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**GOVERNMENT ASSISTED AND MARKET-  
DRIVEN LAND REFORM:**

**Evaluating Public and Private Land Markets in  
Redistributing Land in Zimbabwe**

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# ABSTRACT

Upon independence in 1980, Zimbabwe inherited a dual economy characterized by skewed land ownership and white minority control of land. For a decade following independence, government made headway in redistributing land to the black majority population through state-assisted land reform, but these efforts had substantially stalled by the late 1980s. A joint government-donor initiative in 1998 sought to re-energize Zimbabwe's land reform programme using improved government- and market-assisted approaches, but this initiative by 2000 had become displaced by the Fast Track programme. What is less known is that two other mechanisms - the private land market (deeds transfers), and public leasing of state lands - have also been active in redistributing land. The purpose of this study was to evaluate the role and potential of these two mechanisms in future land reform debate. It was found that while government-assisted land resettlement averaged  $\pm 85\ 000$  ha/year over the period 1984-2001, the private land market redistributed between 25 000 and 80 000 ha per year to "black" farmers between 1996 and 1999. Unfortunately, beginning in 2000 with the Fast Track programme, the private land market for both "black" and "white" farmers has collapsed, as have land valuations and mortgage financing. Meanwhile, the public leasing market in the late 1990s accelerated as government began to unload its properties on the public leasing market. Neither process - financial distress in the rural sector or government ownership and leasing of land - provides the foundations for a productive agricultural sector. This paper concludes with concrete recommendations for both public leasing and private land markets that would improve delivery of land to the black majority, both men and women.

**(Key words: Zimbabwe, land reform, land markets, land redistribution)**

## 1. INTRODUCTION

At the time of independence in 1980, Zimbabwe inherited a dual economy characterized by skewed land ownership and white minority control over the country's land and water resources. For a decade following independence in 1980, the government of Zimbabwe made significant headway in redistributing land to the black majority population through state-led land reform and resettlement, but these efforts had substantially stalled by the late 1980s. In 1998, the Government of Zimbabwe sought to reaccelerate the land reform and resettlement programme through a government-donor initiative. Since then, the political and economic changes in Zimbabwe have been tumultuous. The joint initiative initially took steam, reached momentum, and soon after was displaced by fast track resettlement.

Much debate has ensued about the efficacy of fast track land reform in redistributing land to beneficiaries and the use to which the land is being put. At present, the basic definitions of land rights under fast track seem lost in a cloud of uncertainty over whether the new beneficiaries will remain on the land, whether they will have formal rights, and whether the land will be used productively. The Fast Track programme was, in part, motivated by the slow pace of government-assisted land reform during the first decade after independence. What is less known, is that the private land market in Zimbabwe has also been significant in redistributing land to black farmers without government assistance with land acquisition or resettlement. As long as government budgets are tight and its reach is limited, private market solutions are an important tool in the policy kit of land reform either as a complement to government-led approaches, or by strengthening the integration of land and financial markets to aid in the private commercialization of agriculture.

The purpose of this study was to evaluate the role of public and private land markets in redistributing land in Zimbabwe through monitoring of private deed transactions and the public leasing of state lands. It first reviews the legal framework governing land administration, registration, and mortgage financing as they relate to private land transfers. It also identifies the roles of organizations, committees and processes that govern public and private land market transfers through key informant interviews with heads of the institutions involved. It finally compares the performance of private and public markets in redistributing land in Zimbabwe by analyzing key data on deeds transactions and public lease agreements. The paper concludes with a discussion of constraints that are impinging on the performance of the land market, but concrete solutions are proposed that would strengthen the delivery of land to black farmers in Zimbabwe.

## 2. AGRARIAN STRUCTURE

In 1969, the colonial government gazetted the Land Tenure Act, which replaced the Land Apportionment Act. The total land area in Zimbabwe was roughly divided equally between Europeans and Africans (see Table 1), but in real terms the division was unequal, as whites constituted a minority group (Bond-Stewart, 1986).

**Table 1: Division of land according to the Land Tenure Act of 1969**

	European (‘000 Ha)	African (‘000 Ha)
Forest Area	753.0	171.6
General Land	15 580.1	
Tribal Trust Land	-	16 151.9
Specially Designated Land	0.7	117.8
Purchase Area	-	1 483.0
Parks and Wildlife	1 770.9	254.7
<b>Total</b>	<b>18 111.4</b>	<b>18 179.1</b>

Source: Riddell and Dickerman (1986).

At the time of independence in 1980, it was estimated that the Tribal Trust Lands (TTLs) or native reserves were overpopulated by about 51% (Bond-Stewart, 1986). The new government embarked on the first phase of the Land Reform and Resettlement Programme (LRRP-1) to redress the unequal land distribution and set itself an initial target of resettling 18 000 families on 1.2 million hectares over three years; this target was later increased to 162 000 families on 10 million hectares due to political pressure (World Bank, 1991). Government land acquisition and resettlement did indeed accelerate in the first few years after independence (Roth and Bruce, 1994), but the pace of land reform had substantially stalled by the mid- to late-1980s due to clauses entrenched in the Lancaster House Constitution (Hlatshwayo, 1993), prohibitively high prices for land on offer, and unsuitable land offered by white farmers in Natural Regions IV and V (GoZ, 1990a; World Bank 1991). Other authors (Bratton, 1994; Maposa, 1995; Mhishi 1995) have attributed the slow progress to lack of political will on the part of government. Also the government holding land or leasing or selling land to selected individuals is used as evidence that it was not land, which was short, but effective resettlement schemes.

After amending the Constitution, with the expiration of the Lancaster House Constitution in 1990, the government crafted a new National Land Policy in which new targets were put in place. The government sought to reduce the area under large-scale commercial farming to 5 million hectares while increasing the area under resettlement to 8.3 million hectares (Moyo, 1998). Other categories of land were to remain unchanged save for the state owned farms. As of 1997, the total area under resettlement had increased by only 300,000 hectares to 3.6 million hectares, far short of the target, and the large-scale sector had been reduced to 11.0 million hectares (Table 2).

**Table 2: Land distribution after independence**

Land Category	1980	1990	1997
	‘000 000’ ha	‘000 000’ ha	‘000 000’ ha
Communal areas <sup>1,a</sup>	16.4	16.4	16.4
Resettlement areas <sup>1</sup>	0.0	3.3	3.6
Small scale commercial farms <sup>2,b</sup>	1.0	1.4	1.4
Large scale commercial farms <sup>2,c</sup>	14.8	11.4	11.0
State farms <sup>1</sup>	0.3	-	0.1
National parks & wildlife and urban settlements	6.0	6.0	6.0
<b>Total</b>	<b>38.5</b>	<b>38.5</b>	<b>38.5</b>

Source: 1. CSO (1998); 2. GoZ (1999)

Notes:

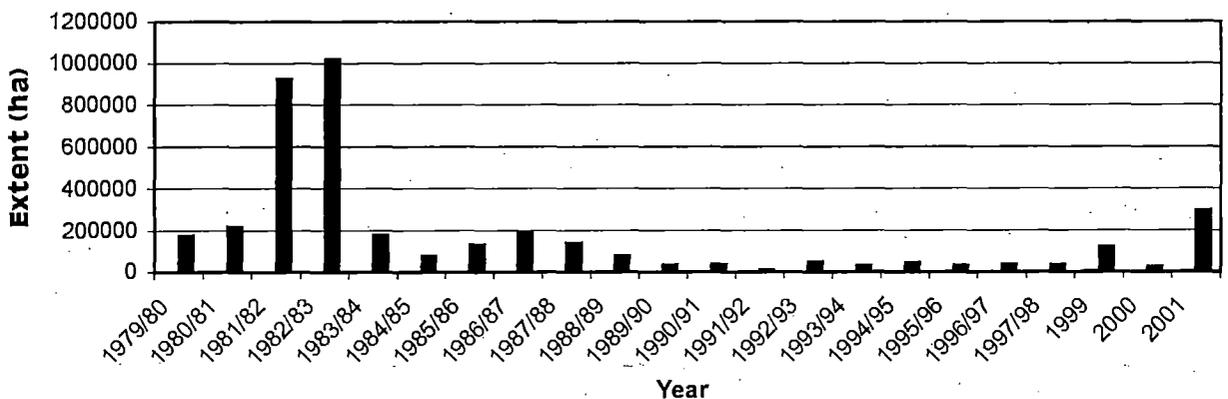
- Communal areas formerly known as Tribal Trust Lands or Native Reserves.
- Small scale commercial farms formerly known as Purchase Areas.
- Large scale commercial farms formerly known as European Areas or general land.

In 2000, government launched the Fast Track programme to speed the pace of land acquisition and transfers under the Land Reform and Resettlement Programme Phase 2 (LRRP-2). Beneficiaries under fast track land reform, at least in theory, were resettled according to two models - A1 (communal) and A2 (large-scale commercial). Table 3 and Figure 1 show the scale of government farm acquisitions from 1979 to 2001. By December 2000, a total of 2 540 farms with a total area of 5.88 million hectares had been identified and gazetted for compulsory acquisition (Msika, 2000). By December 2002, fast track land reform had resettled 310 000 families under the A1 villagisation scheme and 50 000 other new farmers in the A2 commercial farming scheme (The Herald, 2002).

**Table 3: Government land acquisition since 1979/80**

Year	Extent (Ha)	No. of Farms	Nominal Cost (000 ZW\$)
1979/80	176 667	76	3 477.1
1980/81	217 869	97	4 259.6
1981/82	922 919	313	18 290.3
1982/83	1 016 941	471	23 288.0
1983/84	177 716	148	5 996.8
1984/85	75 623	67	4 444.9
1985/86	130 292	64	5 153.0
1986/87	191 133	70	7 091.4
1987/88	138 349	52	5 786.3
1988/89	78 203	51	7 255.6
1989/90	31 050	26	7 626.2
1990/91	34 911	28	7 952.8
1991/92	8 275	7	3 860.0
1992/93	48 924	35	35 527.0
1993/94	29 964	24	19 349.5
1994/95	42 721	27	25 470.0
1995/96	28 575	11	8 335.0
1996/97	34 563	10	4 810.0
1997/98	34 873	22	65 310.0
1999	119 953	50	171 121.0
2000	23 346	13	100 740.0
2001	293 350	140	
<b>Total</b>	<b>3 856 217</b>	<b>1 662</b>	<b>535 144.0</b>

Source: Ministry of Lands, Agriculture and Rural Resettlement undated files



**Figure 1: Extent of farms acquired by the government of Zimbabwe, 1979-2001**

State land acquisition reached a peak between 1979/80 and 1982/83, then slowed dramatically even after the removal of the constitutional constraints in 1990 (Box 1). Of the 3.9 million hectares of land acquired over the period 1979 to 2001, 60.5 % had been acquired by 1982/83, and the remaining 39.5 % acquired over the subsequent 18 years at an average of roughly 85 000 ha per year. While land may have been "too expensive" under the willing buyer, willing seller provisions of the Lancaster House Act, there was nonetheless land on offer that could have been purchased, and later under legislative changes that enabled compulsory acquisition, government implementation proved slow. In 1993, 73 farms were designated for compulsory acquisition, but none were acquired as 50 farms were delisted and the minister of Land, Agriculture and Rural Resettlement failed to comply with the period stated in the designation order for the remaining farms (Commercial Farmers Union, 2000). Again in 1997, the government gazetted 1 471 farms for compulsory acquisition. Of these, 624 were delisted for various reasons (Moyo, 1998), and in the end government managed to pay for only 22 farms out of the remaining.

### **Box 1: Progression of law governing state land acquisition**

- 1. Constitution:** Section 16(1) states that "*No property...or interest or right therein shall be compulsorily acquired, except under authority of a law...*" The legal framework governing land redistribution in Zimbabwe has undergone various transformations since independence.
- 2. Lancaster House Constitution of 1979.** According to Section 16, only land not used continuously for at least five years could be compulsorily acquired for settlement and agricultural purposes. Adequate compensation was to be paid promptly, not less than the highest price obtained in the open market during the five years prior to acquisition, and payable in foreign currency at the option of the owner.
- 3. Land Acquisition Act of 1985.** Still only underutilised and derelict land could be compulsorily acquired on a "willing buyer, willing seller" basis. All agricultural land for sale had to be offered to government on the basis of "right of first refusal." Compensation was to be paid promptly to the owner or others suffering deprivation. In case of disagreement over compensation, owners were given legal recourse to the court.
- 4. Constitution of Zimbabwe Amendment Bill No. 11 of 1990.** Section 16 of the Constitution was amended so that all land including utilised land, buildings and unexhausted improvements could be acquired compulsorily (Zimbabwe Parliament, 1990) versus only underutilized and derelict land in the 1985 Act. The basis for compensation was shifted from "adequate" to "fair" and could now be settled in a "reasonable time" instead of "immediately." Parliament was authorized to fix the compensation payable and the settlement period. Government removed from the court's jurisdiction determination of fairness of compensation, and abolished payment in foreign currency.
- 5. Land Acquisition Act of 1992.** The Act was updated to include provisions of the Amendment Bill No.11. In addition, a clause was added empowering the Minister of Lands and Agriculture to designate any land for settlement and other purposes. A compensation committee was established to determine the compensation payable for designated rural land. Legislature provided for owners to make objections to designations in writing to the Minister.
- 6. Land Acquisition Amendment Act of 2000.** After losing the referendum in February 2000, government amended the 1992 Act. It removed its obligation to pay compensation for agricultural land acquired for resettlement purposes. Compensation was made payable for improvements but not for land unless adequate funds are available per Section 16A of the Constitution. Although the composition of the compensation committee changed, it retained responsibility for fixing the compensation payable.

### **3. LEGAL AND REGULATORY FRAMEWORK**

Zimbabwe's legal system is based on Roman Dutch Law, which governs property rights in Zimbabwe outside communal and resettlement areas. Land registration and transfer is by way of registration of title deeds where the state guarantees and administers the system through statutes and regulations. The Deeds Registries Act (Chapter 20:05) and the Land Survey Act (Chapter 20:12), both revised in 1996, are the two pieces of legislation that govern land transfers in Zimbabwe. Other acts are occasionally called into play as and when required, in particular the Regional, Town and Country Planning Amendment Act; Finance Act; the Deceased Estates Act; and the Land Acquisition Act, among others.

#### **a) Land Surveying**

Land surveying is regulated by the Land Survey Act, Chapter 20:12 (see Annex B for further details). Its purpose is to control and regulate the survey and charting of land for registration in the Deeds office. In terms of the Act, no general plan or diagram of any piece of land shall be accepted in the Deeds Registry for registration unless signed by the responsible Land Surveyor and Surveyor General. The Surveyor General, as the custodian of cadastral information, supervises the work of qualified and registered private land surveyors involved in cadastral surveys and in the process administers the Act on behalf of the Minister of Lands.

A cadastral survey results in the production of a survey diagram, which contains geometrical, numerical and verbal representations of a piece of land or a line, feature or area forming the basis for registration of a real right. The diagram represents the final docket that the Registrar of Deeds uses for his/her parcel description and appends to the title deed. The diagram shows various attributes of the land including the extent or area of the land, length of the sides of the property, direction of each line, and the description of beacons.

Land surveying is critical in the land delivery process, especially in cases where unalienated state land is to be alienated and where new title deeds are required following a subdivision or consolidation. For properties where title deeds are already in existence, surveying will not be required unless it is to correct errors on the original diagram. However, the Registrar of Deeds often calls for conversion of measure from the imperial system to the metric system, now the legal unit of measurement for all new surveys.

Private registered land surveyors are allowed to carry out most cadastral surveys on freehold title land, while the office of the Surveyor General is required to carry out surveys on behalf of the state, especially on state land. As the state guarantees the accuracy of the survey, the Surveyor General is obliged to verify the authenticity and correctness of the survey records before the Registrar of Deeds can accept them as a basis for title registration.

#### **b) Land Registration**

Once the Surveyor General has approved a land survey diagram or plan, the next step is to effect its registration. Land registration is governed by the Deeds Registries Act, Chapter 20:05 (see Annex D). The Chief Registrar of Deeds on behalf of the Minister of Justice and Legal Affairs administers the Act. The Act provides for registration and transfers in land, bonds, mortgages, rights in immovable property, servitudes, and leases as described fully in Section 2.6.

The Act thus caters for the needs of people, companies, and the state who wish to transfer land rights to another party. Transferable land rights include ownership rights, lease rights, mortgage rights, subdivision and consolidation rights, and inheritance rights. The Act also provides the processes (Box 2) through which each of these rights can be recorded or transferred.

## Box 2: Processes for recording or transferring rights

Deeds registration only takes place when deeds attested or executed by a registrar have the registrar's signature (Section 10(1)).

Deeds are registered for land transfer or to cede real rights in land.

Ownership rights can only be *transferred* from one person to another by way of a *Deed of Transfer* executed or attested to by a registrar.

Other real rights must to be registered by means of a *Deed of Session* attested to by a legal practitioner and registered by a registrar.

Unalienated state land (land without a title deed) is transferred from the state to any person only through *registration* at the deeds office.

Land held under state title is transferred by way of a *Deed of Transfer* while State land not held under title is transferred by a *Deed of Grant* with the diagram of the land attached thereto.

Land acquired by the state from any person is usually not held in terms of a title deed, unless it is registered in favour of the President. Once the state acquires land, it orders the registrar to cancel the title deed and reflect land as state land.

Before land may be transferred, a conveyancer (lawyer) must prepare a Deed of Transfer in the form prescribed by law or as approved by the registrar. Once prepared, deeds are executed in the presence of the registrar by the owner of the land or by a lawyer authorized by power of attorney (Section 19). The registrar only registers the deed of transfer prepared by a conveyancer. This means that each and every land transfer has to involve a lawyer or conveyancer (Section 13(1)).

Seven common types of Deeds are registered by the Registrar:

**(i) Deed of Grant.** Refers to an original title issued to transfer land ownership from the state to another person or organization. It does not need a conveyancer to execute. Unlike a Deed of Transfer that confers ownership from one person to another, a Deed of Grant is used by the state to alienate land. A Deed of Grant is not a conveyance and as such it is not executed before the Registrar of Deeds as is the case with a Deed of Transfer. The actual execution is done by the Secretary for the responsible Ministry, or authorized official, and is merely forwarded to the Registrar of Deeds for registration. It does not require a Rates Clearance Certificate upon registration, as is the case with a Deed of Transfer.

**(ii) Deed of Transfer (Title Deed).** Represents a transfer of land from one person or organization to another. It is prepared and lodged by a conveyancer. Section 19 provides the manner in which a deed of transfer should be prepared and executed. Section 20 provides for particulars required in every deed conferring title to land, i.e.: 1) date and number of the grant, transfer or other title of the land in question; 2) a cadastral survey diagram; 3) name of the person in whose favour the grant, transfer, and other title deed is being made; and 4) any special conditions, if any, contained in the title deed from which the land is being transferred.

**(iii) Certificate of State Title.** Is issued by the Registrar of Deeds upon application by the Minister concerned, or authorized official, for purposes of obtaining unalienated land.

**(iv) Deed of Rectification.** Is issued for the purpose of correcting an error whereby an owner would have been given title for the wrong property.

**(v) Deed of Partition.** Is issued when joint owners of a piece of land decide to redistribute their lands such that each holds his or her share under a separate title. A conveyancer prepares it, and a permit is required from a local authority.

**(vi) Deed of Exchange.** Is issued when owners have made private arrangements to exchange property. Duty is payable on the value of both properties.

**(vii) Deed of Cession.** Is issued when one party cedes immovable property or real rights in land to another party as usually happens in the case of mortgage bonds and leases. A mortgage bond is attested by the registrar specially hypothecating (pledging) immovable property. Section 44 provides for the execution of bonds. Registration of bonds to secure an existing or future debt can be done in the presence of the registrar by: a) the owner of the immovable property; b) a lawyer duly authorized; or c) in the case of a mortgage bond intended to secure a loan, by the General Manager of the financial institution.

Section 44 (5) prohibits securing debts or obligations to more than one creditor per bond holder, unless authorized by court or another piece of legislation. Section 50 provides for the transfer of hypothecated property, in particular the registrar shall not register the transfer of bonded property until the bond has been cancelled. Section 50 prohibits the registration and transfer of mortgaged land until the bond has been cancelled. While there is provision of registration and transfer of state land, it is noteworthy that the Act is silent about registration of leases pertaining to state land. This situation makes it very difficult to assess the progress or lack of it by the government in parceling out land to beneficiaries through leases. From experience and for a number of years, the government has bought a number of farms on the open market and especially through "willing buyer, willing seller" arrangements and it is known that most of these farms have been leased, most of them with an option to purchase. There is evidence to suggest that some of these farms have since transcended to full title after the lessees exercised the option to purchase.

### **Box 3: Registration charges for land transfers in Zimbabwe**

Payment of the stamp duty, estate duty and any other such duty is required prior to the registration of any transfer or cession. Calculation of Stamp Duty is provided for under the Finance Act (Chapter 23:04) as amended by Act 30/96 as follows:

	\$
1. Mortgage Bond or Notarial Bond or any cession or substitution of debtor thereof for every \$100 or part hereof of the debt secured	0.40
2. Title Deeds: for registration of any acquisition of immovable property:	
(a) Where the value <\$5 000 for every \$100, or part thereof	0.70
(b) Where the value >\$5 000 or <\$15 000 for every \$100 or part thereof	3.00
(c) Where the value >\$15 000 or <\$100 000, for every \$100 or part thereof	5.00
(d) Where the value >\$100 000 for every \$100 or part thereof	6.00

### **c) Procedures for Transferring Land**

It is the function of estate agents to value land and undertake most of the bureaucratic and legal procedures associated with land transfer (Box 4). Once the survey has been approved, a registered conveyancer is required to process the title deed for registration. Once approved by the Registrar of Deeds, the applicant finally receives the transfer document. The organizational framework coordinating land survey and land registration in Zimbabwe is shown in Figure 2 (see Annex A for an example of a Deed of Transfer.)

#### Box 4: Land Transfer Procedures

1. The Estate Agent advertises a farm property in the press.
2. An interested buyer approaches the Deeds Registry Office and conducts a search to ascertain existence of property.
3. Any caveats on the property are checked and must be uplifted before purchasing or bond registration.
4. An Agreement of Sale is signed between estate agent and prospective buyer.
5. Signed documents are sent to the Deeds Registry Office by a conveyancer who has appeared before the Registrar.
6. Documents are lodged through two pigeonholes in the Deeds Registry office.
7. Documents are examined by a Chief Examiner and are accepted or rejected.
8. Rejected documents are sent back to lawyers for corrections.
9. Accepted documents are registered and sent to the Registrar for final approval.
10. Documents are rejected or approved.
11. Rejected documents are sent back to lawyers for corrections. Registered ones are signed and returned to conveyancers. Office copies are filed.
12. If registered, they are sent to the Surveyor General for deduction. The Surveyor General completes the deductions and forwards the deeds through the Deeds Registry Office to the conveyancers.

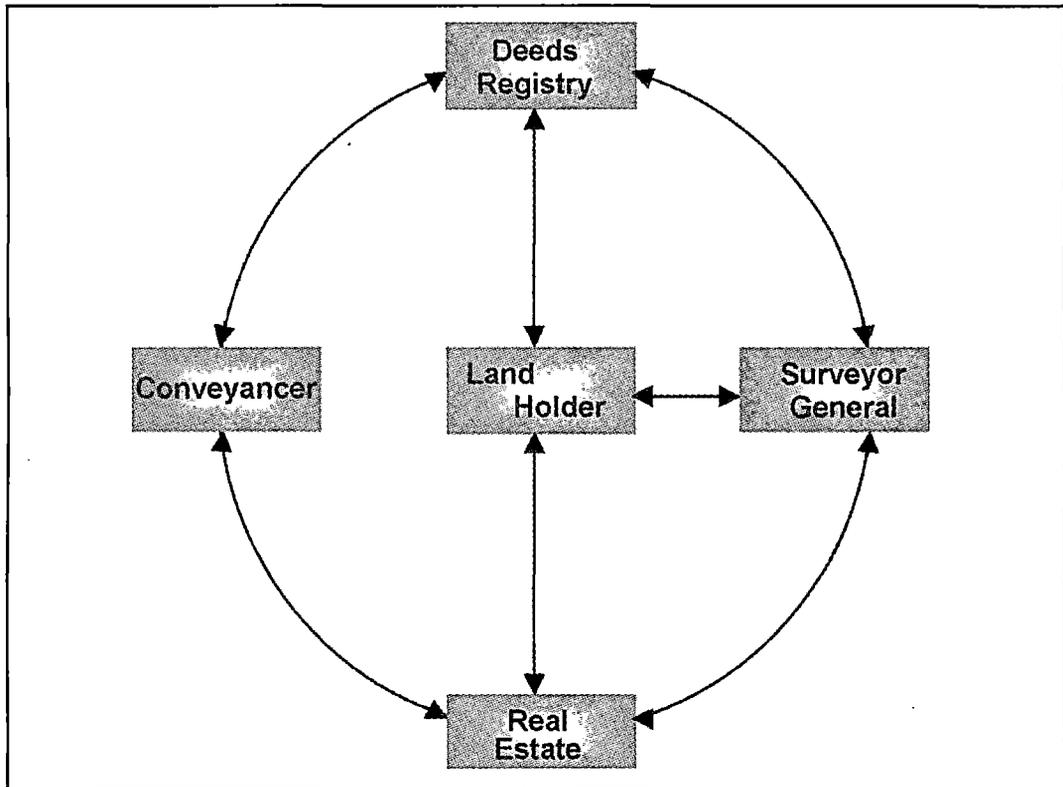


Figure 2: Organizational framework for land survey and registration in Zimbabwe

The Regional, Town and Country Planning Amendment Act of 1998 (Chapter 29:12) governs the transfer of agricultural land that is held on the basis of title deed or lease through the requirement of permits for subdivision and consolidation of land (Section 39). The Minister of Local Government, Public Construction and National Housing administers the Act. Application procedures for obtaining a permit as set out in Section 40 are cumbersome, time consuming and bureaucratic (Roth and Sukume, 2003). In accordance with the Act, the Minister must consult other ministries and government departments affected by, or having a stake in the subdivision or consolidation, including among others, Ministries of Lands and Agriculture, Transport and Communication, and Mines and Energy. Once all these groups have submitted their comments, a technical report is prepared, and together with the application, is submitted to the Agricultural Land Subdivision Committee chaired by the Ministry of Lands and Agriculture. In the event of the application being refused, Section 45 of the Act provides the applicant right of appeal to the Administrative Court.

The process is all-inclusive, democratic and does not aim to discriminate. However, it is noteworthy that this statutory instrument has often been cited as having introduced bureaucratic hurdles to timely subdivision and the transfer of land, especially in the pre-independence era where it served to discourage land transfers. The 1994 Land Tenure Commission (Vol. II) report has argued that the Zimbabwe government policy on subdivision is to ensure that all subdivisions are viable, based on the general farming system of the area (Rukuni, 1994). Further, interviews with responsible officials in ministries and requisite departments have shown that approval or rejection of an application is based mainly on the empirical arguments bordering on agricultural viability (Roth and Sukume, 2003).

It is also difficult to quantify discrimination in respect of the Land Acquisition Act of 1992 (Revised 1996) (Chapter 20:10) (see Annex D). What is clear is that it does not discourage positive discrimination towards formerly disadvantaged groups while it opens up the way for compulsory acquisition of land. The Act leaves itself open for criticism on issues of fairness and equality by minority groups who cite the use of non-compulsive language, e.g. "fair compensation within a reasonable time to the owner..." (Section 16b) while Section 18 calls for the assessment of compensation payable in respect of acquisition "as soon as possible" (18 (1)) and the same authority is required to register such land with the Registrar of Deeds "as soon as practicable" (Section 10 (1)). It is also possible that while this Act may avail more land for distribution, it may also impede the process of legal transfer of land, as implementation mechanisms are not clearly defined.

The Urban Councils Act (Chapter 29:15) of 1996 governs the transfer of land from rural to municipal uses. The Minister of Local Government, Public Construction and National Housing administers the Act. Section 150 of part X highlights the power of the council to acquire land inside or outside the council area both compulsorily (if empowered by other enactments) or by way of purchase, donation, lease or other agreement with the current land owner. However, the council may not own land or have it leased for a period of 3 years or more if the land is not situated within the area of an approved town-planning scheme without approval of the Minister. Acquisition is to be in accordance with the Land Acquisition Act (Chapter 20:10). From experience, most municipalities expand by purchasing adjoining farms by entering into direct negotiations with individual farmers or seeking government intervention in the event of disagreement.

A number of other Acts are relevant, in particular the Agricultural Land Settlement Amendment Act (Chapter 20:19) of 2000 which regulates leases (see Annex D), Land Occupation Conditions Act (Chapter 20:11) of 1982 (Revised 1998) which regulates "occupations" of state land, The Settled Estates Leasing Act (Chapter 20:19) of 1984 which facilitates leasing of settled estates, and the Titles Registration and Derelict Lands Act (Chapter 20: 20) of 1984 which provides for the registration of title and the disposal of derelict lands (see Annex E).

#### **d) Gender**

Clearly, whether the above regulatory framework embodied principally in the Survey and Deeds Registration Acts is sufficiently user-friendly in terms of time, costs, and knowledge for prospective land reform beneficiaries is no. The skills and wherewithal to navigate the organizational apparatus regulating land transfers, to survey land, to register title, and successfully argue for subdivisions and consolidations

would be a daunting task for all but the "well-to-do" and the "well-connected". One can also probably conclude that the hurdles to accessing land delivery services for women are higher than for men, and for women that have been widowed or divorced, their ability to pay has been further disadvantaged by their weak economic status.

According to Section 23 (1)(a) of The Constitution of Zimbabwe, no law shall make any provision which is discriminatory either in itself or in its effect. However, this restriction is qualified in two subsequent paragraphs. First, Section 23(3) states that nothing contained in any law shall be held to be contravention of Sub-section 1 (a) to the extent that the law in question relates to personal law (i.e. adoption, marriage, divorce, burial, devolution of property on death). Second, this restriction does not apply in situations where African customary law is applicable and (in Sub-section (f)) "according to tribes people, to the exclusion of other persons, or to rights and privileges relating to communal land".<sup>1</sup>

In essence, in the above three scenarios, people are not protected from discrimination. Quite to the opposite, discrimination on all the numerated grounds including gender remains lawful, and will often coincide with those instances where women are powerless or vulnerable, for instance, women seeking ownership of their deceased husband's estates or women seeking a portion of their matrimonial estate after divorce. It is particularly significant that the Constitution, the supreme law of the land, allows discrimination with respect to rights in communal lands where the majority of poor, marginalised women live and depend on land as their key source of livelihood (Box 5).

#### **Box 5: Gender and communal tenure**

*The Communal Land Act (Chapter 20:04) 1982* provides for the classification of land as communal. It regulates the occupation and use of communal land and repeals the Tribal Trust Land Act, 1979. In accordance with Section 8(2), access to and use of communal land shall be in accordance with customary law. Yet, customary law has, in many instances, been deemed discriminatory towards women in that it curtails their access to and control of resources. Hence, this provision along with Section 23 of the Constitution are sometimes seen as perpetuating the marginalisation of women in the allocation of land under communal tenure.

*The Traditional Leaders Act (Chapter 29:17) 2000* provides for the appointment of traditional leadership, i.e. chiefs, headmen, village heads, and other subsidiary functionaries such as the village assembly, and spells out their duties, functions and powers. In terms of Section 23, all communal land is to be surveyed and boundaries drawn demarcating each village. Each village shall then be issued a village registration certificate describing its boundaries. The rural DC will be required to prepare a land use plan for each village and shall issue a settlement permit to the head of each household in the village. According to Section 24(4), each settlement permit shall bear names of all spouses. In terms of Section 24(4), unmarried women who are heads of household can have permits in their names as can widows and girls or child-headed households. However, while these provisions would seem to be sufficient to protect women's rights, other provisions requiring the permit holder to have consent of adult members of the household and the Rural District Council would nonetheless compromise gender rights if there is latent intent to discriminate.

As of January 1929, all marriages in Zimbabwe were said to be automatically out of community of property. Joint estate under these marriages automatically fell under the administration of the husband by virtue of his marital power. He's not obliged to give an account of his administration or to indemnify his wife for any loss due to his mal-administration. Under his marital power, a husband can sell, donate unwisely, or deliberately destroy his and his wife's joint property without liability to his wife for damages. The option for

<sup>1</sup>*Communal Land is in terms of the Communal Land Act and the Traditional Leaders Act. The chief of an area is given overall responsibility of allocating land through traditional leaders, i.e. village heads who are often the custodians of customary law. These are usually males whose patriarchal notions of women's social status can further work against the allocation of land to women.*

marriage in community of property does exist (although this is unknown to most ordinary people). The Married Persons Property Act (Chapter 38) 1981 provides that a marriage can be registered in community of property through the parties signing a pre-nuptial agreement expressing such intention. In such unions, the property of spouses, present and future, movable or immovable, is merged into a joint estate in which the spouses hold equal and indivisible shares regardless of their contributions. However, the marital power vested in men in marriages out of community of property (the prevailing marriage union in Zimbabwe) can be seen to marginalise women married under this arrangement. Such women are incapacitated with respect to their capacity to participate in the acquisition, management and control of marital property.

Section 15 of The Deeds Registries Act provides that a married woman incapacitated by her marital status (and this presumably applies to those married in community of property) requires the assistance of her husband in executing any deed or document. This provision has the effect of limiting the ease with which certain women can participate in land transactions. The Act does stipulate that such women can acquire property without the assistance of their "husbands" by submitting an application to the Deeds Registry. However, other legislation seeks to protect or reinforce women's rights in land and property.

The Immovable Property (Prevention of Discrimination) Act (Chapter 10:12) of 1982, for example, is aimed at protecting against discrimination on the grounds of race, tribe, place of origin, political opinion, colour, creed or sex of any person or class of persons with regard to the selling or leasing of immovable property.<sup>2</sup> The Deceased Persons Family Maintenance Act (Chapter 6:03) 1994 (Amended in 1997) seeks to make provision for a range of beneficiaries, "...from (1) spouses of unregistered customary law marriages; (2) children born out of wedlock who were receiving maintenance; to (3) parents of the deceased who may have been supported by their now deceased child."<sup>3</sup> The Matrimonial Causes Act (Chapter 5:13) 1996 provides for matters relating to marriages, dissolution or nullity as well as the division of assets after the dissolution of the marriage.<sup>4</sup> The 1997 amendment of Administration of Estates Amendment Act (Chapter 6:01) can be described as a milestone for customary law marriages. Prior to this Act only the first-born son could inherit the estate of his deceased father. The widowed spouse was considered a tenant on the property together with any other children. Under the 1997 amendment, the spouse of a deceased person has specified rights to the immovable and movable estate. The Act attempts to cater for a range of marital situations as possible under customary law (e.g. multiple wives).

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<sup>2</sup>Section 12(b) of this law prohibits giving advantage to, or discriminating against a party as a result of conditions, terms or restrictions upon such sale or the disposition of property. Section 12(4) refers to discrimination in the granting of finance in respect of immovable property. No employee or agent of financial organisations shall, on the grounds of the race, tribe, place of origin, political opinion, colour, creed or sex of any person:

- (a) refuse to grant to such a person a loan or other financial assistance for the acquisition, hire, construction, maintenance or repair of any immovable property.
- (b) or fix in respect of a loan or other financial assistance granted or offered to such a person for the acquisition, hire, construction, maintenance or repair of any immovable property terms and conditions less favourable than those fixed in respect of any other class of persons.

<sup>3</sup>Under this Law, any surviving spouse of the deceased has the right to occupy any immovable property, which the deceased had the right to occupy, and which the surviving spouse was occupying immediately before the death of the deceased. The Act protects this right from laws that make provisions that are to the contrary (while protecting the rights of any existing mortgagors, for example, landlords.) This is a significant law in the face of the very frequent dispossessions and evictions of widows (and very rarely widowers) after the death of a spouse.

<sup>4</sup>Upon the dissolution of a marriage, a spouse holding property that is considered co-owned by the court is asked to make such payments or transfer as specified, or transfer to the trustee powers previously held by the spouse personally. However, property proven to have been owned by the spouse before the commencement of the marriage is not necessarily shared with the other spouse upon the dissolution of the marriage. In making the decision on the division of assets, the court takes consideration of such factors as:

- (a) Income earning capacity of both the spouses as well as their needs and expenses now and in the foreseeable future.
- (b) The standard of living of the family including the manner in which the child was being educated as well as future expectations.
- (c) The direct and indirect contribution made by both spouses to the family as well as well contributions made in looking after the home, caring for the family, and domestic chores.

## 4. DATA SOURCES AND METHODOLOGY

### a) Private Deed Transfers

The purpose of this study was to monitor the means by which farmland in Zimbabwe is transferring to, and being used by, disadvantaged people (non-whites, women) over time, both as a result of private market transactions and government-assisted land reform. A census survey of deeds transactions was conducted for the whole of Zimbabwe for the years 1996 to 2001<sup>5</sup> including only land parcels over 1 ha in size to exclude primarily residential transfers. The data collected for the survey were obtained from the Harare Deeds Registry (for Mashonaland, Manicaland, and parts of Midlands and Masvingo) and the Bulawayo Deeds Registry (for Matabeleland and parts of Midlands and Masvingo provinces.)<sup>6</sup>

The Registrar of Deeds has records for all registered land/properties and owners in the country at any point in time, and includes changes in land ownership that take place. Each Deed of Transfer contains: a) names of new and previous owners; b) when they bought and/or sold the property; c) name of farm and subdivisions transacted; d) size of farm, subdivisions transacted and graphic representation; e) property value at the time of transaction; f) mode of payment used (cash, loan, inheritance or donations); and g) location of parcel (district). Reference was also made to other sources of secondary data including maps and records obtained from the Surveyor General's Department, information acquired from the Ministry of Lands, Agriculture and Rural Resettlement, and the Ministry of Local Government, Public Construction and National Housing.

Purposive sampling was used to identify all commercial farmland that experienced some form of permanent transfer for the period 1996 to 2001 drawn from a list comprising more than 4,000 commercial farms. It must be noted that over the years some farms were subdivided into residential or industrial areas; however, these were excluded from the database by filtering all cases involving farms smaller than 1 ha. Table 4 shows the resultant sample frame of private land transfers for the years 1996-2001.<sup>7</sup>

**Table 4: Private Land Transfers, Zimbabwe 1996-2001**

Year	1996	1997	1998	1999	2000	2001
Total Private Land Transfers	407	373	302	185	127	141

The final sample of farmland transactions was partitioned into two groups - white and disadvantaged. For the purpose of this study, the term "disadvantaged" refers to people who were historically precluded from the land market by racial segregation, mostly blacks. Within the disadvantaged group, farmland transactions were further stratified according to mode of financing (government-assisted, private cash, private bonds and non-market transactions) and gender of new owner (male, female, co-owned, and corporate entities).

### b) Public Leasing Market

This activity sought to determine the extent of public leasing arrangements, the effectiveness of the leasing market in terms of managing state land, and the contribution of public leases to the redistribution of land to people of disadvantaged status. Public land in Zimbabwe is transferred through two options - direct sale (cash or mortgage) or by lease, usually with an option to purchase. Most direct sales manifest in the Deeds office as Deed of Grant and were identified through a deeds search (i.e. those monitored by the Deeds transaction activity). However, compared with private deed transfers, public leases are more difficult to track. First, two different government ministries - Local Government, and Lands and Agriculture - issue these leases. Second, they are never registered at the Deeds office, but rather, by the respective

<sup>5</sup>Land transactions from the Deeds Registry were tracked from 1996 to 2001 solely for the purpose of synchronizing with parallel studies in South Africa and Namibia to allow for comparisons.

<sup>6</sup>It is important to note that government assisted transactions are not normally recorded with the Deeds Registry, but are kept at the Ministry of Lands, Agriculture and Rural Resettlement.

<sup>7</sup>The Deeds Registries in Harare and Bulawayo processes in excess of 25 000 transactions for properties per year. In the last calendar year, the Deeds Registry processed 28,950 transactions for properties of which, 15 589 were deed of transfers and 13 661 mortgage bonds (Deeds Registry, personal communication).

ministry that administers the lease. Third, some lessees may never exercise the option to purchase. It is only at the stage of purchase or transfer of ownership that this information is officially recorded in the Deeds registry.

Most of the land that has been acquired by Government in the last two decades has either been set aside for resettlement or allocated through lease arrangements. Between 1980 and January 2000, Government acquired land on a "willing buyer, willing seller" basis. However, rather than resettling beneficiaries on isolated and scattered farms, in some cases it has preferred to designate a number of farms to form one "large block" for purposes of planned resettlement. The problem arose over what to do with individual farms it had acquired while waiting for surrounding properties to be acquired. Public leasing was one option adopted by government. In other instances, where it was determined that resettlement would hamper agricultural productivity, decisions were taken to make an outright sale to beneficiaries on a lease-to-purchase arrangement. As of the September 1998 Joint Government-Donors Conference, Government held farms totaling 223 112 hectares.

Secondary data on public farmland leases and government land acquisition since 1980 was obtained from the Ministry of Lands, Agriculture and Rural Resettlement. Data on public leases comprise: (1) name of the lessee; (2) name of the farm; (3) size in hectares; (4) value of farm; (5) annual lease rental; and (6) date of lease agreement commencement and expiry. Similar to the Deeds Registry data, some of the records on public farmland leases did not have information on gender of beneficiaries and these were deduced on the basis of names.

## 5. PRIVATE LAND MARKET REDISTRIBUTION

### a) Rate of Farmland Redistribution

Data on the total area of land redistributed for the period 1996 to 2001 were used to calculate the rate of land redistribution for the white and disadvantaged sub-populations in Table 5. The rate of land redistribution is computed as the ratio of land acquired by either group as a percentage of the total amount of land available for redistribution.<sup>8</sup> The private land market redistributed a peak of 79 502 ha (0.5 % of the total area of farmland available for redistribution) to the disadvantaged group in 1999, and a peak of 178 153 ha (1.2 %) to the white farming community in 1996.

**Table 5: Estimated rate of land redistribution in Zimbabwe**

Year	1996	1997	1998	1999	2000	2001
Area of farmland available for redistribution (1980 base year, 000 ha)	15 106.5	15 106.5	15 106.5	15 106.5	15 106.5	15 106.5
Area of land transacted (ha)	237 875	168 467	132 337	166 858	88 432	21 900
Percentage of area redistributed (%)	1.42	2.32	1.96	0.88	0.61	0.10
Area of farmland acquired by disadvantaged people (ha)	59 722	32 715	24 685	79 502	33 059	9 279
Area of farmland acquired by white people (ha)	178 153	135 752	107 652	87 356	55 373	12 621
Rate of land redistribution for disadvantaged people (%)	0.40	0.21	0.16	0.53	0.22	0.06
Rate of land redistribution for advantaged people (%)	1.18	0.90	0.71	0.58	0.37	0.08
Cumulative rate of land redistribution for disadvantaged people (%)	0.40	0.61	0.77	1.30	1.52	1.58
Cumulative rate of land redistribution for advantaged people (%)	1.18	2.08	2.79	3.37	3.73	3.81
Total cumulative rate of land redistribution (%)	1.58	2.69	3.56	4.66	5.25	5.39

<sup>8</sup>Estimated at 15 106 479 hectares in 1980 based on personal communications with the Ministry of Lands, Agriculture and Rural Resettlement.

Over the six-year period, the private land market cumulatively redistributed 1.6% of the total farmland available to people of disadvantaged status, and 3.8% to the white population. In all years under consideration, the private land market redistributed more land to the "white" group than the disadvantaged group. While these amounts are low, it is important to note that the private land market in Zimbabwe fared poorly relative to South Africa (Lyne and Darroch, 2002) and to more developed economies where roughly  $\pm 5\%$  of the land area is transacted in any given year. Based on this benchmark, the total rate of redistribution ranging from 1.6% in 1996 to 0.1% in 2001 suggests both a very "thin" land market and one that had substantially collapsed by 2001.

This medium term secular decline in land transactions can be attributed to a number of factors including, *inter alia*, economic regress after 1996 and severe economic contraction beginning in 2000; and high positive real interest rates between 1996 and 1998 (Table 6). Real interest rates (nominal interest rate less the inflation rate) began to decline to reasonable levels by 1999, but by 2001 had sunk to a negative real interest rate of -40.6 % which had the effect of curtailing the mobilization of domestic savings. Combined with compulsory land designations and land invasions, financial institutions had all but closed the door on mortgage financing for farm purchases beginning in 2000.

**Table 6: Macro-economic indicators**

Year	Inflation Rate (A)	Interest Rate on Working Capital (B)	Nominal Interest Rate (C)	CPI (1995=10) (D)	Real Interest Rate(E=C-A)	Rate of Economic Growth(F)
1996	21.4	10.8	33.6	121.4	12.2	9.7
1997	18.8	13.3	34.7	144.3	15.9	1.4
1998	31.7	15.8	49.3	190.1	17.6	0.8
1999	58.5	21.8	66.0	301.3	7.5	-4.1
2000	55.9	26.5	68.3	469.6	12.4	-6.8
2001	71.9	10.4	31.3	807.5	-40.6	-7.5 <sup>9</sup>

Source: IMF (2002)

## b) Farmland Prices

Table 7 provides data on characteristics of farmland acquired by white and disadvantaged owners between 1996 and 2001. For most periods, the mean area of farms acquired by the disadvantaged group was lower than that of white owners. White owned farms paid higher farm prices than those of the disadvantaged group from 1996 to 1998, but this trend reversed after 1999 when real farm prices for white owned farms began to decline precipitously. While black owned farms also experienced declines in real farm prices after 1997, the decline was less severe than for the white farm community.

Under normal circumstances, land quality (measured by the weighted land price, ZW\$/ha) would appear to be slightly higher for the white group over the entire period based on the six-year average. However, the macroeconomic instability observed during this period combined with government gazetting of acquisition of white-owned farms by the state and the land invasions, probably also had the effect of dampening demand by whites for farmland and their "willingness to pay".

## c) Modes of Land Redistribution

Since independence, various modes of land redistribution have resulted from changes in policy. Government assisted land acquisition (based on a willing buyer-willing seller basis) and resettlement dominated the land reform landscape from 1980 to 1992. In the first four years after independence, communities played a leading role in land identification through occupation of underused or unutilized land after which government moved in to acquire the land at market prices. This approach re-emerged in 1998 as landless people and war veterans occupied many farms that had been gazetted for resettlement (but so far without compensation being paid). Complementary models of market-led redistribution, whereby a public grant is

<sup>9</sup>Reserve Bank of Zimbabwe personal communication for 2001 rate of economic growth figure.

provided to beneficiaries for land purchase and resettlement costs, and land acquisition and resettlement is defined by beneficiary needs and interests (with assistance from the private sector) was discussed at the 1998 Zimbabwe Land Donors Conference. However this approach never took off as government opted instead for compulsory acquisition. Most recently, following the amendment of the Land Acquisition Act of 1992, government has turned to compulsory acquisition, whereby the state only pays for land improvements.

**Table 7: Characteristics of farmland acquired by white and disadvantaged owners in Zimbabwe, 1996 to 2001 at constant 2000 prices (2000=100)<sup>1</sup>**

Farm Characteristic		White	Disadvantaged
Mean farm area (ha)	1996	694 n =260	406 n =147
	1997	1 089n n=280	346 n = 93
	1998	673 n =218	294 n = 84
	1999	651 n = 83	779 n = 102
	2000	932 n = 63	636 n = 52
	2001	229.5 n =55	107 n = 87
	Mean farm price (ZW\$)	1996	4 033 454 n = 247
1997		10 757 905 n =280	2 912 973 n = 87
1998		5 220 830 n =218	2 187 655 n = 72
1999		2 952 887 n =71	3 197 920 n = 81
2000		2 558 621 n = 57	2 695 842 n = 41
2001		371 455 n = 55	608 960 n = 66
Weighted land price (ZW\$/ha)		1996	5 651 n = 247
	1997	9 883 n = 280	8 140 n = 87
	1998	7 761 n = 218	6 413 n = 72
	1999	3 880 n = 71	3 939 n = 81
	2000	2 483 n = 57	3 973 n = 41
	2001	1 618 n = 47	4 331 n = 66
	Weighted land price (ZW\$/ha) 1996-2001	5 213 n = 920	4 819 n = 479

<sup>1</sup>Reserve Bank of Zimbabwe personal communication for 2001 rate of economic growth figure.

Outside these state centered approaches, land redistribution has been occurring through private land transfers. Land transactions were stratified according to four modes as illustrated in Table 8: private mortgage, private cash, government assisted, and non-market transactions. Private cash transactions include those transfers financed with savings and personal cash. Private mortgage land transfers refer to financing with private bonds from financial institutions. Non-market transactions comprise mainly inheritances and donations. Government assisted transactions include land transfers whereby government acquires the land (or title deed) either on willing buyer-willing seller basis or through compulsory acquisition.

Private cash transactions dominated the period 1996 to 2001 both in terms of number of transactions and total market value of land transacted. For the disadvantaged group, 333 out of a total of 554 transactions involving ZW\$686.2 million (in constant 2000 prices) were transacted over the six-year period. For the white farming group, 471 out of 784 transactions involved cash purchases totaling ZW\$1 674.7 million. Private bonds financed 131 transactions (ZW\$385.4 million) and 217 transactions (ZW\$1 140.1 million), respectively, for the disadvantaged and white groups. By comparison, government assisted transactions and non-market transactions represented a very small to small contribution whether measured in terms of number of transactions, area transacted, or total value of land transferred.

Over the six years under study, a sharp decline was observed in the share of private bond transactions for both white and disadvantaged populations. While private cash transactions held up relatively well for the white population, cash purchases by blacks had fallen precipitously from the 1996-1999 peak. Based on these data, the growing uncertainty surrounding land invasions and government gazetting of farms for acquisition by the state from 1999 onward had substantially undermined the importance of private cash transactions and mortgage financing, particularly for black Zimbabweans who found their savings depleted by economic regress and their access to bond financing halted in face of the reluctance of banks to finance farm purchases.

#### **d) Gender**

Names in the Deeds Registry records were reviewed and classified according to the following categorization - corporate entities (e.g. companies, trusts, and communal property associations), males, females and co-owned farms. In cases where land was transferred to a corporate entity, a visit to the company registry revealed names of the directors that were used to categorize the entity as disadvantaged (less than half the directors being whites males or females) or otherwise. Female owners in the disadvantaged group included those owned solely by a female(s) or co-owned (male & female/husband and wife), while for the white group there was a separate co-ownership category mainly composed of husband and wife. The co-ownership category was combined with the female category for the disadvantaged group because the number of transactions was very few. A review of the data in Tables 9 and 10 reveal that while female transactions are important, transactions tend to be dominated by males and corporations in terms of both area and market value transacted.

Over the six-year period, the quality of land (as measured by the weighted land price) acquired by women was equivalent to that acquired by men and corporations but there was considerable year to year variation. Land transactions by whites were more heavily dominated by corporations, a deliberate move to both increase access to credit from financial institutions, and to help minimize the risk of land loss. Overall, women represented 33.3% and 16.3% of transactions, 16.6% and 11.9% of total area transacted, and 17.8% and 7.0% of market value for the disadvantaged and advantaged groups, respectively.

Modes of ownership were also compared with modes of financing (see Annex F). Based on the data combined for all the six years of the study, within the disadvantaged group, government-assisted transfers were dominated by corporate ownership, whilst males formed the majority for transactions financed by private mortgages and private cash. In the non-market transactions, female ownership was dominant. However, within the white only category, corporate ownership dominated all modes of payment.

**Table 8: Characteristics of farmland by mode of redistribution in Zimbabwe, 1996 to 2001 at constant 2000 prices (2000=100)**

Farm characteristic	Year	Disadvantaged					Whites				
		Govt Assisted	Private mortgage	Private cash	Private non-market	Total	Govt Assisted	Private mortgage	Private cash	Private non-market	Total
Number of transactions	1996	0	58	74	14	146	0	79	110	25	214
	1997	0	34	53	4	91	0	78	108	9	195
	1998	0	23	49	4	76	0	37	98	16	151
	1999	1	8	72	21	102	0	15	91	6	112
	2000	2	7	32	11	52	0	7	45	5	57
	2001	20	1	53	13	87	0	1	19	33	55
	Total		23	131	333	67	554	0	217	471	94
Total area of land (ha)	1996	0	34 638	14 042	11 042	59 722	0	72 051	85 229	20 873	1 781 548
	1997	0	11 706	19 430	1 419	32 554	0	66 683	64 414	4 653	135 752
	1998	0	2 785	21 776	62	24 623	0	32 711	64 993	9 946	107 651
	1999	343	8 906	56 508	11 176	76 933	0	13 190	71 307	2 858	87 356
	2000	1 811	4 142	21 866	5 240	33 059	0	6 456	46 107	2 808	55 373
	2001	2 486	10	5 476	1 037	9 279	0	544	4 841	4 953	12 620
	Total		4 640	62 187	139 368	29 976	236 171	0	191 639	336 895	46 094
Total market value of Land ('000 ZW\$)	1996	0	134 955.5	157 837.0		292 792.5	0	287 589.8	378 607.4		666 197.2
	1997	0	122 072.9	131 355.8		253 428.6	0	535 707.3	371 074.5		906 781.8
	1998	0	70 638.9	868 723.0		157 11.2	0	237 359.0	371,592.2		608 951.2
	1999	492.5	37 102.6	221 436.4		259 031.5	0	62 064.8	264 264.5		326 329.3
	2000	1 260.0	20 570.0	88 699.5		110 529.5	0	15 960.0	125 150.3		141 110.3
	2001	1 787.2	17 744.2	37 860.5			0	1 453.5	164 000.0		165 851.2
	Total		3 539.7	385 339.8	686 201.0		1 073 293.3	0	1 140 134.4	1 674 688.9	
Mean Area of farms (ha)		138	459	380	399		0	876	664	499	
Weighted farmland price 1996 -2001 (ZW\$/ha)		762	6 196	4 294			0	5 949	4 971		

**Table 9: Gender Characteristics, Disadvantaged**

Number of Transactions				Total Area of Farmland (ha)			Market Value ('000 ZW\$)			Weighted Land Price (ZW\$/ha)		
Year	Male	Female	Corporate	Male	Female	Corporate	Male	Female	Corporate	Male	Female	Corporate
1996	51	53	34	12 585	6 294	28 715	70 224.5	55 959.4	140 646.1	5 561	8 896	4 875
1997	47	36	25	12 676	4 642	14 968	125 403.6	50 019.7	94 197.1	10 255	10 771	6 280
1998	34	42	21	5 621	5 524	13 952	63 565.2	42 334.4	69 728.5	12 613	7 601	5 017
1999	27	21	53	10 650	11 639	56 870	38 906.8	22 211.8	208 773.0	3 661	1 890	3 692
2000	17	9	24	9 408	4 928	18 722	10 890.0	13 570.0	90 353.5	1 448	2 840	4 807
2001	31	32	22	3 396	4 276	1 606	16 813.4	19 921.0	0 415.7	5 006	4 443	2 588
Total	207	193	179	52 546	37 303	134 832	325 803.5	204 002.3	582 957.5			

**Table 10: Gender Characteristics, Advantaged**

Number of Transactions					Total Area of Farmland (ha)				Market Value ('000 ZW\$)				Weighted Land Price (ZW\$/ha)			
Year	Male	Female	Corp- orate	Co- owned	Male	Female	Corp- orate	Co- owned	Male	Female	Corp- orate	Co- owned	Male	Female	Corp- orate	Co- owned
1996	108	13	52	38	92 743	8 001	36 621	32 683	326 557.5	34 172.7	249 332.1	99 017.8	3 521	4 270	6 808	3 029
1997	22	10	151	12	14 519	4 614	110 584	6 035	799 540.5	14 216.5	782 721.6	47 220.0	5 506	3 080	7 078	7 824
1998	21	10	112	8	11 634	4 435	88 689	2 892	948 555.3	18 462.4	528 124.7	0 770.0	8 153	4 162	5 954	2 666
1999	9	3	96	3	4 528	3 672	78 486	327	190 261.7	0 459.7	303 070.8	0 668.2	4 201	1 252	3 861	20 444
2000	7	0	47	3	7 291	0	47 702	381	14 601.1	0	128 915.3	0 232.5	2 002	0	2 702	6 102
2001	31	12	24	20	4 910	1 406	1 607	2 871	16 813.4	5 351.7	0 415.7	13 869.2	4 951	3 807	2 586	4 831
Total	198	48	482	84	135 624	22 129	363 691	45 188	2 296 329.5	72 203.3	1 992 164.5	160 107.0				

## 6. PUBLIC LAND MARKET

### a) Rate of Land Redistribution

Similar to data on private land transactions, the rate of land redistribution was also calculated for the data obtained from the Ministry of Lands, Agriculture and Rural Resettlement on public land leases. Overall, public land leases redistributed 338 041 ha (2.23% of the total land available for redistribution) during the period 1986 to 2001, compared with 3 494 129 ha distributed through the private market in the six-year period from 1996 to 2001. Even when the two sectors are combined the rate of land redistribution still falls short of the  $\pm 5\%$  norm in developed land markets. The rate of redistribution in public land leases market averaged 0.14% over the sixteen-year period. The trends in the rate of land redistribution are shown in Figure 3 and Table 11.

The data in Table 11 and Figure 3 also show that the rate of land redistribution accelerated in 2000 and 2001. Most of the land being leased was acquired in the 1990s and would not include land expropriated since February 2000.<sup>10</sup> After 1998, government parted ways with the international community, and through the Fast Track programme, began to increase its compulsory acquisitions of land and, in addition, accelerated the leasing of land to demonstrate "action" on the ground. Government also felt compelled to deliver land in response to very real and significant pressure for land from people, particularly in the run up to the 2002 presidential elections. Unfortunately, due to deeds and surveys legislation, expropriated land does not show up as a transfer at the Deeds office. What takes place instead is that notations are made on compilation charts at the Surveyor General's office where it is cancelled as private property and designated as State land. Land title issued on a lease-to-purchase basis would eventually show up on the Deeds Register once again, but according to government policy, the title deed is not issued until full payment is made to government, and in the current environment where the private mortgage sector has collapsed, an up-swelling in individual registrations would not be expected any time soon.

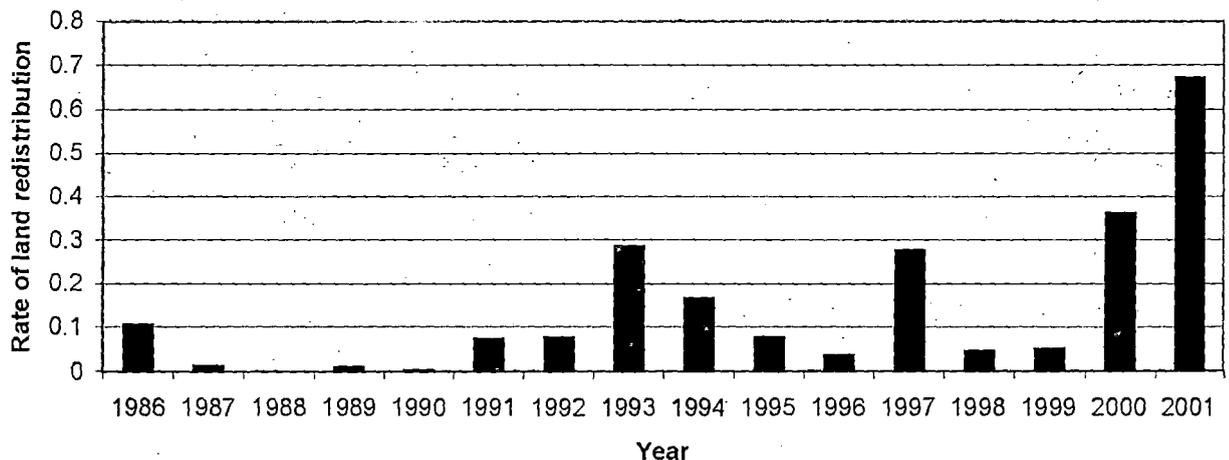


Figure 3: Rate of land redistribution in the public land market, Zimbabwe 1986-2001

<sup>10</sup>These expropriations from 2000 to the present fed the Fast Track land reform, but researchers stayed clear of these data due to political sensitivities. Recent data show that most of the land the government is acquiring is being used to augment small-scale commercial farms (Model A2) and the resettlement areas. Figures released by government (*The Herald*, 2002) indicated that about 50 000 new small scale commercial farms were allocated under the Fast Track resettlement (parcel sizes of 200-500 ha) and 300 000 smallholders (plot sizes ranging between 10 and 15 ha).

**Table 11: Characteristics of farmland leased to disadvantaged owners by government, Zimbabwe 1986 -2001 (constant 2000 prices)**

Year	Cases	Farmland Area (mean ha)	Total Area (ha)	% of Land Available for Redistribution*	Market Value (Mean ZW\$)	Total Value (000 ZW\$)	Weighted Land Price (ZW\$/ha)
1986	12	1 315	15 779	0.104	211 132	2 533.6	330
1987	3	600	1 800	0.012	131 490	394.5	568
1988	0	0	0	0.000	0	0	0
1989	2	734	1 468	0.010	907 551	1 815.1	1 236
1990	2	124	249	0.002	26 188	52.4	211
1991	6	1 815	10 887	0.072	39 268	235.6	22
1992	9	1 246	11 217	0.074	32 326	290.9	26
1993	34	1 265	43 008	0.285	62 801	2 135.2	84
1994	10	2 482	24 823	0.164	62 483	624.8	102
1995	24	477	11 453	0.076	293 212	7 037.1	614
1996	4	1 336	5 343	0.035	75 587	303.4	57
1997	78	537	41 901	0.277	2 595 216	200 000.0	477
1998	20	331	6 626	0.044	4 028 475	81 000.0	12 160
1999	13	586	7 619	0.050	4 004 097	52 053.3	6 832
2000	68	804	54 695	0.362	1 963 249	133 500.9	2 441
2001	69	1 466	101 174	0.670	923 376	63 712.9	630
Total	354		338 041	2.238		545 689.8	1 614

\*As for the private land market, amount of land available for redistribution was estimated at 15 106 479 hectares in 1980 based on personal communications with the Ministry of Lands, Agriculture and Rural Resettlement.

## b) Lease Prices

As seen in Table 11, the size of farms redistributed through the public land leases market was relatively larger than those transacted through the private land market. The weighted land price per ha from 1998 onward is also roughly equivalent to that of private land market transactions. Land prices (in constant 2000 prices) declined from ZW\$12 160 per ha in 1998 to ZW\$630 by 2001. While it's possible that the public leasing market was hit by macroeconomic instability in ways similar to that described for the private land market, it is also probable that government was subsidizing land prices for public leases during this period to help promote the participation of the disadvantaged group.

## c) Gender Analysis

As outlined earlier, the data on public land leases did not contain information on the gender of the beneficiaries except in few cases, hence gender had to be deduced solely on the basis of names. The gender composition included male, female, corporate entities and co-owned (husband and wife) categories. The majority of beneficiaries under the government public leasing programme were males, accounting for 76% of all transactions, while females as sole owners were just under 6% (Figure 4.) Women also benefited as joint lessees with their husbands which accounted for only 34 transactions. When gender is disaggregated it is disheartening to note that during the period 1987 to 1994, not a single female benefited on the public land leases market as shown in Figure 5 (see also Annex G). Access to land is still heavily biased towards the males, both in terms of number of transactions, and the total area and market value of farmland redistributed.

Since males dominated the transactions of government farmland leases, it follows that the largest area was leased out to males than all other categories. During the 16-year period, 238 166 ha or 75% of land redistributed through government leases was redistributed to males. During the early years of independence, government policy made it very difficult for females to have title to land. This is clearly reflected in public land market, where no single female benefited from the government farmland-leasing programme between 1987 and 1994. The public land market redistributed minimal quantities of land in the 1980s, below 5 000 ha per year.

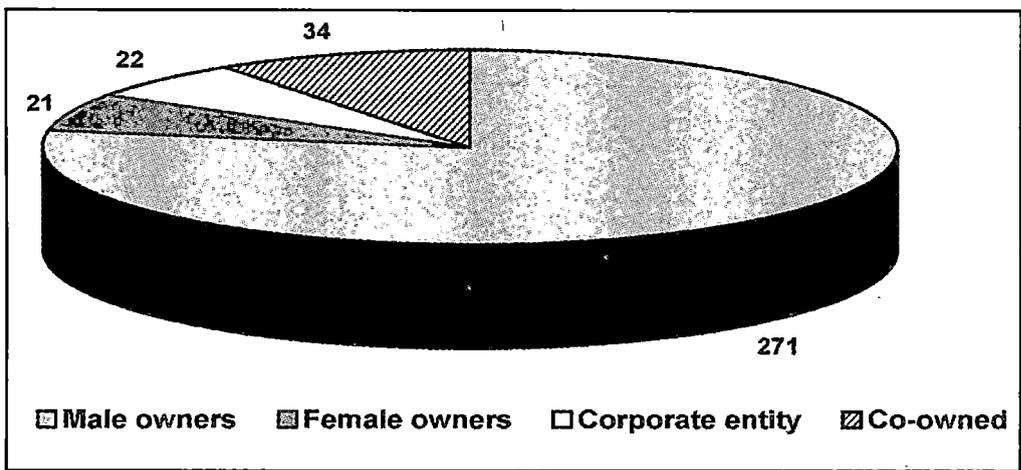


Figure 4: Distribution of public land leases by gender, Zimbabwe, 1986-2001

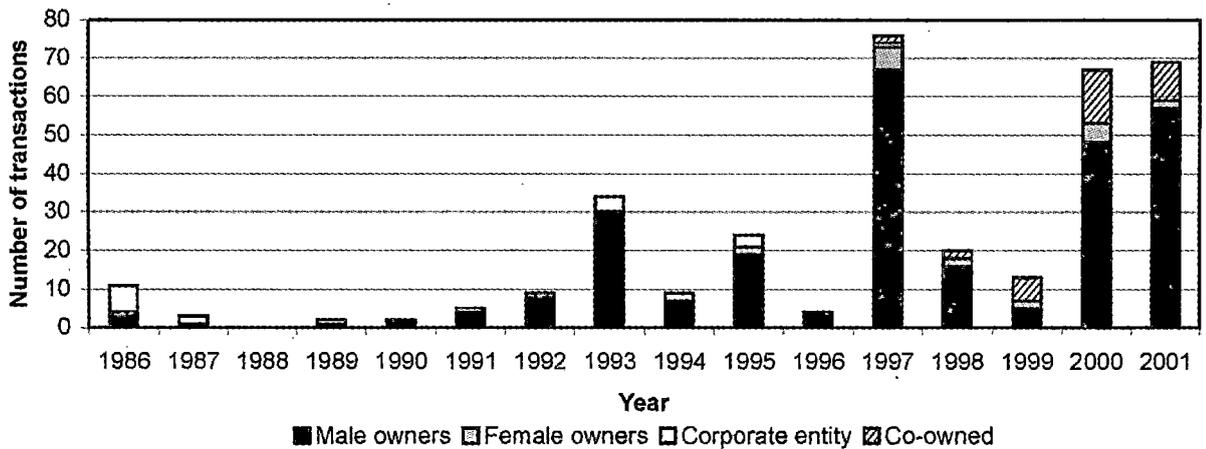


Figure 5: Farmland leased by owner category, Zimbabwe, 1986-2001

## 7. ANALYSIS AND CONCLUDING COMMENTS

The achievements that Government has made in land redistribution since independence (excluding the Fast Track programme) should not be discounted. While there is not always agreement with government policy and choice on issues of compensation, or the cost and effectiveness of state administered land acquisition and resettlement, a large number of beneficiaries in Zimbabwe today have land and livelihoods as a result of government-assisted land reform. Unfortunately, these achievements have been offset by a number of state failures that continue to hamstring the livelihoods of small rural producers in present day Zimbabwe that include: limited and insecure land rights held by beneficiaries; slow progress in individualization and title deed registration when title is wanted by beneficiaries; maintenance of outdated economic thresholds that constrain land subdivisions; and lack of affirmative action in targeting women and speeding the process of title transfer to them. The problem is not always that government is insensitive to these concerns and has purposefully chosen the wrong land policy path. The more immediate problem, is that the Government of Zimbabwe has adhered to a policy of state-administered land reform, heavily regulated land markets, and centralized government decision making against the backdrop of fiscal crisis and lack of government wherewithal to implement the policy choices it makes.

This paper does not propose sidelining government in the land reform policy debate. Rather, it seeks to redirect government's energies and focus toward land policy solutions that help strengthen the private land market's role in redistributing land to black beneficiaries. It is important to note that while government resettlement programmes distributed around 85 000 ha per year from around 1984 to 2001, the private land market redistributed between 25 000 and 80 000 ha per year between 1996 and 1999 before the collapse of the land market. While this might seem to depict the private land market as a "small" contributor to land reform, it is also important to note that the private land market in the late nineties collapsed, as have land valuations and commercial farmland financings in rural areas, due to the government's policy of "fast track" land reform. Unfortunately, since 1999 the private land market for both "black" and "white" farmers has all but collapsed, as have the financial markets used to help finance these land transfers.

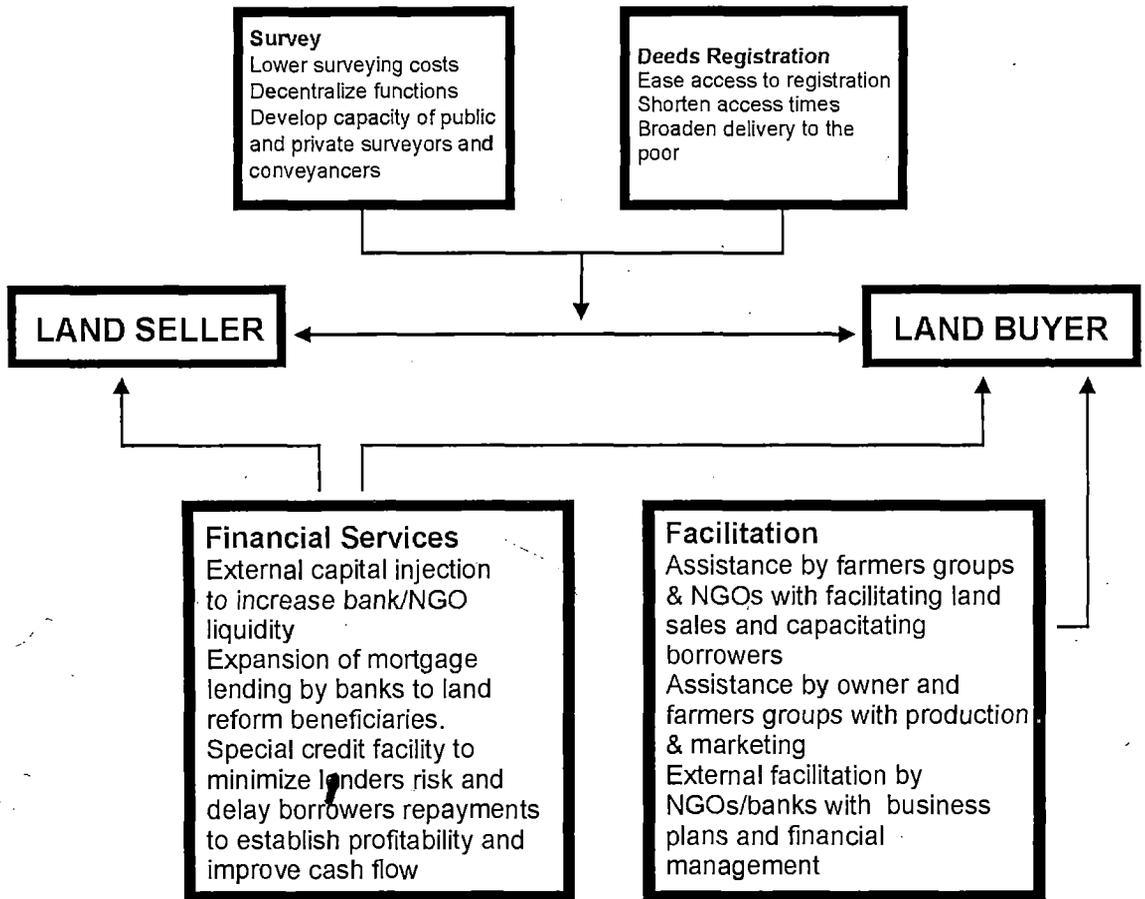
Might this situation be reversed? The answer is yes, but with the caveat that government's approach to private land markets needs to change. Our study revealed that there are indeed white commercial farmers who are willing to sell land to black farmers in the private land market. Rather than too few "prospective" black land buyers to purchase land, the problem instead is expensive land surveying, long processing times, subdivision constraints, lack of decentralized land delivery services, a collapse of rural financial markets, and gender discrimination that make land delivery services "unaffordable" in terms of time and opportunity costs, if not direct fees. Hence a policy solution (Figure 6) that makes land survey and deeds registration more "affordable" and "accessible" is anticipated, but these outcomes alone would not likely re-accelerate land transfers or restore land valuations. In addition, there is need to give greater policy focus to strengthening the integration between land and capital markets.

The current situation sees prospective land buyers having to turn to individual savings and cash holdings for land purchases which act to slow demand, while the financial sector is considered risky in light of macroeconomic instability, uncertain property rights in land, and weak government resolve in the face of land encroachment. Should adequate land and financial institutions be restored, one could imagine a situation where the financial sector could play a leading role in expanding long term mortgages to enable and facilitate land purchases, but lenders are likely to shy away from this role unless their risk is insured through, for example, donor injection of capital, and donor underwriting of risk (at least until macroeconomic stability is restored). Landholders will not likely accelerate their demand for land without credit facilitation to offset expectations of weak profitability and cash flow problems at least in the early years of land ownership. As observed by Lyne and Darroch (2003) for South Africa, it is possible to design special credit facilities to achieve these goals, but a close partnership would be needed between Banks and the various arms of government to facilitate the land market, and donor grant funds would be required to mitigate the effects of economic regress in the short to intermediate-run.

Government, since 1980, has operated as the Land Buyer (Figure 6) and either: a) operated these farms as state farms; b) redistributed the land to beneficiaries in resettlement schemes; or c) leased this land out, sometimes on a lease-to-buy basis. Clearly, the private land market does not always serve the poor and disenfranchised well, thus the need for facilitation by government, civil society, or the private sector. However, government's acquisitions on a compulsory basis and its payment of compensation only for improvements is acting to undermine land valuations, the potential collateralization of land in the eyes of financial institutions, and the viability of the financial sector. A more appropriate policy stance would be one where compulsory acquisitions are stopped, rights of all current land holders (black and white) are assured, and procedures are developed to determine fair and adequate compensation (with payment by the donor community). But, in addition, there is risk that government's interventions will undermine the land and financial markets for decades to come by such policies as withholding title until full payment is made, imposing restrictions on land transfers (oftentimes back to government at the end of the lease period), and depriving smallholders of outright ownership.

**Figure 6: Legal and Policy Reforms**

**Ease subdivision rules:** Eliminate most rules on land use or economic viability used to control farm ownership; downsize government's involvement as land owner or manager of leases. Privatize all government land holdings to strengthen ownership and begin rebuilding land valuations and financial credit; introduce gender affirmative action.



**Box 6: Policy recommendations: public lease market**

The following options should be implemented to increase tenure security of the leaseholder, restore liquidity and confidence to the financial sector, and facilitate government's withdrawal from the land market:

1. Where government has assisted beneficiaries to access land, this should be followed by registration of rights by way of lease with an option to purchase or a certificate of entitlement that is upgradable to full title.
2. In the case of lease to purchase, the lease should be required to purchase the property with personal cash or financing from a commercial bank to move government out of the business of financial intermediation.
3. Once the process has been completed, the title deed should be issued promptly.
4. Banks approached for bond financing will be responsible for evaluating business plans. In the event of foreclosure, the property would revert to the bank.
5. Sector ministries and departments, along with private sector conveyancers, should be assisted to build capacity to survey and register all land now in the name of government.

The private land market is not the panacea for land reform in Zimbabwe. But, neither is it a villain to be ignored at all costs. The government of Zimbabwe will never have the wherewithal to acquire land (even compulsorily), identify new landholders, and engage in resettlement in ways that assure productivity and sustainable land use management. If "fast track" land reform has a lesson, it is that land access is given value only if livelihoods are secured. And based on the high rates of absenteeism among the newfound beneficiaries, aggregate production losses, and depletion of economic assets since 2000, a better way is needed. That development approach envisions the need for a stronger government-private partnership where government gives to the private sector what the private sector is best able to deliver, and government retains for itself the "public goods" that the private sector will not provide. The dimensions of this public good need to be urgently rethought and reconceptualized with a more targeted focus on what government is best able to deliver. Public-private market solutions will not always be an easy marriage, but combined they are stronger than when either is divided or suppressed.

## ACKNOWLEDGEMENTS

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# ANNEX A

## An example of a deed of transfer

[Preparation clause]

Prepared by me

.....  
CONVEYANCER

### DEED OF TRANSFER

[Heading, which describes nature of deed]

### BE IT HEREBY MADE KNOWN THAT REX TAPFUMA SHANA

[the preamble]

appeared before me, Registrar of Deeds, at Harare, he, the said appearer, being duly authorized thereto under and by virtue of a power of attorney at CHITUNGWIZA on 16 April 1997 and granted to him by

**MORRIS CHITIKITI**

DOB (27 September 1965)

Or

Identity number: 63-949695-M-47

which said power of attorney has this day been exhibited to me;

[the recital or causa]

AND THE SAID appearer declared that his principal had truly and legally sold and that he, the said appearer, in his capacity aforesaid, did by these presents cede and transfer in full and free property to and on behalf of

[the vesting clause]

**SUSAN MANGORI**

DOB (18 January 1965)

Or

Identity number: 45-1043214-M-11

# Annex A

(continued)

[the property clause]

Certain piece of land situate in the district of Salisbury called stand 5253 Salisbury Township Lands, measuring 2336 square metres.

[the extending clause]

AS WILL more fully appear on preference to the deed of transfer with diagram annexed made in favour of Alec Midgley Whitehead on 2<sup>nd</sup> day of April 1952 [Reg No 1323/52] and subsequent deed of transfer 3193/92 dated 2<sup>nd</sup> day of April 1992 made in favour of the appearer's principal.

[the conditional clause]

Subject to all such terms and conditions as are in the said deed mentioned or referred to including the following special conditions:

1. Property may not be transferred without the consent of the City Council.

2. ....

[the consideration clause]

And finally acknowledge the whole of the purchase price to be the sum of \$300 000 (three hundred thousand dollars).

[the execution clause]

IN WITNESS WHEREOF I, the said Registrar with the appearer q.q. have subscribed to these presents and have caused the seal of office to be affixed thereto.

THIS DONE AND EXECUTED at the office of the Registrar of Deeds in Harare, Zimbabwe on this the ..... Day of ..... in the year of our Lord one thousand one hundred ninety seven.

q.q.

In my presence

.....

REGISTRAR

## Annex B: The Land Survey Act (Chapter 20:12)

The Minister of Lands, Agriculture and Rural Resettlement administers the Act. It is closely linked to the Deeds Registries Act (Chapter 20:05) in that it deals with physical attributes of land transfers. It lays emphasis on property boundaries and gives information in terms of dimensions, location, size, and acreage of land to which title deeds have been issued. In terms of these two pieces of legislation, a diagram or a map in the form of a General Plan may be required or simply referred to, in which case such a plan shall be filed in the Department of the Surveyor General.

The Act calls for the establishment of the office of the Surveyor General, sets out his duties and those of Land Surveyors, including the procedure to be followed in the survey of land for the purpose of registering a title. Once a piece of land has been surveyed, the survey records and requisite information need to be examined and approved by the Surveyor-General, and such records are then filed permanently in the office of the Surveyor General. The Surveyor-General may, however, unless otherwise directed by an order of the court, refuse to approve a diagram of any such piece of land if he has reasonable grounds for believing that an area not owned by the owner of that piece of land has been included within the boundaries thereof as defined in such a diagram, or that payment of any taxes or duties has been or will be evaded by any registration in the Deeds Registry based upon such a diagram.

In the case of subdivision of land to effect separate registration of one or more portions of that land in the Deeds Registry, the Surveyor General instructs a land surveyor to undertake the survey of unalienated/alienated state land if he is not in a position to do so. If the land is owned by and falls within the jurisdiction of a local planning authority then the responsible Local Authority instructs a land surveyor to undertake the survey. In both cases, two copies of the relevant subdivision plan need to be forwarded to the Surveyor-General prior to appointment of a surveyor. Upon approval of any survey records, including any diagram or the general plan diagrams relating to a subdivision plan, the Surveyor-General shall notify the Registrar of Deeds and the local planning authority of his approval.

However, when a surveyed piece of land which is held in undivided shares is divided for the purpose of partitioning, the Surveyor-General may withhold his approval of a diagram purporting to represent an exact fraction of the total area of such surveyed piece of land, until he is satisfied that such total area has been ascertained by a re-survey of the whole of such a piece of land.

As mentioned in the Act, one of the Surveyor General's duties is to control and supervise the survey and charting of land for purposes of registration in the Deeds Registry (Section 7(1)(a)). There is therefore need for close liaison between the Surveyor General and the Chief Registrar of Deeds as also mentioned in the Deeds Registry Act by reference to "deed of grant issued under proper authority and having a diagram of the land annexed thereto" (Section 16(2)), and the particulars required in every deed to include "the issue of a dispensation certificate" (Section 20(a) (ii)) and "the General Plan concerned" (Section 20(b)), all of which fall under the purview of the Surveyor General. In practice, this cooperation tends to slow down the pace of transfer of land since the Registrar's activities are made to depend on those of the Surveyor General and vice versa. Due to this closely-knit link and cooperation, the two Departments have found it expedient to be located in the same building.

## **Annex C: The Deeds Registry Act 1991 Revised 1996 (Chapter 20: 05)**

The Minister of Justice, Legal and Parliamentary Affairs administers the Deeds Registry Act of 1996. The Act provides for the establishment of the Deeds Registry and its role as an office of public records pertaining to the transfer of rights and ownership of land and property. It regulates the official records of the transactions that take place when land changes hands as well as sanctioning the eligibility of the individuals involved in the transaction. It requires that the ownership of land may only be conveyed by a deed of transfer and real rights by deed of lesion and in some cases that survey diagrams accompany all applications.

In terms of Section 13, only a conveyancer (notary public) may prepare and sign or execute certain deeds and documents to be registered or lodged in the Deeds Registry. The act makes special provision relating to married women who should be assisted by their husbands in executing any deeds or documents if by virtue of her marriage they have no legal capacity to execute such deed or document without the assistance of their husband. The transfer of unalienated (without title) or alienated (with title) state land according to Section 16 is only to be made by a deed of transfer and a deed of grant, respectively. The Minister can apply, after any unalienated state land has been surveyed and a diagram drawn up and approved, to the Registrar who in turn executes a certificate of state title prepared by a conveyancer. Such deeds can only be cancelled upon the direction of the Minister after which the land becomes unalienated state land.

The Act also makes provision for transfers of land in a joint estate. Where two or more persons by the same deed of transfer shall not be affected in relation to inheritances and donations, such land shall be transferred on behalf of the heirs to the guardian of those heirs during their minority. The registrar shall make an endorsement on the transfer deed setting out their names after identity of all heirs has been confirmed. The act addresses other modes of land transfers, which are mortgage bonds, sale on installments, and leases. The essential elements of a mortgage are that it must be prepared and executed by a conveyancer, attested and sealed by the Registrar of Deeds, and specially hypothecate immovable property. On sale of land on instalments, the registrar shall endorse the title deed of the land concerned that such land is subject to the contract and such on endorsement shall confer on the purchaser of the land concerned.

A lease is formed under a notarial deed by the consent and agreement of the parties. The essentials of a lease are that the object of the contract is to let and hire, the property must be ascertained and the rent fixed and ascertained as well. If the land leased is mortgaged or subject to the rights of any other person, then production of the consent of the legal holder shall be necessary.

## **Annex D: Agricultural Land Settlement Amendment Act Chapter 20(19) of 2000**

Administered by the Minister of Land and Water Resources, this Act provides for the establishment of an Agricultural Land Settlement Board, prescribes its functions and duties, provides for the settlement of persons on and the alienation of agricultural land, and provides for matters incidental to and connected with the foregoing. The Board is mainly responsible for considering and reporting on the applications for leases in terms of this Act. It follows therefore that no lease in respect of a holding of land will be issued to an applicant until the applicant has been referred to the board for its consideration and report. The leases issued by the Minister may contain an option to purchase the holding or any other terms and conditions fixed by the Minister. The President may retake possession of land alienated in terms of this Act or any portion for public purposes and the moneys required for the payment of compensation is to be paid out of moneys appropriated for this purpose by the Act of Parliament.

The lessee must also abide with some conditions: he cannot cede, assign, hypothecate or otherwise alienate his lease or rights or place any other person in possession of his holding without a written consent from the Minister. Where a lease contains an option to purchase, and such has accrued and has been exercised, the lessee shall be entitled to title deeds in respect of the holding if all payments have been made. In the event of a lessee becoming insolvent, the trustee or assignee of the estate may cede the lease to a person approved by the Minister in writing failure of which, within six months, the lease will terminate. Upon death or insanity of the lessee declared by order of a competent court incapable of managing his own affairs, the legal representative of the lessee may cede the lease to a person approved by the Minister or continue the lease on behalf of the state.

When a lease has been terminated upon the lessee giving 3 months written notice, the Minister has a right to retake possession of land but this shall not cancel any debt from the lessee to the state. Termination of a lease due to insolvency does not permit compensation to the lessee or his trustee for improvements effected on or to the holding. The control and occupation of Agricultural Land is done by the Minister whereby he can give orders to owner or lessee as to how many people whether employees or otherwise can occupy the farm. If the lessee feels that he will not be able to comply with the order within the time specified he may request an extension from the Minister, or the Appeal Board, if refused by the Minister.

The last part of the Act dwells on the authority of an inspector appointed by the Minister to enter the holding as may be necessary for the purpose of examination of the holding or the farming operations being conducted, or ascertaining whether or not the lessee is complying with the terms and conditions of his lease.

## **Annex E: Other Legislative Acts Pertaining to Land Transfers**

***Land Occupation Conditions Act (Chapter 20:11) of 1982, Revised 1998.*** Administered by the Minister of Lands, Agriculture and Rural Resettlement, this Act declares the meaning of the term "occupation" with reference to grants of land in Zimbabwe, prescribes how the condition of occupation may be eliminated from the terms of such grants, and provides for the surrender of titles to land already granted. The occupation condition may be satisfied in the case where the owner has erected permanent substantial buildings not below a certain amount stipulated by the president. The owner of any title deed to land subject to the condition of occupation will upon production of a certificate from a district officer (or other officer nominated by the Surveyor-General) that the requirements of Section III have been fulfilled, be entitled to obtain the elimination of the occupation condition from the grant. Section 7 highlights the fact that any holder of a title deed to land under the condition of occupation can abandon the whole or a portion of his land at any time by notice to the Surveyor-General. His further liability in respect of such land or portion therefore ceases. Emphasis is also put on unprotected land in the sense that if the holder of the title deed fails to occupy it within a year or does not take out a certificate of exemption, the land is considered derelict. Furthermore, if after a notice issued by the Minister in the Gazette the holder does not respond in 6 months then that land will revert to the state. In relation to change of title to any land that is mortgaged, the Registrar of Deeds shall make the necessary note/entry and thereupon the right of hypothecation of the bondholder shall extend and apply to such land. Conclusively this Act does not apply to stands in townships or to plots of land elsewhere containing not more than 170 hectares.

***The Settled Estates Leasing Act (Chapter 20:19) of 1984.*** This Act facilitates leases of settled estates. The High Court can authorize leases of any settled estate as a whole or part thereof for whatsoever purpose as long as every lease is made to take effect in possession within one year and the lease does not exceed 21 years. There is need also that every lease have the best rent reserved, either uniform or not, and put in writing with a condition of re-entry on non-payment of the rent for a period of less than 3 months after it becomes due. The High Court may require applicants of a particular lease or to vest powers of leasing trustees to produce such evidence as it considers sufficient to enable it to ascertain the nature, value and circumstances of the estate and the terms and conditions on which leases ought to be authorized. The High Court may appoint lessors, and leases executed by these shall take effect as if he was absolutely entitled to the whole estate or interest, which is bound by the settlement.

***Titles Registration and Derelict Lands Act (Chapter 20: 20) of 1984.*** Administered by the Minister of Justice Legal and Parliamentary Affairs, the Act provides for the registration of title in certain cases, and for the disposal of certain derelict lands. It states that any person who has acquired the just and lawful right to the ownership of land registered in another person's name and cannot procure the registration of such property in his name in the land register by reason of death, mental incapacity, insolvency or absence from Zimbabwe of the person in whose name the property is registered, may apply to the High Court to order the registration of the title to such property in his name. All application to the High Court made in this act must be supported by an affidavit. Where there are unpaid debts for the space of 5 years on derelict land, any person with a claim on the land can apply to the High Court stating the amount and grounds for applying for relief under this Act. The judge may therefore order the sell or attachment of property so as to settle any claims made against it. Subject to such an order for registration of title, any mortgages attached to the property shall remain in existence and the proper entries and endorsements made on the deed of transfer by the Registrar.

## Annex F: Distribution of owners by gender category and mode of land redistribution in Zimbabwe, 1996-2001

Characteristic	Disadvantaged				White					
	Male owners	Female owners	Corporate owners	Missing*	Total	Male owners	Female owners	Corporate owners	Co-owned	Total
Number of transactions	n=207	n=193	n=179		-	n=198	n=48	n=482	n=84	-
Government-assisted (%)	6	0	94	0	100	0	0	0	0	0
Private mortgage (%)	42	20	20	16	100	25	4	63	8	100
Private cash (%)	40	17	30	13	100	21	6	63	10	100
Private non-market (%)	20	45	20	15	100	25	13	47	15	100
All transactions (%)	37	20	30	13	100	23	7	61	9	100

*\*The columns do not add up to 100% because some of the farms have missing information on the mode of payment (private cash, private bond, government assisted and non market) used to acquire the farm.*

## Annex G: Public Land Market Gender Characteristics

Year	Number of Transactions				Total Area of Farmland (ha)				Market Value ('000 ZW\$)				Weighted Land Price (ZW\$/ha)			
	Male	Female	Corporate	Co-owned	Male	Female	Corporate	Co-owned	Male	Female	Corporate	Co-owned	Male	Female	Corporate	Co-owned
1986	3	1	7	0	844	3.6	14 911	0	126.1	0.2	2 403.9	0	253	796	338	0
1987	1	0	2	0	256	0	1 544	0	240.4	0	154.1	0	938	0	382	0
1988	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
1989	1	0	1	0	713	0	754	0	1 672.0	0	143.1	0	2 343	0	189	0
1990	2	0	0	0	248	0	0	0	52.4	0	0	0	210	0	0	0
1991	4	0	1	0	1 291	0	959	0	184.2	0	47.1	0	142	0	49	0
1992	8	0	1	0	11 053	0	164	0	268.9	0	22.1	0	24	0	134	0
1993	30	0	4	0	39 241	0	3 766	0	1 949.0	0	186.2	0	84	0	82	0
1994	7	0	2	0	7 743	0	2 013	0	307.2	0	24.8	0	136	0	24	0
1995	19	2	3	0	10 598	1 412	840	0	5 526.6	88.3	142.2	0	521	63	1 501	0
1996	3	1	0	0	5 323	20	0	0	181.5	121.8	0	0	42	6 185	0	0
1997	67	6	1	2	34 584	3 155	261	2 489	170 000.0	16 000.0	0.8	11 000.0	4 915	6 620	31	4 666
1998	16	2	0	2	5 865	596	0	164	76 000.0	4 397.1	0	511.3	12 950	7 347	0	3 771
1999	5	2	0	6	4 497	1 951	975	1 171	15 000.0	5 208.8	0	32 000.0	7 671	6 116	0	27 845
2000	48	5	0	14	35 622	2 555	0	15 246	93 000.0	738.6	0	32 000.0	2 610	2 889	0	2 098
2001	57	2	0	10	80 282	5 004	0	15 888	51 000.0	333.3	0	9 583.1	796	646	0	613
Total	271	21	22	34	238 165	14 697	26 189	34 958	415 508.0	33 535.5	3 131.5	85 094.4	1 744	2 281	119	2 434



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