



## Institutional Structures for Land Reform: Existing Opportunities and Obstacles, and Alternative Policy Options

### **Scope of Work**

Land Tenure Center, University of Wisconsin-Madison  
&  
Centre for Applied Social Sciences, University of Zimbabwe

### **Zimbabwe Land Reform and Resettlement Cooperative Agreement**

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### **PRINCIPAL INVESTIGATORS**

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### **STUDY OBJECTIVES**

The major goal for this study is to explore alternative models for devolution of administrative authority for land reform and resettlement.

The specific objectives include:

1. Assess the existing situation of land administration – in its formal capacity, and its actual practice -- focussing on key actors such as selected beneficiaries of the land reform program, traditional leaders, rural district councils, local government authority, unions, private sector and others. Emphasis will be given to the perception of the aforementioned participants to their perceptions of the functionality of the current institutional involvement in terms of the overall land administration system in Zimbabwe.
2. Identify institutional, legal and program features needed to undergrid land administration devolution.

3. Examine comparative international experiences as alternative models applicable to the Zimbabwean case (emphasis on regional cases, notably Botswana land boards)
4. Provide alternative policy options on institutional structures for land administration reform in Zimbabwe based on findings 1-3 above.
5. Recommend institutional land reform strategy appropriate for Zimbabwe, and initiate the design of a plan of action for implementation.

## **BACKGROUND**<sup>1</sup>

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. The lack of attention to institutional reform 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 – at both the central and sub-national (local) levels, the economic benefits from land reform and resettlement scheme will not be forthcoming.

The land reform program has emphasized the acquisition of commercial farmland and its redistribution to people drawn from overpopulated communal areas. In the main, resettlement consisted of land allocation and the provision of rudimentary infrastructure and services. In the period 1980-1992, there was no local authority for resettlement areas. Once established, resettlement areas were excised from the then Rural Council areas but were not integrated into the then District Council areas (which had authority over communal lands); instead resettlement areas were within the jurisdiction of the central government's Department of Rural Resettlement. In consequence, Resettlement Areas formed a sort of insular enclave in many ways separate from than the surrounding areas, with no opportunity for local input in land administration.

The problem with this approach is that it retained the institutional form and structure of land administration from colonial times (Moyo 1999). In essence, the approach is generally centralized, bureaucratic and inflexible. Authority is vested in a resettlement officer, and settlers have no or little say in the planning and management of the resettlement area. The lack of participation by local people in the institutional frameworks driving the land reform program results in an ambiguous definition of property rights, insecure tenure, a general failure to utilise 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. When institutions involved in land reform fail to be responsive to or harness the needs and aspirations of the beneficiaries of the program local people begin to lose confidence in them, thereby depriving the process of linkages or synergies that are of crucial importance for the attainment of economic development. Legitimacy is paramount to the upholding and enforcement of the rules, norms and practices encoded within institutional structures.

Global, African and Zimbabwean dialogue about land reform and land administration is currently focused on the need for substantial devolution (Toulmin and Quan 2000). The idea is that this model of land administration draws from and respects local knowledge about

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<sup>1</sup> Much of this background and problem statement draws on research undertaken by Charles Chavunduka, as part of his graduate studies at the University of Wisconsin-Madison.

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. The development of more self-reliant communities allows central government to focus on more macro policy issues, while 'assisting' or 'complementing' local initiatives.

Nevertheless, devolution in theory and practice are two different things. In theory, local control should provide for a wide range of advantages to beneficiaries; in practice it is often criticized as fostering conditions that are parochial, elitist and lead to land and natural resource management regimes that ignore on-the-ground ecological conditions (Kingsley 1996; Jacobs 1989, Wirth 1937). That is, devolution is often promoted as an alternative to what is recognized as the shortcomings of poorly conceptualized and implemented centralization. In the backdrop of a record of policy non-performance and bureaucratic incompetence by central government, it seems conditions could only get better under a state of decentralized land administration. But experience coming from other countries suggest that a richly developed system of decentralized control can lead to the same type and range of criticisms (e.g. in the U.S. the classic study in this regard is Bosselman and Callies 1971). One common critique of decentralization lies in the ironic risk of it furthering to reinforce and strengthen centralized regimes through gaining greater stronghold and, local presence, and control under the guise of decentralized power.

For political and donor-based reasons, the land resettlement and reform program in Zimbabwe seems as if it can and will only go forward with a move away from its current centralized structure and towards a decentralized one. Three possible broad models of decentralization suggest themselves.

The first draws on Botswana's experience with land boards (Hope 2000, Wynne 1989). These boards draw together political, tribal and community interests into an administrative structure, which have achieved a degree of legitimacy and effectiveness. Critics have however raised concerns regarding a number of aspects of the Boards including for example, that they are imposed structures, insular and self-serving rather than representative of their populations, corrupt, overly bureaucratic, ineffective and actually more responsive to central rather than local priorities (see White, 1998; Mutepfa *et al*, 1998).

The second looks to direct devolution to local authorities. The advantage here is that it builds on existing local governance institutions. But the problem with regard to this, is the way local institutions are subject to political patronage, and the need for effective systems of checks and balances.

The third model draws upon the legitimacy of traditional leaders for a system of local land management where traditional leaders and other local institutions share authority. However, the two groups have a history of working against, rather than with, one another as exemplified in current decision making conflicts concerning land between traditional chiefs, RDCs and local authorities in Zimbabwe.

## **STATEMENT OF THE PROBLEM**

Claims for equity, restitution, as well as redistribution of wealth, equitable economic opportunities and broad-based economic development were and still are, key concerns of the post-independence Zimbabwean government. These unanswered, resilient claims remain priorities of the government today (Government of Zimbabwe 1998,1999, 2001; Moyo 1999; Shivji *et al* 1998). Ideally, the current land reform and resettlement program in Zimbabwe is perceived as a cornerstone and vehicle for the realisation of the above aspirations. Nevertheless, in the absence of an appropriate re-alignment of current institutions involved in land administration and fostering their high sensitivity to the various expressed genuine needs of the beneficiaries or their involvement in the decision-making process, the program is likely end up as a spontaneous and ephemeral 'storm in a tea-cup', with regards to the attainment of its goals.

## **METHODOLOGY**

This research focuses on investigating the extent to which current institutions involved in land administration in Zimbabwe are poised to facilitate the realisation of the fundamental goals of the land reform program, that is, an equitable distribution of land and broad-based economic development. In essence, the first step entails a detailed investigation of the appropriateness of existing institutions from both the supply (organizations delivering services) and demand (recipients of the service) sides, followed by an assessment of how they might improve their operations and effectiveness.

### **A. Assess the existing situation of land administration**

This activity seeks to assess the existing capacity for land administration at the local level. In particular, it assesses the appropriateness or effectiveness of existing institutional frameworks for the administration of the land reform and resettlement program from the point of view of those persons most directly affected and implicated. Through a review of the institutional framework and discussion with relevant stakeholders, it will seek to identify the key actors, their roles and relationships, strengths and weaknesses from the point of view of all stakeholders i.e. decision-makers and the most affected. Particular attention will be given to identifying opportunities and threats to a devolved land administration system. The activity will also identify the institutional, legal and program features needed to appropriately support devolution. Specifically the following institutions will be assessed: rural district councils, traditional leaders, community based organizations, central government, statutory bodies such as provincial and district land committees, district administrators and political parties. Informal institutions will be examined with a view to identifying opportunities for sustainable systems of land administration.

The capacity of the above institutions in land administration will be evaluated in terms of efficiency, effectiveness, economy, skills base, accountability, transparency, empowerment, participation, sensitivity to plight of marginalized groups such as women and the poor, management and legitimacy, among other criteria. This will be achieved through the following:

- ***Review the legal framework for land administration with emphasis on the local level.*** The following legislation as applicable will be reviewed: Rural District Councils Act, Urban Councils Act, Housing and Buildings Act, Local Government Act, Traditional Leaders and Headmen Act, Rural Land Act, Communal Land Act, Land Acquisition Act, Regional, Town and Country Planning Act, Water Act, National Parks and Wildlife Management Act, Land Survey Act, Agricultural Land Settlement Act, Alienated Land Information Act, Constitution of Zimbabwe, Customary Law and Local Courts Act, Deeds Registry Act, Land Occupation Conditions Act, Lands Act, Settled Estate Leasing Act and Titles Registration and Derelict Lands Act.

The review and analysis of the legislation will be done for the purpose of identifying existing opportunities and constraints to devolution of land administration, any jurisdictional overlaps, contradictions, and dysfunctional centralization of authority. Opportunities will be looked at from the point of view of whether the legal framework provides a conducive environment for devolution of land administration and whether and how the pieces of legislation reinforce or conflict with each other. Constraints will be analyzed for possible inconsistencies, discrimination, duplication, conflict, and inefficiencies, impediments and other weaknesses posed by the legal framework. This activity will determine the functionality of the legal system as well as the extent to which procedures are streamlined for efficiency. Particular attention will be given to how legal and operational procedures and matters concerning land can be used within one national level institution. At the same time the effects and impacts of existing pieces of legislation on land administration will be examined.

- ***Institutional framework for land administration at the local level.*** Through guided questionnaire interviews with key actors in three of the eight provinces (Mashonaland East, Masvingo and Matabeleland North) at local, provincial and central level, this activity will analyse the organizations, structures and processes involved in land administration. The interviews would generate data on the complexity of the institutional arrangements as well as procedures for land administration. They will take into account both formal and informal practices, concerning the wide array of land administration activities currently in use, such as allocation, settler selection, dispute resolution, formal and informal land use and so on. Particular attention to the situation of women in terms of access as well as decision-making control will be considered. These three administrative provinces have been purposefully selected out of a total of eight because of the need to take account of regional differences in resource endowment, ethnic, traditional, cultural, political values and preferences; and varied degrees of exposure to donor initiatives on local resources management programs.

The findings from key-informants will be discussed in focus group workshops that will be organized for the purpose of discussion of the views of service providers and recipients. During the same workshops focus groups will deliberate on possible options for land administration policy. Altogether, a total of seven sessions will be convened -- three local focus group sessions, three provincial focus group sessions and one workshop at national level.

The purpose of focus group sessions at all levels is to facilitate debate among stakeholders concerning the existing system of land administration as well as policy options for the future.

- **Rules in Use: Land administration in practice.** Based on outputs from interviews, focus groups at local and provincial levels in the three study provinces will be used to assess the existing capacity of the land administration process and the promptness and fairness of the dispute resolution procedures from the point of view of clients of the services. Further, focus groups will be probed to ascertain specific weaknesses in the existing system, and queried as to what form an improved, 'ideal' institutional arrangement would take.

## **B. Examine Comparative International Experiences**

This activity seeks to review a selected set of case studies of international examples of devolved land administration systems. Emphasis will be placed on regional cases, notably Botswana land boards and the Tanzanian model of decentralized land administration. The case studies will be done for the purpose of drawing lessons for Zimbabwe. To this effect and as applicable, a one-week study tour of each country is proposed.

A review of important studies, reports as well as policy statements made in Zimbabwe will be carried out with a view to analyzing and synthesizing documented advice concerning a more effective system of land administration. This activity will review the following and other studies as applicable:

- Land Tenure Commission reports (Rukuni et al; 1994)
- Land Tenure, Agrarian Structure and Comparative Land Use Efficiency in Zimbabwe: options for land tenure reform and redistribution (Roth and Bruce 1994)
- National Land Policy Framework (Shivji et al; 1998)
- Non-Governmental Initiatives of Participatory and Negotiated Resettlement (Kinsey 2000)
- UNDP mission Report to Zimbabwe: Land Reform Process in Zimbabwe (Chonocol J. et al).
- Government of Zimbabwe (1998) Inception Phase Framework Plan 1999-2000: An Implementation Plan of the Land Reform and Resettlement Programme [Phase 2].

The findings from the international and local experiences will shed light on policy options for Zimbabwe.

## **C. Develop Policy Options for a Devolved Land Administration System**

Based on research findings, the team will come up with two or three alternative options for the devolution of land administration in Zimbabwe.

- **Public involvement program.** Policy options Phase 1 will be presented to members of focus groups at workshops that will be held in the three provinces, 3 at the local

level, one at each provincial level, and one national level to obtain inputs prior to finalization. Phase 2 will have 1 workshop per province and 1 at national level.

- **Policy recommendation.** A report will be prepared with a proposed organogram showing details of the recommended structure for a devolved land administration system including any suggested changes to local, provincial and national levels. The organogram will constitute part of a policy brief to be put together at this stage justifying and explaining the newly proposed structure.
- **Present policy recommendations.** Organise a national seminar to present to policy makers and other stakeholders the proposed land administration structures and their linkages for consideration.
- **Finalisation of report.** Researchers incorporate comments or concerns raised at the national seminar on institutional requirements for an effective land administration in the reform program.
- **Plan of action.** Suggest a plan of action for implementation paying attention to how institutional reform can be achieved and identifying the responsibility for steering the institutional reform program.

## OUTPUTS

1. Report on legislative and institutional review and analysis.
2. Report on comparative international experiences.
3. Brief report on the proposed 2 to 3 policy alternatives and designs; including initial plans of action for implementation.
4. Policy brief following the national seminar, describing the final proposed land administration structure and initial steps toward implementation.

**PROPOSED BUDGET (March to December 2002)<sup>2</sup>**

	<b>Cost</b>	<b>Count</b>	<b>Unit</b>	<b>Total Cost (Z\$)</b>	<b>Total Cost (US \$)<sup>b</sup></b>
<b>LTC Budget:</b>					
Salary/benefits: Jacobs	\$11,899	1.50	Month		\$17 849
Salary/benefits: Chavunduka <sup>a</sup>		6	Month		0
Salary/benefits: Pozarny <sup>a</sup>		6	Month		0
Total LTC Direct Costs					\$17 849
Indirect Cost Recovery			25%		4 462
Total Costs					\$22 311
<b>CASS Budget</b>					
<b>Salaries</b>					
Patrick Mamimine	\$532 000	7	Months	\$3 724 000	12 841
Vimbai Vudzijena	\$416 000	3.5	Months	1 456 000	5 021
Kudzai Chatiza	\$416 000	5.5	Months	\$2 288 000	7890
Secretarial services <sup>c</sup>	\$90 000	6	Months	\$540 000	1 862
Research Assistants	\$90 000	6	Months	\$540 000	1 862
<b>Field work in Zimbabwe:</b>					
Car maintenance <sup>d</sup>				\$50 000	172
Fuel Expenses <sup>d</sup>	\$10/1km	9000	\$/km	\$90 000	310
Accommodation and subsistence					
Zim. Researchers	\$10 000	135	Days	1350 000	4 655
Zim. Research assistants	\$5 500	100	Days	\$550 000	1 897
International airfare: Jacobs & Chavunduka	\$725 000	2	Return tickets	\$1 450 000	5 000
Per-diem: Jacobs	\$53 650	21	Days	1 126 650	3 885
Per- diem: Chavunduka	\$10 000	28	Days	\$280 000	966
<b>Regional Study Tour (Botswana &amp; Tanzania)</b>					
Botswana: Return Air Tickets for 3	\$130 500	3	persons	\$391 500	1 350
Tanzania: Return Air tickets for 3	\$188 500	3	Persons	\$565 500	1 950
Per diems <sup>3</sup> : Botswana (3 people)	\$30 450	3x12	Days	\$1 096 200	3 780
: Tanzania (3 people)	\$64 670	3x12	Days	\$2 328 120	8 028
Transport (Car Hire and fuel) for the 2 12-trips	\$23200	22	Days	\$510 400	1 760
<b>Seminars and Meetings</b>					
Policy Option Phase Discussions <sup>c</sup>	\$1 000	120	Persons	\$120 000	414
Final Draft Seminar <sup>f</sup>	\$1 000	120	Persons	\$120 000	414
Fuel for seminars	\$10/km	3000	km	\$30 000	103
Workshops in Harare <sup>g</sup>	\$1950	60	Persons	\$117 000	403
<b>Consumables</b>					
Communications	\$50 000			\$50 000	172
Photocopying and supplies	\$50 000			\$50 000	172

<sup>2</sup> Under the current volatile political situation in Zimbabwe, some factors may prevent the implementation of the research as scheduled. In particular, the national workshops may be held early 2003. This would warrant extension of the grant to cover these changes in work plan.

<sup>3</sup> Gaborone: US\$105 per day; Dar es salam: US\$223 per day

<b>Total CASS Cost</b>				\$18 923 140	65 252
<b>Inflation Adjustment</b>		20%		\$3 784 628	13 050
<b>Grand Total</b>				<b>\$22 707 768</b>	<b>US\$78 302</b>

- a. Funded on core project budget.
- b. Exchange rate: US\$1 = Z\$290. Please note that this exchange rate is highly fluid and may change upwards or downwards at any given day or month.
- c. Secretary time dedicated to providing secretarial services to all researchers on the team.
- d. LTC/CASS project vehicles to be used.
- e. 3 at the local level and 1 for each of the 3 provinces, 10 people each, venue and meals.
- f. 3 at the local level and 1 for each of the 3 provinces, 10 people each, venue and meals
- g. 2 workshops (options and final workshop), 30 people each with venue and meals.

## WORKPLAN Schedule

Key Activities	1	2	3	4	5	6	7	8	9	10
	Desk review of laws and govt. operations assessment	X	X	X						
Field interviews with key actors (3 provinces) local/provincial/national	X	X	X							
Focal groups in provinces			X	X						
Desk top literature review on devolution concepts for Land Administration	X	X								
Case study desk top review of international experience (3-4)	X	X	X							
Study tour of case study in region				X						
Report drafting and circulation within team					X	X	X			
Id. Of key features and design of 2-3 alt. models (small team)								X		
Stakeholder workshop in Harare for inputs to model									X	
Final recommendation/report completed										X
Workshop to present recommendation model to policy-makers (parliamentarians).										X
<b>OUTPUTS</b>		Desk review of devolution report	Desk review of laws and government program	Report from field work Report of case studies Study tour report				2-3 alternative models	Workshop report with inputs incorporated	Draft final report. Workshop for policy-makers to present policy recommendations and solicit inputs for final report

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