

Land Compensation and Conflict Resolution: Dares and Prospects for Zimbabwe's Second Republic's Relations with the West.

Pedzisai Sixpence^{1*}, Chrispen Makoni², Percyslage Chigora³

¹A lecturer in the department of Governance and Public Management, Midlands State University, Gweru Campus, Zimbabwe.

²A PhD Student at Africa University, College of Business, Peace, Leadership and Governance, Zimbabwe. Area of Specialisation: Peace and Security.

³An Associate professor of Political Science, Department of Governance and Public Management, Midlands State University, Gweru Campus, Zimbabwe.

***Corresponding Author: Pedzisai Sixpence**, A lecturer in the department of Governance and Public Management, Midlands State University, Gweru Campus, Zimbabwe.

Abstract: On 29 July 2020, the government of Zimbabwe and representatives of the former white farmers signed the Global Compensation Agreement (GCA) in which the government devoted to paying a total of USD3.5billion to the farmers for the advances instituted on the farms before the Fast Track Land Reform Programme (FTLRP). This confab, while admitting that the GCA is in line with provisions of both the Zimbabwean domestic law as provided for in section 72(3) of the 2013 constitution of Zimbabwe (ZEC 2013) and the International Law on property rights, discusses the dares and prospects for the government and people of Zimbabwe. To attain this, the paper precisely tried to answer the following question: Is the compensation going to thaw diplomatic relations between Zimbabwe and the West? What are the potentials for the parties to the agreement to raise the amount in question within the specified time frame? What are the long term debt effects of this funding procedure on the Zimbabwe's economy? What is going to be the status of the acquired state land after the compensation? And finally, is the land compensation going to end the land conflict in Zimbabwe? To achieve this, the discussion depended upon both primary and secondary sources of qualitative research. The primary sources used in his discussions were mainly the various pieces of legislations (both colonial and post-colonial), reports by various commissions and the Zimbabwe Constitution. Secondary sources used in this research included published material, media reports, official institutional reports, website material, and interviews.

Keywords: Conflict Resolution; Global Compensation Agreement (GCA); Land Compensation; Second Republic; Zimbabwe.

1. INTRODUCTION

Imposition of colonial rule in Zimbabwe saw millions of hectares of productive land confiscated from the native inhabitants demoting them to perpetual poverty and deprivation. Out of this mess, native Zimbabweans resorted to armed struggle to reclaim their land leading to the attainment of independence in 1980. Consequently, land redistribution was high on the independence agenda but not much was done in the first two decades. In the first decade, obligatory clauses in the Lancaster House Constitution effectively made popular land reform impossible. The neo-liberal economic project, Economic Structural Adjustment Programme (ESAP) adopted by the government of Zimbabwe in the 1990s further suffocated even timid efforts of meaningful land reform. However, the government embarked on compulsory land acquisition in 2000 following widespread farm invasions and protests. Developments in Zimbabwe at the turn of the new millennium have been characterised by efforts to ensure that land redistribution exercise takes place across all communities from rural to urban. This was done at a faster rate than witnessed anywhere in the world for the past two decades. The overall aim was to grapple with the rising levels of poverty and unemployment that had led to discontent among the populace. Changes in land ownership involved the redistribution of land held in large estates and large-scale commercial farmers to small landless farmers, landless farm workers,

landless large-scale farmers, peri-urban agriculturalists and those without housing stands in urban areas. The coming in of the new government in 2017 made pronouncements to the effect of resolving the land conflict by way of compensating for the developments on the land in question.

2. BACKGROUND TO LAND CONFLICT IN ZIMBABWE.

The conflict between Zimbabwe and the West coincided with the collapse of the former's economy since the commencement of the 21st century. The reasons for the ugly relations characterised by diplomatic tensions between Harare and the Western powers is given a varied understanding by both sides. The main issues, however, as specified by the Zimbabwean government, have been to the effect that the West imposed sanctions on Zimbabwe in retaliation for the loss suffered by its kith and kin in the Fast Track Land Reform Programme (FTLRP) which started in early 2000 (Mkodzongi and Lawrance 2019). This was soon after the British government distanced itself from its 1979 Lancaster House Conference Agreement obligation of compensating for land reform as part of the deal signed to end the liberation war in Zimbabwe (Murisa 2019). On 5 November 1997, the then British Secretary of International Development, Clair Short, penned a letter to the Zimbabwe's Ministry of Agriculture expressing that Britain would not compensate for the land reform. In the letter Short said that,

I should make it clear that we do not accept that Britain has a special responsibility to meet the costs of land purchase in Zimbabwe. We are a new Government from diverse backgrounds without links to former colonial interests. My own origins are Irish and as you know we were colonised not colonisers

The FTLRP then started casually in 1998 and was officialised through the Land Acquisition Act (LAA) of 2002 and later Constitutional Amendment 17 of 2005 (HRW 2008). The process, which altered the existing land ownership, resulted in over 150 000 new farmers benefiting through the A1 and A2 models¹ (Aaron and Mubonderi 2015). Prior to land reform, the situation was that 10% of the population controlled the majority of the country's most productive land (Chigora 2010). As part of their efforts to stop the land acquisition process, the former white commercial farmers approached the Southern Africa Development Community (SADC) Tribunal which, in 2008, ruled that the process was in violation of the SADC treaty regardless of the 2005 amendment 17 of the Zimbabwean constitution. Instantaneously, the US, the European Union (EU) and the British government accused the Zimbabwean government for violating the property rights as well as a wide array of human rights and freedoms and imposed sanctions on Zimbabwe.

The land question was among the vital issues that the Government of National Unity (GNU), through the constitution making process conducted by the COPAC (2009-2013), was expected to address. Pursuant to that, the 2013 Zimbabwe constitution, through section 72(3) dealt extensively with the land question. With regards to the compulsory land acquisition that had started in the early 2000, section 72(3)(a) stipulates that, "subject to section 295(1) and (2), no compensation is payable in respect of its acquisition, except for improvements effected on it before its acquisition." The subsequent sections, 72(b) and (c) respectively prohibits everyone from approaching the courts to seek compensation for land acquired by the government but only to seek payment for such improvements on the land and to challenge acquisition conducted in a discriminatory manner in violation of section 59 of the same constitution. In this regard, the GCA of 2020 is deemed to have been concluded in accordance to the provisions of section 72 of the 2013 constitution of Zimbabwe. While this was a constitutional requirement, it can be reasoned that the land question in Zimbabwe carries with it a huge diplomatic and political burden (Mararika 2018). To this effect, the speedy process by the 2nd Republic to implement section 72(3) of the 7 year old constitution can be argued to have been influenced by the administration's reengagement efforts and the "Zimbabwe is open for business" mantra which were considered to be influential to ensuring the removal of the European Union (EU), United Kingdom (UK) and the United States of America (USA)-imposed economic sanctions on Zimbabwe.

The GCA also known as the Global Compensation Deed (GCD), was concluded between the government of Zimbabwe and the representatives of the former white commercial farmers in Harare

¹ A1 models provided land to landless Zimbabweans with small plots averaging 6ha per family for subsistence farming while A2 model targeted local individuals, companies and cooptation deemed able to produce at commercial scale.

on 29 July 2020. The signing of the agreement marked a step towards the implementation of section 72(3) b of the 2013. In addition, the same can also be seen as being a fulfillment by the government of President Emmerson Mnangagwa as was specified in his inaugural speech on 24 November 2017 where he indicated that his administration would not reverse the land reform but would consider all possible options to address the land question

It should be remembered that in 2016, the government of Zimbabwe under the then President, Robert Mugabe, initiated the process of land compensation in line with the 2013 Constitution. While this initiative had its target of 30 September 2018, the real work towards this only started in March 2018 after the establishment of the Joint Technical Compensation Committee (JTCNC) and Inter-Ministerial Compensation Committee (IMCC). Through the GCA, the parties agreed that the farmers would be given a total of 3.5bUSD. The money, as agreed, would be raised from largely the international community through the Joint Resource Mobilisation Committee (JRMCC) comprising of representatives of the parties to the GCA. In arriving at the figure, the IMCC was established in March 2018 to give policy course as it was to be abetted by a JTCNC. The committee comprised government and farmers representatives². It is remarkable to note that the negotiation efforts had a challenge in making the valuations to the developments on the properties in question until independent assessors were engaged to undertake the work between September and December 2019 with the assistance of the World Bank (WB) Valuation Technical Team with funding from the EU and the United Nations Development Programme (UNDP) (CFU 2020). With regards to raising the funds and paying the farmers, the agreement provides in paragraph 16 that;

a) ... 50% down payment within 12 months of signing the agreement and the balance to be paid over a period of 48 months thereafter.

b). Government and the former farm owners would establish a Joint Resources Mobilisation Committee to work with the Ministry of Finance and Economic Development for Government to raise funds through long term debt and other financial Instruments with a tenure of up to 30 years. In the event that the funds are not raised within the envisaged time, the payment periods may be extended by written agreement of the Parties.

3. LAND COMPENSATION AND ZIMBABWE'S INTERNATIONAL RELATIONS.

While it is not specified as being an objective of the GCA, it is common knowledge that the Zimbabwe's various administrations since 2000 have pursued numerous initiatives to thaw relations with the west, chiefly pushing for the lifting of EU, UK and the USA sanctions on Zimbabwe. The sanctions according to the UK's Sanctions and Anti-Money Laundering Act of 2018, relate to restrictions imposed on, "financial, trade and immigration" in order to encourage the Zimbabwe Government to,

"...respect democratic principles and institutions, refrain from actions, policies or activities which repress civil society in Zimbabwe and to comply with international human rights law and respect for human rights."

Some of the key efforts along this way included the signing of the GPA which culminated into the formation of the GNU between 2009 and 2013 (Chiripasi 2013). During the same period, the government initiated and implemented successfully an inclusive constitution making process through the Constitution Parliamentary Committee (COPAC) which resulted in the 2013 constitution of Zimbabwe. As if that was not enough, Zimbabwe held the harmonised elections in 2013 which the SADC and the African Union (AU) confirmed to have been free and fair (Raftopoulos 2013). In 2018, the 2nd republic went out of its way and invited the international election observers, including the European Union (EU), a practice that was stopped in 2002.

To add on, the government used bilateral and multilateral platforms such as the SADC, AU and the United Nations General Assembly (UNGA) while other countries as China, South Africa and Tanzania were among nations calling for removal of sanctions on Zimbabwe (Shaban 2018). To add

² The government was represented by officials from the ministries of Finance and Economic Development; Lands, Agriculture, Water and Rural Resettlement; and local Government and Public Works while former white farmers were represented by the Compensation Steering Committee.

on, Ibid notes that the government of Zimbabwe, repealed some of its most criticised statutes such as the Indigenisation and Economic Empowerment Act (IEEA); Access to Information and Protection of Privacy Act (AIPPA) and Public Order and Security Act (POSA). While the USA and EU imposed sanctions commonly using violations of human rights and rigging of elections as being the basis for the imposition of sanctions, authorities are largely agreed to the effect that it was the FTLRP which motivated the West to institute sanctions against Zimbabwe. As such, the success of all the aforementioned can only be measured against any progress in that regard. Regrettably, the sanctions remained and no meaningful action has been witnessed from the US serve for continued addition of more companies and individuals on the sanction list. As the U.S. Assistant Secretary of State for Economic and Business Affairs, Manisha Singh in 2018 indicated, that "Our pressure on Zimbabwe remains in place... we are trying to use this pressure to leverage political and economic reforms and human rights observations." The reasons cited being that the US want to see fundamental changes in Zimbabwe before resumption of normal associations between the two countries. Also noting that the US was open to conversations and demonstration from the government that it is changing its ways particularly in observing human rights (Singh 2018). Sanctions remained in place in 2020 as confirmed by Zimbabwe's secretary for information, Nick Mangwana, that;

"...government has noted with dismay the White House message extending the sanctions for another year...once again, the government of the United States has chosen to strangely characterise Zimbabwe as a country that poses an extraordinary threat to the foreign policy of the United States."

Freeth (2020) notes that the Zimbabwe Democracy and Economic Recovery Act (ZDERA) provides that the government of Zimbabwe compensates farmers according to the SADC Tribunal Judgments of 2008. This position is worrying and this paper acknowledges that there is no solid agreement among the white farmers in question as some are convinced that the GCA and the 2013 constitution are all mechanisms by the Zimbabwean government to dodge their responsibility as pointed in the SADC tribunal judgment of 2008, to compensate for the land. To that effect, the ZIDERA states that;

"It is the sense of Congress that the Government of Zimbabwe and the Southern African Development Community (SADC) should enforce the SADC tribunal rulings from 2007 to 2010, including 18 disputes involving employment, commercial, and human rights cases surrounding dispossessed Zimbabwean commercial farmers and agricultural companies"

To this end, as indicated by Chingarande (2020), Hunter of Mike Campbell Foundation criticised the GCA pointing that the position, largely supported by Commercial Farmers Union (CFU) Valuation Consortium and the Southern African Commercial Farmers' Alliance-Zimbabwe (SACFA-Z) was not reflective of a large number of former commercial white farmers who are still insisting on the 2008 SADC Tribunal Ruling. Freeth (2020) categorically stated that the SADC Tribunal Rights Watch (SADC-TRW) is against the GCA and the call for the removal of economic sanctions on Zimbabwe. The specifications in the ZIDERA document as well as the discord among the white farmers themselves after the signing of the GCA are worrisome as these are indicative of the narrow chances that the sanctions will be lifted in response to the signing of the GCA. Similarly, chances are very slim that Zimbabwe-West relations will soon be mended.

4. FUNDING

The GCA provides that the government and the white's representatives will jointly engage the international community to raise the USD3.5 billion within the stipulated time frame. Marawanyika (2021) notes that the government intend to raise the money locally by making use of the proceeds from Kuvimba mining house to which the government owns 65% of the company's shares; through selling real estate and raising debt. To begin with, it should be remembered that the government of Zimbabwe, as pointed by Chikiwa (2019), set aside RTGS\$ 53million for the compensation of the farmers in question. The figure was, at the day of signing the GCA, approximately USD600 000 meaning there was need for fundraising close to USD3 Billon. This should be read alongside the admission that the government of Zimbabwe is facing financial constrains with limited exports and a huge import bill (Murisa 2019). To stress this point, the government of Zimbabwe, according to the Economist (2021), had only paid USD1 million to the former white farmers by June 2021 when in actual sense it was supposed to had paid approximately USD1.8 billion in the first 12 months from

March 2020 as provided for in paragraph 16 of the GCA. Relatedly, the government of Zimbabwe asked the Commercial Farmers Union to extend the period for the initial payment with another 12 months giving a reflection to the effect that the extension may be stretched further. The payment, however, is indicative of the will by the second republic to commit to the GCA (Maravanyika 2021; The Economist 2021; Zimfact 2021).

With regards to financing the compensation, the challenges and prospects to this are varied. Firstly, the Zimbabwean government, if not under sanctions, could approach the multilateral financial institutions to raise the money in question, pay the aggrieved part and move on. The Conversation (2020) highlights that, "Although the government cleared its US\$107.9 million arrears with the IMF in 2016, it is still struggling to settle its US\$2.2 billion debt to other international financial institutions, including the World Bank and African Development Bank." This shows that the government has a serious obligation to clear international debt.

At the same time, it cannot be fair to unconditionally cite the sanctions as being a stumbling block to fundraising if all other factors are considered flaccid. Firstly, one need to notice that political will has been a factor to consider as the USA government has, in some cases, used available mechanisms to proceed with aid and investments into Zimbabwe regardless of the existence of the economic sanctions. For instance, in 2020, the USA Treasury Department's Office of Foreign Assets Control (OFAC) gave Infrastructure Development Bank of Zimbabwe (IDBZ) and Agricultural Development Bank of Zimbabwe clearance to trade outside the sanctions restrictions (Mavhunga 2020). Relatedly, the USA approved a deal between the Zimbabwe government and an American company, John Deere which resulted in Zimbabwe receiving USD150 million worth of agriculture equipment (Machivenyika 2020). With these and many other similar positive gestures from the US, EU and Britain, the arrangement in the GCA in which the government and the Compensation Steering Committee (CSC) would jointly engage international funding partners to raise the money raises a possibility to the effect that the money would be possibly raised. One (can?) also note that the EU, UN and the WB (have?) has been supportive to this initiative through provision of technical and financial support needed (CFU 2020).

While on that note, this research also acknowledged the uphill task presented by the prevailing relations between Zimbabwe and the potential financiers of the GCA. The first possible hurdle that the Zimbabwe government would work on is with regards to, as indicated by Saungweme and Odhiambo (2018), its record of nonpayment of debts. Muyeche and Chikeya (2014) points that Zimbabwe's access to international credit is being compromised by the country's current unsustainable debt stock. To add on, there has been a spike in the spirited reportage by opposition political parties, civil societies and the USA embassy in Harare on cases of violations of human rights purportedly committed by the government. Mathanda (2020) insinuates that the addition of the former Commander of the Presidential Guard commander, Anselem Sanyatwe and State Security Minister Owen Ncube, on the USA sanctions list for their immersion in human rights abuses in the post July 2018 elections is a conformation to that effect.

Also, reports of corruption by government officials has also been on the rise. Corruption has been argued to be on the centre of the demeaning economic developments in Zimbabwe. To this end, scandals such as those involving the National Social Security Services (NSSA), Ministry of Health, the fuel and energy sector related corrupt practices are all likely to be of effect. According to Besada and Moyo (2008), Zimbabwe has a bad credit worthiness due to its inconsistency especially on property and investment rights. All these factors are feared to militate against Zimbabwe's potential to getting funding from the expected global financial partners. To sum it up, The Conversation (2020) provides that,

... Zimbabwe does not have a sovereign credit rating from the three international credit rating agencies... has no domestic debt market... has changed its currency more than 10 times since 2000... has defaulted on IMF loans and failed to implement reforms... has been hostile to the private sector... has been damaged by a number of government officials being targeted for sanctions...has been called into question on the back of accusations of mass corruption...has failed to pick up in the post-Mugabe era...

5. LAND COMPENSATION AND DEBT

Additionally, there is fear that through the GCA, the government of Zimbabwe has effectively acquired a debt. According to Chulu (2020), there is skepticism on how the money is going to be paid. Considering the fact that GCA was signed in line with the provisions of section 72(3) of the 2013 Constitution of Zimbabwe which allows only for the compensation of the developments on the farms, it can arguably be considered to be unfair to attach the debt on the generality of Zimbabwean population through tax while the beneficiaries of the land reform, who inherited, as private property, the developments being paid to the white farmers are known. With this in mind, Ibid articulated how, establishing a land bank would fairly assist the government to evade getting into debt while at the same time stimulating production on the acquired land by the beneficiaries. On the same note, Murisa (2020) hints that having beneficiaries of the land reform paying land tax would assist in ensuring that there is heightened land utilisation while at the same time raising an average of USD500 million annually. In this case, the funding of the land compensation, as suggested in the GCA, suggest a situation similar to that of the farm mechanisation scheme of 2007 in which the government distributed farm equipment to a minority farmers worth more than USD1 billion which was never repaid despite these people having personalised and in most cases, vandalised the same equipments (Magaisa 2020). Indications are that the same people who benefitted from the FTLR in early 2000, benefitted from the RBZ farm mechanisation and will be benefitting from the GCA by having the compensation being done for them by the tax payers across the country.

6. LAND COMPENSATION AND LAND CONFLICT IN ZIMBABWE.

This development will likely plaster the surface of the matter but remain far from addressing the fundamental challenges emerging from the land reform both at local and international levels. To begin with, adoption of the guiding clauses in the 2013 constitution was informed by the instinct that the compensation would silence the former white commercial farmers. The development was an effort to strike a balance between the demands of the white farmers and the indigenous population. The development would, as argued, allow for the Zimbabwean indigenous population to regain access to its ancestral commodity, looted by the whites through colonialism (Murisa 2019).

The sustainability of the land compensating agreement on solving the land question is yet another area that drew the attention of this discussion. In general, this discussion obtained that the sustainability of the GCA will be importantly haunted by the land acquisition and ownership history in Zimbabwe since the 1890 (Murisa and Bloemen 2018). To this effect, section 72 of the Zimbabwe's constitution was mainly established as a compromise on the realisations that: all land, known by 2000 as white owned commercial land, was acquired through various compulsory Acts by the colonial administrations against the will of the local residents; and the developments on the farms were funded through various mechanisms including loans some of which remained unpaid by the time the farms were compulsorily acquired since 2000.

Having this in mind, section 72(3) of the Zimbabwe constitution ensures that the indigenous people regain their land lost to the white minority population since 1890 while at the same time allowing the whites to get a meaningful compensation for the developments erected on the same land. The compromise to this effect is that the government did agree to compensate the farmers regardless of the returns made by the same on the land for over 100 years. The test, however, remains on that the white farmers are still in possession of the title deeds of the farms while the resettled farmers only have the lease agreements and offer letters while some do not even have anything to prove ownership of the land in question. This dilemma, according to Murisa (2019) is likely to spark another related land ownership dispute in future especially when there are changes on political administration of the country.

The pronouncement by the 2008 SADC Tribunal indicates that there are some sections within the white farmers community who are against the GCA as they continue to insist that Amendment number 17 of the Zimbabwean constitution, the Zimbabwe's 2013 constitution and the GCA are in violation of the 2008 SADC Tribunal outcome. Additionally, the 2018 edition of the ZIDERA stresses that the government of Zimbabwe should honor the judgement of the SADC Tribunal despite the reality that Zimbabwe, as a dualist country, did not ratify the SADC Tribunal protocol making its pronouncements on Zimbabwe nonbinding. The legal mix ups between the ZIDERA and the SADC

Tribunal on one hand and (the?) Zimbabwe's pieces of legislations on the other suggests that there is going to be a continued conflict between the government of Zimbabwe and the former white farmers although there is no possibility of a reversal in that processes.

At local level, the funding aspect of the GCA opened a new cane of worms among the Zimbabwean citizens themselves. According to Murisa (2019), a snap survey on the subject shows that 85% of the Zimbabweans are of the opinion that the former farm owners should not be compensated. It can be noted that while the land reform programme accommodated hundreds of thousands of Zimbabwean families, the demand for land in Zimbabwe continue to be on the rise. Since the beginning of the FTLRP, the land redistribution, now done through the lands committees at district and provincial levels is overwhelmed by the high demand for land. In fact, this research obtained that there are long waiting lists in every lands office with locals expecting to be awarded land on various models. Because of this demand and, with a high degree of underutilisation of the land, the government embarked on downsizing of some large farms depending on regions and, while at the same time repossessing the unoccupied plots. While there is less challenge in the government taking its time on this process, some Zimbabweans on the waiting list are feeling to be left out of the land reform programme deliberately. The situation is worsened by the fact that the debt being sought by the government will be paid by all tax paying Zimbabweans regardless of their land ownership status. Having the land redistribution being dragged continuously while the same beneficiaries of the land reform are not producing sounds somehow less rationale. To this end, there are calls for the government to give people land on merit to avoid the mistake that occurred in the early 2000 in which most people who obtained the land remain incapacitated, 20 years after gaining the land, despite benefitting from the various agricultural support schemes.

7. BILATERAL INVESTMENT PROTECTION AND PROMOTION AGREEMENTS (BIPPAS) AND BLACK INDIGENOUS-OWNED FARMS

Section 295 of the GCA provides that indigenous black farmers and those whose land is protected by Bilateral Investment Protection and Promotion Agreements (BIPPAs) must be compensated for land lost during the land reform process. According to the former Farmer's Compensation Steering Committee, the number of farms under BIPPAs are at least 200. With regards to black owned farms, figures from the Ministry of Lands, Agriculture, Fisheries, Water and Rural Resettlement shows that a total of 440 black owned farms were affected by the resettlement programme with 350 still occupied by their owners. Thus, 90 such farms were resettled. While the idea of dealing with the land covered by BIPPAs and those owned by black farmers is an uphill task, this study realised that there is more benefit than harm in the government showing its commitment in action and deed towards its respect of the provision of section 295 of the country's constitution. The implications of the BIPPAs on Zimbabwe's foreign policy cannot be ignored.

Critics to the announcement by the Second Republic to this effect in late 2020 argue that the move is a reversal of the land reform programme which could not occur under the leadership of the former president of Zimbabwe, the late president Robert Mugabe. Findings by this research, however, shows that it has always been a key foreign policy objective by the succeeding governments of Zimbabwe to correct the errors relating to BIPPAs. To this effect, this research noted a number of efforts, though with compromised political energy by the previous regime to deal with the BIPPAs. This study, thus, project that the task before the second republic is to show the political will by putting to practice the provisions of section 295 of the constitution by compensating the famers whose land are protected by BIPPAs as well as black farmers whose land were affected by the FTLRP.

In this spirit, Njikizana (2020) noted that the government rescinded 55 offer letters for resettled farmers on the 70 hectare Tavydale Farm in Mazowe and evicted the resettled farmers in 2012. Additionally, there were huge evictions in 2014 on farmers who had occupied conservancies in the Save Valley. (Ibid) notes that in 2016 resettled farmers vacated land they had occupied in the Lowveld which was owned by Tongaat Hulett. In September 2017, 64 offer letters on approximately 10 000 hectares of plantation land in Manicaland were revoked. All these developments were influenced by the government's desire to compensate the victims of FTLRP whose and is protected under various BIPPAs. However, there remain a lot that need to be done in this regard

Pursuant to the foregoing, this study realised that Zimbabwe's Second Republic has more to lose by not walking its talk than the other way in this regard. Compensation for land covered by BIPPAs

should be seen as a sign for respect of international and municipal law with respect to property rights. This, this research found it to be in direct response to asks by the 2018 edition of the ZIDERA. This study further notes that there are already existing bills towards the government of Zimbabwe from various international tribunals requesting the government to compensate the victims of the FTLRP whose land was protected by BIPPAs. For instance, Border Timbers, which is owned by the German-Swiss von Pezold family and protected by a BIPPA signed in 1995 won a case against the Zimbabwe government at the World Bank-backed International Centre for Settlement of Investment Disputes (ICSID). The ICSID ordered that Border Timbers be given its property back, or be paid US\$195 million in damages. In 2018, the government lost an appeal against the ruling. Relatedly, 40 Dutch farmers, whose properties were protected by a BIPPA, were awarded a total of US\$25 million by an international tribunal in April 2009. The bills emerging from such tribunals and piling upon the government of Zimbabwe can only be managed if the government commit itself to its pronouncement in line with BIPPAs.

This having been noted, this study noted that the desires of the government to compensate for both land and the developments suffered on the same land to the identified categories of farmers is not going to be an easy task. Challenges may include funding, unavailability of free land to compensate these identified victims as well as resistance by the people currently occupying the land for further relocations.

7.1. The Future of State Acquired Land

The discussion on land compensation notes that the controversies around the GCA can best be understood if one consider the future that awaits the Zimbabwean population and the government in relation to land ownership. To shed light on that area, this section gives a prognosis of the key scenarios likely to be experienced on the future of land ownership in Zimbabwe.

1. Beneficiaries paying for the land reform processes by their own

This option has been advocated for and the arguments around this option are that the development will stimulate production. Additionally, it is argued that by demanding the money from the beneficiaries, the government will evade debt as the farmers will carry their burden on their own. Still on the same slate, proponents of this idea argue that the government should give a meaningful tittle to the occupants making the land a bankable asset. As a bankable asset, it is further argued that the farmers will then be able to access financial support from domestic and even international money lenders to boost agricultural production. This arrangement, it is further argued, will deal with land disputes as they will be adjudicated in the courts of law.

While this is a sound utopian position, this discussion warns against the likely negative effects in case the government takes the option of privatising the Zimbabwean land after the land reform program. While this might project a good basis for funding and capacitating the beneficiaries of the land reform programme, lessons learnt from Latin American countries such as Argentina, Brazil and Mexico points to worrying effects of privatising land, as this can easily reverse the land reform programme. In its extrapolative observation, this study realise that the option would likely lead to the reversal of the land reform program in a more obvious way. Chances remain high that once given tittle deeds, the former white farmers will come up with lucrative offers for the same land tempting the beneficiaries of the reform to sell the land to the available bidders on the market. Locals are likely to be tempted to sell land and invest in other sectors that can be packed in lucrative ways such as insurance and other investments. Considering the economic uncertainties on the Zimbabwean currencies since the turn of the millennium, the possibility remain high that such investments can be wiped away by inflation only to result in the locals going back to seek jobs on the same land they would have sold, thus, a successful reversal of the land reform programme. This observation is clear to the realities that comes with privatisation of the state land, the reversal of the land reform program.

2. State pay for the land reform processes

The second scenario is that the government foot the resettlement bill, a development so far pursued by the Zimbabwean government through the signing of the GCA in line with the implementation of the 2013 national constitution. The development, goes along with the realities that land remain owned by the state and leased to farmers on need basis. Critics of this arrangement, thus, argue that there will be

no security of tenure and struggles for occupation and ownership will continue endlessly. Land reform, thus, become a continuous process. Without private ownership of the land, critics of this option argue that there will not be meaningful improvements on the farm by the occupants whose tenure is not solid. Further, there is suspected tragedy of the common effect which will see the land users vandalising the existing infrastructure and any future government aided support towards agriculture.

While this is the commonly advanced arguments against the decision by the government through the funding model, this research obtains and advises that this is the best alternative for a variety of reasons. Having considered the ills of privatising land on the sustainability of the land reform programme, this research settles on second option for the following reasons.

- a. Having the land owned by the government is the only sustainable way of keeping the resource against a selfish and risk possibility of beneficiaries selling land to either locals who did not manage to get the land during the FTLRP since 2000 or back to the former white occupants who may offer lucrative financial rewards for the land: The latter will result in the reversal of the land reform programme.
- b. The option will also enable the government to cater for the everlasting future demands of the land among Zimbabweans of all races. This is so because, by issuing private land ownership titles, the government will give a fixed land size to beneficiaries and, considering the ever rising population, will be difficult to obtain land to resettle the landless. This on its own will be another source of land conflicts as there will be more illegal settlers and people with disproportionately large tracks of land. This inequality on access to land is what the land reform is intended to solve and not to create. The government will, thus, have the legit right to, in the event of increased demand, downsize existing farms, relocating some settlers in cases of national pressing need and redirect land use from one region to another.

8. CONCLUSION

The discussion concludes that the question of land conflict in Zimbabwe is among the key national issues that need to be handled as a long term national objective. This is in consideration of the various changes in land ownership, distribution and acquisition which is characterised by a lot of controversies. The signing of the GCA in this regard can be regarded as yet another development whose effects will be felt by the Zimbabwean populace. The high level of skepticism griping the Zimbabwean community in line with this development is all influenced by past experiences which makes it uncertain as to what the future holds in land ownership and distribution in Zimbabwe. The situation being like that, (That being the situation), the Zimbabwean government should continue to remain informed on the possible effects of the various options that may be considered in the course of managing the land conflict in the country especially by learning from the experiences of other countries that distributed land in the past.

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ZIDERA

Constitution of Zimbabwe

Lancaster House Conference, 1979

Clair Short's Letter, 1997

SADC Tribunal ruling on Zimbabwe land dispute, 2008

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