

INDEPENDENT REVIEW OF LAND ISSUES VOLUME II, NUMBER 1 (SOUTHERN AFRICA), DECEMBER 2005

In March 2003 a small group of land experts met in Pretoria, South Africa, to discuss ways out of what they termed the ‘impasse’ on land reform affecting Southern and Eastern Africa. A major recommendation of the group was the initiation of an electronic review which would provide news of current land reform developments in the region. The first volume of that review comprised two papers, one on Southern Africa, which was published in August 2004,¹ followed by a second focusing on Eastern Africa.² As in the first number of the first volume, ‘Southern Africa’ as used here includes Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia, and Zimbabwe - each country is discussed below in ascending alphabetic order

The first volume of the review provided baseline information on the evolution of land policy and land reform implementation in each country in the two sub-regions. This second volume, and those that will follow, hopefully annually, are intended to update and build on that seminal volume. The series of snapshots of each country captured by successive issues should be useful for planners, programme designers, advocates, practitioners and citizens engaged in land reform anywhere, but especially in Africa, to identify their own possibilities and potentials.

The objective of publishing this series of reviews is to determine whether the impasse relating to land reform in both sub regions, which was originally diagnosed by these experts in 2003, persists, or, alternatively, if and in what facet of this complex process some dynamism or engagement can be detected.

The principle reference materials for this volume have been peer reviewed books and journal articles, which were published after the previous newsletter was distributed. Where resources of this quality were unavailable, ‘grey paper’ was used, which had been either generously shared by collaborators or was trawled from the internet by the author. Where necessary, media reports were drawn on as sources of last resort. Unless confidentially was requested, sources have been assiduously attributed.

As in the first volume, the level of detail in these second volume’ issues varies from one country to the other, partly as a result of methodological limitations; partly because there has been much more activity in some countries than in others. Unfortunately, reporting thoroughly on the undoubted inter-country connectivity of land reform processes within each sub-region has so far been beyond the scope of this project.

Any comments on the usefulness of this review, and of ways in which it might be improved, would be much appreciated. Please contact Shaun Williams, who is the principal writer of this volume (shaunwilliams@advyz.biz), who, while taking full responsibility for the final version, gratefully acknowledges the editorial guidance

¹ This issue can be downloaded from
[http://www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/downloads/ind_land_newsletter_south_afr_june_2004.rtf]

² This issue can be downloaded from
[http://www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/downloads/ind_land_newsletter_ eastern_africa_aug_2004.rtf]

provided by Kaori Izumi, Robin Palmer and Martin Adams. Needless to say, land rights every where will always be highly contentious!

Angola

Two types of land conflicts, both related to the relative powerlessness of rural and urban poor in the 'new', post-civil war Angola, were reported in the 2003-4 review to have been increasing: occupation by powerful people of high quality land held by rural communities with good access to water; and evictions of the urban poor from the areas where they have settled in Luanda. A concerted campaign led by civil society supported by international non government organisations to improve new property legislation proposed by government had successfully forestalled presentation of the draft law in the parliament.

In December 2004 the *Land Act* was passed into law. The prominent role played by a nascent civil society in the debate was a watershed in the creation of political space outside the state. The legislature also vigorously engaged in debate over the proposed law, highlighting concerns about the lack of guarantees provided for the rural population, uncertainty about original ownership of land, the definition of ownership of natural resources on private land, and the need for a review of the lands confiscation and nationalization provisions. Well after its eventual gazettal, the new legal framework is still not supported by a land policy or an implementation framework, leading to strong concerns about the capacity of state structures to perform the devolved responsibilities envisaged by the new land law.

One commentator has described the implementation challenges as follows.

“In the rural areas, access to sufficient...quality of land is problematic as there are few alternative economic opportunities to subsistence farming. Inequality in access to land is an issue of crucial importance, which is only now starting to receive attention. Opportunities in the urban areas may be marginally better, but the peri-urban community around the major cities is the largest (some 60 percent) and fastest growing sector of the population, and many people in these areas are in an ambiguous legal situation as regards their land tenure.”³

Angola appears to share similar constraints to effective land reform with many other countries in the region.

“Weak managerial and administrative capacity meant that trusteeship by the state has too often translated into political patronage so the benefits of policy improvements have tended to accrue to people who are politically advantaged. The other reality is that land reform has been slow: for political reasons, because of the complexity of land tenure issues, and also because governments have failed to allocate the financial and human resources needed to address the land situation in their countries.”⁴

Her diagnosis of the cause of impasse over land reform is also generally applicable.

“Donors have also shied away from committing funds to land reform...In part this seems to stem from the political sensitivity of land tenure, with fluctuations in donor attitudes about the importance of the land question and how it should be addressed. Donors have found it increasingly difficult to justify the allocation of aid resources to

³ Clover, J., (2005) “Land reform in Angola: Establishing the ground rules”, Huggins, C. & Clover, J. (eds), 2005: *From the Ground Up*, Institute for Security Studies, Pretoria, p. 348

⁴ Ibid p. 349

land reform in the region; their reasons for this are linked to shifts in world opinions about the orientation of markets, or the role of governments....In recent years there has been controversy around issues of equity (or poverty focus) versus productivity, which have become competing objectives, and have become antagonistic in practice.”⁵

The author highlights displacement, land grabbing and growth of peri-urban areas as the three main interrelated challenges for land policy. Existing tensions cause by past policies are likely the author suggests to be made worse by increased claims from those refugees who have yet to return, the lack of good land available for redistribution, the returnees lack of capital and use of underutilization mechanisms by the state to cancel concessions and re-enter leases.

Some cause for optimism is evident:

“An encouraging development in February 2005 was the announcement by President dos Santos of the formation of two presidential commissions to review Angola’s economic and urban planning legal and regulatory regimes to ensure that both reflect Angola’s new economic realities.”⁶

The potential for Angola to move from conflict to reconstruction and sustained development is greater than ever before.

However, should elites be allowed to strengthen their positions while poor communities are excluded (or evicted, see below), inequality will deepen, increasing the risk of conflict in a country already facing huge problems of poverty and unequal development. The potential for localised violence to emerge in the face of challenges for broad-based recovery not being met cannot be ignored.

Worryingly, on 24 November 2005, three small communities in Luanda outskirts – Cambamba zone; 628 families in total - had their homes destroyed. Administrative agents from outside that municipality, covered by the police and army (shooting and shouting), drove people from their houses, destroying both the houses of those who are there for decades (some of whom were occupying their land legally) and the shacks of those who arrived only three years ago. No official order or any legal or administrative documents were presented or cited and there were no prior negotiations or warnings.⁷

Since mid 2004 several interventions are being implemented by Food and Agriculture Organization of the United Nations through a set of complementary funded projects.⁸ The current Food and Agriculture Organization of the United Nations programme assists several Provincial Governments in improving land tenure security and natural resources management, through the provision of technical and operational support which include: *i)* test methodologies for action-oriented land tenure security interventions; *ii)* develop an operation land administration system and *iii)* strengthen basic capacity for land management. In addition national capacities are strengthened through specific training session on participatory methods for land delimitation and on natural resources management. The programme so far targets the Provinces of

⁵ Ibid pp. 349-50

⁶ Ibid p 375, citing Presidential Commissions to Review Economic and Urban Development Regulatory Regimes, LiquidAfrica Holding Limited, 25 February 2005

⁷ Reported by Rosario Advirta from Oxfam GB-International, email to SW 12/12/05

⁸ GCP/ANG/029/USA, GCP/ANG/029/UK, MTF/ANG/031/NET and OSRO/ANG/404/ITA

Benguela, Huambo and Huila and it lasts until 2008. A future partnership with United Nations Development Programme in relation to this work is under consideration, as is a possible joint provincial capacity building project with European Union.

Botswana

The first issue of the newsletter flagged an upcoming White Paper on Land Policy which was expected to resolve some contentious issues relating to proposed amendments to the right of avail, customary tenure rights and the issue of privatisation of the commons. A review of Government's policy on Community Based Natural Resource Management was also anticipated which would provide clarification of institutional relationships and the rights and obligations of the stakeholders.

The process of preparing a White Paper incorporating the findings and recommendations of the Review of Land Policy conducted in 2002/2003 has subsequently been delayed by changes of Minister responsible for land matters. The previous minister had conducted a public consultation exercise through *Kgotla* meetings in 2003 and a draft White Paper had been completed for submission to cabinet in 2004. Following the general election in November 2004, there was a Cabinet reshuffle and a new Minister of Lands and Housing was appointed. The appointment required a full briefing by the ministry on the issues to be addressed in the White Paper and has resulted in some amendments.

Further consultations with stakeholder groups has continued and the Ministry of Lands and Housing's draft of the White Paper on Land Policy is now finalized and ready for submission to Cabinet. The Ministry of Lands and Housing has prepared a timetable to take the draft White Paper forward. There needs to be formal consultation with all other ministries and formal submission made to Cabinet. Following Cabinet approval, which may require some amendment, there will be a further national consultation exercise, which is likely to include a national workshop, followed by debate in the House of Chiefs and National Assembly. The aim is to have the White Paper approved by the National Assembly before the end of the final session of Parliament in 2006.

Lesotho

The 2003-4 edition of this newsletter announced substantial progress with the preparation of the Land Code and the completion of the final draft of the National Land Policy which awaited Cabinet approval. It was expected that the Land Bill would be passed by Parliament by the end of 2004 to enable implementation by the newly formed Community Councils formed in terms of the amended Local Government Act.

The Land Bill and related draft legislation have not been presented to Parliament and have been shelved for the foreseeable future. Interim arrangements have been developed to allow the new Community Councils to allocate land under the 1979 Act. A Sesotho booklet has been issued to explain how Community Councils should administer land allocation. The booklet also has some guidelines on physical and land use planning.

Malawi

The first issue expected the Special Law Commission on Land Law Reform to have concluded its work and reported to the Minister of Justice and the National Assembly

as prescribed by the Constitution.⁹ Continuing progress on rolling out the Land Reform Implementation Programme was also expected.

However a recent report on governance and food security commissioned by USAID¹⁰ cited evidence of, perhaps inevitable, growing resistance by traditional authorities to the implementation of the Malawi National Land Policy as it relates to privatization of customary land through parcelling out and registration in the name of individuals.¹¹ The report also cited newspaper sources quoting the Minister of Lands, Housing and Surveys, Bazuka Mhango, announcing that the Malawi National Land Policy's enabling legislation would not be tabled for Parliamentary debate when the March session opened, as had been planned.¹² The report surmised that Government was being "sensitive of its need to clarify legally and programmatically these and other controversial aspects of the Malawi National Land Policy".¹³ The report's conclusions however, persuasively identifies the common governance issues linking land reform and food security as the slow pace of decentralization and pervasive doubts about the local legitimacy of state as compared to traditional authority.¹⁴ The Special Land Law Reform Commission has since embarked on a series of regional and national workshop to discuss its proposals with stakeholders. The Minister of Justice is now scheduled to table a codified legislative framework of property rights in the legislature and Cabinet in February 2006.

Despite the purposefully steady progress towards recasting the legislative framework, implementation of other elements the Government's Land Reform Programme Implementation Strategy proceeds apace, despite withdrawal of some donors from active support. The first beneficiary groups under the Community Based Rural Land Development Project, funded under a grant from the World Bank/International Development Association have been approved to start looking for property to purchase with funds provided under the scheme as part of comprehensive resettlement packages. The European Union capacity building project has started to impact training and staffing of the line ministry.

Mozambique

According to the 2003-4 review, the progress of land reform in Mozambique was to be gauged by the rate of implementation of the 1997 Land Law by the Ministry for Agriculture and Rural Development (MADER). A two-pronged approach to implementation of the new law was described as giving more emphasis to its commercial investment potential than to its social development objectives. A DFID report was cited which estimated that from 1997 to 2004 just 180 community delimitations have been completed, out of a possible total of several thousand; but that over 10,000 new private requests for land have been processed, somewhat perfunctorily. A new National Land Strategy aimed at improving Land Law implementation, with possible support from DFID, was anticipated.

⁹ Republic of Malawi (Constitution) Act, 1994, as amended up to Constitution (Amendment) Act, 1995 (published as Act No. 1 of 1997), Article 135 (d)

¹⁰ Sahley, C., Bob Groelsema, Tom Marchione, David Nelson (2005) "The Governance Dimensions of Food Security in Malawi", unpublished report prepared for USAID, September, p 55

¹¹ The Daily Times, Jan. 20, 2005

¹² The Daily Times, Jan. 27, 2005: 4

¹³ Sahley op. cit. p 55

¹⁴ ibid p 3

With the approach of the 2004 elections, however this study was shelved. A pilot programme to identify and register all land use rights within selected districts was started but has yet to have any impact on filling the critical gaps in the Cadastral Atlas. Concerns have been raised that rights acquired under customary tenure, which are recognised in law, are still almost entirely missing from official records. The risk is that this makes local communities vulnerable to manipulation and even expropriation by outside interests seeking to occupy their land.

A new 'Land Fund' supported by DFID¹⁵ and other donors will provide resources to assist communities to identify and register their land rights – a process called delimitation. This fund will also support the legal expenses of communities who want to defend their rights and interests in property through the courts. Public interest in community land rights issues remains limited. NGO and outside actors are seen to taking responsibility for supporting these groups.

Beyond mapping, other functional agencies are stressing all aspects of the new legal framework, integrating land reform into management forestry and wildlife and tourism, the ministry responsible for which is also charged with managing protected areas.

Delays caused by lack of administrative resources devoted to complex processes prescribed by statute have inevitably led to mounting criticism and calls for legislative amendments. Counter claims alleging excessive focus on social development objectives to the detriment of economic goals have been used to argue for broadening the land reform agenda to include land tax reforms and provision of greater certainty about renewal of terms of years for commercial-sized farms.¹⁶

“Women’s and men’s rights to land through inheritance or after divorce are, in part, addressed in the new Family Law enacted in August 2004. The key issues of debate in the preparation of the new Family Law have primarily been related to codification of different forms of marriage and the principles of equality of men and women contracting marriage and in the family. Present-day debates on land rights revolve around the practices of implementation of the 1997 Land Law; if there is a need for further formalization in the form of privatization of land; how to deal with de facto emerging land markets; and how to deal with land grabbing on the part of the rich and powerful. The debate on land rights and the debate on the Family Law have, however, basically been two separate debates. With the enactment of the new Family Law, the legal framework for women’s equal rights to land in Mozambique is basically in place. In practice, however, structural, cultural and material constraints are still likely to limit women’s access and control of land and other resources. The current legislation is a type of hybrid, through its recognition of both customary and statutory rights. Still, there is a lack of knowledge on how the present multiple and hybrid laws and practices actually impact on women’s rights to and access to land. The current focus on facilitating market mechanisms in the field of land rights does not adequately take into account concerns and questions related to ways women actually access land,

¹⁵ Daley, E., Mary Hopley (2005) “Land: Changing Contexts, Changing Relationships”, Urban-Rural Change Team, DFID
[http://www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/downloads/land_changing_contexts_relationships_rights.rtf] accessed 12/12/05

¹⁶ Hughes, G., (2005), “An Economic Analysis of Natural Resources in Mozambique Rural Land Issues and Policies”, unpublished WB mission report

for example, through inheritance. Crucial issues in the future will be how women's interests are represented in the local and national reconstruction of 'customary rules and practices', and the actual participation of women in the implementation of the Land Law; but also to what extent women will in practice be able to claim the formal rights defined in the legislation."¹⁷

The unresolved land question remains at the centre of post-liberation political discourse.

"Land debates can be seen as a proxy for development debates in Mozambique (Hanlon, 2002) as they are linked to debates about credit and investment, smallholder or large-scale commercial agriculture, government's role in development and issues relating to smallholder protection and power."¹⁸

Namibia

The 2003-4 review observed that conflicts over land in Namibia had intensified over the previous year, with events in Zimbabwe appearing to have had a strong influence. These included evictions of farm workers, farm occupations, confrontations between Government of Republic of Namibia and white commercial farmer organisations, splits between 'moderate' and 'hard line' white farmers and commencement of expropriation by Government of farms for resettlement. The 2003-4 review reported that, up to the date of its publication, approximately 15 white farmers have been served with expropriation notices and that the Minister had said that 'many farms' had been targeted by Government.

However, at the time of writing of this edition the first threatened expropriation of a white owned farm has been settled by negotiations.¹⁹ Even though tensions have remained high, mainly in Omatheke, less so other regions, some progress toward land reform has been made,²⁰ although disappointment about the pace of reform is still being expressed by government, unions and farmers.²¹

Whilst the legislative authority for compulsory acquisition is in place, it has not yet been resorted to even though Government maintains that its negotiated purchase farm acquisition scheme is being frustrated by sellers demanding inflated prices. The Namibia Agricultural Union (NAU), representing mostly white farmer owners, is arguing that administrative bottlenecks are causing delays in getting farms onto the market. They maintain that direct farm acquisition by black farmers through the affirmative action loan scheme (AALS), which provided loans on preferential terms via the state-owned AgriBank, has proven to be the more effective mechanism for

¹⁷ Ik Dahl, I., Anne Hellum, Randi Kaarhus, Tor A. Benjaminsen, Patricia Kameri-Mbote (2005) "Human rights, formalisation and women's land rights in southern and eastern Africa", *Studies in Women's Law* No. 57, Institute of Women's Law, University of Oslo, pp xi-xii

¹⁸ Kanji, N., Lorenzo Cotula, Thea Hilhorst, Camilla Toulmin and Wray Witten (2005) "Can Land Registration Serve Poor and Marginalised Groups?" Summary Report, Research Report 1, IIED, London, p. 7

¹⁹ Ibid

²⁰ IRIN, 13 September 2005 quotes the NAU President as citing the following figures "Over the past 10 years, black ownership of land increased from 2.7 percent to 15.6 percent through this loan scheme and the [government's] resettlement policy. Since the land reform [began] in 1996, five million hectares of the total 36 million hectares of agricultural land in Namibia changed to black ownership," he pointed out. White farmers who in 1991 owned 94 percent of all agricultural land, now held 80 percent."

²¹ Ibid

increasing black ownership.²² The area of land acquired under the AALS amounts to four times the amount of land acquired by government directly. However none of the more than 640 farms acquired under AALS is breaking even and current levels of loan repayments are not sufficient to enable further lending. Operators will need ongoing government subsidies for the foreseeable future and further capital injections from state will be required to maintain viability of the scheme and the bank.²³

Farm workers evicted as a consequence of change of ownership continue to experience difficulties resettling.²⁴ Concerns are still being expressed about the lack of support being provided to new farmers who are being settled on farms regardless of how they are being acquired.²⁵ A step in the right direction was the Emerging Commercial Farmers' Support Programme, said a recent report by a local NGO.²⁶ Based on an agreement between the governments of Namibia, the Netherlands and the European Union, the programme will make mentorship and other assistance available to resettled people and fledgling black commercial farmers.

Owners of other farms targeted for expropriation have been notified of the Government's intentions and have indicated that they will be mounting legal challenges to prevent their farms being acquired compulsorily.

The Government has started to collect its new land tax which it hopes to use to finance its land reform programme. Initial reports suggest that the response was overwhelming cooperative and that payments have been duly made. However, problems relating to incorrect calculations of tax liability based on incorrect assessments have also been reported. Suggestions have been made that these problems stem from the rather "weak" coordination and communication between the Ministry of Lands and the Ministry of Finance.

Allegedly illegal enclosure of communal land is still being reported²⁷ and widespread land degradation caused by past land use practices is emerging as a serious threat to the long term viability of agriculture.

South Africa

In South Africa, at the time of the 2003-4 review debate and activism was centred on the Communal Land Rights Bill, the threats issued by the Landless People's

²² Ibid "Citing government statistics, the NAU president said 741 previously white-owned farms had changed to black ownership through AALS - substantially more than the 146 farms the government had bought for resettlement."

²³ Odendaal, W., (2005) "Our Land We Farm", Legal Assistance Centre, Windhoek, p 30

²⁴ Ibid "At a ministerial workshop on resettlement issues last month, land minister Jerry Ekandjo disclosed that the ministry had resettled a total of 5,890 families. 'So far, 1,538 families were resettled on freehold land and 4,352 families in communal areas - altogether 38,000 people,' he said." This number of beneficiaries includes resettled ex-combatants.

²⁵ Ibid "'Adequate response mechanisms to attend to the needs of the resettled farmers from the part of the government is mostly lacking,' said Manfred Rukoro, president of the Namibia National Farmers' Union (NNFU), which represents 1,500 mainly small-scale communal farmers. 'Beneficiaries that are resettled are meant to maintain the existing farm infrastructure and sustain themselves on those farms, but most of the current beneficiaries are not in a position to do that,' said Rukoro."

²⁶ Legal Assistance Centre 'An Analysis of the Namibian Commercial Agricultural Land Reform Process', September 2005, cited in IRIN Windhoek, 9/23/2005

²⁷ *ibid*

Movement to forcibly occupy white owned commercial farms, and the enactment of The Restitution of Land Rights Amendment Act 48 of 2003.

By December 2004 about 70 per cent of **restitution**-based claims which had been submitted by the 1998 deadline had been settled in favour of more than 900,000 beneficiaries, most of whom had received compensation payments. Less than half had received title to some of the 812,315 hectares of land which is being transferred back to them under the scheme.²⁸ Delays in transferring land means that many of these beneficiaries will have to wait for many years to be able to settle on their lands.

Many settlements in the form of payments in kind rather than of land have been made on claims located in urban areas. This trend has been welcomed by some²⁹ and criticized by others who have argued for more self sustaining settlement packages which include land, jobs and agricultural inputs.³⁰

The settlement of rural claims has progressed more slowly, and about 9,000 rural claims involving millions of people are still outstanding. In February 2005, the target date for settling all restitution claims was moved from that year to the end of the 2007/8 financial year. Most commentators agree that achieving this target will depend on provision of adequate state funding and greater cooperation by existing landowners. At the time of extension of the target date, the government also pushed up its restitution budget to R9.9 billion for the three years up to 2007/8 well short of amount the Minister of Agriculture and Land Affairs has estimated will be required to deliver.³¹

By December 2004, the **redistribution** programme had delivered approximately 1.7 million hectares of land. Most commentators, though, note a critical absence of post-settlement support from provincial departments for these settlers.³² The Land Redistribution for Agricultural Development (LRAD) sub-programme, introduced in 2001, has been an attempt by government to shift the emphasis of redistribution toward commercial agriculture. LRAD uses a combination of state grants and commercial loan finance. Conflicting assessments have focused on the socio-economic status of the beneficiaries. An ongoing criticism is that it does not benefit the poor. However, given that LRAD targets emerging black capitalist farmers that would appear to be somewhat inevitable. 19,736 new black farmers have reportedly been resettled through LRAD since its inception.³³

²⁸ Department of Land Affairs, (2005), Position Paper, second version, prepared for the Land Summit, Ministry of Land and Agriculture, Pretoria, p. 9

²⁹ Bernstein, A., (2005), "Land Reform in South Africa: A 21st Century Perspective", Research Report No 14, Centre for Development and Enterprise, Johannesburg, p. 13

³⁰ International Crisis Group, (2004), "Blood and Soil-Land Politics and Conflict Prevention in Zimbabwe and South Africa", International Crisis Group Press, Brussels, p. 174

³¹ Minister for Agriculture and Land Affairs, National Assembly, Written Reply, Question 818, 27 May, 2005

³² Bradstock, A., (2005) "Land reform and its Impact on Livelihoods Evidence from eight land reform groups in the Northern Cape Province of South Africa", *Policy and Research Series*, September, Farm Africa, London, Kimberly

³³ Department of Land Affairs, (2005), Position Paper, second version, prepared for the Land Summit, Ministry of Land and Agriculture, Pretoria, p. 9

By December 2004, 171,554 hectares of land had been ‘delivered’ under the **tenure reform** programme.³⁴ Some commentators have suggested that these kind of announcements are not very helpful, because this land reform sub programme is particularly awkwardly construed and should be split into two separate programmatic themes, farm tenure reform, which would involve subdividing farms and redistributing land to sitting and evicted farm workers and a second component dealing with communal land tenure reform.³⁵ There is, however, general agreement that neither of these reforms is making much progress.

The Government has acknowledged that “Current legislation does not provide sufficient protection to farm dwellers’ land rights: rather it merely seems to regulate evictions.”³⁶ It may have done and be doing more harm than good.³⁷

Neither are the protective elements of the statutory framework legislation being applied progressively or enforced by the courts.

“Where people are evicted from farms, the state is responsible for providing alternative accommodation, as long as their eviction was not due to them violating their conditions of tenure – for instance by causing damage to property (The Extension of Security of Tenure Act, 1997 Section 4). However, most people evicted have not received land or housing from Department of Land Affairs or from the landowners who evicted them. This widespread noncompliance with The Extension of Security of Tenure Act, 1997 has been made possible in part by the unwillingness of the courts, including the Land Claims Court, to make the provision of alternative accommodation part of their eviction rulings.

Under current policy, long-term tenure can be secured either in on-site settlements where farm dwellers are donated or buy a subdivided portion of the farm where they already live, or in off-site settlements, where farm dwellers acquire land or housing elsewhere – often urban low-cost housing. On-site settlements, though, have been rare. In a few instances, properties have been subdivided to enable farm dwellers to become owners of their own land and houses, where they already reside. However, this is only possible where the owner is willing to subdivide and sell, where

³⁴ *ibid*

³⁵ Wegerif, M. (2004) “A critical appraisal of South Africa’s market based land reform policy: The case of the Land Redistribution for Agricultural Development (LRAD) programme in Limpopo”, Research Report No. 19, December, Programme for Land and Agrarian Studies, University of Western Cape, Capetown and Hall R. (2004) “Land and agrarian reform in South Africa: A status report 2004”, Research Report No. 20, Programme for Land and Agrarian Studies, University of Western Cape, Capetown

³⁶ Department of Land Affairs (2005) *op cit* p. 11

³⁷ “The assumptions informing this legislation are ambiguous: on the one hand, labour tenants have right to land which they have occupied and worked, on the other, commercial farmers have property rights. According to Hull & Williams (200 [sic]), “the prospect of the Act (The Extension of Security of Tenure Act, 1997), like the Land Reform (Labour Tenants) Act of 1996, prompted evictions it was designed to prevent. Nor did it stop farmers from evicting people from their land after the date when the Act came into force. ESTA (The Extension of Security of Tenure Act, 1997) discourages farmers from building, or providing, housing on their farms to employees, just as the Labour Tenants Act will discourage them from allowing workers to keep their own cattle on the farm.” Human Sciences Research Council (2005) “Auditing the Realisation of Democracy and Human Rights in the Context of Rural Land Reform in South Africa”, Draft Technical Report, July, Pretoria, p 4

relationships between owner and tenant are good, or where the farm is being sold or is not going to continue to be farmed (Fife 2004, pers. comm.)”³⁸

The impact of the Communal Land Rights Act (No 11 of 2004), which was signed into law by the President on 14 July 2004, but has yet to come into effect, is anticipated to be problematic.³⁹ A constitutional challenge to the legislation seems certain. In a recent status report on the land reform process in South Africa the author makes the case both for the need for land reform in the homelands and for the challenging suitability of the Community Land Rights Act, 2004 for achieving this.

“Reforming tenure in the homelands, by defining the rights of those holding land and the powers of those administering land, holds the possibility of prompting protracted boundary conflicts between as well as within communities and between residents and chiefs. It also has the potential to bring about greater certainty by moving the allocation of land rights from the private realm into the public, and by entrenching public state support for the registration of these rights. The CLRA (Community Land Rights Act, 2004) however privatises responsibility for land rights administration. Rights enquiries and land rights boards are to facilitate transfers to communities, but may need to play an ongoing institutional role in supporting land rights. The CLRA (Community Land Rights Act, 2004) may also lead to discrimination against women; this is a contention of the Legal Resources Centre, which is mounting a legal challenge to the Act to contest its constitutionality.”⁴⁰ (pp 50-1)

By June 2005, total land area delivered under the redistribution, restitution, and tenure reform programmes, (and including land converted to private land from state land⁴¹) was “approximately 3.148 million hectares”⁴². This amounts to about 4.3 per cent of commercial agricultural land. The quality of the land delivered is, of course, as important as its size. According to the Department of Land Affairs, the government would need to redistribute an additional 22.46 million hectares of commercial agricultural land, which the government has estimated will cost is estimated to be R44.920 billion to acquire,⁴³ to reach the 30 per cent target – an average of 2.25 million hectares a year at a cost of 4.45 billion rand at current prices. Previous annual land delivery rates have been much lower than this. Only 2.424 billion rand has been budgeted for the purchasing land for redistribution over the current Medium Term Expenditure Framework period.⁴⁴

Based on government’s own assessment of its performance against its targets, either the critics are right and progress has been too slow, or the targets are way too

³⁸ Hall (2004) op cit pp 41-2

³⁹ Wegerif (2004) op. cit. p. 10

⁴⁰ Ibid pp 50-1

⁴¹ The amount of agricultural land held by state is estimated by Government to be “approximately 10.379 million hectares. However, it is worth noting that about 90% of this land is ex-SADT land and former homelands which is not for disposal or redistribution purposes in terms of the LRAD programme.” (Minister for Agriculture and Land Affairs, National Assembly, Written Reply, Question 818, 27 May, 2005) Some commentators (ICG, 2004) have suggested this pool of state land could and should be delivered up for land reform programmes. Others (Adams, 2000) have pointed out that very little of this land is underutilised or could be easily redistributed.

⁴² Minister for Agriculture and Land Affairs, National Assembly, Written Reply, Question 818, 27 May, 2005

⁴³ ibid

⁴⁴ ibid

optimistic. Consequently there have been calls for the Government to change the direction of its land reform programme. However, and perhaps unsurprisingly, there is little consensus about what changes should be made. On the one hand civil society is calling on the Government become more aggressive in its acquisition of farm land for redistribution,⁴⁵ and, on the other, it is being pressed to lower expectations about the contribution agriculture can make to helping people escape poverty and to focus more on increasing the supply of urban land by using the magic of the market.⁴⁶ Government has been trying to achieve a balance between the need to attack the colonial legacy of persistent endemic landlessness and emerging conflicts over land in contemporary South Africa, while at the same time bolstering the status quo so as to provide stability and maintain investor confidence.

Recently a more proactive strategy of direct negotiations with landowners, backed up by expropriation where necessary appears to be the emerging compromise. The North-West Provincial Land Claims Commissioner recently announced his intention to expropriate the 500ha farm in Leeuwspruit in the North-West province. This was welcomed by South African Communist Party as a “very important precedent”⁴⁷ and a sign that government was listening the popular concerns being expressed about the pace of land reform for example at the recent National Land Summit where the ‘willing seller, willing buyer’ principle was identified as constituting the “major impediment to government’s land reform programme.”⁴⁸

Popular support for a change of current policy of acquiring land for redistribution by direct negotiations between parties has received some academic support which has argued for the state to become more directly involved as the purchaser of first instance.

“For example, the state could take responsibility for acquiring land once a clear demand has been identified in a particular area. Similarly, the state could proactively enter negotiations with landowners in order to assess the potential supply of land and the cost implications. In such scenarios, there would be no need for direct negotiations (or even contact) between sellers and beneficiaries. The conventional argument that the state must under no circumstances become the owner of land, even temporarily, is a major obstacle to effective land reform and must be challenged.”⁴⁹

This important policy paper goes further by calling for more strategic, albeit judicious, use of the compulsory acquisition powers provided to the state by section 25 of the Constitution so as to overcome the effective ‘veto’ which existing policy currently provides to sitting land owners. The paper argues that applying the full panoply of criteria for assessing fair value provided by the Constitution would most probably result in less than market value being paid for properties acquired by compulsory acquisition by the State on behalf of beneficiaries. By implication, one benefit of more extensive use of compulsory acquisition powers would be the salutatory signal it would send to other sellers, who may have been holding out for

⁴⁵ Lahiff, E., (2005) “From ‘willing seller, willing buyer’ to a people-driven land reform”, *PLAAS Policy Briefing* No 17, September, Programme for Land and Agrarian Studies, Capetown

⁴⁶ Bernstien (2005) op. cit.

⁴⁷ “Statement on the first expropriation of land in South Africa”, SACP press release, Thursday, 22 September 2005

⁴⁸ Department of Land Affairs, (2005), op. cit. p. 10

⁴⁹ Lahiff (2005) op. cit. p. 3

windfall prices. As a result of acquisition prices subsequently falling, so the argument goes, government would be able to assist more beneficiaries to find more land without spending more money.⁵⁰

The judiciary has been actively oversighting the application of the principles of the Constitution to the Government's land reform programme. In an important recent judgement, the Constitutional Court made clear its view that the State had an unavoidable responsibility for providing housing and land to its citizens and that when the avoidable burden of state's inaction falls on private parties the State must pay appropriate compensation.⁵¹ Whilst the Constitutional requirement for expropriations of land to be based on fair and equitable compensation will continue to make land acquisitions expensive and subject to ongoing "market failure", inaction is therefore not a cheap or viable option either.

Government remains committed to the need for engineering a rural renaissance to help the masses of its citizens climb out of the poverty within which they are trapped. The Government has cited the 'urban bias' of previous Government policies (originally postulated by Lipton⁵² and now widely disputed⁵³) as an important factor in contributing to the difficulties it is experiencing in trying to revitalise its rural communities. "The neglect of the rural areas and the almost exclusive focus on urban areas has further impoverished the rural economy, while increasing the pressure on urban and peri-urban land for sustainable human settlement"⁵⁴ The principle rebuttal Government has made to the charge that its land reform policies are unduly shaped by rural romanticism is to point to the unacceptably high and growing rates of unemployment in major urban centres.⁵⁵ Others point out that globalisation-driven, agricultural market reforms and changes in technology have irreversibly altered the nature of sustainable agriculture everywhere by increasing the marginal rate of return to capital and decreasing the marginal rate of return to labour and reducing the demand for agricultural labour and reducing the potential viability and the comparative advantage of small holder agriculture.⁵⁶

⁵⁰ In most jurisdictions, the political, moral and legal imperatives for states to exercise and to be seen to exercise their compulsory acquisition powers within both the letter and the spirit of the law, inevitably results in officials proceeding with extreme caution. The effect of this is to make the process of compulsory acquisition forensic, slow and expensive. The Constitution of the Republic of South Africa provides such a complex formula for calculating compensation that in this jurisdiction the transaction cost are consequently likely to be very high. It is unlikely therefore that a few strategic exercises of these powers will provide the 'credible threat' envisaged by the author which would 'encourage' unwilling or greedy sellers to treat – the reverse effect may well be the result and reluctant sellers will become emboldened by these inevitably torturous processes and the almost endless avenues for delay due process will inevitably provide. This is, after all, exactly what happened in Zimbabwe.

⁵¹ *President of the Republic of South Africa v Modderklip Boerdery (Pty) Ltd*, CCT 20/04

⁵² Lipton, M, (1977). *Why Poor People Stay Poor*, London: Temple Smith.

⁵³ Byers, T., J.,(2004) "Neo-Classical Neo-Populism 25 Years On: Déjà Vu and Déjà Passé Towards a Critique", *Journal of Agrarian Change*, Vol. 4 Nos. 1 and 2, January and April, pp. 17–44, Blackwell

⁵⁴ Department of Land Affairs (2005) op. cit. p. 11

⁵⁵ Mbongwa, M., Glen Thomas, (2005), "Land reform for South Africa", Response To Articles And Interviews By Anne Bernstein emanating from: "*Land Reform in South Africa: A 21st Century Perspective*", Department of Land Affairs, Republic of South Africa, p. 2

⁵⁶ Based on a representative sample of over 1200 HH, a recent survey found that "In terms of what it is that people want land for, the overwhelming message is that food security is primary..." "HSRC (2005) op. cit. p. 42

This could well be a critical time for land reform in South Africa. While the various factions in the land reform debate are off looking for painless or costless ways of speeding up land redistribution in South Africa, there is the increasing risk that the real obstacles to land reform will continue to be overlooked. Insufficient financial resources allocated to land reform programmes and inadequate administrative capacity devoted to implementation must eventually receive the attention they require. However the diminishing viability of small holder agriculture under the prevailing national macro economic policy framework and within the current global terms of agricultural trade will also mean that even if land reforms were adequately resourced or more proactively pursued, the rural renaissance which is its goal will remain elusive.

Swaziland

The 2003-4 review reported that, despite continuing disputes over land, worsening economic conditions, and equivocation concerning the rule of law, Swaziland was experiencing delays in almost all of its land-related reform programmes as a result of delays to the promulgation of its new constitution.

The new constitution has since been promulgated. Only those elements of the National Land Policy that empowered the status quo were incorporated. The main innovation of the policy, the introduction of leasehold on state owned land, is specifically prohibited by the new constitution.

Now that the new constitution has been settled, further elaboration and consultation over the National Land Policy can proceed within a more certain legal framework. No initiatives in that regard are being reported, except that a Swazi expert is undergoing post graduate study purportedly so as to be able to facilitate policy development.

Arable land supply restrictions are recognized by the Government of Swaziland as a constraint on the extent to which agriculture will provide the growth necessary to redress poverty.

“With most of the Swaziland’s population living in the rural areas and agriculture accounting for 25% of the aggregate GDP, and that the rural agricultural sector sustains a population of about 70% there is need for policies that will improve the employment opportunities of the rural people and increase their agricultural production. The agricultural sector also plays an important role in the reduction of rural poverty either by providing employment or by raising household incomes. The country will have to, as much as is possible, develop more diversified commercial agriculture in rural areas. It is however worth noting that improvements in the area of agriculture alone will not solve the problem of unemployment and poverty. The contribution and importance of the rural non-agricultural sector needs to be recognized and appreciated particularly in the face of land shortage. There is a need to develop more productive agricultural activities and crops and to encourage other income generating activities that will supplement agricultural production and sustain rural livelihoods.”⁵⁷

Ambivalently, agriculture is seen as both the problem and the solution.

⁵⁷ Anon (2005) “Prioritised Action Programme on Poverty Reduction”, Government of Kingdom of Swaziland, p. 15

“Agriculture constitutes the cornerstone for poverty reduction in Swaziland. The poor are heavily reliant on their own agricultural production for food and cash to supplement their food requirements. They also rely on cash from agriculture to acquire other basic needs such as clothing, health care and education. To them agriculture is survival. However, poor households do not have enough land, own few or no cattle, are less educated, and mostly female-headed with large families and do not achieve good yields from their limited land (average 1.8ha).”⁵⁸

Government has identified several priority projects to address these problems; “Government Farms-Employment Creation Project”, a two year technical assistance project which would to deploy a Land Economist and Legal Adviser to facilitate leasing out government land to achieve higher levels of employment (total approximately USD100,000); “Promotion of SNL (Swazi Nation Land) Sharecropping”, a pilot project which would facilitate the voluntary leasing of Swazi Nation Land, returns from which could be in form of rents or a share of the produce (total approximately USD145,000); “Support for Basic Needs for orphans, the elderly, and other vulnerable groups” which would involve provision of land for cultivation “depending on the situation” (total approximately USD840,000).⁵⁹

With this modest outlay for these cautious land tenure and redistribution interventions the contribution made from land reform to poverty reduction or growth cannot be realistically expected to be very substantial, even if the potential to do is as significant as government suggests.

Zambia

The 2003-4 review anticipated that a redrafted Land Policy document would be finalised sometime in 2004, which would then be discussed at a national conference to be held later that year. Another Constitutional Review Commission was reported to be conducting public hearings and seeking submissions from a somewhat reluctant civil society with concerns about the process prescribed by a cost conscious Government for revision of the constitution by the legislature. The 2003-4 review also reported some recent progress with respect to the security of tenure of ‘squatters’ in the Copperbelt as a consequence of lobbying by local advocacy groups supported by technical and financial assistance from international development partners.

As at the time of publication the much anticipated national workshop to finalise the Draft National Land Policy had not been convened. A consolidated civil society submission to the Constitutional Review Commission called for ownership of land to become vested in the people of Zambia, for the Bill of Rights to include the principle that every Zambian was entitled to land and the requirement for promulgation of a land code which ensured equitable access and distribution of land to Zambian citizens be included in a new constitution.⁶⁰ This submission also recommended including other specific provisions relating to land tenure in the constitution, which, in other jurisdictions would be more usually provided for in subordinate legislation. For example the submission called for a period of prescription leading to ownership of ten years and establishing higher standards of consultations and consent for proposals to alienate or assign customary land. The submission cites the Namibian constitution

⁵⁸ Ibid p. 20

⁵⁹ Ibid pp 43-60

⁶⁰ Zambia Land Alliance (2004) “Submissions to Constitutional Review Commission”, Lusaka

(Article 23 (3)) to support its case for the introduction into the constitution of Zambia provision for positive discrimination in favour of women in relation to access, ownership and control over land by women.

“In order to correct the current gender imbalance in accessing, owning and controlling land, the Constitution must provide for affirmative action – measures that encourage women’s access, ownership and control over land, and participation in decision making processes.”⁶¹

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Concerns amongst traditional authorities, academics and land administration professionals have continued to be expressed since the 2003-4 review about the lack of any data about the rate at which land was being transferred from the customary to the private domain.⁶² Troubling evidence is also emerging in the literature about how customary land is being managed and administered.⁶³ Recently published research seems to demonstrate (using a very small sample) that farms with documented tenure on State land outperformed farms with undocumented tenure on customary and State land in relation to levels of fixed investment and productivity, independent of an array of control variables.⁶⁴ These finding adds more evidence in support of increases in investment in formalising land tenures in Zambia.

Donors remain unconvinced by this evidence or other compelling cases for external technical and financial assistance, which have continued to be made out by a wide variety of highly credible authorities, and are providing little or no support. The Zambian government has been reported as having made known its willingness to accept external assistance.

Zimbabwe

The first edition of the newsletter reported sweeping statements from Government’s spokespersons about the extent of the government’s land tenure reform agenda, although subsequent clarification restricted mandatory conversion of titles to leasehold to those farms acquired under Fast Track Land Reform Programme. The 2003-4 review also reported an unanticipated escalation of controversial land acquisitions using new statutory instruments (Statutory Instrument 273A of 2003; Land Acquisition Amendment No.1 of 2004) designed to facilitate acquisition of farm equipment and materials, prolong the effectiveness of Notices to Acquire and reduce the time period allowed for objections. The 2003-4 review also noted the affect on

⁶¹ Ibid p. 4

⁶² Adams, M., 2003, “Land tenure policy and practice in Zambia: issues relating to the development of the agricultural sector, draft 13 January, DFID Contract no.: DCP/ZAM/018/2002, Oxford, Mokoro and Munshifwa, E. K.(2005) “The Conflicting Role of State and Traditional Leaders in Land Allocation in Zambia”, unpublished, Lusaka

⁶³ Brown, T., Bennett Siamwiza, (2004) “Chiefs, commoners, and enclosures in the Gwembe Valley, Zambia”, unpublished

⁶⁴ Smith, R., (2005) Land Tenure and Fixed Investment and Farm Productivity: Evidence from Zambia’s Southern Province, World Development Report, in press

agricultural production in neighbouring States (Mozambique, Zambia and even as far as Nigeria and Uganda) of white farmers relocating out of Zimbabwe, often in response to generous incentive packages. The 2003-4 review cited extensive 'teething problems' associated with the Fast Track Land Reform Programme and other aspects of the Government of Zimbabwe policy implementation and the alarming prevailing food security and macro-economic conditions in which they were now operating.

Since the 2003-4 review, despite laudable improvements in the racial equity of land distribution, the efficiency 'payoff' has yet to materialise and the cost of the reforms could well end up being prohibitive. The conditions that were contributing to insecurity in the middle of last year persists today, agricultural production continues to fall, food insecurity has worsened, social services are failing just when they are most needed and the macro economic fundamentals continue to decline.

Questions that were being asked at the time of the 2003-4 review, about who was benefiting from the Fast Track Land Reform Programme and who was being excluded and who was paying the price for the reforms have not gone away. Rather they are being more insistently voiced by members of the Government⁶⁵ and its own administration⁶⁶ and by multilateral agencies without blatantly obvious motives of self interest. Concerns are also still being expressed both about the viability of the livelihoods of many A1 type beneficiaries and about the plight of displaced and unemployed farm workers.

A third government-initiated Land Audit is currently underway.⁶⁷ Its objective appears to be to determine who is where and what production is underway. The purpose of the exercise is to identify land that was acquired and redistributed but which has subsequently been underutilised, so it can be reacquired from initial beneficiaries and re-redistributed to potentially more productive parties. The Ministry of Lands is facing major obstacles to completing this work because of unavailability of fuel.

Despite successive decisive pronouncements from Government, considerable uncertainties in land policy and its implementation procedures persist. Government has decided that all land acquired under the Fast Track Land Reform Programme is now state land⁶⁸ which would allow for the replacement of freehold titles by 99 year transferable leases as the legal foundation of land tenure in the commercial farming areas⁶⁹, and has continued the permit tenure system as a variant of the communal land tenure system for the A1 resettlements. However, the Government's land acquisition and compensation targets have not yet been achieved and existing and future

⁶⁵ See comments from Deputy Agriculture Minister, Sylvester Nguni quoted in *The Guardian*, November 2, 2005

⁶⁶ See comments from Reserve Bank of Zimbabwe Governor, Gideon Gono, quoted in *Star (SA)*, 2 November, 2005,

⁶⁷ The first two were the Buka Report (2002) A Preliminary Audit Report of Land Reform Programme followed by the Uteete Report of the Presidential Land Review Committee (2003)

⁶⁸ Constitution of Zimbabwe Amendment (No 17) Act, 2005 Clause 16 B of the Act reads in part: "No compensation shall be payable for land ...except for any improvements effected on such land before it was acquired ...a person having any right or interest in the land shall not apply to a court to challenge the acquisition of the land by the State, and no court shall entertain any such challenge." The proposed new law will empower the government to acquire land unhindered by the courts for "whatever purposes, including, but not limited, to, settlement for agricultural purposes."

⁶⁹ G. Gono (2005) "Monetary Policy Statement" issued pursuant to Reserve Bank of Zimbabwe Act (Chapter 22:15, Section 46), July 21.

allocations of land on many farms that were acquired earlier in the programme remain in dispute. Generating the thousands of 99 years leases set to replace the more than 8000 freehold titles that have been 'annulled' pursuant to the recent constitutional amendment, will severely challenge existing administrative capacity. Finally the land reform process in the corporate, estate and investment farm sector, as well as in nature conservancies, remains incomplete. Land tenure insecurity will continue to hold back investment and production unless these issues are resolved.

Internal displacement and tenure insecurity, resulting from the incompleteness of the land acquisition and compensation processes, have been exacerbated by the recent systematic destruction of dwellings and commercial premises in peri-urban areas and cities by agents of the state. Since its commencement in May 2005, Operation Murambatsvina ('clean up the filth') has resulted in more than half a million people losing either their homes or their businesses or both.⁷⁰ Not only were free-standing areas of informal housing destroyed, but Operation Murambatsvina also wiped out some legal, planned housing, including sites where housing co-operatives had been recently developed to provide permanent low-income housing.⁷¹ Destruction of dwellings and eviction from property over which legal and equitable rights could be claimed is likely to damage confidence in security of tenure throughout the country for some time to come. The re-emergence of some of these structures so soon after their 'destruction' is evidence of the resilience of self defined rights.

The UN Special Envoy on Human Settlements Issues in Zimbabwe Mrs. Anna Kajumulo Tibaijuka could not have been more critical.

"At the heart of Zimbabwe's current socio-economic problems is the issue of land reform and the related severe decline in agricultural production, which is also partly a result of recent successive droughts. Other problems cited in this report include: massive inflation; a significant drop in agricultural production; a serious shortage of foreign currency; a drying up of foreign direct investment; a very significant shrinkage of the entire economy, estimated by the IMF to have been 40% in recent years; serious periodic shortages of basic consumer commodities, including fuel, maize meal, milk, bread, cooking oil, soap etc; a massive rise in unemployment, estimated at present to be between 75% and 80%; and a significant increase in poverty – it is estimated that 70% of Zimbabwe's population now lives below the poverty line. Through Operation Garikai (Restore Law and Order), the informal sector that employed 40% of the labour has been wiped out."⁷²

In a statement issued in New York and distributed in Harare on 1 November 2005, a UN spokesman said Mr Annan urged Harare to address the needs of those still without homes. "The secretary-general remains deeply concerned by the humanitarian situation in Zimbabwe," the statement said, adding that the United Nations was

⁷⁰ Estimates taken from Tibaijuka, A. K. (2005) "Report of the Fact-Finding Mission to Zimbabwe to assess the Scope and Impact of Operation Murambatsvina by the UN Special Envoy on Human Settlements Issues in Zimbabwe", UN-Habitat, Nairobi, p. 71 and p. 72; cited in Potts, D. (forthcoming) "City life in Zimbabwe at a Time of Fear and Loathing: Urban Planning, Urban Poverty and Operation Murambatsvina", in Myers, G. and M. Murray (eds) *Cities in Contemporary Africa*, Palgrave, 2005/6, p. 1

⁷¹ Solidarity Peace Trust. (2005). *Discarding the Filth: Operation Murambatsvina: Interim Report on the Zimbabwean government's "urban cleansing" and forced eviction campaign, May/June 2005*, cited in Potts, 2005, p. 1

⁷² Tibaijuka, A. K., (2005) op. cit. p. 75

receiving reports that tens of thousands of people were still homeless and in need of aid following the eviction campaign began in May. "The secretary-general notes that the government's decision to decline assistance comes despite extensive consultations on relief efforts that ensued in the past months between the United Nations and the government," the statement added."

A recent confidential report by a United Nations agency estimated that agricultural production fell by 26% from 2000-2003. Production of food grains, such as maize, wheat and small grains, barley, sorghum and millets; and traditional export crops such as tobacco and cotton; as well as oil seed crops, like soya beans, groundnuts and sunflower, declined the most. Whilst agricultural production has suffered across the board, the most crippling impact has been in specialized production systems. These include dairy, beef production, horticulture, wildlife, maize seed production, timber production. New farmers have tended to concentrate mainly on maize (grain) production, but their output has yet to meet expectations. A major challenge is whether new farmers can be equipped to produce niche products likely to provide high returns. Falling foreign reserves and a weakening currency have increased the prices of imported food, which are less affordable anyway because of falling wages and profits, rising unemployment further exacerbating food insecurity.

Falling domestic food production and rising prices of import substitutes have both contributed increasingly chronic food insecurity. The World Food Programme was recently quoted as estimating that 4.3 million Zimbabweans would require food assistance until mid-2006.⁷³

Just when social services and protection are most needed, when both are struggling under the burdens and challenges placed on them by the Fast Track Land Reform Programme, central and local government capacity has been crippled. The human resources of Zimbabwe are being simultaneously depleted by the HIV and AIDS pandemic and a mass brain drain of talented professional and semi professional workers. The revenue base that could finance social services and protection has also been blown away. The collection of property taxes from many new farmers will be extremely difficult that because of lack of capacity within local authorities and the absence of accurate property records. Some plots under Fast Track remain vacant and hence no rates are accruing to councils. Some of the new farmers could be evading payment of property taxes, arguing that they still need more time 'to settle.' In the meantime, service delivery continues to under-perform (roads, schools, clinics etc)⁷⁴

⁷³ *Scotsman*, 2 November 2005

⁷⁴ Marongwe, N. (2005) "Proposals on Way Forward in Zimbabwe's Land Reforms", unpublished