



HOUSING AND LAND RIGHTS NETWORK

H a b i t a t I n t e r n a t i o n a l C o a l i t i o n

Literature Review: Women's Dispossession from Land and Home in Zimbabwe

Land Systems in Zimbabwe

There are three broad systems of land tenure recognized in Zimbabwe: freehold (privately held), communal and leasehold resettlement systems.¹ Both communal and leasehold land is State-owned.

Freehold tenure accounts for 32% of Zimbabwe's land and is primarily used by small- and large-scale commercial farms. The registered landowner has exclusive property rights, including full control and responsibility, over freehold land.

Communal lands, formerly known as Tribal Trust Lands (TTLs), account for 42% of the country's land. This land is allocated to people on behalf of the State by Rural District Councils. People residing on communal land have usufructuary rights.

Leasehold tenure, brought about through the post-independence land resettlement schemes, accounts for 10% of the land. Those who live on the land do not hold title, but rather are given 99-year leases by the government.² During the Fast-Track Land Reform Program (FTLRP) leasehold farms were divided into A1 and A2 plots, with A1 plots being generally less than one hectare in size, and most A2 plots being slightly larger, though some are much larger commercial farms. Such plots cannot be sold, leased or mortgaged (at least, not officially).³ Most A1s were allocated during the early days of the FTLRP, around 2000, while A2s were allocated later, around 2002.⁴

Formal A1 sites were demarcated by planning officers, either grouped together as villages that included clustered housing and shared grazing areas, or as self-contained plots that each included housing, arable land and a grazing area; informal A1 plots were organized as the local community preferred.⁵ A2 plots were allocated to applicants who presented business plans to Provincial and District Land Committees, but there was no consistency in the application process, which varied by province.

Evolution of Land in Zimbabwe

Formal colonization of Zimbabwe (previously known as Rhodesia) began in September 1890 and lasted 90 years, until independence in April 1980. As black Zimbabweans were forcibly removed

from their lands, the agricultural economy declined to subsistence levels in 1930.⁶ Eventually, as the white colonizers overtook and invested in the stolen land, the agricultural sector once again grew to become an important part of Zimbabwe's economy.

The war of liberation, led by the Zimbabwe African People's Union (ZAPU) and the Zimbabwe African National Union (ZANU) ended in 1979 with the signing of the Lancaster House Agreement, leading to the recognition of an independent Zimbabwe. During the preceding talks, leaders of ZAPU and ZANU (later to merge as the ZANU-PF party in 1987) insisted on compulsory land redistribution by seizure without compensation as a precondition to a negotiated peace settlement.⁷ Both the United Kingdom and the United States sought to prevent this by offering financial and technical assistance to Zimbabwe, and convincing party leaders that the mass exodus of white farmers that would follow uncompensated land seizure would lead to the country's economic collapse. At that time, white farmers – who owned 73.8% of the most fertile land suitable for intensive cultivation of cash-crops and livestock grazing – contributed to 80% of Zimbabwe's total agriculture output, 40% of exports and 30% of paid workforce provision.⁸ Party leaders thus agreed to 'sunset clauses' in the Agreement that gave protections to the white farmers for the first ten years of independence.⁹

Since its independence, Zimbabwe has attempted four different land reform approaches:

The first decade saw a market-based, state-managed “**willing-buyer, willing-seller**” approach. The government bought plots of land less than one hectare in size in order to re-settle poor and marginalized families that had been subject to landlessness, displacement or overcrowding; a few middle-class Zimbabweans and political elite also bought larger-scale commercial farms. The scheme was financed in part by the United Kingdom, Kuwait and some European countries, matching contributions to land purchases of the Zimbabwean government “pound-for-pound.” However, this approach was widely regarded as unsuccessful, with the government acquiring only 3 million hectares out of the targeted 8 million.¹⁰ This has been largely attributed to the unwillingness of white commercial farmers to sell their land for reasonable prices.

From 1992 to 2000, the government proposed a National Land Policy whereby land for public use was acquired through eminent domain. This was enshrined in the Land Acquisition Act of 1992, which also limited the right to appeal through the courts. There was no donor support for this scheme, with the UK citing prior corruption and misuse of funds. The approach was not successful, resettling less than 600 families¹¹ – again due largely to the unwillingness of white commercial farmers to cooperate with the scheme. The land resettlement funds offered by the United Kingdom had been exhausted by 1988, and by the late 1990s Prime Minister Blair ended the arrangement, abandoning all commitments to aid Zimbabwe's land reform process.¹²

In 1998 villagers and veterans of the war of liberation began carrying out extrajudicial occupations of white-owned farms. These occupations were characterized as chaotic and often violent. By mid-2000 the land take-overs had intensified and gained public support, leading Mugabe in July of that year to publicly declare support for the occupiers.

The **Fast Track Land Reform Program (FTLRP)** legalized the type of land takeovers that had been occurring since 1998. The FTLRP was successful in that it increased access to land, natural resources and agricultural infrastructure for the black majority. In some cases, this included irrigation systems, dams, dip tanks (for cattle) and tractors.¹³ However, there has been widespread criticism over the selection criteria for owning land, with accusations of partisanship, corruption and patron-client relationships, and no effort to ensure those gaining access to larger commercial farms had the necessary skill or financial capital to maintain production levels, which resulted in an extreme downturn of the agricultural and overall economy.¹⁴

Some have challenged the idea that land, particularly the larger, commercial A2 plots, was only distributed to political cronies through the FTLRP. Scoones¹⁵ found that many who applied for A2 plots did not have any political connections, such as teachers, local government officials, or civil servants. However, while these cannot be characterized as “elites”, particularly given the low salary associated with such posts in Zimbabwe, they were also not the poor and landless from the communal areas that were originally the primary targets of the land reform. Scoones also notes that corruption around land acquisition did exist but occurred primarily around the 2008 presidential and parliamentary elections.

Zimbabwe has been subject to **sanctions** since 1998 due to the land occupations and subsequent FTLRP, largely because these did not include compensation to white farmers. Lending from the IMF and World Bank has been suspended since 1999, and all assistance apart from humanitarian aid ceased after 2001. In 2017 president Mnangagwa committed to compensating former landowners – for improvements made to the land, only – who were forced off their land during the FTLRP.¹⁶ This move is seen as a necessary step to persuading donors and international financiers to engage with the land reform areas in Zimbabwe.

Zimbabwe Government Law and Policy

The **Land Apportionment Act of 1930** was the first significant land policy enacted by colonists. It enshrined in law the division of lands between black Zimbabweans and white colonizers, prohibiting black people from owning or occupying lands in areas designated white-only. The Act called for 51% of land to go exclusively to white farmers, 22% to Africans and 27% to be used for forest, national parks and government development.¹⁷ Moreover, the Act included provisions to evict black farmers from the best quality, fertile land, displacing them to drier, less fertile areas.

The **Lancaster House Agreement of 1979**, which brought an end to the war of liberation and recognition of an independent Zimbabwe, called for a system of land redistribution that would not damage the contribution to the economy of white farmers.

The **Legal Age of Majority Act of 1982** gave majority status to women 18 years and older, who were previously considered minors before the law. With regards to inheritance, this provision

was successfully challenged in the 1999 Magaya vs Magaya Supreme Court case and women were again reduced to “junior males” without equal inheritance rights.¹⁸

The **Communal Land Act of 1983** affirms that all communal land is entrusted to the State President, who has the power to determine its occupation and use in accordance with the Act.¹⁹

The **Land Acquisition Act of 1985** gave the government first right to purchase excess land, particularly land adjacent to former Tribal Trust Lands (TTLs), for the purpose of redistribution to the landless. This existed within the “willing-buyer, willing-seller” phase, so was contingent on landowners being willing to sell.²⁰

The **Land Acquisition Act of 1992** allowed for the compulsory acquisition of land by the government for public use (resettlement), providing only minimal compensation.²¹ Such compensation was decided by a six-person committee that also had the power to limit land size and collect a land tax.²²

The **Rural Land Occupiers (Prevention from Eviction) Act of 2001** protected land occupiers from being evicted from the land they forcibly occupied, largely nullifying the property rights of white commercial farmers.

The **Land Acquisition Amendment Act of 2002** authorizes the President to forcibly acquire land and lays out the steps for this compulsory acquisition. This Act effectively legalized the extrajudicial land takeovers that had been occurring in the country since the late 1990s.

Chapter 16 of the **Constitution of Zimbabwe, 2013** deals exclusively with the issue of land, stating the inviolability of the post-2000 land reforms. Gender balance is listed in section 2 as one of Zimbabwe’s National Objectives, declaring that “the State and all institutions and agencies of government at every level must take practical measures to ensure that women have access to resources, including land, on the basis of equality with men” (section 17, 1c). The impact of the customary system in Zimbabwe is limited by section 80, paragraph 3, which states that “All laws, customs, traditions and cultural practices that infringe the rights of women conferred by this Constitution are void to the extent of the infringement”.

The **Gazetted Land (Consequential Provisions) Act of 2006** amended the Land Acquisition Act and repealed the Rural Land Occupiers (Protection from Eviction) Act. It also made provisions for the enactment of section 16B of the Constitution.²³

The **Land Commission Act of 2017** provided for by section 296 of the Constitution,²⁴ establishes the Land Commission and describes its functions. While the Act partially provides for security of tenure for 99-year leases, it does not completely guarantee security of tenure as permits, offer letters and other leases only give rights for holding – not ownership.²⁵

Institutions Pertaining to Land Regulations

The mandate of the **Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement** is to “provide technical, extension, advisory, regulatory and administrative services to the agricultural sector to achieve food security and economic development”²⁶ including freehold, communal and leasehold plots. The Ministry has also played a role in recent years in evicting people who occupied land during the late 1990s-early 2000s who do not currently hold title.²⁷

The **Agricultural Rural Development Authority (ARDA)** is a State-owned enterprise under the Ministry of Agriculture Mechanization and Irrigation Development, responsible for the advancement of agricultural production and rural development, with a view to reducing poverty in rural areas. This is done largely through entering into public-private partnerships (PPPs). ARDA holds a substantial amount of land in Zimbabwe, comprising 21 estates and 98,000 hectares of arable land.²⁸

The **Zimbabwe Land Commission** was established in 2016. Its functions as laid out in the Land Commission Act of 2017 include:

- ◇ to ensure accountability, fairness and transparency in the administration of State agricultural land,
- ◇ to conduct a comprehensive land audit and inspections of agricultural land,
- ◇ to resolve land disputes, and,
- ◇ to make recommendations on State acquisition of private land for public purposes, and for equitable access to, holding and occupation of agricultural land.²⁹

While progress still needs to be made on the backlog of land audits and disputes, the Land Commission in 2019 released a preliminary report revealing that the current land reform program is “in shambles”. Specifically, the report cited the fact that A1 tenure documents were issued by different allocating authorities, making it impossible to verify the legal status of genuine title holders – there was no consistent procedure.³⁰

Women and Land Tenure

Pre-colonial, colonial and post-colonial Zimbabwe are linked by a thread of consistent denial of women’s right to independent control of land.³¹ Zimbabwe’s population is 52% female³² with women providing 70% of the country’s agricultural labor,³³ though women seldom own the land they cultivate.³⁴ On A1 farms where women are the head of household, women tend to employ workers, whereas men heads of household tend to use wives and family members as unpaid labor.³⁵

Since pre-colonial times women have been able to gain access to land through the “tseu” system, literally translated as “women’s field.”³⁶ A man traditionally gives a small portion of

land to his wife, which she is able to cultivate and earn income from. However, this does not happen in all cases of marriage, and is sometimes contingent on bearing a child or other prerequisites. In some cases, parents may bestow a small piece of land on their daughter on compassionate grounds.³⁷

Despite laws that work in favor of women in the statutory system, and a clause in the Constitution stating that statutory law overrides customary law when they are divergent, women living in rural areas subject to customary practices are far from having equal access to land. There are cultural, political and administrative factors that contribute to the small numbers of women who have been able to benefit from the post-independence land reform program.³⁸ The customary is highly patriarchal; under colonialism, these patriarchal conditions were reinforced through law.³⁹

While Zimbabwean law provides for equal property and inheritance rights for men and women, such inheritance rights are routinely violated, particularly in rural areas where customary practices are followed rather than State law.⁴⁰ In customary (communal) areas land is passed on through male ancestors. Women gain access to land either as plot-holders, wives of plot-holders, within “small houses” (meaning a woman is an extramarital affair, co-habiting with a plot-holder while his wife is away), daughters or other relatives of plot-holders.⁴¹

Women who marry into the community of their husbands are seen as outsiders, and given only secondary rights to land, even upon the husband’s death.⁴² Women will often stay in abusive or otherwise harmful relationships just to maintain these secondary land rights.⁴³

Upon a man’s death it is often preferred that boys (minors) inherit the land rather than a woman, including the boy’s mother (the widow).⁴⁴ In these cases, the woman often allowed to maintain use of the land, but does not gain any legal rights.⁴⁵ In-laws typically inherit the land in absence of a male heir, in which case it is extremely rare that a widow would be allowed to maintain access to the land, regardless of the time she has lived there.⁴⁶

Furthermore, there is a lack of knowledge of laws pertaining to women’s land rights, especially in the rural areas. The majority of rural women are illiterate and unable to deal with bureaucratic processes. Research has shown that most women who are jointly registered with their husbands on land titles have benefitted from formal education, or at the very least have a formally educated husband.⁴⁷

Because land rights in Zimbabwe have been extremely racialized as a result of colonization, gender was not a primary consideration during the post-independence land reforms.⁴⁸ Under the first phase of land reform that began in 1980, land permits were provided under the husband’s name only, reproducing the conditions of the customary system. There was, however, a new opportunity at this time for widows to have a permit changed from her husband’s name to her own,⁴⁹ although in practice women (especially those from rural areas) face knowledge and administrative hurdles, as well as strong resistance from the families and communities of their husbands.

The FTLRP has also been “highly masculinized”. Many women were very active participants in the land takeovers of the late 1990s, not knowing that they were only helping men to become landowners.⁵⁰ However, WLZ (formerly WLLG) lobbied for and succeeded in winning a 20% land quota for women under the FTLRP.⁵¹ The 2003 Utete Commission found that in fact 18% of those given A1 titles were women, mostly unmarried. Of the women who received access to land titles, most gained this access through political connections.⁵²

As of 2005, both names of a married couple could be listed as joint owners on an A1 permit. This, however, was not applied retroactively, nor was it mandatory.⁵³ The government considers this a “private affair” to be decided on between husband and wife, which can be problematic given women often feel pressures to avoid demanding this right. Furthermore, women in customary marriages did not benefit from these changes.⁵⁴

It has been shown that women who lack secure tenure are less likely to invest long-term into the land through activities such as tree-planting. Rather, women in such circumstances tend to engage in activities that have more immediate benefit, such as planting of arable crops that can be harvested within a single season.⁵⁵

Post Land Reform Evictions

In 2005 the government of Zimbabwe carried out mass urban evictions under “Operation Murambatsvina” (“Clear the Filth”). A total of 700,000 people, totaling 6% of the population, were evicted from urban informal settlements across all ten of the country’s provinces. It was widely reported that evicting officials failed to adhere to legal procedures in carrying out these evictions, resulting in human rights violations.⁵⁶ These evictions caused a mass exodus of people to rural areas as they have no alternative urban housing, causing them to lose their livelihoods and often face poverty and hunger in the countryside.

In recent years, many of those who occupied farms during the land takeovers that preceded the FTLRP but were not able to formalize their residence have been evicted. In doing so, the authorities have disregarded provisions in the Constitution, and in some cases have disregarded specific court orders.⁵⁷ These types of evictions are ongoing.⁵⁸

Zimbabwe does not have a comprehensive policy on evictions. However, Section 74 of Zimbabwe’s 2013 Constitution provides that “No person may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances.”

Recommendations

Rukuni⁵⁹ offers specific recommendations for strengthening each form of land tenure within Zimbabwe's land system. These recommendations include :

- ◇ Foreigners should be barred from purchasing **freehold** titles, and should be allowed to enter into short- to medium-term leases

- ◇ **Communal** lands should cease to be State lands, and the State should recognize customary rights including
 - Constitutional provisions that whoever enjoys customary rights should be able to do so regardless of whether or not they hold a formal title, permit, lease or other document, acknowledging the ability of the customary system to recognize and adjudicate rights;
 - Modernization (not Westernization) of customary tenure, including land registration, which should be carried out in phases, and should be voluntary rather than mandatory;
 - Strengthen the capacity of communities to administer and adjudicate;
 - A Deed of Grant should be offered, either jointly to spouses or to a family trust; inheritance should go to the surviving spouse first, and then surviving children, who could anoint an heir or form a family trust;
 - A Deed of Grant for shared grazing land should be made in the name of a community trust or foundation who will look after the natural resources;
 - Traditional councils should be incorporated into the national judicial system
 - Arable and residential land should be legally tradable only between people living on communal lands;
 - Consolidation of land holdings should be banned until the urban population reaches 50% and unemployment rates are single digit;
 - Foreigners should be barred from purchasing communal lands.

- ◇ For **leasehold** land, particularly 99-year leases:
 - Compensation for improvements should be given to the previous owner, to avoid legal contestation, to be shared between the lease holder and the government;
 - The leaseholder should be given ten years to fulfil State requirements for improvements (such as a fence, homestead, water infrastructure, etc.);
 - Sales should be allowed only between buyers and sellers in the same category of land reform;
 - No consolidation of land should be allowed until Zimbabwe is a fully industrial nation.

Further recommendations specific to women and land made by Toro⁶⁰ include:

- ◇ Protections for women married under customary law;
- ◇ Simple marriage registration and documentation for rural women;

- ◇ Provide traditional leaders the ability to certify marriages;
- ◇ Laws guaranteeing joint property ownership for couples;
- ◇ Laws on inheritance and divorce need to clearly and fully protect women;
- ◇ Improved access to credit for women.

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²² FAO, date unknown.

²³ Zimbabwe Legal Information Institute, *Gazetted Land (Consequential Provisions) Act [Chapter 20:28]*, <https://zimlil.org/zw/legislation/act/2006/8>

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²⁶ Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement, <http://www.moa.gov.zw/>

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