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## ZIMBABWE'S LAND RESETTLEMENT PROGRAM: LESSONS FROM KENYA AND ALGERIA

GARY SAMPLINER\*

There are few more dramatic opportunities for change in the Third World today than those offered in the commercial farming sector of the newly independent nation of Zimbabwe. Upon its coming to power in 1980, the majority-ruled government of Robert Mugabe found itself inheriting the most prosperous and modernized commercial farming system in black Africa. Yet, this system was in large measure owned and controlled by a mere handful of white farmers, leaving the vast majority of blacks in a position of bare subsistence on overcrowded, poor quality land. As a result of nearly a century of white domination and explosive black population growth, rural Zimbabwe may have provided the world's most staggering contrast between the rich of one race and the poor of another living side by side.

Mr. Mugabe's party, the Zimbabwe African National Union (ZANU), came into power in the 1980 elections after taking a leading role in the long struggle against Rhodesia's Ian Smith regime. "Land for the People" was the centerpiece of ZANU's campaign. The campaign also featured promises to collectivize agriculture, nationalize the "commanding heights of the economy," and transfer control of production to workers.<sup>1</sup>

The new Government recognized, however, that any disturbance of the largely white-run commercial sector could cause severe disruptions in Zimbabwe's economy for many years to come. Shortly prior to independence, white farmers produced ninety-two percent of the country's marketed output.<sup>2</sup> These farmers were responsible for an overwhelming majority of the country's agricultural exports, constituting over forty percent of the country's total exports.<sup>3</sup> It was also estimated that

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1. ZIMBABWE AFRICAN NATIONAL UNION, POLITICAL PROGRAMME, *quoted in* Bratton, *Development in Zimbabwe: Strategy and Tactics*, 19 J. MOD. AFR. STUD. 447, 455 (1981) [hereinafter cited as Bratton].

2. R. RIDDELL, THE LAND PROBLEM IN RHODESIA: ALTERNATIVES FOR THE FUTURE 13 (1978) [hereinafter cited as RIDDELL STUDY].

3. Kinsey, *Forever Gained: Resettlement and Land Policy in the Context of National Development in Zimbabwe*, 52 AFR. 2, 94 (1982) [hereinafter cited as Kinsey (1982)]. See also Kinsey, *Emerging Policy Issues in Zimbabwe's Land Resettlement Program*, 1 DEV. POL'Y REV. 163 (1983) [hereinafter cited as Kinsey (1983)].

Zimbabwe's 5000 white farmers employed one-third of the country's total salaried labor force and supplied half of the rural blacks' food requirements.<sup>4</sup>

Carrying out a massive resettlement program in the white areas, therefore, may be a colossal gamble for the new Government. The country does possess a number of advantages, however, which were not possessed by other African countries at independence. These advantages include a well developed agricultural infrastructure (at least in the white areas), a nucleus of experienced whites and university-educated blacks, and a relatively self-sufficient industrial sector.<sup>5</sup> Zimbabwe is also unique among African countries in one other significant respect—it can benefit from the experiences of other fledgling countries which have tried similar programs over the past twenty years.

Some prominent Zimbabweans have stated publicly that the country's development strategy must be based on a thorough study of the mistakes made by other African countries.<sup>6</sup> This article shares a similar view, but will also attempt to show how Zimbabwe might profit from adopting certain successful policies of other African nations. This article will compare and discuss the pertinent resettlement laws of Algeria and Kenya, and will review the policies they were meant to implement.

Kenya provides an obvious basis for comparison, since at independence it implemented a major resettlement program designed to shift control of the country's commercial farms from European settlers to Africans.<sup>7</sup> In Kenya, as in Zimbabwe, the colonial agricultural sector had been dominated by several thousand European settlers. These settlers appropriated the country's best land for themselves and left a rapidly growing indigenous population to fend for itself on the remaining territory.

Algeria is a less obvious country for comparison, for historical as well as ethnic and geographic reasons. Since nearly all of the white-owned farms were abandoned at the time of, or shortly after, independence, Algeria's new Government had no need to concern itself with the transfer of land ownership from European to indigenous hands. Al-

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4. Bratton, *supra* note 1, at 457-58.

5. Ross, *Zimbabwe's Hopes Dim*, Wash. Post, Apr. 27, 1983, at A1, col. 2.

6. See, e.g., Harare Business Herald, May 13, 1982, at 3 (quoting nationalist leader and businessman Dr. Michael Marvena).

7. A number of commentators have noted the comparisons between Kenya's and Zimbabwe's resettlement programs. See, e.g., J. HARBESON, LAND AND RURAL DEVELOPMENT IN ZIMBABWE: A PRELIMINARY ASSESSMENT 25-26, 29-30 (1981) (paper for the Agency for International Development) [hereinafter cited as HARBESON (1981)]; RIDDELL STUDY, *supra* note 2, at 89-91; Kinsey (1982), *supra* note 3, at 102.

geria's experiences are nonetheless useful for Zimbabweans to consider because of the similarities between many of the professed policy goals of the two countries, which had emerged with a similarly structured colonial agricultural sector at independence.<sup>8</sup> After examining the major components of each country's land reform program, this article will conclude by applying some of Algeria's and Kenya's experiences to questions likely to be faced by Zimbabwe in the coming years.

## I. BACKGROUND

The new Government was compelled to put major emphasis on its land resettlement program for two reasons. First, there was tremendous political pressure arising from the inequities of the colonial period and the guerilla war. Approximately half of the country's land, including most of its best agricultural land, had been taken from its African inhabitants and placed in the hands of approximately 5000 white farmers by the Land Apportionment Act of 1930.<sup>9</sup> Under this Act, only whites were allowed to purchase land in the areas designated European Purchase Areas. In contrast, most of Zimbabwe's rural blacks were consigned to live in the so-called Tribal Trust Lands (TTLs), consisting mostly of poorer quality land. Although this legally enforced segregation was put to an end by the Land Tenure Amendment of 1977,<sup>10</sup> the intervening time before independence brought little change in the disparities between whites and blacks in land ownership.<sup>11</sup> It was only natural, therefore, that a primary interest of the black leadership in the Rhodesian civil war was for an end to white domination of the seized land.<sup>12</sup>

Second, the population on the TTLs, approaching crisis proportions, compelled the new Zimbabwean Government to pursue the resettlement program. If each African cultivator in the TTLs is given enough arable and grazing land to support his family, the TTLs are capable of supporting 325,000 families.<sup>13</sup> Instead, by 1977 there were

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8. See *infra* notes 9, 26.

9. See Land Apportionment Act of 1963, ch. 257, Statute Law of Southern Rhodesia (rev. ed. 1969). For a history of the British seizures of African land, see R. PALMER, *LAND AND RACIAL DOMINATION IN RHODESIA* (1977).

10. See RIDDELL STUDY, *supra* note 2, at 12.

11. Riddell reveals that only two farms were bought by Africans in Rhodesia in the first seven months after the 1977 amendments were enacted. *Id.* at 84.

12. Meister, *Zimbabwe: Growth with Justice*, SWISS REV. WORLD AFF., Nov. 1981, at 19.

13. *Id.* at 19, 29. For an earlier estimate, see R. RIDDELL, *THE LAND QUESTION* (1978) [hereinafter cited as RIDDELL MONOGRAPH].

780,000 families in the tribal areas.<sup>14</sup> If no change is made in the near future, the situation may become much worse. A recent World Bank study estimated that the annual population growth rate of Zimbabwe for the rest of this century will be the highest in the world.<sup>15</sup>

The population pressure has also been causing severe ecological damage. By 1965, fifty percent of the grazing land in the TTLs was classified as either bare or heavily overgrazed,<sup>16</sup> and the cattle population has increased by over seventy percent since that time.<sup>17</sup> One estimate suggests that by 1977, seventeen times as much land in the TTLs was being cultivated as was ecologically desirable.<sup>18</sup> Adding to this ecological pressure, there was a need to resettle the 750,000 people who had been displaced by the war.<sup>19</sup> Five hundred thousand of these people had been placed in 203 "protected villages" during the war and were subjected to miserably cramped and disease-ridden living conditions.<sup>20</sup>

The Government's hands were by no means untied with respect to its ability to resettle blacks onto white-owned land. The first constraint was a legal one embodied in the new Constitution of Zimbabwe, which effectively gave white farmers the right to compensation for takings of private property.<sup>21</sup> The provision giving this right was imposed by the 1978 Southern Rhodesia Constitutional Conference, which was held at England's Lancaster House, and was agreed to by Zimbabwe-Rhodesia's Smith-Muzorewa government, the United Kingdom and the Patriotic Front (consisting of ZANU and the Zimbabwe African People's Union (ZAPU), and headed by Joshua Nkomo).<sup>22</sup> This provision was a

14. Meister, *supra* note 12, at 29.

15. Knight, *The Social and Economic Transformation of Zimbabwe*, CURRENT HIST., Mar. 1983, at 109.

16. See RIDDELL MONOGRAPH, *supra* note 13, at 17.

17. *Id.*

18. *Id.*

19. Van der Vat, *The Country in Chaos Mr. Mugabe is About to Inherit*, The Times (London), Mar. 31, 1980, at 8, col. 5.

20. Jokonya, *The Effects of the War on the Rural Population of Zimbabwe*, 5 J. S. AFR. AFF. 133, 139-40 (1980).

21. ZIMB. CONST. § 16(1).

22. See Documents on the Southern Rhodesia Constitutional Conference, 4 J. S. AFR. AFF. 401 (1979). The provision states:

16. (1) No property of any description or interest or right therein shall be compulsorily acquired except under the authority of a law that—

(a) requires the acquiring authority to give reasonable notice of the intention to acquire the property, interest, or right to any person owning the property or having any other interest or right therein that would be affected by such acquisition;

(b) requires that the acquisition is reasonably necessary in the interests of

chief concession exacted by the whites for a peaceful transition to majority rule. Other constitutional provisions allow for prompt takings of land with compensation in emergencies, and for receipts of land purchases from the Government to be remitted overseas unencumbered by any tax or charge.<sup>23</sup> Additionally, the Constitution provides that all amendments to the pertinent constitutional provisions within ten years of independence must receive approval of 100% of the House of Assembly, which is to include twenty seats reserved for whites.<sup>24</sup>

Compensation of white owners is only the starting point of potential problems for any resettlement program. The more serious long-run problem is that Zimbabwe's agricultural productivity, upon which the entire economy heavily relies, could be drastically diminished if the program is not handled properly. Because the white commercial sector produces the vast majority of the country's marketed agricultural output, the transformation of the highly productive, capital-intensive white farms into settlements for black farmers could destroy Zimbabwe's chance for economic advancement for the rest of this century and beyond.<sup>25</sup>

## II. ALGERIA'S LAND REFORMS

### A. *The Initial Stages*

Although Algeria's precolonial land tenure system differed markedly from those of Kenya and Zimbabwe,<sup>26</sup> its agricultural sector went

defence, public safety, public order, public morality, public health, town and country planning, the utilization of that or any other property for a purpose beneficial to the public generally or to any section thereof or, in the case of land that is underutilized, the settlement of land for agricultural purposes;

- (c) requires the acquiring authority to pay promptly adequate compensation for the acquisition;
- (d) requires that the acquiring authority, if the acquisition is contested, to apply to the General Division or some other court before, or not later than thirty days after, the acquisition; and
- (e) enables any claimant for compensation to apply to the General Division or some other court for the prompt return of the property if the Court does not confirm the acquisition and for determination of any question relating to compensation, and to appeal to the Appellate Division.

23. *Id.* § 16(4), (5).

24. *Id.* §§ 38(1), 52(3) & (4). After a ten-year period has elapsed, only a two-thirds majority is necessary. *Id.* § 52(3)(a).

25. For example, on an individual scale, the productivity of white farms was estimated at more than six times the rate of farms in the TTLs for Zimbabwe's staple crop, maize. See HARBESON (1981), *supra* note 7, at 19.

26. Before the French conquest in the early nineteenth century, much of Algeria's

through a similar colonial transformation. When the French took control of Algeria in the early 1830's, they seized most of the country's highly productive estates, claiming to be legal heir to Algeria's former governors, the Turks.<sup>27</sup> The French gradually took over other fertile land in later years. By the time of independence, 22,000 French farmers controlled 2.7 million hectares of the country's best agricultural land.<sup>28</sup> The remainder of the country's usable land continued to be governed by the various precolonial tenure systems.<sup>29</sup> At this time there were approximately 630,000 peasant holdings, located on 7.3 million hectares of generally infertile and remote land, as well as a few large holdings owned by Algerians.<sup>30</sup>

The transfer of power in Algeria was an extremely violent one, having come only after a lengthy and disruptive civil war.<sup>31</sup> After the final unsuccessful offensive by the French OAS in 1961-1962, ninety percent of the European settlers in the country abandoned their farms.<sup>32</sup> Many of the abandoning settlers, embittered by the circumstances of the war, followed a *terre brulée* policy, destroying all of their machinery as they left.<sup>33</sup> The settlers were not the only ones to leave at the time of independence. The final days of French Algeria were marked by the departure of most of the country's white urban population, which included virtually all of its technicians, managers, bureaucrats and entrepreneurs.<sup>34</sup>

Thus, the future fate of Algerian agriculture was highly uncertain

better land consisted of large estates owned by Turks who had governed the country. The estates were operated under a feudal landlord-tenant system common in the Islamic world, called the *khammassah* system. Under this system, the tenants, or *khammes*, were supplied with seed and other inputs from their landlord and were then allowed to keep only one-fifth of the crop they grew. Land controlled by the nomadic Bedouins was allocated by each sheikh to members of his band, with tribal land left over for communal grazing. Land controlled by the Berbers was organized under a system of individual holdings which had become increasingly fragmented over many generations. Finally, there were also extensive *habus*, or Islamic religious endowment lands. See P. FOSTER, LAND REFORM IN ALGERIA 8-10 (1970); Blutstein, *The Economy*, in ALGERIA: A COUNTRY STUDY 169 (H. Nelson 3d ed. 1979) (Foreign Area Studies Series).

27. Blutstein, *supra* note 26, at 166.

28. P. FOSTER, *supra* note 26, at 13.

29. *Id.* at 11. It should be kept in mind that most of Algeria's usable land is suitable only for grazing; only two to three percent of the country's land can be cultivated.

30. *Id.* at 13.

31. The war left an estimated one million people dead and dislocated at least two million people from their land into "regroupement" centers. K. GRIFFIN, LAND CONCENTRATION AND RURAL POVERTY 16, 34 (1976).

32. I. CLEGG, WORKERS' SELF-MANAGEMENT IN ALGERIA 40 (1971).

33. P. FOSTER, *supra* note 26, at 25-26.

34. I. CLEGG, *supra* note 32, at 40.

when independence was declared in 1962. At that time, however, laborers on the formerly French-owned farms spontaneously acted to fill this breach by taking over management of the farms themselves. This managerial system, which soon became known by the French term *autogestion*, was not formally legalized until the decrees of March 1963, nearly a year after the self-management schemes began to operate.<sup>35</sup> Although *autogestion* was soon proclaimed as Algeria's model to the world of socialist democracy in action,<sup>36</sup> most of the "spontaneous" initiatives that brought about self-management were sparked by better-off farm laborers attempting to preserve their jobs and keep squatters off of the former European-held farms.<sup>37</sup> Indeed, the Government has been said to have endorsed *autogestion* only after the fact and as a fait accompli.<sup>38</sup>

The legislation setting up the self-managed farms provided that each farm was to be essentially a cooperative, in which all permanent workers would be full members and eligible to share in the profits.<sup>39</sup> All permanent workers were eligible to vote in the "workers' assembly" for a "workers' council," which would, in turn, elect a "management committee" and a president. The president was to have day-to-day responsibility for managing the farm, while the managing committee was to have general oversight responsibility. The Government ministry in charge of land reform (then called the Office National de la Reforme Agraire, or ONRA) also appointed a "technical director" to supervise each farm's technical operations. The operative decrees were vague as to the division of responsibilities between the technical director and president.<sup>40</sup> Altogether, the former 22,000 farms were consolidated into approximately 2,300 self-managing units of about 1,000 hectares each.<sup>41</sup>

The property status of the self-managed farms was not resolved until July 1963, when the Government decreed that all property seized by or given to "collaborators of colonialism" would become the property of the state.<sup>42</sup> This decree was apparently a blatant violation of article 12 of the Evian Agreements, the legal document that severed

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35. See Decrees Nos. 63-88, Mar. 18, 1963; 63-95, Mar. 22, 1963; 63-98, Mar. 25, 1963 (Algeria).

36. See I. CLEGG, *supra* note 32, at 126 (discussion of socialist objectives of 1964 Charte d'Alger).

37. *Id.* at 48. See also Blutstein, *supra* note 26, at 167.

38. See I. CLEGG, *supra* note 32, at 57-58.

39. See Decree No. 63-98, Mar. 28, 1963, art. 3, 4 (Algeria).

40. See Decree No. 63-95, Mar. 22, 1963. See also Blutstein, *supra* note 26, at 167 (noting that the management formula for self-managed farms has varied over time and with farm size, but that the basic formula has remained the same).

41. I. CLEGG, *supra* note 32, at 84.

42. Decree No. 63-188, July 26, 1963 (Algeria).

France's control of Algeria and stipulated that French-owned property could not be taken without compensation.<sup>43</sup>

The Government concentrated its agricultural efforts in the 1960's on the now socialized "self-managed" sector.<sup>44</sup> During this period, the socialized farms gradually lost their self-managed character and instead came to be controlled by the Government and its appointed representatives.<sup>45</sup> This trend accelerated after the coup by the Boumedienne government in 1965. Although Boumedienne was said to initially support the concept of *autogestion*, he soon became more interested in emphasizing "state capitalism" in the industrial as well as the agricultural sectors.<sup>46</sup> The prevalent belief in Algiers was that the socialized farms were too valuable to the national economy to be wasted on experimentation with self-management, and that solely economic criteria ought to be applied by trained government officials instead.<sup>47</sup>

It soon became apparent that the Government's own solution was deficient in several important respects. First, the Government lacked its own trained management to run the farms. It could find only 1,200 trained directors to run the 3,000 estates, and only 400 of these had received more than one year of training.<sup>48</sup> The Government soon realized how serious this problem was and extended an offer to the former French settlers, allowing them to return to their farms if they would share the administration and management with their former employees. None of the former settlers were reported to have accepted this offer.<sup>49</sup> Moreover, the Government supervisory organs turned out to be no more competent than the managers of individual farms. These bodies were meant to provide credit, technical assistance and marketing services, but a combination of delay, sheer incompetence and excessive

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43. See Evian Agreements, art. 12, reprinted in Musamirapomwe, *The Evian Agreements on Algeria and the Lancaster Agreements on Zimbabwe: A Comparative Analysis*, 12 GA. J. INT'L & COMP. L. 153, 168-69 (1982). Article 12 provides: "Algeria will ensure without any discrimination the free and peaceful enjoyment of patrimonial rights acquired on its territory before self-determination. No one will be deprived of these rights without fair compensation previously determined." *Id.*

44. See P. FOSTER, *supra* note 26, at 15-16.

45. One author estimates that only ten to fifteen percent of the farms' management committees were ever democratically elected. I. CLEGG, *supra* note 32, at 144-45.

46. *Id.* at 134-35.

47. The Government's low estimation of the farmworkers' managerial abilities was not the sole reason for its taking control of the self-managed farms. Another reason was that Algeria's governing party, the FLN, felt threatened by the country's leading labor union. The union had been a major force in bringing about worker self-management of the large estates. *Id.* at 118.

48. K. GRIFFIN, *supra* note 31, at 30.

49. P. FOSTER, *supra* note 26, at 26.

restrictions often resulted in farms being unable to receive credit or market their crops.<sup>50</sup>

The Government was not only short of trained directors, but those it could find often lacked the necessary commitment to make the farms productive. The managers tended to be easily amenable to corruption and nepotism. A number of the large estates were broken up for the benefit of former combatants for the ALN, while many others were managed by *caïds*, indigenous leaders chosen by the French who distributed favors to establish their position.<sup>51</sup>

From the workers' perspective, the coming of so-called *autogestion* made very little difference. Although the directives which set up the new farms called for incentive plans for the workers, such bonuses and profit sharing were rarely, if ever, received. Instead, administrative expenses swallowed up farm revenue.<sup>52</sup> The lack of any significant salary differentials between the highest-paid supervisors and lowest-paid farm workers may also have contributed to a distinct lack of enthusiasm among the peasantry.<sup>53</sup> Other reasons for this lack of interest may have been the workers' continued preoccupation with simply retaining their jobs, their alienation from the central government bureaucrats who controlled the farms, and the suddenness and lack of preparation behind the change to *autogestion*, giving workers an inadequate sense of identification with the new farms.

For all of these reasons, agricultural production stagnated throughout the 1960's, averaging no more than ninety percent of the 1957-1959 levels.<sup>54</sup> Moreover, the growth in population during this period resulted in a swell of rural unemployment (estimated at fifty percent), which was well beyond the capacity of the already overstuffed socialized farms to handle.<sup>55</sup> Consequently, the second stage in Algeria's land reform, known as the Agrarian Revolution, was begun with a barrage of fanfare in 1971.

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50. See I. CLEGG, *supra* note 32, at 154-57. Reports of incompetent management of the state farm sector have continued to the present day. For example, a recent government study found that although its recent mechanization program has delivered an impressive number of tractors to Algerian farms, the lack of a viable supporting strategy for appropriate usage of machinery has resulted in no discernable increase in agricultural production. See *Algérie Sélection* (Paris), No. 56, June 29, 1983, at 2-3.

51. I. CLEGG, *supra* note 32, at 153, 167-68.

52. *Id.* at 159.

53. See K. GRIFFIN, *supra* note 31, at 30. See also Mauge, *Où Sont les oranges d'Algérie?*, *PARIS-MATCH*, Apr. 26, 1976, at 48, translated in Joint Publications Research Service (J.P.R.S.) 64947.

54. P. FOSTER, *supra* note 26, at 52-53.

55. *Id.* at 52. See also Knauss, *Algeria's "Agrarian Revolution": Peasant Control or Control of Peasants?* 20 *AFR. STUD. REV.* 62, 65 (1977).

### B. *The Agrarian Revolution*

The objectives of the new land reform were set forth in the Charter of the Agrarian Revolution, made into law under Ordinance No. 71-73 on November 8, 1971, and signed by President Boumedienne.<sup>56</sup> They include the reclamation of eroded and abandoned land, the lowering of rural unemployment, the satisfaction of domestic food needs, an extension of the market for domestically manufactured items and a redrawing of the boundaries of private farms based on rational standards.<sup>57</sup> Many of the reforms undertaken in the Agrarian Revolution are beyond the scope of this article.<sup>58</sup> Several reforms are pertinent to the choices open to Zimbabwe, however, and will be described below.

One of the major reforms adopted was designed to correct the substantial disparities in land ownership existing in the private sector.<sup>59</sup> The first step taken was to abolish the *khammassah* system of sharecropping.<sup>60</sup> Between 1972 and 1973, three million hectares of state-owned land, nomadic land and Islamic-owned land were made available. Only one-fourth of this land was actually redistributed to 60,000 families, mostly on government-sponsored cooperatives.<sup>61</sup> In the second stage, which took place between 1973 and 1975, the absentee ownership of more than five hectares of dry land or one-half hectare of irrigated land was prohibited.<sup>62</sup> The Government found to its surprise that less than one percent of private farms were owned by absentee farmers in urban areas, and therefore decided to include as "absentee" landowners all those in rural areas who did not perform manual labor on their farms. Another 650,000 hectares were recovered and redistributed in this phase of the reform.<sup>63</sup>

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56. J. RÉPUBLIQUE ALGÉRIENNE, No. 97, at 1270, 1281 (Nov. 30, 1971).

57. See ALGERIAN MINISTRY OF INFORMATION AND CULTURE, *THE AGRARIAN REVOLUTION* 22-24 (1973). See also Blutstein, *supra* note 26, at 169.

58. The legal framework of the Agrarian Revolution is exceedingly complex. It consists of 42 different statutes and regulations, 35 decrees, four executive decisions, and three ordinances. ALGERIAN MINISTRY OF INFORMATION AND CULTURE, *supra* note 57, at 38.

59. It was estimated in 1964-65 that while four percent of the private landholdings occupied 33 percent of total private land, 424,000 peasant families, or 72 percent of all landowners, had plots of less than 10 hectares, estimated by the Charter of the Agrarian Revolution to be the minimum landholding to sustain a family. Moreover, 500,000 families were said to be landless. See Sutton, *Agrarian Reform in Algeria—The Conversion of Projects into Action*, 1 AFRICA SPEKTRUM 45, 50 (1974); Blutstein, *supra* note 26, at 168.

60. See *supra* note 26.

61. Blutstein, *supra* note 26, at 169.

62. K. GRIFFIN, *supra* note 31, at 19. See also Blutstein, *supra* note 26, at 169.

63. Blutstein, *supra* note 26, at 170.

During this stage, the Government also enforced general land ownership ceilings. These varied according to the type of crops grown on each parcel of land, and were based on government calculations of the amount of land necessary to give a family an income equal to three times the salary on an *autogestion* farm, or 9,000 dinars (approximately U.S. \$2,250) per year.<sup>64</sup> Compensation for this land, as well as for expropriated absentee holdings, was paid in treasury bonds receiving 2.5% interest and payable in fifteen equal annual installments. Indemnities were to be paid based on the valuations given for the land tax prior to the Agrarian Revolution.<sup>65</sup>

Altogether, 1.23 million hectares were redistributed during the first four years of the program to 5,295 cooperative-type groups with 84,833 family members, as well as 5,550 individual landholders (who owned only three percent of the allocated land).<sup>66</sup> In addition, the Government began an ambitious program to build 1,000 model rural "Socialist Villages," each of which was to contain central educational and shopping facilities and new houses with electricity and running water for 120 to 150 families. All of the villages were originally scheduled for completion by 1976,<sup>67</sup> but by 1979, only 120 villages had been completed.<sup>68</sup>

Reports on the Agrarian Revolution since the middle 1970's indicate that both the first and second land reform plans have yet to achieve significant results. The "Agrarian Revolution" sector, consisting of 800,000 hectares of land in cooperatives, lagged far behind both the socialized sector and the private sector in producing grains.<sup>69</sup> According to a recent government announcement, a number of cooperatives have failed and are now governmentally controlled.<sup>70</sup> The same governmental domination, corruption and inefficiency that has crippled

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64. Sutton, *supra* note 59, at 58. This amount would be increased to 13,500 dinars for a family with children. *Id.*

65. *Id.* at 59.

66. Karsenty, *Development of Algerian Agricultural Policy Examined*, PARIS MACHREB-MACHREK, July-Sept. 1977, at 31-39, translated in J.P.R.S. 69,981, at 10. A three level structure of cooperatives has been set up for beneficiaries of the program. In the predominant type, members group together land and means of production and collectively farm the land, with income divided according to the hours worked. In the other two types, workers own the land and keep their own production, but must follow a common production plan. See Sutton, *supra* note 59, at 61-62.

67. Knauss, *supra* note 55, at 73.

68. Sutton, *The Socialist Villages of Algeria*, 4 THIRD WORLD PLANNING REV., 247, 251 (1982) [hereinafter cited as Sutton (1982)].

69. *Arabia*, ISLAMIC REV., Jan. 1982, No. 5, at 56, reprinted in J.P.R.S. 80,486. In fact, the private sector was recently reported to have produced two thirds of the country's agricultural output. See *Arabia*, ISLAMIC REV., Sept. 1983, No. 25, at 52-53.

70. El Moudjahid (Algiers), Oct. 5, 1982, at 3, translated in J.P.R.S. 82,403.

the socialized sector has hampered the growth and marketing of crops in the cooperatives.<sup>71</sup> Abandonment rates from cooperatives have been estimated to range from ten to seventy-five percent; a government report admitted that seven percent of the land granted through 1973 was abandoned.<sup>72</sup> Even in the model Socialist Villages, dropout rates were said to exceed twenty percent. Participating peasants, considering themselves to be no better than *khammes* of the state, resented paying for high-priced food and rent.<sup>73</sup>

After twenty years of land reforms, the overall agricultural statistics for Algeria looked grim. From 1966 to 1977, while the population grew 3.2% annually, food production grew only two percent; production of grain and wine, the country's two major agricultural products, was lower in absolute terms than in 1954.<sup>74</sup> The trend toward greater food importation may be Algeria's most alarming statistic. Although the country was once self-sufficient in food, imports accounted for twenty-seven percent of total consumption in 1969 and seventy percent in 1982.<sup>75</sup> Food imports took up forty-five percent of the country's oil and gas earnings in 1974.<sup>76</sup>

Nonetheless, these dismal production figures do not necessarily indicate that the Algerian Government's agricultural policies were fundamentally misguided. The gross production figures did increase steadily over that period in spite of the lack of additional fertile land on which to place new settlements and the loss of over sixty percent of the country's agricultural machinery, as well as over half the country's livestock, at independence.<sup>77</sup> Moreover, the country was faced with the loss of its major market for wine, Algeria's primary agricultural export, when the French substantially eliminated Algerian wine imports in the 1960's. Furthermore, it is important to realize that the lack of interest in agriculture exhibited by the Government and the peasants was caused in part by the expectation of great benefits to be derived from industrialization and the exploitation of oil and gas. The Boumedienne government, in particular, tended to downgrade the importance of agricultural expenditures in favor of becoming the "Japan of Africa"

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71. Knauss, *supra* note 55, at 73-76.

72. *Id.* at 73; Blutstein, *supra* note 26, at 171; *see also* Sutton (1982), *supra* note 68, at 258 (noting one instance in which 298 of the original 310 beneficiaries deserted their land).

73. *See* Knauss, *supra* note 55, at 74.

74. 219 El Djeich (Algiers), Aug. 1981, at 17-18, *translated in* J.P.R.S. 79,309.

75. Karsenty, *supra* note 66, at 13; Randal, *Algeria Keeps Left by Easing Right*, Wash. Post, Mar. 9, 1983, at A18, col. 3.

76. Mauge, *supra* note 58, at 48.

77. I. CLEGG, *supra* note 32, at 85; K. GRIFFIN, *supra* note 31, at 34.

through oil-financed industrialization.<sup>78</sup>

Finally, the country did make substantial progress in reducing the gaps between the rural rich and poor. For example, it was reported that eighty percent of the country's "large" farms (containing over 110 hectares) were divided into holdings of less than five hectares and redistributed to poor peasants.<sup>79</sup> Those workers who remained on the socialized farms may have also received the benefit of wages which were higher than those received under French rule.<sup>80</sup>

### III. LAND RESETTLEMENT IN KENYA

#### A. *The Land Situation Before Independence*

The traditional land reform system in Kenya varied according to tribe and region, but was generally similar to the system prevailing in Zimbabwe.<sup>81</sup> Ownership of land rested in the hands of each tribe rather than in individuals. The cropland in each area was allocated to individual families, and this land was farmed and subdivided over succeeding generations. Grazing land was shared communally,<sup>82</sup> and an elaborate system of squatters' land rights was developed in some tribes to help redistribute excess people from one group to another.<sup>83</sup> Some of the less populous pastoral tribes, such as the Masai, moved seasonally from one area to another with their livestock, and could only be said to have had a loose form of group tenure over their traditional lands.

The colonial era in Kenya caused massive repercussions on this traditional land tenure system. The British took over 3.1 million hectares of the country's best agricultural land, which they named the White Highlands, and created a highly prosperous system of mixed farms, ranches and plantations.<sup>84</sup> All other lands were set aside and

78. See Knauss, *supra* note 55, at 65-66; Randal, *supra* note 74.

79. Knauss, *supra* note 55, at 75.

80. This assertion is difficult to verify. Even though salaries on the socialized farms were reported to have increased by 100 percent from 1971 to 1976, inflation resulted in a price increase of somewhere between 50 and 125 percent during this period. Karsenty, *supra* note 66, at 11.

81. For a description of similar features prevailing in Zimbabwe, see HARBESON (1981), *supra* note 7, at 8-10, and sources cited therein.

82. For a detailed description of traditional land tenure practices in Kenya, see Coldham, *The Effect of Registration of Title upon Customary Land Rights in Kenya*, 22 J. AFR. L. 91 (1978); Okoth-Ogendo, *African Land Tenure Reform*, in *AGRICULTURAL DEVELOPMENT IN KENYA: AN ECONOMIC ASSESSMENT* 152, 152-56 (J. Heyer ed. 1976).

83. See, e.g., Odenyo, *Conquest, Clientage, and Land Law among the Luo of Kenya*, 7 L. & Soc. REV. 767, 772-73 (1973).

84. Although there were only 61,000 Europeans in Kenya in 1960 (as compared to 7.8 million Africans), they produced an estimated 80 percent of the country's agricultural output. See A. HAZLEWOOD, *THE ECONOMY OF KENYA: THE KENYATTA ERA* 7 (1979).

divided among the African tribes for their use as so-called "Reserves." Although the British planners initially believed that adequate land had been set aside for the Africans, many areas in the Reserves became overcrowded and overgrazed. The fear of encroachment from Europeans and other Africans and the consequent desire for increased land security led to the creation of rudimentary systems of individual land tenure by tribes such as the Kikuyu.<sup>85</sup>

After the Mau Mau uprising in 1952, thought to be caused largely by land pressures from disgruntled Kikuyu,<sup>86</sup> the British realized that major changes were needed in Kenya's land policies. They ultimately utilized a two-prong strategy advocated in 1954 by the East Africa Royal Commission, headed by Lord Swynnerton.<sup>87</sup> The first prong of the strategy became known as the Swynnerton Plan, and was implemented beginning in 1955. The Swynnerton Plan represented the view that in order for agricultural improvement to take place in the Reserves, credit had to be made available to progressive African farmers to allow them to acquire more land and make improvements. The consolidation, enclosure and registration of title were considered necessary to make this credit obtainable.<sup>88</sup>

The second prong of the Commission's recommendations—the transfer of European-owned land to Africans for settlement—was not implemented until 1960. Curiously enough, the resettlement programs were initially proposed by white members of Kenya's Legislative Council.<sup>89</sup> Once these proposals were aired, momentum to implement them built rapidly. In the early 1960's, some of the more conservative set-

85. See Okoth-Ogendo, *supra* note 82, at 158; Harbeson, *Land Reforms and Politics in Kenya, 1954-70*, 9 J. MOD. AFR. STUD. 231, 234 (1971) [hereinafter cited as Harbeson (1971)]. See also C. LEYS, *UNDERDEVELOPMENT IN KENYA* 66 (1975).

86. See Leo, *The Failure of the "Progressive Farmer" in Kenya's Million Acre Settlement Scheme*, 16 J. MOD. AFR. STUD. 619, 620 (1978).

87. See EAST AFRICA ROYAL COMMISSION, *A PLAN TO INTENSIFY THE DEVELOPMENT OF AFRICAN AGRICULTURE IN KENYA* (1954), cited in A. HAZLEWOOD, *supra* note 84, at 9.

88. See A. HAZLEWOOD, *supra* note 84, at 9. The laws resulting from the Swynnerton Plan are presently codified in the Land Titles Ordinance, cap. 282 and the Land Adjudication Act, caps. 283, 284, LAWS OF KENYA (1982).

89. See J. HARBESON, *NATION-BUILDING IN KENYA: THE ROLE OF LAND REFORM* 91-97 (1973) [hereinafter cited as J. HARBESON (1973)]. Liberal and conservative whites each had their own reasons for supporting a resettlement program. The liberals believed that gradual resettlement was a means of preserving free enterprise and holding onto some of their property, which they could hopefully retain as concessions in return for the granting of independence and part of the White Highlands. The conservatives wished at first to preserve their agricultural assets, but subsequently believed that the cause was lost. Instead, they backed expensive guaranteed buy-out schemes to be completed preferably before independence. See Wasserman, *The Independence Bargain: Kenya Europeans and the Land Issue*, 11 J. COMMONWEALTH POL. STUD. 99, 102-05 (1973).

tlers threatened to abandon their farms if they were not assured the ability to sell them at a good price before independence. A number of these settlers followed through on their threats.<sup>90</sup> Kenya's black nationalist leaders in turn were said to have had misgivings about financing an expensive buy-out scheme for land which was taken from them in the first place. Nonetheless, they ultimately acquiesced to the Commission's proposals in order to receive these lands intact and insure that independence would not be delayed.<sup>91</sup>

The first small land resettlement program began in 1961, largely as a result of this compromise. By the following year, squatters were moving onto European lands in large numbers and the land market had substantially collapsed.<sup>92</sup> Black and white leaders soon agreed on the necessity for a more rapid resettlement program. A new program known as the Million Acre Scheme was first introduced in 1962, one year before independence.

### B. The Million Acre Scheme

British land planners had originally intended the new scheme to divide land into relatively large plots to be owned by wealthier and more experienced "progressive" farmers. These wealthier farmers were thought to be the only Africans capable of keeping the former European farms commercially viable. Instead, political imperatives for broader redistribution compelled the Government to divide the land into smaller plots.<sup>93</sup> Under the resulting scheme, 29,000 families were settled on "high-density" plots forecast to produce an annual income of £25-40 after subsistence needs were taken care of, and 5,000 families were settled on "low-density" plots intended to produce an income of £100.<sup>94</sup> The land for the Million Acre Scheme was purchased on a willing-seller, willing-buyer basis over the course of five years at prices prevailing in 1959, the last year in which there was thought to be a free market in land.<sup>95</sup> Although various governments as well as the World

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90. Harbeson (1971), *supra* note 85, at 240-41.

91. J. HARBESON (1973), *supra* note 89, at 98-100.

92. C. HOLTHAM & A. HAZLEWOOD, AID AND INEQUALITY IN KENYA 107 (1976).

93. J. HARBESON (1973), *supra* note 89, at 241.

94. C. LEYS, *supra* note 85, at 74-75. Although Kenya's planners acknowledged that the income targets for the low-density schemes were "desperately small," they pointed to examples where the land was properly farmed by "energetic farmers" who produced ten times that amount. See P. ABRAMS, KENYA'S LAND RESETTLEMENT STORY 24 (1979).

95. J. HARBESON (1973), *supra* note 89, at 222-23. Valuation of this land was performed by expatriate personnel from the Land Development and Settlement Board. The Board was thought to represent the interests of the white farmers. See Leo, *supra* note 86, at 625; C. HOLTHAM & A. HAZLEWOOD, *supra* note 92, at 110. Leys corroborates this

Bank provided development loans, outside financing for the land purchases came from the British Government.<sup>96</sup> The British Government provided a grant for one-third of the value of the land purchase and lent the remaining amount to the Kenyan Government. The terms of the loan provided for 6.5% interest, payable over a thirty-year period. The Kenyan Government in turn extended the same loan terms to the new settlers.<sup>97</sup>

Selection of settlers for the high-density schemes was made by local committees of the Land Settlement Board, and was based on the character of the settlers, their ethnic background, and their employment and landholding status (only the unemployed and landless were eligible). All new settlers were required to sign a Letter of Allotment, which promised them freehold tenure once a number of conditions were met. These conditions included repayment of the loans (so that none of the settlers could own their plots for at least thirty years), personal residence on the plots, farming the plots according to rules of good husbandry as determined by the trustees, and paying all taxes and assessments charged against the land. Failure to comply with these conditions could result in the trustees' spending the necessary funds and charging them, with interest, to the settler. Noncompliance could ultimately result in eviction if no payment was made after due warning. Settlers had no legal recourse if the trustees attempted to recall loans or repossess plots. The settlers were also required to accept development loans in varying amounts in order to develop the land.<sup>98</sup> Stricter criteria based on previous farming experience and financial resources were used in selecting settlers for the low-density schemes.<sup>99</sup>

### C. Subsequent Resettlement Efforts

In 1965, once the Million Acre Scheme was nearing completion, the Government undertook a reevaluation of its land settlement pro-

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observation by noting that the average price paid under the Million Acre Scheme was substantially higher than that paid by companies and individuals in private transactions over the same period. C. LEYS, *supra* note 85, at 85 n.63.

96. C. HOLTHAM & A. HAZLEWOOD, *supra* note 92, at 109-10; C. LEYS, *supra* note 85, at 70.

97. The one-third grant component was thought to cover the cost of the buildings as well as other improvements which were considered not to be capable of generating income for the new settlers. P. ABRAMS, *supra* note 94, at 9-10.

98. J. HARBESON (1973), *supra* note 89, at 281-82. Cooperative societies were another integral element of the schemes. Although membership in these societies was voluntary, 100 percent of the members of most schemes joined. Membership was necessary because essential services were provided, such as dip cleansing for cattle, the lack of which could be grounds for repossession of animals by the Settlement Department. *Id.* at 286.

99. P. ABRAMS, *supra* note 94, at 29-30.

posals. It was assisted by a British commission headed by the economist Maxwell Stamp. The Stamp Mission, as it became known, concluded that further resettlement programs would "saddle Kenya with a heavy debt burden and the UK with a heavy aid commitment for little economic advantage, in order to relieve political pressures which should be tackled in other ways."<sup>100</sup> Over the next decade, the Government followed many of the Stamp Mission's recommendations and distributed most of the remaining large European mixed farms intact, through private sales.<sup>101</sup> Most of these farms became the property of groups ranging in size between two and 11,000 members and organized in the form of partnerships or "land-purchase cooperatives." Since very few individuals were capable of raising the required down payment of twenty to forty percent on farms averaging 600 hectares in size, these groups were generally formed for the purpose of buying land rather than farming it cooperatively. In later years increasingly fewer cooperatives succeeded in acquiring land. The cooperatives were either poorly managed or unable to convince the Land Bank (which provided the necessary credit) to deal with them.<sup>102</sup>

The Government also initiated two other major land resettlement programs in the middle 1960's. One of these programs, the *Haraka* Settlement Schemes (initially known as the Squatter Settlements), was implemented on white-owned farms taken over by the Government under section 187 of the Agriculture Act.<sup>103</sup> Under this law, the Minister of Agriculture has the power to expropriate inadequately managed or supervised land which he can then either sell or operate, with the owner receiving compensation from the proceeds or directly from the Government. Beginning in 1965, the Government appointed a Commissioner of Squatters to settle land taken over under this Act by registering and giving private plots to people who could prove they were landless. Approximately 45,000 people registered, and eventually 14,635 families were settled on plots averaging about four hectares in size.<sup>104</sup>

The second type of scheme was called a *shirika* scheme, under

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100. REPORT OF THE MISSION APPOINTED TO ADVISE ON PROPOSALS FOR A FURTHER TRANSFER OF EUROPEAN FARMS IN KENYA 3 (1965), quoted in C. LEYS, *supra* note 85, at 86.

101. See A. HAZLEWOOD, *supra* note 84, at 33.

102. C. LEYS, *supra* note 85, at 90-91.

103. Agriculture Act, No. 8, cap. 318, § 187 (1955).

104. C. HOLTHAM & A. HAZLEWOOD, *supra* note 92, at 116-17. The Government did not initially follow the terms of the Act; it did not compensate owners for seized land. The British Government complained about the action and eventually the High Court of Kenya ruled that the Government had to compensate the owners for the full cost of their land, plus a 15 percent surcharge. *New Munya Sisal Estates v. Attorney General*, E. AFR. L. REP. 88 (1969).

which the Government purchased large farms to run as cooperatives. Under the *shirika* schemes, landless and unemployed people have been settled on the farms along with the former employees. Each family received a one hectare plot. The rest of each farm functioned as a large farm, managed by an appointee of the Settlement Fund Trustees, for which the members worked for wages.<sup>105</sup> The members of each farm formed a cooperative society, which was able to either purchase the farms with the aid of a government loan or hold the land on a lease, paying an annual rent of five percent of the land's value. Ultimately, the management of each farm is designed to be transferred to each farm's cooperative society, although reportedly this has not yet happened.<sup>106</sup> This method of organization was intended to assist large numbers of new settlers and at the same time maintain the economies of scale and capital equipment of the large farms.

Statistics for the purpose of evaluating these schemes are still sketchy, but certain trends can be discerned from available data. First, none of the schemes have fully met the expectations of their planners. For example, even though the "principal objective" of the Million Acre Scheme was to maintain at least the same amount of production in the new settlements as was achieved under the Europeans, the settlements accounted for barely half the amount of marketed output in 1969-1970 which the Europeans had produced ten years earlier.<sup>107</sup> Another indication of the lower than expected performance of the programs was the fact that loan repayments amounted to only forty to sixty percent of the total debt incurred through the end of the 1960's.<sup>108</sup> In fact, the continued inability of settlers to repay their loans in the 1970's threatened the solvency of the country's entire land resettlement program.<sup>109</sup>

Second, it appears that the smaller high-density plots have outperformed the larger low-density plots, contrary to the expectations of the British and World Bank planners who stressed the need to resettle the more experienced and better-off "progressive" farmers. According to a much-quoted survey taken by the Kenyan Government in 1971, the gross output per hectare of settlement farms of less than four hectares was more than double the output of settlement farms larger than four hectares, and was almost six times the output of settlement farms

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105. See Nairobi Development Plan 1974-1978, at 229, cited in C. HOLTHAM & A. HAZLEWOOD, *supra* note 92, at 114.

106. C. HOLTHAM & A. HAZLEWOOD, *supra* note 92, at 114-15.

107. J. HARBESON (1973), *supra* note 89, at 241; C. LEYS, *supra* note 85, at 75-76.

108. Leo, *supra* note 86, at 637.

109. See A. HAZLEWOOD, *supra* note 84, at 122.

larger than thirty hectares.<sup>110</sup> This result is all the more startling considering the fact that low-density schemes received comparatively better tracts of land, better access to credit and extension services, and more administrative protection against squatters.<sup>111</sup> Disappointing production figures have also been noted on the large farms purchased privately by Africans despite similar advantages which the larger private farms have received.<sup>112</sup>

This trend has been explained as the result of the greater motivation to succeed exhibited by those settlers on high-density plots.<sup>113</sup> Many high-density settlers were subjected to appalling conditions as squatters or resistance fighters and appear to perceive the settlement schemes as an opportunity of a lifetime.<sup>114</sup> Low-density settlers, on the other hand, had already achieved some degree of economic success. To many of them their new plots were merely portfolio investments. In one survey of low-density plotters, for example, it was discovered that thirty percent of these settlers were employed elsewhere for wages, and that one-third of the plots were owned by absentee landlords.<sup>115</sup>

The problems the land schemes faced were most severe in the privately purchased, larger farms. Output on these farms dropped to about a third of their former levels, and arrears on debts rose far above the levels reached by the settlement schemes.<sup>116</sup> The primary economic problem according to Kenya's 1966-1970 Development Plan, was that "most of [the large farmowners] had to devote nearly all their savings to purchasing their farms, which left them with very little working cap-

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110. KENYA MINISTRY OF FINANCE AND PLANNING, STATISTICS DIVISION, AN ECONOMIC APPRAISAL OF THE SETTLEMENT SCHEMES (1971), cited in INTERNATIONAL LABOR ORGANIZATION, EMPLOYMENT, INCOMES, AND EQUALITY: A STRATEGY FOR INCREASING PRODUCTIVE EMPLOYMENT IN KENYA 167 (1972) [hereinafter cited as ILO Study]. The same study revealed that although the net profit per hectare was initially smaller in the high-density schemes, it surpassed that of low-density schemes by 1967-68. See Leo, *supra* note 86, at 632-33.

111. Leo, *supra* note 86, at 631-34.

112. Hinga & Heyer, *The Development of Large Farms*, in AGRICULTURAL DEVELOPMENT IN KENYA: AN ECONOMIC ASSESSMENT, *supra* note 82, at 222, 248-49; see also ILO Study, *supra* note 110, at 166.

113. Leo, *supra* note 86, at 635-37.

114. *Id.* at 637. This was not always the case—13.3% of the high density settlers did not even qualify as landless or unemployed. *Id.*

115. *Id.* at 636. The author notes that the comparative figures for "non-progressive" farmers in the same survey were 7.5 percent and 7.6 percent, respectively. Another survey of farms larger than three hectares in the Central Province found that 90 percent of them had absentee landlords. See Wright, *What Went Wrong with the Picture of Success*, SOUTH, Dec. 1982, at 37.

116. C. LEYS, *supra* note 85, at 92.

ital to operate their farms efficiently."<sup>117</sup> In addition, although the farms differed greatly in size and type of ownership (many were owned by absentees, while others were mass-membership cooperatives), they seemed to have one trait in common. As one commentator found:

It was not just that the technical know-how to run the farms profitably was lacking, but much more importantly, the initial bond that had brought the new "settlers" together—the drive to get on the land—did not afford any basis for discipline or mutual trust or leadership which could be the basis of a collective effort to work the farm back into production and meet its financial obligations.<sup>118</sup>

The pervasive trend in these large private farms has been to subdivide, generally after all loans are repaid. (If this subdivision takes place earlier, all loans have to be apportioned among the members.) More often than not, the income for loan repayments has come from members' outside income.<sup>119</sup> The nonviability of these larger units has been recognized by both the Government and international agencies. In fact, the Government recently announced its intention to split up all large cooperatives.<sup>120</sup>

Many of the same problems of the large farms and government settlements have also been noted in the *shirika* schemes. Labor requirements in the group area of the farms often have not been sufficient to keep all farm members employed. Instead, most of the jobs have gone to those with specialized skills, such as tractor drivers and mechanics.<sup>121</sup> Disillusionment has also been reported from workers on the schemes, who have often considered themselves to be only tenants on "government farms." These workers have thus put most of their efforts into their own plots rather than those of the community.<sup>122</sup> Nonetheless, the *shirika* schemes are still reported to be running smoothly. They may be the only type of scheme possible in which the landless can be settled without destroying the large-scale, capital-intensive agriculture thought necessary for growing crops such as wheat in Kenya.<sup>123</sup>

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117. DEVELOPMENT PLAN 1966-70, at 155, *quoted in* C. LEYS, *supra* note 85, at 92.

118. C. LEYS, *supra* note 85, at 93.

119. Hinga & Heyer, *supra* note 112, at 249.

120. WORLD BANK, KENYA: INTO THE SECOND DECADE 473-74 (1975) [hereinafter cited as WORLD BANK KENYA REPORT]; ILO Study, *supra* note 110, at 169; A. HAZLEWOOD, *supra* note 84, at 49. *See also* The Kenya Times (Nairobi), June 2, 1983, at 6, col. 1.

121. C. HOLTHAM & A. HAZLEWOOD, *supra* note 92, at 115.

122. P. ABRAMS, *supra* note 94, at 44.

123. ILO Study, *supra* note 110, at 168.

The *Haraka* schemes seem to be the most successful of the different systems in effect in Kenya, at least from a cost-benefit perspective. These schemes were the least costly of all the schemes to implement, yet they have now resulted in 14,000 families growing crops on 105,000 hectares of land that was formerly not being put to good use.<sup>124</sup> Moreover, some *Haraka* settlers were reported to achieve yields as high as those of high density settlers despite receiving fewer extension services, no special credit or high-grade cattle and inferior infrastructural facilities.<sup>125</sup> Indeed, a recent World Bank report on Kenya recommended the expansion of *Haraka*-type settlement schemes on relatively unused trust lands.<sup>126</sup>

Although the overall agricultural picture for Kenya still contains some nagging problems after these reforms, the picture is generally favorable compared to many other African countries. Kenya was able to turn over much of its largely white-run agriculture to blacks while increasing its agricultural output at an absolute rate of four percent in the 1970's. Along with Malawi, Kenya achieved the second highest growth rate in Africa during this period.<sup>127</sup> Nonetheless, this corresponds to a growth rate of only 0.6% per capita, which essentially puts the country in the same gross agricultural position it had in 1970.<sup>128</sup> Kenya has also had the advantage over both Algeria and Zimbabwe of having excess unused tribal land on which to expand production.<sup>129</sup>

On the other hand, Kenya's resettlement program (or more accurately, its abandonment of the resettlement program after the Million Acre Scheme) may have sown the seeds of a long-term problem that will be difficult to remedy—the creation of a black land-owning aristocracy. Although the various smallholder schemes resulted in at least 50,000 families becoming able to own land for the first time, the private sale of white lands to Africans allowed, for the first time, a group of Africans with modest amounts of wealth to gain substantial parcels of land. As Kenya's land credit program grew, the ranks of credit recip-

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124. See A. HAZLEWOOD, *supra* note 84, at 33; C. HOLTHAM & A. HAZLEWOOD, *supra* note 92, at 117.

125. C. HOLTHAM & A. HAZLEWOOD, *supra* note 92, at 117-18.

126. WORLD BANK KENYA REPORT, *supra* note 120, at 474-75.

127. WORLD BANK, ACCELERATED DEVELOPMENT IN SUB-SAHARAN AFRICA: AN AGENDA FOR ACTION 167 (1981) [hereinafter cited as WORLD BANK AFRICA REPORT]. Agricultural production grew at a slightly higher rate (4.5%) from 1964 to 1969. C. LEYS, *supra* note 85, at 114.

128. In fact, the country has recently lost its longstanding self-sufficiency in food production. See Wright, *supra* note 115, at 37. In the past year, the food situation in Kenya, like that in many other African countries, has worsened considerably, due primarily to drought. See NEWSWEEK, Nov. 26, 1984, at 54.

129. See WORLD BANK KENYA REPORT, *supra* note 120, at 461-69.

ients became increasingly limited to a small number of people with a proven ability to pay. This gave a further advantage to those who had accumulated modest amounts of wealth.<sup>130</sup> There is little doubt that these programs have exacerbated the disparities in rural wealth in Kenya. By 1982, five percent of the landowners were found to own seventy percent of the land.<sup>131</sup> Meanwhile, a large and growing landless class of at least 400,000 people has been left without a piece of Kenya's post-independence pie.<sup>132</sup>

#### IV. ZIMBABWE'S CURRENT PROGRAMS

There are currently two major types of resettlement programs operating in Zimbabwe—intensive and accelerated resettlement. The intensive settlement program seems roughly comparable to Kenya's Million Acre Scheme. The program was originally designed to resettle 18,000 families over a period of three years, commencing in September 1980.<sup>133</sup> The target income for each family was set at Z\$400 per family, plus subsistence. This figure was reduced from an earlier proposal of Z\$1000. The legal basis for the program, like many other land programs in Zimbabwe, is a pre-independent government statute.<sup>134</sup> This statute, the Rural Land Act (cap. 155) of 1979, allows the Government nearly total control over the purchase of new lands and the award of permits to settlers.<sup>135</sup>

Land for the program is to be purchased on a willing-seller, willing-buyer basis, with the cost, estimated at Z\$60 million, to be shared by the British and Zimbabwean Governments on an equal basis.<sup>136</sup> The

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130. See *supra* text accompanying note 102.

131. Wright, *supra* note 115, at 37.

132. See A. HAZLEWOOD, *supra* note 84, at 34-38; C. LEYS, *supra* note 85, at 115-16. See also ILO Study, *supra* note 110, at 34-38.

133. HARBESON (1981), *supra* note 7, at 24.

134. See *id.* at 14. For example, the Tribal Trust Land of 1979 (pt. II, sec. 7.3), since replaced by the Communal Land Act of 1982, specifically vested the TTLs in the control of the President.

135. A new Land Acquisition Bill introduced in Parliament in 1983, but not yet passed by mid-1984, would give the President the additional power to retake possession of "under-utilized" and "derelict" land under certain circumstances. The Herald (Harare), July 28, 1983, at 1.

136. Kinsey (1982), *supra* note 3, at 96. Actually, the cost of land purchases is estimated to be slightly less than half that total, since development costs constitute the rest. The British, therefore, can be said to be paying the entire cost of the land purchases. This was an important concession won by the Patriotic Front at the Lancaster House Conference; the Front maintained that an African government could not be required to compensate Europeans for land which was illegally seized in the first place. See HARBESON (1981), *supra* note 7, at 25.

money provided by Britain was solely in the form of a grant, unlike the situation in Kenya. Prices for the land were to be roughly in accordance with 1976 prices and were to be individually negotiated by the Land Selection Committee of the Ministry of Lands, Resettlement and Rural Development (MLRRD). In order for land to be suitable for purchase under the program, it must be capable of exploitation, near the communal areas, not presently cultivated or farmed, in a block large enough to permit economic provision of services and infrastructure, and in an area already adequately served with basic infrastructure.<sup>137</sup> By early 1983, nearly 2 million hectares had been purchased for the program.<sup>138</sup>

Selection of settlers is meant to include three basic categories of people: refugees and people displaced by the war, the landless, and those with insufficient land to maintain their families. Settlers must also be between the ages of twenty-five and fifty, married or widowed with dependents, and not employed in the formal sector. The ability of prospective settlers to support themselves, as indicated by their possession of cattle, food stocks, and the like, will also be taken into consideration as a positive factor, although this seems to conflict with some of the other criteria.<sup>139</sup>

Once the settlers are selected, they must relinquish all rights in their home TTLs. This requirement is more restrictive on the settlers than similar requirements imposed in Kenya. Under the traditional land tenure rules still prevailing in the TTLs, all inhabitants of a particular village are likely to retain certain rights. (In contrast, many of the settlers in Kenya sought plots after being squeezed out of other rights through the operation of Kenya's land registration program.) On the other hand, this requirement probably cannot be effectively enforced and is considered unlikely to be adhered to by many settlers.<sup>140</sup> Unlike Kenyan settlers, those in Zimbabwe will be able to occupy their new plots without being encumbered by costly land purchase loans.<sup>141</sup>

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137. Kinsey (1982), *supra* note 3, at 96. Although no land has been expropriated without compensation, there were reports of pressure on farm owners to sell farms in locations deemed strategic for the settlement program. *Id.* See also Kinsey (1983), *supra* note 3, at 171. The same practice was rumored, but not proven, to have been employed by the Kenyan Government in the 1960's. See J. HARBESON (1973), *supra* note 89, at 240.

138. Ross, *Zimbabwe Pushing Ambitious—and Risky—Resettlement Plan*, Wash. Post, Feb. 5, 1983, at A17, col. 1.

139. See MINISTRY OF LANDS, RESETTLEMENT AND RURAL DEVELOPMENT, RESETTLEMENT PROGRAMME: POLICIES AND PROCEDURES (Salisbury 1981), *cited in* Kinsey (1982), *supra* note 3, at 97.

140. Kinsey (1982), *supra* note 3, at 98.

141. Settlers will have to take out certain crop loans, however, amounting to a much smaller amount per family than those loans sustained in Kenya. HARBESON (1981), *supra* note 7, at 29.

In Zimbabwe, however, the ultimate nature of tenure to be held by the settlers has not yet been resolved by the Government. Since the program began, settlers have simply been granted permits to occupy, cultivate and graze livestock in particular areas. These permits provide neither freehold tenure nor a leasehold, but instead, merely grant permission to use the lands provided that certain conditions, such as payment of taxes, are met. If these conditions are not met, the minister has sole discretion to revoke the permits with no recourse available to settlers.<sup>142</sup>

The Government has proposed four models of land settlement under the intensive and accelerated programs. The first type, known as Model A, has been, by far, the most prevalent model. Model A settlements allocate permits for five hectares of arable land, as well as individual residential plots in a village, to each family. Each village will receive approximately fifty hectares per family of grazing land which is to be utilized communally.<sup>143</sup> Altogether, Zimbabwean families received considerably more land than Kenyan families in the Million Acre Scheme, but production estimates per acre of this land are considerably lower than in Kenya. Approximately 16,300 families were settled under Model A schemes by April 1983.<sup>144</sup>

Model B settlements, which are comparable to small Algerian Agrarian Revolution cooperatives, are designed for communal living and cooperative farming. All property, land and equipment (except for livestock) will be owned by the cooperative, and all members (in groups of fifty to 200) are required to live together. This model was meant to accommodate those with very limited means, such as refugees and the landless young, by providing inputs such as farm equipment, credit and livestock. Profits from the Model B settlements are meant to be divided according to a formula developed by the settlers themselves. The Government would like this model to become the basis for its long-term goal of a socialist transformation of the rural sector.<sup>145</sup> It was estimated that approximately 6,000 members were settled on thirty-six cooperatives by mid-1983.<sup>146</sup>

Model C settlements are comparable to Kenya's *shirika* schemes. They will consist of a large-scale central core estate, run by profes-

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142. *Id.* at 27, 28.

143. This number was reduced from the average 65 hectares of grazing land allotted to each family at the inception of the program, apparently because of the governmental desire to further intensify the land resettlement program. See Kinsey (1983), *supra* note 3, at 179.

144. The Herald (Harare), Apr. 18, 1983 (supp.) at 9.

145. Kinsey (1983), *supra* note 3, at 175.

146. *Id.*

sional managers and worked by the settlers, as well as small individual plots for the settlers and communal grazing land. Model D settlements were most recently approved for implementation on the least productive land areas. They are based on group ranching of livestock on former commercial ranches. Each family is also to receive a one-hectare dry land arable plot and an irrigated vegetable garden of one-tenth of a hectare. The most significant innovation envisaged for Model D settlements is that settlers will be permitted to take short-term employment off the farm with the permission of the MLRRD and the settlement's management committees. Only one Model C settlement and one pilot Model D project were in operation as of mid-1983.<sup>147</sup>

The second type of resettlement program, known as accelerated resettlement, was established on an "emergency basis" in late 1981 following a directive from Mr. Mugabe. This program has some similarities to Kenya's *Haraka* schemes. It is meant to resettle large numbers of squatters and other distressed people in a short period of time with a minimum of infrastructure and prior planning. For at least the first few years of the program, settlers are expected to utilize the admittedly overburdened infrastructure and social services of the nearby communal areas. The Government intends to upgrade the accelerated settlements to "proper" settlements when time permits. The planning staff has already been preparing project reports with this objective in mind.<sup>148</sup>

The selection of sites for the accelerated settlements will be based on interpretations of aerial photographs taken to identify arable land and possible locations for villages. Settlers have often been picked for the schemes through a system of self-selection. In many instances the new schemes were implemented in areas where large numbers of squatters were already living, giving rise to the designation of this program by planners as a "squatters' license."<sup>149</sup> The Government has not yet released projections of how many settlers it plans to relocate under the accelerated program. It seemed at first, based on the stated overall target figure of 162,000 families by 1985 (18,000 of which were to come from the intensive program of 1980 to 1983), that the Government wanted to settle over 140,000 families on accelerated settlements. The Government had already settled more than 19,500 families on intensive resettlements by April, 1984, while only 5,500 families were settled

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147. *Id.* at 175-76.

148. *Id.* at 176-77.

149. Kinsey (1982), *supra* note 3, at 97.

under the accelerated program.<sup>150</sup> This has led to the conclusion that the accelerated program will not play as important a role as the Government planners originally expected.

## V. FUTURE PROBLEMS

At latest count, the Government has settled 25,000 families on well over one million hectares of land, with settlements planned for at least 8,000 more.<sup>151</sup> This achievement has been termed remarkable, since Zimbabwe has already been able to convert as much land from white to black control as was converted in the first fifteen years of Kenya's independence.<sup>152</sup> A number of formidable obstacles face the Government, however, as it proceeds with its program. The most obvious of these problems is the cost of implementing the Government's plans. In order to reach its goal of settling 162,000 families (on plots averaging fifty-five hectares in size), the Government will have to purchase nine million hectares of land. This amounts to nearly sixty percent of the country's total commercial farming area. At the current prices paid by the Government, these purchases would cost Z\$228 million, far more than the Z\$ sixty million initially planned. When development costs are factored in, the total cost of resettling the planned number of families would be an estimated Z\$570 million. This is the equivalent of more than eighty percent of average government revenue for the years 1978 to 1980.<sup>153</sup>

There is now little doubt that the Government will not reach its announced goals. This projection is based on the expense involved, as well as the fact that the Government has only been able to settle less than 1,000 families a month in the past year, a rate which would have to be multiplied tenfold to attain the stated goal.<sup>154</sup> Even if the expenses of the program are eventually met, other problems are likely to surface. First, a loss is likely to occur in overall agricultural production.

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150. The Herald (Harare), Apr. 18, 1984 (supp.) at 12.

151. *Id.* See also ZIMBABWE DEPARTMENT OF INFORMATION, ZIMBABWE: THE FACTS (No. 4: RESETTLING THE NATION) 4 (Aug. 1983) [hereinafter cited as Resettlement Fact Sheet].

152. Kinsey (1982), *supra* note 3, at 102.

153. Kinsey (1983), *supra* note 3, at 181. Kinsey seems to have overestimated the development costs of the total program. He simply used the current ratio of development costs to land costs (arising primarily from the intensive resettlement program) without taking into account the Government's plan to resettle most future settlers on the significantly cheaper accelerated program.

154. See The Herald (Harare), *supra* note 150, at 12. The Government admits by now that its plan to resettle 162,000 families by 1985 is "subject to financial constraints, physical resources and other constraints which may obstruct the projected goal." Resettlement Fact Sheet, *supra* note 151, at 3.

Even if the Government's production targets for the settlements are met by the year 2000, this amount will account for only ninety-two percent of the maize and twenty-five percent of the cotton lost from the current production of the commercial sector, resulting in an annual net foreign exchange loss of Z\$ thirty-seven million.<sup>155</sup> If the target rates of production are not met, which seems quite possible from the various unrealistic assumptions made by the Government, the shortfall may be even more serious.<sup>156</sup>

It is also questionable whether the gains to the new settlements in income will outweigh the losses that will take place when jobs are lost on the commercial farms. If the projected nine million hectares of land are taken for the program, a recent estimate suggests that there will be a loss of as many as forty percent of the jobs in the commercial sector, or 119,000 jobs.<sup>157</sup> Moreover, it has been suggested that even if all of the displaced workers in the commercial areas are among the 162,000 new settler families, their projected income of Z\$400 per year would be less than the 1982 agricultural minimum wage of Z\$600 per year.<sup>158</sup> The resettlement program will also entail a large opportunity cost in terms of the amount of lost resources, which would be better spent on rural development of the communal areas. These areas were all but ignored by the Rhodesian Government. Even if the planned number of families is resettled, they only amount to twenty percent of the population of the communal areas. The continuation of the Government's concentration of rural development resources in favor of the new settlers<sup>159</sup> may result in a policy that enables a small privileged group to gain substantial advantages to the exclusion of the impoverished majority.

Another potential cost of the resettlement program, particularly if

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155. Kinsey (1983), *supra* note 3, at 188-89.

156. Some of the unrealistic assumptions are that the new settlers will have animal-drawn equipment although, in fact, it is believed that few eligible settlers have such equipment. It is also assumed that there will be adequate labor, although the lack of schools in resettlement areas and the unavailability of contract labor in the areas are producing labor shortages. *Id.* at 183.

157. *Id.* at 185. This does not seem to have been the case, however, since the white farmers have been selling poorer quality land. See Ashford, *Tribal Land Pressures Force Zimbabwe to Step Up Resettlement Pace*, *The Times* (London), Apr. 7, 1981, at 7, col. 1.

158. Kinsey (1983), *supra* note 3, at 185-86. This estimate might be flawed, however, by the fact that the projected income of the settlers was Z\$400 per year over and above subsistence needs for their families, while subsistence needs would normally have been obtained out of the salaries of wage-earning husbands. Kinsey (1982), *supra* note 3, at 105.

159. Kinsey (1982), *supra* note 3, at 109.

it is hastily implemented, is ecological. Numerous reports have been received about squatters from the communal areas establishing crude plots and planting crops in unused white-owned farmlands, hacking down trees and generally devastating the land in the process.<sup>160</sup> The resettlement program, particularly the accelerated program, poses the danger of causing irreparable harm to valuable land unless the settlers are properly educated or otherwise deterred from damaging the land. On the other hand, it should be recognized that squatters may be more likely to damage the land if there is no resettlement program.

A second major issue for the Government is that of land tenure. Important objectives to achieve in this category include allotting plots of the optimal size and granting the proper degree of security of title, each of which will have a strong bearing on the success or failure of the overall program. A third major issue will be that of settler selection. This issue concerns both the proper choice of settlers by the Government, as well as how the settlers will deal with each other and the Government once they are selected. Finally, the Government will have to determine how the overall programs will be administered and how the related secondary rural activities, such as marketing and extension, will be conducted.

## VI. APPLYING THE LESSONS OF ALGERIA AND KENYA

The experiences of Algeria's and Kenya's land resettlement and reforms are replete with examples that Zimbabwe would be well served to follow, as well as situations it should avoid. First, on the all-important issue of cost savings, an obvious option for the Government is simply to cease compensating white farmers for lands it nationalizes. If such an action were taken, it would surely be a facial violation of section 16(1) of Zimbabwe's Constitution. Additionally, it would outrage most adherents of the western legal principle of the sanctity of private property that is enshrined in the United States Bill of Rights. It should be recognized, however, that the Government's expropriation of land without full or even partial compensation would not be totally devoid of legal justification. The Government of Zimbabwe has at least as good a claim as any other government in Africa to the land occupied by whites since the colonial period. This land was taken, after all, from its black occupants by conquest and fraud in the recent past for the purpose of satisfying the land hunger of a handful of foreign fortune seekers. The inequity that would be suffered by the small group of white farmers from the confiscation of their land would also be bal-

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160. See N.Y. Times, Oct. 19, 1981, at A2, col. 1.

anced, at least to some degree, by the fact that most of them had acquired and exploited their holdings under a system that prohibited access by Africans to their country's best land throughout the last half century.

For these and other reasons, the Government has consistently refused to acknowledge that it is responsible for the compensation of white farmers. Instead, it has placed the onus on Britain, the former colonial power and mother country of many of the white farmers. Accordingly, Mr. Mugabe and other Zimbabwean officials have posited the argument that the Patriotic Front only accepted the inclusion of section 16 in the Constitution at the Lancaster House Conference on the condition that the British Government finance land acquisitions from white farmers.<sup>161</sup> The argument contains the explicit warning that if foreign aid funds are exhausted and not replenished,<sup>162</sup> the Government would consider itself relieved from the strictures of section 16 and could choose another mode of payment, such as long-term government bonds.

The experiences of Algeria and Kenya suggest, however, that even if the expulsion of the whites is achieved with little initial monetary cost, the ultimate cost of such an action would be considerable. In Algeria, the decision to expropriate without compensation resulted in the loss of all remaining credibility with the settlers. When the Government offered to allow settlers to return to manage their farms, none returned. In Kenya, rumors that the Government *might* not compensate the settlers caused many of them to abandon or sabotage their farms.<sup>163</sup> The efficiency and management costs of losing the presence of the whites have been substantial, particularly in Algeria.<sup>164</sup>

Prospective losses to Zimbabwe due to white alienation might be less than in the other two countries—partially because the settlers in Kenya and Algeria had had more alternative opportunities abroad, and

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161. This argument derives some support from the pronouncements of the Patriotic Front during the constitutional conference, in which it denounced any obligation of the people of Zimbabwe to compensate the European settlers. See Lancaster House Documents, *supra* note 22, at 490-91.

162. Indeed, recent news reports have suggested just such a possibility. See *The Times* (London), Dec. 21, 1983, at 6, col. 6 (United States aid to Zimbabwe for 1984 cut in half). See also Rich, *Zimbabwe—only teething troubles?*, *WORLD TODAY* 500, 505 (1983) (difficulties in securing the release of British aid).

163. See *WORLD BANK KENYA REPORT*, *supra* note 120, at 473; Harbeson (1971), *supra* note 85, at 240-41.

164. Another potential cost likely to be incurred from the cessation of direct compensation to the white farmers is the loss of business confidence in the investment climate. Increased white urban emigration and possible reductions in assistance from the international financial community might also occur.

partially because Zimbabwe has far more educated and skilled citizens than either Kenya or Algeria had at independence. Still, the consensus in government circles seems to be that Africans are not yet ready to take over the commercial farms.<sup>165</sup> This can be seen from Mr. Mugabe's efforts to reassure the white farmers of his support.<sup>166</sup> Given this continuing need for the presence of white commercial farmers, Zimbabwe can benefit from Kenya's mistakes by closely monitoring the prices paid to farmers who sell and making sure that the MLRRD does not negotiate "sweetheart" deals with the white farmers.<sup>167</sup>

A second means of cutting costs is embodied in Zimbabwe's accelerated resettlement plan. Kenya used its similar program, the *Haraka* schemes, for a relatively small number of settlers. Algeria used a modified version of this program in its Agrarian Revolution. As was mentioned above, Kenya's *Haraka* schemes seemed to be its most successful resettlement program. In spite of receiving high marks from the ILO<sup>168</sup> and the World Bank,<sup>169</sup> the program was discontinued by the Kenyan Government. The discontinuance of the program was reputedly due to the demise of the populist opposition political party, the KPU, and the fastidiousness of the land planners at the Department of Settlement who disliked the schemes' unplanned nature and "scruffy" appearance.<sup>170</sup> Neither reason seems sufficiently compelling to warrant advising against implementing the program in Zimbabwe.

There is little doubt that certain difficulties of the *Haraka* schemes in Kenya will occur in Zimbabwe. The land allocated for this program in Kenya was dry, marginal land, and it was not uncommon for the rains in these areas to fail entirely, causing the settlers to abandon their plots and seek sustenance elsewhere.<sup>171</sup> Zimbabwe's accelerated resettlements also tend to be in remote areas of the country, unsupported by any water facilities.<sup>172</sup> Because, as events of the past two years have shown, drought can be as severe a problem in Zimbabwe as in Kenya, settlers under the accelerated program seem most likely to

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165. See HARESON (1981), *supra* note 7, at 45.

166. See Kumbula, *Mugabe's Balancing Act*, AFR. REP., Mar.-Apr. 1982, at 67, 68; Ashford, *How Zimbabwe's White Farmers Came to Support "Good old Bob,"* The Times (London), Apr. 8, 1981, at 7, col. 1.

167. The country has tried to control land speculation (which probably raised the price of land in Kenya) by passing regulations stating that the Government will have preemptive rights to buy all land put on the market. See The Herald (Harare), Nov. 23, 1982, at 1.

168. See ILO Study, *supra* note 110, at 173.

169. See WORLD BANK KENYA REPORT, *supra* note 120, at 475.

170. C. HOLTHAM & A. HAZLEWOOD, *supra* note 92, at 117.

171. *Id.*

172. Kinsey (1983), *supra* note 3, at 177.

abandon their plots.<sup>173</sup> Additionally, to the extent that settlers on the accelerated schemes remain on their plots, the trend in Kenya of a high percentage of internal consumption and lower sales rates on the *Haraka* schemes<sup>174</sup> may be repeated in Zimbabwe.

These problems, however, do not appear to outweigh the benefits of the accelerated schemes. These settlements are mostly new farms in remote and presumably little-used areas; they provide for large numbers of people who have few other means of support. In addition, the actual lack of planning for these schemes might prevent Algerian-type problems such as state paternalism, red tape and corruption. Instead, the high self-motivation stemming from the desperate circumstances of many of Kenya's smallholders may be duplicated on the accelerated schemes. The proper role of these schemes seems limited to the more remote or lesser-used areas. Severe potential land damage and losses of production are possible if unplanned and unsupervised programs are implemented in the country's more fertile areas. Given the large number of settlers and acreage the Government wishes to place in accelerated schemes, the program, if implemented as planned, may well pose these dangers.

The experiences of Kenya and Algeria might help to dissuade Zimbabwe from trying two "resettlement" models used in these countries, both of which have been suggested for use in Zimbabwe. The first of these models, the opening up of white farms for purchase on the free market, was recommended by a number of liberal white and conservative black groups prior to independence and was implemented by the Rhodesian Government as the "land reform" of the Land Tenure Act of 1977.<sup>175</sup> This type of land disposal offers the advantage of less government involvement (and expense) in the planning and operation of these farms. On the other hand, Kenya's experience with this model of resettlement has shown it to be a financial nightmare. Also, it is a possible first step to a stratified rural African society which Zimbabwe's leaders seem anxious to avoid at all costs.<sup>176</sup>

The other model suggested for Zimbabwe is the state farm. Judging from Algeria's experiences with its "self-managed" farms,

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173. The drought of 1982-84 (see *infra* text accompanying notes 207-09) caused thousands of settlers to leave their homes to look for work on commercial farms. See *The Herald* (Harare), July 13, 1982, at 3. Presumably, the problem of the drought, as well as the difficulty of evicting squatters, are the two major causes of the slow pace of the accelerated resettlement program to date. See Kinsey (1983), *supra* note 3, at 177.

174. C. HOLTHAM & A. HAZLEWOOD, *supra* note 92, at 117-18.

175. See RIDDELL MONOGRAPH, *supra* note 13, at 17-19.

176. See GOVERNMENT OF THE REPUBLIC OF ZIMBABWE, GROWTH WITH EQUITY: AN ECONOMIC POLICY STATEMENT 5 (1981).

Zimbabwe would be poorly advised to attempt such a model. Although state farms may have used capital-intensive methods of production better than small individual farms, they seemed to stifle individual incentive and serve as centers of corruption, resulting in stagnant levels of production and a loss of employment opportunities. Algeria itself seems to have recognized the unwieldiness of its state farm organizations. It has already divided its 2,300 farms into 5,000 to 6,000 units<sup>177</sup> and is reportedly considering the dismantling of its state-run sector.<sup>178</sup> Of course, state farms or variants thereof cannot be categorically ruled out for all countries in all situations. It seems, however, that the same distrust of the state, lack of trained management and inappropriate use of labor that pervaded the Algerian system would be present in Zimbabwe.<sup>179</sup>

Models B and C of Zimbabwe's intensive resettlement program might ultimately offer more promise for the new nation. Indeed, if these or other large-scale models are not utilized, the country has little hope of being able to take advantage of the improvements and capital equipment brought in by the whites for its new settlers. In each model, provision is made for substantial local control of decisionmaking and sharing of the farms' profits. A warning is in order for these two types of schemes, however, based on Algeria's self-managed farms and cooperatives as well as Kenya's *shirika* schemes. In each, it appears that farm members have been deprived of meaningful participation in decisionmaking by paternalistic government managers.<sup>180</sup> Considering that most peasants in each country have been wary of joining the cooperatives in the first place because of a preference for private ownership and distrust of the Government, it is not surprising that this type of paternalism has caused disillusionment among the members. It has even led to abandonment of the schemes by the settlers, as in the case of Algeria's Socialist Villages, despite the fact that few better economic opportunities existed elsewhere in the rural economy.<sup>181</sup>

In Zimbabwe, the same type of distrust of government is readily visible.<sup>182</sup> Strong preference for individual tenure exists as well. Hostility to government agricultural programs was particularly strong in

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177. Arabia (1983), *supra* note 69.

178. See Randal, *supra* note 75, at A18, col. 4.

179. See HARBESON (1981), *supra* note 7, at 31, 33.

180. See *supra* text accompanying notes 59-61, 84 and 141-45.

181. See *supra* text accompanying note 86.

182. See HARBESON (1981), *supra* note 7, at 31. See also Ross, *supra* note 138, at A17. For example, it has recently been reported that many peasants living in the communal areas would prefer to remain landless than to be resettled in government-sponsored Model B cooperatives. The Herald (Harare), Mar. 30, 1984, at 13.

Matabeleland, home of the minority Ndebele tribe,<sup>183</sup> and appears to have increased after the Army's recent bloody campaign to suppress the mostly Ndebele dissident factions.<sup>184</sup> The Government appears to have chosen wisely to respond to these popular pressures by making membership in cooperatives voluntary, rather than mandatory. The Government was said to have been influenced in this decision by the disappointing performance of Tanzania's *ujamaa* program.<sup>185</sup> Its administration of the cooperatives seems to have emphasized government control over the peasants, however, and this trend could bring trouble if it continues.<sup>186</sup>

Zimbabwe should also heed the warning provided by Kenya's and Algeria's experience with people thrown together by the circumstance of being on the same settlement or land purchase cooperative. In Kenya, a total absence of a sense of shared purpose deriving from these haphazard groupings has been noted by some observers. This has impeded the efficiency of high-density schemes as well as large group-purchased farms.<sup>187</sup> The Zimbabwean Government has declared its desire to include community facilities, health clinics and schools in the new intensive resettlement schemes, as well as to integrate the district councils of the communal areas with the new settlements in order to provide local political participation.<sup>188</sup> The Government has been reported to have placed "remarkably little emphasis" on the importance of community and consultation with settlers during the resettlement process. Instead, there has been a tendency to "resettle numbers rather than people" while providing no local political participation.<sup>189</sup> Judging from Algeria's experiences, in which facilities similar to those contemplated by Zimbabwe were provided, but where little sense of community was engendered, the Government will have to provide more opportunities for political participation in addition to these facilities.

Kenya's and Algeria's experiences also provide guidance on the problematic issues of settler selection and security of title. Algeria can be said to have practiced a type of self-selection on the self-managed

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183. See Sanger, *Zimbabwe at Two*, INT'L PERSP., July-Aug. 1982, at 29.

184. One of the tactics used by the dissidents in Matabeleland has been to attack resettlement villages. See, e.g., *The Citizen* (Johannesburg), July 18, 1983, at 18.

185. Meister, *supra* note 12, at 29. The Government has even made settler membership in cooperative marketing and production societies voluntary. This takes the free enterprise mode one step further than Kenya. See *id.*

186. See Bratton, *supra* note 1, at 472; see also Harbeson (1971), *supra* note 85, at 249 (description of Kenya's problems when cooperative societies were imposed on the peasants without adequate protection).

187. J. HARBESON (1973), *supra* note 89, at 259.

188. HARBESON (1981), *supra* note 7, at 28-29.

189. Kinsey (1982), *supra* note 3, at 108.

schemes, accomplished by laborers on the French estates simply closing off access to the estates by outsiders.<sup>190</sup> This self-selection provided an insular and stagnant work force, as evidenced by the fact that by 1980, over fifty percent of the workers on the self-managed farms were over sixty years old.<sup>191</sup> In Kenya, on the other hand, data from the high- and low-density schemes indicates that the high-density settlers have been more highly motivated, which made up in large part for their lack of experience and wealth. These findings appear to vindicate Zimbabwe's policy of giving preference to destitute and landless settlers. On the other hand, it should be noted that even on Kenya's high-density schemes a considerable number of settlers had had prior experience with other landholdings, or retained other employment while farming.<sup>192</sup>

The security of land tenure given to Zimbabwe's new settlers differs from that given in both Algeria and Kenya. In Algeria, those individual settlers under Agrarian Revolution programs who were given land not suitable for cooperatives were given freehold title.<sup>193</sup> There is little data available to gauge the success of this program, except to note that the private sector grew on an overall basis by a larger amount than the self-managed and Agrarian Revolution sectors (the latter of which only includes cooperatives) through the late 1970's.<sup>194</sup> New settlers in Kenya eventually were offered title to their land, but only after certain conditions were met, such as repayment of thirty-year loans. In Zimbabwe, even this amount of security is not given to the settlers. Instead, there is merely a permit which is revocable at the sole discretion of the MLRRD.

The Government presents compelling reasons for not wishing to grant freehold tenure to settlers, at least in the early stages of the program. The reasons include insuring that the new settlers will be conscientious, preventing wealthier rural dwellers from acquiring the assets of poorer ones and keeping the Government's options open to promote alternative land distribution systems.<sup>195</sup> The mere newness of the program and the untested quality of the settlers and the lands for inten-

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190. Actually, the Algerian farm workers were not entirely successful at their task. State farms are still experiencing a squatter problem with individuals who moved onto these farms at independence and have refused to move off. See Al Sha'b (Algiers), Apr. 7, 1981, at 5, *translated in* J.P.R.S. 78,145.

191. Arabia (1983), *supra* note 69.

192. HARBESON (1981), *supra* note 7, at 30.

193. Blutstein, *supra* note 26, at 170.

194. Karsenty, *supra* note 66, at 5. Notably, the other two sectors received more assistance than the private sector. See Arabia (1983), *supra* note 69.

195. HARBESON (1981), *supra* note 7, at 32, 40.

sive settlement seems to justify the first reason for not giving tenure, while Kenya's experience with wealthy Africans driving poor Africans off the land seems to justify the second. The Government has considered several ways of ultimately reallocating land in the commercial sector, including massive irrigation projects.<sup>196</sup> Mr. Mugabe has stated that the Government's ultimate goal is to settle 350,000 families in the commercial areas,<sup>197</sup> possibly on the new irrigation projects. If such plans ever come to fruition, it will probably be necessary to subdivide the fifty-five-hectare plots presently allotted to each settler family.

A number of criticisms have been levelled against the lack of tenure security in Zimbabwe's program. One of the criticisms is that the discretion inherent in the allocation system makes it open to political abuse and corruption. While this may be true, it seems likely that a system that gives freehold tenure would be no less open to abuse. This is illustrated by Kenya's notorious "Z" plots, 100-acre plots with plantation homes given to political cronies of the government leadership in the 1960's.<sup>198</sup>

Another ground for criticism of Zimbabwe's resettlement program is more deserving of attention; the present system, with its arbitrary revocation of permits and lack of compensation for any improvements on the land, may discourage settlers from committing themselves entirely to developing the new settlements. Indeed, the fear of losing the security of whatever meager land tenure they possessed in the communal areas was one of the major reasons for the initial hesitancy of many settlers in Zimbabwe to enter the schemes.<sup>199</sup> The Government could accommodate its long-term interests, while at the same time provide additional security to the settlers, if it provided compensation for permanent improvements and a review procedure prior to revocation of settlement permits. In addition to giving settlers a greater feeling of permanence, security devices would also help to stem the environmental degradation that has taken place on squatters' plots.

In fact, the Government of Zimbabwe finally seems to have realized that its initial policy of granting only revocable permits does not

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196. Sanger, *supra* note 183, at 29.

197. Robert Mugabe, *Prime Minister of Zimbabwe*, AFR. REP., Sept.-Oct. 1982, at 4, 8 (interviewed by Margaret A. Novicki).

198. See Wasserman, *Continuity and Counterinsurgency: The Role of Land Reform in Decolonizing Kenya, 1962-70*, 7 CAN. J. AFR. STUD. 133, 145-46 (1973). Widely reported stories of fortunes amassed in Kenya from speculation by political grantees of land also lend credence to the notion that the grant of freehold tenure in the early stages of a land resettlement program may be more likely to lead to abuses than a method utilizing conditional grants of land.

199. HARBESON (1981), *supra* note 7, at 31.

provide satisfactory security for settlers. The MLRRD announced a new policy in 1983, enabling settlers to receive long-term, non-transferable leases after an initial period of three to five years, provided the Ministry has determined that the settlers have a high probability of continuing as efficient producers.<sup>200</sup> However, the Ministry also announced that as a general rule, it will not issue titles until after the land reform measures are completed.<sup>201</sup>

Feelings of commitment to the new settlements might also be engendered by giving each settler a heavy loan burden to meet before receiving title, as was done in Kenya. Zimbabwe was probably wise to avoid taking this step, since the debt for the land in Kenya was often so heavy in the first few years that new settlers on high-density schemes had an average *negative* cash income after loan payments were made.<sup>202</sup> The consequences of this negative income were that farmers were often unable to make new capital investments, which in turn made the loans even harder to repay in following years.<sup>203</sup> There is still a good deal of sense in giving settlers some income for maintenance, however, and the Government of Zimbabwe is doing this by requiring relatively small development loans to be paid back by each settler.

The experiences of Algeria and Kenya suggest other policy choices that may be useful for Zimbabwe. First, both Kenya's experiences and projections by Zimbabwe's experts indicate that most of Zimbabwe's productive white-owned farms are likely to lose much of their productivity if they are divided into small African-owned plots. Moreover, Algeria's experience shows that an immediate transition into large "self-managed" farms is also fraught with peril, especially in view of the tendency of government bureaucrats to become involved in the farms' management. Zimbabwe might, therefore, be best off if it delays conversion of the most productive white farms and concentrates for the time being on abandoned or underutilized land. Much of its current resettlement program actually appears headed in this direction, which

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200. The Herald (Harare), July 28, 1983, at 1.

201. *Id.*

202. J. HARBESON (1973), *supra* note 89, at 294-95. The weight of the loan burden is more apparent when it is considered that perhaps fewer than half of the loans were being paid back on schedule. See *supra* text accompanying notes 109-10.

203. The Kenyan Government itself seems to have acknowledged the error of these loans. The Government announced a two-year moratorium in 1967 for new settlers, and announced in its 1974-87 Development Plan that it was considering not charging interest on arrears. See C. HOLTHAM & A. HAZLEWOOD, *supra* note 92, at 122.

may be a fortuitous result of the hard economic times presently afflicting the country.<sup>204</sup>

At the same time, the Government might take measures aimed at the ultimate transfer of the white farms to broadly based black control while retaining the farms' productivity. One possibility, initially proposed before independence but not yet acted upon, would be to give commercial farmers incentives to work toward greater worker participation and training of new management.<sup>205</sup> Farmers might be given greater compensation for their farms if they cooperate in training new managers or assist in resettlement of new farmers in nearby underutilized areas. A progressive land tax might be imposed for the purposes of encouraging divestment of underutilized farmland, with deductions or credits built in for those farmers who implement a management training program. Finally, a land ownership ceiling might be imposed, as was done in Algeria's Agrarian Revolution. The ceiling itself would operate as an incentive for divestment, while exceptions could be built in for those farmers with a viable management training program.<sup>206</sup>

## VII. CONCLUSION

Whether Zimbabwe's resettlement program achieves its objectives of broad redistribution and growth of production remains to be seen. Although the program got off to an excellent start in 1981 and was helped by a bumper crop in maize, it has been hindered severely by the continuous drought from 1982 to 1984 which has ravaged all of southern Africa.<sup>207</sup> The drought in Zimbabwe, described as "the worst drought of the century,"<sup>208</sup> cut the maize crop by more than two-thirds,

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204. See *The Sunday Mail* (Harare), Sept. 4, 1983, at 3. One element of the Government's recent austerity program, forced upon it by the general world recession and severe domestic drought, has been a drastic cut in the budget for the resettlement program, with a decrease in the land acquisition budget from \$25 million in 1983 to \$2 million in 1985. Frankel, *An African Success Story*, Wash. Post, Nov. 20, 1984, at A1, col. 1; see also Rich, *supra* note 162, at 505 and *infra* text accompanying notes 207-10. The hardship caused by the drought might also be fortuitous for Zimbabwe in one other sense—it appears to have dampened the urge to own land among prospective settlers, all of whom obviously cannot possibly be accommodated. Consequently, Zimbabwe may have lost some of the political imperative for rapid change in land ownership that was responsible for some of the worst abuses of the resettlement program in Kenya.

205. See RIDDELL STUDY, *supra* note 2, at 119.

206. A land acquisition ceiling without any of the foregoing recommended incentives can be found in the new Land Tenure Bill. The Bill was introduced in Parliament in 1983, but has not yet been passed as of mid-1984. See *The Herald* (Harare), July 28, 1983, at 1.

207. See *Southern Africa's Drought: Nature's Curse, man's folly*, *ECONOMIST*, Feb. 11, 1984, at 70-71.

208. *The Chronicle* (Bulawayo), June 22, 1983, at 1.

from 1.8 million tons in 1981 to an estimated one million tons in 1984.<sup>209</sup> As a result, the country has become a net importer of food for the first time in recent history, and was forced to seek drought relief assistance for at least half of its rural population, including 120 million dollars in foreign food aid.<sup>210</sup> It is, nonetheless, very encouraging that despite the drought, Zimbabwe's peasant farmers were able to market 325,000 metric tons of maize in 1984, accounting for one-third of the country's total crop.<sup>211</sup>

In addition to the factors discussed in this paper, the program's success will depend on a large number of other variables, many of which will be outside the control of Zimbabwe's land planners. These variables include: whether the drought will continue; whether particular crops (including tobacco and cotton) are amenable to widespread peasant cultivation in Zimbabwe's soils and climate; whether the Government will succeed in its industrialization plans and in attracting foreign investment for surplus labor; and whether the Mugabe government can retain its initial popularity after the latest violent episodes in Matabeleland.

Zimbabwe's land settlement program is a generally well thought-out policy for the achievement of social and philosophical goals in difficult circumstances. The country does appear to have learned a great deal from the Kenyan experience; it has adopted some of the most appropriate aspects of Kenya's system while rejecting the least successful aspects. The Government might be well advised to study the Algerian experience, however, if it wishes not to duplicate the bureaucratization and corruption which has pervaded that country's agricultural system. On the whole, as long as the country retains its flexibility and willingness to learn from its own and its neighbors' mistakes, Zimbabwe may be able to achieve a substantial degree of the growth and equity sought by its leaders.

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209. *Southern Africa's Drought*, *supra* note 207, at 70; Frankel, *supra* note 204, at A10. The actual 1984 harvest compares very favorably with the 500,000 ton yield predicted early in the year by some observers. See *Southern Africa's Drought*, *supra* note 207, at 70.

210. Knight, *Political Consolidation in Zimbabwe*, *CURRENT HIST.*, Mar. 1984, at 110, 112; see also *The Herald* (Harare), June 21, 1983, at 1.

211. Frankel, *supra* note 204, at A10, cols. 1-2.