



# POLICY BRIEF

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## **LOCATING THE POSITION OF PEASANTS UNDER THE “NEW DISPENSATION”: A FOCUS ON LAND TENURE ISSUES**

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### **ABSTRACT**

The focus of the study is to explore implications of the latest land and agricultural policy pronouncements, discourse and narratives by the new administration on smallholder farmers' access and security on agricultural land. To gather the perspectives, learn and share experiences of farmers, particularly women, relating to tenure security and access to land, the Sam Moyo African Institute for Agrarian Studies (SMAIAS) together with the Zimbabwe Land and Agrarian Network (ZILAN) conducted policy dialogues across the country on land tenure issues in the “new dispensation”. There is a shift from the previous administration's standpoint in terms of land administration and agricultural growth strategy. Under the “new dispensation” the state is pushing for massive investments in all sectors of the economy. However, prioritisation of large scale farming will likely lead to land concentration by capital and land alienation of smallholder farmers, particularly women who do not take part in decision making. Furthermore, the renewed drive for industrial capital to take part in mineral exploitation will, without doubt, have devastating effects on the livelihoods of peasants, particularly those that depend on the land. This is worsened by the fact that according to Zimbabwean law, miners are given first preference when it comes to land use. The new administration is eager to raise capital via rents and in the process boost agricultural productivity. This has propelled the new administration to push for smallholder farmers to embark on joint ventures with foreign capital and, on the same note, there is a renewed narrative that land should be given to those who are financially and materially resourced and can fully utilise it. Interestingly, underpinning this productivist stance is the need for a land audit. There is no doubt, that smallholders are fully behind a land audit for it will free more land for the land-short and the landless and, more importantly, it will address multiple farm ownership. However, there are fears that the land audit maybe captured by the elites and lead to further peasant land alienation. Outstanding issues such as women unequal access to land control and ownership and bottle necks in joint registration of farm ownership still persist. The new administration is also confronted with a rejuvenated demand for compensation of former white farmers as the western powers covertly set this as part of the requirement for Zimbabwe's readmission into the international community. The “new dispensation” has witnessed the signing of the Land Commission Bill into the Land Commission Act and the subsequent decentralisation of the Zimbabwe Land Commission to all the country's provinces.

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## Introduction

Following political developments late last year and the coming in of a 'new administration' on the 24th of November 2017 in the country, 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 repossessing 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”, vis-is-vis the land tenure security of smallholder farmers, including women, who got access to land during the Fast Track Land Reform Programme (FTLRP). Beneficiaries of the land reform have been exhorted to show their deservedness by demonstrating commitment to effective utilisation of agricultural land made available to them by the government.

A recent national survey by the Sam Moyo African Institute of Agrarian Studies (SMAIAS) indicates high underutilisation of agricultural land with percentages remaining below 20 percent in all the three land tenure models, namely, the A1 small-scale permit system, the A2 medium-scale leasehold system (*these are FTLRP resettlement models*) and the communal land tenure model. Among the identified factors constraining optimal agricultural land utilisation include: low access to agricultural inputs and credit which remains below twenty percent, low levels of mechanisation with tractor ownership below twenty percent, low utilisation of certified seed and fertiliser across all the land tenure models. Compounding this are gendered land administrative-related land conflicts and threats of eviction, particularly in the resettlement areas (SMAIAS 2014). The new administration's policy pronouncement highlighted complex issues of land tenure as an urgent policy priority to ensure finality and closure to the ownership and management of the resource for national stability and sustained economic recovery.

Concurrent with policy pronouncements regarding land and agriculture is the “Zimbabwe is Open for Business” mantra. Its thrust is to attract foreign direct investment to turn around the economic fortunes of the country. The lack of clarity on the sectors of the economy open to investors, both foreign and domestic, 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 have seen many African countries adopting land law reforms aiming at individual registration and titling of land. 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. 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.

## Methods, Approaches and Results

In the aftermath of the pronouncement of a new policy thrust regarding land and

agriculture by the new political administration in Zimbabwe, the SMAIAS and the Zimbabwe Land and Agrarian Network (ZILAN) conducted policy dialogues on land tenure around the country. The policy engagement workshops covered an overview of land tenure issues and women's land rights, provided a platform for smallholders, particularly women, to give their perspectives regarding land tenure security, access and conflicts they are encountering in both communal and resettlement areas. Various stakeholders were invited to participate in the policy engagement workshops, including women farmers, women organisations working on land, traditional leaders, researchers working on women and land issues and representatives from the Ministry of Agriculture, Lands and Rural Settlement.

All the views, experiences and policy deliberations during the engagement workshops were documented in audio, visual and print media to capture all the salient data on this critical and topical issue in the country. Also, some of the data was obtained from media reports and government reports. The data was subsequently analysed using the thematic approach- a form of qualitative data analysis involving pinpointing, examining, and recording patterns or themes within qualitative data. During data analysis, perspectives from farmers and their experiences regarding land tenure security, access and related conflicts, gathered during the policy engagement workshops, were analysed and emerging themes consolidated to come up with findings presented.

### **Joint Ventures and Contract Farming Vis-a-vis Land Tenure Security**

A key ideological battle in public policy has been around land tenure. The FTLRP dismantled freehold tenure and replaced it with a state-based tenure arrangement which triggered “capital flight” as some scholars would put it (*Richardson 2005; Moyo and*

*Nyoni 2013*). Changes in land tenure arrangements affected agricultural credit supplies for farmers as loans from commercial banks significantly declined from US\$315 million in 1998 to US\$6 million in 2008 (*MAEMI, 2009*). While initiated by the previous administration, other models of agriculture production such as contract farming and joint ventures spearheaded by private capital and promoted by the Government of Zimbabwe (GoZ) are gaining prominence and being presented as an alternative to revive the underfunded agriculture sector (*World Bank 2012*). The advent of such models requires a closer examination as there is a potential of undermining the peasantry base through land alienation, in some cases labour exploitation, and unequal exchange of surplus value which occurs through input and output markets (*Moyo 2016; Patnaik 2011*). Examples from other countries that have embraced such models with disastrous consequences are crucial at this juncture. In Mozambique, a majority of peasants lost their land when they entered into asymmetrical relationships with domestic and foreign agrarian capital in sugar cane farming (*Chambati et al 2018*). The policy position of the GoZ that “Zimbabwe is open for business” which entails the promotion of “joint ventures” and the “latifundia” in response to the crisis of agricultural finance poses a danger of expelling peasants from their pieces of land in different ways. Evidence shows that farmers in some areas are under massive attack as they have been reduced to “propertied proletariats”, only receiving about 5 percent of profits from the people who invest on land (*see Perez 2016*).

The government is advocating for Joint Ventures among locals and foreign capital (*The Herald 22 July 2018*). The state's position is that smallholder farmers lack financial and material resources so to capacitate them they have to get into partnerships. There is a wide chance that the joint ventures will lead to the disenfranchisement of smallholder farmers from the land (*See Borrás et al., 2011; Patnaik and Moyo, 2013*). There is extensive literature

on how capital, particularly in the form of joint ventures, leads to loss of land among peasants, and consequently turn them into labourers. Whilst joint ventures are not an evil phenomenon, the state must regulate them more and be more supportive of peasants in line with the provisions of Statutory Instrument 53 of 2014.

### Agricultural Growth Focus

Agricultural production trends fluctuated since independence, mainly in response to weather conditions and government policy. Production of major grain crops between 2002 and 2008 declined primarily due to poor agricultural institutions and support programs for small-scale farmers. It is against this background that recent policies such as command agriculture are formulated. With recent pronouncements that the policy focus of the new administration is on productivity, questions arise as to what will happen to peasants who have mainly been neglected under the state-based command agriculture. Will they be pushed away to make way for more 'productive' farmers? Unlike non-food crop contract farming, command agriculture focuses on food crops (*maize, wheat and soybean production*). However, it is guilty of streamlining the majority of agricultural producers based on land-size and access to infrastructure such as irrigation. Furthermore, with an intensified neo-liberal approach resonated by the "Zimbabwe is open for business" mantra, the structure of contract farming and command agriculture (*the currently available agricultural financing arrangements*) does not fit within a developmental approach. Although it may increase aggregate production, the majority of the small-scale farmers who are not supported under the program will be marginalised.

### Large Scale Investments

Furthermore, the state is seeking large scale investments in the land sector and the industrial sector.

**(i) Land Sector:** There is a drive by the government for private capital to take part in agriculture. This will result in parcelling of land to large scale farming at the expense of smallholders who are land-short and some landless (*Moyo, 2004*). For instance, recently the state was pushing to allocate 50 000 hectares to a Canadian cannabis investor in Mashonaland Central (*The Herald 14 May 2018*). This is despite the fact that on the Ministry of Agriculture Lands and Rural Resettlement s' waiting list there are more than 10 000 land-less women and youth.

**(ii) Industrial-Mining:** The new government as part of its "Open for Business" Mantra is encouraging investments in Industry and Mining as witnessed by the significant ground-breaking ceremonies in the mining sector in the month of July 2018. The challenge that arises when mining investments are more emphasised by agriculture is that the current Mining Act (*Chapter 21:05*) is in clash with the Land Act and mining is given precedence over agriculture. Therefore, in situations where mineral deposits are discovered where agriculture is practised, the livelihood activities of farmers are disturbed and at times even halted as miners are given the first preference. In countries such as Mozambique, mineral rushes have resulted in significant grab of agriculture land and destabilisation of peasant livelihoods (*Chambati et al 2018*).

### Zimbabwe Land Commission and The Land Audit

There is a narrative by the new government that land reform beneficiaries are underutilising land and therefore the land must be downsized or they must relinquish the land to more productive farmers. Productive farmers in this case are equated to intensively capitalised and industrialised farmers. Underpinning this productivist stance is the need for a Land Audit (*The Herald 18 July 2018*). Whilst a land audit is really necessary for it should lead to releasing of more land from those holding multiple farms and those

with larger farms (*bigger than the mandated size*) to land-short and landless peasants, the reality is that this opportunity/land audit may be captured by the elites and perpetuate more land alienation for the peasants. This will inevitably exacerbate the precarity of peasants' livelihoods that solely dependent on the land. The crucial issue at this moment will be the state's capacitation of the peasants in terms of input subsidies and rural development.

Additionally, the new government in early March 2018 signed the Land Commission Bill into the Land Commission Act (*The Herald 02 March 2018*) has seen the full legal establishment of the Zimbabwe Land Commission (ZLC) that is in charge of land disputes and land administration. Of note is also the fact that the ZLC has decentralised its offices to every province in the country and is in the process of decentralising further to all districts. The decentralisation and full roll out of the ZLC will make life easier for smallholder farmers, particularly women who are at times constrained to visit Harare, the capital city, to seek services of ZLC.

There are also allegations that the previous administration was involved in illegal land sales. The new administration setup a commission of inquiry in February 2018 to probe into illegal land sales around urban areas since 2005 (<http://www.zbc.co.zw/state-land-commission-of-inquiry-installed>). There is no doubt that the establishment of this commission will lead to reduction in the loss of farmland, particularly in the peri urban areas which are more affected by rapid urbanisation

## Compensation Issues

As part of the re-engagement from international isolation, Zimbabwe is being compelled to finalise the compensation of former large-scale white farmers who were displaced during the FTLRP. The injection of bi-lateral and multi-lateral investment is hinged on this process. President Mnangagwa acknowledged the importance of this issue and

indicated in an interview at the World Economic Forum in Davos that it is part of his priority (<https://youtube/ACUCh6q6UKA>). 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*) to the extent that wild compensation figures to the tune US\$9 billion have been suggested by the former farmers' bodies. The demand for compensation tends to overlook historical grievances such as the destruction of livelihoods, notably indigenous black farmers' livestock, labour exploited during the colonial period and state subsidy contribution to the development of infrastructure on former white commercial farms (*Moyo, 2007*). These complex historical issues require a robust financing mechanism and time, thus there is need for the government to revisit its priorities.

## Outstanding Issues from the Previous Administration

Despite the aforementioned issues that confront the new administration, there are also a number of issues that are outstanding from the previous administration. Some of them are discussed below;

### Women and Security of Tenure

Perspectives gathered during the policy engagement workshops indicate that women security on land within the context of marriage, death, inheritance and divorce or separation remains a sticking policy issue requiring urgent policy attention in all the land tenure models. Through the gazetting of Statutory Instrument 53 of 2014, the government endeavoured to strengthen the security of women on land within marriage by making a provision for joint 'spouse ownership' registration of agricultural land on the A1 permit. This means, in theory, that men can no longer legally dispose of the land use

rights (*for whatever reason, including separation, divorce or death*), without the consent of their spouses. However, there exists a gap between policy provisions and practice. There is no effective implementation of joint registration as land continues to be registered in the husbands' names, excluding women from ownership of land. The majority of the 'offer letters' (*in A2 schemes*) and A1 permits have been issued in the names of the male spouses, jeopardising women's security on land.

The policy does not allow land administration officials to 'force' applicants applying individually to register jointly or to refuse the reversal of joint land offers, as this is regarded as an intrusion into matrimonial affairs. Their powers to insist on joint registration are not enforceable by law. Thus, while officials are expected to encourage joint registration, gender-biased officials would not do so, due to lingering patriarchal notions of women's social status being subordinate to males. Women's land tenure experiences gathered during the policy engagement workshops across the country indicate that incidences of women spouses losing their rights and or equal share to redistributed agricultural land to husbands or male relatives and ultimately a source of livelihood upon death, divorce or separation are not uncommon.

### Policy Implications of Land Titling on Smallholder Farmers

Considering the above land access and security challenges already in existence and those likely to be introduced by the new administration's efforts to attract foreign and local investment, the kind of land tenure policy that can effectively protect land access and security for smallholders and women farmers becomes critical. Currently, land registration and titling are gaining momentum across Africa and is being advocated as a pro-poor legal empowerment strategy. Its proponents see registration and titling as a mechanism to protect smallholder farmers' rights of access to

land and a possible befitting solution to the above-mentioned land tenure insecurities. Most governments adopting these neoliberal approaches are oblivious of the fact that the creation of land markets exposed the poor and politically-vulnerable people to high risk of loss of property, either through the market itself or legal manoeuvres.

Property loss via market effects happens through mechanisms of distress sales, economic recession, bad harvest, illness or death in the family, or calamity, and through mortgage default. This had been the historical path to land consolidation in the United States, much of Europe and elsewhere, in the absence of explicit market restraints against foreclosure and eviction safeguarding the homes and property of the poor (*Boone, 2018*). On the other hand, markets offer many chances for opportunistic behaviour, and tend to favour strong market actors, that is, those with the capital, know-how, and information to protect and expand their property rights, and to buffer themselves against risk (*ibid*). The local culmination of the process is gradual transfer of land rights via the market to capital-rich actors, and gradual concentration of land ownership in the hands of those who can invest to achieve optimal economies of scale in production and commercialisation.

On the other hand, systematic, market-promoting registration and titling spells the demise of the commons, or land held by collectives and governed by them such as communal grazing land, watershed, forests, sacred sites and water-access areas, among others. Titling of land forecloses shared rights to certain lands for farming, grazing animals, hunting, gathering wood, access water points and transverse by different classes of persons which gives them different kinds of access at different times. Individualisation of control over a parcel of land dispossesses the holders of multiple and overlapping rights to that land. Erosion of these familial and community level entitlements may impose the highest costs on precisely those least likely to hold onto their property through market mechanisms, such as female smallholder farmers.

## Conclusion

The ushering in of the “new dispensation” has brought a number of changes in the discourse and narrative on agriculture growth and economic development in general. There is renewed drive for capital to take part in agriculture via joint ventures with peasants and large scale farming. The effects of these are widely known, as cases from other countries show that peasants end up losing their land and eventually become lowly paid labourers. There is renewed demand for land and amidst this is a serious call by the new administration for a land audit and allocation of land to productive farmers. Additionally, eager to stimulate economic growth and 'leapfrog' into a middle income country, the new administration has emphasised on capital investment to plough into mineral resources exploitation. This will no doubt lead to a misconfiguration of livelihoods in areas where mineral exploitation occurs against the backdrop that miners are given first preference to agriculture in terms of land use.

There are also outstanding issues from the previous administration such as security of women on land. Women continue to be sidelined in terms of land access, ownership and use. There is the persistence of challenges as far as joint registration of land is concerned. Once again, the unresolved compensation of former white commercial farmers has taken centre stage. This is somehow set as a precondition by the Western powers for Zimbabwe to be 'readmitted' into the international community. The new administration has in principle agreed to compensate the former white farmers. However, the questions still remains how and when this will happen. Progressively, a Land Commission Bill was signed into law in February 2018 and a task force was set up to inquire more into illegal land sales in urban and peri urban areas.

## Policy Recommendations

→ The state-based non-alienable permit system for A1 farmers and the leasehold system

for the A2 farmers must remain the appropriate land tenure system to safeguard against land dispossessions of vulnerable groups such as women and smallholder farmers and land concentration by capital-rich actors through the market. Land privatisation would lead to distress sales and displacement of the peasantry.

→ Land registration officials must be legally empowered to enforce compulsory/ mandatory registration as opposed to the current optional joint land registration/ certification for married couples. Photographs of both spouses on certificates increase women's perception of their tenure security, enhancing expectation of an equitable division of land upon divorce or the death of a spouse. For polygamous marriages, land certificates must be issued in the name of the head of the household and the first wife while subsequent wives receive certificates in their own names to ensure equitable access, security and use rights for them.

→ Synchronise statutory and customary land tenure laws to circumvent the current legal dualism in land governance and administration in both communal and resettlement areas to strengthen women's land tenure security in the context of marriage, inheritance, divorce or separation. At the same time, encourage registration of marriages, divorces and deaths to reduce related land conflicts.

→ The government must harmonise the Agricultural Lands Act and the Mineral Acts by developing guidelines on the rights of landowners and mineral rights holders to counter farmer/miner land use-related conflicts in resettlement areas.

→ On land tenure, it is recommended that the Government of Zimbabwe speedily finalises the implementation of its policy of issuing permits for A1 farms and 99-year leases for the A2 sector while also negotiating with the banking sector over the transferability of farm investments for use as collateral. The issue of permits and 99-year leases will make it difficult for peasants and small to middle-scale farmers to lose their land, thus scaling down land concentrations.

→ On production, the Command Agriculture program that is currently catering for cattle, maize, soy bean and wheat must be expanded to include groundnuts and small grains such as rapoko, millet and sorghum. In terms of the

farmer classes, the command agriculture program must also include more peasant farmers in the communal areas and those under the A1 resettlement model. Furthermore, establishment of a national land bank to provide agricultural funding should be prioritised. This land bank should be owned and controlled by the farmers themselves through a Central Cooperative Bank structure in order to curtail

penetration of financial capitalism.

→ On compensation, the state needs to firstly develop a robust land investment evaluation model that takes into account issues such as unpaid labour costs, historical social injustices and state subsidies. Then source out funding from the UK and the USA in order to pay former white farmers for land improvements made.

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