

BENCHMARKING ZIMBABWE'S GLOBAL COMPENSATION AGREEMENT AGAINST THE PROVISIONS OF EXISTING LAWS GUIDING COMPENSATION FOR EXPROPRIATED PROPERTIES

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Abstract

The government of Zimbabwe (GoZ) and former commercial farmers signed a highly celebrated historic Global Compensation Agreement in July 2020. This Global Compensation Agreement which is a product of the new administration was signed following adoption of a consensus-based compensation. Even though the Global Compensation Agreement document remains a guarded secret, parties to the agreement shared the process which resulted into the agreement and limited contents of the Global Compensation Agreement. Currently, no known study has been conducted to assess whether the process which was used to estimate the global compensation and the provisions of the Global Compensation

Agreement comply with the provisions of the existing laws. As such, this study was carried out to close this gap and contribute to the existing debate on compensation expropriated for land reform in Zimbabwe. A desktop survey was used, and data were obtained mainly online. It was concluded that even though the Global Compensation Agreement was done as guided by the *Land Acquisition Act (LAA)* of 1992 and the *Constitution of Zimbabwe (CoZ)* of 2013, specially on the compensable heads of claim and the compensation period. However, an institutional framework which was used to arrive at the GCA seems to have deviated from the provisions of the same laws. This study was limited by unavailability of a copy of the Global Compensation Agreement document resulting in the researchers only using the little information which was published by parties to the Global Compensation Agreement. It is recommended that further research be done on the same area once the Global Compensation Agreement deed is published.

1.0. Introduction And Background

When Zimbabwe attained its independence from colonial rule in 1980, it adopted a compensation framework based on market value for land compulsorily acquired during the colonial era. However, this compensation framework just lasted for a decade when it was dumped due to the belief that it was stifling the pace of land resettlement (United Nations Development Programme (UNDP), 2002; Madhuku, 1999; Magaisa, 2010). Fair compensation was adopted instead of market related compensation during the period between 1990 to 2000 (Moyo, 2000; De Villiers, 2003; Moyo, 2006; Chivandi, Fushai & Masaka, 2010; Magaisa, 2010).

From the year 2000, the government of Zimbabwe decided to fast track the land reform processes by expropriation without compensation for land (De Villiers, 2003; Moyo, 2006; Pazvakavambwa & Hungwe, 2009; Magaisa, 2010; Moyo, 2016). As a result, there was a compensation dispute between displaced commercial farmers and the government of Zimbabwe which spanned for 2 decades. This compensation discourse changed in 2017 when a new government came into power after 37 years of rule by the second president of the Southern African country. The coming in of the new administration brought with it new hope for the former commercial farmers as it indicated its willingness to solve the compensation dispute amicably (Bratton, 1987; Alexander, 1993; & Pilosof, 2016). In July 2020, the GCA agreement was signed between disputing parties with the aim of bringing a closure to the compensation dispute (Ministry of Finance and Economic Development, 2020; Ncube, 2020).

Yacim, Paradza and Zulch (2021) concluded that there are glaring gaps when the compensation process in Zimbabwe is measured against the principles of procedural fairness. Other studies on compensation for expropriation in Zimbabwe noted inconsistencies in the process (Paradza, Yacim & Zulch, 2021; Yacim, Paradza & Zulch, 2022) as such the authors linked inconsistencies to lack of fairness resulting in protracted compensation disputes. This might be the reason why displaced former commercial farmers were not satisfied with the Global Compensation Agreement as noted by Zulch, Yacim and Paradza (2022). Despite the above-mentioned flaws of the local laws and the compensation processes, the Global Compensation Agreement was done as prescribed by the local laws (Ncube, 2020; Orphanides, 2020).

However, very little is known about how the GCA complied with the provisions of existing compensation laws. Thus, the purpose of this study is to critically compare the GCA against the provisions of existing laws guiding compensation for expropriated land. Therefore, the focus of this paper is limited to comparing the Global Compensation Agreement to the provisions of local laws. A comparison of both the Global Compensation Agreement and local laws with international best practice is outside the scope of this paper.

2.0. Literature Review

There is vast literature on laws guiding compensation for expropriated properties across the world. Arul Vikram and Murali (2015) reviewed the Indian legal frameworks relating to valuation or assessment of compensation for expropriation in comparison to Indonesia, Nigeria, Malaysia, Bangladesh, Trinidad & Tobago, Slovenia, Mali, Nanjing, and Vietnam. The content analysis was used to compare or benchmark their statutes. The study concludes that the Indian legal frameworks lacked (1) a guideline on proper identification of the displaced persons, (2) a defined formula for the assessment of compensation, and (3) a provision for prompt payment of compensation to affected people.

Ghimire, Tuladhar and Sharma (2017), gauged the expropriation and compensation assessment guidelines designed by the Food and Agriculture Organisation (FAO), and the World Bank, to those of China, India, Malaysia, Nepal and Norway. The study employed specific set parameters for assessment, including transparency, public participation, benchmarking, and access to information. It was discovered that lack of consistencies to the stated criteria was seen among countries, apart from Norway. The implication was for the other countries to develop sound principles in their expropriation and compensation

practices. Thus, an inference from the study is that though countries are at liberty to design, country-specific expropriation and compensation laws, this must be in line with the international best practice.

In a related study, Tagliarino (2017) compared the statutes that guide property valuation for payment of compensation for expropriation in fifty (50) countries, across three continents (Africa, Asia and Latin America) relative to the FAO guidelines. The study concluded that because of the differences in their legal provisions, assessment of compensation is dissimilar across the countries. While the study advocates for a uniform legal framework for expropriation and compensation across all countries of the world, the findings revealed that country-specific laws on the subject matter still hold sway.

Olanrele, Alias, Said and Bello (2017) compared the legal frameworks guiding property valuation for compensation in Nigeria with those of the United Kingdom, Denmark, United States of America, Australia, New Zealand, Hong Kong, Malaysia, South Africa, and Rwanda. Again, this study used some parameters or variables including compensable heads of claim, compensation principles as well as the basis of valuation, and found that land, buildings, crops, severance, and disturbance are compensable heads of claim.

In Zimbabwe, Madhuku (1999) and Magaisa (2010) gave a historical overview of expropriation laws in Zimbabwe. Also, scholars like De Villiers (2003), Moyo (2000, 2006), Chivandi, Fushai & Masaka (2010), Moyo (2016), Pazvakavambwa & Hungwe (2009) and Pilosof (2016) did studies on the history of expropriation and compensation in Zimbabwe tracing it back to the colonial era. Recently, Paradza, Yacim and Zulch (2019) compared the legal provisions of the LAA of 1992 of Zimbabwe with the guidelines prepared by the World Bank and FAO. The study went a step further to include the expropriation and compensation guidelines of the International Federation of Surveyors (FIG). They concluded that there is a need for a review of the current statutory provisions of the *Land Acquisition Act* (Chapter 20:10) of 1992 to align them with the guidelines of the World Bank and FAO.

It is important to note that there are three distinct land tenure systems in Zimbabwe namely private land (free hold), state land, council land and communal land. Each class has different property rights, which range from freehold, leasehold and usufruct (Scoones, Marongwe, Mavedzenge, Murimbarimba, Mahenehene & Sukume, 2011). According to Paradza (2021), state land in Zimbabwe is registered in the name of the president and is classified into urban and rural state land. Beneficiaries of urban state land have lease rights with an option to purchase. With rural state land, beneficiaries have lease rights (99-year lease) with an option for renewal. In both leases, people do not have a right to sublet, but they can cede their rights

(ibid, 2021).

Communal land is like state land in that it is also registered in the name of the president on behalf of the people of Zimbabwe as stated by Section 4 of the *Communal Lands Act* of 1982 (Thondhlana, 2015). The difference is that beneficiaries of communal land have usufruct rights (Mutema, 2003; Thondhlana, 2015), unlike beneficiaries of state land who have lease rights. Also, communal land is administered by the rural district councils with the assistance of community leaders (Mutema, 2003) as provided by the Sections 5 and 9 of the *Traditional Leaders Act* (TLA) (Chapter 29:17) read together with Part 3 of the *Communal Lands Act* of 1982 (Government of Zimbabwe, 1982). In terms of Section 8 of the *Communal Lands Act* 1982 read together with Section 26 of the *Traditional Leaders Act* of 1998 and Section 4 of the *Communal Land Forest Produce Act* (Chapter 19:04) of 1987, communal land in Zimbabwe can only be used for agricultural and residential uses (Government of Zimbabwe, 1982, 1987, 1998). Council land is registered in the name of the relevant council in terms of Part 2 of the *Urban Councils Act* (Chapter 29:15) of 1997 (Government of Zimbabwe, 1997). Beneficiaries of council land usually have lease rights with an option to purchase.

Private landholders have registered freehold property rights which are registered (Section 10 of the *Deeds Registries Act* (Chapter 20:05) of 1959) (Government of Zimbabwe, 1959). It is important to note that private land (commercial farms) was expropriated from former commercial farmers during the fast-track land reform programme. The expropriated land was nationalised that is converted from private land into state land hence beneficiaries now have use rights of land that is owned by the state as discussed before. The Global Compensation Agreement (GPA) was signed specifically for compensation of such private land. The complexity of compensation for expropriation in Zimbabwe must be acknowledged. Pilosof (2016) pointed out that some of the former commercial farmers whose land was expropriated might have benefited directly or indirectly from the land which was taken from native farmers without compensation. According to Magaisa (2010), the complexity of Zimbabwe's compensation issue is compounded by the period taken without payment of compensation and various groups affected over centuries.

In view of the reviewed literature, it can be noted that currently, the process which was used to estimate the global compensation and compliance of provisions of the Global Compensation Agreement to the provisions of the existing laws is under-researched. Existing studies focused on the fairness and adequacy of compensation, the level of satisfaction of affected people as well as comparing Zimbabwean laws with international best practice. As such, this study was carried out to close this gap and contribute to the existing debate on

compensation for land compulsorily acquired for reform in Zimbabwe.

3.0. Methodology

A desktop survey was used. The main sources of data were documents and a video obtained online from websites of government institutions, the Commercial Farmers Union of Zimbabwe (CFU) and the Valcon. Parties to the Global Compensation Agreement (GCA) had joint press conferences where they were explaining to the public events leading to the agreement as well as the contents of the same. Their press conferences were recorded and are made available online. Thus, we collected data from the recorded meetings of former commercial farmers and senior government officials, the records were obtained online from the website of the YouTube account of the media houses that hosted the meetings. Additionally, we collected data from the email messages of representatives of former commercial farmers. Also, the Constitution of Zimbabwe and the Land Acquisition Act were downloaded online from the Website of the Parliament of Zimbabwe. All data were collected during the months of June 2020 and June 2021.

Content and thematic analyses were used to analyse the results of this paper with the aid of Atlas.ti8. Coding was done using the Atlas.ti8 as presented in section 4.0. The major limitation of this study was that the GCA is still a heavily guarded secret; hence, this paper was based on the little details which were made public by parties to the GCA as earlier noted.

4.0. Results and Discussion

This section is divided into 2, the first section focuses on the process leading to the signing of the GCA and the second section dwells on the contents of the GCA.

4.1 *The Legal Guiding Compensation for Expropriated for Land Reform in Zimbabwe*

Compensation for land expropriated for reform is prescribed by Section 72 of the *Constitution of Zimbabwe (CoZ)* of 2013 read together with Section 20 of the *Land Acquisition Act (Chapter 20:10) (LAA)* of 1992. Section 72 of the *CoZ* of 2013 reads:

“... no compensation is payable in respect of its acquisition except for improvements effected in it before its acquisition...”

More detail is given in Section 295 of the *CoZ* of 2013 which elaborates on compensation for agricultural properties that were expropriated before the commencement date of the 2013

Constitution. Most of the properties that were expropriated before the commencement date of the CoZ of 2013 are former commercial farms that were acquired during the Fast-Track Land Reform Programme (FTLRP) of early 2000. In terms of Section 295, if the land was expropriated from an indigenous person, then compensable heads of claim include the land and improvements.

The same section also states that for farms expropriated from foreigners coming from countries with bilateral agreements, the compensable heads of claim are determined in terms of the provisions of the bilateral agreement. In terms of the same section, for all foreign nationals whose farms were not protected by bilateral agreements, the compensable heads of claim include improvements on the land and exclude the land. Section 72(7) of the CoZ of 2013 gave a historical background of how the land was expropriated from Africans without compensation during the colonial era and stated that the former colonial masters must pay for compensation of the land. Figure 1 is a summary of major statutory provisions guiding compensation for expropriated properties in Zimbabwe.

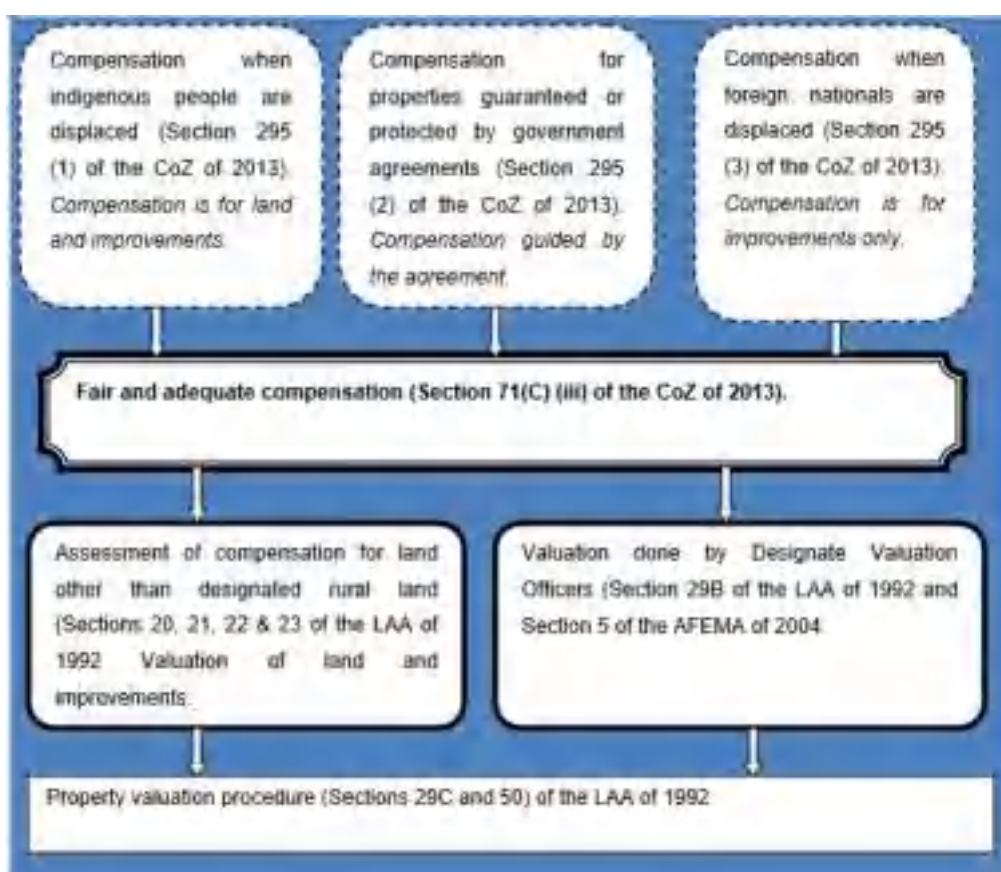


Figure 1: Laws Guiding Compensation for Expropriated Properties in Zimbabwe
 Source: Author's formulation from Government of Zimbabwe (1992, 2004, 2013)

As shown in Figure 1, before one attempts to estimate the compensation value of an expropriated property, he/she must establish the nationality of the displaced persons. More details on property valuation for compensation of expropriated properties are laid down by the provisions of the LAA of 1992 and the Acquisition of Farm Equipment or Material Act (Chapter 18:23) (AFEMA) of 2004. The property valuation procedure for agricultural properties acquired for agricultural properties in terms of Sections 29 and 50 are shown in Table 1.

Table 1: Guidelines for valuation for improvements as provided by Sections 29 and 50 of the LAA of 1992

Type of improvement	Guiding valuation principle
Buildings	<ul style="list-style-type: none"> - The quality of their construction shall be assessed according to standards set by the Ministry responsible for housing standards for the types of building concerned. The age and condition of the buildings shall also be considered.
Grazing veld	<ul style="list-style-type: none"> - Compensation shall be payable for dams, dips, spray races, fencing and other improvements enhancing its value for grazing purposes. - Grazing veld shall be valued according to its carrying capacity for livestock; the highest values may be given only to fully equipped pastures with good water supplies, dips and well-fenced paddocks. - The same amounts shall be payable for improved pastures as for grazing veld of the same carrying capacity.
Irrigated land	<ul style="list-style-type: none"> - Compensation shall be payable for dams, boreholes, canals, irrigation equipment embedded in the ground and other improvements enhancing its value for irrigation purposes. - Land may not be classified as irrigable for the purpose of valuation unless— - (a) it is capable of being placed under full year round irrigation; and - (b) where it can be irrigated only in terms of rights granted under the Water Act [Chapter 20:24], such rights have, in fact, been granted.

Valuing perennial or plantation crops, such as coffee, tea, fruit, timber and sugarcane	<ul style="list-style-type: none"> - Regard shall be paid to the potential yield of such crops and their marketability, but only where the crops are maintained in a satisfactory condition and are well-pruned, fertilised and sprayed.
Valuing tobacco curing facilities	<ul style="list-style-type: none"> - Tobacco curing facilities, such as tunnels, chongololos and Dawson systems shall be valued at a rate comparable to the values given to conventional tobacco barns of equivalent output.
Valuing fencing	<ul style="list-style-type: none"> - (a) lower values shall be placed on fences that are not erected to standards prescribed in terms of the Fencing Act [Chapter 20:06] or with pressure-treated poles; - (b) for boundary fences, only half the values shall be paid.
Valuing electrical installations	<ul style="list-style-type: none"> - The costs of installing any mains electricity supply and connection points on the land shall be taken into account. - The value of the land shall be regarded as enhanced by the availability of a mains electricity supply and regard shall be paid to the number of connection points on the land.
Valuing land	<ul style="list-style-type: none"> - The following factors shall be considered— - (a) the soil types to be found on the land; and

Source: Government of Zimbabwe (1992)

A new dimension to the compensation matrix as provided by Section 295 of the *CoZ of 2013* was brought by the *Land Commission (Gazetted Land) (Disposal in Lieu of Compensation) Regulations (LCGLDLCR)* of 2020 that were introduced by *Statutory Instrument 62* of 2020. These regulations opened a new window for indigenous and foreign persons (protected by investment agreements prior to the expropriation) to apply and regain the title of their former properties. Of interest is Section 9 of the *LCGLDLCR* of 2020 that states:

“9. (1) Alienation of a piece of acquired agricultural land comprising a farm to a qualifying applicant in terms of these regulations shall be a final settlement of any claims that the applicant may have from the state in respect of compensation.

(2) Alienation of a piece of acquired agricultural land comprising only part of a farm to a qualifying applicant in terms of these regulations shall be a final settlement of any claim for compensation to the extent that the application is successful” (Government of Zimbabwe, 2020).

This section can be interpreted to mean that once ownership is transferred to the former commercial farmer, then there is no further compensation to be paid by the GoZ. This interpretation is motivated using the phrase “... *final settlement of any claim for compensation...*” However, one is tempted to question if this “*final settlement of compensation*” is equivalent to a fair and adequate compensation dictated by Sections 71 and 72 of the CoZ of 2013? Most of the affected FCFs were disturbed from their business for approximately two decades. Any compensation either in cash or land that ignore issues like disturbance and delayed compensation might not be fair and adequate. Furthermore, besides the issue of disturbance of farming business, the *LCGLDLCR* of 2020 seems to ignore the fact that most existing improvements on the farms were vandalised during and after the FTLRP and depreciated over the past 2 decades. In view of this regard, the provisions of the *LCGLDLCR* of 2020 might fall short of what is required to bring a lasting solution to the 2 decades long compensation dispute in Zimbabwe.

Section 71, subsection 3C paragraph (ii) of CoZ of 2013 states that the compensation must be paid before the property is acquired or within a reasonable time after the expropriation, but it does not define what constitutes a reasonable time. Section 29C (3) of the *LAA* of 1992 states that the compensation period can be fixed by the Minister of Lands and approved by the Minister of Finance as follows:

“Provided that—

(a) at least one quarter of the compensation payable shall be paid at the time the land concerned is acquired, or within a reasonable time thereafter; and

(b) a further one quarter of the compensation payable shall be paid within two years after the land concerned was acquired; and

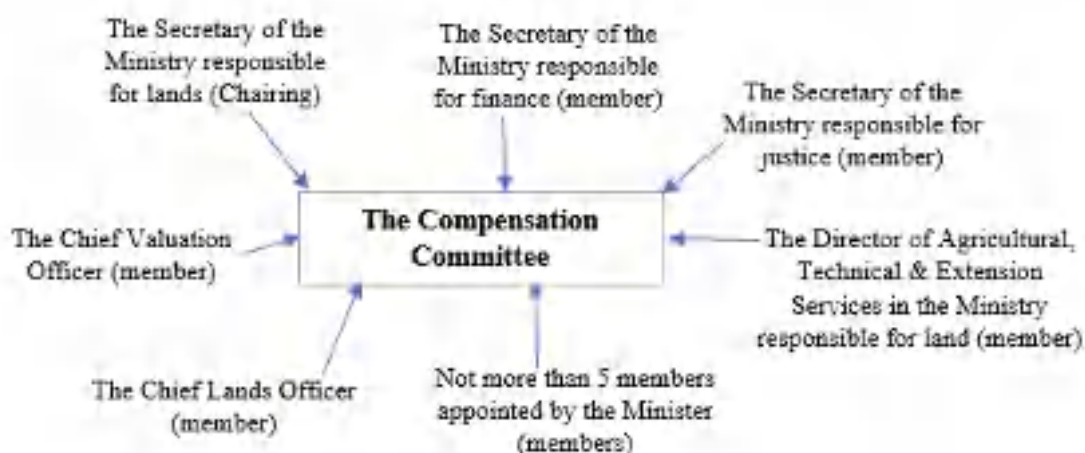
(c) the balance of the compensation payable shall be paid within five years after the land concerned was acquired” (Government of Zimbabwe, 1992).

A closer look at this provision can lead to the realisation that a reasonable time stated in Section 71 of the *CoZ of 2013* if read together with Section 29C (3) of the *LAA of 1992* can be interpreted to mean any period that is not more than 5 years from the expropriation date. Also, Section 29C(4) of *LAA of 1992* provides that the minister responsible of lands decides the manner in which the compensation is paid, that is whether it is paid as a lump sum or in instalments as well as if it is paid in the form of cash or government securities. Maybe, it can be fair if the law provides the displaced people with an option to choose their preferred compensation method.

4.2 The Institutional Framework Guiding Valuation for Compensation for Expropriated Properties

The institutional framework for property valuation for expropriation is spelt out by Section 29 of the *LAA* of 1992. Determination of compensation for expropriated properties is done by the Compensation Committee (CC). The CC is an inter-ministerial committee established by Section 29 of the *LAA of 1992* to determine the values of compensation to be paid for expropriated properties. The CC base its compensation value on preliminary property valuation done by Designated Valuation Officers (DVOs). The composition of the CC is summarised by Figure 2.

Figure 2: Institutional Framework for Property Valuation for Expropriation in Zimbabwe



Source: Adopted from (Government of Zimbabwe, 1992)

As shown in Figure 2, the CC is comprised of senior civil servants from the key ministries responsible for lands, finance, and justice as well as at most five members appointed by the minister. The fact that the CC is made up of heads of key government ministries and departments can be commendable because these are the people who make government decisions. If the CC was made up of junior employees without the power to make decisions, then the CC would be nothing more than a talk show. However, it is imperative to note that the same CC which is comprised of senior civil servants took almost 2 decades to come reach an agreement with the former commercial farmers. This can be attributed to the hostile relationship between the previous administration and the former commercial farmers which was borne out of lack of political will.

It is also important to note that the minister responsible for lands can appoint not more than 5 people to be part of the CC. However, there is no statutory guidelines on the characteristics of the people who can qualify for appointment by the minister. In this case the minister uses his/her discretion to appoint the other members of the CC and he/she is not compelled to include representatives of the affected people on his/her list of appointed persons. Therefore, there is no guarantee that affected persons will have a representative in the CC, unlike civil servants whose membership is provided for by law. One might be tempted to argue that the current institutional framework for compensation for expropriated properties is biased towards protecting the interests of the expropriating authority.

4.3 The process Leading to the GCA

The process leading to the GCA started in 2016 with the establishment of the Ad-Hoc Compensation Working Group (AHCWG) (Valcon, 2020). The AHCWG was meant to initiate negotiations between GoZ and FCFs (Ncube, 2020; Valcon, 2020). It can be noted that the process towards to GCA was already in motion when the new administration came into power. It means the new administration which came in 2017 just proceeded with a compensation process that was initiated by the previous administration under the leadership of former president R.G. Mugabe from 1980 to 2017. Figure 3 shows the structure of the AHCWG which was adopted in 2016.

Figure 3: Institutional Framework for Property Valuation for Compensation Adopted in 2016

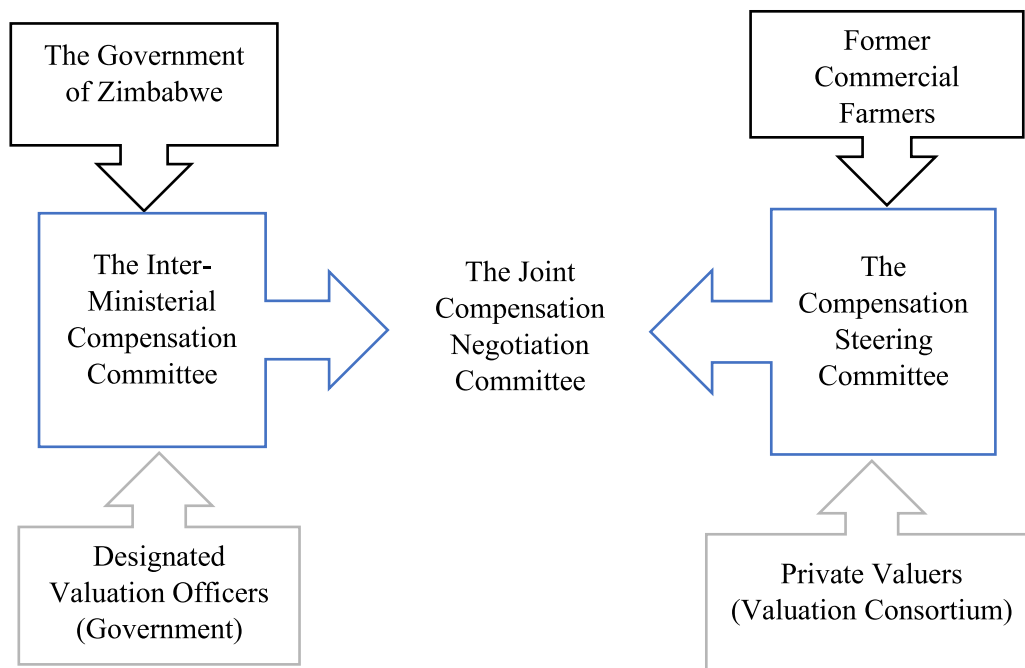


Source: Adopted from Valcon (2017, 2020).

As shown in Figure 3, the Ad Hoc Compensation Working Group (AHCWG) was composed of representatives of FCFs and the GoZ and it was established to negotiate technical issues of the compensation and make recommendations to GoZ and FCFs. The GoZ was represented by the CC in the AHCWG while FCFs were represented by the Compensation Steering Committee (CSC). The CSC is a creation of the Commercial Farmers Union (CFU), and its mandate was to deal with political and diplomatic issues of compensation as it represented the interest of FCFs (Valcon, 2015, 2017).

The AHCWG was later replaced by the Joint Technical Negotiation Compensation Committee (JTNC) in 2018 as shown in Figure 4. As shown in Figure 4, the difference between the JTNC

Figure 4: Institutional Framework for Property Valuation for Expropriation Adopted in 2018



Source: Adopted from Ncube (2020)

and the AHCWG is that GoZ representatives in the JTNC increased to include senior government officers from the Office of the President and Cabinet and it was now chaired by one of the government's vice presidents.

4.4 A Comparative Analysis of the Provisions of the GCA and Existing Laws

In view of the foregoing discussion, it can be noted that the composition of both the AHCWG and the JTNC deviated from the provisions of Section 29 of the LAA of 1992. In determining

the compensation, which was agreed in the GCA, additional members from the Office of the President and Cabinet, one of the 2 Vice Presidents, plus representatives of the FCFs were among the compensation negotiating team but are not provided for at law. Given the sensitivity and complexity of the compensation dispute, involvement of one of the national vice presidents as well as include senior government officers from the Office of the President and Cabinet was a brilliant idea which might be translated to be a sign of political will. Also, the process which leads to the GCA has seen representatives of the FCFs actively participating in the negotiations with the expropriating authority.

It was also established that when there was a compensation dispute due to wide differences in estimates done by private valuers (PVs) for the FCFs and Designated Valuation Officers (DVOs) for the GoZ, Independents Valuers (IVs) invited from the World Bank, Zambia, and Namibia to give their expert opinions (Ncube, 2020; Valcon, 2020; CSC, CFU & Valcon, 2020). The use of IVs when there is a compensation dispute is not provided for in the *LAA of 1992*, rather Section 24 of the same statute is specific that compensation disputes must be referred to the Administrative Court for settlement.

The total amount agreed for compensation in the GCA was 3.5 billion United States of America dollars which is for improvements on the land like land clearing, biological asserts, and physical infrastructure. It is imperative to note that the agreed compensation which exclude compensation for land complies to the provisions of Sections 72 and 295 of the *CoZ of 2013* read together with Section 20 of the *LAA of 1992* (CSC, CFU & Valcon, 2020; Ncube, 2020; Orphanides, 2020).

Furthermore, parties to the GCA agreed that the initial payment of 50% of the global compensation figure was to be paid within a year from the date of the agreement and the remainder to be cleared over a 4-year period (CSC, CFU & Valcon, 2020; Ncube, 2020; Orphanides, 2020). This appears to be deviation from the provisions of Section 29 of the *LAA of 1992* which states that the initial payment must be a quarter of the total compensation. In this case the government seems to have offered double of the initial compensation which it was supposed to have paid in terms of the *LAA of 1992*. However, this payment must be viewed considering the circumstances surrounding the compensation for farms expropriated for land reform in Zimbabwe. If the law was followed religiously, then the initial payment of compensation should have been paid almost two decades ago. In this view, the government is not doing any favour to the FCFs who were supposed to have received their full compensation a long time ago. The overall compensation period which was agreed in the GCA is 5 years, inclusive of the first year of paying half of the total compensation amount and 4 years of

clearing the balance. This payment period is in line with the provisions of 29 of the *LAA* of 1992 as discussed before.

Parties to the GCA also agreed to establish a Joint Resources Mobilisation Committee (JRMC) which consists of representatives of FCFs and GoZ. The role of the JRMC to work with the Ministry of Finance and Economic Development is raising funds for compensation through long term debt and other financial instruments (Ncube, 2020; CSC, CFU & Valcon, 2020). The JRMC is neither a creation of the *LAA* of 1992 nor the *CoZ* of 2013. Table 2 summarises the differences noted between the GCA and the provisions of existing laws

Table 2: A comparison on the GCA and provisions of existing laws

Aspect	Comment
Ad Hoc Compensation Working Group (AHCWG)	Not provided for by existing laws.
Technical Negotiation Compensation Committee	Not provided for by existing laws.
Use of independents valuers (expert witness)	Not provided for by existing laws.
Exclusion of land in the compensation quantum	In line with existing statutory provisions.
Joint Resources Mobilisation Committee	Not provided for by existing laws.
Payment of compensation in instalments.	In line with existing statutory provisions.

5.0. Conclusion and Recommendations

This study concluded that there are notable aspects where GCA complied with the provisions of the *Land Acquisition Act (LAA) of 1992* and the *Constitution of Zimbabwe (CoZ) of 2013*, specially on the compensable heads of claim and the compensation period. However, an institutional framework which was used to arrive at the GCA seems to have deviated from the provisions of the same laws. One might be tempted to question why this inclusive framework adopted towards the GCA was not incorporated in the existing laws first by amending Section 29 of the *LAA* of 1992. If the GCA is a product of the existing statutes, then the procedure which conceived it should have been a product of the same laws. Where the provisions of the existing statutes were inadequate, then necessary amendments should have been done prior to the GCA.

In as much as this question can not to be ignored, the sensitivity and the complexity of Zimbabwe's compensation dispute need not to be overemphasised. Therefore, the whole process leading to the signing of the GCA can be taken as a successful laboratory experiment. As such whilst riding on its successful experience, the government of Zimbabwe needs to expedite the amendment of the *LAA* of 1992 and come up with an inclusive compensation framework.

It is important to conclude that this study was limited by unavailability of a copy of the GCA document resulting in the researchers only using the little information which was published by parties to the GCA. It is recommended that further research be done on the same area once the GCA deed is published. Additionally, since it is already two years into the signing of the agreement, there is a need to unravel the current state of affairs relative to GCA and the former commercial farmers.

References

- Arul Vikram, M. & Murali, K. 2015. A critical review of land acquisition and valuation process across the world. *Journal of Mechanical and Civil Engineering*, vol. 12, no. 5, pp. 09-14.
- Compensation Steering Committee, Commercial Farmers Union & Valuation Consortium. 2020. An explanation of the proposed compensation agreement between the government of Zimbabwe and representatives of commercial farmers. Harare, Valuation Consortium.
- De Villiers, B. 2003. Land reform: Issues and challenges. A comparative overview of experiences in Zimbabwe, Namibia, South Africa, and Australia. Johannesburg, Konrad-Adenauer-Stiftung.
- Ghimire, S. Tuladhar, A. & Sharma, S., R. 2017. Governance in land acquisition and compensation for infrastructure development. *American Journal of Civil Engineering*, vol. 5, no. 30, pp. 169-178.
- Government of Zimbabwe. 1959. *Deeds Registries Act* (Chapter 20:05). Harare: Government Printers. Government of Zimbabwe. 1976. *Regional Town and Country Planning Act* (Chapter 29:12). Harare: Government Printers.
- Government of Zimbabwe. 1982. *Communal Land Act* (Chapter 20:04). Harare: Government Printers.
- Government of Zimbabwe. 1987. *Communal Land Forest Produce Act* (Chapter 19:04). Harare: Government Printers.
- Government of Zimbabwe. 1992. *Land Acquisition Act* (Chapter 20:10). Harare, Government Printers.
- Government of Zimbabwe. 1997. *Urban Councils Act* (Chapter 29:15). Harare: Government Printers.
- Government of Zimbabwe. 1998. *Traditional Leaders Act* (Chapter 29:17). Harare: Government Printers.
- Government of Zimbabwe. 2013. *Constitution of Zimbabwe Amendment (No. 20)*. Harare, Government of Zimbabwe.

- Madhuku, L. 1999. A survey of constitutional amendments in post-independence Zimbabwe (1980-1999). *The Zimbabwe Law Review*, vol. 16, pp. 82-107.
- Magaisa, A. 2010. The land question and transitional justice in Zimbabwe: law, force and history's multiple victims. Oxford Transitional Justice Research. Available online from: <https://www.law.ox.ac.uk/research-subject-groups/oxford-transitional-justice-research/past-debates/justice-zimbabwe> (Accessed 30/09/2020).
- Ministry of Finance and Economic Development. 2020. National Development Strategy 1: January 2021 – December 2025. Harare, Ministry of Finance and Economic Development.
- Moyo, B. 2016. *Rethinking Zimbabwean agricultural land expropriation laws in light of the Funnekotter Case*. Unpublished LLM Mini-dissertation, Pretoria, University of Pretoria.
- Moyo, S. 2000. The political economy of land acquisition and redistribution in Zimbabwe 1990-1999. *Journal of Southern African Studies*, vol. 26, no. 1, pp. 5-28.
- Moyo, S. 2006. The evolution of Zimbabwe's land acquisition. In: Rukuni, M., Tawonezvi, P., Eicher, C., Munyuki-Hungwe, M. and Matondi, P. eds. 2006. *Zimbabwe's agricultural revolution revisited*. Harare: University of Zimbabwe Publications, pp. 143-164.
- Mutema, M. 2003. Land rights and their impacts on agricultural efficiency, investments and land markets in Zimbabwe. *International Food and Agribusiness Management Review*, vol. 6, no. 2, pp. 50-64.
- Ncube, M. 2020. Communique on the agreement between the Government of Zimbabwe and former farm owners as detailed in the Global Compensation deed for improvements on farms compulsorily acquired for resettlement during the land reform programme. Harare, Ministry of Finance and Economic Development.
- Orphanides, H. 2020. Panel discussion with Hodges, A. Unpacking Zimbabwe's agreement with former commercial farmers. Available online from: YouTube video posted by ZTN <https://www.youtube.com/watch?v=CGLJC852YOM&t=2243s>, (Accessed: 02.12.2020).
- Paradza, P. 2021. Property valuation for expropriation and compensation in Zimbabwe. Unpublished PhD thesis. Pretoria, University of Pretoria.
- Paradza, P. Yacim, J. & Zulch, B. 2019. A critical review of property valuation for expropriation in Zimbabwe. *Proceedings of the 19th African Real Estate Society Conference*, 10-13

September 2019 Arusha International Conference Centre, Arusha, Tanzania, pp. 424-449.

Pazvakavambwa, S. & Hunger, V. 2009. Land redistribution in Zimbabwe (5th Ed.). Chapter 5 in Binswanger-Mkhize, H., P., Bourguignon, C. and van den Brink, R. (Eds.) (2009). Agricultural land redistribution: Toward greater consensus. Washington DC, World Bank.

Pilosof, R., 2016. Possibilities and Constraints of Market-Led Land Reforms in Southern Africa: An analysis of transfers of commercial farmland in postcolonial Zimbabwe, 1980–2000. *Journal of Agrarian Change*, vol. 16, nr.1, pp. 32-49.

Scoones, I., Marongwe, N., Mavedzenge, B., Murimbarimba, F., Mahenehene, J. & Sukume, C. 2011. Zimbabwe's land reform: challenging the myths. *Journal of Peasant Studies*, vol. 38, no.5, pp. 967-993.

Tagliarino, N. K. 2017. The status of national legal frameworks for valuing the compensation for expropriated land: an analysis of whether national laws in 50 countries/regions across Asia, Africa, and Latin America comply with international standards on compensation valuation. *Land*, vol. 6, no. 37, pp. 2-29.

The Valuation Consortium, 2015. *February Newsletter*. Harare: Valuation Consortium.

The Valuation Consortium, 2017. *April Newsletter*. Harare: Valuation Consortium.

The Valuation Consortium, 2020. *June Newsletter*. Harare: Valuation Consortium.

Thondhlana, G. 2015. Land acquisition for and local livelihood implications of biofuel development in Zimbabwe. *Land Use Policy*, vol. 49, pp. 11-19.

United Nations Development Programme, 2002. Zimbabwe land reform and resettlement: assessment and suggested framework for the future. Harare: United Nations Development Programme.

Yacim, J.A., Paradza, P. & Zulch, B. 2021. Examining Zimbabwe's expropriation and compensation process through the lens of procedural; fairness. Proceedings of the African Real Estate Virtual Conference, 8th – 10th of September 2021, Lusaka, Zambia: pp. 205-226, ISBN: 978-0-620-95972-8.

Yacim, J.A., Paradza, P. & Zulch (Kotze), B. 2022. Valuation for compensation of communal properties in Zimbabwe: The case of Chiyadzwa and Tokwe-Mukosi projects. *International Journal of Housing Markets and Analysis*, vol. 15, no. 3, pp. 670-690.

Zulch, B., Yacim, J.A. & Paradza, P. 2022. Are former commercial farmers in Zimbabwe satisfied with the Global Compensation Agreement? *Journal of Property Research*, vol. 39, no. 2, pp. 97-119.