



Sustainability crisis of Zimbabwe's agricultural land tenure: A review

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Abstract

Neoclassical economics enunciates the central role of land as an economic resource, with focus on household ownership under freehold tenure. Many developing countries, especially in Sub-Sahara Africa have not adopted this approach partly due to resistance to colonial capitalist economic systems, with most of them preferring leasehold, customary and statutory tenure systems. This paper is aimed tracking land tenure developments for Zimbabwe and its possible implications. The review showed that Zimbabwe experimented with freehold, leasehold, customary and statutory tenure systems. The tenure system that gave the highest agricultural impact was one which had a good legal and administrative framework, supported by state services. Those that did not succeed are characterised by weak legal and administrative systems, which make them unacceptable in inputs and credit markets and these include A1 and A2 models. The legal framework following the fast track land reform programme has complicated the country's tenure system, with tenure regimes now overlapping, intersecting and interfacing. The review recommends consolidation of the different models and putting in place legal and administrative systems for acceptance of tenure regimes within market systems.

Keywords: Land Tenure; Customary; Freehold; Leasehold; Zimbabwe

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1. Introduction

The land question is so central to economics and production that Thomas Malthus and David Ricardo as early classical economists devoted a lot of their work to it (Stilwell and Jordan, 2004), though from the 1930s up to 1970s it was not recognised as a key development driver (Hamberlin and Ilbert, 2016). However, beginning of the 21st century and in pursuit of millennium development goals (MDGs), land is re-emerging again as a top priority in both developing and developed countries' economic development agendas (Otsuka and Place, 2014). A key component of land issues is land tenure, which under neoclassical theory is key in determining sustainable long-term investments and use in land (Bert et al., 2015).

A number of land tenure systems are available for a nation in pursuit of its national objectives and aspirations (Payne, 2004). Globally, there are many forms in which land is held, but they all can be summarised into five basic types (Norton, 2004). These are freehold (private), leasehold, customary, collective and statutory (state controlled). Tadesse (2016) noted that private, state and communal tenure systems are the three most common types of tenure systems in developing countries. In Africa land tenure systems are anchored on the state wanting to have a greater control of the land (Peters, 2009). The colonial past of many countries in Sub-Sahara Africa seems to shape the notion of having land as a source of sovereignty rather than as a productive resource (Moyo, 2016), and as a result, most land tenure systems in African countries are absent or weak (Tenaw et al., 2009), creating production sustainability challenges. In light of these experiences, this paper therefore reviews the experiences of tenure systems in Zimbabwe as it also relates to many other developing countries.

2. Methodology

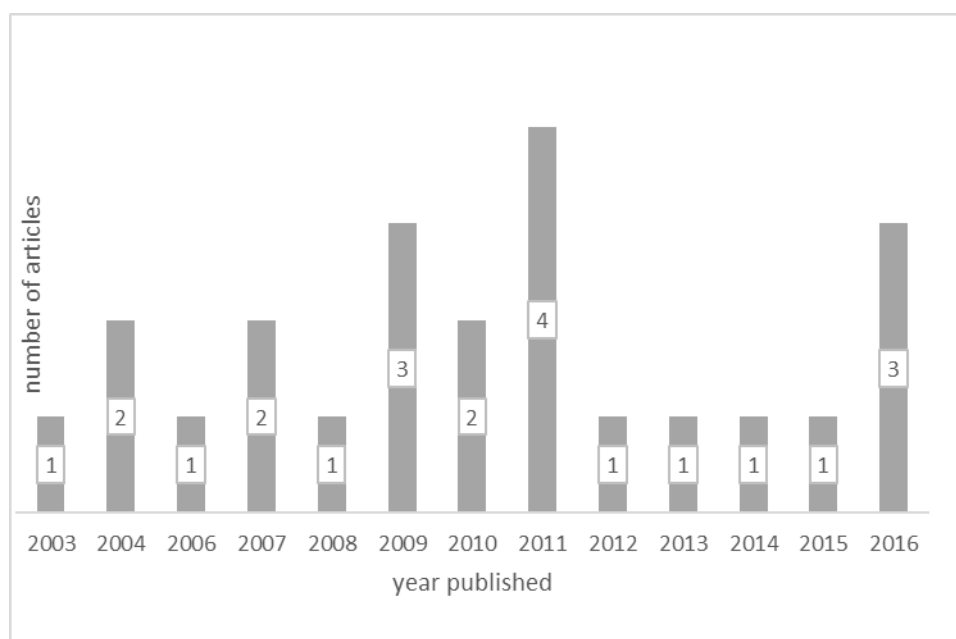


Figure 1. Overview of articles used and cited in this article

The study was carried out through review of literature. A literature search of the ISI Web of Knowledge (Web of Science) data base was performed between March and August 2016. The literature search used a number of key words and phrases to gather the literature and these included land tenure; Zimbabwe; land reforms, impacts etc. Relevant sources identified initially suggested articles on the same theme which simplified the literature search process. The published references were then used in expanding the literature sources list. Figure 1 shows the number of articles used in the study. The figure shows that a total of 23 articles were used in this study. These articles were accessed, read and used in building arguments presented in this article.

3. Review of findings on land tenure reforms and impacts in Zimbabwe

Land tenure reforms in Zimbabwe have always been shaped by land reforms. Three phases can be identified that have resulted in changes in tenure reforms. The first relates to colonial occupation of the country, which introduced the freehold tenure for both white settlers and an elite class of black farmers, statutory tenure and amendment to already existing customary tenure regime. The second phase adopted was the willing-buyer-willing seller and government first refusal to offered land period after independence leading to promulgation of the old resettlement model (Moyo, 2011). The last phase is the Fast Track Land Reform Programme (FTLRP) that gave rise to A1 and A2 models. The different farming systems and the associated impacts are discussed.

3.1. Large scale commercial farming sector (LSCFS) - freehold

Zimbabwe's freehold tenure system can be traced back to pre-independence when the British South Africa Company 1889 settled in the country and began discriminatory distribution of land as a reward to its members (Zikhali, 2008). In 1930, the Land Apportionment Act was enacted, resulting in 51% of land being allocated in the fertile lands to less than seven thousand white settlers, while the indigenous black locals were barred from having ownership and staying in settler areas (Lebert, 2010). All land that was designated as commercial agricultural land was owned under freehold tenure. This includes also land owned by conglomerates, estates/plantations and churches. Land was held through a title deed, registered with the deeds office and constituted an acceptable collateral in the credit markets. Since land is the highest single asset in term of value on the farm, owners were able access long-term financing. Farmers were allowed to trade land on formal markets and land was easily inherited from one generation to the other (Matondi and Dekker, 2011).

In terms of agricultural performance and infrastructure (Rukuni et al., 2006), argued that this was one of the best in Africa. According to Rukuni et al. (2006), regular subsidies, water development, research, access to markets for inputs and outputs, technology, foreign currency and capital accounted more for the farmer performance under this tenure regime. The farming experience of large commercial farmers, cumulative more than half a century and benefiting from farm institutional memory explains also the excellent result of agriculture in Zimbabwe. The skills were buttressed by policies of government which promoted agricultural research above reproach, emphasising a combination of approaches that included research stations on farm

trials at Chibero, Kutsaga, Mlezu, Gwebi, (agricultural education), Blackfordby (tobacco), Matopos (livestock and small grains), Henderson (veterinary science) and Grasslands focussing on pastures (Rukuni et al., 2006). The country was the breadbasket of the the region, agriculture contributed the highest to country exports and the agro-industry was well supplied with inputs from this sub-sector.

However, the World Bank (2009) estimates that even though arable land under freehold tenure was close to 750,000 hectares, only 58% was utilised with the other 42% being underutilised. In 2001, when government nationalised all agricultural land, close to 5,000 white commercial farmers (either as individuals or families), owned commercial land that they either had bought on the open market or inherited from their fore fathers (Matondi and Dekker, 2011). In the aftermath, LSC farmers whose farms were not sub-divided have remained with their title deeds, with the state not revoking them or giving them alternative forms of tenure. The credit market has however been not forthcoming in accepting the title deeds as collateral (Moyo, 2016), and most who have accessed loans have relied more on experience and personal networks. For those farmers whose land were subdivided, there is also no evidence of their title deeds being revoked, though some were given five-year leases. There is no evidence of A2 offer letters being given to these farmers as was the case for new resettled farmers. In essence, it implies that a number of white commercial farmers still practising farming do not have a legally defined form of tenure (Matondi and Dekker, 2011).

3.2. Small scale commercial farming (SSCF) - freehold and leasehold

The small-scale commercial farming scheme started around 1930s following land Apportionment Act promulgated in 1930 and farms close to communal areas were identified and demarcated into what was then known as Native Purchase Areas, renamed to Small Scale Commercial Farming (SSCF). At its initiation, the sector had 2.98 million hectares of land which constituted 7.7% agricultural land, allocated under both freehold and leasehold (Matondi and Dekker, 2011), though the proportion has dropped to less than 3.8%. According to Rukuni (2006), 48% of landholders received deeds. The other 52% were yet to complete payment for their land and therefore still leasing government land. The terms under which farmers were given land for leasing were that they should reside on the farm permanently, not involve themselves in farm partnerships and subdivision of land, and carry out all farming activities for the sole household benefit, in addition to practicing good use of agricultural land (Moyo, 2011). The SSCF initially started with farmers leasing land under an agreement and then they would own land on payment completion. Initial leases ranged from two to three years, implying that they were short term in nature. The leases were renewed with an option to purchase provided that the terms and conditions were satisfactorily complied with. Once the lessee failed to exercise the option to purchase, the state would continually renew the lease for three to seven years (Scoanes et al., 2010). A payment period of 15-20 years was normally given once the lessee exercised payment option. All payments that farmers were making in fulfilment of the lease would then go towards purchasing of the land, the price of which was fixed by the then Rural Land Board. Suffice to say that for eight decades, only 48% of SSCF have been able to get title deeds, the rest are still using government land on a lease basis (Moyo, 2016). There are no secondary markets to leasehold that allow maximum utilisation of land, such that where farmers move off-farm, dereliction of land is the end result. Unlike freehold tenure

under LSCF, SSCF are required in succession inheritance and transfers to have government seal to proceed with the transaction despite the granting of deeds of transfer. The law is also silent to the allocation of the farm in cases where the heir is more than one. Further to that, the state recognises usufructuary rights to freehold land that are owned by others (Rukuni, 2006), implying that the state can allow other users to the land even though one is holding on to a title deed. Effectively, freehold tenure under SSCF is different from that of LSCF, with indications that the one for SSCF falls short in terms of the tenets of freehold tenure (Moyo, 2011).

For twenty years after the colonial government established SSCF, there were massive investments in soil conservation, water supplies, dip tanks, fencing, and roads and bridges within this sub-sector (Matondi, 2011). Capital investments in farms were also funded by the state through making credit available for dam construction, fencing and borehole drilling from the African Loan Fund, Land and Agricultural Bank, and, later on with Agricultural Finance Corporation (AFC). The private sector on the other hand provided limited funds especially for purchasing of equipment and machinery. Vudzijena (2007) noted at that time that while communal areas produced 54% of national food requirements and LSCF contributed 41%, contribution from SSCF averaged 5%, implying the insignificant contribution of the sub-sector to national requirements. Some SSCF had their land taken for resettlement under the FTLRP without any compensation, despite having purchased the land. Those whose farms were not acquired by government have remained with the title deeds or leases, even though these are no longer recognised in the credit market, just like under the LSCF. In the aftermath of the FTLRP, this sub-sector has not been supported by government through its subsidized programmes.

3.3. Communal tenure systems - customary

Communal lands are an inheritance of the colonial system of marginalising black indigenous farmers to the periphery of economic activities. Most of these communal lands are located from natural regions III to V, known for high temperatures, low rainfall and poor agricultural activities. The dominant economic activity is subsistence and small-scale farming. Land area varies from as low as 0.1ha to less than 2ha (Matondi and Dekker, 2011). Communal ownership of land is vested in the state, while chiefs and headmen superintend allocation of usufructuary rights to a farmer, who can bequeath it along primogeniture lines, in the event of the original owner passing on (Zikhali, 2008). It is estimated that out of just above a million smallholder farmers, about 150,000 of them are responsible for production of commercial produced maize and cotton destined for the market, implying that there is high differentiation in rural areas of land use (Matondi, 2011).

Zimbabwe's communal lands are managed under customary tenure, with a number of state and local administrative arrangements specifying the expectation to land holders in those communal areas (Matondi, 2011). Communal lands are defined in the Communal Land Act as composed of all land formerly referred to as Tribal Trust Lands in accordance with Tribal Trust Land Act depending on alternations the President can make according to section 6 of Communal Land Act. All communal land ownership is vested in the President who permits its use in accordance with the Act's provisions. District councils are vested with the legal authority in communal areas in allocating rights to occupy and utilise land, though in practice it is common to

have community leaders such as kraal heads, chiefs, headman, village chairpersons for ruling party and VIDCOs chairpersons allocating land occupation and use rights. This conflict often makes it a challenge for creditors to even consider availing credit facilities to communal farmers (Mutondi, 2011). The conditions under which land can be transferred in the communal are generationally, through marriages, and through inheritance. Cases where communal farmers have been removed without compensation have given the impression that this tenure system is not a secure one (Moyo, 2011). Productivity has generally been low in communal areas, though issues of climatic conditions and soils also come to the fore. Despite this, the farmers under communal tenure have traditionally been the sources of food security in the country.

3.4. Old resettlement scheme - leasehold

The establishment of Old Resettlement Schemes began in the early 1980s and gives useful insights for informing discourse on tenure for A1 and A2 farmers (FTLRP tenure systems) as these are also based on the same permit tenure. Three permits were allocated to resettled farmers under the first resettlement phase, one for 12 acres of arable land, another for one acre of residential stand and a third one for grazing area. A study by Matondi (2011) showed that most of the farmers in the resettlement scheme had accessed land either through facilitation from civil servants or from headmen. In addition, agricultural extension officers were also regarded as influential in these resettlement schemes as they had powers to recommend withdrawal of permits for farmers who were deemed not to be productive (Matondi and Dekker, 2011). Despite the non-existence of formal markets under leasehold tenure, in the late 1990s an insignificant market for informal rentals subsisted in the schemes.

According to the legal provisions, plot holders were prohibited from renting out, leasing, subdividing, or involved in sharecropping arrangements. In practice, *de facto* sub-division exists in these resettlement schemes, as parents allocate part of their plots to on-plot sons. Arrangements differed from one family to the other. Some common arrangements involve son(s) and his family taking full responsibility of the farming activities and the income stream associated with the farming (Moyo, and Chambati, 2013). In essence, the legal structures under this tenure have not been enforceable.

Production in the resettlement schemes has been sufficient for both consumption and the market, especially in those years where farmers received sufficient rainfall. According to Matondi (2011), their major source of income came from crop production, which accounted for above two thirds of overall income and extension services from the public sector had a major contribution towards that achievement. To some extent, this evidence seems to point towards farmer confidence in the tenure system, though it is not conclusive whether this confidence is arising from being on the farm for too long or a genuine belief of a secure tenure regime (Moyo, 2016). Zikhali (2008) noted that over the years, farmers had access to credit facilities, though the greater proportion of these services came from contractors and group lending where the group is regarded as the collateral. In essence, this might indicate that creditors were not confident of the permit system as a form of collateral for individual farmers.

3.5. A1 resettlement model - leasehold/customary

The A1 resettlement model was established by government under the FTLRP from 2000 to 2010. The model established farmers that produce for self-sufficiency and possibly some surplus produce for the market. On average, a farmer was allocated between 5 to 8 hectares for residence and cultivation, depending on the particular natural region (Zikhali, 2008). Farmers under A1 model don't have secure formal tenure (Matondi and Dekker, 2011). Farmers are given a permit from the District Administrator's office after confirmation from Ministry of Lands that they are bona fide land beneficiaries. A1 model tenure system represents a social and vertical legal relationship between the households and state, with complementary elements of customary administration of land. There is also empowerment of traditional leaders in compliance enforcement in natural resources management, land disputes, inheritance and land use (Tadesse, 2016).

There is a strong notion that land tenure insecurity among A1 farmers has led to numerous land disputes and potential eviction by the state (World Bank, 2009). The offer letter has a clause which states that withdrawal of offer is at the discretion of Ministry of Lands and can be done without any obligation to compensate for farm improvements. There have been many cases where offer letters have been withdrawn and some cases where demarcated A1 farms have been re-allocated into A2. Such scenarios have the tendency to diminish farmer confidence in relation to secure land tenure and have the potential to reduce the commitment that farmers eventually have towards substantial investment in farm infrastructure. A study by Moyo (2011) showed that about 16% of A1 beneficiaries had been threatened with eviction at some point, particularly those in better agro-ecological regions. It was noted by Moyo (2016) that A1 lease agreement is not explicit on the inheritance issues considering the challenges experienced within the SSCF. The lease insists on one farm per household and does not allow for group ownership or subdivision of farms by siblings. A key source of tension also relates to the deaths of parent landholders and how succession is handled in such a scenario.

3.6. A2 resettlement model - leasehold

Model A2 was an adjusted version of the white commercial farming sector envisaged to create a cadre of indigenous commercial farmers capable of managing the farm as a going concern. Size of land is as small as 20ha and could go up to 1500ha depending on natural region (NR) and farming systems i.e. plantations, conservancy, crop or livestock (Matondi and Dekker, 2011). Under this tenure, farmers were given an offer letter with provision to be offered 99-year leases by the Ministry of Lands. To this end, a few 99-year leases have been issued and financial institutions have refused to recognise these leases owing to absence of an administrative and legal framework for operationalising leases. According to studies by Matondi (2011) farmers lack an understanding of the contents of their offer letters and there is no clarity on whether they have been permanently resettled or not. Offer letters lack provisions for exclusion, e.g. farmers who were given farm compounds as part of their A2 plots do not have rights to evict former farm workers even though they are in their plots. Studies by Matondi (2011) in Shamwa have shown that some resettled farmers were renting in/out some parts or in some cases all of their farms to second parties. The study showed that this practice is prevalent among A2 farmers with 18% in comparison to A1 farmers with 7%. Some farmers were

given temporary rights to use land by their neighbours at zero cost. The same study also concluded that some farmers were multiple owners of land, with some giving their plots to children or relatives, in some cases in bartering for agricultural produce share. Most of the arrangements however do not give security of use rights, as the owner may change the tenant the following season. Moyo (2011) noted that farmer's ability in renting out land is crucial for securing livelihoods as it ensures income security for those farmers without access to land but productive at the same time also benefiting those farmers unable to utilize fully their pieces of land.

In general, productivity declined when compared to previous white owned farmers, though it is higher than productivity in communal areas. Most A2 farmers do not tally enterprise selection to natural regions suitability, but rather concentrate on mainly production of maize, which they imply to have knowhow. According to Mutondi (2011), most of the A2 farmers are underutilising their land, largely due lack of adequate resources and the fact that they cannot use land as collateral to access financial resources. In the study by Mutondi (2011), 83% of the farmers were of the opinion that the tenure form does not have an influence on their agricultural activities. According to Vudzijena (2007) government policy with respect to the financing of social infrastructure development differs between model A1 and A2 schemes. Model A2 is expected to finance much of their infrastructure development needs using commercial banks and state institutions' financial loan packages such as ARDA.

Although the lease agreement does give control rights to those plot holders on where infrastructure is, it does not confer ownership rights (Twerefou et al., 2011). The farmer with control rights has the power to sublet and give service to other farmers who intend to use the infrastructure at a cost subject to granting of permission by the ministry responsible for lands. Controlling farmers are also expected to exercise care and safeguard the infrastructure on behalf of government. There have been cases where some farmers have been allowed to use the infrastructure for free and some at a cost. Other cases also are that some farmers have monopolised use of this infrastructure (Moyo, 2016), refusing to give use rights to farmers from subdivisions under which the infrastructure falls. There is no policy as to the structure of charges to be levied to those farmers who want to use infrastructure from a farmer with control rights. In the first resettlement phase, farmers who had use rights to infrastructure were levied in accordance with the value of assets on the farm and this could be a reference point (Mhishi, 2007). Where government has appointed caretakers to look after the infrastructure, the reference terms have also not been made clear, including the obligations of both parties and remedies to contract violations. These unresolved issues have had the tendency to create conflicts in land and negated efficient utilisation of resources (Moyo, 2016).

4. Discussion

The review has shown that private tenure system was supported by institutions with the effect of giving legal use rights and support to production activities and this was basically what accounted for the success of agriculture under white commercial farmers. Inputs, output and credit markets were also structured in way to services well the private tenure system. Following the first phase of land reform, the tenure systems that followed were not supported by institutions that support both use rights and production, threatening

sustainability in terms of production for these farmers. Resettled farmers failed to access credit facilities and, in the process, constraining production. For the SSCF, even though it has title deeds, the institutional and legal framework is so poor that it is not fully enforceable, hindering access to inputs and credit. The social culture of inheritance is equally difficult to follow given that the statutes establishing SSCF were silent to that effect. Consequently, a lot of land went derelict as a result, with sustainability effects on both production and ownership.

Both A1 and A2 models are not supported by institutions towards their enforcement and administration, and as a result allocation has not been brought to a closure. There is some overlap between A1 and communal areas, both having almost the same loose administration arrangements. For A2 farmers, the leases were given without an administrative system for lease markets, hence farmers are failing to access credit facilities. On the other hand, the remaining white commercial farmers' private tenure has been neutralised after government declared all agricultural land state land and these farmers have had difficulties also in presenting land as collateral. It is clear that there are too many tenure systems in the country operating concurrently and none of which addresses specific needs for the holders of the tenure system. There are also overlaps in the tenure systems. For almost all the tenure systems, administrative and institutional arrangements are either missing or are weak to an extent of failing to support targeted farmers, impacting negatively on sustainability of agriculture in the country.

5. Conclusion

Zimbabwe, like many other developing countries, have shied away from freehold tenure as a policy towards economic growth. However, the country has experimented with too many tenure systems, without taking stock on which one was successful and also not providing enough institutional support mechanisms for effective administration of the tenure regimes. The success of freehold tenure under LSCF has been attributed to a strong institutional framework that allowed for the administration of title deeds and support services traditionally provided by government to this sub-sector. In SSCF, freehold tenure lacked institutional and legal framework for its acceptance, consequently the sub-sector did not make meaningful contribution towards agricultural production in the country. The same framework was absent under leasehold tenure for old resettlement, A1 and A2 farms, and this together with absence of secondary land markets have resulted in a deplorable state of agriculture in the country. The situation has been worsened following the implementation of the FTLRP in that all other tenure regimes except for the customary tenure system are now hanging without a clear policy of how they are to contribute to maximisation of land as a resource. The communal tenure system inherently does not offer an incentive for productive use of land as land cannot be used as collateral. This has made the country's tenure systems to be extremely complicated and fluid. Tenure regimes now overlap, intersect and interface at various levels. Going forward, the country needs to consolidate these land tenure regimes in the agricultural sector, reduce them and provide a legal and administrative system that allows for efficient utilisation of land through acceptance in market systems.

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