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LAW AND EQUITY IN TENSION: A CRITICAL ANALYSIS OF
ZIMBABWE'S CONSTITUTIONAL OBLIGATION TO COMPENSATE
FORMER WHITE COMMERCIAL FARMERS UNDER THE SECOND
REPUBLIC.

BY

STANDA SANI

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Abstract

This study critically examines the tension between law and equity in Zimbabwe's constitutional obligation to compensate former white commercial farmers under the Second Republic, incorporating findings that resonate with Aristotelian concepts of justice and fairness. It explores the historical injustices perpetrated by British settlers, particularly through the Rudd Concession and the Land Apportionment Act, (1930), that facilitated the dispossession of indigenous populations while favoring the white minority. This racialized legal framework undermined principles of fairness and equity, necessitating a corrective approach that acknowledges past injustices and strives for a more equitable distribution of resources, in alignment with Aristotle's vision of true justice. The research reveals the need to address deep-rooted historical injustices associated with land acquisition. This reinforces the importance of recognizing both the psychological and social impacts of colonial dispossession alongside material losses. The study also examines agricultural land compensation in other jurisdictions, highlighting the complexities and political implications of compensation mechanisms, particularly in South Africa, thereby underscoring the necessity for transparency and accountability in governance. Furthermore, the ongoing negotiations regarding compensation for land improvements illustrate the tensions between historical obligations and contemporary legal requirements. Section 72(7) of the Constitution reflects an understanding of historical dispossession and the need for reparative justice, suggesting that former colonial powers hold responsibility for compensation. This aligns with Aristotle's assertion that justice must be rooted in moral considerations. The findings advocate for several key recommendations, including implementing equitable land redistribution and compensation policies, enhancing public engagement and participation in decision-making processes, establishing a comprehensive reparations framework, ensuring policy consistency and clarity in land reform initiatives, and committing to continued research and monitoring of compensation mechanisms. These recommendations aim to promote social cohesion and equity while addressing historical injustices, thereby contributing to a comprehensive understanding of law and equity in the context of Zimbabwe's land reform.

Key Words

colonialism, land reform, resettlement, ownership rights, compensation

Declaration

I declare that this dissertation is my original work except where sources have been cited and acknowledged. The work has never been submitted, nor will it ever be submitted to another university for the award of a degree


Standa Sani



Student's full name

Student's Signature (Date)

Dr. Ashton Murwira



Main Supervisor's Full Name

Main Supervisor's Signature (Date)

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Dedication

I dedicate this dissertation to every citizen of Zimbabwe who needs an understanding of the history of Zimbabwe and the ideals and aspirations of the Liberation struggle which were hinged on the land question. I also dedicate this study to the policy makers and the executive to promote and protect the section 3 Founding Values and Principles of our Constitution primarily subsection (1) paragraph (i) which state that Zimbabwe is founded on respect for the recognition of and respect for the liberation struggle. I also dedicate this study to legal scholars and researchers who have an interest in Land Law in Zimbabwe.

List of Acronyms and Abbreviations

BSAC	British South Africa Company
CFU	Commercial Farmers Union
FTLRP	Fast Track Land Reform Programme
GoZ	Government of Zimbabwe
JAG	Justice for Agriculture
LSCF	Large-Scale Commercial Farms
MDC	Movement for Democratic Change
ZANU PF	Zimbabwe African National Union Patriotic Front
ZCFU	Zimbabwe Commercial Farmers Union

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CHAPTER 1 INTRODUCTION

1.1 Introduction

This chapter provides a comprehensive overview of a study that examines the constitutional obligation of the Government of Zimbabwe (GoZ) to compensate former white commercial farmers whose land was acquired under the Fast Track Land Reform Program (FTLRP). In July 2020, the GoZ reached a settlement agreement worth US\$3.5 billion with these farmers, stipulating that they were entitled to compensation solely for improvements made to the land at the time of expropriation, as outlined in the Global Compensation Deed and Section 295(3) of the Zimbabwean Constitution. This arrangement, formalized in SI 62 of 2020, indicates that displaced farmers would not regain their land but would receive compensation for improvements instead. The study investigates the implications of this constitutional framework, particularly the limitations placed on farmers' ability to seek legal recourse regarding property rights. By contextualizing the land rights issue within a historical legal analysis of colonial injustices, the study aims to shed light on the complexities surrounding compensation and property rights in contemporary Zimbabwe.

This chapter focused on the historical progression of land invasions during the colonial era, the resulting displacement of African indigenes, and the introduction of foreign laws that facilitated the appropriation of land. It will also explore the ongoing tensions between the GoZ and former farmers, framing these discussions within the broader narrative of justice and reparation. By the end of this chapter, readers will gain a clear understanding

of the study's objectives, significance, and the pressing legal and ethical questions that arise from Zimbabwe's land reform policies.

1.2 Background to the Study

This study examined the historical progression of the British settler land invasion during the colonial era, the brutal looting of cattle and subsequent forcible displacement of African indigenes from their ancestral lands and how the emigrant white settlers brought an import of foreign laws into the jurisdiction and by that, assumed property rights over their loot and actions of criminality. The study also looked at how the white emigrant settlers protected themselves with such racially constructed restrictive and repressive laws that were detrimental to black indigenes. In examining the land question and how post-colonial independent Zimbabwe sought to address the imbalance through Constitutional amendments, the GoZ promulgated laws in tandem with the correction of the historical injustices that took place for over 100 years since 1890 to the year 2000 when the nation of Zimbabwe embarked on the FTLRP to address this imbalance. Ultimately, the study questions the justification of compensating for improvements on expropriated white-owned commercial farms seized by the Mugabe-led government through the Fast Track Land Reform Programme (FTLRP) since 2000.

1.2.1 Appropriation without compensation

Throughout the early settlement process, there have been substantial disagreements between the GoZ and the erstwhile large-scale commercial farmers, who were represented by the Commercial Farmers Union (CFU) and a radical breakaway organization from the

CFU called Justice for Agriculture (JAG), (Murisa, 2019). Among the topics of controversy were the compensation criteria and the approach to farm evaluation. Before accelerating the FTLRP in late 1999, the GoZ took the position of compensating displaced white farmers for improvements they made to their agricultural land. The displaced farmers were adamant about being compensated for both their land and improvements on it.

Despite the former Minister of State of the United Kingdom for Development and Africa, Claire Short's 1997 letter to Zimbabwe's Minister of Lands exonerating the British government of any responsibility for the land reform in Zimbabwe and any matter incidental thereto, the GoZ's view was that the former colonial authority should compensate its own citizens for their removal from agricultural land in Zimbabwe . The disagreement about what deserved compensation meant that the idea was necessary, but by whom should it be made? Also, for what?

Early in the new millennium, the CFU estimated that the GoZ owed displaced members a reasonable compensation of around US\$1.2 billion, while JAG attempted to compel the government to pay an estimated US\$28 billion as compensation for land, improvements on acquired farms, and lost income as a result of disturbances on farms, (Murisa, 2019). Unreasonably and unjustly, the displaced white commercial farmers claim compensation on farms that were taken from the same people who have reclaimed their land back. These farms were taken as a result of looting.

Furthermore, the displaced white farmers want compensation for the money they lost as a result of the FTLRP's interruptions on their farms yet before colonization, African natives owned the same land and their operations were also hampered, for over 100 years, by white emigrant settlers who forcibly took their land and cattle which was their primary source of livelihood and belonging. This was before a chain of repressive racially constructed segregating laws were put in place by the white settlers to subjugate and oppress the black indigenes.

1.3 Statement of the Problem

Following the resignation of former President, the late Robert Gabriel Mugabe in November 2017, Mamvura, (2022) posits that the New Dispensation led by Emmerson Mnangagwa continued its predecessor's policy of not stopping land seizures that are rooted as far back as to the Liberation War. Mkodzongi, (2019) avers that Mnangagwa's thrust on displaced white farmers was to compensate the displaced white farmers solely for the improvements done on the land, and not necessarily the land itself. The white community had put unrealistic expectations in President Emmerson Mnangagwa's new administration to atone for the former leader's acts by returning the land to the displaced white farmers, but this ruined those aspirations.

Since there is no turning back on the land redistribution programme, it is critical to look at Zimbabwe government's constitutional duty to compensate for improvements made to land that was previously acquired forcefully by white emigrant farmers who displaced black indigenous people from their ancestral land during the colonial era. Although the

law is explicit that compensation should only be given for land improvements done by white emigrant farmers during their "ownership tenure," there is a rising debate on whether or not compensation should be paid, or at all, and by who and for what. How ownership rights should be accorded to the new landowners is also an issue for debate. The law is dynamic, the same way constitutions lack rigidity, that is, they all can be transformed where necessary hence the need to look into the legitimacy of the justice system that calls for compensation on improvements made to the land previously seized from those who have reclaimed it back. There is limited academic literature on this emerging debate which this study intends to fill.

1.4 Research Objectives

The study sought to achieve the following objectives:

- 1.4.1 To analyse the evolution of the land dispute in Zimbabwe through the lenses of the Aristotelian concept of justice and fairness
- 1.4.2 To examine the constitutional provisions giving rise to compensation on improvements done on land earmarked for acquisition.
- 1.4.3 To explore post-independence agricultural land compensation in other jurisdictions.
- 1.4.4 To recommend the way forward on the constitutional requirement for compensation on land improvements.

1.5 Significance of the Study

This study sought to enthuse lawmakers and the citizens of Zimbabwe to have a relook at the constitutional provisions that sought to compensate white commercial farmers for any improvements done on their expropriated farms. It was the aim of this study to highlight the essence of justice and what it entailed in view of reclaiming the land that was initially taken away by force by white emigrant farmers during the colonial period. To the existing body of knowledge, the study sought to fill the gap in the justice system particularly, the law of retribution and corrective justice which seek to heighten the principle of retribution, reparations and direct reciprocal justice, (Kelly, 2023).

1.6 Delimitation of the Study

The study is confined to Zimbabwe, examining the constitutional obligations related to compensation for expropriated farms. It specifically investigates the relevant provisions of the Zimbabwean Constitution that mandate compensation for improvements made to expropriated farms. The research focuses on the complexities and challenges associated with compensation, including stakeholder impacts and legal interpretations. The study considers the historical context of the Fast Track Land Reform Program (FTLRP), analyzing how the timing of these reforms affects compensation practices.

1.7 Limitation of the Study

The study faced significant methodological limitations due to the politically sensitive nature of the land issue in Zimbabwe. This sensitivity restricted access to key stakeholders

for interviews, as many viewed the topic as conflicting with the Government of Zimbabwe's (GoZ) re-engagement initiative. To address this limitation, the researcher utilized a diverse range of secondary sources, including academic articles, books, and media publications, to gather data and insights. Additionally, the researcher's training as a legal scholar helped to critically analyze and interpret the available information, mitigating potential biases and enhancing the validity of the findings.

CHAPTER 2 REVIEW OF RELATED LITERATURE

2.1 Introduction

This chapter focused on a wide range of literature and legal instruments and frameworks that were employed in the colonial and post-colonial period regarding agricultural land in pre and post independent Zimbabwe. The chapter also looked at the concept of justice on how it was applied in the colonial and post-colonial era and philosophical underpinnings therefrom. The study also looked at jurisprudential theories that informed the land reform before focusing on international and regional instruments relating to the correction of racially motivated historical injustices brought about by colonialism in Africa, particularly in Zimbabwe.

2.2 Theoretical Framework

A theoretical framework is an overview of fundamental theories that provides a foundation for establishing the justifications for one's own area of study, (Vieluf & Klieme, 2023). Researchers create theories to explain occurrences, discover connections, and predict the future. One describes the current theories that underpin their study in a theoretical framework to demonstrate that their paper's or dissertation's topic is timely and based on well-established concepts, (Yadav, 2023). In other words, the theoretical framework is an essential initial step in the research paper, thesis, or dissertation since it validates and contextualizes the subsequent study. This study was premised on a well-rounded theoretical foundation that is explained in greater detail below.

2.2.1 The Aristotelian Concept of Justice

Aristotle defines justice as "giving people what they are owed" (Etieyibo, 2020), a principle that is crucial for analyzing the complexities of land reform in Zimbabwe. This definition necessitates a critical examination of compensation claims from former white commercial farmers against the historical injustices experienced by black indigenes. Aristotle argues that a fair constitution should prioritize the most joyful way of living (Lianos, 2023), indicating that the legal framework governing land ownership and compensation must account for both historical context and the current realities of affected communities.

Central to Aristotle's theory is the distinction between "disproportionate excess" and "disproportionate deficiency," with justice found between these extremes (Dotsi, 2021). In Zimbabwe, this framework invites scrutiny of compensation demands from displaced white farmers in light of the longstanding injustices faced by indigenous populations. Achieving a balance that recognizes the rights and claims of both parties within the established legal and moral frameworks presents a significant challenge for policymakers and legal practitioners.

Aristotle posits that equity is preferable to "strict justice," which adheres to rigid legal norms (Rentfro, 2019; Basil, 2021). This perspective is particularly relevant in the discourse surrounding Zimbabwe's land reform, where equity can function as a corrective measure, allowing for a more nuanced approach to compensation. Such an approach acknowledges the complexities of land ownership and the legal rights asserted by both

displaced farmers and indigenous peoples, which is essential for addressing historical grievances while promoting social harmony.

Ultimately, Aristotle's concept of an "equitable and fair man," who may choose to forgo rights for the sake of fairness, underscores the need for selflessness in the pursuit of justice (Tasioulas, 2023; Wagner, 2023). This viewpoint resonates strongly within the ongoing land reform debate in Zimbabwe, where discussions about compensation must consider broader historical and social implications. By applying the Aristotelian framework, this study aims to foster a more just and equitable resolution to the enduring challenges posed by historical injustices and contemporary compensation claims.

2.2.2 Relevance of the Theoretical Framework to the Study

The relevance of Aristotle's concept of justice to the study of land reform in Zimbabwe lies in its ability to provide a philosophical framework for addressing the complexities of historical injustices and contemporary compensation claims. Aristotle's definition of justice as "giving people what they are owed" necessitates a critical examination of the competing claims of displaced white farmers and indigenous populations who have suffered from colonial land dispossession (Etieyibo, 2020). His emphasis on equity over strict legal norms allows for a more nuanced approach to compensation, recognizing the need for a balance between "disproportionate excess" and "disproportionate deficiency" in claims (Dotsi, 2021). This framework encourages policymakers to consider the historical context of land ownership and the moral implications of their decisions, ultimately aiming for a resolution that promotes social harmony and addresses past

grievances (Lianos, 2023; Rentfro, 2019). By applying Aristotelian principles, the study seeks to foster a more equitable and just outcome in the ongoing land reform debate in Zimbabwe.

2.3 Literature Review

Understanding the land issue in Zimbabwe and the necessity for compensation to displaced white commercial farmers requires a thorough examination of the historical context of colonial dominance and segregation. A retrospective historical approach is vital for addressing the complexities surrounding compensation for improvements made on agricultural land, as the land itself is central to the discussion. Acknowledging the brutal impact of colonialism and the evolution of restrictive laws is essential to grasp the compensation issue's gravity. The political implications of land redistribution, particularly the conflict with British colonial power, reveal the multifaceted legal, economic, political, and social dimensions that have garnered global attention (Tom, 2020). Consequently, a significant body of literature has emerged regarding the land issue, especially in relation to the Fast Track Land Reform Programme (Helliker & Murisa, 2020). Scholars like Tzouvala (2022) and Mwonzora (2022) emphasize the importance of examining the historical roots of land disputes to understand current conflicts, highlighting the need to consider both national and regional efforts to resist colonialism, as similar experiences have shaped the destinies of many African nations.

2.3.1 Justification of the Legal and other steps to address the Land Question in Zimbabwe

Zimbabwe's colonial past can be linked to the country's contemporary issues with agricultural land rights. From 1890 to the present, the link between law and politics has been fundamental to the development of land rights in Zimbabwe, (Madhuku, 2004). Significant changes in land ownership laws have characterized the history and transfer of property rights from the colonial era to present. Through the military conquest of the Pioneer Column, land ownership from the indigenous Ndebele and Shona people of modern-day Zimbabwe was brutally transferred to the minority white population who were emigrant settlers, (Beinart, 2022). To reclaim the land ownership rights of the indigenous Zimbabweans who had been expelled from their own lands and forced to occupy arid, barren terrain places that could not sustain appropriate agriculture, black Zimbabweans were forced to undertake a long-lasting liberation struggle against white settler control, (Manyonga, 2021). Since the era of colonization, land-related property rights have been a significant problem. This section provides a succinct examination of the development and culmination of land rights in Zimbabwe from colonization to the present.

2.3.2 The dualism of Land Rights and Early Occupation

The British South African Company (BSAC) secured the Lippert Concession from King Lobengula, granting rights to minerals, followed by the Rudd Concession for the Mashonaland region. Despite Lobengula's efforts to counter Cecil Rhodes' deceptive practices, the BSAC acted without his knowledge, obtaining a royal charter that conferred

significant political influence and property titles to European settlers. This initiated the systematic exploitation and eviction of Africans from their lands (Murambadoro, 2022; Chipenda, 2019). The violent suppression of the 1893 Ndebele uprising and the 1896 Shona revolt facilitated further dispossession, as native Africans were forcibly relocated to less productive "reserves," while settlers occupied the most fertile agricultural areas (Lehmann, 2023; Mtapuri & Benyera, 2019). The establishment of the first reserves, Gwaai and Shangaan, under the Matabeleland Order in Council of 1894, was a direct response to these rebellions (Morreireira & Iliff, 2021). Madhuku (2005) notes that although land was designated for Africans in these reserves, legal title was transferred to the BSAC, leaving indigenous populations without ownership rights.

This partitioning established a dual system of land ownership that continues to impact Zimbabwe today. By 1914, approximately one million Africans occupied merely 23% of largely unproductive land, while about 28,000 settlers controlled 75% of the fertile land (Rothchild & Chazan, 2019). The rapid confiscation of land resulted in two distinct categories: privately held land with legal protections for white settlers and un-alienated land with precarious rights for Africans (Makonese, 2023). Disputes over un-alienated land arose, culminating in a Privy Council ruling that declared the Crown as the rightful owner of the territory, effectively dismissing African claims to ancestral lands and leaving them with tenuous rights (Moyo, 2017). The Southern Rhodesia Order in Council of 1920 formally delineated native lands, placing them under the control of the High Commissioner and rendering it nearly impossible for black individuals to acquire land, as

ownership was managed by a trustee board comprising the governor, chief judge, native commissioner, and chief.

2.3.3 The coming in of The Land Apportionment Act, (1930)

The Land Apportionment Act, (1930) established strict racial segregation in land ownership and use in Rhodesia (now Zimbabwe), making it illegal for Africans to purchase land outside designated Native Purchase Areas. Despite this restriction, Madhuku (2004) identified a legal gap that some Africans exploited to acquire property beyond the reserves. A Land Commission, formed in 1925 to investigate land segregation, contributed to the enactment of this Act, which solidified the legal framework favoring white settlers while severely limiting land ownership rights for Africans. Although some Africans managed to purchase land in areas like Zowa, Gutu, and Chitombogwizi, the Act ultimately restricted their opportunities for substantial land ownership.

2.3.4 The coming in of The Native Land Husbandry Act, (1951) and the Land Tenure Act, (1969)

The Native Land Husbandry Act, (1951) further restricted land ownership and use by black Africans, particularly in terms of agricultural benefits such as animal husbandry (Makonese, 2023). Both this Act and the preceding laws aimed to regulate the use and distribution of land designated for native Africans, promoting improved farming practices and land conservation. Following the Unilateral Declaration of Independence in 1965, the Smith Government introduced the Land Tenure Act, (1969) in an attempt to address land

issues; however, it failed to alleviate racial discrimination in land ownership. By the time of Zimbabwe's independence in 1980, most fertile land remained under the control of minority white settlers, contributing to widespread dissatisfaction that ultimately fueled a protracted liberation struggle against colonial rule.

2.4 The last stages of colonialism

2.4.1 Land rights and internal settlement

A thorough property clause was included in the short-lived Zimbabwe Rhodesia Constitution to ensure and defend colonial settlers' rights to land, (Hansungule, 2000). The lengthy Section 124 of the Constitution featured complex sections that attempted to forbid land acquisition, ensure sufficient compensation when land was obtained forcibly, and require court approval for any acquisition in order to avoid any change from the status quo. Additionally, the constitutional framework only permitted the acquisition of land when it could be demonstrated that it had not been used to its full potential for the previous five years. The compensation was to be calculated as the maximum sum that could be acquired in an open market between a willing buyer and seller. Additionally, it permitted the seller's choice of nation to receive the reward without any deductions. These rules' strict restrictions were obviously designed to deter any attempt to undo the expropriation of Africans' land during colonial rule.

2.4.2 The Land Acquisition Act, (1979)

The Land Acquisition Act, (1979) was enacted by the Muzorewa Government shortly after the Zimbabwe Rhodesia Constitution was ratified in order to carry out its provisions, (Kay & Colón-Ríos, 2022). To decrease the biased nature of the 1969 Act, the short-lived administration also passed the Tribal Trust Land Act number 6 of 1979. The legislation, however, retained the dual land rights throughout the nation as well as the communal tenure for land in the "reserves" and the authority of traditional leaders. The land discrepancies between European settlers and the majority of Africans who were landless were not significantly reduced by these statutory initiatives of the new government. Up until the Lancaster House Agreement, which finally resulted in majority government and independence in 1980, the struggle of freedom lasted

2.4.3 Land rights and the Lancaster House Negotiations

Discussions at Lancaster House frequently came to a halt over the land issue, (Mwonzora, 2022). The negotiated agreement maintained the status quo for the first ten years following independence due to the contentious topic. Land concerns were a significant obstacle to establishing the new democratic state, the independent Zimbabwe, and giving it legitimacy. The Lancaster House discussions resulted in a strong property rights language that established a willing buyer, willing seller framework for land reform in the Constitution. The concept of a forced land acquisition programme was another hot topic during the Lancaster House discussions on the land question. This programme endangered white farmers and discouraged white capital investment, which would have harmed the agricultural sector's post-independence expansion. Evans acknowledges that the British

were unable to recognize the importance of the land problem to native Africans while negotiating colonial transitions to independence in Southern Africa. He also contends that the British were reluctant to accept the value of land to Africans, which is why they were unwilling to handle the land issue. The discussions at Lancaster were significantly hampered by these viewpoints, (Evans, 2007).

2.5 Zimbabwe at Independence and Property Rights

2.5.1 The Lancaster House Constitution

According to the Lancaster House Constitution, the legislation that was in effect when the sovereign State became a nation was that which had previously been in force in the colony:

“The law to be administered by the Supreme Court, the High Court, and any courts in Zimbabwe subordinate to the High Court shall be the law in effect in the Colony of the Cape of Good Hope on June 10, 1891, as modified by subsequent legislation having the force of law in Zimbabwe, subject to the provisions of any law currently in effect in Zimbabwe relating to the application of African customary law.”

This had the effect of guaranteeing that the laws in effect at the time the Constitution took effect would remain the laws that were in effect at that time. As a result, the rules governing agricultural land rights at independence were those in effect at the Cape of Good

Hope on June 10, 1891, as amended by later colonial legislation. Thus, this statute operated as both unrepealed legislation and common law.

2.5.2 Zimbabwe's Land Rights at independence

The legislation covering agricultural property rights was based on the common law and as it existed in statutes at the time of independence, as modified by court rulings, (Makonese, 2023). Real property rights in land or immovable property belong to the owner and can be documented at a Deeds office. Ownership can be proven by such registration. Immovable property in Zimbabwe is owned by the individual who also owns any alterations made to the property. Under the common law that was in force at the time of independence, the owner possessed a variety of rights, including the authority to use, maintain, alienate, hypothecate, dispose of, and rent out the property.

The law of Zimbabwe acknowledges that ownership rights are not guaranteed. Thus, the ownership right establishes a sacred right that may only be transferred in conformity with the law. It is because of this that property rights, including the independence Constitution, only permit land confiscation and forced acquisition under specific conditions. These include the need to pay compensation and the aggrieved party's ability to request appropriate remedies from the court about both the acquisition and compensation, (Mushore, 2023).

International human rights legislation acknowledged this essential right as early as the post-second world war period. The following is spelled forth in the Universal Declaration of Human Rights:

“1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.”

The African Charter on Human and People's Rights further declares that:

“The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.”

The Southern African Development Community (SADC) Treaty guarantees human rights; however, its protections have been described as receiving "secondary, almost perfunctory significance" (Magliveras & Naldi, 2021). Despite this limitation, Southern African nations' constitutions typically include provisions on property rights, as noted by Thoko (2004). In Zimbabwe, the agricultural land ownership debate remains significantly influenced by the Constitution of Zimbabwe Amendment (No. 20) Act, (2013), which emphasizes property rights in Chapter 4 of the Declaration of Rights. This chapter outlines fundamental human rights and freedoms, mandating that all government branches and individuals adhere to these principles, including the rights to acquire, own, and dispose of property (Tsabora, 2016). However, it also allows for expropriation of property under eminent domain, with provisions for compensation when property is taken, although the jurisdiction of courts regarding compensation claims is limited.

Section 72 of the Constitution introduces specific regulations for the acquisition of agricultural land for resettlement, reflecting the framework established by the Fast Track Land Reform Programme (FTLRP), which redistributed land from large-scale commercial farmers to black Zimbabweans through forced acquisition. While compensation may be available for improvements to the land, there is no automatic entitlement to compensation for the land itself, particularly affecting white commercial farmers unless substantial improvements were made prior to acquisition. Furthermore, subsection (3) of Section 72 restricts the courts' authority to hear cases related to compensation, except concerning improvements, and prohibits claims of discriminatory land acquisition from being addressed in court, thereby limiting individuals' ability to seek legal recourse.

The Deeds Registries Act [Chapter 20:05] underpins Zimbabwe's land registration system, providing security of tenure essential for economic stability, as financial institutions rely on title deeds for lending (Deeds Registries Act). The disruption of this system due to the FTLRP has contributed to the challenges in agricultural financing. Scholars such as Madzokere and Matanda (2017) have explored the intricate relationship between agricultural land rights and human rights in Zimbabwe, tracing the historical evolution of land rights from the medieval period to the present. Their analysis highlights how the imperialist eviction of indigenous peoples laid the groundwork for ongoing challenges in land ownership and rights in post-independence Zimbabwe.

2.6 Land Rights Post Independent Zimbabwe

2.6.1 The Land Reform Zimbabwe

2.6.1.1 The 1st phase of land acquisition

The early years of land reform in Zimbabwe were marked by organized efforts to address historical injustices and were supported by the British government, which had pledged to facilitate a program of land reform (Mushore, 2023). However, the "willing buyer, willing seller" concept faced significant challenges due to a lack of willing white farm owners. In a notable development, Claire Short, the former UK Minister of State for Development and Africa, wrote to Zimbabwe's Minister of Lands in 1997, effectively absolving the British government of responsibility for land reform and related matters. This letter came shortly before the expiration of the initial ten-year period outlined in the Lancaster House Agreement, which had included provisions for compensating white farmers. The primary objective of Zimbabwe's land reform program was to rectify the historical injustices of settler colonialism, which had forcibly evicted native Black populations from their lands and perpetuated class-based agrarian inequalities.

The foundational years of the land reform program were driven by a strong commitment to address these injustices and transform the oppressive social structures within the agricultural sector (Moyo & Chambati, 2013). The initiative sought not only to dismantle economic dominance but also to promote equitable authority in land ownership. Therefore, the land reform program must be analyzed within the broader context of advancing justice through land redistribution, including considerations of compensation and its rightful

beneficiaries. This perspective emphasizes the necessity of understanding land reform as a means to achieve social equity and rectify past wrongs in Zimbabwe.

2.6.1.2 The voluntary buying and selling of land model

Only 700 000 small landowners in Zimbabwe occupied over 16, 4 million hectares of land, making the distribution of the country's land severely uneven. This made up around 49% of all agricultural land, much of which was in arid, desolate areas with unfavorable rainfall. About 15, 5 million hectares of the fertile prime land were grabbed by white settlers. The government led the effort to resettle locals during the early stages of the land reform programme on a willing-buyer willing-seller basis. It promoted the land reform initiative between 1980 and 1989, purchasing land on the open market and distributing it to a group of carefully chosen recipients, (Makonese, 2022).

2.6.2.1.2 The Communal Land Act, (1982)

The Tribal Trust Land Act, (1979) was repealed, which led to the creation of the Communal Land Act, (1982), (Makonese, 2023). In Zimbabwe, community lands consist of all state-managed land and indigenous land, and there are rules governing what occupants are allowed to do with the land. Additionally, according to the Tribal Trust Lands Act, (1979), land that was previously designated as tribal trust lands is what is meant by the term "communal lands" in the Communal Land Act, (1982). The President exercised his authority over communal lands since the Communal Lands Act affirmed the President's authority over land, which had previously been held by chiefs. The Act also

gave ministers the authority to decide on usufruct rights with the option of appealing to the President. The Rural District Councils had authority over the use and occupation of community land in line with section 8 of this Act. The communal land was now vested in the President and occupation was by consent of the Rural District Councils, hence the Community Lands Act of 1982 did not support freehold title in communal regions.

2.6.2.1.3 The Land Acquisition Act, (1985)

Since the Lancaster House Agreement, the land question in Zimbabwe has remained contentious. The 1980 land agreement, which marked a compromise between Britain and Zimbabwe, aimed to end the violent liberation struggle by guaranteeing existing property rights while requiring Zimbabwe to cover half the costs of land acquisition. This arrangement allowed large-scale white farmers to retain their land, while the government's efforts to relocate landless Black people were only partially successful under the "willing buyer, willing seller" paradigm, which primarily applied to underutilized farms or land for public use. The government was mandated to pay full fair market value for land, transferring funds overseas promptly. To address its constitutional obligations related to land resettlement, the government enacted the Land Acquisition Act, which responded to the need for forced acquisition of land for resettling landless Zimbabweans, as stipulated in Section 16 of the 1980 Constitution (Musemwa & Mushunje, 2011).

In the landmark case *May and Ors v Reserve Bank of Zimbabwe* (1985) (2) ZLR 358(SC) the Supreme Court underscored the necessity of considering "fair and reasonable"

compensation in public interest land acquisitions. This decision indicated that the value of land could be lower than its market worth depending on the circumstances. Despite provisions for the forced acquisition of abandoned and unproductive land, as noted by Roth and Bruce (1994), significant challenges persisted. These included the government's difficulty in meeting the constitutional requirements of Section 16, particularly regarding the free transfer of compensation abroad, and the complexities in defining underutilization. The lack of willing sellers further complicated the resettlement program, leading to slow price establishment in the market. Ultimately, early attempts to reform the land tenure system in Zimbabwe were unsuccessful; the government provided permits instead of title deeds to land recipients, undermining property security and deterring long-term investment, as highlighted by the Land Tenure Commission (Masiiwa & Chapungu, 2004).

2.6.2.2 The 2nd phase of land acquisition in Zimbabwe: Right to land after 1990

2.6.2.2.1 Constitutional Amendment (No. 11) Act, (1990)

To expedite its land resettlement efforts, the Zimbabwean government sought to enhance its land acquisition capabilities, which had been severely constrained by constitutional provisions during the first decade of independence. The 1990 National Land Policy proposed an ambitious plan to accelerate land resettlement, prompting amendments to Section 16 of the 1980 Constitution, which had established property rights that hindered the coercive acquisition of land for resettlement (Masunungure, 2020). The first constitutional amendment, enacted through the Constitution of Zimbabwe Amendment (No. 11) Act on April 17, 1991, aimed to dismantle the restrictive barriers imposed by the

Lancaster House Constitution. Notably, this amendment abolished the prohibition on the remission of compensation funds abroad, thereby providing the government with greater latitude to acquire land for resettlement, which had previously been limited by the constitutional constraints (Anstey, 2022).

2.6.2.2.2 The Land Acquisition Act, (1992)

The Land Acquisition Act, enacted in March 1992 in accordance with Constitutional Amendment No. 11, mandated the Zimbabwean government to acquire 6.9 million hectares from Large-Scale Commercial Farms (LSCF) (Makonese, 2023). This legislation introduced several reforms, notably altering the compensation framework. Under the new Act, compensation was limited to improvements on the property rather than the land itself, marking a significant departure from previous laws that covered both land and improvements. This policy shift may be partly attributed to Britain's refusal to establish a compensation fund for settlers. While parties could appeal a valuation officer's assessment to the Administrative Court, such appeals were contingent upon demonstrating that the Compensation Committee had not adhered to the guiding principles of the Act. Moreover, the government's failure to provide titles to native beneficiaries of the resettlement program severely restricted their ability to utilize the land as collateral for credit financing from banking institutions.

2.6.2.2.3 Constitutional Amendment (No. 12) Act, (1993)

The Constitution of Zimbabwe Amendment (No. 12) Act, (1993) shortly after the Land Acquisition Act, (1992), fundamentally revised Section 18 of the old Constitution, stating that the "right to the protection of the law" or the right to a fair trial by an independent arbitrator could be overridden by other constitutional provisions (Madhuku, 2004). This amendment significantly impacted land acquisition by removing the courts' jurisdiction over land-related matters, particularly in compensation proceedings for land acquired by the government for resettlement. As a result, disputes regarding appropriate compensation for acquired land could no longer be litigated in court. This change was crucial as it eliminated uncertainties surrounding compensation for land confiscated from large-scale commercial farmers, thereby streamlining the resettlement process and facilitating the government's efforts to expedite land reform.

2.6.2.2.4 Constitutional Amendment No. 13

Amendment No. 13 to the Constitution introduced a significant change by explicitly barring judges from hearing cases related to compensation for land acquired by the state, as stipulated in Section 16(1)(f). However, it still allowed for judicial recourse in situations where the government was compelled to acquire land or property, mandating that forced acquisitions be conducted in strict accordance with statutory and constitutional requirements related to justification (Naldi, 1993). The principle of eminent domain influenced this amendment, permitting the government to seize private property for public use, potentially without just compensation, while requiring adequate notice to the land occupant prior to acquisition.

In the case of *Davies and Others v Minister of Lands, Agriculture and Water Development* (1994) (2) ZLR 294 (H), the High Court addressed the legality of designating land for acquisition. The applicant argued that such designation amounted to forced seizure without payment, but Justice Chidyausiku rejected this claim, asserting that designation merely served as a control mechanism rather than an acquisition itself, meaning no compensation was warranted as neither party had suffered losses. On appeal, Chief Justice Gubbay upheld this view, ruling that designation did not confer rights to the acquiring authority to sell or lease the rural land. This ruling indicated the courts' readiness to support the land redistribution program, reinforcing the government's authority in the land acquisition process.

2.6.2.2.5 Constitutional Amendment No. 14 of 1996

In the wake of the *Davies and Others v Minister of Lands, Agriculture and Water Development* (1994) (2) ZLR 294 (H) case, significant mistrust developed between the Zimbabwean government and the judiciary, prompting the administration to amend the constitution to eliminate potential legal vulnerabilities. The Zimbabwe Constitution Amendment (No. 14) Act, (1996) repealed Section 11, which had guaranteed fundamental rights and freedoms for all Zimbabweans, replacing it with a preamble that emphasized permissible restrictions on these rights (Klug, 2022). This repeal was deemed necessary as farmers had previously utilized Section 11 in conjunction with Section 16 to contest designated land for acquisition, and the Supreme Court had acknowledged this provision

in *Re Munhumeso & Others (1994)* as a basis for asserting rights. By removing Section 11, the government aimed to prevent its use as a defense in future land disputes, thereby consolidating its authority in the land acquisition process.

2.6.2.2.6 Legal resistance to government initiatives

From 1990 to 2000, gradual adjustments to land reform in Zimbabwe were made, but the progress was sluggish and had limited impact. The situation was exacerbated by a rapidly declining economy and increasing political pressure on the ruling party, ZANU PF, due to factors such as substantial one-time payments to war veterans and unplanned military involvement in the Democratic Republic of the Congo. The emergence of the Movement for Democratic Change (MDC), a formidable opposition party with substantial urban support, intensified this pressure. According to Madhuku (2004), ZANU PF sought a survival strategy by targeting land, framing opponents of the land reform program, known as the *Third Chimurenga*, as counterrevolutionaries. Tensions escalated following the rejection of the government's draft constitution in a 2000 referendum, leading to war veterans forcibly invading commercial land on February 16, 2000, and marking the onset of a violent land reform process that undermined the rule of law in land conflict resolution.

In response to these developments, Mugabe's administration enacted new legislation to legitimize land occupations, primarily through constitutional amendments. Revised Section 16A of the Constitution, which allowed for land acquisition by force without compensation, signified a dramatic departure from the previous legal framework requiring

payments to large commercial farmers for acquired land (Madhuku, 2004). The government also amended the Land Acquisition Act to include a clause stating "no obligation to pay compensation," aimed at eliminating perceived bottlenecks. While the new provisions stipulated that compensation would be limited to improvements on the land, certain protections were retained under the Act but were applicable only to designated rural properties. This marked a significant shift in the government's approach to land reform, prioritizing political objectives over legal and economic considerations.

2.6.2.2.7 Commercial Farmers Union v Commissioner of Police

White commercial farmers sought judicial remedy when the Zimbabwean state began acquiring property for resettlement, culminating in the significant case *Commercial Farmers Union v. Commissioner of Police* (2000) HC 3544. In this case, Justice Garwe ruled in favor of the Commercial Farmers Union, ordering that individuals who had occupied commercial farms since February 16, 2000, vacate the premises within 24 hours. Despite the court's ruling that farm invasions were illegal, the Commissioner of Police refused to enforce the order, claiming he was incapacitated in preventing the invasions and asserting that enforcement would provoke public unrest. This refusal implicitly acknowledged the political untenability of halting the rapid land reform process. The court countered that ignoring its order constituted a violation of Zimbabwe's Constitution, which mandates enforcement of judicial rulings.

In light of ongoing challenges, the Commercial Farmers Union appealed to the Supreme Court, highlighting the lack of significant improvements in the country. The Supreme Court determined that the expedited land reform process did not align with the constitutional requirements for land reform, rendering it illegal. However, the court allowed the government a six-month period to continue land reform before requiring a cessation of acquisitions, reflecting the intense political pressure surrounding the issue. In response to these judicial setbacks, the Mugabe administration enacted the Rural Land Occupiers (Protection from Eviction) Act of 2001, aimed at suppressing criticism of the land reform program and silencing opponents who argued that the policy was unlawful (Makunike, 2019).

2.6.2.3 The 3rd phase of land acquisition

2.6.2.3.1 The Fast-Track Land Reform Program (FTLRP)

One of the biggest initiatives that changed who owned and occupied what land in Zimbabwe was the fast-track land reform programme (FTLRP). Since the 1890s, when Mashonaland and Matabeleland were conquered, the land question has been a major issue. The indigenous population was driven off their productive areas at the end of the invasion of Matabeleland and Mashonaland, (Beinart, 2022). One of the causes of the bloody battle of liberation, which saw locals fight back to recapture the country, was the forceful confiscation of land. The Lancaster House Agreement brought an end to the bloody liberation war. The British government made promises to fund a programme for land reform, but it broke those promises. This may have prompted the FTLRP, under which native Zimbabweans were given access to fertile fields. The recipients and beneficiaries

of the FTLRP were issued 99-year lease agreements and offer letters, although the land remained in the state's possession.

2.6.2.3.2 The land Acquisition Amendment Act, (2002)

The Land Acquisition Amendment Act, (2002), which was passed by the government in 2002, was another amendment. The change was made in direct reaction to white commercial farmers who refused to leave land that had been forcibly taken by the government. According to Section 8 of the amendment, an order of acquisition and its issuance are regarded to constitute notices to the owner to "stop to inhabit, possess, or use that land forty-five days following the date of service of the order." The occupier of the land was required to leave the property within 90 days of the notice being served. Despite extensive changes to the land laws and the constitution, the administration allowed violations of the law in order to further its political objectives.

2.6.2.3.3 The 2nd Commercial Farmers Union case

In the case of *Commercial Farmers Union v Minister of Lands (2001) (2) SA 925 (ZSC)*, the former landowners who had lost their land as a result of the land acquisition programme in conjunction with Section 16 of the Constitution sought redress from the court. According to the provisions of section 16B of the Constitution, any land the government intended to acquire must stop being inhabited within 90 days of receiving a notification. The applicants continued to live on the land despite the 90-day period having passed. This was a clear violation of the Gazetted Land (Consequential Provisions) Act's

section 3(2), which stated that it is illegal for anybody to occupy land that the government has designated for acquisition. The petitioners also claimed that because it mostly affected white farmers, section 23 of the Constitution was discriminatory. The Chidyausiku CJ (as he was then known) saw that the applicants' claims of discrimination could not be upheld in light of section 16B (3) of the Constitution. Importantly, Section 16B (3) of the Constitution eliminated the courts' authority to hear cases regarding the acquisition of property designated for state resettlement under the FTLRP.

In *Mike Campbell (Pvt) Ltd and Others v. Minister of National Security Responsible for Land and Resettlement and Others*, Malaba JA (as he was then known) emphasized that the legislature, in its wisdom, had removed the courts' authority to handle cases involving land acquired in accordance with section 16B (2) of the Constitution. The petitioners were therefore unable to identify a legal solution to the law's violation of the Constitution's spirit. The court continued by declaring that a party who has been wronged may only request judicial review of compensation. The court also imposed punitive costs on the applicants after declaring that the applicant's application was driven by a desire to disobey the law. The lawsuit provided the definitive answer to the land question and further established the immutability of Zimbabwe's land reform initiative.

2.6.2.3.4 Mike Campbell (Pvt) Ltd & Ors. v Republic of Zimbabwe (SADC CASE NO. 2/2007) [2008] SADCT 14.

Following the forced land grabs, petitioners brought their case before the SADC Tribunal, challenging the actions of the Zimbabwean government under Article 28 of the SADC Treaty, which sought to prevent their eviction from properties during the ongoing application process. Central to their challenge was Section 16B of the Constitution, which allowed for the acquisition of agricultural land for resettlement under Amendment 17, wherein the state claimed ownership of all agricultural land (Mutema & Chishakwe, 2014). The petitioners argued that the amendments violated the SADC Treaty by undermining judicial oversight and failing to establish clear standards for determining lands required for resettlement. They also raised concerns about racial discrimination, noting that only white farmers' properties were targeted for seizure, and highlighted the absence of compensation for the forcibly taken land.

In response, the government contended that the Tribunal lacked jurisdiction and asserted that compensation would be provided under Amendment 17, claiming that the applicants had not been denied access to the courts. However, the Tribunal found that the forced seizure of land was racially motivated, violating the principle of separation of powers and indicating that the judiciary was restrained in favor of ZANU PF supporters. Ultimately, the Tribunal ruled that the petitioners had not received equal access to justice and asserted that international law entitles applicants to fair compensation, thereby determining that the Zimbabwean government owed compensation to the petitioners. This ruling was reinforced by the landmark decision in *Commercial Farmers Union v. Minister of Lands*,

emphasizing that the government could not evade its international law obligations through domestic legislation. Additionally, the case of *Campbell v. Zimbabwe* underscored that discriminatory appropriations based on race are generally prohibited under international investment law. In the case of *Bernardus Henricus Funnekotter and others v. Republic of Zimbabwe*, the Tribunal awarded damages to Dutch and Italian applicants, asserting that Amendment 17 violated a bilateral investment agreement with the Netherlands, though Zimbabwe refused to comply with the ruling.

2.6.2.3.5 The crux of the Land Question in Zimbabwe, racial connotations and historical injustices in the Mike Campbell (Pvt) Ltd & Ors. v Republic Of Zimbabwe

Land reform in Zimbabwe is widely perceived as racially motivated, particularly in light of Amendment 17 of the Constitution. Zongwe (2009) supports the SADC Tribunal's conclusion in the *Campbell* case, asserting that Zimbabwe's land resettlement strategy is fundamentally redistributive and includes affirmative action initiatives aimed at addressing historical injustices rooted in colonial land policies that were segregationist and repressive. Countries like Zimbabwe and South Africa, emerging from prolonged liberation struggles, face significant pressure to rectify these injustices. Affirmative action seeks to compensate those disadvantaged by historical wrongs, promoting substantive equality by justly discriminating based on race. Jauch (1998) argues that the goal of affirmative action is to redistribute wealth previously held by the white minority at the

expense of Black Africans, contending that labeling these efforts as racist ignores the context of brutal evictions during colonialism, which transferred productive agricultural land and resources to the minority.

Zongwe (2009) concludes that it is misguided to label Constitutional Amendment No. 17 as racially discriminatory, given its intent to rectify past injustices. However, once the SADC Tribunal identified land acquisitions as racially motivated, it should have assessed whether such discrimination was unreasonable (Tshuma, 2022). Not all racial categorizations are inherently discriminatory; some are necessary for achieving equality. The Tribunal's failure to evaluate the legitimacy of the racial discrimination involved limited its effectiveness. The *Campbell* case underscored the resistance of many predominantly white commercial farmers to relinquish properties from which they benefitted during the oppression of Black citizens. Despite this resistance, the Zimbabwean government and judiciary remained steadfast, and the SADC Tribunal's ruling was largely unrecognized within Zimbabwe. This political context indicated that the Tribunal faced significant challenges, ultimately undermining its capacity to resolve disputes between individuals and the state rather than merely between states.

2.6.3 Legislation for the Fast-Track Land Reform Programme (FTLRP)

2.6.3.1 The Gazetted Land (Consequential Provisions) Act, (2000)

The Gazetted Land (Consequential Provisions) Act [Chapter 20:28], enacted in 2000, coincided with the Fast Track Land Reform Programme (FTLRP) and provided the

Zimbabwean government with constitutional authority to manage land reform. Section 3(2) declared it illegal for individuals to occupy government-designated property for more than 90 days without a valid permit, thereby legalizing the acquisition of agricultural land without compensation. Justice Malaba affirmed the constitutionality of the Act, emphasizing the obligation of all Zimbabweans to comply with the Constitution, including the imposition of criminal sanctions for non-compliance. However, in *Commercial Farmers Union v. Minister of Lands and Rural Resettlement and Others*, the Act was criticized as unconstitutional for barring judicial remedies and removing the courts' jurisdiction over land matters, which shielded land acquisitions from legal challenges and created a divergence between domestic and international court rulings. Additionally, the Act facilitated the transition from a freehold tenure system to a state land tenure system for acquired agricultural lands, utilizing leases, permits, and offer letters, thus reinforcing existing tenure systems while defining "land settlement lease" as any lease of Gazetted land granted by the state under various legislative frameworks.

2.6.3.2 Constitutional Amendment (No. 16) Act, (2000)

In 2000, the Zimbabwean government held a referendum on a new constitution that it strongly supported, but the proposal was defeated, heightening the risk of losing power, particularly to the Movement for Democratic Change (MDC) led by Morgan Tsvangirai, who was allegedly backed by white commercial farmers (Magaisa, 2010). In the aftermath, war veterans-initiated attacks on and occupations of agricultural lands owned by white individuals. To address this crisis, the government enacted Constitutional Amendment No. 16, which aimed to expedite land reform and legitimize existing land occupations. This

amendment reaffirmed sections of the proposed constitution that had been rejected in the referendum, notably relieving the government of its obligation to compensate commercial farmers by shifting that responsibility to Britain, the former colonial power. Additionally, the amendment specified that the government had no legal duty to provide fair and adequate compensation to displaced white commercial farmers, effectively undermining obligations that had already been limited by the 1990 Constitutional Amendment. Consequently, the amendment virtually eliminated the internationally recognized right to just compensation and removed the designation process for land acquisition, which Coldam (2001) argued helped to eliminate obstacles to a successful land reform initiative.

2.6.3.3 Rural Land Occupiers (Protection from Eviction) Act, (2001)

The Rural Land Occupiers (Protection from Eviction Act) (Chapter 20:26) (No. 13) Act, (2001), was enacted swiftly to protect individuals who had occupied farmlands owned by white commercial farmers (Mkodzongi, 2020). While the government characterized these encroachments as peaceful, the occupiers initially lacked legal protection. The Act encouraged settlers to remain on the properties they had taken over and superseded existing laws regarding trespassing and unauthorized entry, effectively removing legal barriers to occupation and leaving landowners without recourse. It retroactively legalized all land occupied between February 16, 2001, and March 1, 2001, granting individuals on rural land as of March 1, 2001, the status of "protected occupants," making their removal illegal (Madhuku, 2004). The case of *Minister of Lands, Agriculture and Rural Resettlement & Others v. The Commercial Farmers Union* underscored the Act's implications, with the Supreme Court ruling that it rectified previous constitutional issues

and legitimized the land acquisition process, thereby establishing a compliant land reform program. However, despite the formal completion of land reform, the government failed to issue titles to beneficiaries, providing only offer letters and a limited number of 99-year leases. This lack of proper titles hinders newly resettled farmers from fully utilizing their land, as offer letters cannot be used as collateral for financing from financial institutions. Consequently, the issue of land tenure remains contentious, reflecting ongoing gaps in rights within post-independent Zimbabwe, with agricultural land rights continuing to be shaped by these unresolved challenges.

2.7 The 2013 Constitution and Land Rights

The new Constitution of 2013, which arose from a strongly favorable referendum, sought to consolidate the legal provisions established during the Fast Track Land Reform Programme (FTLRP) aimed at redistributing land to those dispossessed by white settlers over the past century. While Section 71 guarantees the freedom to own, use, transfer, and dispose of property, Section 72 introduces significant exceptions for agricultural land rights, aligning with customary property rights and incorporating several previously enacted laws that limit judicial jurisdiction and stipulate government land acquisition with compensation only for improvements. This section also places the responsibility for compensating white farmers on Britain, the former colonial power. Furthermore, the Constitution calls for legislative measures to ensure landowners' security of tenure under Section 292, but the government has struggled to meet this obligation, thereby reinforcing the notion of a dualistic land ownership model in Zimbabwe where both private

individuals and the state hold property rights. The lack of progress in enacting legislation to enhance genuine ownership highlights ongoing challenges in achieving equitable land rights within the country (Ajala, 2021).

2.8 The S.I 62 Of 2020 and The Global Compensation Agreement in Context

Following a wave of pressure from former colonial farmers seeking compensation for the expropriation they suffered during the land reform program, the compensation of former commercial white farmers was set in motion by Statutory Instrument 62 of 2020. The International Centre for Settlement of Investment Disputes (ICSID) Annulment Tribunal rejected the Zimbabwean government's attempts to overturn the ruling in von Pezold's favor in 2018, following a lengthy legal struggle in the *Bernhard von Pezold and Others v Republic of Zimbabwe, ICSID Case No ARB/10/15, Final Award, 28 July 2015*. The fast-track Land Reform Program required the government to pay US\$184,915,603 in expropriation damages for the forced acquisition of land. The Global Compensation Deed (Agreement) and Statutory Instrument 62 of 2020 were subsequently enacted as a result of this. It is prudent to carefully review the Global Compensation Agreement as well as S.I. 62 of 2020 in this respect. The S.I 62 of 2020 will be analysed first.

2.8.1 S.I 62 of 2020

S.I. 62 of 2020 establishes criteria for individuals claiming compensation for land acquired by the state, requiring claimants to demonstrate ownership of the land prior to its compulsory acquisition and eligibility for compensation for both the land and

improvements, as defined by the Constitution. While successful claimants may receive full or partial title to the land after a state evaluation, the government retains the right to reject claims and prioritize public interest factors as outlined in section 8(3) of the regulations. Section 3 of S.I. 62 aims to allocate land to those entitled to compensation under section 295 of the Constitution, including indigenous people, former white farmers, and foreign multinationals, reflecting an alignment with the Constitution of Zimbabwe Amendment (No. 20) 2013. This enactment marks a significant shift from the Mugabe administration's previous refusal to compensate former white farmers, a stance rooted in the belief that Britain had not honored its commitments under the Lancaster House Agreement. Under President Mnangagwa, the government has adopted a neoliberal capitalist approach, aiming to appease former colonialists and foreign corporations, as evidenced by Mnangagwa's assertion that "a white farmer is a Zimbabwean farmer." However, concerns arise regarding the fate of current farm occupants if compensation claims are successful, with Section 9(1) indicating that land allocation to qualifying applicants may resolve compensation claims, potentially sidelining indigenous interests. Critics argue that this undermines land tenure security for indigenous people while favoring former white farmers, leading to uncertainty for resettled black farmers regarding their property rights, especially since resettled Africans receive 99-year leases that can be revoked, contrasting sharply with the land title applications available to former white farmers.

2.8.1 The Global Compensation Agreement

The Global Compensation Agreement was officially signed in Harare on July 29, 2020, following the enactment of S.I. 62 of 2020 and section 295 of the Constitution. This agreement's origins can be traced back to President Mnangagwa's inaugural speech on November 24, 2017, where he emphasized the need for positive change and the importance of addressing current actions to shape the future. A key objective of the agreement was to finalize compensation for former white farmers for improvements made on land that was compulsorily acquired to resettle indigenous black populations (Paradza, Yacim & Zulch, 2023). The President reaffirmed the government's commitment to compensating these farmers according to national laws, highlighting that resolving complex land tenure issues is essential for ownership stability and economic recovery. This initiative aligns with a neoliberal capitalist ideology aimed at attracting foreign investment, leading to the establishment of a Joint Resource Mobilization Committee tasked with raising US\$3.5 billion for compensation over five years. This shift followed the previous administration's refusal to provide compensation and occurred after the British government retracted its commitment to cover land purchase costs, as noted in a 1997 letter from the British Minister for International Development. The signing of the Global Compensation Agreement reflects the government's recognition of the need to resolve land-related issues, promote stability, and attract foreign investment, signifying a commitment to the rule of law and addressing the concerns of former white farmers affected by land expropriation, thus marking a significant step in Zimbabwe's land reform evolution.

2.9 International Perspective on The Land Question

After examining the land reform issue in Zimbabwe and the efforts made through the Global Compensation Agreement and Statutory Instrument 62 of 2020 to tackle land-related concerns, it is essential to explore how other nations have approached similar land issues. This entails examining international legal instruments as a starting point and conducting a comparative analysis of how countries within the region and beyond have addressed their respective land questions.

2.9.1 International Legal Instruments

International legal instruments explicitly recognize the right to property. Article 17 of the 1948 Universal Declaration on Human Rights (UDHR) states that "everyone has the right to own property" and should not be arbitrarily deprived of it. While this provision has achieved the status of international customary law, it does not provide a comprehensive definition of "arbitrary deprivation."

International law does not consistently offer the same level of protection for a state's nationals as it does for foreigners regarding property acquisition (Castellino, 2021). There are instances where national and international instruments suggest support for the deprivation of property belonging to Zimbabwean farmers in the name of public interest. Nationalization, viewed as an act of sovereignty, is a prerogative of independent states. United Nations resolutions, beginning with Resolution 1803 (XVII) of December 1962, reaffirm the permanent sovereignty of states over their natural wealth and resources. In the

case of *Certain German Interests in Polish Upper Silesia (1926)*, the Permanent Court of International Justice ruled that expropriation is permissible only for public utility and similar reasons under customary principles. These principles can be summarized into four key rules: acquisitions must serve a public purpose according to national policy, must not discriminate between citizens and aliens, must avoid unjustified irregularities, and must include appropriate compensation.

Article 1 of Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (1954) protects the right to property, allowing exceptions for public interest and under the conditions set by law and international principles. Although the right to property is not included in the main instrument adopted in 1950, this article acknowledges the state's authority to enforce laws necessary for controlling property use in the general interest.

Given these perspectives from international legal instruments on the right to land, it is essential to examine how different nations have approached the land question within their legal frameworks.

2.9.2 The Principle of Self-determination

State sovereignty and equality are fundamental principles of international law that protect a state's jurisdiction from external interference (Jean Luck, 2022). Expropriation is considered an inherent right of state sovereignty, aligning with the principle of self-

determination and deemed lawful when it meets established international conditions. It involves a state taking control of private property for public utility, security, or national interest (Buchelli & Decker, 2021), but must adhere to specific safeguards to ensure fairness. The 1962 United Nations General Assembly Resolution on Permanent Sovereignty over Natural Resources emphasizes that expropriation should be justified by public utility, security, or national interest, and requires appropriate compensation for affected property owners according to domestic and international laws (Dolzer, 1981). Compensation must reflect the property's value and the owner's losses while ensuring non-discriminatory treatment for both domestic and foreign owners. While expropriation is generally lawful, it must follow principles of necessity, proportionality, and non-arbitrariness to protect human rights and uphold the rule of law, thereby establishing conditions and safeguards to protect property owners' rights and ensure a fair process.

2.10 The Land Reform in South Africa

Land reform typically involves redistributing or affirming land rights to benefit impoverished populations, including tenants, farm workers, and other disadvantaged groups whose tenure is often insecure. These groups frequently occupy land owned by others, including state-registered land. South Africa shares a historical context with Zimbabwe characterized by colonization, racial oppression, and land dispossession, which has resulted in the majority of agricultural land being held by the white minority. Laws such as the Native Land Act of 1913 allocated only 8% of South Africa's land for African reserves, prioritizing land for white farmers (De Satgé, 2013). The subsequent Group Areas Act of 1950 enforced the forced removal of black people from areas designated for

whites (Eidelberg, 1997), affecting even black farmers with title deeds. Additional legislation, like the Prevention of Illegal Squatting Act of 1951, empowered the state and private landowners to evict individuals and demolish homes without court orders. Thus, the struggle for liberation from colonial and apartheid oppression is intricately linked to the goal of reclaiming land that was taken from the indigenous population.

2.10.1 The 1993 Constitution

The 1993 interim constitution in South Africa marked the transition to a democratic era but provided limited details on land reform. Property rights and land reform were contentious issues during the constitutional negotiations, and while the interim constitution did not establish a comprehensive land reform program, it included two key provisions for land restitution. Section 8(3)(b) recognized the right to restitution of property or land for individuals or communities dispossessed due to racially discriminatory laws or practices after June 19, 1913, aiming to address historical injustices and restore land rights. Additionally, Section 121 established a Commission on Restitution of Land Rights, tasked with facilitating the restitution process and providing remedies for land claimants, outlining the Commission's functions and powers. Although these provisions laid a foundation for addressing land restitution, they did not create a comprehensive framework for broader land reform initiatives, such as land redistribution or tenure security. It was only with the enactment of the final constitution in 1996 that more detailed provisions regarding land reform were incorporated.

2.10.2 The 1993 Constitution of South Africa

The 1996 Constitution of South Africa, created by a democratically elected Constitutional Assembly, includes provisions aimed at balancing property rights through Section 25, which guarantees the right to property and protects against arbitrary deprivation while allowing the state to expropriate private property for public purposes, contingent on just and equitable compensation. This compensation, as outlined in Section 25(3), considers various factors that may lead to amounts below market value but strive for fairness, considering current use, acquisition history, market value, state investment, and the purpose of expropriation. Despite these provisions, land distribution remains highly unequal, with only about 2% of land transferred nearly a decade post-apartheid, indicating a pressing need for accelerated land redistribution efforts (Phuhlisani, 2017). To foster significant progress in poverty alleviation and equitable resource distribution, the state may need to transition from a market-based willing-buyer willing-seller model to a more interventionist, supply-led strategy. The Restitution of Land Rights Amendment Act (2003) is seen as a positive step, granting the Minister increased powers for expropriation without a court order; however, these powers should also be applied to redistribution efforts to avoid maintaining a status quo that favors former colonial powers over the indigenous population.

2.11 The Land Reform in Swaziland

In Swaziland, as in Zimbabwe and South Africa, colonization resulted in the dispossession of Africans from their land, a process that intensified during King Mbandzeni's reign in the 1870s when Europeans were granted rights to settle on large portions of Swazi land in

exchange for gifts like liquor and money (Gillis, 1999). Following the outbreak of the Anglo-Boer War in 1899, British control over Swaziland was established in 1902, after it was taken from the South African Republic, and the territory remained under British rule until its independence in September 1968. To address land concessions, the British enacted the Land Proclamation Act of 1907, which reserved one-third of the land (37.6% of the total area) exclusively for the Swazi people, known as Swazi Nation Land. However, similar to the situation in Zimbabwe, approximately 63% of the land, particularly areas with fertile soil and good grazing potential, was expropriated for European settler use, becoming titled and crown land.

2.12 The Land Reform in Namibia

Land reform in Namibia serves as a compelling case study, closely mirroring the approach taken in Zimbabwe. Like many African nations, Namibia endured the injustices of racial laws under white minority rule, resulting in significant land ownership by whites while the majority of Namibians were relegated to unfertile areas. Upon gaining independence in 1990, the SWAPO government aimed to transfer land to "the landless majority" and adopted a constitution ensuring that property could not be taken without just compensation (Kaapama, 2007). The Namibian Agricultural (Commercial) Land Reform Act of 1995 mandates that expropriation be accompanied by just compensation. However, a 2004 policy shift allowed for the expropriation of all landholders, targeting not only absentee landlords and unproductive farms but also productive commercial farmers if the land "can be used better." This policy identified certain farms owned by white landowners with a history of wrongdoing as potential targets for expropriation.

Article 16(2) of the Namibian Constitution permits expropriation in the public interest, contingent upon just compensation, although it does not define "public interest." The Agricultural (Commercial) Land Reform Act allows for the compulsory acquisition of under-utilized agricultural land or land owned by foreign nationals, particularly if the willing-seller, willing-buyer principle fails. This raises important questions about the criteria for "public interest" and the justification for targeting land associated with worker mistreatment. The expropriation policy concerning foreign-owned land aims to benefit Namibian nationals and address historical injustices of colonization, seeking to advantage previously disadvantaged groups (Selane, 2019). Including foreigners in potential expropriation does not constitute discrimination under international law, provided that just compensation is granted according to international standards.

2.12.1 Compensation for Expropriation in Namibia

Article 16(2) of the Namibian Constitution stipulates that any state expropriation of property for public interest must include "just compensation," with the specifics delineated in Article 25 of the Agricultural (Commercial) Land Reform Act. Although the Act does not prescribe an exact compensation amount, it establishes criteria for assessment, requiring that any increase in property value attributable to its use be considered, while disregarding improvements made after the issuance of the expropriation notice. For agricultural land, compensation is limited to the combined value as if sold on a willing-seller, willing-buyer basis on the date of notice, plus compensation for financial losses incurred due to expropriation, with any outstanding amounts accruing interest from the

date the state takes possession. Similar to Zimbabwe, Namibia's land reform strategy emphasizes acquiring land as it becomes available rather than restoring ancestral lands, which has fostered ongoing resentment among the indigenous population who lost their land without compensation; however, the issue of compensation remains open for future reassessment.

2.13 Land Reform in Australia

The establishment of British sovereignty in Australia, like in South Africa, Namibia, and Zimbabwe, involved discriminatory policies against Aboriginal people, leading to lasting disparities in social, educational, health, and welfare conditions compared to white Australians. A. Markus encapsulates the prevailing attitude towards Aborigines with the statement:

"It may be doubted that whether the Australian aborigine would ever have advanced beyond the status of the Neolithic races in which we found him. And we need not therefore lament his disappearance. All that can be expected of us is that we shall make his days as free of misery as we can" (Markus, 1994, p. 48).

Land reform and the aspirations of Aboriginal people in Australia have largely been overlooked in public policy, despite the recognition of "native title" in 1992, which prompted some demands for land rights. Prior to this recognition, Aboriginal land claims were disregarded under the belief that all land was "terra nullius," or no-man's land, implying ownership solely by the Crown. This legal doctrine was overturned by the *Mabo*

v Queensland (No 2) [1992] HCA 23 decision, wherein the Australian High Court acknowledged the existence of native title. The subsequent Native Title Act (1993) mandates compensation for losses affecting native title rights on "just terms," but the compensation cannot exceed what would be payable for the compulsory acquisition of a freehold estate. Due to the rural and desert characteristics of much of the land, compensation amounts are often minimal. Consequently, land reform in Australia has not advanced to the same degree as in Zimbabwe, with the former colonial power maintaining control over production means, which is a key reason Australia has not faced significant international condemnation regarding its land policies.

2.14 Summary

This chapter examined the theoretical foundation of the study, focusing on the Aristotelian notion of justice as its cornerstone and exploring its applicability. It discussed the injustices faced by African indigenes during colonialism, highlighting laws that protected the rights of invading white settlers while reinforcing racial subjugation and segregation. The chapter also justified the Jurisprudential Mugabe Approach, which called for legal realignment and constitutional amendments to rectify colonial racial imbalances in land property rights in post-independent Zimbabwe. This approach aimed to align contemporary laws with the constitution, addressing past injustices by legitimizing what had previously been deemed illegal by the courts. Additionally, the chapter reviewed land reform efforts in other countries to contextualize Zimbabwe's experience.

CHAPTER 3 METHODOLOGY

3.1 Introduction

The research findings are considered to be universal when the right research technique or research methodology is adopted during the study period, (Bell & Warren, 2023). This chapter focuses on the research design and philosophy of the study.

3.2 The Research Design

The researcher utilized a qualitative methodology. In order to assess the events that produced the FTLRP, the research focused on the legal historical approach in retrospect. Journal papers, published articles on colonialism, land, media tales, and web-based sources were carefully inspected in addition to a number of statutes and the 2013 Constitution. In order to draw legal conclusions and suggest policy changes, it was necessary to develop a prescriptive, descriptive, and analytical framework for outlining factual and legal challenges before legally evaluating them. This was due to the problematic current discourse on the constitutional obligation to compensate for improvements made to agricultural land and the ownership model for the newly resettled beneficiaries of the FTLRP.

3.3 Population Sampling

Key informant interviews are qualitative, in-depth discussions conducted with 15 to 35 individuals selected for their first-hand knowledge on a topic of interest, utilizing a loosely structured format based on a list of discussion issues (Mugisha et al., 2021). This research

employed purposive sampling to target 15 key informants, including officials from the Ministry of Lands, representatives from the Zimbabwe Commercial Farmers Union (ZCFU) and Zimbabwe Farmers Union (ZFU), war veterans, parliamentarians, and legal scholars. Additionally, due to the sensitivity of the research topic during an election year, a snowball sampling approach was incorporated to facilitate data collection.

3.4 Data Collection Instruments

The research employed open-ended questionnaires for qualitative in-depth interviews with key informants knowledgeable about the study area (Mugisha et al., 2021). This approach aimed to gather diverse perspectives from stakeholders, including officials from the Ministry of Lands, representatives from the Zimbabwe Commercial Farmers Union (ZCFU) and Zimbabwe Farmers Union (ZFU), war veterans, parliamentarians, and legal scholars. The open-ended format facilitated a wide range of responses, allowing for detailed information collection, encouraging creative expression, and providing insights into complex issues, thereby enhancing the researcher's understanding of participant perspectives (Dwivedi et al., 2023).

3.5 Analysis and Organization of Data

Data were analyzed thematically since the research adopted open-ended questionnaires for the key informant interviews. The goal of a thematic analysis is to identify themes, such as patterns in the data that are important or interesting, and use these themes to address the research.

3.6 Ethical Consideration

Research ethics are critical considerations for researchers prior to conducting any study, as they ensure participant protection and encourage active involvement. Key ethical principles include "informed consent," which involves clearly communicating the study's purpose to participants so they understand their role and the contribution of their input. "Anonymity" and "confidentiality" are essential, as they ensure that participants' identities and personal information remain undisclosed (Omegun, 2015). Additionally, researchers must be aware of "conflicts of interest," particularly when studying sensitive topics related to their home countries, where political critiques may endanger participants (Omegun, 2015). Given that land rights in Zimbabwe are deeply intertwined with the political legacy of the Liberation struggle, maintaining confidentiality was paramount in this study.

3.7 Summary

There are various advantages to using secondary research to analyse current events. It provides rapid and dependable background information. The study largely relied on secondary data and also primary data collected from key informant interviews.

CHAPTER 4: DATA PRESENTATION, ANALYSIS AND INTERPRETATION

4.1 Introduction

This chapter presents a thematic analysis of qualitative data from interview responses, organized around four key themes. First, it examines the constitutional provisions for compensating improvements on land, focusing on their interpretation and application. Second, it explores justice and fairness in land acquisition and compensation, comparing views from pre- and post-independence Zimbabwe. Third, it analyzes agricultural land compensation practices in other jurisdictions, highlighting lessons for Zimbabwe's land reform. Finally, it discusses recommendations for enhancing compliance with constitutional compensation obligations. Each theme integrates participant perspectives to provide a comprehensive understanding of the issues.

4.2 Data Presentation and Analysis

Since this was a qualitative study, the study used thematic analysis to analyse data and this was based on four themes that were corresponding to the objectives of the study. The following are the themes that were analysed and each participant's view on each theme is presented and directly on as a compounded analysis with previous participants:

- i. The constitutional provisions giving rise to compensation on improvements done on land
- ii. The concept of justice and fairness with respect to land acquisition and compensation in pre-independence and post-independence Zimbabwe
- iii. Agricultural land compensation in other jurisdictions.

iv. The way forward on the constitutional requirement for compensation on land improvements.

4.2.1 Theme 1: Constitutional provisions giving rise to compensation on improvements done on land

The discussion surrounding land reform in Zimbabwe highlights the impact of colonial and post-colonial legal provisions on land rights for native blacks. Participants categorized these provisions into pre-independence and post-independence laws that facilitated land dispossession under the colonial regime.

Participant A noted that the colonial authorities exploited a legal void in pre-independence Zimbabwe through the Rudd Concession, which transferred land rights from native blacks to whites without compensation. This agreement enabled the British South Africa Company to secure a charter for colonization, leading to significant dispossession of land, livestock, and a sense of belonging for the indigenous population. The lack of a compensation scheme underscored the injustices faced by black communities.

Respondents B, C, and E echoed these sentiments, criticizing the use of law to strip native Africans of their property rights. They linked this to the Lancaster House Agreement, which introduced a willing-buyer, willing-seller model that many viewed as flawed and exploitative. They argued that genuine compensation should address the historical injustices rooted in the Rudd Concession.

Respondent E specifically criticized the Land Apportionment Act, (1930) which systematically disadvantaged the black majority by enforcing legal segregation and allocating them less desirable land. This Act institutionalized racial inequalities and limited economic opportunities, contributing to the grievances that necessitated land reform.

Respondent J expressed that pre-independence constitutional provisions favored the white minority, maintaining their economic dominance while marginalizing the black majority. This perspective emphasized the need for constitutional reforms to create a more inclusive system that addresses historical imbalances and promotes social justice.

The respondents collectively highlighted the class character of the law, suggesting that it serves to protect the interests of dominant groups while marginalizing others. They argued for a legal framework that promotes fairness and justice for all, regardless of social or economic status.

Respondents C and F pointed out the absence of compensation provisions for the disadvantaged in pre-independence laws, suggesting these laws primarily benefited the white minority. They noted that compensation discussions arose only in the Lancaster House agreements, reflecting a response to the white minority's concerns rather than a commitment to broader equity.

As a result, the discussion underscores the critical need for comprehensive legal frameworks that rectify historical injustices and promote social equity in land ownership and rights.

4.2.2 Theme 2: The concept of justice and fairness with respect to land acquisition and compensation in pre-independence and post-independence Zimbabwe

The debate surrounding justice and fairness in land rights, particularly in Zimbabwe, highlights the historical injustices associated with land acquisition and the need for rectification. Participants discussed the impact of colonial agreements like the Rudd Concession, which facilitated the dispossession of land from native Africans by the British South Africa Company (BSAC).

Respondent A argued that the actions of the BSAC represented severe human rights violations, emphasizing the brutality of land acquisition processes. Many respondents drew parallels to similar injustices faced by indigenous populations globally, such as the Aborigines in Australia and Native Americans in the U.S. This perspective underscores the necessity of acknowledging and addressing historical wrongs to achieve reconciliation and justice.

Respondents B and C criticized the Rudd Concession as an unjust agreement that favored British interests over native rights. They noted that it was not a legitimate treaty but rather a business arrangement that undermined the autonomy of local leaders like Lobengula, the

Ndebele monarch. The concession's terms effectively granted the BSAC monopolistic control over land and resources, prioritizing profit over the welfare of indigenous communities.

Respondents E and H highlighted the significance of the verbal agreements accompanying the concession, arguing that their omission from the written document represented a manipulation of the treaty process. This manipulation further exemplified the power imbalance favoring the BSAC. **Respondent A** expressed skepticism about the benefits promised to Lobengula compared to those gained by the BSAC, suggesting exploitation.

Moreover, respondents criticized the Land Apportionment Act, (1930) and the overall legal framework that stripped local leaders of authority and jurisdiction. The Royal Charter subsequently granted the BSAC sovereignty over the Ndebele, undermining their governance and authority. Critics noted that these agreements did not align with the principles of justice and fairness expected in legal contracts.

The Lancaster House Agreement was seen as another flawed framework that established a willing-buyer, willing-seller model, which respondents like A questioned, pointing out the lack of similar considerations during the Rudd Concession. This ongoing dialogue emphasizes the need to address historical injustices and create equitable frameworks for land rights that respect the dignity and rights of indigenous populations.

4.2.3 Theme 3: Agricultural land compensation in other jurisdictions.

Respondent A highlights the complexities of land compensation and its political implications, noting that governments may hesitate to compensate former colonial powers for fear of losing popular support. This political dynamic complicates efforts to address historical land injustices and find equitable solutions. In countries like South Africa and Namibia, rising opposition politics emphasizes the need for equitable land distribution, reflecting ongoing debates about historical imbalances and social justice.

The land reform process in South Africa has been inadequately tracked, leading to misconceptions about its effectiveness in addressing racial disparities in land ownership. The National Development Plan set a goal to redistribute 30% (or 23.7 million hectares) of agricultural land to Black South Africans by 2030. While many believe the program has failed to produce significant changes, the reality is more nuanced, involving various projects such as state acquisition, private acquisition, restitution, financial compensation, and redistribution.

Since 1994, when the first democratic elections were held and white farmers owned 77.58 million hectares of farmland, approximately 19,165,891 hectares have been transferred from white ownership to either the state or Black beneficiaries, or compensated in cash. This progress is nearing the 30% goal outlined in the National Development Plan, which may seem encouraging. However, concerns arise from the fact that the state already owns over 2.5 million hectares of agricultural land, leading to unstable land tenure.

This instability hampers recipients' ability to secure loans for expansion or improvements, forcing them to rely on often insufficient government grants. The bureaucratic process is also fraught with excessive red tape, resulting in significant delays and inefficiencies. Overall, the situation underscores the multifaceted challenges of land reform in South Africa, highlighting the need for a more streamlined and equitable approach to land distribution that acknowledges historical injustices.

4.2.4 Theme 4: The way forward on the constitutional requirement for compensation on land improvements

In Zimbabwe, the ongoing dispute regarding compensation for former white farmers remains a contentious issue. A recent agreement set the compensation amount at US\$3.5 billion, which includes "improvements" made to expropriated land. This represents a significant advancement after two decades of discussions, although there are differing opinions and considerable miscommunication surrounding the agreement. Progress is being made with the help of the World Bank and the establishment of a joint resource mobilization committee.

The US\$3.5 billion figure was derived from careful calculations of the value of fixed improvements on the farms taken over. While this agreement marks a step forward, it is uncertain whether the full amount can be paid on time. Demonstrating the Zimbabwean government's sincerity and accelerating payments for improvements is crucial, though some argue that land will require an additional payment equal to the initial amount.

The compensation discussions between the Government of Zimbabwe (GoZ) and dispossessed farmers, primarily represented by the Commercial Farmers Union (CFU), were contentious. To expedite the rehabilitation of the land sector, the government must undertake several key initiatives, including compensating for newly acquired land, issuing legal tenure documents to new land occupiers, and reforming the land administration system for improved planning and management.

The urgency of resolving the compensation issue is underscored by legal requirements that mandate "quittance" on the acquired land before a legal lease can be issued to new occupiers. Quittance depends on compensation or a signed agreement between the government and the farmers, highlighting the need for a compensation fund as soon as possible.

Section 72(7) of the Constitution of Zimbabwe articulates the rationale for the land reform program, supporting the African nationalist theory that is alive to the following;

1. **Historical dispossession-** Acknowledges the unjust dispossession of land from the people of Zimbabwe under colonial rule.
2. **Armed struggle and independence-** Recognizes that this dispossession led to an armed struggle for land and sovereignty, culminating in Zimbabwe's independence in 1980.
3. **Right to regain ownership-** Asserts the right of Zimbabweans to reclaim their land.

The provision also outlines obligations regarding compensation and states that the former colonial power is obligated to compensate for agricultural land acquired for resettlement,

suggesting the need for an adequate fund. It further propounds that if the former colonial power does not fulfill this obligation, the Government of Zimbabwe is not required to compensate for the land. These provisions reflect the historical context of Zimbabwe's land reform program, aiming to rectify colonial injustices and restore land ownership to the indigenous population while placing the responsibility for compensation on the former colonial powers.

4.3 Discussion and Interpretation

The findings from this qualitative study resonate deeply with the Aristotelian concepts of justice and fairness, particularly in the context of land reform in Zimbabwe. The first theme addresses constitutional provisions related to compensation for land improvements, revealing how historical injustices, such as the Rudd Concession and the Land Apportionment Act, (1930), perpetuated the dispossession of indigenous peoples. Participants highlighted that these laws favored the white minority, thereby undermining the principles of fairness and equity that Aristotle champions (Lianos, 2023). By emphasizing the need for a legal framework that rectifies these historical wrongs, the study aligns with Aristotle's notion that true justice requires acknowledging past injustices and striving for a more equitable distribution of resources (Etieyibo, 2020).

In examining the concept of justice and fairness, the second theme reinforces the necessity of addressing the deep-rooted historical injustices associated with land acquisition. Respondents drew parallels between the experiences of indigenous Zimbabweans and other marginalized groups globally, emphasizing the need for a corrective approach that

restores dignity and rights (Dotsi, 2021). Aristotle's emphasis on corrective justice—restoring balance and addressing the full scope of harm—underscores the importance of recognizing the psychological and social impacts of colonial dispossession, not just the material losses (Ang et al., 2024). The participants' calls for constitutional reforms reflect a desire for a legal framework that embodies fairness, aligning with Aristotle's vision of a just society.

The third theme, which explores agricultural land compensation in other jurisdictions, reinforces the need for an equitable approach to land reform. Participants noted the complexities and political implications of compensation mechanisms in countries like South Africa, demonstrating the challenges of rectifying historical injustices while maintaining public support. This mirrors Aristotle's belief that just governance requires transparency and accountability, which are essential for fostering trust among stakeholders (Lehman, 2023). The findings suggest that a similar commitment to equitable land distribution and compensation in Zimbabwe is necessary to address historical grievances effectively.

Finally, the fourth theme highlights the ongoing negotiations regarding compensation for land improvements, illustrating the tensions between historical obligations and contemporary legal requirements. The constitutional provisions articulated in Section 72(7) reflect an understanding of historical dispossession and the need for reparative justice, suggesting that the former colonial powers bear responsibility for compensation. This aligns with Aristotle's assertion that justice must be rooted in moral and ethical

considerations (Gordon, 2024). The participants' emphasis on the urgency of resolving compensation issues further underscores the need for a framework that not only satisfies legal requirements but also promotes social cohesion and equity, thereby facilitating a more just society that acknowledges and rectifies past injustices.

4.4 Summary

This chapter looked into the presentation, analysis and interpretation of data from the interviews that were carried out in the study. A total of 11 interviews were carried out and the general perspective coming out of this was that there is no legal basis to compensate former white settlers for the land they illegally confiscated from native Africans without compensating them. The law should apply as it applied in the first place. The next chapter looked into the conclusion and recommendations that are derived from these findings.

CHAPTER 5: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

In this chapter, the study explored the major summaries, conclusions and recommendations that came out of the study with a view of wrapping up the study. The issue of land rights, compensation on improvements done on land targeted for acquisition and the legality of most land reforms programmes has always been a thorn issue and the debate is often inconclusive. In the end, the study will recommend areas of further study based on areas that are key in tackling this matter but which were outside the scope of this study.

5.2 Discussion

The development of constructive dialogue regarding compensation for former white colonial farmers for improvements on land earmarked for acquisition remains elusive, often clouded by strong emotions that hinder meaningful discussion. The widespread sentiment of entitlement to ancestral lands—viewed as a heritage by all Africans—fuels a persistent denial of compensation to these farmers. This stance is underpinned by the historical context of land dispossession, particularly the absence of compensation when white settlers forcibly seized land from native Africans through the Rudd Concession, which did not provide any compensation for the lands appropriated by the British South Africa Company (BSAC).

Understanding the legality of the Rudd Concession is crucial, as it reveals that the agreement effectively stripped Africans of their land without any provision for compensation. The Concession's details indicate a deliberate effort to deprive Africans of their rightful ownership, perpetuating poverty and disenfranchisement. Furthermore, the Rudd Concession was characterized by dishonesty, exploiting King Lobengula's lack of awareness and relying on a verbal agreement that allowed the BSAC to manipulate the terms to their advantage.

Cecil John Rhodes and the BSAC capitalized on the geopolitical landscape established at the Berlin Colonial Conference (1884-1885), which set forth rules for European colonization in Africa. Rhodes strategically utilized the Royal Charter to implement effective occupation through a cadre of European pioneers, thereby facilitating the exploitation of land and resources while systematically disadvantaging the indigenous population. The subsequent discussion of compensation in the contemporary context often overlooks the historical injustices embedded in prior land acquisitions.

The discussions surrounding later laws, such as the Land Apportionment Act, (1930) and the Lancaster House Agreement, illustrate a continued imbalance in land rights. The Land Apportionment Act segregated Africans into unproductive lands, perpetuating cycles of poverty, while the Lancaster House Agreement limited African bargaining power and reaffirmed a "willing buyer, willing seller" framework that undermined the goals of land redistribution. The structure of these agreements favored white landowners and delayed meaningful land restitution for the indigenous

population, underscoring the necessity of applying Aristotelian concepts of restorative and corrective justice to rectify these historical inequities. The inclusion of Britain in any compensation dialogue is particularly contentious, given its historical role in granting the BSAC exclusive rights to the territory, which has compounded the challenges faced by the indigenous population in reclaiming their land.

5.3 Conclusions

The Rudd Concession and the Royal Charter, while differing significantly in design—one concentrating on mineral rights and the other granting overarching control of Zimbabwe—both served to facilitate Cecil John Rhodes' annexation of the land later known as Southern Rhodesia. The Lancaster House Agreement further undermined the liberation struggle by failing to ensure the transfer of land from white minorities to indigenous Africans, thereby perpetuating historical injustices inflicted by British settlers, including the forced removal of indigenous peoples and the imposition of foreign laws.

In response to these injustices, the postcolonial government initiated the Fast Track Land Reform Programme (FTLRP) to rectify land imbalances. However, the study questions the rationale for compensating white farmers for improvements made to their agricultural land, arguing that such compensation lacks legal justification. Disagreements have arisen between the Zimbabwean government and large-scale commercial farmers regarding this compensation, with the conclusion that white settlers should not receive any for improvements on acquired farms due to their inability to legally reclaim ownership amidst

historical injustices. Additionally, the government's shift from a radical nationalist to a more neoliberal approach is reflected in Section 72 of the 2013 Constitution, which removes the obligation to compensate former white farmers, suggesting that any compensation policy should undergo public review via a referendum, as it must align with the rights and freedoms protected under Chapter 4 of the Constitution.

5.4 Implications

The study underscores the historical injustices suffered by African indigenous people in Zimbabwe as a result of British colonization, particularly through the forced removal from ancestral lands and the imposition of foreign legal frameworks. In response, the postcolonial government implemented the Fast Track Land Reform Programme (FTLRP) to address inequities in land distribution. The findings of this research emphasize the necessity of acknowledging these historical injustices and the significance of achieving equitable land distribution to foster social justice and rectify past wrongs.

Additionally, the study explores the contentious issue of compensation between the Zimbabwean government and displaced white farmers, questioning the justification for compensating these farmers for improvements made to their land, given the historical context of land dispossession. It highlights a notable shift in governmental ideology from a radical nationalist approach under the Mugabe administration to a more neoliberal stance under the Mnangagwa government, raising concerns about the consistency of land reform policies in addressing historical injustices. The study advocates for establishing a

reparations framework to address the displacement and loss of livelihoods experienced by indigenous populations, thereby acknowledging and redressing the enduring impacts of colonialism in Zimbabwe.

5.5 Recommendations

5.5.1 Land Redistribution and Equitable Compensation

The government should persist in its efforts to rectify historical land imbalances and ensure equitable land distribution by reassessing the compensation criteria for displaced white farmers, considering the historical context and objectives of land reform. This process must involve consultations with relevant stakeholders, including affected communities and the broader population of Zimbabwe. Aligning compensation with historical injustices promotes a more equitable distribution of resources by recognizing the context of land ownership and creating criteria that are restorative rather than merely transactional. This approach embodies the principles of distributive justice, ensuring that those who have suffered the most from past injustices receive compensation that reflects their losses. Such measures not only address immediate grievances but also lay the foundation for long-term reconciliation and social cohesion, aiding in the healing of wounds inflicted by historical injustices.

5.5.2 Public Engagement and Participation

The study underscores the necessity of involving the people of Zimbabwe in decision-making processes concerning land reform and compensation through public consultations and engagement with various stakeholders, including indigenous communities, farmers,

legal experts, and civil society organizations. This inclusive approach ensures that the views and concerns of all parties are considered, aligning with Aristotle's emphasis on community and dialogue as essential for achieving justice. By amplifying all voices, the government can establish a more democratic and participatory framework for land reform that enhances the legitimacy of the process and fosters trust among stakeholders. Ultimately, this inclusive public engagement can yield more just outcomes that respect the diverse experiences and needs of community members, reflecting Aristotle's vision of a fair and just society.

5.5.3 Reparations Framework

In light of the prolonged displacement, deprivation, segregation, and subjugation experienced by African indigenes in pre-independent Zimbabwe, the study advocates for the establishment of a reparations framework aimed at addressing historical injustices and providing redress for affected communities. Engaging experts in transitional justice and human rights is essential for developing an inclusive and comprehensive reparations program. From an Aristotelian perspective, this aligns with the concept of corrective justice, which emphasizes restoring balance and addressing the full scope of harm caused by past injustices. Aristotle asserts that true justice requires acknowledgment of both material losses and the emotional and social impacts of injustice. By incorporating these elements into the reparations framework, policymakers can create a more effective response to community grievances, addressing immediate economic needs while also restoring dignity and agency, thereby contributing to a more just and equitable society.

5.5.4 Policy Consistency and Clarity

The study highlights the need for a consistent government stance on land reform and compensation to ensure policy clarity and coherence. It recommends that the government articulate a clear position regarding land redistribution, compensation, and historical injustices, providing a stable framework to address these complex challenges while aligning policies with the long-term goals of social justice and equitable development. From an Aristotelian perspective, just governance necessitates transparency and accountability, which are enhanced by well-defined policies. When stakeholders understand the guidelines governing land redistribution and compensation, they are more likely to trust the process and its outcomes. This transparency not only fosters fairness but also empowers communities to hold the government accountable for its commitments. By consistently applying and clearly communicating these policies, the government can build trust and create a collaborative environment, ultimately leading to more just and equitable land reform outcomes that embody the principles of Aristotelian justice.

5.5.5 Continued Research and Monitoring

The study emphasizes the importance of ongoing research into the impact of land reform, the effectiveness of compensation mechanisms, and the long-term consequences of historical injustices. Such research is vital for informing policy development, implementation, and evaluation. From an Aristotelian perspective, this emphasis on continuous inquiry aligns with the concept of practical wisdom, or *phronesis*, which

underscores the necessity of learning from experience to make informed decisions. Aristotle maintained that just governance requires a commitment to reflection and adaptation. By establishing a robust monitoring framework, policymakers can evaluate how effectively compensation mechanisms meet their intended goals and address the historical injustices faced by communities. This iterative process of assessment and refinement will help ensure that land reform efforts achieve not only immediate objectives but also long-term social justice and equity, ultimately fostering a more just society that acknowledges and rectifies its past wrongs.

5.6 Suggestions for Further Research

Future studies should focus on a longitudinal study to assess the long-term impacts of land reform in Zimbabwe. Studies should focus on examining the socioeconomic, environmental, and political consequences of land redistribution on both the affected communities and the broader society. This can provide insights into the effectiveness and sustainability of the land reform policies implemented.

Future studies should also explore existing reparations frameworks implemented in other countries that have faced historical injustices, displacement, and subjugation. Analyze the effectiveness, challenges, and outcomes of these frameworks to inform the development of a comprehensive and inclusive reparations program in Zimbabwe.

Future studies should also focus on Investigating the impact of land reform on agricultural productivity in Zimbabwe and assess changes in farming practices, agricultural output, and food security following the implementation of land redistribution policies, and to identify strategies to enhance agricultural productivity and support sustainable agricultural practices in the post-reform context.

Further research should also examine the social and cultural reintegration processes of displaced communities following land reform. Investigate the challenges and opportunities faced by these communities in rebuilding their lives, preserving cultural heritage, and reestablishing social ties within new settlement areas.

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APPENDICES

APPENDIX 1: AUREC APPROVAL LETTER



AFRICA UNIVERSITY RESEARCH ETHICS COMMITTEE (AUREC)

P.O. Box 1320 Mutare, Zimbabwe, Off Nyanga Road, Old Mutare-Tel (+263-20) 60075/60026/61611 Fax: (+263 20) 61785 website: www.africau.edu

Ref: AU2899/23

12 June, 2023

STANDA SANI
C/O Africa University
Box 1320
MUTARE

RE: **EXAMINING ZIMBABWE'S CONSTITUTIONAL OBLIGATION TO COMPENSATE
FORMER WHITE COMMERCIAL FARMERS UNDER THE SECOND REPUBLIC**

Thank you for the above-titled proposal that you submitted to the Africa University Research Ethics Committee for review. Please be advised that AUREC has reviewed and approved your application to conduct the above research.

The approval is based on the following.

- a) Research proposal
 - **APPROVAL NUMBER** AUREC 2899/23
This number should be used on all correspondences, consent forms, and appropriate documents.
 - **AUREC MEETING DATE** NA
 - **APPROVAL DATE** June 12, 2023
 - **EXPIRATION DATE** June 12, 2024
 - **TYPE OF MEETING** Expedited
After the expiration date, this research may only continue upon renewal. A progress report on a standard AUREC form should be submitted a month before the expiration date for renewal purposes.
 - **SERIOUS ADVERSE EVENTS** All serious problems having to do with subject safety must be reported to AUREC within 3 working days on standard AUREC form.
 - **MODIFICATIONS** Prior AUREC approval is required before implementing any changes in the proposal (including changes in the consent documents)
 - **TERMINATION OF STUDY** Upon termination of the study a report has to be submitted to AUREC.



Yours Faithfully

MARY CHINZOU
ASSISTANT RESEARCH OFFICER: FOR CHAIRPERSON
AFRICA UNIVERSITY RESEARCH ETHICS COMMITTEE

APPENDIX 2: KEY INFORMANT INTERVIEW GUIDE

KEY INFORMANT INTERVIEW GUIDE

1. What is your understanding of compensation, justice, and fairness in the context of land expropriation?
2. What are your views on the constitutional obligation to compensate white commercial farmers for improvements made on expropriated land?
3. Can you describe the historical context of land acquisition from black indigenes and whether it was fair and justifiable?
4. How did the international community respond to the challenges faced by black Africans during the land dispossession period?
5. In your opinion, who should be compensated for land issues, and what steps can be taken to resolve this matter permanently?

APPENDIX 3: APPROVAL LETTERS FROM THE AUTHORITIES



Monday, 05 June 2023

Dear Sir/Madam,

RE: PERMISSION TO CARRY OUT A RESEARCH AT YOUR ORGANISATION

My name is Standa Sani, a final year (Master in Human Rights, Peace and Development) student from Africa University. I am carrying out a study on **Examining Zimbabwe's Constitutional Obligation to Compensate Former White Commercial Farmers under the Second Republic**. In this regard, I am kindly seeking your consent to your officials' or staff's participation in this research by undergoing a maximum of 10 minutes interviews. Kindly note that all information to be collected for this research shall be treated with confidentiality and that it shall not be used for anything else besides for the purposes of this research. Unless where the participant has consented, all the information shall be anonymized. If you have any questions concerning this study please feel free to contact the Africa University Research Ethics Committee on telephone (020) 60075 or 60026 extension 1156 email aurec@africau.edu

Sincerely,

Standa Sani
(Researcher)



Approved by:

GAMUCHIRAI CHARUMBIRA
Print Name

MS
Title

05-06-2023
Date

[Signature]
Signature



Monday, 05 June 2023

Dear Sir/Madam,

RE: PERMISSION TO CARRY OUT A RESEARCH AT YOUR ORGANISATION

My name is Standa Sani, a final year (Master in Human Rights, Peace and Development) student from Africa University. I am carrying out a study on **Examining Zimbabwe's Constitutional Obligation to Compensate Former White Commercial Farmers under the Second Republic**. In this regard, I am kindly seeking your consent to your officials' or staff's participation in this research by undergoing a maximum of 10 minutes interviews. Kindly note that all information to be collected for this research shall be treated with confidentiality and that it shall not be used for anything else besides for the purposes of this research. Unless where the participant has consented, all the information shall be anonymized. If you have any questions concerning this study please feel free to contact the Africa University Research Ethics Committee on telephone (020) 60075 or 60026 extension 1156 email aurec@africau.edu

Sincerely,

Standa Sani
(Researcher)



Approved by:

GAMUCHIRAI CHARUMBIRA
Print Name

MS
Title

05-06-2023
Date

Signature



Monday, 05 June 2023

Dear Sir/Madam,

RE: PERMISSION TO CARRY OUT A RESEARCH AT YOUR ORGANISATION

My name is Standa Sani, a final year (Master in Human Rights, Peace and Development) student from Africa University. I am carrying out a study on **Examining Zimbabwe's Constitutional Obligation to Compensate Former White Commercial Farmers under the Second Republic**. In this regard, I am kindly seeking your consent to your officials' or staff's participation in this research by undergoing a maximum of 10 minutes interviews. Kindly note that all information to be collected for this research shall be treated with confidentiality and that it shall not be used for anything else besides for the purposes of this research. Unless where the participant has consented, all the information shall be anonymized. If you have any questions concerning this study please feel free to contact the Africa University Research Ethics Committee on telephone (020) 60075 or 60026 extension 1156 email aurec@africau.edu

Sincerely,

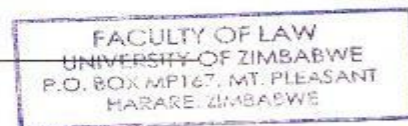
Standa Sani
(Researcher)

Approved by:

DR FRIEDRICH HAMADZIRA
Print Name

LEGAL
UNDERGRADUATE
PROGRAMME
CHAIRPERSON
Title

05/06/2023
Date

Signature

APPENDIX 4: INFORMED CONSENT FORM

INFORMED CONSENT GUIDE

My name is Standa Sani, a final year (Master in Human Rights, Peace and Development) student from Africa University. I am carrying out a study on **Examining Zimbabwe's Constitutional Obligation to Compensate Former White Commercial Farmers under the Second Republic**. I am kindly asking you to participate in this study by answering the questions attached.

Purpose of the study:

The purpose of the study is to enthruse lawmakers and the general citizens of Zimbabwe to have a relook at the constitutional provisions that seek to compensate white commercial farmers for any improvements done on their expropriated farms. It is the aim of this study to highlight the essence of justice and what it entails in view of reclaiming the land that was initially taken away by force by white emigrant farmers during the colonial period. The study seeks to fill the gap in the justice system particularly, the law of retribution which seeks to heighten the principle of direct reciprocal justice. You were selected for the study because you are best placed to understand this subject better. You are one out of the 20 the key informant interviewees comprised of officials from the Lands Ministry, Zimbabwe Commercial Farmers Union, Zimbabwe Famers Union, War Veterans, Parliamentarians and Legal Scholars.

Procedures and duration:

If you decide to participate you will respond to open ended questions attached hereto. It is expected that this will take about 10 minutes for the interview or discussion.

Risks and discomforts

Given the likelihood that the topic will bring up the land issue, which reveals the emotional journey of how land was forcibly taken away from black indigenous peoples and the subsequent looting of their livestock, as well as the accompanying repressive laws that gave rise to the liberation struggle and, later, the Fast Track Land Redistribution Programme, it is understandable that the topic may cause discomfort or inconvenience. It is my hope that the requirement for undertaking this research will address these potential risks in order to tackle the issue holistically and bring about any healing and resolution.

Benefits and/or compensation

The research is useful to the entire country of Zimbabwe since it tackles the political question that our courts have failed to address, as stated in the *Livingstone Chikutu* case of Chilonga, where the courts stated that land disputes are better settled politically rather than legally. On that premise, current politics is based on the national mood, thus the need to entice legislators and the general public to reconsider the constitutional clause that gives birth to the requirement for compensating for agricultural land upgrades.

Confidentiality

The information that is going to be obtained from respondents shall be anonymized, and interviewees are assured of confidentiality. In addition all information to be collected in the course of the research shall also be used strictly for the purposes for which it is collected. Names and any other identification will not be asked for in the questionnaires.

Voluntary participation

Participation in this study is voluntary. If participant decides not to participate in this study, their decision will not affect their future relationship with their work. If they chose to participate, they are free to withdraw their consent and to discontinue participation without penalty.

Offer to answer questions

Before you sign this form, please ask any questions on any aspect of this study that is unclear to you. You may take as much time as necessary to think it over.

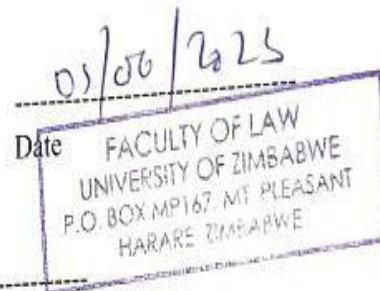
Authorisation

If you have decided to participate in this study please sign this form in the space provide below as an indication that you have read and understood the information provided above and have agreed to participate.

DR FRIEDRICH HAN ADURIP
Name of Research Participant (please print)



Signature of Research Participant or legally authorised representative



If you have any questions concerning this study or consent form beyond those answered by the researcher including questions about the research, your rights as a research participant, or if you feel that you have been treated unfairly and would like to talk to someone other than the researcher, please feel free to contact the Africa University Research Ethics Committee on telephone (020) 60075 or 60026 extension 1156 email aurec@africau.edu

Name of Researcher: **Standa Sani**

Voluntary participation

Participation in this study is voluntary. If participant decides not to participate in this study, their decision will not affect their future relationship with their work. If they chose to participate, they are free to withdraw their consent and to discontinue participation without penalty.

Offer to answer questions

Before you sign this form, please ask any questions on any aspect of this study that is unclear to you. You may take as much time as necessary to think it over.

Authorisation

If you have decided to participate in this study please sign this form in the space provide below as an indication that you have read and understood the information provided above and have agreed to participate.

P. Kuipa

Name of Research Participant (please print)

05/06/23.

Date



Signature of Research Participant or legally authorised representative

If you have any questions concerning this study or consent form beyond those answered by the researcher including questions about the research, your rights as a research participant, or if you feel that you have been treated unfairly and would like to talk to someone other than the researcher, please feel free to contact the Africa University Research Ethics Committee on telephone (020) 60075 or 60026 extension 1156 email aurec@africau.edu

Name of Researcher: **Standa Sani**



Voluntary participation

Participation in this study is voluntary. If participant decides not to participate in this study, their decision will not affect their future relationship with their work. If they chose to participate, they are free to withdraw their consent and to discontinue participation without penalty.

Offer to answer questions

Before you sign this form, please ask any questions on any aspect of this study that is unclear to you. You may take as much time as necessary to think it over.

Authorisation

If you have decided to participate in this study please sign this form in the space provide below as an indication that you have read and understood the information provided above and have agreed to participate.

GIAMUCHIRAI CHARUMBIRA

Name of Research Participant (please print)

05-06-2023

Date

[Signature]

Signature of Research Participant or legally authorised representative

If you have any questions concerning this study or consent form beyond those answered by the researcher including questions about the research, your rights as a research participant, or if you feel that you have been treated unfairly and would like to talk to someone other than the researcher, please feel free to contact the Africa University Research Ethics Committee on telephone (020) 60075 or 60026 extension 1156 email aurec@africau.edu

Name of Researcher: **Standa Sani**

