

Subdivisions, a Viable Option for Land Redistribution in Zimbabwe

Sam ZHOU, Zimbabwe

Key words: Subdivision, large commercial farms, legal transfer.

ABSTRACT

On attaining independence in 1980, Zimbabwe inherited a complex land problem that came from the colonial policy of land distribution that was based on race. This policy and pattern of land distribution favored the white settler-community and multinational companies while the local indigenous population lost most of their rights to land. However, now there is general consensus that this situation is not sustainable, and there is need to redistribute land. Land subdivision is one of a number of options available to parcel out land from those who hold large and uneconomic farms.

During the last twenty years of independence, the redistribution of land never took off in earnest, due to a number of constraints, including legal, logistical and financial support. As at 1998, the large-scale commercial farms, owned by less than 1% of the population still held 11.2 million hectares of land, representing 45% of the country's agricultural farmland. Since February 2000, land-less villagers have invaded privately owned farms and demanded to be resettled there. In response, the Government sought a solution by embarking on an exercise to compulsorily acquire farms for redistribution.

The Land Tenure Commission Report of 1994 pointed out that the Zimbabwe government policy for subdivision within the Large Scale Commercial Farming sector is to ensure that all subdivisions are viable, based on the general farming system of the area. Over the years, government policy has also tended to stress the need to ensure security of tenure for all land holdings. This paper draws from international examples and argues that the process of subdivision in Zimbabwe will be viable since it provides smaller, economic and legal land units.

This paper argues that the process of subdivision can contribute to the sustainable redistribution of land in Zimbabwe, in particular, the legal transfer of land to the formerly disadvantaged groups, especially the black population. This process can and could still have worked better in the last twenty years of agrarian reform in an environment of relaxed subdivision controls. The arguments and debate over land tax encouraging the release of more land on the market through subdivision is also discussed. Research has shown that 60 % of Zimbabwe's large-scale commercial farmland is not only underutilized but also wholly unutilized, particularly by absentee landlords and multinational companies.

CONTACT

Mr. Sam Zhou
Survey Institute of Zimbabwe
P O Box 6265
Harare
ZIMBABWE
Tel. + 263 4 750 402
Fax + 263 4 774 820
E-mail: zhou@ecoweb.co.zw
Web site:

Subdivisions, a Viable Option for Land Redistribution in Zimbabwe

Sam ZHOU, Zimbabwe

“In practice, the key policy issue facing Zimbabwe’s agrarian reform policy is how to balance control and access to land, by redistributing land from large scale land holders who underutilized their land to the land poor and small scale and medium scale users, ensure security of tenure for all land holdings, and in the process engender social equity, social security and poverty reduction not only in Zimbabwe, but for the sub-region as a whole”.

Hon. J. M. Made (MP), 2000
Minister of Lands, Agriculture and Rural Resettlement. Zimbabwe.

1. INTRODUCTION

The iniquity of land distribution in Zimbabwe is an historical legacy that started with expropriation of land around 1890. This process, which effectively took all land ownership rights from the indigenous African people living on the land to the British South Africa Company, was without compensation. Land ownership was eventually passed on and legalized by successive colonial governments, which favored the settler white community and multinational companies at the expense of indigenous communities that were relegated to marginal and barren land with low rainfall.

The significant outcome was that by the middle of the 20th century, the country had been legally divided into native reserves and large extensive farms, through a number of legal instruments. Prominent among the statutes were the Land Apportionment Act, the Native Land Husbandry Act and the Land Tenure Act, which were put in place “to ensure that the indigenous African would remain confined to unproductive land – by law” S. K. Moyo, 2002.

In redressing this skewed land distribution, the Government of Zimbabwe has had a number of options at their disposal and indeed, there has been a number of approaches taken by civic society, the government and the international community. Between 1980 and 1997, the government acquired a number of farms on the open market and either systematically resettled people there or leased the farms to qualified farmers who could teal the land. Parts of the provision in the constitution, especially between 1980 and 1990 slowed down the pace of land acquisition and hence redistribution. To date, large numbers of farms have been compulsorily acquired and await redistribution.

The purpose of this paper is to show that there was a historical process of dispossession that was legalized and that created monstrous sizes of farmland currently underutilized or owned by absentee landlords, and that there is a legal process that can reverse the situation within the laws of the land. Subdivision is in fact, the answer to the question posed by the Minister of Lands, Agriculture and Rural Resettlement, in the opening quotation. The process of subdivision can contribute to the creation of smaller legal units that can transfer land from large landholdings to those who need to teal the land.

The paper also draws examples from international experiences in agrarian reform and shows that subdivisions have contributed to a successful break-up from large land holdings to smaller economic units. Examples from Asia, especially South Korea (Table 1.3), Taiwan and Japan are also discussed.

In the Zimbabwe situation, this paper further argues that even during the period of constitutional constraints, those farms that were acquired by the government could have been subdivided and contributed enormously to the process of land redistribution. One might ask whether there is any place for legal subdivision in the face of the current massive compulsory acquisition and subsequent redistribution by the government. Perhaps the answer might come from looking at the other options available to government and other stakeholders.

I submit that subdivision probably remains the only balanced, fair and viable legal option that can guarantee the ownership rights for the many large scale land holders who stand to lose out in the current deadlock and the would be beneficiary small scale and medium scale users currently getting land allocations through compulsory acquisition.

2. SOME FACTS AND FIGURES ABOUT ZIMBABWE (IN COMPARISON)

Zimbabwe has a land size of 390 245 square kilometers. The country's economy is mainly agricultural based although it has strong mining and manufacturing sectors. This is essential statistics in a country where the land question remains unresolved. With an estimated population of 13.5 million as at year 2000 (Central Static Office), the country's Large Scale Commercial Farms are predominantly owned and worked by 4 500, mainly white farmers who were at no time greater than 1% of the population, but continue to dominate Zimbabwe's agrarian economy (Moyo, 1997/98).

Moyo further points out that the challenge is how to "peacefully transfer land from those who have been and remain unwilling and incapable of mobilizing adequate financial and labour resources towards the optimal use of land and natural resources at their command". The land holding structure has not changed much between 1980 and today and the anticipated resettlement that had gathered momentum by 1985 gradually slowed down up to a point where landless villagers and veterans of the liberation war forcibly started resettling themselves on privately owned farms by February 2000.

Tables 1.1, 1.2 and 1.3 show the land distribution at independence in 1980, in 1998 and, after twenty years of insignificant redistribution, and the government's proposed distribution as at December 2000. Considering table 1.1, the question is, can subdivisions play a part in a legal and sustainable manner that ensures security of tenure for all land holdings and guard against fragmentation of land holdings into small and uneconomic units. It is in the creation of the 8.3 million hectares (Table 1.1.) that the process is expected to contribute by tapping into the 15.5 million hectares for the Large Scale Commercial farms as at 1980 (Table 1) to the 5.0 million hectares and in the process create 8.30 million hectares for the Resettlement areas.

Table 1.1. Land distribution in 1980 and Target.

LAND CATEGORY	HECTARES (MILLIONS)		HECTARES (MILLIONS)
	At 1980	%	Targets set in 1990 (1996 standing)
Large Scale Commercial Farms	15.5	39.10	5.0
Small Scale Commercial Farms	1.4	3.5	1.4
Resettlement (State permit)	0		8.3
Communal Areas	16.4	41.4	16.4
State Farms	0.3	0.80	2.5
National Parks and Urban Land	6.0	15.2	6.0
2.1 TOTAL	39.6	100	39.6

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

2.2 Table 1.2: Size Structure of Large Scale Commercial Farms 1998

Category (ha)	2.2.1. Farms		2.2.2. Total Area	
	No.	%	Ha	%
Below 400	1 314	28.2	179 136	1.6
400 – 999	1 096	23.6	748 248	6.7
1 000 – 3 999	1 736	37.2	3 344 205	29.8
4 000 – 7 999	281	6.0	1 580 744	14.1
8 000 and more	233	5.0	5 361 053	47.8
Total	4 660	100	11 213 386	100

Source: Moyo S. The land Acquisition Process in Zimbabwe, 1997/98

Although Table 1.3 is not about Zimbabwe, it shows one of a few seemingly ambitious, yet successful stories in Asia. However, the success may not be entirely attributed to subdivisions, but it is the principle of breaking up from large land holding to small entities in a legal, viable and sustainable manner that is suggestive of subdivisions. This table is also given here because of the anticipated benefits of a successful land reform and as noted by R. L. Herring, 2000, “agrarian reform has a strong track record in terms of the trajectories of states which have grown rapidly and with some equality (South Korea, Japan, Taiwan, for example)”. The economic arguments and empirical justification for the contribution of the subdivision of land is beyond the scope of this paper, but these figures amply demonstrate that the process has a part to play, especially in as much as it is a legal process.

Table 1.3. Land distribution in South Korea before and after land Reform

TENURE CATEGORY	LAND DISTRIBUTION (%)	
	1945	1954
Full Owner	13.8	50.4
Part Owner	34.7	39.3
Full Tenant	48.8	7.2
Other	2.7	3.1

Size of Operational Holdings (ha)	1947	1953
Below 0.5	41.2	44.9
0.5 – 1.0	33.3	34.2
1.0 – 2.0	18.8	16.5
2.0 – 3.0	5.3	4.3
Above 3.0	1.4	0.1

Source: K. Griffin, Poverty and Land Distribution: Cases of Land Reform in Asia

3. THE CASE FOR SUBDIVISION AND WHAT OPTIONS AVAILABLE

The government of Zimbabwe had many options at its disposal in addressing and redressing the imbalance of land ownership inherited from the colonial past. As a revolutionary Marxist government, the natural option for Zimbabwe at independence was to nationalize all land as it did with the command-and-control economy up to 1990. Other options included the expropriation of the landlords and distribution of the land ownership rights as was in China and Vietnam, or compulsory purchases of land from those who had land in excess of a specified amount as was in Japan, South Korea and Taiwan (Griffin, K, 2000).

In Taiwan, the policy was complemented by compulsory sale of land by private land owners to the government while in South Korea, it was complemented by compulsory acquisition of all land of any size owned by absentee landlords. It is noteworthy (Table 3) that land under full tenancy, which compares to the Zimbabwean large land holdings, fell from 48.8% to a mere 7.2%. In fact Griffin (page 4) points out that between 1952 and 1971, agricultural output increased 3.5% a year.

The viability of subdivisions is therefore not in doubt. In support of subdivisions, H. P. Binswager *et al* (1995, 2728) agree with Heston and Kumar who claimed that in Asia “it is hard to find instances where fragmentation (land subdivisions) had involved high losses in output”. He goes further to point out that in Rwanda and Ghana as found by Blarel *et al* (1992), subdivision does not seem to hurt productivity but improves risk diversification (1995, 2728).

However, land subdivision seemed to be route when the new government of Zimbabwe chose to follow the provision of the constitutional agreements that were negotiated at Lancaster House in 1980, which basically directed that government goes out to purchase land on the

open market on a “willing buyer willing seller” concept. It is important to stress that the mode of availing the land does not matter, whether land comes through “voluntary offers to sell or voluntary land transfers”, as was the case in the Philippines, Riedinger, 2000, the process of subdivision can still be used to break up the land legally and providing as many titles as there are land units. Subdivision in Zimbabwe did not take place as much as it looked like a natural path. There were constraints brought about by the colonial legislation that was only slightly modified by the new government.

3.1 Land Subdivisions in Zimbabwe

Zimbabwe has often been quoted alongside Kenya and South Africa as some of the countries where restrictions on the subdivision of large farms have limited the prospects of resettlement schemes (Binswanger *et al* 1995). The legislation that establishes, controls, manages and monitors subdivisions and or consolidations of land held under title are provided for through a comprehensive statutory framework. The Ministry of Land and Agriculture administers the Rural Land Act, while through its Department of Physical Planning, the Ministry of Local Government administers the Regional, Town and Country Planning Act, which is the principal statute. These are well supported by other pieces of legislation like the land Survey Act, administered by the Ministry of Land and Agriculture and the Deeds Registry Act under the Ministry of Justice.

By far the most comprehensive and regularly used tool for the control of subdivisions and Consolidations of rural land (Land Tenure Commission Vol.II), section 40 of the Regional Town and Country Planning Act sets out the condition required for a subdivision permit. It states in part “.... there shall be no subdivision.....consolidationor agreement for a lease without a permit” The permit sets out conditions that include the need for carrying out a survey and subsequent title registration, thereby creating an independent title to the newly created land parcel. It is also argued that this legislation, which was initially enacted in pre-independent Zimbabwe and perhaps aimed at discouraging transfer of land, introduces bureaucratic hurdles to timely subdivision and transfer of land (Roth, Sukume *et al*, upcoming).

It is incumbent therefore that government looks at relaxing subdivision laws in order to allow a speedier transfer of land from large scale holding to smaller family holdings in order to see a significant contribution from the process of subdivision. From the author’s experience as a Land Surveyor, it is also evident that within this framework and the procedure for subdivision, there are legislative and regulatory hindrances that constrain the subdivision and transfer of land. It is within this context that this paper argues that the process of subdivision could still contribute to the legal transfer of land.

3.2 Procedure for Land Subdivision

The procedure for subdivision is elaborate and cumbersome as section 41 of the Regional Town and Country Planning Act calls for any person wishing to subdivide or consolidate a property to “submit an application to the Minister of Local Government. As mentioned earlier, the application is actually processed by the Department of Physical Planning, whose

officers scrutinize the application to ensure that the applicant is the owner of the land, or has authority to act on behalf of the owner and there is no encumbrances on the property like mortgage bonds or other caveats.

The next stage is consultation, as the Planning Officers are obliged to in terms of the Act. Based on experience and the law, those to be consulted include, among others, the Department of Agriculture and Extension Services (AGRITEX), the Provincial Road Engineer, the Department of Natural Resources, the Zimbabwe Electricity Supply Authority, the Surveyor General and others. Once all these consulted groups have returned their comments, a technical report is prepared and this, together with the application are then submitted to the Agricultural Land Subdivision Committee that is chaired by the Ministry of Lands and agriculture.

The above procedure amply demonstrates that the process of a formal application is time consuming and may not guarantee the issue of a permit. It however demonstrates that the process is democratic and legal, especially with the provision of section 45(1) which allows an applicant to appeal to the Administrative court against the decision of the Agricultural Land Subdivision Committee. I therefore argue that legally, and as has been argued empirically, *albeit* economically, elsewhere (The Land Tenure Commission Report, 1994, Moyo, 1997/98) the process of subdivision is a viable option for the transfer of land from large land holdings into small economic legal units.

4. THE LAND TAX AND SUBDIVISIONS

Subdivision places itself as a natural option in dealing with a number of Zimbabwe's land related questions and indeed solutions. In 1994, the Land Tenure Commission suggested that one way of augmenting land shortage was to invest in irrigation schemes in the communal areas (Vol. II, 12) and this directly implies subdivision of the communal land, though not in terms of the Act. The Commission also noted (Vol. II, 12) that a deliberate policy of transferring land to a majority of qualified commercial farmers would reduce land pressure, a policy that can only be implemented through subdivision. One of the debates on land reform that has not yet been finalized is that of the land tax, which seems to be so closely linked to the process of subdivision.

The debate on land tax has still not been finalized and in fact, the Agricultural Land Tax Bill, 1992 is still a draft. The concept is however discussed here in view of it being closely linked to subdivisions. The objective of the bill is to encourage the break-up of large farms and improve land use efficiency as well as increasing supply of land on the market (Rukuni *et al*, 1994). The Commission sites a number of advantages of land taxes in general, narrowing the argument to the situation in Zimbabwe. Three of these advantages that I feel are closely linked to subdivisions are discussed here in relation to the large-scale commercial farms in Zimbabwe, which are largely underutilized.

First, this would not only encourage productive use of the land, but will also bring into production, land that would otherwise be left idle for speculative purposes, especially under relaxed conditions where subdivision is an open option without restriction. Secondly, since

those with the largest land units would pay the highest taxes, it becomes a disincentive to those holding large units of land who should opt to break up their land as a tax relief. Third and finally, it has been argued, (Rukuni *et al*, 1994) that since a land tax is normally capitalized into farm property values, taxes levied on unimproved land result in lower land values and thus making it cheaper to buy land.

The Commission concluded the argument by pointing out that those who are using all their land efficiently will be in a position to pay the tax and those who are not will sell or lease all or part of their land to those who can. In this way, the process of subdivision with its supportive legislation would come into play and ensure that smaller and economic and legal units are brought on to the market.

5. CONCLUSION

It is clear from this paper that the demand for land, especially land with title, outweighs the available land units. History and successive colonial governments created a monster out of the large land holdings that were created for the settler community, but consensus now indicate that this is neither viable nor sustainable. A number of options have been considered in the land redistribution exercise and it is clear that no one solution can solve the land question overnight, especially the legal transfer of land. The current stand off between the government of Zimbabwe and the international community only hurts the speedy resolution of the problem. Fortunately subdivisions could in effect be carried out under the current legislation, even during this period of uncertainty.

Subdivisions, the paper has shown can indeed make a contribution to the legal transfer from large-scale landholdings to small economic units in a manner that ensures security of tenure for all landholdings and for the beneficiary owners. The combined efforts of the land tax and the process of subdivision can together, contribute meaningfully by adding to the administrative decisions of reallocating land. As pointed out, institutions and the regulatory framework that are involved in the subdivision and titling of land, including a thriving public and private sector are well established and ready to drive the process of land subdivision ...

REFERENCES

Official Documents

- Republic of Zimbabwe, (1996):, Alienated Land (Information) Act Chapter 20:20
- Republic of Zimbabwe, (1996):, Communal Land Act Chapter 20:04.
- Republic of Zimbabwe, (1996):, Constitution of Zimbabwe.
- Republic of Zimbabwe, (1996):, Deeds Registries Act Chapter 20:05.
- Republic of Zimbabwe, (1996):, Land Acquisition Act Chapter 20:10.
- Republic of Zimbabwe, (1996):, Land Occupation Conditions Act Chapter 20:06.
- Republic of Zimbabwe, (1996):, Land Survey Act Chapter 20:12.
- Republic of Zimbabwe, (1996):, Natural Resources Act Chapter 20:13.
- Republic of Zimbabwe, (1996):, Provincial Councils and Administration Act Chapter 29:11.
- Republic of Zimbabwe, (1996):, Regional , Town and Country Planning Act Chapter 29:12.

Republic of Zimbabwe, (1996):, Rural District Councils Act Chapter 29:13.
 Republic of Zimbabwe, (1996):, Urban Councils Act Chapter 29:15.
 Republic of Zimbabwe, (1994):, Report on the Commission of Inquiry into Appropriate
 Agricultural Land Tenure Systems, Volumes I-III.
 Republic of Zimbabwe, (1996):, of Zimbabwe, (1998):, National Land Policy Framework.

Works

- Binswager, H. P. et al : in Power, Distortion, Revolt and Reform in Agricultural land relations, a handbook of Development Economics, Volumes III, edited by J. Behrman and T. N. Srinivasan, 1995
- Dale P F & McLaughlin J D, (1988):, Land Information Management, Oxford, Clarendon Press
- Ezizbalike I C, (1996):, Land Registration - How relevant is it in Rural Africa? Written for FAO, University of Melbourne.
- Farvacque, C. and McAuslan P. :, (1992) Reforming Urban Land Policies and Institutions in Developing Countries. The World Bank, Washington D.C.
- Fourie, C, (1994):, Options for the cadastre in the new South Africa: Report to the South African Council for Professional and Technical Surveyors, Johannesburg.
- Francis, S., Klugman J & Hemsling, A. H. (1994):, Decentralisation in Zimbabwe, UNDP Occasional Paper 15.
- Griffin, K, 2000: Poverty and Land Distribution, cases of land reform in Asia. Paper presented to the International Conference on Agrarian Reform and Rural Development (ICARRD) Tagaytay City, the Phillipines, December 2000.
- Herring, R. J.; Beyond the political impossibility theorem of agrarian reform, Paper presented at the International Conference on Agrarian Reform and Rural Development (ICARRD) Tagaytay City, the Phillipines, December 2000.
- Mlalazi, A, (1993) Small Urban Centres Development in Zimbabwe, : paper presented at the UNCRD meeting , 1-3 December 1993 in Nyeri, Kenya.
- Moyo, S. K, 2002: *Maintain journalistic professionalism, (An address to the Pretoria Press Club by the Zimbabwe High Commissioner to South Africa)*, in the Herald, February 04, 2002, Harare, Zimbabwe.
- Mutizwa-Mangiza, N D (1989):, Decentralisation in Zimbabwe - Problems of Planning at the District Level. Rural and Urban Planning Occasional Paper No. 7, University of Zimbabwe 1989.
- Riedinger, J. M., Market –Based-Land Reform: An Imperfect Solution, Paper presented at the International Conference on Agrarian Reform and Rural Development (ICARRD) Tagaytay City, the Phillipines, December 2000.
- Rukuni, M.(Chairman), (1994):, Report on the Commission of Inquiry into Appropriate Agricultural Land Tenure Systems, Volumes I-III. (Goz)
- United States Agency for International Development (USAID), 1995:, Management Assessment of the Department of the Surveyor General and of the Registrar of Deeds, Harare, Zimbabwe.