



ADDRESSING THE GAP IN PROPERTY VALUATION FOR EXPROPRIATED COMMUNAL LAND IN ZIMBABWE

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KEY MESSAGES



This policy brief examines the critical issue of compensating individuals when their land is expropriated by the government, particularly in communal areas of Zimbabwe. Currently, there is a significant lack of clarity and consistency in the process of valuing and compensating for expropriated communal land. This often leads to disputes and dissatisfaction among affected communities.



The absence of a robust valuation framework often results in undervalued compensation, disproportionately affecting vulnerable communities who rely on communal land for their livelihoods. This not only undermines the principles of just compensation but also perpetuates social and economic inequalities.



By addressing these issues and implementing necessary reforms, the government can ensure that individuals who lose their land are compensated, promoting social justice and economic development in Zimbabwe. This policy brief aims to provide evidence-based recommendations to improve the valuation process and safeguard the rights of affected communities.



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BACKGROUND AND CONTEXT

Zimbabwe's history is intertwined with land reform and acquisition. Since independence, the country has implemented various legal reforms to align its land policies with international best practices. It has also displaced multitudes of people from their properties to pave the way for different developmental projects like roads, dams and mining projects. However, almost all displacements were characterised by compensation disputes. In Zimbabwe, existing studies are biased towards property valuation for compensation when freehold properties are expropriated, with limited focus on issues surrounding property valuation for communal properties.

Communal land, a vital resource for many Zimbabweans, is vested in the President and administered by local authorities. When the government needs to acquire communal land for development projects, it often relies on the Land Acquisition Act (LAA) of 1992, which outlines procedures for valuation when land is compulsorily acquired. The Constitution of Zimbabwe (CoZ) guarantees the right to property and fair compensation. However, without clear valuation standards, ensuring that affected individuals receive just compensation becomes challenging. This can lead to social tensions and legal disputes and hinder development efforts.

Methodology

This research used content analysis to examine Zimbabwe's legal and policy frameworks for land expropriation and compensation. Primary sources included the CoZ, the Communal Land Act (CLA), and the LAA. Secondary sources comprised government reports and case studies.

Thematic content analysis was used to identify key themes, such as legal frameworks, valuation methods, and the impact on communities. The coded data was analysed to understand patterns and implications for land rights, social justice, and economic development.

This research contributes to a deeper understanding of Zimbabwe's legal and policy landscape surrounding land acquisition and compensation.



Findings

Firstly, compensation for expropriated communal land is guided by Section 12(ii) of the Communal Land Act (CLA) of 1982, which states that:

“If no alternative land is available and no agreement has been reached as to compensation, Parts V and VIII of the Land Acquisition Act [Chapter 20:10], shall apply, mutatis mutandis, in respect of such dispossession or diminution”.

The Communal Land Act (CLA) of 1982, specifically Section 12(ii), outlines the framework for compensating individuals whose communal land has been expropriated. However, the Land Acquisition Act (LAA) of 1992, which is intended to provide detailed procedures for valuing improvements on expropriated land, notably omits any reference to communal land. Instead, Part V of the LAA of 1992 primarily addresses the valuation of the following types of land:

“[. . .] land which is not agricultural land required for resettlement purposes [. . .]” and “[. . .] agricultural land required for resettlement purposes [. . .]”.

The LAA of 1992 defines agricultural land required for resettlement purposes as follows:

“... any rural land the acquisition of which is reasonably necessary for resettlement purposes, and which is identified in a preliminary notice as being required for such purposes”.

Furthermore, Section 72(1) of the Constitution of Zimbabwe of 2013 clearly differentiates between communal and agricultural land. Therefore, it is evident that the valuation framework provided in Part V of the LAA of 1992 is not applicable to expropriated communal properties.

Property valuation for expropriation is a statutory process. Consequently, the absence of a clear property valuation procedure outlined in an Act of Parliament can lead to arbitrary compensation figures, which may cause dissatisfaction among affected individuals.

Lastly, even if the valuation framework provided by Sections 29C and 50 of the LAA of 1992 were to be applied, it might be inappropriate given the unique nature of improvements found on communal properties, such as traditional rondavels and granaries.

Recommendations

It is recommended that Zimbabwe take advantage of the ongoing revision of the land policy and land tenure systems to address these issues. This provides an opportunity for the Ministry of Lands, Agriculture, Fisheries, Water, and Rural Development to incorporate specific provisions for the valuation and compensation of communal land into the land policy, ensuring that the rights of affected communities are protected. The Ministry should prepare a detailed policy guideline on the valuation of communal land, as it is currently responsible for administering both the CLA of 1982 and the LAA of 1992. This will facilitate the addressing of identified gaps.

Additionally, it is recommended that the Valuation Section within the Ministry of Lands, Agriculture, Fisheries, Water, and Rural Development collaborate with the Valuation Department under the Ministry of Local Government and Public Works, which has a long history of involvement in valuation for compensation, particularly when it administered the CLA of 1982.



Furthermore, it is recommended that the Parliament of Zimbabwe, which is currently working on aligning existing statutes with the Constitution of Zimbabwe, use this opportunity to address the statutory gap between the CLA of 1982 and the LAA of 1992 regarding the valuation and compensation of compulsorily acquired communal properties. The existing statutory gap can be addressed in two ways.

Firstly, another section can be added to Part V of the LAA of 1992, which specifically provides a detailed framework for the valuation of communal properties in the same manner as Sections 29C

and 50. If this is done, there will be no need to amend the CLA of 1982.

The second option is for the legislature to amend both the CLA of 1982 and the LAA of 1992. If this is done, Section 12(ii) will be amended, the section which refers to the LAA of 1992 on valuation for expropriated communal properties will be deleted, and a more detailed section on this aspect will be added to the CLA of 1982. This will help address the valuation gap, which is more pronounced when the two statutes are administered by different government ministries.

ACTION PLAN

Since the Parliament of Zimbabwe is already in the process of amending existing statutes to align them with the Constitution of Zimbabwe of 2013, the recommended amendments to these two statutes can be implemented immediately with minimal additional resources. What may be crucial is to expedite the amendments of the two statutes, particularly if one or both are not nearing completion.

The development of policy guidelines on expropriation, valuation, and compensation for communal land by the executive can be undertaken during the 2025 financial year, as it will require resources for teams from both ministries to collaborate in designing comprehensive documents. The design process should involve consultations with relevant stakeholders, including other professionals, civil society, non-governmental organisations, and the public. As consultations for the 2025 national budget are underway, this policy brief is well-timed to inform these discussions.

CONCLUSIONS AND WAY FORWARD

As outlined in this policy brief, different arms of the Zimbabwean government have an opportunity to address the statutory and policy gaps regarding property valuation for expropriated communal land. By implementing these legislative reforms, Zimbabwe can establish a clear and transparent framework for valuing and compensating communal land. This can help minimise compensation disputes and promote fairness.



REFERENCES AND APPENDICES

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