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# From 99-year Leases to Title Deeds: The Land Ownership and Productivity Enhancement Debate in Zimbabwe

FREDDY CHIMBARI<sup>1</sup> AND JAMES KANYEPE<sup>2</sup>

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## Abstract

The article discusses the transition from the 99-year leases to the titling of land in Zimbabwe and the legalities that surround the policy framework transformation. Land ownership has been an area of contention in various countries, particularly for farmers who hold leases. Farmers continue to fail to access financial institutions due to the lack of collateral form of land ownership. Furthermore, financial institutions fail to recognise the offer letters and leases as bankable documents, creating investment problems for the farmers. The problem in the study is that the revised land titling in Zimbabwe provides an opportunity for land investment, but it also exposes poor farmers to debt traps by the elite that can lead to the foreclosure of various farms. The research uses a qualitative methodology with a bias towards case study research design. The research uses secondary information as the data collection method through the use of newspaper articles, since the issue of title deeds on land is new in Zimbabwe. Thematic data analysis is used as the data analysis method. The study reveals that the titling policy enhances productivity as farmers can use their land as collateral security to unlock land investment. The research concludes that the titling policy misses the mark of being a transparent policy as it fails to account for the use of corrupt government offices implicated in multiple corruption cases. The study recommends monitoring and evaluation of the titling process to reduce corruption from the deeds office.

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**Keywords:** corruption, financial institutions, transformation, collateral security, investment, transparency

## **INTRODUCTION**

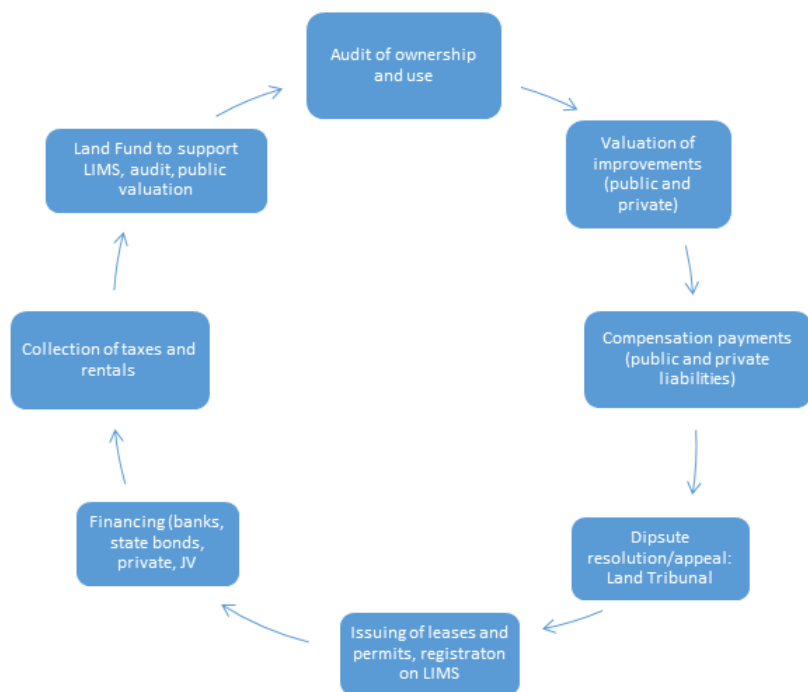
The post-2000 era in Zimbabwe has seen the dwindling of agricultural productivity despite government's efforts to help farmers enhance productivity on their farms (Shine, 2019). The farmers in Zimbabwe have failed to enhance agricultural productivity on their farms due to the poor economic performance of the nation's economy (Chavhunduka, 2020). However, another factor that has affected productivity enhancement in the Zimbabwean agricultural sector after the land reform programme has been a lack of investment in the farms. The offer letters and the 99-year leases that the farmers received from the government failed because they were not bankable as collateral security (Government of Zimbabwe, 2018). The problem in the study is the role of the new land ownership policy in improving land investment to enhance productivity in Zimbabwe. This policy opens up land to being repossessed by rich white commercial farmers again through syndicates. It is against the backdrop of the titling of the land that the study problematises the loopholes in the land rights policy, such as multiple farm ownership.

The research aim to examine the improvements that the new land ownership brings to the agricultural sector which has been battling under-investment, leading to poor productivity. The research is significant as it shows the new land ownership's policy role in improving land investment that can enhance productivity. The study moves beyond the academia into policy-making, informing policy-makers on the loopholes in the policy and inspiring amendments to the policy to reduce the chances of betrayal of the land reform by restoring the land to the rich elite through the resale of the land. The structure of the study is that it starts with an introduction that gives the background of the study, the conceptual framework, the literature review, the research design and methodology, the findings of the study, discussion, conclusion and recommendations.

## **CONCEPTUAL FRAMEWORK**

The study uses the concept of land rights as the conceptual

framework for the study (see Figure 1). Poor agricultural productivity and food insecurity are persistent features of many developing countries (Broomley, 1999). This has led to the embracing of agricultural intensification as the primary means for inducing technological change in developing countries (Ghebru and Holden, 2016). Important to this growing global interest in a public policy research and development agenda is the issue of land tenure security (Holden, 2020; Holden, 2023). There is a view that traditional or customary land rights impede agricultural development. Major multilateral organisations such as FAO have advocated for the formalisation of land rights (Atwood 1990; Holden *et al.*, 2011). Ali and Deinger (2022) observe how there is need for an appropriate institutional framework to ensure that the market can operate in a manner that attracts investors to the African agricultural sector.



**Figure 1: Land Ownership in Zimbabwe (Zimbabweland, 2024)**



The Property Rights Theory does not emphasise who owns the land (Bromley 1999). This creates problems on land investment as farmers fear losing the land, hence titling the land can improve productivity. These rights (title deeds) need to be sanctioned by a collective order (government) to constitute effective claims property rights (Ghebru and Holden, 2015). In various combinations, these rights are significant for agricultural development toward land investment and other people's dispute resolution (Holden, 2019). The land rights concept becomes relevant to the study as it resolves the issue of lack of land investments while enhancing productivity.

In terms of tenure security, land investment, in practice, is enhanced as the long-term viability of agricultural productivity is guaranteed (Holden *et al.*, 2011). Titling enhances the landholder's sense of tenure security boosting incentives to invest in agricultural production (Ali and Deinger, 2022). This is because such improvements lead to the adoption of new technology which ultimately may increase farm productivity (Holden *et al.*, 2009). Titling of land ownership increases land investment which can increase the productivity of farmers through the adoption of technology and long-term planning.

In light of the of the land rights, it can be understood that farmers invest on the land when there is tenure security. The security of land tenure becomes an important anchor for the increase of agricultural productivity and national development. The titling of land for the farmers offers a chance to invest on the land and increase productivity through unlocking access to financial institutions.

## LITERATURE REVIEW

This section presents the literature review on land ownership in different parts of the world and how it affects productivity and land investments. Classical economic development theories have long viewed agricultural productivity growth as central to the

development process (Lewis, 1956; Rostow 1960), hence agricultural productivity remains remarkably low in most developing countries due to the misallocation of factors of production (Subramanian and Kumar, 2024). The failure of productivity arose from frictions caused by undocumented land rights in developing countries to productivity differences between rich and poor countries. High transaction costs and market constraints from weak property rights and tenure insecurity can impede the optimal allocation of productive resources (Chari *et al.*, 2021). The provision of land rights can increase productivity and land investments.

Nhundu *et al.* (2015) allude that the land ownership issue in Zimbabwe is rooted in the colonial history of the country, where native Africans lost their land to colonialist Europeans. After independence in 1980, Zimbabwe embarked on a land reform programme (Ndlovu, 2019). The early land reform was done to decongest communal areas and accommodate veterans coming from the war (Government of Zimbabwe, 1985). Scoones *et al.* (2019) observe how in the year 2000, the country embarked on the final push for the land reform through a violent push to remove white farmers and replace them with black farmers. This came to be known as *Jambanja* or the *The Chimurenga* (Marongwe, 2011). This benefited the farmers in Zimbabwe with land. The land reform did not answer the land ownership question as the new farmers were given offer letters and leases that were not bankable (Mkodzongi and Lawrence, 2019). This limited land investment in the post-land reform era, thereby limiting productivity.

In addition, many developing countries have a colonial past and current land tenure systems have evolved. These colonial powers concurrently introduced formal legal systems on land rights (*de jure*) (Legakos and Waugh, 2013). Colonial land ownership laws are still in place, constraining land ownership, investment and productivity. Still, only a negligible proportion of the population holds formal titles

to the land they own through continuous personal use (*de facto*) (Goldstein *et al.*, 2018). The misalignment of the *de facto* and *de jure* rights can increase the risks of exploitation and misallocation of productive resources and diminished and more expensive access to credit (Adamopoulos and Restuccia, 2022; 2024). The issue of how to design a land titling process arises at the backdrop of these developments in the agricultural sector.

Land titling is a commonly proposed and supported place-based intervention that aims to improve agricultural investment and incomes in many developing countries (Mozambique, Botswana, Namibia) (Antonio *et al.*, 2017; Abman and Carney, 2019). Titling of land ownership in various countries like Chile and Brazil in the Amazon, has created ecological challenges as new farmers clear the forest to convert the land for farming purposes (D'Antonia *et al.*, 2022). Establishing secure property rights and granting fair access to land are key drivers of economic development (Besley and Ghatak, 2010). Deinger and Goyal (2022) allude that the titling of land ownership is associated with the reduction of litigation leading to the enhancement of productivity. The titling of land rights has the potential to enhance productivity on the land, while reducing land-related conflicts through provision of certificates of ownership.

The assignment of land property rights has long been advocated as a good policy for growth and poverty reduction as securing property rights increases investment and improves land productivity (Newman *et al.*, 2015; Mustaphi *et al.*, 2019; Masangi *et al.*, 2022; Tesfaye *et al.*, 2023). Titling the land to one person is productivity than group ownership as it allows smooth investment and ownership (Bellemare 2013; Bellemare *et al.*, 2020; Waha *et al.*, 2020). The titling of land creates the chance for growth through investments on the land, giving farmers a chance to secure financial assistance and investors, enhancing productivity. Ndlovu (2021) asserts that the lack of land ownership rights in Zimbabwe has been the main cause of poor land

investment in the post-2000 land reform era as the usufruct rights which farmers hold are not bankable. The lack of bankable ownership of the land in Zimbabwe has created a lack of land investment, while reducing productivity on the land due to poverty (Marongwe, 2014; Murata *et al.*, 2022).

In conclusion, land titling and ownership plays a critical role in improving investment on the land. It creates access to investors for the farmers to improve productivity. With land ownership to land, farmers can access financial institutions for loans, allowing them to adopt new technologies.

## **RESEARCH DESIGN AND METHODOLOGY**

This part of the study presents the research approach, research design, the data collection methods and the data analysis methods that informed the study.

The study uses the qualitative research methodology to understand the importance of land titling on agricultural production in Zimbabwe. The appeal of qualitative methodology is its flexibility and ability to allow subjectivity. Yin (2013) observes that the qualitative research methodology is flexible as it allows subjectivity and it is inductive, meaning that it is cyclical rather than sequential where it deduces social facts. The research chose the qualitative research methodology because it offers understanding of complex issues such as titling of land in relation to agricultural performance. The qualitative approach is used to provide an understanding of the meaning of the transition from 99-year leases to the titling of land in Zimbabwe and the legalities that surround the policy framework transformation.

The study uses secondary information for data collection. The literature review-based approach is utilised because it appealed to the research due to its time and cost efficiency since data is readily

available. Snyder (2019) observes that the use of a literature review-based data collection methodology gives strength to the study as it allows the research to fill in the gaps left by past studies. The study uses newspaper reports since the issue of land titling is new in Zimbabwe.

The study used thematic data analysis to analyse the findings of the study. The allure of thematic data analysis in the study is its ability to categorise the findings into themes that can be understood. As Broun and Clark (2022) observe, thematic data analysis is more flexible as it allows the study to identify themes inductively without being confined to a predetermined framework.

## FINDINGS

This section presents the findings of the study with themes on the thrust of the land titling policy, meaning of ownership, relation of the ownership to market and productivity. The findings identify the theme of issues addressed by the land titling policy, gaps with the policy, meaning of land ownership in Zimbabwe, policy implications of the land titling, capacities in place and solutions to the gaps in the policy.

Zimbabwe is moving to tighten land ownership rules under a new land tenure system which will require government approval for the sale or transfer of agricultural land a move aimed at increasing the bankability of land titles while ensuring ownership remains predominantly in local hands (*The Zimbabwe Mail*, 24 November, 2024). The land titling policy tightens the sale of land and provides a chance for the government to audit land use. All the land held by beneficiaries of the land reform under 99-year leases, offer letters and permits will now be held under a bankable, registrable and transferrable document of tenure (*The Herald*, 17 October, 2024). It remains to be seen if the policy will unlock investments in the agricultural sector of Zimbabwe. The unlocking of investment can improve productivity as land can now be used as collateral.

The government has addressed speculation that banks can foreclose on the land by indicating that farmers will never lose land to banks (*The Herald* 16 January, 2025). This creates problems in unlocking investments as banks stand to lose to the farmers if the collateral security is not really attachable in cases of default. *ZBC News* (16 January, 2025) quotes the Chairperson of Title Deeds Commission, Mr Kudakwashe Tagwirei, saying that, “The land titling policy does not allow the banks to take ownership of what is essentially state land and the policy moves to address the multiple-farm ownership.” The implication of the policy is that it still creates problems of ownership if the land still belongs to the state. Banks are likely going to find it impossible to take the land title deeds as collateral security if they cannot possess the collateral security if the farmers defaults in paying the loan.

The policy means that there will be notable changes in production trends and investment levels on the farms which will translate to higher contributions to the growth of the national economy (*The Herald*, 17 October, 2024). The policy has focused on enhancing productivity and investments on the land, ensuring that the government expenditure on farming inputs is reduced due to the ability of farmers attracting investors. It continues to provide gaps for banks not to invest in the agricultural sector because the ownership of the land remains ambiguous.

The new ownership transferrable deeds allow the farmers to sell their land only to indigenous Zimbabweans (*NewZwire*, 9 October, 2024). There lies a gap in such a provision as the Constitution of Zimbabwe does not have a definition of who is an indigenous Zimbabwean. The Empowerment Act defines an indigenous Zimbabwean as any person before the 18<sup>th</sup> of April 1980, who was disadvantaged under unfair discrimination on the grounds of his race (*ibid.*). This definition allows only black Zimbabweans to buy land, leaving other holders of the country’s citizenship disadvantaged.

There are also gaps in terms of this indigenous buyer act as black people can be used by white commercial farmers' syndicates to acquire land just as in contract farming syndicates. The government failure to craft a policy that is inclusive on the basis of citizenship rather than colour, creates problems as legalities can arise from citizenship holders that do not fall into the indigenous bracket.

Banks cannot repossess the land used as collateral security (*The Herald*, 16 January, 2025). This presents gaps in the issue of the title deeds being bankable. There are gaps in the Cabinet's failure to clarify the compensation of the white farmers for US\$3.5 billion as if the beneficiaries are to pay a levy for the compensation and the issue of companies owning land (*NewZwire*, October, 2024). The policy lacks transparency as the government continues to shift goal posts on the bankable status of the title deeds. The policy is not air-tight as its gaps can impact the investments of the banks, leading to the lack of investments.

The new land tenure system is aimed at safeguarding gains from the Land Reform Programme, as it will restrict foreign ownership and transfer of agricultural land to non-nationals (*The Zimbabwe Mail*, 24 November 2024). The policy is a move to improve investments in the agricultural sector in Zimbabwe promoting the land reform programme. Titling ownership in Zimbabwe can mean relieving the government of the pressure it has been taking in recent times by rolling out numerous input schemes to help finance farmers as the policy allows farmers to access investments and attract investors on their land without transferring it (*The Herald*, 17 October 2024). The policy is not a betrayal but it provides a chance for the government to focus on economic development of the country as farmers can now access inputs through investor attraction. Farmers can now attract investments using their title deeds, relieving the government to focus on other economic development avenues.

Townership means that the government reduces the losses from the bad debtors, the farmers that have not been paying back for the government inputs and assistance schemes (*NewZwire*, October 2024). The farmers have been benefiting from the government and the new policy presents a chance for the farmers to use the land for development. The new policy benefits both the government and the people as it can work as an audit system for multiple-farm owners.

All tenure systems will provide the government with an opportunity to enforce that policy, requiring farmers to submit production reports every season to ensure total utilisation of the land (*The Herald*, 17 October 2024). The policy allows the government to audit farmers' productivity to understand the market demands and productivity. Financial institutions seeking to foreclose on land used as collateral in cases of loan defaults, will also need government consent under the framework (*The Zimbabwe Mail*, 24 November 2024). The land titling policy allows banks to invest on the land helping the farmers manage, while improving investment and enhancing productivity.

All farmers who were hesitant to make big investments on their land amid fears of possible evictions or any other problems making it less sensible to develop the land, can now develop their land and enhance productivity (*The Herald*, 17 October 2024). The titling of the land gives the farmers a chance to adopt new technologies and invest on the land without the fear of eviction. The provision of secure land tenure allows the farmers to increase productivity as it can help them by facilitating access to financial institutions enabling them to buy inputs, hire labour and ultimately increase their yields and income (*The Herald*, 21 December 2024). The titling of the land provides farmers with a chance to increase productivity by unlocking investments.



To oversee the operationalisation of these changes, the Land Tenure Implementation Committee has been established (*The Zimbabwe Mail*, 24 November 2024). The technical body includes representatives from the Ministry of Lands and Legal Justice and the committee will report to a Cabinet oversight team chaired by the Minister of Defence. The policy has potential to improve the agricultural sector if it does not fall to politicisation and corruption. All the documentation of the land tenure system will have security features to reduce counterfeit documents leading to banks refusing to accept even the authentic ones for security to protect their investments (*The Herald*, 17 October 2024). The President of Zimbabwe, quoted in *The Herald* (21 December 2024) states that, “Youth, women and people living with disability, should also be considered. For title deeds in this regard, land transfers shall be amongst qualifying Zimbabweans.” The policy can address the shortcomings of the first land reform by becoming inclusive.

The privatisation of land is problematic, leasing of land can be the right solution for Zimbabwe using a system such as the one used in Tanzania, Mozambique and Botswana, allowing foreigners to hold land only for investment purposes. (*NewZwire*, 9 October 2024)

Overall, the land titling policy presents a chance for the farmers and the government to work together to unlocking investments in the agricultural sector. However, the policy faces the same fate that most policies in Zimbabwe face due to inconsistency as the policies restrict banks from acting on collateral security. This creates problems for the banks as investing on the land indicates losing their investment in cases of default.

## DISCUSSION

The study aims to understand the meaning of the transition from the 99-year leases to the titling of land in Zimbabwe and the legalities that surround the policy framework transformation. The study shows

that the titling of land in Zimbabwe policy's thrust is the move to tighten rules of ownership of land while increasing the bankability of the land. The policy has focused on the preservation of the gains of the Land Reform Programme by ensuring that land transfers are done between black native Zimbabweans only. The thrust of this policy is that it creates chances for investment on the land by farmers and investors. Consistent with the study are Mkodzongi and Lawrence (2019), who allude that land ownership can increase foreign direct investments and productivity in the agricultural sector in Zimbabwe. The policy implication is that it safeguards the land for the farmers, but the banks' lack of power to act on the collateral can create investment problems. Banks can question the lack of power to act on the collateral security upon loan default, resulting in the locking of investments.

There are gaps in the policy that create problems in terms of equality and post-colonial peace, inclusivity and reconciliation. This is because the policy states that land can be transferred or sold only to indigenous Zimbabweans. The policy has gaps in the levies that the farmers will provide to gain the title deeds. This can create problems for the poor farmers that fail to access this levy. The compensation of the former commercial white farmers remains an area of contention which the policy fails to address.

The ownership titling policy is not a betrayal but a safeguarding of the Land Reform Programme as it restricts the transfer of land to foreigners. This has gaps as foreigners can control land through proxy black farmers as in the contract farming syndicates where black farmers were leasing their land to white commercial farmers. In support of the study is Moyo (2006), who argues how land reform gains lacked security of land from being resold by the beneficiaries. The policies allow the farmers to control their land and attract investors to improve productivity. The policy has the potential of

increasing cases of farmers working for foreign syndicates to farm through contract farming that bond the farmers.

The study indicates that the policy concerning markets and productivity provides the government the opportunity to ensure productivity through utilisation audits. The policy enhances productivity in Zimbabwe as it enables farmers to access financial institutions using the land as collateral security. It allows farmers to invest on the land and adopt technology to increase productivity. Concurrent with the study is Chimbari (2024), who observes that lack of land titling was the cause of reduced productivity in Zimbabwe's post-land reform. The policy has implications on increasing productivity through enabling investments. It improves land investment and productivity by allowing farmers to access financial assistance from banks without losing their land to debt trap. It is upon the government to convince the banks that Zimbabwean farmers are good debtors since the collateral security cannot be collected upon.

There are capacities in place to ensure the implementation of these changes through the inclusion of various ministries, such as the Ministry of Legal Justice, to iron out the legalities associated with the policy. It has been backed by the government as authentic through guarantees that the deeds will have a security system to safeguard them from being counterfeited. Similar to the study is Chiweshe (2020), observing that in Zimbabwe, issues around land have been affected by corruption as urban land ownership has seen corruption by deeds offices and local councils. It can be argued that there are ambiguities that the policy fails to guarantee, such as the rule of law and politics, as the Land Reform has been reversed multiple times due to political differences, the subject of the Deeds Office which has been involved in multiple corruption cases. The question of whether it can be trusted arises, the issue of the stance of the policy on multiple farm holders if they are to be given deeds for all their farms.

The main findings indicate that the main implication of the titling policy in Zimbabwe is that it unlocks investment in the agricultural sector. It can then be concluded that the policy can play a critical role in providing investment in agriculture to transform farming by adoption of technology through the financial assistance. The government needs to provide a consistent collateral system for the farmers and the banks to have guarantee on the loan repayments.

## **CONCLUSION AND RECOMMENDATIONS**

The study's aim is to understand the transition of land tenure from 99-year leases to the titling ownership policy along the lines of meaning, ownership, productivity, other legalities and the quest for sustainability. The study reveals that the titling policy enhances productivity as farmers can use their land as collateral security. Land titling creates legalities as the policy fails to answer the issue of indigenous Zimbabweans definition. The policy creates limited government expenditure as farmers can now access their inputs through attraction of investors. The study concludes that the policy of titling ownership of land comes as a step in the right direction as it can solve the problems of evacuations of farmers from the opposition political divide. In a nutshell, the land titling policy provides solutions to the challenges of the lack of investment in the agricultural sector of Zimbabwe. In conclusion, the new land titling policy benefits the farmers more than it benefits the government if the financial institutions agree to deem the land title deeds bankable. This unlocks investments on the agricultural land in Zimbabwe.

The research recommends that the government needs to introduce monitoring and evaluation on the operation implementation committee to reduce elite capture. The study directs future studies to look into the financing of the compensation of commercial white farmers. It recommends the inclusion of government, communities and other stakeholders in the issuance of the title deeds to ensure transparency.

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