

# **PART 1**

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## **INTRODUCTION**



# 1. The Context of Land Reform in Southern Africa

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## A. A QUESTION OF JUSTICE

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

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

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

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

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

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

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

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

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

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

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

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

Zimbabwe has also demonstrated that disputes over land can quickly turn violent, particularly when they are manipulated for short-term political gain at the expense of long-term stability. This report focuses directly on Zimbabwe and South Africa because land has been a conflict issue in Zimbabwe and has the potential to be one in South Africa. Sadly, the mishandling of land reform has accelerated racial and ethnic polarisation, and such missteps will make the achievement and maintenance of completely equitable and racially non-discriminatory societies all the more difficult. Organised pressure in support of sustainable land reform in most of southern Africa is underdeveloped. However, civil society organisations are an important source of knowledge and expertise on the issue, and the history of land reform supports the notion that they can be vital in strengthening government resolve and commitment – just as it was in South Africa in 1994.<sup>5</sup>

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

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

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<sup>5</sup> Report of the Southern Africa Regional Conference on Farm Workers' Human Rights and Security, 3 May 2001. Available at [www.oxfam.org.uk](http://www.oxfam.org.uk).

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

### **Namibia, Botswana, Angola and Mozambique**

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

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

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

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

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

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

### **The Impact of HIV/AIDS**

Finally, in every country of the region, HIV/AIDS makes land reform – and indeed a range of other social and economic issues – enormously more difficult. In South Africa, for example, some analysts predict the population will fall from 44 million to 35 million by 2025. By 2005, 1,000 people will die daily of the disease.<sup>7</sup> The life expectancy of a twenty-year old South African is 36.6 years, and the country is only at the outset of the pandemic. Demographers project that adult life expectancy could be reduced to 26 by 2010, with 75 per cent of teenagers failing to reach the age of 16.<sup>8</sup> Economic projections do not yet take fully into account the negative impact of these demographic trends on savings and poverty rates, returns from education, the ability of institutions to function and the stability of family structures.<sup>9</sup> The lack of an integrated land use policy can only be exacerbated by the HIV/AIDS pandemic.

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

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<sup>7</sup> Health Systems Trust, "South Africa Population Expected to Drop by 26 per cent by 2050", 2003. Available at [www.hst.org.za](http://www.hst.org.za).

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

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

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

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

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

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

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

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in Southern Africa", notes from an informal think tank meeting, Pretoria, 1-2 March 2003. Available at [www.oxfam.org.uk](http://www.oxfam.org.uk).

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

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

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

<sup>14</sup> "Women Fight Back Against Traditional Land Grabbing", IRIN, 19 June 2003.



often lessened when negotiating sharecropping terms or other arrangements.<sup>15</sup>

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

## B. ZIMBABWE

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

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

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

<sup>16</sup> Ibid.

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

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

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

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

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<sup>18</sup> "Pensioners Hurt by Record Inflation", IRIN, 26 December 2003.

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

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

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

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

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

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

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

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

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

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<sup>19</sup> The African Union replaced the Organisation of African Unity on 10 July 2002.

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

High rates of HIV/AIDS and persistent drought have added to Zimbabwe's general woes, at a time when life expectancy has dropped to 37 years – from a high of over 67.<sup>20</sup> The vast majority of Zimbabweans are caught in a social and economic trap of growing severity, where staggering inflation, sharply reduced economic opportunities and political tensions combine to make life a daily struggle.

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

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

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<sup>20</sup> See World Health Organisation selected health indicators at [www3.who.int/whosis/country/indicators.cfm?country=zwc](http://www3.who.int/whosis/country/indicators.cfm?country=zwc).

## C. SOUTH AFRICA

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

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

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

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<sup>21</sup> Statistics South Africa reports that between 1990 and 1996 the number of large-scale farmers went from 62,084 to 60,938. This number plummeted to 45,000 by 2001. See [www.statssa.gov.za](http://www.statssa.gov.za).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<sup>28</sup> *Ibid.*, p. 9.



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

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

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

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

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<sup>29</sup> "Africa's Engine", *The Economist*, 15 January 2004.

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

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

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

<sup>33</sup> "South Africa's Violent Farms", BBC, 3 September 2003.

<sup>34</sup> ICG interviews in South Africa, May and December 2003.

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