



Land Tenure Center

# **Government Assisted and Market-Driven Land Reform:**

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

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**SESSION 2: ROLE OF PRIVATE LAND MARKETS IN REDISTRIBUTING LAND  
TO THE HISTORICALLY DISADVANTAGED**

**DELIVERING LAND AND SECURING RURAL LIVELIHOODS:  
POST-INDEPENDENCE LAND REFORM AND RESETTLEMENT IN  
ZIMBABWE**

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## **ABSTRACT**

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

# **GOVERNMENT ASSISTED AND MARKET-DRIVEN LAND REFORM: EVALUATING PUBLIC AND PRIVATE LAND MARKETS IN REDISTRIBUTING LAND IN ZIMBABWE<sup>1</sup>**

by

**Lovemore Rugube, Sam Zhou, Michael Roth  
and Walter Chambati**

## **1. INTRODUCTION**

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

Much debate has ensued about the efficacy of fast track land reform in redistributing land to beneficiaries and the use to which the land is being put. At present, the basic definitions of land rights under fast track seem lost in a cloud of uncertainty over whether the new beneficiaries will remain on the land, whether they will have formal rights, and whether the land will be used productively. Fast track was in part motivated by the slow pace of government assisted land reform during the first decade after independence. What is less known, is that the private land market in Zimbabwe has also been significant in redistributing land to black farmers without government assistance with land acquisition or resettlement. As

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long as government budgets are tight and its reach is limited, private market solutions are an important tool in the policy kit of land reform either as a complement to government-led approaches, or by strengthening the integration of land and financial markets to aid in the private commercialisation of agriculture.

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

## 2. AGRARIAN STRUCTURE

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

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

	European (ha)	African (ha)
<b>Forest Area</b>	753,023	171,635
<b>General land</b>	15,580,056	
<b>Tribal Trust Land</b>		16,151,905
<b>Specially Designated Land</b>	7,370	117,831
<b>Purchase Area</b>		1,482,991
<b>Parks and Wildlife</b>	1,770,913	254,733
<b>Total</b>	18,111,362	18,179,095

Source: Riddell J.C and Dickerman C (1986)

At the time of independence in 1980, it was estimated that the Tribal Trust Lands (TTLs) or native reserves were overpopulated by about 51 % (Bond-Stewart 1986). The new

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

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

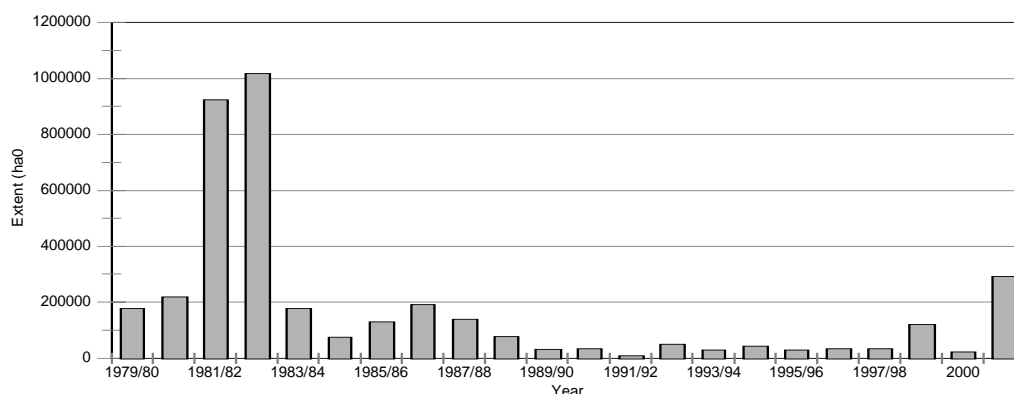
**Table 2: Land Distribution after Independence**

Land Category	1980 '000,000' ha	1990 '000,000' ha	1997 '000,000' ha
<b>Communal areas</b> <sup>1,a</sup>	16.4	16.4	16.4
<b>Resettlement areas</b> <sup>1</sup>	0.0	3.3	3.6
<b>Small scale commercial farms</b> <sup>2,b</sup>	1.0	1.4	1.4
<b>Large scale commercial farms</b> <sup>2,c</sup>	14.8	11.4	11.0
<b>State Farms</b> <sup>1</sup>	0.3	-	0.1
<b>National parks &amp; wildlife and urban settlements</b>	6.0	6.0	6.0
<b>Total</b>	38.5	38.5	38.5
Source: 1. GoZ (1999); 2. CSO (1998).			
Notes:			
a. Communal areas formerly known as Tribal Trust Lands or Native Reserves.			
b. Small scale commercial farms formerly known as Purchase Areas.			
c. Large scale commercial farms formerly known as European Areas or General land.			

In 2000, government launched “fast-track” to speed the pace of land acquisition and transfers under the Land Reform and Resettlement Programme phase 2 (LRRP-2). Beneficiaries under fast track land reform, at least in theory, are resettled according to two models – A1 (communal) and A2 (large-scale commercial). Table 3 and Figure 1 show the scale of government farm acquisitions from 1980 to 2001. By December 2000, a total of 2,540 farms with a total area of 5.88 million hectares had been identified and gazetted for compulsory acquisition (Msika 2000). By December 2002, fast track land reform had resettled 310,000 families under the A1 villagisation scheme and 50,000 other new farmers in the A2 commercial farming scheme (The Herald 2002).

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

**Figure1: Extent of farms acquired by government, Zimbabwe 1979-2001**





**Table 3: Government land acquisition since 1980**

<b>Year</b>	<b>Extent (Ha)</b>	<b>No. of Farms</b>	<b>Cost (Z\$)</b>
1979/80	176,667	76	3,477,080
1980/81	217,869	97	4,259,607
1981/82	922,919	313	18,290,340
1982/83	1,016,941	471	23,287,957
1983/84	177,716	148	5,996,789
1984/85	75,623	67	4,444,930
1985/86	130,292	64	5,153,010
1986/87	191,133	70	7,091,407
1987/88	138,349	52	5,786,315
1988/89	78,203	51	7,255,575
1989/90	31,050	26	7,626,150
1990/91	34,911	28	7,952,770
1991/92	8,275	7	3,860,000
1992/93	48,924	35	35,526,980
1993/94	29,964	24	19,349,500
1994/95	42,721	27	25,470,000
1995/96	28,575	11	8,335,000
1996/97	34,563	10	4,810,000
1997/98	34,873	22	65,310,000
1999	119,953	50	171,121,000
2000	23,346	13	100,740,000
2001	293,350	140	
Total	3,856,217	1,662	535,144,409

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

### 3. LEGAL AND REGULATORY FRAMEWORK

Zimbabwe's legal system is based on Roman Dutch Law which governs property rights in

#### Progression of Law Governing State Land Acquisition

**1. Constitution:** Section 16(1) states that “*No property...or interest or right therein shall be compulsorily acquired, except under authority of a law...*” The legal framework governing land redistribution in Zimbabwe has undergone various transformations since independence:

**2. Lancaster House Constitution of 1979.** *According to section 16, only land not used continuously for at least five years could be compulsorily acquired for settlement and agricultural purposes. Adequate compensation was to be paid promptly, not less than the highest price obtained in the open market during the five years prior to acquisition, and payable in foreign currency at the option of the owner.*

**3. Land Acquisition Act of 1985.** Still only underutilised and derelict land could be compulsorily acquired on a “willing buyer, willing seller” basis. All agricultural land for sale had to be offered to government on the basis of “right of first refusal.” Compensation was to be paid promptly to the owner or others suffering deprivation. In case of disagreement over compensation, owners were given legal recourse to the court.

**4. Constitution of Zimbabwe Amendment Bill No. 11 of 1990.** *Section 16 of the Constitution was amended so that all land including utilised land, buildings and unexhausted improvements could be acquired compulsorily (Hansard 1990 Vol.17 No. 58) versus only underutilised and derelict land in the 1985 Act. The basis for compensation was shifted from “adequate” to “fair” and could now be settled in a “reasonable time” instead of “immediately.” Parliament was authorised to fix the compensation payable and the settlement period. Government removed from the court’s jurisdiction determination of fairness of compensation, and abolished payment in foreign currency.*

**5. Land Acquisition Act of 1992.** *The Act was updated to include provisions of the Amendment Bill No.11. In addition, a clause was added empowering the Minister of Lands and Agriculture to designate any land for settlement and other purposes. A compensation committee was established to determine the compensation payable for designated rural land. Legislature provided for owners to make objections to designations in writing to the Minister.*

**6. Land Acquisition Amendment Act of 2000.** *After losing the referendum in February 2000, government amended the 1992 Act. It removed its obligation to pay compensation for agricultural land acquired for resettlement purposes. Compensation was made payable for improvements but not for land unless adequate funds are available per section 16A of the Constitution. Although the composition of the compensation committee changed, it retained responsibility for fixing the compensation payable.*

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

#### 3.1 Land Surveying

Land surveying is regulated by the *Land Survey Act, Chapter 20:12*. Its purpose is to control and regulate the survey and charting of land for registration

in the Deeds office. In terms of the Act, no general plan or diagram of any piece of land shall be accepted in the Deeds registry for registration unless signed by the responsible Land

Surveyor and Surveyor General. The Surveyor General, as the custodian of cadastral information, supervises the work of qualified and registered private land surveyors involved in cadastral surveys and in the process administers the Act on behalf of the Minister of Lands.

A cadastral survey results in the production of a survey diagram, which contains geometrical, numerical and verbal representations of a piece of land or a line, feature or area forming the basis for registration of a real right. The diagram represents the final docket that the Registrar of Deeds uses for his/her parcel

description and appends to the title deed. The diagram shows various attributes of the land including the extent or area of the land, length of the sides of the property, direction of each line, and the description of beacons.

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

#### **Processes for Recording or Transferring Rights**

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

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

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

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

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

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

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

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

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

### 3.2 Land Registration

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

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

Seven common types of Deeds are registered by the Registrar:

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

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

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

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

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

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

**7. Deed of Session.** Is issued when one party cedes immovable property or real rights in land to another party as usually happens in the case of mortgage bonds and leases. A mortgage

<b>Registration Charges</b>	
Payment of the stamp duty, estate duty and any other such duty is required prior to the registration of any transfer or cession. Calculation of Stamp Duty is provided for under the Finance Act (Chapter 23:04) as amended by Act 30/96 as follows:	
1. Mortgage Bond or Notarial Bond or any cession or substitution of debtor thereof for every \$100 or part hereof of the debt secured	\$0.40
2. Title Deeds: for registration of any acquisition of immovable property:	
a) Where the value <\$5,000 for every \$100, or part thereof	\$0.70
b) Where the value >\$5,000 or <\$15,000 for every \$100 or part thereof	\$3.00
c) Where the value >\$15,000 or <\$100,000, for every \$100 or part thereof	\$5.00
d) Where the value >\$100,000 for every \$100 or part thereof	\$6.00

bond is attested by the registrar specially hypothecating (pledging) immovable property. Section 44 provides for the execution of bonds. Registration of bonds to secure an existing or future debt can be done in the presence of the registrar by: a) the owner of the immovable property; b) a lawyer duly authorised; or c) in the case of a mortgage bond intended to secure a loan, by the General Manager of the financial institution.

Section 44 (5) prohibits securing debts or obligations to more than one creditor per bond holder, unless

authorised by court or another piece of legislation. Section 50 provides for the transfer of hypothecated (pledged) property, in particular the registrar shall not register the transfer of bonded property until the bond has been cancelled. Section 50 prohibits the registration and transfer of mortgaged land until the bond has been cancelled.

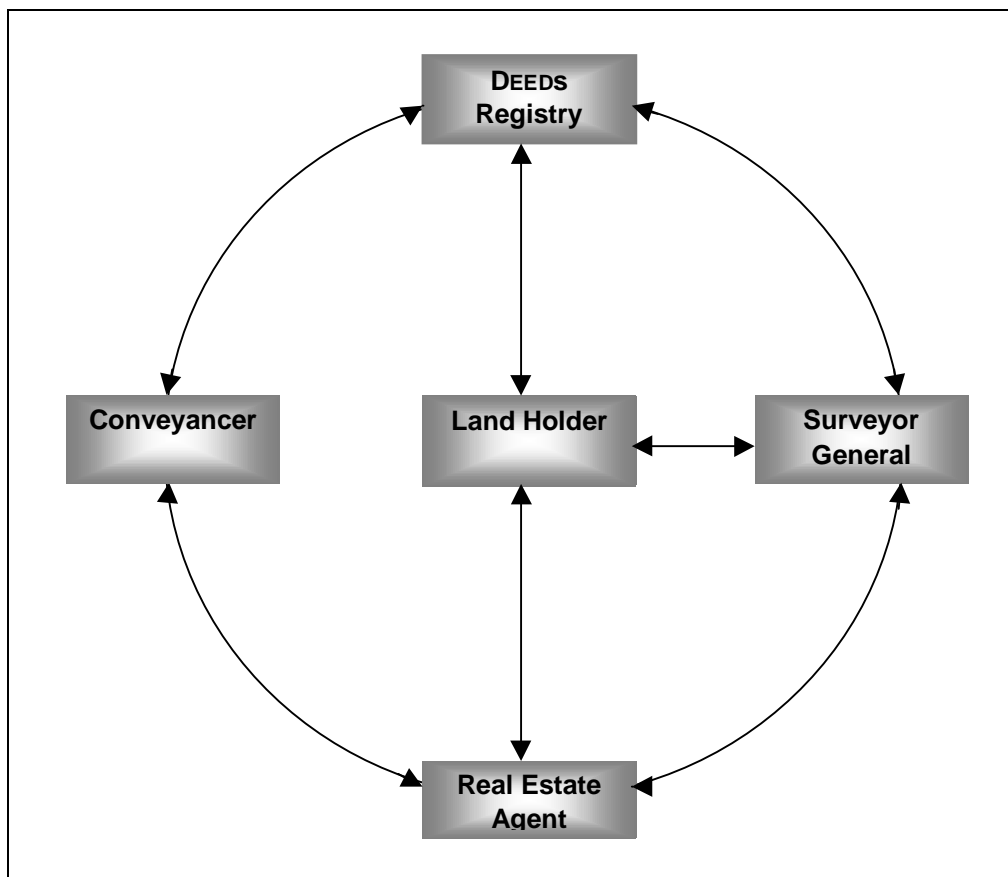
While there is provision of registration and transfer of state land, it is noteworthy that the Act is silent about registration of leases pertaining to state land. This situation makes it very difficult to assess the progress or lack of it by the government in parcelling out land to beneficiaries through leases. From experience and for a number of years, the government has bought a number of farms on the open market and especially through “willing buyer, willing seller” arrangements and it is known that most of these farms have been leased, most of them

with an option to purchase. There is evidence to suggest that some of these farms have since transcended to full title after the lessees exercised the option to purchase.

### 3.3. Procedures for Transferring Land

It is the function of estate agents to value land and undertake most of the bureaucratic and legal procedures associated with land transfer (see Box entitled Land Transfer Procedures). Once the survey has been approved, a registered conveyancer is required to process the title deed for registration. Once approved by the registrar of Deeds, the applicant finally receives the document. The organisational framework coordinating land survey and land registration in Zimbabwe is shown in figure 2.

**Figure 2: Organisational Framework for Land Survey and Registration in Zimbabwe**



The *Regional, Town and Country Planning Act of 1996 (Chapter 29: 12)* governs the transfer of agricultural land that is held on the basis of title deed or lease through the requirement of permits for subdivision and consolidation of land (Section 39). The Minister of Local Government, Public Construction and National Housing administers the Act. Application procedures for obtaining a permit as set out in Section 40 are cumbersome, time consuming and bureaucratic (see Roth and Sukume 2003). In accordance with the Act, the Minister must consult other ministries and government departments affected by, or having a stake in the subdivision or consolidation, including among others, Ministries of Lands and Agriculture, Transport and Communication, and Mines and Energy. Once all these groups have submitted their comments, a technical report is prepared, and together with the application, is submitted to the Agricultural Land Subdivision Committee chaired by the Ministry of Lands and Agriculture. In the event of the application being refused, Section 45 of the Act provides the applicant right of appeal to Administrative court.

The process is all-inclusive, democratic and does not aim to discriminate. However, it is noteworthy that this statutory instrument has often been sited as having introduced bureaucratic hurdles to timely subdivision and the transfer of land, especially in the pre-independence era where it served to discourage land transfers. The 1994 Land Tenure Commission (Vol. II) report has argued that the Zimbabwe government policy on subdivision is to ensure that all subdivisions are viable, based on the general farming system of the area.

#### **Land Transfer Procedures**

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

Further, interviews with responsible officials in Ministries and requisite Departments have shown that approval or rejection of an application is based mainly on the empirical arguments bordering on agricultural viability (Roth and Sukume 2003).

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

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

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



### 3.4 Gender

Clearly, whether the above regulatory framework embodied principally in the Survey and Deeds Registration Acts are sufficiently user-friendly in terms of time, costs, and knowledge for prospective land reform beneficiaries is probably no. The skills and wherewithal to navigate the organisational apparatus regulating land transfers, to survey land, to register title, and successfully argue for subdivisions and consolidations would be a daunting task for all but the “well-to-do” and the “well-connected”. One can also probably conclude that the

#### **Gender and Communal Tenure**

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

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

hurdles to accessing land delivery services for women are higher than for men, and for women that have been widowed or divorced, their ability to pay has been further disadvantaged by their weak economic status.

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

and privileges relating to communal land”.<sup>2</sup>

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

As of January 1929, all marriages in Zimbabwe were said to be automatically out of community of property. Joint estate under these marriages automatically fell under the administration of the husband by virtue of his marital power. He’s not obliged to give an account of his administration or to indemnify his wife for any loss due to his mal-administration. Under his marital power, a husband can sell, donate unwisely, or deliberately destroy his and his wife’s joint property without liability to his wife for damages. The option for marriage in community of property does exist (although is unknown to most ordinary people). The *Married Persons Property Act (Chapter 38) 1981* provides that a marriage can be registered in community of property through the parties signing a pre-nuptial agreement expressing such intention. In such unions, the property of spouses, present and future, movable or immovable, is merged into a joint estate in which the spouses hold equal and indivisible shares regardless of their contributions. However, the marital power vested in men in marriages out of community of property (the prevailing marriage union in Zimbabwe) can be seen to marginalise women married under this arrangement. Such women are incapacitated with respect to their capacity to participate in the acquisition, management and control of marital property.

Section 15 of *The Deeds Registries Act* provides that a married woman incapacitated by her marital status (and this presumably applies to those married in community of property) requires the assistance of her husband in executing any deed or document. This provision has

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<sup>2</sup> Communal Land is in terms of the Communal Land Act and the Traditional Leaders Act. The Chief of an area is given overall responsibility of allocating land through traditional leaders, i.e. village heads who are often the custodians of customary law. These are usually males whose patriarchal notions of women’s social status women can further work against the allocation of land to women.

the effect of limiting the ease with which certain women can participate in land transactions. The Act does stipulate that such women can acquire property without the assistance of her “husbands” by submitting an application to the Deeds Registry.

However, other legislation seeks to protect or reinforce women’s rights in land and property. The *Immovable Property (Prevention of Discrimination) Act (Chapter 10:12) 1982*, for example, is aimed at protecting against discrimination on the grounds of race, tribe, place of origin, political opinion, colour, creed or sex of any person or class of persons with regard to the selling or leasing of immovable property.<sup>3</sup> The *Deceased Persons Family Maintenance Act (Chapter 6:03) 1994 (Amended in 1997)* seeks to make provision for a range of beneficiaries, “...from (1) spouses of unregistered customary law marriages; (2) children born out of wedlock who were receiving maintenance; to (3) parents of the deceased who may have been supported by their now deceased child.<sup>4</sup> The *Matrimonial Causes Act (Chapter 5:13) 1996* provides for matters relating to marriages, dissolution or nullity as well as the division of assets after the dissolution of the marriage.<sup>5</sup> The 1997 amendment of

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<sup>3</sup> Section 12(b) of this law prohibits giving advantage to, or discriminating against, a party as a result of conditions, terms or restrictions upon such sale or the disposition of property. Section 12(4) refers to discrimination in the granting of finance in respect of immovable property. No employee or agent of financial organisations shall, on the grounds of the race, tribe, place of origin, political opinion, colour, creed or sex of any person:

refuse to grant to such a person a loan or other financial assistance for the acquisition, hire, construction, maintenance or repair of any immovable property.

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

<sup>4</sup> Under this Law, any surviving spouse of the deceased has the right to occupy any immovable property, which the deceased had the right to occupy, and which the surviving spouse was occupying immediately before the death of the deceased. The Act protects this right from laws that make provisions that are to the contrary (while protecting the rights of any existing mortgagers, for example, landlords.) This is a significant law in the face of the very frequent dispossessions and evictions of widows (and very rarely widowers) after the death of a spouse.

<sup>5</sup> Upon the dissolution of a marriage, a spouse holding property that is considered co-owned by the court is asked to make such payments or transfer as specified, or transfer to the trustee powers previously held by the spouse personally. However, with property proven to have been owned by the spouse before the commencement of the marriage is not necessarily shared with the other spouse upon the dissolution of the marriage. In making the decision on the division of assets, the court takes consideration of such factors as:

Income earning capacity of both the spouses as well as their needs expenses now and in the foreseeable future.

*Administration of Estates Amendment Act (Chapter 6:01)* can be described as a milestone for customary law marriages. Prior to this Act only the first-born son could inherit the estate of his deceased father. The widowed spouse was considered a tenant on the property together with any other children. Under the 1997 amendment, the spouse of a deceased person has specified rights to the immovable and movable estate. The Act attempts to cater for a range of marital situations as possible under customary law (e.g. multiple wives).

## **4. DATA SOURCES AND METHODOLOGY**

### **4.1 Private Deed Transfers**

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

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

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The standards of living of the family including the manner in which the child was being educated as well as future expectations.

The direct and indirect contribution made by both spouses to the family as well as well contributions made in looking after the home, caring for the family, and domestic chores.

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

**Table 4: Private Land Transfers, Zimbabwe 1996-2000**

Year	1996	1997	1998	1999	2000	2001
<b>Number of farms transacted</b>	407	373	302	185	127	141

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

#### **4.2. Public Leasing Market**

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

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

option to purchase. It is only at the stage of purchase or transfer of ownership that this information is officially recorded in the Deeds registry.

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

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

## **5. PRIVATE LAND MARKET REDISTRIBUTION**

### **5.1 Rate of Farmland Redistribution**

Data on the total area of land redistributed for the period 1996 to 2001 were used to calculate the rate of land redistribution for the white and disadvantaged sub-populations in Table 5. The rate of land redistribution is computed as the ratio of land acquired by either group as a percentage of the total amount of land available for redistribution.<sup>7</sup> The private land market redistributed a peak of 79,502 ha (0.5 % of the total area of farmland available for redistribution) to the disadvantaged group in 1999, and a peak of 178,153 ha (1.2 %) to the white farming community in 1996.

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<sup>7</sup> Estimated at 15,106,479 million hectares in 1980 based on personal communications with the Ministry of Lands.

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

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

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

This medium term secular decline in land transactions can be attributed to a number of factors including, inter alia, economic regress after 1996 and severe economic contraction beginning in 2000; and high positive real interest rates between 1996 and 1998 (see Table 6). Real interest rates (nominal interest rate less the inflation rate) began to decline to more reasonable levels by 1999, but by 2001 had sunk to a negative real interest rate of -40.6 % which had the effect of curtailing the mobilisation of domestic savings. Combined with

compulsory land designations and land invasions, financial institutions had all but closed the door on mortgage financing for farm purchases beginning in 2000.

**Table 6. Macro Economic Indicators**

Year	Inflation Rate (A)	Interest Rate on Working Capital (B)	Nominal Interest Rate (C)	CPI (1995=100) (D)	Real Interest Rate (E=C-A)	Rate of Economic Growth (F)
1996	21.4	10.8	33.6	121.4	12.2	9.7
1997	18.8	13.3	34.7	144.3	15.9	1.4
1998	31.7	15.8	49.3	190.1	17.6	0.8
1999	58.5	21.8	66.0	301.3	7.5	-4.1
2000	55.9	26.5	68.3	469.6	12.4	-6.8
2001	71.9	10.4	31.3	807.5	-40.6	

Source: IMF (2002)

## 5.2 Farmland Prices

Table 7 provides data on characteristics of farmland acquired by white and disadvantaged owners between 1996 and 2001. T-values (at the 5 % significance level) in the table test for statistical differences between white and disadvantaged groups; in addition, t-tests were calculated for the same group across time (not reported in Table 7.) For most periods, the mean area of farms acquired by the disadvantaged group is lower than that of white owners. White owned farms paid higher farm prices than those of the disadvantaged group from 1996 to 1998, but this trend reversed after 1999 when real farm prices for white owned farms began to decline precipitously. While black owned farms also experienced declines in real farm prices after 1997, the decline was less severe than for the white farm community.

Under more normal circumstances, land quality (measured by the weighted land price, ZW\$/ha) would appear to be slightly higher for the white group over the entire period based on the six-year average. However, the macroeconomic instability observed during this period combined with government gazetting of white owned farms and the land invasions, probably



also had the effect of dampening demand by whites for farmland and their “willingness to pay”.

### **5.3 Modes of Land Redistribution**

Since independence, various modes of land redistribution have resulted from changes in policy. Government assisted land acquisition (based on a willing buyer-willing seller basis) and resettlement dominated the land reform landscape from 1980 to 1992. In the first four years after independence, communities played a leading role in land identification through occupation of underused or unutilised land, after which, government moved in to acquire the land at market prices. This approach re-emerged again in 1998 as landless people and war veterans occupied many farms gazetted for resettlement (but so far without compensation being paid). Complementary models of market-led redistribution, whereby a public grant is provided to beneficiaries for land purchase and resettlement costs, and land acquisition and resettlement is defined by beneficiary needs and interests (with assistance from the private sector) was discussed at the 1998 Conference. However this approach never took off as government opted instead for compulsory acquisition. Most recently, following the amendment of Land Acquisition Act of 1992, government has turned to compulsory acquisition, whereby the state only pays for land improvements. Outside these state centred approaches, land redistribution has been occurring through private land transfers.

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

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

market transactions represented a very small to small contribution whether measured in terms of number of transactions, area transacted, or total value of land transferred.

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

Farm Characteristic		White	Disadvantaged	t-value
Mean Farm Area (Ha)	1996	694 n=260	406 n=147	
	1997	1,089 n=280	346 n=93	
	1998	673 n=218	294 n=84	
	1999	651 n=83	779 n=102	0.96
	2000	932 n=63	636 n=52	-1.41
	2001	229.5 n=55	107 n=87	-2.23
Mean Farm Price (Z\$ '000 000)	1996	4,033,454 n=247	2,219,697 n=132	
	1997	10,757,905 n=280	2,912,973 n=87	
	1998	5,220,830 n=218	2,187,655 n=72	
	1999	2,952,887 n=71	3,197,920 n=81	-0.54
	2000	2,558,621 n=57	2,695,842 n=41	-0.23
	2001	371,455 n=55	608,960 n=66	-1.33
Weighted Land Price (Z\$/Ha)	1996	5,651 n=247	6,020 n=132	
	1997	9,883 n=280	8,140 n=87	
	1998	7,761 n=218	6,413 n=72	
	1999	3,880 n=71	3,939 n=81	
	2000	2,483 n=57	3,973 n=41	
	2001	1,618 n=47	4,331 n=66	
Weighted Land Price (Z\$/Ha) 1996-2001		5,213	4,819	

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

#### **5.4 Gender**

Names in the Deeds Registry records were reviewed and classified according to the following categorisation – corporate entities (e.g. companies, trusts, and communal property associations), males, females and co-owned farms. In cases where land was transferred to a corporate entity, a visit to the company registry revealed names of the directors that were used to categorise the entity as disadvantaged (less than half the directors being whites males or females) or otherwise. Female owners in the disadvantaged group included those owned solely by a female(s) or co-owned (male & female/husband and wife), while for the white group there is a separate co-ownership category mainly composed of husband and wife. The co-ownership category was combined with the female category for the disadvantaged group because the number of transactions were very few.

A review of the data in Tables 9 and 10 reveal that while female transactions are important, transactions tend to be dominated by males and corporations in terms of both area and market value transacted. Over the six-year period, the quality of land (as measured by the weighted land price) acquired by women tends to be equivalent to that acquired by men and corporations with considerable year to year variation. Land transactions by whites tend to be even more heavily dominated by corporations, a deliberate move to both increase access to credit from financial institutions, and to help minimise the risk of land loss. Overall, within the disadvantaged (advantaged) group, women represented 33.3 % (16.3 %) of transactions, 16.6 % (11.9 %) of total area transacted, and 17.8 % (7.0 %) of market value.

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

Farm characteristic	Disadvantaged						Whites				
	Year	Govt Assisted	Private mortgage	Private cash	Private non-market	Total	Govt Assisted	Private mortgage	Private cash	Private non-market	Total
Number of transactions	1996	0	58	74	14	146	0	79	110	25	214
	1997	0	34	53	4	91	0	78	108	9	195
	1998	0	23	49	4	76	0	37	98	16	151
	1999	1	8	72	21	102	0	15	91	6	112
	2000	2	7	32	11	52	0	7	45	5	57
	2001	20	1	53	13	87	0	1	19	33	55
	Total	23	131	333	67	554	0	217	471	94	784
Total area of land (Ha)	1996	0	34,638	14,042	11,042	59,722	0	72,051	85,229	20,873	1,781,548
	1997	0	11,706	19,430	1,419	32,554	0	66,683	64,414	4,653	135,752
	1998	0	2,785	21,776	62	24,623	0	32,711	64,993	9,946	107,651
	1999	343	8,906	56,508	11,176	76,933	0	13,190	71,307	2,858	87,356
	2000	1,811	4,142	21,866	5,240	33,059	0	6,456	46,107	2,808	55,373
	2001	2,486	10	5,476	1,037	9,279	0	544	4,841	4,953	12,620
	Total	4,640	62,187	139,368	29,976	236,171	0	191,639	336,895	46,094	576,909
Total market value of Land (000 ZW\$ )	1996	0	134,955.5	157,837.0		292,792.5	0	287,589.8	378,607.4		666,197.2
	1997	0	122,072.9	131,355.8		253,428.6	0	535,707.3	371,074.5		906,781.8
	1998	0	70,638.9	868,723.0		157,511.2	0	237,359.0	371,592.2		608,951.2
	1999	492.5	37,102.6	221,436.4		259,031.5	0	62,064.8	264,264.5		326,329.3
	2000	1,260.0	20,570.0	88,699.5		110,529.5	0	15,960.0	125,150.3		141,110.3
	2001	1,787.2	17,744.2	37,860.5			0	1,453.5	164,000.0		165,851.2
	Total	3,539.7	385,339.8	686,201.0		1,073,293.3	0	1,140,134.4	1,674,688.9		2,815,221.0
Mean Area of farms (Ha)		138	459	380	399		0	876	664	499	
Weighted farmland price 1996-2001 (ZW\$/Ha)		762	6,196	4,294			0	5,949	4,971		

**Table 9: Gender Characteristics, Disadvantaged**

Year	Number of Transactions			Total Area of Farmland (Ha)			Market Value (ZW\$ million)			Weighted Land Price (ZW\$/Ha)		
	Male	Female	Corporate	Male	Female	Corporate	Male	Female	Corporate	Male	Female	Corporate
1996	51	53	34	12,585	6,294	28,715	70	56	140	5,561	8,896	4,875
1997	47	36	25	12,676	4,642	14,968	130	50	94	10,255	10,771	6,280
1998	34	42	21	5,621	5,524	13,952	64	42	70	12,613	7,601	5,017
1999	27	21	53	10,650	11,639	56,870	39	22	210	3,661	1,890	3,692
2000	17	9	24	9,408	4,928	18,722	11	14	90	1,448	2,840	4,807
2001	31	32	22	3,396	4,276	1,606	17	19	42	5,006	4,443	2,588
Total	207	193	179	52,546	37,303	134,832	331	203	608			

**Table 10: Gender Characteristics, Advantaged**

Year	Number of Transactions				Total Area of Farmland (Ha)				Market Value (ZW\$ millions)				Weighted Land Price (ZW\$/Ha)			
	Male	Female	Corporate	Co-owned	Male	Female	Corporate	Co-owned	Male	Female	Corporate	Co-owned	Male	Female	Corporate	Co-owned
1996	108	13	52	38	92,743	8,001	36,621	32,683	327	34	249	99	3,521	4,270	6,808	3,029
1997	22	10	151	12	14,519	4,614	110,584	6,035	799	14	78	47	5,506	3,080	7,078	7,824
1998	21	10	112	8	11,634	4,435	88,689	2,892	948	18	528	7	8,153	4,162	5,954	2,661
1999	9	3	96	3	4,528	3,672	78,486	327	190	4.5	303	6	4,201	1,252	3,861	20,445
2000	7	0	47	3	7,291	0	47,702	381	14	0	128	2.3	2,002	0	2,702	6,102
2001	31	12	24	20	4,910	1,406	1,607	2,871	16	5.3	4.1	14	4,951	3,807	2,586	4,831
Total	198	48	482	84	135,624	22,129	363,691	45,188	2,294	75.8	1,290.1	196				

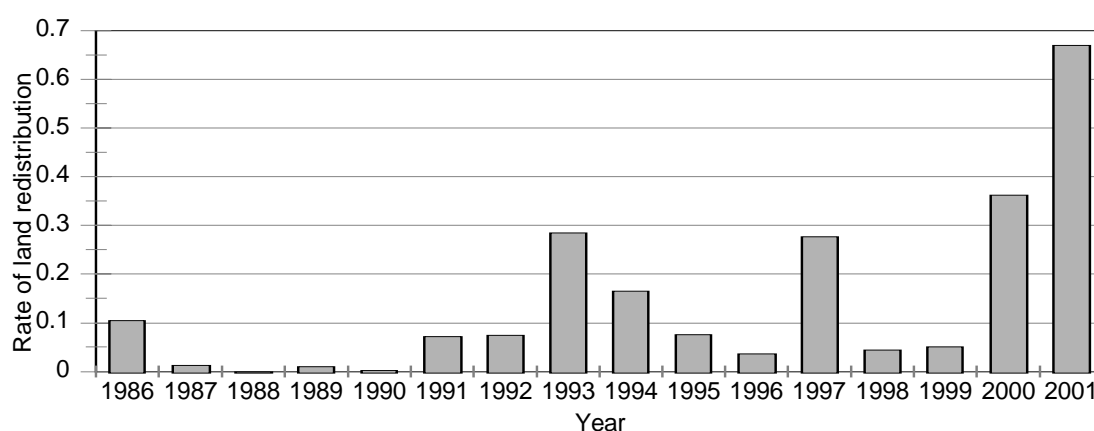
Modes of ownership were also compared with modes of financing. Based on the data combined for all six years of the study, within the disadvantaged group, government assisted transfers are dominated by corporate ownership, private mortgages and private cash transactions by male and corporate ownership, and non-market transactions by female ownership. However, within the white only category, corporate ownership tends to dominate all modes of payment.

## 6. PUBLIC LAND MARKET

### 6.1 Rate of Land Redistribution

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

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



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

Year	Cases	Farmland Area (mean Ha)	Total Area (Ha)	Land Available for Redistribution (%)	Market Value (Mean ZW\$)	Total value (000 ZW\$)	Weighted Land Price (ZW\$/ha)
1986	12	1,315	15,779	0.104	211,132	2,533.6	330
1987	3	600	1,800	0.012	131,490	394.5	568
1988	0	0	0	0.000	0	0	0
1989	2	734	1,468	0.010	907,551	1,815.1	1,236
1990	2	124	249	0.002	26,188	52.4	211
1991	6	1,815	10,887	0.072	39,268	235.6	22
1992	9	1,246	11,217	0.074	32,326	290.9	26
1993	34	1,265	43,008	0.285	62,801	2,135.2	84
1994	10	2,482	24,823	0.164	62,483	624.8	102
1995	24	477	11,453	0.076	293,212	7,037.1	614
1996	4	1,336	5,343	0.035	75,587	303.4	57
1997	78	537	41,901	0.277	2,595,216	200,000.0	477
1998	20	331	6,626	0.044	4,028,475	81,000.0	12,160
1999	13	586	7,619	0.050	4,004,097	52,053.3	6,832
2000	68	804	54,695	0.362	1,963,249	133,500.9	2,441
2001	69	1,466	101,174	0.670	923,376.3	63,712.9	630
Total	354		338,041	2.238		545,689.8	

The data in Table 11 and Figure 3 also show that the rate of land redistribution accelerated in 2000 and 2001. Most of the land being leased was acquired in the 1990s and would not include land expropriated since February 2000.<sup>8</sup> After 1998, government parted ways with the international community, and through “fast track”, began to increase its compulsory acquisitions of land, and in addition, accelerated the leasing of land to demonstrate “action” on the ground. Government also felt compelled to deliver land in response to very real and significant pressure for land from people, particularly in the run up to the 2002 elections. Unfortunately, due to Deeds and Surveys legislation, expropriated land does not show up as a transfer at the Deeds office. What takes place instead is that notations are made on compilation charts at the Surveyor General’s office where it is cancelled as private property

<sup>8</sup> These expropriations from 2000 to the present fed “fast track” land reform, but researchers stayed clear of these data due to political sensitivities. Recent data show that most of the land government is acquiring is being used to augment small-scale commercial farms (model 2) and the resettlement areas. Figures recently released by government (The Herald, 10 December 2002) indicate that about 50,000 new small scale commercial farms were allocated under the fast track resettlement (parcel sizes ranging 200-500 ha) and 300,000 smallholders (plot sizes ranging between 10-15).

and designated as State land. Land title issued on a lease-to-purchase basis would eventually show up on the deeds register once again, but according to government policy, the title deed is not issued until full payment is made to government, and in the current environment where the private mortgage sector has collapsed, one would not expect an upswelling in individual registrations any time soon.

## **6.2 Lease Prices**

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

## **6.3 Gender analysis**

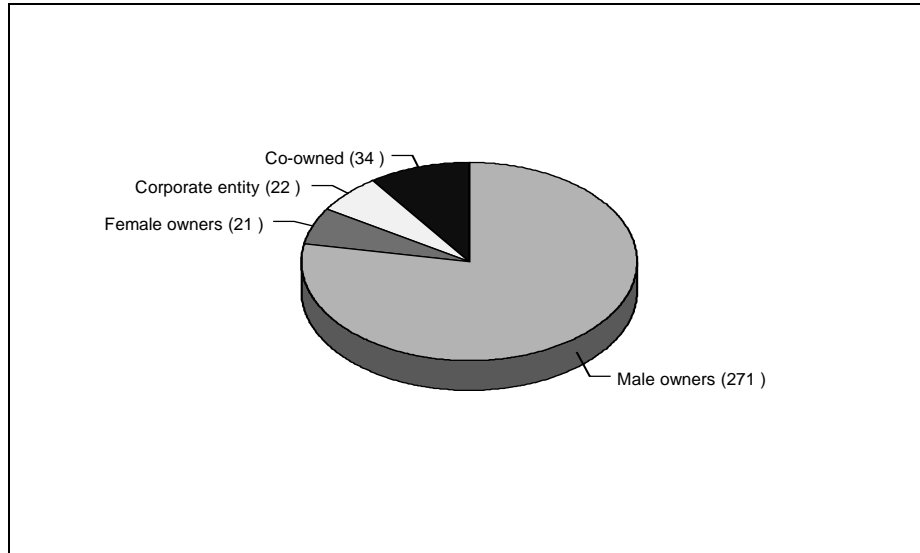
As outlined earlier, the data on public land leases did not contain information on the gender of the beneficiaries except in few cases, hence gender had to be deduced solely on the basis of names. The gender composition included male, female, corporate entities and co-owned (husband and wife) categories.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

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



The public land market redistributed minimal quantities of land in the 1980s, below 5,000 ha per year.

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



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



## 7. ANALYSIS AND CONCLUDING COMMENTS

One should not discount the achievements that Government has made in land redistribution since independence (excluding fast track). While there is not always agreement with government policy and choice on issues of compensation, or the cost and effectiveness of state administered land acquisition and resettlement, a large number of beneficiaries in Zimbabwe today have land and livelihoods as a result of government-assisted land reform. Unfortunately, these achievements have been offset by a number of state failures that continue to hamstring the livelihoods of small rural producers in present day Zimbabwe: limited and insecure land rights held by beneficiaries; slow progress in individualisation and title deed registration when title is wanted by beneficiaries; maintenance of outdated economic thresholds that constrain land subdivisions; and lack of affirmative action in targeting women and speeding the process of title transfer to them.

The problem is not always that government is insensitive to these concerns and has purposefully chosen the wrong land policy path. The more immediate problem, is that the Government of Zimbabwe has adhered to a policy of state-administered land reform, heavily regulated land markets, and centralised government decision making against the backdrop of fiscal crisis and lack of government wherewithal to implement the policy choices it makes.

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

Might this situation be reversed? The answer is yes, but with the caveat that government's approach to private land markets needs to change. The data in this paper show that there are indeed white commercial farmers who are willing to sell land to black farmers in the private land market. Rather than too few "prospective" black land buyers to purchase land, the

problem instead is expensive land surveying, long processing times, subdivision constraints, lack of decentralised land delivery services, a collapse of rural financial markets, and gender discrimination that make land delivery services “unaffordable” in terms of time and opportunity costs, if not direct fees.

Hence one might anticipate a policy solution (see figure 6) that makes land survey and deeds registration more “affordable” and “accessible”, but these outcomes alone would not likely reaccelerate land transfers or restore land valuations. In addition, there is need to give greater policy focus to strengthening the integration between land and capital markets. The current situation sees prospective land buyers having to turn to individual savings and cash holdings for land purchases which act to slow demand, while the financial sector is considered risky in light of macroeconomic instability, uncertain property rights in land, and weak government resolve in face of land encroachment. Should adequate land and financial institutions be restored, one could imagine a situation where the financial sector could play a leading role in expanding long term mortgages to enable and facilitate land purchases, but lenders are likely to shy away from this role unless their risk is ensured through, for example, donor injection of capital, and donor underwriting of risk (at least until macroeconomic stability is restored). Landholders will not likely accelerate their demand for land without credit facilitation to offset expectations of weak profitability and cash flow problems at least in the early years of land ownership. As observed by Lyne and Darroch (2003) for South Africa, it is possible to design special credit facilities to achieve these goals, but a close partnership would be needed between Banks and the various arms of government to facilitate the land market, and donor grant funds would be required to mitigate the effects of economic regress in the short- to intermediate-run.

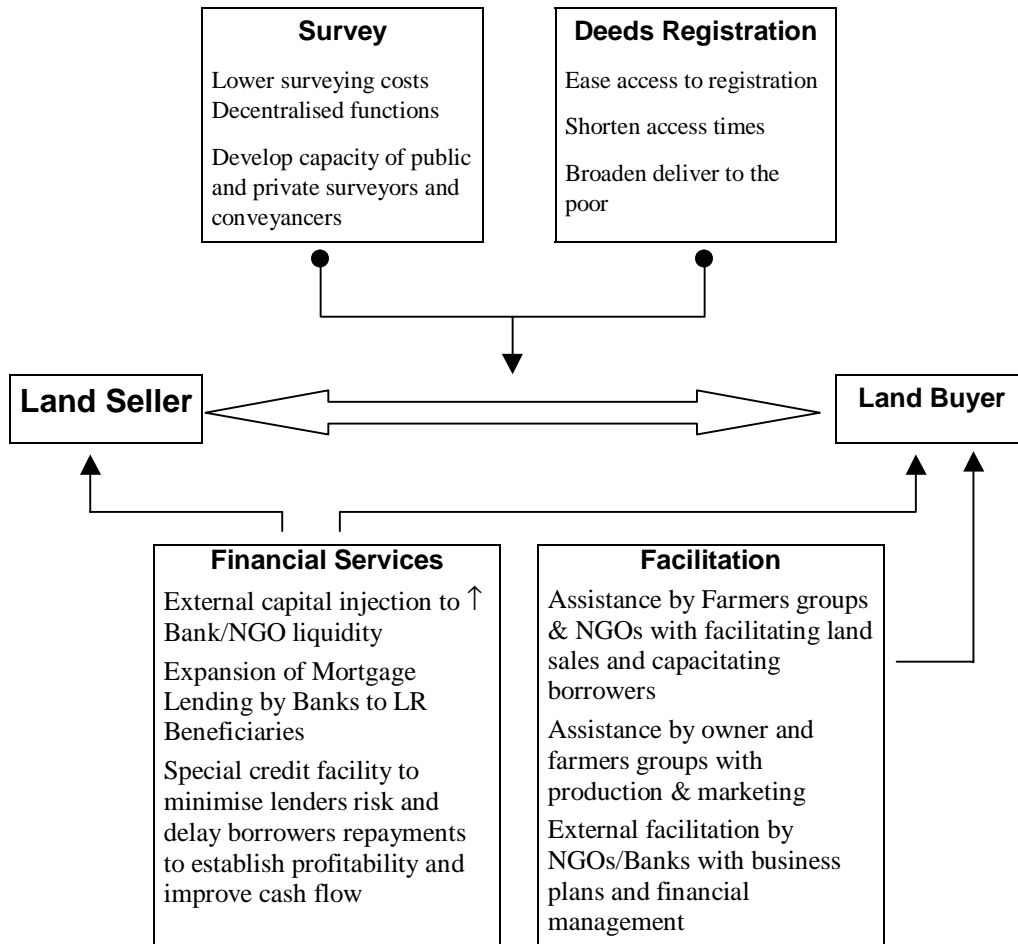
## Figure 6: Legal and Policy Reforms

### Ease subdivision rules

Eliminate most rules on land use or economic viability used to control farm ownership

Downsize government's involvement as land owner or manager of leases. Privatisise all government land holdings to strengthen ownership and beginning rebuilding land valuations and financial credit

### Gender affirmative action



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

The private land market in not the panacea for land reform in Zimbabwe.

But, neither is it a villain to be ignored at all costs. The government of Zimbabwe will never have the wherewithal to acquire land (even compulsorily), identify new land holders, and engage in resettlement in ways that assure productivity and sustainable land use management. If “fast track” land reform has a lesson, it is that land access is given value only if livelihoods are secured. And based on the high rates of absenteeism among the new-found beneficiaries, aggregate production losses, and depletion of economic assets since 2000, a better way is needed. That development approach envisions the need for a stronger government-private

**Policy Recommendations:  
Public Lease Market**

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

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

partnership where government gives to the private sector what the private sector is best able to deliver, and government retains for itself the “public goods” that the private sector will not provide. The dimensions of this public good dimension need to be urgently rethought and reconceptualized with a more targeted focus on what government is best able to deliver. Public-private market solutions will not always be an easy marriage, but combined, they are stronger than when either is divided or suppressed.

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