

# ZIMBABWE'S LAND POLITICS AND THE 2005 ELECTIONS

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## ABSTRACT

*One hundred and fifteen years ago the Pioneer Column hoisted the Union Jack in Salisbury and took possession of all unoccupied land in the name of Queen Victoria, an act of conquest which ushered in close to 100 years of colonial domination of the people of the land by the British. Accordingly, access to and ownership of land has been an intrinsic part of the political discourse in Zimbabwe. Prior to independence land was a key driver of political change. This paper examines the key milestones of Zimbabwe's land reform process over the years to demonstrate how, during the post-independence era and culminating in the 2005 parliamentary elections, land has continued to have significant value with respect to political dominance and capital.*

## LAND AND POLITICS – THE ORIGINS

The development of the country under colonial domination was determined by the overarching policy of apartheid implemented by the settler regime. Although popularly only associated with pre-independence South Africa, apartheid, albeit implemented in a less brutal fashion, was nonetheless relevant to Zimbabwe. Apartheid, by its very definition, meant separate development of the races in every conceivable sphere: education, health, settlement and agrarian development. Hence, a racially dissected agrarian sector emerged, accompanied by an unequal distribution of resources, wealth and services in favour of the white settler communities. The skewed distribution was achieved by means of war and conquest waged by the settlers on the indigenous people in the late 19th century. This made possible the forceful expropriation of land from the indigenous people in favour of the settlers. This appropriation of land by armed force was subsequently given legitimacy in 1919. All unalienated land was declared British Crown land. The logic was that the concept of individual ownership was foreign to the 'natives', who could not, therefore, assert title to unalienated land. Under the law, this meant that

the occupation and use of land by indigenous people was only permitted with the consent of the British Crown. Alienation was thus a settler privilege (Mbaya 2001).

Most of the best agricultural land was alienated to settlers, resulting in the local people being forced to settle on poorer land. This position was legalised in 1930 by legislation legitimising the allotment of the country's land along racial lines. In this way the land tenure situation as well as the land distribution pattern were designed to serve the economic and political interests of the white minority and to subjugate the indigenous masses. About 50,8 per cent of the available agricultural land was set aside for the few thousand whites and 30 per cent reserved for the black people, resulting in overcrowding in the latter areas. The combined effect of massive over-population and over-grazing had grave ecological consequences such as degradation and low soil fertility. The result was that poverty became endemic among black people. In addition, the rights people had in these areas, together with their ability to enforce these rights, that is, tenure, were weak. In contrast, in areas reserved for white farmers for commercial agriculture, population pressure was low and considerable resources and state support were channelled towards the identification and promotion of appropriate land uses. Poverty was therefore rare. Table 1 lists the consequences of unequal tenure systems.

As a consequence of the historic dispossession and marginalisation of the people, post-independence Zimbabwe was characterised by the imperative to empower its black majority as a way of redressing the immoral imbalances caused by the minority government. Fundamental to this redress was the transformation of the agrarian sector. However, these efforts turned out to be severely constrained by powerful local and international interests acting to protect existing (minority) property rights. The restriction was primarily in the form of the infamous Lancaster House independence settlement, which provided that:

- the Zimbabwe government's land reform programme would restrict itself to the willing-buyer-willing-seller principle when acquiring land and
- that the terms agreed at Lancaster House and incorporated into the Constitution would not be changed for ten years.

#### *Politics and Land Reform in the 1980s*

The political commitment of the newly elected government to addressing the imbalance in property ownership was evidenced by the fact that within a few months of independence in 1980 Zimbabwe initiated the Land Reform and Resettlement Programme. Land reform can generally be considered to have several key components. These include redistributive reform, tenure reform, restitution, and the reform of land administration systems and institutions. In the case of Zimbabwe the establishment of a settler colony was rooted in colonial occupation and the dispossession of the indigenous people by settlers. Accordingly, the

redistribution of land emerged as a fundamental pursuit of the independent state. Hence the redistribution component took centre stage.

The land redistribution programme comprised planning, land acquisition, resettlement of beneficiaries and post-settlement support. During the 1980s all these components appeared to receive fair attention from the government. The acquisition component did, however, emerge as the most problematic. As an outcome of the constitutional restrictions emanating from the Lancaster House settlement, the government was obliged to purchase land (considered to have been stolen from the indigenous people) for redistribution. This was a bone of contention which would ultimately transform the future of the land reform process and of the entire nation.

**Table 1**  
**Problems Emerging from Discriminatory Land Tenure Systems**

<b>Issues</b>	<b>Problems</b>
Land Distribution	<ul style="list-style-type: none"> <li>• Inequitable and unjust access to land</li> <li>• Limited rights/access for majority</li> <li>• Costly and cumbersome transfers of land</li> </ul>
Land Utilisation	<ul style="list-style-type: none"> <li>• Discriminatory regulations against customary tenures</li> <li>• Speculative under-utilisation of freeholds</li> <li>• Unsustainable use in overcrowded areas</li> <li>• Coercive regulations in some tenures</li> </ul>
Land Tenure	<ul style="list-style-type: none"> <li>• Insecurity of some tenures</li> <li>• Discriminatory protection system</li> <li>• Over-centralised regulations</li> </ul>
Land Administration	<ul style="list-style-type: none"> <li>• Coercive and centralised approach</li> <li>• Dispersed institutions</li> <li>• Lack of capacity and weak institutional support</li> <li>• Poor representation of majority</li> <li>• Weak transparency</li> </ul>
Land Adjudication	<ul style="list-style-type: none"> <li>• Biased towards market and state sectors</li> <li>• No restitution/victim compensation</li> <li>• Merged powers of local courts/authorities</li> <li>• Inaccessible courts/mediation</li> </ul>

While aiming to enhance the socio-economic well-being of low-income households, the land reform programme was explicitly political; intended to redress the unjust colonial seizures of black-owned lands (Kinsey 1998). While the urgency with which the new government proceeded to address the land issue was significant, there were noteworthy inconsistencies with long-term implications. Firstly, Zimbabwe's approach to land reform, implemented in the shadow of the much acclaimed Lancaster House Constitution, was largely externally influenced. Hence, whilst the state pursued a Marxist-Leninist ideology, the land reform programme was market-based in line with the Lancaster settlement as well as the World Bank reasoning that land reform was more likely to result in poverty reduction if it was implemented in accordance with the operation of existing land markets. This market-based 'willing-buyer-willing-seller' model has subsequently been acknowledged as being inappropriate for Zimbabwe as well as for South Africa and Namibia (see, for example, Mbaya 2001; Froese 2005).

A significant outcome of the market-orientated acquisition process was a very slow rate of acquisition. This was partly due to financial constraints faced by the government. Once again, comparable situations have been observed in South Africa and Namibia. The financial assistance from international partners was ultimately not as forthcoming as originally indicated.<sup>1</sup>

A second inconsistency of political significance related to the beneficiaries of land reform. The original criteria for the selection of beneficiaries of the resettlement programme prioritised those who had been marginalised by the previous regime, including refugees, displaced persons and people without land or with inadequate land for subsistence. Subsequent revisions of the programme in 1985, 1997 and 2000 saw this emphasis shift, with selection criteria becoming increasingly partisan (Mbaya 2001).

### POLITICS AND LAND IN THE 1990S

The government's resettlement efforts reached an all time high in the mid-1980s, albeit well below the levels originally envisaged. Thereafter, limited in part by insufficient resources to proceed with market-based acquisition of land, land reform gradually became increasingly peripheral to the political agenda of the government.

In 1990 Zimbabwe began a Bretton Woods-led five-year Economic Structural Adjustment Programme (ESAP as it was popularly known). While envisaging long-term gains, this variant of a Structural Adjustment Programme (SAP) had the effect of precipitating high human development costs. The government cut spending on education by 30 per cent, while real wages fell by a third. Poverty rose dramatically in both urban and rural areas. In the face of rising urban unemployment, agricultural sources of livelihood became increasingly important. This was reflected in the

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<sup>1</sup> Moyo 2000 gives a detailed account of factors relating to the relationship between Zimbabwe and Britain in relation to the financing of land redistribution.

change in government's selection criteria for resettlement. Greater emphasis was now placed on farming experience and competence than on need and destitution.

Scholars have observed that since independence, but most significantly between 1998 and 2000, the country's official land resettlement programme was paralleled by informal and subliminal processes of land occupations or 'land self-provisions' by communities that had become increasingly disillusioned with the slow pace of redistribution by the government (see, for examples, Moyo 2000 and Marongwe 2002). However, a significant consideration often overlooked has been noted by Marongwe – that of restitution claims. Unlike South Africa, Zimbabwe did not have an articulated land restitution component to its land reform programme. Such a component would have aimed to identify those who were dispossessed of their indigenous land holdings under the settler regime and would have sought to restore these, or, at the very least, to compensate the claimants. Hence, some instances of land occupations by communities were expressions of the underlying expectation of redress in view of past dispossession (Marongwe 2002).

The incidents of land occupation catapulted to significant levels in 1997/8 when some former liberation fighters, 'war veterans', dissatisfied with the extent of recognition afforded them by the government, staged a political insurgency, demanding better treatment, including finance (pensions) and land allocations. The issue of land and its redistribution was thus firmly returned to the political limelight (Moyo 2004b).

The uprising by the war veterans was significant from several aspects. Not least of these was the fact that the government decision to accede to the war veterans' claims sent shock waves through the country and the world. The result was the introduction of a degree of uncertainty in the country and a resulting loss of confidence. This, in turn, resulted in a drop in the value of the Zimbabwe Dollar and, eventually, in a range of economic and social consequences. Politically, the significance of the event was the fact that it signalled new levels of dissent and a power shift within the ruling Zimbabwe African National Union-Patriotic Front (Zanu-PF). It also demonstrated the political currency of land and its availability for exploitation for political advantage. This would ultimately have significant implications for the country's land reform programme and for the future of the country as a whole.

In light of this the government launched the second phase of the Land Reform and Resettlement Programme (LRRP2) in 1997. The intention of LRRP2 was to redistribute substantial parts of the commercial farm sector within five years (GoZ 1999-2000) even though this period was characterised by significant contestation by white commercial farmers through court appeals against government plans to acquire their farms. The administrative pronouncements about this second phase are frequently considered to represent a mere tweaking of the policy framework without any real redistributive impact on the ground. In the event, the LRRP2 failed to take off in earnest. The main reason was that financial support from donors for the programme's experimental Inception Phase failed to materialise.

The LRRP2 thus gave way to the Fast Track Land Reform Programme (FTP), largely because of the political imperative to redistribute land quickly. The FTP was launched in spite of the negative results of the 'accelerated' programme experiment of the 1990s. Even though there was an implementation programme in existence, the FTP was largely implemented through the widespread invasion of commercial farms by armed groups of 'landless' people. Hence, it did not exhibit the levels of planning which had characterised the programme of the 1980s. The inadequate planning affected demarcation, agricultural land use and production. In the same way, inadequate provision for post-settlement support, including starter packs, extension services and access to credit, emerged as weaknesses.

Another feature of Zimbabwe's land reform process has been the lack of attention paid to tenure reform in communal areas and tenure considerations, in the case of newly resettled farmers. There was far less emphasis on tenure reform considerations than on land redistribution in spite of the fact that Zimbabwe had articulated tenure reform components to its land and agrarian reform programmes. In fact, the extent of the political urgency associated with redistribution ultimately compromised the options for tenure reform. The debate about tenure reform remained precisely that ... debate, and largely academic. Interestingly some political economists in the Southern African region argued that local and international forces supportive of white farming interests were pushing the tenure reform debate with a view to detracting from the focus on redistributive reform and thus maintaining the status quo.

### 'LAND IS THE ECONOMY AND THE ECONOMY IS LAND' (2000-2002)

In 2000, the ruling Zanu-PF faced unprecedented political opposition. Early in the year the government conceded defeat to the National Constitutional Assembly, (NCA) in the constitutional referendum. The proposed constitution would have enabled government to expropriate commercial farmland without compensation (Box 1). The responsibility for compensating commercial farmers would ostensibly have been transferred to Britain as the colonial power. Much has been said about the government having been defeated by the NCA's 'No' vote. One view is that, curiously, the rejection of the proposed constitution played into the hands of Zanu-PF. Once the 'once-and-for-all solution' proposed in the draft constitution fell away, the land reform imperative successfully became the central message of the Zanu-PF election campaign in the parliamentary elections later that year. One must wonder what the nature and success of the Zanu campaign would have been had the 'Yes' vote prevailed. Still, the opposition Movement for Democratic Change (MDC) won nearly as many seats as Zanu-PF (57 to its 62) in the (contested) part of the election.

Of course the margin was of little consequence in view of the 30-seat advantage accorded the ruling party under the current Constitution, in terms of which the president may nominate 30 members of the 150-seat Parliament.



**Box 1****The 1999 Draft Constitution Proposals on the Land Issue***Section 56*

- (1) Everyone's right to own property and to use and enjoy their property must be protected, although this right may be subordinated in the public interest.
- (2) The State or an authority authorised by an Act of Parliament may acquire land compulsorily for public purposes or in the public interest
  - (a) in accordance with fair procedures set out in the Act of Parliament and
  - (b) subject to section fifty seven, so long as compensation is paid just and equitable in regard to its amount, timing and the manner of payment
- (3) A law that extinguishes or diminishes anyone's vested or contingent right to be paid a pension, gratuity or similar payment arising out of employment is to be regarded as a law that acquires or authorises the compulsory acquisition of that person's property.

*Section 57; Agricultural land acquired for resettlement*

- (1) In regard to the compulsory acquisition of agricultural land for the resettlement of people in accordance with a programme of land reform, the following must be regarded as of ultimate and overriding importance;
  - (a) under colonial domination the people of Zimbabwe were unjustifiably dispossessed of their land and other resources without compensation;
  - (b) the people consequently took arms in order to regain their land and political sovereignty, and this ultimately resulted in the Independence of Zimbabwe in 1980;
  - (c) the people of Zimbabwe must be enabled to reassert their rights and regain ownership of their land and accordingly-
    - (i) the former colonial power has an obligation to pay compensation for agricultural land compulsorily acquired for resettlement, through a fund established for this purpose;
    - (ii) if the former colonial power fails to pay compensation through such a fund, the Government of Zimbabwe has no obligation to pay compensation for agricultural land acquired for resettlement.
- (2) In view of the overriding considerations set out in subsection (1), where agricultural land is acquired compulsorily for resettlement of people in accordance with a programme for land reform, the following factors must be taken into account in the assessment of any compensation that may be payable-
  - (a) the history of the ownership, use and occupation of the land;
  - (b) the price paid for the land when it was last acquired;
  - (c) the cost or value of improvements on the land;
  - (d) the current use to which the land and any improvements on it are being put;
  - (e) any investment which the State or the acquiring authority may have made which improved or enhanced the value of the land and any improvements on it;
  - (f) the resources available to the acquiring authority in implementing the programme of land reform;
  - (g) any financial constraints that necessitate the payment of compensation in instalments over a period of time; and
  - (h) any other relevant factor that may be specified in an Act of Parliament.

## THE POLITICAL LANDSCAPE AFTER 2000

### *Opposition Parties*

The end of the of the 1990s saw a Zimbabwe which was deep in political crisis, as evidenced by the stand-off between the key political actors Zanu-PF and its main opposition, the MDC, and the ensuing conflict – sometimes violent – between their respective supporters. The MDC had emerged from the trade union sector in 1999 at a time when the urban electorate was becoming increasingly disenfranchised because of the declining economic vibrancy in the country which was a result, in part, of the implementation of the SAP. In the absence of any other significant party around which opposition sentiments could rally the MDC quickly gained political prominence in the run-up to the 2000 parliamentary elections.

The Zanu-PF government's strategy for retaining its political control in the 21st century was rooted in a campaign against the former colonial power, Britain. By extension, this campaign wittingly involved the polarisation of the nation into blacks (who were expected to be, by definition, antagonistic to the former colonial power) and whites (who were seen as the subjects of and thus sympathetic to the colonial power). The polarisation extended further to within the black electorate; those who supported the FTP and despised the British (defined as loyal nationals) and those who disagreed with the FTP (and, by extension, were accused of being against the entire process of land reform and described as agents of the opposition party and of the British). Hence the black electorate was strategically (for the purposes of the ruling party) divided into two diametrically opposite camps, with no middle positions. This typology was used to give the ruling party a type of 'moral high ground' and to force black Zimbabweans to 'take a side' – either that of the government or that of the opposition (and, by extension, of the colonialist power).

After narrowly losing the previous parliamentary elections the MDC seemed to lose ground to Zanu-PF as quickly as it had originally gained it. The opposition appeared unable to match the political mastery of the ruling party and its seasoned politicians. Most crucially, the opposition MDC appeared to lack the political creativity required to outclass Zanu-PF. Central to this limitation was the inability of the MDC to respond convincingly to the land issue. The dominance of the ruling party and the polarising strategy it employed effectively marginalised the MDC, which was unable to articulate a clear position. The opposition was unequivocally critical of the government-supported FTP and was also on record as saying that white commercial farmers should be allowed to continue operating in their capacity as productive members of society. They also stated that an MDC-led government would not allow the position created by the FTP to continue. A process of 'rationalisation' was therefore proposed. However, the MDC found itself caught in Zanu-PF's trap when confronted with the sensitive question of whether the process of rationalisation would involve taking land out of black hands and returning it to



'dispossessed' white farmers. Unable to commit political suicide by answering the question definitively, the MDC had no choice but to maintain a somewhat ambiguous stance on this crucial matter – to the detriment of its credibility and prospects. The party did ultimately articulate its views on land reform (Box 2) – a case of too little too late?

## **Box 2**

### **MDC Policy Position on Land Reform**

The MDC is committed to land reform. The MDC government will bring Zimbabwe's land crisis to closure through a democratic and participatory process that seeks to achieve equitable, transparent, just, lawful and economically efficient distribution and use of land, both for agricultural and for other purposes.

The MDC's land-reform programme will be based on need and ability, and will aim to revitalise the economic and social empowerment of farmers and farming communities, and provide for sustained productivity and growth in rural production. Agricultural recovery will be founded on an unequivocal return to the rule of law and adherence to the fundamental human and legal rights enshrined in the Constitution.

The MDC's laws and measures will recognise and respect individual rights to the protection of person and property as well as the authority of the state to acquire land in the interest of public policy and the public good. Any limits to property rights will be made clear in law and the rule of law will be consistently applied in implementing these limits. The MDC government will provide for reasonable compensation for losses of property, based on independently adjudicated claims.

#### *Land Commission*

The MDC will establish, by an Act of Parliament, an impartial, independent and well-resourced professional agency, known as the Land Commission. This will be vested with the powers and authority to fulfil its role of formulating, planning and co-ordinating an all-inclusive and well-planned resettlement programme, with a limited lifespan to complete this mission. The Land Commission Bill has been drafted and its terms will be subject to stakeholder scrutiny before being submitted to Parliament.

#### *Independent Land Audit*

The Commission's first major task will be to establish the physical and legal status of all land-holdings by carrying out an independent land audit:

- The physical component of the land audit will include information such as the farm's location, name, size, and legal status, as well as on-farm data, details of Model A1 and A2 occupation, the occupiers and where they came from.
- The legal component of the land audit will consist of an analysis of the constitutionality and legality of measures taken, as well as realities on the ground, to clarify the legal status of farmers, settlers, and of the land they own or occupy.

The analysis of relevant and reliable information will provide a basis for an effective land rationalisation exercise as a precursor to the proper planning and implementation of a sustainable resettlement programme. It will also inform any restitution and compensation to be paid for both the land and improvements within a reasonable time.

*Rationalisation of Land Allocation and Development of the Land*

The rationalisation of land allocation will reconcile the MDC's policy principles with on-the-ground realities of farm occupation by applying the principles of justice, accountability, need and ability. In carrying out this task, the Land Commission will – on a farm-by-farm basis, or by dealing with categories of farms – adjudicate on the fairest and most practical course of action. Those who already own land, or who can afford to buy land, or who have an alternative source of livelihood, will not be eligible for resettlement.

There is no possibility that the rationalisation will result in the pre-February 2000 status quo being restored on the land but, equally, the current status quo arising from the fast-track land grab will not be maintained. In other words, the MDC will neither return to the pre-2000 land-ownership patterns nor endorse or condone the inequitable and inappropriate land distribution arising from the fast-track process. Where people are found to have been settled legitimately, according to the Land Commission's criteria, or are subsequently legitimately settled, they will be fully supported, with the state ensuring that they have the inputs, working capital and other assistance needed to make their farming ventures succeed. Under the MDC government, agrarian reform will also embrace the communal areas, where the bulk of the rural population will continue to live.

SOURCE: MOVEMENT FOR DEMOCRATIC CHANGE 2004

As the 2005 elections approached, the only meaningful political opposition to Zanu-PF came from the floundering MDC. A key element of Zanu's strategy for containing the MDC and thus retaining political dominance centred on treason charges brought against MDC leader Morgan Tsvangirai. These involved keeping Tsvangirai preoccupied with his court battle, unable to travel outside the country (and thus isolated from the regional and international community and unable to mobilise support for the MDC). The MDC's prospects of success in the upcoming elections were further weakened by the party's reticence about whether or not it would boycott the elections on the basis of an uneven playing field and the country's non-compliance with the Southern African Development Community (SADC) election guidelines, adopted in August 2004.

The party ultimately only made the decision to participate on the eve of the elections. The threat to boycott gave the MDC a measure of leverage with regional and international actors who were either interested in seeing pressure being brought to bear on Zanu-PF or were anxious to see the election process resume and proceed with as little complication as possible. It is unlikely though that the leverage gained in this respect was sufficient to offset the opportunity lost in relation to preparedness for the elections.

### *Non-governmental organisations*

Non-governmental organisations (NGOs) form another group of stakeholders in the political landscape. While by no means homogeneous, NGOs had generally been conspicuous by their absence from the land reform sector (other than with respect to service provision activities). Land had traditionally been seen as a highly political sector and thus a no-go area. This was partly due to the traditional tendency of government to associate NGOs engaging in development policy advocacy activities with opposition politics (Moyo et al 2000). The deepening economic crisis in the late 1990s together with concerns about the existing constitution saw NGOs playing an instrumental role in the establishment of the National Constitutional Assembly (NCA), which went on to spearhead the campaign against the new constitution proposed by the government. The participation of NGOs in the NCA's campaign was a defining moment in government/NGO relations. From that point government perceived NGOs as representing the support base of the MDC and subsequently treated them with the contempt with which it related to the MDC.

While most NGOs were in favour of land reform and the equitable distribution of land their response to the FTP was generally rooted in objections to reported human rights abuses and the marginalisation of certain groups, including women and farm workers. In many cases, their position also recalled the inception phase of LRRP 2 and its promise of government and donor partnership with NGOs in a 'learning by doing' phase of the programme. The refusal of NGOs to endorse the FTP saw them labelled MDC supporters. As the rift between the Zimbabwe government and the NGOs grew, the position of NGOs, most of which were funded by international donor agencies, became increasingly precarious. Moyo (2004) postulates that the leadership vacuum in civil society's mobilisation for land gave the 'war veterans' growing autonomy.

The deepening political crisis in the country went hand in hand with the increasing politicisation of the NGO sector. NGOs, largely part of the urban electorate and increasingly critical of the government's management of the country's troubled economy, became increasingly vocal in their criticism. More significantly, they mobilised increasingly against perceived human rights abuses (including torture, assault and arbitrary detention) (Amnesty International 2004). They also bemoaned the enactment of repressive legislation such as the Public Order and Security Act (POSA), the Access to Information and Protection of Privacy Act and the Broadcasting Services Act (see Appendix) which, they maintained, denied Zimbabweans the basic freedoms of assembly, speech and association (Sisulu 2005). Bad governance and non-democratic processes and practices were also cited, including interference with the independence of the judiciary

The limitation of the space for NGOs to engage in discussions and processes such as land reform that were deemed political was aggravated by the infamous and draconian NGO Bill intended to police the NGO sector by means of subjective registration criteria, provisions allowing for the shutting down and banning of

NGOs and stringent operating guidelines and limitations. The Bill, previously judged unconstitutional by the parliamentary legal committee, was passed by the largely Zanu-PF Parliament. However, as a result of the outcry from local NGOs and faith-based groups, the Bill was never signed by the President and was referred back to Parliament. Nonetheless the impact on the NGO sector was appreciable. Intimidation and the environment of uncertainty, combined with the closure of certain organisations and disruption of others by the refusal of work permits (under the Private Voluntary Organisations (PVO) Act). The repressive environment had the effect of shrinking the political space for NGOs.

### *Marginalised groups – farm worker communities*

A frequently noted failing of the FTP was the dispossession and marginalisation of Zimbabwe's farm worker communities. Traditionally among the lowest paid labourers, farm workers have a history of marginalisation which has long been reflected in the poor or non-existent delivery to this sector of services such as education, health and housing. Farm worker communities also have limited food and income security and limited rights to land occupation and use. The ill treatment and marginalisation is rooted in their perceived class, but also in the fact that a significant proportion of them are of foreign origin – of Malawian, Zambian or Mozambican descent. A significant proportion have no form of identification – either as a result of their family origin or by virtue of the inaccessibility of services. This means that they are not legally recognised and cannot vote – one reason why politicians do not recognise them as a constituency and do not feel obliged to address their needs (Amanor Wilks 2001). Within this framework farm-worker communities had been excluded from benefiting from all phases of the land reform programme since independence. However, their marginalisation reached unprecedented levels with the FTP (see Box 3). While estimates vary, fewer than 5 per cent of farm workers previously employed in the commercial farming sector were resettled under the FTP (FCTZ 2001; Moyo 2004).

In addition to the social marginalisation of farm workers there was a political dimension. Farm workers have traditionally been viewed as closely associated with the households of their farmer 'masters'. They were thus presumed to sympathise with white farmers. This, together with their large numbers and potential impact on electoral outcomes, made the farm-worker community a significant stakeholder group.

Historically, they had few political rights and it was not until 1998 that they won the right to vote in local council elections (Sachikonye 2003). Viewed as a reservoir of discontent following their marginalisation during the implementation of the FTP, farm workers were perceived as posing a threat to the ruling party. Denial of citizenship, first aimed at the white Zimbabwean community, has been extended to Zimbabweans of Malawian, Zambian, and Mozambican descent on the grounds that they were probably supporters of the opposition. It is noteworthy

that, as the 2005 elections approached, this disenfranchisement was further extended to Zimbabwean citizens living outside the country. The right of citizens temporarily living abroad to vote in national elections in their home countries is one that is recognised in most democracies. However, Zimbabwean citizens living abroad are denied this right. Although the government gave administrative reasons for the new regulations the real reasons underlying the move were thought to be linked to political survival and expediency (Sisulu 2005).

With a commercial farming sectors that was practically non-existent, an opposition whose legitimacy to speak on key issues, particularly land reform, was compromised, a polarised population prone to intimidation, an immobilised NGO sector and disenfranchised sections of the electorate (foreign-based citizens and Zimbabweans of foreign descent) – the stage was set for the 2005 elections.

### Box 3

#### The Effect of Land Reform on the Livelihood of Farm Workers

The ways in which commercial farm workers are affected by the current land reform process and land occupations vary quite significantly. Based on the findings on a normally operational farm and on farms that have not been significantly affected by the land issue, farm workers were said to be reasonably food secure although their situation is still not satisfactory. They are still poor in absolute terms, and their access to services such as health and education, in particular, is far from satisfactory.

The worst-case scenario for commercial farm workers involves loss of employment and displacement. If this occurs, the effects on their livelihoods are multiple and extreme:

- loss of home;
- loss of permanent income and secondary casual /seasonal income from agricultural work;
- loss of access to land and inputs for own crop production (affects consumption and income from sale of crops);
- loss of access to fishing grounds;
- loss of access to gold-panning opportunities (on some farms);
- loss of access to subsidised foodstuffs at the farm store, and loss of credit facilities;
- loss of access to education and health services (alternatives to on-farm services may either not be available at all, or may be too far and/or too expensive to access).

The ability of a farm worker to replace lost income appears to depend mainly on whether (a) there are operational neighbouring farms where additional seasonal/casual work can be sought, and (b) whether there are (still) opportunities for gold-panning or fishing on the farm. In none of the cases examined was an example found of farm workers being able to compensate in any substantial way for lost earnings from agricultural work. Furthermore, there will inevitably be a limit to how much additional labour other commercial farms can absorb, and a limit to the capacity of services on those farms to cope with additional people. Gold-panning and fishing are both limited, and can have

negative environmental effects in terms of increased river siltation on the one hand, and over-fishing on the other.

Alternative income sources – land and inputs for cultivation – are limited, as is the availability of ‘free’ resources such as fish and wild foods. The only way to cope with lost income, therefore, is to cut down on expenditure and, because ‘normal’ income levels are already low, it does not take long before any further cutbacks impact on basic needs. In the three cases where a group of workers had lost income, they were all estimated to be consuming less than their minimum food needs and children were having to forego education

SOURCE: FWCT 2001

### THE 2005 ELECTIONS – LAND TO THE RESCUE ONCE AGAIN?

As the country approached the 2005 elections, the socio-economic climate of the nation was characterised by decline. Zimbabwe’s economy, once the fastest growing in Africa, had been the fastest shrinking in the world for several years. For the fourth successive year the country was in the midst of a humanitarian crisis affecting an increasingly significant proportion of the nation. The main causes of the complex crisis included:

- poor agricultural performance and rising food insecurity;
- high HIV / AIDS prevalence (34 %) (Government of Zimbabwe 2004);
- persistently high, triple digit inflation;
- rising and unusually high unemployment (about 70%);
- consecutive years of irregular rainy seasons;
- shortage of foreign capital necessary to access basic commodities.

It was significant that economic hardship affected both the rural and the urban economies. While in previous elections the issue of land had presented the ruling party with an avenue for the proposed turn around of the economy (‘land is the economy and the economy is land’), this avenue was much less lucrative in the run-up to the 2005 elections. By the government’s own admission the ‘initial’ impact of the land reform programme was a determining factor in the country’s reduced agricultural production (Government of Zimbabwe 2004) in a country where the economy remains agriculturally based. In fact the report of the country’s government-led Millennium Development Goals (MDG) of December 2004, which contained this admission together with other disturbing indicators of the country’s economic and social status, was not released until well after the elections. Nonetheless, there were other sources of such analyses, such as the World Bank (see Box 4).



#### Box 4 Zimbabwe's Decline: Distributing Poverty

According to a recent World Bank study of Zimbabwe's agricultural sector the government's land reforms had redistributed 80 per cent of farmland and improved the racial distribution of agricultural property but had increased poverty.

The report said the land reform programme coincided with a deepening political and economic crisis that saw the GDP shrink by more than 20 per cent since 2000, while agriculture registered a cumulative decline of 26 per cent. The programme's impact on agriculture had the effect of displacing 30 per cent of farm workers, who are now destitute and living as squatters

SOURCE: REUTERS 2005

The report, dated 28 February and obtained by Reuters, said 70 per cent of Zimbabwe's 11.6-million people were living below the poverty line as per capita gross domestic product had plummeted by 30 per cent since 1999.

The factors underlying the contribution of the land reform programme to agricultural and hence economic decline were multi-faceted. Key among them were production constraints, some of which were, themselves, an outcome of the land reform process – for instance, shortage of inputs such as seeds. A key production constraint, according to commentators (see, for example, Masiwa 2004) and the Utete Commission, lay in the poor uptake of land allocated to new farmers. Closer examination of the statistics indicated that the problem lay in the uptake rates on land distributed under the A2 Scheme. This scheme, intended for those with adequate resources (financial and otherwise) for commercial production, was popularly seen as catering to the elite – frequently on a partisan basis. By comparison, the A1 scheme, intended for the landless, appeared to enjoy better uptake rates. This trend reinforced the view that class interests inconsistent with the original objectives of the land reform process had compromised the original intentions of the process.

Another element that compromised the FTP was corruption. The socio-political marginalisation of non-Zanu actors during the post-2000 era created a governance vacuum and severely affected their 'watchdog' function. In this environment corrupt practices became systemic. The land reform process was similarly affected. The situation was aggravated by the fact that the FTP was largely implemented in an environment characterised by ad hoc responses and the absence of binding policy and implementation and legal guidelines. Where these were present, there were no enforcement mechanisms.

The perceived widespread 'irregularities' in beneficiary selection and the distribution of land in favour of ruling party elites emerged and gradually escalated to the extent that they marred the land reform process – even among proponents of

**Table 2**  
**FTP Beneficiaries and Take-up Rates**

	No of Beneficiaries			Take up rates (%)	
	A1	A2	Total	A1	A2
Midlands	16 169	229	16 398	90	48
Masvingo	22 670	773	23 443	95	79
Manicaland	11 019	463	11 482	92	42
Matebeleland South	8 923	271	9 194	100	100
Matebeleland North	9 901	191	10 092	100	94
Mashonaland East	16 702	1 646	18 348	93	45
Mashonaland West	27 052	2 003	29 055	97	50
Mashonaland Central	14 756	1 684	16 440	89	73
<b>FTP Totals</b>	<b>127 192</b>	<b>7 260</b>	<b>134 452</b>	<b>97</b>	<b>66</b>

SOURCE: MASIWA 2004

the process (for instance, 'war veterans' and traditional chiefs). Faced with increasingly vocal criticism and declining support both within and outside the party for the land redistribution programme and in the face of the impending election, the government conceded to demands for a more equitable land reform process and established the Presidential Land Review Committee which was intended to identify and address irregularities in the policy and implementation of the land reform programme.

The Utete Commission, as it was known, named those guilty of receiving multiple allocations but was popularly thought to have been an act of appeasement in that it went through the motions without exposing the 'big fish'. So the question arises whether it was simply an elaborate public relations exercise intended to address growing internal dissent and to drum up some popular support midway towards what was widely anticipated to be a difficult election for the ruling party. If this was indeed the intention behind the Mugabe-appointed commission it was a dismal failure. The somewhat controversial report, extracts from which were leaked to the press in October 2003, was subsequently published, excluding sections on multiple ownership of land by people in high places (Palmer 2004). The report unexpectedly detailed some serious problems, including the fact that only half of the intended beneficiaries had been resettled. The commission thus left the ruling party with the need to identify a new strategy for arousing positive sentiment in the electorate.

The period leading up to the 2005 elections saw renewed land acquisitions, costly for the A2 market. In fact, in spite of government claims at the end of 2002 that the land reform programme had been finalised, the designation of farms for the purpose of redistribution continued through 2003 and 2004. By the end of 2004, fewer than 500 of the original 4 500 commercial farmers were still in possession of their farm holdings (Games 2005). All indications however, pointed to government having been overwhelmed by the challenge of equipping newly established small-scale farmers and thus making a success of the FTP. Reports of newly resettled farmers abandoning their recently acquired land or failing to take up their allocations became commonplace in the face of government's failure to deliver services and to supply the support these new farmers had been promised. As 2005 approached, together with its crucial parliamentary elections, the government appeared increasingly concerned with improving the track record of the FTP. Government ministers and even President Mugabe ultimately abandoned the pretence that the programme was successful, acknowledging publicly the poor uptake of land allocations and the poor levels of agricultural production.

The critical shortages of agricultural inputs (caused by disruptions of the agricultural and industrial sectors) resulted in the proliferation of rampant corruption, hoarding, and informal (black market) trade in these scarce inputs, such as seed and fertiliser, mushroomed and proliferated. These practices, together with low uptakes rates and the imperative to jump start production among the newly resettled farmers culminated in government issuing the Presidential Powers (Temporary Measures) Acquisition of Farm Equipment or Material Regulations decree. The decree, announced in January 2004, essentially made it legal for government to confiscate farm equipment and material it deemed not to be used for agricultural purposes. In such cases the owners of the equipment or material were compelled to release them to the government or face prosecution.

These and other measures to boost commercial agricultural activity among the beneficiaries of the FTP met with limited success. The time to derive political capital from renewed land distribution had clearly passed. Perhaps the new target should be the political and business elites whose support required to be consolidated in view of the approaching elections. This was probably the motivation behind the renewed land allocations in the 2004/5 period.

There is another possible motivation for the wave of land expropriations in the period leading up to the 2005 elections. A frequently expressed view was that in the event of an increasingly likely Zanu-PF electoral victory, the ruling party would be compelled to accommodate the MDC in order to win the favour of international actors and hence relieve the economic crisis gripping the country. Given the divergent views of the MDC on the approach to land reform it is likely that those in positions of influence maximised these positions while they still had the opportunity to do so.

The FTP is widely recognised as having caused a (temporary) interruption of agricultural food production in the country through the disruption of commercial

seed, crop and stock feed production. Throughout 2004 and contrary to assessments and surveys, the government insisted there were no food shortages and thus no need for continued humanitarian outreaches and food distribution by local and international NGOs. In May of that year the government expelled a United Nations food assessment team on the basis of overly optimistic crop estimates (attributed to the land reform programme) that were later discredited. Hence, while the land reform programme was at the heart of the food insecurity which characterised the country as the 2005 elections approached, the countryside, where insecurity was worst, was cleared of all NGOs for political reasons. This would have resulted in limited observation and documentation of the extent of the insecurity and, in all likelihood, untold suffering.

### *The urban dynamic*

The land occupations that characterised the FTP took place in commercial farming areas in predominantly rural areas across the country. In addition, there were occupations of urban and peri-urban areas as 'landless' urban people took the opportunity to exploit the chaotic situation created by farm occupations countrywide. The government, whose land policy recognised the importance of peri-urban settlement to the land reform process, responded by regularising these occupations, facilitating their completion (see Marongwe 2003). Those settlers who demanded land for residential (as opposed to agricultural) purposes formed housing cooperatives to give impetus to their demands. In this way, new dwellings were established, frequently without the necessary planning required to facilitate the proper and orderly provision of services. Because the settlements had, in most cases, been facilitated by government, they were allowed to become established. It was therefore entirely unanticipated when, as part of the Government's Operation Murambatsvina (Restore Order) soon after the 2005 elections, the settlements, many of them erected by war veterans, were demolished. Various commentators have interpreted the fact that pro-Zanu quarters were affected by the operation as indicating that it was not politically motivated. An alternative perspective could be that all social re-arrangement that involves substantial changes in access to land is politically motivated. On this basis it is possible that allowing elements whose political favour had been secured or retained through participation in the spoils of the FTP (spoils which in the peri-urban context were frequently unsustainable with respect to planning considerations) to enjoy their 'entitlements' until just after the 2005 elections was deliberate and strategic.

### *Securing the female electorate*

In spite of its much publicised failures and controversies the FTP has been acknowledged as having had some successes. Key among these has been the transfer of large amounts of land to the formerly landless. This success has been tainted by

the failure to ensure gender equity in the redistribution process. Gender inequality in Zimbabwe, as in other countries in the Southern Africa region, must be viewed within the context of race and class and the resulting multiplicity of challenges. The FTP was not designed to meet the prevailing challenges. Between 12 per cent and 24 per cent of the land distributed under the A1 model is said to have been received by women. Under the A2 model the figures were lower, in the region of 5 per cent to 21 per cent (Moyo 2004b). These poor figures reflect the gendered social forces and the resettlement process. They also reflect the continued existence of practices and norms and institutions that are gender conscious.

The poor performance of the land reform process in delivering to women secure access to land was thus a source of a concern to civil society and, in particular, to gender equality advocates. The 2003 Parliamentary Portfolio Committee on Lands, Water Development, Rural Resources and Resettlement report on the assessment/audit of the country's ongoing land reform programme confirmed these concerns, indicating that only two of the eight administrative provinces (Mashonaland Central and Matabeleland South) had even attempted to give a breakdown of FTP beneficiaries by gender and special interest groups. In both provinces the allocations were shown to have been heavily skewed in favour of males. As indicated in Table 3 about 87 per cent of allocations were made to men despite the fact that women have always represented a significant proportion of the electorate and, in particular, of the Zanu popularity base. The persistent marginalisation of women was therefore not in the interest of the ruling party as the 2005 elections approached. This might well have been one of the motivating factors in the appointment on the eve of the elections of Joyce Mujuru as Zimbabwe's first female vice-president. The fact that the Zanu leadership proceeded with this move in spite of internal opposition from much of the party's 'old guard' indicates the value it attached to the female vote. With the female electorate appeased, a Zanu win became increasingly likely.

**Table 3**  
**Gender Desegregation of Beneficiaries**

	Mashonaland Central		Matebeleland South	
	A1	A2	A1	A2
Men	86,6	91	86,9	81
Women	13,4	9	13,1	19

SOURCE: PARLIAMENT OF ZIMBABWE 2003

### THE RELEVANCE OF THE 2005 ELECTIONS

The 2005 elections had a special relevance. Firstly, they were held in the context of the 2000 and 2002 elections, which had been characterised by significant political

tension and violent pre- and post-electoral conflict. In the interim, the governance and democracy discourse, particularly as it related to the electoral process, had taken centre stage in the region and, in particular, among the SADC heads of state. The Zanu government had been able to dismiss criticism by international players (deemed to be pro-Opposition) of its past electoral conduct. A poorly conducted 2005 election was likely to attract similar criticism, but this time from SADC state leaders.

Another significant characteristic of the 2005 elections was that, although they were not presidential elections, the outcome was popularly expected to be significant with respect to the country's political landscape and future leadership. If Zanu-PF were to win a two-thirds majority the government would secure the right to change the Constitution in favour of itself and its policies. Further, the election outcome would have implications for the 2008 presidential election. An MDC defeat in 2005 would probably feed into the growing disillusionment and apathy evident among the party's supporters, weakening MDC's position in the 2008 election, while a Zanu-PF win would reinforce and invigorate the ruling party.

Thirdly, and related to the first point, the elections represented the first opportunity to test recently implemented electoral reforms. The reforms, announced in June 2004, were intended to change the country's processes to conform to the SADC Principles and Guidelines Governing Democratic Elections while at the same time addressing some of the criticisms made of previous elections. Among the reforms were:

- the establishment of a five-person Zimbabwe Electoral Commission (ZEC);
- the establishment of an ad hoc electoral court/tribunal within six months of elections;
- the reduction of polling days from two days to one;
- an increase in polling stations as well as the abolition of mobile polling stations;
- the use of visible indelible ink;
- the replacement of wooden ballot boxes with transparent boxes.

It was against this backdrop and that of the intensifying polarisation and political intolerance described above that the 2005 parliamentary elections were held. Reports indicate that the period immediately before and after election day was relatively less violent than that before the 2000 and 2002 elections. However, it has still been asserted that the pre-election period was not conducive to a fair electoral process. Sources of criticism were varied, but invariably pointed to restrictions on non-state media, the condition of the voters' roll, the continued existence of laws deemed restrictive for opposition parties, such as the infamous Public Order and Security Act under which the right to congregate was severely controlled. As with previous Zimbabwe elections, opinion was sharply divided over whether the exercise had been free and fair. Observers from the African Union (AU), SADC and the South



African government endorsed the elections. The MDC, some civil society groups in Zimbabwe and South Africa and major international players challenged the conduct of the elections, declaring them neither free nor fair.

There was considerable social comment about the likely response of the MDC following the elections. Given the fact that historically one of the party's most effective tools was that of social disobedience in the form of 'stay aways' in urban areas, particularly Harare, there was reason to believe that the MDC would try to mobilise public sentiment in this direction. The likelihood of this eventuality must have been a source of concern for the ruling party and its machinery. It is interesting that the capacity of the MDC to mobilise in this way may have been significantly compromised by social rearrangement resulting from the government's Operation Murambatsvina soon after the elections. Was this simply fortuitous for the ruling party?

### REAPING THE BENEFITS – POST-ELECTORAL CHANGES

Zanu-PF won 78 of the 120 elected parliamentary seats, with the MDC taking 41 (compared with 57 in the previous parliamentary elections). One seat went to an independent candidate, the former Zanu-PF Minister of Information, Jonathan Moyo. Together with the 30 seats available to the ruling party this margin gave Zanu-PF the sought after two-thirds majority, positioning it to effect the anticipated constitutional changes.

#### *Constitutional Amendment 17*

The popular suspicion that Zanu intended to make changes to the Constitution was borne out by events soon after the elections. The Constitution of Zimbabwe Amendment (No17) introduced several amendments including the anticipated introduction of a Senate. The amendment also included Amendment 16B relating to agricultural land acquired for resettlement. Under this section, the Constitution was amended to absolve the government from paying compensation for land (other than for improvements). The section also nullified the right of those whose land is acquired for acquisition to challenge the acquisition in a court of law. The section did, however, magnanimously provide for such persons to challenge the amount of compensation (in line with existing laws). The fact that the law was retrospective meant that all cases already in the courts were effectively dismissed. Another trophy for the ruling party was the space to establish the Senate. The proposed second house of Parliament would consist of 65 members, of whom 50 would be elected, the rest of the seats going to traditional chiefs and presidential appointees. According to government, the introduction of the Senate would improve the quality of the legislative process and its outcomes.

A post-electoral rearrangement that was less expected was the relocation of control over the land reform process. All matters relating to land reform were placed

firmly and fully under the control of the National Land Board in the Lands Ministry. The Land Board was in turn placed under State Security Minister Didymus Mutasa's expanded portfolio, effectively marginalising the provincial governors who had previously been the authorities in this regard.

Given the proximity of the state security ministry to the President, as well as Minister Mutasa's perceived loyalty to President Mugabe, the move was seen as intended to bring land reform issues firmly under the control of the President. It is likely that this was a sign of frustration on the part of the presidency with the poor performance of the land reform programme as well as the corruption which, in fact, the President had, on several occasions, bemoaned. The modest achievements of the land reform programme had had an impact not only on the country's food security and economic status (Government of Zimbabwe 2004) but also on the credibility of government claims that the FTP would enhance the country's economy. By extension, this reflected negatively on the presidency, a factor which would have been sufficient motivation for shifting the locus of control to the presidency.

### SOUTH AFRICA – MY BROTHER'S KEEPER?

The progressive political and economic crisis in Zimbabwe has been a source of concern to the SADC region as a whole, a concern that has several origins. The first of these is the economic implications to other economies within the region. It has been estimated that the economic downturn in Zimbabwe cost the region in the region of US\$2,6-billion between 2000 and 2002, mostly as a result of cancelled exports and Zimbabwe's failure to pay for services as the country continues along its path of economic decline (International Crisis Group 2003). A second source of concern relates to the political positioning of Zimbabwe and the negative implications to the region of a failed Zimbabwean state. Zimbabwe, its liberation struggle and its highly principled rejection of ongoing colonial domination in any form has apparently been held in high regard by leaders of neighbouring countries. Its failure would signal a political defeat for pan-Africanism. There has also been a contradictory third concern – that around the perceived 'role model' scenario. Since February 2000, the debate over land reform in the SADC region has been dominated by whether or not South African and Namibian land reform processes would 'go the same way' as Zimbabwe with respect to land occupations.

In view of these concerns the task of persuading the Zanu government to pursue a different strategy with respect to a range of areas has popularly been perceived as falling to South Africa, and specifically to President Thabo Mbeki. Among the reasons proffered for this have been that South Africa is seen as having the most significant economy and President Mbeki is perceived as possibly the most influential leader in the region, hence, with the clout to bring pressure to bear on Zimbabwe. However, from a South African domestic perspective a key reason has been the inevitable destabilisation of its own economy resulting from an increasingly troubled neighbouring Zimbabwe. Nevertheless, the South African sanction of Zanu-PF

expected and called for repeatedly by a range of actors, both within and beyond the two countries, as the 2005 elections approached, did not materialise.

Commentators have proffered several reasons for this. Not least of these might have been the absence of explicit disapproval of, indeed, in some quarters, overt approval of Zimbabwe's FTP. In view of the common legacies of dispossession and economic and social disadvantage suffered by the two nations under minority settler regimes, this was not unexpected. These pro-FTP quarters would have included the social movements (particularly those of landless groups) and traditional leaders (see, for example, National House of Traditional Leaders 2005).

Apart from the issue of political solidarity, any attempt by South Africa to sanction Zimbabwe while retaining the political legitimacy required for its leadership role in a progressively politically integrated SADC region could be likened to walking the proverbial tight rope, particularly in view of the close ties among Zimbabwe, Namibia, Angola and Mozambique emanating from liberation war solidarity, the toughest kind of solidarity to interrupt. Hence it would appear that the South African administration adopted the widely criticised 'quiet diplomacy' approach while securing its own interests. These included increasingly stringent immigration requirements for Zimbabweans intending to visit or immigrate to South Africa. Another measure – a bilateral agreement between South Africa and Zimbabwe supposed to protect South African citizens' property from confiscation (Games 2005) – would have been key to safeguarding the interests of the South African electorate. However, as the crisis in Zimbabwe deepened, these 'firewalls' would gradually have become compromised and increasing numbers of Zimbabweans, both legal and otherwise, would have streamed into South Africa, contributing to that country's already worrying levels of unemployment. Similarly, as the land designations progressed, the agreement protecting the property of South African citizens in Zimbabwe would also have been breached.

President Mbeki recently alluded to another reason underlying the 'quiet diplomacy' approach towards the crisis in Zimbabwe when, at the recent South African Land Summit in Johannesburg, he referred to yet another source of solidarity and or indebtedness, explaining how Zimbabwe had 'waited for South Africa' and sacrificed the opportunity to resolve its land issues more speedily. He is reported as saying:

When the Lancaster House Agreement on land reform with Zimbabwe, which was market-based, expired in 1990, the then Deputy Secretary-General of the (British Colonial) Commonwealth, Emeka Onyeouku, asked Zimbabwe to delay taking another approach.

If, indeed, the South African government feels it is partially responsible for the chaotic nature of the land reform process in Zimbabwe, it is unlikely that it will resort to the widely anticipated strong-arm intervention – it is more likely to continue with variants of the very loud but ineffective 'quiet diplomacy'.

## APPENDIX

## THE PUBLIC ORDER AND SECURITY ACT (POSA)

POSA was enacted in January 2002. It introduces a range of criminal offences, including criticism of the president, whether his person or his office; the publication of a false statement that prejudices or is intended to prejudice the country's defence or economic interests, or which undermines or is intended to undermine public confidence in a law enforcement agency, and the holding of a public gathering without giving the police four days' written notice.

*Key sections*

Section 15 makes it an offence punishable by up to five years' imprisonment to publish or communicate false statements prejudicial to the state, including undermining public confidence in a law enforcement agency, the prison services or the defence forces of Zimbabwe.

Section 16 makes it an offence punishable by up to one year's imprisonment to undermine the authority of or insult the president, including making any false statements about or concerning the president that could endanger feelings of hostility or cause hatred, contempt or ridicule of the president.

Sections 23-31 on public gatherings give the police extensive powers to regulate and control any public gatherings, including banning or breaking up meetings if they are deemed to endanger public order.

Section 24 requires the organiser of a public gathering to give the regulating authority for the area in which the gathering is being held at least four clear days' notice of the holding of the gathering.

THE ACCESS TO INFORMATION  
AND PROTECTION OF PRIVACY ACT (AIPPA)

AIPPA, introduced in 2002, creates a government-appointed Media and Information Commission (MIC) with wide-ranging regulatory powers over the media, including the accreditation of journalists, the registration of media houses, and the enforcement of professional and ethical standards in the media. The MIC's governing board is appointed by the Minister of Information.

The Act makes it mandatory for journalists and media houses to register with the MIC and prohibits non-Zimbabwean journalists or individuals without permanent residency from working as journalists, except for restricted periods and with the permission of the MIC. Journalists and media houses that operate without accreditation are liable to two years in prison. Journalists must renew their

accreditation annually, for which there is an application fee, while media houses must re-register every two years. The MIC may cancel registration for a wide range of reasons. On 7 January 2005, the government passed an amendment to AIPPA that provides for criminal penalties to journalists who operate without a licence.

### THE MISCELLANEOUS OFFENCES ACT (MOA)

The MOA was enacted in 1964 under colonial rule. It provides for punishment for a broad range of offences including penalties for riotous or indecent conduct or threats in a public place. The police have frequently used the MOA to arrest opposition and civil society activists arbitrarily on spurious charges.

Section 7(a) of the MOA makes it an offence punishable by a fine or imprisonment of up to one year to be guilty of riotous or indecent conduct. S 7(b) makes it an offence punishable by a fine or imprisonment of up to one year to use any threatening, abusive or insulting words or to behave in a threatening, abusive or insulting manner with intent to provoke a breach of the peace or to occasion a breach of the peace. S 7(c) makes it an offence punishable by a fine or imprisonment of up to one year to employ any means whatsoever which are likely materially to interfere with the ordinary comfort, convenience, peace or quiet of the public or adversely to affect the safety of the public or to commit any act likely to lead to a breach of the peace or create a nuisance or obstruction.

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