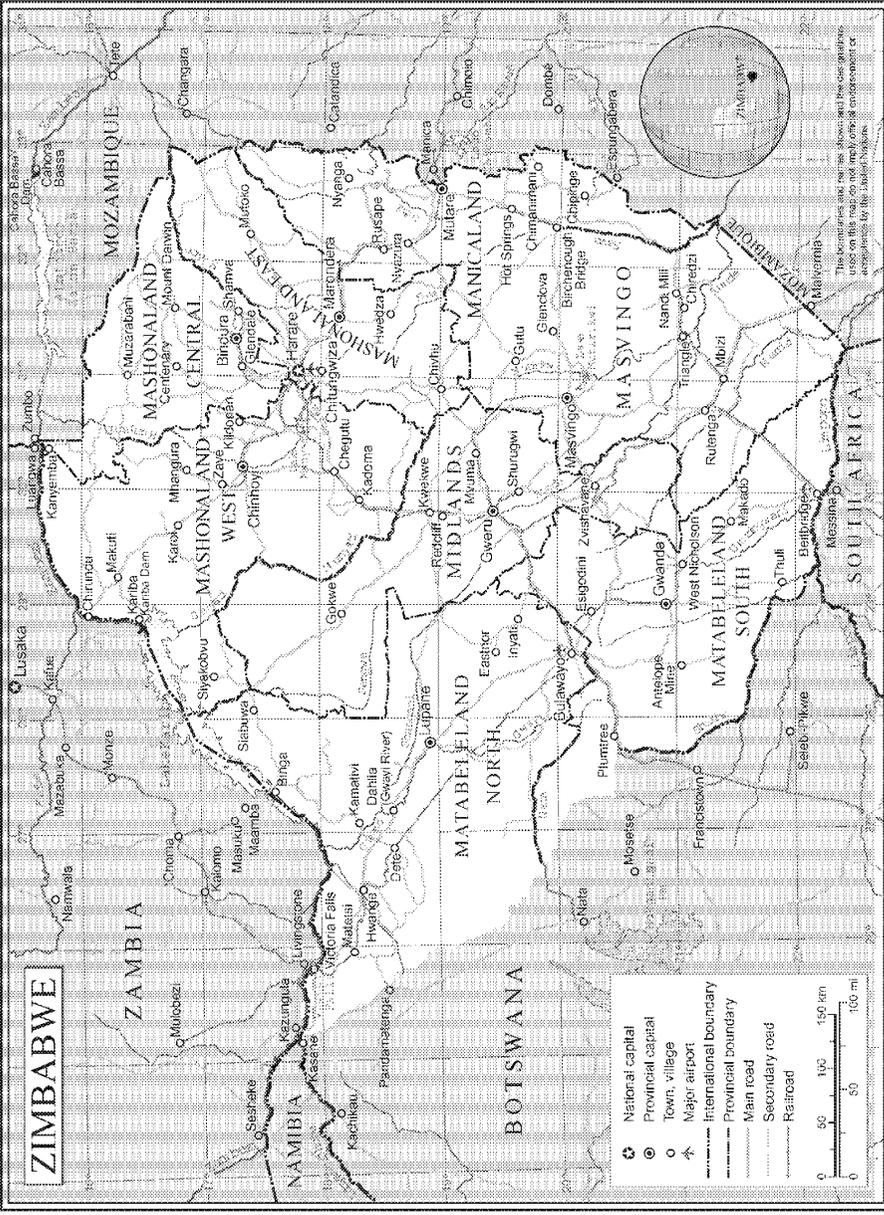


PART 2

ZIMBABWE



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2. A Bitter Colonial Legacy: 1889-1980

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

A. FUNDAMENTAL UNFAIRNESS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. LANCASTER HOUSE

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

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

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

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

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

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

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

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

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

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

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

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

⁴⁸ Such compensation would be exempt from exchange control restrictions.

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

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

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

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

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

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

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