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USAID STRATEGIC ECONOMIC RESEARCH AND ANALYSIS – ZIMBABWE (SERA) PROGRAM

LAND TENURE AND LAND MARKETABILITY IN ZIMBABWE: POLICY OPTIONS AND RECOMMENDATIONS

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ACRONYMS

AIAS	African Institute for Agrarian Studies
AGRITEX	Agricultural and Extension Services
ASPEF	Agriculture Sector Productivity Enhancement Facility
ASTRG	Agriculture Sector Technical Review Group
BAZ	Banker s Association of Zimbabwe
BIPPA	Bilateral Investment Promotion and Protection Agreement
CA	Communal Areas
CFU	Commercial Farmers Union
CONNEX	Conservation and Extension
CONPI	Certificate of No Present Interest
DBSA	Development Bank of Southern Africa
DR	Deeds Registry
DSG	Department of Surveyor General
EMA	Environment Management Agency
EU	European Union
FAO	Food and Agricultural Organisation of the United Nations
FCTZ	Farm Community Trust of Zimbabwe
FC Z	Forestry Company of Zimbabwe
FTLRP	Fast Track Land Reform Programme
GIS	Geographic Information System
GMB	Grain Marketing Board
GPS	Global Positioning System
GOZ	Government of Zimbabwe
ICSID	International Centre for Settlement of Investment Disputes
LAS	Land Administration System
LPA	Land Planning Authority
LIMS	Land Information Management System
LSCF	Large Scale Commercial Farming
MAMID	Ministry of Agriculture, Mechanisation and Irrigation Development
MEWC	Ministry of Environment, Water and Climate
MLGPWNH	Ministry of Local Government, Public Works and National Housing
MLRR	Ministry of Lands, Rural Resettlement
NLB	National Land Board
NLP	National Land Policy
NPWLM	National Parks and Wildlife Management
RDCs	Rural District Councils
SSCF	Small Scale Commercial Farming Areas
VIDCO	Village Development Committee
WADCO	Ward Development Committee
UNDP	United Nations Development Programme
USAID	United States of Agency for International Development
ZLC	Zimbabwe Land Commission

EXECUTIVE SUMMARY

Zimbabwe has several land tenure regime operating across the rural and urban landscapes. These include freehold tenure in the remaining Large Scale Commercial Farming Areas, leasehold tenure in Small Scale Commercial Farming Areas and in the A2 model resettlement under the FTLRP; permissory tenure or permit system under the old resettlement areas and Model A1 schemes under FTLRP; customary tenure in the Communal Lands; and unalienated land controlled by the state and run as gazetted forests, and national parks.

The various tenure regimes enjoy differentiated “bundle of rights”, which have been elaborated above in terms of: use rights, transfer rights, exclusion rights and enforcement rights. The major area of investigation in this study was the leasehold in A2 scheme and to some extent on A1 areas. The study specifically wanted to find out what the marketability of these tenure regimes were in the present circumstances. The findings on this account were that A1 permit system as it stands does not augur well for a formal land market as this is not allowed in law. It was found that the permit’s transferability is only within the family through inheritance, to remaining spouses or dependants.

Farmers that have been operating under the A2 “offer letter” whilst awaiting the issuance of a formal A2 lease have expressed their inability to secure financial loans for their farm operations due to the document being deemed not suitable for use as collateral. The lack of a robust tenure regime with registered rights for all new farmers has also been blamed on creation of inefficiencies and insecurities created by numerous conditions and restrictions attached to their stay on agricultural land. The resultant land underutilisation and lack of funds for investment are issues that need urgent attention in order to realise the potentials for increased farm production and profitability in the new agrarian structure. The A2 lease has been revised and currently been presented to Cabinet for ratification and hopefully this will be followed by amendment of the relevant Acts and promulgation of new regulations. Financial institutions have made comments on the draft document and submitted these to the MLRR. It was found that the slow pace of formal issuance of A1 permits and 99 year leases has been a source of some anxiety to beneficiaries given the 15 years that lapsed since the start of the FTLRP.

What is evident is that whilst the bankability of the 99 year lease has been a subject for possible applications to the financial institutions for loans and use as collateral for the same, the banking fraternity point out, that a bankable lease is not a guarantee for a farmer to obtain a loan. Financial institutions have other requirements that they also look at in assessing the risk of the farmers to profitably engage in the enterprises of their choice and ensure ability to repay the loan. The existence of a relationship with a financial institution, proof of residence on the farm, presence of other moveable and immovable property that may ensure transferability in the event of loan repayment default, presence of a viable business plan with assured markets for produce, *inter alia*, also come into the picture at assessment of loan application.

As things stand the formal land market is very uncertain. In the remaining LSCFA the major player for buying would be the State, which has the option of first refusal and issuance of a Certificate of No Present Interest. The uncertainties on whether the FTLRP is actually complete or not, and the continued “sporadic illegal settlement or occupation” make the

development of a land market in this land tenure regime non-existent or very tenuous at the moment.

The situation in Small Scale Farming Areas, is a cause for concern as it seems it has not received due attention over the years. There has been very little empirical evidence which has looked at the actual land tenure situation in this sub sector, and as such even the existence or non-existence of a land market here is anecdotal at most. Suffice to say there seems to have been mostly intra-family land transfers over the last four or five decades in this subsector. This is most unfortunate, as lessons and opportunities for the crafting current A2 land leases are being missed.

Whilst there is no formal land market in the Communal Lands under customary tenure, anecdotal indications reveal existence of informal land market where traditional leaders and at times Rural District Councils have been involved in land transfers.

The key recommendations are given as follows:

1. A National Land Policy which comprehensively deals with land tenure in all categories in Zimbabwe is very desirable. This should include review of land tenure in Communal Lands, old resettlement and new Model A1, and Model A2, lands, SSCFA and Large Scale Farming areas as well as areas reserved for Forests and National Parks.
2. Freehold Tenure should be maintained and protected in the remaining Large Scale Commercial Farming Areas
3. The proposed 99 year lease which is designed to administer A2 farming sector has to encompass land rights of transferability, mortgageability and be registered in the name of both spouses.
4. The permit system used in the old resettlement and new Model A1 needs to be firmed up and converted to a lease, which can be changed into a Deed of Grant like in the case of Communal Lands.
5. In the Communal Lands land should be under full custody of traditional leaders and allow development and issuance of Deed of Grant, which can be registered, in the names of both spouses, inheritable, transferable

1. INTRODUCTION AND OVERVIEW

The population of Zimbabwe is estimated to be 13.06 million—52% being female—and is largely dependent on agriculture. The country is landlocked and situated in southern Africa covering a total land area of 390,757 square kilometres. The land issue has been the epicentre of Zimbabwe's socio-political and economic struggles since colonial times. The history of white settler occupation in Rhodesia begins when the quest for lucrative mineral deposits beyond South Africa in the early 1890s met with limited yields in that direction. Hence the settlers changed to focus on agriculture as the main driver of economic development, carving out lands expropriated from local black communities to form what became known as Large Scale Commercial Farming Areas or sector. The racial distribution of land by 1930 was characterised by the designation of the country as 51% European areas, 22% Native Areas, 18.5% unassigned area, 7.8% Native Purchase Areas(now popularly known as Small Scale Commercial Farming Area), 0.6% Forestry Areas and 0.1% Undetermined Areas.

This uneven distribution of the land was the driving force of the war of liberation that engulfed the country from the 1960s to 1980, culminating with negotiations for independence from the colonial master, at Lancaster House, London, England. In 1980, some 6600 white farmers occupied 15.5 million hectares of prime land, while some 7 million African people were crowded in the marginal and drier parts of the country.

At independence the Government of Zimbabwe was thus faced with the task of restructuring these historical imbalances of racially skewed land distribution. The Land Reform Programme –Phase 1 of 1980-1989 saw the acquisition of 3.6 million hectares of land under European occupation under the “willing-buyer, willing-seller” basis, as part of an ambitious programme to resettle an estimated 162,000 families.(GOZ, 1980,Moyo 1995, Kanyeze, *et al.* 2011).The implementation process went through technical feasibility of the land to be acquired, followed by due legal process of acquisition, detailed planning, and appraisal by an Inter-Ministerial Committee composed of senior personnel in government agencies and development partner representatives prior to scheduled implementation. Due to a number of constraints that include legal, financial and political limitations the speed and magnitude of land reform petered down at the beginning of the 1990s despite the unabated demand for land. By 1999, only 76,000 families had been resettled in mostly Model A1 Schemes that were the bulk of the 3.6 million hectares acquired through legal acquisition of land from the Large Scale Commercial Farming Areas that still numbered about 4500 white farmers.

The “Fast Track” Resettlement Phase was launched in July 2000 and was initially scheduled to end in December 2001.Unlike its predecessors this phase was characterised by little documentation in terms of plans and a seemingly haphazard implementation and indeed controversial land acquisition processes with instances of violence reported widely (UNDP, 2002). Although FTLRP was scheduled to “officially” finish at the end of August 2002, it has been smouldering on, albeit, intermittently to current times. FLTRP was able to add some 145 775 new Model A1 farmers(each household with at least 3, and maximum 5 hectares of arable holding and varied communal grazing) and 16,386 Model A2, farmers based on small, medium and large-scale commercial farms(ranging from 100 hectares to 1000 hectares, although on average-500 hectares).

The pre-independence institutionally induced dualism in the structure of the economy is pervasive today. However, the system has changed considerably with a preponderance of

smallholder farm operation across the board. In terms of land tenure regimes, in 2014 the major pattern on the ground shows;

- a) Over 1.2 million family-held pieces of land under **customary land tenure** in the designated Communal Areas (previously termed Tribal Trust Lands) on 16.4million hectares;
- b) Some 145 775 new Model A1 farmers joining 76000 old Resettlement Model A1 farmers on a total of about 9.4million hectares on **permit tenure**
- c) Some 8000 **freehold and leasehold tenure** Small Scale Commercial Farmers on 1.4 million hectares
- d) Some 24,000 farmers on Model A2 “offer letters”/**leasehold tenure**, on 2.98million hectares
- e) About 1000 remaining **freehold** agricultural land holders and corporate agro-estates

Whilst the old system which was geared towards large-scale production in terms of both support to infrastructure(dams, transport), credit, markets and price support, the transition to the predominantly smallholder production agrarian structure has met with a number of challenges and as such has yet to yield anticipated results (DBSA, 2012). The emerging landholding patterns and the **tenure concerns** are the main core of this particular study, in particular, how to unleash the potential of the new smallholder farmers on the Model A1 and A2 farms, and contribute to the development of a transparent **land market** to propel the economy towards growth.

The study will trace the evolution of the land tenure systems from colonial times to date, investigate the nature of land tenure as it relates to land rights, use rights, transfer rights and how these have impacted on productivity, investment, poverty and conservation. The views of financial services sector on how they may help to provide meaningful credit in the current land tenure debate will be sought. The concluding chapters will highlight strategic policy issues that need to be addressed, drawing from comparative international experience in land tenure and development of land markets and proffering policy recommendations on the way towards improving tenure security in the country’s diverse tenure regimes.

2. ASSESSMENT OF LAND TENURE ISSUES

2.1 EVOLUTION OF LAND TENURE FROM COLONIAL TO CURRENT POST-COLONIAL PERIOD

In broaching the subject of *tenure* it is important to begin on the common understanding that it is a form of property, often referred to as a “bundle of rights”. In the particular case of land the basket of rights can be summarised as;

- Use rights: rights to grow crops, trees, make permanent improvement, harvest trees and fruits, de-pasture livestock and so on
- Transfer rights: rights to sell, give, mortgage, lease, rent or bequeath
- Exclusion rights: rights to exclude others from using or transferring
- Enforcement rights: refer to legal, judicial, institutional and administrative provisions to guarantee use, transfer, and exclusion rights and to resolve disputes (Rukuni 2009)

In terms of the term, “*ownership*”; this is defined to mean a right to hold and use and take benefits perpetually, to alienate (sell) or bequeath to one’s heirs, whilst “*leasehold*” denotes a right to hold and use and take benefits for a specified number of years, conditional on payment of rent and depending on the lease terms, and possibly other conditions (World Bank 2015).

Framing land tenure systems

As stated above the various tenure regimes in Zimbabwe have been evolving over the past one hundred and twenty years. The resultant matrix is summarised below as:

Table 1: Zimbabwe’s Multi-Form Tenure Structures in 2016

(i) Freehold tenure, mainly in the LSCFs, the small scale commercial and peri-urban areas – where in land is accessed through market transfers
(ii) State based leasehold tenure (with and without option to purchase) which operates mainly in the A2 farms and some SSCFs – where in land is accessed through allocation by the State in the form of land leases
(iii) Customary tenure which only operates in communal area – where in land is accessed through customary tenure norms
(iv) Permit tenure provided to landholders on State owned land mainly in A1 and Old Resettlement Areas from the 1980-1985 reforms – where in land is accessed through allocations by the State in the form of permits
(v) Unalienated land controlled by the State, devoted largely to gazetted parks and forests, but including some areas managed under concessions negotiated with private entities

Source: World Bank, 2016

Despite the variations in all the tenure shown above, the State retains *Powers of Eminent Domain* over all land in Zimbabwe and holds allodial title (absolute right) to the land.

Tenure during the period 1890 to 1980

The tenure regime instituted in the colonial era continued to independence date and beyond. Whilst white commercial agricultural farming areas used the “freehold” system to use, mortgage, raise capital from banking institutions, dispose and acquire as well as bequeath as inheritance there were differences in the other tenure regimes. In the LSCF Areas there was a vibrant land market which was predicated on the “freehold” rights pertaining to that tenure regime. Individuals and corporate were able to buy and dispose of their “commercial”

properties, with legal basis ensuring that these transfers were recorded with the Registrar of Deeds under the Ministry of Justice and Parliamentary Affairs.

Within the SSCF Areas black individual farmers were allowed to continue leasing the allocated lands, often with an option to purchase the same properties. They did record some economic successes that saw a number of them send their children to schools and other places of higher learning. At independence in 1980 there were a noticeable number of persons in places of high authority in both government and the corporate world who came from Small Scale Farming Areas backgrounds. However, during this period the SSCFA areas did not expand in terms of additional land allocations or deliberate state support for agricultural enhancement.

The Communal Areas where the customary tenure held sway continued to be absorber of all that were not accommodated in the newly opening urban and mining establishments and Commercial Farming Areas. There were many communities that were moved from their former ancestral lands to make way for commercial farming areas whilst they were relocated to remote places like Gokwe, Muzarabani, Lupane to mention but a few. This relocation during colonial times was deeply resented and did fuel the anti-colonial struggles. Within the Communal Areas, allocation of land was entertained by traditional authorities (kraal heads, headmen, and chiefs) and as such continued to be a buffer for all those who had been retrenched from formal employment and natural growth. For these traditional authorities their ability to exclude people from outside of their jurisdictions continued to be threatened by the sheer numbers. The land sub-divisions became smaller and smaller as the population grew over the years. In 1980 it was estimated that the Communal Areas were carrying more than three times their sustainable limits (Rukuni, et al 2009).

Tenure during 1980 to 1999

The demand for land distribution which fed the war of liberation desire culminated in a negotiated settlement for independence in 1980 with land reform as a key issue in the country's resolution for peace and reconstruction. The negotiated settlement stipulated that for the first ten years land could only be acquired from the commercial farmers by the state on a "willing buyer-willing seller" basis. Hence, the planned Phase 1 Land Resettlement Programme (1980-1999) managed to acquire and redistribute some 3.6million hectares to 76,000 families, who included beneficiaries that had been displaced by the war, former occupants of overcrowded Communal lands and other landless persons.

No other significant alterations to land tenure categories were witnessed during this period, although there were minor amendments to the legislation governing some aspects of land administration. These include the Communal Land Act No.20 of 1982; the traditional leaders act (Chap 29:17); the Customary law and local courts act (chap7:05) revised edition 1996 and Rural District act 1998 (chapter 29:13) revised edition 1996; these sort to consolidate the administration of the Communal Lands by local authorities and traditional leaders.

On freehold the Deeds Registries Act 1998 and the Land Survey Act, 1996 reaffirmed that the state has ownership rights and allodial title over all land in Zimbabwe. During this period, however, commercial farmers were able to sell and buy land in the open market and have the transfers registered at the Deeds Registry. Indeed during the studies leading to the "*Report of the Commission of Inquiry Into Appropriate Land Tenure Systems*" (Rukuni, 1994) it was discovered that 66% of recorded land transfers at the Deeds Registry were intra-family,

indicating the existence of a skewed land market. Table 2 below gives a summation of the tenure security issues affecting each tenure regime in the period 1980 to date.

Table 2: Types of Land tenure Arrangements in Zimbabwe since independence in 1980

Sector	Type of tenure	Use rights	Transfer rights	Administrative arrangements (protection and enforcement)	Security
LSCF	Freehold tenure based on surveying, mapping and lodged with the Deeds Registry	Secure rights land used as collateral Use of courts to protect rights	Land can be transferred on open markets	Individual responsibility local authorities collection of unit tax Intensive Conservation Areas	Secure in a normal situation, but insecure in a context of demand for land based on historical circumstances
SSCF	Freehold /leasehold tenure		Secure rights and land may be used as collateral	Individual responsibility Local authorities collection of unit tax	Problems of inheritance and fragmentation because of pressures for access to land
Resettlement (old)	Permit system revised into leasehold	Use rights but can be controlled by authorities	Rights of authorities are prioritised over those of settlers	State through Min of Local Gov , Rural and Urban Development and now traditional leaders	Highly insecure because of the ministerial powers which allow expulsion
Communal Area	Customary tenure	Usufructual rights Private use of arable land shared commons	Land can be taken without recourse to courts	Traditional leaders (chiefs, headmen etc) local authorities through VIDCOs and Wadcos). State through agents	Secure in principle, but cannot be used as collateral
State Land	Leasing, licensing, statutory allocations	State prescribed	Not allowed	State administers land own parastatals	Secure for the state but not so for individuals when the lease period comes to an end
A1	Offer letter issued by MLRR	Insecure rights seem usufruct rights with promise of leasehold	No transfer of land for any reason, except to the family as first option	State and traditional leaders contesting to govern	Highly insecure as the situation on the ground is fluid
A2	99 and 25 year leases promised(Current Offer letter from MLRR in force)	Clear	Promises of leaseholds	Individual state and traditional leaders contesting to govern	Highly insecure as the situation on the ground is still fluid

Source: Rukuni, Nyoni, Sithole, 2009

Tenure during Fast track (2000) to date

The FTRLRP altered the rural and agricultural landscape drastically in the country as a whole. As can be seen from Table 1 below for the first time the agricultural landscape is dominated by smallholder farming sector constituted as Communal Lands, Old and FTLRP Resettlement

lands as well as the Small Scale commercial farming lands. The reigning tenure regime in this subsector is mostly customary in the Communal Lands, permissory in the Old Resettlement Areas and in Model A1s under the FTLRP and leasehold in both A2 and small scale commercial farming areas. The remainder of LSCFA is still under “freehold” tenure.

It is thus important to focus attention on this new land distribution pattern to improve agricultural production so as to enhance food security and economic growth. The limitations brought about by the changes in tenure status are part of the subject under investigation in this study.

Table 3: Major Land Tenure and Areas per Farming Category, Post-FTLRP (hectares)

Land Tenure Regime	Land Sector	Land Administration	Prevalence In 1999		Prevalence In 2009	
			Farms (#)	Hectares (ha)	Farms (#)	Hectares (ha)
Permit	New A1	Usufruct rights with State local authority regulation	0	0	145,775	5,759,154
	Old (model A) Resettlement	Usufruct rights with State and local authority regulation	75,569	3,667,708	76,000	3,667,708
Customary Tenure	Communal Areas	Usufruct with State and local /traditional authority	1,200,000	16,400,000	1,200,000	16,400,000
Freehold and Leasehold	LSCF	Market economy rights with State regulation for national development	4,500	12,600,000	1,154	648,041
	SSCF	Market economy rights with State regulation for national development	8,000	1,400,000	8,000	1,400,000
	New A2	State provided leaseholds	0	0	16,386	2,978,334
	Conservancies	State controlled but rights can be ceded to individuals for specific duration	Na	792,009	7	1,096,543
	State and Institutional Farms	State agency freehold or leasehold rights; can be ceded to individuals for specific duration	113	145,693	113	145,693
Unalienated State Owned land	Includes Forest, National Parks, Urban	State agency, freehold and leasehold				6 ,692,742
Unalienated Land	State Land	State owned and concessions	Na	757,578	517	757,578

Source: Adapted from Moyo and Maguranyanga, 2014, Sukume and Dengu 2014, Vudzijena and Mishi 2014. NB: There are few discrepancies in the figures due to differences in data sources and difficulties with verification with official records. For instance the 2013 Zanu PF Manifesto puts the total number of A2 hectareage at 3,497,000 (cited in Rukuni and Matondi 2014) and the remaining LSCF at 3,383,000.

Current status of land marketability (de jure)

The supreme national law of the land, the Constitution of Zimbabwe was passed in 2013. It has clear provisions for how land should be dealt with in national discourse, in terms of the right to own, transfer and hypothecate agricultural land in the country. In Section 72 it defines agricultural land as “land used for agriculture- a separate piece of land on Deeds Registry”- but excludes Communal Lands, which is treated under Section 282 where the provisions of traditional leaders are given as “to administer Communal Land and protect the environment”, as well as resolve disputes.

Section 289(e) provides for a land tenure system that promotes increased productivity and investment by Zimbabweans in agricultural land, whilst Section 289(b) provides for real rights to every Zimbabwean regardless of ethnic or gender. It thus empowers citizens holding agricultural land “freedom to acquire, hold, occupy, use, transfer, hypothecate, lease, or dispose, of agricultural land”.

However, there are a plethora of national laws promulgated before 2013 that are ultra vires to the national constitution, which still have to be realigned. For instance, the RDC Amendment Act of 1998 Cap 29:13 which gave powers to RDCs to administer Communal Land, whereas Chapter 16 Section 276 (2) of the Constitution states that “except as provided in Act of Parliament, traditional leaders have authority, jurisdiction and control over the Communal Land or other areas for which they have been appointed, and over persons within those Communal Lands or areas”. The Agricultural Land Settlement Act (Cap 20:01) which administers leases on all state lands would have to be revisited if land in this status can be used as collateral security and freely disposable in the market. Hitherto the Constitutional provision the Agricultural Settlement Act (Cap.20:01) gave the Minister of Agriculture/Lands wholesale powers for cancellation and termination of lease without any recourse by the lessee, as now provided in the bill of rights, in Section 56(1) which provides “all persons are equal before the law and have the right to equal protection and benefit from the law” (Shone, T. and Muchetu, R. 2016).

How the enactments of new laws when finally aligned to the Constitution will be implemented, is still an issue that will be seen. It will also be determined by the political willingness to implement the provisions of the Constitution. On Friday 10, June 2016, the President announced the appointment of a nine-member Land Commission in line with the provisions of Section 296 of the Constitution. The Zimbabwe Land Commission, will among other things, “investigate and determine complaints and disputes regarding supervision, administration and allocation of agricultural land” (The Herald, 13 June 2016).

Current status of land markets (de facto):

Data on current land sales and transfers within the remaining freehold tenure is not readily available. It is observed that outside of family estates, and peri-urban plots there has been generally subdued activity in this land market since the advent of the FTLRP, in particular given the uncertainties touched upon in here. At this point the only noticeable land market is whereby land is acquired by the state for its programmes (infrastructure, dams, roads, growth points, mines) in both freehold, permissory and leasehold tenure areas.

In both SSCFA and A2 leasehold it can be safely assumed there are no formal land market related transfers that have been registered. Even in the particular case of SSCFA the majority of intra-family or inheritance-related transfers have not been formally registered.

2.2 TENURE SECURITY

In order to get an appreciation of the current situation with tenure security in the various reigning tenure regimes a summary is given here below (in addition to illustrations shown in Table 3 above):

a) Remaining Large Scale Commercial Farming Areas

This sector which has been run as “freehold” and previously enjoyed what were perceived to be the most “secure” property rights in terms of transfer rights, exclusion and enforcement as defined above, no longer enjoys these freedoms as a whole. The extinguishing of freehold rights as demonstrated under FTLRP indicates that although this form of tenure was supposedly protected by law, without adequate political backing, rights to freehold are vulnerable. The possibility of takeover of the whole or part of the farm by government with the amended Land Acquisition Act, uncertainty on the valuation of the property for compensation in the event of compulsory acquisition and the possible nature of acquisition (invasion) are still issues that define tenure insecurity in this sub sector. It is estimated that there are now only about 400 individually owned farm units in this category. A few blacks had bought farms in their own right through commercial enterprises. A number of these were adversely, and some continue to also suffer from the uncertainties that came with implementation of the FTLRP.

It can be said, however, that freehold owners had title deeds to the land, has given them something to use as a tool for negotiating compensation for “loss of their property”.

Since the Land Acquisition Act (Chap 21) revisions of 1985 any commercial farming enterprise wishing to dispose of their land has to apply to the MLRR for a Certificate of No Present Interest (CONPI) where the state has to give the option of first refusal. Although no figures are available for the level of interaction it is surmised that this requirement is not conducive for the development of a land market presently. The CONPI currently costs a fee of US\$200 payable to MLLR per transaction.

The spectre of farm invasions and land acquisition related contestations are still real for most of the remaining Commercial farmers as reported in the daily press. Responding to concerns expressed by Senator Chief Musarurwa on Thursday 9 June 2014 in Senate, over reports of fresh farm invasions across the country, the Deputy Minister of Lands and Rural Resettlement, Berita Chikwama is quoted as saying “It is not government policy that people should go and resettle themselves in farming areas. As far as the ministry is concerned, we are dealing with such problems which are now resurfacing, that people just get into the farms illegally, and we term them illegal settlers”(Southern Eye newspaper, Tuesday , June 14, 2016).

b) A2 Land Tenure and some Small Scale Farming Areas

The current tenure regime accorded to this group of settlers is an “offer letter” which is going to be converted into a lease. The current revised 99 year lease document awaiting Cabinet approval will serve as the basis of occupation, use, transfer, enforcement, and exclusion and inclusion rights for the new settlers. In the meanwhile, however, those who have been settled in the A2 Schemes since 2000 are still not fully “secure” due to perceived fears of: possible eviction for not meeting the conditions of the lease application (i.e. proven and marketed production, perceived sub-letting, perceived under-utilisation), possible sub-division of the

lands they occupy, some of the properties are under Court contestation by previous Commercial owners as well cases of fallout from political affiliation.

Whilst A2 farmers enjoy limited rights of use under the “offer letter” and the few that have 99 year leases, the fuller bundle of rights is still not within their grasp due to governance issues. That the land can be repossessed by the State and re-allocated to new beneficiaries, with the formal procedures for doing so not clearly articulated to date, are an infringement on some of the rights. There is talk that some of the land is going to be permissible for sub-letting legally but the modalities for the same have not been worked out or formally communicated to the current settlers.

Despite no official statistics on the issue, it is recognised that some beneficiaries have access to more than one farm and others are sub-letting without due legal permission. It has been announced that an official “Land Audit” mooted since the early 2000s, will address some of these anomalies when it is duly constituted.

The administration of the Small Scale Commercial Farming sector has been neglected since independence in the wake of Land Reform Phase 1 (1980-1999) and during FTLRP-2000 to date. To this extent lease arrangements have not been monitored, with current lessees being either second or third generation beneficiaries, most of whom claim ignorance on whether all the obligations of the lease were met or otherwise. Many of the beneficiaries claimed they have not been visited by any government official in many years! It is not clear what the level of transactions, outside of family inheritance, have taken place in the sub-sector to affirm or negate the existence of a land market herein.

c) Old Resettlement Permits

In the First Phase of the Resettlement Programme of the 1980s the land remained in the hands of government, with beneficiaries given three permits, viz: a) permit to reside and build a homestead, b) permit to have access to arable land and (c) permit to depasture livestock on common pastures. This state of affairs was investigated during the studies for the Land Tenure Commission in 1994 and found to be a source of insecurity that grossly affected their commitment and long-term investment. It was noted that this made many beneficiaries not to surrender their Communal Area holdings (Masiwa ed. 2004).

d) Customary tenure situation

There has been demand for land within customary tenure as administered by the traditional leaders and councillors although the size of the Communal Lands has not been increased since independence. In fact there have been some lands that have been excised from the Communal Land area such as the cases of displacement of communities in the wake of the construction of Tokwe–Mukorsi Dam, (Masvingo) and the ethanol project in Chisumbanje in Chipinge. The inadequate consultation by the state with affected communities has not been viewed favourably by Communal Land residents in these cases.

Allocation and sub-divisions of land for both building of homesteads and arable lands is an on-going activity in the Communal Lands under the authority of traditional leaders. There are interesting cases of negotiations for land ownership in the Communal Areas adjacent to urban areas where the demand for residential land in cities has increased phenomenally. The case of Domboshava Communal Area some 30 kilometres north of Harare has seen a land market whereby 40% of the villagers have taken advantage of the situation allowed by their traditional leaders, the local Rural District Council authorities to sell both residential and arable plots to home seekers from the City of Harare and elsewhere. Chiefs were paid for

accepting the people into the community, and the RDC were paid development levies by community residents. Hence a de facto land market exists.

Processes of assigning tenure: A1 permits, A2 permits, other

Settlement on the A1 schemes under the FTLRP followed rapid occupation around 2000, with little formal planning and ad hoc demarcation of plots spearheaded by the “Committee of Seven”. The process outlined in Table 4 below lays out the formalisation of settlement in A1 plots which MLRR has been undertaking since about the end of 2013. This requires a farm by farm inspection to recognise and record occupants on the land. However, given the numbers to be verified the process is seen to be very slow. At the end 2014 less than 10% of the targeted A1 permits had been issued. Part of the delays have been attributed to the fact that the division of labour on the requisite processes was split between MLRR(of issuing permits) whilst land allocation and recording had been done by Ministry of Local Government, Public Works and National Housing, with the coordination of these overlapping aspects poorly managed between the ministries (Moyo and Maguranyanga,2014).

Table 4: Processes of assigning A1 land permits

	Land Administration System Service	Conditions Contingent	Actors
1	Farm settlement layout plan (land use, settlement)	-Land use plans -Pegging of plots	MLRR; MAMID/MLGWNH
2	Land Allocation physically (A1/Self-contained)	-A1 Land allocation -Document provided	MLGWNH
3	Farm Inspections (time-frame unspecified)	-Land rights determined -Land occupancy verified -Land utilisation rate	MLRR (various units)
4	Permit (perpetual right to occupy and use, not transferable; inheritable; joint spousal rights)	-Landholders agree to the scope of rights	MLRR and landholders
5	Registration (Administrative only)	A1 Land register (to be created (and maintained)	MLRR/MLGWNH

Source: Moyo and Maguranyanga, 2014

The permit tenure is governed by the Rural Land Act (Cap 155) of 1980 which empowers the Minister of Lands to lease and sell state land for agricultural purposes subject to certain conditions. If the land is leased continually for a period of 10 years the lease agreement should be registered with the Deeds Registry. The other piece of legislation that governs this permit is the Agricultural Land Settlement (Cap 137) revised 2000. The nature of the rights, in this permit allows the beneficiary to occupy and use land but does not allow them to “sell, lease, hypothecate, and bequeath land rights”. In the case of inheritance it is permissible to transfer to spouse who can be joint signatory or signatories in polygamous marriage. The holder has a right to exclude “unwanted people” from their residential and arable plots but not on the commonly held grazing areas. This latter anomaly on exclusion in grazing areas is a cause for concern to settlers in the Communal Areas, old resettlement and new Model A1. There are no permits that have been converted to leases or registered at the Deed Registry although occupancy is for an indefinite duration.

In the delays experienced with formal registration and issuance of A1 permits, it has been observed that there have been an number of “informal” land allocation taking place that have not been endorsed by the land administration authorities. Some of these land allocations include sharing plots amongst relatives or sub-letting without official sanction. In some districts there is an estimate that indicates 30% more beneficiaries than officially recognised

(Moyo, et al. 2009; Chambati 2013). This is an indication of an informal land market taking place within Model A1 across the country.

The A1 permit system, which is not clear on the obligations of the settler at community and household level, and its inability to serve as collateral for financial and emerging land markets is currently deemed not secure. The tenure duration is indefinite, which leaves room for repossession by the State, in the event the settler is deemed not to have produced adequately in a given period.

Due to the fact that the State has not made this permit “transferable” outside of family inheritance, it is not conducive to the development of a land market.

The process of assigning formal A2 land tenure rights is outlined below in Table 5. It is governed by the provisions of the Rural Land Act (Cap 155) of 1980 and the Agricultural Land Settlement Act (Cap 137) revised in 2000. It commences with an application by the beneficiary and then followed by the issuance of a temporary offer letter to an individual by MLRR on conditions that the lessee will “initiate development” on the farm according to a five year development plan and will settle permanently on the farm; and after the steps outlined a provision of a registered 99 year lease is effected. Due to the lengthy process that requires physical inspection, verification of actual production, valuation, survey of the actual farm boundaries, conveyancing and finally registration only less than 2000 A2 farms had been formally allocated at the end of 2014 out of the current beneficiary grouping of 24 000 in this model of the FTLRP! However, the offer letter has no time frame on its validity!

On the part of the lessee he/she is obliged to pay a rental (currently US\$5 per ha.), use the arable land and pasture land as well as manage the natural resources found on the farm. This rental seems to cater for both farmers in the crop based agro-ecological regions and those in the drier livestock based farm operations, a situation which is seen not operationally fair for those in the drier agro-ecological regions. The lease gives the lessee right to exclude unwanted persons on the farm although this has not stopped persons invading the farms to graze their livestock from neighbouring communal areas. The lease administered by MLRR, does not provide for the transfer of rights, except through inheritance in the event of death, but cannot be ceded, assigned or make over any right or sublet in particular, part with possession or grant any form of right of occupation in respect of this farm or part, without approval of the lessor.

Table 5: Process of assigning formal A2 lease tenure

	Land Administration System service	Contingent Conditions	LAS Actions	Remarks
1	Farm layout plan	-Boundaries, pegging	MLRR, others	Plan accuracy
2	Offer letter (OL) provided and recorded	A2 Land registered in MLRR database (and spatial)	MLRR, LIMS	Some OLs not given. Fake OL's
3	Landholder Application for lease	-After 3 years use	NLB	Forms required
4	Farm Inspection (land right adjudication and land use assessment on site)	-Landholder verification -Satisfactory land use	Home affairs NLB	Budgets limited
5	Farm Valuation (on site visits)	-Inventory of assets values determined	MLRR valuers	High costs
6	Farm surveyed	-pay “subtractions”	Surveyor Gen/ Pvt	
7	Lease agreement (spousal rights, inheritance; land use and development conditions; rentals asset purchases value, transfer rights)	-Covenants agreed to	MLRR and landholder	Covenants contested LAS management of restrictions unclear
8	Conveyancing process (notarisation)	-Pay fees to conveyancer	Private sector	

9	Payment of LAS and charges	-land rentals (plus past) -Deposit on asset price	MLRR, Deeds	Few are paying
10	Lease registered	-Registration fees	Deeds	

Source: World Bank, 2015

That the lease issuance and registration has been delayed in the last 15 years, due to a number of challenges faced by the land administrations system that is centred around MLRR and its departments (Surveyor-General, National Land Board) etc), has obviously been a cause for evident lack of security for the beneficiaries. In the interim there have been cases of “invasion” of allocated land by others, incidences of “fake offer letters” and eviction of some of the beneficiaries. The acquisition of resources, both financial, equipment and technical personnel that are required for the process of issuance and registration of the 99 year lease has proved a major challenge. Currently through a UNDP assistance the Surveyor-General’s office has received technical equipment to enhance its base stations to facilitate ease of farm surveys using GPS (Global Positioning System) and Geographic Information Systems (GIS). The process is seen to be circuitous and does involve many land administration authorities. It is not clear whether the newly- announced Land Commission will facilitate speeding up of these processes. Table 6 below shows some of the advantages and disadvantages surfaced in the discussion on the 99 year lease document.

Table 6: Advantages and disadvantages of the leasehold form of tenure

Advantages	Disadvantages
<p>.The lease is a 99 year agreement, which guarantees the possession and use of the farm for the next 99 years subject to the adherence to the terms and conditions of the lease agreement, such as productivity on the farm and payment of rents and rates</p> <p>Purchase of existing improvements on the farms by the farmers(lessees) which can be used as collateral for borrowing from financial or any other institutions provided for in Section 4(b) of the lease</p> <p>Any improvements developed by the new farmer can be used as collateral</p> <p>Registration of the lease at the Deeds Office, can only take place after the an approved survey diagram is produced by the Surveyor-General’s office, which are the basic requirements that provided title deeds</p> <p>Financial institutions or any other lender can recoup its monetary obligation from the lessee, or any other person to whom the lease might be transferred</p>	<p>The lease can only be transferred with the consent of the Lessor, who is the Ministry of Lands and Rural Resettlement as provided for in section 15 of the Lease</p> <p>The Minister is the key administrator of the leases, which may create an administrative challenge as the state has no capacity to manage the few leases under it.</p> <p>The Lessor cannot sell the user rights, which makes financial and investment institutions unwilling to accept them as collateral security</p> <p>There are no criteria for approving/disapproving applications for transfer of ownership, subletting, cessions or partnerships yet the ministry has already started receiving applications.</p> <p>There is no clarity on how to handle polygamous marriages and other forms of marriage</p>

Source: Rukuni et al 2009.

The proposed A2 lease which has duration of 99 years for most of the farms under FTLRP can be seen as business model agreement between government and the A2 lessees. The land rights under the lease could be considered reasonably secure. The major obstacle to the full enjoyment of all land rights, is the inability of the lease to be transferable to any one other beyond beneficiaries of inheritance, i.e. this limits their marketability. Although on paper the land rights can now be mortgaged, and transferred to indigenous farmers through auction in

the event of forfeiture, it is also evident that their inability to confer collateral status against financial loans alone, is a serious limitation to attracting on farm investments.

In this regard there are no apparent conditions conducive to the development a land market in this sub-sector of agriculture

Land rights on foreigners allocated land

In 2009 it was estimated that there 278 foreign owned farms comprising 7.2% in number and 16.1%in area of the new Large Scale Commercial Farming sector. Of these the Bilateral Investment Promotion and Protected Agreements (BIPPAs) farms constituted some 520,000 hectares, and representing some 51 countries and nationals. A number of these farms were acquired and allocated to new beneficiaries under FTLRP, although a number still operate as leasehold or freehold farming estates and/or as leasehold conservancies. The properties that were acquired have been the subject of ligation and dispute resolution governed by external arbitration systems such as the International Centre for the Settlement of Investment Disputes (ICSID). Government apparently, has acknowledged its obligations but currently has no money to meet the compensation requirements (World Bank, 2015).

It is not clear whether any BIPPA properties are currently being considered for possible acquisition by MLRR. Under the FTLRP, BIPPA negotiated lands were mostly all in the freehold tenure domain and suffered the same fate as the Large Scale Farming Sector's mode of acquisition be the State.

Natural resources tenure

As in the Land, all ownership of water, minerals and wild life is vested in the President and all land holders have to obtain authority from the State in order to enjoy use and disposal of most natural resources through various Acts of Parliament. Under statutory tenure (beyond freehold and leaseholds), National Parks, National forests and game reserves all fall under this tenurial category. Matters of natural resource conservation were strictly enforced from colonial times, with such government departments as that of Natural Resources, now Environment Management Agency, Conservation and Extension(CONNEX), now Agricultural and Technical Services (Agritex) playing crucial roles in this regard. In all LSCF lands the Intensive Conservation Areas (ICAs) institutions were cornerstone of sustainable agricultural production, controlling wild fires, and invasive flora. The advent of FTLRP compromised some of these operations considerably. Currently the A1 permits and the A2 lease incorporate conditions for some environmental stewardship on the part of beneficiaries, particularly the creation of fire guards, protection of woodlands from wanton tree-cutting and in-field soil conservation practices.

The foundations of the colonial administration were on mineral exploitation and hence the legislative framework crafted then, gave the Mines and Minerals Act an overriding priority over all other land related legislation. To this end large mining operations such as Rio Tinto's gold mining in Renco (Masvingo), diamonds in Marange (Manicaland) have displaced Communal Area communities, often with little benefit or tangible compensation. The more than 300,000 artisanal/ small scale minors have compromised many agricultural operations across all tenure regimes. There have been incidences of livestock falling into pits left behind by artisanal miners as well as fields caving-in during harvest due to underground tunnels (Source: farmer in Mazowe). In essence the Mines and Minerals Act 1996(Cap 21:05) administered by the Ministry of Mines gives licenses to miners who can exploit minerals on

lands owned or held by others. There are indications that the Act may be amended to accommodate the concerns of other landholders.

With respect to forest resources, the Forest Act of 1996(Cap19:05) guides tenure arrangements in both private and state land, whilst the Communal Lands Forest Produce Act guides and protects forest tenure in the Communal Lands. In the FTRLP, government sought to introduce a version or Model to incorporate exploitation of forest by indigenous communities who were living in Communal Lands contiguous to Forest Lands. Hence through the Ministry of Environment, Water and Climate beneficiaries were allowed to take possession of forest lands in what was termed Forest Based Land Reform on a 25 year lease basis.

Wildlife as a form of livelihood for new indigenous entrants under the FTLRP was accommodated through the designation of those wildlife areas with conservancies to be granted 25 year leases. A conservancy can be defined as any number of properties which are amalgamated into a single complex property in order to enhance economies of scale in management, increase efficiency, utilisation and protection of the overall natural resources (flora and fauna) of the area. Zimbabwe has seven conservancies that occupy some 1 096 543 hectares of land. The administration of the land reform based on wildlife was done through MEWC's Department of National Parks and Wildlife Management Authority. There is concern among some of the beneficiaries on the duration of this lease as there is a feeling that viability of the model, and adequate returns to the settler, may take longer than this stipulated period. (Moyo, S. 2007). This is in view of the fact that substantial investments in constructing lodges, water points for animals, worker housing, acquisition of vehicles for transporting tourists and hunters etc have to be made within the early years of occupancy. The business environment is largely affected by perceptions on the politics of the day, and of course adverse weather conditions such as severe drought.

There is a view in this debate that prescribes "ecologies of scale" whereby farmers on wildlife keeping properties may require entry into sharing or collaborative arrangements to ensure natural conservancy corridors, which may require partial ceding or renting out of land among equity shareholders. This calls for flexibility in the management of the land tenure regime to allow maximum utilisation of land.

At the moment the 25 year leases for wildlife conservancies, introduced as a form of Wildlife Land Reform policy were suspended a few years ago. Apparently other than with BIPPA properties within the conservancies, all other are operating without formal land rights! This is not a condition for assuring security of tenure.

In the case of boundaries of conservancies adjoining both Communal Areas and A1 settlements, cases of "invasion" of livestock for grazing purposes, fire outbreaks, exacerbated by the absence of fireguards, poaching and illegal mining have been cited as disincentives to investment. Where A1 and A2 farmers are contiguous to Conservancies opportunities do arise for mutual cooperation between all occupants, as wildlife does not recognise boundaries. Lessons from CAMPFIRE implementation of the 1990s may be studied to strengthen private-sector and communal farmer household cooperation for mutual benefit.

2.3 IMPACT OF TENURE ON PRODUCTIVITY, INVESTMENT, POVERTY AND CONSERVATION

Argument about productivity and land tenure is predicated on the type of tenure's ability to secure credit facilities and incentives for investment by occupying farmers for long term growth. Productivity gains will come from long term investments in infrastructural development such as irrigation facilities, dairy (milking) parlours, livestock handling facilities (pens and paddock fencing), tobacco barns and storage facilities, durable housing for both the farmer and workers. The contribution to food production of the various tenure regimes since colonial times and at independence right up to the FTLRP has been varied. Whilst the colonial regime administered a market-led production on Commercial farms, and developed a fairly sophisticated agricultural production system that was renowned the world over, the Communal Areas under customary tenure continued to produce their own food staple crops, mostly maize and small grains. With independence, indeed the agricultural revolution in the 1980s that witnessed the country attaining high levels of food security were spearheaded by Communal Area farmers producing higher maize crop than their Commercial counterparts in both LSCF and SSCF. According to MOAMID data (2007,) in 1985 some 1,6MT of maize was produced by the Communal Areas from 1million hectares whilst 1.1MT came from Commercial areas.) The reasons for this high maize production were more to do with input support, (fertilisers and chemicals) market support (good pricing and timely payouts) and good rainfall, than tenure conditions. Commercial farmers had also switched on to more lucrative crops like tobacco, oilseeds, pulses, wheat and export-market oriented horticulture. Cotton production was predominantly produced by Communal Area farmers.

With FTLRP, smallholder farming sector now comprises, inclusive of the Communal Area and old resettlement areas, some 72.9% of total arable land. Indeed, World Bank economists do recognise that small farms can be as productive as larger operations as " they use the land ,labour and capital more efficiently than do large-scale farmers who rely mostly on hired labour".(Binswanger-Mkhize 2009, cited in World Bank 2015.)

Impacts of productivity

There have been remarks that allude to low levels of productivity in the newly resettled areas of A1 and A2, not so much as a basis of the changed tenure regime obtaining on the land but on the ability of the new beneficiaries to raise capital and credit from both themselves and financial institutions. Some of the causes for the inability to maintain productivity at sustainable levels have been due to poor market conditions for their produce (GMB's inability to pay timeously for crops delivered), farmers' lack of business and farming skills, including unfavourable conditions for attracting farm labour. (Farm labour remuneration competes unfavourably with returns to artisanal mining in many places like Mazowe, Kadoma and Kwe Kwe, to name but a few). Overall the area under crop production increased with advent of FTLRP, with area under maize crop expanding from 1.36million ha in 1999 to 1.8million ha in this period. In terms of productivity, however, the national average yield of maize fell from 1.2MT per hectare around 2002 to be in the region of 0.3 to 0.6MT per hectare. In 2011 the smallholder sector (old resettlement, A1 and A2 as well as the Communal Areas) contributed 72% of marketed maize while the commercial and peri-urban farming sector contributed the remaining 28%. Currently, due to support from contract farming initiatives tobacco has been on the increase with the small-scale sector producing at least 46% of the crop. The reasons for the success of contract farming have been the infusion of technical support, extension to the inputs provided and a vibrant tobacco market.

In so far as yields per hectare, there have been a remarkable decline with the national average, for maize, in the smallholder sector now hovering around 1 tonne per hectare. The provision of inputs (including mechanisation) and credit to new A2 farmers under the ASPEF- era led by the Reserve Bank in the “quasi-fiscal” period before 2008 did not improve the productivity issue significantly. An equivalent of US\$114 million was distributed under this programme in 2008. (Murisa and Chikweche, 2015)

The reasons for poor performance of the disbursed financial assistance have not been clear; serve to point out to causality that may hinge on security of tenure as well as an outlook of entitlement, and lack of business acumen on the part of the farmers supported. Other issues that affect viability also include ease of markets to pay promptly, and relative high production costs (electricity, labour, water, etc).

Impacts on investment

There is some indication that some farmers on A2 scheme have been reluctant to invest in their new farms citing uncertainties about their future on the land in the absence of a firm 99 year lease (Mombeshora et al 2014). Whilst this may hold sway in some cases, the depletion of some of the infrastructural investments that were already on the properties (like irrigation equipment, tractors, tobacco barns, residences) may point to a deeper problem than is often touted, that may include challenges at initial beneficiary selection.

Resettled farmers do bemoan the lack of financial capital assistance at critical times for operations in the farms. There are farmers that have ventured into such enterprises as Virginia tobacco growing which require investment in curing barns, seedling preparatory nurseries, fertilisers, transport to the marketing floors and living costs during the planting season. Many, who do not have their own resources, have faced serious challenges and that they are unable to raise capital from traditional sources because they do not have collateral has been cited as a reason for the need for leases to be usable for that purpose. Tobacco farmers resettled in Hurungwe reported that they are enjoying a “windfall” from current production revenue as long as the contract arrangements which advance them credit are tenable.

It is estimated that at least 40% of developed irrigation areas in the lands taken over by the FTLRP is not working or not used (Masiwa, ed .2004). This is a negative impact of investments already done on-farm.

Impacts on poverty

Whilst part of the *raison d'être* for the FTLRP was to decongest the overpopulated Communal Areas the impact of this has not been significant in the customary tenure areas. Despite a 21 per cent increase in the smallholder areas, only 9 per cent of households were resettled, hence implying lower levels of decongestion (Moyo, Sukume et al 2004). Admittedly approximately 60 % of the land beneficiaries in both A1 and A2 schemes were originally based in Communal lands, whilst the second largest group was made of people from urban areas, with women taking about 19% allocations, the opportunities for these beneficiaries to uplift themselves from poverty are immense.

Food insecurity and poverty are, however, an annual event in most of the rural areas, with rates of 76% rural poverty recorded in a survey (ZIMSTAT 2011/12), with cases of extreme poverty recorded at 22.9% in the same survey. Many families reported that their food security fortunes fluctuate with the seasons and in the wake of climate change and unpredictable weather patterns the need for infrastructure like irrigation dams and schemes to buttress their

livelihoods were seen as a possible panacea, in both Communal and Model A1 resettlement areas.

An often neglected impact of the FTLRP is the dislocation of farm workers and their subsequent fall into poverty. In addition to livelihood, farm workers lost non-wage services and assistance previously provided by their commercial employer.) Some 2.63% of farm workers benefitted from A1 settlement and less than a third of those displaced were employed by the new A2 farmers.

Current estimates of farm workers are given as 100 000 a drop from the peak of 250 000 before FTLRP.

Impacts on conservation

Studies on the depletion of natural woodland and vegetation cover indicate that most of it was due to lands being newly opened for arable cultivation. This phenomenon was prevalent in implementation stages of Phase 1 or Old Resettlement, and continued into FTLRP.

In the latter, there were instances of persons engaging in wanton tree cutting as a means of extracting firewood for sale as a means initial survival. The former Department of Natural Resources, now the Environmental Management Agency has mounted campaigns to try and educate resettlement beneficiaries to preserve their environment, with commendable degrees of success.

The increase in the number of people and livestock occupying former LSCFA has displaced some wildlife on these properties, through both poaching and outward migration.

The issue of conflicts between artisanal miners and agriculturalist has been alluded to above. It is hoped that inter-ministerial discussion and the new Mining & Minerals Amendment Act can come up with feasible solutions for peaceful and sustainable existence between people all seeking to eke a living from the soil.

2.4 TENURE PERSPECTIVES FROM FINANCIAL SERVICES PROVIDERS

The GOZ is currently discussing revised proposals to make the 99 year lease to be a bankable document in Cabinet. The responses and concerns of the financial services sector are aired on the following issues (Bankers Association of Zimbabwe):

On property ownership

The lease as a means indicating legal occupation of land is recognised under the Agricultural Land Settlement Act (Chapter 20:01), with the rights, privileges and conditions that are conferred. As part of their desire to assist farmers on leases the banks would like to encourage farmers to build their homes on the farms and thus establish their “domicilium citandi et executandi”, which can be translated as reasonable permanent residence of the customer.

For banks it is very important for a farmer to have “proof of residence”, (in the mould of what is described by Hernado de Soto) at account opening. This is the beginning of a “relationship” which will allow assessment of the farmer’s risk factors.

Bankability

A summary of conditions that would need to be certified for the Banks to accept 99 year lease as bankable would consist of the following:

- a) Stable assured stay on the land for as long as the farmer is productive;
- b) Has an incentive to invest on the land in building immovable infrastructure such as a house, irrigation canals and dams, barns, sheds and other farm structures that promote productivity of the land and reduce risk of failure
- c) Access to a market for his/her produce
- d) Access to a reasonable and predictable market of buyers that will enable him/her to have reasonable assurance for compensation for any permanent improvements made on the farm should there be need for the farm to be re-allocated to a third party;
- e) Allows the banks or any lender to hold both moveable and immoveable property as collateral for loans advanced to the farmer.

In essence the banks emphasise that a 99-year lease alone does not guarantee a farmer access to bank loans. Other risk factors are taken into consideration, including the soundness of the business plans or propositions given by the farmer prior, such as the viability of the cropping or livestock development programme proposals put forward. The business plan presented by the farmer needs to address mitigation measures with the identified risk factors so as to avoid failure in the short, medium and indeed long term.

Mortgage-ability

From a bankers view point, mortgage-ability relates to lending against collateral, as it is not possible for them to lend in the absence of any existent collateral. Given the uncertainties surrounding the transferability of the A2 lease, (still subject of negotiation) it would be difficult for banks to lend on the basis of the lease of the land alone. Hence, they would insist on some alternative non-farm based collateral to support the loan facilities sought from the banks.

Due to the fact that banks on-lend other people's money they always need to ensure that the exposure to the loan is something they would be able to recoup in the face of default by the persons who have been granted a loan. Hence valuation of what is deemed to be collateral is very crucial in the assessment of the risk factors. Banks use the "forced sale value of the collateral" presented by the farmer (be they moveable assets such as tractors, vehicles, etc; or other immovable buildings and infrastructure). This value is lower and different from a perceived "market value" of assets and can be equated to a rate that be recovered at an auction floor price. Thus the amount of loans that banks can offer to a borrower will not exceed the forced sale value of assets listed as collateral. The ease of the transferability of the asset to another lessee in the event of loan repayment default by the original borrower, forms part of the assurance to the banks.

2.5 STRATEGIC POLICY ISSUES

If it is recognised that previous land market during the heyday of freehold in LSCF has been replaced by lands in the fold of State leaseholds, it has to be acknowledged that any debate of the land market has to be addressed largely within this tenurial regime. Hence when the various options of the 99 year lease are being finalised they have to seriously take into consideration, the lease's ability to be bankable, transferable or fungible. That most of the land under A2 is currently underutilised for one reason or the other 15years after change of

occupancy is an indication of the need for a rethink on what capacities would be needed to make the utilisation rates to be much higher.

The debate about creating conditions for renewed agricultural growth has to be seen in the broader discussion on what it takes to attain agrarian transformation. Whilst land tenure is but a big part of the equation, it is not the only one, as other institutions need to be revisited. The call for a new impetus on what is a National Land Policy, which is more encompassing, seeking to transform all the land tenure regimes alluded in this study, beyond the narrow mandates of individual Ministries and such agencies should be accorded great priority. Presently,(in the last two decades) the amount of energy and resources that have been devoted to ameliorating the challenges under FTLRP, particularly Model A2, have been disproportionate to the overall size of the agricultural sector as a whole. A rethink is desirable, which may include the following:

- a) Design of rural financial services and credit facilities that essentially move beyond the requirements for freehold title as collateral to new forms of credit guarantee supported by the state and non-state actors. The experiences from the current contract farming in the tobacco story should be studied and improved upon.
- b) Consideration of a range of land tenure options for securing land rights and encouraging investments, including permits, leases and other mechanisms. The experiences of Zambia's adoption of leases in communal lands are worth studying in detail, amongst others
- c) A redesign of infrastructural and technological support, across tenure regimes.
- d) Support for the dynamic entrepreneurship of new farmers-particularly on some of the A1 farms without undermining this with inappropriate or heavy-handed stabilisation measures; and
- e) Active intervention by the state-not through the distorting practices of "command agriculture" or price fixing or "freebies" but through coordinating, facilitating and providing focussed subsidies and start-up finance to rejuvenate agricultural productions
- f) (Adopted from Moyo et al 2009, DBSA 2012)

It has to be recognised that farming is a dynamic business. Enterprises that are viable today are not going to be so tomorrow. Those who are in farming today do not necessarily have the same passion and ability to leverage capital resources as evidenced by the experiences in all our agricultural tenure regimes to date. Hence mechanisms to allow those with capacity to work larger holdings should have an opportunity to expand, whilst those who want to downsize or to quit farming all together should be entertained, to allow transparent transfers. For instance farmers wishing to go into flower production, mushroom production or other such high-value on small hectare enterprises should be allowed to let the rest of their holdings to other farmers. This would revamp a land rental or leasing market to enable these natural variations in plot sizes, which would also see better land utilisation (Sukume, Moyo and Matondi 2004).

The rethink could specifically involve some of the measures that will improve land utilisation, productivity and efficiency. Explore ease of doing the following;

- Rentals of land on both A1 and A2, including Small Scale Commercial Farming Areas should be explored and permitted to develop
- Allow Sharing-arable/grazing land across both A1 and A2 schemes

- Allow Sub-divisions of current A2, SSCF
- Allow shorter leases to ease entry and exit for specific enterprises
- Explore benefits, constraints and expansion of Contract farming

2.6. COMPARATIVE INTERNATIONAL EXPERIENCES ON LAND TENURE THAT MAY ASSIST POLICY SUPPORT TO AGRICULTURAL GROWTH

Table 7: Comparative land lease characteristic: selected country cases studies

Country	Registration	Duration In years	Transferability			Land Mortgaging	
			Lease Use Right	Land use	Improvement sale	Mortgages	Compensation on repossession
Zambia	Registered by Lands and Deeds	100	Implied	No	Yes	Yes	Yes improvements
Botswana	Deeds and Registry Not compulsory	n/a	Implied	No	Yes	Yes	Yes improvements
Lesotho	Deeds Registry	100	Yes	Yes	Yes	Yes	Yes for improvements
Malawi	Land registry	50	Implied	No	Yes	Yes	Negotiated value of improvements
Mozambique	Recommend but not compulsory	50 renewable	Yes on approval	Yes	Yes approval, notarial deed	No	Yes improvements
Zimbabwe	Surveyor General Deeds Office MLLR	99 renewable	Yes on approval	No	No sale but transferable upon approval	Yes*	Yes for improvements

Adapted from MLRR 2009 (cited in Rukuni, et al 2010)

In the case of Zimbabwe the proposed A2 lease is a document that will allow the lessee to mortgage the right to land, in the event of default, this right will be auctioned by the state to other qualifying beneficiaries.

Reference can also be made to the Zambia Emergent Farmer Finance and Support Programme (ZEFP) where the public bank ZANACO provided working capital and investment finance whilst the International Finance Corporation and Rabo Bank provided technical assistance programme through the Zambia National Farmers' Union to smallholder farmers. The programme adopted strict business principles to provide commercially based access to finance to a class of farmers hitherto unable to access bank finance. It focused on:

- Farmers with at least a three year track record
- Proven or identifiable enterprise in the farmer
- Adequate equity, and;
- Minimum farm size depending on the farming enterprise(emergent smallholder farmers have land holdings ranging from 5 to 100 hectares held under both customary and leasehold tenure: Source (CABRI- 2014)

The requirements for bank loans in Zambia under the ZEPF are similar to those expressed by the Bankers Association of Zimbabwe.

The varied experiences from elsewhere show what is feasible in a given socio-political situation. For instance Zambia has been able to allow conversion of customary tenure to 99 year leases, with increased and clear roles of district councils on land tenure administration. Individuals are allowed to convert their customary tenure initially to a 14 year lease and on further survey and fulfilment of other conditions the State can grant 99 year leases to Zambians holding communal land.

Botswana has been praised for its land administration through Land Boards which are closer to the ground than in most other jurisdictions. They operate mainly in communal lands. The use of land as collateral is permissible in the Commercial Farming sector, which is freehold tenure, but is not common in the traditional authority areas

Ghana has also had success in converting communal lands into leasehold and freehold tenure, as the country's rules give allodial rights to the communities rather than the state. The State, however, is allowed to deal with public land. This system allows communities to enter into commercial negotiations with individuals or corporate as part of the land market discourse.

Australia, which has multiple land tenure regimes like Zimbabwe also, has some interesting and useful experiences. For instance, their leasehold tenure include ; a) term lease which is granted for a period of between 1 to 100 years; b) perpetual lease which can be held by the leaseholder in perpetuity; c) free-holding lease where an approved leasehold is being paid off incrementally through annual instalments. The freehold title is granted at full payment of the agreed instalments; d) permit to occupy-where short term occupation of state controlled land is allowed. Interestingly, the situation in (c) is synonymous with that pertaining to Commercial Farm Settlement Scheme in Zimbabwe where beneficiaries can pay off lease rentals and be granted title. The Australian experience, on the leasehold arrangements are made secure by ensuring that parties entering therein, fully understand that they are entering into a business model, which has been crafted with clear obligations and incentives for both parties (Vudzijena, 2016).

3. KEY FINDINGS AND CONCLUSIONS

The country has several land tenure regime operating across the rural and urban landscapes. These include freehold tenure in the remaining Large Scale Commercial Farming Areas, leasehold tenure in Small Scale Commercial Farming Areas and in the A2 model resettlement under the FTLRP; permissory tenure or permit system under the old resettlement areas and Model A1 schemes under FTLRP; customary tenure in the Communal Lands; and unalienated land controlled by the state and run as gazetted forests, and national parks.

The various tenure regimes enjoy differentiated “bundle of rights”, which have been elaborated above in terms of: use rights, transfer rights, exclusion rights and enforcement rights. The major area of investigation in this study was the leasehold in A2 scheme and to some extent on A1 areas. The study specifically wanted to find out what the marketability of these tenure regimes were in the present circumstances. The findings on this account were that A1 permit system as it stands does not augur well for a formal land market as this is not allowed in law. It was found that the permit’s transferability is only within the family through inheritance, to remaining spouses or dependants.

Farmers that have been operating under the A2 “offer letter” whilst awaiting the issuance of a formal A2 lease have expressed their inability to secure financial loans for their farm operations due to the document being deemed not suitable for use as collateral. The lack of a robust tenure regime with registered rights for all new farmers has also been blamed on creation of inefficiencies and insecurities created by numerous conditions and restrictions attached to their stay on agricultural land. The resultant land underutilisation and lack of funds for investment are issue that need urgent attention in order to realise the potentials for increased farm production and profitability in the new agrarian structure. The A2 lease has been revised and currently been presented to Cabinet for ratification. Financial institutions have made comments on the draft document and submitted these to the MLRR. It was found that the slow pace of formal issuance of A1 permits and 99 year leases, has been a source of some anxiety to beneficiaries given the 15 years that it has taken to get this far.

What is evident is that whilst the bankability of the 99 year lease has been a subject for possible applications to the financial institutions for loans and use as collateral for the same, the banking fraternity point out, that a bankable lease is not a guarantee for a farmer to obtain a loan. Financial institutions have other requirements that they also look at in assessing the risk of the farmers to profitably engage in the enterprises of their choice and ensure ability to repay the loan. The existence of a relationship with a financial institution, proof of residence on the farm, presence of other moveable and immovable property that may ensure transferability in the event of loan repayment default, presence of a viable business plan with assured markets for produce, *inter alia*, also come into the picture at assessment of loan application.

As things stand the formal land market is very uncertain. In the remaining LSCFA the major player for buying would be the State, which has the option of first refusal and issuance of a Certificate of No Present Interest. The uncertainties on whether the FTLRP is actually complete or not, and the continued “sporadic illegal settlement or occupation” make the development of a land market in this land tenure regime non-existent at the moment.

The situation in Small Scale Farming Areas, is a cause for concern as it seems it has not received due attention over the years. There has been very little empirical evidence which has

looked at the actual land tenure situation in this sub sector, and as such even the existence or non-existence of a land market here is anecdotal at most. Suffice to say there seems to have been mostly intra-family land transfers over the last four or five decades in this subsector. This is most unfortunate, as lessons and opportunities for the crafting current A2 land leases are being missed.

Whilst there is no formal land market in the Communal Lands under customary tenure, anecdotal indications reveal existence of informal land market where traditional leaders and at times Rural District Councils have been involved in land transfers. On the formal note in this sector has been expropriation of Communal Lands for mining purposes (i.e. Chiadzwa,) and commercial sugar estate expansion (i.e. Chisumbanje). Attempts at compensating the people have been made through Community Ownership Trusts where operating companies are supposed to contribute financial returns to the affected communities.(i.e. Ngezi and Chiadzwa). The record has not been impressive with a lot of dissatisfaction voiced by community representatives.

4. POLICY RECOMMENDATIONS

This study has looked at the land tenure and marketability issues in the country. It realises that a solution to some of the constraints and challenges encountered has to be dealt with in a holistic manner if meaningful impact to economic growth is to be attained. Whilst considerable priority has been given to the status of A1 and A2 beneficiaries, the agrarian situation recommendations refer to the broader elements as well. For instance, critical questions that still need to be addressed include: what is the future of LSCFA? What is the future of freehold tenure per se? Are there lessons that have been learnt about the administration of leasehold tenure in the SSCFA over the last five decades that can inform better administration of the revised A2 lease? To this end some of the poignant policy recommendations that are being made herein include:

- There is need to bring some finality to FTLRP phase, and particularly A2 lease revisions. That a document has been sent to Cabinet to this effect is a welcome development. Its discussion and implementation have to find sustainable ways of enhancing farmer accessibility to medium and long-term credit.
- Over and above A2 lease issues the need for a comprehensive National Land Policy cannot be overemphasised. It has to cover all land issues beyond what is currently under the domain or mandate of MLRR. This would also call for a thorough review and clarification of rights and administration for all land use and land tenure categories. A revisit of policy toward customary land tenure and land use in Communal Areas would be part of this new mandate.
- The supreme law of the land has clear policy directions on land rights. It is now incumbent on government to align existing legislation governing land administration with the provisions of the Constitution, which will ensure resettlement beneficiaries enjoy their full rights.
- The finalisation of an agricultural policy which will give guidance and support to implementation across all land tenure regimes is desirable. This is more imperative with the realisation that the new agrarian structure is now dominated by the smallholder sector which consists largely of the Communal Areas, the old resettlement areas and Model A1 settlers under the FTLRP.
- One of the challenges that the country faces across all land tenure regimes is how to regulate disposal, acquisition, transferability of land in a transparent manner with minimal political or state interference. A land market for current and future generations, which assures those who want to enter and those who want to leave agricultural production, is an imperative.
- A major challenge that has been observed is the lack of a robust well capacitated and coordinated Land Administration System (LAS) that works across ministerial boundaries, and across tenure regimes. This is an issue that the Office of the President and Cabinet might take the lead on.
- Address root causes of land-related disputes and uncertainties (c.f. remove ambiguities or rights and boundaries, invasions, re-planning and associated evictions,

alignment of directives from LAS institutions as opposed to contradictory directives) improve mechanisms for resolving disputes ,at the local level.

- The laws governing administration, acquisition, access and transferability of land, as well as natural resources therein(such as the Rural Land Act(CAP 155) 1980, The Agricultural Land Settlement Act(Cap137) as revised in 2000, Mines and Minerals Act etc) should be amended accordingly to align to the New Constitution

The following specific recommendations should be seriously considered:

a) On Freehold in the Large Scale Commercial Farming:

The freehold tenure, which hitherto, was seen as the most secure as it conferred full property rights, should be maintained, and protected. Through a definitive National Land Policy, the rights should be made clear, following appropriate land use zone plans that will give a spatial framework for future farm enterprises and other land uses. Lands that remain under freehold should give government the option of first refusal for any proposed transfer or sale through a public proclamation at the behest of the seller. This will ensure a measure of transparency in the land market. The caveat that land should be offered to government first is to ensure that national interests are given priority and also clear the path that the land on offer is not within the immediate future plan interests of the state for acquisition.

b) On A2 leases:

Option 1: The 99 year lease should be converted into shorter term lease of at least 10 (ten) years with the option of Deed of Grant on conditions that sufficient investments have been made on the land(homestead, fencing, water points, or paddocks), indicating serious intent to be a farmer. The Deed of Grant is registered at the Deeds Registry. If the leaseholder fails to fulfil the condition in 10 years then the State can possess the land and offer fair compensation for any improvements. If the leaseholder wishes to exit before the 10 years that she/he can either sell the lease back to the State for the value of improvements or sell to another person who qualifies for the land reform. The application for land should not discriminate (as per the Constitution) on the basis of political affiliation, race, gender, health or disability status.

Option 2: Maintain the 99 year lease, hopefully which will contain simpler legal requirements and clear rights to sell back to the state or another entity that qualifies for the land-reform programme for the value-added improvements.

Both these options have the aspect of firmer security of tenure and allow for mortgageability, and transferability.

c) On A1 permit system:

The permit system in A1 needs to be reviewed so that farmers are able to feel more secure in terms of enforcement of the rights of exclusion, which currently they cannot in the face of outsiders invading their grazing areas. The permit also needs to recognise that farming is dynamic and settlers need to have the option of disposing their “properties” in a land market that will value the investments they have made on the plots during their occupancy. Giving the permit tenure a limited duration will encourage occupants to productively utilise the land during tenure, as well as invest in on farm infrastructure if they know they can benefit from the sale of the land when they wish to quit farming. The Rwandan experience is an option worth pursuing where this permit style has been converted into freehold tenure, which is exchangeable on the rural market. The revised tenure should give the occupant a chance to pay for the land in annual instalments or other periods within their means.

Communal Lands should cease be State Land and State should confer Traditional Freehold rights as follows:

- Deed of Grant should be issued to the Family for arable and residential land, in favour of joint ownership by both spouses.
- For grazing land and other common property lands the Deed of Grant should be made in the name of a Community Trust, which may or may not coincide with Village Development Committees, who will look after the natural resources and pass appropriate by-laws to exclude other communities encroaching on their common property.
- In the event that the State wants to expropriate land in the Communal Lands it should do so in consultation with the traditional authorities (chiefs, headmen etc) and the elected community representatives. Communities should be promptly compensated for loss of use of the expropriated lands

d) Policy on BIPPAs

Policies on the transfer of land rights, including of BIPPAs and foreigners should be made clear in terms of Zimbabwe's national interest and international relations. Honouring the debt on BIPPA acquired properties as adjudicated by the ICSID process should also be part of the priorities for mending international relations.

REFERENCES

- Kanyenze ,G. Kondo,T. Chitambara, P. and Martens Jos. eds. (2011).Beyond The Enclave: Towards a Pro-poor and Inclusive Development Strategy for Zimbabwe
- Mombeshora, S. Gaidzanwa, R. and P.B.Matondi.2014. Land conflicts and dispute resolution in Zimbabwe's Fast Track Land Reform Programme. Paper prepared under the World Bank's Agriculture Sector Technical Group (ASTG) and Multi-Donor Trust Fund (A-MDTF) Land Studies. Price Waterhouse Coopers. Harare
- Masiwa ,M . ed. 2004. Post Independence Land reform In Zimbabwe: Controversies And Impact on the Economy. Friedrich Ebert Stiftung
- Moyo Sam. (2007) Emerging Land Tenure Issues in Zimbabwe: Review of the Zimbabwean Agrarian Sector following the Implementation of the Fast Track Land reform Programme; AIAS.Monograph series, Issue No 2/07.Harare
- Moyo Sam and Maguranyanga, B. (2014) Assessment of Zimbabwe's Land Administration System and Options for the Future. Paper prepared under the World Bank's Agriculture Sector Technical Group (ASTG) and Multi-Donor Trust Fund (A-MDTF) Land Studies. Price Waterhouse Coopers. Harare.
- Moyo, S.Chambati, W. Murisa, T. Siziba, D. Dangwa, C.Mujeyi, K. Nyoni, N. (2009). Fast Track Land Reform Baseline Survey in Zimbabwe: Trends and Tendencies, 2005/6, AIAS Publication, Harare
- Moyo, S and Chambati, W. (2013) Eds: Land and Agrarian Reform in Zimbabwe: Beyond White-Settler Capitalism, Council for the Development of Social Science research in Africa (CODESRIA) Dakar
- Nyoni ,J. M. (2014) Innovative Financing of Agriculture in the SADC Region: A Case Study of Zambia. A Backgronf paper for CABRI Agriculture Dialogue, Kigali, Rwanda. 4-5 December 2014
- Nyoni, J.M and Tichagwa, W. 2002: Land Reform Experiences 2000-2002.United Nations Development Programme, Harare. September, 2002.
- Rukuni, M. Nyoni, J.M. and Sithole E (2009) Study on Policy Options for Optimisation of the use of Land for Agricultural Productivity and Production in Zimbabwe. For the Multi-donor Trust Fund's Agricultural Review Technical Group and the World Bank. Harare. June-November 2009
- Rukuni, M. and Prosper Matondi(2014) Zimbabwe's Land Policy, Governance and Administration Options in Support of the Ministry of Lands and Rural Resettlement's Action Plan. Synthesis Report of the Land Studies under the World Bank's Agriculture Sector Technical Group (ASTG) and Multi-Donor Trust Fund (A-MDTF) Land Studies Program. Price Waterhouse Coopers. Harare.
- Shonhe, T and Ranga Muchetu. (2016) Paper for the 99 Year Notarial Deed. (Final Draft; Sam Moyo African Institute of Agrarian Studies, March.2016

Sukume, C. And Dengu Ebbie. (2014) Land Use Policy Review: Paper under the Land Studies Programme. PriceWatersCoopers and World Bank. 2014

Sukume ,C.. Moyo ,S. and P.B. Matondi.(2004) Farm Sizes, Decongestion and Land Use: Implications of the Fast-Track Land Redistribution Programme in Zimbabwe. Review of the Zimbabwean Agricultural Sector following the Implementation of the Land Reform. For European Union.

Vudzijena, V. and Lloyd Mishi (2014) Zimbabwe's Land Tenure Policy and Strategic Options. Paper prepared under the World Bank's Agriculture Sector Technical Group (ASTG) and Multi-Donor Trust Fund (A-MDTF) Land Studies. Harare.

World Bank. (2015) Land Governance in Zimbabwe: An Options Paper. Harare and Washington. D.C

ANNEX 1: STAKEHOLDERS CONSULTED

Name	Title	Institution
Walter Chambati	Deputy Director	Sam Moyo African Institute of Agrarian Studies
Vimbai Vudzijena	Consultant	Independent Agricultural Consultant
Gibson Guvheya	Programme Officer	World Bank Mission in Zimbabwe
Maxwell Mutema	Consultant	Independent Agricultural Consultant
Godfrey Mudimu	Technical Officer	LEAD Programme and former ZIMACP Chief of Party
S. Biyam	C E O	Bankers Association of Zimbabwe
B S Masola	Farmer	Commercial Settlement Scheme

ANNEX 2: THE LAND, CONSTITUTIONAL REVIEWS AND THE LEGAL FRAMEWORK IN ZIMBABWE, 1979-2015

Year	Constitutional changes	Relevant legislation	Key provisions
1979-1984	Constitution of Zimbabwe(section 16:1)	Land acquisition Act(Act 15 of 1979)	Limits rights of compulsory acquisition Introduces “willing seller, willing buyer” criteria for compensation Allows acquisition for resettlement with “prompt and adequate” compensation
1985-1990		Land Acquisition Act(Act 21 of 1985)	Repeals 1979 Act No reference to “willing seller-willing buyer” criteria All commercial agricultural land sold on the open market had to first be offered to government. If government was not ready or interested in the property(Right of First Refusal), it would be issued with Certificate of No Present Interest
1990	Constitution of Zimbabwe Amendment Act(Act 30 of 1990, the 11 th Amendment to the Constitution)	Land Acquisition Act(Act 3 Of 1992 and now Chapter 20:10)	Repeals 1985 Act Introduces designation for up to 10 years as a prelude to compulsory acquisition Confirmation of compulsory acquisition through designation
1992-1993	Constitution of Zimbabwe Amendment Act(Acts No.4 and 9 of 1993, the 12 th Amendment to the Constitution)		Rights of Refusal abolished Compulsory acquisition through designation
2000	Constitution of Zimbabwe Amendment Act(Act 5 of 2000, the 16 th Amendment to the Constitution) Constitutional Amendment No.16A	Land Acquisition Amendment Act(No.15 of 2000) Land Acquisition Amendment Act (No.14 of 2001) Land Acquisition Amendment Act (No.6 of 2002) Land Acquisition Amendment Act(n0. 10 of 2002)	Absolves government from paying compensation for land, obliges paying for improvements(section 16A) Incorporates new position of “no obligation to pay compensation for land” Eliminates designation route, allows payment through instalments, bonds, and other long-term securities Maximum one-year preliminary notice of acquisition made valid indefinitely Condones Government’s failure to comply with time

			<p>limits imposed by the Land Acquisition Act</p> <p>Reduces indefinite validity of preliminary notice of acquisition to two years(increased to 10 years through section 14 of Act 7 of 2004)</p> <p>Required “owners” of acquired land to cease operations within 45 days of service of the order and to vacate the living quarters within 90 days despite the fact that they are challenging the acquisition</p> <p>Introduces presumption that land to be acquired for resettlement is suitable for agricultural purposes</p> <p>Allows acquisition to proceed despite failure to serve notice on bondholders as required by law</p>
2001		<p>Rural Land(Farm Sizes) Regulations</p> <p>Rural Land Occupiers(Prevention from Eviction) Act(Act 13 of 2001, Chapter 20:26)</p>	<p>Prescribed the maximum farm sizes per natural region</p> <p>Allowed for occupier who had occupied land by March 2001 to stay on the land(Act repealed without substitution by the Gazetted Land(Consequential Provisions) Act 8 of 2006, Chapter 20:28)</p>
2004-2006		<p>Acquisition of Farm Equipment or Material Act(Act 7 of 2004, Chapter 18:23)</p> <p>Gazetted Land (Consequential Provisions) Act(Act 8 of 2006, Chapter 20:28)</p>	<p>Provided for compulsory acquisition of farm equipment and material on agricultural land which is not being used for agricultural purposes</p> <p>Also amended the Land Acquisition Act by extending the validity of the preliminary notice of acquisition from two years to ten years</p> <p>Requires former owner of land which has been compulsorily acquired and owners whose land is identified and gazetted for resettlement and other purposes to cease operations within 45 days and vacate the living quarters within 90 days of the gazetting unless</p>

			authorised to remain on the land
2005-2009	Constitution of Zimbabwe Amendment Act (Act 5 of 2005, the 17 th Amendment to the Constitution)		Takes the right of former land owners to contest agricultural land acquisition in the Administrative Court or any other court in Zimbabwe although they can still challenge the fairness of the compensation offered
2013	Constitution of Zimbabwe		Spells out citizens rights to agricultural land, functions of traditional leaders in the administration of land matters in Communal Lands, the setting up and roles of the Zimbabwe Land Commission

Source: Rukuni et al 2009, Kanyeze, et al 2011 AIAS, 2016