

Fast Track Land Reform – Where do we stand today? Who are the winners, who are the losers?

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16 May, 2015

STORY LINE: Start with end in mind

MAIN OUTCOMES OF A COMPREHENSIVE PROCESS

- A consolidated **Land Policy and National Land Law** can then be developed from the policy and pulling in the various provisions scattered in many pieces of legislation;
- Revamped and integrated **Land Governance Structures, Systems and Procedures** all the way down to the village;
- A revamped **Land Administration** system backed by legal framework that wades off political interference;
- A revamped **Judiciary** available all the way down to village level to discharge and ensure administrative justice;
- Integration with the **Financial Intermediation system.**

LAND POLICY OMISSION BY COMMISSION

- Zimbabwe needs a comprehensive land policy and practice, whose formulation should be led by MLRR;
- Comprehensive land policy now requires a multi-sectoral approach;
- Three hierarchies of functions critical for the land sector:
 - **Policy Practice;**
 - **Land governance; and,**
 - **Land administration.**
- **Many policy ambiguities and inconsistencies exist in all the 3 hierarchies;**
- **Decay has occurred in all 3 hierarchies over time and continues;**
- **Important to analyse these by land category.**

CONCERNS OF GOVERNMENT/MLRR

1. Land tenure;
2. Land valuation and compensation;
1. Dispute resolution systems;
2. Land use planning;
3. Land administration;
4. Technology, equipment and e-governance;
5. Capacity building;
6. Monitoring and evaluation;
7. Support for the establishment and operationalisation of the Zimbabwe Land Commission

BASIS FOR CONCERNS

1. Land acquisition procedures;
 2. Land allocation challenges;
 3. Land tenure
 4. Land utilisation;
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1. Continued land conflicts;
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1. Land administration;

LAND TENURE CONCERNS

Land owner	Land holder	Tenure system
State	Large Scale Commercial Farmers	Freehold
State	Small Scale Commercial Farmers	Leasehold with option to purchase
State	Commercial farm settlement scheme	Leasehold with no option to purchase
State	Traditional Communities	Customary
State	A2 Resettlement farmers(commercial)	99 year leaseholds
State	Old resettlement areas & A1 Resettlement farmers(semi-commercial)	Permission to occupy (Permit)
State	Government/parastatals/and few private companies	Freehold backed by an Act of Parliament

CHALLENGES OF SYSTEMIC TENURE SERVICES PROVISION

General

- Most natural resources are vested in the President
- Natural resource access terms and conditions differ by natural resource
- Key natural resources are water, minerals, wildlife , and forestry.

Water

- All water vested in the President
- No person owns water in Zimbabwe
- Landholders free to use/store public water (public stream) for primary purposes
- Permit required to abstract water for any other purpose except primary purposes
- A borehole sinking permit lasts 20 years, subject to renewal
- Permit cancelled if unused for three years
- Permit transferable with the Minister's authority
- Permit transferable to new land occupier

Forestry

- A permit is required to harvest forest products from public or private land

Minerals

- Mineral rights are accessible on the basis of a mining licence
- The licence is renewable annually

Wildlife and conservancies

- Hunting of animals on any land is prohibited without a permit
- Are operated on a 25 year duration

CHALLENGES OF SYSTEMIC TENURE SERVICES PROVISION

- Zimbabwe retained **MULTI-FORM** tenurial structures;
 - **State ownership** of land (customary, resettlement areas, forested land, national parks)
 - **Freehold and Leasehold** (LSC, SSC, A2, Conservancies)
- Over-centralised land tenure administration processes;
- Land disputes rooted in systemic dysfunction;
- Contested leasehold conditions and limited capacity to meet demand for leases and permits;
- Unassigned permit tenure (A1 and Old Rst);
- Neglect of customary systems, Small Scale Commercial Farms;
- Disputes on urban and peri-urban (rapid growth) land for housing purposes

CONCERNS OVER LAND VALUTAION AND COMPENSATION

Status of Compensation

- As of 2012, **1 250** out of a total of **6 422** acquired farms were valued by the MoLRR
- Out of this number only **297** farmers have been compensated

Item	Total
No. of farms	6 214
Valued to date	1 250
Outstanding	4 964
Compensated	297
Farms Still to be compensated	6004

Source: MoLRR (2012)

CONCERNS OVER LAND VALUATION AND COMPENSATION

- Land valuation and compensation is presently characterized by entrenched polarized positions between various stakeholders (e.g. *acquiring authority* and *claimants*);
- **Acquiring authority**
 - Uses framework established by the Land Acquisition Act and the Acquisition of Farm Equipment or Material Act
 - Uses the Depreciated Replacement Cost (DRC) model/method of valuation
 - Valuation undertaken by MoLRR valuers using data/inventories gathered from own inspections
- **Claimants**
 - Contest use of the DRC model/method (preferring Mkt Value model)
 - Have own databases/inventories including movable equipment and material (e.g. Valcon etc.)

CONCERNS OVER LAND VALUATION AND COMPENSATION

- Polarisation, mistrust, divergent views and disengagement;
- Contestation of the valuation process:
 - Methodology for valuation
 - Availability of credible databases (inventories etc.)
 - Lack of market evidence
 - Institutional capacity for valuation
- Availability of funds to effect compensation payment.

Land disputes

Categories	Administrative inefficiencies	Dispute/Profile
Land tenure assignment <ul style="list-style-type: none"> • Offer letter • Farm inspection • Land survey • Lease provision • Lease registration, permits 	Some fake, weak register costly monitoring methodology Poor financing; slow Contents not agreed to Cumbersome process	Contested allocations Land productivity compliance Boundary disputes Poor mgt of restrictions Delayed issuance
Land disputes <ul style="list-style-type: none"> • Access conflicts • Boundary disputes • Compensation issues • State versus beneficiaries (causes of land underutilization) • Political muscling to control beneficiaries 	Conflicts amongst beneficiaries Non existent dispute resolution systems (ad hoc and reactionary) Extra-legal bodies adjudication Courts have no jurisdiction on none administrative issues on land	
Land valuation and compensation <ul style="list-style-type: none"> • For compensation • For rental and asset purchase 	Few valued, weak database Few valued, inadequate billing	Unpaid compensation 'Free riding'
Land use planning <ul style="list-style-type: none"> • Area land use plans • Land use conversion permits • Farm level land use plans 	Outdated plans and standards Unregulated and opaque Misallocation of grazing area	Replanning conflicts Displacements; re-congestion land hoarding
Land registration, survey and cadastre <ul style="list-style-type: none"> • Allocation process • Plot farm layout • Farm size • Whites and foreigners' access 	Double allocations Some plans are contradictory Inconsistent enforcement Access rules unclear	Unclear right to land; boundaries Exclusion of some groups Illegal occupations
Land administration <ul style="list-style-type: none"> • Payment for tenure services • Land rentals 	Service costing and charging Payment only when when leases given	Unpaid LAS services Resistance to pay

PUBLIC LAND INFORMATION SYSTEMS

- Spatial data architecture inadequate;
- Narrow scope of data collection: tenure regime/variables;
- Uncoordinated data collection (not shared) and varied norms;
- Technology and equipment gaps (project focus);
- Weak land dispute monitoring and reporting;
- Limited accessibility to stakeholders/public.

REBUILDING EFFECTIVE LAND GOVERNANCE INSTITUTIONS

- Draft, test, refine land policy norms and standards;
- Address land valuation and compensation;
- Streamline land allocation processes – and minimize politics and use economics;
- Simplify and coordinate formal land tenure services provision;
- Build capacity to oversee cost recovery processes
- Build autonomous local dispute resolution mechanisms;
- Specify & coordinate LIMS' tasks across tenures;
- Enable the outsourcing of technical services