Gender and Land Politics in Zimbabwe

Introduction

This chapter discusses gender and land politics in Zimbabwe. Gender relations in Zimbabwe have always been biased against women (Gudhlanga 2010, 2011). In this chapter gender is defined as a social construct as opposed to sex which is biological. Gender relations are constituted in terms of the relations of power and dominance that structure the life chances of men and women. Upon the biological differences society imposes different social roles. These relations are not always harmonious. They often take the form of male dominance and female subordination (Ostergaard 1992). This has often legitimised the exclusion of women from decision-making processes. Male dominance is not only a sexual and social problem but also a political one directed at maintaining existing power relations which subordinate women (Gudhlanga 2010, 2011). The glaring manifestations of these unequal relations are the failure of women to access basic resources like land, education and participation in politics. In trying to understand women’s access and rights to land, the chapter discusses various theories on land, debates in literature on gender and land tenure and how these have shaped land reform and tenure in Southern Africa in general and Zimbabwe in particular.

Theories of Land and their Implications on Gender

There are a number of theories that have been postulated to try and explain land issues in relation to gender. Most of the mainstream theories are ‘gender-blind’ and a few are ‘gender-sensitive’. The gender-blind theories leave out gender in
their analysis of issues and these are the ones that have influenced many land
reform policies of the 1980s to the present. Globally, the interests of women are
not catered for in the ongoing land reforms. The gender-sensitive theories, on
the other hand, realise that successful land reform in any part of the world should
consider the interests of women in access and rights to land. Women contribute
so much to the social well-being of families in particular and communities in
general. It is therefore necessary for policy makers to develop policies that enable
communities to improve women’s access to resources. The Zimbabwean land
reform would benefit immensely if it adopted gender-sensitive theories.

**Gender-blind Theories**

**Evolution Theory**

Currently, the goal of land tenure is to move towards individual land ownership,
titling and registration. According to the evolution theory, indigenous land tenure
systems are flexible and adaptable to change and will evolve naturally towards
individualised tenure. Therefore, drastic state intervention is not necessary
and World Bank (1989, 1992) this theory has had a considerable influence on
World Bank Land Policy in Africa since the late 1980s. Evolutionary theory
assumes that individualised tenure would result in more efficient use of land and
higher security. Local communities in Africa are homogenous and indigenous
institutions which administer indigenous land tenure systems are adaptable and
flexible (Izumi 1999). Critics have challenged the evolutionary theory for failing
to recognise that power and social relations between certain categories of people
determine interest in access to land. It also ignores the fact that evolution is not
a spontaneous process which would automatically lead to greater efficiency and
security for all. Such processes only benefit very few powerful stakeholders (Izumi
1999). In terms of gender, the theory has brought more insecurity in access and
rights to land because of commercialisation of agriculture and individual land
titling which discriminate against women who do not have the financial capital
to get the individual titles and also to embark on a large commercial exercise
(Lastarria-Cornhiel 1997).

**Negotiation Theory**

Proponents of this theory argue that land rights and access depend on people’s
capability to negotiate, manipulate rules and norms, and to ‘straddle’ different
institutions (Berry 1993, 1994; Moore 1999). The negotiation theory further
states that people’s relationship with land is governed by multiple opportunities for political manoeuvring and ‘straddling’ of different institutions. The theory has been criticised for neglecting the structural constraints on individuals which determine access to political and economic power. The constraints include gender, race, class and ethnicity and these determine individuals’ negotiating power in different areas (Izumi 1999). This implies that women who are less powerful and do not have the political and economic stamina to negotiate their right and access to land are left out.

**Democratisation**

This theory states that the land question cannot be resolved by evolution and individual negotiation but rather contradictory power relations between various actors and social groups. Proponents of this theory have analysed how the land rights of smallholders have been undermined by the state in the process of economic and political liberalisation (Amanor 1997 Kanyinga 1997). They argue that in such circumstances the solution is seen to be collective political action by the smallholders towards democratisation. This theory has been criticised for its concern with class which leaves out the role of patriarchal power among African societies in influencing women’s participation and representation in political activity (Izumi 1999). It has also failed to address the structural concerns faced by influential women when they try to organise and lobby for land access and rights. It does not discuss whether women’s struggles and opinions are encompassed in the wider struggles for democratisation and decentralisation. It also fails to explain whether ‘democratisation and decentralisation in different countries revive and reinforce traditional authorities or lead to new democratic institutions which address gender issues’ (Izumi 1999: 11).

**Gender-sensitive Theories**

Debates on women’s access to land and rights in Africa have mainly focused on the implications for women of the two systems of tenure – namely, the individual and indigenous. They are concerned with market versus tradition. Some scholars see individual tenure as a way of providing women equal opportunities in access to land (Mac Auslan 1996). Titling alone does not ensure security of tenure to women since in most countries the written law is not enforceable, and customary law continues to decide on such tenure issues. Others are sceptical of the opportunities offered by the free market solution. They argue that the market is not gender-neutral; it excludes poor women by discriminating against them because of their lesser economic and bargaining power, and lack of resources.
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(Meinzen-Dick 1997). This view, however, does not idealise indigenous land tenure systems but argues that women have lost some rights which they held under indigenous tenure through privatisation (Izumi 1999).

Current Debates on Women and Access to Land and Other Resources

There are a lot of debates on the importance of women’s work to development processes. The Women in Development (WID) approach argues that women are an untapped resource who make an economic contribution to development. This approach focuses on women only and leaves out men. There are different approaches utilised by proponents of WID. These include welfare, anti-poverty equity, efficiency and empowerment. Though a lot has been done through WID approaches, the efforts did not yield gender equality because they overlooked other problems like violence, women’s capacity to control their fertility and to tackle the root causes of inequality. Also WID approaches failed because they attempted to attain their goal by working with women in exclusion of men (Mulugeta 2007). The realisation that men also need to be participants in changing the situation of women led to emergence of Gender and Development (GAD).

The GAD approach, unlike the earlier WID approaches, shifts the focus from women to gender. Gender relations, as stated earlier on, are defined as a social construction of roles and relationships between men and women (Baden and Goetz cited in Ellis 2000). These socially constructed roles are usually unequal in terms of power, decision-making, control over events and freedom of action and ownership of resources (Ellis 2000). GAD analysis highlights the incentives and constraints associated with the work of women and men and highlights differences in their roles, workloads, access to resources and decision-making opportunities, the impact of interventions on them and the implications for planning and implementation (Chingarande 2004). The gender approach to development advocates for the lessening of social inequalities between men and women. Gender as a policy criterion has been found to reduce poverty, raise farm efficiency and improve natural resources management (Ellis 2000). It also emphasises participatory approaches as a tool to empower women through their articulation of their needs, rights and capabilities. Communities should be encouraged to embrace the gender approach when focusing on development issues in rural areas and in land reform. Once women are empowered and have the social and economic resources, the quality of life of their households improves. If women therefore contribute so much to the social well-being of families in particular, and communities in general, it is necessary for policy makers to develop policies that enable communities to improve women’s access...
to resources. The gender approach to development can also be used in the whole land reform process.

**Conceptualising Gender and Land Reform in Zimbabwe**

As already stated in Chapter One, land reform is concerned with intervention in the prevailing pattern of land ownership, control and usage (World Bank 1975). Putzel defines land reform as:

> A change in the legal or customary institution of property rights and duties, which define the rights of those who own or use agricultural land. Ownership, conceived of as a bundle of rights representing varying degrees of control over things. The right to possess, use, manage, earn an income from land; transfer or sell as well as to pass these rights on to others. Land reform seeks to alter the distribution of any or all of these rights. In this case it has been employed to refer both to the outright redistribution of the entire bundle of rights over land to those who cultivate the soil, as well as single adjustment of the conditions under which a tenant or other cultivator, gains access to land for example the amount of rent in cash or kind, the security of the tenancy arrangement or land use right or the obligation of tenants and owners to one another (Putzel 1992:3, cited in Chingarande 2004).

Agrarian reform is more encompassing, it advocates for redistributive land reform, and includes broader changes of rural relations in agriculture, such as the provision of credit, extension services, marketing, inputs, research and development (Moyo 1995). Gender analysis is concerned with issues of social justice, lessening the gap between men and women in terms of ownership and access to resources. It is important to note that in discussing gender and land and the concept of headship in Zimbabwean society, men are always considered to be the head of the family and land is allocated to the head of the family who is presumed to be male. This means that women’s access to resources like land is limited. There are also female-headed households and some of these households have always found it very difficult to own land. The issue of land and gender is a contested terrain which often disadvantages women due to a number of other related factors that have subordinated them.

There has been well documented feminisation of poverty in development literature. Female-headed households have been found to be poorer than male-headed households. They also have less labour resources and fewer assets (Ellis 2000). Zimbabwe is no exception and the majority of female-headed households are amongst the poorest of the poor. This is because women have limited access to and control of resources such as land and other crucial resource bases in society (Chingarande 2004). In areas where women may have access to and control of
resources like land, they tend to realise limited benefits from them. According to the Human Development Report (1998), cited in Chingarande (2004), most women in rural Zimbabwe had access to land but they had limited benefits from the products of that land. There were many harvest suicides in Gokwe in 1997 where 153 women committed suicide because their husbands had squandered the money from the proceeds of the land (Human Development Report, 1998 cited in Chingarande 2004). This demonstrates that women are left out in deciding on what to do with the money they have earned from their labour on the land.

Also women tend to be on the receiving end because they are not as educated as men and this explains why they tend to be poorer than men. Chingarande states: ‘interventions like land reform that try to address poverty should therefore take into account such factors as culture, tradition and the legislative framework as those may hinder gender equity in terms of access to resources’ (Chingarande 2008:4). Research done in India proves that if women have access to resources, they spend more of the income that comes through their hands on family needs (Mencher 1988, cited in Ellis 2000). Even research in Kenya showed that families headed by women had more positive and significant healthy food consumption and did not suffer from malnutrition (Kennedy and Peters 1992, cited in Ellis 2000). Therefore if women contribute so much to the social well-being of families in particular, and communities in general, it is necessary for policy makers to develop policies that enable communities to improve women’s access to resources like land. This should be done at community level, instead of focusing on emancipating women only. The GAD approach focuses on the whole community, including men as well, and enables the community to accept new gender relations and social dynamics. After understanding gender issues in land reform in general, it is necessary to discuss gender, land tenure and land reform in Southern Africa.

**Gender, Land Tenure and Land Reform in Southern Africa**

Women in Southern Africa constitute more than 60 per cent of small farmers and provide about 75 per cent of the workforce in food production and processing. Their access to and rights to land does not only determine their livelihood but food security (ILO 1996, cited in UNECA 2003). Mvududu has also made similar observations about women’s contribution to the labour force in the agricultural sector when she states that, ‘African women contribute 60-80 per cent of labour and management in food production in many parts of the continent’ (Mvududu 2000:47). The out-migration of men into urban areas and mining settlements in Southern Africa has led to feminisation of smallholder agriculture
Women are left in the rural areas engaging in labour-intensive, low-production and non-commercial domestic work. However, despite the fact that women contribute to the agricultural sector in a very big way, their access and rights to land is always not easy. In Southern Africa, women's access to land is governed by customary law which gives rights to land to the male head of the family. Under customary law, land is only given to married men; and women have access to that land through their marriage. It is allocated by traditional authorities who are male and endeavour to protect men's rights and access to land. Thus usufruct rights to land are the most common feature. Most Southern African societies have a patrilineal system in which land tenure is most frequently in the hands of males and generally the eldest son or uncle inherits title to land. It is only in exceptional cases, if there is no husband's brother or son to inherit the land, that we find widows inheriting title to land, provided they remain in the family and if they had children with the deceased husband (Mvududu 2000; Gaidzanwa 1994; Goebel 2005).

Most Southern African countries experienced some historical injustices when land was expropriated from them by the colonial settlers. Upon attainment of democratic rule these Southern African countries engaged in land reform to redress the colonial injustices. The racial and gender inequalities in landholding still persist in most African countries, including those that have undertaken the land reform exercise. While the strategy of land reform may differ from country to country, a common theme of colonialism and racial imbalances in relation to land access has guided most land reform programmes (Lahiff 2003). Mobilisation around Campanha Terra in Mozambique in 1996-97, the occupation of commercial farms by war veterans and others in Zimbabwe, and the growing militancy of the Landless People's Movement in South Africa in 2000 signify an important new phase of land politics in Southern Africa (Lahiff 2003). This section discusses gender and land tenure in Southern Africa and also gender and land reform in countries that have already had land reform programmes.

**Botswana**

In most Southern African countries, women are still discriminated against in terms of independent ownership and control of land in both customary and statutory land tenure systems. Yet more than 50 per cent of women in Southern Africa live in rural areas and derive their basic livelihood from agricultural production (UNCEA 2003). Women's challenges in accessing land are clearly demonstrated in many Southern African states. In Botswana, for example, single women head about 50 per cent of all households but these cannot independently own land.
under customary law. Traditionally, among the Tswana, land was allocated to the male head of the family who could use it for building a homestead, cultivation and grazing (Kalabamu 2001, cited in UNECA 2003). Upon death of the male head, male children inherited the land and women, regardless of their marital status, could not acquire land or property of their own. Until 1971, when the Married Persons Property Act was passed, husbands were sole administrators of property held by either party before or after marriage (UNECA 2003). Husbands had absolute power over a joint estate and could easily dispose of the property without the wives’ consent. Married women, on the other hand could not, acquire property or loan without the consent and assistance of their husbands. In modern Tswana society, women can now acquire property but still cannot get a loan without their husbands’ written consent (UNECA 2003). Research evidence from UNECA’s field study of Botswana indicated that patriarchal rules still apply if women want to acquire land in Botswana. Women who were interviewed by UNECA stated that Land Boards sometimes asked a woman to bring her husband, father or brother (UNECA 2003). Unmarried women below 21 had to get permission from their parents in all land transactions (UNECA 2003). At the same time, women who married became minors unless they explicitly married out-of-community-of-property Dutch law. Most women in Botswana did not have assets, capital and labour to use the land productively. The Deeds Registry Act was amended in 1996 and the amendment removed the discriminatory provision which stated that only husbands could deal with the Registrar in cases where spouses were married in-community-of-property. In addition, the Tribal Land Act was amended in 1993 and allows all adult citizens the right to use and occupy tribal land anywhere in the country. Both male and female adult citizens are now eligible to receive customary land grants and common law leases on tribal land (UNECA 2003). Despite these new laws, married women in Botswana are still bound by the Married Persons Property Act discussed above. This is the precarious nature of women’s land and property rights in Botswana.

Lesotho

In Lesotho, all land is under customary tenure and women do not have the right to own and control land due to patriarchal traditions and discriminatory statutory laws. Customary law in Lesotho treats women as minors who cannot be allocated land, inherit or make decisions. Daughters cannot inherit land from their fathers and in cases where there are no sons the land is given back to the chief for reallocation (UNECA 2003). The Lesotho Land Act is gender-neutral
and the Deeds Registry Act of 1967 prohibits a married woman who is regarded as a minor to register land in her own name (UNECA 2003). A divorced woman has no entitlement to any fixed property from her marital home, including land. ‘The constitution of Lesotho section 19 provides for equality for all, but section 18 (4) discriminates against women by deliberately exempting customary law. Women are not treated as equal partners in marriage’ (UNECA 2003:28). A divorced woman is not entitled to any fixed property from her marital home, including land; she has to return empty-handed to her parent’s home (UNECA 2003). Thus both statutory and customary further marginalise women and hinder their right to and access to land. The pieces of legislation that discriminate against women owning land are the Deeds Registry Act, the Constitution and the Marriage Law. All these laws are being reviewed in order to accommodate women’s land rights in Lesotho.

**Malawi**

The marginalisation of women is also seen in Malawi where women constitute 51 per cent of the population and 85 per cent of them live in rural areas and derive their livelihood from land. In Malawi, women’s access to land is also governed by customary law but depends on the type of marriage one has. In patrilineal societies typical of the northern region, land is inherited through male lineage and women can only access it through their husbands or sons. Once a woman is divorced she loses the right to cultivate the land and returns to her own village. If a husband dies in patrilineal societies, the wife has the right to use the piece of land as long as she remains unmarried. She also shares the land with her sons when they grow up and these might ultimately squeeze her out (Shawa 2002, cited in UNECA 2003). Matrilineal marriage system is practiced in the south. There are two types of matrilineal marriage, namely chitengwe and chikamani. In the former, the wife goes to the man’s home and in the latter the husband stays in the wife’s village (UNECA 2003). Women married under chitengwe may be chased away from their husband’s homes upon the death of their husbands and lose their land rights. Under the chikamani marriage system, widowers are equally chased away upon the death of their wives and they also lose their land rights (Shawa 2002, cited in UNECA 2003). UNECA’s field work research in Malawi revealed that while some women had full ownership and control of land under chikamani marriage, others under the same marriage system did not because men, especially uncles, controlled the land owned by women. Because of marriage customs, women in Malawi are more vulnerable to land tenure insecurity than men are (UNECA 2003). In Malawi, statutory law
does not discriminate against women in terms of obtaining land tenure rights. The reality on the ground is that women do not have land rights due to other socio-economic factors like lack of education and lack of financial resources to buy or lease land. The law on property is also not well harmonised with inheritance and marriage laws. Just like in other African countries, although women are the major agricultural producers they remain largely absent at all levels of policy-making, project formulation and management of land (Shawa 2002, cited in UNECA (2003). The Malawi Gender Policy of 2002 promotes registering of individual and family land and tries to deal with land tenure insecurity associated with matrilineal and patrilineal societies by registering household land in the names of all the members of the nuclear family (UNECA 2002). In the event of death, the spouse inherits the land and this has often been a source of conflict over land in Malawi, and women are normally on the receiving end as they suffer the wrath of the in-laws (UNECA 2003).

**Zambia**

In Zambia, just like in Malawi, statutory law does not discriminate women’s access to land in theory but in practice women fail to access land because of socio-economic obstacles and customary law (UNECA 2003). Chiefs in Zambia do not allocate land to women in their own right. Also district council officials who work closely with the Commissioner for Lands in processing applications are usually biased against women whom they regard as subordinate to men (UNECA 2003). It is only until very recently that married women in Zambia were asked to present evidence of their husbands’ consent when they applied for land (UNECA 2003). Just like in other countries discussed earlier, under statutory law women are not discriminated against in terms of obtaining land rights but other factors come into play. These include customary law, illiteracy and lack of financial resources.

**Mozambique**

In Mozambique more than 70 per cent of women live in rural areas and are governed by customary law. The constitution of Mozambique since independence has upheld the principle of gender equality. It was revised in 1990 to give more explicit form of this principle through articles 6 and 67 which state that, ‘All citizens are equal before the law, enjoy the same rights, and are subject to the same obligations, irrespective of colour, race, sex, ethnicity, place of birth, religion, level of education, social status’ (article 6) and ‘Men and women are equal before the law in all spheres of political, economic, social and cultural
life’ (article 67). Despite the fact that the constitution is non-discriminatory, the reality on the ground before the New Land Law of 1997, women were largely discriminated against in land ownership and control (UNECA 2003). Major reasons which prevented women from acquiring land before 1997 were the application of customary tenure, ignorance among women of their land rights and lack of dissemination of the constitutional legislation to grassroots levels (UNECA 2003). It has to be noted that after the passing of the New Land Law of 1997 women in Mozambique are still discriminated against because these laws are not implemented and properly enforced (UNECA 2003).

The passing of the New Land Law of 1997 marked a major aspect of the Mozambican land reform. The country at independence adopted a socialist ideology but at a later stage had to change from socialism to market-based approaches. The land reform discourse in Mozambique has centred on ‘how to encourage private investment in rural areas and how to protect the rights of customary occupiers of land. It aimed at protecting both the customary rights of existing occupiers of communal land and clarifying and strengthening the rights of private companies and individuals wishing to acquire access to land for commercial purposes by individuals’ (Chingarande 2004; 2008). Lahiff (2003) has highlighted that the Mozambique land reform process has not changed the highly unequal and dualist nature of property relations in the country and it has not delivered significant material benefits to the rural population, the bulk of whom are women. The Land Reform in Mozambique, just like land reform in the other Southern African countries, has continued to sideline women.

**South Africa**

The South African constitution is non-discriminatory but rules of access and inheritance favour men over women. Traditional authorities in South Africa play a major role in the allocation of land and they discriminate against women. In South Africa, no law provides for women’s independent access to land and the Communal Land Act of 2004 does not ensure that women are not discriminated against.

South Africa achieved democratic majority rule in 1994, and embarked on its land reform programme soon after its independence. South Africa has implemented market-assisted land reform policies that are being advocated by the World Bank, although it has charted out its own unique ‘willing seller willing buyer’ approach different from that of the World Bank. South Africa’s land reform took three different forms, namely: restitution, redistribution and tenure reform. Restitution claimed historic rights to those who had been
dispossessed by the Native Land Act of 1913 (Lahiff 2003; Hall and Cliffe 2009). Restitution beneficiaries could get their land back or the equivalent in cash. In instances where they got their land back they had to form Community Property Associations or Trusts in which their property would be transferred and registered. Redistribution was intended to redistribute white commercial land to the black farmer; and land tenure reform was intended to address the issue of insecure rights to land of blacks housed in former Bantustans. All these different types of land reforms left out women.

In the first phase of the South African Land Reform under the Settlement Land Reform Grant (SLAG 1993-1999) women constituted only 78 per cent of the 78,758 beneficiaries listed on the national database in June 2000, but this total also included many joint husband and wife listings (Walker 2001b). During the Settlement Land Reform Grant (SLAG) period from 1994-1999, the beneficiaries were given a R16,000 grant each, which was too little to acquire land, so they had to team up, pool their resources together and acquire the whole property. A larger group could then acquire a whole farm project. The priority of SLAG grants was for resettlement and multiple livelihoods. SLAG was criticised for having to force people to join groups in order to buy land and for lack of support other than land purchase (Hall 2004). As stated earlier on, the number of female beneficiaries was not quite clear because the statistics included those who got land under marriage.

The second phase was the Land Redistribution for Agriculture Development (LRAD from 1999) and it awarded grants to individuals on a sliding scale from a minimum of R20,000 to a maximum of R100,000. The shift from household to individual in theory opened up possibilities for women to acquire land in their own right independent of men (Walker 2003). In practice LRAD continued to discriminate women from the land reform exercise in that it gave priority to people with agricultural skills and capital which was a sure sign of leaving out women who did not have the capital and were not educated. The third and current phase is the State Purchase for Lease (PLAS) period (2006 to date) is similar to the Zimbabwe land reform where the state purchases land for lease with possible options for buying (Hall 2004; Sachikonye 2003). Still women are not benefiting much from this land reform strategy.

The White Paper on South Africa land policy acknowledges the existing discrimination against women under many types of tenure systems and suggests a number of ways to enable women to achieve fair and equitable distribution (White Paper on South African Land Policy 2007). This is a positive step towards gender equity in land access. The Department of Land Affairs (DLA) in South
Africa has also to be applauded for formulating a Gender Policy Framework in land reform as a guiding principle which would ensure that women are not discriminated against in future land reform in South Africa. This was done in 1997, and the gender policy document aimed at creating an enabling environment for women to access, own, control, use and manage land; as well as access credit for productive use of land (DLA 1997a). The Land Reform Gender Policy document committed the Ministry and the DLA to a range of guiding principles to actively promote the principle of gender equity in land reform; these included mechanism for ensuring women’s full equal participation in decision-making, communication strategies, gender-sensitive methodologies on project planning, legislative reform, training, collaboration with NGOs and other government structures, and compliance with international commitments such as the 1995 Beijing Platform for Action and the Convention on the Elimination of All Forms of Discrimination (CEDAW) which South Africa had re-ratified in 1995 (Walker 2003). It is sad to note that with such high and noble principles, women’s participation in the land reform in South Africa is still low. The DLA had a very sound principle of the Land Reform Gender Policy but has never sensitised its officers who deal with land issues in the provinces. A survey carried out by Walker (2003) in KwaZulu Natal revealed that a number of land officials were unaware of the Land Reform Gender Policy Document, copies of which were not easily available in either the provincial or district offices. There was also no manual from the DLA on how to approach various gender issues like registering polygamous marriages (Walker 2003). This demonstrates the DLA’s commitment to gender equity at national level and its failure to turn high-level principles into effective tools for implementation (Walker 2003). Women in South Africa, like in other African countries, are still discriminated against in the land reform process despite the country having some noble gender policies.

**Tanzania**

The land policy in Tanzania accords all citizens equivalent and equitable access to land. The land policy also has a section on women’s access to land which stipulates that customary law infers inferior land rights to women, making women’s access to land indirect and insecure (Chingarande 2004). The village councils that allocate land in Tanzania are guided by customary law and continue to discriminate against women by giving land to heads of household who, in most cases, are male. In order to rectify this gender injustice in land access, the Tanzania government has drafted a policy statement which states that, ‘in order to enhance and guarantee women’s access to land and security of tenure, women
will be entitled to acquire land in their own right, not only through purchasing but also through allocation’ (Chingarande 2004). The implementation of all these gender-sensitive policies still needs to be realised; it looks there is a lot of rhetoric about addressing gender justice while in real situations nothing is being done on the ground.

**Summary of Gender and Land Rights in Southern Africa**

From the few examples of countries in Southern Africa it can be inferred that women are discriminated against in accessing land and exercising land rights by both customary and statutory laws. The laws that have been passed in trying to better women’s status are not being enforced partly because the decision makers and implementers are males who want to jealously guard their patriarchal hegemony in land allocation and redistribution. The status quo also tends to hold sway because some women have internalised and accepted patriarchal leadership and believe that it is only men who should have rights to land. At the same time, the countries that have embarked on the land reform exercise have not accommodated women despite having crafted gender-sensitive legislation. This general overview of gender, land tenure and land reform in Southern Africa will help us understand and appreciate the dynamics of gender, land tenure and land reform in Zimbabwe.

**Gender and Land Tenure in Zimbabwe**

**Pre-colonial/Traditional Land Tenure and Gender**

In traditional Zimbabwean society, access and rights to land were governed by customary law. Under customary law land was not privately owned but communally owned and individually worked in order to plant food crops for the family (Jacobs 2000). It was allocated by chiefs to household heads who were presumed to be male. There was no individual titling but there was consensus that if one was allocated land it belonged to him. This explains why maybe land was taken by the settlers because according to western understanding of ownership, land did not belong to anyone since there was no title deed. Married women obtained land for farming through their marriage ties as wives (Gaidzanwa 1994; Jacobs 1996; 2000; Mvududu 2000). Husbands allocated portions of land to their wives who would grow crops to feed the family. Women were entitled to proceeds from the work of their own hands like the produce from their own fields, beer brewing, midwifery and own handicraft. They would also jointly work in the larger family fields with their husbands. According to Gaidzanwa
(1995) unmarried and divorced women were allocated land in their mothers' fields to grow crops and amass some stock in preparation for marriage. They were given land by their mothers and not allocated by the society or chief.

On the other hand, widowed and divorced women with elderly sons set up households with their sons. Some vulnerable widows and children like orphans were taken care of by the chief’s zunde ramambo (chief’s granary). The chiefs had specific fields whose proceeds would be put in a granary to feed such vulnerable groups. Thus women’s economic well-being and access to land was mediated by male relatives, such as husbands, fathers, and brothers among others. Similarly, in traditional Zulu society there was no property in land, all land belonged to the chief who would allocate it to his subjects, male household heads. Single men and women did not have entitlement to land (Thorpe 1997). This amply demonstrates the challenges faced by women in traditional societies in accessing rights to land.

**Colonial Land Tenure and Gender**

Colonialism brought a number of repressive laws which further diminished women’s access to land. From the mid 1910s, the colonial government sought to legitimise customs that would justify female subordination. This made it difficult for women to manipulate the colonial legal system to their advantage (Schmidt 1990). It modified customary law in which women wielded no power at all and could no longer own property; it further made women’s lives miserable. Colonialism intensified the economic dependence of women on men. Women were regarded as minors who had to be under the tutelage of men as second-class citizens. As already indicated in previous chapters, the colonial government passed the Land Appointment Act of 1930. Since there was competition for land after the passing of this Act, adolescent women who used to grow crops in their mothers’ fields could not access land for own use in communal areas after 1930 (Gaidzanwa 1994). Married women continued to access land through their husbands. The men also drifted to towns to seek work and women had to till the land to subsidise the poor wages of their husbands. The colonial system also regulated women’s mobility so that they remained on the land to support the migrant labour system (Schmidt 1992; Gaidzanwa 1994). It also introduced what they called Native Purchase Areas where black men could buy and own land under freehold tenure. Moyo (1995) argues that these targeted men and not women. Black women could not purchase land in Native Purchase Areas but had access to such land through their male kin. The colonial laws forbade women from owning land and considered them to be second-class citizens who...
were supposed to be under the leadership of male figureheads. The colonial
government’s attitude towards women is clearly brought out in this quotation
from the Native Commissioner of Hartley, which he wrote in 1924 indicating
that African women would not be able to conduct their own affairs and they
definitely needed male guidance:

Until quite recent years, this was the tradition among our own race. The native
women of today have not the brain power or civilisation of the mothers and
grandmothers of the present white generation: her brain is not sufficiently balanced
to allow her to think and act in all matters for herself, and I consider the male should
be encouraged and assisted to exercise tutelage, within all reasonable bounds over
his womenfolk.

This demonstrates that colonialism brought its Victorian values and dumped
them upon Shona men and women, these values despised and undermined the
female gender (Gudhlanga 2010).

The colonial government also introduced the Land Husbandry Act of 1951.
The general consequence of this Act has already been discussed in previous
chapters. In this chapter the implications of the Act on gender and land
tenure will be discussed. The Land Husbandry Act emphasised individualised
tenure by registration. According to this Act, a farmer was a man despite
the fact that women worked and tilled the land. Women were defined or
redefined as housewives (Gaidzanwa 1994). User rights for all women could
not be registered. Thus in colonial Zimbabwe black women could not access
freehold land because of the economic, gender and racially discriminatory
system of the colonial government and the interpretation of the customary
laws by the colonial leaders (Gaidzanwa 1995). Married women had to prove
desertion or extra territorial residency of their husbands in order to access
land. Divorced women had to prove that they had custody of the children
in order to be given land. In Shona or Ndebele tradition, the fact that the
husband was the one who paid lobola or bride wealth meant that the children
belonged to him. Hence most of the times, divorced women would not have
the custody of the children and thus did not qualify to have access to land. On
the contrary, divorced men were eligible for customary land rights whether
they had custody of the children or not. Only widows and divorced women
with custody of the children were granted land which was usually one-third
of what men in similar circumstances got. According to Garbett (1963),
cited in Moyo (1995), in Mangwende Tribal Area only 16 per cent of women
qualified for land under this Act. The Land Husbandry Act also brought
additional labour allocations for women but imposed restrictions on land
use rights (Moyo 1995). People had to practice soil conservation measures. There was too much policing of women’s agricultural activities. According to Moyo (1995), prohibitions against using stream banks, dambos and vleis, also meant that women were the most directly deprived and policed, since it is they who cultivated vegetable gardens in such areas. Thus overtime, women’s land rights had been relegated to smaller wetland areas as men dominated arable fields and grazing land. This, according to Schmidt (1992) and Moore (1993), reflected an evolving gender division of resource control and roles with regard to food security, labour and trade.

**Post-Independence Land Tenure and Gender**

In independent Zimbabwe new legislation has been crafted to accord women the ability to acquire and own land on an equal basis with men. The liberation struggle offered women an opportunity to re-negotiate role-relationships with men since they had fought side-by-side during the war. At independence, this translated into having a number of prominent women included in the new political leadership as parliamentarians and cabinet ministers (Chung 2007). The government also created the Ministry of Community Development and Women’s Affairs headed by Joyce Mujuru, who is now one of the Vice Presidents in the current inclusive government. This ministry lobbied for the removal of laws that oppressed women and enabled the passing of new legislation that benefited them. Of importance was the passing of the Legal Age of Majority Act (LAMA) of 1982. Under this law, women were no longer minors but acquired majority status at 18 which meant that men and women were for the first time legally equal (Mahlaule 1995). Through this law, women could own property in their own right and open bank accounts, rights they could not exercise under customary law. Another positive development was the passing of the Equal Pay Act of 1982. This meant that women with the same qualifications and employed to do the same job as men would get equal salaries with their male counterparts. This was applauded by women who had been economically marginalised by getting lower salaries than their male counterparts (Ngwenya 1983). In 1985, the government introduced the Matrimonial Property Rights Act. Under customary law women owned no property and when divorced they became destitute since property belonged to the husband. In 2001, after the lobbying of the Women and Land Lobby Group (WLLG), the Government Land Reform Policy document included article 3.2.3.5 on Land Tenure Arrangements which states, ‘Land leases and title deeds for married couples should be in both spouses’ names’ (Government of Zimbabwe 2001:13).
Over and above the passing of these legislations and the introduction of the policy of education for all, Zimbabwe is a signatory to a number of regional and international treaties that aim at creating an enabling environment for the attainment of equity and equality between women and men. These include The Southern African Development Community’s Declaration on Gender and Development and its addendum on the Prevention and Eradication of Violence Against Women and Children, Universal Declaration of Human Rights, The Convention on Civil and Political Rights, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Beijing Declaration and Platform for Action, Convention on Economic, Social and Cultural Rights (CESCR), Convention on the Minimum Age of Marriage and Registration of Marriages (Gudhlanga 2011). In an effort to effectively transform the provisions of regional and international legal and human rights instruments to the practical level, the government has drawn up and adopted a National Gender Policy (2004) which aims at providing guidelines and institutional frameworks to engender all sectoral policies, programmes, projects and activities at all levels of our society and economy. It endeavours to improve the lives of both women and men by removing the various discriminatory customs and legislations. All these legislations in theory accorded women the opportunity to own and access land and other resources on an equal basis with men. Was this the situation in independent Zimbabwe? Why is it that even with new legislation alluded to above, it is still proving to be very difficult for women to own land in post-independent Zimbabwe? This is can be explained in terms of the gap between the law and its enforcement. Even though women now have majority status, most of the issues governing land allocation and redistribution are still governed by customary law.

At independence, Zimbabwe inherited a racially-skewed land redistribution pattern which favoured the white minority. It was the government’s main objective to redress the colonial social injustice and redistribute land to previously disadvantaged blacks. Racial equity eclipsed gender equity such that issues relating to equity on the basis of gender were not discussed (Gaidzanwa 1994). Gender, and specifically women’s interests, was not a priority in the land redistribution programme. According to Jacobs (2000:16), ‘women’s land rights were a fringe issue despite the fact that 70 per cent of agricultural labour is female’. Moyo (1995) has identified four tenure regimes in independent Zimbabwe. These are State Lands, Communal Areas (CAs), Commercial Land and Resettlement Area. He argues that these tenure regimes confer different sets of land rights for administration processes among different races and genders. Both the state and private citizens are conferred with various rights within these regimes (Moyo 1995).
Gender and Land Politics in Zimbabwe

State Land and Gender

State land constitutes 15 per cent of the land area (Moyo 1995). It is held in trust by the government for the preservation of natural resources. It is managed by parastatals or government departments. Women are left out in such lands because the male-dominated state plays a major role in influencing access to such lands. According to Moyo (1995), access to use and benefits of these lands accrues to white men. As a result of the growth of tourism and wildlife markets, a few black men also now have access to such land. However, it has to be noted that some rural families including women also use state land as illegal settlers or squatters. The state also owns urban land that is managed by city councils. Land for housing in urban areas was given to men and it is only recently that women have started to have access to such land to buy and register houses in their own names (Moyo 1995; Gaidzanwa 1995). These state lands are also found in other Southern African states and are mainly controlled by men. Women's use and access to these lands is very limited unless they go and settle as squatters.

Communal Areas and Gender

Communal areas constitute 41.8 per cent of the total land area and are the former Tribal Trust Lands. According to Moyo (1995:18) ‘grazing lands are communally managed, while cropping land is allocated to individual families, through men by District Councils which are advised by male dominated Village Development Committees and traditional leaders’. Women's access to secure tenure in their own right is a key problem. Unlike men, women in Communal Areas live under customary law and its contemporary interpretation disadvantages them. Many women no longer receive allocations of land from their husbands as was in the traditional tenure. This might be explained by the fact that as populations grows, land becomes a scarce and limited resource and men get the little land they can use with their families and cannot subdivide it to give to their wives. Women no longer enjoy the proceeds from their labour, even salaried employment (Jacobs 2000). Communal areas have large female populations of about 60 per cent, and 40 per cent of families are managed by women. Women in Communal Areas have difficulties in accessing land. Despite the fact that soon after independence in 1980, government stripped traditional authorities of their role, chiefs continued to allocate land in rural areas (Goebel 2005). The introduction of the Traditional Leaders Act of 1998, which came into effect on 1 January 2000, further marginalised women in Communal Areas. This is because the Act made provision for village level affairs and made traditional leaders responsible for the allocation of land and land use regulation
Traditional leaders as custodians of patriarchal societies do not entertain women’s interests, especially if they contradict traditional views. The role of traditional authorities in land allocation is also prevalent in South Africa through the institution of the Traditional Authorities Act of 1995. Women in South Africa also continue to be marginalised in the current land redistribution programme especially in restitution which gives traditional leaders custodial responsibility over land for the whole community. Gaidzanwa (1995) observes that, with time, some traditions in Zimbabwe’s Communal Areas have been eroded such that headmen now sell land. Land transactions in cash are quite common and over 50 per cent of married women do not have fields that are exclusively given to them for their use in rural households (Gaidzanwa 1995). Cash transactions also disadvantage women who lack such economic resources. However, it has been noted that women in Communal Areas have more latitude in land-related decisions than their counterparts in Rural Areas, Small Scale Commercial Farms and Large Scale Commercial Farms (Gaidzanwa 1995).

Commercial Land and Gender

Commercial Land constituted 36.4 of the total land area by 1995. It is divided into Large Scale Commercial Farms (LSCF) and Small Scale Commercial Farms (SSCF). The LSCF have been dominated by white men while black men have increasingly managed to acquire land in the SSCF. Most of these farms are under freehold and black women in particular have least access to freehold due to its past alienation (Moyo 1995). Some of the commercial farms are administered by the state which gives long-term leases to farmers. The Deeds Registry Office only had 3 per cent of the SSCF that were held by female farmers with no husbands by 1995. Married women have access through their husbands. It has to be noted that even though they do not own land, black women continue to provide the bulk of the seasonal, casual and temporary labour in both LSCF and SSCF (Gaidzanwa 1995). Freehold enables one to use the land as collateral for credit and in land markets. Thus black women have been marginalised from the economically productive land. Instead, poor women access commercial land when they want to fetch firewood and are caught and humiliated by stripping them (The Herald 1993, cited in Moyo (1995). Thus black women cannot freely access commercial land.
Gender and Land Politics in Zimbabwe

**Pre-Fast Track Resettlement Areas and Gender**

In order to alleviate pressure in heavily congested Communal Areas, people were put in resettlement areas. The various types of resettlement schemes have already been discussed in the previous chapter. The most popular type was Model A1. Under this Model land was owned by the state and allocated to household heads through permits. Land allocating officials assumed that the household leader was male (Government of Zimbabwe 1992; Gaidzanwa 1981, 1988, 1994, 1995; Chenaux-Repond 1993; Jacobs 1991, 1997, 2000). Female permits comprised only 2 to 15 per cent, yet female-headed households outside resettlement areas comprised 25 per cent (Sunga 1990; Chenaux-Repond 1993). Married women became primary holders of land only in the event of their husband’s death.

Agrarian reform has also had positive effects on women. Goebel (1999a) argues that in Sengezi Resettlement Scheme in Hwedza District, the resettlements had strategies to include women, especially widows, in the redistribution of land. Upon the death of a husband, a widow in resettlement was able to retain the homestead and fields and the permit was even changed into her name. Such an arrangement was untenable under customary tenure. However, these widows still faced other challenges like access to labour and capital. Married women also had the opportunity to grow their own crops that they controlled. Goebel (1999a) gives a successful beef fattening project which was donor-funded and run by women in Sengezi Resettlement Scheme. Agricultural extension workers interviewed by Goebel (1999a) in Sengezi argued that women were the best farmers and constituted the bulk of their master farmer population such that they deserved to be given more land; but this was not possible due to the customary tendencies that prevented women from gaining access to land in their own right. Jacobs (1999) has also observed similar opportunities for women in being able to access small plots to grow their own crops. She states that 65 per cent of women in Resettlement Areas had their own small plots and recorded higher food production of economic growth.

However, it has to be noted that women’s access to land in these Resettlement Areas was highly insecure. Jacobs (2000), in a research conducted in Manicaland and Mashonaland Resettlement Schemes, states that most of the women who were interviewed expressed insecurity not in landholding but in terms of lack of security in marriage. This is because settler women lose access to land upon divorce (Moyo 1995; Gaidzanwa 1994, 1995; Jacobs 1991, 2000). Research has also indicated that polygamy increased to 36 per cent in Resettlement Areas (Chenaux-Repond 1993; Gaidzanwa 1994; Jacobs 2000). Men married more women because they were a source of cheap labour in the newly resettled areas.
Thus women were highly disadvantaged in Resettlement Areas; they did not have land of their own in case of marital breakdown. Despite the measures taken by the government of Zimbabwe to engender gender equity in the land reform process, concerns continued to be raised that land use rights were still biased against women. There is a weakness in assuming that primary land use rights to males on behalf of the family would meet the normal needs of women, namely married, widowed, single and divorced (Vudzijena 1998). The situation might worsen if the recommendations of the Land Tenure Commission were to be followed since it advocated for the strengthening of customary practices and regulations which vest land use rights and ownership in men (Rukuni 1994). It has also to be noted that indigenous tenure systems and colonially constructed customary law tended not to recognise single parents, and the rights of celibate men and women in common law marriage (Moyo 1995). So most single parents were women and it meant that a greater percentage of the female population had no land use rights.

The general resource bias against women in the Pre-Fast Track land Reform was confirmed in a study done by the Land Tenure Commission (1994) to assess the distribution of land by sex. The findings were as follows: ‘women held 23 per cent of land in resettlement areas, 16 per cent in communal, 5 per cent small scale and 25 percent large scale commercial farming”. Vudzijena (1998) has also confirmed the findings of the Land Tenure Commission and argues that the first phase of the resettlement programme has not resolved the gender bias in land allocation as men hold 77 per cent of the land in the resettlement sector (Vudzijena 1998). A study carried out by Ncube et al (1997) in Matabeleland in Nyozani Resettlement Scheme also showed that that the greatest beneficiaries of this programme were men. Out of the 60 families that were resettled, only three widows were allocated land in their own right. No divorced or unmarried mothers were allocated land (Chingarande 2004; Ncube et al 1997). Women therefore did not have direct primary land rights in resettlement areas. In order to overcome these persistent inequalities in land tenure rights it is necessary to follow up on legislation and make sure that it is being implemented. The land tenure legislation which merely prohibits discrimination on the basis of sex does not ensure land access to women as evidenced by the above statistics. Mvududu (2000) argues that what is needed is lifting of all legal restrictions on women’s property rights, coupled with land reform legislation and the putting in place of effective enforcement procedures that ensure land redistribution in equal parts to male and female farmers on an individual basis. This could lead to significant changes in the economic status of women in general and rural women in particular.
Chingarande (2004:5-8) has made the following observations about gender issues in the pre-fast track period:

- The male registration of land rights is a colonial legacy that has been maintained by the present state.
- Women have limited access to land in previous resettlement schemes, especially communal areas that are patrilineal.
- There is serious tension between official commitment to gender equality on one hand and reluctance to alienate traditionalist structures of local government on the other.
- Resettlement land tenure is state-dominated and tenure-insecure for settlers because it provides loose permits to use land.
- Few women have individual rights to such land and suffer land deprivation where divorce or death of males occurs.
- Women have accessed land indirectly through men and such access is left entirely to the discretion of the husband and can be withdrawn anytime, for any reason.

These observations would help us understand gender disparities in land tenure in Zimbabwe so that we can find possible ways on how they can be redressed. It is against this background that the need for a comparative research in this area cannot be overemphasised.

**Fast track Land Reform and Gender**

Unfortunately, there is little fieldwork-based research to tell us about the experience of women in land reform after 2000. Goebel (2005) has also observed the scarcity of written evidence on women and land reform under fast track, and states that Marongwe’s (2002) detailed study only discusses women in just a paragraph which informs us about the involvement of rural women in land reform. He states, ‘the gender balance at the occupied farms particularly those close to communal and resettlement areas showed balanced numbers of male and female occupiers. In other cases occupiers were young couples where both the wife and the husband participated in farm occupations. There were very few cases in the study area where there was no woman at all’ (Marongwe 2002:49). It can be inferred that Marongwe (2002) was only focusing on women who participated in the Fast Track Land Reform but did not endeavour to discuss the number of women who got farms and benefited in their own right in this programme. This is what this present research endeavours to focus on. Sachikonye (2003) has also discussed the fate of commercial farmers in the fast track process and only noted
that, in general, women were being unfairly treated under the fast track process because they had received less than 20 per cent of land that had been allocated by 2003 (Sachikonye 2003). Thus, what can be deduced from Sachikonye’s findings is the persistence of the general resource bias against women.

As has already been noted in previous chapters, the fast track process was characterised by lack of planning and violence. According to Goebel (2005), these conditions marginalised women as new settlers and favoured male war veterans and other militants. The fact that there was no provision of infrastructure under fast track meant that women’s burdens were increased; they had to carry the heaviest burden of gathering fuel and water in these new undeveloped home sites (Goebel 2005). The re-emergence of Traditional Authorities under the Traditional Leaders Act also meant that women could not be freely allocated land in their own right since these traditional authorities were informed by customary law which does not believe in women owning land. It should also be noted that the objectives of the Fast Track Land Reform Programme did not include women.

The Presidential Land Review Committee headed by Utete (2003) noted that the number of women allocated land under Fast Track was very low countrywide. Women-headed households who benefited under Model A1 constituted about 18 per cent, while women beneficiaries under A2 constituted only 12 per cent. It is most likely that these beneficiaries are connected to the ruling party or government (Utete 2003). The Utete Commission has recommended that land should be registered in both the names of the wife and the husband and has also suggested a quota of 40 per cent of land allocation and funding should be reserved for women. In its examination of the implementation of the Fast Track Land Reform, it has emphasised the need for ‘women farmers’ to have greater opportunities in terms of access to inputs and labour-saving technologies, land ownership, information and extension services and education (Utete 2003). However, it has to be noted that up to this present date no attempt has been made to implement the conclusions of the Utete Report with respect to women.

The other information on women’s involvement in the Fast Track Land Reform has been published in the press which chronicled rural women and girls as victims of violence and rape in ZANU PF youth camps (Meldrum 2003). What was also documented in the press was the fact that some elite black women who were strategically aligned and positioned in the ruling party also benefited from the corrupt allocation of commercial farms (The Zimbabwe Independent 2003). Goebel (2005) states that the best guide on gender and land reform under fast track will be to focus on the efforts of the Women and Lobby Group (WLLG) which has fought vehemently by critiquing government policy reform
documents. Their efforts are yielding positive results, though at a very minimal level. These will be discussed in detail under the section on women’s activism and land tenure. On the whole, it can be noted that there is little research done on gender issues in land allocation and redistribution under fast track. This therefore renders the present investigation an imperative exercise.

**Women’s Activism and Land Tenure**

The various types of tenure regimes that have been discussed above highly disadvantage women’s access and right to land. Women’s groups challenged this gender disparity in land allocation. They campaigned for more secure access for married and single women. Southern African Feminist Review, a feminist journal which discussed democratisation and property rights was banned by the government because it was going to create despondency among the general populace. Women’s Action Group made representations to government concerning women’s land rights. Zimbabwe Women Resource Centre Network published several documents concerning women’s land rights. Musasa Project’s survey in the Midlands province showed that many women tolerated abuse because of fear of being driven off the land (Made 1999, cited by Goebel 2005).

Of particular importance to women’s activism and land reform was the formation of the Women and Land Lobby Group (WLLG) in 1998 by a group of women activists who were committed to the land issue. They critiqued the government policy papers since 1998 and their efforts yielded some few positive results and still face some challenges in proclaiming equality in land allocation on gender basis in a country that quickly falls back on customary law when it wants to defend men’s persistent domination in land ownership. Jacobs (2000) has also noted the efforts of the WLLG and states that it campaigned for a third of the land which had been designated for resettlement to be allocated to women in their own right.

The efforts of the WLLG influenced government policy documents on land policy after 2000. Of particular importance is the inclusion of article 3.2.3.5 on Land Tenure Arrangements, which states, ‘Land leases and title deeds for married couples should be in both spouses’ names’ (Government of Zimbabwe 2001:13). Goebel (2005) argues that the inclusion of that article has been recorded as a significant victory by the WLLG which, however, is quick to point out the challenges being faced in its implementation. WLLG argues that current practices continue to follow the traditional way of writing the husband’s name on the permits and titles. WLLG also noted that culture,
and especially family, is used to perpetuate women's deprivation of land access. WLLG further noted that most women in rural areas do not have registered marriages and it is difficult for them to call for joint registration of land leases. The other impediment noted by WLLG was the lack of legal provisions that might help to improve women's position. They argue that the Land Act and inheritance bills still do not deal with land inheritance and this implies that widows will continue to be vulnerable to loss of land through customary practices (Goebel 2005). Zimbabwe still uses some legal instruments that discriminate against women despite the constitution stating in section 23 (1) and (2) that no one should be discriminated on the basis of race, colour, sex or creed. However, sub-sections 23 (3) a, b and f still discriminate against women through customary law. Traditional customary law in Zimbabwe was flexible, but codified customary law was written in stone and is very rigid. Codified customary law in Zimbabwe is patriarchal in nature and patriarchy is based on the principle of sex discrimination (Musasa Project 2003). When such laws are still at play it means that women's access to resources like land will always remain a challenge.

The WLLG challenges the Communal Lands Act which states that land should be distributed according to the customs and practices of the area. The Rukuni Commission on Appropriate Agricultural Land Tenure Systems (1994) also proposed to the government that land ownership and redistribution should be heavily informed by customary law. This means that women would have no opportunity to own land since, under customary law, land is owned by a male figurehead of the family. The Zimbabwe Land Reform Act of 2000 states that women should be allocated at least 20 per cent of the resettlement land and yet women constitute about 52 per cent of the population (Government of Zimbabwe 2004). Such discriminatory laws and practices continue to push women to the periphery and prevent them from fully participating in decision making.

The Zimbabwe Companies Act also puts some restrictions on married women who have to get the consent of their husbands to be company directors. Section 173 (1) (b) states that if a woman is married in community of property, she can only be Company Director ‘if the husband gives his written consent and that consent is lodged with the Registrar of companies’ (Mazambani 2006:5). On the other hand, married men do not need to get the consent of their wives in order to become company directors. So women’s participation in decision making and high posts like being company director depends on the willingness of their husbands. If the husband does not want,
the woman cannot be company director no matter how well qualified she is. Such discriminatory laws continue to shut Zimbabwean women from accessing resources like land and senior management positions.

Despite the passing of laws such as the Legal Age of Majority Act (LAMA) in which both men and women are supposed to enjoy equal legal majority status upon attaining the age of 18, it can be seen that in the Zimbabwean case that is not what obtains. Gudhlanga (2011) argues that the majority status is only in theory because some legal cases that have gone to the courts of Zimbabwe still attest that customary law is still in control. Under codified customary law, women still continue to be perpetual minors despite the passing of the Legal Age of Majority Act. Goredema (unpublished) gives a list of cases in which women were discriminated against by Zimbabwe's courts despite the passing of LAMA in 1982. In the case of Vareta v Vareta (1992)(2)ZLR(1)H, the son even though younger than the daughter was appointed heir to the late father's estate and the presiding judge said this aspect was not affected by LAMA (Feltoe and Rowland 1999). In the case of Marisa v Marisa 1992(1) ZLR167(S), a surviving widow was only appointed to administer the estate of her late husband on behalf of the their children, and not to be heir to the late husband's estate (Feltoe and Rowland 1999). In the case of Magaya v Magaya 1999(1) ZLR100(S) also demonstrates how women continue to be perpetual minors under customary law. In this case, an older female child in a polygamous union wanted to inherit ahead of the younger brother son to the second wife, but lost the case to the younger brother. The Zimbabwe Supreme Court (five judges) ruled unanimously that only men could inherit under customary law (UNICEF 2004, cited in Goredema, unpublished). The judge presiding over the case held that, ‘The claimant is a lady and therefore cannot be appointed heir to her father’s estate when there is a man’ (Mazambani 2006:8). The women in the above cases were discriminated against in inheriting or administering their deceased father’ or husband's estate (Gudhlanga 2011).

According to Goredema (unpublished), in the cultural sense, widows and girls are passers-by, therefore allowing them to inherit takes away the riches from the clan-line. This amply demonstrates that Zimbabwean women are still discriminated against by statutory law hiding behind customary law. This makes it difficult for Zimbabwean women to freely participate in land reform. As a result, the WLLG and other feminist organisations are calling for the amendment of the Zimbabwe Constitution so that such discriminatory tendencies will be done away with once and for all.
In the post-2000 era, the Women and Land Organisation made a lot of representations concerning women’s land rights and access to land. They aired a lot of television programmes that discussed women and land issues. However, their campaign died a natural death and people in Zimbabwe have forgotten about the Women and Land Organisation efforts. The organisation is still operating but does not discuss issues openly as before. Similarly, the WLLG is also very quiet. The women at the grassroots level are not aware of these organisations’ efforts. It would also be interesting to see why organisations that call for women’s land rights have decided to take a back seat venture when land reform is at its peak in Zimbabwe. The other factor that makes it so difficult for women to have equal rights with men is the state itself which is deeply entrenched in patriarchal beliefs. The role of the state in influencing land reform will be discussed in detail in the following section.

State Politics, Gender and Land Tenure

Despite all the efforts made by the women’s organisations, women still have no secure access to land and do not have land under freehold. Their right and access to land is still mediated by their male relatives. This is because of the government’s rhetorical emphasis on redressing historical imbalances. Yet on the land question, women’s demands for land have been neglected by the state which does not want to lose support among its male-dominated political party structures (Moyo 1995). This was clearly brought out by the then Vice President, Joseph Msika, who when asked at a press conference why women did not have land rights said, ‘because I would have my head cut off by men if I gave women land...men would turn against the government...giving wives land, or even granting joint titles, would destroy the family’ (Sayagues 1998, cited in Jacobs 2000:136). Contrary to the above statement, the then Minister of Agriculture, Dr Joseph Made, argued that: ‘Since the family is traditionally made up of two partners, government cannot say which partner should come forward to apply for land. Such specifics should be left out to the families to decide...’ (WLLG 2001a:9). All these contesting views show that there is no clear-cut policy on women’s access to land. This then makes women’s negotiation for their land use rights very problematic. The Land and Tenure Commission of 1994 did not propose legislative and administrative changes which would allocate women rights in respect of land and property; instead it insisted that ‘family rights’ in land be allocated customarily. The neglect of women’s land issues by the state is not unique to Zimbabwe alone, but is also characteristic of South East Asia where Bina Argawal was told by a Minister of Agriculture, ‘Are you suggesting that women would be given rights in land? What
do women want? To destroy the family?’ (Argawal 1994:53). The discrimination of women is exacerbated by the reintroduction of traditional leaders in land allocation. This male-dominated leadership seeks to promote patriarchal beliefs in land allocation and redistribution. This amply demonstrates that women still have a long battle to fight in order to be finally free from customary law interpretations by the patriarchal leadership.

Conclusion

Land reform in Africa and other parts of the world can never be fully democratic until it emphasises women’s rights. Gender analysis in Zimbabwe shows the inability of formal law to ensure women’s rights to land when such laws are socially legitimate and enforceable. This is evidenced by the Magaya, Marisa and Vareta cases discussed earlier in the chapter. If the use of customary law and statutory law persist in undermining women’s land rights and access, then Zimbabwe still has a long way to go in terms of addressing gender issues in land reform. Goebel (2005) also argues that the chaotic nature of the fast track process and the loss of state support for women’s equality rights demonstrate that the struggle for women’s land rights in Zimbabwe may be more difficult than ever before. This research intended to explore whether there were any changes in access to land by women in their own right. These issues are explored in the next chapter which focuses on research findings and discussion.