

CHALLENGES IN THE IMPLEMENTATION OF LAND REFORM POLICIES IN SUB-SAHARAN AFRICA

A Comparative study of Botswana, Eritrea, and Zimbabwe

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Abstract: This study has been undertaken to examine challenges of land reforms in Sub-Saharan Africa using Economic Theory of Land Rights (ETLR) for critical analysis. ETLR advocates for private land titling as population exerts pressure on land. The assessment is based on the three countries of Botswana, Eritrea and Zimbabwe. In order to critically assess the land reform challenges using ETLR as an approach to land reforms in Sub-Saharan Africa, the study aimed at firstly finding out the reforms which had taken place so far and the stakeholders and actors involved in the reform processes; challenges of implementing the reform policies and the solutions to them. A desk study was conducted on the three different countries. Different literatures on land reforms in Africa from different sources were reviewed. The results show different interests in land. A mixture of private, communal and state land ownerships exist. No country shows purely private, state or customary ownership. The main challenges are: strong attachment to land as identity and as the main means of survival, limited livelihood alternatives, elite dominance, limited government capacity and limited technology. The suggested solutions are: gradualness and flexibility during the reform processes; creation of alternative source of livelihood; building government institutional capacity and transparent and coordinated process of reforms from the planning to implementation phase.

Key Words - Land policies, land reforms, ownership, challenges, and implementation.

INTRODUCTION

Land reform in Africa is a sensitive issue. The concern about land security is particularly crucial to many poor African population as land is the main source of livelihood to them. Land reform is seen by the poor masses as life threatening with the perception that land can be taken away from them. However, many African countries have either enacted land reform policies or are underway with some reforms. Land and agricultural reform is viewed as a struggle towards achieving development and reducing poverty through raising agricultural productivity. The security concern poses exceptional challenge and resistance in the reform processes and makes it a controversial issue in Africa (Moyo, 2011:494; Obeng-Odoom, 2011:161; Manji, 2001:328; Pauline, 2009:1317; Place, 2009:1326; WDR, 2008)

Furthermore, land reform processes in Africa have been “neglected and little theorized” (Moyo, 2011:494; Manji, 2001:339). There could be challenges not yet explored and ignored, even if they could be impeding the processes of land reforms (Manji, 2001:228). Different theories like regulatory theory (Smith, 1984:414), public choice theory (Beck & Hussey, 1989:26), structuralism-gender and power (Grabe, 2010:149), socialist and liberal theories (Jenvry & Sadoulet, 2001), have different perspectives on land reform. However, the two main controversies in African land reforms can be seen from economic and sociological theoretical points of view. The “neoclassical economists” advocate for the individualization of property rights while the “sociologists and anthropologists” have centered their views on social capital theory (Obeng-Odoom, (2011:161).

The economic individualistic view relates to the capitalistic view of loving oneself, being selfish and advocacy for private ownership and sales of property like land as opposed to collectivization. The followers of this view believe that having a private right to land is a motivation for investment and sustainable utilization. They claim that common use of a property like land makes people to act irresponsibly and not care about the resource in question. This is referred to as “tragedy of the commons”. Besides, individual ownership is said to attract credits from banks that can be used for investment into the property (Obeng-Odoom, 2011:162).

From the communitarian school of thought, the anthropologists and sociologists as opposed to the economists claim that developing countries like Africa can develop their economy by rooting the idea of “network and trust” in the common property ownership. They argue that customary land ownership ensures land security to the owners. They argue that insecurity comes as a result of policies led by the state which neglect customary values, while individualization of land expropriates rather than gives power to the local people. The proponents of social capital prefer keeping traditional laws and institutions of land management. This is said to promote interaction and respect among communal land users overtime, and eventual respect for “private property right borders” (Obeng-Odoom, 2011:163).

The controversy over land reforms in Africa makes it extremely difficult to design an acceptable policy to all parties (customary and private ownership supporters) in specific countries. However, the trend shows a shift from communalism to privatisation albeit with different challenges. There is a rise in population and different interests in land (Place, 2009:1320 & 1326). Consequently, I identified Economic Theory of Land Rights (ETLR), the liberal approach to be used in this article for analysis of Sub-Saharan African land reform challenges and its solutions. I chose to use ETLR as liberalization is at the heart of today’s global debate. There is also no proper study on ETLR applicability and relevance in Sub-Saharan Africa. ETLR advocates for private land titling, individualization and liberal market mechanisms as a means of resolving land conflicts in different societies as population rises (Janvry and Sadoulet, 2001:8, 17 and 21, Platteau, 1996, Krier, 2009; Todaro, 2009). Critical assessment based on ETLR as an approach to land reforms helped me in assessing its

viability in approaching and resolving the challenges of Sub-Saharan African land reforms. I also bring together different suggested solutions that policy designers can choose from- the options applicable to their countries' situations. The analysis is based on the three case studies of Botswana, Eritrea and Zimbabwe.

The purpose of this research is to critically assess the challenges of land reforms in Sub-Saharan Africa, that is, how the challenges come about and how they could be resolved. In order to excavate the challenges, assess ETLR and provide viable possible solutions, the following research questions are posed:

1) What are the different reforms that have taken place?

Under this question, there are other sub questions: who are the stakeholders and actors of land reforms in the different countries? What are their views and interests? To what extent are their views and interests included in the design/formulation of the land reform policies? These help in understanding whether people demand for private land titling the way ETLR claims that people would as population increases.

2) What challenges are faced with in the implementations of these land policies?

3) What could be done to resolve these challenges encountered in the implementation phases?

This research problem on the challenges of land policy implementation in Sub-Saharan Africa is formulated as the discussion in the introduction shows that in spite of the different theoretical positions in attempting to resolve the challenges of land reforms in Africa, there are still challenges in the implementation of land reform policies in Africa. It is also pointed out in the introduction that land reform process in Africa are neglected and little theorized. Some challenges are not yet explored. Different theoretical positions have failed to resolve land reforms contradictions in Sub-Saharan Africa. This research is consequently significant from the research perspective in that, by critically assessing the three case studies, I might be able to contribute with understanding on the challenges of implementing land reform policies in Sub-Saharan Africa and how to deal with the challenges from the three angles of the case studies. The countries are from different geographical locations, have different economic and political situations, and have different approaches to land reforms. I bring at the end all the suggested solutions to the challenges that the policy designers can choose from.

The knowledge provided by the research might aid in policy formulation as implementation challenges are pointed out and different options of dealing with them suggested by the research. The new policy options can be applied to different countries in their processes of land reforms.

The research is significant in peace and development studies. As it is known that poor economic performance might affect a country's internal peace. Some literatures on problem formulation of this study confirm that land reform is seen as one of the ways of reducing poverty and improving the economic performance of a country if used productively (Pauline, 2009:1317 and Place, 2009:1326). The research purpose is partly to gauge a better way of implementing land policy reforms in order to reduce poverty and contribute to economic development.

CHAPTER 2: BACKGROUND REVIEW

This chapter presents the overview of land tenure systems practiced in the traditional African societies in general and the overview in specific countries under the study (Botswana, Eritrea, and Zimbabwe). It further describes the general land reform issues and debate in Africa. This helps to understand whether the practice in tenure system is changing in Africa or not.

2.1 Introduction to African Traditional Land Tenure

In pre and post colonization of Africa and before the creation of the current nation states, land was predominantly controlled by traditional procedures and regulations on its use, accessibility and transferability. These systems were commonly known as "tribal, traditional or customary land tenure" (Kalabamu, 2000:305). The systems were based on social values in which the rules of procedures were passed on the next generation by verbal communication within a society, community, tribe or lineage (Ibid).

Irrelevant aspects of the customary land tenure were disposed of and the relevant ones continued due to the dynamics in the new-social conditions, geo-politics and climate (Ibid). Social settings were dynamic rather than rigid, even if the key aspects were retained. African land tenure is parallel to the modern system of land holding where one has to have documents-the title deed- to verify the ownership of the land. Communal land rights do not exclude other people within the community from utilizing the land as long as the land was available (Kalabamu: 305-306; Place, 2009:1327; Platteau, 1996:31).

In slight contrast, "African tenures (the plural indicates different understandings of human attachments to land are neither communalistic nor individualistic in essence. Overlapping and interlocking rights in land are part of whatever a people deem their social fabric, whether woven around kinship, bureaucratic hierarchy, age grading, or other principles)". Land in traditional African societies was valuable for different reasons; for instance grazing, firewood collection, farming, sacred entity like burial and remembrance of the dead and for preservation for the future generation use (Shipton, 2004:349). Land in Africa was a precious treasure that should be strictly guarded. It was supposed to be apportioned on egalitarian basis. Land was not supposed to be sold. Everyone was apportioned land, even if there were differences in age and gender accessibility. Women worked on land allocated to their husbands while male youths would get land on reaching adult and mature age. No one was supposed to be deprived off land because someone had a special interest in it as it is today with modern land tenure system (Ibid: 350).

Land allocation was supervised by chiefs based on clan, lineage tribe or household. Most societies were patriarchal and land mostly devolved from father to son. Women were marginalized. Even in matrilineal families, women were in most cases deprived of their rights to utilize land. In patrilineal system, farm land commonly devolved from mother in law to daughter in law. In matrilineal areas, rights of

allocation commonly passed from mother's brother to sister's son. Communal land rights do not exclude other people within the community from utilizing the land as long as the land was available (Platteau, 1996:31; Shipton, 1994: 353).

Land showed and was a source of political power. Traditional rulers demanded for tributes from the weak kingdoms; taxes on land were charged in different local societies. The kings would reward their strong warriors and chiefs with land after winning the war or making significant accomplishments for the kingdom. The rise in the local population increased land disputes while other disputes were witnessed in large families. The disputes were settled through the local courts. Land disputes also arose between different clans and tribes. These disputes were also settled in the local courts by chiefs and clan leaders. Land was a source of identity to these societies (Shipton, 1994:352-353; Place, 2009:1329).

The term customary or communal law was the fabrication of colonial and African leaders on African land that was jointly owned by the community. Under colonial rule, colonial leaders saw that many people had claims of ownership and authority over land and they came out with the name "communal tenure" which was in-cooperated into customary (local) law. Communal tenure and customary law were shaped to serve the interest of the state, private European and elite African leaders (Pauline, 2009:1317).

European colonialists especially the British introduced individualization of property rights placing it above communal land tenure. They claimed that private property rights would provide incentive for more efficient agricultural production. This idea was based on the English long premise of enclosure that, "one sheep in an enclosure is worth than two in a common, and overstocking of the common was due to the lamentable fact that which is everyman's is no man's" (Pauline, 2009:1317). Land individualization was thought to increase quality and protection of land and its products. This was based on a universal understanding that in communal land ownership, individuals did not have rights because the group's interest overrode individuals' rights. Individuals felt insecure and were de-motivated to invest, undermining production rise, efficient and agricultural growth and the general progress of the society. Individualization of land use was seen as the beginning of the move towards commercialization of agriculture (Ibid: 1317-1318). This brought tensions between communal leaders and users versus European private property idea (Place, 2009:1327).

According to Wehrman (2008:76), land began to be considered as a market good in Africa during colonial rule but it has remained a common property in many parts of Africa. Colonialists introduced foreign institutional understanding of land ownership based on two concepts; individualism and state owned property. Ever since colonialism set in Africa, the two systems of land ownership exist that is, communal system, individualization and state ownership. The formal new system of documentation has taken root and is dominant in the inner cities and towns. Peri-urban areas harbor both systems and the rural areas are predominantly controlled by customary criteria.

In conclusion, the current land tenure systems in Africa are legally pluralistic in nature. Different tenures exist side by side with one another based on "statutory, customary, religious, neo customary (resale based on formal market laws), extra-legal (neither statutory nor customary) and criminal land tenure systems (when a non-legitimated person is dealing with somebody's else property, for example, the state, private or common)". With respect to countries, formal laws only cater for the land owned by the state or a mixture of long term leases or individual (private) property. Only a couple of countries give formal provisions for the common land ownership (Wehrman, 2008:79).

2.2 The General Debate of Land Reforms in Africa.

African most discussed tenure policy is "land registration and titling" as a means of providing land security to encourage agricultural investment. Many countries expressed their interests through the Poverty Reduction Strategy Papers (PRSP) to invest in registration and titling programs for the poor and the vulnerable. Many African countries paid keen interest on the debate about agriculture as a means of eradicating poverty through more agricultural development and productivity and are therefore at different phases of rechecking the policies governing their land use. Many countries came out with PRSPs of which land use was inclusive. Solving land tenure issues in Africa is a challenging task since there existed from time immemorial the different understanding of land tenure-(the customary or traditional system of land ownership) from the understanding of modern private land tenure system (Place, 2009:1326 & 1333). Place stresses that issues of significance in land reforms differ with countries and localities. The need to make clarity in different land issues and how they could positively affect different land reforms is important. There is need for flexibility in the formulation of land policies in different places especially the ones that recognize the rights of the disadvantaged, the marginalized and the poor people. Land security does not increase investment per se but it is a motivation towards it.

Basing on UN Millennium project and FAOs' reports, 2005, most countries' agricultural land policies recognize that women were insecure in terms of land ownership and, included in black and white the need to give women rights over land ownership. It is believed that if women were given the right to own land, they would use it to access credit which in turn would increase their agricultural and non-agricultural productivity (Place, 2009:1331-1334) based on DFID, 2007 and Deininger, 2003).

The land reform advocated for in Africa in 1960, and 1980s was based on the premise that customary land tenure did not provide adequate security and people were not motivated to use land more productively and invest in it. Security was thought to be catered for if proper documentary of individual land rights was put in place. This idea was based on the colonial and European modernization policy. The World Bank's policy prescriptions also advocated for private land titling. Nevertheless the 1960s and 80s policies did not work out as expected. There was no increase in productivity and investment. Land was expropriated by external investors and the local land holders and farmers whom the reform was supposed to cater for were displaced. Conflicts also arose due to neglect of the social and overlapping rights to use land within a community and individual land titling. The policies were in many countries' policy documents until 1990s when they started revising their policy papers (Pauline, 2009: 1318).

The debate over land tenure in Africa shifted from just the discussion of land security to giving priority to poverty alleviations in development policies. This idea was influenced by de Soto's book, "The Mystery of Capital" that customary tenure does not provide

adequate incentives for investment while, “capitalism can work to the advantage of the poor by formalizing their rights to land and other property such as houses, converting what is dead capital to generative capital”. Land individualization and market development were further emphasized as it was discovered that, even under communal land tenure with no proper documentation, people were transferring land informally which eventually arose conflict in ownership. Other writers advocated for bottom up approach of land reforms-from local and community levels to the decision making body. This implies that reforms should be flexible and negotiated with the local communities before the final version of the policy is designed (Ibid: 1319).

The proceeding section will discuss the customary land practices and the reform debate on countries under study.

3.3 Background Review for Botswana

By 2009, Botswana was ranked 124th by UNDP in all the world countries in the Human Development Index (HDI) (Country Watch, 2009). The GDP of agriculture fell from 44% in at independence in 1996 to 2% in 2008. This is attributed to the growth of other sectors like mining, tourism, manufacturing and service industry. In spite of these developments and Botswana’s arid climate, agriculture still remains the source of food production, income and employment especially in rural dwellers (International Food Policy Research Institute (IFPRI), 2011 based on WB, 2010).

Land in traditional Botswana societies was referred to as “tribal land” held by the local people under the guidance of customary law (Ng’ong’ola, 1992). According to the system of customary land tenure under the tribal control, land was passed on from one generation to the next basing on the households and lineages (Tembo & Simela, 2004:1). Customary land law in Botswana was based on the premise that all “tribesmen” had the right to hold land. The power of land allocation was vested to the chiefs and headmen in every tribe (USAID, 2003:1).

Two principles upon which the Ngwato people and the Tswanas held land confirm the above. Firstly, every tribe member had automatic right to hold land (Hitchcock, 1980:5). This was continued even after designing a new policy of land management after independence as section 8 (1) of the constitution provides for the protection from deprivation of property (Ng’ong’ola, 1997:11). Secondly, land was not supposed to be held as individual private property. It was held as community property. People were only entitled to use land but not to absolutely own it. Among the Tswana people, land was neither supposed to be rented out nor hired. Land was divided among tribal units called wards. Land was used for different reasons like building houses and farming. Some far away parts were reserved for grazing. Other zones were reserved for hunting especially for people from the Kalahari Desert (Hitchcock, 1980:5). The Maswara people had hunting as their primary source of livelihood and they claim the right to continue with it (Ng’ong’ola, 1997:2).

During colonialism, some lands known as “crown land” belonged to the colonialists, some portions were state owned and “freehold”. The local people continued with customary system (Ng’ong’ola, 1992). Land Boards were created in 1968 (with two years’ independence) to replace the traditional system of tribal administration. Actual implementation began in 1970 albeit with many challenges as discussed in chapter five, (Ibid). A new system of management that is commercial in nature, for instance, “lease ranches” was introduced. Squatters could be displaced for the sake of large scale commercialisation” (Hitchcock, 1980:4). The fact of being a tribesman remained the qualification for the right to hold land in many areas governed by land boards based on tribal system (Ibid).

Urban state land is now leased on two policy areas; “Fixed Period State Grant (FPSG) and Certificate of Rights (COR)”. FPSG is a system of lease that grants the holder a “capitalised lease” with all the rent payments made at the start rather than at an interval throughout the lease period. The state reacquires the land when the lease ends usually within the period of 99 years and the government makes a fresh lease. There is no provision for the holder to be compensated in case of any “unexhausted improvements”. The non-renewal strategy was seen to reduce the landlessness among the people of Botswana. Under COR, land is held in perpetuity and can be passed on to the heir. Under COR, land allocation is made by the land board which has a composition of local leaders and government officials. COR may be turned to FPSG when it is well surveyed and titled (USAID, 2003:2; Kalabamu, 2000:309).

The new institutions established for Botswana land governance is summarised in the table below.

Table 1 Major institutions involved in land management and administration

Levels	Institutions	Major responsibilities
National	Department of lands	Acquire, dispose and administers state land.
		Supervise and co-ordinate all land administration matters
		Allocation of Fixed Period State Grant
		Valuation and leasing of property for and on behalf of the Government
	Botswana Land Information system:	Computerised storage of all data in state land
	Department of surveys and mappings:	Mapping and cadastral surveys

	Approval of survey diagrams and plans
Department of Town and Regional Planning:	Preparing land sub-divisions and layouts on state and tribal/customary land
	Advise local authorities and land boards on land use and development control matters
Town and Country Planning Board	Receive and considers application for planning and developing land Within gazetted planning areas
Registrar of Deeds	Examination, execution and registration of interests in land and Endorsement thereof
Land Tribunal	Hearing and determining appeals from land boards and against land boards decisions
	Enforcing decisions made by land boards
Sub-national Self Help Housing Agencies (SHHA)	Administer and allocate state land under Certificate of Rights (COR)
(City, Municipal and Town Councils)	Develop and maintain inventory of COR leases
Land Boards	Replaced chiefs, sub-chiefs and headmen in the administration and Allocation of customary land rights
	Allocate and administers common law leases on customary land
	Develop and maintain inventory of customary land grants and leases
Local Village Development Committees	Identification of Community development needs
	Identification of development projects
	Formulation of self-help projects
Land Adjudication Tribunal	Arbitration of land disputes in COR areas

Source Kalabamu 2000:310

Local land governance begins at the sub-national level with the land boards down to the village development committees and the land adjudication tribunal. These were created to replace the former customary governance of tribal land and to transcend to the new system of ownership and administration based on FPSG and COR.

3.4 Background Review for Eritrea

By 2009, Eritrea was ranked 157th in terms of HDI. Eritrea's economy largely depends on agriculture employing 80% of the population. By 2007, agriculture was contributing to 24% of the GDP. Agriculture mainly depends on natural rain. The export crops include; cotton, fruits, vegetables, hides and meat. Remittances from abroad contribute 32% of the GDP (EBSCO Industries, Inc, 2012).

In pre-colonial Eritrea's societies, "every member of the village community known as *gebar* who had *tisha* (habitation) in the village had the right to a share in the village land. The share, called *gibri*, was of equal size, and bore no relation to the size of the individual family and its needs. Nowadays, an exception is made in the case of widowers and widows, who are allotted half a share only-though at one time, when land was plentiful, they too were entitled to a full share" (Tronvoll, 2000:601 basing on Nadel's study of 1946). The accessibility of land in Eritrea the usufruct right (village land) was by virtue of being a resident in a certain village (Ibid: 597).

If a male adult in a particular community with “habitation rights (*tisha*)” got married and started an independent home, he was allocated a portion of land called “*gibri*”. Nobody was supposed to be in possession of more than one *gibr*. *Gibri* was supposed to be of the same dimension for all families irrespective of the number of family members, except for a single household which received half a share called “*firki gibri*”. Much as the households were entitled to the enjoyment of “usufruct rights” of the *gibri*, it was not permanent but temporal, that is, land share to be held for seven years after which land was supposed to be redistributed by village authority with new allotments. The seven year period was referred to as “Melti-land rotation”. The usufruct right was permanent but the portion of land owned would be altered after every seven years. This was to cater for the population increase and other new members in the community (Tronvol, 2000:601 & 605; Rock, 2000:221-223).

Rights to land belonged to the whole family with its members. In patrilineal societies like Eritrean Highland, land rights followed the male line and the male lineage representatives were the one supposed to claim the rights. Nevertheless, the implication for this was not women disempowerment to land. In families headed by women, a woman held the position of a “*gebar*” and had the right of land accessibility as any other male. If she had dependants who were children, she would receive the full *gibri*. If she was alone, she would receive half a *gibri* (Ibid: 604).

Land matters were given high priority by the Eritrea’s decision makers after independence. Fast settlement of matters concerning land was viewed to be part and parcel of “government overall policies for post war recovery and reconstruction”. This led to the 1994 Eritrean land proclamation which was aimed at drastically changing the land tenure system in Eritrea (Rock, 2000:221). From independence in 1991, the implementation of Eritrean land reforms was mainly carried out in rural areas (Joireman, 1996:296).

The Eritrea’s land law nullified all customary system of land tenure in Eritrea and provided for land to be exclusively owned by the state. The new land legislation gives all Eritreans above 18 the new usufruct right which is not based on religious or tribal affiliations or whether you are a man or a woman. The local peasants are highly considered in the new usufruct right in order to encourage a mobile work force (Tronvoll, 2000:610). The government of Eritrea views the old system that does not allow other people from other areas of the country to access land in another area of the country as a system that causes fragmentation of the country and does not build in the spirit of unity and togetherness for all Eritreans- “Eritreanness” (Ibid:611). The new arrangement does not include individuals and organisations interested in commercial investments. These latter groups are supposed to be given land depending on the amount of capital they want to put in for investment (Tronvol, 2000:610).

Reasons for the immediate proclamation of the land Act after the Eritrean independence were as followed; The coming back of 500,000 refugees from Sudan, the former soldiers to be demobilised, all of whom needed resettlement in agricultural land in village across the country and be granted rights to own land; the need to create land boundaries and provide security rights for commercial farmers and investors who were the centre of government attraction; the need to clarify the land rights that was supposed to be integrated into semi urban areas and yet all the villages were making claim to them; the need to provide a source of livelihood for the great minority of the rural people without land and who cannot find any other jobs (Rock, 2000:223).

“A further imperative derives from the government overall policies for food and agricultural production. The government aims at achieving food security, but believes food self-sufficiency is unrealistic in the short term. It is, therefore, seeking to diversify agricultural and livestock production into more specialist products with export potential, as well as intensifying production through widespread, small scale irrigation and other improvements in land use. These considerations have led to a concern to offer greater security of tenure as a means of encouraging people to make long term improvements and investments in production” (Rock, 2000:224).

The principles and implications of Eritrean land proclamation were as follow; *“The Land Proclamation (Endnote 6) (Proclamation No. 58/1994) is essentially a declaration of basic principles and guidelines for categories of land interests. In essence, it vests ownership of all land in the state, and provides for the issuance of usufruct rights or leaseholds over land to individuals (Cliffe & Shivji, 1994; Lindsay, 1997). The Proclamation recognises three categories of land rights or interest (Rock, 2000: 224).*

Usufruct: relating to usufructory rights to arable land in rural areas to be governed by written statutory law; state leasehold: land granted by the state on a concession or contractual basis to be governed by the terms of individuals contracts or by private law and customary land tenure: which will continue to govern grazing lands, wood lands and water land” (Ibid). The following primary land rights were also established. “All land is owned by the state (Article 3(1); life time usufruct to individuals with no right of sale or inheritance. (Article 24 (1)); every Eritrean over the age of 18 who wants to live by farming is entitled to land, irrespective of race, religion, gender or nationality (Article 24 (1), 4 (4), and 15 (1); equality of land distribution (Article 11); acquisition of land by the state for public or private purposes (Article 50) – but only upon payment of adequate compensation (Article 51). Conclusively, the proclamation is a replacement and de-recognition of all other traditional system that had been in existence before the proclamation” (Ibid).

3.5 Background Review for Zimbabwe

Zimbabwe is a landlocked country with a population of 12.5 million people by 2009. Its economy depends on mineral resources and agriculture. Its agriculture depends on periodic rainfall, faced with low prices of agricultural products, high inflation and poor monetary management. The Fast Track Land Reform Programme (FTLRP) aimed at assisting the poor blacks, instead led to agricultural production fall and a deteriorating social condition. The government of national unity established in 2009 tried with little success to come up with the economic recovery program. “The overall fiscal deficit fell sharply from 32% of GDP in 2008 to about 3.3% Of GDP in 2009, reflecting improved revenue performance and increased grants (Country Watch, 2012). Zimbabwe was ranked 151st in terms of HDI by 2009 (Country Watch, 2009).

Land in Zimbabwe was governed on a communal basis with the right to graze on a communal land. Every family owned plots of land for agricultural production and those plots would be inherited by the children in that order. The authority over the allocation of land was under the local chiefs known as customary chiefs for instance in Svosve, Mashonaland in the North East. By 2005, each village was still organised into twenty to twenty five households known as ‘kraals’ and land matters were handled by the ‘kraalhead’ known as ‘sabukhu’ who was supposed to report to the chief of Svosve. Some people were cattle keepers while the majority practised subsistence agriculture (Chimhowa & Woodhouse 2008:286 & 290,291); Pasura (2010:444). Women had the right to own land in the pre-colonial Zimbabwe society (Pasura, 2010:444).

Land reform was the major objective for the struggle for freedom in Zimbabwe, (Shaw, 2003:79-80). At independence, 70% of the total land in Zimbabwe’s land was strictly state property and 24% were for the large scale commercial farmers who were predominantly whites. The remaining portions were for the general larger population (Juana, 2010:296). Consequently, land reforms were designed in two simultaneous forms after independence, ‘A1’ and ‘A2’. A1 comprised of the plots with ‘permits’ given to families with both the rights to grazing but not to be sold. A2 on the other hand were given for commercial purposes with the lease of up to 99 years. A2 land could be used as collateral to acquire loan and could be sold as market good (Chimhowa & Woodhouse, 2010:286). Agricultural land was divided into two: - ‘land market’ which was 25% of all land allocated for agriculture and could also be used as collateral to acquire credits; and ‘communal land’ in which sales of land were not allowed was 66%, (Ibid: 287).

The reforms were aimed at; ‘Alleviating population pressure in the communal areas; Extending and improving the base of productive agriculture in the peasant farming sector’; Improving the standard of living of the largest and poorest sector of the population; Improving the problems of and rehabilitating those adversely affected by the war; Providing for the landless and the destitute; Bringing into full production the under-utilized land’; and Expanding and improving the infrastructure and services that were needed to promote the wellbeing of people and economic production’ (Juana, 2010:295). Land reforms were implemented in two phases (phase 1 and phase 2). ‘Land Reform and Resettlement Program I (LRRP I) phase I ran from 1980 to 1997 and resulted in only very modest transfers. Land Reform and Resettlement Program phase II (LRRP II) phase II started in 1998 and took a more radical approach to land occupation. Phase II is also known as Fast Track Land Reform Programme (FTLR)’ (Pasura, 2010: 443). It was more distributional in nature. Its active implementation started in 2000, (Moyo, 2011:493). However, other writers claim that the reforms were in three phases. The first phase started in 1980 and ended in 1985. This comprised mainly of ‘market sales of land led by state land acquisition and redistribution’. A lot of lands were also occupied illegally and the land transfers did not meet the official target (Ibid). The second phase began from 1985 through 1999. This was the time the Economic Structural Adjustment Programme (ESAP) empowered the state to expropriate some land and also bought some through market mechanisms. The third phase was the Fast Track Land Reform Programme (FTLRP) which took a radical dimension and expropriated a lot of land including illegal occupants (Moyo, (2011:495).

A number of land policies were enacted and implemented in Zimbabwe to achieve its land reform programs. These ‘legislated acts ranged from market based government purchase and redistribution to compulsory acquisition of commercial farms without compensation’. There seemed to be a loophole in the implementation of these policies as the GDP contribution of agriculture in Zimbabwe’s economy decreased by 6% in 2000 and 8% in 2001 culminating into many people losing their jobs. This raised the questionability of land reforms in Zimbabwe, (Juana, 2010:295). Details and analysis of challenges are discussed in chapter 5.

The above historic review helps in understanding the debate on land reforms in Africa by exposing the land tenure systems that existed in the African traditional and pre-colonial societies (communal ownership) and, the debate which followed that land could be used more productively by providing security through private land titling which was thought to act as incentive for agricultural investment. The analysis chapter will discuss the actual reforms that took place. This will further help in understanding the viability of private land titling in Sub-Saharan Africa or whether customary ownership is still more favourable.

CHAPTER 3: METHODOLOGICAL FRAMEWORK

3.1 Methodological and analytical consideration

The study is mainly narrative and interpretative in nature. It is a comparative study where land policy reforms’ implementation challenges in three countries under case study are juxtaposed to give a wider and clearer picture of how the challenges come about and how to deal with them. For the purpose of methodological and analytical understanding, a comparative analytical technique used in the development of a grounded theory is used (Alvesson and Skölberg, 2007:28). This is a method used in the development of a grounded theory based on the theory of ‘creativity’ which underscores the significance of seeing similarities in things that are different, but it is applicable for this particular study. In grounded theory as opposed to the old and traditional method of comparison states that all groups can definitely be compared irrespective of whether they are too close or dissimilar from each other. The similarities and differences that exist between and among all things in the world can principally be found. Despite the fact that different things might be too different from each other or similar to one another, their comparison in essence depends on the purpose of the study not the polarity that exists between them, (Ibid). This argument is in close proximity with the study undertaken in this research, even if there is no building of a theory in this study. Much as the three countries of Botswana, Zimbabwe and Eritrea differ in certain aspects like level of development, geographic location, different approaches to land reforms, all of them underwent land reforms. It is the challenges encountered in the implementation of those land reform policies that are compared and possible solutions generated.

Comparing different groups and sub-groups in the development of a grounded theory involves the creation of categories with their properties as the different cases are being compared. It also involves coding of the data which can be presented where necessary in diagrams, tables, graphs and other pictures, (Ibid). Much as this study is not developing any grounded theory, it took all these data analysis into consideration under instances which they are necessary to be applied. The data are coded into different challenges and solutions. The results

of the study where applicable are presented in a tabular form. The results are also assessed according to ETLR as it is the theory chosen for analysis of the findings. This gives some conclusive remarks on the instances where ETLR is applicable and where there are loopholes and how it can be improved.

3.2 Methods of Data Collection

Since it is a desk study/library search, I relied on the available documents, texts, articles, newspapers, government reports, organizational reports both electronic and printed as tools of collecting data for this research, (Alvesson and Skölberg, 2007: 21; Hammersley and Atkinson, 2007:121). These data collection tools are triangulated and applied to different cases under study. The analytical framework constructed from the Economic Theory of Land Rights (ETLR) helped in guiding the collection and analysis of data.

3.3 Data Analysis Techniques

With intensive reading of different data sources, I assigned the data to the different categories by coding. This helped in the generation of different themes in the challenges of land reforms and their suggested solutions. This is further analyzed in relation to ETLR as a theoretical guide for this study, (Alvesson and Skolberg, 2007:22-23). The technique is applied to all the case studies to determine the challenges, and the way forward for better land reform policy implementation strategies. Where applicable, available statistics are used to supplement the analysis especially to elucidate the challenges of different policies, for instance, decrease in yields or decline in Growth domestic Product (GDP). Tables are also employed to compare different materials where necessary, (Ibid: 28).

The above analysis is obviously qualitative in nature. It helped me to analyze complex issues surrounding challenges in the implementation of land reforms policies, even if they do not contain numerical values. This is a case study based on qualitative research and it is not limited to quantifiable data. Cases are compared, critically assessed and generalization made from different readings and findings (George and Bennet, 2005:45; Hammersley and Atkinson, 2007:160-172).

I further analyzed the results (challenges and solutions) using ETLR in order to understand whether the reforms take the perspective of ETLR or not. Social capital, power, land tenure, land ownership, property rights are related concepts which helped me to analyze the result based on ETLR. This finally leads to the conclusion of the thesis based on the finding and the analysis of the result.

3.4 Criteria for Choosing the Countries

I chose Eritrea and Zimbabwe because of the high level of land struggle in them which strengthened and was among the main objectives for independence struggle for each of the countries. On the other hand, Botswana is portrayed as a peaceful country and among the fast growing countries in Africa and exemplary in its land reform attempts. A mixture of these violent and peaceful countries on land issues yet all face land reform challenges gave a wider understanding of the land reform challenges and how to resolve them.

Botswana

Has vast area of land unoccupied and not densely populated because of its dryness. It is mostly occupied by Kalahari Desert and inhabited by Bushmen who are mostly hunters, food gatherers and pastoralists who occupy much of the country. This area does not support agricultural growth (BBC, 2012). It is therefore relevant to study this phenomenon of land reform challenges in a country like Botswana with such a poor state of land.

Kalahari Desert occupies more than two third of Botswana land which favors sparse vegetation, but with insufficient surface water and rainfall. Botswana is known to be a peaceful, stable and fast growing among African countries and exemplary in its land reforms attempts (Kalabamu, 2000:308). Botswana's population growth rate is at 1.656% per annum (Index mundi, 2012). Lessons could be learned from its success especially with the issue of land reforms. This will be a representation of stable countries and countries with pastoralist challenges and desert areas.

Eritrea

Eritrea is one of the newly independent small countries in sub-Saharan Africa which was ravaged by war for more than thirty years. War in Eritrea started in the early 1960s and ended in 1991 with adverse effects over land and the general effects on the economy, politics and infrastructure. At independence, Eritrea had to begin from the scratch politically and economically including the land reforms (Todaro and Smith, 2009:42; Connell, 1995; Tesfai, 2003; Tronool, 2000: 595). According to BBC News of January (2012), 'Eritrea faces a gigantic tasks of rebuilding its infrastructure and developing its economy after more than 30 years of fighting'. More so, 80% of Eritrea's population is either "farming or herding" (Trading Economics, 2012). The population is growing at 2.472% per annum, (Index mundi, 2012). It is therefore not irrelevant to study how a country which has been in war for more than 3 decades is using land as part of economic reconstruction and the challenges that follow the land reform. This may represent the African countries that have been in war of liberations, both colonial and civil wars.

Zimbabwe

Zimbabwe is a country ravaged by political and economic crisis. Much of its land (over 90%) was owned by the state and the colonialists and therefore land was the main objective of independent struggle. Redistribution of land to the land less, veterans of war and small scale farmers and the need for more productive agriculture were the main issues of the reforms in the aftermath of colonialism (Chimbowa and Woodhouse, 2008; Juana, 2010; Mamdani, 2008:3). This makes it a relevant case to study and it is a representative of

African countries in that all countries in Africa (except Ethiopia and Liberia) were once under colonial rule and colonialists had a control over a reasonable portion of land for their commercial agriculture.

Zimbabwe was integrated in the southern Africa economy through Southern African Development Cooperation (Hill, 1983). It mainly exports agricultural products while beef is mainly exported to European Union and South Africa (Gambiza and Nyama, (2006:5). Zimbabwe's population growth rate is at 4.31% per year, (Index mundi, 2012). It is further relevant to study the challenges of Zimbabwe's land reform policies as it transforms its agricultural sector to get improved agricultural products.

3.5 Reliability of the Sources

The sources used in this thesis are from the reports of credible researchers who have been writing about the general land tenure debates in Africa. They have done both desk studies and have been in the field for more than a decade or for decades for instance Place (2009), Pauline (2009) and Manji (2001). Some sources are from the BBC country profile that always gives a country's chronological different events and development; country watch and trading provide a large and comprehensive amount of data on countries global economy like GDP, economic growth, per capita etc. Index mundi also provides the detailed statistics, charts and maps from different sources. Business Source Premier EBSCO also used here provides scholarly business journals in the areas of management, economics, finance, accountings, international business etc. Other sources on the specific countries are based on the researchers who have also been in the fields and done researchers in those countries. Other sources were from the government websites like the ministry of information, publicity in the respective countries. The sources on property rights, social capital are for the authors who are experts in their fields like Barzel (2007), Beck and Hussey (1989) Obeng-Odong (2011), Coleman (1988) among others. I also used some publications like Ellwood and Newberry (2007), Abbott et al (2012), Taylor (1997) on the trusted sites of the international organizations like WB, IMF, and USAID and from DFID. I also downloaded some documents from the home page of the countries under study like the ministry of information, publicity, and population department. Furthermore I downloaded most documents from the university (library) search engines. These included; Libhab, one search and a few from Goggle Scholar. The publications included jstor, sage, wiley, online library, science direct among others. However, some documents were not available for review. The available ones were maximally utilized.

3.6 Theoretical Framework

This section contains the theoretical framework used to guide this research. It starts by highlighting social capital which is the main contending idea to ETLR. It then goes on to discuss the theoretical framework based on ETLR and later explains some key concepts and terms used in the thesis. Lastly, an analytical framework is derived from the theory and concepts.

3.6.1 Theories of Land Reforms

Social capital emphasizes trust, durable network, common language and understanding in an institution, organization or a group of people with mutual acquaintance. The relationship is maintained due to the benefits gained from the network or shared wealth. It involves possession and retention of a resource while there are other external actors interested in the resource resulting into conflict. Social capital in land ownership is believed to benefit the land users by uniting together, sharing information, respecting and defending one another against private commercial land users whom they perceive to have interest in grabbing their land. Social capital supports communal land use other than privatization, and it is the contending idea against ETLR which is the theoretical framework for this thesis (Obeng-Odoom, 2011:161; Portes, 1998:46 & 49; Lesser, 2000:4, 6 & 9; Coleman, 1988, 98 & 105; Tursvik, 2000; and Burt (2005). These authors base on Bourdieu who first used the concept of social capital in 1980 & 1985.

In this article, I chose to use ETLR (the liberal theory of land reforms) where market mechanism is allowed to take the lead. Liberalism is in the current world debate and it is the ideology being advocated for by the international organizations like International Monetary Fund (IMF) and World Bank (WB) which are among the main financial donors to Sub-Saharan Africa. ETLR relates to the contradiction between economic and social points of views of land reforms as already discussed in the introduction. It supports the economic private view. It is therefore relevant to assess land reform challenges based on ETLR to observe its relevance in Sub-Saharan Africa as it is advocated for by these major international organizations. ETLR postulates that population will grow and land becomes in short supply and more valuable. People will begin struggling for land, demand for land security for their private usage while collectivization is assumed not to hold any more. ETLR takes into consideration the issue of efficiency and the government is supposed to automatically respond as the condition calls for (Janvry and Sadoulet, 2001:8, 17 and 21; Platteau, 1996; Krier, 2009; Todaro and Smith, 2009; WDR, 2008).

ETLR does not exist without criticisms (Platteau, 1996:39-50). Technological development is still lacking in Africa for more efficient use of land. The available technology is so expensive that many poor people cannot afford. The poor prefer to remain in communal land arrangement, for instance, grazing. Land titling mostly benefits the educated, elites, politicians, government officials. This makes the poor to resist the process of reform. Other criticisms include strong attachment to land by Africans that obstruct the smooth operation of land market, incomplete cadastral surveys, and poor record keeping of changes in land ownership. In spite of these challenges, I chose ETLR- the most relevant for this study- to critically assess land

reform challenges in Sub-Saharan Africa and come out with some solutions to the challenges. The assessment also helps to analyze whether the reforms follow ETLR postulation or social capital is more favorable.

3.6.2 Theoretical Framework of the Thesis

I used Economic Theory of Land Rights (ETLR), a derivative of liberal theory as the guiding lens to understand the challenges encountered in the implementation of land policy reforms in Sub-Saharan Africa. A critical assessment is made on ETLR in light of challenges of land reforms in Sub-Saharan Africa and helps come out with some solutions to the challenges. To find the appropriate type of land reform for sub-Saharan Africa, ETLR holds that the terms and conditions of land holding in this region needs to be re-examined. Two strands are put forward to help understand these terms and conditions. The first stance is that the defectiveness in African land tenure is based on the practice of traditional communal land farming system, yet with the intent of increasing the production with this kind of practice. If this line of argument is followed, a radical measure to adjust the traditional customary system should be taken (Platteau, 1996:30). The second stance is based on the World Bank report of 1989 which is in contrast with the first rigid interpretation above. This line of thought instead “proposes a dynamic picture in which indigenous land rights, under the impulse of market forces, are capable of significant autonomous evolution in a beneficial (efficiency enhancing) direction”. Despite the fact that independent market forces is being suggested in this strand, the government still has to play the main role to shape the market independence through formalization of the looming property rights based on private holdings (Platteau, 1996:30).

ETLR main focus is based on the second line of thought (privatisation) which is derived from the liberal and neo liberal theory of economic reforms advocated for by the IMF, World Bank, OECD and other international organizations. This entails the structural adjustment programs of which the sub contents include among others; privatisation, liberalization of trade, devaluation of currency and other micro and macro level policies of reforms extended to different states’ sectors and institutions. These open economy policies began in the 1970s and 1980s following the oil shock and high indebtedness of the developing countries (Ellwood and Newberry, 2007; Todaro and Smith 2009; Platteau 1996; Abott et al, 2010; Taylor 1997; NAI, 2007).

“A central tenet of ETLR is that under the joint impact of population pressure and market integration, land rights spontaneously evolve towards rising individualization and that this evolution eventually leads right holders to press for the creation of duly formalized- a demand to which the state will have an incentive to respond” (Platteau, 1996:29; Krier, 2009 deriving their thoughts from Desmetz work on property rights theory published over four decades ago).

The point of departure of ETLR is the recognition of the meaning of communal land tenure with the challenge embedded in its definition. This is based on the works of Alchian and Demsetz, 1973; Demsetz, 1967; Coase, 1960; Johnson, 1972; Posner, 1977. Communal land tenure is defined as the type of land holding that gives everyone the right to use the land without depriving anyone from its access as long as land is available. The land belongs to no one and no one can be excluded from using it neither anyone can transfer it to the next user. It belongs to the community. It is sensible to keep this form of land tenure system as long as the gain expected from the formal legalization of private property rights is smaller compared to the cost of instituting and enforcing it (Platteau, 1996:31).

However, when there is a struggle for the use of land due to the rise in population, the traditional customary land tenure grows into disequilibrium (becomes unstable) as people begin to struggle to acquire land, misuse and overuse the land and deteriorate its fertility (harming the land) to secure more land for themselves. In this situation, nobody is concerned with the preservation and social cohesion on its use has disappeared as people are struggling to secure more and more land for themselves. It is argued that this situation comes about as a result of the absence of private property land rights to act as a guide on the use of land. At this stage, the benefits accrued from the formal property rights is more than the cost of establishing it and it is relevant and easier to introduce formal private property rights (to guide land use) as land become scarce, more valuable and its competition escalates (Ibid:31 and Krier, 2009). The “most difficult resistant aspect of traditional land tenure system appears to be the inalienability of land by individuals through commercial sales, rentals or credit related pledging” (Platteau 1996: 33).

ETLR is based on the assumption that when land becomes more scarce and more valuable, the owners of the land begin to feel insecure about their customary right and the emerging controversy over the land ownership; transferability to the next inheritor; and increase of land borders. The land owners are expected to stress the need for more individualization of the land rights as the population growth exert pressure in their security to continue owning the land communally; as the right in the resumption of land cultivation after land has been left to fallow is threatened; as the right to transfer the plot to the successor or to rent it to a tenant is threatened; as the right to prohibit “holders of groups or secondary claims” (for instance the pastoralists who claim to have the right to graze in the land) from exercising those traditional privileges is not guaranteed; and the right to dispose freely the land they own. This situation is predicted to cause clashes and quarrels which are difficult to settle, culminating into “litigation problem” which could be resolved through privatisation (Ibid.34).

As the value for land increases (“appreciation of land price”), the benefits of obtaining land rights is expected to be higher than the “transaction cost” of conflicts. Moreover, the cost of litigation causes riot, utilization inefficiency as people fear to rent out their land and underutilize and sometimes use it haphazardly, and ultimately the loss in the rural economy (Platteau, 1996:36 and Krier, 2009). The government is automatically expected to respond to the underutilization and wastage of land and the social conflict which has risen. “Sooner or later such reforms will necessarily include a formal registration of private land rights and land titling procedures which will require the full completion of cadastral survey”. Following this official verdict, all fracas will cease resulting in resumption of harmony in the community and all mutiny in political situation will come to an end and stability restored (Platteau, 1996:36). “Registration is best viewed as the policy to assist in the evolution of land tenure institutions underway”. The task of the government is simplified to giving a hand to a revolution that is already ongoing, “that is, facilitating or hastening a transition caused by fundamental economic forces” (Platteau, 1996:38) based on the words of Bruce, 1986.

The benefits that accrue from private land reforms are: efficient and optimal use of land as people are secure; political stability; access to rural credit as titles can be used as collateral; and proper management of land because of guaranteed security (Platteau, 1996:36). I assessed the land reform challenges in Sub-Saharan Africa using ETLR and came out with some suggested solutions. Conclusions are also made from the assessment as to whether the reforms were approached as ETLR put it or it took the social capital approach.

3.6.3 Key Concepts and Terms Used in the Thesis

The concepts below relate to and are used in the discussion of land reforms in this thesis.

Land Reforms

Land reforms can be understood as “the upgrading of land rights or the introduction of new system of land holdings, rights and/or ownership” (Kalabamu, 2000:307, based on the works of Bruce, 1998). Land reforms aim is not redistribution per se, but also the rights in holding those lands. Land reforms alter the rule of governance and regulations on how to use land, own land, transferability, acquisition, control and management (Kalabamu, 2000:307; Shipton, 1994:364). In modern land reform, “land rights are defined by law and supported by documentary evidence- the title deed- unlike under customary law where active occupation or usage is the main evidence of ownership, entitlement or existing interest” (Kalabamu:306).

Land Policies

Land policy refers to “a collection of rules which govern land use and ownership” (Hammond, 2009:344). Land policies legalize the mechanisms of how land markets should function, provide terms and conditions which sellers, buyers and intermediaries should follow in land dealings. There is no universally agreed approach of applying land policies because of different situations in different countries, implying that land policies work differently in different countries (Hammond, 2009:345). Three types of land policies are commonly adopted; regulative, distributive and redistributive land policies (Hammond, 2009:348-349)

In regulative land policy, the legal provisions and requirements are forced on property market dealers on how property market dealings should be conducted and run (Ibid. 348). Distributive land policies are “those that empower the state to acquire private land subject to the payment of fair compensation regardless of the purpose for which lands were acquired and how they are eventually allocated and used” (Ibid:349). Redistributive policies (land redistribution) “empower governments to acquire private lands without the payment of fair compensation regardless of the purposes of acquisition and the eventual uses to which they are put”, (Ibid:349). According to Kalabamu (2000:307 citing Carey Miller, 1998), land redistribution apportions land to the under privileged in the society. Land is given to individuals unlike in restitution where land is given back to the whole deprived community. Some communities were traditionally deprived of the right of owning land and were rendered landless (Ibid).

Land Tenure

Land tenure may mean a system of land holdings (Shipton, 1994:349), claims made over land and what it produces (Pauline, 2009:1317). Unlike in customary procedure where active participation or usage is the main evidence of owning the land, entitlement or existing interest, modern land tenure systems are defined by law and supported by document called “the title deed” (Kalabamu, 2000:306).

Legalistically, land tenure refers to “the jurisdiction of rather regulatory frame (statutory, customary or extra-legal- neither based on statutory or customary law- P.79) that define which property regime exists in that given system and who is holding which property right in relation to land” (Wehrman, 2008:78). Property regime can be individually owned, state owned, or socially (community owned) land, (Ibid).

Tenure security refers to a “bundle of land rights held with rights being described along several dimensions (for example, type and breadth, duration, and certainty of exercise)”. Tenure insecurity comes about when one lacks the above rights; when one is not sure of the length of time he/she is going to use the land; retention of the right to use it; conflicts that arise over land rights and use and the belief that land will be grabbed from an individual or the right deprived (Place, 2009:1327).

Land Ownership

In Roman law, land ownership is stated as “a bundle of rights to own, control, use, abuse or dispose of land”. This definition is related to the feudalistic system of land tenure where land holdings are restricted, absolute and permanent (Kalabamu, 2000:306, based on

the work of Shivji, 1998. In market capitalism, it is put as “ownership of certain interests (bundle of rights) in land which are defined, secured, guaranteed and, most important of all can be transferred (that is, sold) on the market at will of the owner” (Ibid: 306).

The definition based on market capitalism is in close proximity to African indigenous understanding of land ownership. Much as African indigenous concept of land ownership entails having a bundle of rights, security, guarantee, it does not warrant the owner to sell it at will but should be passed to the successor based on lineage. One is not allowed to sell land under the traditional system of ownership unless approved by the relatives or the community (Ibid: 306; Shipton, 1994:349). This highlights the controversy between social capital and private ownership discussed in this thesis.

Property rights

Property rights are “rights which a person has with respect to a specific thing. They may be moral rather than legal rights. They may include right of full ownership or may also include more limited right to things (for example, land) like the leasehold” (Gibbard, 1976:77). The right of ownership whether privately or state owned include; right to utilize, make transfers, sell, rent, dispose. The government always enforces property rights by law as competition and the issue of efficient utilisation arises (Furubotn and Pejovich 1972:140).

Economically, property rights are rights “an individual has over a commodity (or an asset) to be the individual ability, in expected terms, to consume the good (or the service of an asset) or to consume it directly through exchange” (Barzel, 1997:3 basing on Alchain 1965 & 1987). Economic property rights are what people are looking for while the legal rights are mechanisms of attaining these rights (Ibid). People and the economic rights they possess are not permanent, they are always changing. An individual therefore has to do all he can to protect his/her rights from other actors who are interested in those assets like land. In most cases, the protection is given by nongovernmental and government agencies with the help of law enforcers like the police and the courts (Barzel, 1997:4).

In relation to this study, it is introduced that there is strife between social and private land ownership. The government intends to introduce land policies on how to govern land use. The communal land owners are suspicious that their rights to own land could be deprived, even if land is what their livelihood depends on. This contradiction is in line with (Schlager and Ostrom, 1992:249) definition of common property resource as the resource that the government possesses or no one is in possession of or, “property owned and defended by the community of resource users”. The community of customary land users are defending themselves to use land against the pending modern private land policy to be implemented by the government posing a challenge in policy implementation. Private property implies an individual right to the use resources are restricted to that person and he/she can willingly transfer it to another user whenever he/she wishes, (Alessi, 1983:66). Private and communal land ownerships are the two main controversial arguments in this thesis.

Power

The concept of power also helps to analyze the different interests and struggle in the formulation of land reform policies. Power was explained basing on the works of Hill (2005). Power is the ability of actor ‘A’ to influence or get ‘B’ into doing what B would not otherwise have done without the influence or assertion of A (Hill, 2005:30). Power alludes to how personalities, groups, organizations and other “human aggregates” relate to one another. Actors whose interests take precedence over the interests of others are the ones who hold power in a political arrangement. It is interesting to conduct a study to critically look at “neither power reputation nor organizational position, but, rather to focus on actual decisions and to explore whether the preferences of the hypothetical ruling elites are adopted over those of other groups” (Ibid). In relation to this study, the first objective looks at the extent to which different stakeholders’ opinions are taken into consideration before the land policies are formulated. This informs the readers of whether it is the interests of the ruling elites or the preferences of all the parties involved in the land issues are in cooperated in the policy papers.

3.6.4 Analytical Framework

The analytical framework helps me to observe and understand how far the three countries of Botswana, Eritrea and Zimbabwe are moving towards the modern system of land titling as predicted by the ETLR. Conclusion is made on the basis of whether the reforms took the perspective of the ETLR or other approaches like social capital.

ISSUES of ANALYSIS	DETAILS
Who are the stakeholders? What are their interests and views?	Are their views included in the design policy or they are opposing the reform?
In what way are they consulted?	Assumptions or formal discussion?
Reform	Which kind of reform took place in the respective countries? What were the forces and aims behind the reform? How were the policies implemented?
Land ownership/tenure/property rights	Is it secured (title deed)/guaranteed/defined /bordered/private titling through deeds? OR -socially owned /active occupation
Social capital (networks)	Trustworthiness; Are people still trusting in the network of social ownership of community land governed by chiefs OR trust has shifted to the government modern system of private titling?
Conflict in power and interests	-Consultation of people to in-cooperate their views and interests in policy formulation/design. -Who sets the agenda -mandate of different actors/participation

The above analytical framework is derived from the explanations of ETLR, key concepts and terms and the background chapter on the overview of African land tenure and on specific countries under study- Botswana, Eritrea and Zimbabwe.

CHAPTER 4: LAND POLICY DESIGN PROCESSES (FINDINGS AND ANALYSIS)

This chapter analyzes the different interests and views of the stakeholders to land in the different countries and how the government responded to them with the policies.

4.1. Interests and Views of Stakeholders and Actors

In the table below, I present the interests and views of different stakeholders who are in need of land in their respective countries. The commercial farmers, the elites and the rich in different countries demand for private land for commercial purposes. The poor and the pastoralists, on the other hand, prefer to continue with the customary system of land ownership because they feel secure with it. The governments want more productive investment in land but are also in dilemma to cater for the need of the poor peasants and the pastoralists who prefer owning land communally (Kalabamu, 2000:308-317; Ng'ong'ola, 1997:1, 2 & 11; Sporton et al, 1999:445-446 & 459; Hitchcock, 1980:2 & 8-10; Malope, 2008:383-386; Connell, 1995:58 Tesfai, 2003:253; Tronvoll, 2000; DFID, 2006:1).

The theory based on ETLR postulates that as land becomes scarce and valuable due to population increase, the population will demand for private land titling program. From this presentation, it is the few rich people who demand for private lands, the majority poor prefer to continue with the communal ownership. This implies that ETLR does not absolutely hold in that respect.

After the table, I present and analyze the actual land policy designs of the different governments under the study. It aids in understanding how the governments respond to the needs and interests of different stakeholders and actors in their respective countries. ETLR says that the government will respond with private land titling program as the population will demand. The analysis under policy designs will tell whether the governments respond with private land titling programs or other approaches.

Table 2. Interests and Views

COUNTRY	STAKEHOLDERS	INTERESTS AND VIEWS
BOTSWANA	Government	Land for development activities, commercial farming (need to bring in new technology in farming areas-modern farming practices, control overgrazing in the Kalahari desert, rear high quality cattle and ranching and also cater for the needs of the poor.
	Small landed aristocrats.	Want to have control over land for their private investments
	Local chiefs	Want to continue with the customary control and management of land
	Local people (peasants)	Land for farming (mostly subsistence)
	Hunters, gatherers and nomads	Would like to continue hunting, gathering and rearing their animals in the Kalahari desert
	Large scale commercial farmers	Would want to have secured private land to invest in modern livestock industry
ERITREA	Eritrean People Liberation Front (EPLF)- the post independent Eritrean government	Land for the country's development purposes, land for the landless peasants for support during independence struggle and, later political support after independence.
	Women	Land for farming
	Men	Land for agriculture and building houses
	Large extended landed families	Need to continue with control over their large chunks of land
	Local people and the pastoralists	Land for agriculture and cattle grazing
	The returning refugees	In need of land to settle and practice agriculture

ZIMBABWE	White commercial farmers	Land to continue with commercial farming; Not willing to sell off the good part of their productive land; Want reform to take the form of a willing buyer and willing seller
	Zimbabwe post independent government	Wants land for its political supporters (black peasants, war veterans, laid off workers due to SAPs,); for the government development activities, for example, industrialisation and commercialisation; redistributed land to be under the traditional system of land management.
	British government	Wants land reforms to take the form of willing buyer and willing seller
	Opposition party	Wants land for the landless Zimbabweans, justice in land redistribution to all the parties
	War veterans	Want land for farming/pro- white large farmers' expropriation
	Elites	Want land for private investments
	Black peasants, the landless and farm workers who have lost their jobs	In need of land for farming
	Black small scale commercial farmers, entrepreneurs and civil servants	Land to continue commercial farming Land to supplement their income
	Traditional chiefs	Land for their constituencies and resumption of traditional system of management
	NGOs & Trade unions	Justice in land distribution to all groups in need of land
	Churches	Justice in land distribution to all groups. In need of land for church related activities
	Western governments	Are against unjust land expropriation from white commercial farmers/ pro willing buyer, willing seller approach
	Black immigrants	In need of land for farming

Source: general literature reading (references are under the explanations of policy design below).

The policy design processes below analyze whether the governments responded to the different interests in land according to ETLR (private land titling) or whether they took other approaches. It also shows the stakeholders' interests that dominated the reforms. This shows power influence.

4.2. Botswana's Land Policy Design Process

In Botswana, there was consultation and consensus building before the design of land reform policies. The government consulted with the representatives of the local people and the chiefs who were managing land in different localities. The views of different stakeholders (especially the communal land users) were subsequently considered in the new land policy (Kalabamu, 2000:317). The consultation was due to the power struggle over land control by the national leaders, local people, customary leaders and few landed individuals. Consequently, the 1968 "Tribal Land Act" was enacted. It gave more control of land to the new land boards including control over "freehold land and COR". The new land board consists of the former chiefs and the new legal government officers tasked to manage the land affairs at the local level. This was intended to bridge the gap between the local and government interests. However, land boards still over depend on "chiefs, sub-chiefs and headmen" in the establishment of "land ownership and occupation" (Kalabamu, 2000:316). The 1968 Tribal Land Act recognizes customary land ownership that all tribes' members have the rights to own land and that; the new land board is semi-autonomous (USAID, 2003:2) consisting of representatives elected locally and the government officials, (Ibid: 1-2).

Land reform in Botswana considered the need for land for the increasing population and technological advancement. A large amount of state land was changed to customary ownership. Customary land was increased from 47% to 71%, while state land was decreased from 48% to 23%. Free hold land (5%-6%) was not increased in order to avoid holding of land by few people. Unlike before when

development activities only took place on state land, this was extended to freehold land. Townships and urban centers consequently emerged especially housing estate establishment (Kalabamu, 2000:308-309).

There was concern about the hunter-gatherers and nomads moving all over Kalahari Desert. This is their only means of livelihood (hunting, gathering and some pastoralism). A section in the new land law protects the rights of the vulnerable from property deprivation. This permits the disadvantaged groups like the Bushmen (The Basarwa) to continue grazing in the Kalahari Desert. People from a particular community were considered to be land owners of that community (Ng'ong'ola, 1997:1, 2 & 11).

Government planners, afterward, ignored consultation and people's opinions and did what they thought to be for the best use of Botswana land. Deviation from communal utilization and the move towards privatisation started getting entrenched from this point. In 1975, the government designed a new policy called "The Tribal Grazing Land Policy (TGLP)" for management of the grazing land. This was meant to reform Botswana "livestock industry" towards commercialization, upgrade cattle productivity through "better range management", uplift standard of living of the local people and narrow the disparity between the wealthy and poor people. Planners based on the assumption that the grazing land was vast and unoccupied and needed better utilization and management, (Sporton et al, 1999:445-446 & 459; Hitchcock, 1980:2 & 8-10; Malope, 2008:383-386). This policy was meant to resolve the problem of communal usage of open land as it was leading to over stocking and land degradation. This was to be done through privatisation and reducing open grazing land. The government however only used the rich people for this scheme because they could afford to sink boreholes in the dry land. The policy favored the rich and disfavored the poor that the policy was supposed to help reduce their poverty. This led to conflict in the implementation because the poor people's lands were being encroached on by the rich, (DFID, 2008:1 & Malope and Batasani, 2008:389).

In 1991, the parliament of Botswana adopted another policy called "The National Policy on Agricultural Development (NPAD)". This entails modification of Tribal Grazing Land Policy (TGLP) due to its encountered challenges like poor management and inadequate water resources. NPAD further privatized the common land in order to increase agricultural productivity and preserve land resources'. This was aimed at further commercialization while further marginalizing the common persons, (Malope and Batasani, 2008:388).

Analysis

In the 1968 Tribal Land Act, the needs of different stakeholders were satisfied by the government especially the peasants, nomads, hunter-gatherers, the local chiefs and individuals who invested in new urban centers, for example, in rental houses. The local chiefs were also satisfied with the management and allocation of customary land together with the government officials in the land boards. There was an agreement between the government and the different groups. Conflict was not hitherto registered. The government however satisfied other stakeholders' interests other than its own like commercialization, reducing overgrazing and conserving the soil (Kalabamu, 2000; USAID, 2003; Ng'ong'ola, 1997).

To this point, the land reform did not follow the ETLR direct private titling approach. The reform was largely influenced by the customary ownership and management. The large portion of government land (71%) was given to communal users under customary management. Individual freehold lands were only 5-6%. The government remained with only 23%. This did not follow ETLR's prescription much as there was increase in the population. The government claimed to be giving land back to the community due to the increasing population. If the government were to follow ETLR, it would give land to private individuals with titles instead of giving it back to the community under the leadership of land boards which comprise partly of customary leaders. Even pastoralists were to continue with free and unrestricted grazing. It seemed privatisation was not appropriate for the situation. Serious privatisation and commercialization started when TGLP and National Policy on Agriculture Development were forcefully enacted in 1975 and 1991 respectively, (Ng'ong'ola, 1997:1-2; Kalabamu, 2000:308-317).

In conclusion, the introduction of Botswana's land policy started with a more consultative approach and recognition of customary ownership. It gradually graduated to privatisation and commercialization as the government ignored the opinions of the local masses. It appears as if the government recognized the strong identity people had over land and started with the moderate approach. From 1975 upwards, the trend significantly changed towards privatisation. This was however done by force not simply responding as was stated by the ETLR. The forceful nature led to resistance from the nomads and the hunter-gatherers as the next chapter will expose. The hunters and the nomads wanted to continue with communal ownership as they felt secure with it while the rich wanted private ownership. This posed a challenge to the reform and the viability of ETLR in Botswana.

4.3 Eritrea's Land Policy Design Process

The process of Eritrea's land reforms started in the 1980s by the Eritrean People's Liberation Front (EPLF) in the areas they had liberated as they advanced with the war. The reforms were to revive the old system of management of the "shehena/diesa" (communal ownership). Lands owned by the few "extended family units/class based distribution" were to be redistributed to the peasants and the landless in order to gain their support to continue with the war. EPLF believed by doing this, they were empowering the local people (Tesfai, 2003:250 & 252; Tronvoll, 2000:600; Connell, 1995:250).

In early 1990s, the design of Eritrea's land reform policies was still controlled by the EPLF. The policy favored the local peasants, most of whom joined the liberation struggle. This was because most lowlands under Italian colonial rule were declared state land. After Britain defeated the Italians and took over Eritrea in 1941, they followed the same system. During this period, powerful families unfairly extended their land at the expense of the poor masses. From 1952-1974 under Ethiopian rule, Eritrean land was declared property of Ethiopia and the emperor. However, family administration and not Eritrean usufruct was continued. It was against this background that the EPLF fighting to regain Eritrean independence used egalitarian idea in land reform to gain the support of Eritrean people. EPLF statement is

quoted, “the task of organizing economic life of the masses must start from above and below simultaneously”, (Tesfai, 2003:251; Tronvoll, 2000:599; Connell, 1995:588).

Immediately after the war, some men started to clandestinely apportion good land for themselves for building houses and farming. Women were sidelined in this deal and yet they had played a great role in the liberation of Eritrea. Women soon discovered this plot and some of them marched to the office of the president demanding a response. Some men were imprisoned. The reform was precipitated by making land the property of the state that all Eritreans both men and women were entitled to use. This obviously shows that women’s interests were catered for in this reform as Connell put it: *‘previously, land was held by communities and rotated among male members. Single, divorced or widowed women, lacking access to land in this overwhelmingly agrarian society, were forced to live with their parents or migrate to cities, where many turned to prostitution to survive’* (Connell, 1995:587). Furthermore, in relation to clash between men and women, *‘in 1992, EPLF central committee which also acted as the national assembly passed a directive that declared all land in Eritrea to be state owned –it announced the formation of land commission, which was to draft a land proclamation based on a study of Eritrea land tenure system. In February 1994, the land commission presented its finding and a draft proclamation to the third congress of the EPLF. It was to become the law of the land in August 1994’* (Tesfai, 2003:253). The proclamation changed all Eritrean land to be state property but citizens were to continue with the usufruct right of perpetual ownership in contrast to redistribution after a time interval of 5-7 years. This new right of usufruct can be inherited. It also legally permits one to lease his/her land but not to sell it. Women are also entitled to land in the same footing as men. Former village land borders were disregarded. However, villages were authorized to continue having authority over their respective grazing areas and water resources. In pastoral and agro-pastoral areas, pastoralists were to retain their “traditional grazing rights unless expressly stated otherwise by the law”, (Tesfai, 2003:253).

Analysis

Eritrean land reform was directed by the EPLF as presented above. The principle of egalitarianism they pursued was in accordance with the previous traditional ownership-*diese/shehena* where every societal member would equally own land. This was contrary to private land titling advocated by ETLR. Privatisation instead would favor a few powerful families with already large chunks of land. Their lands were nationalized and redistributed against their will (Tesfai, 2003:253; Tronvoll, 2000 & Connell, 1995). It can be said that equal (communal) ownership was more appropriate in Eritrean situation, not private ownership. In Sub-Saharan Africa, land fending is said to be the principal means of survival to the poor (World Development Report-(WDR), 2008:1).

Furthermore, Eritrean land reform shows more women emancipation and empowerment than that of Botswana and Zimbabwe. Land was not privatized but nationalized and both women and men were given equal right for its use. Some men were threatened and decided to apportion land secretly to themselves. The government imprisoned some who spearheaded the act (Connell, 1995:587). This shows a power struggle between men and women in post-independence era in land distribution. Women played a great role in the independence struggle and gained power in the society reducing their insubordination to men (Ibid).

In summary, much as there was no formal consultation of the masses as in the case of Botswana, the reform favored the poor, peasants, women and pastoralists. The large extended wealthy families lost their land with the new egalitarian arrangement based on state ownership. The reform was mainly based on state directive to satisfy the needs of the peasants and women who participated in the liberation struggle. Eritrean land reform’s implementation has generally not met much resistance apart from women’s demonstration. The fact that the state took the lead in the reform confirms the ETLR postulation that the state has a great role to play in the reform. However, the reform did not take direct private perspective as predicted by the ETLR. Land was instead brought under state ownership with perpetual usufruct to peasants much as the government reserves the right to apportion land to investors. This partly disapproves ETLR’s private land titling relevance in Eritrea at the time.

4.4 Zimbabwe’s Land Policy Design Process

Land reform in Zimbabwe was affected by the kind of disproportionate distribution that existed during colonialism. The local people were not consulted in the design but the situation and the pressure in the country dictated the trend that the post-independence land reforms took as the analysis below categorically explicates.

Land issue was the main objective for independence struggle in the then Southern Rhodesia before it became known as Zimbabwe in 1980 at independence. Land was unequally distributed between the whites and black farmers. Six thousand (6000) white farmers possessed 15.5m hectares of prime land, 39% of land in the country; whereas, 4.5 million black subsistence farmers had only 16.4 million hectares of arid land (in communal areas) where they had been confined to during colonialism. The 8500 small scale black farmers had about 1.4 million hectares of land (Mamdani, 2009:3). A similar statistics provides that 4660 whites large scale commercial farmers owned 14.8 million hectares; 6m black small holder farmers owned 16.4 million hectares and the state owned 0.3 hectares; while, 6.0 million hectares were left for the national parks, wild life and urban settlements (Juana, 2010, 294). Confirmatory ratio is at 6000 whites large scale farmers to 15.5m hectares (47% of the country’s agricultural land); 8000 small scale commercial farmers to 1.4 hectares and; 700,000 peasants households at 16.4 hectares (Shaw, 2003:75). Land reform was therefore on top of the new independent government priority as the population who struggled for independence were “hungry” of land. The government took a resettlement perspective for the landless population (Mamdani, 2009:4; Juana, 2010:294).

The 1979 Lancaster House Agreement was the first step to land reform. It was aimed at ending the war in the country. The agreement drafted by the British provided for the land reform based on a “willing buyer, willing seller” criteria sponsored by the British government. The agreement was enthusiastically supported by the whites in the country (Mamdani, 2009:4; Juana, 2010:296). The agreement did not give the government the liberty to act in acquisition of land cheaply as the government was expecting aid from the British government (Jenkins, 1997:580). Some development was made from the agreement as the government acquired some 3.6m hectares of land

and resettled about 70,000 peasant households while other blacks also bought land (Shaw, 2003:76). Towards 1990, the year the agreement was supposed to end, redistribution was marred with corruption and nepotism. Moreover, most whites were not willing to sell their land; some only sold part of the land that was unfertile (Ibid). Out of 8million hectares targeted for purchase, the government was only able to acquire 3m hectares and only resettled 58,000 peasants out of the 162,000 targeted by 1990s. Land transferability dropped from 430,000 in the first half of 1980s to 75,000 hectares. By 1992, only 19% of land valuable for agriculture was acquired (Mamdani, 2009:4).

The Lancaster agreement ended in 1990 when 40% of the peasants were still without land. “Transfers during the first decade of independence were so minimal that they increased rather than appeased land hunger” (Mamdani, 2009:4). Moreover, in 1990s, Structural Adjustment Programme (SAPs) resulted to laying off of some workers who definitely needed land for agriculture. War veterans (45,000 in numbers who were not absorbed in the national army) and small entrepreneurs were also demanding for land. Veterans association was formed that demanded for land redistribution and their pensions to be paid. They were 200,000 in membership across the country consisting of both educated and uneducated, the rural and urban dwellers. Funds promised by the British for the compensation was under disbursed. The government was forced to adopt a “middle ground” arrangement, The Land Acquisition Act in 1992 which empowered the government to compulsorily buy land although the land owners were allowed to make complaint for the price and demand to be compensated proportionately (Mamdani, 2009:5; Juana, 2010:296). This shows one step shift from the Lancaster agreement.

In 2000, Mugabe proposed to change the constitution in order to stay in power for the next two terms, get “immunity from prosecution for political and military leaders accused of committing crimes while in office” and to acquire land compulsorily from whites without compensating them as the aid from the British government had reduced. The proposals did not pass through in the referendum held in 2000. There was reduction in political support to the ruling party (Mamdani, 2009: 6). Trade unions, NGOs, churches, white farmers, western governments, unemployed persons and other civil servants veterans mounted pressure and opposition to the government’s proposal (Ibid). Opposition party (Movement for Democratic Change) was also formed and the government further lost support. The veterans and squatters started to occupy land by force. Mugabe announced that these occupants would not be evicted. What mattered to him at the moment was people’s support for the upcoming election in 2002 and not the British financial aid any more (Ibid: 6 & 7).

Fast Track Land Reform was consequently adopted in 2002 in order to regain political support. This contained the specifications of the kind of land that the government would acquire without compensation. These included; “unused or underutilized land; land owned by absentees or people with several farms; land above a certain area (determined by region) and land contiguous with communal areas” (Mamdani, 2009:7). The government gave 90 days to the “2900 white commercial farmers” whose lands were to be compulsorily acquired to evacuate the land. Compensation was to be given on the “improvement” added on the land as it was believed that these lands were expropriated from the aboriginal owners during colonialism (Ibid).

The Fast Track Land Reform was to end in 2002 but went on up to 2004. People struggled for land for themselves; chiefs struggled for land for their constituencies; people from the government and private sectors; opposition also joined in the scandal after silently watching for sometimes; the black elites made a serious grabbing of land in what is termed as a “contravention of the one person, one farm policy” (Mamdani, 2009:7). This provoked a general outcry in the society and within Zanu PF. It caused division within the Zanu PF as some section benefited while some were against the expropriation. The government officially made inquiry over the claim to gauge the truth of the matter. “Crucially in 2005, the government passed an amendment declaring all agricultural land to be state land”. Land was taken away by force from 4000 white farmers and made for redistribution. 72,000 large farmers attained 2.19 million hectares and 127,000 smallholders were given 4.23 million hectares (Ibid: 7).

Conclusively, “various policies and legislated Acts, from market based government purchase and redistribution to compulsory acquisition of commercial farms without compensation, were enacted by the government in order to fulfil the aims of redistribution” (Juana, 2010:295; Moyo, 2011:295). The land reforms were aimed at people without land, veterans from war, poor and commercial farm workers (Juana, 2010:296). There was discrimination on racial, ethnic, gender and nationhood basis with favors to indigenous Zimbabweans. This was mainly evident in phase II of the reform (Moyo, 2012: 502). Both women and men were involved in land occupations but men dominated the process while women were marginalized (Pasura, 2010:443 & 449).

Analysis

There were many landless populations which increased pressure on land. ETLR postulates that the population pressure on land provides the ripe ground for the government to come up with the private land titling program. The government instead acquired land from the large commercial white farmers and redistributed it to the landless peasants and other landless groups who were in turn not supposed to sell them. The exposition shows that the landless population did not have the financial capacity to buy land from the white commercial farmers. Even the government found it expensive to buy and depended on aid from the British government to acquire land for redistribution (Mamdani, 2009:4). This implies that privatisation could not apply at the moment. However, there was some provision for lease of up to 99 years to investors and 25% could be sold on the market at will of the owner.

The exposition clearly shows that the situation in Zimbabwe was not ripe for undertaking of a peaceful reform, the type ETLR advocates for. The reform was instead forcefully undertaken. This was especially witnessed in the later stages of reform with FTLRP. This discredited ETLR and challenged its viability in the situation.

4.5 Table 3. Summary of land policy design processes

BOTSWANA	ERITREA	ZIMBABWE
Consultation- (Tribal Land Act, 1968) & protection from deprivation of property. ↓ 1975, Tribal Grazing Land Policy (TGLP)-privatisation, commercialisation, improving livestock industry and better range management. ↓ 1991:- The National Policy on Agricultural Development; further privatisation, commercialisation and marginalisation of the poor.	1992 directive (all land belonged to the state); formation of land commission Feb 1994, land proclamation-all lands belong to the state. Citizens have usufruct right of perpetual ownership	1979 Lancaster House Agreement (willing buyer, willing seller) ↓ 1992, Land Acquisition Act (compulsory acquisition with compensation and right to complaint)-a middle ground arrangement. ↓ 2002-Fast Track Land Reform (Acquisition without compensation) ↓ 2005 Amendment (all agricultural land to be state land)

Source: from policy design process above.

The table above summarizes the policy design already discussed in this chapter. The reforms were influenced by customary practices like the 1968 tribal land Act in Botswana. In Zimbabwe, redistributed lands were to be governed customarily. In Eritrea, land was brought under state ownership with perpetual usufruct similar to the old customary system. Where privatisation was applied, it was done by force, for instance, the TGLP and NPAD in Botswana. In Eritrea, the government reserves the right to apportion land to private investors. In Zimbabwe, a lease of up to 99 years can be provided by the government and 25% of land can be sold on the market. However, the dominance of customary land practice questions the viability and the relevance of absolute reforms based on ETLR in these countries and Sub-Saharan Africa in general. The next chapter will discuss challenges associated with implementing these policy reforms in relation to ETLR relevance as an approach in resolving them.

CHAPTER 5: CHALLENGES OF LAND REFORMS (FINDINGS AND ANALYSIS)

This chapter presents the findings and analysis from the three different countries under the case study

5.1 Challenges in Botswana

Lack of land information system is among the main obstacles to land reform and management in both rural and urban areas of Botswana (Tembo & Simela, 2004:1). Poor information is due to the dual system of land holdings (the reform and traditional system of generational land inheritance) (Ibid). In traditional system, information is inaccurate. It is hard to tell whether reform took place in the area; the type of ownership in the area; who was allocated land? Who currently owns the land? In which location is the land? All these information and many more are not accurately captured in the customary and hereditary system of land ownership hence poor land management (Ibid). Inefficient book keeping is also due to poor information system (Kalabamu, 2000:315).

The lack of clarity in the Tribal Land Act posed implementation challenge in Botswana's land reform. These ambiguities exist in issues of land ownership and entitlements especially in areas of customary/tribal ownership. There was confusion as to whether it is the land boards that own land or the tribe or individuals. This was not clearly stated and caused confusion in the implementation stage. However, the government is trying to bring clarity through amendments (Kalabamu, 2000:312-314).

The Land Board was formed based on the dominant structure of governance of the majority Tswana people. It was meant to substitute the chiefs, headmen and overseers among the Tswana. Indigenous land rights of various tribal territories were also to be governed with this new institution (Ng'ong'ola, 1997:13). However, it was challenging that some tribes did not have this kind of socio-political and economic system of governance, hence difficulty in formation of the land boards in these communities (Ibid: 13 & 16).

Land boards have inadequate personnel. Some among the few staffs are not well informed, have limited knowledge of the land tenure situation on the ground and cannot make major decisions and take proper control of land management in different communities (Sutherland, 1980:82). They depend on local chiefs for allocation and clarification of issues. Between 1980-1988 in peri urban areas, people started acquiring land informally as land boards became more and more ineffective (Kalabamu, 2000:313 & 315).

Some chiefs, land board members, officials and technical staffs have without constitutional respect tended to unscrupulously allocate land to themselves, to relations and cronies. They also receive bribes for these illegal allocations. Some personalities with impunity, have unconstitutionally constructed houses on government acquired but not yet allocated land. This corrupt tendency reduces people's confidence in the reform process (Kalabamu, 2000:314-315).

There were areas designated as state land and reserves for national parks and game reserves. The "Fauna Conservation Act" allowed the people whose lives solely depended on hunting to continue hunting in the reserves. A special game license was later introduced as a requirement to continue hunting in the reserves. The license's content says that, "no one has the natural inherent right to hunt or forage within the game reserves and national parks, and that it is the prerogative of the state to allow or permit the exploitation of the resources of this category of land". The targeted communities (hunters and nomads) resisted the provision and continued foraging in the reserves. They said they have the "the inherent right to exploit the resources of their traditional territories in the traditional manner". This made it difficult for the state to implement the Act (Ng'ong'ola, 1997:14).

According to Hitchcock (1980:1; Sporton et al, 1999:445-446; DFID, 2006; Malope and Batisani, 2008:384,386), the TGLP and NPAD were based on false assumptions and the goals of the planners but not the facts on ground. This made it to succeed partially and not fully as intended. It was realized on implementation in 1975 that there were no large empty areas of land without occupants. It was also witnessed that instead of people stampeding to commercial areas as presupposed, most of them instead went to communal areas because they had many herds but with no right to use water in the commercial areas. They lacked funds to sink boreholes (Hitchcock, 1980:1, 2 and 20). The planners' assumption that there was large redundant land was not true. Disputes emerged with new land users as they encroached on the communal land areas. There was substantial number of people already inhabiting the assumed empty areas of land. These people were mainly herders, servants of cattle owners, hunters and gatherers, most of whom were the Basarwa and San ethnic groups (Malope and Batisani, 2008:386).

Development cost is another challenge of land reform in Botswana (Malope, & Batisani, 2008:388 & 393). The 1991's NPAD advocated for further privatisation and commercialization of communal land as a means of improving production quality and preservation of "range resources". The allocation requirements included; financial ability to drill boreholes; the management capability and plan presented by the applicant including "bank statement" to gauge the applicant financial capacity to manage the ranch. The developers were supposed to contribute 25% of the cost. Having enough herd size of 300 livestock units for a ranch that has a 400 livestock unit's capacity and access to capital" was another cost (Ibid:391). The development costs and requirements further marginalized the poor, illiterates and vulnerable groups (the losers). These losers included non-cattle owning households, hunter gatherers, women and youth" (Ibid: 389). This skewed the ownership in favor of those who could afford the costs. The pastoralists began moving back to the fenced ranch land as communal land got crowded. Others were imprisoned (Ibid).

Botswana "beef and export industry" is always taken as a success and good for emulation (DFID, 2006:1). The policy favors the few commercial clique of the elites who are close to the government while on the other hand, "neglects the pastoralists and traditional range land practices" (Ibid). The elites are subsidized, provided with loans with low interests for "veterinary services, borehole drilling" and favorable price policies while the traditionalists are ignored. Nevertheless, poor performance have been registered in commercial ranches especially that some supporting services like "rotational grazing" have not been implemented partly due to resistance from other poor farmers who could not afford the borehole drilling technology (DFID, 2006; Malope and Batisani, 2008:383). The government preferred to use the rich commercial farmers because they were able to raise money to sink boreholes. This qualified them as the automatic owners of the neighboring grazing area, Malope & Batisani, (2008:383). This was seen as "land grab" and resisted by other farmers who could not afford the cost (Ibid).

Limited livelihood's options for the displaced population are a challenge to land reform policy in Botswana especially in the enforcement of TGLP and NPAD (Sporton et al, 1999:455 & 459). There are few job opportunities. Besides, most of these hunters, gatherers, nomads do not have the necessary qualification to be absorbed in the jobs. Many of them have started going back to the ranch areas for hunting and gathering. Some, who were caught, were taken to prison. This caused confusion to the reform and resettlement process (Sporton et al, 1999:459). Drought, adverse environmental effects further constrained the food and fruits to be gathered and exacerbated lack of water resources (Sporton et al, 1999:459).

Analysis

ETLR speculates that the government has a great and yet simplistic role to play in the land reform process by simply responding with private land titling program. It did not critically foresee the complex reform challenges and the capacity of the government to respond to them as discussed above. In Botswana's case, it ranges from the government weak institutional capacity (land boards) (Kalabamu, 2000: 315; Sutherland, 1980:82); Poor information system, poor record keeping and "cadastral survey", bribery of officials that makes it difficult to settle the disputes that arise due to border problem (Tembo & Simela, 2004:1; Kalabamu, 2000:315).

Resistance by the pastoralists, formation of land boards based on the local structure of Tswana governance; formation of land board members with the combination local chiefs, local representatives and the government officials show a contrasting view of ETLR (Ng'ong'ola, 1997:13-16). ETLR postulates that as the population grows, people would feel insecure with their land, a condition which the government simply has to respond with private land titling (Platteau, 1996; Krier, 2009; Janvry and Sadoulet, 2001). This has been disapproved by the strong resistance from the local chiefs and the pastoralists who instead wanted to continue with the customary arrangement (Ng'ong'ola, 1997). This is an obstacle to land reform. Privatisation seemed not to be appropriate in the situation.

The ambiguous 1968 tribal land act was instead enacted. It shows the incapacity of the government to come out with a clear policy of implementation. It created power struggle between the local chiefs and the land board officials (Kalabamu, 2000:12-14). This also discredited ETLR as the government which is supposedly predicted to respond with private titling program, instead adopted the land act which recognized traditional arrangement (Ibid).

In regards to efficiency and equity, ETLR assumed that a mere introduction of private land titling would lead to efficient use of land. It did not foresee the technological need and cost related to the efficiency, for instance, the sinking of bore holes and ranching in Botswana. The poor cannot afford these technologies and instead flock the communal areas. The government instead preferred to use the elites, favored and subsidized them in boreholes drilling, veterinary services, and loans with low interests. This further led to conflict between those who could afford and those who could not. It was challenging to balance between the efficiency and equity in the land reform implementation (DFID, 2006:1; Malope & Batisani, 2008:383). This complicated the smooth implementation of the private land titling program.

Conclusively, the reform marginalized the poor instead of helping them. The elites were favored in the process (Malope & Batisani, 2008). However, it is worth emulating due to its improvement and success in beef and livestock sector (DFID (2006; Kalabamu, 2000:312).

This shows that commercial reform based on privatisation (ETLR) is desirable. Its efficiency can be witnessed from the booming beef sector of Botswana. There is only need to deal with the challenges for a more and smooth successful implementation of the land reform. The next chapter will discuss the proposed solutions.

5.2 Challenges in Eritrea

Land reform secured land for all Eritrean citizens but there is lack of “oxen for ploughing and income for inputs” to be used to attain better agricultural productivity (Rock, 2000:225). This is more experienced in the highland areas where agriculture is the main economic activity and a means of survival. Three quarters of the households surveyed had inadequate oxen to be used for cultivation while a half had none. The poor farmers use the oxen of those who have in exchange of part of their harvest. This endangers their food security and reduces their possibility of having surplus for sale. Women are particularly limited with these resources because of the patriarchal nature of Eritrean traditional society (Ibid: 225-226).

Minor disputes started arising between the pastoralists, “incoming returnees and commercial farmers” (Rock, 2000:229). This dispute is entrenched in Gash Setit area where more unoccupied land is thought to be available. This area is “well watered” because it is situated near the river. It makes it a center of attraction to the pastoralists and commercial farmers due to its fertility and water availability. Moreover many returnees do settle in this area. The government is also interested in this area to use it as a base for its “clandestine political movement, the Eritrean Jihad”. A looming severe conflict is seen to be emerging from these varied interests to use this area of land. The government did not recognise the right and needs of the lowland pastoralists in the 1994 Land Proclamation Act (Ibid: 230; Wilson, 1999:14).

The above dispute confirms Cliffe’s prediction in the 1980s that it would be difficult to apply the same method of egalitarian redistribution of land from powerful families’ land owners to the landless peasants of the highland, in the same way to the pastoralists in the lowland. The highland was a “settled agricultural area” and the lowland was mainly inhabited by “agro pastoralists” (Tsfai, 2003:250, Joireman, 1996:275-276). While the proclamation provided for the rights of agriculturalists, the rights of the pastoralists were not guaranteed. A “political conflict” between the agriculturalists and the pastoralists might arise in the country (Joireman, 1996:278).

The problem with the implementation of Eritrea’s Land proclamation is both “theoretical and practical” (Hotler, 2004:475, based on Grebemedhin works). The land proclamation gives the government a leeway in allocation and reallocation of land the way it sees appropriate for its “development agenda” and without any “legal obligation to respect the rights held under the traditional tenure system”. The reform theoretically provides more land security than the traditional reallocation after every 5-7 years (family ownership). It also avoids land from being degraded through tree planting program by the government. Practically, there is confusion and incapacity in administration to carry out the implementation (Ibid).

Strife exists between men and women over allocation of land in Eritrea (Connell, 1995). Eritrea was mainly a patriarchal society and land allocations based on villages mainly rotated between men. Women benefited mainly as spouses. If a family was headed by a woman or widow, only half allocation called *firkki gibri* was given to the widow. The Eritrean Land Proclamation Act was seen by the government to put a stop to women alienation. The proclamation turned land into property of the state and provided for equal land rights for every Eritrean citizen including women. This sparked off secret resistance from men. An attempt should now be made for the women, the poor, the peasants to have access to oxen, ploughing machines, small irrigation projects for them to improve their food security and have surplus for sale. Otherwise the proclamation might not improve their lives much as they can equally owned land under the new proclamation (Ibid).

Analysis

The controversy arises between two different tenure systems. The villagers view the proclamation to be in contrast with their traditional customs of land ownership. This brings them into conflict with the new rightful owners of the land. The proclamation was formed basing on the problem in urban centers neglecting the traditional systems of land ownership practiced in various parts of Eritrea (Hotler, 2004:475). Administration is also weak with poor system of survey, allocation and registration (Ibid). This underpins the failure of ETLR to foresee the strong attachment to land and the respect the indigenous people have for their communal arrangement to land ownership. This is a challenge to private ownership of the ETLR (Hotler, 2004:475).

ETLR postulates that the reform based on private land titling is an incentive for people to invest because they have security to land and no fear of communal interference. Just like Botswana that technology is hard to afford in ranching and other inputs (DFID, 2006:1; Malope & Batisani, (2008:383), the situation is no difference in Eritrea. The poor and women lack these simple technologies like oxen, ploughing machine, not to mention their ability to advance to mechanization and commercialization in agriculture (Rock, 2000:225). Achieving agricultural productivity is not as simple as ETLR simplistically claims. Technology is an important condition for attainment of more productivity. Unfortunately many people cannot afford it.

Just as there is conflict between commercial ranchers and the Baswara pastoralists and hunter-gatherers in Botswana (Malope & Batisani, 2008:383), the same is in Eritrea. The conflict in Eritrea is, for the moment, concentrated in the well watered Gash Setit area, (Rock, 2000:229). This implies that there is inability for these various groups including the government to provide the available irrigation schemes, agricultural inputs like fertilizers in the country. Otherwise, these groups would not have been struggling for the same area for water and its fertility. This further confirms that technology is vital for the achievement of more agricultural productivity in the aftermath of reform as seen above.

The controversy between the proclamation and the old tenure system (Hotler, 2004:475) underpins the failure of ETLR to foresee the strong attachment to land and the respect indigenous people have for their communal land arrangement. This is a challenge to private

ownership of land as advocated by ETLR. Weak administration with poor system of survey allocation and registration further constrains government effort to privatize (Ibid).

Conclusively, the Eritrean land proclamation provided more land security than the old system of redistribution after every 5-7 years (Hotler, 2004:475). This shows that land security cannot be brought about by private land titling alone. Even if land is state owned, security can still be provided as seen in the case of Eritrea. But beyond security, technology and government capacity is vital for efficiency as pointed out in the former paragraphs (Rock, 2000:225; Hotler, 2004:475).

The above discussed challenges were not captured in ETLR. The idea embedded in ETLR is that efficiency would be achieved provided security based on private ownership was put in place. However, there are other challenges beyond registering land as discussed above. These challenges need to be dealt with for a more efficient utilization of land and increase in agricultural productivity in Eritrea. The next chapter will discuss some suggested solutions to the challenges.

5.3 Challenges in Zimbabwe

The research identified some problems that inhibited the efficiency and the success of land reforms implementation in Zimbabwe.

The large scale commercial farmers were reluctant to trade off the fertile portions of their land (Juana, 2010:309). The parts of land they either sold to the government or put on the open market were poor and infertile. The selling price was so exorbitantly high that the poor were intentionally side-lined. The high price was a setback to the Lancaster agreement of the “willing buyer willing seller” approach. This negatively impacted on the process, and a radical approach which turned the reform into robbery and plunder was adopted (Ibid).

Corruption, nepotism and favoritism dominated the land reform implementation process. The government acquired land was always distributed among its “stalwarts, the corrupt government officials and friends”. The poor, women and the vulnerable lost the opportunity of acquiring land, even if they were the target groups. Some elites unscrupulously got more farms than the prescribed number for redistribution; some “grabbed legally”; some officials temporarily used acquired but not yet redistributed land, delaying the redistribution process (Juana, 2010:309; Shaw, 2003:76; Moyo, 2011:494 & 501). Squatters, ruling party militants and state officials forcefully occupied with impunity the white farm lands and estates of opposition party supporters (Pasura, 2010:449). Moreover, the police declined to intervene saying the matter was political. Instead, the court high commission ordered the police to evict some squatters in some farms. Land reform was based on racial, gender, ethnic and nationhood. The indigenous Zimbabweans were favored over foreign white and black nationals (Moyo, 2011:502-503).

Inadequate funds was another setback to the reform. The British government under-disbursed the funds they promised during the Lancaster house agreement. Between 1980 to 1992, the British only gave 44million Euro. Inadequate funds together with political pressure prompted the reform to take a radical direction from 1990-2000. It ranged from Land Acquisition Act of compulsory redistribution to Fast Track of compulsory acquisition without compensation (Juana, 2010:296; Mamdani, 2009:5).

International Monetary Fund (IMF) stopped its aid to Zimbabwe due to the government intervention in the war in Congo. Moreover, the implementation of SAP in 1990s led to shutting down of parts of manufacturing industries and subsequent loss of jobs in non-agricultural economy. SAP further led to decrease in private and public sector jobs. Over 45,000 jobs were lost, wages reduced from 64% to 40% of the national economy by 1995 (Chimhowa and Woodhouse, 2008:285). Even those who retained their jobs were faced with inflation which went up to 75% and 61% in private and public sector in the later 1990s. Unrests and strikes by the government workers throughout the country ensued. Demonstrations by the war veterans which threatened to tear apart the ruling party worsened the situation. The government hurriedly responded by paying the war veterans out of its budget. This further constrained the government income. The breakdown in the economy, the defeat of the proposed referendum of 2000 and the government “unpopularity”, prompted the government to use land reform as the major weapon for “political mobilization”. Fast Track Land Reform of compulsory acquisition without compensation was adopted and violently implemented. It was opposed by civil societies, opposition party and even within the ruling party due to its corrupt tendencies and injustices in its implementation (Chimhowa and Woodhouse, 2008:286; Shaw, 2003:76; Moyo, 2011:494).

There was “resistance from the customary chiefs who were empowered to allocate land from 1969 with the Tribal Trust Lands in 1969”. The chiefs resisted the Communal Land Act of 1991 and the District Council Act of 1992. The two Acts shifted the chiefs’ allocation power to the fifty five elected Rural District Councils (RDCs). The RDCs and the Natural Resources Committees, who were to be in charge of allocating land, comprised of constituent representatives from ward level known as councilors. They were to work through the Local Development Committees at Ward (WADCO) and village (VIDCO) levels (Chimhowa and Woodhouse, 2008:290). The chiefs resisted these new arrangements and won. The enactment of Traditional Leaders Act, 1999, formally restored the customary chiefs’ land allocation role in communal areas. However, the RDCs were supposed to approve the allocation. In some areas like Svosve, the RDCs’ system completely vanished (Ibid: 290; Pasura, 2010:446 & 448).

Population increase posed another challenge to Zimbabwe’s land reforms (Chimhowa & Woodhouse, 2008:293-294). Zimbabwe’s population increased four times from 1982 to 2002, creating high demand for land for residence and agriculture (Ibid). The high demand for land further rose following the loss of jobs in private and public sectors as a result of SAPs implementation in 1990s. In 2000, “200,000 farm workers lost their jobs and housing on white owned farms” during Fast Track land reforms. “700,000 people in urban informal settlements” were pushed out of their land following “government operation” in 2005. Government workers at the time and local business persons also needed land for their private uses (Ibid: 294). Land transaction in A1- communal areas where selling of land was prohibited by the government consequently set in. The kraal heads/ book keepers (the “*masabukhu*”) sold land against government’s reform’s prescription. The relatives of absentee land owners in communal areas rented out land when it was neither supposed to be rented nor sold. This challenged the government set policy (Ibid: 293 and 304).

Population increase exerted pressure on communal land (Shaw, 2008:78). By 2003, over six million people were crowded on communal land- “the former tribal trust land” under colonial rule. This land is of poor quality and less supportive to agriculture. The poor people lacked capital to invest in fertilizer and irrigation for agricultural modernization. This was a setback to government’s plan of agricultural commercialization. Most poor Zimbabweans wanted land because of lack of alternatives to cater for themselves and their families. The youths are quoted to have said “we don’t need land, we need jobs” (Ibid). Unfortunately, jobs were in short supply. Livelihood alternatives would reduce land conflict (Ibid: 78).

Disputes strongly erupted in areas where facilities like dams, boreholes, workshops, sheds, irrigation piping and even mines existed. Disputes arose over the usage and benefits of such resources. The government forcefully gained access to places with mines and the other facilities were used as social assets for all the groups in that area (Moyo, 2011: 501).

Women were marginalized (Pasura, 2010:443-446, 449). Women’s position in this reform remained like the general women conditions in Sub-Saharan Africa described as “owners of the crops but not owners of the land” (Ibid: 443). The government resettlement programme gave control of land in every household to households’ heads that were in most cases men. Customary leaders were also mostly men. Men had more power over land use than women, even if women cultivated the land and took care of the family. The problem was embedded in the legal dualism where state law aimed at protecting all the landless and peasants including women, coexisted with the customary law that allowed men to dominate the process (Pasura, 2010:446).

Bureaucracy was another challenge to women who constantly faced the long procedure controlled by men who were at the forefront of selecting the land beneficiaries. Women were not sufficiently informed about the procedures to be followed. Most women beneficiaries were literates, elites and educated other than the poor and the vulnerable that the reform targeted. Elite dominance was not only at the state level but even among the women (Moyo, 2011:504). Women land accessibility increased during the Fast Track Land Reform Programme (FTLRP). About 10-28% of women possessed land “on their own rights” (Moyo, 2011:501 & 504). NGOs advocating for women plight were formed, for example, Women’s Land Lobby Group, openly demanded women access of the “expropriated land” (Ibid:504). However, the difficulty of women land access was due to the patriarchal nature of Zimbabwe leadership from national level down to traditional and household leaders. Most women accessed land as wives implying that men had greater control over such lands (Ibid: 504).

Analysis

The government and the people could not afford to add value to the poor lands offered for sale by the whites’ commercial farmers. Zimbabwean government depended on the British government financial aid to implement the Lancaster agreement of the “willing buyer willing seller” reform. The aid was under-disbursed by the British government. People could not afford the high cost of land (Mamdani, 2008:4-5). The reform took a radical perspective (Juana, 2010:309). The dependence on aid to acquire land shows that they were much less financially incapacitated to irrigate the poor land provided for sale and the people instead targeted the good land retained by the white commercial farmers. This is a challenge to agricultural investment ETLR predicted to emerge with privatisation.

As discussed earlier, favoritism; corruption; marginalization of the poor, foreigners, other ethnic groups and women were common in the process of reform. The rich redistributed land to themselves and obtained titles for those lands (Moyo, 2011; Pasura, 2010:449). While the ETLR postulates that land titling brings about security of land ownership to all the groups who were using communal land. From the above exposition, land security of the vulnerable groups was further worsened. The land titling only increased the security and productivity of the powerful individuals in the society. This implies that the theory failed to see the elites’ dominance of the reform.

Inadequate funds, political pressure, economic breakdown, 2000’s referendum failure, graduated peaceful land reform to a violent plunder (Chimhowa and Woodhouse, 2008:286; Shaw, 2003:76; Moyo, 2011:494). It is not just a matter of the government responding with the private land titling as ETLR postulated. It depends on the situation on the ground.

As discussed before with the cases of Botswana and Eritrea, strong attachment and identity to land, control and management by the customary leaders was strong in Zimbabwe, (Chimhowa and Woodhouse, 2008:290 & Pasura, 2010:446 & 448. It was so strong that the government could not spontaneously introduce the modern system of management of privatisation as predicted by ETLR. The afore-discussed challenges for the three countries are summarized in a tabular form below.

5.4 Table 4 showing summaries of challenges

BOTSWANA	ERITREA	ZIMBABWE
Land board is a replica of socio-political system of Tswana people. Resistance by hunters and nomads. Policy based on assumptions and not facts. Inadequate staffs/personnel. Favouritism to the small elites’ commercial farmers. Disputes/Conflicts Development costs	Lack of inputs and productive resources Disputes from pastoralists versus returnees and commercial farmers. Strife between men and women over land. Highlanders Versus Low-landers over the use of land for agriculture or grazing.	Reluctance to sell productive land by the large scale farmers. Corruption in the process of land redistribution. Insufficient funds. Use of land as a basis for political mobilisation. Resistance from the local chiefs. Population increase.

Lack of alternatives for the losers and drought Lack of land information system. Inefficiency of the land boards and corruption.		Meagre or no capital by peasants to invest in agricultural commercialisation. Limited job opportunities Gender marginalisation and male dominance.
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All the above challenges were found to delay or put to hold the reform processes of land use, management and ownership in the countries studied. They discredit the ETLR's prediction of private land titling as the solution to land dispute and inefficient utilization of land in Sub-Saharan Africa. This shows that land reforms go beyond the issue of privatizing land. All the above discussed setbacks impede the positive transformation of agricultural sector in Sub-Saharan Africa. The proceeding chapter will discuss the suggested solutions to the afore-discussed challenges. The solutions are important for speeding up the process of land reform implementation and bringing satisfaction to the all stakeholders especially the voiceless. These could make the implementation more successful.

CHAPTER 6: SUGGESTED SOLUTIONS (FINDINGS AND ANALYSIS).

This chapter discusses the suggested solutions to the challenges discussed in the previous chapter. I intended to bring together different solutions suggested by the different authors and put them together so that policy designers, government departments can choose from the applicable measures to the situation of their country.

6.1 Suggested Solutions for Botswana

The state should be flexible in the implementation of the tribal land act. It should not rigidly use the institutional arrangement based on the majority Tswana people (Ng'ong'ola, 1997:16). The constitution should be amended to reflect the land utilization mechanisms in different communities especially in areas that do not have the structured institutional arrangements like the Tswana. This will also protect the Tswana people against the "right to forage" given to the hunters and nomads (Ibid). Flexible administrative approach that does not restrict the amount of animals in a particular community; that accepts free movement of animals and not fencing as it is being done, should be implemented in TGLP areas (DFID, 2006:1). Pastoralists should be provided with veterinary services, borehole drilling, and "favorable pricing policies" and not only the elites who are seen to be successful in uplifting the beef and livestock industry of Botswana. Economic capacity of the rangelands should not be undermined but invested in resources just like the ranch areas of the elites (Ibid). Flexible implementation criterion provides opportunity for coping as the new policy gradually get entrenched (Sporaton et al, 1999:459).

The development of modern information management system where all information on land is accurately captured is paramount (Tembo & Simela, 2004). This entails "a land information collection mechanism that would optimize data collection and a nationwide system that would allow for the update and dissemination of information based on the current state of the art information and communication systems"(Ibid:1). This can be done by survey and mapping department of Botswana's government (Ibid). Consultation of different stakeholders is important to get the different points of views concerning land (Kalabamu, 2008:318). On a positive note, the government started designing the tribal information management system to integrate the land administration work (Tembo and Simela, 2004:5). The functions of the upcoming system included; "Land use plan, process plot applications, plot allocations, change land use, transfer land title, land registration, subdivisions, sub-leasing/subletting, development control/compliance, acquisition and compensation, adjudication and land board revenue" (Ibid).

The government should improve the income opportunities for the poor households who lost land to ranches but are not benefitting from the livestock sector. Sufficient social amenities to the displaced victims of the TGLP and the National Policy on Agricultural Development of 1991 should be provided. These should include education centers, health facilities, food reliefs and water sources for hunters and gatherers and those with animals for grazing in these communal and settlement areas. More development initiatives, support and encouragement of agricultural production, including options for employment opportunities are further areas of consideration. These alternatives would empower the population as the new policies are gradually implemented (Sporton et al, 1999:446 & 459; DFID, 2006; Malope and Batisani, 2008:394; Kalabamu, 2000:318). The government launched some income generating activities for the displaced and the landless. It reduced the resistance in ranch areas and there was more progress in policy implementation (Kalabamu, 2000:318).

Conversion of grazing land into a common property was proposed (Malope & Batisani, 2008:388). This could be done through cost subsidy, "defining the user groups and the boundaries of their resources and, negotiating and enforcing rules limiting individuals use of common property" (Ibid). Group formation and sharing of the remaining cost is suggested to allow many of the losers and few cattle owners to participate hence reducing their exclusion (Ibid: 390). "Careful planning and legislation against dual grazing" is important (Ibid: 394). This would entail a thorough investigation to avoid false assumptions about the supposedly unoccupied areas (Ibid). These proposals cater for both the rich and the poor in the process of ranching. Elite dominance is reduced. This could be a good step to efficient use of land through privatisation and commercialization as predicted by ETLR.

Land registration in all areas and giving the land board officials more power over communal land are important. Provision of a more uniform and stringent regulations on the use of land if quality agricultural products and commercialization are to be achieved is suggested (Sutherland, 1980:82). Registration could help deal with the challenge of ambiguity in land titles and make clear the multiple borders of individuals' lands that cause dispute. Land sales, dealings should be made more stringent under the effective management of the land board (Ibid: 83).

Analysis

The above last suggestion of strict registration supports ETLR. However, it cannot be effective if other challenges discussed in the previous chapter are not dealt with. For instance resistance by the customary leaders, pastoralists, hunter- gatherers, lack of appropriate system to capture and keep land related records. The suggestions hitherto discussed in this chapter should be taken into consideration for private land titling suggested by ETLR to successfully work out.

In contrast, flexibility in implementation of the reforms (Ngongola, 1997:1; Sporton et al, 1999:459) gives a reflection that spontaneous system of private land management as proposed by ETLR is not the best solution. It implies that these communities are loyal to and respect their system of customary land administration. Therefore, any new system which they don't understand might be interpreted as a threat to their security to land ownership. It should be gradually implemented as proposed above. This gives people time to get used to the new system.

Botswana lacks up to date system of land information as discussed in chapter five (Tembo and Simela, 2004). The modern system of information seems to be overlooked by ETLR. ETLR simply suggested the response by private titling without taking into consideration costs of developing information system that would help in accurate registration and book keeping of record of land borders. Moreover, these systems are expensive to afford and develop. All the above suggested solutions should be taken into consideration for a more successful reform based on privatisation (ETLR).

6.2 Suggested Solutions for Eritrea

Conservation of communal tenure for the pastoralists is important (Wilson, 1999:22). Communal tenure is economically and ecologically more viable for the pastoralists than the individual land tenure. The government should think about restoration of communal tenure before stringent action is taken against the pastoralists. The rationale is that Eritrea's pastoral low land is semi-arid and has seasonal rainfall pattern. It is thus beneficial for the pastoralists to move according to the weather. Conflict with those practicing agriculture could arise over good soil and rainfall patterns. There is need for careful examination before this proposal is endorsed (Ibid, 1999:22).

Customary land use impedes rural economic development. However it should not be spontaneously eliminated (Hotler, 2004:476 citing Dr. Gebremedhin). The reform should rather be implemented steadily, gradually and step by step. Sudden substitution of customary ownership would "destroy the economic and social basis of the rural communities without providing adequate alternative modes of social and economic organization". The reform should be built on the traditional system of land tenure. The administrative and modern system of management should be developed as people slowly get used to the reform (Ibid).

A ranch system that strikes a compromise between the government and the pastoralists is proposed for Eritrea. It allows the pastoralists to continue with free grazing as the government seeks to establish secure free hold (Wilson, 1999:21). Eritrean government should plan carefully and allow the pastoralists to form groups and voice their ideas in the ranch system. It worked for Maasai in Kenya at the initial stage of the reform where groups of nomads were allowed to own a large area of land and they registered their land as one. The Eritrean land proclamation empowered the government to allocate usufruct right in perpetuity. The same right could be extended to the pastoralists not only in the agricultural areas of the highland (Ibid: 20-21).

"Effective and transparent machinery of dispute settlement" needs to be created to aid in resolving disputes between villages and villages versus foreigners (Rock, 2000:229 citing on Cliffe and Shivji, 1994). The machinery should be created in a way that is recognized and have village legitimacy. The rationale behind this body of dispute settlement is that, Eritrean land proclamation may not settle village disputes that persisted even after village borders were eliminated during the Ethiopian rule in Eritrea (Ibid:229;Tsfai, 2003:253).

In terms of women and men relationship over the right of land use, the Land Proclamation recognized the rights of women in using land just like men. Some men were imprisoned for alienating women. They were secretly and illegally dividing up among themselves the best portions of land for construction of houses and agriculture. The imprisonment stopped the strife from manifesting although many writers recognize its implicit existence (Connell, 1995).

Extension and provision of irrigation schemes by the government is suggested. Priority should be given to areas with adverse weather conditions where natural rain is rare. Irrigation could be small scale in nature to simplify the provision and to cover a wider area and a larger population. This would help to raise the level of agricultural quality and productivity in the country (Rock, 2000:227).

The Eritrean government needs to develop its administrative institutional capacity to manage and implement the land proclamation. The modern system of registration and record keepings should be put in place. The department of surveys should be developed and staffed with competent personnel to carry out the survey (Hotler, 2004: 476, citing Gebremedhin).

Analysis

As suggested for Eritrea, institutional capacity was found to be lacking in the case of Botswana, thus, calling for its establishment (Tembo and Simela, 2004). It is important that government institutional and administrative capacity, survey department, be up to date in order to ensure accuracy of land boundaries. This promotes effective implementation of private land titling, the idea in ETLR.

Irrigation is needed in areas where there is poor weather condition that does not support agriculture (Rock, 2000:227-230). ETLR simply assumed that private land titling would increase land security that would in turn increase incentive for investment in land. It had failed to detect other investment requirements like irrigation, let alone its affordability by the poor class. The government should thus look into it for a more productive agricultural reform (Ibid).

Just like Botswana and Zimbabwe, loyalty to customary land arrangement is valued by the local Eritreans in spite of the government proclamation (Rock, 2000:229; Tesfai, 2003:253). This discredits the modern private land titling that ETLR speculated to be a perfect mechanism of resolving land conflict and evolving to security and investment. A conflict resolving mechanism with village legitimacy is vital (Ibid).

Compromise between the pastoralists and the Eritrean government is important (Wilson, 1999:21) just like in Botswana where flexibility in implementation (Ng'ong'ola, 1997: 16); group formation and sharing of the cost for water drilling were proposed (Malope and Batisani, 2008: 388). These further reinforce the significance of customary land management in these countries. It is difficult for private land titling to replace the old system immediately as suggested by the ETLR. Gradualism and slowness are important for a successful implementation of reform as suggested above.

All the issues discussed in this section are necessary and mutually reinforcing proposals that could precipitate the success of land reform and the theory in Eritrea. The proposals could increase agricultural productivity for the vulnerable like women. The proposals should not be taken lightly by the policy designers.

6.3 Suggested Solutions for Zimbabwe

Land reform could be safely and successfully carried out if the former owners of the land were sufficiently compensated for the loss of land and output from it (Juana, 2010:307). The Central Statistics Office of Zimbabwe in 1991 and updated in 1998 indicated a rise of Z\$59:365million, an equivalent of 0.227% rise to the low income households. Even though the statistics for the decrease in the income of the large scale commercial farmers was not shown, the report remarked a decrease in their income since they lost their land. Their resistance to the land reform laws was due to the loss of income from the land. Adequate compensation could minimize the resistance to land reforms in Zimbabwe (Ibid).

“A more transparent and coordinated institutional structure” that gives all the stakeholders opportunity to participate in the process of redistribution should be instituted (Juana, 2010:309). If all the stakeholders were involved from planning through the implementation phases, the reform would be less resistant but more successful. The benefits would be evenly distributed to all the stakeholders as long as the implementation took place as planned. Favoritism to government affiliates, supporters and elites would be minimized (Juana, 2010:309).

Government should come up with creative plans to help people create jobs other than struggle for land in communal areas (Chimhowa & Woodhouse, 2008:304). Many people especially the young men are resorting to struggling for small land holdings in communal areas because they have failed to find jobs in the wider economy due to job scarcity (Ibid).

Inclusion of women in the structural institutions of land reforms is vital (Pasura, 2010:453). Mere change of laws might not sufficiently help in ameliorating gender marginalization. The reconciliation of traditional system with women's concern for land accessibility would yield more success (Ibid). After a period of lobbying, women need for land was recognized in the first phase of the reform but in the second phase, women were sidelined. With the government strife for gender equality, only 20% of the total land was given to the female headed homes. This is typical of a patriarchal society. It is the rural institutions that control power to allocate land in rural villages and so, structural reform is important to resolve women's problem of land ownership from the local level (Ibid).

The reform should be gradual and step by step with a focused goal that embraces the whole society (Shaw, 2003:86). This would foster justice and economic wellbeing of all Zimbabweans. The reform should be based on expert knowledge and follow the examples of countries that successfully reformed their land use. Taxation of large commercial farms in order to raise money for resettlement program would be the first step. Taxation on underutilized land would follow. This would prompt the owner to willingly sell land to the government for fear of taxation. “Private ownership and small scale commercial farming” would be expanded. These steps should have been taken before compulsory acquisition was adopted (Ibid).

Analysis

The last proposal above is a compliment to ETLR private land titling as an approach to land reform. A rise in the level of low income earners after the reform as discussed earlier (Juana, 2010:307) further confirmed the ETLR postulation that private land titling would increase people's incentives to invest and increase their agricultural productivity (Platteau, 1996:36). Adequate compensation to large commercial farmers would help solve the problem of resistance (Juana, 2010:307). This solution could also work for the Eritrean large family land owners who lost their land to the government (Tesfai, 2003:250). This would strengthen privatisation and land security as predicted by ETLR.

Inclusion of the landless poor in the planning process of the reform (Juana, 2010:309) further supplemented the ETLR postulation that the government should exclusively respond with private land titling (Platteau, 1996:38). Inclusion would reduce elite dominance while a more even reform to a wider population would be attained.

As proposed for Botswana, job creation and other non-agricultural possibilities are important in the reform process (Chimhowa & Woodhouse, 2008:304). ETLR only proposed for the private land titling for everybody to increase people's motivation in the agricultural production. Alternative livelihood opportunities would also solve the problem of land disputes in communal areas.

In conclusion, if the planning of land reform was done well and the implementation cautiously undertaken, it could contribute to the development of Zimbabwe's general economy. Redistribution in particular would benefit the poor households. The large scale commercial farmers whose portions of lands were taken away would benefit from fair and sufficient compensation (Juana, 2010:308). The table below summarizes the suggested solutions for the three countries already discussed in this chapter.

6.4 Table 5 Showing the Summary of the Suggested Solutions

BOTSWANA	ERITREA	ZIMBABWE
Flexibility in implementation	Irrigation schemes	Adequate compensation to the losers- the large white commercial farmers.
Registration of titles and a more stringent regulation on land transaction.	Effective and transparent machinery of dispute settlement with village legitimacy.	Transparent and coordinated institutional structure in planning and implementation of land reforms
Poverty eradication strategies and other alternatives	Compromise between the government and the pastoralists.	Job creation in non-agricultural sector
Careful planning and legislation against dual grazing	Conservation of communal tenure for the pastoralists.	
	Gradualness	
	Need to develop the administrative capacity to manage the land proclamation	

The above suggested solutions were gathered during the research process. They are important for the policy planners and the governments for consideration for a more effective and less resistant implementation of land reform policies. Inclusion of the voiceless in the planning and implementation of the reform; gradualism; creation of alternatives income sources; adequacy of compensation of the current land owners; group formation and sharing of the cost of technological innovation; flexibility in the implementation and developing of government administrative capacity and information system, could contribute to effective implementation of land reforms in sub-Saharan Africa as proposed in this article. The solutions could be additives to the ETLR gap following the challenges that have already been discussed earlier in this paper.

CHAPTER 7: CONCLUSION

The findings discussed from the three case studies above depicted certain circumstances that ETLR applied in carrying out land reforms in sub-Saharan Africa. At the same time, there were a number of challenges and circumstances that discredited the applicability of ETLR in the implementation of these land reform policies.

ETLR postulates that as population increase exerts pressure on land, the government will respond with private land titling program as people will demand. From the study above, there was population increase in Eritrea both naturally and with the return of refugees. Population also increased in Zimbabwe and Botswana. These brought pressure on land on the three countries. ETLR correctly predicted in this area.

ETLR further claims that private land titling brings security. This was true especially in commercial farming and other areas of commercial land use. The ranchers, townships and city developers in Botswana, commercial farmers in Zimbabwe and Eritrea all felt secure with private land titling. Land was more efficiently and commercially being utilized in those areas. ETLR accurately applied in that respect. However, the above categories of land users are predominantly elites and the rich. The vulnerable, the poor peasants, women, youth, pastoralists and the hunter-gatherers, on the other hand, felt more secure with communal ownership. They were often displaced to marginal areas or rendered landless, sparking more disputes instead of peaceful settlement. This is a challenge to the reforms and ETLR.

In terms of responding with private land titling, the three governments did not respond exactly as ETLR predicted. In Botswana, tribal land act was brought under the control of land boards, which comprised of both the government officials and local and customary leaders. The Act recognizes customary ownership. In Eritrea, land was brought under state ownership, but with the local people having usufruct for life. In Zimbabwe, the reform was in a form of redistribution (66% of the land) with customary governance. These reforms were all based on traditional communal ownership rather than privatisation. The government state ownership in Eritrea particularly guaranteed land security for all Eritreans, although the pastoralists claimed that their right to grazing was not fully guaranteed. All these imply that even other forms of ownership can bring security to land not necessarily private ownership. This is a challenge to ETLR. The majority peasants did not demand for private land titling but wanted the continuation of customary/social ownership viewed as more secure than private ownership. This implies that social capital theory is for the moment more applicable in Sub-Saharan Africa's situation than privatisation, since the majority peasants favor social ownership of land.

In summary, the challenges of land reforms in general and for the applicability of the theories and policies based on ETLR in sub-Saharan Africa included; Limited technology (inputs, fertilizers, boreholes sinking, and irrigation) in Eritrea and Botswana for the pastoralists, the poor and the vulnerable groups like women versus favoritism to the elites. The Governments were also found to be financially limited to provide the necessary technological infrastructure. For instance, in Botswana, priority in ranching was given to the rich who could sink boreholes for the animals. Other challenges included; limited administrative capacity, poor book keeping method, poor cadastral survey, unqualified staffs with little knowledge of the status quo of land like the officials of the land boards in Botswana who mostly depend on the decisions of the local chiefs in settling land related matters. For ETLR and land reforms based on privatisation for efficient land use to hold, the challenges above need to be dealt with.

Notwithstanding the challenges to ETLR, privatisation and commercialization as approach to land reforms advocated by ETLR is desirable. There was better and more efficient agricultural performance in areas where privatisation and commercialization as an approach to land reform was applied. In Zimbabwe, land reform in its initial stage was based on a willing buyer, willing seller approach. In A2 land reforms, 25% of the land could be privately owned and transferred (sold) at owners' will. There was also leased of up to 99 years for commercial use of land. In Botswana, in 1975 and 1991, the government adopted the Tribal Grazing Land Policy and the National Policy on Agricultural Development. All these were based on private land ownership for more commercial, efficient, productive and quality livestock industry. Botswana is exemplary in ranching in Africa. In Eritrea, Eritrean land reform partly aimed at improvement of land use, irrigation, providing security rights for commercial farmers and investors, diversifying agricultural and livestock production into more specialist products with export potential. The proclamation provided for the individuals and the organizations willing to invest in land. They would be given land according to the amount of capital they are willing to invest. All these show that the theories based on ETLR (privatisation/efficiency/commercialization) is desirable and was applied in those areas. The challenges discussed in chapter five and summarized above need to be dealt with for more efficient, more commercial and smooth implementation of private land titling in Sub-Saharan Africa.

Some suggested solutions included gradualness, flexibility and step by step implementation in cooperation of both customary and private modern systems of land use in the initial stage of the reform. All stakeholders especially the landless poor should be included in the planning and implementation phases for a more egalitarian reform with less resistance; spontaneity is dangerous.

As the reform gradually entrenches, alternatives like education, job opportunities, residence provision, were vital to divert the peasants' attention from land as the only source of livelihood. Women and youths have to be given particular attention as they are often marginalized. Technological provision like the irrigation schemes in all the countries especially in marginal areas of land is vital. This could encourage the landless to occupy those areas other than struggling for the good natural fertile and well watered areas of land that receive regular rainfall. This was suggested in Eritrea's finding, but it could also apply in all the countries.

With consideration of the above mentioned strategies, the private land titling with its prospect of efficient utilization of land in Sub Saharan Africa, would be more applicable and successful. Without the above, strife and parallelism will continue between the communal land users (with underlying assumption of social capital) and the private land users (modern ownership advocated by ETLR).

In conclusion, the two main controversies of land use in Sub-Saharan Africa remain between private and communal ownership. Other theories like regulatory theory, public choice theory, and structuralism are all embedded into either private or social ownership with the aim of bringing security to all land users and, with the intent for more efficient and commercial utilization, in order to derive more benefits from land. Public choice theory is in agreement with ETLR that the government is supposed to take the lead in the reforms. The difference in them is that public choice theory does not give the direction which the reform is supposed to take, while ETLR specifies that the reform should take the private perspective as people begin struggling for land. In regulatory theory, a government set agency is supposed to design a theory for land market dealings. It is also not clear which perspective the policy should take but it is said to favor the elites instead of the public. Structural model advocates for women rights to own land but does not state how it should be done. The main controversy that remains is whether land should be owned individually (ETLR) or communally (Social Capital).

Notes:

There was no much literature written on the challenges on the implementation of land reform in Eritrea. Most of the literatures only talk about the proclamation and the likely challenges that the commentators and the analysts like cliffé and shivji predict to emerge. This lack of literature limited the findings on Eritrea findings. Nevertheless, the available literatures were of utmost importance and relevance. There was also not much information about the traditional system of land ownership before colonialism in Zimbabwe. Most of the literatures are about the reform that took place after the independence. The available ones however served the purpose.

For more information about the data collection methods and analysis, check Alvesson chapter two (2), chapter seven (7) and a chapter on hermeneutics.

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