

A study on the impact of governance on land reform in Zimbabwe

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A minithesis submitted in partial fulfilment of the requirements for the degree of Master of Economics in the Institute for Social Development, University of the Western Cape.



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&
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A STUDY ON THE IMPACT OF GOVERNANCE ON LAND REFORM IN ZIMBABWE.

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KEYWORDS

Zimbabwe

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Transparency

Participation

Rule of Law

Poverty Reduction

Corruption

Land acquisition

Fast Track



ABSTRACT

A study on the impact of governance on land reform in Zimbabwe.

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My central argument in this mini-thesis is that land reform in Zimbabwe was not a resounding success because of the way the process was managed. The focus of the research is on the “Accelerated Land Reform and Resettlement Programme”

I argue that land reform is central to the livelihoods of the rural poor. Hence the strong need for land reform in Zimbabwe. I propound that the success of land reform hinges on how the process is managed or governed. My thesis is convinced by the consensus that good governance is crucial for eradicating poverty and promoting development. The concept of governance is unbundled and the focus is on its three elements namely: transparency, participation and the rule of law. I develop a conceptual framework in which I establish the theoretical inter-relation between these elements and the land reform processes.

I use many cases to prove that the land reform process was not carried out according to the rule of law. My contention is that the process was largely illegal, shrouded in legal uncertainty and the conduct of justice sector institutions was open to political manipulation. A wide range of data is used to support the assertion that the land reform process was neither transparent nor participatory. Using socio-economic indicators and an analysis of the political situation in Zimbabwe I demonstrate that largely the land reform process was a failure. The mini-thesis concludes with a strong argument that although other factors could have affected the outcome of land reform, its failure can be attributed to the governance of the process.

15 November 2004

DECLARATION

I declare that *A study on the impact of governance on land reform in Zimbabwe* is my own work, that it has not been submitted before for any degree or examination in any University and that all the sources I have used or quoted have been indicated and acknowledged as complete references.

Goodhope Ruswa

November 2004

Signed.....



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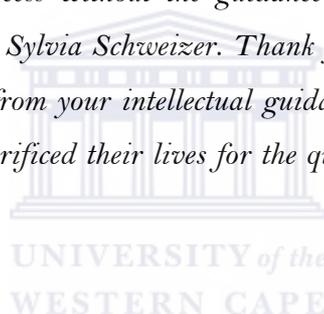


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List of Abbreviations

ADB	Asian Development Bank
CSO	Central Statistical Office
CFU	Commercial Farmers Union
DFID	Department for International Development
FAO	Food Agricultural Organisation
IEE	Institute of Development Research and Development Policy
IFAD	International Fund for Agricultural Development
JAG	Justice for Agriculture
MDC	Movement for Democratic Change
NCA	National Constitutional Assembly
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
USAID	United States Agency for International Development
UNDP	United Nations Development Program
TI	Transparency International
ZANU PF	Zimbabwe African National Union Patriotic Front

Chapter 1 Introduction

Land ownership, control and reform have been some of the most contentious issues in contemporary Zimbabwe. The land question has generated a lot of emotional debate and there is a general consensus that it represents a critical dimension to the crisis the country is going through. This thesis intends to proffer some insights into the modus operandi and outcomes of land reform in the country. Five years ago, the Zimbabwean government embarked upon an “Accelerated Land Reform and Resettlement Programme”¹ through which it purportedly envisaged to retrieve the poor from the quagmire of poverty and steer the country towards development.² Various reasons can be propounded to explain why the land reform in Zimbabwe was not a resounding success in reducing poverty and ushering in sustainable development. It is the contention of this study that the manner in which the land reform process was stirred was a decisive factor in its lack of success. This assertion is influenced by the consensus that good governance is crucial for eradicating poverty and promoting development. Studies in a range of countries and regions hold weak governance responsible for persistent poverty and lagging development.³ The objective of the study is to answer the research questions, whether land reform was carried according to the rule of law and whether the process was transparent and participatory. It is also the intention of the study to establish whether the land reform process was a success or a failure given its goals.

This first part of the thesis presents a conceptual framework on land reform and governance and then advances appropriate instruments to empirically measure the impact of governance on land reform. It opens with a chapter on theoretical discussions on land reform; why it is necessary and how it can be carried out. This leads to a chapter explaining the emergence of the governance debate, possible definitions and characteristics of governance. This is the main chapter which explores the conceptual basis for three main characteristics of governance: transparency, participation and the rule of law. Emphasis is put on the implications of these characteristics for land reform. This expatiation leads to the derivation of a hypothesis and research questions. In Chapter 5 a methodological framework in which the overall research approach and tools appropriate to test the hypothesis are presented. The second part of this thesis presents the findings from the field research. It opens with a brief overview of the history of land reform in Zimbabwe. The research findings are divided into three sections: rule of law, transparency and participation. The section on rule of law will

¹ Commonly referred to as the “Fast Track” land reform program.

² Adapted from Minister John Nkomo’s opening statement at the London Land Negotiations, 27 April 2000, (www.gta.gov.zw).

deal with the legal framework guiding land reform, it will also analyse the legality and legal certainty of the land reform process as well as the conduct of justice sector institutions. The section on transparency focuses on the access to information regarding land reform and the lack of transparency and its consequences on corruption. The section on participation will analyse how the major stakeholders were involved in the design and implementation of land reform.

The final section of Chapter 6 analyses the outcome of land reform. This is done through an evaluation of the objectives set by the government when designing the land reform programme. An attempt is also made to analyse speculations over the “hidden agenda” of the government. This is done through an analysis of whether land reform was largely a reaction to pressures for land reform or if it was used for political instrumentalisation to win the elections. Finally, it is shown how the way in which the land reform process was managed led to its failure.

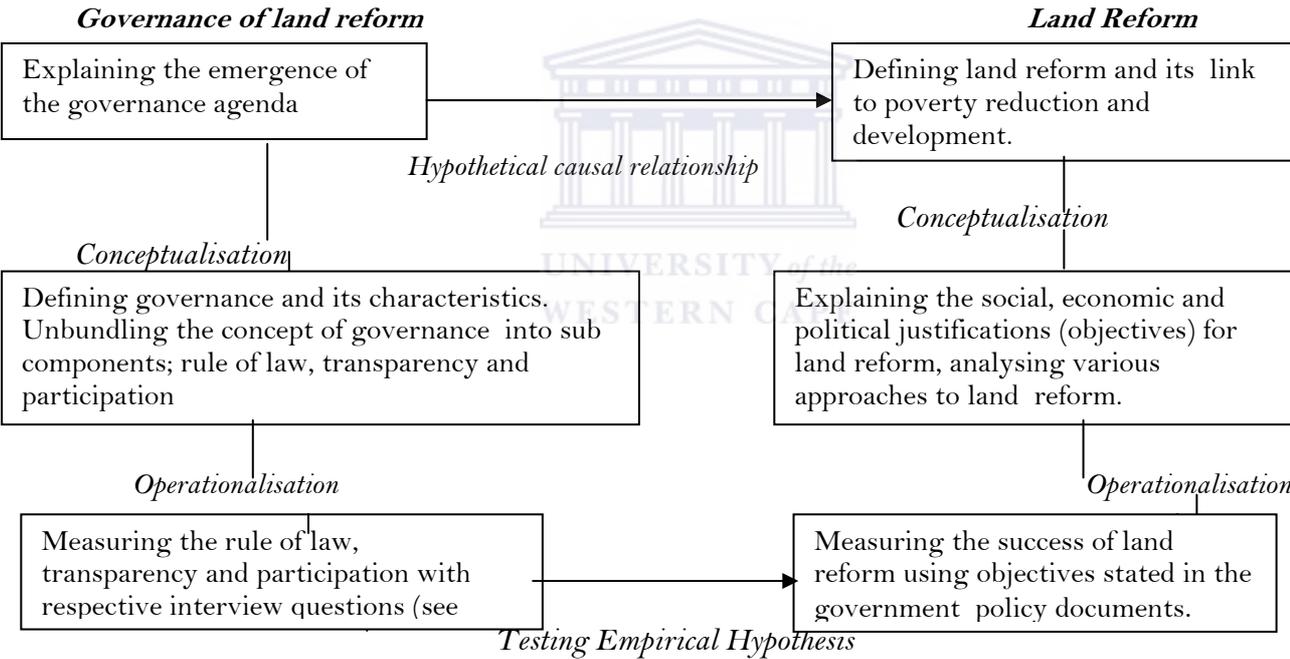


Fig. 1. Conceptual and Operational Framework on the impact of governance on land reform⁴

The design of the conceptual framework can be represented in the form of the diagram above showing its thread and how the abstract concepts of governance and land reform were developed into concrete measures. The diagram endeavours to highlight the design of the conceptual framework as well as the methodological framework.

³ Human Development Report, 2002 p.51, Kaufmann et al 1999, p.17.
⁴ Approach adopted from Neumann, 2003, p.177.

Chapter 2

What is Land Reform

The focus of this chapter is on the land reform process and its characteristics. The chapter opens by defining land reform; it goes on to explain the link between land reform, poverty reduction and development. From there on, it discusses the social, economic as well as the political justifications of land reform. The chapter closes by analysing the various approaches to land reform. This chapter is crucial to the whole thesis in that it gives us the necessary background information on land reform and what it entails.

Land reform involves the redistribution of land, a consequent change in the structure of land holdings and a redefinition of the character and legal status of land rights.⁵ From the given definition, land reform can be conceptualised as encompassing redistribution and tenure reform. For the purposes of this thesis, this clear distinction is not going to be adopted. This is mainly because in Zimbabwe the government has not clearly distinguished between tenure reform and redistribution, neither at the policy nor at the implementation level. Most scholars discussing land reform have a bias towards land reform that results in the ownership of land by a large numbers of the rural poor, or what has been termed pro-poor land reform.⁶ Emphasis is on pro-poor land reform since the approach focuses more on the poor and the role of land in widening their livelihood opportunities.⁷ The emphasis on the livelihoods of the poor does not undermine the importance of large-scale farming that plays a crucial role, especially in supplying export and urban markets. Nevertheless, since the focus is going to be on the poor it is important to briefly discuss the link between land reform, poverty reduction and development.

2.1 The link between land reform, poverty reduction and development

Land reform has a critical bearing on development and poverty reduction. It has to be viewed primarily as a development initiative. This is highlighted by the latest World Bank Policy Research Report that aims at strengthening the effectiveness of land policy in support of development and poverty reduction.⁸ Development is conceptualised as the expansion of the freedom that people enjoy.⁹ Poverty in this case restricts people's freedom and choices.

⁵ Cousins, 2002, p.6.

⁶ Scholars include Rogier van den Brink, 2003; Robert Palmer, 2003; and Ben Cousins, 2002 among others

⁷ Alternative approaches argue that land owned by a large-scale white commercial farmers has to be simply transferred to a black owner. Such a minimalist approach cannot be expected to result in poverty reduction since it focuses on giving land to a minority. It is an approach which can simply duplicate the skewed land ownership system.

⁸ World Bank, 2003, p.ix

⁹ Sen, 1999, p.3.

Most of the world poorest people live in farming households and depend on the productive use of land for their livelihood.¹⁰ Poverty thus imposes restrictions on the people's freedom to participate in the social, political and economic life of the community.¹¹ It is therefore the authors submission that land reform as a development initiative, offers the poor a chance to be free from poverty. The following sections of this chapter put forward various social, economic and political justifications for land reform.

2.2 Social and Economic Justifications

In most developing regions, inadequate access to land is one of the primary causes of rural poverty.¹² Without a fundamental shift in land ownership patterns, it is unlikely that the rural poor will be in a position to chart a course out of poverty.¹³ Land reform is seen as the key to sustainable rural development because secure access to land provides the basis for investment in better livelihoods and improved living conditions.¹⁴ In most developing regions, land plays a crucial role in the daily lives of rural people. Land is a fundamental livelihood asset for the rural poor since shelter, food production and other livelihood activities all depend on it.¹⁵ Land reform can help to unleash the productive potential of poor people.¹⁶ Ownership of land will increase the incentive of households and individuals to invest and it will provide them with credit that does not only help them make such investments but also provides an insurance substitute in the event of shocks.¹⁷ It has to be noted however, that land reform is a necessary but not always sufficient condition for reducing poverty. For most poor people land reform must be situated within the wider framework of agrarian reform and be complemented by the following,¹⁸

- Improved access to services (health, education, finance and transport);
- Appropriate technologies for higher sustainable productivity;
- Better access to input and product markets including savings and credit;
- Opportunities to diversify both within and beyond agriculture;
- Protection of rights and development of opportunities for agricultural workers.

¹⁰ Department for International Development, 2002, p.4.

¹¹ Sen, 1999, p.4.

¹² IFAD 2001 quoted by Windfur 2002 in D+C No. 2 March/April 2002, p.12-15.

¹³ Oxfam International, 1997, p.1.

¹⁴ Cousins and Kepe, 2002, p.1 and DFID; 2002, p.1.

¹⁵ DIFD, 2002, p.4.

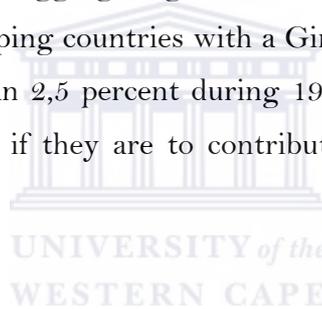
¹⁶ Oxfam 1997,p.2; DFID, 2002, p.1, These claims are mostly supported by empirical evidence from East Asia where land reform played an important role for growth. The World Bank even titled its latest (2003) publication on land , "Land policies for growth and poverty reduction".

¹⁷ World Bank 2003, pxix.

¹⁸ Adapted from DFID, 2002, p.4; Kepe and Cousins 2002, p.2.

As early as 1910 agricultural economists like Chayanov argued for the efficiency of smaller farms.¹⁹ It has become a stylised fact that small farms are generally more efficient than large farms.²⁰ The glorification of the small farmers, however, should not be accepted uncritically. Over the years, commercial farmers have mechanised field operations and minimised on hired labour resulting in a significant increase in returns.²¹ Apart from this, the efficiency of small farmers in the utilisation of labour does not translate into the ability to compete in increasingly dynamic markets where ready access to information, technology, credit and capital favour large farmers. Unless small farmers are also provided with the mentioned input factors, they cannot offset the high productivity and efficiency of large farmers.

Apart from the economic justifications for land reform, a central concern about land reform has been the aspect of distribution. When land ownership is highly unequal, agricultural growth delivers fewer benefits for the poor. An equal distribution of land has been shown to improve growth. In cross-country regressions, more equal distribution of productive assets such as agricultural land increases aggregate growth.²² Also, a cross country study found out that only two of the 15 developing countries with a Gini coefficient for land higher than 0,7 managed to grow at more than 2,5 percent during 1960 to 1992.²³ Access to land by poor people is therefore essential if they are to contribute to and benefit from economic growth.



2.3 Political Justification

Land reform is an issue of central political importance and considerable sensitivity. Highly unequal distribution of land in the context of Southern Africa is a result of the colonial history of the region. Generally, political transitions in the region were not marked by a drastic change in land ownership systems, yet most of the liberation struggles were hinged on the fight for land rights, among others.²⁴ Racially skewed land ownership due to colonial expropriation of land leads to heightened tensions, especially when land becomes part of a wider struggle over social inequality. Land reform in this regard is viewed as a way of redressing colonial injustices.²⁵ Thus, unequal distribution of land is a very important political topic since it can adversely affect political stability. In the political patronage

¹⁹ Van den Brink 2003,p.12.

²⁰ Van den Brink 2003, p.12, Windfuhr 2002,p.7, World Bank; 2003, p.81. The advantage of small farmers compared to large farmers is in respect of labour, because they share in output risk and have higher incentives to provide effort than hired labour.

²¹ FAO, 2003, p.5

²² Birdsall and Londono, 1997; Deininger and Squire 1998.

²³ Deininger and Squire, 1998.

²⁴ The examples include Mocambique, Zimbabwe and South Africa. Adapted from PLAAS, 2001

²⁵ Turner, 2001p.1.

system, land has always been a convenient asset to lure supporters;²⁶ land therefore becomes a political asset around which people can be mobilised. Apart from this, measures to increase the control over land will have a clear impact on empowering people and creating the basis for democratic and participatory local development.²⁷

2.4 Approaches to Land Reform

There are various approaches to land reform. A distinction can be made between imposed reform and induced reform.²⁸ Induced land reform can be achieved through market instruments and state subsidies, imposed reform would involve the forced redistribution of land with or without compensation. Another distinction can be made between three different approaches to land reform, expropriation, negotiation and community driven reform, also referred to as the market approach.²⁹ Expropriation involves the compulsory transfer of land and negotiated land reform involves discussions between landowners and the government, which will result in the landowners giving up part of their land for redistribution.³⁰ In light of the prominence given to the market based approach in literature and practice some elaboration on the approach will be made below.

The market-based approach presupposes that a market for land indeed exists and the community is in a position to identify and acquire land on this market. Information asymmetries are likely to work to the disadvantage of the poor. When dealing with the market the question of market prices comes to the forefront. A review of the market based land reform in Brazil raised the argument on the distortions of the market prices for land,

“...land prices are not in an open market, the low liquidity of the land market and the small number of transactions and the still highly concentrated structure of landholdings favour a process of price formation that is not transparent and is strongly influenced by extra market factors”.³¹

Prices are usually not a result of demand and supply like in an ideal market but rather the result of political power and other restrictions. Any distortions that increase the returns to land such as subsidies, tax preferences to farmers or inflation premiums will drive the land prices higher.³² The high transaction costs associated with land sales can result in the segmentation of such markets, thereby pushing away the poor. The difficulties faced by the

²⁶ There were allegations of cronyism in the first phase of land reform in Zimbabwe; the Dongo List has examples of many ruling party officials who got land ahead of deserving landless people, www.zwnews.com.

²⁷ World Bank 2003, p.xxi.

²⁸ Turner and Ibsen, 2002, p.5.

²⁹ Van den Brink 2003, p.17-25.

³⁰ Expropriation was attempted with little success in the Colombia and Philippines and negotiation has been attempted in Ecuador and Brazil, Deininger, 1999.

³¹ Schwartzman 2000, p7. (In Brazil the large farmers' lobby play a big role in restricting the land market)

poor in accessing land through the purchase on the market in many cases imply that the highly unequal distribution of land is unlikely to be corrected through market forces alone.³³ An additional argument highlights the paradox of the market mechanism in countries that witnessed the deliberate dispossession of land through colonialism or apartheid: how can people whose land was grabbed from them be expected to buy it back?³⁴ Concisely, the market alone cannot be relied upon to deliver land at a scale and price required for a major land reform.³⁵ It is necessary (sometimes) to go beyond the markets to ensure that social and equity concerns are satisfied.³⁶

The first section of this thesis attempted to lay out the various theoretical discussions on the concept of land reform. It has emerged that land reform is very critical in the fight against poverty. It has also been well argued that there are strong social, economic as well as political justifications for land reform. Approaches to land reform like expropriation, negotiation and the market approach were discussed and it was established that there is no blue print on the best way to implement land reform. This thesis propounds that the success of land reform hinges on how the process is managed or stirred. Having said this, the governance of land reform becomes a central issue in the broad argument. It is therefore necessary to focus in detail on the concept of governance. The next chapter deals with the concept of governance, what it is, how it emerged, its characteristics and its implications on land reform.

³² Gunjal et al 1996 in World Bank, 2003, p80. World Bank, 2003, p.95.

³³ World Bank 2003, p.108. (Whereas the Bank criticised sales markets for land, it highly favours rental markets)

³⁴ Windfuhr 2002, p.4.

³⁵ Lahiff, 2001, p.1.

³⁶ World Bank 2003 p.101 (This approach has been attempted in Philippines, South Africa, Zimbabwe and Brazil.)

Chapter 3

The emergence of the governance agenda

This chapter focuses on governance and its conceptualisation. The first section gives details on how the governance agenda evolved. The second section goes on to deal with the definitions and characteristics of governance according to various institutions like the UNDP, World Bank, OECD, Asian Development Bank and the African Union. The third section dissects the concept of governance and comes up with three elements of governance namely rule of law, transparency and participation. The last section of the chapter gives definitions and characteristics of these elements as well as an outline of their implications for the land reform process. This chapter is central to this thesis. It gives the conceptual/theoretical basis for the inter-relation or connection between governance and the land reform process. The main research questions and hypotheses are based on the conceptual framework to be developed in this chapter.

In the late 1980's, it was clear that most of the conventional development initiatives were failing to bring development.³⁷ Many economists could not subscribe to the verdict that conventional reform strategies were seriously wrong. It was rather felt that good plans were not being implemented properly, economic recommendations were falling on institutionally barren grounds and reforms were being stalled because of internal bottlenecks in terms of governance.³⁸ Thus, the failure of many development initiatives was attributed to bad governance. The traditional "Washington Consensus" counselled a minimalist non-interventionist state.³⁹ A state, as envisaged above, was not conducive for development. This view represents what scholars have termed the "orthodox paradox", "for governments to reduce their role in the economy and expand the play of market forces the state itself must be strengthened".⁴⁰ There was the recognition that governments need to function effectively if markets were to prosper.⁴¹ There was therefore a paradigm shift from the "Washington Consensus"⁴² to a greater emphasis on the role of democratic institutions and good governance processes to promote sustainable development.⁴³ In 1989, the World Bank produced a report on Sub Saharan Africa, which characterised the crisis in the region as a

³⁷ This elusive quest for growth is clearly explained in a book by, Easterly 2002, in which he highlights the failures of various development prescriptions.

³⁸ Borner, Brunetti and Weder 1993 in Nunnenkamp, 1995 p.9

³⁹ The Washington Consensus as propounded by John Williamson refereed to the lowest common denominator of policy advice being addressed by the Washington based institutions, Williamson, 1993,p.1329.

⁴⁰ Haggard and Kaufmann, 1992, p.25.

⁴¹ Stevens and Gnanaselvam 1995 p.98.

⁴² The paradigm shift was popular since the Washington Consensus had been used as a synonym for neo-liberal or market fundamentalist policies, which were deemed as harmful and irrelevant to Third World economies.

crisis of governance.⁴⁴ In 1990 the then Bank President, Barber, presented the mood in the bank, as follows

“I am not advocating a political stance here but I am advocating increased transparency and accountability in government, respect for human rights and adherence to the rule of law”.⁴⁵

The governance agenda has undergone metamorphosis over the years. Moving from the macro-economic laden good governance agenda emerging from the World Bank,⁴⁶ the 1990's saw another powerful set of ideas emerge from human development advocates. The concept of humane governance was strongly tied to human rights and democratic practices⁴⁷ and was developed end to make governance more people oriented.⁴⁸ Borrowing from these ideas the Human Development Report (2002)⁴⁹ elaborated on the concept of democratic governance, which is governance that would promote human development.⁵⁰ The concept of democratic governance incorporates the notion of good governance for development, democratic processes and a concern for securing political and civil rights.⁵¹ While acknowledging the relevance of the democratic governance debate, it is worthwhile to note that in the context of this study governance is conceptualised as a means to an end that is development not good governance as a developmental end in itself.

3.1 Definitions and characteristics of Governance

Governance is defined as the exercise of political, economic and administrative authority to manage a nation's affairs.⁵² It comprises mechanisms, processes, and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences. The World Bank defines governance as the process and institutions by which authority is exercised.⁵³ The definition is divided into three elements, the first one includes the process by which governments are selected, the second has to do with the capacity of governments to manage resources efficiently, and to formulate, implement and enforce sound policies and regulations and the third element includes the respect on the part of the citizens and the state for the institutions that govern economic and social interactions. These components of governance can be unbundled into other categories of governance, what is often referred to in literature as characteristics of

⁴³ Borner, Brunetti and Weder, 1993 in Nunnenkamp, 1995, p.9.

⁴⁴ World Bank, 1989.

⁴⁵ Stremlau and Sagasti 1998 p.39.

⁴⁶ The governance agenda influenced by the broad institutional economics school was essentially aimed at increasing economic efficiency and growth by setting an environment that is conducive to private investment.

⁴⁷ Pioneers of this school of thought included Richard Falk and Mahbub ul Haq, (Sakiko and Ponzio 1999, p.4.)

⁴⁸ Sakiko and Ponzio 1999, p.4.

⁴⁹ UNDP 2002, p.51.

⁵⁰ Sen and Wolfesson (1999) earlier described democracy and governance as two sides of the same coin.

⁵¹ Sakiko and Ponzio 1999, p.5.

⁵² UNDP 1997, p.9.

⁵³ Kaufmann, 2001; Turkewitz, 2002.

governance. Whereas there is consensus among academics and practitioners on the fact that good governance is important for development, there is still confusion as to what really constitutes it. The following section of the paper intends to explore the theoretical positions of the UNDP, World Bank, OECD, ADB and Africa Union⁵⁴ on what constitutes good governance.

The New Partnership for Africa's Development⁵⁵ (Section 80) states the characteristics of good governance as transparency, accountability, integrity, respect for human rights and promotion of the rule of law. The OECD acknowledges that the concept of governance is complex; however, it identifies the important dimensions of governance as the rule of law, public sector management, controlling corruption and reducing excessive military expenditure.⁵⁶ It has to be noted here that the OECD regards participation as a separate element that is, however, related to good governance. The ADB identifies the elements of governance as accountability, participation, predictability (legal frameworks) and transparency (information openness).⁵⁷ According to the World Bank good governance is optimised by predictability, openness, transparency, professionalism, accountability, participation, and the rule of law.⁵⁸ The UNDP characterises good governance as embracing participation, transparency, accountability, efficiency, effectiveness and the rule of law.⁵⁹ Concisely put, good governance implies managing public affairs in a transparent, accountable, participatory and equitable manner, showing due regard of democratic principles and the rule of law.⁶⁰ Clearly, there are various dimensions of governance. However this paper will only focus on participation, the rule of law and transparency. Given the nature of the empirical study done on land reform in Zimbabwe it was envisaged that these three elements would be conceptually and operationally relevant and feasible.

3.1.1 Rule of Law

3.1.1.1 Definitions and characteristics of Rule of Law

The rule of law refers to the legal order that follows laid down principles for the exercise of state power. It means that relations between citizens of a given country are governed by law, as expressed by laws, statutes and regulations.⁶¹ The rule of law implies that political decisions of a state are expressed in legal terms that are then applied without discrimination by courts and administrators to the members of the society. A historic core element of the

⁵⁴ The position of the African Union is elaborated in the NEPAD document.

⁵⁶ OECD, 1995 p.14.

⁵⁷ ADB 1995, p.2.

⁵⁸ Knack, 2002.

⁵⁹ UNDP, 1997, p.19.

⁶⁰ Burnell, 2000, p.165.

rule of law is the separation of state powers. The rule of law must ensure the protection of life, liberty, safety and property of persons. Any measures taken by the government should be commensurable and reasonable from the point of view of those concerned, this ensures that in case of conflict all interests are respected weighed in the balance and protected as far as possible.⁶² We can divide the rule of law into three major areas of focus, legal frameworks, justice sector institutions and access to justice.⁶³

The legal framework of a country consists of the body of laws that establish conditions for the conduct of public affairs and private business. The focus here is on a country's constitution, which is the basis of the social contract between the governors and the governed. The Constitution should be the supreme law of a country and no law promulgated by the government must contradict the constitution. An important principle under the legal framework is the supremacy of law, which means that state bodies should be bound by existing legislation and must follow and apply it. Normative content of legal norms and not political expediency should determine the decisions of state bodies. Legal rules need to be generally known and important social areas have to be covered by legal rules (legal certainty). Standards have to be known in advance and new legislation should have no retroactive effects. Rule based, reliable, credible and predictable legal regimes are of utmost importance for those seeking redress in disputes. Another important attribute of the legal framework is the principle of legality. Power must not be exercised without a previous legal definition and is subject to certain controls.⁶⁴

Justice sector institutions include, the judiciary, prosecutors, police, public defenders and the private bar. These institutions should be effective, impartial and transparent (transparency is mentioned under 3.1.2). Court decisions have to be fairly and sufficiently enforced so that citizens trust in them and there must not be discriminatory provisions in the justice system.⁶⁵ There have to be independent court systems and delays in handling legal conflicts and insufficient enforcement of court decisions should be avoided.⁶⁶ The judiciary, one of the main bodies involved in the administration of justice has to be independent, competent, impartial and effective. The independence of the judiciary and the effectiveness of the judicial

⁶¹ French Ministry of Foreign Affairs, 2001.p2.

⁶² Robbers in Thesing, 1997 p.25.

⁶³ This conceptualisation borrows from USAID's Center for Democracy and Governance's Conceptual Framework (2003) and from discussions on the rule of law and German Basic Law in Thesing (1997).

⁶⁴John, 2002.

⁶⁵ USAID, 2003 p.9.

⁶⁶ Nunnenkamp,1995, p.11.

system that should be characteristic of democratic regimes are essential elements of a reliable rule of law.⁶⁷

Law enforcement bodies like the police must act in accordance with the basic tenets of the rule of law to ensure the protection of the rule of law and efficiently support the judiciary. To ensure the rule of law there must be efficient mechanisms that allow cases to be resolved objectively and expeditiously. Recourse against arbitrary expropriation and interference must be respected. The legal regime must be able to indiscriminately guide, restrain and protect different actors and institutions in society ensuring that their fundamental rights are abided by and respected.

3.1.1.2 Implications of rule of law to land reform

Land reform is an inherently contentious issue since it involves the transfer of property from one owner to another. Given the political and social justifications for land reform presented earlier, land reform is bound to be conflictual. It is the author's submission that if the land reform process does not abide by a legal order that follows principles of the rule of law then the process will be aborted. This is because the rule of law is supposed to offer a framework through which the land reform process is carried out. Land reform has to be implemented according to clearly stated and just laws. Whereas it is difficult to prescribe specific legal structures, the legal framework guiding land reform has to be reliable, credible and predictable. Land reform is in a considerable way a political process, however political expediency must not override the supremacy of the law. If land reform is to be a success then justice sector institutions have to act in an effective and impartial manner. Land reform will obviously involve cases where people (especially the former farm owners) have to appeal to the courts for redress. Justice institutions must therefore be able to assist them. The courts play a critical role in land reform because they have to adjudicate on various issues brought to them by the government, the land seekers or the landowners. In this case, it is imperative that there is an independent judiciary that is able to execute its duties in an impartial way. The judiciary must be able to rise above political influence and play its role as the guardians of law. The police must act according to laid out principles and defend those whose rights are under threat. If land reform is to be successful, then the life, liberty and property of all persons have to be protected by the law. A central theme when dealing with the implications of the rule of law to land reform is the legality principle. The land reform process has to be based on legal norms which are applied impartially if the process is to be successful.

⁶⁷ Burnell, 2000, p.169.

3.1.2 Transparency

3.1.2.1 Definitions and characteristics of transparency

Transparency can be defined as a principle that allows those affected by administrative decisions, business transactions or social activities to know not only the basic facts and figures but also the mechanisms and processes.⁶⁸ The Principal Agent approach is going to be advanced in the analysis of the concept of transparency. It assumes the existence of a contractual relationship (explicitly or implicitly) between two parties, a principal delegating a specific task to an agent who assumes responsibility for the proper execution of the task.⁶⁹ The state enters into a social contract with its citizens and is given a mandate to govern for a specific period of time. It can therefore be regarded as the agent and the citizens as the principals. It is therefore imperative that the principal (citizens) hold the agent (state) responsible for its performance. It has to be noted that the presented scenario is the ideal and in reality, the nature of the relationship between the state and the citizens depends on many other aspects like the democratic culture. Relating this to transparency, the state has an obligation to explain what it is doing and why it is doing so. The state has to be transparent from the decision making stage to the policy implementation level. Transparency in decision-making and in the implementation of decisions reduces uncertainty and the scope for corruption.⁷⁰ At the core of the transparency discourse is the issue of access to information and the free flow of information.⁷¹ Reliable information reduces uncertainty and reinforces predictability. A vigilant and free media can act as a tool to achieve openness, which is a critical element of transparency. Transparency thus requires a free and active mass media.⁷² There should be the promotion of a diverse selection of written and broadcasted opinion. In order to promote this important element of openness, processes, institutions and information should be directly accessible to those concerned with them. Another core issue when dealing with transparency is corruption, which is mainly a result of the lack of transparency. Corruption means that the possessor of delegated power abuses the power for his/her personal interest by not exercising that power as expected by the sovereign.⁷³

Transparency is measured by the existence of mechanisms within and outside the state to keep a check on the way power is exercised in the management of national resources. The existence of separation of powers and an effective system of checks and balances is ensured through democratic structures that exist in the society. Parliamentary committees and well functioning

⁶⁸ Transparency International, 2002.

⁶⁹ This conceptualisation borrows from a concept advanced by Jurgen Von Hagen (1993), when dealing with the issue of accountability and transparency in the banking sector.

⁷⁰ African Development Report 2001, p.28.

⁷¹ The ADB regards transparency as synonymous to information openness, ADB, 1995, p.1.

⁷² African Development Report 2001, p.129.

corruption investigation agencies can also help to ensure that there is transparency in the implementation of public affairs. The public must be given the opportunity to review policies. This can be done through public debates and parliamentary motions. Transparency can be achieved through means/tools like public information services, progress reports, public enquiries, audits, and mechanisms to allow feedback from the public.

3.1.2.2 Implications of transparency for land reform

For land reform to be successful, the process has to be transparent. Information should freely flow and there must be mechanisms through which the people are given the voice to exchange and acquire information on the land reform process. For instance, it is imperative that the government provides documents outlining its land reform program and give the chance for citizens to offer their input in the process. During the implementation of the land reform, process there should be access to information on how the process is progressing. The government should clearly outline on what grounds farms are designated (and also publish a clear and honest list of designated farms), it should be clear how one qualifies to apply for a farm and how the intended beneficiaries should apply. The selection process for beneficiaries should be clear and be regarded as a public process and lastly the government should announce publicly who the beneficiaries of the land reform process are. There should be mechanisms to ferret corruption because corruption stalls the land reform process. On a national level, the land reform process has to be openly debated in parliament and a parliamentary committee comprising of both opposition and ruling party legislators should be empowered to monitor the process.

3.1.3 Participation

3.1.3.1 Definitions and characteristics of participation

Participation is the process by which people take an active and influential hand in shaping decisions that affect their lives.⁷⁴ The concept of participation has undergone a lot of transformation. In the 1950s and 1960s there were great hopes that government-led co-operatives and community development would restructure social and economic interactions to raise the living standards. However, the state led participatory initiatives proved to be failures.⁷⁵ A learning process approach sought to reform bureaucracies so that they could include beneficiaries.⁷⁶ This approach advocated the sharing of knowledge and resources in the design of programmes between officials and villagers; this was intended to achieve a fit

⁷³ Dr. Endre Bocz quoted by Transparency International, Hungarian Chapter, www.c3.hu.

⁷⁴ Nunnenkamp, 1995, p.10, OECD; 1995, p.8.

⁷⁵ Turner and Hulme, 1990, p.114.

⁷⁶ Advanced by David Korten, 1980, p.480-511.

between the needs and capacities of the beneficiaries and officials. Thereafter, theoretical discourse around “people centred development” was in line with the emergence of the concept of popular participation or participatory development. Participatory development stands for partnership, which is built upon the basis of dialogue among the various actors, during which the agenda is jointly set, and local views and indigenous knowledge are deliberately sought and respected. The concept of participatory development is very relevant to this study because it conceptualises participation as a means through which local people become actors instead of being mere beneficiaries.⁷⁷

People participate at various levels, the first level is the local participation at the grass root level, the second level is the participation in groups and movements which form part of the “civil society” and the final level is on the macro level where national policies are designed, debated and implemented.⁷⁸ Though not mutually exclusive, this categorisation was helpful in the analysing how the various stakeholders were ideally supposed to participate in the land reform process. Participation implies involving all stakeholders in programme design and implementation. It can be argued that high degrees of participation are not always desirable since this can slow down the decision making process. However, it is countered that the benefits of involving stakeholders outweigh the costs incurred due to the slow pace of decision-making. It is also important to focus on civil society organisations because some civil society organisations have managed to organise segments of the poor. Civil society is that part of society that connects individuals with the public realm and the state, it channels people’s participation in economic and social activities and organise them into more powerful groups to influence public policies and gain access to public resources especially for the poor.⁷⁹ The existence of a vibrant civil society can therefore act as reliable measures of the participation of citizens in the public sphere.

At the base of good governance are representative governments and an ongoing dialogue between the governed and the governors. Participation assumes that the central government makes policies and allocate resources based on interests, preferences, ideas and biases emanating from the local and intermediate levels. Of great significance is the manner in which the legislature is involved and consulted in issues of national importance. Parliaments of freely and fairly elected members representing different parties are crucial for popular participation.

⁷⁷ Participation is conceived as a means not a goal of development, adapted from Civil Society Organisations and Participation Programme (CSOPP) of the UNDP (2000), Guidebook on participation.

⁷⁸ OECD, 1995.

⁷⁹ UNDP, 1997, p.17.

3.1.3.1 Implications of participation for land reform

Land reform is a critical development initiative set to change the lives of people. Hence there is a need for the participation of all stake holders in the design and implementation of the process; otherwise it is bound to fail. It is important that the former landowners and beneficiaries are consulted and actively involved so that those implementing land reform can learn from these two critical groups. There has to be broad participation by them in defining priorities and approaches if land reform is to be a success. Apart from this, it is strongly submitted that the farm workers should be involved in land reform since they are a vulnerable group bound to be overlooked and marginalized when farms change ownership. Given the feminisation of poverty in Africa, it is important that women are involved in any development initiative. Since women have to bear the brunt of rural poverty, and land reform is perceived here as an instrument for poverty reduction, it is imperative that they are consulted and involved in all stages of land reform. Those implementing land reform have to actively involve civil society since it acts as an intermediary body between the state and citizens. The participation of civil society also implies that the land reform process benefits from the advice and expertise of these groups representing various stakeholders.

On a national level, there is a need for the government to facilitate the participation of citizens in the process through the legislation, independent commissions, or public debates to find out the views of the citizens on the process. Through this process, the government will benefit from the knowledge of its citizens and will create consensus on the need and methodology for land reform. It is important for the government to open democratic space so that the opposition is involved in the design and implementation of land reform. This is because the opposition can offer a legitimate check on the way the land reform process is governed.

The chapter has outlined how the question of governance evolved out of the frustrations with conventional developmental remedies. The chapter also showed how difficult it is to define and outline the characteristics of governance. Numerous institutions have defined and conceptualised governance based on their experiences and mandates. This study narrowed down the focus on governance to concentrate on three elements namely the rule of law, transparency and participation. This chapter expatiated on these elements and laid down normative conceptualisations on how they inter-relate with land reform.

The conceptual framework developed in this chapter will be critical in the design of the following chapters. For instance, the formulation of the hypotheses and research questions

borrowed from the ideas developed in this chapter. Apart from this, the construction of the methodological framework is largely based on the fundamental issues discussed in this chapter. The issues highlighted in this chapter will also recur in the following chapters that discuss the results of the fieldwork and outline how the land reform process was affected by governance.



Chapter 4

Hypothesis and Research Questions

This chapter puts forward the hypotheses and research questions of the thesis. These will be tailored along the three elements of governance discussed in the previous chapter. The chapter borrows heavily from the conceptual framework developed earlier.

In the conceptual framework it was propounded that good governance is important for successful land reform. In light of the discussions, the following broad hypotheses and research questions are proposed.

- a) Land reform in Zimbabwe has not been implemented according to the rule of law and this led to its failure.**
- b) The land reform process in Zimbabwe failed because it was not transparent.**
- c) The land reform process in Zimbabwe failed because it was not participatory.**

In order to test the hypotheses the following research questions based on the conceptual discussion will be looked at.

Research Questions

Rule of law

1. To what extent did the legal framework (constitution and other relevant legislation) guide land reform guarantee and protect the rule of law?
2. Was the state bound to these laws?
3. Were the rights of life, liberty, safety and property of all citizens protected by the rule of law during the land reform process?
4. To what extent were court systems, the judiciary and other justice sector institutions independent, impartial, competent and effective in adjudicating cases involving land reform?

Transparency

1. Was there access to information and a free flow of information on the land reform process?
2. Was there an effective system of check and balances to guide the land reform process?

Participation

To what extent were commercial farmers, farm workers, the landless, war veterans and women involved in the design and implementation of the land reform process?

The chapter has outlined the main hypotheses, which broadly state that the land reform process in Zimbabwe was badly managed. The research questions highlighted three elements of governance, and focused on the questions whether the land reform process was transparent, participatory and carried out according to the rule of law.



Chapter 4

Methodology

The essence of this chapter is to outline the methodological framework that was used for the research. The chapter opens by an explanation on why a qualitative research approach was necessary. Following this there is a section explaining the data sources; the chapter closes by outlining how governance and the success of land reform were measured. This chapter presents a methodological framework that enabled answers to the research questions to be found and the hypotheses to be verified. In this regard, the chapter relies heavily on the issues discussed in the chapter on the conceptual framework.

This chapter outlines the way in which data on the governance of land reform was gathered. Though most of the conventional literature on measuring governance is quantitative in nature this research departed from this paradigm and adopted a more qualitative approach. This was mainly because the study aimed at getting in-depth information on the governance of land reform and a more qualitative approach proved to be useful in this regard. Another reason was that the quantity of the data available was too limited for a quantitative approach in both data collection and analysis. The choice of a qualitative approach proved to be helpful in gathering information and useful in finding answers to the research questions and testing the hypotheses.

4.1 Data Sources

In order to measure the impact of governance on the land reform process in Zimbabwe the researcher came up with instruments/methods which enabled the collection of data that was valid, reliable and precise. In order to measure governance the research relied on primary and secondary sources of data. The two data sources were used in a complimentary manner. Most of the data derived from secondary sources was validated with primary sources and vice versa. The cross pollination of secondary and primary sources increased the validity of collected data.

4.1.1 Primary Sources

A lot of important information was derived and validated from various stakeholders through interviews. The researcher used a mixture of both structured and less structured interview methods. A standard schedule was used for each respondent. This research derived and composed indicators from the theoretical discussions on the three components of governance namely: rule of law, transparency and participation (Refer to 5.2 for an operationalisation of these concepts). Specific questions used in the schedules were derived from the discussions

on these components of governance and their implications to land reform.⁸⁰(See Annex 1 and 2 for interview questions). By doing so, it was ensured that the collected data was congruent to the conceptual framework. The main advantage of the structured interview was that it minimised the opportunities for the interview to move towards an agenda which was determined by the respondent rather than the researcher. In addition, this approach allowed data to be compared across different respondents to improve accuracy and reliability. The political polarisation of the society in Zimbabwe at that moment made it imperative to have a similar schedule administered to both ends of various poles to validate the data received. Open ended questionnaires in the interview schedules were used to capture some crucial information (for instance explanations and interpretations on the course of events) usually elusive in rigid and closed response categories. Apart from this, in order to be more flexible and give the interviewer enough space to probe the respondent and digress into important areas highlighted by the respondents the researcher used elements from less structured interviews which allowed the interviewer to probe for clarification or explanation on important issues raised by the respondents.⁸¹

Since governance is a sensitive topic, some respondents tended to open up more, if the interview situation was relaxed and less formal. The interview schedules were tested through a set of mock interviews and small-scale trials to investigate the adequacy of the research design, to test the clarity and phrasing of questions and the appropriateness and relevance of response categories thus testing the reliability and validity of the measurement instrument. Piloting also tested the length of interviews and order of questions. This was linked to a focus group discussion. A small focus group discussion held in the early phases of the research helped identify unclear questions, which needed elaboration. In addition, the discussions enabled the researcher to find out more about sources and links to information on both the concepts of governance and land reform. The group consisted of four participants who have academic and professional experience in the area of governance and land reform.

This research focused on particular stakeholders and experts in the land reform process. These included the government, commercial farmers, farm workers, beneficiaries, the landless, women, civil society groups, the legal fraternity, and the academic community. Thirty-two interviews with an average duration of 30 minutes were conducted between August and October 2003, (Please refer to annexes for list of interviewees). The researcher

⁸⁰ In coming up with interview questions reference was made to the extensive work that has been done by the World Bank among other organisations in constructing governance indicators and measuring governance

also had the opportunity to informally visit farms around the capital city.⁸² These informal visits and discussions proved very helpful in that they gave the researcher an insight into various issues discussed in this study for instance the outcome of land reform and issues of rule of law, transparency and participation. This information was very helpful in validating information from other sources. One major drawback in terms of primary sources was the reluctance by mostly government/ruling party officials to give information. In most instances, they flatly refused to give interviews or if they agreed, they pleaded for anonymity. This was mainly because the topic was very sensitive and the President had started probing the land reform process at various levels.

4.1.2 Secondary Sources

Secondary sources played a pivotal role in providing important data on land reform and governance. In the past two years, there has been a drastic proliferation of scientific and non-scientific articles on the land reform process in Zimbabwe. Of particular significance are reports commissioned by various bodies on the land reform process for instance the Presidential Land Review Commission Report of 2003. Narratives and critiques on the land reform process went a long way in providing vital information on the impact of governance on the land reform process. The secondary sources were vital in providing information that could be verified with or from concerned officials or organisations. A major challenge when dealing with secondary sources was to distinguish between sensationalised sources and balanced articles. Most of the information had to be verified from primary sources or other alternative sources.

4.2 Measuring the success of land reform and governance

In order to test the hypothesis it was very important to operationalise the independent variable (governance) and the dependent variable (success or failure of land reform). Operationalization links the language of theory with the language of empirical measures and refers to specific operations people use to indicate the presence of a construct that exists in observable reality.⁸³

4.2.1 Measuring governance

Governance is a complex concept, which is difficult to measure. This research derived and composed indicators from the conceptual discussions on the three components of governance: rule of law, transparency and participation. For the concept of the rule of law, indicators dealt with the protection of the rule of law in the legal framework, the

⁸¹ Sapsford and Judd, 1996, p.95, Bernard 2000, p.98 correctly argue that even in this type of interview the interviewer still contains a degree of control over the process, the interviewer has a focus/series of foci for what is being asked

⁸² Two of these farms are occupied by the war veterans (former liberation war fighters) and some settlers and the other farm is shared between a white commercial farmers and some occupiers led by war veterans.

⁸³ Landman, 2000, p.174.

impartiality of justice sector institutions and the respect for court orders and rulings. For transparency, indicators dealt with the access to and free flow of information, the application and selection criteria for land beneficiaries, the prevalence of corruption and the presence of oversight mechanisms in the land reform process. Finally, the indicators under participation dealt with the involvement of stakeholders in the design and implementation of the land reform process as well as the involvement of the Parliament in the land reform process. These indicators were then translated into interview questions. (See Annex 1 and 2 for Interview Questions)

4.2.2 Measuring the success of land reform

The operationalisation of land reform proved to be very problematic. There is no blue print on what constitutes “successful” land reform. From a conceptual level, various justifications for land reform were propounded which could form the basis upon which the success of land reform could be judged. However, the success of land reform is contextual and depends on the priorities and objectives of those implementing land reform. On an operational level, this research based its verdict of the success of land reform on the objectives of land reform as stated by the government in its policy documents. These objectives are in line with internationally approved criteria to measure the success of land reform. The stated objectives were contextualised indicators, which could be assessed basing on the reality and conditions in the country. Below are some of the objectives of the land reform process in Zimbabwe which were also used as indicators in the study;⁸⁴

- Transfer 8.3 million ha. from the Large Scale Commercial Farmers for the resettlement of 162 000 people.

For this measure, the researcher had to compare the figures of resettled people and the size of transferred land from various sources and come up with a verdict on whether the government projections had been met.

- Reduce poverty.

This was the most difficult indicator to deal with since the government did not expatiate or elaborate on what it meant by poverty reduction. The researcher had to come up with proxy/surrogate indicators to determine whether the land reform process resulted in poverty reduction. The analysis was carried out under the broad heading of economic and social outcomes of land reform.⁸⁵ The food poverty line was very instrumental in assessing the welfare of Zimbabweans before and after land reform. The outcome of land reform was also measured by analysing economic growth before and after land reform. The focus was on employment, inflation, growth in the manufacturing, industrial, and agricultural sector.

⁸⁴ Made, J 2001, quoted in Mpunga et al 2002, p.26

Attention was also paid to agricultural production figures before and after the land reform process.

The research focused on the GDP figures before and after land reform, the main challenge was however to establish to what extent the changes in the GDP figures could be attributed to the land reform process.

- Create sustainable political stability.

This was a very informative measure since the researcher analysed land reform in the context of the political dynamics in Zimbabwe during the land reform process. The intention of the researcher was to demonstrate the extent to which the political instability in the country could be attributed to land reform.

The chapter explained how data was collected through interviews and field visits. A lot of vital information was also collected through secondary sources. An explanation was also given on how governance was measured using interview questions translated from indicators composed from the conceptual framework. It was also mentioned that the success of land reform was measured using the objectives outlined by the government of Zimbabwe. This chapter is therefore crucial to the whole thesis in that it bridges the conceptual and the operational levels of the research.

To round up, this first part of the thesis endeavoured to construct a conceptual and operational framework which went a long way in empirically determining whether the land reform process in Zimbabwe was participatory, transparent and carried out according to the rule of law. The following part of the thesis is the case study which will explore and illuminate interesting and scientifically valid dimensions to the land crisis in Zimbabwe and offer a useful diagnosis and hopefully a prognosis.

⁸⁵ Explanations on the various indicators used is clarified under Section 6.5 dealing with the outcome of land reform

Chapter 5

Land Reform and Governance in Zimbabwe

This chapter is the crux of this thesis in that it discusses and analyses the research findings and advances answers to the research questions as well as verifying the hypotheses. The chapter is divided into five major sections. The first section gives an overview of the history of Zimbabwe as well as highlighting the important elements from the land reform process between 1896 and 2002. This opening section is important in that it gives background information on the fast track land reform process. The second section deals with the rule of law and focuses on the legal framework guiding land reform, the legality and legal certainty of the land reform process as well as the conduct of justice sector institutions during the process. The third section analyses how transparent the land reform process was. It is divided into two categories, that is, access to information and the free flow of information as well as the lack of transparency and its consequences on corruption. From there on the fourth section analyses the participation of major stakeholders in the design and implementation of the land reform process.

The chapter closes by analysing the outcome of the land reform process. The section will specifically seek to establish whether land was indeed transferred to the needy. The section will also discuss the economic and social implications of land reform. Attention will also be paid to the impact of land reform on political stability. Lastly, the section will close by discussing the speculation over the “hidden agenda” of land reform. The intention of this important section is to debate whether land reform was a deliberate and pre-determined strategy of the ruling party for political instrumentalisation or whether it was a climax of a long, less public and dispersed struggle over land.

5.1.1 Brief overview of the geography and history of Zimbabwe

In 1889 the British South Africa Company (BSAC) received a Royal Charter of Incorporation from Britain and established Rhodesia now known as Zimbabwe. Included in the Charter was the right to expropriate and distribute land. By 1902 the company had expropriated approximately 5% of the land for the new settlers.⁸⁶ The natives were incensed by the outrageous policies of the colonial regime. The most condemned were the infamous hut taxes and the segregatory land policies. From 1896 to 1898 the natives rebelled against

⁸⁶ Villiers, 2003, p5.

colonial rule and waged the *First Chimurenga*.⁸⁷ Although the natives were defeated, the legacy of the struggle was instrumental in inspiring nationalist leaders in the 1970's. The colonial regimes denied native Zimbabweans equal education, employment opportunities and access to land. The policies introduced great inequalities and perpetuated poverty among the blacks.⁸⁸ In the 1960s, the Second Chimurenga was waged leading to a protracted war for independence. In 1979 the nationalist leaders and the British government entered into negotiations which culminated in the Lancaster House Agreement which paved way for elections and majority rule in 1980.⁸⁹

Zimbabwe lies in southern Africa and has a total land area of 39, 6 million hectares; 33 million hectares are reserved for agriculture while the rest is reserved for national parks, forests and urban settlements. The country has a population of about 11,3 million and 80% of the population derive their livelihood either directly or indirectly from agriculture.⁹⁰ The majority of Zimbabweans (67%) live in the rural areas whose economies are dominated by agriculture.⁹¹ The rural areas are divided into commercial farming areas, resettlement areas and communal areas. Zimbabwe has five natural regions with varying degrees of annual rainfall and productive potential, this impacts on the farming activities across these regions. The characteristics of the natural regions are listed below.⁹² (For a map of Zimbabwe, please refer to Annex 5).

Region One (*Specialised and diversified intensive farming*). Annual rainfall is more than 1000 mm. The main agricultural activities include forestry, fruit production and intensive livestock rearing. It covers 7 000-square kilometres (less than 2% of area).

Region Two (*Intensive farming*). Annual rainfall is between 750-1000 mm. It specialises in crop farming and intensive livestock breeding and it covers 58 600-square kilometres (15% of total area).

Region Three (*Semi-intensive farming*). Annual rainfall is between 650-800 mm. Main agricultural activities include livestock breeding, fodder and cash crops. It has marginal production of maize, tobacco and cotton. It covers 72 900-square kilometres (19% of total area).

⁸⁷ Chimurenga is a Shona word derived from Murenga which means "the fighter" *Chimurenga* has been generally used to stand for liberation struggle.

⁸⁸ Central Statistical Office, 1998, p.1.

⁸⁹ By 1980 the country had been under the rule of the BSAC (1890-1923), Minority self government (1923-1967) and the Unilateral Declaration of Government (1965-1980)

⁹⁰ Justice for Agriculture, 2003, p.7.

⁹¹ Central Statistical Office (CSO), 1998, p.7.

⁹² The classifications are adapted from the CSO, 1998, p.8.

Region Four (*Intensive farming*). Annual rainfall is between 450-650 mm. It specialises in extensive livestock breeding and drought-resistant crops. It covers 147 800-square kilometres (38% of total area).

Region Five (*Semi-extensive farming*). The region receives too low and erratic rains for even drought resistant crops. The main agricultural activities include extensive cattle and game ranching and covers 104 400 km square kilometres (27% of total area).

The table on the next page shows how the land is divided according to land use area and natural regions.

Table. 1. Distribution of land use by Land Use area and Natural region.⁹³

Natural Region	Communal Areas	Small Scale Commercial Farms	Large Scale Commercial Farms	Resettlement Areas	Total
Region I	36.0	1.9	54.0	8.0	100
Region II	22.0	3.9	63.9	10.2	100
Region III	40.8	6.3	34.8	18.0	100
Region IV	66.4	4.3	22.0	7.3	100
Region V	59.9	1.2	31.1	7.8	100

It can be observed from the table that most of the land in the high-potential Natural Regions I and II is commercial farmland while the majority of land in low potential Natural Regions IV and V is communal. Poverty is acute in the rural areas. The prevalence of household poverty increases from high productive and high rainfall lands in natural regions I to the low-potential lands in natural region IV.⁹⁴ The high incidences of poverty in the communal areas have led to calls for a change in the land ownership system. The calls for land reform are best understood in the historical context of land reform which is provided in the next section.

⁹³ Source, ICES quoted in CSO, 1998, p.9.

⁹⁴ CSO, 1998. p.52.

5.1.2 Land Reform in Zimbabwe (1896-2002)⁹⁵

The dynamics of land reform in present day Zimbabwe are rooted and shaped by various historical processes and imperatives. This is why it is important to briefly focus on the history of land reform in Zimbabwe. The Lippert Concession signed in 1889 by King Lobengula allowed white settlers to acquire land from native Zimbabweans. Cecil Rhodes later bought the concession and had it ratified by Lobengula in 1891. The concession was used by the BSAC as a basis for the appropriation of land. In 1898, the British government evoked an order in council through which the Company was required to create Native Reserves for the native Zimbabweans. The Native Reserves were established in the dry and remote parts of the country which later became the communal areas.⁹⁶ In 1914, only 3% of the population controlled 75% of the economically viable land while 97% were forcefully confined to 23% of the land scattered in the reserves.⁹⁷ In 1930 the Land Apportionment Act (LAA) was passed to institutionalise and legitimise racial polarisation of land allocation. Through this act, areas with high rainfall and potential became large-scale commercial farms owned exclusively by whites.

Through the Tribal Trust Lands Act (TTL) of 1965, native Zimbabweans were allocated 18.2 million hectares against 18.1 million hectares for white settlers thus further entrenching the unjust land distribution system. In 1969 the Land Tenure Act was passed and according to the Act 15, 5 million hectares was allocated to 6 000 white commercial farmers and 16,4 million hectares to 70 000 black families. At independence in 1980, 97% of the population (Native Zimbabweans) owned only 45 million acres (47% of total land area) leaving the rest, over half of the land area⁹⁸ to only 3% of the population (whites).⁹⁹

The Lancaster House Agreement was a compromise. The agreement had clauses to the extent that the acquisition of land was going to be based on a willing seller-willing-buyer basis. Britain as the former colonial power was given the obligation to fund 50% of the costs for land reform. On the other hand, the agreement was restrictive in that it sought to preserve the colonial land ownership system. There were constitutional guarantees to white land ownership with a life span of 10 years.¹⁰⁰ These constitutional provisions slowed down the process of land reform in the first 10 years of independence. The situation is best described by one of the Nationalist leaders, "This agreement (Lancaster) so compromised the

⁹⁵ The study covers the whole period of the accelerated land reform process, however information on the last months of the process is not very detailed since this study is very recent.

⁹⁶ Please refer to the Agro-Ecological Zones presented under country background.

⁹⁷ Government of Zimbabwe, 2002, p.1.

⁹⁸ Zimbabwe has a total land area of 39 million hectares, 32,74 million is classified as agricultural land.

⁹⁹ Government of Zimbabwe, 2002, p.3, Villiers, 2003, p.6.

¹⁰⁰ Section 52 of the Lancaster House Constitution dealing with the alteration of the Constitution.

character of the new Zimbabwean state that it was constrained from acting decisively in the interests of the peasants, especially over the land issue”.¹⁰¹ These sentiments were also echoed by Riddell, “..the Zimbabwean constitution has been designed more to maintain the present structure of commercial agriculture than to address comprehensively the national problem of land”.¹⁰²

After independence, the government embarked upon the first phase of land reform. The first programme characterised as the Land Reform and Resettlement Programme - Phase 1, spanned the period from 1980 to 1997. From 1980 to 1984 the government embarked on the “Accelerated Land Resettlement Programme” during which 35 000 households were settled by government on approximately 2 million hectares of land.¹⁰³ Most of the people allocated land under this phase had settled on farms deserted by the former owners at independence. In 1985, the Land Acquisition Act was passed to enable government to purchase large-scale farms for resettlement. It was the objective of the government under Phase I of the land-reform programme to redistribute 8.3 million hectares for the benefit of 162 000 families.¹⁰⁴

With the lapse of Section 52 of the Constitution in 1990, the Government passed the Constitutional Amendment Act (No. 11), Act No 30 of 1990 and the Constitution Amendment Act (No.12) Act No.4 of 1993 so that the acquiring authority would henceforth be obliged only to give “reasonable notice” of an acquisition, pay “fair compensation within a reasonable time” (rather than “prompt and adequate” compensation as stated in the Lancaster House Constitution), and apply for an order of confirmation of acquisition within 30 days if such acquisition were contested. By 1997, only 3.5 million hectares had been either purchased or acquired and 71,000 families from communal areas had been settled, compared with a target of 162,000. Whereas the size of acquired land was below the projections, the first phase of resettlement has nevertheless been praised as a success. Many studies observed notable increases in the capita incomes for resettled farmers.¹⁰⁵ The share (in value terms) of crop sales through marketing authorities from communal areas increased from 5,9% in 1980 to 22% in 1988.¹⁰⁶ The overall picture was however not that rosy. According to government sources¹⁰⁷ the willing seller-willing buyer approach meant that, inevitably, settlements were scattered throughout the country. Hence, it was difficult to generate economies of scale in the development of both settlement areas and infrastructure.

¹⁰¹ Mumbengegwi quoted in Villiers, 2003, p.8.

¹⁰² Riddell, quoted in Morris-Jones, 1980, p.12.

¹⁰³ Central Statistical office, 1998, p.9.

¹⁰⁴ Government of Zimbabwe, 1998, p.6.

¹⁰⁵ The most quoted studies were the ones by Bill Kinsey (1999, p.173-196).

¹⁰⁶ Kanyenze, 2003, p.8.

¹⁰⁷ Government of Zimbabwe, 1998, p.8.

Land purchase and acquisition processes were cumbersome and expensive. It has also been argued that the issue of success of the first phase of resettlement was used to create the impression that to sustain the success the government should not tamper too much with the existing structure of agriculture.¹⁰⁸ The government therefore had to stick to the willing buyer-willing-seller approach and the stated projections in term of the size of land to be acquired.

In 1998 a major Donors Conference was held to deliberate on development co-operation vis-à-vis the land reform process in Zimbabwe. Following the deliberations of the Conference, Inception Phase II of the Land Reform Programme began. It was the aim of the government to acquire 5 million hectares and settle 91,000 families under Phase II.¹⁰⁹ The Inception Phase was a dismal failure since only 4,697 families were settled under Phase II amounting to an area of 145,000 hectares.¹¹⁰ The donors who had pledged to help fund land reform allegedly reneged on their promises.¹¹¹

With the failure of the 1998 Donors Conference on land and due to internal political pressure,¹¹² there were increased calls for land reform within the ruling party circles. Government in April 2000 inserted into the Constitution a new section 16A, which provided, inter alia, that where agricultural land is compulsorily acquired for “the resettlement of people in accordance with a programme of land reform”, the obligation to pay compensation for land lay with the United Kingdom as the former colonial power, and the obligation of the Government of Zimbabwe was limited to the payment of compensation only for improvements. According to the amendment, no appeal was possible on the basis that the compensation was not fair. The amendment of Section 16 of the Zimbabwean Constitution and the subsequent Land Acquisition Act of 1992 paved the way for the expropriation of white owned rural land. Following the enactment of the new Section 16A of the Constitution, the President, acting pursuant to the Presidential Powers (Temporary Measures) Act, issued Statutory Instrument No. 148A of 2000, which changed the Land Acquisition Act significantly in a number of ways. It extended the duration of the preliminary notice of acquisition indefinitely. In 2000, the Land Acquisition (Amendment) Act reproduced the Statutory Instrument.¹¹³ In a separate development, Britain started to renege on its commitment to fund land reform. In a communication to the Zimbabwean

¹⁰⁸ Moyo (1987, p.198) and Mumbengegwi (1987, p.210) quoted in Mandaza (1987).

¹⁰⁹ UNDP, 2002, p.7.

¹¹⁰ Ibid.

¹¹¹ Minister Mudenge quoted in Mpunga, et. al. 2002, p.50.

¹¹² There were many reported cases of land occupations especially from 1997 onwards, Moyo, 2001, p.322.

¹¹³ Act No. 15 of 2000.

government in 1997, British Development Minister, Claire Short said, “I should make it clear that we do not accept that Britain has a special responsibility to meet the costs of land purchase in Zimbabwe...”.¹¹⁴

The follow up to the Donor Conference was disappointing and after two years of little activity the government embarked on an acceleration of Phase II of the land reform program, “Accelerated Land Reform and Resettlement Programme” which was code named, “Fast Track” . The fast track was an accelerated phase where activities that could be done quickly were going to be done in an accelerated manner.¹¹⁵ The Fast Track was launched on 15 July 2000. There was no elaborate explanation of the program besides a page draft document.¹¹⁶ Since independence in 1980, there were land occupations of various magnitudes in many parts of the country.¹¹⁷ In the beginning of the year 2000, the farm occupations reached their peak. It is however, debatable if these occupations were part of the government’s fast track land reform programme. In announcing the accelerated land reform and resettlement programme, the government did not allude to the farm occupations.¹¹⁸ It stated that it was going to acquire land based on the legal framework and the policies of the government as laid down in the Land Reform and Resettlement Phase II and the Inception Phase Framework Plan.¹¹⁹ The reaction of government to the occupations, however, made it appear as if they were part of its land reform programme. The government condoned the occupations. It argued that they were justified political demonstrations, which needed political solutions¹²⁰. The ruling party in fact played a pivotal role in initiating and sustaining the land occupations.¹²¹

The role of the occupations in the land reform process was again exposed during a landmark case in which the commercial farmers protested against the land reform process.¹²² The government was given a moratorium to come up with a land reform programme and stop the violent occupations. At the expiry of the moratorium, the government argued that it had enacted a law to protect the occupiers meaning that it had legalised the land reform process. The government thus implicitly acknowledged that the occupations were in fact part of its land reform programme. Land occupations in 2000 were not generically new since

¹¹⁴ Mpunga, 2002, p.50.

¹¹⁵ Government of Zimbabwe, 2001, p.5.

¹¹⁶ Masiwa, 2001, p.iv.

¹¹⁷ Distinction is made between low and high intensity occupations, the high intensity land occupations began in 1997, Moyo, 2001, p.322.

¹¹⁸ Vice President of Zimbabwe’s statement on 15 July 2000, Minister Nkomo’s statement 27 April 2000, www.gta.gov.zw.

¹¹⁹ Both these documents say nothing about farm occupations

¹²⁰ Minister Nkomo’s statement 27 April 2000, www.gta.gov.zw, President Mugabe on 8 April 2000 (broadcast on Zimbabwe Television) said, “We were told to remove them from farms, we refused because the occupations are justified.”

¹²¹ Marongwe, 2002, p.27.

¹²² This case will be dealt with under the topic of legality, 6.2.2.

occupations had accompanied government's efforts to acquire land in the past.¹²³ Though not officially stated and acknowledged, the occupations can therefore be conceived as being part of the government's land reform process.

The Fast Track was designed along two basic resettlement models: the A1 Model and the A2 Model. The A1 Model provided for farms that are relatively small but adequate to sustain a family and produce a surplus. The A1 Model had either villagized or self-contained structures. The A2 Model was aimed at providing small-scale commercial farms to applicants with experience in agriculture, preferably those who have been trained to be master farmers. Applicants are required to show evidence of access to enough capital to develop the farms into viable production units. According to government policy, settlers in the Model A1 types of schemes were going to be selected from overpopulated villages using the local plans¹²⁴ and involving traditional leaders, Rural District Councils and the District Administrator.¹²⁵ The beneficiaries and other stakeholders (including local farmers' union branches, NGOs and Community based organisations) were going to be involved in the planning and selection process associated with resettlement. Beneficiaries of the Model A2 would be selected from among people who had the academic and technical competency in agriculture or demonstrated capacity in farming and who could develop a five-year farming programme.¹²⁶ While power over the applicant selection process was distributed to all levels of government, the power to make final decisions over applications was vested with the central government.¹²⁷

In theory, various institutions were to be involved in the land reform process. The most important of these were: Parliamentary Committee on Lands, □ Cabinet Committee on Resettlement and Rural Development; □ National Land Identification Committee; □ Provincial and District Land Identification Committees; and the □ National Economic Consultative Forum.¹²⁸ The Parliamentary Committee on Lands was responsible for monitoring the Ministry of Lands. The Cabinet Committee on Resettlement and Rural Development was constituted of various ministries and had the role of formulating policy and co-ordinating the implementation of the land reform program. The National Economic Consultative Forum was a tripartite negotiation forum involving labour, government and business; it had a task force dealing with land. □ The National Land Identification Committee was responsible for the co-ordination of the identification of land and had

¹²³ Moyo, 2001, p.320. reference is made to the occupations of 1980-1985 and 1997-1998.

¹²⁴ These plans were developed along the household settings in various villages.

¹²⁵ Government of Zimbabwe, 1998, p.11.

¹²⁶ Government of Zimbabwe, 1998, p.11.

¹²⁷ UNDP, 2003, p.20.

decentralised structures. The Rural District Councils (RDCs) were supposed to identify properties for acquisition and submitted lists to the District Land Identification Committee (DLIC), which verified whether these complied with Government requirements. District lists were then transmitted to the Provincial Land Identification Committee (PLIC), which was responsible for the collation and transmission of such lists to the Ministry of Lands.¹²⁹ The most powerful institution was the National Land Task Force comprised of the Ministry of Lands and the Vice President's office. The task force was involved in land acquisition, land identification and policy formulation.

The institutions for policy formulation were weak, poorly co-ordinated and did not have staff with appropriate skills to ensure the implementation of numerous multi-sectoral land-reform functions.¹³⁰ Too many ministries were involved without clear roles and mandates and this led to institutional failure. The fragmentation created problems of synchronisation.¹³¹ It was also observed that in some instances the legitimate institutions were by-passed by powerful politicians resulting in double allocations and general confusion.¹³² Apart from this, the role of war veterans was not clear. War veterans assumed "position of authority" at many occupied farms; base commanders at occupied farms took leading roles in registering occupiers and allocating land.¹³³

5.2 Rule of law

The following section is going to focus on the rule of law. The section will open with a focus on the legal framework guiding land reform. Thereafter the section will analyse the legality and legal certainty of the land reform process. The analysis is split into two parts. The first part will analyse the laws mentioned in the legal framework. It will go on to analyse whether the state abided by the laws guiding land reform. This will be done through a focus on the supremacy of the law and the protection of rights. The second part deals with the constitutionality of the laws guiding land reform. The last part of this section will focus on the conduct of justice sector institutions. The ultimate intention of this section is to come up with an analysis that will help in either verifying or falsifying the hypothesis that the land reform process was not implemented according to the rule of law.

¹²⁸ UNDP, 2003:33., Interview with Kudzai Chatiza carried out by Sylvia Schweitzer, Harare, 15.10.02.

¹²⁹ Adapted from UNDP, 2003, p.11.

¹³⁰ UNDP, 2003, p.33.

¹³¹ Masiiwa, 2001, p.4.

¹³² Parliament of Zimbabwe, 2003, p.11.

¹³³ Marongwe, 2002, p.44.

5.2.1 The legal framework guiding land reform

The land reform process in Zimbabwe was mainly guided by the Land Acquisition Act.¹³⁴ The Land Acquisition Act provides for the compulsory acquisition of land by the President for various purposes. The process of land acquisition is elaborated in the government document entitled “Land Reform and Resettlement programme Phase II” (April 2001). The process is summarised below through a focus on various important sections of the mentioned Act.¹³⁵

The initial acquisition process is initiated by the Section 5 Preliminary Notices. The preliminary notices declare the President’s intention to acquire the specified land for resettlement. The Minister of Agriculture representing the President becomes the Acquiring Authority. Recipients of Section 5 Notices continue to retain full exclusive rights to the property and have 30 days in which to object to the acquisition, concede the land for resettlement or offer an alternative piece of land for resettlement. The government stated that it would acquire land according to stated criteria, for example, land belonging to those owning more than one farm, land near communal areas, absentee-owned land, derelict and under-utilised land.¹³⁶ Following each Section 5 Notice, Government valuers should “as soon as possible” and by appointment visit the property and tabulate all the fixed improvements and any movable assets which the owner agrees to leave on the farm and report their findings to the compensation committee. That committee will, when the acquisition of the land is confirmed, then make an offer to the owner, which, if not acceptable can be contested in the Administrative Court.

Following a Section 5 Order a Section 8 Order is issued. In the period between 30 days and two years, the Authority can acquire the property in terms of Section 8 of the Act. The Authority is then obligated to apply to the Administrative Court within 30 days for a hearing to confirm that act. The hearing is then scheduled by the court, there is no statutory time limit and a delay of up to two years can be expected. The owner has the right to continue to occupy and work the land for 45 days from the date of delivery. A further provision allows the owner/occupier to occupy the homestead for 90 days from the same date of service. Exceeding any of the specified time limits is a criminal offence punishable by a Z\$100 000 fine or up to two years in jail or both. The court that convicts such offenders is obliged to issue an eviction order as an adjunct to the penalty imposed. Statutory Instrument 338 published on 9 November 2001, gives the Government the right to peg the

¹³⁴ The parent version was the 1992 one which was later amended in 2000, 2001, 2002 and 2003.

¹³⁵ Adapted from the Commercial Farmers Union (CFU), 2003, p.7-10 based on the Land Acquisition Act.

land and resettle farmers on it from the moment an acquisition order is served, that is, before the acquisition has been completed.¹³⁷

In all cases where a Section-8 order is in place, the acquiring authority may issue a notice of eviction requiring the owner or occupiers to vacate the land, commonly known as a Section 9 notice. On November 9, 2001, the President of Zimbabwe issued Statutory Instrument No. 338, and amended the Land Acquisition Act. The Section-8 order now also served as a Section 9 notice, thus prohibiting the occupation and use of the land affected and giving further notice to the owner to vacate his/her living quarters within three months after the date on which it is served. The operation of this Instrument was retroactive to 23 May 2000, which means that all farms that had been served with Section-5 notices would be affected should Section-8 orders be served on them.¹³⁸

One of the laws guiding land reform was the Rural Land Occupiers (Protection from Eviction) Act, Cap 20:26 No. 13/2001. This Act legalised the illegal occupations of land and protected trespassers. Section 3 (1) of the Act stated that people occupying rural land would be protected occupiers for a stated period. Apart from this, Section 3 (3) suspended and invalidated previous orders issued by both the High Court and Supreme Court.

5.2.2 Legality and legal certainty

This section focuses on the principles of legality and legal certainty which are of paramount importance when dealing with the concept of the rule of law.

5.2.2.1 Legality

What follows is an endeavour to determine the legality of the land reform process. Efforts will be made to establish how the state abided by the law through an analysis of the laws mentioned under the legal framework, the supremacy of the law and the protection of life, liberty and property. This sub-section will also analyse the constitutionality of the various laws guiding land reform. The government failed to abide by its own laws. By enacting different laws the government tried to portray land reform as a legal exercise. The notion of legality was entirely an instrumental one; it was this instrumental function of the law that became the primary determinant of the content of the law.¹³⁹ The Supreme Court and High Court made a number of rulings to the effect that the land reform process was being carried out illegally. In one major case, the Supreme Court argued that land reform was necessary

¹³⁶ Government of Zimbabwe, 1998:7. The criteria was not mutually exclusive, the government did not clarify how many elements of the criteria had to be fulfilled for a farm to be acquired.

¹³⁷ JAG, 2003, p.8.

¹³⁸ UNDP, 2002, p.29.

¹³⁹ Mushayavanhu, 2003, p.3.

and essential for the future prosperity of Zimbabwe. However, the government had enacted the necessary laws for land reform but had then failed to comply with these laws.¹⁴⁰

According to the Land Acquisition Amendment Act, 2000 farmers served with Section 5 notices could offer alternative pieces of land for resettlement. According to the Commercial Farmers Union, many farmers did so but the Acquiring Authority did not respond to any of these offers despite them being approved by the Provincial Authorities.¹⁴¹ Apart from this despite stating that it would acquire land based on specified criteria, the Acquiring Authority served Section 5 Notices on virtually every white owned property irrespective of these criteria and guidelines.¹⁴² The chances of receiving fair compensation were not good, because the funds available were limited and payment was spread over five years.¹⁴³ Given the prevailing high inflation rates, comparatively low interest rates and a substantial depreciation of the Z\$ against the US\$ on the parallel market, commercial farmers were concerned that the real value of their entitlement to compensation will be eroded substantially over time.¹⁴⁴

The original land acquisition process gave farmers the chance to argue their cases in administrative courts.¹⁴⁵ The Section 8 Orders as stated in the legal framework deprived farmers the right to be heard. The right to be heard which is one of the basic principles of justice was thus breached ironically through legal means. What the law legalised was essentially eviction without neither court hearing nor conviction in a court.¹⁴⁶ According to the law, no evictions of property owners can take place without court orders. In practise many farmers were being evicted by unruly mobs with or without police connivance and without court orders and the settlers responsible were not made to adhere to the law.¹⁴⁷ The law allowed for property owners being unlawfully evicted to apply to the High Court for relief, this could be granted but the police were unlikely to be willing/able to enforce the court ruling on the settlers.¹⁴⁸ The impartiality of the police will be dealt with at length under 6.2.3. The fact that settlers could be resettled on the farm even before the end of the acquisition process implied that the farmer was destined to or assumed to have lost his case even before the end of legal acquisition. This is against the principles of justice however as the UNDP Mission observed, "...this process as lacking compassion, but given the recent

¹⁴⁰ Commercial Farmers Union versus Minister of Lands & Ors Supreme Court case No. 132 of 2000.

¹⁴¹ CFU, 2003, p.8.

¹⁴² CFU, 2003, p.8.

¹⁴³ CFU, 2003, p.10.

¹⁴⁴ UNDP, 2003, p.16.

¹⁴⁵ This was before the 10 May 2002 Amendment which legalised the eviction of farmers after 90 days of receiving a Section 8 order.

¹⁴⁶ JAG, 2003, p.16.

¹⁴⁷ CFU, 2003, p.9.

changes in land laws and regulations they were generally within the law”.¹⁴⁹ Whereas these actions are unjust, they are still enshrined within the law. This brings to the fore the concept of the rule of unjust laws.¹⁵⁰

In some cases, farmers refused to vacate their farms and were charged with contravening Section 9 orders. In one case, a farmer, Mr Micklethwait was charged under the mentioned act and was ordered by a Magistrates Court to vacate his farm and not visit it except with police escort.¹⁵¹ The farmer appealed to the High Court contending that the condition given by the Magistrate amounted to an eviction order and offended against all notions of justice since it required the appellant to cease all agricultural actions and to vacate the farm before he had been found guilty of any criminal conduct. In handing down judgement Justice Chinhengo set aside the condition imposed by the magistrate and replaced it with the condition that the appellant should reside on the farm until the finalisation of his case. The mentioned case was pivotal in that it was on its basis that the legality of most evictions were based. The mentioned case also took to task Section 8 of the Land Acquisition Act which is arguably one of the strong pillars of the acquisition process.

One major issue when dealing with the legality of the fast track land reform was the eviction of farmers from their properties after the expiry of the ninety days period. An analysis of various cases on this matter will assist in determining whether the orders to vacate given to the farmers were in accordance with the law. This will in turn help in determining whether the exercise of state power through evictions was according to laid down laws. In some cases like the Micklethwait Case mentioned above, farmers were ordered to vacate their farms by Magistrates Courts after being convicted for failing to leave their farms after the expiry of the 90-day period. The orders given by the Magistrates were not in accordance to the laid down law (Land Acquisition Act). The Act required a farmer to be evicted from his farm through conviction in terms of Section 9(2) of the Act or an order by the Administrative Court confirming the compulsory acquisition of the farm.¹⁵² In handing down judgement in another major appeal case where farmers had been ordered by a magistrate’s court to vacate their farms, Justice Kamocha curtly stated, “Quiet clearly the magistrate did not have power in law to impose such a condition which can only be imposed on people who have been convicted...the appeal therefore succeeds.”¹⁵³

¹⁴⁸ CFU, 2003, p.9.

¹⁴⁹ UNDP, 2002,p.11

¹⁵⁰ Most of the laws were unjust in that they were contradictory to the Constitution.

¹⁵¹ Antony Bertram Micklethwait versus The State, High Court CRB B 2673/02.

¹⁵² See earlier analysis of Antony Bertram Micklethwait versus The State, High Court CRB B 2673/02.

¹⁵³ Keith Croshaw CRB 24-12/02, Rita Lewis CRB 2406/02 and Derrick Scutt CRB 2434/02, 10 September 2002.

In another case the farmers were given the condition prohibiting them from going back to the farm without prior arrangements with the police. In handing down judgement, Justice Chiweshe argued that the condition was proper. He argued that *Prima facie* the continued occupation of the property concerned was illegal according to Section 8 of the Act. The condition imposed by the magistrate was thus in line with the spirit and letter of the Act.”¹⁵⁴ In handing down judgement in a case similar to the above, Justice Smith found the condition to be unreasonable. The police were not obliged to accompany the appellant. In this way, the appellant was denied of her right to be on the farm. Eviction could only take place after conviction. The condition amounted to an unlawful eviction from the land before conviction.¹⁵⁵ Justice Chinhengo in analysing the mentioned cases respectfully disagreed with the conclusion reached by Justice Chiweshe. He argued that the Land Acquisition Act created offences for failing to vacate a farm and mandated the courts to determine the issue and if a person is convicted, to order his eviction. The Act did not order that a person should be evicted without conviction. The evictions were thus against the presumption of innocence and pre-empted the outcome of the criminal trial on the charge which the appellants face¹⁵⁶ The 9th of August 2002 was the day that the 90 days mentioned under Section 8 would expire. After 10 August 2002 over 300 farmers were eventually arrested and evicted.¹⁵⁷ The evictions were as argued above illegal. The political decisions of the state to evict the farmers were thus not laid down in the law, the relations between the state and the farmers were not governed by laws as required under the rule of law.

The land reform process was to a large extent not carried out according to the legislation guiding land reform. In a landmark case on 13 April 2000, Justice Chinhengo characterised the invasions as illegal and of a riotous nature.¹⁵⁸ The expropriation of land by the war veterans and the subsequent land allocations were made in an ad hoc fashion and were generally not entrenched in the legislation guiding land reform. In one of the most contentious land cases, the government was ordered to carry out land reform in accordance with the laws of the land.¹⁵⁹ On 10 November 2000 the legality of the land reform process was challenged by a watershed CFU case in which the court acknowledged that there was no land reform programme as enunciated in both Sections 16 and 16A of the Constitution. The government was granted a moratorium to put its house in order. In six months, the

¹⁵⁴ Mackinney versus The State HB 111/2002.

¹⁵⁵ Leita Mary Prior versus The State HH 163/02.

¹⁵⁶ Antony Bertram Micklethwait versus The State, High Court CRB B 2673/02.

¹⁵⁷ JAG, 2003, p.16.

¹⁵⁸ The Police Commissioner versus CFU HH-84-2000.

¹⁵⁹ CFU v Minister of Lands and Agriculture, Supreme Court, No S-132-2000.

court had to either stop illegal occupations or regularise unlawful farm occupations and satisfy the court that the rule of law had been restored.¹⁶⁰

In mid-July, Justice Alfas Chitakunye handed down an interdict stating that no further legal action could be taken by the government to compulsorily acquire commercial farms for resettlement. The ruling was described at the time by a leading Harare lawyer as meaning "government acquisition of the land was illegal in terms of the law, until law and order is restored".¹⁶¹

By the time the moratorium expired, there was a new Supreme Court judge.¹⁶² In a watershed case the Supreme Court reversed the 10 November ruling, ruled in favour of the government, and legitimised the Fast Track Land Reform process. It was argued that the Rural Land Occupiers (Protection from Eviction) Act legalised the occupations.¹⁶³ However in a dissenting judgement, Justice Ebrahim argued that the decision of the CFU was not supposed to have been reversed. He argued that as long as the law is not changed, the State should follow its own laws, "it is a fundamental principle of the rule of law recognised widely that the exercise of public power is only legitimate where lawful"¹⁶⁴

The High Court ruled on 21 December 2000 that the government's "fast track" land acquisition law was unconstitutional and for a second time that year declared the process illegal. "We cannot ignore the imperative of land reform. We cannot punish what is wrong by stopping what is right. The reality is the government is unwilling to carry out a sustainable programme of land reform in terms of its own law," the five judges said in the ruling.¹⁶⁵

The legality of the land reform process has also been challenged on the grounds that the process did not protect life, liberty and property in the commercial farming areas.¹⁶⁶ The rule of law was undermined since there was no protection of life, property and safety of persons during the land reform exercise. The land reform process was characterised by massive property destruction, life was lost and liberty was curtailed.¹⁶⁷ Most of the violence perpetrated on commercial farms was led by the war veterans. The leader of the war veterans portrayed the mood in the ruling party, "All revolutions require violence. No one

¹⁶⁰ Minister of Lands v CFU, SC 111/01.

¹⁶¹ ZWNews, 23 September 2001.

¹⁶² The new Chief Justice had close links with the government, the independence of the judiciary will be dealt with under 6.2.3.

¹⁶³ Minister of Lands v CFU, SC 111/01.

¹⁶⁴ Mushayavanhu, 2003, p.22.

¹⁶⁵ Star, 22 December 2000.

¹⁶⁶ This was one of the core arguments of the CFU case.

can stop the revolution we have started.”¹⁶⁸ On 14 December 2000, President Mugabe told the Zanu (PF) congress that commercial farmers had declared war on the people of Zimbabwe. He told his audience, “We must continue to strike fear into the hearts of the white man, our real enemy.”¹⁶⁹ The government was therefore not prepared to protect the rights of farmers and farm workers. The position of the government was further supported by the Chief Justice in one of the most absurd proclamations by the judiciary. On responding to calls by the CFU for the protection of the law and restoration of the rule of law, he said, “...by definition the concept of the rule of law does not mean a totally crime free environment.”¹⁷⁰

It is estimated that about one-third of the occupations were marked by violence and serious human rights abuses, including rape and torture.¹⁷¹ Throughout the country, the violent invasions and settlements were accompanied by intimidation, looting, rampant theft and the destruction of irrigation equipment and other assets.¹⁷² During the first half of 2002, farm workers increasingly became victims of the organised political violence accompanying the farm occupations. The media regularly carried stories of farm workers brutally forced to leave the farms.¹⁷³ Serious acts of violence against farm owners and the farm workers have been documented.¹⁷⁴ Already by June 2000 it was reported that as many as 26 farm workers had been killed and 1,600 assaulted when farms were forcefully occupied.¹⁷⁵ Many farmers were murdered during the land reform process. The most gruesome murder was that of David Stevens who was taken away from a police station and murdered in cold blood.¹⁷⁶

Many farm workers were displaced by the occupations since they had no other choice than to flee the violence and intimidation.¹⁷⁷ At the very least, the government condoned these farm invasions by its failure to protect and uphold the rights of the affected farmers, to end the violence and to bring the perpetrators to justice. These acts and omissions constituted flagrant violations of the Constitution of Zimbabwe and of internationally recognised human rights, including the rights to property, life, dignity, freedom of movement, adequate housing, education and freedom of association.¹⁷⁸ In the Nyamandovu area, armed bands of war veterans roamed the resettlement areas harassing settlers and sexually abusing

¹⁶⁷ Interview with Deprose Muchena, 30 October 2003.

¹⁶⁸ Zimbabwe Human Rights NGO Forum, 2001, p.16.

¹⁶⁹ Independent, 15 December 2000.

¹⁷⁰ Ministry of Agriculture v CFU, Case SC 111/01.

¹⁷¹ Moyo, 2003, p.88.

¹⁷² CFU, 2003, p.12, Zimbabwe Human Rights NGO Forum, 2003, p.11.

¹⁷³ Amani Trust 31 May 2002; BBC 10 July 2002.

¹⁷⁴ Amani Trust 31 May 2002; AI June 2002, HRF August 2002, HRW March 2002.

¹⁷⁵ HRW March 2002, p.19.

¹⁷⁶ Zimbabwe Human Rights NGO Forum, 2001, p..53.

¹⁷⁷ Global IDP Project, 2003, p.5.

women.¹⁷⁹ This was not an isolated case since gross human rights violations were the general trend in the country. The bases established by the war veterans at the occupied farms were also used as torture camps at these camps former farm workers were savagely assaulted, kicked and punched.¹⁸⁰ A Supreme Court ruling in 2000 best summarised the rights violations during the period of fast track land reform, “Wicked things have been done and continue to be done, common law crimes have been, and are being committed with impunity...”¹⁸¹

One of the core characteristics of the rule of law is the supremacy of the constitution. No law promulgated by the government must contradict the constitution. Many of the laws promulgated by the government to guide the land reform process were in stark contradiction or *ultra-vires* the constitution. An organisation representing commercial farmers, Justice for Agriculture (JAG)¹⁸², lodged the Quinnell case as a test case in the High Court on 24 June 2002 to challenge the constitutionality of the acquisition procedures. An interim relief order was granted protecting Quinnell from both forced closure and eviction. The presiding Judge noted that all eight constitutional issues raised in the application were of substance and should all be heard. It was declared by the learned judge that amendments to Sections 8, 9 and 10 of the Land Acquisition Act (Chapter 20:10) (2002) are invalid and of no force and effect by reason of being in conflict with Sections 21, 16(1) (b), 16(1)(c), 16(1)(d), 18(5), 18(9) and 23(1)¹⁸³ of the Zimbabwean constitution.¹⁸⁴ At the end of the research period the pivotal constitutional case had not been fully heard. However interim indications are that indeed the acquisition process was *ultra-vires* the constitution.

The Rural Land Occupiers Act was also argued to be against Section 21 (1) (Protection of freedom of assembly and Association), Section 17 (Protection of Arbitrary search and entry) and Section 18 (Provisions to secure protection of law) of the Constitution. The Supreme Court argued that the above violations could be remedied, if the property remained owned by the commercial farmers. Section 8(3) of the Land Acquisition Act however vested the legal ownership of land in the acquiring authority leaving the commercial farmers as mere

¹⁷⁸ COHRE September 2001, p.46.

¹⁷⁹ The Standard, 1 July 2001.

¹⁸⁰ The cases of torture are well documented by the Amani Trust and the International Rehabilitation Council for Torture Victims.

¹⁸¹ Commercial Farmers Union versus Minister of Lands & Ors Supreme Court case No. 132 of 2000.

¹⁸² JAG was formed in early 2002 as a result of the farmers growing distaste for the policies adhered to by the Commercial Farmers' Union (CFU).

¹⁸³ Constitution of Zimbabwe, Revised Edition 1996; Section 21 (Protection of freedom of assembly and association), Section 16 (Protection from deprivation of property), Section 18 (Provisions to secure protection of law) and Section 23(Protection from discrimination on the grounds of race).

¹⁸⁴ George Quinnell versus Minister of Lands, Minister of Justice and Attorney General for Zimbabwe, High Court Case No. 5263/02.

occupants. The Act was thus not *ultra-vires* the Constitution.¹⁸⁵ By arguing, that the ownership of farms was with the government the judgement skirted around the constitutionality of the Act. The substantive elements of the Act can be indeed argued to be *ultra-vires* the constitution regardless of the owner. In a dissenting judgement on the same case Justice Ebrahim argued that certain constitutional rights like those under Section 18 could not be removed by the legislature, he concluded that the Rural Land Occupiers Act had to be declared unconstitutional.

Also the Statutory Instrument 338 of 2001, gazetted through the Presidential Powers (Temporary Measures) Act to allow government to allocate land without giving the owners the right to contest the seizures, violated fundamental rights in the constitution (Sections 16 and 18).¹⁸⁶ The Presidential Review Committee on Lands “discovered” a major contradiction between the Land Acquisition Act as amended and the provision imbedded in the Constitution which requires that land compulsorily acquired should be confirmed by the Administrative Court.¹⁸⁷

On 3 December 2001, the Supreme Court ruled that a land reform programme that satisfies the requirements of Section 16A¹⁸⁸ of the Constitution indeed existed. The effect of this was that the constitutionality or otherwise of the Fast Track programme cannot now be challenged.¹⁸⁹ Whereas the UNDP took the above position it can be argued that the 3 December 2001 ruling did not elaborate convincingly why and how important constitutional sections could be abrogated. The Quinnell case is indicative of the fact that indeed most of the laws guiding land reform were *ultra-vires* the constitution.

The government was not willing or committed to complying with court rulings. President Mugabe while addressing the ruling party congress had this to say about the decisions of the courts, “The Courts can do what ever they want, but no judicial decision will stand in our way, my own position is that we should not even be defending our position in the courts.”¹⁹⁰ Despite a number of court rulings ordering the eviction of illegal settlers the government refused to comply with the rulings. The failure by the government to respect court orders

¹⁸⁵ Minister of Lands v CFU SC 111/01.

¹⁸⁶ Business day, 15 November 2001, Sections 16 and 18 of the constitution deal, respectively, with the rights to property and equal access to the law.

¹⁸⁷ The People’s Voice, 1 November 2003.

¹⁸⁸ Constitution of Zimbabwe Amendment (No. 16) Act 2000; Section 16A In regard to the compulsory acquisition of land for resettlement in accordance with a programme of land reform, Britain was obliged to pay compensation for land compulsorily acquired for resettlement and if it failed the government did not have an obligation to pay compensation.

¹⁸⁹ UNDP, 2003, p.31.

¹⁹⁰ Financial Gazette, 14 December 2000.

undermined the credibility, legitimacy of as well as the confidence in the judiciary.¹⁹¹ On 10 November 2000 the Supreme Court ordered the state to stop the fast track land reform process until the government had made available a program for land reform and had restored the rule of law in the farming areas. This court ruling was not effected by the government because illegal occupations continued unhindered.¹⁹² The significance of court orders was undermined by the enactment of the Rural Land Occupiers Act. A watershed Supreme Court ruling argued that the source of legal authority of dealing with farm occupation was derived from the mentioned Act and not from court orders.¹⁹³ Therefore, the passing of the Act in July 2001 appeared as an attempt to remove responsibility for complying with relevant court judgements from those agents.¹⁹⁴

5.2.2.2 Legal certainty

Legal certainty means that legal rules need to be generally known and important areas have to be covered by legal rules. With the onset of the fast track, land reform process in Zimbabwe the rule of law was systematically undermined by the state. Laws were constantly amended to suit the political needs of the state. The state chose to rule by law instead of subjecting itself to the rule of law.¹⁹⁵ As a result of a legion of laws guiding land reform, the principle of legal certainty was thus compromised. Even the Supreme Court judges had difficulties elaborating and explaining the laws guiding land reform.

Most of the legislation promulgated by the state had retroactive effects. In many instances, the State lost crucial cases and to avoid embarrassment appealed and the decision of the appeal court eventually coincided with new legislation or amendments so that the state emerged as a winner.¹⁹⁶ The government implemented their policies and then later came up with laws to cover up for administrative inadequacies; these laws have been described as “after thoughts”.¹⁹⁷ The enactment of Presidential Powers (Temporary Measures) (Land Acquisition) (No.2) Regulations 2001 provided that a Section 8 order had to be constituted as written notice to the owner to cease to occupy, hold or use land immediately on the date of service of the order upon the owner. This legal provision came into effect retrospectively on 23 May 2000.¹⁹⁸ The enactment of the Rural Land Occupiers Act of 2001 was an effort by the government to legalise the process of occupations which had already taken place. The

¹⁹¹ Muchena, 2003, p.4.

¹⁹² Masiwa, 2001, p.14.

¹⁹³ Minister of Lands v CFU SC 111/01.

¹⁹⁴ UNDP, 2003, p.31.

¹⁹⁵ Muchena, 2003, p.3.

¹⁹⁶ Mushayavanhu, 2003, p.11.

¹⁹⁷ Interview with Hon. Gasela, 28 October 2003.

¹⁹⁸ Mushayavanhu, 2003, p.21.

government made backdated laws to cover illegal aspects of its land reform programme and clean up what are essentially political contradictions and problems for implementation and many of these changes were openly unconstitutional.¹⁹⁹

The land reform process resulted in uncertainty regarding the land rights for affected large-scale commercial farmers. On the other hand, the land rights for the incoming settlers have remained largely unclear. The pro forma offer of a lease and leasehold agreement intended as a basis for A2-Model settlement appeared to offer very little security for settlers. Firstly, the former did not constitute a firm offer and could be cancelled at the discretion of the Minister. Secondly, although the letter contained an option to purchase the holding, this was by no means an entitlement. According to the letter of offer, the conditions governing the exercise of the option “shall be reviewed by the Minister from time to time.”²⁰⁰ This type of arrangement indeed constituted insecure and uncertain tenure. The legitimisation of land occupations by the Rural Land Occupiers Act made freehold title for rural land in Zimbabwe one of the most insecure forms of land tenure.²⁰¹ Instead of consolidating land tenure, the land reform process resulted in weak, uncertain and insecure tenure arrangements.

5.2.3 Conduct of Justice Sector Institutions

There was a consensus among most of the interviewees that the courts systems before the change in the Supreme Court were to a large extent independent, competent and impartial. The Judiciary in some instances issued ruling for and against the land reform process as it was implemented by the government (Please refer to Supreme and High Court cases under 6.2.2.)

The independence and partiality of the judiciary and court system was affected by constant political interference. The judges were accused of being unpatriotic, harbouring political agendas, siding with the commercial farmers and generally militating against the land reform process. The ruling party called for a vote of no confidence in the judiciary and called for a Commission of Inquiry to investigate the judiciary.²⁰² War veterans and some government Ministers conducted a sustained campaign against Supreme Court and High Court judges perceived to be hostile to Zanu PF to try and force them to resign.²⁰³ The government refused to assure the safety of judges.²⁰⁴ This led to a protracted conflict

¹⁹⁹ Business Day, 15 November 2001, UNDP, 2002, p.40.

²⁰⁰ UNDP, 2003:30, The issue of uncertain land rights especially for A2 model farmers was also raised by the Portfolio Committee on Lands, Parliament of Zimbabwe, 2003:27.

²⁰¹ Parliament of Zimbabwe, 2003, p.42, Mushayavanhu, 2003, p.2.

²⁰² Muchena, 2003, p.6.

²⁰³ Zimbabwe Human Rights NGO Forum, 2001, p.3.

²⁰⁴ Muchena, 2003, p.6, For example in May 2001, the war veterans were alleged to have threatened to kill Justice Devittie and his mother. The judge resigned from the bench, Zimbabwe Human Rights NGO Forum, 2001, p.12.

between the judiciary and the ruling party/government. The climax of the tension was the controversial resignation of the Chief Justice Gubbay. The Chief Justice was forced to take early retirement.²⁰⁵ The departure of the Chief Justice signalled the resignation of a number of other judges (in particular white judges). Since the unclear departure of many judges, the government appointed eight new judges all of whom had connections with the ruling party.²⁰⁶ The bench included two judges who had benefited from past government schemes whereby land bought for resettlement has been divided up and leased at very nominal rents to Zanu PF supporters under a so-called "VIP resettlement" programme.²⁰⁷ This constituted what has come to be known as the "Zanunisation"²⁰⁸ of the judiciary.²⁰⁹ The Chief Justice has connections to the ruling party and his partiality is indicated in most of his judgements regarding the land issue. The judiciary has been emasculated and one cannot confidently postulate that the judiciary is independent.²¹⁰

The police did not act in accordance with the basic tenets of the rule of law to protect the interests of all citizens during the land reform process. In many instances, the police did not abide by court rulings dealing with land reform. On 17 March 2000, Justice Garwe declared the invasions illegal and ordered the police to evict the illegal occupants within twenty-four hours.²¹¹ The Police Commissioner pointed out that, "this is a political hot potato" and refused to enforce the court order.²¹² In another case, the Supreme Court again ordered the police to remove all illegal occupants on farms.²¹³ Again, the police did not enforce the court order. On 13 April 2000, Justice Chinhengo argued that the Police Commissioner had a clear duty under the law to enforce the consent order and to afford the Commercial Farmers the protection of the law enshrined in the constitution. The learned Judge eloquently argued, "The rule of law meant that everyone must be subject to a shared set of rules that are applied universally....those affected by official inaction were entitled to bring actions based on the law to protect their interests". In the opinion of the judge, police intervention was unlikely to ignite an already explosive situation²¹⁴

After the 17 March 2000, Supreme Court Ruling the Attorney General (AG) asked for a variation of the Garwe order. The AG argued that after the order the police realised that

²⁰⁵ Zimbabwe Human Rights NGO Forum, 2001, p.3.

²⁰⁶ Zimbabwe Human Rights NGO Forum, 2001, p.15.

²⁰⁷ ZWNNews, 23 September 2001 under this scheme people with close ties to the government were given long-term leases on land acquired by the government.

²⁰⁸ Phrase derived from Zanu PF, the ruling party in Zimbabwe.

²⁰⁹ Interview with Deprose Muchena, 30 October 2003, Interview with Dorothy Mushayavanhu, 01 October 2003.

²¹⁰ Muchena, 2003, p.6, Mushayavanhu, 2003, p.18 also argues that the new judges were selected in a way that would ensure the court would likely favour the government, Interview with Jacob Mafume, 9 October 2003.

²¹¹ CFU v Police Commissioner and Others –HH-3544-2000.

²¹² Muchena, 2003, p.4.

²¹³ CFU v Minister of Lands and Agriculture, Supreme Court, No S-314-2000.

they had insufficient resources to effect the evictions. He went further to argue that it would be ill advised for the police to intervene in an atmosphere so politically charged with racial overtones. The argument by the AG has been dismissed as unsatisfactory. Zimbabwean police has a history of brutally suppressing big demonstrations; the question of resources was therefore irrelevant.²¹⁵ It however helps to recall how in 1986/7 the police brutally evicted illegal occupiers of farms.²¹⁶ The AG also argued that the land issue was not one for the courts but it was a political affair falling outside the powers of the court and that the rule of law had to be looked at from a political point of view. The Court countered that whereas the land issue was a political question, the political methods of resolving that question were by enacting laws.²¹⁷

The Police Commissioner was ordered by Justice Chinhengo not to take any directives from the executive that prevented the police from effecting evictions of illegal farm occupants.²¹⁸ The head of the Police did not abide by this order since illegal occupants were not evicted. The police force was not impartial, the police Commissioner openly proclaimed his support for the ruling party.²¹⁹ Cases of selective justice were rampant when called to protect farm owners the police would react slowly but they would swiftly act if there were reports that occupiers were under threat from farm owners.²²⁰

The legal framework guiding land reform was not reliable, credible and predictable. It legalised the expropriation of land without due process and was also not consolidated and in some cases unconstitutional. A number of laws were passed to protect, justify and legalise the chaotic land reform process. The government used these legion of laws arguing that, “we are abiding by the rule of law”.²²¹ Largely the government did not follow laid down procedures for the exercise of state power. The courts and judiciary were in some cases manipulated in favour of the ruling party and its land reform process. Law enforcement agencies did not apply the law impartially. There was a clear attack on the rule of law during the land reform process. The concept of the rule of law was seen by the government “as a western concept, a hindrance to land reform and a concept which judges in collusion with western imperialistic forces are manipulating in order to temper with the national sovereignty of

²¹⁴ The Police Commissioner versus the CFU HH-84-2000.

²¹⁵ Muchena, 2003, p.5.

²¹⁶ Moyo, 2003:74, Marongwe, 2002: 26 also cites various instances where the police helped evict illegal settlers, Mushayavanhu, 2003:17 also cites the Matthew Makanyanga & others v The Forestry Commission and the Mutsotso & Ors v Commissioner of Police case where the settlers were evicted by the police.

²¹⁷ CFU v Minister of Lands, SC-132-2000.

²¹⁸ CFU v Commissioner of Police.

²¹⁹ Zimbabwe Human Rights NGO Forum, 2001:3, Daily News, 16 January 2001.

²²⁰ Interview with Mr. Smith, 22 August 2003.

²²¹ Muchena, 2003, p.3.

Zimbabwe.”²²² All in all, an analysis of the legal framework, legality, legal certainty and the justice sector institutions has shown that it is reasonable to argue that the land reform process was not carried out according to the rule of law.

5.3 Transparency

The following section deals with the transparency of the land reform process. The focus is going to be on the access to information and free flow of information. The section will also deal with the selection of beneficiaries for land reform and the extent of corruption in the land reform process. Finally the section will focus on the oversight mechanisms available during the land reform process. It is envisaged that this will help to verify or falsify whether the land reform process was transparent.

5.3.1 Access to information and free flow of information

The government did not adequately explain the rationale or modus operandi for the fast track land reform process. As noted by the courts the government did not have a program for land reform. Attempts had to be made by interested people to patch up documents from various government land policies. These were still inadequate and in some cases irrelevant to the events on the ground. Minutes of cabinet meetings in Zimbabwe are traditionally difficult to obtain unless one is well connected. There was therefore restricted access to key public records critical to ensure transparency. The most outstanding publication on the fast track land reform process was the “Peoples First” publication produced by the government. This publication and other fragmented documents were unfortunately not easily available and were not deliberately published for wide public consumption. People had to search for the information which was provided at various stages of the land reform process and provided at the discretion of the authorities involved. There was no mass public awareness campaign on the land reform process for instance selection and application procedures.²²³

The absence of a central authority which could provide all the necessary synthesised information resulted in often different and contradictory statements issued to the public by the different government ministries. This has led to confusion and uncertainties in the manner in which the program was progressing.²²⁴ It was noted by the Parliamentary Portfolio Committee on Lands that, “Inadequate information prevented us from making a

²²² Muchena, 2001 in quoted in Muchena, 2003, p.4.

²²³ Interview with Dr, Chimankire, 19 September 2003.

²²⁴ Masiwa, 2001, p.29.

full national assessment of progress made.”²²⁵ Due to the fast track nature of land reform, it was difficult to track events.²²⁶ Only those close to the ruling establishment got the latest and most accurate information on the land reform process.²²⁷ For example up to the time of the research, it was not clear how many people had been allocated land.

A free and active media which is one of the basic requirements for transparency was suppressed in Zimbabwe during the land reform process. The government passed legislation that gave the ruling party excessive powers of repression. These were the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA) which confirmed the party’s control over the media and placed severe restrictions on the freedom of the media.²²⁸ The use of the Broadcasting Act to preserve the monopoly of the state controlled Zimbabwe Broadcasting Corporation (ZBC) and prevent any other player from being broadcaster narrowed the information that the public got access to. The ZBC was virtually a propaganda institution and it refused to flight any material deemed to be against the policies of the government. The lack of access to information made it difficult to get the exact details on how the land reform process progressed, for instance the number of occupied farms or the status and activities of the beneficiaries.

There was a lot of violence against journalists from the independent media, the Minister responsible for Information actually told the Press Freedom Foundation that it was “understandable” that journalists who were seen as supporting an anti-ruling party agenda would be threatened with violence.²²⁹ The ruling party used legal and extra legal measures like death threats and assaults on journalists to silence the independent press.²³⁰ Apart from this, many editors and journalists were charged under various repressive media laws.²³¹

The public media had access to the farming areas but their reporting was biased in favour of the government. On the other hand the independent media was restricted from going to most of the farming areas as a result of violence. Nevertheless the independent media managed under the difficult circumstances to expose the limitations of the land reform process.²³² The independent press in Zimbabwe has been playing a very crucial role in term of keeping a check on the actions of government. It has been in the forefront of exposing

²²⁵ Parliament of Zimbabwe, 2003, p.14.

²²⁶ Interview with Mr. Gwaringa, 22 October 2003.

²²⁷ Interview with Mr. Chikomo, 7 October 2003.

²²⁸ Raftopoulos, 2002, p.2.

²²⁹ The Standard, 13 May 2001.

²³⁰ The assault on the independent press has been fully documented through frequent Media Alerts produced by the Media Institute of Southern Africa. It was epitomised by the bombing of The Daily News.

²³¹ The Media Institute of Southern Africa (MISA) documented many cases of violations of media freedom., www.misa.org.

²³² Interview with Mr. Chikomo, 7 October 2003.

corruption and the abuse of power by government officials and documenting cases of human rights violations. The net effect of the repression of the independent press was that the public did not receive adequate and balanced information on the land reform process.

5.3.1 Lack of transparency and its consequences on corruption

The qualifying criterion and the selection of beneficiaries for the land reform process was not very transparent. Whereas there was consensus among the interviewees that the selection criterion for the A2 Model were clearly spelt out by the government, the selection criterion for the A1 Model was not very clear and was subject to the power structures at local level.²³³ On paper the criterion for the A2 Model were well articulated but in practice, they were not adhered to. The absence of clearly adhered to criteria provided the conditions for corruption. The selection criterion of the new settlers was highly subjective and dubious. It was self serving for the government to relegate the functions of beneficiary selection to ruling party sympathisers as opposed to impartial experts.²³⁴ In some areas the selection was done by civil servants yet in some areas the selection was done by traditional leaders.²³⁵ There were no published records of deliberations or of the reasons for selection of applicants at each step; therefore, the process was not transparent. Those whose applications are rejected were typically not advised of the reasons and there was no provision for an appeal.²³⁶

Due to the lack of a clear criterion on the selection of beneficiaries, some people in dire need of land were denied access to land. For example in Mashonaland West, almost 90 farms remained unallocated in March 2003 since the political leadership in the area failed to come to an agreement on the prospective beneficiaries.²³⁷ The argument that the selection procedures were not clear also becomes obvious by the fact that some farms were acquired after some people had already been officially resettled. Certificates of No Present Interest were issued to some indigenous people authorising them to purchase farms that were already resettled thereby displacing the resettled people.²³⁸

The land reform process was also not transparent because the government did not publicly announce who the beneficiaries of the land reform process were (also refer to the discussion

²³³ Interview with Dr. Masiiwa, 1 October 2003., Interview with Mr Marongwe, 16 September 2003.

²³⁴ MDC, 19 August 2000. www.mdczimbabwe.com

²³⁵ Masiiwa, 2001, p.11.

²³⁶ UNDP, 2003, p.20.

²³⁷ Sunday Mirror, 2 March 2003.

²³⁸ Addendum to the Utete Report, 2003, p.1, An example of 10 farms owned by a prominent individual is highlighted by the Utete report.

on the flow of information under 6.3.1). Official documents just say that the majority of the rural landless benefited from the A1 Model. However, there were allegations that there was the displacement of the landless peasants from farms that they had been allocated following the re-planning of A1 farms to A2 Model farms.²³⁹ At Mayfield Farm in Mazowe District (2126.9700 ha) war veterans, Chris Pasipamire and Mike Moyo were violently evicting 36 settlers who were recognised by the provincial authorities.²⁴⁰ The Utete Report²⁴¹ lists various cases of prominent politicians who were removing settlers, for example the case of the 3,6000 ha Eirin Farm in Marondera which was allocated to Air Marshall P. Shiri at the expense of 96 families.²⁴²

The lack of transparency around land reform created a new class of wealthy “weekend farmers” or “cell phone farmers” who speculated on land while the land hungry villagers still irk for a living on barren colonial lands.²⁴³ A list provided by JAG also has details on the status of the new farmers and according to this list the allegations of ruling party officials having been allocated many of the farms is vindicated.²⁴⁴ Governor Peter Chanetsa is alleged to own nine farms.²⁴⁵ This is indeed a case of what was described in one of the interviews as “primitive accumulation”.²⁴⁶

The land reform process was characterised by corrupt practices, bribe payments were common, the stipulated criterion was not complied with, nepotism, and cronyism and patronage were rampant. In a damning report, Transparency International's (TI) Corruption Perceptions Index (CPI) for 2003-ranked Zimbabwe at 106 out of 133 countries sampled. Commenting on the latest index, TI (Zimbabwe) Executive Director cited the fast-track land allocation programme as one of the reasons why perceptions were so negative, saying the government had shown the world it had no respect for private property rights under land reforms criticised for being lawless and politically manipulated²⁴⁷

Corruption was widespread; the War Veterans leaders admitted that many people had approached them saying there were many corrupt practices in the allocation of land. Prospective beneficiaries complained to them that the government officials asked for bribes

²³⁹ The Bhuka Report quoted in The Sunday Mirror, 2 March 2003.

²⁴⁰ Addendum to the Utete Report, 2003, p.2.

²⁴¹ This was a report prepared by a Presidential Land Review Commission, 2003.

²⁴² Addendum to the Utete report, 2003, p.3.

²⁴³ Muchena, 2003, p.12.

²⁴⁴ The majority of the beneficiaries were ruling party officials or relatives and acquaintances of ruling party officials.

²⁴⁵ Africa Confidential, 7 November 2003

²⁴⁶ Interview with Mr. Deprose Muchena, 30 October 2003.

²⁴⁷ IRINNEWS, 29 December 2003, The country was ranked 43 in 1998 and moved two places down two years later, before plummeting to 71 in 2002. The slump indicated in this year's CPI represents the country's sharpest fall yet

and other favours in return for a recommendation of their applications.²⁴⁸ It was an unwritten rule that one had to be a member of the ruling party in order to qualify for land. The war veterans with their relatives in towns secured land for them. It was common for war veterans to offer land for a token fee (bribe).²⁴⁹

The Bhuka Report²⁵⁰ documented cases of high-ranking government officials who had violated the government one-man-one-farm policy.²⁵¹ A list of 178 senior officials owning more than one farm and amassing about 150 000 hectares of land between them was compiled by the Utete Commission. The list is not exhaustive as the people interviewed feared victimisation by the multiple farm owners who seem to have their loyalist within the various land committees.²⁵² JAG also compiled a list of new farm owners which also confirms the breach of the one-man-one-farm policy.²⁵³

In some cases individuals involved in the allocation of farms were bribed to de-list listed farms. The measures guiding the de-listing of farms were in some cases not adhered to. For example in Matebeleland North the Governor was concerned with how the Head office of the Ministry of Lands de-listed farms without even consulting the provincial structures.²⁵⁴ Some cases of corruption involved the misrepresentation by some blacks who claimed that they owned farms to have the properties de-listed. For example in Matebeleland North Province a prominent civic leader, Dr. Ibbo Mandaza was accused of trying to prevent the acquisition of five farms by arguing that he was the owner of the properties. The farms had been acquired and distributed to 24 plot holders under the A2 Model and 96 plot holders under the A1 Model. Dr. Mandaza went ahead to seek legal action to evacuate the new settlers.²⁵⁵ In most instances, the local institutions involved in land allocations were bypassed as politicians used their political muscle to access land. For instance, Fountain Farm in Insiza District was allocated to youths as an agricultural skills training centre however Minister S. Nyoni²⁵⁶ was allocated the same farm directly from the Head Office of the Ministry of Lands, the Minister of Lands was informed but he did not take any corrective measure.²⁵⁷

²⁴⁸ IRIN, 4 November 2002.

²⁴⁹ Interview with Comrade Hondo, 22 August 2003.

²⁵⁰ This was a report prepared by the Minister responsible for Land in the Vice President's Office.

²⁵¹ Sunday Mirror, 2 March 2003, the issue of multiple-ownership was also raised by the Portfolio Committee on Lands which advocated for the legislation of the one –household-one farm policy, Parliament of Zimbabwe, 2003, p.20.

²⁵² Addendum to the Utete report, 2003, p.3.

²⁵³ This list is very reliable since it is compiled with information provided by different sources and lists the name and location of the farm, the previous owner and the name of the new owner.

²⁵⁴ Parliament of Zimbabwe, 2003, p.13.

²⁵⁵ Parliament of Zimbabwe, 2003, p.16.

²⁵⁶ Ironically the Minister for Small and Medium Enterprises Development

²⁵⁷ Addendum to the Utete report, 2003, p.3.

To show the extent of corruption, the Utete Report highlighted a typical case, “Cde Munetsi the Hurungwe District Administrator is alleged to have held back the delivery of 504 offer letters to A2 beneficiaries and instead substituted some of these with letters of his own allocating plots to illegal beneficiaries on Buffalo Downs and Betterment Farms. It is suspected that outright corruption might have occurred as money is alleged to have changed hands in exchange for plot allocations”. In most cases, individuals in the various land institutions were allocating farms for themselves or their acquaintances. For example, District Land Committee in Muzarabani allocated themselves A2 plots on Lot 1 of Mutorazeni and Carse Farms outside the National Land Policy. In Makonde District Holderness Farm, offer letters from the Ministry of Lands were given to seven A2 Model applicants. However, a Mr. A. Mawere from the same Ministry is alleged to have allocated the farm to 11 other people without the knowledge of the provincial land authorities.²⁵⁸

Oversight mechanisms can also help in ensuring transparency. However, there were few mechanisms within and outside the state to keep a check on the way power was exercised in the land reform process. The absence of independent commissions and anti corruption agencies meant that it was difficult to have an effective system of checks and balances. In 2003, the Portfolio Committee on Lands in the Parliament of Zimbabwe was ordered in terms of Standing Order No 153 to monitor, investigate, enquire into and make recommendations on the land reform process. The role of the Committee in the overall land reform process was however limited.²⁵⁹ Also in 2003, a Presidential Land Review Commission was tasked to carry out an audit to identify anomalies and policy violations in the implementation of the Land Reform and Resettlement Programme. This Commission was hailed for providing a solid critique of the implementation exercise²⁶⁰ while others dismissed it as a partisan body: “the government created a Commission to oversee itself”.²⁶¹ It was argued that the Commission was saturated with Zanu PF mantras and had glossed over the issue of multiple ownership, “thus the rotten core of Zanu PF seizures remains surgically unattended”.²⁶² On 15 November 2001, a UNDP technical team arrived in the country to assess the situation on the ground and work out the needs of Zimbabweans land reform programme. The recommendations from this mission were largely ignored thus rendering the oversight mechanism redundant. An anti-corruption commission is provided for by section 108A of the constitution, but the relevant government authorities have been

²⁵⁸ Addendum to the Utete Report, 2003 ,p.4.

²⁵⁹ Interview with Hon. Gasela, 28 October 2003.

²⁶⁰ Mandaza quoted in IRINNEWS, 29 December 2003, similar sentiments also expressed in Sunday Mirror, 19 October 2003.

²⁶¹ Interview with the Zimbabwe Liberators Platform, 8 October 2003.

²⁶² The Independent, 17 October 2003.

accused of lacking the will to stem corruption and dragging their feet in establishing a law that would regulate the commission.²⁶³ The government was reluctant to have the land reform process monitored and the sovereignty rhetoric militated against possibilities of visits by investigative commissions.

Due to the fast track nature of land reform, the public was not given the opportunity to review policies through public debates. Also there were limited information services, progress reports, public enquiries, audits and mechanisms to allow feedback from the public on the land reform process. Information on the land reform process was not easily available and accessible. The selection of beneficiaries was unclear and there were allegations of corruption in the allocation of land. There were also limited oversight mechanisms in the land reform process. Through a consideration of the above factors, it is indeed correct to argue that largely the land reform process was not transparent.

5.4 Participation

The following section seeks to establish whether the land reform process was participatory. The first part of the section opens with a focus on the role of the major stakeholders involved in land reform. A matrix outlining the interests, views of the problems and outcomes of land reform for the various stakeholders will be presented. The second part analyses how the stakeholders were involved in the design and implementation of the land reform process.

Major Stakeholders

The table below seeks to show the various dimensions of land reform in the view of the groups with an interest in the outcome of the land reform process. The groups are not mutually exclusive but the distinction given here seeks to clarify and explain the particular positions and circumstances of the various stakeholders in their different roles in regard to land reform. The table tries to juxtapose the interests and the views as well as gains and losses of the various stakeholders. This will help in understanding the ways in which the stakeholders could ideally have been involved in the land reform process As will be shown by the table, the stakeholder have different needs and conceptualisations of land reform.

Table 2. Stakeholders involved in the land reform process

Stakeholders	Interests	View of Outcome	Gains	Losses	View of Outcome
COMMERCIAL	-To remain producing	LR should proceed with the previous	No gains	Land to produce on,	LR chaotic, racists, illegal and counter

²⁶³ IRINNEWS, 29 December 2003.

FARMERS	on their farms	approaches (willing buyer-willing seller)		farm property, liberty, safety	productive
Farm Workers	-To have a sustainable livelihood	LR should benefit their livelihoods	Limited gains	Employment, homes, liberty, safety	LR brought little positive change to livelihoods
War Veterans (WV)	-To get preferential access to land	LR should complete the struggle for empowerment.	Mixed gains	Limited losses	Land is back to its rightful owners
Landless	-To have access to land	LR should give them access to arable land	Limited gains	Land formerly invaded taken over by the powerful	LR was illusionary, landless manipulated
Women	-To be considered in land reform	LR should fairly benefit them as individuals	Limited gains	No rights to land offered to "households"	LR exacerbated discrimination in land ownership

5.4.1 The participation of major stakeholders in the design and implementation of the land reform process

Farm Workers.

In 1999 as many as 460,000 farm workers were permanently employed on the large-scale commercial farms in Zimbabwe.²⁶⁴ The UN reported in July 2002 that 270,000 commercial farm workers had already lost their jobs and USAID reported in August 2002 that "more than 100,000 farm workers" had been displaced.²⁶⁵ It was clearly stated in the government land policy that settlers for the A1 Model were going to be selected from among farm workers.²⁶⁶ However, under the fast track process the farm workers were largely marginalised. Farm workers were not considered as a specific category in the land reform process but were viewed with suspicion if not outright hostility by LR government officials.²⁶⁷ The official representatives of farm workers (General Agricultural and Plantation Workers Union of Zimbabwe, GAPWUZ) were sidelined and ignored in the consultation and

²⁶⁴ Farm Community Trust, 2002, p.6.

²⁶⁵ Global IDP Project, 2003, p.6.

²⁶⁶ Government of Zimbabwe, 1998, p.11.

²⁶⁷ Farm Community Trust quoted in Mpunga, 2002, p.19.

implementation of the land reform programme.²⁶⁸ The marginalisation of the farm worker representative groups shows that the farm workers as critical stakeholder holders were not involved in the design or implementation of the land reform process.

Farm-worker support groups like GAPWUZ maintained that few farm workers became beneficiaries of the land reform process. Statistics on resettlement compiled by the Ministry of Local Government, Public Works and Housing support this. As of 5 October 2001, only 1.7 per cent of resettled households were farm worker households. Government officials indicated that the plight of farm workers was deliberately exaggerated by commercial farmers who use them for political purposes and encourage them not to participate in or benefit from the resettlement process.²⁶⁹ The marginalisation of farm workers was however not an exaggeration. Farm workers fared badly in the land distribution exercise.²⁷⁰ According to survey by the Farm Workers Action Group, on settled farms in Mashonaland, farm workers constituted only 4% of the settlers.²⁷¹

War Veterans

The participation of the war veterans has to be understood in the context of the changing political landscape in Zimbabwe. As from 1997, the war veterans started to play a pivotal role in various activities of the ruling party.²⁷² The war veterans participated to a very large extent in the implementation of the land reform process. The land occupations were directed by the war veterans who mobilised peasants, registered occupiers and allocated land.²⁷³ There is however controversy regarding the role of the war veterans in the design of the land occupations. It was argued that the role of war veterans in the design of land reform was overstated.²⁷⁴ The high level ruling party structures²⁷⁵ could have spearheaded the designing of land reform. However considering that war veterans were in control of what was happening on the ground, it can be argued that the war veterans had an influential role in designing occupations. War veterans also had an overriding influence over the other official institutions involved in land reform.²⁷⁶ It was also observed that most of the alleged war

²⁶⁸ GAPWUZ quoted in Mpunga et. al. 2002, p.3.

²⁶⁹ UNDP, 2002, p.36. It was also argued that the notion of a marginalised farm worker population was brought to the forefront by commercial farmers and some NGOs favouring the status quo.²⁶⁹

²⁷⁰ Parliament of Zimbabwe, 2003, p.17.

²⁷¹ Masiwa, 2001:18, the Portfolio Committee on Lands observed that in Mashonaland Central farm workers had managed to get only 2 per cent of the land while in Matebeleland South they received 4%

²⁷² In 1997 the war veterans demonstrated against the government. This came as a shock to the government which went on to appease war veterans with hefty pensions of Z\$50 000 and promises of a greater role in political activities.

²⁷³ Marongwe, 2002, p.25.

²⁷⁴ Interview with the Zimbabwe Liberators Platform, 8 October 2003.

²⁷⁵ Central Committee or Politburo

²⁷⁶ Interview with Comrade Hondo, 22 August 2003. Parliament of Zimbabwe, 2003, p.12 illustrates instances where war veterans override the functions of the official land management committees.

veterans were ruling party youths and members with no liberation war credentials. A very few genuine war veterans were involved in the land reform process.²⁷⁷

Women

The land reform did not mainstream gender in anyway. There was no deliberate policy to make sure that women got favourable access to land. There were no legal frameworks in place that ensured gender equality in the distribution of resettlement land. Very few women benefited from the land reform process, of the 123,979 persons resettled by 5 October 2001, only 18,351 were women (about 16 per cent).²⁷⁸ A study by the Parliamentary Portfolio Committee on Lands also confirmed that indeed there were very low allocations of land to women.²⁷⁹ Results of a study undertaken by the Women and Land Lobby Group showed that by June 2000 the government had resettled 2005 families under the villagised scheme and of these only 132 (6%) were female-headed households.²⁸⁰ As of 3rd August 2001, 118 116 farmers only 19 268 (16.3%), were women.²⁸¹ Married women benefited from land reform through their husbands but the land allocated was not registered in the names of both spouses.²⁸² This was contrary to government policy that there should be joint registration for married couples.²⁸³

The participation of women in land reform was hampered by a combination of law, practices and policies. The assumption that land should be held by the household head deemed a man is common internationally and has been a feature of many land reform programmes.²⁸⁴ The participation of women in land reform was restricted by a number of discriminatory laws. Various legal instruments like the Legal Age of Majority Act No. 15 of 1982, the Matrimonial Causes Act of 1987 and 1989 have been passed to safeguard and protect the property rights of women. Unfortunately Customary law and Section 23 of the Constitution allow for discrimination against women and the legal system is generally against the ownership of property by women. For example in the landmark *Magaya versus Magaya* case, Veni Magaya was denied access to her late father's communal lands despite being appointed heir by the court.²⁸⁵ The accessing and controlling land in the resettlement programme was far from being satisfactory, despite government's commitment to gender issues in the land reform programme women have not benefited from the programme.²⁸⁶

²⁷⁷ Interview with the Zimbabwe Liberators Platform, 8 October 2003.

²⁷⁸ Ministry of Local Government, Public Works and Housing quoted in UNDP, 2002 ,p.37.

²⁷⁹ Parliament of Zimbabwe, 2003, p.2.

²⁸⁰ WLLG quoted in Mpunga, et.al. 2002, p.12.

²⁸¹ Government of Zimbabwe quoted in Mpunga, et. al. 2002, p.13.

²⁸² WLLG quoted in Mpunga, et.al. 2002, p.12.

²⁸³ Government of Zimbabwe, 1998, p.12.

²⁸⁴ Jacobs, 1999, p.7.

²⁸⁵ Mpunga, et.al. 2002, p.14.

²⁸⁶ Mpunga, et.al 2002, ,p. 2.

Groups representing the land interests of women like the Women and Land Lobby Group were not involved in the design or implementation of land reform process. This indeed jeopardised the full participation of women in the land reform process.

Commercial Farmers

The CFU claims to have always been committed to land reform as pointed out in its 1991 “Proposals for Land Reform for Zimbabwe” document. The document lists CFU’s consistent fundamental views on land reform. “The organisation understands and accepts the need for land reform. Such reform should however be implemented in a manner that ensures land is used on a sustainably productive basis.”²⁸⁷ The CFU played a prominent role in international efforts to solve the land crisis in Zimbabwe. It participated in the 1998 Donors Conference. Despite their manoeuvres to be involved in the land reform process, the commercial farmers were largely marginalised. The sections which follow will highlight the various efforts by the farmers to participate in the process.

In 2000, the CFU was instrumental in liaising with the various donor groups including the UNDP to launch an initiative to fund the land reform process in Zimbabwe based on 400 farms identified by the CFU around the country.²⁸⁸ The Secretary General even agreed to send a Senior UNDP Administrator to Zimbabwe to refine the proposal. This was upon assurances that the government would not resort to mass compulsory acquisition of commercial farms. Nevertheless, on the evening of 1 June 2000 the government was determined to publish an Extraordinary Gazette identifying some 804 properties for acquisition. Consequently, the UNDP initiative flopped. The farmers regarded their placing of land on the market as the legitimate basis for the Government’s land redistribution programmes, while the Government of Zimbabwe found such land to be too costly to purchase, scattered and not always appropriate for its objective of decongesting communal areas.²⁸⁹ The delivery of small pieces of land by the farmers was at the root of the failure of the earlier complementary initiatives, given the established high government targets for land transfer.²⁹⁰ The commercial farmers were initially reluctant to fully engage in land reform and most of them were at one stage hostile to the calls for land reform.²⁹¹ Upon realisation that the land reform process was gathering momentum the farmers decided to cooperate with the government. In their own words, “farmers realised that the path of confrontation was unsustainable and CFU was mandated to pursue a proactive partnership

²⁸⁷ CFU, 2003, Appendix V, p.1.

²⁸⁸ CFU, 2003: Appendix V, p.4.

²⁸⁹ UNDP, 2002, p.8.

²⁹⁰ UNDP, 2002, p.9.

²⁹¹ Interview with Mr. Smith, 22 August 2003.

with government.”²⁹² As a gesture of good will on 21 March 2001 they offered the government, 1 million hectares of land under an initiative named the ZJRI (Zimbabwe Joint Resettlement Initiative). ZJRI initiative was formerly accepted by the government on 5 September 2001 and was officially launched at Retreat Farm in Bindura on 2 November 2001. The ZJRI was a significant development insofar as it represented the emergence of a spirit of collaboration among some white farmers within the CFU although there was a perception that the white farming community pursued a dual strategy of negotiation and resistance to land reform.²⁹³ Negotiation was through the offer of land and the resistance was marked by the litigation in the courts. The initiative collapsed because of the Fast Track resettlement process.²⁹⁴ Since the government was able to acquire a lot of land through the fast track, there was little incentive for it to negotiate with the commercial farmers. In addition, with the onset of fast track, CFU brought a number of litigation cases to the courts and this further strained its relations with the government. The sceptics in government have tended to see complementary initiatives as serving to stall the land-reform programme, especially the Fast Track processes.²⁹⁵

The CFU still stands by its initial position in support of a transparent and orderly land reform process and has even withdrawn all litigation in order to create an atmosphere for meaningful dialogue.²⁹⁶ The organisation constantly monitors land available for acquisition and submits lists of farms to government for the purpose.²⁹⁷ The government however appears to have closed all doors to dialogue and co-operation with farmers.

The landless

In the context of Zimbabwe where a majority of the citizens have access to communally owned land, the definition of landlessness is very problematic. The communal people have the right to use the land and exclude/include others in the use of the land. However, their security of tenure is limited since they do not have enforcement and transfer rights.²⁹⁸ This means that they cannot sell, give, mortgage, lease, rent or bequeath the land. It is therefore reasonable to argue that the communal people do not own the land. Authority over the land is vested in the President who holds all communal land in trust for the people.²⁹⁹ It is in this regard that the people living under the communal system are considered as landless. In the

²⁹² CFU, 2003: Appendix V, p.6.

²⁹³ UNDP, 2002, p.9.

²⁹⁴ CFU, 2003, Appendix V, p.6.

²⁹⁵ UNDP, 2003, p.8.

²⁹⁶ CFU, 2003: Appendix V, p.5.

²⁹⁷ CFU, 2003: Appendix V, p.5.

²⁹⁸ Tenure systems are guided by four sets of rights; use, transfer, exclusion/inclusion and enforcement rights, Rukuni Commission, 1994, p.14.

²⁹⁹ Communal Lands Act 1982.

context of this study the term landless was meant to stand for the rural poor this group deliberately includes the farm workers.

It was argued by some interviewees that the land reform process was participatory in that the local communities were involved in the design and implementation of farm occupations. This conceptualisation seeks to portray a social movement/ peasant mobilisation type of land reform.³⁰⁰ Peasant mobilisations have been categorised into independent class action (where peasants organise themselves), guided political action (where political forces lead peasants) and fully spontaneous amorphous political action (where peasants spontaneously rise against unjust land ownership systems).³⁰¹ It can be argued that the occupations in Zimbabwe fit well into the second and third categories. However, an analysis of the dynamics of land occupations in Zimbabwe will demonstrate that the conceptualisation advanced by the respondents is a bit far fetched. Land occupations by peasant movements are gauged on the basis of the forces of play, the motivation, mobilisation and organisation of the communities involved.³⁰² The forces at play in Zimbabwe were more political than deep-seated calls for land by the landless. The motivation was more to appease the electorate and win the elections as opposed to sincere efforts to give land to the landless. The peasants did not mobilise themselves to occupy land, this was done by the war veterans. There was no well-defined peasant organisation around land reform, war veterans and ruling party structures co-ordinated the invasions. It is based on the given factors that the land occupations in Zimbabwe cannot be regarded as peasant movements with the same magnitude and like the well-known *Movimento Dos Trabalhadores Sem Terra* in Brazil.³⁰³ There was no popular participation but just political mobilisation around pseudo social justice aims to fulfil selfish political ends for self-aggrandisement. The landless were therefore not fully involved in the design of the land reform process. Their involvement in the implementation of land reform was also largely controlled and directed by the war veterans. This is why only a few genuine landless people had access to land. A national survey observed that only 14% of the respondents had been allocated land.³⁰⁴ It was observed in earlier sections that the so-called landless were pushed out of farms as government officials grabbed land for themselves. The UNDP Mission shared the

³⁰⁰ Interview with Mr. Dengu, 25 September 2003. Interview with Prof. Moyo, 10 October 2003.

³⁰¹ Huizer 1999:5 quoted in Marongwe, 2002, p.4.

³⁰² Marongwe, 2002, p.4.

³⁰³ This movement of the landless defines the land reform dynamics in Brazil. See Schwartzmann, 2000 for the discussion on the land movement in Brazil.

³⁰⁴ Sithole and Ruswa, 2003, p.9.

widespread concern that the policy-making process could have been more participatory with the involvement of rural communities.³⁰⁵

Participation can also be enhanced by the involvement of the legislature in the implementation of the land reform process. There was a lot of debate in parliament about the land reform process. It was however polarised. The standing orders in parliament were not observed and bills were fast tracked and in most cases, all stages of the bill were completed in one day. Debates were done without the full involvement of the portfolio committee.³⁰⁶ The effects of the debates were not far reaching since they were not incorporated in the various bills or discussions. Parliament in the end was reduced to a rubber-stamping institution.

It was government's stated policy that the land reform programme was going to be championed by central government with full stakeholder consultation and private sector and stakeholder participation.³⁰⁷ The institutional framework guiding land reform inherently excluded and prohibited the participation of other stakeholders in the land reform process since it was dominated by government and ruling party structures. It was highly politicised and strong on rhetoric.³⁰⁸ The institutions were not rooted in society and thus did not facilitate the participation of stakeholders in the design of land reform. It can be argued that participation is not always feasible, in some cases, it is difficult or costly (time and resources) to fully involve people in the design and implementation of programmes. Nevertheless, the Zimbabwean government could have at least made efforts to have representatives of various stakeholders involved in the design and implementations of land reform. Involving the stakeholder representatives could have been helpful in terms of participation. Unfortunately, the agenda for fast track land reform was not jointly set and there was limited space for dialogue among the various actors. The process was not consultative; it was selective, racist and vindictive.³⁰⁹ The whole process was carried out in a politically tense situation with limited space for public consultation. Those who sought to come up with alternative views to the process were labelled as detractors.³¹⁰ This limited the space for other stakeholders to contribute to the process. The major stakeholders were hence marginalised. The participation of stakeholders in the land reform process was therefore very limited.

³⁰⁵ UNDP, 2003, p.10.

³⁰⁶ Interview with Hon. Gasela, 28 October 2003.

³⁰⁷ Government of Zimbabwe, 1998, p.27.

³⁰⁸ Masiiwa, 2001, p.10.

³⁰⁹ Interview with Mr. Chikomo, 7 October 2003.

³¹⁰ Interview with Mr. Pasi, 26 August 2003.

This part of the thesis has proved that the land reform process was not carried out according to the rule of law, it was also neither transparent nor participatory. Basing on the stated hypotheses, it is necessary at this juncture to establish whether land reform was a success or failure.

5.5 The outcome of land reform

The following section will focus on the outcome of the land reform and determine whether the process was a success. This will be achieved through an analysis of the transfer of land, the economic and social implications of fast track land reform and lastly the implications for political stability.

5.5.1 Transfer of land

Top among the objectives of the Zimbabwean government was the intention to transfer 8,3 million hectares from the Large Scale Commercial Farm Sectors to the Resettlement Sector.³¹¹ The success of the government in this endeavour will be measured by the amount of land that was transferred during the land reform process. As of 15 November 2001, 4 559 farms covering 8,8 million hectares stood gazetted and available for compulsory acquisition.³¹² Within a short time span the objective of acquiring 8,3 million hectares had been met and even surpassed. The success of the government in strict terms of land acquisition was tremendous. It can be recalled from the section on Country background that only 3,67 million hectares of land were acquired during the first and second phases of resettlement (1980 to 2001) and 75 697 people had been resettled on that land. As of June 2003 a total of 10,7 million hectares of land had been acquired and redistributed, the acquired land accounts for about a quarter of the country's total land endowment of 39,6 million hectares.³¹³ Given these figures it can be argued that the government had unprecedented success in meeting its objectives of acquiring even more than the planned number of hectares.

Another intention of the government was to decongest the communal areas by making land available to the rural landless.³¹⁴ The best indicator to ascertain the success of the government in this regard would have been to determine changes in population densities in the communal areas. Unfortunately, it is not clear how many people moved to the acquired farms thus making it difficult to establish the population densities on the new farming

³¹¹ Mpunga et al. 2002, p.41.

³¹² Mpunga et al. 2002, p.41.

³¹³ World Food Programme/Food Agricultural Organisation, 2003, p.4., there is considerable consensus on this figure, the UNDP Assessment Mission (June 2002) and the Presidential Land Review Commission (October 2003) also have similar figures.

³¹⁴ Government of Zimbabwe, 1998, p.6.

settlements. Nevertheless experienced Zimbabwean observers have concluded that congestion of communal areas has not been reduced.³¹⁵ Another objective of the government was to resettle 162 000 families.³¹⁶ There is considerable controversy on the actual numbers of people who were resettled. The government claimed that it had managed to resettle 330 000 people under the fast track land reform programme.³¹⁷ This figure has been disputed by other organisations and studies. The Parliamentary Portfolio Committee on Lands (June 2003) established that 129 000 people had been resettled, this figure at least corresponded to the figure of 127 000 derived by the Presidential Land Review Commission (November 2003).³¹⁸ The discrepancies on the number of resettled people give credence to allegations that the deserving people did not have access to land. Land was acquired but the crux of the matter is whether that land was made available for the productive use of the rural landless people.

5.5.2 Economic and Social implications of land reform

It was spelt out in the objectives of land reform that the program was set to result in poverty reduction.³¹⁹ It was also envisaged that land reform was set to increase the contribution of the agricultural sector to GDP.³²⁰ This section seeks to analyse whether the land reform process indeed managed to meet the stated objectives. This endeavour is beset with two major constraints. The first one is that the government did not elaborate on the definitions, scope or measurement of poverty reduction. The second problem lies in the non-availability of adequate long-term information regarding poverty in Zimbabwe that could allow for a clear-cut comparison of poverty levels before and after the “Fast Track” land reform process. The analysis of poverty in Zimbabwe has been hampered by the lack of consistent conceptualisations and methodologies to measure poverty. To counter the first problem the analysis will be based on the definition and measurement of poverty outlined in the conceptual framework. Regarding the unavailability of information, the researcher managed to gather a number of diverse but relevant materials from the Central Statistics Office in Zimbabwe and other international organisations. This information is going to be synthesised and used in the analysis of the various dimensions of poverty. The factors to be analysed below are envisaged to help in assessing and measuring poverty among Zimbabwean and how this was affected by the land reform process.

³¹⁵ UNDP; 2002, p.42.

³¹⁶ Government of Zimbabwe, 1998, p.5.

³¹⁷ IRIN(UN), Wednesday 6 November 2002

³¹⁸ Interview with Hon. Gasela, 28 October 2003.

³¹⁹ Government of Zimbabwe, 1998, p.6.

³²⁰ Government of Zimbabwe, 1998, p.6.

The poverty levels in Zimbabwe have been rising unabated; some quarters have even argued that Zimbabwe is facing an unprecedented humanitarian disaster. Between 70% and 80% of Zimbabweans are said to be living below the poverty datum line.³²¹ The last vulnerability assessment undertaken in Harare in May 2001³²² calculated the Food Poverty Line (the minimum expenditure to ensure that each member of a four-person household received 2,100 calories) as Zim \$ 2,650 (US\$48) per month. The Consumer Council of Zimbabwe priced a low-income “food basket” for a family of four at Zim \$11,000 (US\$200), about 70% of the households could not afford to meet these costs the assessment report said. The poorest households in May 2001 were regarded as those earning less than Zim\$4000 (US\$73) per month. According to calculations based on the exchange rate as of October 2003 and the rate of inflation, by October 2003, the food poverty line was at Z\$288 000 and the poorest households would be those earning below Z\$438 000 per month. These figures are shocking since a majority how many of Zimbabweans cannot afford the food basket since many people earn far less than Z\$438 000 per month. An estimated 80% of formal sector workers earn less than Z\$ 20 000 (US\$24) a month³²³. It has to be noted that the official exchange rate used by the Consumer Council of Zimbabwe is deceptive; the real exchange rate was about 6000:1 to the US dollar. This puts the salary of over 80% of formal sector workers at an amazing US\$3,33. What all these figures point to is the fact that many Zimbabweans are living in dire poverty. The assessment quoted above was carried out in the urban areas; the situation is even more acute in the rural areas where poverty is more persistent. The majority of all households (about 67%) are in rural areas and the indices of poverty show that prevalence, depth and severity of rural poverty is much worse than urban poverty, 76,2% of Zimbabwe’s poor and 89,5% of the very poor households are found in rural areas.³²⁴

The success of land reform can be determined through an analysis of economic growth. Economic growth has the general effect of raising incomes for all members of the society including the poor; even a modest rate of economic growth has the effect of “lifting” people out of poverty.³²⁵ The Zimbabwean economy has been dubbed the fastest shrinking economy in the world. The economy reached its peak in 1997 and by then GDP rose to Z\$25 billion (using constant prices). In 1998, GDP growth at constant prices was 2.8 deteriorating to 0,1 in 1999 and -6,8 in 2000.³²⁶ Zimbabwe’s real GDP (at 1990 prices) declined by over 30%

³²¹ Justice for Agriculture, 2003, p.7.

³²² Assessment undertaken by the famine Early Warning Network and the Consumer Council of Zimbabwe.

³²³ Consumer council of Zimbabwe, 2003 quoted in UN OCHA Integrated Regional Information network, 30 June 2003.

³²⁴ CSO, 1998, p.29.

³²⁵ Dollar and Kraay, 2001, p.5, Adams, 2002, p.19.

³²⁶ SAPES, 2001, p. 1.

between 1998 and 2003, a shrinkage of 12,3% occurred in 2002 and a further decline of between 7 and 12% was estimated for 2003.³²⁷ In November 2003, GDP was roughly estimated to be at US\$ 3,7 billion which is about two thirds of the size it was in 1998.³²⁸ In order to determine the impact of land reform on the levels of GDP we have to establish the extent to which the agricultural sector contributes to GDP. The contribution of agriculture to GDP stood at 17,4% in 2002³²⁹. This is clearly far below the average for other low-income countries. The relatively low contribution of agriculture to GDP is deceptive since agriculture provided³³⁰ employment and livelihoods for an estimated 70% of the population and provides raw materials for the majority of the country's manufactured goods and exports, agricultural exports consistently represent 40 and 50% of the country's exports³³¹. Around 59% of industry's raw material requirements are provided by the agricultural sector and 66% of the industry's products and services are consumed by agriculture.³³² Agriculture therefore directly and indirectly contributes to the GDP and any disturbances in the agricultural sector will have a domino effect on other sectors leading to a reduction in the levels of GDP. The decrease in GDP can be attributed to other factors like poor foreign investments but the land reform process had a large bearing on the fall in GDP. In 2001 the total GDP stood at \$488 billion, commercial agricultural production contributed \$69 billion (14%) to the GDP, it was estimated by the farmers that disturbances on the farms would result in a loss of \$62 billion which is 12,7% of GDP.³³³ These projections were largely correct, the agricultural sector in 2001 is estimated to have declined by 12,2% thus the contribution of agriculture to GDP also declined.³³⁴ Changes in the GDP are clearly illustrated in the table on Annex 4.

In order to measure the success of land reform in terms of poverty reduction the following section will also focus on employment. Unemployment in an economy is a broad indicator of economic activity and high levels of unemployment indicate serious inefficiencies in the allocation of resources.³³⁵ In Zimbabwe welfare support is limited so high unemployment is likely to indicate low economic development and high incidences of poverty. Employment in 1997 was just over 1,4 million, in 2003 formal employment had gone down to 900 000 jobs

³²⁷ WFP/FAO, 2003, p.2.

³²⁸ CFU, 2003, p.22.

³²⁹ World Bank, 2003 www.worldbank.org, 3 December 2003, 1400 hrs, Justice for Agriculture, 2003:7 puts the figure at 18%, general consensus however stands at 17%.

³³⁰ This was before the "Fast Track" land reform process

³³¹ CSO, 1998, p.6.

³³² Justice for Agriculture, 2003, p.7.

³³³ Commercial Farmers Union presentation to the Commonwealth Delegation, 10 December 2001.

³³⁴ United Nations Development Programme, 2002, p.42.

³³⁵ World Bank, 2003, p.53.

or less³³⁶ Structural unemployment is presently estimated at 70% and the situation is worsening as industries continue to close. There were job losses in other sectors but the situation was more intense in the agricultural sector which employed 42,64% (around 350 000 and 400 000 people) of the labour force in 1995³³⁷. Most of these farm workers lost their jobs under the land reform process since the new settlers did not need workers, opting to use their families as labour. Given the close link between the agricultural sector and other manufacturing sectors, the extremely high levels of unemployment can therefore be rightly attributed to the land reform program. Most sectors of the economy severely suffered during the land reform process. According to a Business Tendency survey carried out by the CSO, 89% of the food stuffs industries and 72% of all manufacturing industries are not working at full capacity³³⁸. This point can also be supported by the table below which shows the average annual growth for agriculture, industry and manufacturing.

Table 3. Average Annual Growths³³⁹

Sector	1982-1992	1992-2002	2001	2002
<i>Agriculture</i>	2,6	3,8	-12,0	-7,0
<i>Industry</i>	3,5	-1,4	-9,8	-8,2
<i>Manufacturing</i>	3,2	-2,5	-19,0	-12,0

Commercial agriculture was once responsible for 60% of all food supplies and over half of all exports³⁴⁰. Agricultural output has declined from -12,9% in 2001 to -20,8% in 2002.³⁴¹ It is true that other constraints like shortage of foreign currency, price controls, fuel shortages and high costs of imported raw materials have adversely affected agricultural production. However it is largely true that the chaotic nature of land reform had a strong bearing on the production potential of many industries related to agriculture.

The normal commercial crop area³⁴² is 530 300 and in 2003 the area was reduced to 225 307 hectares.³⁴³ Cereal production for consumption in 2003/4 is estimated at 980 000 tonnes which is 51% below the 2000/1 harvest. The reasons for the low production include erratic rainfall, limited availability of seeds and fertilisers.³⁴⁴ Apart from this most of the resettled farmers had no access to inputs and adequate capital and could therefore not fully utilise their land. Maize production in 2001 was 380 000 tonnes, falling to 170 000 tonnes in 2002

³³⁶ Cross, Eddie, 2003 www.mdczimbabwe.com, 5 December 2003.

³³⁷ SAPES, 2001, p.49., The Herald, Monday 21 August 2000

³³⁸ Central Statistics Office, May-August 2002

³³⁹ World Bank, 2003 www.worldbank.org, 3 December 2003,.

³⁴⁰ Cross, Eddie, 2003 www.mdczimbabwe.com, 5 December 2003.

³⁴¹ Kanyenze, 2003, p.22.

³⁴² Area grown per annum prior to the onset of the fast track resettlement programme

³⁴³ Commercial Farmers Union, 2003, p.13.

³⁴⁴ WFP/FAO, 2003, p.1.

and then reaching an ultimate low of 80 000 in 2003.³⁴⁵ The table below summarises the downfall in production for the period 1999 to 2003

Table 4. Total Production of Agricultural products³⁴⁶

Product	(000 tonnes)				
	1999	2000	2001	2002	2003
Maize	1519,56	2043,20	1476,24	498,54	929,41
Wheat	320,00	250,00	314,00	186,50	102,00
Tobacco	192,15	236,13	202,54	165,84	85,00
Dairy	184,99	187,05	172,66	143,88	98,66
Beef	550,00	605,00	630,00	720,00	450,00

The low production levels for maize have resulted in unprecedented food shortages. The food shortages are a conjunction of drought, unavailability of inputs and the disturbances on the farms as a result of farm occupations. It has been argued that the food shortages in Zimbabwe should not be attributed to land reform programme alone since the drought also had an adverse impact. This argument is valid however; it is not fully convincing because Zimbabwe has experienced previous droughts (1982 and 1992 droughts) but still has been able to feed herself and even her neighbours. The effects of the latest drought were indeed compounded by the negative effects of the fast track land reform programme. The result is that over 5,5 million people are estimated to be in need of food aid.³⁴⁷

Finally, inflation will be presented as a proxy measure of poverty reduction. High levels of inflation are usually associated with the inability to access goods and services essential for survival. Inflation rose from 17.4% in 1990 to well over 500% per annum by October 2003. Inflation is still accelerating and is estimated to reach 1000% by the end of 2003. Official inflation figures are illusory and highly conservative because they strictly adhere to official prices which do not reflect prices in the thriving parallel market. The consumer price index

³⁴⁵ CFU; 2003, p.14.

³⁴⁶ Adapted from CFU, 2003 (Appendix III, Production Graphs and Tables)

³⁴⁷ WFP/FAO, 2003, p.2.

for major groups (food, medical care and education) and group indices for the month of September 2003 reflected a year on year change of 419% for food items, 275% for medical care and 262% for education³⁴⁸. The year on year inflation rate for the month of September 2003 as measured by all the items (Consumer Price Index) increased to 455.6% gaining 29.0 percentage points on the August rate of 426.6%³⁴⁹. In other words, prices as measured by all the items, CPI increased by an average of 455.6% between September 2002 and September 2003. These astonishing inflation figures show how the livelihood possibilities of Zimbabweans were constrained. It can be argued that the land reform process through its adverse impacts on production levels is one factor among others that influenced the steep rise in inflation. This is especially true if one considers that, “the year on year inflation was largely accounted for by increases in the average price of beverages, meat, bread and cereals, fruits and vegetables and household operations”.³⁵⁰ Most of the listed elements are strongly dependent on agricultural production and the disturbances on the farms obviously affected their availability hence the increases in their prices. The table on the next page can help to demonstrate how the living standards of Zimbabweans have fallen over the period in question,



Table 5. Consumer Price Index (1995=100)³⁵¹

	<i>Food</i>	<i>Medical care</i>	<i>Education</i>	<i>Annual Inflation rate %</i>
<i>September 1999</i>	349,4	223,3	262,3	58,5
<i>September 2000</i>	563,3	518,8	404,5	55,9
<i>September 2001</i>	1019,5	931,3	740,3	71,9
<i>September 2002</i>	2779,1	2117,6	1478,0	139,9
<i>September 2003</i>	14424,4	7950,4	5351,2	455,6

From the above table it can be detected that from 1999 onwards the cost of living in Zimbabwe rose steeply. It is not by coincidence that by the onset of the land reform process the living standards also started to fall rapidly. It is largely true that the land reform program had an adverse impact on the living standards. For instance, the consumer price index for food rose from 563,3 in 2000 to 14424,4 in 2003. Previously the prices of food had

³⁴⁸ Central Statistical Office, 10 October 2003.

³⁴⁹ Central Statistical Office, 10 October 2003.

³⁵⁰ CSO, 2003, p.1.

³⁵¹ Central Statistical Office, 10 October 2003.

not risen by such a margin. This is notwithstanding the fact that the country had undergone two extreme droughts and had gone through the pains of adjustment under the Structural Adjustment program. Indeed the downfall in the period 1999 to 2003 can be largely attributed to land reform. It is true that the hyper inflation is also due to rapid money supply growth, however the impact of the increase in money supply are negligible in comparison to the impact of falling agricultural output as a direct result of the land reform program.

Notwithstanding the close link between the land reform process and the economy as explained above, it has to be realised that the economic crisis cannot be wholly attributed to the chaotic land reform program. Firstly, by 1999 the economy in Zimbabwe was already overheating due to the detrimental effects of the structural adjustment program. Real economic growth decelerated from an average annual rate of 4% during the period of before ESAP (1985-90) to 0,9% during the ESAP period.³⁵² Secondly, the fall down in the economy can be attributed to other macro economic blunders by the government. The land reform program was the worst among many economic blunders on the part of the government. Land reform was a deadly blow to the already ailing economy.

Having presented the above arguments, the verdict that the government's land reform program did not meet its objectives of economic growth and poverty reduction can be vindicated.

5.5.3 Implications for political stability

In outlining its objectives, the Zimbabwean government envisaged that land reform was going to result in political stability.³⁵³ This section intends to show why and how the government failed to fulfil this objective. Land reform has been extricably linked to the political dynamics and structures in Zimbabwe. The formation of the NCA, the MDC³⁵⁴ and the subsequent rejection of the draft constitution in the February 2000 referendum shook the political power of the ruling party. It was further threatened by the adverse social and economic climate in the country. The government realised that it had to find a rallying point or national issue that could rejuvenate its waning political base. Land thus became a convenient and powerful resource that the government subsequently used to rebuild its support base and buttress its hold onto power.

³⁵² Kanyenze, 2003, p.15.

³⁵³ Government of Zimbabwe, 2002:5.

³⁵⁴ The MDC is the strongest opposition party and the NCA is a vibrant constitutional lobby group.

The government endeavoured to situate land reform in the broad struggle for independence. Land reform was thus portrayed as the third phase of the revolution to assert the economic independence of the majority blacks. It is in this regard that the fast track land reform was dubbed, “*The Third Chimurenga*”, meaning the third revolution. The tone of the Third Chimurenga was indeed confrontational and aggressive laced with direct racial overtones. The political instability surrounding the land reform process has to be understood in this given context.

Land was the central theme in both the 2000 general elections and the 2002 presidential elections. The ruling party did not hide its obvious and predetermined attempt to use land as a political tool in the campaign. Campaign slogans like, “*Tora nyika yako*-Seize your land” and “*Zimbabwe ndeye ropa*-Zimbabwe was won through the liberation struggle” symbolised the aggressive nature of the reinforcing struggles for land and political power. Those who opposed the chaotic nature of land reform were deemed as traitors or enemies of the state. Opponents of the disorderly land reform process mainly comprised of the urban population, white farmers and commercial farm workers. Apparently these groups also formed the bulk of the support base for the opposition, this further entrenched the “traitor status” of the mentioned groups. The violence during the campaign period was thus primarily targeted at the mentioned groups.

There was indeed political instability during the campaign period. The ruling party formed parallel power structures³⁵⁵ which literally took control of the rural areas and commercial farming areas. This hampered the campaign activities of the opposition which could not access a wide section of the electorate. These two groups were alleged to have taken control of the campaign and voting processes in the commercial farming areas. Voters were intimidated into voting for the ruling party or risk losing the promised land or even their lives. Consequently, the ruling party won many rural constituencies in the general election and won the Presidential election with extremely wide margins in the commercial farming areas. The opposition party has challenged the validity of both elections in the courts citing irregular electoral norms and violent campaigns. Considering that the violent land reform process was linked to the campaign period it can therefore be concluded that the manner in which land reform was used as a campaign tool worsened political instability.

The use of land in the political patronage system in Zimbabwe further increased political instability. Most of the ruling party mercenaries of violence were rewarded with land. Land

³⁵⁵ The war veterans and Zanu PF youth took control of the power structures and institutions in the rural areas.

was used to buttress the ruling party patronage system; this explains why the majority of the beneficiaries had connections to the ruling establishment.³⁵⁶ In many instances the chaotic land allocations led to political confrontations and conflicts even within the ruling party circles. Ordinary ruling party members were used to invade farms which were then taken over by the mentioned groups, clashes would then occur when these groups were told to relocate. For example, at Mayfield farm in Mazowe District (2126.9700 ha) top ruling party officials violently evicted 36 settlers who were recognised by the province which has recommended the withdrawal of the latter's offer letters.³⁵⁷ In some instances the settlers would even clash with government officials who would violently take over farms originally occupied by the landless, for example in Mashonaland West Governor Peter Chanetsa clashed with war veterans in the province who accused him of hoarding six choice farms and enriching himself to the detriment of landless peasants.³⁵⁸ The use of land in the political patronage system further exacerbated conflicts over land worsening political instability.

Central to the argument for land reform advanced in the conceptual framework was the fact that inequitable land distribution attributed to colonialism is a recipe for political instability. Equitable distribution of land was thus regarded as a panacea which could lead to political stability. Land distribution in Zimbabwe was indeed skewed in favour of a minority white population. It is true that most of the white commercial farmers are currently not in occupation of their land. This can lead one to believe that the racially skewed land ownership has been redressed and political stability is set to be achieved. This is not the case because of two reasons. Firstly, there cannot be political stability because of the resentment among the white populace. The racial overtones, violence in the land reform and illegal nature of land acquisitions make hopes for stability very distant. Secondly, whereas the ownership of most farms is now in the hands of blacks, the skewed ownership of land still exists. Even now, most of the fertile land (formerly white owned land) is in the hands of a few influential people with close ties to the ruling establishment. The famous statement 55% of the prime land is owned by 3% of the population³⁵⁹ is still largely valid since land is now owned by a ruling minority. The majority of the rural poor are still deprived of land and this has contributed to political instability. Land was allocated along party lines, the opposition which forms over half of the population³⁶⁰ was thus systematically denied access to land. This is a potential source of political instability. Struggles over ownership of resources is a

³⁵⁶ This aspect was discussed at length under 6.3.2.

³⁵⁷ Addendum to the Report submitted by the Presidential land Review Committee, October 2003.

³⁵⁸ The Independent, 12 July 2002.

³⁵⁹ Government of Zimbabwe, 2002, p.3.

³⁶⁰ The half of the population statement is derived from the results of the 2002 Presidential elections in which almost half of the voters voted for the opposition Presidential candidate.

source of many conflicts in Africa and Zimbabwe can be no exception unless an equitable land reform process is instituted. The analysis of various political issues around land reform established that the process did not lead to political stability as spelt out in the objectives of the land reform program. Instead, it is largely true that land reform resulted in political instability. The UNDP Assessment Mission also came to the same conclusion, “In effect, the programme which was supposed to provide stability is at present the cause of much of the economic, political and social instability in the country”.³⁶¹

The above section has demonstrated that to a large extent the government was not successful in meeting its stated objectives. The government surpassed its projections in terms of land sizes for acquisition. However, the land reform process resulted in economic stagnation, social decay and political instability. Largely it is indeed not far fetched to argue that the fast track land reform process was a failure.

5.5.4 Speculations over “the hidden agenda” of land reform

It can be argued that the government could have been aware of the consequences of its fast track land reform process. The main question is, why then did the government still go ahead with the fast track land reform. The answer lies in investigating the motive of the government in embarking upon the fast track land reform process.

There are many interpretations as to why the government embarked upon the fast track process. It has been argued that the fast track land reform process was a response to the dwindling support base of the ruling party and a measure to punish the white farmers for siding with the opposition forces.³⁶² This first interpretation conceptualises the farm occupations as a deliberate and pre-determined strategy of the ruling party to use land for political instrumentalisation. The second interpretation views land reform as the climax of a longer, less public and dispersed struggle over land (what was referred to under 6.4.2 as peasants/landless movements).³⁶³ According to this argument, the role of the state in occupations was overstated. The occupations have thus been characterised as either contrived or farcical or narrowly instrumental for electioneering. This nature of conceptualising underestimates the organic and deep-seated local pressures for land reform.³⁶⁴ The second interpretation goes on well with the claims of the government that the farm invasions were spontaneous demonstrations by land hungry peasants who were protesting against the gross injustice in the land ownership system. The latter

³⁶¹ UNDP, 2003, p.44.

³⁶² Kanyenze, 2003, p.21. ; JAG, 2003, p.8.

³⁶³ Moyo, 2001, p..314.

interpretation is correct in as far as it recognises that there was pressure for land reform from the landless as highlighted by the previous land occupations.³⁶⁵ It is however far fetched to argue that the occupations in the year 2000 were a climax of this struggle. The landless did not design and implement the fast track process; they were more of beneficiaries than actors. The occupations were headed by the war veterans who had the key logistical and coercive support of the state.³⁶⁶ As argued under 6.4.2 the peasant movement argument is far fetched. The political instrumentalisation argument is therefore very convincing.

The political instrumentalisation of land reform can be conceived as a hidden agenda of the government. The government was able to win the majority in the 2000 General Elections and the President was re-elected in 2002 under elections which were violent and strong on land related rhetoric. In addition, the farmers were indeed punished for siding with the opposition. They did not only lose their land and source of livelihood but many were victims of gross human rights abuses as detailed under 6.2.2.1. The government was thus largely successful in its hidden objective. On the other hand, the political instrumentalisation of land reform adversely affected the way the process was managed leading to the failure of land reform in terms of its stated objectives.

The chapter opened by giving a brief but comprehensive background on the land reform process in Zimbabwe. It was clearly spelt out how the frustrations with the donor conference and the farm occupations among other factors resulted in the fast track land reform process. The chapter explained the various pieces of legislation guiding land reform. It was argued through many cases that the land reform process was largely illegal and characterised by legal uncertainty. Most of the legislation had retroactive effects and there were uncertain land rights for the outgoing and incoming farmers. It was observed that the conduct of justice sector institutions was prejudiced because of constant political interference.

The section on transparency discussed how there was a general lack of access to information and free flow of information regarding the land reform process which was chaotic and confusing. The public media was turned into a propaganda machine to justify government action without giving the requisite information on the process. It was demonstrated beyond any reasonable doubt that the land reform process was marred by corruption especially in the selection of beneficiaries. Many cases were cited to prove this assertion. Above all,

³⁶⁴ Moyo, 2001, p.323.

³⁶⁵ In 1998, the Svosve community occupied four farms (Marongwe, 2002:33.) This was among the first widely publicised cases of farm occupations and it marked the birth of the “land movement”.

oversight mechanisms were generally non-existent or if present manipulated to suit government's political ends. It was proven that the majority of the stakeholders in the land reform process were marginalised, the worst affected were the farm workers. The process was vindictive and exclusionary.

From a strictly numerical perspective, the government was very successful in terms of transferring land from the large-scale commercial farmers to the "landless". It was convincingly argued that the numerical success could be deemed meaningless if one considers whether the land was made available for the productive use of the rural landless.

The high poverty levels, negative economic growth, decrease in GDP, unemployment, low industrial production and galloping inflation were all used to strengthen the argument that the fast track land reform process was a socio-economic disaster. It was also argued that the land reform process further polarised and exacerbated the political crisis in Zimbabwe. This was mostly because of the violence that accompanied the process and the use of land as a political tool by the ruling party. Lastly, it was argued that the fast track land reform process was far from being the culmination of a landless movement; it was rather, a deliberate and predetermined political strategy of the ruling party. Despite the obvious negative effects, this had on the land reform process it was acknowledged that the government was successful in achieving its "hidden agenda".

³⁶⁶ Raftopoulos, 2002,p.2., Zimbabwe Human Rights NGO Forum, 2001, p.6.

Chapter 6 Conclusion

In this study, the success/failure of land reform was judged according to the official aims of land reform. The arguments which follow in this section are structured according to the different aspects of governance covered in this study: rule of law, transparency and participation. The legality of the land reform process is crucial for investment in agriculture. This will only take place in a stable environment where the constitution is adhered to and the laws of the land are applied without fear or favour at all times.³⁶⁷ The illegal nature of land reform in Zimbabwe undermined the confidence of the investors because the collateral value of all farmland was reduced to nothing.³⁶⁸ The protection of occupiers on the farms disturbed the production on the farms since most of the occupations were violent. The low production in turn had adverse effects on the GDP, food poverty line and inflation. The break down in the rule of law attributed to land reform was also directly responsible for low investments and the consequent spiralling effects on other facets of the economy like inflation and unemployment. The legalised stay of occupiers on the farms led to political instability. There were also a lot of clashes between the occupiers and the farmers/farm workers. The government did not acquire land based on its stated criterion. This had an adverse effect on production since the acquisition process disturbed production on some farms playing a pivotal role in national agricultural production. The unlawful evictions also disturbed production since some farmers had to hastily leave their farms. The evictions also had adverse effects on the farm workers who were left with no employment. The evictions also exacerbated political instability since they led to clashes between farmers and settlers. Apart from this, there was a lot of resentment among the white population who regarded the evictions as racist and discriminatory.

The violence on the commercial farms negatively affected the success of farming operations.³⁶⁹ The lack of respect for the rights of farmers, farm workers and property therefore resulted in the failure of land reform in terms of profitable agricultural production. The disregard for human rights also worsened political instability by creating a conducive environment for political violence. This also exacerbated the resentment among the white population who were the main targets of the violence. In addition, the disturbances on the farming activities resulted in the loss of jobs for many farm workers thus compounding the already high overall unemployment levels. The frequent amendments and the complexity of

³⁶⁷ CFU, 2003, p.4.

³⁶⁸ CFU, 2003, p.4.

³⁶⁹ Interview with Mr. Ben Smith 22 August 2003.

the legal framework guiding land reform resulted in a lot of uncertainty among the commercial farmers. Most farmers suspended or scaled down production because of this legal uncertainty. They had no guarantee that their farming activities were not going to be disrupted. Secure and certain property rights of land owners are essential prerequisites for investment in agricultural production. Secure title deeds are essential because they serve as a source of investment capital since they provide a mechanism to access the funds held in the private sector financial institutions.³⁷⁰ This investment is the practical basis for all on-farm capital developments, and the support base for all the production programmes applied on commercial farms. The uncertain tenure for new farmers had a negative effect on production, the lease agreements discouraged new farmers from substantially investing in agriculture.³⁷¹ The lack of respect for the judiciary, the biased conduct of the police and the disregard for court orders led to a lot of anxiety among the farming community. This anxiety and uncertainty adversely affected production and this had a negative domino effect on other facets of the economy. It also worsened political instability since the white community felt short changed by the justice system. Having said this, the hypothesis that land reform failed because the process was not carried out according to the rule of law is verified.

The lack of information on the land reform process especially on the requirements and modus operandi of the A2 Model applications negatively impacted on the outcome of land reform. People with close ties to the establishment had more access to information and hence applied for land ahead of other deserving landless people. The failure of land reform can also be attributed to the lack of a clear criterion on the selection of beneficiaries. Due to the absence of a clear criterion, most of the beneficiaries of the A2 Model did not deserve or need the land resulting in the low production on the farms. The lack of a criterion also exacerbated political instability since it fanned political violence even in the ruling party circles. The problematic beneficiary selection precipitated clashes on the farms and the continuation of a skewed land ownership system since a minority linked to the ruling party got land ahead of more deserving people. Corruption had several negative effects on the land reform process. The objectives of transferring land to the landless and decongesting the communal areas could not be met since some landless people were displaced from farms by politically influential officials; in the end, land was owned by a minority. The corruption in the allocation of land also resulted in land getting into the hands of people who did not deserve or need it. Most of the people who got land were “week-end cellphone farmers” who

³⁷⁰ CFU, 2003, p.4., UNDP, 2003, p.50.

³⁷¹ Interview with Mr. Pasi, 26 August 2003.

were holding land for speculative purposes and had no genuine interest or skills in farming. This negatively affected the production of the farms. The goal of poverty reduction could not be fully met since the poor did not get the land on which to base their livelihoods. The failure by some of the landless to access land also worsened political instability, since some of them clashed with government officials. The skewed ownership of land was also perpetuated by the displacement of the landless. The failure by the government to announce the beneficiaries also makes it difficult to get the correct figures on the size of transferred land and number of resettled people. The acquisition of land by mostly government officials' also exacerbated political instability since it fanned political violence and clashes on the resettled farms. Due to multi-ownership, the amount of land available for the landless was limited. The goal of transferring land to many landless people and decongest the communal areas could therefore not be fully attained. Multi-ownership also worsened political instability in that land was still owned by a minority. The absence of oversight mechanisms gave the space for corrupt officials to allocate land for themselves, displace the landless, instigate violence on the farms, under-utilise land and this led to the failure of land reform. In light of the given factors, the hypothesis that land reform failed because the process was not transparent is verified.

The participation of stakeholders is essential for a successful land reform process. Even the government of Zimbabwe itself was aware of the importance of stakeholder participation. In one of its policy documents on land it stated, "With more broad-stakeholder participation, the process and outcomes of land reform are likely to be significantly positive."³⁷² The marginalisation of the farm workers had disastrous effects on the outcome of land reform. The knowledge and experience of farm workers was not fully utilised and this led to low production on the farms and the resultant low GDP and high inflation levels. Considering that the farm workers are a vulnerable segment of the population, their non-involvement in land reform meant that the goal of poverty reduction could not be fully met. Their non involvement also worsened political instability since they clashed with occupiers and were victims of politically motivated violence.

The participation of war veterans had negative effects on the outcome of the land reform process since they instigated violence on the farms thus disturbing production. Most of the political instability resulting from the land reform process was caused by the war veterans who directed most occupations, clashed with farmers and destroyed farm property. The marginalisation of women had direct negative consequences on poverty reduction. Growing

³⁷² Government of Zimbabwe, 1998:4.

landlessness decreases rural people's livelihood options, enhancing and entrenching poverty especially among women.³⁷³ The marginalisation of the commercial farmers was unfortunate because they also had a lot of knowledge and experience on the farming practices and this was not fully utilised. This had a negative effect on production since most of the farmers were evicted at a time when the farming season was at its peak. The non-involvement of commercial farmers also precipitated political instability since they were the victims of violent occupations and clashes on the farms. One of the strongest justifications for land reform is that the process is crucial for poverty reduction. The clear assumption is that the access of land by the poor will widen their livelihood opportunities and help alleviate poverty. The marginalisation of the landless defeated the goal of reducing poverty through the transferring land to the rural poor. The objective of decongesting the communal areas could therefore not be fully met. Considering the pressures for land reform prior to the year 2000, the marginalisation of the landless did not therefore help reduce political instability. The constrained participation of the legislature in debating land reform could have helped ameliorate the negative outcomes of land reform. The hypotheses that land reform failed because the process was not transparent is therefore verified.

Governance is a multi-faceted concept and no single element of governance can adequately capture all aspects of the exercise of authority on a conceptual or empirical level. This study focused on three dimensions of governance which proved to be helpful in providing a general indication on the manner in which the land reform process was governed. The three elements of governance which impacted on the land reform process are interrelated and mutually reinforcing. If there is the participation of stakeholders then the process is most likely to be transparent. A land reform process carried out according to the rule of law is likely to be participatory and transparent. The legal framework can be designed to ensure that there is the participation of stakeholders and there are mechanisms to ensure transparency and curb corruption.

From the above discussions, the general observation is that the breakdown in the rule of law has adverse effects on agricultural production. The drop in agricultural production has direct negative consequences on economic growth and poverty reduction. The lack of transparency and participation obstructs the goal of transferring land to the landless and decongesting the communal areas. Transparency and participation are indeed crucial for a successful land reform process. However, basing on the research findings the rule of law is arguably the most critical and decisive element since it has a direct impact on the production

³⁷³ Matowanyika and Marongwe, 1998, p.15.

on resettled farms. The element of rule of law appeared to be very informative about the broad concept of governance. If state power is not exercised according to laid down laws then the land reform process is bound to be abused by the ruling elite for their own political ends. In Zimbabwe, the legal framework did not provide for the participation of stakeholders in the acquisition process. As a result of loopholes in the acquisition process, there was room for corrupt officials to acquire land outside the legal framework. The government abused its power and embarked on an illegal, non-transparent and non-participatory land reform process. Good governance of land reform matters. It is reasonable to argue that land reform failed because of the way the process was managed. Basing on the findings of this study, the main policy recommendation is that a land reform programme has to be carried out according to the rule of law. While realising and acknowledging the crucial role of transparency and participation, the rule of law is the decisive prerequisite condition for a successful land reform programme. In this regard, the legal framework can be designed to ensure that the land reform programme is transparent and participatory.

The success of land reform also depends on other factors like the availability of funds, expertise and post-settlement support and other essential elements of broad agrarian reform. Whereas the mentioned factors are important, none of these factors can be effective without improved governance. The results of this study show that the manner in which the process is managed (governance) is a crucial determinant of the success of land reform. Whereas this study focused on only three elements of governance, the overwhelming evidence from the study adds to the growing conviction that weak governance is indeed responsible for persistent poverty and lagging development.

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Annex 1. Interview Questions for Experts

Rule of law

1. Do you think there were sufficient provisions in the constitution and other legislation to protect the rule of law in areas covering land reform?
2. Would you agree to the argument that life, property or liberty (adapted to particular group under interview) were protected and respected by law during the land reform process? Please give details.
3. a) Have there been cases where stakeholders tried to lodge a claim and were denied in cases dealing with the land reform process?
b) Were courts and the judiciary impartial and independent in handling cases dealing with land reform? Please explain.
c) Were the cases brought before the courts and judiciary resolved to the satisfaction of the parties involved? Please explain your argument
4. Do you think citizens were willing to accept legal means to adjudicate disputes rather than depend on physical force or illegal means?
5. Were court orders impartially enforced by the police during land reform?
6. Did the police arrive in time when summoned to deal with cases involving land reform and did they execute their duties impartially?
7. Were court rulings complied with by the government or its agencies during land reform?
8. Were there any particular instances when you tried to settle land disputes outside the legal system?

Transparency

1. What sources of information on the land reform process were available to you?
2. Were government publications (or minutes from Politburo or Cabinet meetings) on the conceptualisation and implementation of the land reform process made public?
3. Could the media freely cover and monitor the land reform process? Please give details.
4. Were the application criterion and selection procedures for land beneficiaries made clear and public?
5. Can you explain which application criteria were applied and how beneficiaries were selected.
6. Was the list of land beneficiaries made public?
7. To what extent were these lists reliable?
8. In your own opinion was corruption prevalent in the allocation of farms to beneficiaries, (this can include the payment of bribe, non-compliance to stipulated criterion, nepotism, cronyism, patronage among other vices)?
9. Was land reform openly debated in parliament? Please give details.

10. Were there public hearings on issues regarding land reform?

11. Do you know about any independent commissions, anti corruption agencies, parliamentary committees or other bodies from outside the country given the opportunity to monitor, investigate, report or play an oversight role in the land reform process?

Participation

1. To what extent were commercial farmers, farm workers, beneficiaries, women and other stakeholders involved in the design and implementation of the land reform process?
2. Do you think that there was sufficient consultation with the legislature on the design and implementation of the land reform process? Please explain.
3. Were relevant Parliamentary committees given the chance to participate in the design and implementation of the land reform process?
4. In your own opinion, was the opposition adequately involved in the design and implementation of the land reform process?
- 5). Were there mechanisms (for instance public discussions, radio/television phone in program, public relations desks) for seeking and receiving public input in the design and implementation of the land reform program?

ANNEX 2. Interview Questions for Stakeholders

Rule of law

1. Would you agree to the argument that life, property or liberty (adapted to particular group under interview) were protected and respected by law during the land reform process? Please give details.
2. a) Have there been cases where members of your organisation tried to lodge a claim and were denied in cases dealing with the land reform process?
b) Were courts and the judiciary impartial and independent in handling cases dealing with land reform? Please explain.
c) Were the cases brought before the courts and judiciary resolved to your satisfaction? Please explain your argument
3. Do you think citizens were willing to accept legal means to adjudicate disputes rather than depend on physical force or illegal means?
4. Were court orders impartially enforced by the police during land reform?
5. Did the police arrive in time when summoned to deal with cases involving land reform and did they execute their duties impartially?
6. Were court rulings complied with by the government or its agencies during land reform?

7. Were there any particular instances when you tried to settle land disputes outside the legal system?

Transparency

1. What sources of information on the land reform process were available to you?
2. Were government publications (or minutes from Politburo or Cabinet meetings) on the conceptualisation and implementation of the land reform process made public?
3. Could the media to freely cover and monitor the land reform process? Please explain.
4. Were the application criterion and selection procedures for land beneficiaries made clear and public?
5. Can you explain what which application criteria were applied and how beneficiaries were selected.
6. Was the list of land beneficiaries made public?
7. In your own opinion was corruption prevalent in the allocation of farms to beneficiaries, (this can include the payment of bribe, non-compliance to stipulated criterion, nepotism, cronyism, patronage among other vices)?
8. Was land reform openly debated in parliament? Please give details.
9. Were there public hearings on issues regarding land reform?
10. Do you know about any independent commissions, anti corruption agencies, parliamentary committees or other bodies from outside the country given the opportunity to monitor, investigate, report or play an oversight role in the land reform process?

Participation

1. To what extent were members of your organisation involved in the design and implementation of the land reform process? Please elaborate
2. Do you think that there was sufficient consultation with the legislature on the design and implementation of the land reform process? Please explain.
3. Were there mechanisms (for instance public discussions, radio/television phone in program, public relations desks) for seeking and receiving public input in the design and implementation of the land reform program?

Annex 3: Interview Schedule

N o.	Name	Organisation	Date and Time Interviewed
1.	Mr. Medaldo Runhare	Senior Programme Officer resp. for Democracy and Good Governance projects, KAF	21 August 2003 1200 hrs

2.	Mr. Llyod Pswarayi	Programme Officer, KAF, (formerly with Confederation of Zimbabwean Industries)	21 August 2003 1400 hrs
3.	Mr. Ben Smith	Commercial Farmer, Twentydales Farming Area, Ruwa	22 August 2003 0900 hrs
4.	Comrade Hondo	War Veteran, Goromonzi District, once stationed at Mara Farm	22 August 2003 1100 hrs
5.	Miss Rachael Munyanyi	World Food Program, Field Monitor	25 August 2003 1300 hrs
6.	Mr. Norman Pasi	Former Settler, Mara Farm, Ruwa	26 August 2003 1000 hrs
7.	Mr. Charles Phiri	Farm Worker, Mara Farm, Ruwa	26 August 2003 1400 hrs
8.	Miss Mutsa Moyo	Legal Consultant	1 September 2003 0900 hrs
9.	Dr. Chikowore	Institute of Development Studies, ZU	15 September 2003 1140 hrs
10.	Mr. Nelson Marongwe	Zimbabwe Regional Environment Organisation	16 September 2003 0900 hrs
11.	Dr. Chimanikire	Director, Institute of Development Studies, UZ	19 September 2003 1000 hrs
12.	Mr. Maidei*	Min. of Agriculture, Lands and Rural Resettlement	19 September 2003 1400 hrs
13.	Mr. Wilfred Kasuni	Designer, Applicant A2 Model	22 September 2003 0900 hr
14.	Mr. Mukwasha	Political Commissar, Ruwa Farming Goromonzi District, Zanu PF	22 September 2003 1200 hrs
15.	Mr. Lawrence Gunguta*	Zimbabwe National Army Sergeant	23 September 2003 1700 hrs
16.	Mr. Abbie Dengu	ITDG	25 September 2003 1130 hrs
17.	Mr John Worsik	Justice for Agriculture	25 September 2003 1500 hrs
18.	Mr. Madakurwa	Traditional Leader, Madakurwa Village, Chiota, Member of local Land Identification Committee	27 September 2003 1400 hrs
19.	Dr. Masiiwa	Friedrich Ebert Stiftung and Institute of Development Studies	1 October 2003 0900 hrs
20.	Mrs Dorothy Mushayavanhu	Lawyer and Lecturer, Developmental Law	1 October 2003 1100 hrs
21.	Mr. Abel Chikomo	Media Monitoring Project of Zimbabwe	7 October 2003 1300 hrs
22.	Mr. Wilfred Mhanda	Zimbabwe Liberators Platform	8 October 2003 1430 hrs
23.	Mr. Jacob Mafume	Legal Practitioner, Zimbabwe Lawyers for Human Rights	9 October 2003 1000 hrs
24.	Mr. Tsunga	Legal Practitioner, Harare Law Chambers	10 October 2003 0900 hrs
25.	Mr Ndarazi	Lecturer, School of Social Work, UZ	10 October 2003 1100 hrs
26.	Prof. Sam Moyo	Leading Consultant on Land Issues	10 October 2003 1430 hrs

27.	Mr. Neil Wright	Commercial Farmers Union	15 October 2003 0830 hrs
28.	Mr. Gwaringa	Zimbabwe Farmers Union	22 October 2003 1400 hrs
29.	Miss Christine Kwangwari	Women and Land Lobby Group	28 October 2003 0800 hrs
30.	Hon. Renson Gasela (MP)	MDC Shadow Minister for Lands	28 October 2003 1430 hrs
31.	Mr. Deprose Muchena	Senior Democracy and Good Governance Adviser, USAID	30 October 2003 0900 hrs
32.	Mr. Ambrose Made	UNDP	31 October 2003 0830 hrs



Annex 4: WORLD ECONOMIC OUTLOOK Database, September 2003, Zimbabwe Report³⁷⁴

Subject Description	Units	Scale	1990	1995	1997	1999	2000	2001	2002	2003
GDP based on PPP share of world total	%		0.076	0.070	0.072	0.069	0.062	0.056	0.049	0.046
GDP based on PPP valuation of country GDP	US \$	Bil.	20.480	23.913	27.357	28.697	27.806	26.039	23.551	23.309
GDP per capita, constant prices	ZW\$		2195.730	1979.872	2065.154	2040.323	1923.282	1773.261	1562.864	1406.957
GDP per capita, current prices	US\$		896.956	621.030	741.009	482.348	589.036	783.153	1659.377	1140.210
GDP, constant prices, annual % change	%		7.0	0.2	1.4	-4.1	-6.8	-8.8	-12.8	-11.0
GDP Constant price	ZW\$	Bil.	21.494	22.820	25.389	24.537	22.876	20.860	18.184	16.191
GDP Current prices	ZW\$	Bil.	21.494	61.974	108.323	221.588	311.890	506.712	1061.877	4925.907
GDP Current prices	US\$	Bil.	8.780	7.158	9.110	5.801	7.006	9.213	19.307	13.121
GDP, Deflator	Index		100.000	271.578	426.653	903.077	1363.394	2429.052	5839.645	30424.568
Inflation	Index, 1995=100		29.842	100.000	144.317	301.300	469.625	829.967	1992.283	10359.873

³⁷⁴ International Monetary Fund, www.imf.org. 05. December 2003, 1700 hrs

Inflation, annual %	%		17.4	22.2	21.5	58.5	55.9	76.7	140.0	420.0
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Annex 5 Map of Zimbabwe

