regard to the over-arching consideration of fairness and justice for individuals, communities and the country as a whole. The government's policy and procedure for handling land claims was based on the provisions of the constitution and the Restitution of Land Rights Act of 1994, the first law adopted under President Mandela.

In South Africa, as in Zimbabwe and Namibia, the policy debate oscillated between those who believe that land reform must focus on the redistribution of productive agricultural land to the poor and those who preferred focusing on raising agricultural productivity and nurturing a new generation of black commercial farmers. At the time of transition to majority rule, however, there was little disagreement in South Africa about the purpose of land reform, with anti-poverty considerations seen as more important than increased agricultural production. It was recognised that most small-scale farmers were women who were farming somewhat marginal holdings incapable of producing full subsistence and who were dependent on supplementing their income with non-agricultural activities.

During the Mandela presidency, land redistribution aimed to provide the disadvantaged and the poor with land for residential and productive purposes. The government developed a single, yet flexible, grant mechanism to meet the needs of a wide variety of applicants. Land redistribution took a

³⁸³ This excluded land lost to colonial conquest before 1913.

number of forms.³⁸⁴ Under the Provision of Land and Assistance Act, promulgated by the previous government in 1993, the Mandela government assisted eligible persons in obtaining settlement/land acquisition grants – maximum \$4,900 – to purchase land directly from willing sellers, including the government.³⁸⁵ Additional financial resources were provided for planning, community facilitation and dispute resolution. Because small grant-sized parcels were largely unavailable, those wishing to acquire land usually formed groups to facilitate purchases.

The constraints on implementing land reform were quickly evident. The newly elected government was hamstrung in its efforts to deliver on sweeping promises through a largely centralised and often uncoordinated bureaucracy. Under the interim constitution, land administration was considered a prerogative of the national government, and agriculture a provincial responsibility. NGOs, organised around protecting property rights and opposing forced removals, were in a position to influence emerging policy significantly. A series of policy debates took place about land redistribution, with the World Bank playing a prominent role.³⁸⁶ The policy that emerged was first presented to the public in the 1994 Reconstruction and Development Program, and later in a 1997 White Paper on Land Policy. Many of the principles were also codified in the democratic, final constitution promulgated in 1996.

The ANC established a program of deregulation and liberalisation, along the lines it had advocated before coming to power. The subsidies and protected markets that white farmers had enjoyed for decades were rapidly dismantled. The World Bank concurred that removing these privileges would make it easier for black farmers to compete in commercial agriculture while stimulating a shift from large-scale production to more efficient smaller-scale farming.³⁸⁷

The land program was variously described as a "market-led" or "demand-driven" approach designed to fuel economic growth while achieving the fundamental political goal of equity, access and ownership. The scope of the program was ambitious. A World Bank review envisaged the redistribution of 30 per cent of white-owned land to over 800,000 black

³⁸⁴ These include: group settlement with some production; group production; commonage schemes; on-farm settlement of farm workers and farm worker equity schemes.

³⁸⁵ Act 126 of 1993 (as amended).

³⁸⁶ Lionel Cliffe, "Land Reform in South Africa", *Review of African Political Economy* 84 (2000), pp. 273-86.

³⁸⁷ Gavin Williams et al., "Liberalising markets and reforming land in South Africa", *Journal of Contemporary African Studies* 16, no. 1 (1996), pp. 65-94.

households in five years at a cost of \$4.34 billion.³⁸⁸ The Reconstruction and Development Program adopted the 30 per cent transfer figure as a goal and maintained, "A national land reform program is the central and driving force of a program of rural development".³⁸⁹ The plan saw land reform "generating large-scale employment, increasing rural incomes and eliminating overcrowding", with the aim of supplying "residential and productive land to the poorest section of the rural population and aspirant farmers".

As the program was launched, there was a clear expectation that land reform and agricultural development would move forward within a broader, integrated process of rural development. Boosting agricultural production was assumed to be a core goal of redistributive land reform, although residential uses were also acknowledged. The result was expected to be the rapid expansion of a more efficient small, black family farm sector that could drive growth in the agriculture sector as a whole. While commercial agriculture's share of GDP had fallen (it was about 5 per cent of GDP and 10 per cent of employment at the time), it was believed that it had the potential to create employment and raise rural incomes.

In 1994, following the first democratic elections, the Department of Land Affairs emerged through the restructuring of the bureaucracy. This reshuffling included the Department of Development Aid and the Office for Regional Development, the latter an office that had been instrumental in laying out the apartheid map of the independent states and self-governing territories. The Department of Land Affairs recruited a dozen or more young professionals, first as consultants, then as senior managers, many of whom had been active in land rights NGOs in opposition to the forced removals of the apartheid regime.³⁹⁰ Those it recruited were mostly white, including the minister, Derek Hanekom, and the director general, Geoff Budlender.³⁹¹ Thus, from the beginning, the challenge was to build a shared organisational culture between old and new bureaucracies with greatly differing mindsets. The drawn-out process of restructuring the Department of Land Affairs consumed bureaucratic energy, often distracting officials from the primary

³⁸⁸ World Bank, "Options for Land Reform and Rural Restructuring", Land Redistribution Options Conference, Land and Agriculture Policy Centre, Johannesburg, October 1993.

³⁸⁹ African National Congress, *Reconstruction and Development Program*, 1994.

³⁹⁰ For example, the Association for Rural Advancement (KwaZulu Natal), Surplus People Project (Western and Northern Cape), Transvaal Rural Action Committee and the Border Rural Committee (Eastern Cape), all of which were affiliates of the National Land Committee based in Johannesburg.

³⁹¹ As Deputy Director General for Agriculture, Derek Hanekom also took over responsibility for the Ministry of Agriculture with the break up of the government of national unity in 1997.

task of land reform. Between 1994 and 1999, the Department of Land Affairs was consistently unable to spend fully the government or aid funds allocated for its purposes.

A two-year pilot land reform program was established in November 1994 with the following key aims:

- ❑ initiating land transfer to landless and disadvantaged rural people, especially women;
- ❑ establishing these individuals as self-reliant lease-holders and owners;
- ❑ testing the most appropriate financing mechanisms for both land transfers and infrastructure provision; and
- ❑ exploring the most appropriate administrative structures and systems for implementation of a decentralised program, including the management of common property resources where required.

The pilot program was implemented in nine districts, one in each province, through agency agreements between the Department of Land Affairs and provincial directors general, with each province designating a lead department. The arrangement was necessary because the newly created Department of Land Affairs lacked administrative capacity at the provincial level. In 1994, when it began work, it had only four regional offices outside Pretoria.³⁹² It established provincial offices over an eighteen-month period, beginning in early 1995.

B. DEVELOPMENT AID

From the outset, donors were keen to assist the government and ensure that the transition to majority rule would not be disrupted. Before the transition, the ANC had engaged the World Bank to share its international expertise and work with local researchers and future policy makers to contribute to the land reform agenda in South Africa. A number of conferences were organised and several publications resulted from this work.³⁹³ The ANC's party platform also adopted the target proposed for land reform that came out of these consultations: 30 per cent of the agricultural land in five years.

³⁹² Excluding offices of the Survey and Deeds Branch.

³⁹³ In particular, the Land Options Conference organised by the Land and Agricultural Policy Centre – an ANC think tank – in 1993 produced important working papers, eventually resulting in Johan van Zyl, Johann Kirsten and Hans Binswanger (eds.), *Agricultural Land Reform in South Africa: Policies, Markets and Mechanisms*, op. cit.

The largest allocation of funds was to the pilot program, subsequently renamed the Land Reform Support program, to which the Netherlands, UK, Denmark and EU contributed. Switzerland, Denmark, Belgium and the Netherlands also funded related work. Official development assistance in grants to land reform during the Mandela administration amounted to some \$30 million. The World Bank did not provide direct financial support because the government did not need loans and wanted full ownership of the policy-making process.³⁹⁴

Minister for Land Affairs Hanekom had a cordial relationship with donors from 1993, having earlier served as coordinator for land and agricultural policy in the ANC's Department of Economic Planning. Funding agreements were based on requests from the government to support components of the national land reform program established in the initial policy document of the Reconstruction and Development Program and the White Paper. Assistance largely served to reinforce and complement a program to which South Africa was already contributing the lion's share.

From the outset, both donors and the Department of Land Affairs recognised that foreign technical assistance was politically sensitive and avoided making it a condition of funding. Most technical experts recruited by the department were South African, though funded with donor help. Donor funds were also used for a range of activities directly related to delivery of the three principal components of the land reform program: redistribution, restitution and tenure reform.³⁹⁵

C. THE 1996-1999 PERIOD

Implementation of these ambitious plans was slow and uneven. In March 1996, the special government office overseeing the Reconstruction and Development Program, headed by Minister without Portfolio Jay Naidoo, was closed and responsibility transferred to the office of the then deputy president, Thabo Mbeki. The program itself was replaced by the Growth, Employment and Redistribution Strategy. The abandonment of the original program appeared to signal a shift away from rural development, and the drafting of a Rural Development Framework in 1997 was largely

³⁹⁴ Tension in relations with the World Bank went back to 1993 when ANC officials (in Shell House) and the ANC-aligned researchers at the Land and Agriculture Policy Centre in Braamfontein felt that the World Bank staff were attempting to hijack the policy-making process.

³⁹⁵ For example, funds were applied to research, policy development, pilot initiatives (particularly in the development of market-assisted land redistribution), mediation, conflict management, community facilitation, farm credit for land reform, development of tenure policy and legislation, initiatives to support new land rights legislation, communications, training and developing the capacity of the Department of Land Affairs.

left to the Department of Land Affairs to complete.³⁹⁶ With no coordinating agency driving the efforts, the attempt to formulate a rural development policy had little impetus. It no longer appeared that land reform would be the central, driving force behind rural development.

Part of the reason land reform efforts began to stall can be traced to the tangle of laws governing tenure. Many areas referred to as "homelands" were deliberately created to further racist policies and provide reservoirs of cheap migratory labour. The complexity of the legislation governing the eleven former homeland areas hindered attempts to dismantle the apartheid map, and many earlier laws remained on the books. It was not until the Interim Protection of Informal Land Rights Act of 1996 that some 30 per cent of the population finally acquired the right, independent of government consent, to occupy or use their land.

Tenure reform also needed to address a range of problems that resulted in the frequent dispossession and exploitation of blacks on commercial farms. The Land Reform (Labour Tenants) Act of 1996 protected labour tenants and gave them the right to claim land. The Extension of Security of Tenure Act of 1997 aimed to protect people living on rural land with the consent of the landowner against unfair eviction. The Prevention of Illegal Evictions and Unlawful Occupation Act of 1998 enabled owners to evict people who unlawfully occupied their land but made it a criminal offence to do so without an order from the Land Claims Court. In principle, these laws vested workers with new rights, replacing the old system dominated by land owners. However, many farmers anticipated the adoption of the new legislation and evicted farm dwellers before it was enacted. Illegal evictions of farm dwellers outnumbered legal ones by a factor of twenty in some provinces. The victims were often tenants or workers who had lived in the same place for generations.³⁹⁷ This created the largest wave of rural-urban migration since the end of apartheid and increasing reliance on casual and migratory labour, rather than permanent farm workers.

Tenure has been the most difficult aspect of the land reform program. The Department of Land Affairs has never had the personnel or resources to ensure that the Extension of Security of Tenure Act was effectively communicated and enforced. The problem has been exacerbated by the financial limitations of government-funded legal aid programs. There are reports both of terrible brutality by farmers against their farm workers as well attacks by farm workers against farm owners. Agri-SA, the commercial

³⁹⁶ Curiously, the "Green Paper on Rural Development", published in *Government Gazette*, no. 16679, 3 November 1995, under the Reconstruction and Development Program, made little mention of land reform. This had to be rectified in the drafting of the Rural Development Framework by the Department of Land Affairs.

³⁹⁷ ICG interview with Peter Jacobs and Ruth Hall of PLAAS, 27 November 2003.

farmers' union, continues to call for repeal or amendment of the Extension of Security of Tenure Act. In contrast, NGOs representing farm dwellers have sought more radical legislation that would give them ownership rights.

The 1997 White Paper once again articulated the government's commitment to land reform and set the following order of priorities:

- redressing the injustices of apartheid;
- fostering national reconciliation and stability;
- underpinning economic growth; and
- improving household welfare and alleviating poverty.³⁹⁸

The White Paper contended that by helping create conditions of stability and certainty, land reform was essential for sustainable growth and development. As anticipated in the 1994 Reconstruction and Development Program, the government policy was based on three sections articulated in Article 25 of the 1996 constitution:

§5. The state must take reasonable legislative and other measures, within its available resources, to foster conditions, which enable citizens to gain access to land on an equitable basis.

§6. A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.

§7. A person or community dispossessed of property after 19 June 1913 as a result of racially discriminatory laws or practices is entitled to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.³⁹⁹

D. THE MANDELA RECORD

The Mandela administration achieved limited progress in land reform and was often thwarted by competing interest groups, constrained administrative capabilities, excessive centralisation and a tangle of tenure legislation. But after initial difficulties, where land was redistributed, clear

³⁹⁸ The publication of the "1997 White Paper on South African Land Policy" was the culmination of a policy development process that began with the Rural Development Policy document and was followed by the Land Policy Principles Conference at Kempton Park in 1995 and the Green Paper in February 1996.

³⁹⁹ The Constitution of the Republic of South Africa, Act 108 of 1996.

economic progress was apparent, and reform efforts appeared to be gaining some momentum.

By mid-1999, the Department of Land Affairs was in the final stages of opening district-level offices. Within each province, there were to be five or six offices at the level of the local government district. The department had finally recognised that only close collaboration with local government would integrate land reform into rural development.

Fewer than 3,000 restitution claims were settled by mid-1999, involving a little more than 11,000 households and 225,000 hectares of land.⁴⁰⁰ After that date, however, the pace quickened, largely due to streamlined administrative procedures. About 80 per cent of the registered claims were urban. Yet rural claims involved far larger numbers of individuals: the average urban claim had six beneficiaries where, in contrast, the average rural claim has almost 60 beneficiaries.⁴⁰¹ Well-known cases covered removals under the notorious Group Areas Act, such as District Six in Cape Town, which involved 1,698 tenant claimants and \$4.9 million in compensation.⁴⁰² Urban settlements usually involved only financial compensation and thus were quicker.⁴⁰³ However, as they often did not transfer land to blacks, they did not address the core issues – racial dispossession and the skewed nature of ownership. They were nonetheless highly emotive, and their resolution contributed to national reconciliation.

Land redistribution under Mandela was "demand-led" and did not involve the acquisition of land by the government for subsequent resettlement. A survey in 1999 concluded that land reform efforts had succeeded in embracing the rural poor and placing productive assets in their hands.⁴⁰⁴ Beneficiaries had better access to services than the rural population as a whole, although poverty remained persistent. On the basis of this study, the World Bank concluded that the program was contributing to equity and efficiency while fostering sustainable growth.

Among the problems of the government's approach, which was based on responding to applications by plaintiffs, was its high transaction costs (partially a factor of the minister's insistence on approving each and every application). In addition, old socialist ideals seem to have slipped into the program as most of the projects approved contained business plans based

⁴⁰⁰ McIntosh Xaba and Associates, "An Institutional Review of the Land Reform Support Programme", 30 November 1999.

⁴⁰¹ Department of Land Affairs, "Cumulative Statistics on Settled Restitution Claims: 1995-29 February 2004". Available at land.pwv.gov.za/restitution/Statistics/March/rural%20urban%20breakdown%2029%20february%202004.doc.

⁴⁰² "Plans to Speed Up Land Redistribution," *Business Day*, 14 February 2001.

⁴⁰³ Department of Land Affairs, "Cumulative Statistics", op. cit.

⁴⁰⁴ Klaus Deininger and Julian May, *Is their Scope for Growth with Equity? The Case for Land Reform in South Africa* (Washington, D.C.: World Bank, 2000).

on collective farming. The small size of the grant, coupled with the failure of the minister to scrap the sub-division rules, forced people to form large and often ill-prepared groups to raise the sum necessary to meet the asking price for land. Further, as noted, the Department of Land Affairs consistently under spent its budget until 1999, largely because of its failure to decentralise decision-making, the detailed nature of farm planning and limited administrative capacity.⁴⁰⁵

In late 1999, the Department of Land Affairs, the UK's Department for International Development (DFID), the EU and Denmark commissioned an independent and comprehensive review of the land reform program. The seven-person team, including long-time observers of land reform in Africa, concluded that significant progress had been made since an earlier examination:

A significant improvement in the delivery of land redistribution and restitution projects is evidenced in the last two years. Moreover there is much increased efficiency and cost-effectiveness in delivery during this period. A comparison with land reform delivery elsewhere would suggest that other African countries delivered more land as a proportion of total population, but over much longer time periods than the South African Land Reform program has been in place. It is nonetheless suggested that the market led grant/application system has imposed significant capacity requirements on the Department relative to the supply led approaches of other African countries.... [The Land Reform program] has been one of the few national programs which has highlighted the rights and needs of the rural poor.... The policies and programs of the department have generated more debates in the media and the public discourse than any other program or national department. To this extent, it has supplanted what was the role of land-based NGO's in the 1980s and early 1990s.⁴⁰⁶

⁴⁰⁵ Capital expenditure through 2000 for land acquisition, development and financial compensation was approximately \$144 million. By comparison, South Africa's housing program had spent about \$2.4 billion on almost one million houses.

⁴⁰⁶ Dr. Alastair McIntosh, Jan Barnard, Gwendolyn Wellman and Anne Vaughan (McIntosh Xaba and Associates), Sandy Sejake (Tsimeni Consulting), Prof. Lionel Cliffe (University of Leeds) and Dr. Robin Palmer (OXFAM GB), "Review of the Land Reform Support Program", the Department of Land Affairs (South Africa), the European Union, the Department for International Development (UK) and the Danish International Development Agency, 30 November 1999.

11. The Mbeki Era: Since 1999

Following the election of President Thabo Mbeki in June 1999, land reform efforts encountered a number of difficulties stemming from new policy initiatives, bureaucratic reshuffling and the Zimbabwe crisis. Derek Hanekom, who had served as minister of land affairs since 1994 and whose portfolio had been expanded to include the Ministry of Agriculture, was dropped from the cabinet. As minister for land affairs, he had become a major target of criticism in the white farming press. After he assumed responsibility for agriculture, he was often sharply at odds with a commercial farming lobby that viewed him as a threat to their direct interests. Following Mbeki's election, former Deputy Minister of Agriculture Thoko Didiza was given both portfolios. The new minister quickly indicated dissatisfaction with existing policy, shelved the draft Land Rights Bill in July 1999 and imposed a moratorium on land redistribution projects. Her appointment led to a substantial reshuffling of personnel in the land reform bureaucracy. There was an immediate exodus of the "white liberals" in the bureaucracy and the director-general and the two deputies responsible for land reform resigned, along with three chief directors and several directors and their deputies. Three regional land claims commissioners of the Restitution Commission also departed, and a completely new management team was appointed to the department. Overall, the bureaucracy was restructured to bring decision-making and control closer to the new director general and to appoint more black professionals to senior management positions.⁴⁰⁷

While land redistribution had been gaining steam since 1996, the change of administration brought a marked slowdown. Project approvals dropped from 17,243 in 1999 to 5,692 in 2000. Actual land transfers fell from 14,250 to 1,513 households during the same period.⁴⁰⁸ The first year of the Mbeki administration also sparked increasingly strident exchanges in the press between an NGO land coalition, the National Land Committee, and Minister Didiza.⁴⁰⁹ Land NGOs, which had championed reform since the dark days of apartheid, continued to decry the government's efforts as

⁴⁰⁷ *Business Day*, 22 June 2000.

⁴⁰⁸ Louise Cook, "Land Redistribution: the Acid Test", *Business Day*, 4 January 2001.

⁴⁰⁹ The National Land Committee is a coalition of land rights NGOs, which had its origins in the anti-apartheid movement.

excessively conservative and slow. Although Minister Didiza made her displeasure with earlier policies known quickly, she did not issue her first statements on new directions until February 2000.⁴¹⁰ From her initial statements, it appeared that land redistribution would be targeted to promoting black commercial farmers rather than on uplifting the poor, a position that further angered land reform NGOs.

The exodus of senior managers and the relative upheaval within the department chilled relations with donors, not least when, following the occupation and seizure of white farms in Zimbabwe, the minister questioned the close involvement of donors in land reform.⁴¹¹ At the same time the nation was shocked by racially motivated outrages by a number of white farmers against farm workers as well as an increase in murders of farm owners. Amidst the resultant rise in tensions, a new land and agrarian policy was sought that could help end racial injustice on white farms and replace many white commercial farmers with black ones.⁴¹²

A. THE IMPACT OF ZIMBABWE

The first announcement of new directions came shortly before Zimbabwe's land crisis erupted in April 2000. Not surprisingly, the invasion of white farms there resulted in a huge increase in interest in land reform in South Africa. For many South Africans, their neighbour's events underscored the limitations of a market-assisted land redistribution strategy. Indeed, the land invasions struck a responsive chord among militants, and Zimbabwean diplomats were given a standing ovation at the annual conference of South Africa's Pan African Congress (PAC) in April 2000.⁴¹³ A poll carried out in black townships that month showed 54 per cent support for the farm seizures.⁴¹⁴

⁴¹⁰ See "Strategic Directions on Land Issues", policy statement by the Minister for Agriculture and Land Affairs, Strategic Planning workshop, African Window in Pretoria, 11 February 2000; "1999 Annual Report of the Department of Land Affairs", March 2000; "Integrated Program of Land Redistribution and Agricultural Development in South Africa", 8 June 2000; Dr. Gilingwe Mayende, *The Star*, 11 July 2000; and various press briefings by the minister and deputy minister and the director general, reproduced on the Oxfam website at www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/index.htm.

⁴¹¹ Department of Land Affairs, "Land Reform Support Project, Final Extension Phase 2000/2001", Directorate Strategic Management Support, Pretoria, 4 December 2000.

⁴¹² Stephen Turner and Hilde Ibsen, *Land and Agrarian Reform*, op. cit. 2000.

⁴¹³ The PAC, which split from the ANC in 1959, took its inspiration from Anton Lembede, who wrote in 1946: "Africa is a black man's country....The basis of national unity is the nationalist feeling of the Africans...."

⁴¹⁴ *Sunday Times* (UK) 20 April 2000.

Events in Zimbabwe galvanised the networks working for more radical land reform. A land reform advocate said:

Zimbabwe has been an inspiration to landless people in South Africa. It is the first time any country in southern Africa has done anything on land transfers in the last decade. Zimbabwe was a wake up call for South Africa. The government is now waiting to see if the Landless People's Movement will really undertake occupations. But the government itself has not yet woken up.⁴¹⁵

Another representative of a land rights NGO said, "Mugabe is far more popular than most of our leaders here in South Africa. In fact, he is their hero. They never tire to mention his name or to support him in public. And they want him to come to South Africa to inspire them further and find solutions to the South African land problem".⁴¹⁶ To be sure, there was also stinging criticism of radical redistribution. An NGO official close to commercial farming interests argued, "Poverty is not addressed by destroying title and creating aid-dependent nations. Rather, prosperity is created by individual endeavour on property securely held with value that can be traded and used as collateral for development".⁴¹⁷ Given their advantages in financing, organisation and political access, landed elites have frequently been able to blunt land reform efforts. These elites have been able to lobby governments with arguments – often strong – about the importance of improving food production and the need to maintain farm employment and export revenues. This has often caused land reform debates to begin as a discussion of promoting land redistribution for the landless masses, but shift toward policies that favour fewer people who argue they have the potential to contribute disproportionately to economic growth and national prosperity.

Initially, the ANC endorsed the ZANU-PF-backed farm seizures and largely shrugged off charges that President Mugabe was exploiting the land issue for electoral purposes.⁴¹⁸ While the government sought to reassure the business community, it also made sweeping promises about future land redistribution. In June 2000, Minister Didiza announced to parliament that the government aimed to transfer ownership of 15 million hectares of state and privately held property over the next five years. This amounted to about 18 per cent of South Africa's agricultural land and 12.5 per cent of all

⁴¹⁵ ICG interview, March 2003.

⁴¹⁶ ICG interview, August 2002.

⁴¹⁷ ICG correspondence, 9 May 2003.

⁴¹⁸ Jaspreet Kindra, "ANC secretary general Motlanthe endorses ZANU-PF land-grab policy", *Mail & Guardian*, 2-8 June 2000.

territory. At the time, less than 2 per cent of South Africa's land had been transferred.⁴¹⁹ The government's goal for transfers to blacks over a longer span of fifteen to twenty years, according to government officials, amounted to 30 per cent of all territory in South Africa.⁴²⁰ The latter goal would be remarkably ambitious and require a rate of land redistribution far more rapid than had been achieved in the previous five years.

However, the high cost of supporting Zimbabwe's approach became apparent when statements by Vice President Jacob Zuma at an October 2000 SADC conference were viewed as pro-Mugabe and led to a sharp decline in the value of the rand. This prompted President Mbeki to give quick assurances that land invasions would not be allowed in South Africa.⁴²¹ Minister Didiza echoed these sentiments. While acknowledging that market-based land reform had not been effective in Zimbabwe, she stressed that South Africa had a viable land reform program and would not fall into a state of lawlessness.⁴²² After an agreement was reached with President Mbeki, the Business Trust published advertisements in national and foreign newspapers stressing that the Mugabe policy would not be replicated in South Africa.

The emergence of land invasions in Zimbabwe and their popularity among many South Africans occurred as it was becoming increasingly apparent that the land market, as currently configured, was unlikely to transfer land to black farmers on a large scale, and certainly not on the scale which the government itself has pledged. Although there has been a noticeable increase in militancy among some land reform groups, with the formation of the Landless People's Movement (a radical offshoot of South Africa's National Land Committee) and a series of actual and threatened land invasions, it is unlikely that the Zimbabwe pattern will be reproduced. All political parties, with the exception of the ineffective Pan African Congress, have stated opposition to land occupations and have called for the pace of reform to be increased to ensure stability. Even organisations of the landless, such as the Homeless People's Federation and the Landless People's Movement, have only supported occupations when negotiations with the government and private landowners have failed. Nevertheless,

⁴¹⁹ Similarly, several months later, in December 2000 at the annual summer cabinet retreat at Swakopmund, the then Namibian Prime Minister Hage Geingob committed his government to the redistribution of 9.5 million hectares in five years. This represented approximately 25 per cent of the farmland in private hands and more than five times the total of land redistributed since 1991. Both countries now face a huge disparity between their stated redistribution targets and the practical steps actually taken to achieve them.

⁴²⁰ ICG interview with Minister Thoko Didiza, August 2002.

⁴²¹ *The Star* (South Africa), 13 October 2000.

⁴²² *Business Day*, 23 October 2000.

events in Zimbabwe have put new wind into the sails of some advocacy groups. In particular, the Landless People's Movement has been successful in raising attention to the issue through well-publicised mass actions.

The affiliates of the National Land Committee have taken different positions. For example, the committee issued a statement at its 2002 annual meeting maintaining that the organisation "does not promote or advocate land occupations", while noting, "land occupations are an expression of landlessness and a demonstration of frustration with the non-redistribution of land". The National Land Committee and advocates of more radical approaches have argued that South Africa should follow Zimbabwe's lead and remove requirements for the state to pay compensation for land compulsorily acquired for land reform. They maintain this is the only way to make the systematic acquisition of farms for redistribution affordable.⁴²³

Land rights groups point out that they have worked through legal means – marches, sit-ins, letter writing campaigns and demonstrations – to bring movement on reform. They want the government to convene a large national land summit. If they see no changes in policy in 2004 and no prospect for such a summit, they vow to pick up the pace of land occupations.⁴²⁴ At the other end of the political spectrum, commercial farmers have supported the concept of land redistribution but made it clear that they will not back a program that "allocates land to people who cannot use the land". Agri-SA, representing the commercial farmers, says that beneficiaries of land transfers will need extensive training by white farmers to ensure that productivity levels do not falter. "We have to train them", said Jack Raath, the executive director of Agri-SA, "In the grain industry we have in the vicinity of 7,000 black farmers that have gone into study groups with white farmers in an effort to transfer skills. We have thousands of black farmers with white mentors. We want to bring people in a market-driven way. It is a process that has to take twenty to 30 years. We have established partnerships in the rural areas. We know that we have not done enough".⁴²⁵

Noting that, "farming is a business", Raath maintained that South Africa was lucky to have a government with the "right mentality on land reform". He also observed that given South Africa's economy, its constitution and the general approach of the government, the potential for a Zimbabwe-type crisis is small, but added, "You can never say never. If we go another fifteen to twenty years and we don't have a more diverse ownership of land in this country who, knows? Populists could start beating the drums and get

⁴²³ "About-turn on land draws fire; Committee says withdrawal of expropriation amounts to a betrayal of claimants", *Business Day*, 23 March 2001.

⁴²⁴ ICG interviews in South Africa, May and June 2003.

⁴²⁵ ICG interview in South Africa, August 2002

enough support to change the status quo".⁴²⁶ Events in Zimbabwe have made South Africa's white farmers rather more pragmatic; a recent study found not only that 75 per cent of white commercial farmers considered land reform inevitable but that 54 per cent supported land reform and the emergence of more black farmers. They recognise now that reform is necessary to protect their own long-term interests.⁴²⁷

B. VIOLENCE AND LAND OCCUPATIONS

Farm attacks in South Africa have been on the increase for more than a decade, from a baseline in 1991 of 327 incidents, the numbers increased in 2001 to 1,011 attacks with 147 people killed.⁴²⁸ From 1991 to the end of 2003, more than 1,500 white farmers and their relatives were killed. In addition to the sheer violence, these murders have a significant economic effect. Each time a farmer is murdered, according to Agri-SA, it takes the farm eighteen months to return to full production, which affects not only the families of farmer owners but farm worker salaries.⁴²⁹ There is no hard evidence that these crimes have increased as a result of the violent seizure of white-owned land in Zimbabwe.⁴³⁰ Indeed, police officials claim that there has been a decrease in attacks on farms.⁴³¹ However, just as damaging

⁴²⁶ Ibid.

⁴²⁷ "Half SA Farmers Support Land Reform", South African Press Association, June 8, 2004.

⁴²⁸ Committee of Inquiry into Farm Attacks, *Report of the Committee of Inquiry into Farm Attacks*, 31 July 2003, p. 417. Available at www.saps.gov.za/farmat. Farm owners organisations claim that more than 1,000 people have died in such circumstances between 1991 and 2001. South African Agricultural Union (Agri-SA), press release, 8 March 2001.

⁴²⁹ ICG interviews in South Africa, November and December 2003.

⁴³⁰ This "orthodox" view is disputed by Patrick Laurence, "Struggle for Land, a Crucial New Chapter", *Focus* 28, 28 December 2002. Available at www.hsf.org.za/focus28/focus28conts.htm. Laurence claims, "After declining in 2001—when there were 389 attacks on farms and smallholdings, resulting in the killing of 62 people—the tempo of these attacks is on the increase again. Official figures leaked to the Afrikaans newspaper Rapport show that between January and July 2002 there were 690 attacks and 80 killings. They appear to foreshadow a return to the high level of attacks and murders in 2000 and 1999 (905 attacks and 144 murders in 2000 and 813 attacks and 144 murders in 1999)".

⁴³¹ ICG interview, South Africa, 27 November 2003. Police officials cite the establishment of priority committees on rural safety as a main reason for the recent purported decline. The committees involve the army, police, Department of Land Affairs, elements of organised agriculture, farm workers and landless advocates. Other factors they cite include the development of security guidelines and continuous analysis of points of vulnerability and lessons learned from mistakes.

is the climate of fear that some white farmers perceive and which causes their children to envisage a future outside South Africa.⁴³²

Black farmers and black farm workers are also victims of violence, although much of the evidence is unsystematic. The South African Human Rights Commission found that attacks on farm workers were rarely followed up by the authorities. Human Rights Watch claimed that farm workers and dwellers are more vulnerable to violence and receive less help from the police and court systems.⁴³³ According to police statistics, 40 per cent of victims of farm attacks are black. Attacks on black farmers are on the increase, and most women who are raped on farms are black.⁴³⁴ Clusters of attacks have occurred where white commercial farmers are adjacent to former homelands, but anyone with assets in these areas is a target.⁴³⁵ References to brutal, even lethal, attacks on farm workers by farmers are frequently featured in the media.⁴³⁶

The government appears determined not to allow the land question to spin out of control.⁴³⁷ From president to metropolitan councils, officials continually issue statements that illegal land occupations will not be tolerated. However, in some areas such as the KwaZulu-Natal coast, land invasions, occupations, the burning of crops and theft of livestock have been part of the landscape since 1993. *The New York Times* described the confrontation there between farmers and occupiers as "low level guerrilla warfare".⁴³⁸ While these incidents may not amount to a national crisis, they reflect an extremely precarious situation for landowners and result from a desperate situation for landless blacks.

Perceptions of the motivations behind farm attacks differ widely, as evident in submissions to the South African Human Rights Commission. Agri-SA believes that they arise from revenge and racism. "The Commission

⁴³² ICG interviews, South Africa, May, November and December 2003.

⁴³³ Human Rights Watch, *Unequal Protection: The State Response to Violent Crime on South African Farms*, World Report 2001, 22 August 2001.

⁴³⁴ ICG interviews, November and December 2003.

⁴³⁵ Ruth Hall, "Land as a Source of Conflict in South Africa", World Bank Land Policy Consultation, Kampala, 29 April 2002.

⁴³⁶ Johnny Steinberg, *Midlands* (Johannesburg/Cape Town: Jonathan Ball Publishers, 2002) is a moving account of the murder of a white farmer in the festering frontier battle of KwaZulu Natal, is an even-handed account of the struggle for land that has touched the public. Steinberg describes the pattern of young boys who grow up on farms, see or experience violence and inequities on the farm, leave the farm at a certain age for the township, go through long periods of unemployment and slowly cross over into a life of criminality.

⁴³⁷ Edward Lahiff, Institute of Security Studies, Zimbabwe Conference, Pretoria, 27 November 2002.

⁴³⁸ Sharon La Franiere and Michael Wines, "Africa Quandary: Whites' Land vs. the Landlessness of Blacks", *The New York Times*, 6 January 2004.

investigated political motives but not racial motives", said an expert on farm attacks from the commercial farming community. "We feel these attacks are often racially motivated. Racial motivations help determine the target, although economic problems drive people into crime".⁴³⁹ A donor official elaborated, "White farmers feel under threat in certain areas. They feel it is a situation of low intensity conflict. There are many land invasions, but they are not called that".⁴⁴⁰ Another South African land reform official commented, "Commercial farmers are the only white South Africans that actually live with blacks. There is an ongoing interaction between huge white wealth and angry black poverty. It is not politically organised, but it will be, and it is lurking behind the white farmer murders. Someone will come along and mobilise this sentiment".⁴⁴¹ Along these same lines, a donor government official concluded, "If nothing is done, violence will increase, and if we don't provide hope to the landless, it will get worse".⁴⁴²

A handful of organised agricultural and political groups – including the Freedom Front and the Afrikaaner Unity Movement – have come together to form the Freedom Front Plus. They argue that there is an organised political force behind the attacks, aimed at driving whites off the land. The commercial farming community is concerned about government efforts to phase out the commando system, a private security system originally introduced for the protection of these farms. Agri-SA says that it prevented 177 farm attacks in 2002. The government has introduced sector policing in its stead, which has engendered scepticism from white commercial farmers.⁴⁴³ The police, on the other hand, have been largely unable to identify anything other than ordinary criminal motives for attacks and point out that all citizens in rural areas are exposed to a high level of crime, not only whites. "We don't know of any politically organised force that is perpetrating any attacks", said a top police official. "We have carried out formal criminal investigations that bear this out. Most of these investigations – roughly 90 per cent – reveal criminal motivations".⁴⁴⁴

Some land advocacy NGOs and human rights activists and the Pan African Congress argue that the farmers are primarily to blame for the violence because of the abuse of workers. Evictions of long-time farm residents create bitterness and motivation.⁴⁴⁵ A Department of Land Affairs official commented, "Illegal evictions can cause violent reactions, as can

⁴³⁹ ICG interview, South Africa, 26 November 2003.

⁴⁴⁰ ICG interview, South Africa, March 2003.

⁴⁴¹ ICG interview, South Africa, 25 November 2003.

⁴⁴² ICG interview, South Africa, December 2003.

⁴⁴³ ICG interviews, November and December 2003.

⁴⁴⁴ ICG interview, 27 November 2003. The Committee of Inquiry into Farm Attacks found 90 per cent of attacks to be motivated by robbery between 1998 and 2001.

⁴⁴⁵ ICG interviews in South Africa, November and December 2003.

other grievances like working conditions. If we move fast to make the necessary interventions in areas where there are farm occupiers, then a significant amount of violence could be averted".⁴⁴⁶

Since 1994, the government has enacted specific laws to protect the workers and residents on farms: security of tenure for legal residents on farms; the need for eviction orders from courts; the court's obligation to establish alternative living space. However, as a senior Department of Land Affairs official admitted, "the DLA does not have the personnel or resources to ensure that the [laws are] effectively communicated and enforced".⁴⁴⁷

Judicial and policing systems related to evictions are also a problem. A senior official commented, "Although there is new legislation, it would appear that the justice system is not yet up to speed, despite ongoing training. Some of those in the justice system are colluding with white farmers".⁴⁴⁸ The police are discussing procedures with the Department of Justice, and landless groups believe the laws have actually encouraged an increase in evictions. "Farm workers have rights in theory, but farmers kick them off the land because they fear they will get tenure", said a private sector representative. "These huge squatter settlements will be an increasing source of demand for land".⁴⁴⁹ Worse still, according to a donor government official, "There are anecdotal stories of the police being in bed with farmers in some areas, and if not actively collaborating in evictions, preventing eviction cases from going to court. The police are used to forcibly removing black people, which is reminiscent of apartheid".⁴⁵⁰

A 2002 study of South African land occupations highlighted that many land conflicts have a distinctly urban – and residential – dimension. The Bredell case is a good illustration.⁴⁵¹ In early July 2001 an estimated 2,000 people occupied small plots of land on private and state property at Bredell in Kempton Park, Johannesburg.⁴⁵² While the Pan African Congress initially denied involvement, it expressed strong support. The government denounced the action and declared that the properties had to be vacated, leading the squatters to warn they might resist violently. After the

⁴⁴⁶ ICG interview in South Africa, December 2003.

⁴⁴⁷ Siphso Sibanda, "Land Reform and Poverty Alleviation in South Africa", Paper presented at the SARP conference, 4 June 2001.

⁴⁴⁸ ICG interview, South Africa, December 2003.

⁴⁴⁹ ICG interview, South Africa, December 2003.

⁴⁵⁰ ICG interview, South Africa, December 2003.

⁴⁵¹ Lala Steyn, "Review of Land Occupations in South Africa", Africa Groups of Sweden, 2002.

⁴⁵² Gillian Hart, *Disabling Globalisation: Places of Power in Post-Apartheid South Africa* (Berkeley: Univ. of Calif. Press, 2002), p. 305. There were allegations that the organisers had paid activists \$3 per plot.

government took swift court action, the occupiers were ordered off the land and eventually removed by contractors working for the Johannesburg Metropolitan City Council.

Bredell was not an isolated case; there have been some 50 similar urban land occupations since 1994. For example, the National Land Committee's Northern Cape affiliate, the Association for Community Rural Advancement, supported the Groot Vlaktefontein community in its land restitution claim. In June 2001, people from that community occupied land in question; most were arrested and charged with trespassing. Within three weeks, the government resolved the claim, three years after it had been lodged.⁴⁵³ Shortly thereafter, the Landless People's Movement was formed. Bredell was something of a watershed, however. Before it, the government and the ANC seemed ambivalent toward land occupations and commended Zimbabwe for repossessing white land. Landless communities had hoped the ANC would side with them on the issue.⁴⁵⁴ Afterwards, however, the government took a firmer position.

Squatting is quite regularised now. If someone moves on to someone else's land, and the owner does not protest legally within 24 hours, it is almost impossible to move the squatter off. Land occupations are rapidly expanding the townships. In most cases, the government eventually puts in sanitation and water. This keeps the lid on violence and political protest. For example in Gabon, 60 kilometres east of Johannesburg, where 15,000 squatters have moved onto a section of a white farm over the last three years, and no rent has been paid. Attempts to enforce a court-ordered eviction foundered with the farmer claiming that the sheriff demanded \$250,000 to execute it.⁴⁵⁵

Land activists, however, view government policy as hostile to the interests of people trying to survive on the margins of larger cities and towns. They argue that the government has plans to move 1 million people from roughly 100 informal settlements in Gauteng Province (encompassing Johannesburg and Pretoria). One land and housing activist claimed, "The government says that the land on which these settlements are built is not good, and that the settlements will sink into the ground. The reality is that they want to expand higher income development in many of these areas, such as shopping centres".⁴⁵⁶ Officials insist the numbers are exaggerated.

ICG visits to several informal settlements, such as the Eikenhof community outside Johannesburg, revealed the presence of large numbers of unemployed former farm workers, who were displaced from their former

⁴⁵³ National Land Committee, *South Africa's Land Reform Quagmire?*, op cit., p. 2.

⁴⁵⁴ Steyn, "Review of Land Occupations in South Africa", op. cit.

⁴⁵⁵ La Franicre and Wins, "Africa Quandary", op. cit.

⁴⁵⁶ ICG interview, South Africa, May 2003.

work places by mechanisation, eviction or a general lack of opportunity. Residents in these shantytowns have constructed a variety of living quarters, developed some small businesses, begun small-scale community gardens and created a community school. Residents of the Eikenhof community claim the government seeks to move them to an area called Vlakfontein Extension, roughly fifteen kilometres away, which has few houses, no schools and no utilities. A resident complained, "The government is taking us away from our community support networks".⁴⁵⁷ While some residents relocated to Vlakfontein Extension, it appears most of them have since moved back to Eikenhof. The Eikenhof community has hired an attorney and taken its case to court. Activists want the government to allow them to remain and provide basic services. Residents are also eager for assistance in building proper houses and hope those who wish to farm will receive title.⁴⁵⁸

Similarly, the Protea South settlement in Soweto Township, established in 1989, continues to expand, with new shacks erected every week despite government threats to tear them down. While the government has built houses in Protea South, residents say they are unaffordable. One observed, "When the government comes to forcibly remove people, they use bulldozers and are armed. Over 3,000 families have been evicted, because the government says the place is full. We think we deserve to qualify to stay here in these places. This is like the 1950s when I lived in Sophiatown, when people like me were kicked out like dogs by the apartheid regime".⁴⁵⁹

A land activist maintained that government efforts to break up the informal settlements are fundamentally destructive: "The government is creating atomised communities that are breeding grounds for increased poverty and crime. The forced removals decimate the links that communities establish. It is a real struggle to hold on to identity, community and livelihood".⁴⁶⁰ Land activists and community residents have called for more consultations regarding the fate of shantytown dwellers and are eager for tenure security. Having more formal and secure access to land, in their view, would allow them to grow food, build better houses, undertake entrepreneurial activities, qualify for government services and reduce the impact of unemployment.⁴⁶¹

The police believe that the Landless People's Movement and National Land Committee are training landless people to conduct land invasions

⁴⁵⁷ ICG interview, May 2003.

⁴⁵⁸ ICG interviews, May 2003.

⁴⁵⁹ ICG interview, May 2003.

⁴⁶⁰ ICG interview, May 2003.

⁴⁶¹ ICG interviews, May, June 2003. A community leader said, "If we get our own land, we would have food and livelihoods".

over the next two years. "They believe they can speed up the government's land reform program through land invasions", said a high-ranking police official.⁴⁶² The link between squatting and farm violence is likely to increase as well. The Committee of Inquiry into Farm Attacks concluded that land occupations will increase and incite further farm attacks, as people are becoming increasingly impatient with the pace of land reform.⁴⁶³ "We might reach a crisis at some point", said a top Department of Land Affairs official, "if people become impatient at the speed at which we are delivering. They may start rising against the government".⁴⁶⁴ Farmers say they will resist this with violence themselves.

The Landless People's Movement has been growing restless. In March 2004, 300 members stormed the Eastern Cape premier's office and issued an ultimatum: "give us land or we will take over farms forcefully on 14 April".⁴⁶⁵ Police defused the immediate threat by arresting 50 members but the longer-term one remains. The LPM is organising a Landless People's Assembly in late August 2004 and in the run-up it will lead a month of marches, calling upon the government to expropriate the property of absentee landlords, abusive farmers and underutilised land and carrying lists of farms for expropriation. "Land reform is not happening and that is problematic for relations between whites and blacks", said a NGO activist. "The government must take land from whites. We haven't tested the constitutional limits of expropriation. Willing buyer, willing seller is out of sync with current realities".⁴⁶⁶

C. LAND RESTITUTION

The Mbeki administration promised to accelerate the pace of settlements of land restitution claims and to review the methods of calculating compensation where restoration of land was not feasible. In addition, it pledged to reduce the costs of research and administration and to refocus the Land Claims Commission on rural claims. President Mbeki's determination to resolve all restitution claims by 2005 has led to the restitution budget overtaking that for redistribution for the first time. The pace of settling restitution claims has increased rapidly since the process shifted from a judicial to an administrative one in 2000.

⁴⁶² ICG interview in South Africa, 27 November 2003.

⁴⁶³ Committee of Inquiry into Farm Attacks, "Report", op. cit.

⁴⁶⁴ La Franiere and Wines, "Africa Quandary", op. cit.

⁴⁶⁵ Michael Dynes, "White Farmers Fear for Future", *The Times*, 27 April 2004.

⁴⁶⁶ ICG interview, South Africa, December 2003.

In total, 79,694 claims for restitution were filed.⁴⁶⁷ As of March 2004, the land restitution program had settled 48,463 claims at a cost of about \$500 million. The initiative had delivered 810,000 hectares and provided more than \$250 million in financial compensation.⁴⁶⁸ There are still around 6,000 outstanding rural claims, which are more complex and have ten times more beneficiaries involved than urban claims.⁴⁶⁹ A senior Department of Land Affairs official blamed "the excessively legalistic systems and procedures at the initial stages" for the difficult start.⁴⁷⁰ Land Affairs Minister Didiza elaborated: "Some of the challenges in processing the rural claims include the difficulty we face in getting relevant documentation and information, the construction of family trees, resolution of disputes and unregistered and unsurveyed land".⁴⁷¹ According to the Commission on Restitution of Land Rights, major constraints include exorbitant land prices, the beneficiaries' poverty and dearth of relevant skills, protracted negotiations and mediation, uncooperative white farmers and funding.⁴⁷²

Looking forward, another top Department of Land Affairs official said that the 2005 challenge would be met, but warned, "This will have huge resource implications".⁴⁷³ These resource demands have led to overcommitted budgets in many provinces and an informal moratorium on new land distribution projects in some provinces. The national government appears to be committed to the challenge: the land restitution budget has risen dramatically from about \$35 million in 2002-03 to about \$105 million in 2003-04 to about \$235 million in 2004-05.⁴⁷⁴

Advocates in the National Land Committee and the Landless People's Movement argue that the nature of the settlement of most claims is problematic. They say that 70 per cent are settled through cash compensation, usually divided among all of the descendants, not through the return of land. "People are forced into cash settlements", claimed one land activist. "Otherwise they have to go through long, drawn-out legal

⁴⁶⁷ Abdul Milazi, "Fuller Purse Should Allow Faster Land Reform", *Financial Mail* (South Africa), 20 February, 2004.

⁴⁶⁸ Department of Land Affairs, "Cumulative Statistics", op. cit.; Department of Land Affairs, "Settled Restitution Claims". Available at land.pww.gov.za/restitution/Statistics/March/Cumulative%20statistics%2029%20february%202004.xls.

⁴⁶⁹ Department of Land Affairs officials say that their attention is shifting to rural claims. ICG interviews, South Africa, May 2003.

⁴⁷⁰ ICG interview, South Africa, August 2002.

⁴⁷¹ IRIN web special, "South Africa: Long Road to Empowerment under Land Reform", July 2003.

⁴⁷² Commission on Restitution of Land Rights, *Restitution Update: Annual Report to 31 March 2003 and Progress to Date*, Portfolio Committee on Agriculture and Land Affairs, Pretoria, 2003, pp. 9-11.

⁴⁷³ ICG interview, South Africa, May 2003.

⁴⁷⁴ Milazi, "Fuller Purse", op. cit.

processes".⁴⁷⁵ Government statistics paint a more balanced picture in which financial compensation comprises about 59 per cent of the settled claims, alternative remedies 5 per cent and land restoration 36 per cent.⁴⁷⁶ This means there has been a limited impact on the pattern of property ownership and rights. To date, only 810,000 hectares of land have been transferred to claimants.⁴⁷⁷

The settlement of most claims through cash settlements is questionable on a variety of counts, and not simply because of the budgetary squeeze that will inevitably result from forthcoming, more expensive rural claims. Cash settlements:

- do not address unequal land ownership patterns or access to land obstacles;
- contribute little to economic development or poverty reduction;⁴⁷⁸
- focus on the applicants as victims of apartheid instead of beneficiaries of land reform;⁴⁷⁹ and
- compete with resources that are needed for health, education and employment generation.⁴⁸⁰

One compromise approach, which government officials are said to be considering in some circumstances, is the transfer of land in title. This would mean that the development on the land would continue but the beneficiaries of restitution would hold title and receive rent. Over time, the beneficiaries would make the economic choice of receiving the rent or assuming direct control over the land.⁴⁸¹

As of March, 2004, the land restitution program had processed 42,490 urban claims to 5,973 rural ones.⁴⁸² The government has focused on urban claims because, as a senior South Africa government official argued, it "must be seen to be delivering". The official explained: "The public loses confidence if the process is too slow. We had to begin with the easier ones,

⁴⁷⁵ ICG interview in South Africa, May 2003.

⁴⁷⁶ Department of Land Affairs, "Cumulative Statistics", op. cit.

⁴⁷⁷ Department of Land Affairs, "Settled Restitution Claims", op. cit. The source of the debate over numbers has its origin in the way restitution cases are calculated. A single settlement can have hundreds of beneficiaries, and thus can be counted as resolving one or hundreds of cases.

⁴⁷⁸ S. Turner and H. Ibsen, *Land and Agrarian Reform in South Africa: A Status Report*, Research Report no. 6, PLAAS, November 2000, p. 11.

⁴⁷⁹ De Villiers, *Land Reform*, op. cit, p. 67.

⁴⁸⁰ Ibid.

⁴⁸¹ ICG interview, South Africa, April 29, 2004.

⁴⁸² Department of Land Affairs, "Cumulative Statistics", op. cit.

which are urban".⁴⁸³ It is the outstanding rural claims that hold the most potential for transforming landholding, redressing the past, alleviating poverty and creating jobs. Many rural people see land ownership as a route out of poverty and a historical right. However, if not expedited, these complex rural claims also could be the source of significant conflict.⁴⁸⁴

In January 2004, President Mbeki signed an amendment to the 1994 Restitution of Land Rights Act that allowed the state to expropriate land through administrative rather than judicial means if the land was taken from blacks after 1913 and the owner refused to sell. The minister of land affairs can now expropriate directly rather than apply to the Land Claims Court for an order, but landowners subject to this expropriation can still appeal to the courts. It is not widely expected that expropriation will speed up land restitution; it could even slow it down. What is important, however, is that it offers a way out of the impasse when owners refuse to sell.

It is likely that the government will invoke expropriation in rather few cases, principally for its potential demonstration effect to encourage other landowners to negotiate reasonable prices, although white farmers say such settlements would be made under duress.⁴⁸⁵ The amendment has raised the expectations of expropriation advocates and alarmed white farmers; but it is worth noting that the South African government's powers now are no more radical than the U.S. government's under the modern judicial interpretation of eminent domain.⁴⁸⁶ These powers can be a useful tool – if used extremely judiciously – in accelerating land reform efforts.

D. LAND REDISTRIBUTION

The most significant change made to the land reform program by the Mbeki administration has been in land redistribution, dubbed the Land Reform and Agricultural Development program (LRAD). It is focused on creating 70,000 new black commercial farmers by 2017, with less emphasis on smallholder agriculture and poverty alleviation.⁴⁸⁷

LRAD provides beneficiaries access to grants ranging between \$2,600 and \$13,000 per adult, depending on the amount of their in-kind contribution of labour or cash, which must be more than \$650. LRAD is financed through the capital budget of the Department of Land Affairs, and provincial grants committees disburse funds. Planning documents

⁴⁸³ ICG interview in South Africa, April 2004.

⁴⁸⁴ Ruth Hall, *Rural Restitution*, PLAAS, 2003.

⁴⁸⁵ ICG interview, December 2003.

⁴⁸⁶ Basildon Peta, "South Africa Heading for Political Land Grab, Say Farmers," *The Independent*, 12 January 2004.

⁴⁸⁷ COSATU, *Ways to Take Land Reform Forward*, op. cit., p. 24.

note there could be up to 250,000 applicants for a range of grant sizes (both commercial and smallholder), with a cost of approximately \$2-2.9 billion, without even factoring in agricultural support. The program is demand-led. The primary responsibility for design and implementation rests with the applicants. Its budget, however, has only been sufficient to accommodate a small percentage of land redistribution applications.

The program was originally slated to come into operation in April 2001 but was delayed until August 2002. At the time, the extent to which it would significantly increase the rate of land transfer was difficult to predict. The potential for black commercial farming was still constrained by formidable barriers to entry into the white-dominated commercial agricultural sector. Since its beginning in 2002, LRAD has not received significant budgetary support from the Department of Agriculture, though it was designed as a joint program with that ministry. In fiscal year 2002-03, the budget was exhausted, and three provinces had to suspend operations before the end of the fiscal year, but the 2003-04 budget did not allocate increased resources.⁴⁸⁸ From June 2003 through March 2004, the government settled only 1,655 black farmers through the LRAD program.⁴⁸⁹ It is clear that the scope of the program was far less than needed to tackle rural unemployment or fundamentally alter ownership patterns.⁴⁹⁰

By mid-2003, government redistributive initiatives had transferred approximately 1.5 million hectares, or 1.8 per cent of agricultural land, to black households. When combined with the restitution program, overall land reform efforts had transferred about 2.3 million hectares – about 2.8 per cent of all agricultural land.⁴⁹¹ To meet the target by 2015, delivery would need to increase five-fold.⁴⁹²

Medium-scale black farmers who enter commercial farming in "white areas" confront high risks. Without white farmers' networks of social contacts, they experience considerable difficulties in obtaining insurance, credit and contracts for the supply of produce to large supermarkets. The new farmers, black or white, who have done well are largely those who

⁴⁸⁸ Not all land redistribution funds go to LRAD programs.

⁴⁸⁹ Figure from 2004 budget speech of Agriculture and Land Affairs Minister in "South Africa: Call for More Aid to Land Reform Beneficiaries", United Nations Integrated Regional Information Network, June 17, 2004.

⁴⁹⁰ Michael Aliber, "South Africa's Land Redistribution program: An Economic Perspective", prepared for the initial meeting of the Voluntary Group on Land Reform in Southern Africa, Manhattan Hotel, Pretoria, March 2003.

⁴⁹¹ Figures adapted from Doreen Atkinson, Daniel Pienaar and Jeff Zingel, *'From on Farm to Own Farm?' The Role of Farm Workers Unions in Land Reform in South Africa*, Food and Agricultural Organization, May 2004.

⁴⁹² *Ibid.*

have inherited farms and do not labour under a significant debt burden.⁴⁹³ Still, program participants have made important livelihood advances, and some of the black empowerment ventures associated with LRAD have been very successful.⁴⁹⁴ In the wine industry in the Western Cape, land has been given to newly emergent black commercial farmers, with support provided for marketing. This resulted to an extent from an initiative by landowners to undo some of the harm that the wine industry had done to the country.⁴⁹⁵

Some members of government have downplayed the need for support, arguing that the government has not "targeted LRAD at the 'poorest of the poor', but at people who have some significant experience of farming and who may also have some agricultural capital in the form of stock and equipment".⁴⁹⁶ Indeed, this official suggested: "In the absence of a thoroughly integrated approach and budget, as well as a commitment and appropriate approach from the Department of Agriculture, I think we would be irresponsible to provide grant assistance, and therefore land, to people who know very little about farming and who have no agricultural assets".⁴⁹⁷ That may be the theory, but in practice the majority of projects do in fact accommodate poor people who know very little about farming and have no agricultural assets to contribute.

Increasingly, though, the government has begun to recognise the virtue of post-settlement support. In her 2004 budget speech, Agriculture and Land Affairs Minister Thoko Didiza conceded that "our experience... over the past 10 years makes it clear that it is not sufficient to provide prospective farmers with access to land without also providing government support for production inputs and technical advisory services."⁴⁹⁸ The government has established the Comprehensive Agricultural Support Program to provide technical assistance, regulatory services, training, marketing and business assistance. The 2004-05 budget makes provision for \$32 million for the initial rollout of the program.⁴⁹⁹

⁴⁹³ ICG interview with the National African Farmers' Union adviser, April 2003.

⁴⁹⁴ See, for example, Association for Rural Advancement, "Land Reform: How Has it Helped?", AFRA News, May 2003; and Cheryl Walker, "Piety in the Sky? Gender Policy and Land Reform in South Africa", *Journal of Agrarian Change* 3, nos. 1 and 2 (January and April 2003).

⁴⁹⁵ The extremely high levels of alcohol consumption in the Cape were fuelled historically by the practice of paying workers partly in alcohol. ICG interviews, South Africa, November 2003.

⁴⁹⁶ ICG correspondence, 23 June 2003.

⁴⁹⁷ ICG correspondence, 23 June 2003.

⁴⁹⁸ "South Africa: Call for More Aid to Land Reform Beneficiaries", United Nations Integrated Regional Information Networks, 17 June 2004.

⁴⁹⁹ *Ibid.*

LRAD has no income ceiling, and its programs prioritise emergent black commercial farmers. Critics claim land redistribution is no longer an anti-poverty endeavour but rather an attempt to change the racial profile of the large-scale commercial agricultural sector. However, no empirical research has been undertaken to confirm or deny these hypotheses. The Program for Land and Agrarian Studies (PLAAS) of the University of the Western Cape concludes: "The access of the very poor to LRAD is increasingly in doubt. In terms of targeting, there has been a discernible shift away from the broad category of 'rural poor' to ill-defined 'marginalised groups', including women, farm workers, youth and the disabled. Between them, these groups are earmarked to receive just 11 per cent of all LRAD resources, but no specific measures are in place in most provinces to give effect to this, and official targets for women's participation are no longer mentioned".⁵⁰⁰

Advocacy NGOs representing landless constituencies have called upon the government to abandon the willing seller, willing buyer constraint and to use its constitutional powers to expropriate land to speed up the land redistribution process. The government has resisted, stating that it will undertake its land reform efforts within the rule of law. The amendment to 1994 Restitution of Land Rights Act may broaden the government's ability to speed up land reform, although the amendment was primarily designed to deal with restitution claims.

F. LAND TENURE REFORM

The Mbeki government faces a multitude of issues related to tenure reform, many of which contain the seeds of future conflict. Ownership or control is the point of contention among a number of groups in the former homelands, including rural dwellers who actually use the land, traditional leaders who normally hold powers of land allocation, elected local councils that oversee development and the minister of land affairs who holds the title deeds. This chaos has undermined efforts to generate investment and created opportunities for exploitative power relationships. Farm workers and dwellers face insecure tenure arrangements, increased illegal evictions and deteriorating living conditions.⁵⁰¹

The outcome of debates over land tenure in the former homelands, particularly on the issue of the Communal Land Rights Act, is a major potential flashpoint. The traditional chiefs, who largely control the land,

⁵⁰⁰ Hall, Jacobs and Lahiff, *Evaluating Land and Agrarian Reform in South Africa*, op. cit., p. 9.

⁵⁰¹ Edward Lahiff, *Tenure Reform Back on the Agenda*, PLAAS, December 2001.

feel threatened by any changes that might erode their powers. In response, it is possible they will organise violence in some areas.

In a worst case scenario, the Inkatha Freedom Party (IFP) could potentially use this issue as a rallying cry and once again lead violent resistance to the government. Zulu King Goodwill Zwelethini said in August 2003: "Our history has always recalled that land has been one of the major sources of internal conflict within the Zulu nation and within each traditional community. Many people have died and many fratricide battles have been fought to secure control over land, even small portions".⁵⁰² In mid-2003, the KwaZulu-Natal minister of local government and traditional affairs, Nyanga Ngubane, said the draft bill could lead to bloodshed if traditional leaders were removed from decision-making.⁵⁰³ President Mbeki reacted strongly, indicating that the state would not allow anyone to impose minority views through extra-judicial means and condemning what he called an "open threat against the lives of innocent South Africans".⁵⁰⁴

It should not be forgotten that in the last decade of apartheid, a low-intensity conflict between the ANC and IFP left 20,000 dead in KwaZulu-Natal. The power of traditional leaders was at the heart of that conflict, and if issues surrounding land tenure reform (and the broader reform of local governance) threaten their powers, a new conflict could ensue. The dominance of the chiefs over land is fundamentally at odds with the government's desire to provide title to smallholders and a political challenge the ANC will need to answer as it decides how to move forward on the tenure issue.

Reform of the land tenure arrangements in the former homelands is long overdue. During apartheid, blacks were forcibly moved to these areas without reference to either their wishes or the concerns of established inhabitants. Land was held in trust by homeland state premiers. With the democratic transition in 1994, the president delegated these powers to the minister of land affairs, who became the registered "owner" and the bearer of fiduciary responsibility for these areas. Land relations did not fundamentally change, with remnants of old laws in place.⁵⁰⁵ Land is still administered in each former homeland under different laws established during the apartheid era. Further complicating matters, land administration has steadily eroded as record keeping has broken down. Most land

⁵⁰² Siphso Khumalo, "New Act Will Not Strip Zulu Leaders' Rights", *The Mercury* (South Africa), 20 August 2003, p. 2. See also "Recent political tensions could ignite conflict in KwaZulu Natal", IRIN, 3 December 2002.

⁵⁰³ Zukile Majova, "Minister Warns of Bloodshed Over Land Bill", *The Mercury* (South Africa), 6 June 2003.

⁵⁰⁴ Angela Quintal, "Mbeki Declares War After Threats of Bloodshed", *SAPA*, 1 November 2002.

⁵⁰⁵ Particularly, the Old Bantu Areas Land Regulations Proclamation no. R188 of 1969.

transactions take place extra-legally. Often it is unclear which laws should apply, and the unauthorised issuance of permits is common. This lack of legal clarity has discouraged both public and private investment.

It is easy to predict some of the challenges that will likely arise in any process of creating tenure security. Once formal maps are required for registration of ownership, the process of land survey will inevitably spark numerous disputes, especially where "tribal" boundaries are contested. Apart from the difficulties of determining the dimension and location of land parcels, the process of identifying legitimate holders and interests could well stretch administrative capacity beyond its limits. Because of the high transaction costs involved, it is a reasonable assumption that land will be allocated in very large parcels, probably encompassing many thousands of informal holdings and tens of thousands of people. Under such circumstances, holders of rights may find it very difficult to have their claims and interests adjudicated in a fair, transparent and impartial fashion. Land tenure arrangements for women provide additional challenges, given that farm employment, not dwelling, has emerged as the basis of rights.⁵⁰⁶

Government efforts under President Mbeki have moved forward with great caution. But tenure reform has occurred in two major arenas: the rights of commercial farm tenants and dwellers and the rights of those residing on communal land, principally in the former homelands. Complicating efforts on the latter are debates over the appropriate role and power of traditional authorities, who are largely allied with the ANC. Political battles have emerged, as traditional leaders have dug in on the issue of control of communal land after their loss of control of local government. The few localised challenges to ANC electoral dominance have come from parties aligned with traditional authorities, such as the Inkatha Freedom Party in KwaZulu-Natal and the United Democratic Movement in the Eastern Cape.

The government will have to confront the ambiguity of its position in regard to traditional authorities and their control of tribal lands, mostly in the formal homelands. On the one hand, it relies on traditional leaders in many provinces to deliver the rural vote. On the other hand, the constitution commits it to provide secure tenure to the residents of the former homelands. Customary or indigenous law dictates tenure rights at present, since traditional leaders usually control land as a result of historical tradition and custom. The chiefs want to formalise their control, while many in the government and in land advocacy NGOs want greater control to go to individuals and communities in a more democratic, transparent tenure framework.⁵⁰⁷ For some, it is a question of whether chiefs should have automatic power over land in communal areas, without reference to any

⁵⁰⁶ ICG interviews in South Africa, November and December 2003.

⁵⁰⁷ *Business Day* (South Africa), 29 August 2002.

more objective measurements of popular will. Although most communities would probably want traditional leaders to have a role in land administration, some chiefs are not supported by their communities, and others were imposed by the apartheid government and would be marginalised in any popular consultation.⁵⁰⁸

A February 2000 statement by Minister Didiza attempted to express a coherent policy that would allow the transfer of state land to benefit historically disadvantaged communities. The state land in question was either leased by the government to farmers and agricultural development corporations or occupied by "tribal groupings and communities" in the former homelands.⁵⁰⁹ Land held in trust by the government in the former homelands would be transferred in full ownership to "tribes" under the terms of the 1991 Upgrading of Land Tenure Rights Act, a National Party land law introduced under President F. W. de Klerk. The Land Rights Bill, intended by the Mandela administration to confirm the established rights of those occupying and using land in the former homelands, was shelved.⁵¹⁰

In August 2002, after eight contested drafts, the Department of Land Affairs gazetted a draft Communal Land Rights Bill that reflected the government's interest in divesting its responsibilities as trustee and owner of the "state land held in trust for tribes".⁵¹¹ It aimed to minimise the budget costs associated with land administration and also to placate traditional leaders. The draft provided for land to be transferred in absolute ownership, a form of tenure that is underpinned in South Africa by rigorous survey and

⁵⁰⁸ Lahiff, *Tenure Reform*, op. cit.

⁵⁰⁹ This land was once known as South African Development Trust (SADT) land, some 1 million hectares of state-owned agricultural property originally acquired for extending the homelands but never allocated for that purpose. According to the 1997 White Paper on South African Land Policy (Box 5.3, p. 79), it was "leased to farmers and agricultural development corporations", who acted as caretakers pending its redistribution.

⁵¹⁰ This was reportedly the result of a pre-election pact with South Africa's Congress of Traditional Leaders (Contralesa). A two-thirds majority for ANC in the 1999 general elections seemed to require the support of traditional communities and their leaders in KwaZulu-Natal and the Eastern Cape. It is rumoured that in March 1999, Thabo Mbeki agreed to Contralesa's demand to scrap the proposed law, which would have reduced the powers of traditional leaders in land allocation in the former homelands. See also Aninka Claassens, "Land Rights and Decision-making Processes: Proposals for Tenure Reform", in Ben Cousins (ed.), *At the Crossroads*, op. cit., pp. 111-128; See also Ben Cousins, "Legislating Negotiability: Tenure Reform in Post-Apartheid South Africa", in Kristine Juul and Christian Lund (eds.), *Negotiating Property in Africa* (New Hampshire: Heinemann, 2002).

⁵¹¹ *Government Gazette* 446, no. 23740, 14 August 2002. Available at www.gov.za/bills/02index.htm. See also Claassens, "Land Rights and Decision-making Processes: Proposals for Tenure Reform", in Ben Cousins (ed.), *At the Crossroads*, op. cit., pp. 111-128, and Cousins, "Legislating Negotiability", in Juul and Lund (eds.), *Negotiating Property in Africa*, op. cit.

registration requirements.⁵¹² A top Department of Land Affairs official described the draft as thus: "Tenure is about how land is held. The Communal Land Rights Bill will provide a menu of options, and will involve a redistributive component. It will confer *de jure* rights to people living on communal land. It will create a unitary system of land administration rather than all these different laws regarding different homelands".⁵¹³

The draft text provided for the transfer of land from the government to "communities" (defined as a "group of people who possess historical social cohesiveness") and suggested that the intention would be to provide for the transfer of land ownership to tribes. The draft proposed to create democratically elected administrative structures that would presumably bypass traditional authorities in the management of communal land.

Transfers of land in ownership to "tribes" in Ragwadi in the former Lebowa homeland in what is now Limpopo Province under the National Party, immediately prior to the democratic transition in 1994 offer some insight into the dangers of this approach. The effect in Limpopo has been largely disastrous for the communities involved. Land transfers to tribes effectively provide chiefs with ownership rights to communal land. The Ragwadi case shows a chief using his supposed title deeds to threaten eviction and a reversion to the strong-arm tactics that characterised the Lebowa homeland government under apartheid.⁵¹⁴ In KwaZulu-Natal just before the transition in 1994, the National Party government secretly transferred 3 million hectares to Zulu King Goodwill Zwelithini, who holds the land in trust, creating further complications for reform efforts.

Six years in the making, the draft Communal Land Rights Bill was rejected by the Department of Provincial and Local Government and the South African Local Government Association, criticised harshly by land rights NGOs, and opposed by traditional leaders. It has helped inflame the issue of who controls the land, increasing the competition between traditional authorities and local governments throughout the country that was already difficult from disputes over the provision of rural social services. The traditional chiefs – organised in an interest group called the Congress of Traditional Leaders of South Africa (Contralesa) and in part through the Inkatha Freedom Party – are threatened by changes in tenure. If the ability of chiefs to parcel out land is undermined, it undercuts an important aspect of their traditional power structure. A senior DLA official

⁵¹² Absolute ownership is generally equivalent to freehold in English law.

⁵¹³ ICG interview, South Africa, May 2003.

⁵¹⁴ Aninka Claassens, *It is Not Easy to Challenge a Chief: Lessons from Rakwai*, Research Report no. 9, PLAAS, October 2001.

said the bill should not be a cause for conflict, as it is intended to ensure the security of tenure.⁵¹⁵

The cabinet approved revisions in October 2003. These addressed many of the concerns of the traditional leaders and would restore control of land in most instances to the chiefs. Minister Didiza indicated that proposals made by the representatives of traditional leaders had convinced the government not to effect major changes in homeland tenure arrangements, particularly in flashpoint provinces such as KwaZulu-Natal.⁵¹⁶

NGO opposition has become even more vocal after this reversal. The National Land Committee and PLAAS published an advertisement in the South African *Business Day* that called the bill "an apartheid piece of legislation disguised in new South African legal lingo", and said it was "fundamentally flawed, and will undermine rather than strengthen the land rights of one-third of the population, those currently living in the former... homelands". The groups claim the bill would undermine rural women's rights and disempower local communities by giving control over communal land to traditional authorities. They predict that conflicts between local governments and chiefs will deepen, and numerous boundary disputes ensue.⁵¹⁷ The government dismissed these claims as baseless, and parliament passed the bill in February 2004.

One positive example from what were known as the "Act 9 Areas" – the 23 former coloured reserves in the Western Cape, Northern Cape, Free State and Eastern Cape – provides hope that a more consultative way can be found to address tenure security for the former homelands. The Western Cape Provincial Government has engaged residents about the kind of tenure arrangements they desire. The response suggests this is "community governance of common resources through local institutions, but with state support", which would provide roles for the traditional leaders, for more direct community participation, and for the state itself.⁵¹⁸ The provincial government is pursuing this initiative under the Transformation Act of Certain Act 9 Coloured Rural Reserves.

G. THE MBEKI RECORD

South African land reform has been comprehensive but often painfully slow, despite the disturbing events in Zimbabwe. Land reform

⁵¹⁵ ICG interview, South Africa, December 2003.

⁵¹⁶ Siphso Kumalo, "New Act Will Not Strip Zulu Leaders' Rights", *The Mercury* (South Africa), 20 August 2003, p. 2.

⁵¹⁷ *Business Day* (South Africa), 10 November 2003.

⁵¹⁸ Hall, Jacobs and Lahiff, *Evaluating Land and Agrarian Reform in South Africa*, op. cit.

has been only a modest priority within the government's broader economic and social development policies. The land reform program as a whole has been receiving no more than 0.4 per cent of the overall budget. Delivery of land and support for beneficiaries are increasingly constrained by inadequate funding. Despite this, the programs have managed to increase land transfers, accelerate restitution claims, raise budgets for land reform, improve the ability of the Department of Land Affairs to spend its resources and create partnerships for implementing land reform with a variety of institutions.⁵¹⁹

However, the gap between government promises and its capacity to deliver land to the landless remains pronounced. Although some early progress was made, intractable problems of policy and implementation were apparent from the outset. Institutional fragmentation and divided responsibilities between the Department of Land Affairs and provincial agricultural departments compound the problems and hinder effective progress. But it is unrealistic to expect that the leadership of any ministry could make extensive progress in the absence of the broader political will necessary to implement something as complex as land reform.

There is a growing recognition that in South Africa, and also in countries throughout the region, there has been remarkably rapid rural depopulation and an increase in the urban population. This has profound implications for those remaining behind in the countryside – mostly the young, old and women. Labour for herding, ploughing, weeding and other critical tasks is scarce. Relations between neighbours have deteriorated with the loss of young people and increased sickness associated with the onset of AIDS. The question that needs to be asked, especially in South Africa, is whether today's young people want to be farmers. If they were to be given a choice between a job and a house in a town or a piece of land for farming, complete with tools and training, what would they choose? People clearly and rightly care about the historical injustice and inequality inherent in the current situation, but is rural land what they really want? If the answer is that a significant number wish to move to towns, there are implications for land policy and the way in which overall inequality is addressed, and for dealing with shantytowns and urban squatters. In his "state of the nation" address to Parliament in February 2003, President Mbeki pronounced that "the problem in South Africa is homelessness, not land".

Notwithstanding progress in the formal settlement of restitution claims, land redistribution and land tenure reform are beset with challenges. While the budget has increased substantially over the last two years, levels will likely flatten out and the overall plan for land reform remains unclear. Most of the budget will be dedicated to meeting the costs of land restitution claims,

⁵¹⁹ PLAAS, "Evaluating Land and Agrarian Reform in South Africa", slide presentation, 8 October 2003.

many of them urban and most through cash settlements rather than land restoration. The failure to settle large outstanding rural claims is a growing cause for concern.

A South African advocate for the landless argues, "The market basis limits real opportunities for land redistribution. Sustainability and economic criteria are important, but inequalities simply must be addressed".⁵²⁰ Yet, given the relatively modest budgets dedicated to the efforts since 1994, it is not at all clear that the limits of a market-based approach have been reached. Land redistribution in rural areas has fallen far below the government's target of transferring 30 per cent of agricultural land by 2015.⁵²¹ At current rates, transferred land will be unlikely to reach 5 per cent by 2015. While experience has highlighted the importance of delivering substantial post-transfer support services to land reform farmers, funds for these services are likely to decline.

The administrative and technical capacity of the Department of Land Affairs is also stretched. This is the principle reason market-assisted land reform and legal expropriation have gone slowly. It also explains why the government's creditable commitment to land restitution has yet to translate into the resolution of the majority of rural restitution claims.

The land reform debate in South Africa has also focused attention on the Subdivision of Agricultural Land Act of 1970. Although the act was originally designed to prevent the subdivision of farms into uneconomic units, the legislation has often served to function as a zoning regulation that has prevented subdivision of good quality arable land for residential purposes and other unauthorised uses. There is general agreement that the Subdivision of Agricultural Land Act must be phased out to free up the land market, but the government has concluded that the act should not be repealed until a law is in place to protect high potential agricultural or environmentally sensitive land. In the meantime, the government has stated that the law's application should not be allowed to frustrate land reform. Revised regulations covering exemptions to the Act are needed. These should enable subdivision surveys for land reform to be routinely approved by the Surveyor General and for interests to be registered by the Registrar of Deeds. In these cases, the requirement for them to be referred to Pretoria for approval by the minister should be waived.

In South Africa, compulsory acquisition of land for reform purposes does not require legislative change. The constitution permits expropriation – specifically including land – in the public interest. Yet the government has generally preferred to negotiate a sale, sometimes using the threat of expropriation, in order to save time and legal costs. The 2004 amendment

⁵²⁰ ICG interview, May 2003.

⁵²¹ *Business Day*, 21 June 2000

that allows expropriation through administrative rather than judicial procedure will facilitate the government's efforts; a few high profile cases could do much to improve the negotiating position of the Department of Land Affairs, but it will need legal skills to exploit the new tool and the hard won property clause in the constitution. Nevertheless, despite public pressure for forcible expropriations and the fact that none of the eight donors who contributed funds to land reform insists on the willing seller principle as a condition for development aid, the government will likely resist relying on this tool.⁵²²

The Communal Land Rights Act, meanwhile, is deeply flawed with regard to tenure reform and could well do more harm than good. It will need amendment and is being challenged by groups including the Commission on Gender Equality, the Congress of South African Trade Unions (COSATU) and various NGOs and rural women's groups. What is most needed in the communal areas is a bill that strengthens the rights of the great majority of poor, who should be ensured that their land cannot be alienated or otherwise used without their consent, whether by government, traditional authorities, developers or other parties.

It is surely no coincidence that the Mbeki government passed two of its most important pieces of legislation – the Restitution of Land Rights Amendment Act and the Communal Land Rights Act – in the lead-up to the 2004 parliamentary elections. In the event, the African National Congress secured 69.7 per cent of the vote, up from 66.4 per cent in 1999. It is possible that with years before the next election and no credible political opposition, the government will once again slow its activity, eschewing the difficulty and sacrifices of sustained land reform. However, in the aftermath of the election, the government has reiterated its commitment to finishing land restitution by the end of 2005 and the first budget substantially increased funds for this project. The growing activism of land advocates, such as the Anti-Evictions Forum in the Western Cape and the Landless People's Movement, indicates that the government may be forced to work harder to keep its word.⁵²³

⁵²² ICG interviews, Pretoria and London, May 2003.

⁵²³ Economist Intelligence Unit, June 2004.

12. Making Land Reform Work

Despite the complexities of the land issue, it is possible to design and implement a more effective and sustainable reform program, but a far more substantial investment of time, energy and financial resources is required.⁵²⁴ The government will need both renewed commitment to move forward and recognition that current policies are falling short of stated objectives – as well as understanding that reform requires time to have significant impact.

If land reform is to succeed in South Africa, new approaches are needed to transfer more land to a much wider group of people, with a focus on poorer segments of the population and an emphasis on post-transfer support. This does not need to be at the expense of existing support for newly emergent black commercial farmers, who are a critical component of any change in the structure of asset ownership in the country. Efforts should continue to promote larger black commercial farmers. But a dual agenda is feasible. The following are ideas for initiatives and innovations that could help accelerate land reform and enhance its impact, particularly for poorer citizens.

A. GETTING RESTITUTION RIGHT

The government's efforts to resolve the huge backlog of restitution cases are laudable. However, the manner in which the program is being accelerated, through the use of cash settlements rather than restoration of land, threatens to undermine its objectives. Particularly for the remaining rural claims, cash settlements should be discouraged and efforts made to provide as part of any restitution package either suitable land for small-scale production and housing, a job or credit for micro-enterprise activities. The restitution program should be an engine for wealth creation and enhancement of livelihood options. Cash settlements are not a sustainable contribution to development or poverty alleviation and should not be the method of first choice.

⁵²⁴ Thembela Kepe and Ben Cousins, *Radical Land Reform is Key to Sustainable Development in South Africa*, Policy Brief no. 3, PLAAS, August 2002.

B. EXPANDING AND IMPROVING REDISTRIBUTION

South Africans will judge the land reform program by several key criteria: the amount of land redistributed; its beneficiaries; the speed of redistribution; and the amount of support received by beneficiaries. Given the political imperative of making redistribution work, there are a number of steps the government should take.

Prioritising Smallholder Agriculture

The land reform program, particularly its redistribution component, LRAD, has moved away from its original emphasis on enhancing the livelihoods of the poorest. The government should recommit itself to this as a fundamental objective of the overall land reform effort, not just on social welfare grounds, but also because small farmers represent significant economic development potential that has not yet been unleashed, due to the legacy of land dispossessions but also lack of support. Efforts should be targeted to areas where violence is most prevalent or likely, such as KwaZulu-Natal and Mpumalanga, two provinces that also have over 90 per cent of the country's high potential commercial land.⁵²⁵

Supporting Partnerships

At President Mbeki's instruction, the government has undertaken a process involving key stakeholders in building a broader consensus on the existing land reform program. The National African Farmers' Union and Agri-SA are in semi-permanent talks with the government. "Confidence is growing between government and farmers", said a representative of organised commercial agriculture. "We recognise our responsibilities. We must involve emerging farmers and support them. We can't just offer land to the government; they aren't interested. But if we approach the government with a viable business plan, then there is much more interest".⁵²⁶ Partnerships and joint ventures that involve education, training and skill-building, along with innovative ideas, can link both interested farmers to land reform processes and supply to demand.

PLAAS identifies five different kinds of joint ventures: contract farming, share-cropping, share equity, municipal and company-supported schemes. "Building the capacity of small-scale farmers, farm workers and other landless people involved in joint ventures should be a key long-term

⁵²⁵ McIntosh Xaba and Associates, "A Scoping Study of Current Freehold and Farming Communities in South Africa", op. cit., p. 7.

⁵²⁶ ICG interview, South Africa, 26 November 2003.

objective for government".⁵²⁷ Research into the impacts of these kinds of initiatives could provide a roadmap for future Department of Land Affairs support. More importantly, these joint ventures can be funded under the current LRAD policy, as long as they transfer real ownership directly to the beneficiaries, so no new policy framework is needed. Public backing must be linked to stringent criteria and systematic monitoring or there are dangers that joint ventures can be cosmetic and fail to deliver tangible benefits.⁵²⁸

One option is that smaller farmers create cooperatives and connect to larger farmers or traders to produce for export. This would allow for technological transfer from large to small farmers. According to one donor official, "Mentoring arrangements with large-scale white farmers could play a role in assisting new farmers... In some innovative cases, white farmers have been contracted to act as farm managers on communal farms, for example in Limpopo. New farmers need to learn how to raise new loans, and access post-settlement support".⁵²⁹ Small farmers could also benefit from initiatives with agribusiness. For example, the sugar industry could help the government in creating systems for selecting farmers and acquiring land, and in identifying ways to reduce costs. Arrangements in the fruit, wine and timber sectors have demonstrated that input and product markets can be made to benefit the poor. The LRAD policy can accommodate these partnerships. It would be problematic, however, if the private sector were to demand specially earmarked funds from the government, which would not be directly under the control of the beneficiaries but would end up in various kinds of trust funds essentially controlled by the commercial farmers or agribusiness.

Further, there is room for NGOs to take a more active role in supporting the land reform agenda. LRAD projects aimed at poorer households would be better managed by NGOs than by technical consultants who are focused on commercial objectives. NGOs that advocate for food security and livelihood development objectives in the context of land reform should help plan and manage a greater number of these projects, but only at the request of the beneficiaries themselves.

Identifying Commercially Viable Products

Numerous commercially viable products could find receptive internal or external markets. There are highly competitive agricultural exporting industries based on smallholder farms. Cattle raising is promising: new

⁵²⁷ Hall, Jacobs and Lahiff, *Evaluating Land and Agrarian Reform in South Africa*, op. cit., p. 19.

⁵²⁸ ICG correspondence with Ruth Hall, 6 March 2004.

⁵²⁹ ICG interview, South Africa, December 2003.

smaller livestock herders are experiencing a 20 to 25 per cent return on capital, which is much higher than expected.⁵³⁰ Wool growing is another promising area, especially in the Eastern Cape. Horticulture holds major potential and is very labour intensive. Alternative export commodities such as sunflowers, fruits such as cherries, apples and pears, and organic vegetables should be emphasised by land reform initiatives as they can be produced during the northern hemisphere winter.⁵³¹ Vegetables are best on smaller plots of land, while sugar cane has excellent prospects on larger holdings.⁵³² A promising new initiative is the grouping of land reform beneficiaries to market produce under a common label. Projects that have 25 per cent worker equity have been fair trade accredited, and suppliers have agreed on rebates, demonstrating the major potential that exists for negotiating input and product markets that benefit the poor.⁵³³

But perhaps the most important objective should be to promote basic staple crops. Maize, wheat and other traditional food security crops have great potential for land reform beneficiaries, given the significant levels of child malnutrition in rural South Africa. If people had their own land, they would grow some of their own food in order to improve nutrition. This is especially true of women farmers, who, as in many places throughout Africa, are allocated less land when cash crops are introduced. Providing a little land "would have the biggest bang for the buck in peri-urban areas".⁵³⁴

Levelling the Playing Field – Addressing the Land Market

In order to level the playing field for reform beneficiaries, the government must address the land market. Access to land for sale in the willing seller, willing buyer framework and the high prices of that land are having severe effects on efforts to acquire land for transfer without resorting to expropriation. Six specific actions should be taken now. The government must promote the subdivision of commercial land for redistribution; it should introduce a tax on land held above a certain maximum size; land auctions should be made accessible to land reform applicants; the government should use its powers of expropriation in a few cases to encourage greater cooperation by land owners; more attention must be paid to subsidising land purchases for smallholder farming; and the processes for purchasing land must be streamlined and accelerated.

⁵³⁰ ICG interviews, South Africa, November and December 2003.

⁵³¹ ICG interviews, South Africa, November and December 2003. ICG interview with Reg Rumney, BusinessMap, 28 November 2003.

⁵³² ICG interview, South Africa, with DLA official, December 2003.

⁵³³ McIntosh Xaba and Associates, "A Scoping Study of Current Freehold and Farming Communities in South Africa", op. cit., p. 39.

⁵³⁴ ICG interview, South Africa, November 2003.

Subdivision. Owners of large farms have no incentive to subdivide under the apartheid-era Subdivision of Land Act, but the minister of agriculture has the power to waive this law. Subdivision is necessary in part because full-time, intensive commercial agriculture is too risky for most poor people, and available commercial farms are much too large for their small-scale agriculture activities. However, in most cases the government does not want to set up poor farmers on small parcels of land because the process is expensive and time consuming. Nevertheless, because suitably sized parcels of land are needed, the state should remove all restrictions on the subdivision of land, only to replace them with certain zoning restrictions. In certain areas, highly suitable for small-scale farming, the state should involve itself directly in actual subdivision, despite the time and cost involved.

Until the Subdivision of Agricultural Land Act is phased out to free the land market, its application should not be allowed to frustrate reform. Revised regulations covering exemptions are needed so that the Surveyor General can routinely approve subdivision surveys for land reform, and the Registrar of Deeds can register interests. The requirement for such matters to be approved by the minister in Pretoria should be waived.

The result of subdivisions would be an increase in beneficiaries and a reduction in average farm size. To assist the process, municipalities should identify what land could be available, who needs it and what they want to do with it. This is important because there has been no overall process of gathering information on the level of demand for the purposes of reform programs. Studies indicate that rural people want access to small parcels to build a homestead and for farming or grazing. But the overall demand is unknown.⁵³⁵

Land reform is perhaps even more urgent in urban areas. Instead of the government planning the entire process, it might be easier to extend LRAD to the urban areas and reinforce the housing subsidy scheme. Families would then have the means to buy plots and building materials and establish shelter and small farms themselves. This, too, would require scrapping the rules on subdividing property. The process would probably look chaotic compared to the current "military style" provision of uniform public housing, but it would allow redistribution to move forward more rapidly with greater popular control.

Land Tax. The Property Rates Act, passed in February 2004, allows local government to introduce land taxes. As of June 2004, the contours of the Act were uncertain after the Cape High Court struck down a market value-

⁵³⁵ Hall, Jacobs and Lahiff, *Evaluating Land and Agrarian Reform in South Africa*, op. cit., p. 2.

based property rating system as unconstitutional.⁵³⁶ Nevertheless, the Act does offer an opportunity to fashion a new reform tool. Hitherto, the absence of a tax on land above a certain size or on underutilised land has distorted the agricultural sector and been a disincentive to reform. The tax structure either does not tax commercial farms at all or, in the traditional white smallholder areas around certain urban centres, taxes farms regressively, creating hardship for small farms. The fact that large farms are not subject to a land tax makes it costless for owners to hold on to unused or underutilised land or convert it to game farming, with no associated costs. A donor government official commented, "The willing buyer, willing seller approach is good, and it should be the basis of land reform efforts, but don't expect it alone to solve the problem. The South African government needs to put pressure on whites to give up some of the land".⁵³⁷ Such a tax should encourage larger owners to sell land and, combined with subdivision, make available a large pool of commercial farmland and introduce incentives for smaller farmers. Land reform beneficiaries will be exempt for ten years.

A senior Department of Land Affairs official said the government is looking actively at this proposal: "When the state says it will buy land, the prices become inflated. So we have to look at what interventions can be used to avert such distortion, such as taxation. Our broader political goals are reconciliation and nation building, without negative consequences".⁵³⁸

The farm size at which taxation would increase should be set generously, so as to avoid hurting middle-sized farmers, while making it costly for large land owners to hold on to major tracts of unused land for speculative purposes. A different size should be set according to climatic region to take account of natural productivity differences. Tax structures should be highly progressive, so as to disincentivise ownership of large parcels of underutilised land. Should these kinds of taxes prove ineffective at making more land available for transfer, the owners of multiple farms might be taxed at a higher rate for their additional farms.

Land Auctions. The current land redistribution process does not allow applicants to access land auctions, which are a major avenue for transactions.⁵³⁹ The state should remove this restriction and indeed subsidise their involvement in the process, either through vouchers or interventions by the Department of Land Affairs or the Land Bank.

⁵³⁶ "Municipal Rating Hiccup", *Business Day* (South Africa), June 2, 2004.

⁵³⁷ ICG interview, South Africa, December 2003.

⁵³⁸ ICG interview, South Africa, December 2003.

⁵³⁹ PLAAS, "Evaluating Land and Agrarian Reform in South Africa", slide presentation, 8 October 2003.

Eminent Domain. The state has the power to compulsorily acquire land in certain circumstances, and the process through which this can occur has been expedited by recent legislation. The minister for agriculture and land affairs should use this power selectively, when owners are particularly intransigent, in order to demonstrate that it means business on land reform and to encourage compliance within the willing seller, willing buyer framework. The state could also acquire certain areas that are very well suited for small-scale farming and are currently unused or derelict.

Subsidies. Just as emergent black commercial farmers are a focus of land redistribution efforts, so too should be landless blacks who want to become smallholders but need subsidies to buy land. Department of Land Affairs provincial land reform offices should receive more resources expressly to help potential smallholders purchase land. Credit, marketing insurance and other support should be made available through local governments and the Land Bank to these new farmers.

Streamlined Processes. The red tape associated with allocating funds undermines market-based attempts by the state to purchase land. Sellers often cannot wait for the state to approve funds for purchase, so deals fall through.⁵⁴⁰ In some provinces, more land is redistributed through the open market than through the land reform program.⁵⁴¹ While this is not bad in itself, it is indicative of the continuing snags in government-backed redistributions.

Funding Innovation

Resources should be made available for pilot projects involving new land acquisition models, as well as for transfer and support for land use. There is much to learn about cost and the response of institutions to such efforts. Allowing local innovators to explore what works would help the government craft a more effective and timely land reform program. Some examples of ways to support innovation include proactive acquisition of land, local government integration of reform with development planning and a needs-based approach to land reform rather than the responsive demand-led approach.⁵⁴²

A means of supporting innovation designed to quickly and cheaply implement post-transfer land development would be to amend government procurement rules (as was done in Brazil, Mexico and Indonesia) to allow

⁵⁴⁰ McIntosh Xaba and Associates, "A Scoping Study of Current Freehold and Farming Communities in South Africa", op. cit., p. 18.

⁵⁴¹ M.C. Lyne and M.A. Darroch, "Land Redistribution in KwaZulu-Natal: Five Census Surveys of Farmland Transaction, 1997-2001", University of Natal, 2002.

⁵⁴² ICG interview with Peter Jacobs and Ruth Hall, PLAAS, 27 November 2003.

for community-driven approaches. This would put resources directly into the hands of beneficiaries to develop the land for which they assumed ownership. Money would be released in tranches and its use monitored.⁵⁴³

Providing Post-Transfer Support

Post-transfer support also needs more resources and attention if land reform is to have a large impact and be sustainable. Those who benefit from restitution and LRAD are often not supported and become increasingly indebted. "It is a hostile environment for new entrants into agriculture", said one land reform expert.⁵⁴⁴ This results from a lack of state services and the withdrawal of subsidies as part of the deregulation exercise of the 1990s. New farmers must have access to credit, marketing channels and insurance if they are to succeed.

Post-transfer support could also be better organised. Beneficiaries should have opportunity to be involved in determining the services they receive, including whether to acquire title, how to improve tenure security, the kind of inputs to be provided and the extension services and technical advice needed. This requires government departments to create a joint approach so beneficiaries can submit one proposal rather than apply separately for each service. The private sector should be fully integrated into this approach.⁵⁴⁵

Most apartheid-era subsidies have rightly been dismantled over the past decade, to the point where South Africa has one of the most deregulated and liberalised agricultural sectors in the world. However, new commercial farmers benefiting from land reform should receive some state aid. The government could subsidise interest rates, lower water and other costs and improve agricultural extension services for new farmers.

Utilising State-Owned Land

There remains considerable state-owned land that could be targeted for redistribution. The state owns 9 per cent of the country's total land area, excluding the former homelands.⁵⁴⁶ The amount available for transfer, however, was widely disputed in interviews ICG conducted in South Africa, suggesting that further analysis of state-owned land is needed.⁵⁴⁷ The Department of Land Affairs estimates that 5 to 7 per cent of state land can

⁵⁴³ ICG interview with land reform expert, 5 March 2004.

⁵⁴⁴ ICG interview with Ruth Hall, South Africa, 27 November 2003.

⁵⁴⁵ ICG interviews, South Africa, November and December 2003.

⁵⁴⁶ McIntosh Xaba and Associates, "A Scoping Study of Current Freehold and Farming Communities in South Africa", *op. cit.*, p. 6.

⁵⁴⁷ ICG interviews, South Africa, November and December 2003.

be used for settlement.⁵⁴⁸ A study by the Konrad-Adenauer-Stiftung concluded that by 1999 only 120,600 of the available 25 million hectares of state land and former homelands had been distributed. The most promising, underutilised state land is that known as the municipal commonage – land granted by the state to towns for residential use. The Department of Land Affairs established a municipal commonage program in 1997 to give poor residents access to existing commonage lands. Nearly a third of all land transferred in the land reform program has come under this initiative. However, since the policy changes in 2000 that produced LRAD's emphasis on new commercial farmers, the program has been downgraded.⁵⁴⁹ The government should again make the municipal commonage program a priority, with appropriate support to new farmers. If a clear legal framework for tenure and management is in place, there would be substantial benefits in terms of livelihoods, food security and poverty alleviation.

C. ADDRESSING TENURE REFORM

The Communal Rights Land Act, passed by parliament in February 2004, should be the foundation of a process that aims at establishing a land administration system in the communal areas. This involves assurances of legal protection against uncompensated evictions and that housing can be improved; guidelines for inheritance of property; a framework for transferring land; services such as sanitation, water, electricity, roads, schools and clinics; a system of administering property rights; and a way to address property disputes.

The tenure of those occupying communal land – farm workers, and farm dwellers – should be legally recognised as ownership. Greater certainty about who controls and thus is accountable for land would open the door to financial resources, but simply registering land with traditional authority structures without reference to the political dynamics of local areas could exacerbate the conditions for conflict. Continuing uncertainty over control of the land would limit investment for development.⁵⁵⁰

Whatever is decided, any further rights given under tenure reform will require back-up. Significant resources will be needed for implementation and enforcement. There will also need to be integration with local economic development initiatives and provision of social services.

⁵⁴⁸ ICG interview, South Africa, December 2003.

⁵⁴⁹ Hall, Jacobs, and Lahiff, *Evaluating Land and Agrarian Reform in South Africa*, op. cit., pp. 16-17.

⁵⁵⁰ Durkje Gilfillan, "Poverty Alleviation, Economic Advancement and the Need for Tenure Reform in Rural Areas in South Africa", paper presented at the SARP conference, 4 June 2001, pp. 8-9.

D. INCREASING POLITICAL WILL FOR LAND REFORM

In current circumstances, the land reform program will not come close to meeting its targets. Government and donor commitment must be increased. This is fundamentally a question of political will.

Planning, Coordinating and Staffing for Success

While there has been much emphasis on speeding delivery of projects and better fulfilling the expectations of the poor, there needs to be an equal emphasis on delivering sound projects. If the emphasis remains solely on "speeding up delivery", this may well come at the expense of planning, facilitation and post-transfer support. This can be seen in the restitution program, currently regarded as the success story of land reform, where estimates of land claims have often been inflated and cited as a success story even before the claim is finally settled. A prerequisite for enhanced planning will be to clarify which agencies and departments have what responsibilities, particularly for post-transfer support. There is a great need to streamline many processes. Agriculture, Housing and Land Affairs are all concerned, leading to unnecessary confusion and competition. Beneficiaries need one place to go. That place should be at the district level, with local government. Capacity building should be focused on local delivery mechanisms where beneficiaries live, not just national institution building.

More staff resources are also needed. A senior Department of Land Affairs official acknowledged, "We have developed a significant amount of cadres for implementing land reform initiatives. We need to expand this core of skilled people".⁵⁵¹ The department has less than 700 staff working on land reform and land restitution; more personnel and further training will be needed to meet the government's ambitious targets. Retention of staff is also critical as many constraints result from the high turnover rate.⁵⁵²

Integrating Land Reform and Rural Development

There is no overall strategy for rural development and little planning for how land reform programs link into broader efforts to promote the rural economy. The government's Integrated Sustainable Rural Development Program (ISRDP) aims at improving service delivery and infrastructure development, but with little focus on land issues. This undermines efforts to enhance and diversify livelihoods.⁵⁵³ Relevant departments, in close coordination with stakeholders, should seek to amend ISRDP to take into

⁵⁵¹ ICG interview, South Africa, December 2003.

⁵⁵² Atkinson, Pienaar and Zingel, *From on Farm to Own Farm?*, op. cit.

⁵⁵³ Hall, Jacobs, and Lahiff, *Evaluating Land and Agrarian Reform in South Africa*, op. cit., p. 2.

account the poverty alleviation, food security and job creation potential of land reform.

Incorporating Women

Women have been in the main excluded from land reform debate. The government should prioritise them in restitution and redistribution initiatives and ensure that their land rights are more secure through tenure reform, particularly the strengthening of community access to the municipal commonage. It is particularly pressing to change discriminatory inheritance laws that, because of the HIV/AIDS pandemic, leave ever more women destitute on a husband's death.

Involving Civil Society

It is also important for the Department of Land Affairs to engage with civil society in an enhanced dialogue regarding national land policy. This could include farmers and farm workers unions, representatives of landless people, NGOs, research bodies and traditional chiefs. If government is to gain from such a review, however, the department will need to be given the resources to add legal, socio-economic and financial expertise. There has been agreement in principle between government and civil society groups on holding such a land summit, but it should occur before the issue becomes more explosive. Specifically, government should use it to encourage farmers to put more tangible offers on the table.

At the same time, the NGOs and researchers should be constructive. A leading donor agency official pointed out, "The boundary between advocacy and destructive criticism is a narrow one and to stay on the right side requires real diplomatic and interpersonal skills, which not all NGO representatives, or representatives of donor agencies for that matter, possess".⁵⁵⁴

Land activists, who also support a land summit, plan to build grassroots support for more robust reform, including a land audit.⁵⁵⁵ Activists also intend to continue limited land occupations in both rural and urban areas.⁵⁵⁶ Groups working on land are also beginning to forge links with the Congress of South African Trade Unions (COSATU) and other sectoral reform groups, such as those advocating for jobs, HIV/AIDS

⁵⁵⁴ ICG interview, South Africa, March 2003.

⁵⁵⁵ "A summit can't tinker with details", said a land activist. "We need to provoke a debate over the fundamentals. We have to look at the government's economic policies. The IMF and World Bank have demonstrated that the market based reform hasn't worked. There will be consequences for the ANC if it doesn't address the land issue". ICG interview, South Africa, March 2003.

⁵⁵⁶ ICG interviews, April and August 2003.

assistance, housing, utility reform, and additional grassroots issues. COSATU, the principal labour organiser in the country and a key government supporter, is becoming increasingly active with other elements of civil society in promoting land reform. As its membership base sinks due to job losses, it is reaching out to broaden its base in South Africa and regionally.

Managing Expectations

It is clear that ambitious plans for major land redistribution in the next decade cannot be fulfilled without a massive increase in resource commitment. If the expectations of landless populations are not addressed, the potential for instability and even conflict will grow. The government has already helped contribute to the risk by raising those expectations to an unrealistic degree and by allowing tensions over tenure to simmer. By expanding opportunities for consultation and increasing transparency, it would be in a better position to call on public support to meet more reasonable objectives. Accelerating land reform numbers at the expense of sound projects and would not satisfy either justice or development goals.⁵⁵⁷

Committing Resources

The resource implications for meaningful, accelerated land reform are enormous. Fully funding a land redistribution and restitution program that met the government's current targets would cost in the billions of dollars. Experts say that land reform spending must increase several-fold over the current level for such targets to be met, and this would cover only the cost of land acquisition, not staff and start-up production.⁵⁵⁸ How realistic this is can be seen from the fact that shortfalls are leaving countless projects unfunded, their status up in the air and the overall program less credible. It is also important to note that the longer full implementation is delayed, program costs will likely only increase with both inflation and rising real estate prices.

E. FINDING A ROLE FOR DONORS

Major donors have largely failed to form a coherent strategy for land reform and find it increasingly difficult to justify allocating aid. They are intimidated by the complexity and sensitivity of land reform and concerned that the administrative environment will make effective implementation

⁵⁵⁷ De Villiers, *Land Reform*, op. cit., pp. 81-82.

⁵⁵⁸ ICG interviews, South Africa, November and December 2003.

difficult.⁵⁵⁹ The sharp decline in Zimbabwe's agricultural output resulting from land seizures has further underscored the dangers of sweeping but poorly designed plans. African governments have become suspicious that donors, by urging a range of conditions – including a pro-poor focus, the willing seller, willing buyer principle and maintenance of economic stability – are using support for land reform as a neo-colonialist Trojan Horse to perpetuate racial imbalances in land ownership. Donors counter by arguing that funding land reform without a focus on the rule of law and broad economic indicators would be irresponsible, and progress can be made when there is joint agreement on fundamental principles to guide redistribution.

Given the expense of land redistribution, donors are needed but Western governments largely appear not to appreciate that, for most Africans, the repossession of land alienated by whites remains the central agrarian issue. It is important for donors to be sensitive to land reform's local political context so they do not adopt what could be perceived as colonial attitudes.

In short, despite the many perils of land redistribution, resolving the tangle of land disputes and creating a more stable and equitable pattern of ownership and access across southern Africa is an absolutely vital measure of conflict prevention. There is also a tremendous opportunity for governments, concerned citizens and donors to establish a common, forward-thinking agenda for implementing land reform programs that will provide a bedrock for economic and social development.

Donors do not have a strong presence in the land sector. DFID has been re-engaging with the Department of Land Affairs over the last two years and is supporting capacity-building within the Department of Land Affairs. Mirroring others in the donor community, there are debates within DFID over the promotion of market mechanisms versus political and social protection within any land reform initiative, and it is undertaking a thorough review of its support to land reform in South Africa. Of the other donors, USAID is funding private sector initiatives in support of LRAD; the EU is only supporting land reform initiatives aimed at black commercial farming; Belgium provides modest but strategically important support to land restitution research; Sweden provides support to civil society initiatives; and the World Bank continues to provide advice. Donor support for land reform is of limited consequence for South Africa given its own resources. South Africa is not expected to borrow money from the World Bank for land reform. South Africa borrows on commercial markets, so its Ministry of Finance does not usually borrow from the World Bank.

⁵⁵⁹ However, the U.S. Zimbabwe Democracy and Economic Reform act provides for liberal U.S. support for land reform once governance issues in Zimbabwe are resolved.

Significant assistance is necessary for reform to succeed, and the South African government will have to increase its own investment. Gaps in funding need to be identified and agreement reached among stakeholders on priorities. It would be prudent for donors to help South Africa address this issue before it becomes further politicised. Clear conditions on aid should be established of the kinds discussed above. However, conditionality related to land is received with great suspicion throughout southern Africa. Prominent land reform advocates have argued that it is a backdoor means to undercut more radical reform measures, such as expropriation.⁵⁶⁰

Budget support for land redistribution, monitoring and evaluation – the latter so that programs can be adjusted and improved – will be needed. This is the kind of help donors have not tended to provide. As a one top Department of Land Affairs official notes, "Donors only seem interested in technical assistance. They have made a concerted effort to move away from land reform. Donors like the UK should provide grants for land acquisition".⁵⁶¹ A donor official objected that, "In the case of South Africa, it is not right for donors to shoulder the cost of land acquisition. South Africa can pay for its own land reform. It doesn't see it as much of a priority if it only receives 1 per cent of the national budget. The private sector should invest in funding land reform with the government. Donors should support the process with policy reform, policy review, and alternative approaches. Donors can be interfering and should play a careful role".⁵⁶² Another donor government official suggested a further constraint: "All donors view land reform as critical. However, donors have their programs set for the next five years, so most do not have the flexibility to do anything new for awhile".⁵⁶³

If donors cannot support land acquisitions, they can at least help the South African government and other stakeholders build the capacity to implement land reform by assisting staff, training and post-transfer measures, all of which are also critical areas.

F. CONCLUSION

It is easy to become overwhelmed by the political, financial and bureaucratic obstacles to establishing more equitable and productive patterns of land use and ownership. Certainly, successful land reform can come only as part of a broader process of economic, social and political change. Instituting a fundamental transformation in farming systems can take decades, and land redistribution is a volatile issue, the pace of which

⁵⁶⁰ See, for example, the writings of Sam Moyo of Zimbabwe.

⁵⁶¹ ICG interview, South Africa, December 2003.

⁵⁶² ICG interview, South Africa, December 2003.

⁵⁶³ ICG interview, South Africa, December 2003.

cannot reasonably run ahead of advances in related government responsibilities, especially the provision of basic services and infrastructure such as water, power, communications and extension services.

Secure access to land and natural resources is vital to improve the economic situation of the poor across southern Africa. Reform of customary land relations must pay special attention to the legal status and economic activities of women and the poor, who are often disproportionately dependent on the municipal commonage – hence the importance of governments helping to sustain customary land tenure by reforms that clarify rights and benefits. While individual freehold tenure has been fully protected in law and in practice, communal systems of land rights have suffered from lack of legal protection and administrative support. The establishment of an effective land administration and property market is closely intertwined with the notions of good governance, the rule of law, sustainable development and poverty reduction.

Land issues continue to fuel a deep and sustained sense of grievance in the region, and if largely moderate calls for land reform are ignored, the pressure for more radical steps could become considerable. The unfortunate example of Zimbabwe has provided ample evidence that donor missteps, political demagoguery and a general sense of economic and political desperation can result in violence and send an entire society into a dangerous downward spiral.

Effectively addressing land reform requires a level of political openness and inclusiveness that has often proved challenging for governments in the region and donors alike. Because of its sensitivity and complexity, land tenure reform is by nature a time-consuming process that requires significant institutional development. Progress is dependent on establishing appropriate constitutional and legal frameworks through careful preparation and extensive public consultation.

Reform is far more likely to be successful if rural and urban landless populations are well-organised and informed. This requires support, especially legal assistance, from local government structures and NGOs. Where local groups have not been able to present their case effectively, the process has often been hijacked by local elites looking to exploit the situation. Without an inclusive approach to policy formulation and implementation, land will remain a highly contested issue, particularly in those societies suffering the greatest social and economic inequities. The unbalanced ownership by elites – white or black – is an increasing threat to economic development and political stability.

Governments throughout the region should reaffirm the principle of inclusiveness as a cornerstone of programs aimed at restitution, redistribution and redress. This would help ensure that white citizens,

including commercial farmers, know they have a place in society and can contribute to the general welfare.

Donors also have critical roles to play in the land reform process, and not solely financial. However, official development assistance to land reform presents unique problems. Land reform is deeply political and usually contentious in the recipient and donor countries alike. But it should not be abandoned simply because of the Zimbabwe experience. If anything, Zimbabwe has only demonstrated the importance of getting it right.

An understanding of the emerging situation is important if donors are to respond readily to requests for assistance. Civil society organisations such as research and training institutes, land reform advocacy alliances, legal service providers and field-level service NGOs can be a major source of knowledge. The history of land reform supports the theory that civil society can be vitally important in initiating action by governments – as it did in South Africa in 1994.

Since 2000, the World Bank has made a renewed effort to support redistribution and harness the power of civil society groups by supporting community-driven development in land reform. However, this has not been without problems, partly because the rural poor are understandably not well-organised, while NGOs are under-resourced and lack experience of land reform implementation. Further, there is growing recognition that the market will not transfer land to poor farmers without concerted efforts by the state to remove advantages favouring large-scale producers (subdivision restrictions and absence of a land tax), that legal appropriation of land is a valid option, but not necessarily a faster and better one than market-assisted land reform, and that land is only part of the full costs of land reform and needs to be supplemented by providing grants for shelter, working capital and advice and other assistance to get new farmers started.⁵⁶⁴

In southern Africa, as elsewhere, redistribution progress has been slow, only partly due to the scarcity of funds for land acquisition. Inadequate administrative capacity of governments is the most fundamental and recurring problem. Socio-political and legal difficulties arise when African farmers, previously holding land under customary law, take over land held under "modern" law. There are major technical and economic problems in subdividing large farms into viable units for smallholders. Overly optimistic predictions of the speed and scope of reform inevitably return to haunt the politicians who made them.

In South Africa, the government's development strategy must focus on job creation, given the crisis of employment and livelihoods the country

⁵⁶⁴ See for instance Rogier van den Brink, "Land Policy and Land Reform in Sub-Saharan Africa." Available at www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/downloads/ssalplr.rtf.

faces with its resultant impacts on health care, nutrition, crime and other social indicators. However, agriculture has enormous job creation potential. If there is greater investment in the agricultural sector, employment is generated and real wages increase. Farm incomes have a multiplier effect, fuelling demand for consumer durables. Agriculture also has enormous potential to reduce poverty. As a donor government official observed, "So many of the poor are poor in South Africa due to a lack of title to land and support services for small-scale agriculture".⁵⁶⁵

South Africa's legacy of colonialism and apartheid destroyed the foundation of normal growth patterns by destroying peasant agriculture. Colonisers expropriated land, often violently, and manipulated markets to create massive reserves of cheap labour for the manufacturing and commercial farming sectors while limiting possibilities for blacks to accumulate wealth. South Africa's agricultural sector should be – and could be – much larger. Most South African experts believe that as the mining sector diminishes in the next decade, agriculture will absorb a greater share of GDP and export growth⁵⁶⁶ but larger farms leave much land unused and do not employ people as intensively as smaller farms do.

World Bank and other land reform advocates hold that South Africa could use its land much more productively and with many more people involved. With limited and slow opportunities for growth in other sectors of the economy, it could promote job creation and economic growth most effectively through accelerated land reform aimed at poorer citizens.⁵⁶⁷ As a Bank-related publication concluded, "Large numbers of poor potentially commercial farm households can obtain reasonably attractive household and employment levels through fiscally affordable land redistribution".⁵⁶⁸

But it is not just about commercial viability. With unemployment between 40 and 45 per cent nationally, many poor South Africans have little chance of being absorbed into the formal economy. "It is not about production for the market, but feeding families", said a land reform activist. "The urban-rural divide is a false one. Agrarian livelihoods are the way to go".⁵⁶⁹ PLAAS research indicates that poorer rural residents use land productively but are limited to subsistence production by a lack of access to markets. Because most communal area residents diversify their livelihoods through on-farm and off-farm activities, land transfers – if properly

⁵⁶⁵ ICG interview, South Africa, December 2003.

⁵⁶⁶ ICG interviews, South Africa, November and December 2003.

⁵⁶⁷ ICG interviews, South Africa, November and December 2003.

⁵⁶⁸ Van Zyl, Kirsten and Binswanger, *Agricultural Land Reform and South Africa*, op. cit., p. 424.

⁵⁶⁹ ICG interview with Andile Mnekama, National Land Committee, December 2003.

supported afterward – can be critical ingredients in reducing vulnerability.⁵⁷⁰ The World Bank estimated in 1994 that fully implementing the land redistribution goal (30 per cent of the land in five years⁵⁷¹) in a way that focused on smallholder agriculture would produce 600,000 net full-time farm jobs at a cost of approximately \$9,500 per job.⁵⁷²

The government has not yet made this kind of commitment to sustainable smallholder agriculture as a core beneficiary of land reform. South Africa has a capital-intensive modern agricultural sector that has produced a great deal of food and become more efficient with liberalisation. Many senior officials want to maintain a focus on further modernisation rather than go in a direction they consider backwards. There is a desire to create higher skilled, better-paying jobs as the heart of the job creation strategy, and small-scale agriculture is not seen by many in decision-making positions as the appropriate conduit for investment in employment generation. Many wish to keep the existing production structures while changing racial patterns of ownership within that structure and do not see land reform involving smallholders as a fundamental component of an economic growth strategy.⁵⁷³

Other officials, however, understand the case for smallholder agriculture, especially from an employment generation standpoint. A senior official in the Department of Land Affairs said, "Over the years it is clear that small farming operations are more sustainable, viable and contribute better than large scale commercial farming to the economy. Large-scale agriculture has proved to be a failure with respect to equity. Over the last decade, smaller farms are more equipped to manage in this economy and more profitable".⁵⁷⁴

Opponents of a smallholder-based land reform usually question the viability of small farms. However, viability to these critics means income level, not efficiency. These two concepts are mixed inappropriately. "Family farms are more efficient", said one donor official with long experience in

⁵⁷⁰ Hall, Jacobs and Lahiff, *Evaluating Land and Agrarian Reform in South Africa*, op. cit., p. 20. Robin Palmer of Oxfam further explains why smallholders are at a disadvantage: "There are unreconstructed power relationships in South Africa... These formal and informal power structures [the banks, for example] are rigged against emergent black farmers. When you are supposed to have willing buyer, willing seller, what you often get is an unequal relationship". "IRIN Web Special on Land Reform in Southern Africa", IRIN, 7 July 2003. Available at www.irinnews.org/webspecials/landreformsa/default.asp.

⁵⁷¹ The World Bank set the 30 per cent in five years target in 1994. Later, the government amended this to 30 per cent by 2015.

⁵⁷² ICG interviews, May and November 2003.

⁵⁷³ ICG interviews, South Africa, March, May, November and December 2003.

⁵⁷⁴ ICG interview, South Africa, December 2003.

land reform in South Africa.⁵⁷⁵ They are owned by the farm family, which manages with its own labour and does not need permanently hired workers. In South Africa, smaller farmers usually lack access to credit, so large farmers have a competitive advantage. Banks can rely on repayment from larger landholders because the government will often help with a problem. Large traders, who have more information, are better at getting produce to the market. Not enough support or emphasis goes to smallholders. A donor official concluded, "The smallholders need to benefit and they are not being supported. The focus cannot just be on well-equipped black entrepreneurs".

Analysts also pose other important questions. They are concerned that landless people are unable to farm because of their inadequate resource base. Fears are raised about the amount of farmland in South Africa that is ecologically and economically appropriate for intensive smallholder development.⁵⁷⁶ Foreign exchange earnings would be undercut, and urban food supplies might be reduced if the commercial agricultural sector was not emphasised.⁵⁷⁷ There are also worries about new farmers entering the agricultural sector at a time of consolidation and increasingly challenging competition due to deregulation and liberalisation. These are important questions, but all can be addressed through careful planning and increased commitment and support.

Renewed emphasis must be put on both elements of a successful land reform effort – new commercial farmers as well as new small farmers. Support for previously landless people to become small farmers will be just as important as increasing the number of viable black commercial farmers. Putting significant domestic and donor resources behind both elements – combined with significant engagement on tenure reform – can help ensure that violent conflict is minimised in South Africa's land reform process, and that justice and development go hand in hand.

⁵⁷⁵ ICG interview, South Africa, 25 November 2003.

⁵⁷⁶ See, for example, Richard Cowling, "Options for Rural Land Use in Southern Africa: An Ecological Perspective", in Michael de Klerk (ed.), *A Harvest of Discontent: The Land Question in South Africa* (Cape Town: IDASA, 1991), p. 12.

⁵⁷⁷ Tom Lodge, "A Man Who Causes Famine is No Hero", *Focus* 31 (September 2003), p. 21.

APPENDICES

A. Glossary of Abbreviations

ANC	African National Congress
AU	African Union
CFU	Commercial Farmers' Union
Contralesa	Congress of Traditional Leaders of South Africa
COSATU	Congress of South African Trade Unions
DFID	Department for International Development (UK)
DLA	Department of Land Affairs
EC	European Commission
ESAP	Economic Structural Adjustment Program
FAO	Food and Agriculture Organisation
FCO	Foreign and Commonwealth Office
GDP	Gross Domestic Product
GNP	Gross National Product
IDASA	Institute for Democracy in South Africa
IDP	Internally Displaced Person
IFP	Inkatha Freedom Party
IMF	International Monetary Fund
ISRDP	Integrated Sustainable Rural Development Program
LPM	Landless People's Movement
JAG	Justice for Agriculture
LRAD	Land Reform and Agricultural Development
MDC	Movement for Democratic Change
NCA	National Constitutional Assembly
NEPAD	New Partnership for Africa's Development
NGO	Non-Governmental Organisation
OAU	Organisation of African Unity

INTERNATIONAL CRISIS GROUP

ODA	Overseas Development Administration
PAN	Pan African Congress
PLAAS	Program for Land and Agrarian Studies
RENAMO	Mozambican National Resistance
SADC	Southern African Development Community
UDI	Unilateral Declaration of Independence
UNDP	United Nations Development Program
UNITA	Union for the Total Independence of Angola
USAID	U.S. Agency for International Development
WFP	World Food Program
WVA	War Veterans' Association
ZANU	Zimbabwe African National Union
ZANU-PF	Zimbabwe African National Union-Patriotic Front
ZAPU	Zimbabwe African Patriotic Union
ZCTU	Zimbabwe Confederation of Trade Unions
ZPF	Zimbabwe Popular Front
ZUM	Zimbabwe Unity Movement

B. About the International Crisis Group

The International Crisis Group (ICG) is an independent, non-profit, multinational organisation, with over 100 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

ICG's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, ICG produces regular analytical reports containing practical recommendations targeted at key international decision-takers. ICG also publishes *CrisisWatch*, a 12-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

ICG's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's Internet site, www.icg.org. ICG works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The ICG Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; and its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

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