

Paradigms, Processes and Practicalities of Land Reform in Post-Conflict Sub-Saharan Africa

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INTRODUCTION

Over the last decade, many African countries have engaged in processes of land tenure policy and legislation reform. While the aims and assumptions of land tenure reform efforts differ widely, all purport to increase land tenure security for the rural poor.¹ Land law reform is at an advanced stage in at least 17 countries in the continent (Angola, Burkina Faso, Cote d'Ivoire, Eritrea, Ethiopia, Mauritania, Mozambique, Namibia, Niger, Tanzania, Rwanda, Senegal, South Africa, Sudan, Tanzania, Uganda and Zanzibar), while new national land policies have been drafted or are under discussion in another eleven countries (Benin, Botswana, Gambia, Ghana, Kenya, Lesotho, Malawi, Swaziland, Togo, Zambia and Zimbabwe).²

Land tenure insecurity is a major issue not just in Africa but elsewhere in the developing world, where agricultural land constitutes the basis of income and status for half a billion people, about 50% of whom experience acute land tenure insecurity, either because they are tenants or landless labourers, or have insecure individual rights or questionable collective rights.³ In Africa, key sources of tenure insecurity include the 'clash' of customary and statutory tenure regimes, and the increasing commodification of land through various processes, which are often 'embedded' in struggles over valuable mineral and biological resources, often tied to globalisation.⁴ In some countries, notably in North and Central Africa, scarcity of land exacerbates these problems.⁵

Land tenure reform is, even in the most stable of countries, a volatile and politically challenging process. This is even more the case in post-conflict situations. A number of African countries recently or currently involved in land tenure reform have been affected by conflict; either wars of liberation (which, in the case of South Africa, continued into the 1990s); civil wars (sometimes linked to Cold War struggles); direct international conflicts (though these are few); or 'proxy' cross-border wars, involving support for armed groups in neighbouring countries. In many cases, conflicts have been multi-level, with local manifestations being to a large degree based around local issues, such as struggles for land.

While the situation in individual countries, and indeed in different regions within countries is often unique, there are some general patterns that characterize post-conflict situations. In post-conflict environments,

access to land may be fundamentally altered. The most visible aspect of this is population displacement; often due to systematic ethnic cleansing. However, the direct use of force to alter patterns of land access is only one of a number of processes involved. Land tenure is a system of rights and responsibilities – essentially, a social contract between people. Conflict changes social relationships in profound ways, and perceptions of mutual rights and responsibilities between individuals, social groups and the state are altered due to changes in perceived legitimacy of institutions and obligations.⁶

Specific difficulties often encountered in post-conflict situations include: the inequities posed by gender issues, as widowed women and orphaned children tend to face increased responsibilities as heads-of-household but lack access to land; the return of refugees and internally displaced persons (IDPs), often without titles or other proof of ownership; the protection of environmentally sensitive areas, especially where there is land pressure due to sudden refugee returns; and the need for management of local inter-communal relations where civilian populations have often been the victims of violence, and where land claims have an inherently ‘communal’ nature. Despite all these problems, it is often recommended that post-conflict land reform is done rapidly – or even built-into peace negotiations – in order to avoid problematic issues ‘fester’ over time and triggering more conflict at a later date.⁷

Policy-making, especially on environmental issues, is generally dominated by technical experts: civil servants, many of whom may remain in place even as politicians come and go, draft policy documents. Very often, despite the waxing and waning of particular political ideologies, central narratives remain surprisingly similar; though solutions may be couched in different terminology depending on which political shade is in vogue.⁸ However, there are a number of reasons why policy-making and policy implementation (especially in the case of land policy), is inherently ‘political’ and has to be understood within the particular institutional context of the time, making post-conflict policy-making something of a special case.

The first reason is that there is rarely, if ever, a neat dividing line between ‘war’ and ‘peace’, and the end of hostilities is often marked by a period of emergency reconstruction. During this time, it may not yet be clear whether the threat of violence is in fact over. The authorities that are in place are forced to make urgent decisions, often related to the physical needs of displaced and war-affected people: shelter, food, water, firewood and other such ‘land-based’ necessities. Very often, executive decisions are made (often in terms of Presidential or Ministerial statements) which affect the movements of large numbers of people, or the settlement or cultivation of areas under multiple access claims. A key concern of post-conflict governments, for example, is often the return of refugees, who may be seen either as a resource for national reconstruction, or alternatively a potential threat to stability. The (re) settlement of IDPs is also an urgent issue. Due to the sheer practical

difficulty of reversing such decisions, they often become *de facto* policy, and are legally ratified at a later date, during the transition process. Therefore, the political and technical capacity of the authorities in the aftermath of war may be crucial to long-term land policy.

Second, the sensitive and politically complex nature of land issues, even during peacetime, is abundantly clear from the case studies in this volume, as well as other research. For example, any changes in the role of customary leaders in local land administration has a very direct bearing on the political fortunes of local politicians, as traditional leaders often wield great power over constituents. For such reasons, politicians are generally willing to intervene in land policy reform to a far greater degree than is found in other policy processes, or may seek short-term political capital through drawing attention to controversial aspects. However, due to the long-term nature of policy development and the potential volatility of the issues at stake, they may be unwilling to publicly champion a policy and see it all the way through from conceptualization to implementation, due to the political risks involved.

Third, the policy process often starts prior to the involvement of technocrats – the timing of policy processes, and the agenda which is set, are largely the result of political decision-making at ministerial level.

Fourth, patterns of control over land often change dramatically during periods of conflict. This may be in terms of the structures for land administration or land management (especially in long-standing conflict, where the roles of customary or ‘modern’ institutions are distorted) or in terms of actual physical land use. In Sudan, for example, parts of the Southern Blue Nile and Nuba Mountains regions have seen increases in mechanized agriculture or grazing by ‘Northerners’; while in Western Upper Nile, oil exploration expanded during the war and was associated with massive population displacement and disruption to customary grazing, agriculture and fishing rights.

The policy-formulation process will differ greatly depending on the nature of the government in power. In some cases, peace negotiations (frequently resulting from a stalemate between warring parties and a realization that military victory is impossible) result in power-sharing governments, often of a transitional nature and with a limited lifespan pending elections. This is, of course, the case in the DRC, Burundi, Côte d’Ivoire and other countries. Power-sharing can take many different forms, such as integrative power sharing, which relies on the formation of political coalitions, or power sharing based on ‘autonomous’ groups, often in a federal arrangement.⁹

The latter situation prevails in Ethiopia, for example, where the Ethiopian Peoples Revolutionary Democratic Front, a coalition of armed opposition groups including the Oromo Liberation Front (OLF) and the Tigray People’s Liberation Front (TPLF), took over power upon the collapse of the Derg regime in 1991. The new transitional government, which was politically dominated by the TPLF, initiated a federal system constructed along ethnic lines. The OLF, which had been formed in 1975

with the goal of independence for 'Oromiya' (the territory where most of the various communities coming under the 'Oromo' umbrella reside), agreed to a federal arrangement.¹⁰ Nine regional states were created (one for each major ethnic group), based on "nations, nationalities and peoples". A multi-party political system was put in place and in 1995, and again in 2000, federal parliamentary and regional elections were held.¹¹ Research has demonstrated that regional differences (for example, in political outlook, connections to the centre, and access to resources) have great significance on policy debates. Keeley and Scoones argue that,

*"following regionalization, the relationship between national and regional policy debates has become increasingly significant. In many areas the federal level has become less important, and it is in the regions that policy agendas are set, decisions taken, and projects implemented."*¹²

Some researchers argue that regional governments are, to a large extent, directed by representatives of the TPLF, who may hold no formal decision-making position, but have considerable political weight.¹³ This is directly linked to the outcome of the war against Mengistu's government, as the political space to debate or (re)interpret policy is highly dependent on the relationship between regional politicians and bureaucrats and the ruling party. The ruling party was in many ways spawned by the TPLF, and indeed the first administrations were military-dominated and composed exclusively of Tigrayans.¹⁴ The confidence enjoyed by the TPLF due to its role in decisively heading the coalition of rebel groups, translated into a lack of political, economic and other forms of support for some other regions. This has resulted in policy-makers in Tigray Region developing a highly localized interpretation of policy, while in the Southern Nations, Nationalities and People's Region, policy is scarcely debated and implemented in a highly mechanical manner, "reflecting perhaps an insecure and uncertain political positioning."¹⁵ In Borana region, some important land-related issues were not discussed at regional level; for example, the federal government decided to allocate control of land along the border to Somali communities.¹⁶ This has provoked considerable resentment amongst some stakeholders.

Often, policy-making in such contexts is a highly political affair, with parties forming fragile alliances and seeking to make gains through political horse-trading. It is particularly difficult to accomplish policy-making for long-term goals when power-sharing governments incorporate parties who are unlikely to remain in power after the transition period (for example, due to lack of popular support or association with war crimes). In such a situation, short-term political and economic gains are likely to be higher on the agenda. However, in some countries, a government which is ostensibly formed to 'share power' may actually be dominated by one or two parties, and participation of others may be limited for various reasons. This was the case in the years immediately following genocide in Rwanda, for example.¹⁷

In contrast to the power-sharing model, certain conflicts may put one party firmly in control, often through decisive military victory. This was the case in terms of Eritrea's war of independence, for example. In another context (and at the time of writing) the peace process in Sudan seems likely to result in the Sudan People's Liberation Movement (SPLM) administering Southern Sudan, with little organized, legitimate opposition. In these circumstances, the main challenge is not to balance the views of several parties, but rather to move away from the highly militarized structures that are in place. Organisations like the SPLM, for example, were formed not to govern, but to wage war – originally along Marxist or Maoist models – and the 'civil administration' aspects of these movements were secondary to the main goal of military victory. In the case of southern Sudan, most of the high level administrators – former military officers – are hand-picked by the SPLM leadership, rather than being elected. Their authority in relation to the military hierarchy has in practice been questionable, especially during recruitment drives.¹⁸

Given this highly militarized background, and the small number of civil society organisations in the country with the capacity and ability to influence policy, the formulation and interpretation of policy in a post-conflict scenario will depend heavily on other actors – such as the many civil society organisations (CSOs) in the diaspora; and the influence of customary chiefs. The chiefs, greatly influential over their communities, were incorporated under the SPLM military structure; but customary law was recognized, and the customary chiefs courts have contributed greatly to the rule of law.¹⁹ Current indications are that confidential land policies have been drafted by SPLM commissions. CSOs have great difficulty in accessing the draft, and have not been consulted. It remains to be seen to what extent they, or the chiefs (who are likely to have a greater role), will be able to influence policy in future.²⁰

This chapter will examine the paradigms and processes involved in drafting or reforming land policies and laws in two very different African countries: Eritrea and Zimbabwe. Whereas Rwanda, Burundi and some parts of north-eastern DRC have very high population densities – the highest in the continent, in Rwanda's case – the countries examined in this chapter have lower population densities, and different challenges. The paper does not attempt to offer a comprehensive or definitive analysis of land policy on the two countries, but instead looks at the rationale for the reforms, including the role of development partners in recommending particular kinds of reform. It will also examine the processes of policy- and law-making, especially in terms of consultation and negotiation between stakeholders. Finally, the chapter will look at the practicalities of implementation, particularly in regard to local participation in decision-making and dispute-resolution.

POST-CONFLICT LAND REFORM IN ERITREA: CHANGE OR CONTINUITY?

Like virtually all African countries, Eritrea has a dual system of land tenure comprising both customary and Western models.²¹ The traditional land rights structures are diverse and complex, but can be categorized into two main types: pastoral/agro-pastoral or sedentary land tenure. Much of the sedentary population resides in the highland areas, which are predominantly inhabited by Christians, and have been historically under the rule of the Ethiopian monarchy.²² Much of the pastoral/agro-pastoral population resides in an arc around the central highlands, and many follow Sunni Islam. Twenty-five to thirty percent of the total population of more than 4.2 million, are nomadic or semi-nomadic.²³ These cultural, religious and livelihoods differences, while offering benefits in terms of valuable national diversity, also pose challenges to national unity. In the past, conflicts have taken place around issues of land access, as in the case of clashes between the Kunama ethnic group and Tigre, Hedareb and Nara people in the 1940s and 1950s, largely a result of the regional tendency towards 'reciprocal destabilisation', as well as neighbouring Sudan's policy of encouraging Islamic fundamentalism in the region.²⁴

Customary Tenure Regimes

Within the sedentary land tenure structures, there are several customary systems. These include forms of land rights which are focused on the family (*Risti*) and the village (*Deissa*). *Risti* land is owned by the extended family group, called *enda*, which traces its rights to a common founding father who first settled in the area.²⁵ A rightful claimant of *Risti* is entitled for his/her lifetime to a share of land in the land allocation process. He/she can also claim land in different areas simultaneously by virtue of descent. *Risti* land can be leased out or transferred to children through inheritance. However, individual ownership of *risti* land is not absolute when it comes to selling or mortgaging to individuals outside the *enda*. Only after an offer to other members of *enda*, can *risti* land be sold to others, becoming *meriet-werki*, literally meaning land of gold or land purchased with money.²⁶ Yet, sale to outsiders was very difficult due to the *enda's* pride in keeping foreigners excluded from owning land. All pasture was available for communal use.²⁷

The *deissa* landholding system relies less heavily on blood ties, and refers to collective ownership of land by a village community.²⁸ In the *deissa* system, access to land depends not just on descent but also residence in a village for a specified period of time. A local village council called *baito-adi* is responsible for decision-making over land, which is classified into three categories: residential, forest and grazing, and farmland. Land is distributed among member households in such a way that every eligible member has access to a farmland of similar value in terms

of fertility and proximity of the land to a homestead. A household holds many parcels that are scattered in different parts of the village farmland. Each household is able to use these parcels for five to seven years, after which time the *baito-adi* will again distribute the village's farmland. As in the *risti* system, all pasture was available for communal use.²⁹

In a similar way to many customary systems, indigenous land tenure systems provided rights to women only in terms of their status in relation to men: as wives, daughters or widows.³⁰ In general, though Eritrean communities paid taxes (in cash, kind or labour) to feudal overlords, they had practical ownership rights over land, so that feudal relationships were not generally overly exploitative.³¹

Colonial interventions

These indigenous land rights systems were disrupted through different colonial interventions. The Italian colonial administration (1890–1945) declared large tracts of land as public property in order to settle poor immigrant Italian farmers, in total disregard of indigenous land rights lands.³² Under legislation passed in 1926, all land – except for specific indigenous customary rights with a particularly visible history – in the Eritrean colony belong to the state, creating *domeniale* land. By the end of 1893, the colonial state had expropriated about 20% of arable land for commercial agriculture.³³ All grazing land was declared state land or, in areas not under the control of the colonial regime, was administered by local landlords, so that pastoralists had to pay rent for grazing land.³⁴ Agricultural production in riverine parts of pastoral ecosystems began a process that continues today.³⁵ Land previously owned by the chiefs and the church was also expropriated and distributed to new chiefs and missionary institutions in exchange for political support.³⁶ State land was given to Italian settlers and investors on a grant basis and some to Eritrean cultivators on a concession basis. Of the estimated 75,000 hectares of cultivable land, the Italian authorities had expropriated 28,000 hectares by 1945.³⁷ The expropriation of land led to armed revolts in some areas.³⁸ In addition, some forms of land tenure such as *tsilmi*, which was more exclusive than *deissa* as it was based on extended family units rather than villages, were converted to *deissa* by the colonialists, a pattern that was continued under the Derg.³⁹

The densely populated highland areas were the most affected in this expropriation process, as its temperate climate and fertile soils were considered favourable to Italian settlers.⁴⁰ The immediate effect of the expropriation was that customary rights holders were confined to small and marginally suited areas. Traditional systems of shifting cultivation were largely abandoned due to growing shortage of land. Together with population growth, this had set up a process of serious land degradation as agricultural land, particularly grazing land, grew scarcer over time.⁴¹ Conflicts over access to land had grown, partly due to uneven distribution of land among *endas* and partly due to scarcity of land

caused by Italian expropriation policy.⁴² Consequently, in some places, at the request of local peasants, *risti* land was converted into *deissa*, in order to redress the uneven distribution of land among the *endas*.⁴³

The British military administration that replaced the Italian administration after the defeat of the latter in World War II did very little to change the *status quo* created by the Italians. In fact, the British alienated additional land for distribution to Italian fruit and vegetable growers, but did not have a land policy for improving traditional agricultural production systems.⁴⁴ Another feature of British policy towards Eritrea, which was to have divisive repercussions, was that the Muslim lowlands and Christian highlands were seen as naturally different. The British envisaged that the lowlands would become a part of Sudan, whilst the highlands were destined to be part of Ethiopia.⁴⁵ The British also altered the provincial (*awraja*) borders, a policy that was also used by the Derg to 'divide and rule'.

Land reform under the EPLF

In 1952, Eritrea became a federation of Ethiopia. Relations were extremely strained, and in 1962, Ethiopia formally annexed Eritrea, leading to open conflict. A remarkable aspect of land reform in Eritrea is that it commenced during the war of liberation, which lasted thirty years. The land reforms started by the two competing liberation movements, the ELF (Eritrean Liberation Front) and EPLF (Eritrean People's Liberation Front) in the areas under their control were strongly socialist in orientation: their stated aim was to make existing tenure more equitable. The ELF, partly because of the nature of its support base, was (in contrast to its rival) supportive of nomadic pastoralism. However, changes implemented by the ELF are less significant, due to the demise of the organisation after 1981, hence this section's focus on the EPLF.

Like many other rebel groups of the period, the EPLF (founded in 1970 after a split in the ELF) espoused a doctrine of socialist democratic centralism, heavily influenced by Maoism.⁴⁹ Unlike many other guerrilla organisations, however, it actually managed to implement many of its principles, and in many ways, the movement operated as a government in the areas that it controlled. EPLF cadres used social surveying methods to categorise village populations into "poor", "middle" and "rich" strata, and, though working through village structures, formed associations for each social group. These associations would then be represented in village assemblies, according to their proportional size within the village, and enabled assistance to be better targeted to the poor.⁵⁰ The main duties of the village and 'district' (*wereda*) assemblies (called *baitos*) included land administration. The EPLF also put in place local mechanisms for dispute resolution, which were very important due to the great number of land-related disputes related to generalized land scarcity. Importantly, the *baitos* combined executive, judicial and legislative functions, which was to have implications for post-conflict governance.⁵¹ The

EPLF controlled the North-eastern part of the country for almost two decades, and hence changes to governance were widespread and thorough: by 1988, 85% of villages in the country had EPLF structures in place. Land tenure regimes were regulated and formalized through a Civil Code, essentially aimed at making traditional forms of tenure more equitable. In general, the effect was to increase the influence of the *deissa* system, and also, according to analysts, to increase land fragmentation in many areas through redistribution.

In the southern territories, EPLF reforms included the introduction of wider entitlements of women to land.⁵² However, in general, the EPLF was more cautious in implementing reforms in Muslim-dominated areas, because of the sensitivities around Islamic property laws, and the fact that the ELF, which was in armed opposition to the EPLF as well as the government, was essentially a Muslim organisation.⁵³ However, where possible, the EPLF encouraged pastoralists to settle and adopt sedentary lifestyles.⁵⁴

The 1975 attempt by the Ethiopian Derg government to reform the land tenure system in the areas under its control was also socialist in orientation. In rural areas, land was confiscated from the church and the aristocracy, and distributed to peasants on the basis of family size. However, the policy was only minimally effective in Eritrea, as highland areas' traditional institutions were too influential to be altered, and the Derg had little effective control over communities in lowland areas.⁵⁵

The immediate post-conflict period and post-Independence land reform

The EPLF became the *de facto* government in May 1991, though it was not formally instated until 1993. Unlike many other conflict-affected countries, the social structure, which had been weakened by successive colonial and Ethiopian interventions, was in many ways strengthened by the years of armed struggle.⁵⁶ However, the country's social, cultural and political strength contrasted with its wrecked economy, severe food insecurity, decimated forests and rusting infrastructure. 150,000 Eritreans were killed during the war, as was 70% of the livestock. By 1993, over three-quarters of the population were reliant on food aid.

By the time of the second EPLF National Congress in 1987, the movement had already dropped its Marxist paradigm and moved towards a "broad-based national democratic programme", albeit with a strong thread of equity and unity. In the first years of independence, the government (which was initially a provisional government) reformulated its policies, especially in terms of macro-economic development, and aimed for an "outward-looking private sector-led market economy, with government playing an active role to stimulate private economic activities".⁵⁷

One of the main challenges to the new government, which in the early years combined executive and legislative roles, was a profound lack of

experience of national policy-making. Moreover, the judicial and administrative sector had been ruined by the Derg, who had inculcated bureaucracy, corruption and the appointment of unqualified and unmotivated personnel. In order to counter its lack of experience, extensive public consultations were held. To establish better governance, administrators were elected from the *Baito* level upwards, and village judges were empowered to preside over civil cases and petty offences. However, the lack of access to education during the war meant that capacity was limited.⁵⁸

The formulation of land legislation, the Eritrean Land Proclamation (Proclamation No. 58/1994), was among the earliest policy-related tasks assumed by the independent government. This followed a number of activities by a land commission (established in September 1992), including examination of the history and evolution of Eritrean land tenure systems, and review of a number of potential institutional foundations for the new policy, with the geographical extension of a slightly adapted form of *deissa* tenure emerging as a strong possibility. The Commission also held consultations with concerned ministries, local administration authorities and land specialists, and conducted study visits to most provinces.⁵⁹ However, these were not comprehensive enough to prevent the far-reaching consequences of the Land Proclamation causing 'shock waves' throughout society.⁶⁰ The issue of civil society participation in the policy-making process, outside of the consultations that were organized by government, does not really arise. The emphasis on 'unity', within society as well as government, and the pervasive, centralizing nature of the state apparatus that is a legacy of the war, constrained the rise of an organized civil society with the ability to lobby on policy issues.⁶¹ The government's organisational 'culture' was still essentially military, and there was little political will for civil society to be nurtured.⁶² The Proclamation contains elements of the Ethiopian Civil Code, Italian colonial legislation and the Common Law, as well as some innovative aspects. The law's effect was to vest all rights to land in the state. This implies that the village now has no collective claim to its former farmland, although it is allowed to continue exercising control over its pasture, woodland and water resources. Every Eritrean is entitled to land usufruct with regard to agricultural and/or residential land regardless of sex, belief or origin, provided they have completed military service. The population hence become 'usufructuaries'. The law refers to indigenous land tenure systems as obsolete, as impediments to progress and incompatible with the contemporary demands of the country. This view was justified by arguments that the rotational access to land under the *deissa* system, for example, is a disincentive for investment.⁶³

Some other salient features of the law are as follows:

- The law created a land administration body (LAB) consisting of a representative of the government's land commission (LC), members from village assemblies and various government bodies of the

localities. This body was tasked with classifying land and distributing it to eligible people by virtue of the proclamation and to those who make a living by farming;

- In distributing rural land for residential, agricultural and farming purposes, the LAB gives priority to permanent village residents;
- Taking into account the differences between fertile and poor land, the LAB distributes land in an equitable and balanced manner to the eligible;
- Usufructuaries who intend to farm collectively or who intend to utilize their farm equipment collectively, upon prior notice to the LAB, may be allotted land in the same area;
- Usufructuaries on farmland must be dependent on agriculture;
- Land allotted according to the proclamation shall be registered and granted in the name of the recipient of the usufructuary; the usufructuary shall use the land for his/her lifetime and shall have the right to fence it;
- A usufructuary may, in exchange for a fixed quantity of agricultural products, grant the right to use part or all of her/his land to any person who would contribute labour, oxen, or both, for farming implements;
- A usufructuary may lease his/her usufruct right over land in whole or in part and duration of contract shall be determined by an agreement to be made between the parties;
- A usufructuary may not transfer land, except as provided for in the law;
- Usufruct can be converted into leasehold, on request, essentially for purposes of capital investment. Leasehold can be between ten and 60 years in duration and is contingent on regulations related to land zoning and terms of use;
- To prevent farms being reduced to economically non-viable sizes, the law prohibits further parcelling of land through inheritance;
- The President or appropriate government body delegated authority by the President shall have the right to expropriate land for purposes of development and capital investment projects aimed at national reconstruction or similar purposes. A government body that expropriates land in this manner shall pay compensation to the holder of the right who leaves the land; and,
- Village boundaries may be altered.

Analysis of the Eritrean Land Proclamation

After the law was promulgated, the Land Commission carried out a three month-long dissemination exercise, with seminars held in eight of the ten provinces of Eritrea. Officials and employees of the various government ministries and provincial administrations were particularly targeted. Due to funding constraints, the exercise was largely conducted in urban areas, in eight of the ten provinces.⁶⁴ This was especially necessary because of the surprise that many people felt over aspects of

the Proclamation, particularly in terms of the state's radical title to land, and the gender equality aspects. In each of the public meetings, the government representatives were asked why the government did not consult the people on the precise nature of the Proclamation's contents.⁶⁵ The answer provided by some Eritrean analysts – that the government could not have consulted on key clauses, as they would have been rejected by the people – is hardly reconcilable with the 'people-based' principles espoused by the government. These were later captured in the National Charter of Eritrea (1997), which states that, "the people should participate in all decisions that touch their lives and their country, from the inception to the implementation of ideas."⁶⁶ It seems clear that several aspects of the Proclamation would have been opposed by a large section of the population, if presented to them. The issue of women's rights, for example, has been identified in consultations on the constitution as the most controversial issue at stake in the process of 'harmonising' customary laws and international human rights laws.⁶⁷

In contrast to Eritrea's strong culture of independence, several aspects of the Land Proclamation seem to echo colonial precedents, which give the state great levels of control over property rights and land use. The type of usufruct provided for in the Proclamation, for example, is prescriptive and restrictive. The control enjoyed by the state (for example, the ability to expropriate land) has few checks and balances, which makes effective implementation of the laws dependent on a principled government.⁶⁸ The right to legal appeal in cases of land expropriation, for example, should be considered. Considering that the government has yet to implement the constitution, developed and ratified by a referendum in 1997, this is problematic.⁶⁹

Furthermore, the government's attitude towards customary tenure systems has been interpreted by some as not merely the result of adoption of a particular development paradigm – in this case, a kind of market approach, albeit with heavy government regulation – but as a matter of politics. Control of land by customary social institutions represents, in many ways, a 'threat' to the dominance of the state – a dominance which the Land Proclamation is clearly intended to consolidate.⁷⁰

Checks and balances are also missing from the mechanisms for appointment of the land administration organs, such as the LABs. In a time of regional tension, and official clampdown on internal dissent, it is possible that local land officials could be selected more on the basis of loyalty to the political centre, than experience in land matters or responsiveness to local needs. In contrast to the highly participatory governance model developed and implemented during the liberation struggle, post-independence governance reforms have made local administrators more accountable to their superiors close to the centre of power, rather than to their local constituents.⁷¹

The issue of women's land rights remains problematic, as in many other countries, due to the gap between policy and practice. Customary prohibitions remain highly influential in rural areas and Muslim women

are legally bound by Shar'ia rather than the statutes of the Land Proclamation.⁷²

More technical issues also pose constraints. For example, the Proclamation envisages the registration of land rights – with the mode of registration essentially unchanged from colonial times, except for the type of technology that would be used for surveying. However, surveying all plots in the country with modern 'high-tech' methodologies would be prohibitively expensive, and the attempt was, in any case, shelved due to the war with Ethiopia (which started in May 1998 and continued until December 2000) and continuing tension between the two countries.

Surprisingly, given the importance of grazing land, woodlands and other natural resources, common property rights are only mentioned once in the Proclamation (Article 28), in the form of woodland and pasture in village lands. The issue of customary grazing areas outside of village lands is not mentioned at all in the policy. This is, of course, hugely problematic in a country where, as previously mentioned, at least a quarter, and possibly almost a third, of the population is nomadic or semi-nomadic, and almost three-fifths of the total land area is used for grazing.⁷³ The EPLF historically had a policy of attempting to encourage pastoralists to settle, and the government does not mention pastoralism as a potential source of economic growth or development: instead, agriculture is prioritized.⁷⁴ This is a fairly common characteristic of countries in the Horn of Africa and beyond, where pastoralist interests are marginalized. Lack of concern for pastoralist land rights was also a striking feature of colonialist policy in Eritrea.

This de-prioritisation of pastoralist livelihoods has already had negative impacts. In the aftermath of the liberation war, many thousands of the half-million people who had fled the country during the war returned to Eritrea. Some of these people, as well as many IDPs, settled in Gash-barka region, home of the Kunama, an agro-pastoralist group. The land policy has undermined the powers of clan-based land management systems, and encouraged commercial farming in the region. Much agricultural development in the region is viewed locally as encroachment upon Kunama land rights, and specifically as part of a policy of settling people from the densely populated highlands in the drier lowlands.⁷⁵ Many farms are owned by people of Tigrinya origin, which tends to reinforce this view, provoking tensions.

Some Kunama – who, as a community, were generally opposed to both the ELF and the EPLF during the liberation war – have declared their opposition to the Eritrean government and joined armed resistance groups, which are part of the Alliance of Eritrean National Forces.⁷⁶ The Kunama were affected by the war with Ethiopia, and some have been accused of supporting Ethiopia.

THE CASE OF ZIMBABWE

At independence in 1980, Zimbabwe inherited a highly skewed pattern of land distribution, with 1% of farmers – mostly of white (British) origin – holding nearly half the available agricultural area and the bulk of the fertile land. This dynamic has been a crucial factor in post-colonial history, and despite experiencing relative stability from independence until the start of this century, it is clear that the structural conflict within the Zimbabwean economy, society and agricultural sector was not adequately addressed, leading to the current state of crisis.

Historical background

The events that led to such inequitable patterns of land ownership had their roots in the country's colonial history and are traceable particularly to the 1890s, when the "pioneer column" of Cecil John Rhodes crossed North of the Limpopo in search of gold fields. The explorations penetrated far inland to the Zimbabwe highlands where gold was indeed discovered.

The company responsible for the explorations, the British South Africa Company, used its rights acquired under concessions obtained from the British Crown to sponsor settlement of Europeans at Fort Salisbury (now Harare), where land was alienated and pegged out as farms. But soon after, when the company was unable to make profits from mining, it encouraged white settlement farming as an alternative means of generating income. This marked the beginning of massive dispossession of indigenous peoples of more land, which continued throughout the colonial period.

The policy of dispossession was given impetus through a 1923 referendum, which voted for the establishment of Rhodesia (now Zimbabwe) as a British colony. Shortly after the referendum, the Morris-Carter Commission was set up (in 1925) with the express mission of setting out a framework for ensuring the emergence of Rhodesia as a self-sustaining white colony. Not surprisingly, the Commission proposed land holding patterns along racial lines. The Commission's report was soon after given legal backing through the Land Apportionment Act of 1930, which prohibited certain race groups from acquiring land in areas designated for other races.

The Land Apportionment Act reserved 50% of land for white settlers, virtually all the arable central highlands. The majority indigenous African population was allocated 30% of the land, mainly in the plateau sloping down to the Zambesi valley and the mountainous escarpment regions. This was then designated as African Reserve Areas, and is now termed 'communal areas'. The remaining 20% of the land was either owned by commercial companies, the Crown (Crown Land), or was reserved for conservation areas. A further small area of 0.05% constituted the Native Purchase areas where acquisition was allowed, through leasehold or freehold, by richer Africans or minority groups.

While the need to address the unequal system described above was at the very heart of the struggles that led to independence in 1980⁷⁷, Zimbabwe's dual agrarian structure remained in place after independence. The white minority – as well as a number of foreign-owned multinationals – continued to dominate the commercial farming sector, and the economy in general.⁷⁸ In 1980, over 90% of marketed agricultural output came from white or foreign-owned farms.⁷⁹ The importance of commercial agriculture to the macro economy was more significant than the 13–18% contribution to GDP, because of various synergistic linkages with other sectors.⁸⁰

Post-colonial dynamics

Although the white minority was adept at influencing many members of the post-colonial government at different levels, it has nevertheless been characterised as an “undefeated settler state”, which was “defiant and antagonistic to the political programme of the new regime”.⁸¹ Indeed, the vast majority of whites voted for the Ian Smith-led Rhodesian Front at the independence elections in 1980. Policy-making in Zimbabwe must be seen in the context of ethnic and social tension, not just in terms of black-white relations, but also relations between the majority Shona population, which dominated ZANU during the war, and the minorities, especially the Ndebele who supported the more moderate ZAPU during the war. Ethnic conflicts continued after independence.⁸²

The Lancaster House Agreement put in place a “willing seller, willing buyer” system, and the original package suggested by the British Government in the 1970s (75 million pounds sterling to buy out the white farmers) was dropped by the new British government in 1979. Instead, the government would fund half the costs of a resettlement programme. ZANU was under considerable pressure to accept, not least from neighbouring independent states, which had supported it during the war of liberation.

It is not surprising, therefore, that post-independence land policy emphasized the promotion of equitable access to land, with the main aims being as follows:

- creating political stability and acceptable property rights regimes;
- promoting economic growth through wider equity and efficiency gains from land distribution; and
- promoting national food security, self-sufficiency and agricultural development through labour intensive small farmer production, optimal land productivity, and returns to capital invested.

These policy objectives were pursued through the market-based Land Reform and Resettlement Programme of Zimbabwe and state-led and legally backed legislative reforms. Although backed by the Lancaster Constitution, which prohibited compulsory acquisition of land by the state, the market based programme was short-lived and had little impact.

By 1989, 52,000 families had been settled, less than a third of its target of 162,000 families.⁸³ The land transferred by 1990 represented less than 3.5% of total rural land. However, over a million ha of land (of the total agricultural area of 33 million ha) was sold directly into private hands – mostly of the new political elite – as the Government decided that it had “no present interest” in purchasing the land for resettlement.⁸⁴

The first decade of the resettlement programme concentrated on two main types of villagisation: one based on a model of communal agriculture; and the other based on individual household production.⁸⁵ The first was hardly implemented, in practice. The second, which comprised 80% of resettlement during the 1980s, amounted to a plan for improved subsistence agriculture. With an emphasis on improved land husbandry, and small-scale commercialization, these village schemes had many aspects in common with the colonial models. Indeed, for peasants to engage in agriculture, pastoral production or construction, a separate permit had to be issued for each land-use. Utilized land could be expropriated by the government at any time, leading to land tenure insecurity.⁸⁶

There are a number of reasons for the relatively slow progress of resettlement during the 1980s. One of these, according to many analysts, was a lack of political will for large-scale land redistribution. This was because of the lesson learnt from Mozambique (from where ZANU had fought the Rhodesian government), which had seen its commercial class of Portuguese origin leave the country upon independence: and suffered economic decline as a result.⁸⁷ The white farming sector, well-accustomed to dealing with politicians, and highly influential in the technocratic sections of the government, supported the limited resettlement that was going on, but lobbied strongly against a more rapid distribution, arguing that it would undermine investor and farmer confidence, and cripple production.⁸⁸ In comparison, due to historical inequities in education and other opportunities, including trade union membership, poor black interests were less forcefully articulated.

Another disincentive for rapid redistribution was the perceived threat from Apartheid-era South Africa, Zimbabwe's powerful neighbour, which it feared might intervene if white interests were substantially threatened. Indeed, South Africa had a policy of destabilizing Zimbabwe and, for example, supported the Ndebele uprisings of the mid-1980s.⁸⁹ This analysis would suggest that the terms of the Lancaster House Agreement in fact became, “a convenient excuse for government inaction”.⁹⁰

Other external pressures were also significant: in the face of rising balance of payments deficits, government economic policies after 1986 were similar to many of the prescriptions recommended by the IMF, and emphasis shifted from land redistribution to improved productivity of communal areas.⁹¹ Many of the arguments behind the latter course of action rested on assumptions which had been key to colonial policies, including narratives of environmental decline, which necessitated better land husbandry (and hence implied that lack of knowledge amongst poor farmers was one major cause). Arguments related to land

management were central to the colonial domination of agricultural policy and also to the expropriation of land: "there had to be a Land Husbandry Act to justify the Land Apportionment Act (1930)".⁹²

In the decades following independence, few changes were made from the colonial model, either in terms of legislation, or in terms of the state mindset. The Communal Land Act of 1982, for example, can be seen as one in a long line of legal instruments to increase the control of the state over rural communities.⁹³ Another interesting aspect of post-independent governance relates to the state's relationship to the customary chiefs and headmen. Generally, they were seen as conservative and associated with 'backwardness'. The resettlement process was perceived as a way of creating new socio-political spaces, free from the control of customary authorities, where traditional agricultural practices could be discarded in favour of 'modern' methods.⁹⁴

Finally, there were vested interests involved: some members of the government and armed forces were able to rent land, which had been acquired at nominal rates, and hence were in no hurry to see it re-distributed to peasants.⁹⁵

First, a number of wealthy black Zimbabweans, apparently including ten Ministers, had purchased large farms and were now members of the white-dominated Commercial Farmer's Union. There had been a convergence of interest between the old white elites and the new black elite. This further reduced political will amongst the leadership to redistribute resources to the poor.⁹⁶

All the same, with an election due in 1990, ZANU (PF) felt that the land issue would help them in the polls. The Lancaster House Agreement was due to expire the same year, and the government of Zimbabwe, feeling that it had been extremely conciliatory thus far, planned to make changes to the terms of land acquisition. In the face of mounting calls by politicians for a radical programme of land reform, representatives of the British government made several interventions which made it clear that they wanted, as much as possible, a continuation of the spirit of Lancaster House. This position is perceived to stem not just from ethnic affiliation with the white farmers (most of whom are of British origin) but also from an aversion to those policies which remain, in terms of their call for equality and communal production, reminiscent of socialist ideas.

Predictably, especially in terms of the strong backlash against the British Government position, Zimbabwe put legislation in place to enable a faster land acquisition programme, through the 1992 Land Acquisition Act and the identification of priority farms. However, mistakes were made in the lists drawn up. Some have characterized the selection process as politically-motivated, while others put the blame on bureaucratic errors and red-tape.⁹⁹ Others have put this phase of Zimbabwe's history into the wider political context: Zimbabwe had embraced the neo-liberal market-led development paradigm, and the political will for redistribution was less significant than the political elite's desire for black entrepreneurial development. The most

important criteria for resettlement ceased to be poverty and landlessness, and were increasingly 'capability' and 'productivity'.¹⁰⁰ However, despite the technical nature of much official discussion around land reform, and the suggestions made by Zimbabwean and foreign land specialists, for example, as part of the Land Tenure Commission in 1994, land remained essentially a political issue, and therefore outside of the realm of 'participation' that had started to become influential in Zimbabwe, to some degree, in the 1990s.¹⁰¹

As a result, despite much rhetoric, land distribution did not proceed rapidly. In the face of this, land occupations increased.¹⁰² It is important to note that land occupation did not start in the late 1990s. It has been a consistent phenomenon throughout Zimbabwe's post-independence history. These were mostly tolerated by the state as long as they only affected vacant land that had been abandoned by the former owners, or marginal land not under freehold. However, occupations that threatened commercial agriculture were not tolerated. The waxing and waning of state support depended on changes in the political climate. In 1990, for example, occupations on state land were tolerated in order to gain support during the elections.¹⁰³

In the mid to late 1990s, the incomes of the poor majority fell dramatically, and 50,000 war veterans received state money in 1997, further squeezing the government budget for social welfare, and part of the costs were passed on to the public in the form of increased sales tax. In 1997, the economy went into a general decline.

At the same time, land occupations occurred on a larger scale than previously, with rural people moving en masse onto commercial farms; some owned by senior party officials. The motivations for occupation included poor relations with the commercial farmers and/or other local peasant communities, unsettled land claims, and lack of local consultation in previous resettlement programmes, and (related) dissatisfaction that some beneficiaries of resettlement on adjacent land had originated from further away.¹⁰⁴ One leader of a group of 'squatters', a war veteran, stated that in order to encourage others to join the movement, "we told them that the government had failed to deliver its promise".¹⁰⁵ The first occupations were not supported by any government encouragement: indeed, occupations were criticized by government officials and some 'squatters' were forcibly removed from the farms.¹⁰⁶

However, the invasions coincided with a severe loss of legitimacy on the part of government, and in particular, the rejection of the draft Constitution was interpreted as a refusal on the part of the opposition to compulsory land acquisition. The draft Constitution included several clauses representing amendments to legal and policy frameworks. Section 56 stated that, "Everyone's right to own property and to use and enjoy their property must be protected, though this right may be subordinated in the public interest." Section 57 asserts that,

“i) the former colonial power fails to pay compensation for agricultural land compulsorily acquired for resettlement, through a fund established for this purpose; ii) if the former colonial power fails to pay compensation through such a fund, the Government of Zimbabwe has no obligation to pay compensation for agricultural land acquired for resettlement.”

Partly in response to rejection of the draft Constitution, the state moved to support the occupations and initiate a ‘fast-track’ acquisition process. The fast-track land reform aimed to redistribute 80% of all commercial farm property, mostly to poor beneficiaries (160,000 were targeted), but also to 50,000 small to medium scale black farmers. Laws were amended to legalize the occupations, including the Constitution, and the Land Acquisition Act. The Rural Land Occupiers (Prevention from Eviction) Act, passed in July 2001, freed the state from the responsibility of abiding by previous legal decisions.

Whereas the original actors involved in occupations were mostly the landless, poor peasantry, and some commercial farm workers, the later occupations (especially from 2000 onwards) included a wider range of actors, including war veterans, district and provincial representatives of the state, traditional leaders and ZANU-PF supporters more generally. During the 1990s, the government had reinstated the traditional rights of customary chiefs, for example, to allocate land in communal areas. This was due to realization that despite legislative and political attacks by the state, the chiefs retained significant influence at the local level, and should be accommodated rather than marginalized.¹⁰⁷

The occupations became more politicized in the run up to general elections in June 2000, with battles occurring between ZANU-PF and Movement for Democratic Change (MDC) youth around the occupied farms, which had become *de facto* ‘ZANU-PF zones’, from which attacks could be launched against opposition supporters.¹⁰⁸ War veterans, who had just received a pay-out from the government, were particularly central to political violence, which often coalesced around the land issue. The language of occupation became increasingly related to violence, especially the violent struggle for liberation: *jambanja*, meaning violence, was used frequently, alongside *hondo yeminda* (land war) while senior ZANU-PF leadership made frequent allusions to a “third liberation”.¹⁰⁹ ‘Squatters’ supported themselves on the farms by poaching, stealing cattle, cutting down trees, demanding food from farmers and looting property. The idea of the chaos in and around the farms (in terms of uncertainty around legal issues as well as violence) is succinctly captured in the war veteran’s statement that when they entered farms, they were “going into the DRC”.¹¹⁰ This reflects the dominant international opinion: that the land invasions were utilized as a means to create organized chaos. It has increasingly come to be realized that disorder can reap more returns (for a powerful few) than order, and as early as 1999, analysts noted that many politicians in Zimbabwe were “active participants in the informalization of politics”.¹¹¹

While the political aspects, and the instrumentalisation of disorder, are highly important to understanding the wider role of the land occupations, it is important to also examine the elements of occupation that were, by contrast, highly organized. Many 'squatters', who were often led by 'base commanders' with a hierarchical command structure, were 'allocated' land, which was surveyed using tape measures and pegged out. Legal regulations – concerning cultivation adjacent to watercourses, for example, were often adhered to, despite the 'chaos'. This has been interpreted as a means of legitimizing the occupations and drawing attention to the land requirements of the 'squatters', rather than the political issues surrounding the occupations. When government surveyors arrived to formally survey land, they were under pressure from government-imposed deadlines, meaning that accurate surveying was not always possible, and indeed, in some cases the squatters significantly influenced the surveying process, with one surveyor stating that, "we tend to just ratify existing plots".¹¹²

By the end of 2002, the government claimed to have allocated land to 384,000 families; however, these figures are exaggerated. Such claims were used to gain political support during the 2002 Presidential elections, and many of those listed as having received plots have never received official confirmation.¹¹³ In fact, many of those directly involved in the occupations have not benefited as a result, while politically connected figures have received huge areas of land. Some customary chiefs, as well as politicians and other key members of the regime, have been implicated in irregular land allocation. According to reports, President Mugabe's wife received an estate (complete with mansion) worth US\$100 million, while the lands commission chairman allegedly allocated himself six farms.¹¹⁴ The people of Svosve community, for example, who had occupied a farm in the expectation of receiving land, were evicted from the farm, which was then taken over by the commander of the Zimbabwean Airforce.¹¹⁵ Corruption at the level of district administration – where many decisions over land allocation are made – is reportedly rife.

The accelerated economic decline, acute food insecurity and governance crisis affecting the country has been well-documented elsewhere, and only a few facts need be repeated here. For example, the annual inflation rate, amongst the highest globally, rose from 400% in August 2003 to 622.4 % in February 2004.¹¹⁶ Spending power of the average family has drastically declined: the monthly expenditure basket for a low income urban household of six is about 436% more than in June 2003. Between May and June 2004, the cost of maize meal went up by 44%, that of sugar by 21%, tea by 14% and flour 12%.¹¹⁷ In terms of political relations, the main opposition party, the MDC has been accused of being a puppet of foreign – especially British – interests, which is partly related to the way in which it has lobbied on the land issue. The MDC has been under legal and physical attack by ZANU-PF and its supporters. The land issue is one of a number of factors that has polarized domestic politics in the country.

The extent to which the acquisition of commercial farms is a cause of the economic crisis is disputed, though many argue that the decline in commercial production, and the loss of jobs in this sector, had major secondary effects on the wider economy.

The international community is divided over strategies to address the problems affecting Zimbabwe. The Commonwealth countries, in particular, seemed to divide along racial lines in their views. South Africa, Zimbabwe's powerful neighbour, has remained in many ways supportive of ZANU-PF, due to complex reasons related to its own internal politics (including the very slow progress of its own land reform programme) and its perception of international motivations.¹¹⁸

A number of important issues tend to be overshadowed by the black-white dynamic that dominates much of the discussion, especially in the media. One issue (which has been raised by several NGOs) is the fate of 300,000 commercial farm workers, many of whom are refused land in resettlement areas because they worked for whites; and have since become landless and unemployed.¹¹⁹ Others relate to the land rights of women: almost all of those allocated land are male heads of households. Widows or unmarried women with *dependants* qualify to receive land, but married women use land to which their husband has the title. In cases of divorce, their land rights are, therefore, extremely insecure.¹²⁰ Generational rivalries are also significant, with political affiliations running along generational lines in some areas, with ZANU-PF representing the 'old guard' and the younger generation supporting the opposition MDC.¹²¹

One of the most problematic aspects of government policy, especially from a land tenure security viewpoint, is that many policies were passed with retroactive effect, in order to legalize a situation that clearly contravened the Constitution and several pieces of legislation which recognized private property rights.¹²² The Supreme Court, on 10 May 2000, in fact instructed the government to halt the fast-track programme, as it had no legal basis. The government countered that the judge involved was biased, and since then, the independence of the judiciary has been under sustained attack through various means, including intimidation and violence. Such a precedent is a major disincentive to investment in land, or indeed in any kind of capital intensive venture.

CONCLUDING THOUGHTS

Despite the great differences between the two countries, in terms of their colonial past, land use patterns and policy processes, some similarities can be identified.

First, both the Eritrean and Zimbabwean war of independence demonstrate the importance of land access to liberation movements. Inequality in land ownership was one of the stimuli for conflict in Zimbabwe, whilst in Eritrea, changes in land use, and adaptations to mechanisms for resolution of land disputes, were implemented even as the war raged.

Second, comparison of the stated objectives – as well as many of the actions – of ZANU and the EPLF during the wars of liberation with their actions after they came to power, reveal discrepancies. These can be interpreted as accommodation of elite interests and marginalization of those outside of the politically connected ‘circle’. In Zimbabwe, despite numerous public statements about the need to dismantle inequitable economic power structures and redistribute land, the post-independence government essentially failed to do so and hence by default allowed the land issue to become openly conflictual. The reasons for this were many, as noted in this chapter. In Eritrea, the people-driven approach of the EPLF, which was actually practiced in many ways during the liberation war, has arguably been abandoned in the last few years. In particular, despite its avowed aim to be inclusive and address the needs of all Eritreans, the Land Proclamation was drafted and ratified by the government without public consideration of its content, leading analysts to conclude that there had essentially been no consultation on the issue.¹²³ Given the lack of mention of communal resource rights in the Proclamation, it seems that the livelihoods of pastoralist communities are given secondary importance, for a variety of ‘technical’ and ‘political’ reasons. It seems that the government of Eritrea has not managed to shake off some militaristic elements, particularly those related to centralized decision-making, and has not managed to broaden its support base to include some of the dryland communities who were associated with its wartime rival, the OLF, and this has implications for land access in these areas.

Third, the case studies reveal some interesting aspects of relationships between the state and customary authorities. In Eritrea, customary authorities were supported during the liberation conflict by the EPLF, although aspects of custom, which were particularly inequitable, were altered. During the land policy formulation process, the geographical extension of a slightly adapted form of *deissa* tenure was seriously considered as an option. However, after the Land Proclamation had been promulgated, customary authorities were in many ways seen as a threat to the power that the government could wield over control of land. In Zimbabwe, in contrast, the post-colonial government started off with a very negative attitude towards the traditional chiefs and headmen, as they did not fit within its modernization paradigm. They were stripped of some of their powers over the land, in order that they did not impede agricultural progress. In the 1990s, however, as the struggle over arable land became more visible, their powers were reinstated, and they became a tool for elites to gain access to land through manipulation and corruption of the land allocation programme. It can be seen that the fortunes of customary leaders *vis-à-vis* the state fluctuate according to political expediency, amongst other reasons.

Fourth, it is clear that the role of external actors cannot be ignored, even if land policy is framed as a domestic issue. In Zimbabwe, the attitude and actions of South Africa first limited government freedom to

implement radical change (prior to 1994); and later, during the 'fast-track' period, provided quiet diplomatic support to ZANU-PF and hence acted as a buffer against international pressure. President Mugabe's relations with Britain have also been an important and deciding factor in how the land question is dealt with. The British government may indeed be accused of allowing ethnic alliances to get in the way of diplomatic pragmatism.

In Eritrea, conflict with Ethiopia has contributed to land-related conflicts in areas inhabited by the Kunama, and have of course contributed to increased internal displacement. The internal repression, which has been noted, is also likely to have had a negative impact on relations between the state and local customary institutions, which it perceives as a source of potential competition. This is particularly unfortunate as customary leaders have important roles, in practice, in resolving land disputes.¹²⁴

Finally, it is clear that despite avowed 'breaks with the past', which are associated with liberation, government policies in both Zimbabwe and in Eritrea represent continuities as well as changes. In Zimbabwe for example, the modernization paradigm, and the characterization of peasant agriculture, was essentially inherited from colonial times and not fundamentally questioned. In Eritrea, the post-colonial government has continued the trend of extreme control by the state over land. Few checks and balances have been put in place, which is highly problematic, especially in a country where political opposition and civil society organisations are not well developed.

ENDNOTES

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