

## **INSIGHTS INTO THE POLICY AND LEGISLATION ON LAND REFORM IN ZIMBABWE & THEIR IMPLICATION TO SURVEYORS.**

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### **Abstract**

The land reform program in Zimbabwe has generated a lot of debate and controversy both locally and internationally. It has been hailed as a total success by some circles especially the local media and a total failure by others particularly international analysts. These varied judgments are based on results of implementation of, or failure to implement some of the policies on land set out since independence in 1980. Land Management and Administration experts, among them, Land Surveyors, Land Economists, Lawyers, Valuers and related land practitioners fall within the band of professionals charged with implementation of land policy.

This paper looks at the insights into some of the policies and legislation in Zimbabwe's Land Reform and Redistribution Programme and argues that their implementation could have been enhanced through a more coordinated approach that calls on board most of the stakeholders driving the exercise. The paper also seeks to highlight some of the insights into these policies and show how the technical expertise within the fields of traditional land surveying, land valuation, land administration and geo-information can be harnessed to ensure successful implementation.

The paper concludes by arguing that the events leading to the infamous 'fast track' and seizures of private property were linked to some of the policy implementation failures covering the two decades of land reform in Zimbabwe.

## **1.0 Background**

Zimbabwe gained independence from Britain in 1980 inheriting a land ownership pattern that presented itself as one of the major challenges to the young multiracial nation. The historical arguments and background to the land question have been documented by a number of scholars and international bodies (Parmer, 1977; Moyo, 1995; and UNDP 1998). According to the Government of Zimbabwe, 1998, the result was an unequal distribution where access to land was based on race, and insecure land tenure patterns that were characterized by unsustainable and sub-optimal land use. These historical facts are not only peculiar to Zimbabwe alone, but also to the region as noted in South Africa by Lahiff, 2001 and in Namibia by Adams, 2000.

Though independent, Zimbabwe had thus from start, reached a formidable crossroads in its land distribution, with the majority black population having high hopes of immediate access to land and the minority land owners and multinational companies expecting that the new democratic government would respect and protect property rights. In order to balance this wide range of hopes and expectations the government had to come up with a legislative and policy framework to work with.

Between 1980 and 2000, a number of pieces of legislation were put in place to redress this imbalance with the aim of an equitable redistribution of land. The government of Zimbabwe has articulated many policy positions regarding land reform and redistribution. These policies and supporting legislation have addressed diverse individual, group and national interest. However, administrative mechanisms and technical experts that drive these policies do not seem to be fully involved or sufficiently consulted, calling for a further look at the insights into land policy and legislation on land reform and redistribution.

## **2.0 Policy Guidelines:**

It can be argued whether policy formulation and promulgation of legislation has gone with wide consultation and expert input since 1980 but the government of Zimbabwe has laid down its land policy clearly. This begs the question of whether or not the stakeholders and professional experts as outlined earlier have to be proactive and push forward those aspects relating to their fields of expertise or they await government invitation. There have been general policy guidelines that can be broken into two periods, 1980 – 1997 and 1998 – present. Although each period had its own specific objectives, the following principles have guided and shaped land policy formulation. Based on the above periodic development, and the reality of the political economy, the pre-1997 era was dominated by the following:

1. The unequal distribution of land between the majority black and the minority white population needed (and still needs) to be addressed.
2. People displaced by the war of liberation and the squatter communities that had sprung up on private properties (especially on farms) had to be resettled.
3. There was (and still is) need to decongest the communal areas which hold 70% of Zimbabwe's population (1992 census).
4. Extension of the cadastral register, registration and documentation of land rights beyond the freehold and leasehold areas.
5. Decentralisation of land administration including planning, from central government down to the village and ward levels.

Following the clearly little progress as at 1990 in transferring land between racial groups as recorded by Palmer, 1990, there was a shift in policy and a concerted effort to push the political agenda more than the economic agenda in the redistribution effort which was now dominated by the following guiding principles:

1. Reduction of land concentration from the hands of a few individuals who were previously advantaged to the landless majority and ensure equitable and socially just access to land by all.
2. Improving access to land by the majority black population and empowering those with farming skills, expertise and resources to embark on farming as a business.
3. De-racialisation and Indegenisation of the large scale commercial farming sector
4. A general hunger for land among the villagers and peasants who started to campaign for forced occupation of privately owned land, which eventually became the “fast track”.

To achieve this, government came up with strategies and set targets for itself in order monitor progress and to be accountable to the population.

### **3.0 Strategy and targets**

By 1990 the Lancaster House constitutional constraint that restricted government ability to acquire land fell away and provided an opportunity to reflect and assess a decade of land reform. This agreement had removed compulsory acquisition of land as an option by the new government to obtain land and left the open market and donations as some of the prominent means of acquiring land for redistribution. The results were not measurable and it was necessary to review the process, assess progress and constraints and set targets. If followed or implemented, targets may form a good self-check mechanism against one’s objectives.

The strategy involved the acquisition and redistribution of land from the Large-scale commercial farming sector, which was to be reduced from about 15 million hectares to about 5 million hectares as shown on table 1.1.

After the removal of the constitutional constraint, this meant that land could be acquired through many other sources, including compulsory acquisition. On the other hand, the amount of land under resettlement was to be built from zero in 1980 to about 8.3 million hectares (See table 1.1). At the close of phase one of the Land reform and Resettlement Programme in 1997, only 71,000 families had been resettled on almost 3.5 million hectares of land, against the set target of 162,000 families (Goz, 1998).

Many scholars and experts have expressed concern at the slow pace or even lack of implementation of both the expressed and laid out targets and attributed this to a number of factors. Lack of political will has been muted by Bratton, 1994; Maposa, 1995; and Mhishi, 1995, while Cousins, 2000 has pointed to inadequate funding in national budgets and the time-consuming bureaucratic procedures. It is noteworthy however, that Cousins also points to “over ambitious implementation schedules”, but I argue that one of the issues that need addressing is the lack of participation, awareness among and consultation with professional experts and other stakeholders. This is apparent from the policy implications.

**Table 1.1. Land distribution in 1980 and Target as at 1990 & 2000.**

LAND CATEGORY	HECTARES (MILLIONS)		HECTARES (MILLIONS)
	At 1980	%	Targets set in 1990 (2000 standing)
Large Scale Commercial Farms	15.5	39.10	5.0
Small Scale Commercial Farms	1.4	3.5	1.4
Resettlement (State permit)	0	0	8.3
Communal Areas	16.4	41.4	16.4
State Farms	0.3	0.80	2.5
National Parks and Urban Land	6.0	15.2	6.0
<b>TOTAL</b>	<b>39.6</b>	<b>100</b>	<b>39.6</b>

Source: Moyo, S, 1997/98: GoZ. Ministry of Lands, Agriculture and Rural Resettlement, 2000

#### **4.0 Policy implications.**

One of the expectations of those involved in policy formulation, legislators and politicians alike, is to see these policies getting down to the grassroots and being implemented. Kepe and Cousins, 2002 indicate the general direction of professional intervention when they point out to “lack of clarity in respect of tenure rights to land and natural resources” as a major problem. They further call for the promotion and research into “suitable technologies and practices” (2002, 4) in order to achieve sustainable land and resource utilization. Dale, 1999, supports this view by arguing that technology has often been a solution [that is] looking for problems that have not been clearly defined. However, I note that for Land administrators, land managers, land surveyors, planners, valuers, land economists and other stakeholders, most of these policies imply the following aspects of their expertise:

- Trade in, and marketing of land
- Land record and land information (collection, updating and modernization)
- Land administration systems
- Data capture and mensuration
- Cadastre and cadastral reform
- Land registration, information and property ownership
- Agrarian, tenure and land reform
- Planning and development control
- Education, training and professional development

However, awareness and a platform to act or contribute, including awareness of some of these policy implications has been a serious drawback on the part of most experts who often await invitation from central government. It is important to place the surveyor in perspective by pointing out some of the clear instances where he would fit in, particularly in Zimbabwe and the Southern Africa region

## **4.2 Where do surveyors fit in?**

International bodies like the World Bank, the United Nations and FIG among others have argued that knowledge of and access to land has a bearing on agricultural productivity and food security. The question is whether or not; the stakeholders are prepared to embrace these implications to their daily contributions to the land reform process. Komjathy and Nichols, 2001 have particularly called on the surveying community “not to underestimate its role in allocating, adjudicating, protecting, and changing the way in which people hold rights to land” They also note that in their daily practices, surveyors do not just deal with the shape and sizes of land parcels, but also the general parcel fabric. Referring to the management of Land Information, an area of expertise for Surveyors, Dale and McLaughlin challenge them to “achieve the implementation of policy decisions and the accomplishment of objectives in an optimum fashion” (1988, 207).

In the Zimbabwe and indeed the regional land reform process, I am arguing that professionals, surveyors included have to seize the opportunity presented by their specialist knowledge and play a leading role in policy implementation. There ought to be a professional response and input to policy implication that look forward to being directed by such expertise. Land markets for example, need to be orderly and such order comes partly, from land record, data and information. Data collection, capture and processing into information have greatly improved due to technology and these groups of professionals drive the process.

## **4.2 Professional infusion and response in Zimbabwe**

Collaboration and consultation between the profession and policy makers on matters relating to land reform has been sloppy in Zimbabwe. This has been apparent in the lack of use of improved technical tools like LIS and GIS and the almost too much reliance on the older ground and photogrammetric techniques in land identification and allocation. In some instances, the policy objectives have not been followed and accounted for in an audit of set targets. For example, the National Land Policy Framework paper outlined the objectives of the vision of the national land policy to include among other things:

- To ensure security of tenure for all forms of land holdings;
- To ensure equitable and socially just access to land;
- To provide for participatory process of management in the use and planning of land;

If one tries to relate these objectives to the corresponding policy positions and legislation, it becomes clear that professional infusion has been deficient. Incidentally, it is now evident that of all the resettlement schemes undertaken since independence, Government is yet to extend the cadastral register to these areas and introduce title. On the other hand, the Deeds Registry Act 1996, requires married women to be “assisted by their husbands” in executing any deeds or documents, while the country’s constitution, section 23, may be interpreted to legalize discrimination on the basis of gender. These two issues restrict access to land, yet this is one of the fundamental bases of most land policies. Mtizwa-Mangiza, 1990 argues that participatory land use planning at the village, ward and district levels “is increasingly becoming a barren ritual” making it difficult to conclude that the objectives are being realized.

Professional infusion and participation is therefore minimal and has played a part in the delay or probably failure of some policy objectives that eventually led to the government embarking on the “fast track”.

## **5.0 The fast track**

The fast track is important in the arguments on land policy and legislation because, to proceed on this Programme, the government had to change the constitution and amended statutes in order to pave the way for compulsory acquisition. The program was formally announced in May 2000 as a strategy taken by the Zimbabwe government in response to the spontaneous and uncontrollable events that unfolded after February 2000, where when, according to the Commercial framers union, more than 1600 farms were forcibly occupied by the settlers led by the war veterans.

The broad objective was to acquire and redistribute five million hectares of land in twelve months (Goz 1998), a target set at the 1998 Donors conference. By April 2001, the objective had shifted to acquiring “not less than 8.3 million hectares” (Human Rights Watch, 2002) and going by political pronouncements during elections of March 2002, the focus had shifted and seemed to target all farmland in the country. These facts are significant as they point to certain implications of policy and legislation, especially on matters of consultation and decision-making processes. Like the whole land reform process, it is still too early to tell whether the fast track has achieved the set targets. What is clear however is that it has been politicized, uncoordinated, violent and chaotic and contrary to the set principles guiding land to be acquired for resettlement.

### **5.1 Criteria for Land Acquisition**

This matter is discussed here because it has a bearing on policy and legislation and because few guiding principles have been followed both in the pre and post February 2000 efforts at land distribution. Since 1990, and particularly after shaking off the constitutional constraints, guiding principles and criteria set by the government for the identification of farms or land to be acquired for resettlement have been set in terms of the following priorities:

- Derelict land
- Underutilized land
- Land owned by an absentee land lord
- Land owned by a farmer who has more than one farm
- Foreign-owned land
- Land adjacent to communal land

It will be inconceivable to imagine that this sort of criteria and priorities could be achieved without expert input, particularly from Land Surveyors. Firstly, there is need for identification of these land holdings on maps, whether hard copies or the digital version. Secondly, the physical location has to be made of the ground by ascertaining the boundaries and thirdly, the ownership position has to be confirmed through a deeds search in the national land registry.

### **5.2 Concluding Remarks**

It has been shown that there is no apparent urgency or speedy process to address the issues pertaining to security of tenure since the inception of the Land Reform and Resettlement program. So too is the relaxed approach to tenure security, congestion and resultant degradation in the communal areas. The intervention by the international organisations like the World Bank, the United Nations development Program and the donor Community has not shown any marked improvement towards this direction. This is obviously disturbing, when we recall that it is coming at the backdrop of an already difficult legal ownership process, as summarized here by Farvaque and McAuslan, 1992 when they wrote: "...the journey towards the lawful acquisition of a plot of land is a long and confusing one; access to land, registration of land, permission to develop the land involve time consuming, unduly cumbersome, and costly procedures....".

The question to be asked is whether professionals can use their expertise in a proactive manner and contribute towards a speedy implementation of some of these policies and set targets. In 1995, John Porter wrote: "Internationally, it is recognized that surveying, mapping and land information is not well understood by politicians, presidents or the man on the land. Too often, governments have given the land administration portfolio a low profile".

In Zimbabwe, Land Surveyors have taken a back seat and have watched as the Land Reform process progressed from an orderly distribution of available land in the eighties to a chaotic and disorderly rhetoric as in the "fast track". The Surveyor General has reported little involvement and one wonders whether the profession has been sufficiently proactive. Virtually every land policy statement has a bearing on the cadastre and surveying and I have argued in this paper by showing the likely professional intervention.

It is therefore up to the profession to be able to package their expertise and promote this by engaging the government and politicians through negotiation and dialogue. It is noteworthy that the profession has not yet made any effort to sponsor research that could guide or come up with recommendations for an appropriate response. A workshop involving senior management in government could lay a good foundation for networking. The challenge will lie on how this can all be achieved in an environment where the profile of the Land Surveyor is low while the survival of most politicians may well lie in the confusion and the disorder on the land and on the land market in general. Zimbabwe has been a good example on this scenario.

## References

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