
Land Subdivisions, Monitoring of Land Deed Transactions and Agrarian Structure in Zimbabwe

Activity 1
Subdivision Policy, Land Reform and Resettlement

Scope of Work

Department of Agricultural Economics, University of Zimbabwe
Land Tenure Center, University of Wisconsin-Madison

Zimbabwe Land Reform and Resettlement Cooperative Agreement

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STUDY OBJECTIVES

The major goal of this study is to evaluate the effect of land subdivision policy on land transfers and the redistribution of land to the socially disadvantaged (ie Blacks and women) in Zimbabwe. The specific objectives include:

- a) Review all legal acts and instruments governing land subdivision, consolidation and transfer through markets and inheritance;
- b) Identify and establish the roles of organizations, committees and processes that govern subdivision, consolidation and transfer through interviews with heads of institutions involved;
- c) Evaluate procedures and policies governing subdivisions in terms of time requirements, transparency, cost effectiveness and economic and environmental costs and benefits; and
- d) Develop a data management system for tracking overtime the impact of subdivision policy changes on agrarian structure.

BACKGROUND AND PROBLEM STATEMENT

Land resettlement in Zimbabwe has been justified on two grounds. The first rationale is correcting historical injustices brought about by colonialism. The roots of the current skewed land ownership and large holdings in the sector can be traced back to the Land Apportionment Act (LAA) of 1931 (Matowanyika, 1996). By law, 198,539 sq. km of land was allocated to 50,000 whites, 117,602 sq.km to 1,080,000 Africans, and the balance of 74,859 sq. km being set aside for national parks, forestry and state land. Through the LAA, the right of Africans to own land anywhere in European areas was rescinded. A new land tenure category, Native Purchase Areas, was created. Here Africans could buy land under specific conditions. As much as possible, these NPAs were demarcated to be adjacent to native areas. 51% of the country had thus been assigned for European settlement and about 30% given to Africans. Some land was left aside for future allocation, and such re-allocation did in fact take place in the 1950s. Even within the Large Scale Commercial Farm (LSCF) sector, holding sizes have remained high due to restrictive sub-division procedures and regulations brought about by enactment of the Regional and Town Planning Act of 1976.

The second rationale flows from the first. The vast tracts of land reserved for whites compared to the number of settler farmers meant individual farm units were too large to economically manage leading to inefficient land utilisation. A large body of research world-wide has adequately demonstrated the existence of a negative relationship between farm size and productivity due to supervision costs associated with employing hired labour. Where farms greater than 1500 hectares are common in high rainfall areas, LSCF research in high income countries have shown that average cost of production decline up to a size of 45 to 60 hectares in British mixed farms, or 200 to 260 arable hectares in cash grain farms of Illinois (H P Binswanger, Klaus Deininger and Gershon Feder, 1995).

A number of studies have shown that commercial agriculture uses smaller proportions of available land compared to communal farming. William Masters in his thesis estimates that based on 1989 figures, commercial farmers planted only 4 percent of their total land compared to 11 percent in communal areas. Masters uses this to argue that there are possibilities of increasing productivity of the whole farming system from resettlement. He also argues that some of the land classified as grazing in commercial agriculture includes land pockets that are too small, rocky, remote or shallow to justify using mechanised cultivation. Such land would be considered arable for farmers using ox-ploughs.

Masters' analysis did not estimate the degree of arable and grazing land utilisation separately. In an analysis based on farm plans of 214 large scale commercial farms in nine Intensive Conservation Areas (ICA's) Chasi et al. (1994) discovered that the farms examined in Natural Region II were cropping on average 38 % of arable land available to each farm. Those in Natural Regions III and IV were cropping on average 43% and 69% of available arable land, respectively. The same study (p. 52) also estimates levels of utilisation of grazing land. Their results show that farmers in Natural Region I were utilising 41-64 % of their grazing area. Utilisation levels in regions II, III, IV and V were 64-78%, 83-100%, 55-84% and 58-67%, respectively.

At independence in 1980 remedying these anomalies became a primary objective of the new black government. Though the focus in the early years was transfer of land to the poor, since the early nineties indigenisation of the LSCF areas has been added as an extra objective of the

Land Reform and Resettlement Programme. However, experience of the past and present resettlement activities and decision making on land matters have suffered from a lack of good quality information. The following quotation from a discussion paper on National Land Policy Framework prepared by Shivji et al for the Ministry of Lands and Agriculture (GOZ, 1998) is particularly revealing:

The separate nature of land administration has also led to separate collection of data to various standards and time scales. In some cases records on land administration have lapsed. This is a major weakness in all aspects of land policy. It is not possible to gain an accurate understanding of what changes are occurring in land matters and therefore to identify accurately the problems. This in turn hampers the capacity to develop dialogue and strategic thinking. Finally a lack of regular, comprehensive data that is kept up to date means that it is not possible to monitor the effect of policies and programmes (p.165).

It is therefore a primary objective of this study to contribute to the creation of an information process to aid in documenting and monitoring impacts of policies on land. Particularly there is need to track achievement of the broader objective of government which is fair distribution of land.

In this study we perceive land redistribution from whites to blacks to be happening on two fronts. The first is government buying, subdividing and allocating land to black beneficiaries. The other involves blacks with means buying land directly from white farmers. Success of either land redistribution approaches greatly depends on availability and price of land on the markets. The more land at affordable prices the greater the amounts transferred to blacks.

One policy that has been proposed to encourage release of excess land onto the market is taxation. By punishing the holding of more land than can be economically utilised taxation would encourage subdividing and sale of excess land (Bruce, 1990, Roth 1990). Moreover, farmers would tend to sell-off those less developed and hence less productive parts of their properties resulting in lower prices. Also with the traditionally small budget allocation to land resettlement, land tax revenues could also help finance the resettlement program (Muir, 1994). When enacted, the information process created as part of this research effort must be able to monitor the impact of a policy such as taxation of land.

However, legislation in pre-independence period, particularly the Regional and Town Planning Act of 1976, introduced bureaucratic hurdles to timely subdivision and transfer of land even without taxation of land. It is particularly interesting that this legislation came close on the heels of the Subdivision of Agricultural Land Act of 1971 in South Africa aimed at entrenching segregation. This tends to raise speculation that the 1976 Act was aimed at discouraging transfer of land. Despite highlighting the hindrance this law places on market led transfer of land between whites and blacks there remains strong support for it within planning departments explaining its existence (Muir 1994; Chasi et al ,1994). The argument is that the regulations prevent creation of uneconomic farming units based on officially perceived minimum income the farmer should earn from the unit at a point in time. Even public assisted land redistribution has legislative and regulatory hindrances that act to constrain subdivision and land transfers. It is therefore an aim in this study to expose the extent of costs in terms of time taken as well as resource expenditure introduced by these legal and bureaucratic provisions governing land transfers.

METHODOLOGY

A. Review and Evaluate the Legal Framework Governing Land Subdivision, Consolidation and Transfer

This activity seeks to assemble all relevant legislation and regulations affecting and/or constraining the subdivision of agricultural land. Through review of this legal framework and discussions with relevant government agencies, it will seek to identify or articulate processes or procedures followed to determine a parcel subdivision, agencies and organisations involved, and criteria used. The activity will also review legal requirements for transferring land using markets as well as those affecting transfer to women. Specifically, the following legal instruments will be reviewed: Administration of Estates Act; Administrative Court Act; Agricultural Land Settlement Act; Alienated Land Information Act; Chiefs and Headmen Act; Communal Lands Act; Communal Land Forest Produce Act; Constitution of Zimbabwe; Customary Law and Local Courts Act; Deeds Registry Act; High Court Act; Land Acquisition Act; Land Occupation Conditions Act; Land Survey Act; Lands Act; Regional and Town Planning Act; Rural District Councils Act; Rural Lands Act; Settled Estate Leasing Act; Supreme Court Act; Titles Registration and Derelict Lands Act; Water Act.

Finally the effectiveness and fairness of the above legal provisions as they affect land subdivisions and transfer will be evaluated in terms of time requirements, transparency, cost effectiveness, and social, economic and environmental cost and benefits through the following specific activities:

- ◆ *An analysis of effects of legal provisions on transfer of land to women.*
- ◆ *Institutional framework to administer subdivision, consolidation and transfer.* Through interviews with heads of institutions involved (including AGRITEX, Department of Lands, Surveyor General's Office, Physical Planning Directorate and Deeds Registry), this activity describes the organizations, committees and processes that govern subdivision, consolidation and transfer. The interviews would shed light on the length of the process as well as the functioning of the dispute resolution procedures.
- ◆ *Inter-temporal Census of Subdivision and Consolidation Applications.* This activity will document applications filed for subdivisions and consolidation whether or not they were successful and the reasons for failure.
- ◆ *Rules in Use: Process of subdivisions, consolidation and transfer in practice.* Based on the census of applications for subdivisions and consolidation, a sample of these will be followed up in order to assess the efficiency of the process and the promptness and fairness of the dispute resolution procedures from the point of view of the clients of these services. The sample will look at both successful and unsuccessful applications.

B. Monitor Changes in Land Holding Structure

This activity proposes to develop a data management system for tracking changes in land ownership on agrarian structure of farming units (No. of farms and area) over time for the following sectors by region (CSO):

- Large Scale Commercial Sector
- Small Scale Commercial Sector
- Resettlement Sector

- Communal Sector
- Parks, Forests and Other

The CSO used to maintain data on agrarian structure for the above categories up to the early 1990s through its annual Commercial Census. Government has maintained official data on location, size and number of resettled farmers. These latter transactions would typically be associated with government assisted transfers in the deeds census. What is not clear, however, is how the changes in deeds transfers in sub-activity (a) affect the country's agrarian structure. Certainly under a slow track-land reform, the effects will be minimal. Nevertheless, data of this type will provide a benchmark for assessing the gains of an accelerated land reform program, and monitor these changes using statistical methods. Specifically,

- ◆ ***Baseline Land Holding Structure.*** This activity provides the base agrarian structure, which is transformed over time due to subdivisions, consolidation and transfer, starting with 1993 as the base year. The activity will result in documentation of size distribution by farm sector by Intensive Conservation Area (ICA).
- ◆ ***Land Acquisition and Resettlement: Efficiency of Land Transfer over Time.*** This activity tracks all farms acquired for resettlement – when acquired, use before resettlement, and time taken before settlement.
- ◆ ***Land Transactions: Tracking Transfers of Land (Linked with Deeds Transaction Activity 2 Under Development).*** This activity will track transfers of land between private (LSCF, SSCF) to government for resettlement or other purposes; private to private; government to private (e.g. commercial farm settlement scheme); private to local authority (towns); and conversion of land from agriculture to residential.

OUTPUTS

- Report on Legal and Regulatory Framework Governing Subdivisions, Consolidations and Transfer of Land in Zimbabwe
- A Database for Monitoring Market and Administrative Land Transfers and Changes in Agrarian Structure in Zimbabwe
- Report on Constraints to Subdivisions: Case Study Analysis of Subdivision Applications
- Impact of Land Subdivision Regulations on Land Transfers in Zimbabwe: An Analysis of Intended and Actual Subdivisions

In addition to the above databases and reports, the researchers involved will synthesise findings through recommendations, policy briefs, an interim workshop, and final workshop involving decision-makers.

POLICY AND FOCAL GROUPS

A focal group will be established to help facilitate the participation of stakeholders and connection with policy makers in the implementation of the activity. Such focal group would ideally involve people from the Ministry of Lands and Agriculture, Agritex, and other

Agencies responsible for approving subdivisions. It would also include one or more representatives from the farming organizations and womens groups. This focal group will be established during the first quarter of the project.

Resources have been added to the budget for workshops and working meetings to help facilitate this stakeholder participation and dialogue.

BUDGET

Attached.

SCHEDULE

Attached.

References

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- Roth, Michael J. (1990): *Analysis of Agrarian Structure and Land Use Patterns*, Zimbabwe Agriculture Sector Memorandum, Agriculture Division, Southern Africa Department of the World Bank, Washington, D.C.

Activity 1
Subdivision Policy, Land Reform and Resettlement

Budget
May 2001 to July 2002

	Cost	Count	Unit	Total Cost
LTC Budget				(US\$)
Salary/benefits: Roth ^a		2	Months	0
Salary/benefits: Kizito Mazvimavi ^b		6	Months	0
Kizito Airfare	2,500	1	Rt	2,500
Kizito Per-diem	50	60	day	3,000
Roth Airfare	2,500	1	Rt	2,500
Roth Per-diem	148	15	Day	2,220
Total LTC direct Costs				10,220
Indirect Cost Recovery	25% of Direct Costs			2,555
Total Costs				22,995
Agricultural Economics (AE) Sub-Contract				
				(ZIM \$)
Salaries				
Chris Sukume	150,000	15	Month	2,250,000
Other (Legal and Gender)	100,000	4	Month	400,000
Research Assistants	30,000	20	Month	600,000
Secretarial	25,000	15	Month	375,000
Transport	40	5,000	Kilometer	200,000
Accommodation	3,500	50		175,000
Equipment				0
Desktop computer	250,000	1	Desktop	250,000
Software	25,000	mixed	Mixed	25,000
Tape recorder				10,000
Workshops and working meetings				20,000
Supplies and communication				100,000
Space, Utilities and Furnishings	5% of direct costs			200,000
Total AE Costs				4,605,000
<p>a. Salary for Roth covered as line item in LTC budget. No additional resources needed.</p> <p>b. Salary of Kizito covered through line item in the LTC budget. No additional resources needed.</p> <p>c. From resources budgeted for Focused Policy Studies.</p>				

Annex A: Schedule of Activities						
	May - June 2001	July – Sept 2001	Oct – Dec 2001	Jan - Mar 2002	Apr - June 2002	July – Sept 2002
A. Review Legal Framework:						
Assemble legislation						
Evaluate subdivision/consolidation legislation						
Institutional framework (key informant interviews)						
Inter-temporal census of applications						
Case studies on rules in use (successful and unsuccessful applications)						
B. Changes in Agrarian Structure:						
Assemble data on agrarian structure						
Establish agrarian structure baseline						
Assemble data on land acquisition & resettlement						
Establish data base on land acquisition & resettlement						
Track commercial land transfers (linked with deeds registration activity 2)						
C. Workshops			Interim			Final
OUTPUTS						
			Database on agrarian structure	Report on Legal/Regulatory Framework	Report on subdivision constraints	Report on impact of constraints on land transfers