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Towards a National Gender Sensitive Land Policy in Zimbabwe Issues for Consideration

WALTER CHAMBATI AND FREEDOM MAZWI

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Land Policy in Zimbabwe**
Issues for Consideration

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Acronyms

BIPPA	Bilateral Investment Promotion and Protection Agreement
JVs	Joint Ventures
CSOs	Civil Society Organisations
DLCs	District Land Committees
ESAP	Economic Structural Adjustment Programme
EMA	Environmental Management Agency
EU	European Union
FTLRP	Fast Track Land Reform Programme
FAO	Food and Agriculture Organisation
FES	Friedrich-Ebert-Stiftung Zimbabwe
GLTN	Global Land Tool Network
GPS	Global Positioning System
GoZ	Government of Zimbabwe
ICP	International Cooperation Partners
IFI	International Finance Institutions
LAS	Land Administration System
LIMS	Land Information and Management Systems
LSCF	Large Scale Commercial Farmers
MLRR	Ministry of Land and Rural Resettlement
NGOs	Non-Governmental Organisations
NRZ	National Railways of Zimbabwe
NPA	Norwegian People's Aid
ORAs	Old Resettlement Areas
PLC	Provincial Land Committee
RDC	Rural District Council
SMAIAS	Sam Moyo African Institute for Agrarian Studies
SSCF	Small Scale Commercial Farmers
STDM	Social Tenure Domain Model
SOLA	Solutions for Open Land Administration
SADC	Southern Africa Development Committee
SDGs	Sustainable Development Goals
UN	United Nations
UNDP	United Nations Development Programme
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure
WLZ	Women and Land in Zimbabwe
ZANU (PF)	Zimbabwe AfriAcan National Union (Patriotic Front)
ZiLAN	Zimbabwe Land and Agrarian Network
ZLC	Zimbabwe Land Commission
ZIMSTAT	Zimbabwe National Statistics Agency

Foreword

One of the core aims of the Sam Moyo African Institute for Agrarian Studies (SMAIAS) is to facilitate dialogue for the transformation of African agrarian systems. This is achieved through advancing policy-oriented research. Over the last two decades, the institute has been a resource centre for African governments and civil society organisations in an effort to address various land and agrarian questions. In Zimbabwe, the SMAIAS was instrumental in the establishment of the Zimbabwe Land and Agrarian Network (ZiLAN) in 2012, whose aim is to improve the participation of CSOs in lobbying and advocating for land and agrarian policies in favour of small producers, most of whom are women.

In an attempt to rationalise the Fast Track Land Reform Programme (FTLRP) and re-orient land tenure and agricultural production, the Government of Zimbabwe (GoZ) partnered with the Food and Agriculture Organisation (FAO) Zimbabwe to develop a Gender Sensitive Land Policy. The process was launched in February 2019 in Harare and was attended by government representatives, FAO and a few civil society organisations. In order to ensure that voices of agrarian CSOs and farmers in general are included in the land policy, the membership of ZiLAN requested SMAIAS to capture their expectations in a discussion paper, which will be deployed to influence the process.

This monograph reports the outcomes of the engagements with various organisations and farmers within ZiLAN and beyond. Such engagements related to key positions rural farmers' and CSOs wanted to be accommodated in the proposed land policy, and these included land allocation procedures, land acquisition, rationalising land governance structures, protecting land tenure (women and farm workers) and conditions under which foreign investments in agricultural land should be promoted amongst other issues. These issues have been part of an on-going research agenda driven by SMAIAS since 2003.

The study would not have been possible without the support from our funding partners. The Friedrich-Ebert-Stiftung (FES) Zimbabwe, provided technical support and core funding for the project since 2019. The Norwegian People's Aid (NPA), Harare also funded some additional aspects of the project. Special thanks also to our anonymous reviewers, Steven Mberi, Dr. Munyaradzi Nyakudya and SMAIAS research interns who assisted at various stages of this project. The acknowledgements would be incomplete if we did not acknowledge the ZiLAN, land beneficiaries and traditional leaders who took time to respond to the interviews. The views expressed in this monograph are only those of the authors and not institutions and people mentioned above, nor of SMAIAS as an institution.

Walter Chambati & Freedom Mazwi

Harare, August 2020

Towards a National Gender Sensitive Land Policy in Zimbabwe: Issues for Consideration

1. Introduction

Land is central to the livelihoods of the majority of people in Zimbabwe who are resident in the countryside. Not only is the land important for food production and self-sustenance, but it also provides a sense of belonging to people while also providing raw materials for use in the manufacturing and industrial sectors. Land is thus critical for an agro-based economy like Zimbabwe where agriculture is the second highest export earner after mining (Chambati, Mazwi & Mberi 2016). The importance of land and agriculture cannot, therefore, be overemphasised enough.

Zimbabwe is one of the few countries in Africa to have experienced land dispossessions of the indigenous populace after the colonial conquest alongside Kenya, Namibia and South Africa (Moyo 2016). Such countries, also known as former settler colonies, were characterised by iniquitous land ownership patterns that pushed the majority of the black population to marginal lands while reducing some to farm laborers, thus setting a stage for armed struggles, which were led by various liberation movements (*ibid*). For Zimbabwe, the demand for land was one of the major driving issues for the waging of the liberation struggle, which eventually culminated in independence in 1980 (Habib 2011). However, it is important to note that at independence, the newly established black government led by former President Robert Mugabe could not address land inequalities inherited from colonialism due to constitutional provisions requiring land transfers to be done under markets for the first 10 years after the onset of Independence (Moyo 1995). Such a clause was also inserted in the South African and Namibian constitutions, leading to the stalling of agrarian transformation. The other option to pursue land transfers would have been through a radical land redistribution exercise in defiance of the Constitution and the Lancaster House Agreement.

With rising demand for land in Zimbabwe post-independence, largely driven by a number of factors, which included population growth, the official land policy from 1985 contradicted the aspirations of the rural populace as it criminalised the self-provisioning of land, while at the same time strengthening a market-based approach inherited in 1980 (Moyo 1995). It therefore came as no surprise that only 15 percent of Zimbabwe's land that was held by the Large Scale Commercial Farmers (LSCF) had been transferred to blacks by 1990, reaching out to only 6 percent of the rural population. Meanwhile, the evidence among poorer communities showed increased illegal and underground land occupation (Moyo 1998). So-called squatting by the rural and urban poor spread towards all of Zimbabwe's land tenure regimes.

The Economic Structural Adjustment Programme (ESAP), implemented in the 1990's, liberalised the whole economic sector, brought about some austerity measures and contributed to de-industrialisation in major cities and small towns as locally produced goods were forced to compete with cheap imported products (Moyo & Yeros 2005). Urban to rural migration intensified during this period as many workers lost their jobs, thus further increasing the demand for land (*ibid*). This crisis affected women mostly as they were forced to engage in informal activities such as cross border trade in an attempt to meet the rising social reproduction costs (Kanyenze et al 2011). With the intensification of the social pressures, war veterans, landless people, people with insufficient land and some urbanites began land occupations from February 2000. Despite initial resistance from the state, the Government of Zimbabwe (GoZ) moved in to allocate land from 2000, a process which benefitted over 130 000 A1 peasant households and 30 000 middle to large capitalist A2 households (Moyo 2013). A study by Moyo et al (2009) shows that over 1 million people directly or indirectly benefitted from this Fast Track Land Reform Programme (FTLRP). Studies, however, show that although the proportion of female land beneficiaries, which ranged from 12-18 %, was higher when compared to previous land reform programmes, the redistributive outcomes of the FTLRP remained gender biased (Chingarande 2004). The FTLRP also reconfigured the agrarian structure from bimodal to trimodal, a topic that is discussed in greater detail in the second section of this paper.

The FTLRP also dramatically restructured the country's landholding patterns, land tenure system and land use practises. The post-2000 Land Administration System (LAS) now serves significantly more landholders within a multi-form land tenure regime. These include: close to 300,000 official land reform beneficiaries expecting to hold statutory leases and permits; over 1.2 million customary landholding families; about 1,000 remaining freehold agricultural land owners and corporate agro-estates; about 8000 freehold and leasehold Small Scale Commercial Farmers (SSCF) households; a growing range of urban and peri-urban landholders; and various types of protected lands (see Moyo 2013). There are also numerous informal landholders in all the tenure regimes (e.g. former farmworkers, see Chambati 2013). Notwithstanding the redistributive character of the FTLRP, demand for land remains higher across the provinces as a result of population growth and the deindustrialisation in the urban sector. This has seen an upsurge in land applications at various provincial Ministry of Lands and Agriculture offices which GoZ is failing to adequately deal with (Scoones 2019). Thus, a land policy is critical in laying out procedures and a framework to be followed in future land allocations.

The FTLRP also precipitously transformed the functional focus of the LAS, which initially sought to ensure that the land redistribution agenda was undertaken efficiently and equitably. Between 2000 and 2014, the provision of various formal land administration services by the LAS grew in a phased and piecemeal manner, front-loading land acquisition and land allocation processes. Allocations peaked around 2005, but continue to date. Formal land tenure assignment processes were back-loaded as formal leasehold tenure were only issued from 2006, while A1 permits are yet to be issued. Thus, the LAS is now faced with a huge base to serve beyond its capacities as most of its structures are not decentralised (Moyo & Maguranyanga 2014). These challenges related to the LAS have tended to negatively impact

on vulnerable groups who include widows, women in polygamous marriages, single women and farm workers as they find difficulties to access LAS's for grievance resolution. Post-FTLRP, these groups are often pushed to the peripheries in contestations over land and other natural resources (Chambati, Mazwi & Muchetu 2016). Patriarchy also plays a central role in depriving groups such as women more equitable land rights (Moyo & Maguranyanga 2014).

More recently, the need for land valuations to address compensation and to determine lease rental values has become critical. Attendant to this is the issue of granting long land leases by the state to foreign corporates and individuals which has often led to the dislocation of smallholder farmers-primarily women and farm workers, thereby disrupting their livelihoods in almost all the country's provinces (see Mazwi & Mudimu 2019). Contextually, the provision of land adjudication services continues to be high, reflecting the wider demands for redistributive land reform. These developments which affect a wider populace, and in particular women and youths, call for a need to update land policies to respond to emerging problems in the new agrarian structure.

In attempting to address some of the challenges faced in the land and agrarian sector which are outlined above, the Government of Zimbabwe has partnered with the Food and Agriculture Organisation (FAO) Zimbabwe to develop a National Gender Sensitive Land Policy with the aim of improving the land governance system. It is assumed that this will be achieved through the strengthening of the land administration system. The process was launched in February 2019 in Harare and was attended by government representatives, FAO and a few civil society organisations. From the launch, a number of weaknesses were observed, with the first one being that the process is highly technical-driven, which also largely ignores voices of land and agrarian CSOs and the majority of farmers who are resident in the countryside. Secondly, it was also noted, from the launch, that dominant voices seem to favour the privatisation of land which has been shown in various case studies on the continent to be a major driver of land alienation for smallholder farmers and land re-concentration for foreign and domestic large-scale firms and farmers respectively (see Zuka 2013; Moyo 2016).

Noting the above weaknesses regarding the process, the Zimbabwe Land and Agrarian Network (ZiLAN) embarked on a process to gather views of its constituents on key issues that need to be incorporated into the National Gender Sensitive Land Policy. This position paper discusses the rationale for embarking on the National Gender Sensitive Land Policy from the government's perspective while also highlighting key challenges being faced by smallholder farmers, particularly women and youths, drawing from their views on what they would like captured in the policy document.

Methodology

The study mainly entailed the use of focus group discussions, analysis of existing information and a review of secondary literature. Four focus group discussions were held during the months of May and June 2019, with farmers drawn from across all the country's provinces. Fifteen people attended each focus group discussion, and a total of 60 people attended all the focus group discussions. Participants at these meetings were rural farmers, land and agrarian CSOs representatives, researchers and farmer representative organisations. A total of 50 informants during focus group discussions were females while 10 were males. The heavy bias of female participants was designed to ensure that challenges facing women when it comes to women land rights are best captured. Findings from these focus group discussions were then triangulated with analysis from secondary data sources and existing literature.

This paper is structured into five sections as follows; the first section is the Introduction which includes and methodology. The second section looks at changes in the agrarian structure and land tenure relations while the third section examines the emerging land policy challenges. This is followed by a fourth section on actions and policy reviews on identified key issues that ought to be considered in the proposed National Gender Sensitive policy and concluding remarks in the fifth section.

2. Background: Changing Agrarian Structure

The FTLRP implemented from 2000 to 2003 altered the agrarian structure from bi-modal to tri-modal while also introducing tenure changes in the countryside (Moyo et al 2009). Under the bi-modal agrarian structure, there existed about 4,500 commercial farmers controlling huge fertile land through freehold title and operating alongside about 900,000 small scale farmers who mainly relied on self-finance to fund their agricultural operations (Moyo 2013). Studies show that there was a tiny proportion of less than 10% women who owned land under the bi-modal agrarian structure largely as a result of patriarchal relations in customary tenure and lack of financial resources under freehold and leasehold arrangements (Moyo et al 2004). Such an agrarian structure was inequitable, not only on gender lines, but also given the population increase, huge demand for land and the urban to rural migration triggered by the ESAP of the 1990's (Moyo & Yeros 2005).

The post 2000 tri-modal agrarian structure now consists of the peasantry which has close to 1 million Communal Area farmers, about 130,000 A1 smallholder farmers and about 20 000 small to middle scale capitalist A2 farmers, as well as large-scale plantation estates that were retained post FTLRP. As shown in the previous section, although the share of women who own land in their names has increased, a lot more still needs to be done to ensure that women also own this means of production. Land Tenure arrangements in all the settlement models post FTLRP differ, but it is now a fact that the majority of the land is now governed under the statutory tenure regime composed of 99-year land leases, land permits, while a few remaining Large and Small-Scale Commercial Farms are under freehold title (Moyo 2008).

Table 2.1 Agrarian structure: Estimated landholdings from 1980 to 2010

Farm categories	Farms/households (000's)						Area held (000 ha)						Average Farm size (ha)*		
	1980		2000		2010		1980*		2000*		2010*		1980	2000	2010
	No	%	No	%	No	%	Ha	%	ha	%	Ha	%			
Family	700	98	1,125	99	1,321	98	16,400	49	20,067	61	25,826	79	23	18	20
Middle farms	8.5	1	8.5	1	30.9	2	1,400	4	1,400	4	4,400	13	165	165	142
Large farms	5.4	1	4.956	0.4	1.371	0.1	13,000	39	8,691.6	27	1,156.9	4	2,407	1,754	844
Agro-Estates	0.296	0.1	0.296	0.02	0.247	0.02	2,567	8	2,567	8	1,494.6	5	8,672	8,672	6,051
Total	714	100	1,139	100	1,353	100	33,367	100	32,726	100	32,878	100	46.7	28.7	24.3

Sources: Adapted from Moyo 2011a (table 1); *- The average farm size of the peasantry includes common grazing lands.

Apart from altering the agrarian structure, the FTLRP also changed land tenure relations by dismantling freehold title and replacing it with state-based tenure which comprises of land permits and 99-year leases.

2.1 Communal Areas Farmers and Tenure

Customary tenure lands, which are commonly known as Communal Areas, recognise the rights to land by families (conceived mainly as a male head), but do not permit land sales, while the radical title to such land is vested in the state through the President who holds it in trust for the communities (see Moyo 2007). Land ownership is dominated by socially constructed patriarchal relations that tend to disadvantage women (*ibid*). Since the land rights of households in customary areas are limited to use rights that are not adequately protected in law, and regulated through a more informal land administration system and customary laws, such land tenure is often regarded as legally inferior compared to statutory tenures (Moyo et al 2004). Traditional leaders continue to be regarded as custodians of the customary lands, even though legally, local authorities have oversight responsibilities over the administration of such lands.

The transfer of land rights in the customary lands is usually limited to lineage and community members often disadvantaging women, and while market transactions are forbidden at law, informal land markets have been on the rise in these areas (Rukuni Land Tenure Commission 1994; Chimhowu & Woodhouse 2008). Yet, customary law, which is provided for in all the constitutional dispensations, enforces patriarchal structures that continue to make men the central heirs and holders of land rights, while women thus derive their land rights mainly through their relationship with men (Moyo et al 2010: 28). This, together with the traditional leadership institution which is the dominant form of LAS, and the overlapping roles of land administration institutions when it comes to land allocations and dispute resolutions, are key issues which the envisaged National Gender Sensitive Land Policy should address under customary tenure. Land tenure security also ought to be enhanced under this settlement model so as to protect and promote the livelihoods of smallholders, in particular women and children.

2.2 A1 Settlement Model and Tenure Type

The permissory form of tenure found in the Old Resettlement and A1 schemes are qualitatively different from customary land tenure rights, although they commonly offer land in perpetuity to the family. Permits are a formal statutory land right, which establishes a vertical legal and social relationship between the state and households, in terms of the land granted the latter. Their similarity ends at the practice of allocating land rights for household homesteads, cropping, fields and shared or grazing land rights.¹ While some elements of customary land administration obtain in the A1 areas (e.g. headmen are appointed therein), the current Constitution does not provide traditional leaders any formal (land) administration

¹ Beneficiaries of A1 land were initially given sheets reflecting their allocation against a list of beneficiaries on each particular farm property. Traditional leaders were involved to varying degrees in nominating some of the potential beneficiaries in both old and new resettlement schemes. A1 beneficiaries should receive permits, which were launched by the MLRR in July 2014 in Mashonaland West Province.

authority over such areas. Traditional leaders are somewhat empowered to oversee household compliance with various land use practices, particularly in natural resource management, and the adjudication of land disputes, including those arising over succession at death and divorce.

Statutory tenure also applies to all land held by various statutory bodies without freehold or leasehold deeds. These largely entail deeds of grant provided under specific statutory laws (Shivji et al 1998), with the national parks, forests and game reserves, all falling within this tenurial category. Sub-tenurial arrangements are permitted within such statutory tenures, including the license tenurial regime, fixed term concessions and/or rentals provided to any individual or corporate body under terms specified in a contract (*ibid*). These statutory bodies regulate the use of such land, and allocate (or auction) the land rights, for instance to safari operations, although most of them directly exploit such lands and resources commercially, sometimes through partnerships

Evidence from the major surveys on the FTLRP indicates that most of the beneficiaries of the A1 model had rural and poor backgrounds (65.9 percent) from the Communal Areas (Moyo et al 2009: 22). Former farm workers employed in the LSCFs constituted 9.1 percent of the land recipients while the other substantial group came from the urban areas (19.5 percent). At least 20.72 percent of the A1 land allocations were women, thus meaning that the FTLRP advanced the position of women as beneficiaries in their own right than past resettlement programmes (see Rugube & Chambati 2001). Absence of current and previous professional employment links (and/or wage income) among the majority of them (77.6 percent) (Moyo et al 2009: 29) reinforces their relatively low social status prior to 2000. Beneficiaries under this settlement model were initially issued with offer letters as land tenure documents which were to be converted into a more permit tenure system which closely resembles the customary tenure system in communal areas. Some provisions of the A1 land permit promulgated in *Statutory Instrument 53 of 2014: Agricultural Land Settlement Act (Chapter 20:01)*, make provisions for joint land registration for married couples. Succession is provided for through the country's inheritance laws and reinforced in SI 53 of 2014. The surviving spouse should assume the land rights. One key challenge under this settlement model is that most land rights are undocumented, unclear and incomplete. We will return to this topic in section 5.2.

2.3 A2 Settlement Model and Tenure Type

The A2 scheme had fewer women land beneficiaries (14.72 percent) when compared to the A1 scheme (20.72 percent) (Moyo et al 2009: 26). Such an outcome was partly due to the limited financial resources women have, which counted in the selection of beneficiaries in this resettlement model as proof of funds and business plans were required as part of the application process as noted earlier (Bhatasara & Chiweshe 2017; Mutopo 2011; Moyo 2011a). As with the A1 sector, women in this settlement model are also faced with a myriad of challenges that include inheritance, undocumented land rights and outdated land tenure documents. We return to this issue in section 5.2.

Within the A2 sector, land is owned and controlled via land leases that are registrable with the Deeds Registry (a department of the Ministry of Justice, Legal and Parliamentary Affairs) with the consent of the Minister of Lands, and require survey diagrams as provided for in the *Land Survey Act (Chapter 20:12)*. The Deeds Registry, administered by the Registrar of Deeds, is publicly searchable upon the payment of a requisite fee at the Deeds Office. However, only a few leases have been issued out to date for reasons outlined below and the rights to land are currently through the land offer letters as is the case under the A1 scheme. The records for the A2 land offer letters are currently being kept in an automated database of all landholders developed and maintained by the Ministry of Lands with support of the UNDP. These records are not publicly available.

Prior to the FTLRP, leaseholds with an option-to-buy were mostly held by the small-scale commercial farming sector (known as Purchase Areas before 1986). These comprised 8,500 black farmers on 1.4 million hectares mostly in the drier regions. Land held under leasehold was expanded after the FTLRP through various indigenous farm settlement schemes, and from 2000 the A2 resettlement model, which intends to issue 99-year leases for agricultural land. There was a 25-year lease proposed for conservancies, but this appears to have stalled. The agricultural leases are legally derived from the *Agricultural Land Settlement Act (Chapter 20:01)* and are registered with the Deeds Registry.² Leasehold land (land permits) are regulated by the state in terms of land sizes, while the existing land policy prohibits multiple land ownership (GoZ 1998). However, exemptions to these rules are permitted for agro-industrial estates, conservancies and 'institutional' land allocations.

² The cost of survey diagrams and human resources gaps within the Department of the Surveyor General is considered to have delayed the issuance of leases, although the issue of paying land rentals is also an obstacle. To date, few have been issued to beneficiaries allocated farms not subdivided. The 99-year leases being issued to A2 beneficiaries, unlike those obtaining prior to the FTLRP, have no option-to-buy. The majority of the beneficiaries still possess only land offer letters issued by the state to confirm land allocation under the A2 model.

3. Emerging Land Policy Challenges

This section discusses the emerging land policy challenges in the context of the FTLRP that the Gender Sensitive policy should attend to. Specifically, the most important issues which were highlighted by rural farmers, Land and Agrarian CSO's and women's organisations, and which are given attention in this paper, relate to:

- Land acquisition and allocation;
- Land tenure security for all landholders (women land rights);
- Land Administration System;
- International re-engagement and support to land reform.

These issues are explored in greater detail below.

3.1 Land acquisition and allocation

Previous land reform policy statements (GoZ 2001; 1998; 1991) were adapted in a rush to formulate the land allocation policy implementation norms and standards in early phases of the FTLRP (2000 to 2003) in response to the burgeoning demand for land. However, neither was the targeted amount to be redistributed from the existing LSCFs and its vision clear nor the eligibility criteria of persons that were supposed to receive land. Consequently, the extent of the targeted number of beneficiaries expected to receive access to land in relation to the available land (given the qualitative differences of its agro-ecological zone and irrigation facilities), is also unclear. The specification of how much land was to be transferred, and which land would continue to exist as LSCFs (e.g. agro-industrial concerns, and white or black-owned LSCFs) was also poor. Another grey area was also related to which LSCF operations are allowed to operate on the basis that their shareholding is indigenised (i.e. 51% local), as is the scope for creating new agro-estates. The scope of such land rights, especially the criteria followed in enforcing restrictions on the permitted maximum farm sizes, in relation to their responsibility of beneficiaries to utilise the land, is also not quantified.

Various problems emerged in land allocations, largely on account of the inconsistent application of land allocation procedures and these can be traced to the responsibility of land allocation that is exercised by varied LAS authorities (see chart 3.1). Common documented problems included "double land allocations", conflicted boundaries, complaints of marginalisation by local and women's groups. Corruption by some influential individuals through extending their land boundaries and/or taking over land allocated to other beneficiaries with the tacit approval (or deliberate negligence) of LAS officials is also an area of concern. Poorer people (many of them women) have lost their land rights as a result of these problems. This fuelled numerous land disputes between actual and aspiring land beneficiaries. Surveys by the Sam Moyo African Institute of Agrarian Studies (SMAIAS) show that land conflicts pitting women, officials in the LAS and families of the deceased male spouse have been common across all tenure regimes.

3.2 Land tenure security for all landholders

Narrow perspectives of tenure security are emphasised by some A2 landholders, banks and analysts focusing on the suitability of the contractual right for providing security to lending institutions, particularly the transferability of land for purposes of loan recovery (Moyo 2007). Such views are narrow as they ignore the broader notion of 'security' in which the landholders have assurance and protection of their own land use right, especially protection from any form of eviction, currently or in the future that most beneficiaries prioritise (*ibid*). The persistence of land conflicts, threats of evictions and actual evictions, which also tend to abrogate women's land rights, also reflect the failure of the existing tenure systems to protect farmers on their land. According to the AIAS 2014 survey, 23.1 percent of A1 and 40 per cent of A2 female landholders continue to experience conflict related to ownership of land and farm boundaries (Moyo et al 2015). Preliminary assessments conducted by the SMAIAS have shown that more than 30 000 farmers have either been evicted or threatened with evictions to make way for agrarian and mining capital between 2017 and 2019 alone. The trend has intensified in 2020 where foreign corporates, former white commercial farmers, mining capital and some foreign governments are being granted land use rights on land which was allocated to smallholders during the FTLRP. Statutory Instrument 62 of 2020, promulgated by the GoZ, provides for the compensation of farmers displaced under Bilateral Investment Protection and Promotion Agreements (BIPPA) with land or with financial resources. This policy move is a direct threat to the security of tenure of farmers, including women requiring attention in the formulation of the National Gender-Sensitive Land Policy.

Another key issue relating to land tenure security for all landholders is the authenticity of the "offer letters" being held by some of the "beneficiaries" of the land reform. The state, of late, has claimed that some of these letters are illegitimate or fake, and used this as a basis of evicting or threatening to evict several thousands of beneficiaries settled in A1 farms³.

Another source of land tenure insecurity for the A2 landholders relates to the over centralisation of power in the Minister of Lands to determine whether there has been a transgression on the conditions of land offer, adjudicate on the same and possibly terminate the land allocation as he/she deems fit if not satisfied with the representations of the landholder. As the empirical data has shown, the state was the main source of eviction threats for the A1 and A2 landholders. The full extent to which the Minister has exercised such powers is yet to be adequately established empirically. Nonetheless, media reports suggest that some A2 landholders have lost land through this route. For instance, in 2016, 170 A2 farmers allocated land in the Triangle Ranch had their land offers withdrawn by the Minister after having invested in sugar cane production for over a period of eight months after failing to cause the Minister to restore their land ownership during the representation.

3 For instance, press reports indicate that about 47 A1 offer letters were discovered at Summerstorm Village Farm in Masvingo allegedly issued by village head in connivance with Ministry of Lands officials to people whom they sold land to. See Masvingo Mirror, 2 June 2019, "47 fake offer letters discovered, village head face the law."

The powers of the Minister to withdraw land offers have also been recently used as retribution to disposes land from political opponents, especially post-2017 when the control of the state changed hands between different factions of the ruling party. Examples of this include the withdrawal of land offers from former Ministers, Saviour Kasukuwere and Patrick Zuhwawo, who served under the late former President, Robert Mugabe. Moreover, the A2 landholders, like other land tenure categories, are not immune to the eminent domain, which constitutionally empowers the state to repossess land for public interest purposes, and this clause is reinforced in the draft lease document.

Mining capital has always competed with agrarian capital when it comes to the use of land and allocations, thus generating rivalry within the policy and fiscal realm (Phimister 1988). Mining activities have continued to take precedence over agricultural activities through *the Mines and Mineral Act* [Chapter 21:05] enacted in 1961. Such superiority was motivated by white-settler interest in gold and other mineral resources that the successor black government has failed to reverse. More recently, the discovery of alluvial diamonds in Marange resulted in the displacement of approximately 4700 peasant households representing an instance where mining takes precedence over agricultural activities (Nyawo et al 2012). The displacements contradict the policy objectives of the FTLRP which sought to provide a wider access to land among the black population, thus confirming the observation by Moyo (2011c) and Moyo & Yeros (2007) that, despite its radicalisation, the FTLRP did not fully oust capital and neither did it constitute a truly socialist revolutionary project. Land tenure security for all groups thus needs to be revisited in the envisaged National Gender-Sensitive Land Policy document by placing emphasis on the variables that have been outlined above.

3.3 Tenure security for farm workers

A section of the farmworkers that lived on the private propertied LSCFs trace their origins to the migrant labour sending countries (Mozambique, Malawi and Zambia) and know no other home besides the farm. Their residency on the farms was linked to employment with limited tenure security. Upon termination of their employment contracts, they were mandated to vacate their residency in the compound. The FTLRP did not adequately address what would happen to farm workers employed on LSCFs to be acquired by the state for redistribution. It was implied by the policy that they would be re-absorbed as employees of the new A1 and A2 landholders. They were thus allowed to continue residing in the farm compounds, albeit with limited tenure security. Various research studies have uncovered the evictions of farmworkers from their residency by the farmers for various reasons, including refusal to work for paltry wages (Chambati 2011: 2017; Moyo et al 2009). Furthermore, very few of them benefitted from the land allocations during the FTLRP. As such, many of them continue to reside in the farm compounds under insecure tenure. The National Gender Sensitive Land Policy must address the farm workers' deprivation of land and their tenure security in the farm compounds.

3.4 Gender inequities in access to and control of land

It is broadly acknowledged that Zimbabwe's land reform programmes have not been gender-equitable. Land reform programmes implemented in the 1990s only saw about five percent of women benefiting as individuals while preliminary studies found that women-headed households constituted between 10 and 20 percent of beneficiaries under the FTLRP. For example, a 2018 study by the SMAIAS shows that landlessness continues to be a major challenge among women with over 10,000 landless women and youth listed on the Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement's waiting list (Mazwi et al 2018). The same study also found that women's land rights and land tenure security remain a major challenge, especially within the context of marriage, death, inheritance and divorce or separation. Opportunities for Zimbabwean women to access, own and control agricultural land have been further diminished by the state's inability to recognise, implement and enforce existing provisions safeguarding women's land rights such as Statutory Instrument 53 of 2014.

In place of patriarchy that affected women applying for land in the A2 scheme, the need to produce business plans supported by proof of funding to engage in commercial agriculture was and remains a key hindrance to gender equity in the A2 land allocations (Chingarande 2008; Mutopo 2014; Moyo 2011a). Historically, women have been excluded in the accumulation of finances and property ownership (Makura-Paradza 2010; Gaidzanwa 1995) that would have put them in good stead to meet the requirements of the A2 application. As the application requirements were often too onerous for women, many did not bother to apply, such that the policy of awarding additional marks to women in the vetting of applications did little to promote gender equity in the allocations. Moreover, the effectiveness and security of women's access to such land, in terms of control of the benefits from land utilisation and labour, is limited. Formal employment, which more often than not provides a source of income to invest in farming, and thus a route for accumulation, generally excludes many women. In fact, approximately 80 percent of the women above 15 years in Zimbabwe are self-employed in agriculture (ZIMSTAT 2013: 47). The few women employed in the formal labour markets occupy the least paying positions (Chambati 2017).

An assessment by Moyo and others (2009) found that the A2 scheme had fewer women beneficiaries (14.72 percent) compared to the A1 scheme that had about 20.72 percent women beneficiaries (Moyo et al. 2009: 26). As noted above, such an outcome was partly due to the limited financial resources women and youths have, which counted in the selection of beneficiaries in the A2 resettlement model that required applicants to show proof of funds and business plans before their applications could be approved (Bhatasara & Chiweshe 2017; Mutopo 2011; Moyo 2011a). With 20.72 percent of the A1 land allocations going to women, the FTLRP advanced the position of women as beneficiaries in their own right compared to previous resettlement programmes and land ownership patterns where women constituted about five percent of beneficiaries (see Rugube & Chambati 2001).

The application process for land, especially in the A1 scheme, which required Communal Area women to register with traditional leaders, was widely known to prioritise male land ownership and thus disadvantaged women (Sithole 2002: 24; Moyo 2011). Decision making on production and use of the incomes derived from land remains largely a male domain (Mutopo 2011; Makura-Paradza 2010). Recent studies corroborate these patterns since as much as 80 percent of households surveyed by the SMAIAS indicated that most decisions were being made by men. However, unlike the earlier resettlement permit for Old Resettlement Areas (ORAs), the A1 land permit augmented by Statutory Instrument 53 of 2014 theoretically strengthens women's land tenure rights and security. The A1 permit provides for optional joint 'spousal ownership' registration and equal rights to the land. This means, in theory, that men can no longer legally dispose of the land use rights (for whatever reason: separation, divorce, death, etc.), without the consent of their spouses. In practice, however, joint titling has not been widely embraced, particularly as some women fear destabilising their marriages and upsetting the patriarchal structures that recognise men as the property holders, and many women have been reluctant to jointly register land permits as a result (Moyo 2011). Officials from the Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement have also not been strict in enforcing this provision, leaving women exposed in the event of divorce or death of their husbands. The provision for joint titling under the A1 permit is currently optional and there are no known mechanisms mandating landholders or land administration officials to jointly register A1 land permits. Predictably, disinheritance by male relatives of their spouses has been observed in previous studies (Moyo et al 2015; Bhatasara & Chiweshe 2017).

Akin to the A1 tenure system, joint spousal rights are provided for in the land offer letters currently held by the A2 landholders, as well as the 99-year leases. The extent to which the rights of the spouses have been captured in the A2 land offer database is not clear. Nonetheless, there are suggestions that Ministry of Lands and Rural Resettlement (MLRR) officials have been demanding the details of the spouses for successful married applicants for the purposes of capturing them on the offer letters, as well as the database. In practice, the operation of succession laws has however proved problematic, especially for women who also tend to be disinherited by the male relatives of their late husbands (Chambati, Mazwi & Muchetu 2017; Moyo 2011a).

In the Small-Scale Commercial Farms, external threats to tenure security are not commonly reported by research studies. Instead, sources of tenure insecurity originate from within the families of the deceased original landholders and manifest themselves as disputes over inheritance of the leaseholds (Scoones et al 2018) that disproportionately affect women and children. Such trends are not surprising given that a lot of time has lapsed between the original land allocations and the present day SSCFs. Indeed, these challenges were uncovered by some commentators in the early years of independence (Cheater 1986) and were again emphasised by the Rukuni Land Tenure Commission (1994). At that time, the Land Tenure Commission found long drawn-out disputes that occurred as a result of the application of customary law which dictates that the customary 'heir' should take over the property. Across many areas, the customary heir tends to be male (either brothers or eldest sons of the deceased) and this exposed the widows and families to dispossession.

Today, those challenges have not abated, as the cases documented by Scoones et al (2018) illustrate. It was noted that inheritance laws that privilege succession by spouses and children of landholders are yet to be adequately deployed to secure the rights of women in SSCFs. Some earlier studies in the SSCFs noted that there were pervasive land dispossessions that disproportionately impacted on vulnerable women in polygamous relationships (Dengu-Zvobgo et al 1995). In some instances, the studies noted that agricultural production had been halted as disputes over succession of the leaseholds between family members and the larger extended family generated uncertainty on the access to and control of land (*ibid*). Data gaps nonetheless exist on how widespread such inheritance disputes reflect contemporary gender and land tenure dynamics and disputes in the SSCFs.

In Zimbabwe's Communal Areas typical across much of Africa, customary laws, practices and beliefs, especially those related to inheritance, continue to abrogate women's rights and expose them to all forms of discrimination. Within this context, social constructions of inheritance and family laws form the basis of women's insecurity of land tenure. Similarly, divorced women also face challenges on dissolution of their marriages as they depended on it for access to land. Traditionally, divorced women would go back to their natal homes where, like single women, they would depend on their fathers and brothers for land. However, the reality on the ground was that increasing land shortages (especially prior to the FTLRP) meant that very few women were able to access land on their return to paternal homes. Indeed, research conducted by Women and Land in Zimbabwe (2013) also showed that women are reluctant to invest on land in which they derive access from their relationships with men. This reluctance is primarily based on fear of losing land in the event of death of the husband/father or divorce.

In Communal Areas, not only do traditional leaders have a legal mandate on some environmental and land use management issues and general social administration and legal processes such as maintaining residential registers, adjudication of low-level civil disputes and criminal offences (Murisa 2011; Mkodzongi 2016), but their sphere of influence also includes resolution of land disputes as noted earlier. Customary laws inform the adjudication of all disputes in general and, with respect to land, they tend to favour men over women in the control of land resources. Property and inheritance disputes in Communal Areas are largely resolved through patriarchal structures where women are most vulnerable, especially within polygamous relationships (Gaidzanwa 1995; Chingarande 2008; Makura -Paradza 2010).⁴

Noteworthy is the fact that the structures in the allocation of land are male dominated and largely discriminate against women's access to rights to own land (Moyo, Chambati & Mujeyi 2010; Gaidzanwa 2011). Both the statutory and traditional land administration institutions in Communal Areas are gender exclusive and do not provide mechanisms for community participation in the decision-making processes. Not only does the traditional leadership institution exclude women in the participation in land administration matters,

4 About 20 percent of marriages in Zimbabwe are polygamous (Nkomo 2014). The segregated statistics by geographical location are not available but anecdotal evidence suggests that they are more prevalent in the rural areas.

but its patriarchal framework of operations side-lines them in the access to and control of land resources. Chiefs are predominantly male and only a few women occupy the headman position. A study of women's involvement in this institution showed that they were totally absent in Makoni District, and in Bubi there were 3 women out of 23 positions available (WLZ 2008). RDCs are also male dominated, both in the secretariat and among the elected councils (Moyo et al 2010).

Across all land tenure categories, women are generally excluded from decision-making processes typically dominated by men who occupy most official positions in the country's land administration structures and institutions, excluding the Zimbabwe Lands Commission (ZLC). Most land administration institutions in Zimbabwe are headed or dominated by men. An exception is the ZLC, which is composed of equal representation of both genders amongst the Commissioners. Nine years ago, less than 10 percent of the positions among land officers of the GoZ at the national, provincial and district levels, PLCs and DLCs, and district administrators were women (Moyo, Chambati & Mujeyi 2010). Nothing much has changed in this scenario suggesting that the GoZ is yet to restructure these institutions to meet stipulated constitutional obligations mandating gender equitable representation in state institutions. For avoidance of doubt, the 2013 Constitution directs the state to promote gender balance, including "...the full participation of women in all spheres of Zimbabwean society on the equality with men" (Section 17(1): 20). Regarding representation, all the institutions and agencies of the government should equitably incorporate both genders in the positions available (Section 17(1b): 20), including the independent and/or executive commissions such as the ZLC. Moreover, the Provincial Lands Committees (PLCs), which include members from the ruling party ZANU (PF) and war veterans in the structures, marginalises other major political players and social groups, including women. The National Gender Sensitive Land Policy must therefore not only ensure that women are given opportunities to access and control of land, but must go further to guarantee their right to land.

3.5 Land utilisation and post-settlement support for land users

With regards to land use, for A1 farmers land regulations stipulate that landholders should maintain a certain level of agricultural production that is not adequately defined in S1 53 of 2014, subsection 18 (1) b: 12). For A2 landholders, they are mandated to maintain the agricultural and livestock production activities so that they do not "...decline to such an extent that the leasehold is not being properly managed" (Draft Notarial Deed, undated).

Surveys conducted by the SMAIAS show that land utilisation rates remain low across all the settlement models, thus necessitating policies, which must incentivise agricultural production. In terms of arable area utilisation, an average of 50.3 percent, 41.4 percent and 61.5 percent was realised in the A1 model, A2, and Communal Areas, respectively, for the 2013/14 season (Table 3.1). Arable land utilisation levels were highest in the 2011/12 season in all three farming categories, pegged at 55.2 percent, 44.5 percent and 65.6 percent for A1, A2, and Communal farming sectors, respectively. The overall average land utilisation levels from the 2011/12 agricultural season to the 2013/14 agricultural season stood at 52 percent.

Table 3.1 Average arable land utilization levels by model type (percent)

Land Utilisation Rates	A1		A2		Communal		Total	
	No.	Ave.	No.	Ave.	No.	Ave.	No.	Ave.
2011/12	399	55.2	253	44.5	220	65.6	872	54.8
2012/13	383	50.2	251	44.3	195	60.8	829	50.9
2013/14	374	50.3	257	41.4	202	61.5	833	50.3

Source: AIAS Household 2013/14 Survey, Household questionnaire, N=?

Over the agricultural seasons (2011/12 to 2013/14), arable land utilisation rates averaged 52 percent across the settlement types. Seasonally, the net land utilisation has been on a downward trend across all the settlement types from 2011/12 seasons (Table 3.1). Average arable land utilisation rates were found to be higher in Communal Areas, at 62.6 percent, followed by A1 resettlement farmers who utilised 50.9 percent of the arable land, while A2 resettlement areas had a utilisation rate of 43.7 for the agricultural seasons 2011/12 to 2013/14. Apart from the underutilisation of land, what has also been noticeable has been a shift from crops towards extroverted production which tends to undermine food self-sufficiency, nutritional diets of farmers leading to the exploitation of family labour mostly women and children through working beyond normal working hours (see Mazwi 2019; Shivji 1992). The shift towards extroverted food production is as a result of the structure of agrarian finance which prefers to finance export cash crops such as tobacco, cotton and sugar at the expense of food crops (Moyo 2011). Thus, a deliberate policy shift by the state is required to promote land use patterns that primarily boost food crops and such policies can take the form of state subsidies (Moyo, Chambati & Siziba 2013; Mazwi et al 2019).

Surveys by the SMAIAS have also shown that some areas in the country are engaged in agricultural production, which is not suitable for their agro-ecological zones, a factor that greatly undermines crop and national livestock production. For example, the land reform did not consider that some areas are most suitable for livestock production and this has resulted in farmers being engaged in crop production, thus ultimately impacting negatively on national livestock herd. A new land policy must take into consideration agro-ecological potentials of a region and make recommendations on appropriate land uses.

The FTLRP did not provide for social and economic investments prior to the resettlement of beneficiaries. The establishment of these services has been an on-going exercise through both state and community initiatives, although this has been at a slow pace. Furthermore, social amenities were always poorly developed in the former LSCFs, as investments were largely biased towards serving the mostly white farming community. Whilst in the communal areas, social and economic services were rolled out rapidly after 1980, through massive state investments in these previously marginalised areas during the colonial period. As such, access to these services tends to be differentiated between the newly resettled and Communal Areas. According to a survey conducted by SMAIAS in 2013/14, access to clinics and hospitals was more favourable to Communal Area households (85.4 percent) compared to newly resettled areas (65.4 percent). Given that road infrastructure requires large sums of

investments, access to transportation routes by newly resettled farmers still lags far behind that of Communal Area households. About 58.8 percent of the new farmers indicated that they could access transportation routes in their areas in comparison to over 84.2 percent of those in the Communal Areas. These findings call for the National Gender Sensitive Land Policy to address some of these shortcomings on post-settlement support and land use so as to improve the livelihoods of the farmers and the broader national economy.

3.6 Land Administration System

Poorly coordinated structures operating in varied ways within the wide range of jurisdictions defined by the four main land tenure categories mark the overall land administration system in Zimbabwe. Multiple ministries and institutions are involved in the land administration and management. In theory, the ZLC is the institution legally empowered to resolve disputes on “agricultural land” encompassing A1, A2, ORAs, SSCFs and LSCFs since the enactment of the *Constitution of Zimbabwe Amendment (No. 20) Act of 2013*. However, although the ZLC has established eight provincial offices, it is yet to fully institutionalise and decentralise its functions, and field evidence suggests that the PLCs were still influential in the adjudication of the disputes in the A2 schemes (Chishakwe 2018). The Provincial Offices of the Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement, headed by the Provincial Resettlement Officers (previously known as the Chief Lands Officer before the restructuring and merging of the Land and Agriculture portfolios), are usually the first port of call for reporting land disputes, which are then forwarded to the PLCs for resolution.

Transparent land tenure administration and management is a component in the resolution of land related disputes in Zimbabwe. Realising the centrality of land information systems in securing and managing land rights, the Ministry of Lands and the United Nations Development Programme (UNDP) piloted a Land Information and Management Systems (LIMS) to facilitate holistic land tenure documentation. The records for the A2 land offer letters are stored in the automated LIMS database, which presumably includes information on all landholders. However, the Ministry’s land tenure database is not publicly available, thus limiting transparency and accountability in land tenure administration and management.

For the A1 land sector, the status of the A1 land registers is also not clear, and in any case the records are not publicly available. During joint Landesa-SMAIAS stakeholder consultations in 2018, some stakeholders reported that the A1 land records were being transferred from the Ministry of Local Government to the Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement. Ultimately, the A1 land registers are to be converted into permit registers upon completion of the issuance of permits. Confusingly, the extension of the jurisdiction of traditional leaders into the newly resettled areas puts them in close proximity with the landholders, and thus complicates land tenure administration and management in newly created resettlement areas. With the infiltration of traditional leaders into resettlement areas, diverse formal and informal institutions have been observed undertaking the land dispute resolution function. Besides traditional leaders, these institutions included those previously mandated to handle disputes such as the District Lands Committees (DLCs) and

District Administrator, as well as the informal farm committees (Committee of Seven) that were set up during the initial phases of the FTLRP (Chishakwe 2018; Scoones 2014). Case studies compiled by SMAIAS on the gender dimensions of land tenure also revealed the active involvement of traditional leaders in the adjudication of disputes related to divorce settlement and succession and, frequently, the dispossession of women was the outcome (Chambati, Mazwi & Muchetu 2017).

The customary tenure regime experienced the most restrictive land rights and land use regulations in terms of settlement, commercial and industrial uses, compared to the self-regulated freehold areas (Shivji et al 1998). Although informal land markets grew in some Communal Areas (see Chimhowu & Woodhouse 2009), the LAS did not attempt to formalise those transactions. With time, the dualistic LAS was incrementally restructured to serve a broader multi-form tenure regime, including more leasehold, and permit tenure lands, and thus creating the “Resettlement Areas”.

Chart 3.1 Land Use categories, land tenure regimes and LAS mandates

Land Use Category	Area (mn)		Land Tenure Regime	LAS Authorities
	Ha	%*		
Rural Land	15.0	37.5		
• Agricultural Land	5.5	13.8	Freehold Leasehold	MLRR
• Resettlement Land	9.0	22.5	Permit Tenure (Old RST, A1)	Local Government/ MLRR
• State and Institutional farms	1.3	5.25	Freehold/lease	Parastatals; Municipalities
Communal Land	16.0	40	Customary land Tenure	RDCs/ Traditional leaders
Urban Land	0.1	0.25	Public/Freehold Leases	Municipalities;
Forest Land	2.0	5	State owned/Freehold	Forestry Commission;
Parks & Conservancies	8.0	20	State owned/Lease	Parks and Wildlife Authority
Mining Concessions	0.01	0.025	State controlled?	Ministry of Mines
Total	56.91	144.325		

Source: Moyo and Maguranyanga 2014 % calculated out of 40mn ha.

Today, a multiplex of ministries and parastatals at the national and local levels of governance encompass the land administration system. Combined they constitute a structurally complex matrix of LAS institutions that is derived from various laws. This matrix assumes cooperation in theory, but in practice, more often than not, it entails contestation over who is in charge of the physical control of land areas, competing institutional jurisdiction and mandates, particularly regarding LAS responsibilities over A2 farm and A1 land areas (Moyo & Maguranyanga 2014; see also Vudzijena & Mhishi 2014; Sukume et al 2014).

The systemic dispersal of the LAS structures and their overlapping functions often leads to “dual reporting” (MLRR 2014) and undermine the efficacy of its operations.

3.7 Foreign investments in agricultural land

Following the coming in of a ‘new political administration’ on the 24th of November 2017 in Zimbabwe, strong affirmation has been made regarding the irreversibility of the programmes and policies relating to the land reforms of the 2000s, and that the principle of repossessioning the land remains unchallengeable. However, the country finds itself at a critical juncture going into the future, considering the economic aspirations of the “new dispensation”. Concurrent with these policy pronouncements regarding land and agriculture is the “Zimbabwe is Open for Business” mantra of the “new dispensation”. Its thrust is meant to attract foreign direct investment to turn around the economic fortunes of the country. The focus on agriculture makes land tenure security and access by smallholders, including women farmers, critical, considering most of the population derives their livelihoods from farming and related activities.

Land policy developments within the region in the last two decades saw many African countries adopting land law reforms aimed at individual registration and titling of land (Moyo 2016). To date, over two dozen African countries have proposed de jure land law reforms that are extending the possibility of access to formal freehold land tenure to millions of poor households (Ali et al 2014: 1). Notable examples include Zambia in 1995, Uganda in 1998, Côte d’Ivoire in 1998 and 2015, Malawi in 2002, Kenya in 2012, Mozambique in 1997 and 2007, and Tanzania in 1999 and 2015. The objectives explicitly aim to clear the way for full privatisation and commoditisation of farmland. The rationale to convert customary land into private freehold land was largely considered as a panacea to resolve the financial challenges of small-scale farmers that inhabit the former type of land. Such policies drew from De Soto (2003) who argued that privatisation and titling of land would resurrect customary land from being dead asset to viable asset that could be used as security for loans from financial institutions and open avenues for much needed financial capital for small-scale farmers. Landlessness that could arise after small-scale farmers lose their land in foreclosures by banks or through desperation sales has largely been left unattended in these policy directions, as are the possibilities of land concentration as the poor small farmers (most of whom are women) unable to fully utilise their land are bought out by large domestic and foreign agrarian capital. These land policy developments have implications on possible land policy trajectories for Zimbabwe going forward.

In the current quest to attract foreign investment by the new administration, it is important to be wary about how agricultural investments may interact with issues of land rights, power relations, social and economic entitlements and inequalities between large agribusiness and smallholders (West & Haug 2017: 420). Important policy considerations include mechanisms by which the land tenure security of smallholders, particularly women farmers, can be protected going forward. Important to consider will also be the type, terms and duration of land leases to be granted to foreign land investors.

4. Drafting the National Gender-Sensitive Land Policy

This section provides a background of the initiative to draft a National Gender-Sensitive Land Policy being undertaken by the GoZ in order to redress land tenure, gender-based and land administration deficiencies and enhance the efficacy of land management in Zimbabwe. The policy proposals and actions on various components of the land policy articulated in this research are geared towards supporting this state initiative and, quite crucially, ensure the accommodation of the voices of CSOs, women and farmers in the land policy

The GoZ is embarking on a process of drafting a Gender Sensitive Land Policy in order to guide the process of rationalising the land policy principles and procedures, and the laws, which govern land tenures (leases, permit and freehold titles), and the land regulations (e.g. farm sizes, etc), in order to create a basis for the effective re-engineering and coordination of all land institutions. The tentative objectives of such a National Land Policy are to:

- Ensure equitable and socially just access to land;
- Promote land use planning and management;
- Improve agricultural production;
- Promote sustainable utilisation of land.

From the launch by the Minister of Lands, Agriculture and Climate Change, the process would be guided by the Food and Agriculture Organisation (FAO) Voluntary Guidelines for Responsible Governance of Tenure (VGGT), and would be aligned with the African Union (AU) Framework Agenda 2063 and Guidelines on Land Policy in Africa. Case studies from a number of countries in Africa, such as Ghana and Tanzania, have clearly demonstrated that merely domesticating these frameworks can have adverse consequences on smallholder land rights as this often leads to land titling which eventually results in the displacement of farmers by agribusiness firms and middle to large capitalist farmers (Moyo 2016; Chambati, Mazwi & Mberi 2018). Moreover, limited effort has been undertaken by the state to build consensus with the landholders and land users on the adoption of the VGGT principles for the management of land resources. As has been argued by some analysts, domesticating some of these frameworks without critically analysing some of their detrimental effects in other parts of Africa can have harmful effects on the livelihoods of the smallholders. The Government of Zimbabwe can, through the Gender Sensitive Land Policy, communicate to its citizens and the world its clear commitment to not only the irreversibility of the land reform, but also to equitable distribution of land, consistent and transparent land management principles, rights and implementation procedures and define the structure of authority and the laws that will govern land resources management in Zimbabwe. This would create confidence in the new agricultural land and related property rights and also pronouncing itself systematically on all the outstanding contentious issues such as the land tenure system which continues to stir debate, multiple land ownership, foreign land ownership rules, the land audit, as well as the land management systems given multiple forms of land administration structures currently in place.

5. Short Term Actions to Enhance the Land Reform Process

Below we list short to medium term actions to enhance the land reform process through the National Gender Sensitive Land Policy. These issues relate to rationalising land allocations, resolving land disputes, establishing land tenure security for all landholders and a credible LAS.

5.1 Rationalising current land acquisition and land allocation processes

Urgent actions are required to conclude the land redistribution component of the recent land reform: managing and resolving current land disputes and conflicts on the ground, including clarifying and ensuring compliance with land acquisition procedures, including effective management of litigations by landowners, and clarifying the present land allocations procedures, ensuring that they comply with land policy.

Notwithstanding the extensive land redistribution through the FTLRP, there still exist various sources of demand for land. The demand emanates from both domestic and international sources. Domestically, unconfirmed press reports indicate that there are in excess of 500 000 people who are registered on the waiting lists for land allocation⁵ The overwhelming demand for land is partly due to limited livelihood opportunities outside those dependent on exploitation of the land. Indeed, the sluggish economic performance and consequent de-industrialisation has thus far failed to absorb the ever-growing economically active labour force. Evidence from various research suggests that those still in need of land include landless people from the Communal Areas, former farm workers retrenched from the acquired LSCFs, former LSCF owners dispossessed of their land during the FTLRP, children of resettled beneficiaries, various categories of women (e.g. single women, divorced and widows), retrenched urban working classes, urban middle classes, small-scale artisanal miners and the youth (Mkodzongi 2013; Moyo et al 2009; Scoones et al 2010; Matondi 2012). Internationally, the demand originates from a diverse group of foreign companies that include agribusiness and mining conglomerates.

The Zimbabwe land reform experience suggests that it may be challenging to decongest Communal Areas through redistributive land reforms. Since less than 10 percent of the Communal Area households were accommodated by the FTLRP (Moyo 2011a), there are many in this land tenure category who are still land-short and /or landless. Land shortages in the Communal Areas have not been helped by the fact that some land beneficiaries who originated from there continue to maintain their pieces of land. About 14.2 percent of the

5 One press report estimated that there were over 500,000 on the waiting lists for land allocations around 2015. See The Sunday Mail 24 August 2018. "Land reform: the work that lies ahead".

land beneficiaries surveyed by the AIAS around 2005/06 were keeping their Communal Area homes for various reasons, including as security against future evictions (noted by 9.1 percent of them) (Moyo et al 2009: 45). Access to land during the FTLRP did not therefore necessarily free up land for those remaining in the Communal Areas.

The extent of Communal Areas 'decongestion' (which itself was not adequately defined in the land reform policy document) as a result of the relocation of some of the previous landholders has, however, not yet been empirically studied. Fewer beneficiaries in districts with no LSCFs received FTLRP land since allocation selections were conducted from within the district and were thus coloured by ethno-regionalism (Moyo et al 2009). Another contradictory dimension of exclusion from land access relates to complaints by traditional and other local leaders that their subjects had not benefitted as 'outsiders' dominated land allocations in the two Matabeleland Provinces (Moyo 2011b) and in Masvingo Province (mostly in Chiredzi) where there was overwhelming demand for the sugarcane plots in the A2 scheme that attracted aspirants from around the country that allegedly crowded out the locals (Scoones 2015). Occupations of the remaining LSCFs (including farms owned by state entities such as National Railways of Zimbabwe [NRZ]), reflect the demand for land by these Communal Area households (The Independent, 2018).

Another emerging lesson from the Zimbabwe land reform experience relates to the inevitability of land re-concentration and reversal of the land reform gains when new land reform beneficiaries lack the capacity and resources to fully utilise the land. Following the acquisition of their LSCFs, former white commercial farmers have emerged as another category of people in need of agricultural land. While the demand for land from the former LSCFs is currently being partially met through the Joint Ventures (JVs) Policy or production partnerships pronounced by the state in 2015, preliminary research by SMAIAS indicates that the current JVs are not occurring as intended by the policy as some farmers are ceding control of the land and the production processes to the former LSCFs in exchange for a share of profits from the harvest (normally five percent) (Mazwi et al 2018). These inequitable JVs arrangements between new farmers and former commercial farmers arguably represent a partial reversal of the land reform programme and gradual land re-concentration, which could exacerbate landlessness and increase the number of people on the government's land allocation waiting list.

The Zimbabwe land reform experience also suggests that it is crucial for governments to consider the needs of vulnerable groups such as youth, women and farm workers, when implementing redistributive land reforms. Former farm workers have often found it difficult to access land after the FTLRP suggesting that the acquisition and redistribution of large-scale commercial farmers should institute measures to ensure adequate land allocation for farm workers.

For youth, there are generally six challenges (Byamugisha & Ansu 2017) that contribute to youth landlessness among African youth and across the globe, and these challenges include:

- Unfavourable land tenure systems and customary practices;
- Over reliance on inheritance, which limits choices in terms of timing, size, quality and location of land;
- Undeveloped sales and rental markets;
- Lack of resources to buy or rent land;
- Inadequate access to information and lack of legal protection of land rights for the youth; and
- Lack of provision for youth in state-sponsored land redistribution programmes.

Depending on context, government land reform, or redistribution policies and programmes, should seek to address some or all of the above challenges that constrain youth access to land and limit effective youth engagement in agriculture. Through the African Union Declaration of Land Issues and Challenges in Africa, governments resolved to ensure the development of land laws and policies that promote equitable access to land for youth and other landless groups. Additionally, the Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods made a commitment to institute appropriate policies to create job opportunities for at least 30 percent of the youth in agricultural value chains by 2025. The equity and justice principle enshrined in the VGGT calls on governments to "...promote equitable tenure rights and access to land, fisheries and forests, for all, women and men, youth and vulnerable and traditionally marginalized people, within the national context" (FAO 2012: 5). Additionally, the VGGT calls on governments to clearly define the intended beneficiaries of redistributive land reform programs to include youth, women, and other marginalized groups (*ibid*: 26). Women smallholder farmers unanimously agreed during a consultative workshop in Harare that land redistribution should target the varied categories of women; - married, divorced, separated, single, farmer workers and the vulnerable groups. The meeting also agreed that every willing citizen/farmer must have access to land. In the case of married women, the "One family, One farm" rule must apply.

5.1.1 Measures to resolve land conflicts

In order to build confidence in the land reform process, the Gender-Sensitive Land Policy must enunciate a framework to eradicate any form of violence and conflicts on the farms. This will primarily entail introducing procedures to peacefully effect and enforce, within the rule of law, processes of land offer, the taking up of land offered, the vacation of acquired land and the protection of existing farm properties and standing crops. Illegal farm "invasions" and other farm disturbances would, in this connection, be more effectively monitored and stamped out through impartial policing and arrests. Additional measures will be effected to eliminate organised and petty criminal activities on the farms. Furthermore, effective conflict resolution

strategies will be designed to manage the numerous land disputes on the ground, including over matters such as boundaries, infrastructures, and so forth. The Zimbabwe Land Commission (ZLC) will, in this strategy, establish multi-party conflict structures, effect adjudication systems and enhanced security mechanisms, as well as more effective public communications to manage these conflicts. This also calls for strengthening the decentralisation of the ZLC and its capacitation for it to handle conflicts at grassroots level, which tend to affect women mostly (Chambati, Mazwi & Mudimu 2018).

During consultative meetings, small holder women farmers called for a 50% representation of women in boards as stipulated in the constitution while also recognising the need for different categories of women representation in the land boards to speak to their different needs from grassroot level, including in Chiefs' and DA advisory boards. The women representatives should have capacity to articulate issues while selection into boards should be competency-based. Women also expressed concern with the role of traditional leaders in resettlement areas where they do not have jurisdiction constitutionally. A participant alluded to the fact that in the event that policy makers find the need to have traditional leaders in resettled areas, these traditional leaders should be capacitated and be overseen by a higher authority.

5.1.2 Land Allocations: Rationalising and enhancing the selection of beneficiaries with a gender focus

The National Gender-Sensitive Land Policy must outline a transparent process of allocating land to those eligible Zimbabweans who apply for land. The key principles in the land policy include: broad based inclusiveness; one-person/household-one-farm; suitably defined maximum farm size ranges; gender considerations, context-specific optimal land utilisation criteria; and so forth. The strategy will specify technically sound and participatory measures to redistribute land from those who 'over benefited' (e.g. multiple holdings, double or oversized plots); those who are not effectively occupying the land; and those who are unequivocally not utilising the land. This will be guided by the Land Audit's findings.

Growing evidence from Zimbabwe suggests that gender inequitable land allocation programmes and lack of women's representation in statutory/customary land tenure administration systems exacerbate women's land tenure insecurity, and land dispossessions are often linked to escalating inheritance and successions disputes that disproportionately affect women. Evidently, deliberate and concerted efforts are needed to boost women's access to and control over redistributed land when statutory and customary land administration and management systems are dominated by men. Contemporary land redistribution and land tenure reform programmes generally acknowledge the centrality of women's secure lands rights in advancing the household's and women's health, nutrition, food production, education, safety, resiliency and prosperity needs.⁶ Yet, closing the gender gap in access

⁶ For empirical evidence on these outcomes, refer to Landesa's Infographic: "A Better World: Women's Land Rights," available at <https://s24756.pcdn.co/wp-content/uploads/Womens-Land-Rights-Infographic-Landesa-11-14.pdf>.

to and control of land remains a challenge in sub-Saharan Africa and other developing countries. Women farmers make up 60 percent of employed women in sub-Saharan Africa, and yet women's land rights are generally insecure and fewer women than men own or control the land they cultivate. Women's land tenure insecurity remains pervasive despite significant progress in legal recognition of women's land rights in law across the continent. In practice, however, securing women's land rights is compounded by the fact that "nearly 80 percent of land in Africa is held under customary tenure, governed by practices and rules that often discriminate against women in inheritance, access, and control over land."

The Gender Sensitive Land Policy must also attend to land allocation policy needs and streamline the LAS responsibilities for land allocation and related dispute resolution, taking into account the variations in the preference for different forms of land rights and/or land tenure rights in the different agro-ecological regions and land availability. Resolving the existing landholding disputes that emerged from informal land allocation processes is, however, a critical pre-condition for providing satisfactory land allocation services. This requires sound decisions on (whether and) how to "regularize" many of the currently existing informal land allocations, which have subsisted for over five years. Immediate action to downsize over-sized land-holdings is also a pre-condition for formalising A2 land tenure, especially where the landholders are not utilising the land sufficiently.

5.2 Establish land tenure security for 'all' landholders

The basic policy principles and procedures required for providing tenure security must immediately be outlined, and constitute one contribution to the National Gender Sensitive Land Policy. The policy issues to be considered will include: inheritance, tradability, land taxes and rating, transferability, purchase of improvements on leased land, and other concerns, including the future of freehold title. This activity will be supported by the following three actions;

- Firstly, the Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement needs to design and implement immediately a plan to issue the outstanding A1 permits and A2 lease documents. In the case of leases, a cost recuperative approach designed to undertake expeditiously boundary demarcations, survey, of land and conveyancing processes, using up to date technologies (GPS and computerised systems) could be proposed. Beneficiaries will thus be able to pay for speedier tenure assignment. However, the implementation of this exercise may continue over a 2 to 3-year period. Given that such titling entails large physical investments in the institutional capacities required in demarcating and surveying plots, a domestic and external resource mobilisation strategy will be designed to accompany the plan.

- Secondly, within the short-term period, the land policy must also clearly enunciate an institutional framework for instituting land taxes and rates collection systems in conjunction with relevant government ministries and local authorities. Alongside this a Land Reform Fund, to be used for, *inter-alia*, land compensation, land development and to cover the costs of land management institutions, as well as to contribute to a food security fund, and the development needs of future generations, shall be established.
- Thirdly, the National Gender Sensitive Land Policy must also propose the creation of a transparent and accessible land (property) register or record of all the redistributed lands, and expedite its formal linkage into the national cadastre and other records of the Surveyor General and the Deeds Office.

A key issue highlighted by farmers and Land and Agrarian CSOs on land tenure has been the behaviour of traditional leaders, including village headsmen, who are not gender sensitive and perpetuate patriarchal relations to the disadvantage of widows, single and unmarried women when it comes to the access and control of land in the A1 and Communal Areas. Related to this, various ZiLAN constituents were of the firm view that roles of traditional leaders in Communal Areas should be reviewed as most of the traditional leaders were not operating within their rightful roles of preserving heritage and cultural norms. In a number of policy dialogues, village heads were accused of corruption when it comes to land distribution and were in many cases accused of selling off land and acquiring expensive assets for personal use. To counter this, it is proposed to strengthen village committees in Communal Areas which are accountable to Rural District Councils (RDCs) and the Ministry of Local Government and National Housing.

From a series of policy dialogues conducted by ZiLAN in 2018 and 2019, strong sentiments were expressed by farmers that there should be equality before the law among the variegated classes of farmers, namely, A2, communal and A1 farmers, in terms of the bundle of rights. From a farmer's perspective, the permit letter fell short when it came to securing loans from private commercial banks as it is currently not accepted as a form of collateral by banks. However, freehold was also not desirable for it leads farmers to lose their source of livelihood in the event of indebtedness. The consensus was that there is need to maintain state ownership of the land.

Due to the current conflicting Mining vs Lands Act which gives mining precedence over agriculture, concerns have been raised by farmers and Land and Agrarian CSOs that mining operations are destroying infrastructure like boreholes, farm houses, and more importantly, displacing farmers without any form of compensation being offered to affected farmers in the A1 and Communal Area settlement models. There is, therefore, a need for the National Gender Sensitive Land Policy to emphasise that small-scale farming takes precedence over mining. In cases where there are firms or individuals with mining interests, and farmers are interested, joint ventures between the miner and farmer be the first option to be explored whenever possible. There is, therefore, a need for the rationalisation of all laws related to land use.

Land displacements should be minimised and further to this, the new land policy should clearly speak on compensation for small scale farmers in the event of unavoidable evictions/ resettlement. During consultative meetings, relating to relocation and compensation, the consensus was that people should be moved when all services and related infrastructure are in place in the area where they are being relocated to. If financial compensation is included, the money should be provided before moving people. Staggered financial compensation is problematic in an unstable economic environment. This can also be explored and understood in the same manner as former commercial white farmers are being compensated for land investments made prior to the FTLRP.

Then, a medium term process to review and strengthen the customary land tenure systems within the Communal Areas should be initiated after a period of about 5 years from the onset of the implementation of the new policy. To achieve this, the MLRR could organise a thorough learning process, from African and other relevant experiences. This process will build on the Land Tenure Commission findings of 1994, the FAO commissioned National Land Policy discussion document of 1998, and examine various other land tenure studies concluded over the last decade by other actors, as well as studies currently underway.

5.3 Promote effective land utilisation: agriculture, conservancies and environment

The National Gender Sensitive Land Policy must design principles and procedures for promoting, in the short and medium term, the productive use of agricultural land, and effective stewardship of natural resources and the environment, which involves relevant ministries and organisations (Agriculture, Natural Resources and Environment, Tourism, Parks, Water, EMA, etc). At present, surveys conducted by the SMAIAS show that land utilisation remains at around 50 percent in both the A1 and A2 settlement models. This calls for provisions in the National Gender Sensitive Land Policy that promote the productive use of land through incentives.

A key challenge related to conservancies and natural resources has been that of having multiple state organs being in charge of these issues, thereby creating conflicts between government organs. The main approach will be to institute adequate incentives and support services (through economic and agricultural policies) which can promote improved land utilisation and investments by motivated landholders. However, new land use regulations, covering natural resources utilisation and environmental protection, as well as the proposed agricultural land tax that promotes sustainable and improved land utilisation, will be formulated. The existing land use classification system, which guides potential users, must be re-examined in order to accommodate and adapt to new forms of landholdings and landholders, beneficial intensification trends and the protection and exploitation of natural resources (e.g. hunting, etc). Institutional arrangements capable of enforcing these regulations should be initiated in a manner that ensures transparent revenue generation and public investments.

Thus, the proposed land-use policy framework has to be aligned to an effective agrarian reform programme and economic policy, forward-looking natural resources and environmental management, and tourism development strategies, as well as progressive housing and land management programmes.

More flexible land use planning norms and procedures should be gazetted to guide land use regulation and land audits. Beneficiaries should be involved in decision-making, particularly where local planners find that the conversion of A1 allocations to A2 allocations and vice versa is not harmful to the land rights of some beneficiaries (e.g. creating exclusions or boundary disputes) and/or the environment. Existing informal self-contained schemes should be formally recognised. Based on clear land use guidelines, the downsizing of some A2 land units should ensue to accommodate more beneficiaries, where land is underutilised.

Managers of public corporations should also face disincentives against land and resource underutilisation, and prevent dilapidation of such infrastructure. The value of the assets on such state-owned land and property, public information, and the cost of maintaining such estates, should be adequately calculated. The land information should be publicly available in the formal LIMS. A participant during a ZiLAN Joint Cluster meeting held on 22 May 2019 suggested that *“making land management information public in a centralised database is among the simplest ways for reducing conflicts within the land administration system as everyone will know who is on the land and doing what at any given point in time...”*

The responsibilities for land use regulation among the various GoZ agencies should be streamlined, while the political will to enforce compliance with land use conditions ought to be strengthened. A land audit and a clear mandate to enforce land use regulations are required. This probably requires an elaboration of the farm sizes statutory instruments. The land tenure requirement to fully utilise land needs to be clearly specified in the land leases and permits, and these documents should be accompanied by enforceable-gazetted regulations.

Below are some of the recommendations made by Land and Agrarian activists and farmers during consultative meetings:

- Overlapping institutions and mandates are an issue of concern. Mining laws and agricultural laws administered by different state institutions present a lot of land use conflicts. Digital land mapping must be adopted to minimize land conflicts. Before allocations, land must be surveyed to avoid unnecessary land use conflicts that may arise later, e.g. mining vs agriculture;
- Land information must be made public pertaining to ownership, use and boundaries;
- In order to promote natural resource management, relevant crops/agricultural activity in a region should be practised as informed by a credible land information management system. Ecological parks can also be set up which can also play a double role for tourism activities.

The following suggestions were also made to promote improved land management and utilisation as incentives:

- Use of levies to push land utilisation and therefore increase production;
- Waivers on importation duty of agricultural inputs and machinery;
- Complementary certificates for exports;
- Promoting and making climate technology and innovation available through partnering with local technology institutions;
- Access to capacity enhancement and institutions such as ZIMTRADE which have services the majority of farmers are not aware of (for example, access to affordable credit facilities through the land bank), and
- Incentives for producing quality products.

5.4 Enhancing the Land Administrative System in Zimbabwe

The main challenge in the land sector in Zimbabwe as expressed by farmers in a number of policy dialogues conducted by ZiLAN and shown through research has been that of the capacity of the LAS to provide adequate and timely services in Zimbabwe's variegated land tenure regimes composed of the A1, A2, SSCF, Communal, Conservancy, Freehold and public farming (state and trusts) areas. The capacity to effectively discharge such functions is largely hampered by the incoherent, poor, if not dismal, coordination of different government land administration institutions, and the inaccessibility of such structures due to centralisation and bureaucratisation. At present, the issuance of formalised land administration services by the Ministry of Lands and Agriculture, as well as the Ministry of Local Government and National Housing, in settlement models such as the A1, Old Resettlement, SSCF and customary tenure areas, are extremely constrained, and in areas where there are no former LSCF lands, the Ministry of Lands and Agriculture is non-existent. Compounding the situation has been the interference of non-state actors such as political parties and traditional leaders in the LAS structures, while other non-state interests are not adequately involved in the LAS. This results in the provision of contradictory land administration services which fuel land disputes and undermines the equitability, fairness, accountability and legitimacy of the LAS as a public service provider.

Thus, the greatest challenge is to come up with a well-functioning coordinated and resourced LAS which operates with systemic coherence throughout all the land tenure regimes. The major challenge is to improve the coordinating role and capacity of the Ministry responsible for lands, while also strengthening the ZLC to "ensure accountability, fairness and transparency in the administration of agricultural land that is vested in the state" (Chapter 16: 297; 1 (a)).

The land dispute resolution mechanism residing in the ZLC should be strengthened to address the concerns of different stakeholders with impartiality, and preferably located at the district level, and should be independent from the DLC structures and MLRR land administrators. This will require ample resources, appropriate central government level supervision, and revised national land policy directives.

Emerging evidence from Zimbabwe also suggests that land administration services, including access to land dispute resolution and registration systems, remain largely inaccessible and costly for the majority of resettled farmers. Through the *Finance Act of 2015*, the GoZ introduced land rentals and development levies for A1 and A2 farmers,⁷ and recent press reports revealed that large A2 land holders have found it difficult to pay the land rental fees, while some farmers are frustrated by double billing because of confusions regarding where the land rental and development fees are to be paid between the local authority and central government represented by the Minister of Lands.⁸

In recent years, global best practice recommends the development and implementation of Fit-for-Purpose land administration system that embraces, and is closely tied to, the Global Land Tool Network's (GLTN) Social Tenure Domain Model (STDM) and continuum of land rights principles outlined in the previous section. For the continuum of land rights approach to be implemented at scale, new approaches to land registration are required (Zevenbergen et al 2012). The FFP land administration system is geared towards addressing the "what" and "how" questions of land tenure administration system using a flexible and incremental improvement approach (Enemark, McLaren & Lemmen 2016). Additionally, the FFP is anchored on spatial, legal and institutional frameworks that have minimum rigidity and bureaucracy (*ibid*). The key developers of innovative FFP land tenure recordation systems are: GLTN of UN-Habitat on the Social Tenure Domain Model - STDM; Food and Agriculture Organization (FAO) of the United Nations (UN) on SOLA (Solutions for Open Land Administration); Landmapp on Landmapp; Cadasta on Cadasta; and Thomson Reuters on Aumentum Open-Title (Lengoiboni, Richter & Zevenbergen 2018: 4).

7 The justification and procedures for land rental and development levies are outlined in Chapter X (Section 42 & 43) followed by a uniform Schedule of fees for the country's seven Natural Regions. Model A1 farmers are to pay USD\$10 per annum as land rental and USD\$5 per annum as development levy while Model A2 farmers pay USD\$3 per annum per hectare land rental and USD\$2 per annum per hectare development levy. Refer to Finance Act No. 8 of 2015 available at <https://zimlil.org/zw/legislation/num-act/2015/8/2015/Financepercent20Actpercent2Cpercent202015.pdf>

8 See "Farmers defaulting on rentals warned" available at <http://www.cfuzim.com/2019/07/18/farmers-defaulting-on-rentals-warned/>; and "Farmers worry over double billing" available at <https://www.herald.co.zw/just-in-farmers-worry-over-double-billing/Glo>

The enforcement of compliance regarding the lease and permit conditions need to be strengthened with enhanced LAS capacity to resolve new land conflicts. Since there are conflicting laws relating to land administration, ZiLAN constituents recommended that:

- The constitution must be followed and harmonisation of different laws and statutes governing the land administration system into a single Act must be instituted;
- There is need for a 50% representation of women in boards as stipulated in the constitution;
- There is need for different categories of women representation in the land boards to speak to the different needs of women from grassroot level, including in Chiefs and DA advisory boards. According to a male participant during the ZiLAN Harare Land tenure policy dialogue in April 2019;

Selection into these boards for women representatives must be competency based. We've seen situations where these women are selected into boards just to tick boxes or for political reasons. Most importantly, these women representatives must be able to relate to the different experiences of the different categories of women at the grassroot level.

- The selection of women with capacity into boards should be competency based.

5.5 Tenure security of farm workers

The new land policy must address the exploitative relations that link the residential and/ or agricultural land rights of farm workers to employment that prevailed in the LSCFs and is being mimicked in varying degrees by the new A1 and A2 landholders. Specifically, farm workers should be accorded independent residential and agricultural land rights in the compounds with long term tenure security similar to the perpetual permits being allocated to the A1 landholders. Additionally, some of the land freed from multiple land-owners and those holding oversized farms during the on-going land audit should be allocated to the group as food security plots they could combine with wage employment in the A1 and A2 farms for survival. Some of this could be taken from areas surrounding the farm compounds to enlarge access to land for farm workers and their families in the overcrowded compounds.

6. International Re-Engagement and Support to Land Reform

In an effort to revive an economy which has been under international sanctions for close to two decades, the administration led by President Mnangagwa has been on a re-engagement drive with international financiers as well as key western powers such as Britain, the European Union and the United States of America (Mazwi et al 2018). As part of the re-engagement initiatives, Zimbabwe is being compelled to finalise the compensation of former large-scale white farmers who were displaced during the FTLRP (see Ministry of Finance 2018). The Government of Zimbabwe in July 2020 entered into an agreement worth US\$3.5 billion with former white-commercial farmers on the compensation on land improvements on land repossessed under the FTLRP. While Zimbabwe faces greater challenges of developing and capacitating strong land and agriculture related institutions such as the Land Bank and the ZLC, the reality is that the country already has a constitutional and legislative framework which allows for the compensation of former white farmers. Added to these challenges is the lack of a clear mechanism for property valuation (see Moyo 2007).

The National Gender Sensitive Land Policy must, therefore, put in place mechanisms to facilitate and support the GoZ re-engagement with International Cooperation Partners (ICPs), with particular reference to the land issue. The objectives of this re-engagement are to:

- Enhance the credibility of Zimbabwe's land reforms among various domestic and international stakeholders;
- To advance the country's national interest through, *inter-alia*, the resolution of current land conflicts and the promotion of improved land utilisation towards the attainment of food security and poverty reduction;
- To resolve specific disputes related to the acquisition of BIPPA farms in a manner which is satisfactory to all the parties;
- To create a framework for the mobilisation of financial resources from the ICPs for compensating former owners, supporting the entire farming community and for the rebuilding of public and private land management capacities;
- To mobilise adequate and inclusive support for Zimbabwe's short and medium term adaptation to the changing agricultural markets, particularly in the Cotonou Framework Agreement;
- To mobilise the generic development assistance resources required to achieve the SDGs, particularly those dependent on equitable land access, land distribution and utilisation.

Specifically, the proposed strategy will promote consensus on the principles and measures required to resolve the following: BIPPA farms issue; rationalisation of land allocations and land use, and investments into agro-industrial and developments related to sugar, coffee and tea production, in order to enhance foreign exchange earnings; compensation for acquired land; and modalities for post settlement support of new landholders by the ICP's.

6.1 Resolve the Bi-lateral Investment Promotion and Protection Agreements Farms

The National Gender Sensitive Land Policy will facilitate the technical and policy processes required to engage BIPPA farm owners and their governments (mainly from Europe and South Africa) in conjunction with the ministries of Foreign Affairs, Agriculture and Finance and the Reserve Bank of Zimbabwe towards resolving the status of these properties. A technically sound and inclusive study of the status of BIPPA farms on the ground, and their functional categorisation, should be undertaken immediately to guide the engagement.

The principles that underlie decisions taken will be specified, and the arrangements required to implement the decision specified. Actions may include: procedures required to compensate for the land and infrastructure on BIPPAs which have been acquired, particularly those which are resettled and/or irretrievable; negotiations to reduce the farm sizes, of excessively large BIPPA farms; and measures to recognise and protect the remaining BIPPA farms. A resource mobilisation strategy suitable for compensating BIPPA farms will be designed.

6.2 Rationalisation of and investment into agro-industrial estates and conservancies

The purpose of actions in these areas is to resuscitate the intensive production of sugar, coffee, and tea for export and tourism in order to improve forex earnings and development.

Working in collaboration with the relevant ministries and various stakeholders, as well as ICPs (e.g. EC), the MLRR will clarify the outstanding land policy issues obtaining in agro-industrial and conservancy areas, including through and in conjunction with the National Land Audit. Furthermore, the MLRR, together with other ministries, agencies and stakeholders, shall facilitate the designing of a framework for the socio-economic re-development of and farming in these areas. Efforts will be made to resuscitate integrated export production and agro-processing processes, using frameworks which meaningfully involve all the small, medium and large scale landholders, while adjusting to the emerging SADC and EU trading regimes.

6.3 Principles, procedures and resources for compensating acquired farms

In conjunction with the relevant ministries, the MLRR will initiate and support initiatives intended to define and negotiate with the ICPs and former landowners, an acceptable framework for the valuation of and compensation for farms acquired for land redistribution. A process of multi-stakeholder consultation and consensus building should be arranged, in order to ensure that the outcomes of this initiative are supported by the stakeholders. Strategies adopted will include measures that mobilise resources from land beneficiaries, the fiscus and ICPs.

6.4 Post-settlement support programme and resources mobilisation

The National Gender Sensitive Land Policy needs to put in place measures that induce the GoZ to enhance the social and economic livelihoods of the landholders who benefited from land reform, through improved land utilisation, in order to promote Zimbabwe's food security and resolve poverty.

Within the policy, the MLRR, in collaboration with relevant ministries, as well as other stakeholders (private sector, universities, NGOs, parliament and donors), need to design a strategy and implementation plan for supporting the social and productive activities in the newly redistributed areas. Two sub-programmes of this plan will be designed to support the post-settlement needs of the A1 areas and 'commercial' farming in A2 areas.

These plans will be integrated into wider GoZ initiatives intended to improve rural social welfare and protection, and local employment and economic development. The MLRR, working in conjunction with the Ministries of Finance, Foreign Affairs, and others, will then mobilise domestic and international resources to finance the plan.

7. Consolidating Land Policy, Institutions and Laws

In order to further build confidence in the land reform process, to consolidate the positive outcomes of the above effort to rationalise land policy, and address outstanding land issues, it will be necessary to further review and rationalise the land laws and build adequate institutional capacities to administer land policy.

7.1 Rationalisation and consolidation of land laws and related regulations

As has been proposed in previous land tenure policy reviews (e.g. the Rukuni Land Commission of 1994 and the FAO Land Policy Discussion Paper of 1998), the Ministry of Lands must review land laws in order to improve their clarity and consistency, and to rationalise and make them more effective.

7.2 Review of the institutions that deliver land services

In order to enhance the delivery of the above proposed actions and land service provision in general, the land policy needs to re-engineer Zimbabwe's land management institutions in order to improve their effectiveness and accountability. The specific outcomes of such a review process should lead to:

- Redefining the policy role and administrative functions, structures and required capacities of the Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement;
- Refining the functions and improving the capacities of the existing ZLC, and taking into account the various concerns regarding its decentralisation, autonomy and accountability;
- Revamping the operational modalities and capacities of the Surveyor General's Office, and of the Deeds Office in collaboration with the Ministry of Justice, in order to meet the enlarged demands on their services;
- Proposals to streamline and capacitate the land adjudication system, including the land administration courts and local land dispute management and arbitration mechanisms.

8. Resource Mobilisation

8.1 Establishing a Land Reform Fund

The Ministry of Lands and Agriculture needs to collaborate with the relevant ministries, local authorities, stakeholders, financial institutions (domestic and external) and ICPs to establish a Land Reform Fund, to coordinate the mobilisation and utilisation of resources. The resources mobilised will be utilised for:

- Compensation of land and improvements;
- Land management support by local authorities and central government;
- Investment into the development of land (infrastructures, etc);
- Post-settlement support to beneficiaries;
- Land utilisation support (e.g. food stabilisation fund, etc).

The sources of funding will include internal sources (farmer purchases of farm developments, land taxes, rates, etc) and external sources (donors grants; IFI loans, etc).

The resources will be managed in a fully transparent and accountable manner, in line with expected overall public financial management reforms.

9. Conclusion

This section summaries and highlights some of the crucial points emerging from this paper.

- Our research findings suggest that no single form of land tenure type can be considered superior to the other and there are several ways in which governments can strengthen land rights and promote land tenure security without necessarily having to privatise land access and ownership systems. It is evident that land tenure systems generally evolve over time in response to prevailing socio-economic and political conditions in a particular country, and the imposition of private land ownership through forced land rights formalisation or registration programmes may not be an effective mechanism to enhance agricultural productivity, investment and access to agricultural finance in contexts where fundamental free market conditions are non-existent or poorly developed. Consequently, any attempts to convert customary, permit and leasehold tenure systems into supposedly superior private or freehold tenure may have insignificant or negative impacts on the redistributive and equity goals of the GoZ's land reform programme. Freehold land ownership should be viewed only as one of the several ways in which the government may strengthen farmers' land rights. A more progressive approach could be to strengthen existing 99-year leases and permits instead of replacing them with private land ownership based on false or non-existing market, social, political and behavioural assumptions.
- Notwithstanding the need for a flexible, responsive and gradual non-ideological land tenure reform process, the fact that most A1 and A2 farmers do not have the requisite land tenure documents in the form of permits and 99-year leases respectively raises serious questions on the extent to which these farmers can sustainably drive the much needed agricultural productivity to address household and national poverty linked to persistent food shortages. Without firm land tenure documents and guaranteed land tenure security as enshrined in the country's constitution, resettled farmers have clearly struggled to gain access to agricultural finance, particularly as banks have refused to accept 99-year leases as a form of collateral. Arguably, the nationalisation of land could partly explain the banks' refusal to accept most land tenure documents, including post-FTLRP freehold titles as a form of collateral. Other factors which could possibly be impeding the acceptability of the 99-year leases include foreclosure arrangements and related land transfers procedures to third parties. The use of improvements for mortgaging also remains a source of contention as banks continue to express reservations on whether the existing infrastructure is sufficient to secure loans.
- The strength and effectiveness of any land tenure system is largely depended on the existence of an effective land administration system that ensures that the rights and obligations of land rights holders are properly recorded and enforced in less costly, accessible, transparent and socially-acceptable means. In low-income, developing countries like Zimbabwe, the GLTN's concept of the

Social Tenure Domain Model and continuum of land rights framework coupled with the Fit for Purpose Land Administration principles outlined in preceding sections provide good entry frameworks to discuss and debate appropriate land tenure and land administration systems for the country. While decentralisation of land administration services could be an option worth pursuing, it should not be viewed as a panacea for the various land administration and management challenges facing the country.

- Evidently, diverse land disputes have been pervasive across all land tenure categories and most of the disputes are linked to lack of clear, durable and enforceable land rights. The fact that most land reform beneficiaries are still holding onto temporary offer letters implies that their land rights remain uncertain and vulnerable to repossession by the state and other powerful individuals or businesses. Given poorly defined and temporary land rights, some A1 and A2 farmers have been subjected to constant eviction threats and serious land ownership disputes. A lasting solution to the resolution of all forms of land disputes is clearly needed and recent moves by the ZLC to decentralise its offices and land dispute resolution functions are important steps towards the development of a streamlined and sustainable land dispute resolution framework. A few regional lessons have been presented in this report and several African experiences with decentralised land dispute resolution and administration systems abound for the ZLC and GoZ to consider moving forward.
- It is also evident that addressing land underutilisation and fluctuations in agricultural productivity among large scale A2 land owners could be challenging in a restrictive land market environment where there are legitimate land (re) concentration fears. It would be important for the GoZ to consider carefully any policies that would tend to weaken farmers' land rights or disrupt agricultural productivity. A better way to address underutilisation may be to ensure security of tenure for even small-scale farm plots, and to assist farmers in accessing needed services and markets.
- The farm size regulations state the permissible maximum land sizes suitable for different agro-ecological zones in Zimbabwe (see Farm sizes regulations of the Rural Land Act 2000/2). Despite this, land utilisation remains low and not followed by farmers. Crop and/or livestock enterprises and/or output quotas for the A2 farms in the different agro-ecological regions must be clearly stated in the new land policy to help in the monitoring and enforcement of regulations. Also, important would be to introduce incentives for maximum utilisation of land and agricultural production.
- It is quite important to define the persons to be allocated land under the land allocation procedures as the current framework is vague. Related to this, pointing out the numbers of expected land beneficiaries is crucial, vis-à-vis the available land (given the qualitative differences of its agro-ecological and irrigation facilities). Highlighting the targeted land and that to leave is equally important

for the new land policy. It will also be required to state agro-industrial concerns, and white or black-owned LSCFs to be retained. The scope of such land rights, especially the criteria followed in enforcing restrictions on the permitted maximum farm sizes, in relation to their responsibility of beneficiaries to utilise the land, is also not quantified.

- The review and evidence presented in this report have shown that women's land rights remain precarious in all land tenure categories in Zimbabwe. Urgent and holistic solutions to address pervasive succession and other land-related disputes that disproportionately affect women in Small-Scale Commercial Farming Areas, Old Resettlement Areas and Communal Areas, A1 and A2 areas are needed to improve women's access to and control over land if the country is to reap the positive benefits of secure women's land rights, including improved household wellbeing and food security. Allocating more land to women would reverse the existing gender inequalities in the distribution of land and provide better prospects for women to fully benefit and control the products from the land.
- Land scarcity and increasing domestic demand for land from youth, women, farm workers and urbanites call for tailored land access and tenure security approaches that deliberately target landless and vulnerable groups. With growing land scarcity and land degradation in communal areas, innovative approaches to enhance long-term access to land for these groups are warranted. Research suggests that policies imposing maximum and minimum farm size restrictions are difficult to implement in contexts where there is increasing land scarcity and demographic pressures necessitating continued land fragmentation. In the Zimbabwean context, demand for land from landless youth, women and farm workers could be partly met through the redistribution of underutilised, vacant or oversized farms following the conclusion of the national land audit being spearheaded by the ZLC. The GoZ should consider the relevant equity and justice principles enshrined in the country's constitution and globally accepted principles outlined in the VGGT and other frameworks, including the African Union Framework and Guidelines on Land Policy in Africa.
- As shown in the paper, a successful land policy hinges on synchronising various Land Administration Structures with the ZLC playing a prominent role. This will ensure that there are no contradictions in land allocations and resolution of conflicts. This calls for the decentralisation of the LAS for them to be accessible by the poor and vulnerable groups.

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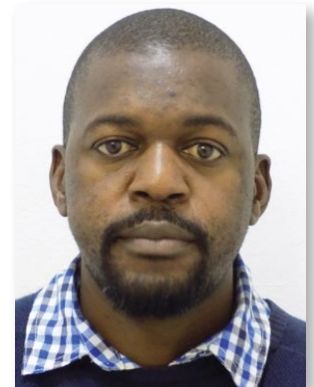
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About the Author

Dr Walter Chambati is Executive Director of The Sam Moyo African Institute for Agrarian Studies, Harare, Zimbabwe, and Associate Editor of *Agrarian South: Journal of Political Economy*. He has published extensively on land, labour and agrarian relations in Zimbabwe and Southern Africa. He is co-editor of *Rethinking the Social Sciences with Sam Moyo* (Tulika Books, 2020), as well as of the forthcoming *Labour Questions in the Global South* (Springer) and *Farming and Working under Contract: Peasants and Workers in Global Agricultural Value Systems* (Tulika Books).



Dr Freedom Mazwi is a Researcher with the Sam Moyo African Institute for Agrarian Studies, Harare, Zimbabwe. His research and publications over the last 10 years largely focus on land reform, tenure systems and agricultural financing. Freedom has contributed articles in a number of journals, international newspapers and books. He is an author of the forthcoming *Political Economy of Contract Farming in Zimbabwe* (HSRC) as well as a co-editor of the forthcoming *Farming and Working under Contract: Peasants and Workers in Global Agricultural Value Systems* (Tulika Books).





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