Devolution for Land Administration in Zimbabwe:

Opportunities and Challenges

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SESSION 4: INSTITUTIONAL STRUCTURES FOR LAND REFORM: OPPORTUNITIES FOR AND OBSTACLES TO LAND DELIVERY SERVICES

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

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ABSTRACT

This paper assesses the feasibility and form of devolution for land administration in Zimbabwe. A lack of transparency and accountability, inadequate administrative capacity, fragmentation and lack of good quality information characterize the existing system of centralized land administration.

Insights into alternatives are provided through a review of devolution theory, empirical evidence from Botswana’s devolved land boards and Tanzania’s decentralized state-leasehold system, and fieldwork in Masvingo Province. Both of the comparative cases point to growing interest in land administration systems that promote the adaptation of existing institutions rather than the initiation of radical reform.

Studies that have been undertaken about land reform in Zimbabwe endorse the idea of land boards for land administration. Preliminary findings from fieldwork show the existence of opportunities for devolving land administration, given that on a day to day basis village heads and councilors are already engaged in substantial land administration. However, the fieldwork revealed constraints concerning fiscal viability, contested jurisdiction, poor capacity, and inconsistent land administration policy.

Overall, it is the authors conclusions that there exist significant challenges for devolution of land administration. Although a theoretical case can be made for devolution, the practical difficulties of devolving land administration may overwhelm its opportunities and promises.
Devolution for Land Administration in Zimbabwe: Opportunities and Challenges

by

Harvey M. Jacobs and Charles Chavunduka

Introduction

Zimbabwe has been a center of international attention throughout 2001 and 2002. The invasions of white owned farms, the presidential elections in March 2002, and the eviction of white farmers from their farms in August 2002 have left leaders of adjoining countries, donor countries and non governmental organizations profoundly confused about the right course of action to take with regard to development assistance.

During this period (and for years before (Roth and Bruce 1994)), the University of Wisconsin’s Land Tenure Center has kept a presence in the country working to build intellectual and institutional capacity. One aspect of this work has focused on structures for devolution of land administration.

Zimbabwe’s land resettlement program emphasizes land redistribution for social justice. However the land reform program has not had a complementary institutional reform component to support this principal objective (Cousins and Robins 1993, Rukuni 1994). The lack of attention to institutional reform has led critics to question the political will and institutional imagination of both the central government and international organizations involved with the program (Bryant 1998). The consensus is that in the absence of an attendant institutional reform, the economic benefits from land reform and resettlement will not be forthcoming.

Post independence, the long-term land reform program emphasized the acquisition of commercial farmland and its redistribution to people drawn from overpopulated communal areas. Resettlement consisted of land allocation and the provision of rudimentary infrastructure and services. However, in the period 1980-1992, there was no local authority for resettlement areas. Instead, land reform was implemented with the institutional form and structure of land administration from colonial times (Moyo 1999). This approach is generally centralized, bureaucratic and inflexible. The lack of participation by local people has resulted
in an ambiguous definition of property rights, insecure tenure, a general failure to utilize land reform as a vehicle for economic development, and failure to appreciate the value and place of land in the country’s overall development thrust.

Global, African and Zimbabwean dialogue about land reform and land administration is currently focused on the need for substantial devolution (e.g. Kingsley 1996, Toulmin and Quan 2000, World Bank 1997, 2000). The idea is that this model of land administration draws from and respects local knowledge about land and people, places responsibility largely within the community, and allows space for member controlled institutions. In theory, devolution should provide for better problem solving capacity, greater incentives for local economic development, better provision of infrastructure services, and more appropriate and sustainable (and therefore effective) initiatives for involvement among those most affected by problems. This approach also recognizes the budgetary and political reality that central government does not have the resources for full implementation of a land reform program.

This paper reports on a bi-country collaborative research project undertaken in 2002 assessing the feasibility and form of devolution for land administration. Included is a brief summary of the theoretical literature on devolution, the experience with devolution among a set of African countries with parallel objectives and problems, and preliminary data from field visits in one province in southern Zimbabwe in the summer of 2002, where interviews were conducted with a range of land administrators and users. (This is one of three provinces where field work was conducted.)

What seems clear to almost everyone who works in Zimbabwe is that the current structure for land reform in Zimbabwe is unsustainable. The question is whether an alternative, devolved, structure is any more feasible given the political circumstances, the hunger for land, tribal tensions, and importantly the dire ecological conditions of long-term drought. Despite the obvious failures and shortcomings of centralized land administration, is devolution for land administration a workable alternative—is devolution an elusive fantasy or potential reality?

**Devolution in Theory**

The concept of devolution has evolved over time and in the process has undergone changes in terminology and meaning. In 1937, during the great economic depression in the U.S., and during the only period when the U.S. had a national planning agency, Wirth prepared a

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1 This section draws on the authors’ paper, Jacobs and Chavunduka (2002a).
classic essay on the tension in governmental organization. In this essay he referred to devolution as localism. He recognized many of localism shortcomings (e.g. it can be parochial in its perspective, it can be exclusive as to participation and thus contribute to elite decision making), but also its strengths (it can embellish freedom, cultivate diversity, support democratic political institutions, and promote administrative flexibility).

In more modern parlance decentralization manifests itself in three generic forms—deconcentration, delegation and devolution (Litvack et al.1998, Cohen and Peterson 1999).

Deconcentration involves ministries retaining power over key tasks at the center while transferring the implementation roles related to such tasks to staff located in ministerial field offices. Deconcentrated activities are those that the center, for political reasons, believes only it can or should control or closely supervise but that require field level implementation in order to be effectively carried out.

Delegation is the transfer of government decision making and administrative authority for clearly defined tasks to organizations or firms that are either under the indirect control of the transferring authority or are actually functionally independent. Most typically, delegation is done by the central government to semi-autonomous organizations not wholly controlled by the government but legally accountable to it.

Devolution is the transfer of power and authority by central governments to legally established, locally elected political authorities. In a devolved system, local governments have clear and legally recognized geographic boundaries over which they exercise authority and within which they perform public functions.

Of these three types of decentralization, devolution is considered the most effective. The attraction of devolution lies in appropriating authority to institutional levels that are best placed to deal with specific issues. Compared to deconcentration and delegation, devolution can provide for better problem-solving capacity, which takes into account local knowledge and conditions. Apart from providing an opportunity for clarifying jurisdictions among different forms of local governance, devolution generates greater incentives for economic development and improved provision of public services. Devolution engenders local participation, good government and democratization. It also addresses the reality of cutbacks in central government expenditure.

There has been debate on whether to devolve to the regional or local level and concerning the question of “function” or “area” (Hutchcroft 2001). A related debate concerns the question of
“function” and “power”. According to these debates, power can be devolved either to lower levels of government or to territorial units. More persuasive arguments aver that it does not matter whether a central, regional or local government should provide a certain service, but how to organize the joint production of the service by the various levels (Prud’homme 1995). This school of thought is recognized in the early work by Wirth (1937) who argues that the issue need not be one of identifying the right scale for organizing government but rather one of suiting areal units to planning purposes. It is the ends that should determine preference for central, regional or local authority.

Rather than seeing the types of decentralization as discrete, it is important to note that in practice deconcentration, delegation and devolution can occur singly or in various combinations. Similarly, power and resources can be decentralized to one or more levels. Decentralization can take the form of the creation of federal systems or the empowerment of authorities at or near the grassroots, and it is possible to have assorted mixtures.

Proponents of decentralization emphasize the fact that it increases efficiency, counter to much economic theory. In principle, it is believed that since local governments are closer to the people, they should be more responsive to them. In the same vein, local officials are thought to have stronger incentives for efficiency. If local officials improve service delivery, it is assumed that citizens will respond by showing more willingness to pay for them, thus potentially enhancing revenue collection (Kingsley 1996).

The efficiency argument has been questioned by Prud’homme (1995) who asserts that decentralization can actually undermine efficiency. Prud’homme questions whether local provision is more cost-effective than national provision. The argument is that central bureaucracies are likely to operate closer (than local bureaucracies) to the technical production frontier, even though both central and local bureaucracies probably operate quite far from this frontier. Central bureaucracies have an advantage in their higher capability to attract more qualified people.

Decentralization’s proponents argue that it promotes control by citizens over decisions that affect them. It promotes equity and the operation of a variety of wills and interests that are dominant in a variety of local areas. Indeed, decentralization is associated with good government that is achieved through the distribution of powers and opening the institutions of governance to wider civic participation. It increases accountability and responsiveness to local interests.
Despite this noble intention, Agrawal and Ribot (1999) observe that most decentralization efforts end up without increasing the powers of local authorities or peoples. Using four case studies of India, Nepal, Mali and Senegal, the authors confirm the tendency of central governments to retain control even in the context of decentralization initiatives.

For developing countries, decentralization can promote parochial and separatist tendencies and deepen enclaves of authoritarianism as well as exacerbate inequalities (Fesler 1968, Smith 1985). Where decentralization is given the official objective of mobilizing the poor in development efforts, it may be that empowering local institutions simply provides yet more resources and power to be commandeered by already powerful elite and propertied interests (Smith 1985).

In its deconcentration mode, decentralization can lack downward accountability. In deconcentration, civil servants who get posted to the local level are accountable to their Ministers and not the communities which they are employed to serve. In Africa, the tendency has been to go for deconcentration rather than devolution. On the one hand, lower-level bodies may be accorded power but remain upwardly accountable, thus strengthening central government. On the other hand, local bodies may be downwardly accountable, but seldom receive significant powers. Even in successful cases of decentralization, local actors come to gain only subsistence benefits, far smaller in comparison to the potential commercial revenues.

In developing countries, decentralization faces many challenges. The major challenge seems to be political. In some developing countries there is a legacy of authoritarianism that is difficult to change. In cases where traditional rulers were autocratic and colonial rule centralized and repressive, post-independence despots have found it expedient to perpetuate the status quo. So huge is the political challenge that substantial political reform is often a necessary condition for effective decentralization.

Hutchcroft (2001) observes weak capacities at all levels, shaky financial viability of local government units and difficulties in determining the optimal size of local government as challenges facing decentralization in developing countries. The problems become inexorable in programs where decentralization is expected to provide a cure to all ills of the economy. Ironically, a strong central government seems to be a pre-condition for successful decentralization. It requires a strong central government to obtain the collective will to decentralize, facilitate decentralization, and not get threatened by gains in influence by
localities (Hutchcroft 2001). Further, Tendler (1997) observes that the creation of civil society whose existence is central to good governance requires a strong activist central government.

Successful decentralization consists of a package that enhances accountability, governance and capacity. Crucial to the package is fiscal and human resource decentralization and devolution. Another critical component of the package will be the need to inform, train and provide support to local people, create a rule structure and systems for engendering accountability.

An effective decentralization program needs to be context specific. As such, decentralization should take into account cultural, historical, political, institutional, economic and environmental circumstances that determine a country’s fit in a centralization-decentralization continuum. Such a program should, to all intents and purposes build on existing institutions (Wirth 1937).

Instead of going for blanket decentralization, the literature suggests the need to identify the functions and areas that can most fruitfully be decentralized. At the same time there is need to consider the different roles appropriate to different levels for each issue as well as the temporal dynamics of social organization. Such an approach calls for a need to break conceptual boundaries and the adoption of a more nuanced approach to decentralization.

**INTERNATIONAL EXPERIENCE WITH DEVOLUTION**

As part of the research project from which this paper is drawn, four countries—Botswana, Tanzania, Philippines and Brazil—were reviewed for their lessons with various forms of devolved land administration. In addition, Zimbabwe’s own experience with land administration was reviewed. For this paper, only the African countries experiences are reported.

**Botswana—Land boards for devolved land administration**

Botswana is located in southern Africa and shares its northeastern border with Zimbabwe. It gained its independence in September 1966. With a population of 1,597,000 (1999) and area of 581,730 square kilometers, Botswana is traditionally a pastoral country with 0.7 % of the land devoted to arable use and 45.6 % under forest and woodland. Partly as a result of its

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2 This section draws on the authors’ paper, Jacobs and Chavunduka (2002b).
diamond wealth (it is the second most important diamond exporter behind Russia), Botswana had the fastest growing economy in the world during the period 1965-1996, when per capita income grew at 9.2%. The per capita GNP in 1998 was $3,070. The agricultural sector is dominated by intensive cattle raising that is exerting severe pressure on the natural environment. Botswana is made up of four administrative districts and is a democracy.

In Botswana, 70% of the total land area is held under customary tenure; the rest being state and freehold land, which are about 23% and 7% of the land area respectively. Botswana has four main local government institutions at the district level—district administration, district council, tribal administration and land boards. Land boards were established through the Tribal Land Act of 1968, with a purpose to improve land administration. Prior to that date, chiefs administered customary land. Since the time of their establishment, Botswana land boards are the best known and considered by many the most successful form of local (devolved) land administration in Africa.

Land boards were established because it was felt that district councils had many responsibilities, which meant they could not focus on the special needs of land administration. This led to the idea of a separate institution with the sole purpose of improving land administration. In part, land board creation had to do with circumventing the power of traditional chiefs. Up to 1968 chiefs were the authority for customary land. They were understood to be authoritarian in the use of their authority, they kept few records of their activities, and it was felt that they were not responding to the contemporary development needs of Botswana society. Botswana established land boards to overcome these perceived problems and provide a mechanism for decentralized decision-making for land allocation and land use planning.

Botswana’s land administration system is based on customary tenure and local institutions. To policy makers, one of the attractions of land boards as they are constituted is that as local institutions they can represent both central government and local institutions. Land boards are legally vested with three sets of powers and duties. First, they are charged with the responsibility for allocating land for residential, arable, industrial, and commercial use, and allocating grazing and water rights. Second, they adjudicate land disputes in tribal areas. Third, they are responsible for overall land tenure and land-use planning in their areas.

The membership of land boards varies from 8 to 12 depending on the size of the district. A meeting of people actually present in the kgotla (traditional assembly or forum) chooses
elected members (this tends to be the wealthier community members and large cattle owners). For a board of 12 members, the Minister for Local Government, Lands and Housing appoints five from a slate of ten elected candidates. The Minister then appoints five additional members, and the Minister of Agriculture and the Minister of Commerce and Industry each appoint one member respectively. In addition to its formal membership, land boards may, with the consent of the Minister of Local Government, get assigned up to two people with appropriate expert knowledge or experience to assist them in the discharge of their functions.

The official position given by Mathuba (1994: 20), is that “the Land Board institution in Botswana has been a success in that land administration has been improved.” Among the several achievements of land boards, Mathuba notes that their establishment has streamlined land administration and that they maintain written records. Further Mathuba (1994) notes that by creating the land board institutions, government has avoided top-down control of customary land. In the same vein, he notes that land boards are performing their duties of land allocation and settling disputes fairly well despite constraints.

The success of land boards is further acknowledged by Hope (2000) who reckons that in Botswana, decentralization to land boards, local authorities and tribal administrations has championed representative local government, boosted awareness of the importance of good governance and improved local accountability.

The advantage of land boards is that they provide a way of removing customary land allocation from the absolute control of traditional chiefs, without rejecting the principles of customary land law, and while allowing traditional leaders to retain some representation on the board. Land boards can devise simple methods for recording customary land allocations and transfers, which meet local needs but stop short of requiring detailed surveys and registration.

Although Botswana’s land boards are an acclaimed success, more has been written concerning their weaknesses than strengths. The official position is that land boards bring together central and local level stakeholders in land administration. To this effect, Quan (2000: 197) has this to say, “on the one hand, they can take account of local conditions and provide a platform for the interests of local stakeholders, including civil society groups and traditional authorities. On the other hand, land boards can also be used as a vehicle for implementation of policies on land and rural development, drawn up by central government, since their membership is usually determined by government.” Increasingly, critics note, land
boards have been seen to serve the interests of central government rather than local communities. There are regular instructions from central to local levels of government, and frequent central government interference in local decision making. Land boards are seen as serving the interests of the state because a larger number of district-based representatives of central government institutions are now involved in the operations of land boards and the technical groups which advise them.

The domination of land boards by central government is compounded by the weak development of civil society organizations and poor representation within many local communities. Thus land boards tend to be dominated by local elite and central government interests. In specific land boards have been criticized for lack of consultation with communities prior to allocation of land.

In addition, it has been noted that land boards are poorly staffed, empowered and funded. “The land boards still do not have adequate offices, equipment or vehicles and they have a shortage of qualified staff. These adversely affect their performance” (Mathuba: 1994:20). The low level of education of most members of land boards has resulted in them finding it difficult to understand the provisions of the Tribal Land Act (1968), and thus be able to implement it effectively.

Also, land boards are poorly equipped to resolve problems arising from overlapping rights and claims, and the needs of different ethnic groups. Given that there exist three other local government institutions, the cost of setting up and staffing land boards is considerable. Land boards do not have an independent and viable revenue base to finance their operations; rather they depend on central government appropriations for their existence. Of late, it is becoming difficult to fund land boards because of cuts in central government expenditure as a result of on-going economic reforms.

Further, substantial criticism has been leveled against the Tribal Land Act because of its inability to address the socio-economic needs of modern society. Specific provisions need to be made for representation of the full range of stakeholder groups, including women and different ethnic groups. Consideration needs to be given to how these groups can engage effectively as members of the board, to ensure that they are not dominated by a more vocal, better educated elite.

One of the problems experienced by land boards is that the Act does not give them sufficient powers to enforce their decisions. Even if land boards hand down decisions on certain issues,
they lack enforcement capacity to make sure that those decisions are observed. Relatedly, one of the weaknesses of land boards is their tendency not to act on violations of land use laws and regulations. For instance, because of bureaucratic delays, rural people will often allocate themselves land. Instead of enforcing the law, most land boards will formalize these informal allocations by issuing certificates to the people involved.

Land boards face problems of poor information systems. According to an early study by Machacha (1981), land boards do not keep proper records. The main problem is that of record fragmentation, such that when one traces the history of a single plot, it may be necessary to go through more than 10 sets of records. Thus people can extend or change plots without the land boards finding out. Land boards sometimes never know whether their decisions have been implemented or not. Some land boards do not have local land inventory maps. The problem of poor information systems is compounded by claims on land from old allocations. “Administrative inadequacy is particularly apparent when land boards are asked to confirm land rights claimed prior to their creation. No adequate registers of such claims exist. Therefore no land board can with assurance declare what land has or has not been allocated—this weakness continues because there does not exist an adequate register to systematically record allocations, relate them to a particular piece of land and to a national map” (Machacha 1981: 42).

The weaknesses outlined above have led Quan (2000) to observe that more needs to be done to make land boards effective institutions.

**Tanzania—Land administration reform: customary, community or both?**

Tanzania is located in east Africa and has a population of 32,792,000 (1999). The country has an area of 883,749 square kilometers, of which 3.2% is devoted to arable use and 35.4% is under forest and woodland. Tanzania achieved independence in 1961 and its current form of government is a democracy. Between 1967 and the introduction of economic reform in 1986, government practiced the ideology of socialism. Tanzania has 25 administrative divisions. The agricultural sector accounts for 51% of the GDP and per capita GNP in 1998 was $220.

The general consensus is that there is no national land policy in Tanzania (Chachage 1999; Angelson and Fjeldstad 1995, Bruce 1994). A mosaic of more than thirty-six ordinances and acts constitute Tanzanian land law and the legislation is neither comprehensive nor coherent. There are inconsistencies in the existing outdated land laws, which make it difficult to plan
and administer land matters. Too many government bodies are involved in land administration and there is too much discord among different bodies, acts and policies.

In Tanzania, land has remained state property, and there is ever more centralized power in the state. As the ultimate owner of all land, the President, in his capacity as head of the executive branch, remains the repository of title to all land. He then delegates his powers to Ministry officials to administer and manage land.

The present land tenure system in Tanzania, as in many other developing countries, is based on a system of dualism and hierarchy (Izumi 1998; Angelsen and Fjeldstad 1995). The dualism is between the smallholder sector governed by customary land tenure under the right of occupancy (usufructuary rights) and the plantation/urban sector governed by the statutory system, with property rights secured in the national written law. Smallholders do not have property rights protected by law, and their property is subject to expropriation by the state without compensation. The structure is hierarchical in that the statutory system is considered superior, with far greater security of tenure than the customary system. Progress in the hierarchy entails movement away from the customary to the statutory system. In practice, this movement usually involves expropriation of customary land, as has been the case throughout colonial and post-colonial history.

Land tenure has maintained the fundamental colonial tenet of merging property with sovereignty. The administration, management and allocation of land are placed squarely in the executive branch of the central government under a centralized bureaucracy. Land tenure places great emphasis on administrative law. The powers given to the executive in all land matters, by virtue of the fact that the state owns all the land, has resulted in a failure to administer land in such a way that security of tenure could be extended to customary landholders. The greatest threat to local land users is exposure to arbitrary action on the part of the government.

Shivji (1999) ascribes the enormous problems in Tanzania’s land management to centralized state administration. State ownership of land allows the expropriation of customary lands without the authority of law. Linking land ownership to the executive is fraught with uncertainty. Any changes in government can have immediate and adverse effects on the administration of land as happened with the decentralization experiment of 1972 and the re-introduction of local government ten years later. Local land committees barely function at all. District and regional commissioners with their respective land development officers wield
ultimate power in land allocation decisions. At the national level, senior civil servants and political leaders, both in central and local governments, tend to be most influential persons with regard to land matters.

Shivji (1999) is a vehement critic of the vesting of all title in the executive. He thinks the ownership of all land by the political sovereign is the most fundamental question for Tanzania, and that it remains unaddressed. Accepting that government has a duty to regulate the ownership, use and distribution of land, Shivji (1999) argues that regulatory powers can be exercised without vesting title in the state.

The vesting of title in the presidency means land is a pawn in the hands of powerful officers and organs of the central and local governments (Angelson and Fjeldstad 1995). The institutional arrangements provide fertile ground for abuse of authority. This is greatly facilitated by a lack of accountability, transparency or legal and institutional checks and balances in the top-down system of land administration. Not surprising, complaints abound of corruption, nepotism and unconscionable allocations.

Genuine and meaningful participation of landusers becomes virtually impossible when land is administered from the top. Thus one of Tanzania’s declared fundamental principles of land policy—to involve people in the administration of land—remains a declaration without intent.

A common grievance of villagers is the absence of an efficient and legitimate process of settling land disputes (Shivji 1999). The state has sole powers to resolve land disputes including those in which it is an interested party. Villagers are thus denied the benefit of the separation of power principle in resolving disputes. Villagers do not have faith in the bureaucratic land administration machinery.

There are two broad models of reform that have been put forward, and both preserve a broad role for public institutions in land administration (Bruce 1994). One is the decentralized state-leasehold system and the other stresses broad reliance on customary law administered by village authorities and on the evolution of custom to meet new needs.

In the decentralized state-leasehold system, the state would remain the owner of all land. Villages would receive 99-year leases and could confer households’ subleases of less than that term. This model aims to replace customary tenure. The second model involves a radical decentralization of land administration, vesting title to village land in the governing bodies of
the villages, recognizing existing community rules (which often have a customary foundation) and allowing discretion in developing those rules over time.

Both models of reform are paternalistic and reflect a lack of confidence in farmers as private-sector actors responding to economic incentives. The assumption is that farmers need to be protected against imprudent decisions they might make if allowed to transfer land freely. On the other hand both land reform models would potentially strengthen the rights of farmers against the state and permit limited market based transactions in land.

Model one, the demarcation and titling of villages, and the giving of 99 year leases to villages with subleases from the villages to households, has progressed slowly, covering about 20% of the country. The decentralized state-leasehold system erodes the jurisdiction of local political communities and substitutes the authority of the government’s local administration. Model two, the radical decentralization of land administration model, has not been well received by government and thus not implemented (Bruce 1994). Specifically, it does not sit well with those in the Ministry of Lands Housing and Urban Development, who believe in strong central control. While land policy options have been floated and some attempts at implementation made, detailed policy prescriptions have been absent and village communities have often drawn on customary preferences to govern land access and inheritance. Thus land administration varies considerably from village to village and region to region in its combinations of old and new norms.

Centralized land administration is fraught with problems. Most prominent is the arbitrary tendency of the state to expropriate land at the local level without payment of compensation. This raises the broad issue of social injustice and the use of land by the state for coercive control of rural people.

There has been growing interest in approaches to land reforms that promote the adaptability of existing institutions rather than the initiation of radical reform. In this scenario, titling and registration of land in private ownership can be the capstone to the process of evolutionary adaptation under the influence of democratic and market forces. The question is to what extent can policy utilize customary tenure and its evolution to produce needed changes in the land tenure system and to what extent must government supplement or supplant these institutions to ensure the achievement of this end?
Zimbabwe—Synthesis of documented advice on land administration

Zimbabwe is a southern African country of 11,529,000 people and 390,760 square kilometers. Of the total area, 7% is arable and 22.5% is in forest and woodland. Zimbabwe is a parliamentary democracy and is made up of 8 administrative provinces. The country achieved political independence in 1980.

To support the land reform and resettlement program in Zimbabwe a series of studies have been commissioned (Rukuni et al. 1994, Shivji et al. 1998, Chonchol et al. 2000, Janneh et al. 2002).

Five major findings in the studies pertain to land administration. First, the land administration system in Zimbabwe was found to be dual and top-down, without transparency and accountability. Second, the institutional framework for land administration is fragmented, with overlapping responsibilities and poor co-ordination. Third, decision-making on land matters is hampered by a lack of good quality information. Fourth, there is inadequate administrative capacity to meet existing demands for services at all levels. Fifth, some institutional structures derive their authority not from the legislative instruments but from the executive, which constitutes and reconstitutes them.

The studies proffer advice on how the outlined problems could be resolved. In order to address the first problem, decentralization to local government (Rukuni et al. 1994) or decentralization to local boards (Shivji et al. 1998) is suggested. Second, Rukuni et al. (1994) recommended the formation of a Department of Lands to perform all land administration duties including those hitherto carried out by other government departments. The Department of Lands has been established but the transfer to it of relevant land administration duties from other ministries is still to take place. Third, developing a comprehensive land database to be located in the Department of Lands (Rukuni et al. 1994) or establishing a research and information unit within the National Land Board (Shivji et al. 1998) could facilitate good quality information. Fourth, the issue of administrative capacity of land boards could be addressed through using revenue from a proposed land tax and service charges (Shivji et al. 1998). Fifth, Shivji et al. (1998) recommend that agencies should derive their mandate from the constitution and/or law and not from the executive or administration.

The studies that have had the greatest impact on land policy in Zimbabwe, the Rukuni Commission (1994) and the Shivji Report (1998) both endorse the idea of Botswana style land boards for devolved land administration in Zimbabwe.
Masvingo Province lies to the south of Zimbabwe and has a total area of 56,566 square kilometers and population of 1,222,581 (1992). Out of the total population, 8% is urban and 92% rural. With an average annual rainfall of 500 mm, the Province is highly susceptible to the occurrence of drought. The dominant economic activity is rain-fed subsistence agriculture that supports an average rural population density of 21.6 persons per square kilometer. In addition to agriculture, the province is home to the Great Zimbabwe, which, during stable economic and political times, serves as a significant attraction for international tourists.

In July of year 2002, semi-structure questionnaire interviews were administered to 200 respondents in Masvingo Province by a team of Zimbabwe researchers associated with the Centre for Applied Social Sciences at the University of Zimbabwe. This was the first of three provinces where similar research was conducted in the summer and fall of 2002. The junior author of this paper was a member of the research team in the Masvingo Province. The interviews sought the views of respondents as to the opportunities and constraints to land administration in the context of the ongoing land reform program.

The questionnaires were administered to provincial and district level respondents.

Of seven administrative districts within the Province, two were selected for the questionnaire interviews on the basis of having a distribution of the types of land for which devolution of land administration is concerned: communal, commercial farming and resettlement areas. Respondents were partitioned into two groups; one group representing recipients of land administration services and the other group providers of the services. The two groups had 150 and 50 respondents respectively. All the 150 recipient-respondents were randomly drawn from villages within the two selected districts. The 50 provider-respondents were drawn from key providers of land administration services at the district (sub-provincial) and provincial level. The key respondents in this latter group included representatives of the Ministry of Lands, Agriculture and Resettlement, Ministry of Local Government, Public Works and National Housing at the provincial level, and representatives of rural district councils, district administrators and traditional leaders at the district level. A separate questionnaire was administered to the recipient and provider groups.

Data from the Masvingo fieldwork has not yet been fully analyzed. What is presented here is a first-cut impression. However, even at a first cut, some issues clearly stand out.
There are multiple providers of land administration services and most of these institutions operate in a top-down mode. Key players include the Ministry of Local Government, Public Works and National Housing, Ministry of Lands, Agriculture and Resettlement, local authorities, traditional leaders, war veterans, representatives of the ruling party, and land identification and local government committees. The role of each of these political and administrative structures is often not clearly defined to themselves and each other. Local land identification committees are intended to bring together all stakeholders in land administration; however, these committees have overwhelming central government representation. The results of this situation has been poor delineation of lines of responsibility, poor communication, and confusion over roles of legally and administratively mandated land administration structures.

It was evident from interviews with provider-respondents that some institutions derive their mandate from Roman-Dutch law while others have their basis in customary law. The Zimbabwe Constitution recognizes both Roman-Dutch and customary law. A problem arises because central government is applying both legal regimes to the same people and areas. A case of this contradiction appears in the confusion between the village head and rural district council, whereby customary law denotes responsibility for land administration to the village head, while common law shifts that responsibility to rural district councils.

Based on interviews, opportunities for devolving land administration seem to exist. For example, activities such as identification of unoccupied land, land allocation, land use planning and enforcement are, to varying degrees, being exercised at the village level by village heads and/or councilors (depending on power balance in the locality). In the year 2000 traditional leaders were put on the central government payroll; this has led to them playing an increasingly active role in land administration.

In spite of the evident opportunities mentioned above, provider-respondents generally felt that there are numerous and substantial constraints to devolution. Power and authority for land administration remains vested with the central state, as the owner of all communal and most resettlement land. Most government officials felt government involvement in land administration needed to continue because of capacity problems at the local level as well as the need to maintain the state’s share of land related revenue. At the local level there are inadequate resources to support effective land administration; there is no provision for such in the national budget and local institutions do not, at this time, have significant powers to generate revenue. Relatedly, the thinking was that any decline in revenue that would follow
from devolution would adversely affect central government’s capacity to carry out its functions. Civil servants currently involved in land administration argued that centralized administration facilitates more equitable access to land by poor rural households.

The recipient-respondents see opportunities to identify functioning structures at local level and grant them land administration powers. The local level institutions could be funded through the retention of money raised from local taxes and levies. It was argued that the high literacy rate of 76% provides an opportunity for local people to be trained in land administration.

However, recipient-respondents point to the absence of clear policy guidelines as a major constraint to devolution. The future roles of local authority vis-à-vis traditional leaders are not known given policy inconsistencies in the past. The feeling is that government is strengthening the role of traditional leaders while not clarifying how they will relate with ministries involved in land administration. It is also not known whether the stakeholder land committees are intended to be permanent or transitional institutional structures.

Given the general feeling of insecure land tenure among recipient-respondents, the feeling is that agents of the state would remain the legitimate authority over land. Some recipient-respondents felt government would be wary to entrust its property to localities given uncertain repercussions. In resettlement areas that are state land, government has insisted that any settlers who decide to leave the scheme have to surrender their land registration card to the resettlement officer who then reallocates the land to interested applicants. Concerns of tenure insecurity were raised in that some recipient-respondents believe that in the absence of a secure property rights regime, devolution becomes untenable.

In general, recipient-respondents observed that central government policy has maintained the role of state agents in land acquisition, land use planning, land allocation and enforcement. Many were of the opinion that prospects for devolution have been undermined by the recent co-optation of traditional leaders into local government structures.

Concern was raised over the fact that revenue that is raised from the local level is not reinvested in the locality. Apart from investment delivered through the work of non-governmental organizations, there has been no recognizable capital inflows to localities. Recipient-respondents link any plans for devolution to the need to address the issue of power over resources, as the current system of government channels resources to the center. Overall,
they are not hopeful about devolution as they think its attainment would require a change in the very rules that sustain those in power.

Surprisingly, there seems to be a broad convergence of opinion among providers and recipients of land administration services. On the one hand, they both note that on a day to day basis, substantial land administration is occurring in a devolved fashion, at the village level. Recognition of this reality, would, prima facie, provide a logical basis for formal devolution. However, provider-respondents and recipient-respondents both see significant constraints to devolution, though the constraints they identify are different. Provider-respondents are worried about local capacity and fiscal viability in a devolved land administration system. Recipient-respondents believe the issue is fundamentally a power game in which control over land provides substantial political power, and that because of this the odds are stacked against a currently centralized system endorsing any substantial devolution.

**CONCLUSION—DEVOlUTION FOR LAND ADMINISTRATION: OPPORTUNITIES AND CHALLENGES**

The Zimbabwe case presents a paradox. The theoretical literature is clear as to the failing of centralization, especially in the case of Africa and as it relates to land reform (e.g. Wunsch and Olowu 1990, van den Brink 2002). Zimbabwe’s experience with land administration seems to bear this out. The literature also is clear that the alternative to centralization is some form of or approach to devolution. Devolution, as noted throughout this text, should have many administrative, political, and policy advantages (though it is not clear that experiences with devolution have borne out its promises (Olowu 1990)).

Studies which have been undertaken about land reform in Zimbabwe endorse the idea of devolution, from both a negative and positive point of view (i.e. a sense that the present situation can not continue, it must change, and the only direction for creative change is towards devolution). These studies seem especially intrigued with the option of a Botswana-style Land Board structure for devolution. But the literature on the Botswana experience is mixed. Some scholars suggest that the experience is a success, and should be emulated. Other scholars have been and are more skeptical, and wonder how much of what is praised is a function of having few other “successful” alternatives there to point to. In addition, as is true with most institutional innovations, some caution that the ability to construct the Land
Boards was dependent on very particular circumstances which may be difficult, if not impossible, to replicate.

The preliminary field data from Masvingo Province in Zimbabwe adds further confusion to the paradox of the Zimbabwe case. The on-the-ground reality of land administration practice appears to be one of substantial devolved authority. This would suggest that it should be possible to build on this authority towards more formalized devolution. But both provider and recipients of land administration services are wary of formalized devolution, though for different reasons. Providers are concerned about the capacity of existing structures to successfully manage devolution; recipients are skeptical that existing beneficiaries of centralization would cede authority, and in addition recipients seem to wonder if devolution would further exacerbate existing power-based problems among groups (an issue noted in the theoretical literature).

In interpreting the findings from the Masvingo Province fieldwork, it is useful to keep at the back of one’s mind the structural constraint offered by the colonial legacy of central control which has continued post-independence. Provider-respondents seemed content with the status quo, but upon probing during interviews it became clear that there is no shared vision among government ministries concerning the governance system that they are collectively working towards.

It is easy to make the case for devolution on theoretical grounds, it is much harder to understand how it would come to exist. By saying this, we are not, in any fashion, endorsing the existing or any alternative system of centralization. We are, however, acknowledging the political and administrative difficulties of devolution, given the current situation in Zimbabwe.

What does this conclusion portend for a strategy for change? If there is to be devolution in land administration in Zimbabwe, the actors involved (government, donor agencies, NGOs, central and local administrators, recipients) have to embrace a multi-faceted strategy for devolution. Devolution will not just happen. To occur, it must be created within the context of a rich set of support structures—training, record keeping, dispute resolution processes, fiscal empowerment, etc.—that will facilitate its success. Only when there is a commitment to this level of support, where it will be possible to generate the conditions for a devolution which will not be as failed as the centralization it is designed to replace.
REFERENCES


