



# Women's Mechanisms of Access to Fast Track Land in Zimbabwe and their Implications on Land Rights.

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## Abstract

*This paper presents reviewed literature on women's mechanisms of land access and subsequent land rights during Fast Track Land Resettlement Programme (FTLRP) in Zimbabwe. While Zimbabwe launched three successive land reforms including FTLRP with one of the objectives being to address historical land imbalances, women's land rights in the present-day context are still secondary. Constitutional provisions of gender equality and balance without the provision of a gender responsive policy framework that utilises the 'difference approach' and lack of equal representation in FTLRP's land governance institutions did not address different women's land woes. Findings from this study further shows that women's mechanisms of land access and land rights were fluid and varied between categories (married and unmarried) and within the same category (young and elderly widows; women in polygamous and monogamous marriages) of women. Since there are pointers that the FTLRP is still with us, this study recommends that future land policies should adopt the 'difference approach' when dealing with women's land issues. Furthermore, the land policy should imbed clauses that promote not only gender balance in land allocation but also in implementing structures if future land reforms are to respond to different circumstances of different categories of women.*

**Key Words:** Gender, Land Rights, FTLRP, Mechanisms of Access

## 1. Introduction

The importance of land and its unequal distribution between males and females has seen the adoption and promulgation of international conventions and declarations that calls for a rethinking of land reform and women's land rights around the globe (Akinola, 2018). The United Nations (UN) has a long history of concern for the status of women around the globe as shown by its various conventions and declarations (Universal Declaration of Human Rights; The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) that have gender clauses (Knowles, 1991). While there is no international law or convention that has explicit women's right to land, using the indirect human rights approach, rights such as the right to access land on the basis of equality with men and the right to non-discrimination based on gender can be applied in land matters (Makonese, 2017).

CEDAW obliges states to promote gender equality in land/agrarian issues by promulgating customary laws that apply the equality principle and reform land tenure to respect women's property rights during marriage, at divorce and death of husband (Mutangadura, 2004). Calls by these conventions are a response to a paradox



that exist in many developing countries where women between 60 to 80 percent are food producers but rarely own and have control over land they work on and its outputs (SIDA, u.d). Lack of women's ownership and control of productive resources such as land is believed to contribute to their poverty and 'inferiorisation'. However, Slavchevska, Campos, Brunelli, Doss (u.d) argues that the Sustainable Development Goals (SDGs) adopted in 2015 recognizes that to achieve gender equality and women's empowerment (Goal 5) and end poverty (Goal 1), States should adopt policies and legal reforms that promote women's ownership and control of productive resources such land. Besides acceding to several international conventions and subscribing to the ideals of SDG 1 and 5 which prohibit discrimination against women in any sector, Zimbabwe promulgated gender responsive legal and policy frameworks. However, Mushunje (2001) concludes that whether women's land rights are considered from historical perspective or context of today, women have limited rights to land. While the national constitution together with the 1999 Land Policy calls for gender balance, they failed to consider women's land issues from a heterogeneous perspective by bundling them into a homogenous group (Chigbu, Paradza & Dachaga, 2019). Therefore, the objective of this review paper is to explore mechanisms of land access which were adopted by various categories of women during FTLRP in Zimbabwe and their subsequent land rights. A discussion of different women's mechanisms of land access will be preceded by an interrogation of the historical background to and legislative framework impacting on women's land rights.

## 1.2 Theoretical Framework

While there is scholarly debate on whether women's national land access levels ranging from 12 to 23% is a milestone achievement or not, Ribot and Peluso (2003) argue that the term 'access' has been frequently used without an adequate definition. 'Access' is defined as a 'bundle of powers' and constellations of means or relations that actors use to constrain or derive benefits from 'things' (Myers & Hansen, 2020). In this paper, 'things' refer to fast track land. 'Access' theory seeks to analyse who does or does not benefit from 'things', through what processes they do so and in what circumstances they benefit from resources (Elaydi, 2013 in Mutanda, 2022). Different people (categories of women) at various historical moments, geographical scales hold and can draw from different bundles of powers for them to access resources (Ribot & Peluso, 2003). Given the different power relations people have, it is important to understand the multiplicity of ways different actors (various categories of women) gain, control and maintain access to land (Elaydi, 2013) during FTLRP. Ribot and Peluso (2003) further argues that access analysis also helps in appreciating why (circumstances) some people benefit from resources, whether or not they have rights (access and control rights) over those resources.

## 2. Materials and Methods

This paper is a product of an extensive review of literature on gender, women's land rights and the FTLRP in Zimbabwe. A review of journal articles, academic thesis, textbooks, newspaper articles, relevant national and international legal and policy instruments that addressed issues to do with women's land access and land rights were selected for a systematic review. Basic words and search phrases such as 'women's land rights',



'mechanisms of land access during FTRLR', 'gender and land reform' and 'FTLRP in Zimbabwe' were used to search for relevant literature during the review. These secondary documents were analysed through content and thematic analyses (Chigonda & Rusena, 2018).

### 3. Results

#### Historical Background to Women's Land Rights in Zimbabwe

Chigwedere (2000) in Mushunje, (2001) reports that in the pre-colonial period, African women had clear land rights which were only eroded with the arrival of colonialists in Zimbabwe. Building on this observation, Africa for Results Initiative (ARI) (u.d) notes that African tradition accorded women's rights and access to small pieces of land for them to grow 'women's crops'. Young and older women had a portion of their own individual land where they could grow crops and vegetables that fed the household all year round (Mutupo, 2011). Makonese (2017) observes that under pre-colonial and colonial customary law, only single, widowed and divorced women were often able to access land in their own right from their natal relatives while married women suffered more serious land access prejudices as they were expected to access land as appendages of their husbands. However, Knowles (1991) argues that though land was plentiful during the precolonial period, women accessed land but did not possess sizeable land, independent rights either to land or to any output accruing from the land. Colonial systems found women disadvantaged, thus it only heightened their woes in terms of land access and control (ibid). However, Moyo (1995) in ARI (u.d) and Mutupo (2011) are of the view that the advent of the colonial system of governance reframed and undermined women's rights to land, viewing them as minors and adjuncts to male representatives. The disregard of African women's access to and control over land is more of a colonial legacy than a traditional one (Mushunje, 2001). Makonese (2017) argues that colonisation of Zimbabwe and other African countries was followed by adoption of an 'invented' version of customary law that undermined women's land rights as it was far removed from the customary law that was practiced in pre-colonial society. The colonial system of governance aided by men led to the reframing of women's traditional land rights, reinterpretation and remodification of tradition and culture guiding women's land rights (Mutupo, 2011). Women became doubly infringed upon as they were trapped between two patriarchs in the form of the colonial masters as well as their male kith and kin (Makonese, 2017). Besides imposition of a 'distorted' version of customary law that regarded women as perpetual minors, the colonial regime enacted statutory laws that reversed the traditional customary law, which allowed women to individually own property and have sole control over such property throughout her lifetime (ibid). The Land Apportionment Act of 1930 concentrated land in the hands of men through the creation of native purchase area where financially resourced blacks (who happen to be males) could buy land for small scale commercial farming. Based on the above discussion, WLSA (1997) in Mushunje (2001) concludes that whether women's land rights are considered from historical perspective, context of today or **traditional perspective** (emphasis added), women have had limited rights to land.

#### Zimbabwe's Legal, Policy Framework and Women's Land Rights



Makonese (2017) is of the view that women's access to and control over fast-track land would not be complete without an interrogation of policy and legislative frameworks guiding post-independence land reforms. During the 1980s, Zimbabwe adopted a constitution that affirmed the equal rights of women, placed an obligation on the State to advance these rights and passed the Legal Age of Majority Act which removed the legal minor tag on women once they turn 18 years (Oxfam, 1999 in Makonese, 2017). The need for land and land rights inspired Zimbabwe's liberation struggle and women who constituted 86% of farm labourers expected comprehensive changes in land rights as they were a stronghold of the liberation struggle (ARI, u.d). Nonetheless, very few 'war veterans' were women not because women did not participate in the 'liberation struggles' (that include FTLRP) (Mutanda, 2020). Gender roles that women performed during the liberation struggle such as being supply lines to the male fighters, teaching in refugee camps and nursing the sick and war injured were merely recognised as women's patriotic duties not equal to being on the war front (Makonese, 2017), hence undeserving to be regarded as a special land beneficiary group. One of the liberation war ideals was unmet due to some clauses in the 1980 constitution that invalidated the aforementioned Act by allowing discrimination of women on ground of customary or personal law.

Though the effects of such legal provisions disadvantaged women as a homogenous group, they had different effects for different categories of women to enjoy property (land) rights on equal terms with men (Makonese, 2017). Mushunje (2001) argues that though the pre-independence legislative framework discriminated against the black majority, after independence, another form of discrimination emerged, which was that of the black men against the black women. Zimbabwe carried out three phases of land reform that changed in emphasis, objectives, focus and scale of land reform, type of resettlement models and settler selection criteria over time in response to the changing policy and legislative frameworks (Marongwe, 2004; Mutanda, 2020). The first phase (1980-1985) which was welfarist in nature had a strict beneficiary selection criterion targeting the poor strata of the communities: the landless, formally unemployed, the poor, returning war of liberation refugees and single women (unmarried, divorced, widowed) with dependants (Marongwe, 2004 & Zamchiya, 2011). However, statistics show that below four percent of land was owned by black women by 1997 (Oxfam, 1999) while five percent of black women-controlled land in old resettlement and communal areas of Zimbabwe (Marongwe, 2011). Nonetheless, if the aforementioned beneficiary selection criteria had been implemented to the letter and spirit, it would have benefited mostly women as they matched the criteria of being the communal majority, landless, unemployed, poor and also formed a sizeable population group of former inhabitants of closed villages (keeps) (Makonese, 2017). The Comptroller and Auditor-General's 1993 report revealed that though the first phase had a cross cutting beneficiary selection criteria that **engendered women's interests** (emphasis added), it ended up concentrating on achieving political objectives of deracialising land distribution (Chitsike, 2003 in Mutanda, 2020). Scrutiny of the immediate post-independence land reform programme shows a bias on providing land to single women whilst married women were expected to access land through the household model which accorded males the family headship status and owners of the land (Makonese, 2017, ARI, u.d). This system was a product of the adoption of distorted version of



customary law post-independence that required married women to live in the shadows of their husbands and viewed them adjuncts of their male counterparts despite the upgrading of women's status through The Legal Age of Majority Act of 1982.

The second Phase of Zimbabwe's market driven land reform (1986-1999) changed focus from being welfarist and racially toned to agricultural productivity (Mutanda, 2020), from equity to efficiency (Oxfam, 1999) from pro-poor to pro-elite (Zamchiya, 2011), from welfarist objectives towards production-oriented goals (Marongwe, 2004). Farmers with college certificates, capital and master farmer training were added onto the target groups during this phase to advance production-oriented goals (Mutanda, 2020). In the mid-1990s, war veterans were added onto the list, with a 20% quota reserved for them (Marongwe, 2004). Makonese (2017) argues that the requirement for agricultural training, capital and master farmer certificates disadvantaged women as they lacked financial resources, were poor, uneducated and very few had attended the Master Farmer Training. This scheme had strict adherence to settler selection criteria hence it is not surprising that only five percent of black women-controlled land in old resettlement and communal areas of Zimbabwe (Marongwe, 2011). However, Marongwe (2004) argues that any successful land reform programme must not have the selection criteria 'cast in the stone' but must maintain a balance between settler suitability and need. The situation of African women did not fit into the group of educated and financially resourced and certificated farmers as they were given second preference in all programmes. While highly experienced and productive farmers were the target for master farmer training, the criteria forgot to acknowledge that productivity is a joint outcome of the married couple though males ended up being selected. The legal framework guiding the issuance of land permits (Rural Land Act) reiterated on joint registration for both spouses, but the process was influenced by the distorted version of customary law that regarded males as the heads of the household (Chimedza, 1988). Concerns over equity across age, class and gender differentiation were relegated while issues to do with commercial viability and efficiency of land-use gained much attention during this phase (Gaidzanwa, 2011).

Zimbabwe embarked on the third phase of land reform post 2000. Before its launch, the government designed Land Reform and Resettlement Phase 2 (LRRP2) framework in 1997 whose target were: poor rural families and farm workers, agricultural college youth graduates, experienced farmers and women as a special group (Bhatasara, 2011). At the 1998 donor conference, government accepted to adopt the 20% quota for women as a special group in LRRP2. Makonese (2017) argues that effective lobbying and advocacy by women's groups on their access to land at the 1998 donor conference resulted in the adoption of the quota while Mushunje (2011) reports that it was from the instigation of most donors that had indicated their interest to sponsor the program if gender issues had been adequately captured in the programme. ARI (u.d) is of the view that it was a commitment made by government to adopt the SADC recommendation that 20% of all resources should go to women (ibid). While the adoption of the 20% quota was commendable, Makonese (2017) described it as erroneous that a country with 52% of the population being women had reserved only 20% of



available land for women, the same percentage reserved for war veterans constituting less than 1% of the population at independence. Besides lack of gender balance in the 1999 Draft National Land Policy, Chigbu, Paradza and Dachaga (2019) argues that, the national constitution together with the land policy had failed to consider women's land issues from a heterogeneous perspective as it bundled them into a homogenous group.

However, in 2000 the government initiated FTLRP without the backing of the LRRP2 framework and 1998 Draft National Land Policy that targeted to provide 20% of land to women as a special beneficiary group. Why the previous commitment was 'dropped' during the launch of FTLRP is not the focus of this study. A lot of events in the late 1990s are attributed to the launch of FTLRP without adhering to policy prescriptions and beneficiary selection criteria. Moyo and Yeros (2005) in Mutanda (2020) argues that the government launched a disorderly, unstructured, haphazard, unplanned and accelerated land reform (FTLRP) as the ruling party was being challenged from outside (by declining workers welfare, invasions by the landless, rising opposition party, falling economy and lack of donor funding) and from within (by war veterans arguing they had gained nothing from the war and previous land reforms). Bhatasara (2011) reports of the emergence of 'four axes of authority' (war veterans, land committees, traditional leaders and local elites) that executed the FTLRP in a chaotic manner. The 'disorder' associated with FTLRP and unstructured manner in which it was executed had multiple effects (Marongwe, 2011 and Makonese, 2017). There was undermining of formal planning, disregard of policy on beneficiary selection (Marimira, 2010), bias amongst beneficiary selection structures (Nyawo, 2015), lack of a clear national policy to direct the programme and creation of many overlapping legal pluralist structures across different models and within the same models (Makonese, 2017). Mushunje (2001) asks, 'Who suffers and benefits from such 'oversights' and **bypassing of policy frameworks** (emphasis added) by policymakers?' The government's disregarded LRRP2 framework that had been designed to steer the programme to success, and ultimately, this had adverse impacts on different social groups particularly women (Bhatasara, 2011). While the 2013 constitution recognises gender balance and equality as guiding principles in the allocation of land, lack of a supportive land policy to ensure women's land issues are considered, especially from a heterogeneous angle will not address inter and intra gender inequalities in land access (Makonese, 2017). However, Matondi (2012) reports that subsequent events proved that the 20% quota never became a formal policy in the LRRP2 framework nor in the actual implementation of FTLRP. FTLRP largely targeted the most pressing socio-economic and political issue of the time i.e., racial parity at the expense of gender equity (Dube, 2018). The consideration of racial parity twenty years after independence can be described as 'marching forward to the past' early 1980s when Zimbabwe's land reform had a racial tone and was gender blind. Zulu (u.d) asks, 'Did the government commit another injustice while trying to address historical injustices by overlooking the actual beneficiaries?' From the first to the third phase of land reform, one is forced to conclude that discrimination mutated from a racially bound one to one that is gender bound (Mushunje, 2001).

#### **Women's Land Access Levels during FTLRP.**



After Independence, the people especially women constituting 86% of land tillers expected a lot from land reforms as they were the foundation of the liberation struggle (ARI, u.d). The period between independence (1980) to pre-FTLRP shows that white women farmers owned only 4% of farmland whilst black women accessed 5%(Hanlon et. al, 2013). Makonese (2017), therefore concludes that history and research have shown that Zimbabwean women across race have not owned, accessed or controlled land on equal terms with men. However, women's hopes were again raised by the inclusion of the objective of addressing historical imbalances (Makonese, 2017) and statement of intent by government to 'resuscitate' the 20% quota in the 1998 draft land policy (Zimbabwe Human rights NGO Forum, 2010), as they were the most affected section of society by colonial land policies and colonially 'invented' version of customary law. Based on the aforementioned statistics, Mutupo (2011) is of the view that FTLR availed a life opportunity for most women that had never happened in the history of land relations in Zimbabwe. Mutupo (2014) regards it as a myth that FTLR discriminated against women and as it paid no regard towards their social differentiation as 50% of the women at Merrivale farm, Mwenezi district (married and unmarried) had accessed land on the basis of equality with men. Moyo (2011) and Tekwa and Adesina (2018) further commend the programme for increasing women's access to land as a more significant proportion of women from various categories of women (married and unmarried) between 12 and 18 percent, only 2% below the 1998 donor conference 20% quota, now own land in their own right compared to four and five percent of white and black women who owned in commercial land resettlement areas respectively (Moyo, 2011; Tekwa and Adesina, 2018). Edifying this observation, Zikhali (2010) and Mutupo (2011) applauds FTLR for quantitatively and qualitatively increasing women's access to land and land rights respectively as compared to the two previous phases of land reform. While it is undeniable that women beneficiaries rose during FTLR, it is fallacious to celebrate the increase based on comparison with old resettlement areas only without juxtaposing it against their fellow males they outnumber demographically and in terms of the people who work and rely on land. Secondly, it is erroneous to celebrate women's access to land and land rights since access rights do not guarantee control rights (management and economic rights) as women may gain access to secondary land rights depending on the method of access. Makonese (2017) observes that in many instances, women can access land (the least of rights) without owning or controlling it, leading to their alienation from the means of production and the paradox of women working on land that they are not owners or controllers.

At the other end of the spectrum, FLRTP is castigated for failing to benefit men and women on equal terms (Chingarande, 2010) as the programme allocated 20% of land to women on paper but on the ground, only 12% and 18% had realized the benefit in A2 and A1 schemes respectively (Nyawo, 2015) by 2013. Mpahlo (2003) in Bhatasara (2011) reports that Masvingo, Midlands, Mashonaland East, Mashonaland Central and Matabeleland South have 5% women in A2 and 15% in A1 scheme. Chingarande, 2008 and WLZ 2007 in Moyo (2011) put the figures of women 'beneficiaries in their own right' during FTLR between 10 percent and 28 percent of the total. In Manicaland province, women beneficiaries in A1 schemes ranged between 19.4 to 23% and this high access is attributed to inheritance after death of spouse and not formal land allocation (ARI (u.d).





According to Makonese (2017) the access levels are not only low when juxtaposed to men but women were more concentrated in the lower value allocations such as informal schemes as opposed to the prime A2 allocations. Also, war veterans group whose access levels stood at 27.9% under the A1 model, 27.9% under A2 scheme and 27.9% under the programme surpassed the 20% quota despite their number decreasing from independence. The paradox that existed during FTLRP is that while war veterans were given a 20% quota as a special beneficiary and disadvantaged group, Chingarande (2010) and Zamchiya (2011) reports that they were part of the plural governance structures that allocated land to the people across models. Gaidzanwa (2011) and Bhatasara (2011) further argues that very few women (12-22%) benefited from A2 model because few met the eligibility criteria such as farming experience and qualifications, production of record of previous years' harvest record, ownership of basic assets and finance to run farm as these are usually registered in the name of men.

### **Status of Women and the FTLRP**

From the above discussion, it is undeniable that FTLRP was unplanned, disorderly and accelerated leading to the disregard of policy prescriptions on beneficiary selection and a 20% women's quota adopted in the 1998 draft land policy. Government, researchers put the national average of women beneficiaries at 12% and 18% in A2 and A1 respectively. Whether it is a milestone achievement or not, the truth of the matter is that very few women gained access as compared to men due to the 'uneven cultural, legal, political, institutional playing field'. While there has been significant research on the implications of FTLRP on women, scholars who downplay women access levels (Bhatasara, 2011; Chingarande, 2010; Nyawo, 2015) dwelt much on justifying why access levels were low. Makonese (2017) further identifies and analyses how the legal and policy framework had prevented women from benefitting from FTLRP on equal terms with men. In view of this, this paper seeks to identify methods of land access adopted by the few women who accessed land in such a hostile environment where there was disregard of policy on beneficiary selection and plural land governance structures.

Government reports and scholars who commend the FTLRP for the rise in women's access levels erroneously treat women as a homogenous group, yet within fast track, women were just not discriminated against 'as women' but there was intra-gender discrimination (Mutupo, 2011) due to lack of policy provisions that cater for different women aspiring to be land owners (Mushunje, 2001). Matondi and Sanyanga (2012) articulates that gender statistics on women's access levels hide more than they reveal. Building on this observation, Chigbu et al (2019) observes that failures of Zimbabwean laws and policies meant to address women's land issues emanate from the fact these frameworks treat land inequalities based on inter-gender differences while ignoring intra-gender differences. Makonese (2019) then urges scholars to fully explore how different actors and **various categories of women** (emphasis added) exercised power, power relations with institutions and society throughout FTLRP and in different farms to access land. Chigbu et al (2019) argues further that women's differentiation **in terms of methods of land access** (emphasis added) have been ignored for too long





There is a debate among scholars, some (Zikhali, 2010; Tekwa& Adesina, 2018; Moyo, 2011) hailing FTLRP for improving women's land rights and gaining or owning land in their own right while some (Bhatasara, 2011; Matangadura, 2004) condemns it for giving women secondary and half-hearted land rights. While these scholars speak of women's land rights as better or discriminated after FTRLP, the problem emanates from the failure to disentangle various land rights that were associated with each method of land access. Land rights include ownership, access and control rights. Ownership rights are the strongest full bundle of rights allowing one to have unimpeded, complete and comprehensive control over property, to make improvements, exclude others, and control the proceeds (Slavchevska et al, u.d), Makonese, 2017). According to Ribbot and Peluso (2003), control refers to the power one has to give direction and regulate free action of others on use of resources. Control rights (management and economic rights) gives land beneficiaries power over the means of production and the produce from the allocated land. Management rights are rights to make decisions on what to grow on land, whether to plant crops or leave the land fallow, when to plant crops, what inputs to apply and when to harvest while economic rights are rights to derive economic benefits from the land, decision-making on the use of the output/income derived from the land (Slavchevska et al, u.d). These two rights are components of control rights which confers rights higher than access rights but lower than ownership rights. However, section 290 of the Constitution and Statutory Instrument 53/2014 provides that all fast-track land is State land, hence the highest form of rights permit holders have limited control rights (and not ownership rights) which falls short of the right to alienate (Makonese, 2017). If FTLRP can only confer control (management and economic rights) rights as the highest form of rights, were women of heterogeneous status and standing afforded these rights given their varied mechanisms of land access? While FTLRP is hailed for improving women to 'own/access land in their right', this phrase is not clear on land rights women actually have given that the programme had availed from access to control rights. One is forced to ask, do women 'owning land in their right' after FTLRP enjoy absolute control rights of the allocated land? However, different methods of access for married and unmarried women may provide different rights but this cannot be untangled if women are treated as a homogenous group (Slavchevska et al, u.d) as the heterogeneous status of women makes them to be differently impacted by similar programme (Makonese, 2017). Using the 'difference approach' (ibid), this paper seeks to interrogate methods used by various categories of Zimbabwean women's to access fast track land and how these methods of access influenced women's bundle of land rights (access and control rights).

#### **Methods of Land Access and Women's Land Rights during FTLP**

The FTLRP made no effort to harmonise customary and statutory law hence the continued treatment of women as minors by the former law although the latter recognised the legal age of majority principle (Gaidzanwa, 2011). Both sets of laws became relevant and applicable but because of the lack of a supportive gender sensitive policy that catered for married and 'unmarried' women and dominance of men in implementing structures, women's land rights were differently affected (ibid). Chigbu et al, (2019) is of the view that differentiating women is important to more accurately target interventions for improved land access



and promoting tenure security. This paper believes the differentiation should start with an understanding of women's previous mechanisms of land access and resultant land rights if future interventions to alleviate women's plight are to be effective since FTLRP seems to be still with us. The initial sections are divided based on Chigbu's 'categories of sources of women's differentiation' while later sections discuss mechanisms of land access by women whose social and marital status was not mentioned by scholars.

### **Women's Marital Status and Mechanisms of Access to Land**

While there is a debate on the pre-colonial land rights of married women, results from the study of FTLRP seem to suggest that married women's mechanisms of access and land rights varied from place to place, time to time and by type of marriage. Makonese (2017) reports that most married women in monogamous marriages reported having accessed land through their husbands or upon death of husband while an insignificant proportion got land through direct participation in land invasions (Jambanja). Married women were much more disadvantaged by their marital status as they were obliged to stay in the communal areas, tending livestock and the family while men participated in the land invasions (ARI, u.d). Men's family roles made it possible for them to settle on the land and stay on it long enough until it was designated, surveyed and allocated to them (Gaidzanwa, 2011). At Merrivale farm in Mwenezi district, married women mainly accessed land (tsewu/museura) through marriage bonds as a token of appreciation for the enlargement of the family through her reproductive capacity and inheritance following the death of spouse (Mutupo, 2014; Chingarande, 2010; ARI, u.d). However, it was not automatic for full transfer of control rights to widows upon death of husband as access to these rights differed depending on the reproductive status and age of widows. In many cases, elderly widows automatically inherited land from their deceased husbands while in some areas, the husband's relatives had to reallocate it at some stage to the widow or her proxy (male child). At Simoona in Bindura, some widows reported having to temporarily borrow land from their natal relatives before the relatives of her deceased husband returned the land owned by the husband (Mapuranga, 2016). Mutupo (2011) also reports that at Merrivale farm, young widows with no or whose male children were still young could remain on the plot but at the mercy of male relatives in the communal areas while elderly widows had full control of land, livestock and farming activities as they were considered mature. Building on this observation Gray and Kavane (1999) articulates that a woman's rights increase with the length of marriage, number of children and wife's **age at the death of husband** (emphasis added). As for the young widows, control of land was passed from the deceased to the deceased's relatives and then the son who then assumed both management and economic rights. Findings at Simoona and Merrivale farms challenge ARI's (u.d) assertion that married women only gain full possession of land, production systems and produce upon the spouse's death. The control rights of widows varied with their age and reproductive status, hence if future land reforms are to be effective, they should cater for these differences among widows. However, Mushunje (2001) is of the view that if land is a source of economic viability for the rural poor, women should have 'title' to it without having to 'ride on someone's back' to enjoy the asset and the products from it.



Mutupo (2014) observes that in Karanga tradition the wife especially the childless or with young children does not automatically assume total control of the land as decisions have to be made by the brothers who might be residing in the communal areas. Edifying this observation, Ari (u.d) notes that women who inherited land through inheritance do not always remain in control of land and its production systems as the son may take over from the mother. Besides inheritance, women in monogamous marriages gained access and control rights when their husbands were alive on two grounds: if the men were incapacitated due to illness or if they were not interested in the farm and related activities (Makonese, 2017).

Although Gaidzanwa (2011) argues that the gendered domestic division of labour made women to be unable to participate in 'jambanja' as they could not leave homesteads for long periods of time, Chingarande (2010) and Dube's (2018) findings in Chimanimani and Mberengwa district shows that most married women accessed land through participation in land invasions. As for married Mberengwa women, they managed to have their names on the land permits and felt empowered as they had unimpeded control over land, sale of agricultural produce and environmental resources on their land such as wildlife, pastures and minerals (ibid). However, married women in Chimanimani lost access and control rights as their husbands processed all the paper work that was needed and submitted their names for land registration (Chingarande, 2010). Edifying this observation, Makonese (2017) articulates that those with offer letters or whose names appear on offer letters and permits had more control rights than those who were merely occupying or utilising the land without similar documentation. The offer letter given to applicants for land was an interim confirmation of landholding but not absolute ownership (Gaidzanwa, 2011). However, beneficiaries of FTLRP with offer letters actually believe and continue to believe that they own the land, an indication that they are oblivious of the real legal position that fast track land is State land (Makonese, 2017). The Chimanimani case makes it plausible to conclude that if married women do not get land allocation from the husband through 'tsewu', they can only get land in their own right in a world devoid of men, which is an utterly abstract world (Ari, u.d). To buttress this observation, Mutupo's (2011) findings in Merrivale farm, Mwenezi district revealed that women who applied for fast-track land through formal processes were still waiting for responses from the male dominated plural land governance institutions. Findings by Mutupo (2011) and Chingarange (2010) contradict Mapuranga's (2016) observations at Simoona farm Bindura where formal allocation by Ministry of Lands was the second most popular method for women followed by allocation by husbands.

While the cultural concept 'tsewu' was important in the Shona tradition, not all men respected it despite their wives having 'enlarged' the family by bearing children. Ari (u.d) and Mutupo (2011) observed that some married women had to use the 'right' language, 'right' action at the 'right' time usually in the bedroom to negotiate for the allocation of 'tsewu' or land for their water gardens. So, for some married women, access to land is 'sexually transmitted'. While most married women were afforded the first tier of rights (access rights) through various mechanisms this did not translate into control rights (management and economic rights) except for women in polygamous marriages. Women in monogamous marriages who accessed land through land



invasions or from their husbands had no control over land, related activities on their allocated land and the produce from the land. Makonese (2017) reports that these women became in charge, 'owners of land' and 'owners of crops' because of physical incapacity or lack of interest in farming on the part of the husband. While women were consulted on men's crops, however, final decision rested with the husband. Men took advantage of culture which regards men as the figureheads of a household unit and also their economic muscle as they were the owners of all resources needed in farming (ibid).

Women in polygamous marriages but in different farms accessed land through various mechanisms such as participation in land invasions (Makonese, 2017, Mutupo, 2014) and inheritance from the husband (Chingarande, 2010). Those who got land through 'jambanja' were freer than their counterparts as the husband had less grip over them since they had been given land for participating in land invasions while the husband was in the communal areas with children and co-wives. This category of women got land in their own names making them to enjoy better land rights than their counterparts who remained with husband in communal areas. They had control over what to grow on land, when to grow it, utilisation and sell of produce without consulting the husband. Makonese (2017) observes that women gained control because they had offer letters in their names and their roving husband could not keep track of all activities on the farms due to their prolonged absence from the farms. Some women reported that they even retained control of the land even after divorce or the death of the male spouse as land was registered in their names and acquired without help of husband's relatives.

#### **Nexus between Socio-Political Status and Mechanism of Land Access**

Women's socio-economic status and membership to certain organisations determined access to land. Mushunje (2001) argues that FTLRP was associated with lack of gender equality as women war veterans did not benefit from the FTLRP in the same way as their male counterparts. Married female war veterans had to access land through the family-based rights system which benefited men as they were regarded as heads of households. It is plausible to infer that the 20% quota reserved for war veterans knew gender lines and was overshadowed by the 'distorted' version of customary law that regarded women as perpetual minors. However, Chingarande (2010) and Mutupo (2011) reports that married or unmarried female war veterans got land through participation in land invasions and the veteran association which submitted their names to the 'implementing structures'. Female war veterans benefited from the 20% quota that had been reserved for them in the mid-1990s (Marongwe, 2004) and was retained during FTLRP as the veterans were regarded as a disadvantaged group (Chingarande, 2010). In the mid-1990s, war veterans were added onto the list, with a 20% quota reserved for them (Marongwe, 2004). The paradox that existed during FTLRP is that war veterans were given a 20% quota as a special beneficiary and disadvantaged group (Chingarande, 2010) although constituting less than 1% of total population at independence (Makonese, 2017). This group of women had control over their land, production systems and the produce from that land as they had offer letters in their names. However, Chingarande (2010) observes that ordinary women who were not war veterans despite active



participation in acquiring land through land invasions, were side-lined by land governance and implementing structures which registered land in the names of their husbands. The existence of plural and male dominated land governance systems disregarded clauses in the 2013 national charter that obligated implementing structures to promote gender equality and gender balance in resource allocation. Building on this observation, Gaidzanwa (2011) states that FTLRP made no effort to harmonise customary and statutory law hence both sets of laws became relevant and applicable leading to the former law's continued treatment of women as minors who cannot 'own' land.

### **Unmarried Women's Mechanisms of Land Access and Land Rights**

Unmarried women (widows, divorces and returnees) got land through leases and subdivisions by their own natal relatives because many men who got land were not available to till the land as they were employed and stayed outside the resettlement schemes (Chingarande, 2010). The fact that divorces accessed land from their natal relatives confirms Makonese's (2017) observation that fast-track land is not part of matrimonial property and assets inventory upon divorce and separation but State land hence the land remains in the name of permit holder. The spouses can only share permit rights, developments and improvements that were made on the farm during the subsistence of a marriage. In Mwenezi, Tavaka village and Merrivale farm, Mutupo (2014; 2011) observes that some single and few married women had accessed land through renting and borrowing plots from other villagers with excess land, could not utilise it as they were unavailable or had gone back to the communal areas. Edifying this observation, O'Laughlin (2002) in Dube (2018) states that women also had direct access to land of the 'missing men' migrating to South Africa and urban areas in search of jobs. If the cultural 'concept of enlargement' was still practised, one may be forced to infer that these were married but childless women or women who had given birth to female children presumed not to perpetuate family. Renting and borrowing land by married women therefore shows that in some communities, men no longer respected the cultural concept of 'tsewu' thereby further affecting access to land by these women through the household unit. While control over land rested with the lessor, the lessee had management rights (right to make decisions on use of land, what crops to plant, when to harvest) and economic rights (decision making powers over output and income from sale of produce). It is therefore plausible to infer that, married women saw this method of land access as better than 'tsewu' as their husband could not control production and produce obtained on borrowed land. Married women who accessed land through this method had better control rights (management and economic land rights) than their counterparts who benefited from 'tsewu' as they lacked all control rights (control over land, production systems and produce). Dube's (2018) findings in Clonmore Farm, Mberengwa District shows that a larger percentage of unmarried (divorced, widowed and unmarried) had accessed land through participation in 'jambanja'. Further evidence from Rutenga district reveals that unmarried women were more opportunistic and risk diverse and were not disadvantaged by their marital status as they could leave the communal areas to participate in land invasions which made them to be recognised and acquire land in A1 schemes (ARI, u.d). Women were not only a stronghold of the war of liberation struggle (ibid) but were also valued in 'Jambanja' and the base camps to provide a range of



gendered domestic tasks such as cooking, singing in the basecamps and also occupying posts of secretaries and treasurers during the invasion process (Mutupo, 2011). This made them to automatically have their names on offer letters. Dube (2018) further reports that unmarried women who accessed land through the invasion process felt empowered as they had control over land and other natural resources found on or underallocated land. Female headed households were self-sufficient, had unrestricted access to wildlife, pastures, minerals on their land and control over land, the produce from land as they could sell surplus.

#### **Mechanisms of Land Access by Other Women**

While the socio-economic and marital status of some land beneficiaries is unknown, Zimbabwe Human Rights Watch (ZHRW) (2002) and Nyawo (2015) states that some women seeking fast track land were raped while some were forced to exchange sexual favours to get on the redistribution lists. Ribot and Peluso (2003) describes this as a structural mechanism of access via the negotiation of other social relations of reciprocity. To gain access onto the waiting list and to land, some women entered into a relationship with men who dominated the plural implementing structures that existed during fast track. This confirms Ribot and Peluso's (2003) argument that to gain and maintain access to resources (land), subordinate actors (women) often expend resources (thighs) to cultivate relations or transfer some benefits (sexual favours) to those who control land. It is therefore plausible to infer that women beneficiaries had to continuously reassert their 'ownership' and maintain access to the land through expending resources (thighs) to men if they were to be perpetual landholders. Although Gaidzanwa (2011) and Mutupo (2011) argues that the gendered division of domestic labour made most married women to be unable to participate in mayhem phase of FTLRP as they took care of their communal homes and children, there is more to it than this cultural connotation. Mutanda (2020) observes that most husbands in Chiredzi A1 farms dissuaded their wives from participating in 'jambanja' fearing being scorned for having been given charms (*kudyiswa*), abuse of their wives or even consensual sexual intimacy to gain access to land from those who led the process.

#### **4. Conclusion**

From the above discussion, it is undeniable to argue that FTLRP had failed the 'litmus test' of achieving the constitutional obligation of promoting gender equality and balance as evidenced by unfair treatment between males and females and smaller proportion of women who had accessed land. The mere constitutional recognition of women's rights to land using the 'sameness approach' during FTLRP without the provision of a gender responsive policy framework (Makonese, 2017) that treats women's land issues from a heterogeneous perspective did not address women's land woes. Findings from this study further shows that mechanisms of land access by the few women were fluid, varied spatially and between categories (married and unmarried) and within the same category (young and elderly widows; women in polygamous and monogamous marriages) of women. This is heavily impacting on women's land rights as many categories of women except for beneficiary female war veterans and those in polygamous marriages lack rights over land, production systems and the produce. Since some current events like the undertaking of land audit, promulgation of Statutory Instrument



53/2014 are pointers that FTLRP is far from being over (Makonese, 2017), this study recommends that future land policies should adopt the 'difference approach' when dealing with women's land issues. Furthermore, the land policy should be informed by constitutional provision of gender balance through engendering clauses that promote not only gender balance in land allocation but also implementing structures of future land reforms.

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