Contents

List of Cases viii
List of Tables xi
List of Abbreviations xii
Glossary of Terms xiv
Acknowledgments xv
Preface xvi

1. Access to land in affected Southern African Development Community (SADC) States 1
   1.1. Introduction 1
   1.2. Emergence of Opposable Heterogeneous Titles to Land in SADC States 8
       1.2.1. Southern Rhodesia (Zimbabwe) 11
       1.2.2. South Africa 18
       1.2.3. Tanganyika (Tanzania) 24
   1.3. Balancing the need to eradicate continuing social injustices rooted in colonial or ethnic domination with twenty-first century Universal Human Rights Standards 28
   1.4. Conclusion 30

2. Eternal Land Rights? Interaction of divergent Land Rights in the SADC 32
   2.1. Introduction 32
   2.2. Legitimacy deficit in individual titles to commercial farmland in the SADC 33
   2.3. Relationships of Natives to Land prior to Colonisation 42
   2.4. Land Distribution in SADC States at the turn of the twenty-first century 51
   2.5. Humwe, Colonisation, Land Rights: National Courts Step in 53
   2.6. Legitimacy of law’s intervention in re-ordering of titles to land 67
   2.7. Native Claim to Land: Is it Eternal? 69
   2.8. Zimbabwe’s trials and tribulations over the Land issue 75
   2.9. Conclusion 77

3. The Contest for Labels in the Land Issue and the “Inherent Dignity of Mankind” 79
   3.1. Introduction 79
   3.2. Conflicts as Property 83
   3.3. Agency and Passivity in the construction of labels 92
   3.4. Beyond the victim/agency analysis, Challenging Stakeholder claims 95
   3.5. Access to Land as the basis of human dignity in agrarian economies 98
       3.5.1. Mugabe, victim or villain? 100
       3.5.2. Great Britain, victim or agent? 105
       3.5.3. Commercial farmers, victims or agents? 107
Acknowledgments

In 2001, I published in volume 30 No.1 of the Common Law World Review, an article on Zimbabwe’s Land Issue. The article raised several other issues that merited further inquiry. Writing this book provided me with the opportunity to examine those outstanding issues. In putting these few pages together, I have benefited immensely from conversations with Judge Fikile Bam - Judge President of the Land Claims Court of South Africa, Justice Moloto, also of the Land Claims Court of South Africa, and with my colleagues in the Law School at Warwick University - Francis Botchway and Roger Leng. I am grateful also for the support of my assistants Tawanda Hondora, Sven Simon, Victoria Brading, Carllly Dillon, Yassin M’Boge, Henry Gordon, Charlotte Eaton, Simon Deeble and Kate Brookson-Morris. Providence was, as ever, most magnanimous.

Copyright for published materials used in this text were granted by the following on the dates shown:

- **UN Publications**: The Office of the High Commissioner for Human Rights, 8-14 Avenue de la Paix, 1211 Geneva 10 Switzerland - 27 May 2003
- **Common Law World Review**: Vathe Publishing, Glen Callan House, Quarry Road, Maughold, Isle of Man – 13 May 2003