

8. Picking up the Pieces

A. THE NECESSARY TASK

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

³⁴⁸ ICG interview, 8 December 2003.

³⁴⁹ ICG interview, Harare, 5 December 2003.

³⁵⁰ ICG interview, Harare, 6 December 2003.

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

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

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

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

³⁵¹ ICG interview, 8 December 2003.

³⁵² ICG interview, Harare, 6 December 2003.

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

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

B. A LAND COMMISSION

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

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

The Commission's Mandate

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

³⁵³ ICG interview, April 2003.

³⁵⁴ ICG interview, Harare, 3 December 2003.

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

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

Seized Commercial Farms

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

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

³⁵⁶ ICG interview, 8 December 2003.

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

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

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

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

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

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

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

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

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

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

A1 Subsistence Plots, Past and Future

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

³⁵⁹ ICG interview, Harare, 5 December 2003.

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

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

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

³⁶⁰ ICG interview, Harare, 7 December 2003.

³⁶¹ ICG interview, 3 December 2003.

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

A2 Redistributions

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

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

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

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

C. THE GRAIN MARKETING BOARD

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

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

D. THE ROLE OF THE INTERNATIONAL COMMUNITY

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

³⁶² ICG interview, Harare, 7 December 2003.

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

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

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

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

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

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

E. CONCLUSION

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

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