

A Failed Land Reform Strategy in Zimbabwe. The Willing Buyer Willing Seller

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Abstract

Land reform during the past few years in Zimbabwe has been at the forefront of headlines in Southern Africa and other parts of the world. Land reform in Zimbabwe officially began in 1979 with the signing of the Lancaster House Agreement, in an effort to more equitably distribute land between the historically disenfranchised blacks and the minority-whites who ruled Southern Rhodesia from 1890 to 1979. For the first two decades following independence, Zimbabwe's land reform policy had a low profile and to many it became a model of how land reform should be undertaken. It can be divided into two periods: from 1979 to 2000, where a principle of willing buyer, willing seller was applied with economic help from Britain and secondly, beginning in 2000, the fast-track land reform program. Since the mid-1990s, however, it became clear that the political currency of land, the demands of the landless, unlawful occupation of land and unfulfilled promises of land reform could soon develop a momentum that would be difficult to control. But however the purpose of this paper is to demystify and explain the factors contributing to the failure of the Willing Buyer Willing Seller principle as a land reform model in Zimbabwe.

Keywords: Constitution, ZANU PF, MDC, Land, Imperialism, Inequality

Introduction

Land reform is probably one of the most difficult domestic policy issues to be dealt with by Zimbabwe, Namibia, South Africa and Australia. In each of these countries the process of land reform is incomplete. Zimbabwe, on one side of the spectrum, is facing a crisis in democratisation due to its radical approach to land reform.

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On the other side of the spectrum is Australia which, as a stable and respected democracy, has difficulty explaining why the land needs of such a small minority of its people cannot be dealt with more effectively. In between there is Namibia, where the winds of change and the pressure to 'radicalise' land reform are increasing. And then there is South Africa where systems and policies to deal with land reform are probably the most advanced from a legal perspective, but where the resources, patience and other practical issues to execute reform effectively are becoming serious hurdles in implementing policies.

The stability of Australia is not threatened by the lack of effective land reform, but its credibility as a leading democracy is eroded by the apparent inability or unwillingness to deal with the land aspirations of Aboriginal people. In the three African studies, however, the very democratic basis that took so long to be established could be threatened if land reform fails.

Land reform is generally accepted to mean restitution, redistribution and/or confirmation of rights in land to the benefit of the poor or dispossessed. Land reform is therefore more than a mere land claim-driven process where ancestral land is claimed back by people who were dispossessed. It includes a land claim process, but is widened to refer also to the acquisition of land for distribution to the landless, and the changing and securing tenure to ensure protection for those who occupy it. In its broadest sense, land reform therefore entails a wide spectrum of options such as land claims, acquisition and distribution of land, access to land for certain purposes, land use planning, infrastructure development, farming and commercial support, resettlement programmes, security of tenure and training.

The focus of this publication is primarily on land restitution whereby rights to ancestral land are restored (be it by a claim-driven process or a land acquisition process) as an important element of land reform, although some comments will be made to land reform in general. It therefore falls beyond the scope of this study to compare and analyse different land reform policies in the broadest sense.

Factors Contributing to the Failure of the Willing Buyer Willing Seller

The concept of willing buyer-willing seller principle means a completely voluntary transaction between a buyer and a seller. In this regard the principle accurately denotes the lack of compulsion on landowners.

The underlying assumption is that there are willing buyers and willing sellers who are involved in transaction process in the market place on an equal basis. However, upon a critical examination and analysis of this principle, it is clear that the willing buyers are those who are in need of land. They are landless as well as resource less. And in the context of the African setup, the willing buyer is dependent on the state to enter the market place through the Government's grant system to purchase the land in order to fulfil his various needs for socio-economic development. (The department of land affairs, 2006). The social and economic profiles of the willing buyers make them dependent also on the co-operation of the acquisition of land as exhibited in Namibia, South Africa and Zimbabwe. Therefore, the willing seller, willing buyer principle was arrived at, by controversial and continuous discuss at the Lancaster house in Britain, it was the promise given by the government of the UK, with the support of the US government, to set up a fund for financing the purchase of land from the white settlers, which made it possible for Lancaster House Conference to succeed. As it were, the thesis of this essay is to discuss the reasons behind the failure of the willing seller, willing buyer principle.

Lack of justice at the Lancaster house land resolution precipitated the failure of the willing seller, willing buyer principle. The Lancaster House Constitution contained a clause (section 16), that created a strong and robust framework for property rights. It ensured, in effect, that for the first ten years of independence, land redistribution would be based on the willing buyer, willing seller principle. Section 16 was one of the entrenched provisions of the new constitution which meant that it could not be amended for a period of ten years. One scholar quotes the view of the Patriotic Front as saying (1979) that: The Lancaster House conference produced a constitution which secured for the whites unhinged citizenship rights, a bill of rights which precluded the expropriation of private property..." The Lancaster House constitution paid little. If any attention to the plight of the victims of the colonial systems, leaving the wounds to fester and very unpleasently burst twenty years later. It protected those who owned property but did not address the concerns and interests of those who were disposed by the unjust colonial systems.

Land grievances and claims were therefore unresolved, left instead to the operation of market forces through the willing buyer, willing seller principle.

Under the Lancaster house constitutional provisions, no meaningful land reform programme could take place. The constitution obligated government to acquire land on a willing seller-willing buyer basis during the first ten years of independence. Where land was offered to government in most cases it was expensive, marginal and occurred in pockets around the country, making it difficult to affect a systematic and managed land reform. Moreover, land supply failed to match the demand for land resettlement. The principle served no justice to the African majority who were poor as a result of colonial masters and as it were for them to purchase land it was more of a burden than relief as they want to present it. This can be further substantiated by (Julius Nyerere, 1979) the then president of Tanzania expressed his view on the land question saying, that To tax Zimbabweans in order to compensate people who took it away from them through the gun. Really the British cannot have it both ways. " (cited in Utete report, p17)

The Land question is one of the issues that was poorly handled at the Lancaster House Constitutional negotiations in 1979. The arrangement proposed a problem; rather than find a suitable way of resolving it. That failure has haunted post colonial Zimbabwe to this day. The Lancaster house constitution sought in the main to safeguard existing property rights, which were largely a legacy of the colonial era and the system was characterized by extensive racial imbalance in land ownership, with changes envisaged through a market based "willing buyer-willing seller" basis- the change, if any, would be gradual rather than immediate and dictated by the market. The amendments to the Lancaster House Constitution have over the years sought to change this in order to give the State more to acquire, take ownership and redistribute land without the shackles of the market (Magaisa, 2007). And as a result the aim of the enactment of the Land Acquisition Act, Subsequent to the introduction in 1990 of Constitutional Amendment Number 11, both of which had the effect of releasing the government from the vice-like grip of the willing seller/willing buyer provision. This can even be substantiated by the late Joshua Nkomo reasoned against this principle " I don't think we are being unreasonable if we say you commercial farmers, who own the best and the bulk of Zimbabwe's land because of history, should share part of it with the indigenous, displaced and landless blacks who are the majority" Joshua Nkomo, addressing commercial farms in Matebeleland, Zimbabwe Sunday Mail, 9 July 1989.

The enmity between the blacks and the whites made the principle of willing seller willing buyer futile. As ambassador Mubako put it: The colonial racial division of the land left white farmers [one percent of the population]owning 65 Percent of the best farmland of the country, while over 9 million blacks were crowded on small, infertile , sandy plots, or were made landless and jobless.' Despite the agreement made by the former colonial government and zanu PF government in 1980, that national healing and reconciliation should take effect, the majority of the blacks kept haunted by the memories of the injustices of their former colonial masters which (Magaisa, 2003) argues that they were impatient of the progress effected by the willing seller, willing buyer. This has been contrasted by President Mugabe speech in Chimurenga who strongly believe that the struggle in Zimbabwe is not about racism but land: The struggle in Zimbabwe and indeed in southern Africa as a whole has never been against the white man per se. it is not a struggle for exclusive African rights. On the contrary our struggle is against an unjust system- a system of exploitation, oppression and racial discrimination. It is a struggle for human equality and dignity. The struggle as we see it is fundamentally between the exploiting class and the exploited class. The exploiters who control political, military and economic power are wholly white..and the exploited and powerless are wholly Africans. Because of this racial division our struggle tends to be confused and often misinterpreted as a racial one. Wedo not accept thessi. We believe that white racism is only the result of te irrationality of imperialism, the highest stage of capitalism. Imperialism to us, has been the major source of economic and social conflict.' (cited in preface to Chimurenga, p 5) it is clear that the vantage point here is of the historical enmity rather than the issue, therefore one can clearly see that the principle could not have worked with such misunderstanding and revenge attitude around the two groups.

The socio-economic condition of the blacks in the communal areas who constituted three quarter of the population contributed to the ineffectiveness of the willing seller, willing buyer concept. More so, the rate of acquisition was far too slow, and expensive. In a six-part series in the Harareherald in August and September, 2002, Gregory Elich wrote that: A study examining the effect of global warming on agricultural production in Zimbabwe lends urgency to the land reform process.

Consequently he writes , without land reform six million poor black farmers crowded into the [marginal] communal areas are likely to be driven from their homes as their land becomes increasingly incapable of producing crops, the lack of land reform, or even a delay in the implementation of land reform, could spell economic and human disaster of grand proportions. It was in these conditions that in 1990, on the expiry of the willing seller –willing buyer provision in the constitution, Zimbabwe parliament passed the land reform act, authorizing the government to expropriate land held by Europeans at a price fixed by the state, and to redistribute it among the poor. Eventually, this is what led to the government of Zimbabwe launching the fast track land reform programme without holding because of the plight of the majority in their land.

The legal architecture and a lack of financial resources limited the pace of land reforms in the 1980's. This view is echoed by (Linnington, 1999) who wrote : for the first ten years of independence the government was precluded from embarking on a meaningful process of land redistribution because section 16 of the Constitution was effectively insulated from amendment during that time. Haunted by the 1982 drought, the government of Zimbabwe faced a lot of pressure from the black majority who were landless and worsened by lack of financial resources the black majority who were landless and worsened by lack of financial resources the government saw the land reform as the only panacea to the blacks plight whose land could not yield any produce. Thus the legal framework designed by the former colonial master appeared as a hindrance to any effective move towards black empowerment and that led to the unpopularity of the principle.

The white farmer's attitude towards land reform compromised the success of the willing seller, willing buyer principle. Given fertile and productive land and the white farmer had along with the booming agricultural production in terms of tobacco, cotton and maize, all cash crops, very few farmers were willing to sell to the government for the land redistribution (Moyo, 2005) and more so, a free market willing buyer, willing seller basis was never going to adequately resolve the problem given that it depended on the will of the seller and the financial capability of the buyer to take up any offer. According to Moyo land reform progress during the first decade and a half of independence was unsatisfactory as the land supply side of the redistribution effort was at the time the least transparent and most contentious issue around which future conflicts will revolve..." with complications one can assert that there was no where this principle could have worked.

The tragedy is that the postponement of this problem at Lancaster perpetuated land inequality, which afforded the ZANU PF government to rally support based on Pan Africanism and social justice rhetoric when facing its greatest electoral challenge from the movement for democratic Change (MDC) in 2000 (Growland, 2002) By so doing, ZANU PF presented itself as the party continuing the revolution that had started with the Chimurenga wars. It is little wonder that post 2000 land reforms are couched in ZANU PF parlance as the Third Chimurenga, in reference to continuation of an African struggle for both political and economic independence. As a result the willing seller, willing buyer principle lost prominence as the panacea to solve the land issue in Zimbabwe.

Britain, the US and the Other donor countries stopped donating to the land reform as they deemed it corrupt and unfair if the government compulsorily acquired farms. This led to the government, which was also now facing other economic problems due to the ESAP program to run out of money for land reform. The resettled families did not get much assistance from the government in terms loans, training and infrastructure such as schools, clinics and roads and other necessary infrastructure. With pressure from the thousand of landless Zimbabweans who want to be settled and those settled but lacking development and resources, the government convened the Land Reform Donor Conference in Harare in 1998 to present and involve them in their plans for the second phase of the land acquisition process.

However, in May 1997 election, major's conservative party was defeated, making way for Tony Blair's Labour government. On being approached by the Zimbabwean government, to bring to fruition the discussions initiated during the previous conservative government, the Blair administration reneged entirely on Britain's Lancaster House undertakings to assist with Zimbabwe's land reform programme. Meanwhile the Zimbabwean government persisted in its efforts to solve the land question amicably. To that end, it convened a land Donors conference in Harare between 9 and 11 September 1998, No less than 48 countries, including Britain and a few international organizations were represented at the conference which agreed upon a package of basic principles and a framework for international assistance for Zimbabwe's land reform programme. The donors made promises to finance an inception Phase, which was to be carried out in the first 18 to 24 months.

Following these promises owing largely to British opposition, none of the pledges of financial support given at this conference were honored. The situation required urgent action by the government. To its great credit, the government of President Mugabe responded by the adoption of the fast track land reform and resettlement programme (hereafter FTP) for the resettlement of the Zimbabwean peasantry, which had been starved of land for an entire century. The FTP began on 15 July 2000. In light of the above account it is however clear that this marked the end to the Lancaster house agreement.

Conclusively, it is quite clear that the willing buyer principle failed as means to solve the land question in Zimbabwe as shown in the above thesis. In light of this judgement one is not blind to see the unfair ruling of the colonial government at the Lancaster house conference which precipitated to complications in dealing with the land issue later. As shown above, there was nowhere this concept could have been an end by itself due to the following reasons that limited it thus; lack of justice at the Lancaster house conference, the white farmers' conduct to land reform, Britain and the US stopped funding the land reform as per agreement, socio-economic conditions of the blacks in the communal area to mention just a few. With these factors the government of Zimbabwe was left without choice but embark on the fast track land reform.

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