



University of Pretoria

Property valuation for expropriation and compensation in Zimbabwe

by

Partson Paradza

Student number: u13099770

Doctor of Philosophy (PhD) in Real Estate

in the Faculty of Engineering, Built Environment and Information Technology

University of Pretoria

Supervisor: Dr Joseph Awoamim Yacim

Co-supervisor: Prof Benita Zulch

November, 2020

Property valuation for expropriation and compensation in Zimbabwe

by

Partson Paradza

Student number: u13099770

Thesis submitted in compliance with the requirements for the degree of

Doctor of Philosophy (PhD) in Real Estate

in the Faculty of Engineering, Built Environment and Information Technology

University of Pretoria

Supervisor: Dr Joseph Awoamim Yacim

Co-supervisor: Prof Benita Zulch



DECLARATION

I, Partson Paradza hereby confirm that this thesis is my own work and where necessary, due credit has been given in the text and listed in the references. I accept the rules of the University of Pretoria and the consequences of transgressing them. I have given due recognition to the institutional policy on copyright. This thesis is submitted in fulfilment of the requirements for the degree of Doctor of Philosophy at the University of Pretoria. It has not been submitted before for any other degree or examination at any other University.

Signature of acceptance and confirmation

Student name: Partson Paradza

Date:

ETHICS STATEMENT

The author, whose name appears on the title page of this thesis, has obtained, for the research described in this work, the applicable research ethics approval. The author declares that he has observed the ethical standards required in terms of the University of Pretoria's Code of ethics for researchers and the Policy guidelines for responsible research.



UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

DEDICATION

To the Almighty God for the gift of life.

To my parents for all their toiling so that I could acquire basic education, which laid a foundation for this study.

To the Munyayi family, for their financial, spiritual, and moral support since my secondary school education until now.

To my wife, for her love and support.

To my children, who missed their father during the period I was doing my PhD.



SYNOPSIS AND ABSTRACT OF THE THESIS

Title of thesis: Property valuation for expropriation and compensation in Zimbabwe
Name of student: Partson Paradza
Supervisor: Dr Joseph Awoamim Yacim
Co-supervisor: Prof Benita Zulch
Department: Department of Construction Economics
Degree: Doctor of Philosophy (PhD) in Real Estate

This thesis is primarily concerned with laws guiding valuation for expropriation and compensation in Zimbabwe. The thesis aimed to identify and close gaps in the regulatory and legislative frameworks guiding property valuation approaches when land is expropriated in line with the current international best practice. A case study approach was used based on expropriated properties whose compensation amount was approved by the Compensation Committee (CC) during the multi-currency period (2009 – 2019). Stratified random sampling was adopted, and a sample size of 146 respondents was used. The researcher collected data using a semi-structured questionnaire and literature survey. Respondents were chosen from Members of the Compensation Committee (MsCC), Designated Valuation Officers (DVOs), Private Valuers (PVs), and Former Commercial Farmers (FCFs). Documents that were reviewed include statutes, official reports, and newsletters. Questionnaires were sent to research subjects by electronic mail due to the COVID-19 pandemic induced lockdown. Two computer software packages, including Statistical Package for the Social Sciences (SPSS-26) and ATLAS.ti 8, were used for data analysis. The researcher identified gaps in the existing laws and practice of expropriation and compensation in Zimbabwe. Notable gaps include provisions which are not clear, lack of detailed guidelines, unavailability of legal provisions on property valuation for expropriated communal properties and valuation inconsistencies. Furthermore, it was noted that FCFs were dissatisfied with the expropriation and compensation process and MsCC emphasised the need to take a historical overview of the expropriation and compensation crisis in Zimbabwe. Therefore, this study contributed to knowledge and practice by proposing amendments



to existing Zimbabwean statutes guiding expropriation and compensation and designed a framework for expropriation and compensation. Results of this study are expected to bring closure to lingering issues surrounding expropriation and compensation in Zimbabwe.

ACKNOWLEDGEMENTS

While this study is my independent work, its success owes direct and indirect attribution to many individuals and institutions. The single and greatest inspiration and influence on this thesis came from my principal study leader Dr Joseph Awoamim Yacim, who was always available for me. This study succeeded because of his mentorship, motivation and guidance, which resulted in a cunning plan. I am also grateful to my second supervisor, Prof Benita Zulch, and my former study leader Dr Douw Boshoff for giving me the necessary support.

I am grateful for the financial support I received from Mr Jairus Tinashe Ndoma and his family. During the early stages of the research proposal, I received constructive comments from several professionals and academics, who helped to shape my thesis. My deepest gratitude goes to Prof Innocent Chirisa, Mr Adekunle Awolaja, Mr Isaac Chimbetete, Mr Christo Joubert, Dr Nalumino Akakandelwa, Mrs A. Kwangwama, Ms Linda Magwaro, Mr Calvin Banda, Dr Davison Muchadenyika, Mr Jairus Tinashe Ndoma, Dr Maxwell Mutema, Dr Rory Pilosof, Mr Isaac Nyikayapera, Mr Taapano Paradza, Mr Buhle Dube, Mr Brian Chapotoka, Mr Moses Mushirivindi, Mrs Privilege Nhapi, Miss Prudence Munyayi, Dr Prisca Simbanegavi and Mr Anderson Ganyawu.

Mr Ronald Mpofo and Mr Calvin Banda helped to deliver my applications for research approval to different institutions and went on to make the necessary follow-ups. I would like to thank Ms Riani VanDerlinde, the School of the Built Environment Librarian for all the support in accessing books and other reference materials. The success of this study is also attributed to support from the officials of various institutions especially Mr Ben Gilpin (Commercial Farmers Union of Zimbabwe), Mr L. Chimba (Valuers' Council of Zimbabwe), Mr Zvigadza (Department of Lands), as well as Mr A. N. Purks and Mr Shallon (The Valuation Consortium).

To my son Emmanuel Watidaishe Munyaradzi Paradza, my daughter Ruvheneko Ruth Paradza, and my wife Gezephilda Paradza, thank you family for the personal support, and patience during my period of study. Also, I would like to acknowledge the



importance of my biological parents (Mrs Susan Paradza and the late Mr Thomas Mberikwazvo Paradza). If they were not there, I was not the one to do this study. I would also like to acknowledge my spiritual parents, Prophet and Prophetess Makandiwa, as well as Pastor and Mrs Mudhege, for their spiritual covering and guidance. I would like to thank Mrs Rachael Tembo for her editorial services. Above all I would like to thank the Almighty God for the gift of life; if I were not alive, this study was not going to 'see day light'.



LIST OF PUBLICATIONS

Research article	Publication status
Paradza, P., Yacim, J. and Zulch, B. 2019. A critical review of property valuation for expropriation in Zimbabwe. <i>Proceedings of the 19th African Real Estate Society Conference</i> , 10-13 September 2019 Arusha International Conference Centre, Arusha, Tanzania: pp 424-449.	Published
Paradza, P., Yacim, J.A. and Zulch, B. A Comparative Analysis of the Expropriation and Compensation Legal Frameworks of Some Selected Countries with Zimbabwe.	Under review: Journal of African Law
Yacim, J.A., Paradza, P. and Zulch, B. Valuation of communal properties for compensation in Zimbabwe: The case of Chiyadzwa and Tokwe-Mukosi projects.	Submitted to the International Journal of Housing Markets and Analysis.
Zulch, B., Yacim, J.A. & Paradza, P. Are former commercial farmers in Zimbabwe satisfied with the Global Compensation Agreement?	Submitted to Journal of Property Research.
Paradza, P., Yacim, J.A. & Zulch, B. Consistency and fairness of property valuation for compensation of land and improvements in Zimbabwe.	Submitted to Real Estate Management and Valuation.



TABLE OF CONTENTS

DECLARATION	i
ETHICS STATEMENT	ii
DEDICATION	iii
SYNOPSIS AND ABSTRACT OF THE THESIS	iv
ACKNOWLEDGEMENTS	vi
LIST OF PUBLICATIONS	viii
TABLE OF CONTENTS	ix
LIST OF FIGURES	xiv
LIST OF TABLES	xv
LIST OF BOXES	xvii
LIST OF ACRONYMS/DEFINITIONS/ABBREVIATIONS	xviii
CHAPTER 1 - INTRODUCTION AND BACKGROUND TO THE STUDY	1
1.1. Introduction	1
1.2. Background to the Study	1
1.3. Research Problem	5
1.4. Research Questions	8
1.5. Research Aim and Objectives	8
1.6. Rationale of the Study	9
1.7. Significance of the Study	10
1.8. Topical Concepts in Property Valuation for Expropriation	10
1.8.1. The Conceptual Framework	11
1.8.2. Property Rights	12
1.8.3. Agricultural Properties, Valuation and Expropriation	13
1.8.4. The Communal Land Tenure System	15
1.8.5. Compulsory Acquisition, Expropriation or Eminent domain	17
1.8.6. Public Purpose	19
1.8.7. Compensation for Expropriated Properties	20
1.8.8. Fair and Adequate Compensation	22
1.8.9. Determination of Fair Compensation Value	25
1.8.10. The Highest and Best Use Principle	27
1.8.11. Injurious Affection	27
1.8.12. The Pointe Gourde Principle	28
1.8.13. Consequential Loss/ Disturbance Claims	28
1.9. Delimitation of the Study	29
1.10. Research Assumptions and Propositions	29



1.11.	Research Methodology	30
1.12.	Organisation of the Study	33
1.13.	Chapter Summary	34
CHAPTER 2 - PROPERTY VALUATION FOR EXPROPRIATION AND COMPENSATION		35
2.1.	Introduction	35
2.2.	Existing Studies on Expropriation and Compensation	35
2.3.	Consistency in Expropriation and Compensation	38
2.4.	Displaced Peoples' Level of Satisfaction with Expropriation and Compensation	39
2.5.	Fairness of Compensation Values Paid to Dispossessed Persons	42
2.6.	A Framework for Property Valuation for Expropriated Properties	46
2.7.	International Best Practice on Property Valuation for Expropriation	47
2.8.	Chapter Summary	51
CHAPTER 3 - COMPULSORY LAND ACQUISITION AND COMPENSATION IN SELECTED COUNTRIES		52
3.1.	Introduction	52
3.2.	Laws guiding Expropriation and Compensation in Selected Countries	52
3.2.1.	Notice of Intention to Expropriate	53
3.2.2.	Social Impact Assessment and Rehabilitation of Affected Persons	58
3.2.3.	Property Valuation for Compensation	60
3.2.4.	Heads of Claim	62
3.2.5.	Interest for Delayed Payment	65
3.2.6.	Appeal, and Dispute Resolution	67
3.3.	Property Valuation for Expropriation and Compensation in Zimbabwe	69
3.3.1.	Zimbabwe Country Profile and Background Information	70
3.3.2.	Land Tenure Systems in Zimbabwe	72
3.3.3.	Zimbabwe's Expropriation Debate	73
3.3.4.	Expropriation and Compensation for Land Reform in Zimbabwe	76
3.3.5.	Expropriation and Compensation of Communal Properties in Zimbabwe	78
3.3.6.	Evolution Laws Governing Property Valuation for Expropriation in Zimbabwe	81
3.4.	Chapter Summary	88
CHAPTER 4 - RESEARCH METHODOLOGY		89
4.1.	Introduction	89
4.2.	Research Philosophy	89
4.3.	Research Design	91
4.4.	Research Methods	92
4.4.1.	Qualitative Case Study	93
4.5.	Pilot Studies	94
4.6.	Research Population	94
4.7.	Sampling Design	99



4.7.1.	Sample Size.....	100
4.7.2.	Selection of respondents in the strata	105
4.8.	Data Sources and Collection Instruments.....	106
4.8.1.	Questionnaire Survey	106
4.8.2.	Literature Survey	109
4.9.	Data Analysis and Representation	110
4.9.1.	ATLAS.ti 8.....	112
4.9.2.	The Statistical Package for Social Sciences Version 26	113
4.10.	Ethical Considerations	113
4.11.	Research Quality	114
4.12.	Chapter Summary.....	115
CHAPTER 5: RESULTS AND DISCUSSION.....		116
5.1.	Introduction	116
5.2.	The Structure, Process and Method(s) of Property Valuation for Expropriation in Zimbabwe..	116
5.2.1.	Property Rights and Eminent Domain Powers	117
5.2.2.	Notice of Intention to Expropriate.....	118
5.2.3.	Property Valuation for Expropriation	119
5.2.4.	Compensable Heads of Claim	122
5.2.5.	Interest for Delayed Compensation	129
5.2.6.	Appeal and Dispute Resolution Mechanisms	129
5.3.	Comparison of Zimbabwe’s Legal Frameworks on Expropriation and Compensation with some Selected Countries and International agencies’ guidelines	130
5.3.1.	A Comparison of Laws Guiding Property Valuation for Compensation in Zimbabwe with WB, FAO and FIG Guidelines	131
5.3.2.	A comparison of Zimbabwe’s Expropriation and Compensation Laws with Similar Laws from Other Countries.....	135
5.4.	The Level of Consistency in the Approaches that Valuers used to Estimate Compensation on Land and Improvements in Zimbabwe.....	140
5.4.2.	Consistency of Property Valuation Practice: The Case of Valuation for FTLRP.....	149
5.4.3.	Consistency of Property Valuation Practice: Evidence from Court Cases	150
5.4.4.	Consistency of Government Policy and Practice with Laws Guiding Property Valuation in Zimbabwe	156
5.4.5.	Views of DVOs on the Consistency of Property Valuation for Expropriation Practice in Zimbabwe	162
5.4.6.	Views of MsCC on the Consistency of Property Valuation for Expropriation in Zimbabwe	169
5.4.7.	Views of PVs on the Consistency of Property Valuation for Expropriation Practice in Zimbabwe	
5.2.	Fairness and Adequacy of Compensation Paid for Expropriated Properties in Zimbabwe in Terms the Provisions of Section 71 of the CoZ of 2013.....	177



5.2.1. Views of DVOs on Fairness and Adequacy of Compensation Paid for Expropriated Properties	
5.2.2. Views of MsCC on Fairness and Adequacy of Compensation Paid for Expropriated Properties	
5.2.3. Views of PVs on Fairness and Adequacy of Compensation Paid for Expropriated Properties	
5.2.4. Views of FCFs on Fairness and Adequacy of Compensation Paid for Expropriated Properties	
5.3. Levels of Satisfaction of FCFs with the Compensation for Expropriation Practice in Zimbabwe.....	
5.3.1. Views of the MsCC on the Level of Satisfaction of Displaced People with the Compensation.....	
5.3.2. Levels of Satisfaction of Previously Displaced Persons: FCFs' Perspective.....	188
5.4. Suggestions on areas of the Existing Property Valuation for Expropriation that need to be Aligned with Guidelines of International Agencies.....	191
5.4.1. Areas on Existing Laws that need to be strengthened as Aligned to Guidelines of International Agencies by DVOs	191
5.4.2. Areas of the Existing Law that need to be Aligned to Guidelines of International Agencies as Suggested by the MsCC.....	192
5.4.3. Areas of the Existing Law that need to be aligned to Guidelines of International Agencies as Suggested by PVs.....	192
5.4.4. Areas of the Existing Law that need to be aligned to Guidelines of International Agencies as Suggested by FCFs.....	193
5.5. Proposed Framework for Property Valuation for Compensation in Zimbabwe	194
5.6. Chapter Summary.....	203
CHAPTER 6: CONCLUSIONS AND RECOMMENDATIONS	204
6.1. Introduction	204
6.2. Realisation of Research Objectives	204
6.2.1. Evaluate the process of property valuation for expropriation and measure the level of consistency in the approaches that valuers used to estimate compensation on land and improvements in Zimbabwe.....	205
6.2.2. Compare the legal frameworks of Zimbabwean expropriation and compensation with some selected countries, and agencies, to ascertain the degree of conformity	205
6.2.3. Assess if the compensation paid for expropriated properties in Zimbabwe is fair and adequate as dictated by Section 71 of CoZ of 2013.....	205
6.2.4. Ascertain from previously displaced persons the level of satisfaction with the amount of compensation paid and government policies regarding expropriation in Zimbabwe.....	206



6.2.5. Develop a framework for expropriation and compensation for land and its unexhausted improvements in line with similar laws from some selected countries, and guidelines by international agencies.	206
6.3. General Conclusion of the study	206
6.4. Contributions of the Study.....	207
6.4.1. Contribution to knowledge/theory.....	208
6.4.2. Practical/contextual implications	208
6.5. Recommendations of the Study	210
6.6. Limitations of the Study	211
6.7. Areas for Further Research.....	212
References.....	213
Appendices.....	249
Appendix 1: Approval letters.....	249
Appendix 1a: Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement	249
Appendix 1b: The Valuation Consortium	250
Appendix 1c: Valuers' Council of Zimbabwe	251
Appendix 1d: Ethics clearance	252
Appendix 2: Interview Guide.....	253
Appendix 3: Questionnaire for former commercial farmers	255
Appendix 4: Questionnaire for valuers	258
Appendix 5: Fieldworker Declaration.....	263
Appendix 6: Researcher Declaration	263
Appendix 7: Informed Consent Form	264
Appendix 8: Declaration of Professional Edit.....	265

LIST OF FIGURES

Figure 1-1: A conceptual Framework for Property Valuation for Compensation in Zimbabwe.....	11
Figure 1-2: The Private Interest/Public Purpose Continuum	18
Figure 1-3: Thesis Structure.....	33
Figure 3-1: Map of Zimbabwe.....	71
Figure 4-1: Single vs multiple farm ownership.....	98
Figure 4-2: Response Rate (PVs).....	102
Figure 4-3: Response Rate DVOs.....	103
Figure 4-4: Response Rate for MsCC	105
Figure 4-5: Qualitative Data Analysis Process	111
Figure 5-1: Laws Guiding Compensation for Expropriated Properties in Zimbabwe	124
Figure 5-2: Compensation rates for land clearing and contouring.....	145
Figure 5-3: Institutional Framework for Property Valuation for Expropriation in Zimbabwe	157
Figure 5-4: Composition of the CC in terms of Section 29 of the LAA of 1992.....	158
Figure 5-5: Institutional Framework for Property Valuation for Compensation Adopted in 2016.....	159
Figure 5-6: Institutional Framework for Property Valuation for Expropriation Adopted in 2018.....	160
Figure 5-7: Views of DVOs on the Clarity of Existing laws	164
Figure 5-8: Views of DVOs on the Clarity of the Appeal Provision	165
Figure 5-9: Consistency of Existing Laws with Guideline of International Agencies	166
Figure 5-10: Views of DVOs on the Consistency of Property Valuation.....	168
Figure 5-11: Views of DVOs on the Consistency of Property Valuation.....	172
Figure 5-12: Views of DVOs on the Consistency of Property Valuation.....	176
Figure 5-13: Views of MsCC on Satisfaction of FCFs with Compensation Offered.....	188
Figure 5-14: Expropriation and Compensation Framework (ECF) for Zimbabwe.....	202

LIST OF TABLES

Table 1-1: The Research Design Matrix	32
Table 3-1: List of Selected Countries	52
Table 3-2: Legal Provisions on Notice of Expropriation	54
Table 3-3: Provision for Social Impact Assessment Prior to Expropriation	59
Table 3-4: Property valuation for expropriation	61
Table 3-5: Compensable Heads of Claim	63
Table 3-6: Provisions on Interest on Delayed Compensation	65
Table 3-7: Statutory provisions on Appeal and Dispute Resolution	67
Table 3-8: Characteristics of Zimbabwe’s Ecological Regions	72
Table 3-9: A Summary of Farms Valued for Compensation as of 2016.....	77
Table 3-10: Evolution of Legal Provisions Guiding Property Valuation for Expropriation in Zimbabwe.....	87
Table 4-1: Ontological and Epistemological Assumptions Guiding Interpretivism Research Paradigm.....	91
Table 4-2: Ownership of Farms Valued by the CC between 2009 and 2019 per Province.....	95
Table 4-3: Single vs Multiple Farm Ownership per Province	97
Table 4-4: Research Population (Farmers’ thematic group)	98
Table 4-5: Composition of the Total Population.....	99
Table 4-6: Characteristics of the Farmers’ Sample Per Province	104
Table 4-7: Characteristics of the Farmers’ Sample: Companies vs Individuals Per Province	104
Table 4-8: Composition of the Total Sample.....	105
Table 4-9: Ranges Used During Data Analysis and Interpretation	113
Table 5-1: Guidelines for valuation for improvements as provided by Sections 29 and 50 of the LAA of 1992	125
Table 5-2: A comparison of the LAA of 1992 and WB, FIG and FAO Guidelines.....	132
Table 5-3: A Comparison of Zimbabwean Expropriation Laws with similar Laws of Other Countries ..	136
Table 5-4: Approved Rates for Compensation of Houses.....	142
Table 5-5: Approved Rates for Compensation of Storage Facilities.....	143
Table 5-6: Approved Rates for Compensation of Ablution Facilities.....	143
Table 5-7: Approved Rates for Compensation of Water Facilities	144



Table 5-8: Approved Rates for Compensation of Fences	145
Table 5-9: Approved Rates for Compensation of Plantation/Orchard	146
Table 5-10: Approved Depreciation Rates.....	148
Table 5-11: Valuation Differences between the Applicants and the Respondent	153
Table 5-12: Valuation Differences between the Applicants and ICSID	155
Table 5-13: DVOs' Perspective of the Consistency of Existing Expropriation Laws in Zimbabwe	163
Table 5-14: DVOs' Views on the Consistency of Property Valuation for Compensation Practice in Zimbabwe	167
Table 5-15: Factors Causing Wide Differences in Property Valuation for Expropriation	169
Table 5-16: Views of MsCC on the Consistency of Valuations done by DVOs and PVs	169
Table 5-17: PVs' Perspective of the Level of Consistency of Existing Expropriation Laws in Zimbabwe	171
Table 5-18: Views of PVs on Consistency of Current Property Valuation for Compensation Practice in Zimbabwe	175
Table 5-19: MsCC Views on Satisfaction Levels of FCFs	188
Table 5-20: Proposed Amendments to the Existing Zimbabwean Laws in line with the Guidelines of International Agencies and Selected Countries.....	196



LIST OF BOXES

Box 2-1: Factors that Lead to Unjust Compensation	44
Box 2-2: Countries/regions where IVSC Member Organisations Operate	47
Box 2-3: Guidelines for Calculation of Fair Compensation Value	49
Box 3-1: A Summary of the LAA Amendment 15 of 2000	84
Box 5-1: Requirements for Registration as a Valuer in Zimbabwe	121
Box 5-2: Views of PV1 on the Consistency of Zimbabwean Property Valuation for Expropriation Laws with Guidelines by International Agencies	173
Box 5-3: A Proposed Property Valuation for Expropriated Communal Properties in Zimbabwe	199



LIST OF ACRONYMS/DEFINITIONS/ABBREVIATIONS

ADB – Asian Development Bank

ALA – Acquisition of Land Act

APA – Acquisition of Property Act

CFDRE – Constitution of the Federal Democratic Republic of Ethiopia

CLA – Communal Land Act

CoZ – Constitution of Zimbabwe

CPA – Compulsory Purchase Act

DVO - Designated valuation officer

DVOs - Designated valuation officers

EA – Expropriation Act

FAO – Food and Agriculture Organisation

FCM - Former Commercial Farmer

FCMs - Former Commercial Farmers

FIG – International Federation of Surveyors

FTLRP – Fast Track Land Reform Programme

GoZ – Government of Zimbabwe

IVSC – International Valuation Standards Council

LA – Land Act

LAA – Land Acquisition Act



LAAA – Land Acquisition Amendment Act

LEA – Land Expropriation Act

LHA – Lancaster House Agreement

LAJTCA – Land Acquisition Just Terms Compensation Act

LHC – Lancaster House Constitution

LCGLDLCR - Land Commission (Gazetted Land) (Disposal in Lieu of Compensation) Regulations

MCC - Member of the Compensation Committee

MsCC - Members of the Compensation Committee

MLACRR – Ministry of Lands, Climate and Rural Resettlement

MLGPWNH – Ministry of Local Government Public Works and National Housing

PORLP – Public ownership of Rural Land Proclamation

PV - Private Valuer

PVs - Private Valuers

REMA – Real Estate Management Act

REZ – Real Estate Institute of Zimbabwe

RFTLARRA – Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act

RICS – Royal Institution of Chartered Surveyors

RLAUP – Rural Land Administration and Use Proclamation

RTCPA – Regional Town and Country Planning Act

SALA – State Acquisition of Land Act



TLA – Tribal Land Act

UCA – Urban Councils Act

UK – United Kingdom

UP – University of Pretoria

US\$ - United States Dollar.

VCZ – Valuers’ Council of Zimbabwe

WB – World Bank



CHAPTER 1 - INTRODUCTION AND BACKGROUND TO THE STUDY

1.1. Introduction

Statutory and non-statutory valuations are two fundamental types of assessments used in the determination of property values. However, while statutes regulate the choice of appropriate methodology and procedure in statutory valuation, the non-statutory valuation allows a valuer to use subjective discretion relative to the market context. Several valuation practices are governed by statutes including probate, rating and taxation, expropriation and compensation. The current study is primarily concerned with the valuation for expropriation and compensation of land and its unexhausted improvement in Zimbabwe. The rest of this chapter has thirteen (13) sections. The first section (Section 1.2) focuses on the background leading to this study. Section 1.3 describes the problems that prompted this study. Section 1.4 provides the aim of this study, and 1.5 states the research questions. The rationale of this study is discussed in Section 1.6, while the significance of the study is presented in section 1.7. Section 1.8 provides the definition of key terms while Section 1.9 presents a conceptual framework which guides this study. The delimitation of this study is discussed in Section 1.10, while the assumptions of this research are highlighted in Section 1.11. Section 1.12 provides the organisation of this study while the last section (Section 1.13) is a summary of the chapter.

1.2. Background to the Study

Whenever land is needed for the common benefits of the people, governments all over the world compulsorily expropriate or acquire the land(s), to achieve their objective(s). The common public benefits for which land might be required include urban renewal, natural resource extraction, construction of a dam, railway and road among others (Langford & Halim, 2008; Daniel, Nkup, Samson & Wuyokwe, 2020). The process of compulsory land acquisition, however, is usually characterised by the loss of sources of income, social networks and livelihood of the people (Ty, Van Westen & Zoomers, 2013; Dankani & Halidu, 2017).



Depending on the provisions of the law, people whose land(s) are compulsorily taken are entitled to receive compensation or some form of palliatives. The purpose of compensation payment or palliative is to put the displaced person(s) in a condition that they are not “better off or worse off” at the end of the exercise. However, while the people are compelled by law to submit to the process of compulsory land acquisition, areas of challenges are: when (1) compensation is not appropriately estimated, (2) compensation is delayed, (3) the displaced person(s) are denied compensation, (4) there is a lack of political will to pay compensation, and, (5) contentious legal frameworks are used among others.

Literature suggests that improper use of property valuation method(s) is the chief cause of the first two challenges (Asian Development Bank (ADB), 2007; Cernea, 2008; Mahalingam & Vyas, 2011; Famuyiwa & Omirin, 2011; Pilosof, 2016; Tagliarino, 2017). However, contentious legal frameworks could, on the other hand, negatively influence the choice of valuation methodology, leading to bias estimation, and denial of compensation. The magnitude of these, however, differs among countries, due to contextual settings and specific legal frameworks. Therefore, a distorted estimation of compensation values is against the principles of equity and equivalency (Kakulu, 2008a, 2008b; Alemu, 2012, 2013; Tagliarino, 2017).

Inadequate amount of compensation is one factor that has strained the relationship between expropriating authorities and the dispossessed or displaced people (Oladapo & Ige, 2014; Ige, Akintomide & Adeola, 2016; Tanrivermiş, & Aliefendioğlu, 2019). Unfortunately, this has been the challenge in several countries including, Malaysia (Alias & Daud, 2006; Alias, Kamaruzzaman & Daud, 2010); Nigeria (Kakulu, 2008a, 2008b; Egbenta & Udo, 2013; Akujuru & Ogbonda, 2016; Deeyah & Akujuru, 2017; Egbenta & Udoudoh, 2018; Ige & Oladapo, 2018; Adekunle, Bello, Jibril, & Idris, 2020; Olaniyi & Shafiu, 2020; Adekunle, Bello, Jibril & Idris, 2020); Ethiopia (Ambaye, 2013a, 2013b; Alemu, 2014; Belay, 2016; Abubeker, 2018; Workineh, 2017; Siltan, 2019); Tanzania (Komu, 2014; Ndjovu, 2016; Makupa & Alananga, 2018, 2020; Admasu, Van Passel, Minale, Tsegaye, Azadi & Nyssen, 2019); and China (Ding, 2007; Wang, 2013; Qu, Heerink, & Xia, 2015; Qu, Heerink, Xia & Guo, 2018).



The challenge of expropriation and compensation in independent Zimbabwe is multifaceted. Firstly, there was the contentious compulsory acquisition of the white commercial farmlands, during the early 2000 Fast Track Land Reform Programme (FTLRP). In its bid to provide land to landless Zimbabweans, the government argued that the white farmers were beneficiaries of the racially skewed land laws made during the colonial period (Pilossof, 2016). Since then, the government has been working to adjust the colonial land tenure systems (Utete, 2003; Njaya & Mazuru, 2010; Mudau, Mukonza & Ntshangase, 2018; Mutema, 2019). However, Mutema (2019) notes that global criticisms followed the processes due to the magnitude of displaced farmers and denial of compensation.

Secondly, there were cases of land acquisition for diamond mining in Chiadzwa (Manicaland Province) in 2009 and 2011, and land acquisition for dam construction in Tokwe-Mukosi (Masvingo Province) in 2011 and 2013. In each case, about one thousand five hundred households (1500) were displaced. Both cases ended in conflict because of the inadequacy of the amount of compensation offered by the expropriating authorities to the displaced persons (Chishanga, 2014; Marungwara, 2014; Ruguwa, 2017; Gukurume & Nhodo, 2020). The legality of the process and fairness in the first case was challenged in local, regional and international courts. To date, a sizeable number of displaced former commercial farmers have not been compensated.

Specifically, Chimbetete (2016) reports that only 388 of the 6,214 (about 6.2 per cent) agricultural properties acquired during the FTLRP were compensated as of 26th February 2016. Again, not all expropriated farmlands as at today command value on the unexhausted improvement because of activities of vandals leading to distorted records (Utete, 2003; Chimbetete, 2016). Thus, the land compensation dispute in Zimbabwe lingers, and more challenging are the disparities between the government estimated values and those of the dispossessed farmers on farmlands initially assessed (Moyo, 2011a).

Finding a resolution to the lingering unresolved expropriation and compensation issues in Zimbabwe is the main motivation for this study. The change in Zimbabwean leadership in November 2017, offered a ray of hope towards resolving the issues. The new



administration promised to compensate the former commercial farmers (both those whose improvements were assessed or not assessed) and fashioned an acceptable legal provision for all. Thus far, there have been negotiations and consultations on a consensus-based compensation mechanism acceptable to all parties (Mutema, 2019). However, anecdotal evidence suggests a direction towards compensation for improvements only in terms of the contentious *Land Acquisition Act (LAA) (Chapter 20:10) of 1992*.

Arguably, an examination of the 1992 LAA reveals the need for amendments of controversial sections that triggered the crisis in the first place. Thus, a need for a complete and substantially modified law that is acceptable to all parties cannot be overemphasised for the mitigation of this lingering crisis. Previous studies on expropriation and compensation statutes or law, including, Chan (2003) in China; Alias & Daud (2006) in Malaysia; Anim-Odame (2011) in Ghana, Alemu (2013), and Komu (2014) in Ethiopia and Tanzania, respectively, concentrated on compensation for expropriation in specific countries, whose challenges are different from those of Zimbabwe.

Additionally, Olanrele, Alias, Said and Bello (2017) compared the Nigerian expropriation and compensation laws to those of the United Kingdom (UK), Denmark, United States of America (USA), Australia, New Zealand, Hong Kong, Malaysia, South Africa (SA), and Rwanda. Also, Arul Vikram and Murali (2015) compared Indian expropriation laws with Indonesia, Nigeria, Malaysia, Bangladesh, Trinidad & Tobago, Slovenia, Mali, Nanjing, and Vietnam. It is therefore difficult to generalise and implement findings from these studies without fully understanding the Zimbabwean practice in order to provide contextual solutions.

Further to the above mentioned, the known Zimbabwean studies on expropriation and compensation include (Ng'ong'ola, 1992; Hansungule, 2000; Nyambara, 2001; Chigora & Guzura, 2008; Nyandoro, 2012; 2019; Pillosof, 2016; Thondhlan, 2016; Mashizha & Mapuva, 2018; Schmidt, 2018; Adekoye, 2019; Gukurume & Nhondo, 2020; Mavhura, 2020). To resolve issues raised by these studies, lots of contributions were made towards finding solutions to the long-term imbalances, especially, on inadequacies of the amount of compensation given to displaced people. However, their contributions were not to the



extent of addressing the objective of the new Zimbabwean government, which is the uniqueness of this study.

1.3. Research Problem

Property valuation for expropriation in Zimbabwe has been consistently evolving over the past decades as influenced by political and legal environments. In compliance with best practices, statutes on expropriation and compensation were amended to remove bottlenecks experienced in the past. However, despite these reviews, it can be noted that affected people seem not to be satisfied with the compensation offered by the government (Mutema, 2019; Mpofo 2019; Gukurume & Nhondo, 2020). As observed by the studies of Dziro, (2014); Madebwe, Madebwe & Mavusa, (2011), the compensation which was paid to displaced communal landowners in Chiyadzwa made them poorer than they were before the compulsory acquisition. Also, people who were relocated to pave the way for the construction of the Tokwe-Mukosi dam were impoverished by the relocation project (Chishanga, 2014; Marungwara, 2014).

In the cases mentioned above, one is tempted to conclude that the estimated property values for compensation in Zimbabwe is not fair and just as prescribed by Section 71 *Constitution of Zimbabwe Amendment (number 20) Act (CoZ) of 2013*. In terms of the principle of equity and equivalence, for compensation to be fair and just, affected people must not be made worse or better off at the end of the exercise. Undervaluation of expropriated properties has also been cited as the main root of the approximately two-decade-long compensation stalemate between the Government of Zimbabwe (GoZ) and former commercial farmers (Moyo, 2006; Chimbetete, 2016). The other problem associated with property valuation for compensation in Zimbabwe is the lack of qualified property valuers (United Nations Development Programme (UNDP), 2002; Mutema, 2019).

Zimbabwe, with an estimated population of over thirteen (13) million (Zimbabwe National Statistics Agency, 2012) has just one hundred and forty-eight (148) registered valuers (Chimbetete, 2016). As such, property valuation ought to be delayed especially with



specific reference to the FTLRP where more than six-thousand farms were acquired. Government Valuation Officers are designated valuation officers as stated by Section 29B of the LAA of 1992 (Government of Zimbabwe, 1992). However, Chimbetete (2016) notes that there is a statutory gap in the provisions of the *Valuers' Act (Chapter 27:18) (VA) of 1996* and *LAA of 1992* pertaining to the qualifications of designate and professional valuers. As a result, most designate valuers do not qualify to be registered as professional valuers (ibid, 2016).

Given the fact that the expropriating authority also acts as a valuer and at the same time uses designated valuation officers (most of them are not registered professional valuers), one is justified to think that the reason why affected persons are not satisfied with the compensation offered might be lack of objectivity in the property valuation process. Arguably, government valuers (civil servants) might not be objective in the assessment of property values. The cases of skewed estimation of values by property valuers in favour of their paymaster might attract a well-done job from the government, but huge cries from displaced persons.

Another problem that characterised property valuation for expropriation in Zimbabwe is the lack of consistency in the estimation of property values. The UNDP (2002) observed that there was no consistency in valuation practise as government valuers used different valuation methods when valuing the same or similar properties. Furthermore, UNDP (2002) noted gaps in land laws in Zimbabwe and recommended that there is need to amend LAA of 1992 and synchronise it with other land laws. The *LAA (Chapter 20:10) of 1992* provides for compensation on improvements only in terms of the 2003 *Constitution of Zimbabwe* (Government of Zimbabwe, 1992, 2003).

The new Zimbabwean government agreed to settle the displaced commercial white farmers on global compensation with technical assistance from the World Bank (Ncube, 2020). However, the framework to be adopted was not wholly different from the provisions of the *LAA of 1992*. Thus, a wholesome implementation of this Act as purported by the new government might not ultimately provide solutions to the lingering challenges. The challenge of inconsistency in property valuation for compensation was also noted by Moyo



(2006:153) who pointed out that there was an approximately 800% difference between the government estimated values and those estimated by Private Valuers (PVs).

Literature evidence suggests that the problem of wide variances between government and private sector estimated compensation values have persisted for decades now. According to Kaseke (2016:05), the government-offered compensation value was just 10% of what has been estimated by PVs as fair compensation for the expropriated properties. Nemukuyu (2018) pointed out that there was a difference of twenty-two million United States Dollars (\$22 000 000) between what government-offered Interfresh (Private Limited) as compensation for the seven expropriated farms and what the company claimed to be fair compensation. This presents approximately 18% difference between PVs and Designated Valuation Officers (DVOs) estimated property values.

In view of the foregoing discussion, it can be noted that the main problems associated with compensation for expropriation in Zimbabwe are dissatisfaction of the displaced people and lack of consistency in estimated property values. If the new administration is committed to turning Zimbabwe into an attractive global investment destination, then it cannot afford to relegate compensation for expropriation to the periphery of its investment policies.

Property valuation is indispensable when determining the compensation quantum for expropriated properties. As such, if the problems faced in property valuation for expropriation are left unresolved, then fair compensation will simply remain nothing but a utopia. In this case, Zimbabwe might struggle to attract the much-needed Foreign Direct Investment (FDI), which is believed to be the cure to its ailing economy.

This study is an attempt to identify, and close gaps in property valuation for compensation in Zimbabwe as well as propose a framework which might ameliorate the existing policy and practice, as well as help minimise compensation disputes and promote confidence in the property valuation profession.



1.4. Research Questions

In view of the research problem discussed in the previous section, the main research question which this study seeks to answer is: to what extent does the Zimbabwean laws on expropriation deal with consistency and fairness of compensation of land and its unexhausted improvements?

Sub-questions

- What are the structures, processes, and methods of property valuation for compensation in Zimbabwe?
- To what extent can the expropriation and compensation legal frameworks of Zimbabwe be compared to those of selected countries and other international agencies?
- To what extent does property valuation practice for compensation consistent with the existing legal framework?
- Can the estimated compensation values of expropriated properties be regarded as fair and adequate relative to Section 71 of the 2013 CoZ?
- Are previously displaced persons satisfied with the amount of compensation paid for the expropriated landed properties in Zimbabwe? and
- Can a framework for property valuation for expropriation and compensation be developed for Zimbabwe in line with similar laws from some selected countries, and guidelines by international agencies?

1.5. Research Aim and Objectives

By answering the above research questions, the main aim of this study is to identify and close gaps in the regulatory and legislative frameworks guiding property valuation approaches when land is expropriated in Zimbabwe, in line with similar laws from some selected countries, and guidelines by international agencies.

Objectives of this study are to:



- evaluate the process of property valuation for expropriation and measure the level of consistency in the approaches that valuers use to estimate compensation on land and improvements in Zimbabwe,
- compare the legal frameworks of Zimbabwean expropriation and compensation with some selected countries, and agencies, to ascertain the degree of conformity,
- assess if the compensation paid for expropriated properties in Zimbabwe is fair and adequate as dictated by Section 71 of CoZ of 2013,
- ascertain the level of satisfaction of previously displaced persons with the amount of compensation paid, and government policies regarding expropriation practice in Zimbabwe; and
- develop a framework for expropriation and compensation of land and its unexhausted improvements in line with similar laws from some selected countries, and guidelines by international agencies.

1.6. Rationale of the Study

Very little empirical work was done to identify and close gaps in the legislative frameworks guiding property valuation approaches when real property is compulsorily acquired in Zimbabwe. Existing studies by Vengesai and Schmidt (2018), Thondhlana (2015), Mavhura (2020) as well as Gukurume and Nhondo (2020) focused on the perception on affected people on the adequacy of compensation offered by the government, leaving out the laws guiding expropriation and compensation. Chimbetete (2016) did a study on the consistency of valuation reports done by DVOs, but the author did not seek the views of PVs and Former Commercial Farmers (FCFs). Furthermore, the author did not compare existing laws guiding expropriation and compensation in Zimbabwe to guidelines by international agencies and similar statutes from other countries.

This study seeks to bridge the above-mentioned knowledge gap by providing empirical information and propose a property valuation framework in line with similar laws from selected countries, and guidelines by international agencies. The proposed framework is

expected to bring consistency in property valuation for expropriation and compensation and improve the level of satisfaction of displaced people.

1.7. Significance of the Study

Kakulu (2008a) recommends that there is a need to continuously review the property valuation process to assess its relevancy in a dynamic socio-political environment. Also, solving challenges relating to property valuations for expropriation can help in the creation of sustainable development and promotion of investor confidence (Alemu, 2012, 2014; Onyije & Akujuru, 2016). One key aspect in creating investor confidence is to guarantee ownership rights. Zimbabwe is currently working on promoting investor confidence after decades of isolation from the international community due to an expropriation dispute with FCFs.

Property valuation for expropriated improvements plays a significant role in building investors' confidence when it comes to compensation for expropriated private properties. It can be noted that investors and lenders usually do not take the risk of investing in a market where property rights are not guaranteed (Viitanen, 2002). Findings of this study are significant to the policymakers as they contribute to the alignment of all statutes with the provisions of the constitution and assist in finding a lasting solution to land compensation disputes with FCFs. Also, the study can benefit the academic community by contributing to the existing global stock of knowledge on expropriation and compensation.

Lastly, it can be useful to present and future property valuers practising in Zimbabwe since it proposes amendments to the existing valuation framework, which might improve confidence in the valuation profession.

1.8. Topical Concepts in Property Valuation for Expropriation

This section discusses contemporary key concepts for better understanding of property valuation for expropriation. Governments across the world aim to attain a continuum between protecting private property rights and promoting uses which benefit the public

(Sumrada et al., 2013; Mulhall & Kavanagh, 2017). Therefore, compensation, when private property is compulsorily acquired, must reflect a balance of these conflicting objectives.

Depending on the socio-political goals of a country, compensation might be biased towards promoting private rights or public interest (Daud, Raji, Samsudin, Ismail, Mohammed & Omar, 2019). In this regard, property valuation for expropriation in most countries is guided by laid down statutory frameworks. Ambiguity in the statutory framework can result in the subjective interpretation of the law by property valuers who can influence the inconsistency in property valuation practice (Kakulu, 2008a; Nikiema, 2013).

1.8.1. The Conceptual Framework

A pictorial presentation of the conceptual framework for this study is shown in Figure 1.1.

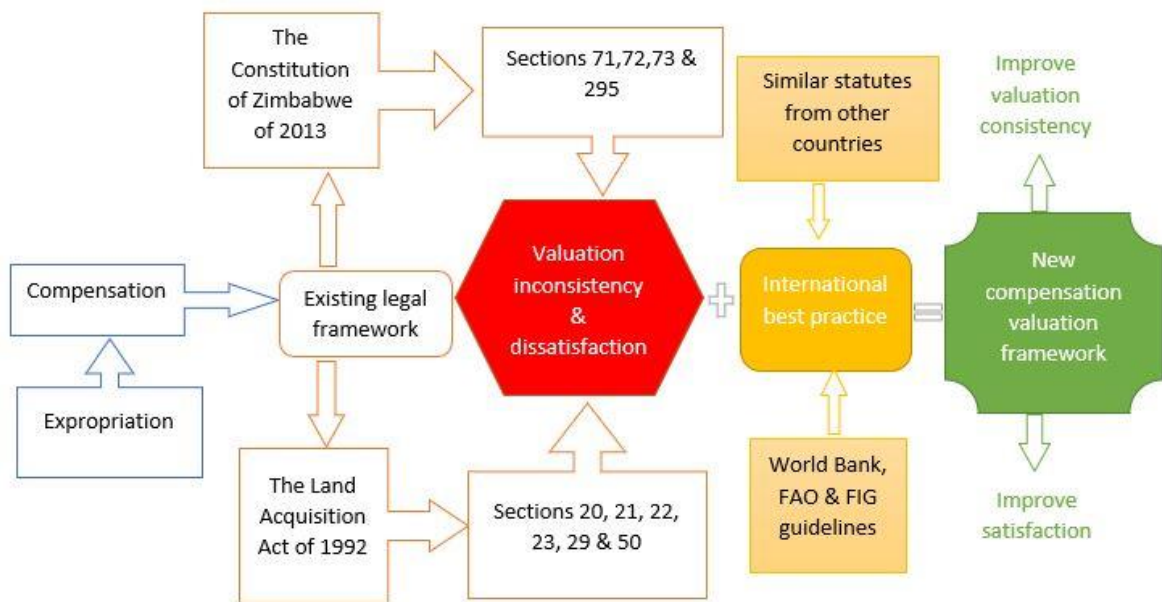


Figure 1-1: A conceptual Framework for Property Valuation for Compensation in Zimbabwe

Source: Author's construction (2020)

As shown on the far left of Figure 1.1, compensation for expropriation is guided by the existing legal framework. This also applies to property valuation for expropriation, which, according to Kakulu (2008a) is classified under statutory valuation and is not just guided by International Valuation Standards (IVS) but also regulated by local statutes. In the



Zimbabwean context, as shown in Figure 1.1, the existing legal framework guiding expropriation, property valuation and compensation is provided by the CoZ of 2013 and the LAA of 1992.

As discussed in the problem statement, the existing legal framework guiding compensation for expropriated properties in Zimbabwe has been characterised by persistent valuation inconsistencies as well as high levels of dissatisfaction of displaced people. Therefore, this study proposed a new legal framework which is structured in line with international best practices in the form of guidelines from the World Bank (WB), International Federation of Surveyors (FIG) and Food and Agriculture Organisation (FAO) as well as lessons from similar statutory provisions from other countries. The proposed framework is expected to improve consistency in property valuation for expropriation and the satisfaction levels of affected people. In turn, it can enhance Zimbabwe's attractiveness as an investment destination to the international community.

1.8.2. Property Rights

Rahman (2013) points out that every person (natural or legal) has the right to enjoy property rights. Protection of property rights is an acceptable global principle (Viitanen, 2002; FAO, 2008; Akujuru & Ruddock, 2014; Olanrele et al., 2017). This is reflected in the constitutional provisions which protect the same at national level (FAO, 2008). In terms of Article 17 of 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 should be arbitrarily deprived of his property” (UN, 1948).

What is owned on the land is not land in its physical form but a diverse bundle of use and enjoyment (real and personal rights), which are protected by law as well as binding on all other persons (Rose, 2000; FAO, 2002; Mangioni, 2009; Otubu, 2012; Rahman, 2013; Akujuru & Ruddock, 2014). These include among others, use and enjoyment as well as alienated and subdivided property (Park, 2003; Lai, 2019).



The right to exclude means that if one acquires property rights, he/she has the power to exclude others from using or enjoying the benefits derived from that property. The right to alienation refers to the power to transfer ownership or use the property as a surety. The right to subdivide means, that the owner can produce more plots from one or can consolidate two or more plots into one. Property rights are meant to create a peaceful use of the environment for investors (Lai, 2019). According to Nyarko (2019), access to land is one of the vital issues which are provided for and protected by property rights. A market without protected property rights is very risky, and as a result, most investors avoid such market (Viitanen, 2002).

1.8.3. Agricultural Properties, Valuation and Expropriation

This study focuses on the expropriation of agricultural properties in Zimbabwe. Section 72(1) of the *CoZ of 2013* defines agricultural land as follows:

“land used or suitable for agriculture, that is to say for horticulture, viticulture, forestry or aquaculture or any purpose of husbandry, including—

- (a) the keeping or breeding of livestock, game, poultry, animals or bees; or*
- (b) the grazing of livestock or game ...”* (Government of Zimbabwe, 2013).

This definition seems to be in line with the definition of the International Valuation Standards Council (IVSC) (2019), which states that agricultural properties are:

“...all the rights, interest and benefits attached in agriculture assets associated with the agricultural activity.”

IVSC (2019) listed some similar agricultural activities in Section 72(1) of the *CoZ of 2013* and went on the state that agricultural land is used to produce natural commodities like fruits, milk, and timber. Royal Institution of Chartered Surveyors (RICS) (2019) classified agricultural uses into five broad classes which are agricultural production, commercial, residential, renewable energy, and ecosystem services. The classification by RICS (2019)



provides a broader view of agricultural uses which goes beyond the primary use, which is farming. It also includes complimentary uses which support the primary use.

Section 72(1) of the *CoZ of 2013* goes on to elaborate on the definition of agricultural land as follows:

“but does not include Communal Land or land within the boundaries of an urban local authority or within a township established under a law relating to town and country planning or as defined in a law relating to the land survey” (Government of Zimbabwe, 2013).

This shows that, if the land in question is located within the boundaries of an urban area, then constitutionally it is not classified as agricultural land. The same applies to communal land, which is defined by Section 3 of the *Communal Land Act (Chapter 20:04) (CLA) of 1982* as:

“...land which, immediately before the 1st February 1983, was Tribal Trust Land in terms of the Tribal Trust Land Act, 1979 (No.6 of 1979), subject to any additions thereto or subtractions therefrom ...” (Government of Zimbabwe, 1982).

The president owns communal land on behalf of the people of Zimbabwe in terms of Section 4 of the CLA of 1982. It is administered by rural district councils in consultation with traditional leaders. The beneficiaries of communal land have usufruct rights and they can use their land for residential-agricultural purposes as stated in Section 8 of the *CLA of 1982* (Government of Zimbabwe, 1982).

The use of agricultural properties is determined by several factors which include among others, size and shape of the property, climatic conditions, soil characteristics, location, and development infrastructure (Drescher, Henderson & McNamara, 2001; The South African Property Education Trust, 2004a, 2004b; Williams, 2008; IVSC, 2019). These factors influence agricultural productivity and values of farmland. Asiama, Bennett, Zevenbergen & Asiama, (2018) classified factors which influence the value of agricultural properties into two, which are internal and external. They further divided internal factors into three



subclasses, which are physical attributes, legal conditions, and agricultural productivity. External factors are subdivided into locational factors and planning scheme (Asiama et al., 2018).

Valuation of agricultural properties is specialised and requires an appreciation of farming practices (Williams, 2008; Onyejiaka & Emoh, 2014; Ifediora, 2015). The market sales comparison method, the investment method and the cost method are commonly used when determining the value of agricultural properties (Reed, 2009; Joubert & Cloete, 2011; Middelberg, 2014; Ifediora, 2015).

1.8.4. The Communal Land Tenure System

Land tenure relates to how land use rights are allocated to different people within a society for socio-economic development (Kalabamu, 2019). Communal land tenure is also known as customary or tribal land tenure. Under the customary land tenure system, the land is owned by the community or a tribe, and it is administered by the chiefs or kings with the assistance of the council of elders according to the traditional customs of that tribe (Mabikke, 2016; Kabanga & Mooya, 2017; Nsoh, 2018; Kalabamu, 2019). Individual members of the clan of the tribe are allocated usufruct land rights by the elders, and these rights can be passed from one generation to the other through inheritance (Mutema, 2003). In most cases, non-members of that tribe are not allowed to benefit from the land which belongs to another tribe (Nsoh, 2018).

Unlike in the modern land tenure systems where land rights are registered through the cadastral land registration system, in most cases, land rights in communal land are not registered. Land ownership rights are not documented under the communal land tenure system because of scarcity of data (Kabanga & Mooya, 2017; Makathimo, 2019) and the common perception of insecurity (Thondhlana, 2015; Tembo; Simela, 2004). However, Tembo & Simela, (2004) observed that to the members of certain tribes who own communal land, there is security because customary land can easily be accessed and inherited from one generation to the other.



Africa is dominated by the customary land tenure system (Kabanga & Mooya, 2018a). Grover (2019) notes that most land rights under customary ownership are not registered. According to Sheehan (2002) as well as Chimhowu (2019), over the years, customary land tenure evolved due to the influence of western legal systems.

In most cases, customary land rights are undervalued as they do not fit well in the market value standards (Kabanga & Mooya, 2017; Kabanga & Mooya, 2018a; Makathimo, 2019). Pai & Eves (2016), as well as Makathimo (2019), point out that market value is based on legal property rights which are different from customary property rights. Hence, the fairness of market-based compensation on customary land can be challenged. The authors recommended further research to come up with alternative valuation methods which can provide fair compensation values for customary land.

Kabanga & Mooya (2018a) point out that, when customary land is expropriated, sometimes displaced people are not well informed in time about the government's intentions. According to Wily (2018b), the land is not a compensable head of claim when communal land tenure is expropriated. Sheehan (2002), Tagliarino (2017) and Grover (2019) advocated for compensation of expropriated customary land rights. When customary land is expropriated, compensation must consider the fact that customary land rights are not just related to communal productivity of the land, but also on social connections as well as access to natural resources (FAO, 2002, 2017).

Compensation for expropriated customary land needs to take into consideration the sociocultural and environmental values of affected people for it to be considered fair (Pai & Eves, 2016; FAO, 2017). This is only possible if there is a legal framework in place to guide the process (Sheehan, 2009). Kabanga & Mooya (2018a, 2018b), as well as Makathimo (2019) noted the challenge of scarcity of relevant market evidence to be used when customary land is expropriated since most of the transactions are not documented.



1.8.5. Compulsory Acquisition, Expropriation or Eminent domain

According to Mangioni (2010), there are cases where the government's interference with private property rights becomes a necessary evil. The eminent domain power is recognised at international law for public benefit, but adequate compensation must be offered (Kotaka, Callies & Guth, 2001; Vig & Gajinov, 2016; Rao, 2019). Private property rights have limits (Viitanen, 2002), most sovereign governments are empowered by their constitutions to expropriate property for the benefit of the general public (Belling, 2008; Mahalingam & Vyas, 2011; Ajibola, Osota & Oloyede, 2012; Alemu, 2013; Akujuru & Ruddock, 2014; Olanrele et al., 2017; Deeyah & Akujuru, 2017; Buzu, 2019; Nyarko, 2019). Rao, Tiwari & Hutchison (2017) point out that private ownership of land has a challenge when the privately owned land is needed for public use.

According to the United Nations (UN) (1974), all states have the power to expropriate real estate owned by foreign nationals and the expropriating authority must pay appropriate compensation. The name given to this power of the state varies from one country to the other ranging from compulsory acquisition, eminent domain and expropriation (Chan, 2003; Alias & Daud, 2006; Tomson, 2009; Zrobek & Zrobek, 2008a; Ambaye, 2014; Iyanda, 2014; Odiase-Alegimenlen & Garuba, 2015). In this study, the terms compulsory acquisition, expropriation and eminent domain are used interchangeably.

Land plays a crucial role in economic growth (Ding, 2007; Otubu, 2012; Ghimire, Tuladhar & Sharma, 2017), and governments have a mandate to provide public infrastructure for public health and safety, public security, socio-economic development, and environmental protection, to name but just a few (FAO, 2008; Sumrada et al., 2013; Deeyah & Akujuru, 2016). The land is a basic human need as well as a scarce factor of production (Ghimire, Tuladhar & Sharma, 2017), which cannot be reproduced.

The real estate market, like any other markets, is not perfect (Muriithi, 2013). Sometimes suitable and adequate land for public projects might not be available in the open market (Famuyiwa & Omirin, 2011; Akujuru & Ogbonda, 2016). As a result, the state is forced to take the required land from the private property owners without the owners' consent

(Viitanen & Kakulu, 2009; Sumrada et al., 2013; Rao, Hutchison & Tiwari, 2020) to promote the highest and best use of land (Denyer-Green, 2014).

By nature, human beings are selfish; due to their monopolistic tendencies, they can block public projects for profiteering reasons (Lin, 2009; Grover, 2014). This justifies state intervention in the land market for equitable distribution of real estate resources (Viitanen, 2002; Serkin, 2005; Grover, 2014). From the foregoing discussion, it can be noted that governments strive to balance seemingly two complicated objectives which are the protection of private property rights and promotion of uses which benefit the public. Figure 1.2 is a schematic overview of a private interest/public purpose continuum.

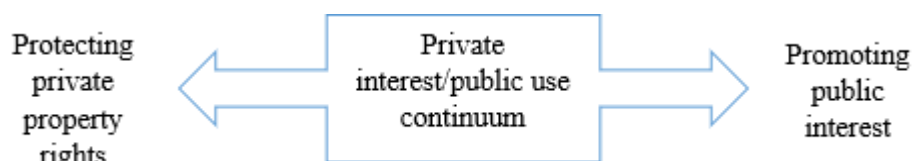


Figure 1-2: The Private Interest/Public Purpose Continuum

Source: Author's construction (2020)

As shown in Figure 1.2, when governments work on socio-economic development, they are faced with a dilemma of balancing the protection of private rights and limiting the same for the benefit of the general public. The inability to achieve a balanced continuum might result in disadvantaging either private property owners or the public.

Eminent domain is superior to all other property rights; hence private property owners must know that their properties are subject to expropriation for public benefit (Du Plessis, 2009). A definition of compulsory land acquisition is not complete without differentiating direct and indirect expropriation. Direct expropriation is whereby the expropriating authority takes the land in its physical form, whereas indirect expropriation as the name suggests, is when the state takes some of the rights on land (use and enjoyment) without taking land in its physical form (Ding, 2007; Moyo, 2016). Any legal expropriation (either direct or indirect) must be done for use that benefits the public, fair and adequate compensation must be paid, and it must be done in a non-discriminatory manner (Ambaye, 2009). Holtslag-Broekhof, et al. (2016) concluded that affected people perceive land acquisition to be just if there is lawful, decent treatment and equal treatment of affected people.



Radvan & Neckář (2019) define expropriation as the use of law to transfer or limit property rights. Compulsory acquisition law can be executed through the administrative method (use of statutes like an Act of Parliament) or through the judicial process (which involves the use of Court Orders) (Du Plesis, 2009). Zimbabwe uses the administrative method.

It is important to note that expropriation can be classified as either legal or illegal. A legal expropriation is the one which is done in terms of the existing local and international laws. Key factors which are commonly used to measure the legality of compulsory acquisition of property are whether the whole process was done for a public purpose and adequate compensation was paid (Marboe, 2014; Nyarko, 2019) without discrimination (Vig & Gajinov, 2016). Anything which fails to meet these set criteria is deemed illegal.

Relative to the requirements and proposed usage, expropriation could be total, partial and temporary (Ambaye, 2013b). Accordingly, a total expropriation is a situation whereby the whole portion of land is taken by the government. Partial expropriation refers to a situation whereby just a portion is expropriated for right of way. Temporary expropriation is a case whereby landed property is acquired over a limited period. The partial expropriation could sometimes result in the acquisition of the entire portion of land, particularly when the remaining portion is no longer beneficial to the displaced person.

1.8.6. Public Purpose

It is legally permissible in international law for governments to expropriate land for public benefit (United Nations, 2012; Tanrivermiş & Aliefendioğlu 2019). However, there is no agreement on what is meant by public purpose, use or benefit (Mahalingam & Vyas, 2011). According to Rao, Hutchison & Tiwari (2020), various definitions of public purpose are adopted by the constitutions of different countries. Then, what is the yardstick used to measure a public use?

Some scholars are of the view that a use is only classified as public when the public have a direct benefit from the proposed use (Viitanen, 2002). In this case, direct public use is when the expropriated property is used for the projects which benefit the community or



general public, for example, a hospital, school, road and dam to name but just a few (Viitanen & Kakulu, 2009; Onuoha, 2016; Gebremichael, 2016). Another commonly accepted list of public uses includes national defence, infrastructure development, and conservation of history or culture, as well as preservation of the ecological and natural resources (Mahalingam & Vyas, 2011). If this definition is to be followed, it means that expropriation does not apply to private projects where the major drive is to gain profit.

Critics of this school of thought mentioned above pointed out that there are other private uses which can also bring benefits to the community indirectly. For example, through employment, this can improve the common welfare and success of the community (Mulhall & Kavanagh, 2017). Looking at public use from this angle, private projects can also improve the welfare and prosperity of the community; hence, even private projects can qualify to be classified as a public use (Viitnen, 2002; Onuoha, 2016). In this case, the state can compulsorily take private land for use by private persons (natural or legal) whose investments are perceived to benefit the public (directly or indirectly) in future. It can be noted that there is a thin line which separates private from public uses. Deeyah & Akujuru (2016) propose that evaluation of projects to assess if they benefit the public must be conducted through public consultation to establish if the communities perceive the proposed development as beneficial to them.

Another critical principle which guides public interest is the fact that compensation must be reasonable (Mulhall & Kavanagh, 2017). In this case, the government must not waste public funds (taxpayer's money) by paying compensation which is not justified. For the expropriating authority to protect the public interest, it must strive to make sure that the expropriated properties are not overvalued.

1.8.7. Compensation for Expropriated Properties

One condition for a legitimate expropriation is that the affected person must be compensated (UN, 1974; Du Plessis, 2009; Kotaka, Callies & Guth, 2001; Ambaye, 2013b; Sumrada et al., 2013; Olanrele et al., 2017; Tanrivermiş & Aliefendioğlu, 2019). According to Vaughan & Smith (2014), compensation for the expropriated property is a



basic property right which is enshrined in the constitutions of many countries (Odiase-Alegimenlen & Garuba, 2015).

Compensation can be paid in the form of cash, alternative land or a combination of cash and alternative piece of land (Alias & Daud, 2006; Tagliarino, 2017; Karasek-Wojciechowicz & Brzeski, 2019). Paying compensation is a form of corrective justice for those affected by spatial development (Alias & Daud, 2006; Mugisha, 2015; Ambaye, 2014). The role of a property valuer in expropriation is to calculate the value of terminated bundles of rights attached to a property as guided by the laws and regulations applicable in that area (Du Plessis, 2009; UN, 2012; Denyer-Green, 2014).

Compulsory land acquisition is different from confiscation in that compensation is paid (Du Plessis, 2009). Compensation is paid so that private individuals do not carry the burden of attaining public interest (Alias & Daud, 2006; Zróbek & Zróbek, 2008a; Otubu, 2012; Johnson & Chakravarty, 2013; Alemu, 2015; Ghimire, Tuladhar, & Sharma, 2017). Compensation is grounded on the principles of indemnity, which states that affected people ought not to be one way or the other enhanced nor devastated as a result of the obligatory purchase (Viitanen, 2002; Asian Development Bank, 2007; Kalbro & Lind, 2007; Keith, McAuslan, Knight, Lindsay, Munro-Faure, Palmer & Spannenberg, 2008; Ambaye, 2009; FAO, 2008; Vaughan & Smith, 2014; Pai & Eves, 2016; Deeyah & Akujuru, 2017). In this case, the expropriating authority must maintain the living standards of the affected persons in a state where they were before the compulsory acquisition.

According to Rao, Hutchison & Tiwari (2020:63):

“Compulsory acquisition of land is a psychologically traumatising experience for most affected landowners, and a fair process may avail them the opportunities to express their grievances, opinions and suggestions, and the opportunity to protect their personal, familial, and financial interests to the best possible extent.”

Bell & Parchomovsky (2007), note that just compensation is used to protect private landowners and limit government’s abuse of its eminent domain power. Compensation for expropriated real estate must be guided by domestic laws and regulations (UN, 1974).



According to Rahman (2013), compensation for expropriated properties must be paid prior to or as soon as the expropriation is executed. From the foregoing discussion, it can be noted that compensation must satisfy both the affected persons and the expropriating authority. In other words, it should neither be too little nor too much.

1.8.8. Fair and Adequate Compensation

Alemu (2012), points out that payment of fair compensation for expropriated properties has been widely adopted in the constitutions and legislations of many countries across the globe (Alemu, 2012; Agegnehu & Mansberger, 2020). However, the issue of fair and adequate compensation remains contentious (Rao et al. 2020). According to Alias & Daud (2006) as well as Hoops & Tagliarino (2019), in as much as most national laws provide for adequate compensation for expropriated properties, there is no elaborate and universally acceptable definition of adequate compensation.

There are two main theories which guide compensation, and these are the taker's gain theory and the indemnity theory (Serkin, 2005; Kabanga & Mooya, 2018a). The indemnity theory (also known as the principle of equity and equivalents) is based on the notion that the affected person must be paid compensation which is equivalent to his/her losses (FAO, 2008; Vaughan & Smith 2014; Denyer-Green, 2014; Tagliarino, 2017; Kabanga & Mooya, 2017; Agegnehu & Mansberger, 2020).

According to Vaughan & Smith (2014), the principle of equity and equivalence was developed through case laws over many years. Fair compensation aims to provide dispossessed groups with adequate financial compensation so that they cannot carry the burden for public benefit (Mahalingam & Vyas, 2011; Marboe, 2014). Marboe (2014) stresses that if compensation is more than the fair value of the expropriated land, this cannot be considered fair if one looks at it using the public interest lens. Under the equity and equivalence principle, attaining fair compensation entails compensation not just for land and improvements on land but also for non-economic factors (Ambaye, 2013b; Mulhall & Kavanagh, 2017; FAO, 2017; Rao, Tiwari & Hutchison, 2017; Tanrivermiş & Aliefendioğlu, 2019). In support of this view, Rao, Tiwari & Hutchison (2017) point out



that to landowners, the land is not just an economic asset whose compensation value can simply be determined from market evidence. If some of these loses are not compensated, displaced people will be dissatisfied (Rowan-Robinson & Hutchison, 1995).

As highlighted before, compensation is also guided by the taker's gain theory. Proponents of the taker's gain theory are of the view that since no one is supposed to gain or suffer from the compulsory land acquisition, the expropriating authority is supposed to pay more than what it gained (Denyer-Green, 2014). In the compulsory land acquisition, the expropriating authority gains the land; hence the payment must not include anything which is not the land. According to Kabanga & Mooya (2018a), statutes which require compensation solely for land and exclude such things as disturbance and solatium is based on the taker's gain theory. Ambaye (2014) points out that the compensation principles provided for by the *Land Administration Law of 1986* are based on the takers' gain theory because it is specific that compensation is paid based on the current use of the subject property. This implies that any compensation which excludes hope value also falls under the takers' gain theory. Chan (2006) is of the view that China's compensation law which provides for compensation based on original use, is unfair.

Many scholars concur that the meaning of fair compensation is a subject of debate (Alemu, 2012; Marboe, 2014; Arul vikram & Murali, 2015; Ghimire, Tuladhar, & Sharma, 2017; Olanrele et al., 2017; Walters, 2019; Buzu, 2019), since interpretation is mainly based on case law (IVSC, 2017). Fair compensation value must be clearly defined in the laws which guide property valuation for expropriation. Tagliarino (2017) points out that if statutes are ambiguous, it can result in the subjective interpretation of what constitutes fair compensation, which can fuel disputes between the dispossessed people and the expropriating authority. Laws which guide property valuation must be comprehensive, simple for easy understanding by affected people and flexible enough to cater for the dynamic nature of the development environment (Arul Vikram & Murali, 2015; Mengwe, 2019).

According to Mangioni (2018), even though statutes provide a foundation for fair compensation, it is the practice of those who estimate the compensation value that



determines the fairness of the whole process. Walters & Akujuru (2016) recommend that legal provisions guiding compensation must include a requirement for the assessment of the views of affected people on their levels of satisfaction with the compensation offered. Also, Kwarteng & Botchway (2019) are of the view that any compensation value which does not take into consideration payment of an interest for delayed payment is not adequate.

Compensation is said to be fair when the expropriation process is transparent (Zrobek & Zrobek, 2008b), and dispossessed people have access to professional advice and representation from valuers and lawyers (Chan, 2003; Zrobek & Zrobek, 2008a; Johnson & Chakraarty, 2013; FAO, 2017). For dispossessed people to have fair access to professional advice, Zrobek & Zrobek (2008b) and Arul vikram & Murali (2015) recommend that the expropriating authority must try to promote the adequate number of independent property valuers and lawyers to assist affected people. However, Mutema (2019) notes that there is a limited number of professional property valuers in Africa, and as a result, fair representation is inadequate. Olanrele et al. (2017) point out that all affected rights are supposed to be identified and compensated. Holtslag-Broekhof, Van Marwijk, Beunen & Wiskerke (2016) conclude that land acquisition is perceived to be just if there is lawful, decent treatment and equal treatment of affected people.

Dispossessed people are supposed to be given a chance to justify their compensation claims before the expropriation (Moyo, 2016). The compensation value must be negotiated by the affected people and the expropriating authority without intimidation (Zrobek & Zrobek, 2008b; Tagliarino, 2017). This argument is also supported by Tagliarino (2017) who notes that if the displaced people are not satisfied with the compensation offered, fairness can also be measured based on whether the law provides a clear procedure for challenging the compensation in a court of law. Compensation appeals are supposed to be provided for and regulated by domestic laws (FAO, 2012; UN, 1974).

Chan (2003) notes that a fair compensation which is based on transparent valuation minimises suspicion. Transparency in property expropriation, valuation and compensation also reduces disputes and promotes confidence on the part of the disposed people.



Appreciation of the expropriation and compensation process by the affected persons is mainly based on whether they understand the provisions of the existing expropriation laws or not (Johnson & Chakravarty, 2013). In this case, it is important to establish whether the affected persons know what the law says in terms of the notice of the intention to expropriate land, the valuation date, who estimates the compensation, valuation methods as well as where to send objections or reservations.

It is also vital to note that transparency also involves easy access to public information which was used to calculate compensation by affected people and any interested parties (Viitanen & Kakulu, 2009; Arul vikram, & Murali, 2015; Grover; 2019). This shows that for the valuation process to be considered as fair and transparent, information must be readily available with limited costs and bureaucratic processes. According to Rao, Tiwari & Hutchison (2018), the issue of fair and adequate compensation goes beyond the compensation amount and delayed compensation. Still, it should include the entire expropriation process.

1.8.9. Determination of Fair Compensation Value

Estimation of adequate compensation for expropriated properties has been a controversial topic which has been debated by scholars and practitioners for many years (Andrew, Pitt, Murning, Harper & Jones, 2012; Marboe, 2014). According to Ambaye (2013b), estimation of fair compensation value is extremely complicated and different countries are using varied valuation frameworks. Many scholars agree that market value is widely accepted as a true representation of fair value since it is believed that the value will be adequate for the affected person to purchase a similar property in the market (Barrows, 1991; Alias & Daud, 2006; Kalbro & Lind, 2007; Mahalingam & Vyas, 2011; Alemu, 2012; Ambaye, 2014; Marboe, 2014; Grover, 2014; Du Plessis, 2015, Vig & Gajinov, 2016; Ghimire et al., 2017).

Tomson (2009) is of the notion that payment of compensation for expropriated property which is above the market value is not fair since the public (tax or ratepayers) pays more than what they are supposed to. According to Ambaye (2014), some scholars have



challenged the view that market value-based compensation is fair and objective. Some scholars concurred that it is a fallacy that market value provides adequate compensation since market value does not take into consideration things like the cost of relocation and disturbance (Serkin, 2005; Walters, 2019; Beale 2019). In support of this assertion, Zrobek and Zrobek (2008a), as well as Kucharska-Stasiak (2008) conclude that the compensation which is based solely on market value is not adequate for the affected person to purchase a similar property in the market.

The IVSC (2017) differentiates fair value and market value on the grounds that fair value is a product of negotiations between two parties, which takes into considerations the advantages and disadvantages which each party can derive from the property. However, market value is derived from market interpretation, and it disregards the advantages and disadvantages of both the buyer and the seller (Asian Development Bank (ADB), 2007). The basis of fair value is also considered in the legal context whereby it is defined in statutes and case law, but there is no globally accepted legal definition of fair value (IVSC, 2019).

According to O'Connor (1983), prompt compensation is not equivalent to complete compensation. Prompt compensation seeks to attain a private-public continuum when it comes to property rights. Mulhall & Kavanagh (2017) point out that fairness in compensation valuation can be achieved if the expropriating authority and the dispossessed people negotiate and reach a consensus on the valuation methodology. This shows that compensation might not be equal to market value; it can be above or below the market value. Zrobek & Zrobek (2008b) are of the view that market value can only be the lower limit of fair value since the fair value is not the same as market value. The chief reason being the fact that fair value includes some aspects which are disregarded in the market value (Fennell, 2004; Burdsal, 2005).

Burdsal (2005) is of the view that market-based compensation does not meet the principle of indemnity, hence believing that it is fair or just compensation is a fallacy. Fair compensation must include social and cultural value (Ding, 2007). Therefore, market value

is considered among other heads of claim, which include solatium, severance and other heads of claim (Kucharska-Stasiak, 2008).

1.8.10. The Highest and Best Use Principle

Adebayo & Oladapo (2014), define highest and best use as the most probable or optimum use, which can result in the highest present value/return of a real property. It can also be defined as the use which maximises the full potential of a property in terms of town planning restrictions and other development control mechanisms (IVSC, 2017, 2019). Several scholars noted that valuation incorporates highest and best use since development potentialities which might influence the decisions of informed sellers and buyers will be taken into consideration during valuations (Mahalingam & Vyas, 2011; Vaughan & Smith 2014; Sevelka, 2008).

There are cases where the current use will no longer be the highest and best use (Sevelka, 2005; Boshoff, 2011; Beale, 2019). In this scenario, the valuer considers the development potential of the subject property. The existence of potential need to be justified as guided by whether the proposed use is legally permissible, financially viable and physically feasible (Roib, 2013; IVSC, 2019). However, any potential which is created by the proposed use of the expropriated property is disregarded (Vaughan & Smith, 2014; Du Plessis, 2009).

1.8.11. Injurious Affection

When just a portion of the property can be expropriated, the remainder can increase or decrease in value (Denyer-Green, 2014; Tanrivermiş & Aliefendioğlu, 2019). The term injurious affection is mainly used in partial taking to refer to the decreased value of the remainder emanating from the expropriation of a portion of the property (Ding, 2007; Kakulu, 2008a; Denyer-Green, 2014; FAO, 2017; Walters, 2019). If the remaining portion is not suitable for use in terms of the zoning standards, then the compensation should be treated as if the whole portion was expropriated (The Law Commission, 2003; Denyer-Green, 2014).



1.8.12. The Pointe Gourde Principle

There are also cases whereby expropriation of a portion of the property can result in an increase in the value of the remaining portion (Mangioni, 2017; Parker, 2019). This is known as betterment (Denyer-Green, 2014). Compensation for an expropriated property with betterment is guided by a legal principle known as the Pointe Gourde principle which states that a rise in value caused by the expropriation is not supposed to be considered when calculating the compensation value (The Law Commission, 2003; Denyer-Green, 2014). In this case, the increase in value is deducted from the compensation amount (ibid, 2014).

When betterment is more than the compensation, the expropriating authority will not pay compensation for the expropriated portion (Vaughan & Smith, 2014), but when betterment is more than the compensation the expropriating authority cannot require the affected person to pay (Denyer-Green, 2014). In the same vein, a person whose property increases in value, but his/her property is not expropriated cannot be required to pay the expropriating authority (Denyer-Green, 2014).

1.8.13. Consequential Loss/ Disturbance Claims

It can be observed that when properties are compulsorily acquired, compensation for the property alone will not be enough to meet the principle of equity and equivalence (FAO, 2008). According to Denyer-Green (2014), compensation for disturbance (including severance and injurious affection) must be based on the owner's value principle.

“In some countries, there is legal provision recognising this in the form of additional compensation to reflect the compulsory nature of the acquisition” (FAO, 2008:23).

Du Plessis (2009) notes that the expropriatee is entitled to compensation for any disturbances caused by the expropriation. These include severance and injurious affection (Denyer-Green, 2014), loss of access to sources of livelihoods, business, social capital,



family ties and sense of belonging (Kakulu, 2008a; FAO, 2008, 2017; Sumrada et al., 2013; Kosareva, Baykova & Polidi, 2019).

According to the Law Commission (2003) and Denyer-Green (2014), other consequential costs which are considered when calculating compensation include home loss, goodwill and profit loss, removal expenses, professional fees, and personal time. Even if alternative land is provided, for example, the affected shop will still need to be constructed, and the farming land will need to be cleared and prepared. Hence, the affected person is disturbed from enjoying his/her property rights. In some countries, it is paid as a percentage of the total compensation claim (FAO, 2008; Du Plessis, 2009).

1.9. Delimitation of the Study

This study considers valuations which were done for compensation of compulsory acquisition of rural properties (private and communal land) during the multi-currency era (2009 to 2019). A focus on rural properties was motivated by the fact that most of the compulsory acquisition of properties in the countries was done in rural areas. The other reason is that Zimbabwe, like any other former colony, has been working on reversing racial land distribution policies since independence in 1980. The main reason for focusing on property valuations which were done during this period is that it was assumed to be easy for comparison and analysis using estimates which were done based on the United States Dollar (US\$).

The period prior to the adoption of the multi-currency system might bring challenges when converting the Zimbabwean Dollar to the United States Dollar, especially when it comes to property valuations which were done during the hyperinflation period of 2004 to 2008. Also, ten years from 2009 to 2019 is assumed to be long enough for meaningful information or conclusions to be reached on the subject under study.

1.10. Research Assumptions and Propositions

This study is grounded on the assumption that seeking the views of different stakeholders on gaps in existing statutes will help to develop a framework which can be acceptable to



both the expropriating authority and affected people. Furthermore, it is the assumption of this study that relevant authorities will adopt the proposed property valuation framework. It is also assumed that the proposed property valuation framework will improve the satisfaction of displaced people on the estimated property values for compensation purposes. However, the researcher has no influence and does not guarantee that the proposed property valuation framework will be adopted in Zimbabwe. The sole responsibility for adopting the proposed property valuation framework lies with the GoZ.

The propositions of this study are as follows:

- For the property valuation framework to promote fair and adequate property values, there is need to examine and understand the views of key stakeholders.
- An adequately structured property valuation for compensation framework can reduce valuation variance and compensation disputes and promote sustainability as well as investor confidence in the Zimbabwean land sector.

1.11. Research Methodology

A case study approach was adopted because of the complexity and sensitivity of the issue of compensation for expropriation in Zimbabwe. Thus, the expropriated properties valued by DVOs for the purposes of compensation and approved by the government between 2009 and 2019 were used. The case study was chosen based on the magnitude of the impact on displaced people and on the fact that the valuation was done during the multi-currency era, which was dominated by the US\$.

It is essential to consider valuations done based on the US\$ because the local currencies which were adopted before and after the multi-currency period failed to withstand its value. As a result, a comparison of values, especially before 2009, where the economy was characterised by hyperinflation could have given inaccurate figures in US\$ terms. The importance of using the US\$ as a reference currency cannot be overemphasised, especially when communicating issues to do with value with the international community.



Data for this study were collected through questionnaire and literature surveys. Respondents were selected from senior government officials, property valuers and FCFs. Reviewed documents included statutes, official reports, and newsletters.

ATLAS.ti 8 was used to facilitate qualitative content analysis for data collected through a literature survey and interviews. Data from questionnaires was analysed with the assistance of Statistical Package for Social Sciences (SPSS) version 26. More detail on the research methodology, which was adopted in this study is discussed in Chapter 4. Table 1.1 shows a research design matrix which reflects the research aim and approach nexus.



Table 1-1: The Research Design Matrix

Objective	Research question	Approach	Target population
To evaluate the process of property valuation for expropriation and measure the level of consistency in the approaches that valuers used to estimate compensation on land and improvements in Zimbabwe.	What are the structures, processes, and methods of property valuation for compensation in Zimbabwe? To what extent does property valuation practice for compensation consistent with the existing legal framework?	Literature and questionnaire surveys.	DVOs, MsCC and PVs.
To compare the legal frameworks of Zimbabwean expropriation and compensation with selected countries, and agencies, to ascertain the degree of conformity.	To what extent can the expropriation and compensation legal frameworks of Zimbabwe be compared with those of selected countries and other international agencies?	Literature and questionnaire surveys.	DVOs, MsCC and PVs.
To assess if the compensation paid for expropriated properties in Zimbabwe is fair and adequate as dictated by Section 71 of <i>CoZ of 2013</i> ,	Can the estimated values of expropriated properties be regarded as fair and just as required by Section 71 of the <i>CoZ of 2013</i> ?	Questionnaire survey.	DVOs, MsCC, PVs, FCFs.
To ascertain from previously displaced persons the level of satisfaction with the current compensation for expropriation practice in Zimbabwe.	Are previously displaced persons satisfied with the current compensation for expropriation practice in Zimbabwe?	Questionnaire survey.	FCFs.
To propose a framework in line with laws of some selected countries, and international agencies for expropriation and compensation of unexhausted improvements on the land.	Can a framework for property valuation for expropriation in line with laws of selected countries, and international agencies be developed for Zimbabwe?	Literature and questionnaire surveys.	DVOs, MsCC, PVs, FCFs.

Source: Author’s formulation (2020)

1.12. Organisation of the Study

This study has 6 chapters, organised in a fashion which is depicted in Figure 1.3

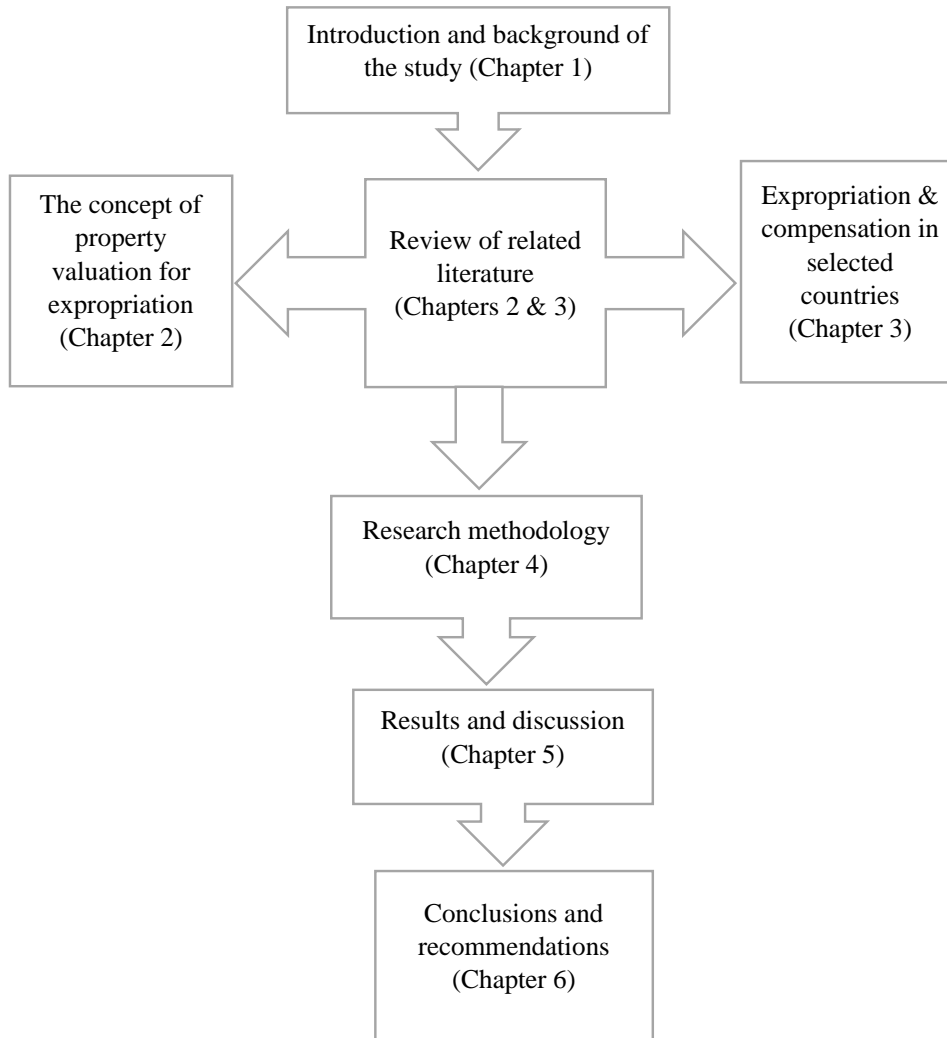


Figure 1-3: Thesis Structure

Source: Author's formulation (2020)

As shown in Figure 1.3, the introduction and background of this study are provided in Chapter 1, which provides the problem under study, the aim and objectives of this study, research objectives as well as a conceptual framework which lays the foundation for this study.



A detailed literature review was done in Chapters 2 and 3. Chapter 2 discusses past studies related to property valuation for expropriation. Chapter 3 discusses the statutory provisions guiding expropriation and compensation in different countries as well as compares the same with the existing laws in Zimbabwe.

Chapter 4 focuses on the research methodology adopted in this study, and issues discussed include the research philosophy, research method, data collection tools and data analysis methods. This research methodology chapter is followed by Chapter 5 (results and discussion) as guided by research objectives from Chapter 1. The final chapter (Chapter 6) provides the overall conclusion of this study based on the discussion from Chapter 5, which leads to the recommendation of this study. The contribution of this study is also presented in the last chapter of this study.

1.13. Chapter Summary

This introductory chapter laid the foundation for this study by giving the background and the problem of the study as well as the proposed research strategy. Also, this chapter gave an indicative structure of this study, which shall consist of six chapters. The chapter which follows (Chapter 2) reviews relevant literature to understand the problem under investigation by studying what other scholars have done to solve the problem under investigation.



CHAPTER 2 - PROPERTY VALUATION FOR EXPROPRIATION AND COMPENSATION

2.1. Introduction

This chapter reviews literature related to property valuation for compensation in line with the objectives of the study. The chapter has eight (8) sections. Section 2.2 reviews past studies on property valuation for expropriation and compensation, 2.3 focuses on uniformity and consistency in property valuation for expropriation and compensation, Section 2.4 assesses the adequacy of compensation for expropriation. A discussion of the fairness of compensation values paid to dispossessed persons is provided in Section 2.5. Section 2.6 focuses on international best practice on property valuation for expropriation and compensation. Section 2.7 focuses on benchmarking the existing Zimbabwean property valuation for expropriation and compensation framework with guidelines prepared by international institutions, while Section 2.8 is a summary of this chapter.

2.2. Existing Studies on Expropriation and Compensation

Depending on the provisions of the law, people whose land is compulsorily taken are entitled to receive compensation or some forms of palliatives. The purpose of the payment or palliative is to put the displaced person(s) in a condition that is not worse off after the exercise. Therefore, since the process of expropriation and compensation is largely dependent on the prevailing legal provisions of a country, it is imperative to understudy laws related to the subject matter across different countries as reported in previous studies.

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



Kakulu (2008a) compared Nigerian and British laws guiding expropriation and compensation. The author noted weak areas which needed to be strengthened in the Nigerian statutes. These weak areas include lack of clarity in legal provisions; lack of transparency in processes and procedures; heads of claims which are not detailed; inadequate compensation for farmland and lack of advance compensation.

Ambaye (2014) compared the expropriation and compensation laws of Ethiopia to similar statutes of the UK and concluded that Ethiopian authorities can improve their existing statutes by learning from the provisions of the UK laws. Areas identified by the author include the adoption of market value-based compensation for urban land and inclusion of injurious affection and severance in the compensable heads of claim.

Chan (2006) compared laws guiding compulsory acquisition and compensation in China, Australia, and India. The author identified gaps in the Chinese statutes where lessons to strengthen the same were identified from the Australian and Indian laws. Some of the identified areas include non-use of market value as the basis for compensation as well as non-compensation for losses related to the expropriation, solatium (extra compensation) and injurious affection.

Ghimire, Tuladhar and Sharma (2017), gauged the expropriation and compensation assessment guidelines designed by the FAO, and WB, to those of China, India, Malaysia, Nepal and Norway. The study employed specific set of parameters for assessment, including transparency, public participation, benchmarking, and access to information. It was discovered that lack of consistencies to the stated criteria was observed among many countries, except Norway. The implication was for the other countries to develop sound principles in their expropriation and compensation practices. Thus, an inference from the study is that though countries are at liberty to design, country-specific expropriation and compensation laws, this must be in line with the international best practices.

Tagliarino (2017) compared the statutes that guide property valuation for payment of compensation for expropriation in fifty (50) countries, across three continents (Africa, Asia and Latin America) in relation to the FAO guidelines. The study concluded that because of



the differences in their legal provisions, assessment of compensation is dissimilar across the countries. While the study advocates for a uniform legal framework for expropriation and compensation across all countries of the world, the findings revealed that country-specific laws on the subject matter still hold sway.

As highlighted before, Olanrele et al. (2017) compared the legal frameworks guiding property valuation for compensation in Nigeria to those of the UK, Denmark, USA, Australia, New Zealand, Hong Kong, Malaysia, SA, and Rwanda. Again, this study used some parameters or variables including compensable heads of claim, compensation principles as well as the basis of valuation, and found that land, buildings, crops, severance, and disturbance are compensable heads of claim. However, like the previously reviewed study, lack of consistency dominated the practice across the countries considered.

Ghimire et al. (2017) and Paradza et al. (2019) compared the legal provisions of the *LAA of 1992* of Zimbabwe with the guidelines prepared by the WB and FAO. The study went a step further to include the expropriation and compensation guidelines of the FIG. Their comparison was on the valuation of land and improvements, valuation of trees and perennial crops as well as on estimation of interest for delayed payment. They concluded that there is a need for a review of the current statutory provisions of the *LAA of 1992* to align them with the guidelines of the WB and FAO. The lack of consistency of the *LAA of 1992* relative to the guidelines of the three internationally recognised bodies has been the source of contention in Zimbabwe. However, it must be noted that the comparison made in Paradza et al. (2019) only used guidelines by the WB, FAO, and FIG as reference points.

The foregoing reviews revealed little academic work done to compare expropriation and compensation laws of different countries. This study agrees with Paradza et al. (2019)'s study that compares the guidelines of the WB, FAO and FIG. However, for the new administration to achieve its objective, the study considered building a framework relative to the *LAA of 1992* in comparison to those of other countries that sufficiently overcame expropriation and compensation challenges. Furthermore, while the guidelines provided by the organisations in Paradza et al. (2019) was a significant contribution, it is considered that the laws from countries that have successfully evolved themselves through related

situations offer better persuasion. This is because none of the Zimbabwean studies, noted earlier, undertook a comparative analysis of this magnitude, thus the imperativeness of this study.

2.3. Consistency in Expropriation and Compensation

In theory, during expropriation, the affected people and the expropriating authority must negotiate and agree on a fair market value for compensation at arm's length. Both parties may be assisted by professional property valuers to estimate what they offer or claim as the compensation value for the expropriated property (FAO, 2008). The problem of differences between compensation estimates done by valuers representing the expropriating authority and displaced people is under-researched (Hordijk & Van de Ridder, 2005), despite the existence of such gaps in the literature and practice (Kakulu, 2008a).

Boyd & Iron (2002) define valuation inconsistency as the difference between estimated values by two or more valuers valuing the same properties. Inconsistency can also be considered when the same valuer considers two similar properties (in terms of legal rights, design, use and location) and treat these properties differently in terms of valuation principles (ibid, 2002). Since property valuation for expropriation is statutory in nature, Hordijk & Van de Ridder (2005) emphasise that there is a need to assess compliance of valuation law and practice as well as whether there is uniformity in the valuation methods used by different valuers.

Hordijk & Van de Ridder (2005) conclude that differences in compensation values estimated by valuers representing the expropriating authority and the displaced people are caused by adopting different assumptions on variables used when calculating the compensation. Important variables if the valuer is using the Discounted Cash Flow (DCF) method include the:

“...net yield, discounting rate, exit growth yield, investment capital value percentage and tenancy turnover rate.” (ibid, 2005:178).



Holtslag-Broekhof, Beunen, Marwijk & Wiskerke, (2018) and Kakulu (2008a) attributed the problem of wide differences in property valuation for compensation to differences in the interpretation of ambiguous laws guiding expropriation and compensation. Also, Kakulu (2008a) concludes that the use of unqualified people to estimate compensation contributed to the lack of uniformity in property valuation for expropriation. The section which follows discusses the expectations and level of satisfaction of displaced persons in relation to the third research objective of this study.

2.4. Displaced Peoples' Level of Satisfaction with Expropriation and Compensation

The issue of adequacy of compensation offered for expropriated properties has opened floodgates of scholarly and policy debate over the past decades (Trojanek, 2010; Marboe, 2014). If the issue of adequacy in compensation for expropriated properties is not addressed in time, it can result in conflicts between the expropriating authority and displaced people (Ndjovu, 2016).

Adequacy can be used as a yardstick to measure the effects of expropriation on displaced people (Kwarteng & Botchway, 2019). Adequacy is derived from the word adequate meaning satisfactory or acceptable (Smith, 2001). Satisfaction is a psychological term which means the difference between the expected and actual standards. In property valuation for expropriation, satisfaction relates to the subjective perception of differences between the expected compensation value and the actual compensation value (Qu, Heerink & Xia, 2015; Ndjovu, 2016).

Alemu (2014) conducted a study on the level of satisfaction of affected persons with the compensation offered for expropriated properties in Ethiopia and concluded that most people were not satisfied with the expropriation and compensation process. It was noted that dissatisfaction was caused mainly by lack of transparency, failure to benefit from the development project, not being consulted by the expropriation authority, compensation using alternative land (resettlement) of less value as compared to the expropriated property as well as the undervaluation of the expropriated properties due to the use of outdated



compensation rates and use of inappropriate valuation method. Agegnehu & Mansberger (2020) also assessed the affected persons' level of satisfaction in Addis Ababa (Ethiopia). They concluded that affected people were not satisfied because of non-payment, delayed payment and low compensation. In addition, they were not consulted, and were given a limited notice period.

A study by Uwayezu & de Vries (2019) assessed the level of satisfaction of affected people before and after property valuation for compensation. They concluded that the number of people who were satisfied with the expropriation process decreased after property valuation and those who were dissatisfied increased. Furthermore, they noted that the satisfaction level increased after appeal and revaluation of the subject properties. However, they also observed that only those who managed to afford the money to engage a professional valuer managed to appeal against the compensation offered and those who did not afford just accepted what was offered. This implies that if expropriatees are not capacitated, they can bear the burden of expropriation in silence. According to Uwayezu & de Vries (2019), factors which influence satisfaction levels of affected people include low compensation rates, inaccurate data capture by property valuers and the cost of an appeal.

Studies to measure the level of satisfaction of affected people were conducted in China by Li (2018). They concluded that if affected people are involved in the expropriation process, they tend to have a high level of satisfaction. This implies that involving affected persons during expropriation and compensation will make them part of the process, thereby increasing their chances of accepting and being satisfied with the outcome. The author also concluded that the level of satisfaction of farmers whose land was expropriated in Luyang (China) was very low and the standard of compensation used had an impact on satisfaction levels.

Wang (2013) assessed the level of satisfaction of people affected by expropriation in China and concluded that satisfaction is affected by the level of compensation as well as the compensation procedure and model. Another study in China was done by Qu, Heerink, Xi & Guo (2018), who concluded that satisfaction increases as the compensation amount increases. If the compensation amount is high, there will be high satisfaction, and if the



compensation amount is low, the level of satisfaction will be low as well. They also noted that farmers who were compensated with social security (land, jobs, business ownership) were more satisfied as compared to those who received cash compensation. Zhao (2017) did a similar study in Nanjing China and arrived at the same conclusion that compensation based on social security increased the level of satisfaction of affected people.

Inadequate compensation (Olukolajo, 2017) and inefficient expropriation process (Kuma, Fabunmi, Kemiki, 2019) cause dissatisfaction among displaced people resulting in disputes between the government and affected people. Kakulu (2008a) is one of the pioneer scholars to research on factors influencing the level of satisfaction on compensation offered for expropriation in Nigeria. The author concluded that statutory and policy issues, compensation levels and standards chief factors influencing satisfaction levels. Another study in Nigeria was done by Oladapo & Ige (2014), who assessed the level of satisfaction of affected persons using the case study of Ondo State. They found out that the variance between the compensation paid and the subject property's market value as well as lack of involvement of displaced persons tops the list of factors which influence the satisfaction levels of affected people. If the variance is low, the level of satisfaction is most likely to be high, and the opposite is true when the difference is high. Another study on the perceptions of people displaced by expropriation in Nigeria was done by Ige, Akintomide and Adiola (2016). They also concluded that an inclusive expropriation and compensation process can help to improve the satisfaction levels of affected people.

Walters & Akujuru (2016), as well as Olukolajo (2017), did a study of the level of satisfaction with compensation for oil-polluted land using the case study of the Niger Delta. Walters & Akujuru (2016) concluded that affected people's level of compensation is influenced by accurate capture of all affected properties. If some of the affected properties are not considered for compensation, then the level of satisfaction of affected people tend to be low. Also, Dankani & Halidu, (2017) concluded that affected people are dissatisfied if the expropriation and compensation process is shrouded in obscurity and marred by corruption as well as where the sources of livelihoods of the affected people are disregarded among compensable heads of claim. A recent study by Kuma, Fabunmi &



Kemiki (2019) which used a case study of Abuja in Nigeria also concluded that lack of transparency and inefficiencies in the implementation of expropriation and compensation by government agencies cause dissatisfaction among displaced people.

In Malaysia, Omar & Ismail (2009) assessed the causes of satisfaction levels among people affected by expropriation. They pointed out that affected people were not satisfied because they were not consulted during the expropriation process, and a similar compensation was paid for land with and without improvements. The authors also noted that displaced persons were satisfied by the move taken by the expropriating authority to allow them to engage a private valuer of their choice. The total cost of engaging a private valuer was paid for by the expropriating authority. According to Omar & Ismail (2009), the main factors causing dissatisfaction of affected persons include low compensation, delayed compensation, and the long appealing process. However, most of those who were not satisfied did not appeal as they were discouraged by the long appealing process and the payment of a deposit that was needed. The next section focuses on the fairness of compensation paid to displaced persons.

Rowan-Robinson & Hutchison (1995) conclude that dissatisfaction among displaced people is caused by failure by the expropriation authority to compensate for the loss of opportunity, bank charges incurred by the displaced people and delays in the expropriation and compensation process which caused uncertainty induces anxiety. Recent studies by Rao et al. (2020) in Scotland and Rao, Tiwari & Hutchison (2018) in Australia concluded that affected people are dissatisfied if there is no good governance during the expropriation and compensation process. This includes lack of participation by affected people or their representatives, poor accountability of the actions of the expropriating authority and when property valuers involved in assessing the compensation amount and the appeal process are biased.

2.5. Fairness of Compensation Values Paid to Dispossessed Persons

As a point of departure, it might be necessary to define fairness and adequacy, which are the key terms in this paragraph. Firstly, the concept of fairness, which is also known as just,



emanates from the legal fraternity, and it relates to the treatment of different people with the same circumstances equally. Legal provisions directly influence fairness in compensation and ambiguous legal frameworks leave a room for subjective interpretation which result in inconsistent approaches (FAO, 2008; Kakulu, 2008a). In this case, if two or more valuers are given an assignment to value the same property during the same time period and use different valuation methods or compensable heads of claim due to differences in the interpretation of statutes, then there is no fairness (Alemu, 2013).

The same principle also applies when the same valuer is assigned to value two or more different but similar (in terms of location, size and rights to name just a few) properties during the same period. In this case, if the valuer is not going to be consistent with his/her valuation approach as guided by the statutes, then there is no fairness because people with the same circumstances will be treated differently (Chang, 2010). FAO (2008) highlighted factors which can affect fairness in compensation which are summarised in Box 2.1.

Box 2-1: Factors that Lead to Unjust Compensation

- Poorly drafted laws and regulations create confusion, error, conflicting outcomes, and opportunities for abuse of power.
- Determination of equivalent compensation is difficult when people do not have clear legal rights to the land.
- Affected owners and occupants often have less negotiating power, experience, and skills than the acquiring agency. They may be unaware of their rights, and under pressure to accept a low offer to be able to resettle elsewhere quickly. The rich may be able to afford professional advice on the value of compensation, but the poor are likely to be at a disadvantage.
- A lack of standards and good governance practices allows corrupt officials to provide favourable compensation to those who offer bribes.
- An accurate valuation is problematic because it is time-consuming and expensive: each land parcel must be inspected to determine the value of the land and improvements. A shortage of skilled valuers will increase the time required to complete the work. It may be challenging to prepare reliable indicators for valuation when land sales are informal, or where markets do not exist or are just developing. It may also be difficult to financially quantify non-economic losses, e.g. religious, historical, or cultural claims to the land.
- News of the project may affect the market value of the land. Legislation that does not clearly state the basis for compensation may result in inequitably low compensation if values fall, and inequitably high compensation and greater costs to the government if values rise.
- Appeals processes that are expensive and difficult to use are accessible only to the rich. The poor may have little option but to accept the offer of compensation even if they believe it is inadequate.

Source: FAO (2008:25)



With reference to Box 2.1, it can be noted that there are several factors which can affect just compensation. One key issue in fair compensation is coming up with well-crafted statutes which are clear on how the compensation is to be estimated and paid. This also relates to issues like well-defined compensable heads of claim, valuation date and method as well as setting out clear prerequisites for the expropriation process. Equally crucial in statutory provisions is the issue of protection of property rights. If property rights are not legally provided and protected, then fairness in compensation might be compromised.

It can be noted from Box 2.1 that capacitation and representation of affected people are key in the fairness debate. If affected people (especially the poor) are not supported, they can end up accepting unfair compensation due to their weak negotiating powers. Alemu (2013) recommends that affected people need to have valuation and/or legal assistance when negotiating for compensation. It is prudent to make it a statutory requirement for the government to capacitate affected people so that they will make informed decisions. If the government cannot provide the much-needed support to displaced people, then non-governmental organisations can come in to close this gap and make sure that affected people have proper professional representation during negotiations for compensation.

Another related point is the issue of good governance; if there are no strict legal provisions with punitive measures to curb the scourge of corruption, then fairness can be compromised. Uwayezu & de Vries (2019) reiterated that if the property valuers assigned to estimate the compensation quantum are not independent, the chances are that the compensation will not be fair. Again, this is a statutory issue, but most importantly, it will require efficient monitoring mechanisms.

These factors will be used as a reference point for this study when considering if the existing statutes and practices in Zimbabwe result in just compensation. This study's fourth objective is to recommend a Zimbabwean framework for property valuation for compensation in line with international best practice. A pertinent question which must be answered is do we have an internationally acceptable standard which can be used as a benchmark for the proposed framework. One might ask, why not use international property



valuation standards? The next section focuses on international best practice on property valuation for expropriation.

Fairness in compensation can also be compromised when there are delays in compensation. Even if the estimated compensation value might be fair at the time of estimation, if there are delays in payment, then the value might be eroded due to inflation. The fairness of delayed compensation is usually challenged due to changes in circumstances. Statutory provisions can also deal with this issue by specifying the period which the compensation must be paid, for it to be considered fair. Also, attaching an interest for delayed payment can help to guarantee fairness in cases of delayed compensation.

Box 2.1 highlights the need to have appeal mechanisms. Grievance resolution mechanisms must be clearly spelt out in statutes and affected people must be informed well in advance (WB, 2004). Just providing an appeal mechanism might not be enough if the cost of the appeal is beyond the reach of those affected. It is therefore important to make statutory requirements for either the expropriating authority to bear the legal costs of appeal or to make the costs affordable to affected persons. Furthermore, non-governmental organisations can help affected people to get appropriate professional advice and representation.

2.6. A Framework for Property Valuation for Expropriated Properties

As discussed in Chapter 1, this study seeks to propose a framework for property valuation for expropriation and compensation, which espouses international best practice. The previous section discussed expropriation and compensation, but no discussion was done on international best practice. Before discussing international best practice, one might ask, what is a framework? A framework can be defined as a base which acts as a foundation and gives support and shape to something. It can be compared to a “skeleton”. Property valuation has its own “skeleton” which is designed by the IVSC. According to IVSC (2013), a property valuation framework provides generally acceptable principles and concepts which guide property valuation. What it means is that property valuers follow international property valuation standards in their work as guided by the IVS framework.



The IVSC is an independent non-profit organisation which sets standards for property valuation. It has 130 member organisations operating in 137 countries and regions across the world as shown in Box 2.2.

Box 2-2: Countries/regions where IVSC Member Organisations Operate

Arabia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Bulgaria, Bosnia and Herzegovina, Botswana, Brazil, Canada, China, Colombia, Costa Rica, Croatia, Czech Republic, Egypt, Finland, France, Germany, Georgia, Hong Kong, India, Indonesia, Ireland, Israel, Italy, Japan, Kazakhstan, Kenya, Kosovo, Kuwait, Latvia, Lithuania, Macedonia, Malaysia, Malawi, Mexico, Mongolia, Montenegro, Namibia, Nepal, New Zealand, Nigeria, Norway, Oman, Peru, Philippines, Qatar, Romania, Russia, Rwanda, Saudi Arabia, Singapore, South Africa, South Korea, Serbia, Slovakia, Slovenia, Spain, Sri Lanka, Switzerland, Sweden, Thailand, The Netherlands, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States of America, Vietnam.

Source: <https://www.ivsc.org/about/members/our-members> (Accessed 12/01/2021)

Property valuation for expropriation is unique in that its framework is provided by national statutes. Kakulu (2008a) points out that in property valuation for compensation, the valuer is not solely guided by IVS but country's local statutes. According to Alemu (2013), in property valuation for compensation, valuers do not have the choice of an appropriate valuation method to use but instead follow what is prescribed by the law. In this case, it can be deduced that a framework provided by national statutes supersedes the IVS framework. In view of the foregoing discussion, it can be noted that a framework for property valuation for expropriation is provided by national statutes (what can be referred to as legal framework).

A property valuation framework proposed by this study is centred on existing statutory provisions guiding property valuation for expropriated and compensation in Zimbabwe. The proposed framework draws lessons from international best practice; hence, the next section focuses on discussing international best practice on the subject under study.

2.7. International Best Practice on Property Valuation for Expropriation

International Valuation Standards (IVS) form a reference point upon which property valuation for different property classes and uses are done. However, currently, IVS does not cover property valuation for expropriation and compensation (Kakulu, 2008a). Without internationally acceptable standards to use as a reference point for a framework guiding

property valuation for expropriation, the question that remains is, how then can benchmarking with international best practice be done? Even though there are no international standards guiding property valuation for expropriation (Viitanen & Kakulu, 2009; Arul vikram & Murali, 2015), guidelines which include those prepared by FIG, WB and FAO can be considered as a point of departure. FIG is one of the leading international institutions in terms of membership and sphere of influence.

According to Nyarko (2014, 2019), guidelines by the WB and FAO have been accepted by many countries across the world. In this study, guidelines/recommendations from these institutions were adopted as reference points for internationally acceptable property valuation for expropriation standards. The next section discusses the guidelines provided by these three institutions.

Guidelines for compulsory acquisition and compensation prepared by FIG, WB and FAO can be used as yardsticks to measure the standards of the local statutes which guide property valuation for expropriation. FIG (2008) recommends market-based property valuation for expropriation, with fair value as the next best alternative. Definitions of both market and fair value are supposed to be derived from the IVS (FIG, 2008). In terms of the guidelines which are provided by FAO (2008), property valuation for compensation should be a summation of the value of land, improvements, and disturbance allowance. Both the FAO (2008) and WB (2004) concurs that property valuation for expropriation must be based on the replacement value principle. A summary of the FAO (2008) and WB (2004) guidelines is provided in Box 2.2.

Box 2-3: Guidelines for Calculation of Fair Compensation Value

The total compensation may be based on:

- Replacement value of the land: Where markets are active, the replacement cost of affected land, in either rural or urban areas, is based on fair market value (plus transaction costs and, in rural areas, any preparation costs). Alternatively, where markets are weak, replacement cost is calculated from the productive potential of agricultural or commercial land of equivalent size.
- Replacement value of improvements to the land: Where markets provide adequate information about the supply and cost of comparable substitutes, any replacement structure of equivalent market value, plus any transaction and relocation costs, may be appropriate. Where such market signals are absent or inadequate, replacement cost is equivalent to the delivered cost of all building materials, labour costs for construction, and any transaction or relocation costs (the cost of the land under the structure is considered in “Replacement Cost for Land,” above). Replacement cost can be calculated using the infrastructure schedule or contractors’ quotes.
- Replacement value of crops: When arrangements cannot be made to allow for harvest, the market value for lost cash crops is paid. In some countries, the value of the harvest is determined by the average market value of crops for the previous three years. In areas of predominantly subsistence production, good practice recommends that in-kind compensation be made for subsistence crops.
- Replacement value of trees: Where markets exist, the value of a tree of a specified age and use can be used to determine compensation rates. Where markets do not exist, surrogate values must be determined. For timber trees, the value of a tree equals that of the lumber. For fruit or fodder trees, the value is equal to the cumulative value of the fruit crop for its productive life (and any timber value). If replacement trees are provided, good practice indicates that compensation be based on the value of the harvests lost until the replacement trees come into full production (typically, 7–10 years). In the case of immature trees, a less costly alternative may be to directly supply seedlings as a replacement and provide compensation for the resulting delay in reaching fruit-bearing capacity.
- The value of any financial advantage other than market value that the person may enjoy by virtue of owning or occupying the land in question.
- Interest on unpaid compensation from the date of possession: Replacement cost includes a provision for inflation if payments are delayed.
- Expenses incurred as a direct and reasonable consequence of the acquisition.
- Loss in value to other land owned by the affected owner due to the project: In some countries, the compensation will be reduced if the retained land increases in value as a result of the project, a condition sometimes referred to as “betterment”.
- Legal or professional costs including the costs of obtaining advice, and of preparing and submitting documents: Any administrative charges, title fees, or other legal transaction costs must be paid by the project or waived.
- Costs of moving and costs of acquiring alternative accommodation.
- Costs associated with reorganisation of farming operations when only a part of a parcel is acquired.
- Loss in value of a business displaced by the acquisition, or if the business is permanently closed because of the acquisition.
- Temporary loss of earnings.
- Personal hardship.
- Other losses or damages suffered.

Source: (FAO, 2008: 31; WB, 2004:52)



With reference to Box 2.2, the whole idea of compensation at replacement value is to provide fair compensation which restores the living standards and not impoverish the displaced persons. It can be noted that where there is market data, replacement value for compensation must be determined from the market. Furthermore, the WB (2004) recommends that depreciation on improvements is not supposed to be deducted from the compensation amount. This is done so that the compensation amount will be adequate to replace the improvement with an equivalent or better structure. Of paramount importance is also the issue of nontangible assets which might need to be compensated. It can be noted that nontangible assets are not easy to quantify; therefore, it is recommended to negotiate and agree on the acceptable fair value.

The FAO (2008) guidelines stipulate that before the land is expropriated, a notice must be sent to the displaced people using local media and a language which can be understood by the affected people. The notice is to be circulated on local media using a local language over three months (FAO, 2008). Also, FAO (2008) emphasise the importance of recognising customary land rights when estimating property valuation for compensation of customary land.

The FAO (2008) guideline recommends that the appeal is supposed to be done either at a very low cost or free of charge. According to FIG (2010), reasonable costs of the appeal are supposed to be paid by the expropriating authority. The term 'reasonable' is used and can be interpreted to mean that if an appeal is made without justifiable grounds, then the affected person will have to meet the cost. This might be done to discourage those who might decide to appeal just for the sake of delaying the expropriation process. In this case, chancers can be deterred from unnecessary objections and appeals. Other important aspects of compensation for expropriation are the date of valuation and payment of compensation. Statutes are supposed to be specific on the date of valuation and recommend the use of the date of notice as the valuation date (FAO, 2008; FIG, 2010).

Statutes are expected to be specific on when exactly compensation is supposed to be paid. FAO (2008) recommends that a substantial amount of compensation is supposed to be paid before the expropriated property can be possessed. The recommendations by FIG (2010)



are that a once-off payment of compensation must be paid in due time and most preferably in cash. FIG (2010) recommends that the law must consider the issue of valuation inaccuracy. This is done to make sure that the expropriating authority will take responsibility of taking all necessary measures so that the estimated compensation is accurate. If it is proven that the estimated value was inaccurate due to negligence or any other avoidable factors, the law, in this case, can provide room for recourse. The existing property valuation framework in Zimbabwe is benchmarked with the guidelines discussed above in the next section.

2.8. Chapter Summary

This chapter has provided a clear picture necessary for the comprehension of key issues related to property valuation for expropriation. Key issues discussed include internationally acceptable property valuation for expropriation standards, consistency in property valuation for expropriation as well as the fairness of compensation and the level of satisfaction of displaced people. It was noted from the reviewed literature that there are no international standards guiding property valuation for expropriation. The practice of property valuation for compensation is guided by domestic laws which are not standardised. However, there are existing guidelines from, the WB, FIG and the FAO which can be used as a benchmark for international best practice. Lastly, the foregoing discussion on the fairness of compensation value indicates that consistency, public participation, and availability of appeal mechanisms can be used as yardsticks to measure fairness. The chapter to follow (Chapter 3) discusses property valuation for expropriation in selected international and regional countries in line with the research objectives discussed in Chapter 1.

CHAPTER 3 - COMPULSORY LAND ACQUISITION AND COMPENSATION IN SELECTED COUNTRIES

3.1. Introduction

In this chapter, statutes which guide property valuation for expropriation and compensation in selected countries and of Zimbabwe are reviewed. This chapter is divided into 3 sections in the following fashion: Section 3.2. discusses laws guiding expropriation and compensation in selected countries, Section 3.3. focuses on laws guiding expropriation and compensation in Zimbabwe and Section 3.4 summarises this chapter.

3.2. Laws guiding Expropriation and Compensation in Selected Countries.

Statutory provisions of laws from thirty-three countries from Africa, Australia, Asia, Europe and North America were reviewed. Table 3.1 shows a list of selected countries grouped in terms of their continents.

Table 3-1: List of Selected Countries

List of Countries by continent					
Africa	Australia	Asia	Europe	North America	
1. Botswana	1. New South Wales	1. India	1. Czech Republic	1. Canada	
2. Ethiopia	2. Queensland	2. Fiji Island	2. Moldova	2. Jamaica	
3. Ghana	3. South Australia	3. Malaysia	3. Netherlands	3. United States of America	
4. Kenya	4. Tasmania	4. Taiwan	4. Poland		
5. Malawi	5. Victoria		5. Russia		
6. Namibia	6. Western Australia		6. Slovenia		
7. Nigeria			7. Turkey		
8. Rwanda			8. United Kingdom		
9. South Africa					
10. Tanzania					
11. Uganda					
12. Zambia					

Source: Adopted and modified from Tagliarino (2017)

As shown in Table 3.1, statutes of 12 countries from African, 6 Australian countries, 4 countries from Asia, 8 European countries and 3 countries from North America were



reviewed. Statutes were obtained from online from official websites of selected countries as discussed in detail in Chapter 4.

This section is divided into 6 parts as follows: 3.2.1 discusses the provisions on notice of intention to expropriate and 3.2.2 dwells on social impact assessment and rehabilitation of affected persons. Section 3.2.3 focuses on property valuation for compensation and 3.2.4 is centred on discussing compensable heads of claim. The last 2 sections (3.2.5 and 3.2.6) discuss interest for delayed compensation and dispute resolution, respectively.

3.2.1. Notice of Intention to Expropriate

This section focuses on the methods and media used by the expropriating authority to inform affected people about its intention to expropriate the subject property as summarised in Table 3.2. Furthermore, the discussion to follow also covers the issue of notice period. Please note that the acronym and symbols used in the tables to follow means the following: NC is used when the statute was not clear on the area under discussion, √ means the provision is clearly provided and X is used when it is clear that the provision is not provided by the reviewed statute(s).



Table 3-2: Legal Provisions on Notice of Expropriation

Country	Mode of communication								
	Government Gazette/ expropriation order	Newspaper	Government Website	Electronic mail	Registered Mail	Served personally/ Hand delivery	Fixed on the property/ left with anyone occupying the property	Notice board	Public meetings
Botswana	√	√	X	X	X	√	√	X	√
Ethiopia	√	NC	NC	NC	NC	NC	NC	NC	NC
Ghana	√	√	X	X	X	√	√	X	X
Kenya	√	√	X	X	√	√	X	X	X
Malawi	√	X	X	X	√	√	√	X	X
Namibia	√	√	X	X	√	√	X	X	X
Nigeria	√	√	X	X	√	√	√	X	X
Rwanda	NC	NC	NC	NC	NC	NC	NC	NC	NC
South frica	√	√	X	X	X	NC	X	X	X
Tanzania	√	X	X	X	X	√	√	X	X
Uganda	√	NC	X	X	√	X	√	X	√
Zambia	√	X	X	X	√	√	√	X	X
New South Wales	√	√	X	X	X	√	X	√	X
Queensland	√	√	X	X	X	√	X	√	X
South Australia	√	√	X	X	X	√	√	X	X
Tasmania	√	√	X	X	X	√	√	X	X
Victoria	√	√	X	X	X	√	X	X	X
Western Australia	√	√	X	X	√	√	X	X	X
India	√	√	√	X	√	X	X	X	√
Fiji Island	NC	NC	NC	NC	NC	NC	NC	NC	NC
Malaysia	√	X	X	X	X	√	X	X	X
Taiwan	NC	NC	NC	NC	NC	NC	NC	NC	NC
Czech Republic	NC	NC	NC	NC	NC	NC	NC	NC	NC
Moldova	NC	NC	NC	NC	NC	NC	NC	NC	NC
Netherlands	NC	NC	NC	NC	NC	NC	NC	NC	NC
Poland	NC	NC	NC	NC	NC	NC	NC	NC	NC
Russia	NC	NC	NC	NC	NC	NC	NC	NC	NC
Slovenia	NC	NC	NC	NC	NC	NC	NC	NC	NC



Turkey	NC	NC	NC	NC	NC	NC	NC	NC	NC
United Kingdom	√	√	√	X	X	X	√	X	X
Canada	√	√	X	X	√	X	X	X	X
Jamaica	√	√	X	X	X	√	√	X	X
United States of America	NC	NC	NC	NC	NC	NC	NC	NC	NC

Source: Government of Fiji (1940), Government of Botswana (1955, 1966), Government of Malaysia (1960), Government of Uganda (1965), Government of Ethiopia (1960, 2005), Government of the United Kingdom (1965, 1991), Government of Queensland (1967), Government of Tanzania (1967), Government of South Australia (1969), Government of Zambia (1970), Government of United States of America (1970, 1988), Government of South Africa (1975), Government of Canada (1985), Government of Victoria (1986), Federal Government of Nigeria (1990a, 1990b), Government of New South Wales (1991), Government of Ghana (1992), Government of Tasmania (1993), Government of Russia (2001), Government of Malawi (2016, 2017), Government of Namibia (1995), Government of Western Australia (1997), Government of Taiwan, (2000), Government of Kenya (2012), Muriithi (2013), Government of India (2013), Chang (2016).



With reference to Table 3.2, it can be noted that a statutory requirement for notifying affected people about the intention to expropriate is a common practice among the selected countries. Also, most countries used multimedia to serve the notice dominated by hand delivery, government gazette and newspaper whilst public meetings and notice boards are not commonly used. The use of multimedia is highly commendable as it can increase the chances of affected people being informed and make necessary decisions.

Also, hand delivery and registered mails are fairly provided by reviewed statutes. The idea behind hand delivery and registered mails might be that there will be proof of receipt since the recipient is required to acknowledge receipt by signing and it also ensures the government sent the notice to the correct person and address.

Embracing the use of technology to inform affected people about the intention to expropriate is notable. For example, publication of the notice in the government website which is prescribed by Section 13 of the *Land Acquisition (Just Terms Compensation) (Act No 22) (LAJTCA) of 1991* of the United Kingdom (UK) (Government of the United Kingdom, 1991). Also, notable is the use of electronic media in terms of Section 170 of the LAA of 1997 of New South Wales (Government of New South Wales, 1991). In this technological era, the society might not afford to run away from technology anymore. However, proof of receipt of notice is difficult to get when using electronic media but still they can be used to supplement other medium like registered mails and hand delivery.

Also notable is the affixing of the notice on or near the subject property. In as much as this can accommodate people who might have limited or no access to electronic media, one is tempted to challenge this because there is no proof to show that the intended recipient received the notice. What if the property in question is vacant and currently not in use, can the court just assume that the notice was served in this scenario? This provision might be abused by the expropriating authority at the expense of the expropriatees since the convenient places to fix the notice are chosen by the expropriating authority.

It is also important to note that there is no standard notice period from the reviewed statutes. For example, a ninety days' notice period is prescribed by Section 4 of the



Expropriation Act of 1985 of Canada, Sections 11, 12 and 13 of the *Land Acquisition (Just Terms Compensation) Act (LAJTCA) (No 22) of 1991* of New South Wales and Section 4 of the Expropriation of Land Holdings for Public Purposes and Payment of Compensation Proclamation (No. 455/2005) (ELHPPPCP) of 2005 of Ethiopia (Government of Canada, 1985; Government of New South Wales, 1991; Government of Ethiopia, 2005).

Other countries give a thirty days' notice for example, Section 5 of the *State Acquisition of Land Act (SALA) (1940)* of Fiji and Section 18 of the *Land Expropriation Act of 2000* of Taiwan (Government of Fiji, 1940; Government of Taiwan, 2000; Chang, 2016). One can be tempted to argue that a month's notice period is too short, such that the affected person might not have time to make meaningful arrangements, but other countries provide for a notice period less than a month. For example, the LAA of 1947 gives a twenty-one days' notice period (Government of Jamaica, 1947). A far much less period is prescribed by Section 5(2) of the *Land Acquisition Act of 1970* of Zambia which state that affected people are given a 4 weeks' notice period (Government of Zambia, 1970).

Other notable provisions on notice period are Section 77 of the *Land Act (Chapter 227) (LA) of 1998* of Uganda which provide for a six months' notice period (Government of Uganda, 1998) and Article 63 of the *Land Code (No. 136-FZ) of 2001* of Russia which provide for 1 year's notice period (Government of Russia, 2001). In terms of the same article, a period shorter than one year is only permissible if the affected people give their consent. One is justified to emulate this provision; a period of one year might be adequate for affected people to prepare for relocation. It also gives the expropriating authority ample time to negotiate with affected people and pay compensation before the relocation where necessary. Unless if there is an emergency like if the land is needed for defence or public protection during the period of war or natural disasters, there might be no justification for the expropriating authority to put affected people under pressure.

Another notable clause of the existing expropriation laws of Fiji and USA is a requirement government must apply for an expropriation order from a court of law. This requirement can be commended on the grounds that it brings checks and balance in the expropriation process. The success of making the judiciary an overseer of the expropriation process is



dependent on the level of autonomy of such institutions. If the judiciary is not independent, then the chances are that it will simply rubber stamp decisions of the state. Also, one might argue that the idea of giving judiciary the oversight role can end up delaying the expropriation process, which can be a cost to the public who are the intended beneficiaries. The main idea is to balance private, and public interest; therefore, whether the judiciary or administrative route of expropriation is adopted, the result must strive to attain that balance.

It is also important to note that in the United Kingdom, the expropriating authority cannot enter the expropriated property without adequate notice as provided by Section 5 of the *Compulsory Purchase Act (CPA) of 1965* and there is a penalty breaching this provision (Denyer-Green, 2014). Similarly, Section 87 of the *Land Acquisition, Rehabilitation and Resettlement Act (No. 30) (RFTLARRA) of 2013* of India brings the issue of accountability in expropriation. Any contravention of the law done by members of the expropriation authority the head of that team is held accountable if found guilty of such an offence. This is commendable because there is a notable dearth of statutory requirements for expropriating authority to account for its actions during the expropriation process in most statutes which were reviewed.

Section 4 of the *CPA of 1965* of the United Kingdom stipulates that the life span of a compulsory purchase order is three years (Government of the United Kingdom, 1965). It means that if the expropriating authority fails to take possession of the expropriated property within the stipulated time, it will have to restart the process again.

3.2.2. Social Impact Assessment and Rehabilitation of Affected Persons

As highlighted in Section 3.2, this section dwells on the provision for social impact assessment prior to expropriation and rehabilitation of affected people after the expropriation in selected statutes. Table 3.3 is a summary of the findings of the statutory analysis.



Table 3-3: Provision for Social Impact Assessment Prior to Expropriation

Country	Social Assessment	Impact	Rehabilitation
Botswana	X		X
Ethiopia	X		X
Ghana	X		X
Kenya	X		X
Malawi	NC		NC
Namibia	X		X
Nigeria	X		X
Rwanda	X		X
South frica	X		X
Tanzania	X		X
Uganda	NC		NC
Zambia	X		X
New South Wales	X		X
Western Australia	X		X
Queensland	X		X
South Australia	X		X
Tasmania	X		X
Victoria	X		X
India	√		√
Fiji Island	X		X
Malaysia	X		X
Taiwan	X		X
Czech Republic	X		X
Moldova	X		X
Netherlands	X		X
Poland	X		X
Russia	NC		NC
Slovenia	X		X
Turkey	X		X
United Kingdom	X		X
Canada	X		X
Jamaica	X		X
United States of America	NC		X

Source: Government of Fiji (1940), Government of Botswana (1955, 1966), Government of Malaysia (1960), Government of Uganda (1965), Government of Ethiopia (1960, 2005), Government of the United Kingdom (1965, 1991), Government of Queensland (1967), Government of Tanzania (1967), Government of South Australia (1969), Government of Zambia (1970), Government of United States of America (1970, 1988), Government of South Africa (1975), Government of Canada (1985), Government of Victoria (1986), Federal Government of Nigeria (1990a, 1990b), Government of New South Wales (1991), Government of Ghana (1992), Government of Tasmania (1993), Government of Malawi (2016, 2017), Government of Namibia (1995), Government of Western Australia (1997), Government of Taiwan, (2000), Government of Russia (2001), Government of Kenya (2012), Muriithi (2013), Government of India (2013), Chang (2016).



With reference to Table 3.3, it can be noted that only India provided for social impact assessment (SIA) prior to expropriation. Section 7 of the *Land Acquisition, Rehabilitation and Resettlement Act (No. 30) (RFTLARRA) of 2013* of India is unique in that it required social impact assessment to be done by independent institutions prior to the expropriation (Government of India, 2013). The social impact assessment aims to establish the extent to which the interested persons will be affected by the proposed expropriation. Adoption of the social impact assessment is most likely to bring fairness in compensation; especially is it is done by independent agents.

Furthermore, Section 31 of the *RFTLARRA of 2013* requires rehabilitation and resettlement of displaced people as part of compensation. In this case, the expropriation authority might go an extra mile after paying monetary compensation and make sure that the affected persons are not suffering after the expropriation (Government of India, 2013).

3.2.3. Property Valuation for Compensation

In this section the discussion will be centred on institutions or individuals who are mandated to estimate the compensation to be paid to affected people as presented in Table 3.4. Further discussion is also done to include statutory provisions on the valuation date.



Table 3-4: Property valuation for expropriation

Country	Estimation of the compensation value			
	Done by government valuers	Done by registered private valuers	Done by a committee/ commission	Negotiated between expropriatees and government
Botswana	√	√	X	X
Ethiopia	√	X	√	X
Ghana	√	X	X	X
Kenya	NC	NC	NC	NC
Malawi	X	√	X	X
Namibia	X	X	X	√
Nigeria	√	X	X	X
Rwanda	NC	NC	NC	NC
South frica	√	√	X	X
Tanzania	NC	NC	NC	NC
Uganda	√	X	X	X
Zambia	√	X	X	X
New South Wales	NC	NC	NC	NC
Western Australia	NC	NC	NC	NC
Queensland	NC	NC	NC	NC
South Australia	NC	NC	NC	NC
Tasmania	NC	NC	NC	NC
Victoria	NC	NC	NC	NC
India	√	X	X	X
Fiji Island	NC	NC	NC	NC
Malaysia	√	√	X	X
Taiwan	NC	NC	NC	NC
Czech Republic	NC	NC	NC	NC
Moldova	X	X	X	√
Netherlands	√	X	X	X
Poland	X	X	√	X
Russia	NC	NC	NC	NC
Slovenia	NC	√	X	X
Turkey	X	X	√	X
United Kingdom	√	X	X	X
Canada	NC	NC	NC	NC
Jamaica	X	X	X	√
United States of America	NC	X	X	√

Source: Government of Uganda (1965), Government of Botswana (1955), Government of United States of America (1970, 1988), Government of New South Wales (1991), Government of Taiwan (2000), Government of Russia (2001), Government of Moldova (2002), Government of Ethiopia (2005), Larbi (2008), Zrobek (2010), Government of India (2013), Sumrada et al. (2013), Government of South Africa (2014), Government of Namibia (2014), Tanrivermiş & Aliefendioğlu (2017), Government of Malawi (2017), Buzu (2019), Kosareva, Baykova & Polidi (2019).



As shown in Table 3.4, the common practice is that property valuation for expropriation is done by government valuers. Notable is Section 8 of the *Land Acquisition Act of 1947* of Jamaica and Sections 4630 of the *the Uniform Relocation Assistance and Real Property Acquisition Act (Chapter 6) (URARPAA) of 1970* of the United States of America which prescribes negotiated compensation (Government of Jamaica, 1947; Government of the United States of America, 1970). A statutory requirement for negotiations between the affected people and government is key to the creation of an environment where the expropriatee actively participates during the whole compulsory acquisition process. This might also help to identify areas of disagreements at the initial stages of the expropriation and come up with migratory measures.

Also, Sections 4630 of the *URARPAA of 1970* of the United States of America gives affected people or their representatives a choice to accompany property valuers during the inspection of the affected properties (Government of the United States of America, 1970). Allowing affected people to be actively involved during the inspection process can help improve their satisfaction and reduce suspicion among parties.

The valuation and notice dates are the same in terms of Section 14 subsection (i) paragraph (a) of the *LAA of 1947* (Government of Jamaica, 1947). This provision is commendable because property values can change drastically after the publication of the notice, so if the notice date is the same as the valuation date, then any changes in value after the notice will not affect the expropriatee. Furthermore, if the valuation date is not clearly spelt out in the guiding statutes, it can result in legal battles since the expropriating authority and the expropriatee can base their value on different dates.

3.2.4. Heads of Claim

This section discusses prescribed heads of claim focusing on whether the law provide for compensation for market value of the expropriated property, disturbance allowance, injurious affection, severance, financial loss and solatium as presented in Table 3.5.



Table 3-5: Compensable Heads of Claim

Country	Compensable heads of claim					
	Market value of subject property	Disturbance allowance	Injurious affection	Severance	Financial loss	Solatium
Botswana	√	√	√	√	√	X
Ethiopia	NC	NC	NC	NC	NC	NC
Ghana	√	√	√	√	X	X
Kenya	NC	NC	NC	NC	NC	NC
Malawi	√	√	√	√	√	NC
Namibia	√	√	NC	NC	√	NC
Nigeria	√	√	X	X	NC	X
Rwanda	NC	NC	NC	NC	NC	NC
South Africa	√	√	√	√	√	√
Tanzania	√	√	NC	NC	√	X
Uganda	√	√	√	√	X	X
Zambia	√	X	√	√	X	X
New South Wales	√	√	√	√	√	√
Western Australia	√	√	√	√	√	√
Queensland	√	√	√	√	√	√
South Australia	√	√	√	√	√	√
Tasmania	√	√	√	√	√	√
Victoria	√	√	√	√	√	√
India	√	√	√	√	√	√
Fiji Island	√	√	√	√	NC	NC
Malaysia	√	√	√	√	NC	√
Taiwan	√	√	NC	NC	√	NC
Czech Republic	√	√	NC	NC	√	NC
Moldova	√	NC	NC	NC	NC	NC
Netherlands	√	√	√	√	√	NC
Poland	NC	NC	NC	NC	NC	NC
Russia	√	NC	√	√	√	NC
Slovenia	NC	NC	NC	NC	NC	NC
Turkey	NC	NC	NC	NC	NC	NC
United Kingdom	√	√	√	√	√	NC
Canada	√	√	NC	NC	NC	√
Jamaica	√	√	√	√	√	NC
United States of America	√	√	√	√	√	NC

Source: Government of Fiji (1940), Government of Botswana (1955, 1966), Government of Zambia (1970), Government of United States of America (1970, 1988), Government of the United Kingdom (1973), Government of South Africa (1975), Federal Government of Nigeria (1990a, 1990b, 2007), Government of Uganda (1998), Government of Tanzania (1999), Government of Taiwan (2000), Government of Russia (2001), Government of Ethiopia (2005), Hobma & Wijting (2007), Williams (2008), Mangioni (2008a, 2008b), Larbi (2008), Du Plessis (2009, 2015), Government of Kenya (2012), Government of India (2013), Denyer-Green (2014), Ndjovu (2016), Holtslag-Broekhof et al., (2018), Parker, (2019), Hassan (2019).



With reference to Table 3.5 heads of claim which are commonly provided in the reviewed statutes include disturbance allowance, injurious affection, severance, and financial loss. Solatium is the least prescribed compensable head of claim. Also, most statutes provide for market-based compensation.

Equally important in the compensation debate is the period in which full compensation is supposed to be paid. There is no standardisation in the provisions of selected laws on the period of compensation. Some statutes require compensation to be paid before the subject property can be expropriated. For example, Sections 6 and 73 of the *LA of 1998* the *Land Act of 1998* of Uganda and Section, 4630 (4) of the *the Uniform Relocation Assistance and Real Property Acquisition Act (Chapter 6) (URARPAA) of 1970* of the United States of America as well as Article 1478 of the Title IX of the *Civil Code of the Empire of Ethiopia (Proclamation No. 165) (CCEE) of 1960* of Ethiopia read together with Section 3 of the *Expropriation of Land Holdings for Public Purposes and Payment of Compensation Proclamation (No. 455/2005) (ELHPPCP) of 2005* of Ethiopia (Government of Ethiopia, 1960, 2005; Government of the United States of America, 1970; Government of Uganda, 1998).

Section 8 of the *Lands Acquisition (Amendment) Act (No.9) (LAAA) (2017)* of Malawi dictates that compensation must be paid in advance, in one lump sum before the displacement of affected people (Government of Malawi, 2017). In this case, it can be noted that if the government cannot meet the compensation prerequisite prior to possession of an individual's property, then it cannot proceed to take the property in question. This clause might make the government to expropriate only when necessary and after proper planning which considers budget issues. Also, one will be justified to argue that the lump sum provision is commendable because it might help to protect the affected persons against the erosion of their compensation when compensation is delayed.

Section 43 of the United Kingdom's *Land Acquisition (Just Terms Compensation) (Act No 22) (LAJTCA) of 1991* requires the proposed compensation amount to be included in the notice of intention to expropriate (Government of the United Kingdom, 1991). Including the compensation offer in the notice can be translated to mean that the property valuation

for compensation is supposed to be done before the date of the notice. This is based on the reasoning that for the offer to be included in the notice, it must be estimated in advance.

In Taiwan compensation for the expropriated properties must be paid within the 15 days of publishing a notice of the intention to expropriate as prescribed by Section 19 of the *LEA of 2000* (Government of Taiwan, 2000). In Poland, compensation is paid not later than 2 weeks after adopting the decision to expropriate in terms of Articles 128–135 of the *of 1997* (Walacik & Zrobek, 2010). Articles 128-135 of Real Estate Management Act (REMA) of 1997 of Poland which specifies that compensation must be paid within 14 days from adoption of the expropriation decision or Section 19 of the Land Expropriation Act of 2000 of Taiwan which state that compensation is supposed to be paid 15 days after publishing the notice (Government of Poland, 1997; Government of Taiwan, 2000).

3.2.5. Interest for Delayed Payment

Table 3.6 is a summary of provisions of reviewed statutes on interest for delayed compensation. The information presented shows whether the the provisions on interest is provided in the principal statute, is prescribed by another statute, or is determined by a court of law.

Table 3-6: Provisions on Interest on Delayed Compensation

Country	Stipulated interest per annum		
	Specified in the principal statute	Prescribed in another statute	Determined by a court of law
Botswana	√	X	X
Ethiopia	X	X	X
Ghana	√	X	X
Kenya	NC	NC	NC
Malawi	X	X	X
Namibia	X	√ (<i>State Finance Act of 1991</i>)	X
Nigeria	√ (bank rate)	X	X
Rwanda	√ (5%)	X	X
South Africa	X	√ (<i>Financial Adjustments Act of 1917</i>)	X
Tanzania	√ (6%)	X	X
Uganda	X	X	X
Zambia	X	X	X
New South Wales	√	X	X
Western Australia	X	√ (<i>Civil Judgments Enforcement Act of 2004</i>)	X
Queensland	X	X	√



South Australia	X	X	√
Tasmania	√	X	X
Victoria	√ (published in the Government Gazette)	X	X
India	√ (9%)	X	X
Fiji Island	X	X	√
Malaysia	√ (8%)	X	X
Taiwan	NC	NC	NC
Czech Republic	X	X	√
Moldova	NC	NC	NC
Netherlands	NC	NC	NC
Poland	X	X	√
Russia	X	X	X
Slovenia	√	X	X
Turkey	NC	NC	NC
United Kingdom	√	X	X
Canada	√	X	X
Jamaica	√ (5%)	X	X
United States of America	X	X	√

Source: Government of Fiji (1940), Government of Botswana (1955), Government of Malaysia (1960), Government of Uganda (1965, 1998), Government of the United Kingdom (1965, 1973, 1991), Government of Queensland (1967), Government of Tanzania (1967), Government of Ghana (1962), Government of South Australia (1969), Government of Zambia (1970), Government of Malawi (1970), Government of United States of America (1970, 1988), Government of South Africa (1975), Government of Ethiopia (1975), Government of Victoria (1986), Federal Government of Nigeria (1990a), Government of New South Wales (1991), Government of Tasmania (1993), Government of Namibia (1995), Government of Canada (1985), Government of Poland (1997), Government of Russia (2001), Government of Rwanda (2007), Government of Kenya (2012), Government of India (2013), Alemu (2013), Denyer-Green (2014)

With reference to Table 3.6 (second column), interest for delayed compensation for expropriation is prescribed in the principal expropriation statutes of some selected countries. There is no uniformity in the prescribed rates which ranges from 5% to 9% in statutes which specifies the rate to be applied. However, it is not clear whether the stated rates are scientifically derived or not. As a result, one might be justified to challenge these stated interest rate as they might not be market related hence fairness, in this case, might be questionable. If these predetermined rates are not be market related, the delayed compensation will be eroded by inflation. One might be justified to commend Section 29 of Nigeria's *Land Use Act (Chapter 202) of 1990* which can better protect expropriatees as it makes use of a bank rate when compensation is delayed (Government of Nigeria, 1990). In this case the interest paid for delayed payment is most likely going to be market related.

Some countries as shown in the second column of Table 3.6 (third column) use rate which are prescribed in statutes other than the principal expropriation act. A typical example is Section 12 subsection (3) of South Africa's *Expropriation Act of 1975* which states that a rate of state loan as prescribed by the *Financial Adjustments Act of 1917* must be used (Government of South Africa, 1975). It can be argued that establishing the interest rate on state loan rate is better as compared to working on a predetermined interest rate as it is most likely that the state loan rate will be changing from time to time in response to market trends. However, it is essential to note that in most cases, government interest rates are lower than market interest rates. Suppose one is to look at this issue from the difference between government interest rates and market-based interest rates, it might be justified to conclude that using government loan interest might disadvantage the affected persons. The disadvantage might come from the fact that if the affected persons are to replace their expropriated property, they may have to buy it at the prevailing open market rates which are likely to be above the government loan rates.

As shown in the last column of Table 3.6, statutes of some selected states that the interest rate for delayed payment of compensation is determined by a court of law. A good example is that of Section 28 of the *Land Act (LA)* of 1967 of Queensland (Government of Queensland, 1967). The use of courts to determine the interest rates can also help in bringing fairness in the compensation process.

3.2.6. Appeal, and Dispute Resolution

The appeal and dispute resolution process provided by statutes of selected countries are discussed in this section. Table 3.7 shows the institution responsible for dispute resolution as provided by statutes of each of the thirty-three selected countries.

Table 3-7: Statutory provisions on Appeal and Dispute Resolution

Country	Institutions responsible for dispute resolution	
	Courts	Independent committee/ commission/ tribunal
Botswana	√	X
Ethiopia	√	√
Ghana	√	√
Kenya	√	X
Malawi	√	X



Namibia	√	√
Nigeria	X	√
Rwanda	X	√
South frica	√	X
Tanzania	√	X
Uganda	√	√
Zambia	√	√
New South Wales	√	X
Western Australia	√	X
Queensland	√	X
South Australia	√	X
Tasmania	√	√
Victoria	√	√
India	√	X
Fiji Island	√	X
Malaysia	√	X
Taiwan	√	X
Czech Republic	√	X
Moldova	√	X
Netherlands	√	X
Poland	√	X
Russia	√	X
Slovenia	√	X
Turkey	√	X
United Kingdom	√	√
Canada	NC	NC
Jamaica	√	X
United States of America	√	X

Source: Government of Fiji (1940), Government of Botswana (1955, 1966), Government of Malaysia (1960), Government of Ethiopia (1960, 2005), Government of Uganda (1965, 1998, 1999), Government of Queensland (1967), Government of Tanzania (1967), Government of Zambia (1970), Government of Malawi (1970), Government of United States of America (1970, 1988), Government of South Africa (1975), Government of the United Kingdom (1981, 1991), Government of Victoria (1986), Federal Government of Nigeria (1990a, 1990b), Government of New South Wales (1991), Government of Ghana (1992), Government of Tasmania (1993), Government of Russia (1994, 2001), Government of Malawi (1970), Government of Namibia (1995), Government of Rwanda (2007), Hobma & Wijting (2007), Larbi (2008), Anim-Odame (2011), Government of Kenya (2012), Muriithi (2013) Sumrada et al. (2013), Government of India (2013), Nyarko (2014, 2019), Olima (2019)

Statutes of all the selected countries provide for settlement of disputes by either the courts or independent committee/commission/tribunal (here in after referred as independent institutions) or both as shown in Table 3.7. Eight countries provide for dispute resolution through both independed instutions and courts. The initial process dispute resolution is by independent institution with room to appeal in courts. In two countries courts are not involved in dispute resolution as it is the sole mandate of independent institutions. Courts have the sole responsibility to settle disputes related to expropriation and compensation in



twenty-one of the selected countries. In all the twenty-one countries the initial process of dispute resolution emanates in lower courts with room for appeal in higher courts.

Equally important in the discussion on dispute resolution for expropriation and compensation is the cost of appeal. For example, in Malaysia Section 30 of the *LAA of 1960* requires one to pay a deposit before one can make an appeal and Section 19, of the *APA of 1955* of Botswana prescribes that the costs of appeal will be shared by both the affected person and the expropriating authority (Government of Botswana, 1955; Government of Malaysia, 1960). Another notable example is Compensation disputes in Namibia are settled by the Lands Tribunal as provided for by Section 28 of the *ACLRA of 1995*, read together with Section 12(1) of the *Expropriation Ordinance 13 of 1978* of Namibia which state that the loser pays the cost of appeal (Government of Namibia, 1978, 1995). This clause might scare away displaced people from challenging the compensation since there might be a cost attached to the challenge. On the other hand, one might view it as a mechanism used to make sure that only those with serious issues will appeal thereby solving a challenge of people flooding the courts with unfounded claims. To some extent, loser pays principle addresses the issue of individuals who might unnecessarily delay the expropriation process at the expense of public interest. Having discussed laws guiding expropriation and compensation from selected countries in this section, the following section based on Zimbabwe which is the focus of this research.

3.3. Property Valuation for Expropriation and Compensation in Zimbabwe

Having discussed compulsory land acquisition and compensation in other countries in the last section, this section provides a detailed account of the same in the Zimbabwean context. It is prudent to give a brief background of Zimbabwe before reviewing laws guiding expropriation and compensation. The country profile is aimed at providing the reader with a better picture of the country and links it to the problem under study, as discussed in Chapter 1.



3.3.1. Zimbabwe Country Profile and Background Information

Zimbabwe is a former colony of Britain (formerly known as Southern Rhodesia), which gained its independence in 1980 through the *Lancaster House Agreement (LHC) of 1979*. At independence, Zimbabwe inherited a biased land tenure system whereby very few commercial farmers owned vast pieces of land at the expense of the African majority (United Nations Development Programme (UND), 2002; De Villiers, 2003).

In 2000, the Zimbabwean government adopted a land redistribution programme in which the government was acquiring vast pieces of land (Chimbetete, 2016) and distributing them to multitudes of the landless (Moyo, 2006) across the country's 10 administrative provinces. However, almost two decades later, the issue of compensation to dispossessed FCFs is yet to be settled. Mutema (2019) notes that there is some commitment from the current administration towards closing this compensating chapter.

Geographically, Zimbabwe occupies 390 757 km² between Limpopo and Zambezi rivers and has an estimated population of 13 061 239 (Zimbabwe National Statistics Agency, 2012; Government of Zimbabwe, 2018). It is a landlocked country which lies wholly within the tropics and shares its eastern border with Mozambique. Other neighbouring countries are Botswana, Zambia, and SA, as shown in Figure 3.1.

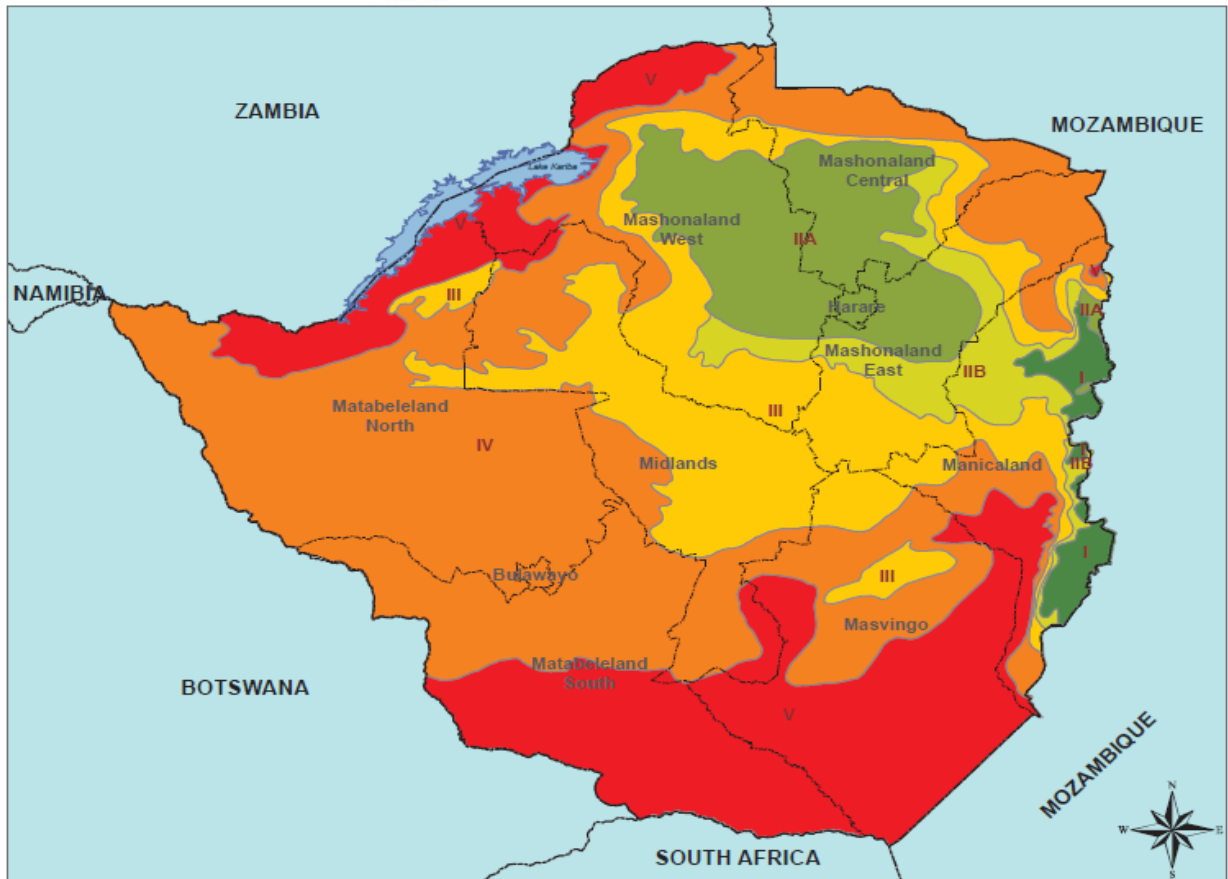


Figure 3-1: Map of Zimbabwe

Source: United Nations Office for Humanitarian Affairs (2009)

As shown in Figure 3.1, Zimbabwe has 10 administrative provinces, namely: Harare, Bulawayo, Matabeleland North, Matabeleland South, Midlands, Mashonaland West, Mashonaland East, Mashonaland South, Mashonaland Central and Manicaland. Besides the administrative boundaries, Figure 3.1 also shows Zimbabwe's 5 natural (ecological) regions. These natural regions which cut across administrative provinces map dominant farming activities in different areas across the country based on climate and soil quality. Table 3.8 provides a synopsis of the ecological zones of Zimbabwe.



Table 3-8: Characteristics of Zimbabwe's Ecological Regions

Region	Dominant Soil Type	Average Annual Rainfall	Dominant Farming Type
1	Red clay	More than 1000mm	Specialised and diversified farming (plantations, forestry, and intensive animal husbandry).
2A & B	Sandy loams	Between 750 to 1000mm	Intensive farming (cash crops and livestock production)
3	Sandy, acid, low fertility	Between 650 to 800 mm	Semi-intensive farming (cash crops and cattle ranching)
4	Sandy, acid	Between 450 - 650 mm	Semi-extensive farming (livestock production and drought tolerant fodder crops)
5	Sandy, infertile	Below 650mm	Extensive farming (ranching, forestry and game farming)

Source: Government of Zimbabwe (1984); International Soil Reference and Information Centre (2005); Marongwe, Nyagumbo, Kwazira, Kassam & Friedrich (2012); Mugandani, Wuta, Makarau & Chipindu (2012)

Property valuation of agricultural properties in Zimbabwe is influenced by (but not limited to) the location of the subject properties within the 5 natural regions, as shown in Figure 3.1. Another important factor which influences the value of agricultural properties is the existing land tenure system. As such, a discussion on expropriation and compensation in Zimbabwe cannot be complete without focusing on the existing land tenure systems. The next section focuses on land ownership and tenure systems in Zimbabwe.

3.3.2. Land Tenure Systems in Zimbabwe

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

Communal land is like state land in that it is also registered in the name of the president on behalf of the people of Zimbabwe as stated by Section 4 of the *CLA of 1982* (Thondhlana, 2015). The difference is that beneficiaries of communal land have usufruct rights (Mutema, 2003; Thondhlana, 2015), unlike beneficiaries of state land who have lease rights. Also,



communal land is administered by the rural district councils with the assistance of community leaders (Mutema, 2003) as provided by the Sections 5 and 9 of the *Traditional Leaders Act (TLA) (Chapter 29:17)* read together with Part 3 of the *CLA of 1982* (Government of Zimbabwe, 1982). In terms of Section 8 of the *CLA 1982* read together with Section 26 of the *TLA of 1998* and Section 4 of the *Communal Land Forest Produce Act (Chapter 19:04) (CLFPA) of 1987*, communal land in Zimbabwe can only be used for agricultural and residential uses (Government of Zimbabwe, 1982, 1987, 1998).

Council land is registered in the name of the relevant council in terms of Part 2 of the *Urban Councils Act (Chapter 29:15) (UCA) of 1997* (Government of Zimbabwe, 1997). Beneficiaries of council land usually have lease rights with an option to purchase. Private landholders (rural or urban) have registered freehold property rights which are registered (Section 10 of the *Deeds Registries Act (Chapter 20:05) of 1959*) (Government of Zimbabwe 1959). The next section focuses on compensation for expropriated properties in Zimbabwe.

3.3.3. Zimbabwe's Expropriation Debate

Some scholars are of the view that expropriation without compensation in Zimbabwe started around 1889 (Pazvakavambwa & Hungwe, 2009; Nyandoro, 2012; Njaya, 2013). The Royal Charter of Incorporation which was granted to the British South African Company (BSC) in 1889 gave eminent domain powers to the settlers (the BSC) (De Villiers, 2003; Pazvakavambwa & Hungwe, 2009) who went on to expropriate three quarters of the productive land from Africans between 1890 and 1902 (Bonarjee, 2013; De Villiers, 2003).

It is believed that the first recorded land ownership dispute in Zimbabwe was the Southern Rhodesia case which was brought before the Privy Council in 1918. The dispute was on the right of claim for the land in Southern Rhodesia (Zimbabwe) between the indigenous Africans, the BSC and the Crown (Britain) (De Villiers, 2003; Magaisa, 2010; Moyo, 2016). In its ruling, the Privy Council concluded that the rightful owner of the disputed land was the Crown (Moyo, 2016).



Since then, the land issue remained a thorny issue which culminated into fifteen years (1964 – 1979) of war which was ended by signing of the *Lancaster House Agreement of 1979* (UNDP, 2002; Magaisa, 2010; Government of Zimbabwe, 2013). According to Manjengwa, Hanlon and Smart (2014), the land issue was on top of the agenda during the Lancaster House Conference of 1979 negotiations which brought about the Zimbabwean independence. Magaisa (2010) points out that no lasting solution has been found to resolve land contestation issues in Zimbabwe decades after independence.

According to Nyambara (2001) and Nyandoro (2019), expropriation in Southern Rhodesian was guided mainly by the *Land Apportionment Act of the early 1930s*, the *Native Land Husbandry Act of 1951* and the *Land Tenure Act of 1969*. Many scholars agree that these laws were discriminatory in nature as productive land was allocated to whites and Africans were relegated to less productive areas (Worby, 2001; Thomas, 2003; Utete, 2003; Pazvakavambwa & Hungwe, 2009; Chivandi, Fushai & Masaka, 2010; Moyo, 2011a, 2011b; Nyandoro, 2012; Chirisa & Dumba, 2012; Kori, 2014; Manjengwa, Hanlon & Smart, 2014; Tom & Mutswanga, 2015).

Many people were displaced during the expropriation of land in Zimbabwe. For example, people were displacement from Tengwe in Mashonaland West Province around mid-1950s, and the land was given to the veterans of the Second World War as compensation for their participation in the war (Pazvakavambwa & Hungwe, 2009; Magaisa, 2010). Another example is the displacement of local communities from Kwekwe and Mvuma (natural region 3) that were relocated to Silobela and Gokwe (natural region 4) between 1965 and 1979 to pave the way for the establishment of the Central Estate ranches (Pazvakavambwa & Hungwe, 2009; Nyandoro, 2012, 2019). According to Nyandoro (2012: 306):

“Africans were only compensated for this loss by being given the exclusive right to purchase land in the so-called Native Purchase Area (NPA); otherwise they could move outright to what were then known as the native reserves (now communal areas).”

After independence in 1980, the Zimbabwean government repealed and replaced all discriminatory laws (UNDP, 2002; Shaw, 2003; Pilosof, 2012). During the first decade of



independence, compulsory acquisition of land in Zimbabwe was guided by the *LHC of 1979*. One of the conditions of this agreement which was incorporated into Section 16 the *LHC of 1980* was that the prompt and adequate compensation was to be paid for expropriated properties based on market value (Palmer, 1990; UNDP, 2002; Moyo, 2006; Njaya & Mazuru, 2010; Moyo, 2011a; Dabate, Jagero & Chiriga, 2014). This policy which was based on a willing buyer willing seller principle (Nyandoro, 2012; Mutema, 2019) was problematic since landowners offered unproductive land at inflated values (UNDP, 2002; Pazvakavambwa & Hungwe, 2009).

According to UNDP (2002:25):

“... Section 52 (3) (b) (i) of that Constitution, read together with its subsection (4), stipulated that provisions concerning fundamental rights (which included the property rights spelt out in Section 16) could not be amended for 10 years without an affirmative vote of all the members of the National Assembly – a body that guaranteed 20 seats to Zimbabwe’s white population during these first 10 years.”

According to Pilosof (2012, 2016), most of the commercial farms in Zimbabwe were owned by companies which purchased them after independence to enjoy tax benefits which were offered to companies in the agricultural sector.

Soon after the expiry of statutory provisions of Section 52 of the *LHC of 1980* in 1990, in the early 1990s, the Zimbabwean government amended Section 16 of the *LHC of 1980* and repealed the *LAA of 1985* (Ng'ong'ola, 1992; Moyo, 2000; Adams & Howell, 2001; UNDP, 2002; Thomas, 2003; De Villiers, 2003; Moyo, 2005; Chivandi, Fushai & Masaka, 2010). The overall aim was to simplify the compulsory acquisition and speed-up the resettlement process (De Villiers, 2003, Moyo, 2006). However, Ng'ong'ola (1992), Madhuku (1999) and Magaisa (2010) criticised some legal provisions which denied affected people the right to challenge the expropriation and compensation in a court of law.

The GoZ expropriated commercial farms in early 2000 without following the legal process (Cliffe, Alexander, Cousins & Gaidzanwa, 2011), in a bid to accelerate the acquisition of vast pieces of land and distribute it to multitudes of the indigenous landless (UNDP, 2002;



De Villiers, 2003; Masiwa & Chipungu, 2004; Moyo, 2006; Pazvakavambwa & Hungwe, 2009; Moyo, 2016).

Magaisa (2010) is of the view that the law was used to expropriate land without fair compensation to various people before and after independence in Zimbabwe. The author also points out that any compensation framework which can bring closure to the land compensation dispute in Zimbabwe has to take into consideration several victims who were affected in the past. Pilosof (2016) argues that the compensation issue in Zimbabwe is complicated in that FCFs benefited directly or indirectly from the land which was taken from native farmers without fair and adequate compensation. The next section focuses on compensation for farms expropriated for the Land Reform Programme in Zimbabwe.

3.3.4. Expropriation and Compensation for Land Reform in Zimbabwe

Even though Zimbabwe has been working on land reform since 1980 (Pazvakavambwa & Hungwe, 2009; Chimbetete, 2016; Mutema, 2019), it is the FTLRP which attracted global attention due to its violent nature and the displacement of multitudes (Pazvakavambwa & Hungwe, 2009; Scoones et al., 2011; Mutema, 2019). This was compounded by delayed payment of compensation due to a compensation dispute which took close to two decades (Moyo, 2006) as well as lack of government resources to finalise the compensation exercise (Chimbetete, 2016; Mutema, 2019).

Another factor which complicates the compensation matrix is lack of reliable information since some of the properties were vandalised during the FTLRP and the shortages of property valuers (Chimbetete, 2016; Mutema, 2019). Some of the FCFs challenged both the expropriation and compensation offered in local, regional, and international courts (Moyo, 2016; Chimbetete, 2016). As shown in Table 3.3, in 2016, most of the acquired properties were yet to be compensated, let alone being valued for compensation.



Table 3-9: A Summary of Farms Valued for Compensation as of 2016

Province	Acquired farms	Valued farms	Farms not valued	Challenged compensation value	Compensated farms	Remarks
Manicaland	722	240	482	17	194	17 BIPPA farms took GoZ to the International Centre for Settlement of Investment Disputes (ICSID)
Masvingo	469	220	249	0	28	0
Midlands	522	0	522	0	16	0
Mat North	510	105	405	0	5	0
Mat South	498	127	371	0	5	0
Mash East	1220	210	1010	0	36	0
Mash West	1391	371	1020	0	66	0
Mash Central	882	431	451	12	38	8 BIPPA farms took GoZ to ICSID, 4 farms went to Administration Court.
Total	6214	1704	4510	29	388	29
Percentage	100%	27.422%	72.578%	0.467%	6.244%	0.005%

Source: Chimbetete (2016:16)



It can be noted from Table 3.9 that in 2016 less than 28% of the total farms were valued. However, during the time of this study (2020), the valuation process was completed, and a Global Compensation Agreement (GCA) was signed between GoZ and FCFs, although the settlement of the agreed compensation is still outstanding.

It is also notable as depicted in Table 3.9 that few cases (less than 1%) were challenged legally, and only nationals of countries with bilateral agreements referred challenged their compensation. However, seventy-eight farms which were challenged in the Southern African Tribunal in 2008 (see Section 5.4.3.2.) were not included in the list of farms whose compensation value was challenged by Chimbetete (2016). The next section discusses the current legal framework guiding property valuation for expropriation in Zimbabwe.

3.3.5. Expropriation and Compensation of Communal Properties in Zimbabwe

Over the years, several studies were done on compensation for expropriated customary land to pave the way for different spatial development projects. Vengesai & Schmidt (2018) conducted a study on challenges of compensation and resettlement of urban development induced displacement using three case studies from the Midlands Province. They concluded that most affected people were not satisfied with the compensation paid by the expropriating authorities. Main issues raised from their study include undervaluation, delayed or non-payment of compensation as well as non-involvement of the affected persons during the expropriation. Vengesai & Schmidt (2018) recommend that there is a need to amend the *CLA of 1982* to align it with the provisions of the constitution and the *LAA of 1992*.

According to Vengesai & Schmidt (2018), most development induced displacements are characterised by conflicts between affected people and the expropriating authorities. Affected people tend to resist relocation if their sources of livelihoods are affected (Vengesai & Schmidt, 2018; Zimbabwe Environmental Law Association, 2018). One good example is that of the construction of the Kariba dam which resulted in the displacement, without compensation of 57,000 Tonga people from their communal land along the Zambezi River plains to Binga between 1957 and 1958 (Mashingaidze, 2013; Dhlakama,



2017; Vengesai & Schmidt, 2018; Zimbabwe Environmental Law Association, 2018). The Tonga people depended on the natural resources as a source of livelihoods; hence the dam project affected them negatively (Mashingaidze, 2013).

Dhlakama (2017) reviewed statutes which guide compulsory acquisition and compensation of communal land in Zimbabwe. The author noted inconsistencies between the *CLA of 1982*, the *LAA of 1992* and the provisions of the constitution. Key areas highlighted include provisions of the *Communal Land Act* which deals with the notice period and appeal procedure. Dhlakama (2017) also recommends that there is need to amend the *CLA of 1982* to align it to the provisions of the constitution. This include increasing the notice period and the number of media to be used when notifying affected people, as well as adding a provision on appeal against the decisions of the Minister in the Administrative Court.

In Chisumbanje (Manicaland Province) communal land was expropriated for the Greenfuel Ethanol project (Dhlakama, 2017; Zimbabwe Environmental Law Association, 2018). According to Thondhlana (2015), more than 1 700 communal landholders lost their land as the government created space for the Chisumbanje ethanol project, which is one of the largest private-owned ethanol plants in Africa. The acquisition process was not transparent as most of the affected people were not consulted. As a result, most of the affected people were not in support of the project and the displacement (ibid, 2015).

According to Konyana & Sipeyiye (2015), affected people were not consulted and some of them were not compensated and resettled. Thondhlana (2016) establishes that some affected people tried to resist and delay the completion of the ethanol project. Konyana & Sipeyiye (2015) recommended the need for compensation which is informed by a displacement impact assessment. This recommendation sounds good but, do the existing laws guiding compensation for expropriated communal land provide for this, or it can only be possible after statutory amendments?

Between 2010 and 2015, the construction of Tokwe-Mukosi dam project in Masvingo province displaced multitudes of communal landholders from Chivi and Masvingo districts (Gumindoga, Chikodzi, Rwasoka, Mutowo, Togarepi & Dube, 2014; Chazireni &



Chigonda, 2018; Zimbabwe Environmental Law Association, 2018; Vengesai & Schmidt, 2018; Mavhura, 2020). According to Vengesai & Schmidt (2018) and Mavhura (2020), at one point, some of the displaced households were made homeless and destitute after the dam flooded before they were relocated.

According to Chishanga (2014) and Marungwara (2014), people who were displaced by the Tokwe-Mukosi dam project were not satisfied with the compensation which was paid by the expropriating authority as most of them felt that it was inadequate. Mavhura (2020) also concludes that the compensation paid was inadequate since some of the properties were flooded during 2014, the land offered for compensation was small and some relocated costs were not covered.

In 2009, more than 1700 families were displaced from Chiyadzwa to Arda Transau (Manicaland Province of Zimbabwe) to pave the way for large scale diamond mining (Ruguwa, 2017; Gukurume & Nhodo, 2020). Affected people felt that they were under-compensated, especially on their non-economic resources (Madebwe, Madebwe & Mavusa, 2011; Vengesai & Schmidt, 2018; Zimbabwe Environmental Law Association, 2018). Previous studies concluded that people who were displaced by diamond mining in Chiyadzwa lost their sources of livelihoods, and compensation was inadequate (Madebwe, Madebwe & Mavusa, 2011; Dziro, 2014; Chishanga, 2014; Gukurume & Nhondo, 2020).

Ruguwa (2017) is of the view that the current provisions of the *Communal Land Act* do not protect displaced people. According to Gukurume & Nhondo (2020), affected people were not satisfied with the expropriation and compensation process, which resulted in conflicts between the government and the affected community. The main causes of dissatisfaction were that the process was not transparent (Madebwe, et al., 2011; Ruguwa, 2017) and affected people were not consulted especially during property valuation (Gukurume & Nhondo, 2020). Good governance requires the active involvement of the affected people in decision making, and this includes property valuation for compensation. However, it is important to establish if what was done by government valuation officers was illegal. Does the existing legal framework provide for consultation of affected people during property



valuation? It can be postulated that had people been consulted, there was going to be less conflict.

Gukurume & Nhondo (2020), noted wide differences between the compensation offered and what was expected by the affected people. According to Gukurume & Nhondo (2020), the expropriating authority offered US\$1500, while the affected people requested US\$50,000. However, Madebwe et al. (2011) established that affected people were demanding between US\$25 000 and US\$30 000. These differences in the findings of these two studies might be an indication that the compensation requested by affected people were based on subjective value.

Affected people felt that the compensation was low since it was not clear if compensation for things such as graves (Madebwe et al., 2011) and shrines (Gukurume & Nhondo, 2020) were captured and included in the compensation quantum. Even though it might be prudent to consider the value of nontangible assets, the WB (2004) noted that it is not easy to estimate such value using scientific methods. It is not clear if the figure was estimated without the assistance of a valuer.

3.3.6. Evolution Laws Governing Property Valuation for Expropriation in Zimbabwe

The initial foundation of the legal framework guiding compulsory acquisition was laid by the first constitution of an independent Zimbabwe (popularly known as the *Lancaster House Constitution (LHC) of 1980*). This constitution was a product of the Lancaster House Agreement (the agreement) of 1979 which ended the fifteen years of war. As highlighted before, Section 16 of the *LHC of 1980* protected property rights, and it states that prompt and satisfactory reimbursement was to be paid. This provision was protected for the first 10 years of independence (Madhuku, 1999; Magaisa, 2010).

In 1985, the *Land Acquisition Act (Chapter 20:10) (LAA)* was passed, and its Section 29 was structured in the same fashion with the provisions of Section 16 of the *LHC of 1980* (Chivandi, Fushai & Masaka, 2010). Section 29 of the LAA of 1985 stipulated that whenever land was to be expropriated, then a prompt and adequate compensation was



supposed to be paid on or before the expropriation date. According to Magaisa (2010), the willing buyer willing seller model failed to work because it was based on the willingness of those with land to offer it and on the ability of government to pay compensation at market value.

Section 16 of the *LHC of 1980* was amended in the early 1990s through the *Constitution of Zimbabwe Amendment Act (Number 11) Act number 30 of 1991* (UNDP, 2002; Madhuku, 1999; Magaisa, 2010). This amendment changed the wording of Section 16 of the *LHC of 1980* from prompt and adequate to fair compensation which is paid over a reasonable period (Madhuku, 1999; De Villiers, 2003; Magaisa, 2010).

Following the *Constitution of Zimbabwe Amendment Act (Number 11) Act number 30 of 1991*, the *LAA of 1985* was repealed (Moyo, 2000; Adams & Howell, 2001; Thomas, 2003; De Villiers, 2003; Moyo, 2006; Chivandi, Fushai & Masaka, 2010) and replaced by the *LAA of 1992* through the *LAA Amendment (number 3) of 1992* (De Villiers, 2003, Moyo, 2006). The *LAA of 1992* was crafted in line with the *Constitution of Zimbabwe Amendment Act (Number 11) Act number 30 of 1991* which departed from market value and adapted fair value for compensation (De Villiers, 2003; Moyo, 2006). Another notable change brought by Section 29 of the *1992 LAA (Chapter 20:10)* is that it gave the mandate of determining the compensation value to the Compensation Committee (CC) (De Villiers, 2003; Chivandi, Fushai & Masaka, 2010).

The year 2000 saw a paradigm shift in the legal framework guiding compensation for expropriation in Zimbabwe when the *Constitution of Zimbabwe Amendment Act 5*, brought in Section 16A to the *LHC of 1980*. *Constitution of Zimbabwe Amendment Act 5* was followed by the passing of the *LAA Amendment 15*. These two amendments transferred the responsibility of compensation for agricultural land expropriated during the Land Reform Programme to the British government while the GoZ remained with the mandate to pay restitution for improvements on the land (De Villiers, 2003; Moyo, 2006; Pazvakavambwa & Hungwe, 2009; Magaisa, 2010; Moyo, 2016).



The *LAA Amendment 15 of 2000* established the CC, an Inter-Ministerial Committee, which is responsible for property valuation for compensation (UNDP, 2002). The same amendment also gave the responsibility of estimating preliminary compensation to DVOs who are appointed from serving civil servants. Furthermore, the *LAA Amendment 15 of 2000* provided a property valuation framework for compensation, as shown in Box 3.1.



Box 3-1: A Summary of the LAA Amendment 15 of 2000

- Section 20 (3) Where land that is not agricultural land required for resettlement purposes is acquired temporarily, compensation shall be assessed in terms of subsection (1) on the rental value of the land.
- Section 21 (3) Where part only of a piece of land, other than agricultural land required for resettlement purposes, has been acquired, compensation for that part shall be assessed as the difference between the price or value of the whole piece of land determined in terms of section twenty, and the price or value so determined of the remainder of that piece of land.
- Section 21 (4) in the assessment of compensation in terms of section twenty or twenty-nine C, the following factors may be disregarded—
 - (a) Anything done in contravention of subsection (2) of section five or a notice in terms of subsection (3) of that section;
 - (b) any change in the price or value of any land resulting from any action taken or to be taken by the acquiring authority connected with the acquisition of the land or resulting from the purpose for which or in connection with which the land is being acquired or taken or is to be used;
 - (c) the special suitability or usefulness of any land for the purpose for which it is required by the acquiring authority if it is unlikely that, but for the acquiring authority's requirements, the land would have been purchased for that purpose on the open market;
 - (d) any increase in the price or value of any land where such increase is due to the use of the land in a manner which is illegal, detrimental to the land or restrainable;
 - (e) the compulsory nature of the acquisition;
 - (f) any right in any land which is adequately compensated for in terms of section twenty-six or twenty-seven;
 - (g) any loss of trade resulting from a reduction of traffic over any road due to an alteration of the course of such road or the closure or change of status of such road as a result of any action taken or to be taken by the acquiring authority connected with the acquisition of the land or resulting from the purpose for which or in connection with which any land is being acquired or is to be used;
 - (h) any improvement effected mala fide on any land in order to increase any compensation payable in terms of this Act;
 - (i) any reduction in the price or value of any land resulting from any unusual or extraordinary circumstances existing immediately prior to the acquisition of the land.

Source: Government of Zimbabwe (1992)



As shown in Box 3.1, the valuation of any non-agricultural land is calculated based on rental value. This means that the valuer uses either the income approach to the valuation or the DCF approach depending on the characteristics of existing and comparable lease agreements. In partial expropriation, the valuer uses the before and after method since the Act specifies that the compensation value will be:

“the difference between the value of the property as a whole and the value of the remainder”.

Another amendment to the *LAA of 1992* was brought by *Statutory Instrument No. 148A of 2000* which defined fair compensation as the compensation assessed by the CC (Government of Zimbabwe, 1992). Also, the *LAA Amendment 6 of 2002* introduced property valuation schedules which are used when calculating property value for compensation purposes in Sections 29 and 50, and the same schedules were amended by the *LAA Act 1 of 2004* (Government of Zimbabwe, 1992).

In 2004, the *AFEMA* was passed with the sole purpose of empowering the state to expropriate farm equipment. Section 5 of this Act gives the responsibility of valuing farm equipment to designated valuers who are also civil servants. In this case, one might be justified to question the degree of fairness on the estimated property values which are offered by the expropriating authority as fair compensation value. According to Magaisa (2010), Section 18 of the *LHC of 1980* was amended through *Constitutional Amendment (No. 17) Act of 2005* which prohibited the courts from presiding over disputes related to compensation for agricultural land acquired for resettlement purposes.

In 2013, Zimbabwe replaced the *LHC of 1980* with the *Constitution Amendment (number 20: Act 1) (CoZ) of 2013*. The Zimbabwe Land Commission was created by Section 297 of the *CoZ of 2013* and its mandate among others is to make recommendations to the government on fair compensation to be paid for expropriated properties (Government of Zimbabwe, 2013). According to Moyo (2016), Section 295 of *CoZ of 2013* is a replica of Section 16 of the *LHC of 1980*. It states that land is only considered among the heads of claim if it is expropriated from indigenous people or foreign nationals protected by investment agreements. For any affected foreign national, compensation is for



improvements on the land, and the obligation for compensation for land was transferred to the former colonial masters. Table 3.10. summarised key changes to the laws guiding property valuation for expropriation in Zimbabwe since 1980.



Table 3-10: Evolution of Legal Provisions Guiding Property Valuation for Expropriation in Zimbabwe

Amendment/New statute	Year	Impact on property valuation for expropriation
Section 16 of the LHC of 1980	1980	Prompt and adequate compensation value paid based on the open market value and paid in foreign currency.
Section 29 of the LAA of 1985	1985	In terms of this Act, compensation value is determined by the Compensation Court based on the open market value.
Constitution of Zimbabwe Amendment Act (Number 11) Act number 30	1991	Fair compensation to be paid on expropriated real property.
LAA (Chapter 20:10)	1992	Fair compensation is paid instead of prompt and adequate, and the requirement to pay compensation value in foreign currency was removed.
Constitution of Zimbabwe Amendment Act 5	2000	For land expropriated for land reform from FCFs, the government pays compensation for improvements on land and compensation for land was placed on the British government as the former colonial master.
LAA Amendment 15	2000	For land expropriated for land reform from FCFs, the government pays compensation for improvements on land and compensation for land that was placed on the British government as the former colonial master. Valuation for compensation done by the CC is based on preliminary compensation estimates prepared by DVOs. Compensation disputes are handled by the Administrative Court. Fair compensation refers to compensation determined by the CC in terms of Section 29C of the LAA of 1992.
LAA Amendment 6	2002	Insert property valuation schedules which guide estimation of the compensation value.
Section 5 of AFEMA (Chapter 18:23)	2004	Section 5 stipulates that valuation of farm equipment is compulsorily acquired by the state and is done by a designated valuer appointed by the Minister from the serving civil servants.

Source: Adopted from various sources (Madhuku, 1999; Moyo, 2006; Magaisa, 2010)



3.4. Chapter Summary

This chapter reviewed literature related to property valuation for expropriation in selected countries. There are notable differences on statutory provisions, especially on publication of the notice, the notice period, and the interest rate which is paid when payment of compensation is delayed. Most of the reviewed statutes do not require the notice to be published electronically through electronic mails or on the expropriating authority's website. However, it was common in most statutes that the notice of intention to expropriate is supposed to be published through a variety of communication media. Also, it was only the Indian statute which provides for social impact assessment prior to expropriation and rehabilitation of displaced people. Having reviewed statutory provisions guiding expropriation and compensation from several countries as well as in Zimbabwe, the chapter which follows (Chapter 4) discusses the research methodology adopted in this study.



CHAPTER 4 - RESEARCH METHODOLOGY

4.1. Introduction

This chapter is structured as follows: Section 4.2 focuses on the research philosophy of this study; Section 4.3 discusses the research design of this study. Section 4.4 focuses on research methods that are employed in this study, while Section 4.5 explains the pilot studies which were done prior to actual data collection using various data sources and collection instruments. Section 4.6 discusses the research population, and 4.7 describes the sampling design, which was used in this study. Section 4.8 describes data sources and collection instruments which were adopted in this study. A discussion on data analysis and representation is presented in Section 4.9. Ethical considerations are discussed in Section 4.10, while research quality is discussed in Section 4.11. The last section (Section 4.12) summarises this chapter.

4.2. Research Philosophy

Research philosophy is sometimes referred to as a research paradigm, or worldview and some authors use the term ontological and epistemological frameworks (Guba & Lincoln, 1994; Mack, 2010; Creswell, 2014). In this study, the terms research philosophy; research paradigm and worldview are used interchangeably. Research paradigm refers to the researcher's view of the subject under study which is mostly shared by other scholars with the same school of thinking (Creswell, 2007; Kakulu, 2008a). Creswell (2014) and Mack (2010) posit that the discipline orientation influences the researcher's philosophy and assumptions, the nature of the problem under study, the researcher's experience as well as the supervisor's interests (Kakulu, 2008a, Viitanen & Kakulu, 2009; Creswell, 2014; Mack, 2010).

Creswell (2014) classified worldviews into the following main classes: positivism, interpretivism, transformative and pragmatism. The positivism paradigm is best used in natural sciences where a researcher tests a hypothesis (quantitatively) to support or refute a theory based on measurable facts. Interpretivism is mainly used in social sciences where



knowledge is derived from the interpretation of the subjective meaning of various individuals (qualitative research) (Creswell, 2003, 2014). When following the interpretivism research philosophy, the researcher's role is to understand the problem under study from experiences of various actors who are involved in the problem (Creswell, 2009, 2014).

A transformative paradigm is used mainly when the researcher aims to advocate for the less privileged groups of the society, especially in sociology and psychology (Creswell, 2009). Proponents of the pragmatism paradigm believe that any research approach can be used depending on the colour and texture of the problem under study (Creswell, 2003). In the view of pragmatists, what is important is not the research approach to be used but the problem under study. Therefore, the choice of an appropriate research approach comes secondary to the research problem. According to Creswell (2009), pragmatists advocate for the use of the mixed method research approach.

Kakulu (2008a) as well as Viitanen & Kakulu (2009) recommends that social constructionism and interpretivism are the most recommended philosophies in real estate study. The interpretivism ontological framework informs this study due to the problem under study. According to Mack (2010:08):

“interpretivism’s tenet is that research can never be objectively observed from the outside; rather it must be observed from inside through the direct experience of the people.”

Proponents of the interpretivism philosophy believe that the social world can be understood by engaging research participants and interpreting their subjective perceptions based on their different experiences (Webley, 2010; Wahyuni, 2012). The subject under study (property valuation for expropriation in Zimbabwe) is a complex subject which involves different institutions and individuals with different experiences and views. Table 4.1 is a summary of key ontological and epistemological assumptions guiding the interpretivism research paradigm.



Table 4-1: Ontological and Epistemological Assumptions Guiding Interpretivism Research Paradigm

Ontological Assumptions	Epistemological Assumptions
<ul style="list-style-type: none"> - Reality is indirectly constructed based on individual interpretation and is subjective, - People interpret and make their own meaning of events, - Events are distinctive and cannot be generalized, - There are multiple perspectives on one incident, - The position on the nature of reality may change, - Causation in social sciences is determined by interpreted meaning and symbols. 	<ul style="list-style-type: none"> - Knowledge is gained through a strategy that "respects the differences between people and the objects of natural sciences and therefore requires the social scientist to grasp the subjective meaning of social action" (Bryman as cited in Grix, 2004, p. 64), - Knowledge is gained inductively to create a theory. - Knowledge arises from situations and is not reducible to simplistic interpretation, - Knowledge is gained through personal subjective experience.

Source: Adapted from Mack (2010:08) and Wahyuni, (2012:70)

Having discussed the research philosophy which this study subscribes to; it is important to note that there are three broad approaches which can be adopted under the interpretivism research paradigm. These are the quantitative, qualitative and mixed design research approaches, and they are elaborated in the section to follow.

4.3. Research Design

A research design or approach is a road map which guides an academic study. Three main research approaches exist, and these are quantitative, qualitative and mixed research designs (Creswell, 2014). Quantitative research designs are based on quantitative data (numbers) and are mainly adopted in natural sciences where the main aim of the research is to test theory (prove a hypothesis).

Qualitative research as the name indicates is based on qualitative data (mainly words), and it is usually used in social sciences to interpret the subject under investigation. Mixed method research design tries to derive synergies out of the quantitative and qualitative designs to get the best out of the two designs (Kothari, 2004). The problem informs selection of a research approach under study as well as the researcher’s philosophical

assumptions (Creswell, 2009, 2014). Also, Kakulu (2008a), and (Viitanen & Kakulu (2009) recommend the use of a qualitative research design as the most appropriate form of research for real estate study.

For this study, a qualitative research design was used since it is the one which supports the interpretivism research paradigm. Furthermore, because of the complexity of the research problem as discussed in Chapter 1, this study adopted the qualitative research approach to allow the researcher to interpret the views of different players on compensation for expropriation in Zimbabwe. As highlighted in Chapter 1, the views of the DVOs, MsCC, PVs and FCFs were sought through a combination of a semi-structured questionnaire survey and a guided key-informant interview. The next section discusses the research methods which were employed in this study.

4.4. Research Methods

According to Creswell (2014), in qualitative research, the researchers can use any of the following methods: the narrative, the phenomenological, the grounded theory, ethnography or case study. Additionally, Creswell (2014) explains that a narrative research method has its roots in the humanities, where the results of a study is a narration of the experiences of the respondents. With the phenomenology research method, the researcher seeks to describe the views and experiences of the respondents and the state of the problem under study.

A phenomenology research method is mainly used in the field of philosophy. Under the grounded theory research method, the main aim is to come up with a theory based on the refined data. This research method has its foundation in sociology. Proponents of an ethnography research method believe in studying shared patterns of societies over a long time. An ethnography research method is mainly used in anthropology and sociology. Lastly, a researcher can adopt a case study as a research method. With a case study research method, the researcher conducts a detailed investigation of the problem under study by adopting various data collection methods over a specific period (ibid, 2014). Due to the complexity of compensation for expropriated properties in Zimbabwe, this study

adopts a case study research method. More details about the case study are discussed in the next chapter.

4.4.1. Qualitative Case Study

In qualitative research, case studies involve the collection of data from multiple sources over time for the purpose of a detailed examination of a subject under study in its natural environment (Rowley, 2002; Flyvbjerg, 2006; Zainal, 2007; Webley, 2010). A case study is normally adopted if the researcher intends to do an in-depth examination of a complex issue (Zainal, 2007). Compensation for expropriation in Zimbabwe is a complex issue which has not been resolved for decades, if not centuries. Magaisa (2010) explains that the complex nature of compensation for expropriation in Zimbabwe is an issue with multiple victims which were violently dispossessed from their land without compensation. The author further explains that the unresolved contentious compensation for expropriation has been in existence for centuries.

According to Creswell (2007), case studies can be classified into three general categories which are single, multiple, and intrinsic case studies. A single case study, as the name suggests, is based on a single research site to illustrate the issue under study (Zainal, 2007). Unlike a single case study approach, a multiple case study is adopted if the researcher intent to tactfully illustrate different perspectives of the subject under investigation by using more than one research sites. An intrinsic case study is exploratory in nature, and it is used when the study area is unique. An intrinsic case study focuses more on the case under study and not on the general research problem (Creswell, 2007; Mills & Boardley, 2016).

Two cases were used in this study, which are expropriation and compensation of private properties for the FTLRP and expropriation of communal land for mining and dam construction projects. The main advantages of a multiple case study are that it shows different perspectives and findings can be generalised (Webley, 2010).



4.5. Pilot Studies

It is very important to test the research instruments before the actual data collection process. A pilot study is used to test if the respondents understand the question in the manner intended by the researcher (Cassim, 2011). In this study, two types of pilot studies were done. In the first pilot study, research instruments were sent to selected people with experience in the subject area who were not among the target population, for their comments. They were asked just to give feedback on what they thought might need to be improved on the research instrument without necessarily responding to the research questions.

In the second pilot study, research instruments were sent to selected respondents from the target population in an attempt to assess if questions in the instruments were being understood in their correct context. However, the results of pilot studies were not incorporated in the results of this study.

4.6. Research Population

According to Kothari (2004), a researcher needs to come up with a source list (also known as a sampling frame) before data collection. A source list “*contains the names of all items of a universe... such a list should be comprehensive, correct, reliable and appropriate*” (Kothari, 2004:56). The target groups were selected based on their experience on the subject under study, and these included displaced people, valuers, and senior government officials. Each unit was further divided into subunits, for example, the valuers’ thematic group was subdivided into PVs and DVOs. They were selected because of their experience in the subject under study.

The senior government officials’ thematic group was composed of Members of the Compensation Committee (MsCC). This is an eleven-member committee established by 29A of the *LAA (Amendment number 15) of 2000*, and its role is to approve compensation values for expropriated agricultural land. Most of the members in this committee are heads

of government ministries who are responsible for policy formulation and implementation; hence they were knowledgeable about the subject under study.

Another thematic group constituted FCFs whose compensation for expropriated properties were approved by the CC during the multi-currency era (2009 – 2019). During the multi-currency period, Zimbabwe dumped its local currency whose value was eroded by hyperinflation and adopted a basket of currencies which was dominated by the United States of America Dollar.

Prices during this period, including property values, were pegged in the United States of America Dollar, which was preferred due to its stability. Therefore, this justifies why this study focused on this period as prices which were estimated prior to or after the multi-currency period were based on the unstable local currency. Comparison of values, in this case, was going to be difficult if not impossible, given the inflation rate. Furthermore, a decade long multi-currency period was considered long enough for this study to make a general conclusion.

A list of farms which were valued by the CC between 2009 and 2019 was obtained from the Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement. The list showed that one hundred and fifty-eight farms were valued for compensation during the multi-currency period. Of the one hundred and fifty-eight farms, one hundred and three were owned by companies while fifty-five were owned by natural persons across the eight provinces of Zimbabwe, as shown in Table 4.2.

Table 4-2: Ownership of Farms Valued by the CC between 2009 and 2019 per Province

Province	Company owned	Individual owned	Total
Mashonaland West	32	13	45
Manicaland	17	11	28
Mashonaland East	18	6	24
Mashonaland Central	14	8	22
Midlands	12	9	21
Masvingo	5	2	7
Matabeleland North	4	3	7
Matabeleland South	1	3	4
Total	103	55	158
Percentage	65%	35%	100%

Sources: Research findings (2020)



Most of the valued farms were owned by companies, as shown in Table 4.2. There was also evidence of multiple farm ownership with 1 company owning 3 farms in Midlands Province, and 6 farmers owning 2 farms each in Mashonaland West, Mashonaland East, Midlands, and Matabeleland North as shown in Table 4.3.



Table 4-3: Single vs Multiple Farm Ownership per Province

Province	Farms owned by each company per province			Farms owned by individuals per province		Total
	Multiple ownership		Single ownership	Multiple ownership	Single ownership	
	3 farms	2 farms				
Mashonaland West	0	2	30	0	13	45
Manicaland	0	0	17	0	11	28
Mashonaland East	0	1	17	0	6	24
Mashonaland Central	0	0	14	0	8	22
Midlands	1	0	11	1	8	21
Masvingo	0	0	5	0	2	7
Matabeleland North	0	1	3	1	2	7
Matabeleland South	0	0	1	0	3	4
Total	1	4	98	2	53	158

Sources: Research findings (2020)

It was important to ensure that there were no multiple participants, hence, even those with multiple farms were given an equal chance of being selected to form the sample. To achieve this, during sampling, the researcher considered just one farm from multiple farm owners. As such a total of 150 FCFs were considered. Table 4.4 and Figure 4.1 summarises the characteristics of the total population for this study.

Table 4-4: Research Population (Farmers' thematic group)

Province	Population		Total
	Companies	Individuals	
Mashonaland West	28	12	40
Manicaland	17	11	28
Mashonaland East	17	6	23
Mashonaland Central	14	8	22
Midlands	12	9	21
Masvingo	5	2	7
Matabeleland North	3	2	5
Matabeleland South	1	3	4
Total	97	53	150
Percentage	65%	35%	100%

Source: Research Findings (2020)

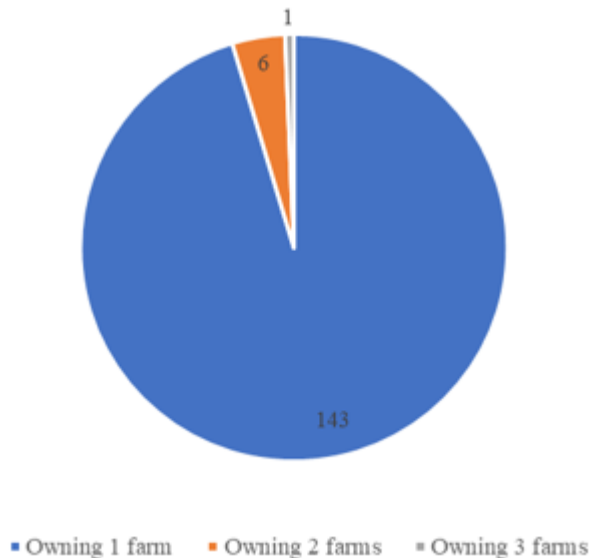


Figure 4-1: Single vs multiple farm ownership

Source: Research findings (2020)

Having discussed the population of each of the 4 thematic groups, which makes up the population of this study, Table 4.5 is a summary of the characteristics of the total population.

Table 4-5: Composition of the Total Population

Thematic group	Population size	Percentage of the total population
PVs	6	4%
DVOs	7	4%
MsCC	11	6%
FCFs	150	86%
Total	174	100%

Source: Sources: Research findings (2020)

According to Kothari (2004), a census enquiry can give high accurate, but sometimes due to costs and time constraints, it might not be practical to do a census enquiry. Hence, some studies use a sample of the population. As shown on Table 4.5, the population of this study was 174 and the sampling design is discussed in the succeeding section.

4.7. Sampling Design

Probability or non-probability sampling design can be used when doing an academic study. A non-probability sampling design can be defined as a sampling technique where possible respondents/participants from the population are not selected randomly (Sounders, Lewis and Thornhill, 2019), the researcher is the one who selects the participants who shall represent the universe (Kothari, 2004). This definition shows that respondents/participants do not have an equal chance of being selected into the sample. This sampling design is convenient, less costly, and not time-consuming, but its limitation is that the findings might not be an n accurate representation of reality. When dealing with large groups, non-probability sampling can result in sampling error due to the researcher's bias (Kothari, 2004).

Probability (also known as random) was the most appropriate sampling technique for this study because it limits bias when selecting participants as pointed out by Kothari (2004). With probability sampling, all members in the sample have an equal chance of being selected and the probability of each member being selected can be estimated (Sounders, et al. 2019). Probability sampling can be divided into simple random, systematic, and stratified sampling subclasses. Heterogeneous groups characterise the study population, but each group has homogeneous characteristics hence stratified sampling was adopted. According to Kothari (2004:56), when using stratified sampling, the following questions must be considered:



“(a) *How to form strata?*

(b) *How should items be selected from each stratum?*

(c) *How many items are selected from each stratum or how to allocate the sample size of each stratum?”*

In this study, stratified sampling was used to divide the population into sub-groups having similar characteristics and then a random sampling was used to select data from each stratum. To form a stratum, respondents were classified into three groups depending on their roles in the expropriation and compensation process. The researcher came up with three thematic groups which displace people, valuers, and senior government officials. Random sampling was used to minimise researcher bias. Kothari (2004) recommends that the characteristics of the population must be well represented in the sample. This means each stratum must be a microcosm of the proportion of that stratum in the population. The section which follows discusses how sampling was done in each thematic group.

4.7.1. Sample Size

Omair (2014) points out that contemporary researchers do not need to struggle to use formulas to calculate sample size since there are free and easy to use web calculators which include RaoSoft, Pi-face and Open-Epi. According to Arifin (2018), the use of sample size calculators helps to minimise chances of errors associated with the use of formulas to calculate the sample size. However, Meysamie, Tae, Mohammadi-Vajari, Yoosefi-Khanghah, Emamzadeh-Fard & Abbassi (2014) conclude that some web sample size calculators are less accurate.

Calculation of the sample size for this study was done using Raosoft Sample Size Calculator. Raosoft Sample Size Calculator is an online software that is used to calculate the size of a population. It gives the user a platform to specify an acceptable margin of error, confidence level, population size as well as the response distribution.

The population for this study was 174 (see Table 4.4), a 5% margin of error was adopted at 99% confidence level and 50% response distribution, resulting in the sample size of 139 respondents. According to Kathori (2004:63), “... *the sizes of the samples from the*



different strata are kept proportional to the sizes of the strata.” The size of each stratum was a representative proportion of that stratum in the population. However, a census survey was considered in cases where the number of respondents was within a manageable size.

4.7.1.1. Valuers

In Zimbabwe, not every valuer has experience in property valuation for compensation. As such, this study focuses only on valuers with experience in the subject matter, who work for the Valuation Consortium and are DVOs. Sampling in each of the two sub-thematic groups is discussed in the next section.

a. Private Valuers (Valuation Consortium)

The Valuation Consortium was formed by 6 private valuation companies during the early stages of the FTLRP. It was formed with a specific mandate of providing professional and comprehensive valuation services to affected commercial farmers. It was later given an assignment to prepare a database covering all acquired commercial farms in Zimbabwe. It possesses vital data which was valuable in this study due to its direct involvement in property valuation for expropriation from the early stages of the FTLRP.

PVs who work for the Valuation Consortium were 6, which is a manageable number, hence, no need for sampling. Questionnaires were sent to all the 6 PVs working for Valcon with 4 being returned which translate to 67% response rate. In this case, the views of 67% of the respondents can be a true reflection of the general views of PVs as shown in Figure 4.2.



Figure 4-2: Response Rate (PVs)

Source: Research findings (2020)

b. Designated Valuation Officers (Government)

DVOs are appointed in terms of Section 29B of the *LAA of 1992* and Section 5 of the *AFEMA of 2004*. According to Chimbetete (2016) and Mpofu (2019), the current practice is that government valuation officers who are employed by the Departments of Public Works, as well as Lands, are appointed as designated valuers.

The Department of Public Works is responsible for the valuation of expropriated properties which are not for agricultural purposes, and valuations for any land which is acquired for agricultural purposes are done by the Department of Lands. Since property valuation for compensation for FTLRP is done by the Department of Lands, only DVOs from this department were considered. A census survey was used since designated valuers were just

7. Questionnaires were sent to all 7 DVOs, and 6 were returned, which gives an eighty-five per cent response rate as presented in Figure 4.3.

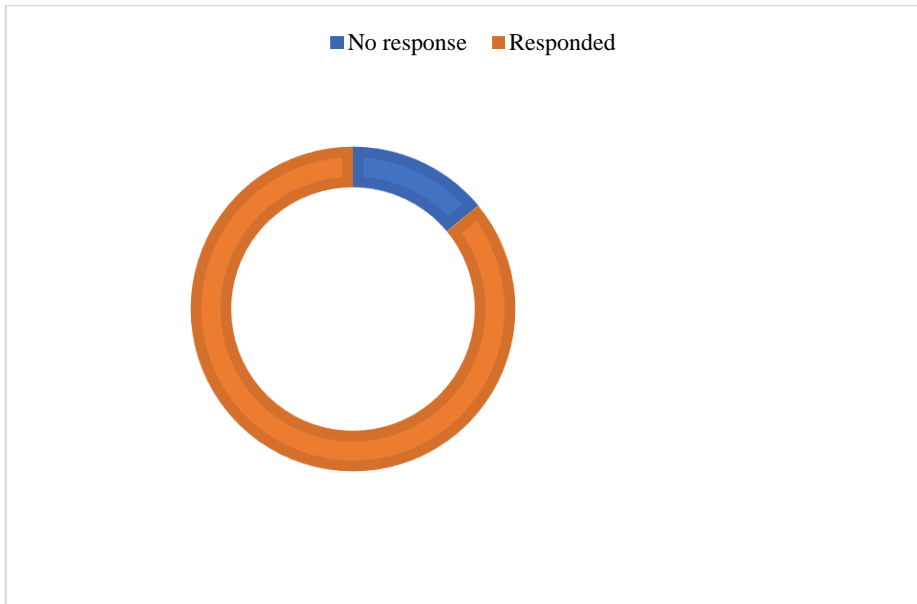


Figure 4-3: Response Rate DVOs

Source: Research findings (2020)

As shown in Figure 4.3, most respondents (85%) returned their questionnaires; hence there is a high degree of validity.

4.7.1.2. Former Commercial Farmers

The minimum sample size of this thematic group was calculated as follows:

$$139(150/174) = \underline{\underline{120}}$$

The one hundred and twenty-three farms are in different provinces of Zimbabwe, hence for the purpose of equal representation of all provinces, the sample was determined, as shown on Table 4.6. However, for some provinces the census population was manageable, so there was no need to use a sample.



Table 4-6: Characteristics of the Farmers' Sample Per Province

Province	Number of respondents	Sample
Mashonaland West	43	120(43/150) = 34
Manicaland	28	120(28/150) = 22
Mashonaland East	23	120(23/150) = 18
Mashonaland Central	22	120(22/150) = 18
Midlands	18	120(18/150) = 15
Masvingo	7	120(7/150) = 6
Matabeleland North	5	120(5/150) = 4
Matabeleland South	4	120(4/150) = 3
Total	150	120

Source: Research findings (2020)

As discussed earlier, 65% of the farms were formerly owned by companies, and 35% were formerly owned by natural persons (see Section 4.6). Therefore, the researcher ensured that this representation is also reflected in the sample for displaced farmers, as shown on Table 4.7.

Table 4-7: Characteristics of the Farmers' Sample: Companies vs Individuals Per Province

Province	Companies	Individuals	Total
Mashonaland West	24	10	34
Manicaland	13	9	22
Mashonaland East	14	4	18
Mashonaland Central	14	4	18
Midlands	9	6	15
Masvingo	4	2	6
Matabeleland North	2	2	4
Matabeleland South	1	2	3
Total	81	39	120

Source: Research findings (2020)

4.7.1.3. Members of the Compensation Committee

Government officials play a crucial role in policy formulation and implementation. Senior government officials provide vital information on the evolution of property valuation for expropriation in Zimbabwe. They also provide insights on the side of the expropriating authority on the current state of the existing legal framework, which guides property valuation for compensation in Zimbabwe. This thematic group is made up of MsCC established in terms of Section 29A of the *Compulsory Land Acquisition Amendment Act 15 of 2000*.

Given the fact that MsCC are senior civil servants, it was difficult to get hold of them for interviews. The initial plan was to do face-to-face interviews with senior government officials; however, it was unfortunate that data collection coincided with the COVID-19

induced global lockdowns. Travelling within Zimbabwe was not possible, worse still travelling between countries. Therefore, the researcher used electronic questionnaires and employed a research assistant who followed up with MsCC. Out of the eleven, 8 were available for interviews which translates to 73% of the total sample, as shown in Figure 4.4.

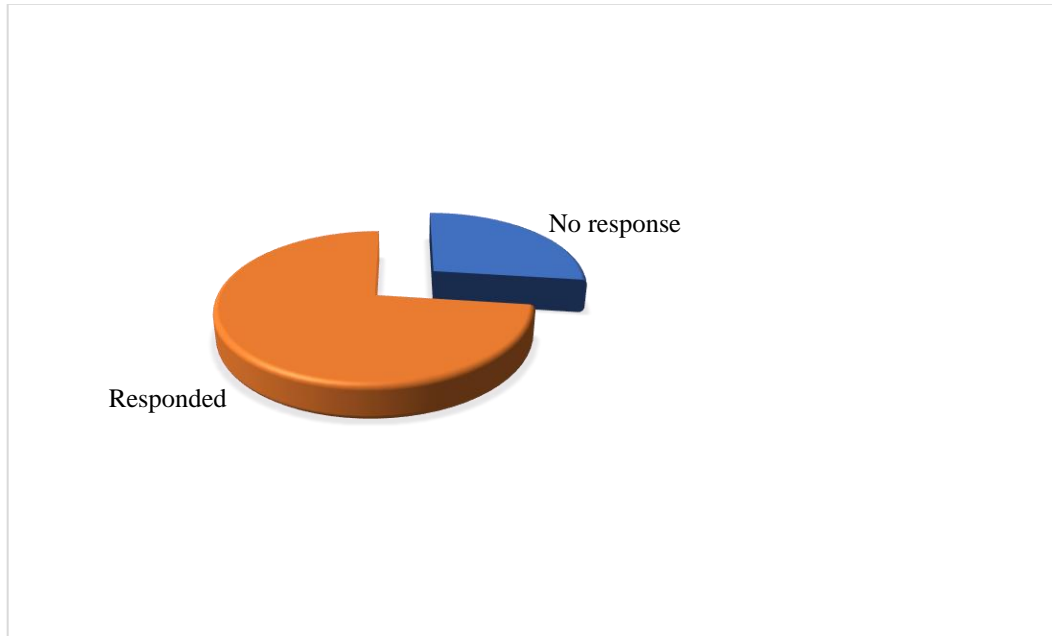


Figure 4-4: Response Rate for MsCC

Source: Research findings (2020)

Table 4.8 summarises the sample proportion of each stratum.

Table 4-8: Composition of the Total Sample

Study population	Sample size	Percentage of total sample
Valuers working with the Valuation Consortium	6	4%
DVO	7	5%
MsCC	11	8%
Displaced commercial farmers	120	83%
Total	144	100%

Source: Research findings (2020)

4.7.2. Selection of respondents in the strata

Selection of respondents in each stratum was done randomly using Microsoft Excel software. An official list of respondents was captured on an excel software, and the Rand formula was used to randomly select participants from the list of each stratum.



4.8. Data Sources and Collection Instruments

According to Kakulu (2014), data collection methods are influenced by the research questions. Already existing and primary data was used in this study. According to Kothari (2004:95):

“primary data is collected for the first time and secondary data as data which was previously collected and processed but became usable in a different study.”

Examples of primary data include the data from questionnaires, interviews, experiments and observations. Examples of secondary data include data from previous thesis, journal articles, conference papers and government publications. The structure and content of data collection tools which were used in this study are discussed in the next section.

4.8.1. Questionnaire Survey

Questionnaire surveys were chosen because they are relatively cheaper as compared to other methods like oral interviews, especially when dealing with a large population (Zohrabi, 2013). Three different questionnaires were administered to affected persons and valuers. The next section discusses in detail the structure and content of the questionnaires. Electronic questionnaires were administered to valuers and MsCC with the assistance of a research assistant. A research assistant was engaged because the researcher could not followup with respondents due to the COVID-19 induced lockdowns. Also, an electronic questionnaire was administered to FCFs with the assistance of the Commercial Farmers Union (CFU) officials. It was difficult to get the contacts of the FCFs without the involvement of CFU officials due to the sensitivity of the subject under study. Both questionnaires were adopted and modified from Kakulu (2008).

4.8.1.1. *Questionnaire 1 – Former Commercial Farmers*

Data from FCFs were collected through a semi-structured questionnaire (see Appendix 3). A cover note was attached to the questionnaire to explain to the respondents the aim and objectives of the study. The cover note also assures respondents that the results of the study will be used solely for academic purposes, and their confidentiality is guaranteed. This was



done to clear any fears on respondents pertaining to participating in the study. It was also done for ethical considerations since it is a requirement for respondents to participate willingly after being informed about the objectives of the study.

The questionnaire had 5 sections focusing on a specific theme. The first section (Section A) captured general information about the expropriated property, mainly for administrative purposes. It was deliberately made short with simple closed questions to capture the attention and interest of the respondents. It was assumed that short and simple questions which do not require detailed thinking would encourage the respondents to provide responses.

Section B of the questionnaire focused on capturing the perceptions of affected persons on the existing provisions of the law guiding property valuation for expropriation in Zimbabwe. This section was intended to achieve objective number 3 of the study, which is to ascertain from previously displaced persons the level of satisfaction with the existing practice of expropriation and compensation in Zimbabwe. Respondents were asked to assess specific provisions of existing laws using open ended questions. The open ended questionnaire allows the respondents the opportunity to freely express themselves in detailed on the subject matter raised in this research.

Sections C and D sought to capture data on the respondents' perception of the property valuation practice and appeal mechanisms, respectively. Both sections were meant to meet objective number 4 of the study, which is to assess the fairness of the value of compensation paid to displaced persons during expropriation in Zimbabwe. Open-ended question allows participants the freedom to express themselves while closed-ended questions have a high response rate and are easy to analyse (Zohrabi, 2013).

The last section (Section E) was intended to meet the last objective of the study, which is: to propose a framework in line with international best practice for expropriation and compensation of unexhausted improvements on the land. It has only one open-ended question, and the rationale for using an open-ended question was to allow respondents to give more details on what they think needs to be changed on the existing framework.



Electronic mail was used because the COVID 19 affected the whole country, which made it difficult for the researcher to visit all ten provinces due to limited resources (time, financial, material and human). This was also compounded by the fact that some of the displaced people have left Zimbabwe; hence the most appropriate way of contacting them was through electronic mails.

4.8.1.2. *Questionnaire 2 – Valuers*

The structure of this questionnaire was like the one for displaced persons, but the deference was on the content of questions (see Appendix 4). Also, a cover note was attached to the same purpose as discussed earlier. Sections A and C were designed to achieve the second objective of the study which is to evaluate the process of property valuation for expropriation and measure consistency in the approaches that valuers used to estimate compensation on privately held land in Zimbabwe.

Section A captured data on the existing legal framework guiding property valuation for expropriation in Zimbabwe. It consisted of both open and closed-ended questions. Closed-ended questions were structured using a Likert scale of 1 to 5 (5 representing highly agree and 1 representing highly disagree). Section B was designed to meet the first objective of this study which is to investigate the evolution and consequences of the provisions of the existing laws governing property valuation for expropriation in Zimbabwe. All questions in this section were open-ended.

All questions in Section C were open-ended. The section captured data on the current practice of property valuation for expropriation in Zimbabwe. Sections D and E, which consisted of open-ended questions, were designed to achieve the last objective to propose a framework in line with international best practice for expropriation and compensation of unexhausted improvements on the land. Section D captured data on challenges faced by valuers in the current property valuation for expropriation practice in Zimbabwe, and Section E focused on proposed changes on the existing property valuation for expropriation framework in Zimbabwe.



Questionnaires were sent to DVOs and PVs. Field workers were engaged from local people to assist with the distribution of questionnaires. All field workers were trained prior to the actual data collection to enable them to explain to the respondents how the questionnaires were supposed to be completed. Also, the other objective of the training was for the assistants to be able to check if returned questionnaires have been answered correctly. All field workers signed a fieldworker declaration prior to data collection (see Appendix 5).

4.8.1.3. *Questionnaire 3 – Members of the Compensation Committee*

The third questionnaire was administered to MsCC and modified from Kakulu (2008a). MsCC were chosen because they played a key role when it comes to property valuation for expropriation in Zimbabwe. Even though face-to-face interviews were most appropriate because they allow the observation and probing, the researcher ended up sending the interview guide by email due to the lockdown caused by the Covid-19 global pandemic. An introduction letter was attached as well to introduce both the researcher and the objectives of the study.

The questionnaire for MsCC consisted of nine open-ended questions. Question 1 of the questionnaire was designed to meet the first objective of this study, which is to investigate the evolution and consequences of the provisions of the existing laws governing property valuation for expropriation in Zimbabwe. The second, third and seventh questions of the interview guide was aimed at achieving objective 2 of this study which is evaluating the process of property valuation for expropriation and measure consistency in the approaches that valuers used to estimate compensation on privately held land in Zimbabwe. Questions 4, 5 and 6 were designed to achieve objective 4, while question 9 was designed to meet the last objective of the study.

4.8.2. Literature Survey

A literature survey was done for this study, and it included reviewing of statutes, newsletters, letters, circulars, reports, and other policy documents on property valuation for expropriation in Zimbabwe. A review of statutes on expropriation valuation in Zimbabwe was done specifically to meet the first objective of this study, which is to investigate the



evolution and consequences of the provisions of the existing laws governing property valuation for expropriation in Zimbabwe. Documents were sourced directly or indirectly from the official website of relevant institutions. Literature from other sources highlighted before were used to validate the findings from questionnaire surveys.

4.9. Data Analysis and Representation

Data analysis is a process that seeks to derive meaning through the interpretation of the processed data (Creswell, 2007, 2014). According to Creswell (2007), data analysis involves comparing the results with the findings of previous studies. The selection of the most appropriate data analysis method is guided by the type of data collected the aim and objectives of the study as well as research questions (Wahyuni, 2012).

Different data analysis methods can be used in case studies since a variety of data collection methods, and instruments are used (Rowley, 2002; Webley, 2010). With qualitative research, it is common for data collection and analysis to be done concurrently (Thorne, 2000; Creswell, 2014). Since this study followed a qualitative research design, there are cases where data collection and analysis were done concurrently.

Qualitative data analysis follows these stages but not in a predetermined fashion: preparation and organisation of data, reading through the data, data coding, condensing the codes and data presentation (through charts, figures, discussion or tables) (Creswell, 2007; Simons, 2009; Creswell, 2014). According to Erlingsson and Brysiewicz, (2017), a code is a tag which describes shortened text without losing meaning. Coding can be done manually or automatically using different computer software (Webley, 2010; Creswell, 2014). This study used automated coding using computer software which is discussed in the following section.

Simons (2009) defines interpretation as the process of deriving meaning out of the research findings. Qualitative data analysis is spiral in nature (Miles & Huberman, 1994; Creswell, 2007; Simons, 2009), as the researcher goes back and forth as he/she validates the

information (Erlingsson & Brysiewicz, 2017). Data validation is a continuous process which cuts across the entire qualitative data analysis process, as shown in Figure 4.5.

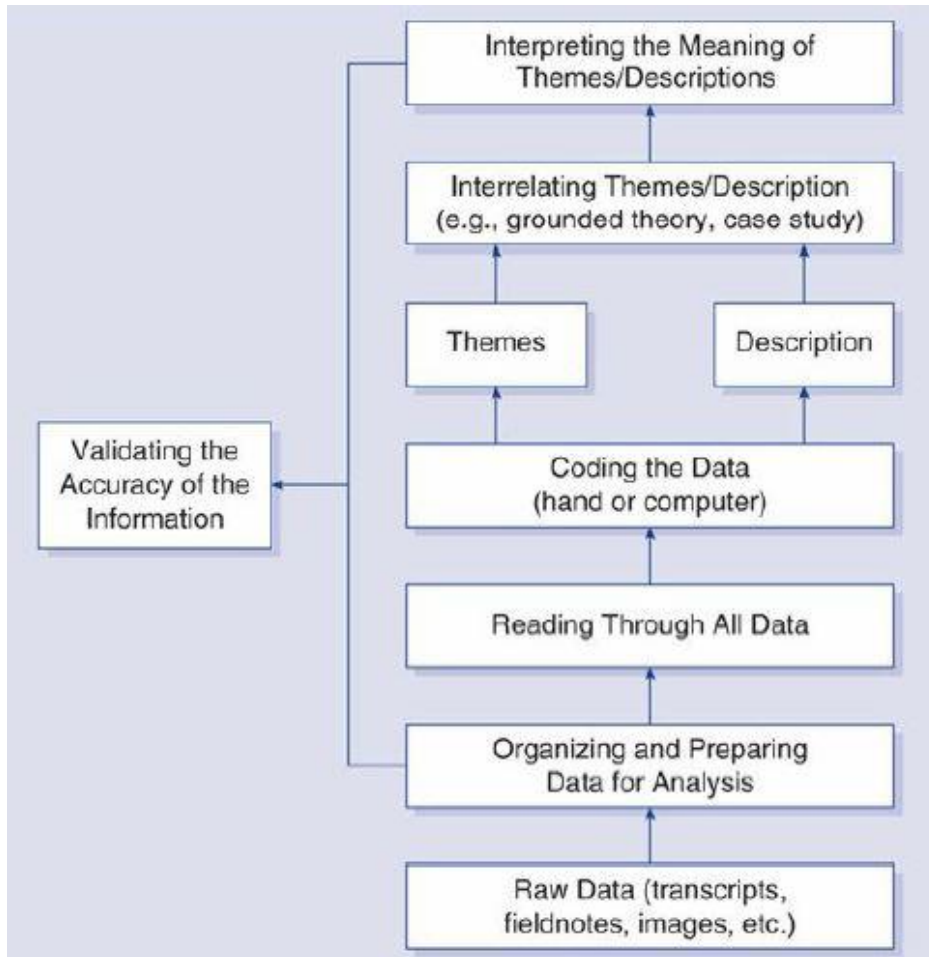


Figure 4-5: Qualitative Data Analysis Process

Source: Creswell (2014: 248)

The choice of the most appropriate data analysis method is guided by the type of data to be analysed (Andrew, 2008; Boone & Boone, 2012). As discussed in Section 4.8, Likert scales were used to collect data through questionnaires, as such, ordinal data was collected. Ordinal data is data which can be arranged in a certain order (Andrew, 2008) but without any numerical value (Jamieson, 2004; Andrew, 2008; Norman, 2010). According to Jamieson (2004), it is inappropriate to analyse ordinal data by calculating their mean or standard deviation. Instead, the author was of the view that either the mode or median can be used to measure the central tendency.



Norman (2010) as well as Sullivan & Artino (2013), conclude that if the Likhert scale data is evenly distributed, the central tendency can be measured by the mean. However, they pointed out that conclusions cannot be drawn from any further detailed inferential analysis. Boone & Boone (2012) differentiated Likhert type items and Likhert scale data. With Likhert type items, a single question is asked where the respondent is given options to choose from, and Likhert scales are a combination of at least four Likhert type items. It is not appropriate to use the mean to measure the central tendency of Likhert type items as this can best be done by median and mode. However, is it appropriate to use mean to measure the central tendency of Likhert scale data (ibid, 2012).

Data analysis can be done manually or through computer-aided analysis (Creswell, 2007, 2014). For this study, automated data analysis was used because of its efficiency, high storage capacity and easy data location (Creswell, 2014). Two computer packages (Atlas.ti8 and SPSS version 26) facilitated the analysis of different data sets, as discussed in the next sections.

4.9.1. ATLAS.ti 8

Atlas.ti8 is software which is commonly used for analysing qualitative data from different sources. It can analyse documents, videos, pictures and geospatial data (Friese, 2014, 2019; Soratto, Pires & Friese, 2020). In this study organisation of literature survey and interview data were done in a computer file, and this was followed by reading through the data to check if there were no missing data. With the use of Atlas.ti, much time was saved as the analysis was done over a concise period without hustles.

Capturing and analysis of documents were done within days, and the same work could have taken weeks if not more than a month if it was manually done. Atlas.ti software was used to create comments, memos and networks which relate the common and conflicting ideas from different sources. Before the coding exercise, documents were put in files which were then uploaded to the Atlas.ti8 software. According to Soratto, Pires & Friese (2020), Atlas.ti8 allowed the researcher to make a combination of common ideas from different documents to make a whole picture of the area under study. When analysing data from

questionnaires, quotations from participants were used to augment the researcher’s interpretation of the research findings as recommended by Morrow (2005).

4.9.2. The Statistical Package for Social Sciences Version 26

When analysing data from questionnaires, the researcher used SPSS Version 26 as an aide to data analysis. Moyo (2020) defines SPSS as “a versatile and responsive program” with the capability of analysing qualitative and quantitative data, and it is popularly used across different fields. The researcher started by checking if all the questions were answered correctly and went on to capture in into the SPSS software following the order of questions on the questionnaire. Processed data from SPSS version 26 is presented in Chapter 5, in the form of description, charts, diagrams, graphs and tables. Table 4.9 describes the ranges used to describe data during analysis.

Table 4-9: Ranges Used During Data Analysis and Interpretation

Term	Meaning (range)
All	100%
Most/majority/more than half	Between 51% to 99%
Half	50%
Less than half/ minority	Between 1% and 49%

Source: Author’s formulation (2020)

4.10. Ethical Considerations

This study was cleared by the ethics committee prior to data collection. An introduction letter was attached to all research instruments. Besides providing respondents with explanatory letters, the researcher also explained the objectives to the respondents during data collection. In addition, all applicants signed a consent form prior to data collection.

The purpose of both the introductory letter and the consent form was to inform participants about the objectives of the study and ensure that they participate willingly. Furthermore, a draft of the analysed data was shared with respondents for their comments as a way of data validation. Data was stored in the researcher’s password protected computer and stored in a lockable cupboard. Also, all electronic files were encrypted.



4.11. Research Quality

The researcher strived to attain and maintain validity and reliability throughout the research process, which includes data collection, processing, analysis, and presentation as recommended by Simons (2009) and Zohrabi (2013). Validity refers to the extent at which the findings represent the situation on the ground, and the main causes of invalid findings are faulty procedures, inaccurate measurement, and poor samples (Webley, 2010; Zohrabi, 2013).

Reliability relates to the consistency of data collection, analysis, and interpretation (Webley, 2010; Zohrabi, 2013). However, some scholars are of the opinion that terms such as validity and reliability do not fit well in qualitative research (Webley, 2010; Wahyuni, 2012), where the focus is less on quantification and distribution of results but subjective perceptions of respondents. Commonly acceptable terms when discussing the quality of qualitative research are dependability and integrity (Webley, 2010). According to Wahyuni (2012), qualitative researchers usually test for credibility, transferability, dependability, and confirmability.

As a way of maintaining research quality, research instruments were discussed with key personnel (including the study leader) before data collection to identify any issues which could affect quality and rectify them prior to data collection. Zohrabi (2013) notes that triangulation (which is the collection of data through various methods) can be used to improve validity in a study. Data for this study were collected through questionnaires, interviews, and document analysis. Also, the findings of this study were communicated to the respondents so that they could confirm if the data was a true reflection of what they said as recommended by Zohrabi (2013).

A detailed description of the research procedure that was followed in this study was provided in this chapter so that others can replicate the study as proposed by Wahyuni (2012) and Wong (2014). During the data analysis, a research assistant was engaged to assist in cross-checking of all findings. According to Wong (2014), engaging an assistant during data collection and analysis can help to minimise interviewer bias.



Wahyuni (2012) recommends the use of peers to crosscheck the researcher's work during coding. During transcription, the researcher checked all transcripts to make sure that they were error-free. Furthermore, answered scripts were kept and audited by the researcher and the research assistant to identify errors made during data collection and analysis. Lastly, triangulation was used as a way of maintaining data credibility in line with the recommendations of Wahyuni (2012) and Zohrabi (2013).

4.12. Chapter Summary

This chapter presented the research philosophy and methodology of this study. Methods used include questionnaires, interviews, and the archival approach. Interviews and questionnaires were used to complement each other in the sense that the advantages of using interviews might counter the limitations of questionnaire surveys. Also, data from one method say interviews were verified by data from questionnaire surveys. A summary of the research design was presented on Table 4.2 in the form of a design matrix. The following chapter (Chapter 5) discusses property valuation for expropriation and compensation in Zimbabwe.



CHAPTER 5 - RESULTS AND DISCUSSION

5.1. Introduction

This chapter contains the analyses and discussion of the results of this study as guided by the research objectives set out in Chapter 1. Accordingly, the chapter is divided into four sections. The current section is 5.1, which provides the background information for subsequent sections. Section 5.2 presents results on the structure, process and method(s) of property valuation for compensation in Zimbabwe. Section 5.3 presents the results that compares the legal frameworks of Zimbabwean expropriation and compensation with frameworks used by selected countries in line with international best practice. Section 5.4 presents results on consistency in the approaches that valuers used to estimate compensation on land and improvements in Zimbabwe. Also, Section 5.5 contains the results on the fairness and adequacy of compensation offered/paid by the expropriating authority. Analysis and discussion of results on the level of satisfaction of affected persons, with the amount of compensation paid for expropriation in Zimbabwe, is presented in Section 5.6. Section 5.7 deals with the analysis and discussion of results on areas of the existing legal framework guiding property valuation for expropriation and compensation in Zimbabwe that need to be strengthened in line with international best practice, while Section 5.8 summarises this chapter.

5.2. The Structure, Process and Method(s) of Property Valuation for Expropriation in Zimbabwe

In this section, results on the structure, process and method(s) of property valuation for expropriation in Zimbabwe were presented. The analysis of the provisions of existing statutes was done focusing on protection of property rights, powers to expropriate, valuation, heads of claim, payment period, interest for delayed compensation and dispute resolution mechanisms.



5.2.1. Property Rights and Eminent Domain Powers

Section 71 of the *CoZ of 2013* stipulates that:

“(2) Subject to section 72, every person has the right in any part of Zimbabwe, to acquire, hold, occupy, use, transfer, hypothecate, lease or dispose of all forms of property, either individually or in association with others.”

Also, Sections 71, 72 and 86 of the same constitution read together with Section 3 of the *LAA of 1992*, Section 40 of the *Forest Act (Chapter 19:05) (FA) of 1949*, Section 120 of the *Parks and Wildlife Act (Chapter 20:14) (PWA) of 1975*, Section 27 of the *Land Commission Act (Chapter 20:29) (LCA) of 2017*, Part VII of the *Regional Town and Country Planning Act (Chapter 29:12) (RTCPA) of 1976*, Section 150 of the *UCA of 1997* as well as Section 78 of the *Rural District Councils Act (Chapter 29:13) (RDCA) of 1988* empowers the president to expropriate property for a list of purposes.

Section 71 of the *CoZ of 2013* reads:

“Subject to this section and to section 72, no person may be compulsorily deprived of their property except where the following conditions are satisfied-

(a) the deprivation is in terms of the law of general application:

(b) the deprivation is necessary for any of the general application,

(i) in the interest of defence, public safety, public order, public morality, public health on the town and country planning: or

(ii) in order to develop or use that or any other property for a purpose beneficial to a community.”

Section 72(2) of the *CoZ of 2013* also prescribes other purposes that justify the deprivation of agricultural land rights as follows:

“Settlement for agriculture or other purposes, land reorganisation, forestry, environment conservation or utilisation of wildlife or other natural resources and relocation of people.”



Communal properties can also be expropriated in terms of Section 3(4) of the *LAA of 1992*:

“... no Communal Land, materials from Communal Land or interest or right in Communal Land may be acquired by an acquiring authority otherwise than in accordance with the Communal Land Act [Chapter 20:04].”

Since property rights can be viewed at using both constitutional and human rights magnifying glasses, it is important to note that there are constitutional institutions established to deal with constitutional and human rights issues. Disputes related to infringements of constitutional rights are dealt with in the Constitutional Court which is established in terms of Chapter 7 of the *CoZ of 2013*. Also, the Zimbabwe Human Rights Commission established in terms of Chapter 12 of *CoZ of 2013* handles issues to do with human rights abuses. However, with the current setup, these two crucial institutions are not directly involved in the expropriation and compensation process.

5.2.2. Notice of Intention to Expropriate

The expropriating authority is obliged by Section 71 subsection 3C paragraph (i) of the *CoZ of 2013* to give a reasonable notice of intention to expropriate. However, no definition has been provided on the meaning of “reasonable notice.” It is not clear how one can measure if the notice was reasonable or not. It appears as if the architects of Section 5 of the *LAA of 1992* designed it specifically to provide more “flesh to this skeleton.” In terms of the same section, the notice is supposed to be published:

“... once in the Gazette and once a week for two consecutive weeks, commencing with the day on which the notice in the Gazette is published, in a newspaper circulating in the area in which the land to be acquired is situated and in such other manner as the acquiring authority thinks will best bring the notice to the attention of the owner...”

This statutory provision can be interpreted to mean that affected people are given a two weeks’ notice period. Only two methods of serving the expropriation notice are prescribed by this section, these are the Government Gazette (GG) and any newspaper circulating in the area. There is no requirement for the notice to be served in person or to use any other forms of media like a registered mail where there can be a proof of delivery. Instead, the



same section states that when the notice is published in the GG and newspaper as highlighted above, it is deemed to have been received by the affected persons.

The expropriating authority is given a leeway to decide any other method to serve the notice besides the GG and newspaper. However, this might be prone to abuse as the expropriating authority might just choose to use methods that might not be effective in delivering the notice to the intended recipients. Furthermore, the act is silent on the language that is supposed to be used in the notice. This gap provides an open cheque to the expropriation authority to decide on the language to be used.

The *LAA of 1992* also provides affected people thirty days to make any objections. This section can be interpreted to mean that all objections that are brought after the expiry of the notice period are not considered. It is important to note that objections are supposed to be sent to the expropriating authority and not an independent institution like courts. In this case, there are chances of conflict of interest since the expropriating authority is also the one to handle objections from affected people. Any notice issued in terms of Section 5 of the *LAA of 1992* remains valid for a decade as prescribed by Section 14 of the *AFEMA of 2004*. It is not clear why the notice has to remain valid for a decade. If the government fails to use the acquired property say in a period of between 1 to 5 years, it might be prudent to return the property to the affected owners instead of making the notice valid for 10 years.

5.2.3. Property Valuation for Expropriation

The *LAA of 1992* is not clear on the date to be used when estimating property value during expropriation. It states that valuation for compensation is done soon after the notice of intention to expropriate is published. Section 29B of the *LAA of 1992* simply states that the designate valuer is supposed to value the expropriated property as soon as possible. What is clear is that the valuation is done after the notice date, but the question is, which date is adopted as the date of valuation? There is a need to amend Section 5 of the *LAA of 1992* to provide a statutory requirement for the expropriation authority to specify the valuation date in the notice of intention to expropriate.



Property valuation for compensation in Zimbabwe is done by the CC (Section 29b (3) of the *LAA of 1992*) based on preliminary valuations done by DVOs. The DVOs are appointed by the Minister from serving members of the civil service. They are responsible for preparing preliminary estimates that are used by the CC when calculating compensation value (Sections 29B of the *LAA of 1992* and 5 of the *AFEMA of 2004*).

However, *LAA of 1992* is silent on the academic and professional qualification requirements for DVOs. Besides being a serving civil servant, the Minister is not given any further criteria for assessing the rightful candidates to be selected as DVOs. There is a law that regulates property valuation practice in Zimbabwe (*Valuers Act (VA) of 2006*), but it does not provide a membership category for DVOs. As a result, the chances are that those who qualify to be appointed as designated valuations officers by virtue of being serving civil servants might not qualify to be registered as professional property valuers in terms of the *VA of 2006*. However, being registered as valuers might not qualify to be appointed as DVOs since most of them are working in the private sector. Box 5.1 summarises statutory requirements to be registered as a valuer in terms of Section 25 of the *VA of 2006*.



Box 5-1: Requirements for Registration as a Valuer in Zimbabwe

25 Qualifications of registration

- (1) Subject to this Act, no person shall practise as a valuer unless he is registered, as such, under this Act.
- (2) For the purposes of this Part, a person shall be qualified to be registered as a valuer if—
- (a) he has attained the age of eighteen years; and
 - (b) holds a professional qualification which is recognised by the Council in terms of section twenty-six; and
 - (c) he meets the requirements relating to practical experience specified in the Schedule.

26 Professional qualifications recognised by Council

For the purpose of registering a person in terms of this Part, the following qualifications shall be recognised by the Council—

- (a) professional membership of an institute which the Minister may, after consultation with the Council, prescribe; or
- (b) a degree in valuation and estate management, land economics or the equivalent, obtained from a university, polytechnic or other institution of higher learning which the Minister may, after consultation with the Council, prescribe; or
- (c) any other diploma or examination which the Minister may, after consultation with the Council, prescribe.

SCHEDULE (Sections 25 (2) (c) and 46)

PRACTICAL EXPERIENCE REQUIRED FOR REGISTRATION

- (1) Post-qualification employment in Zimbabwe for a period of not less than three years working under the supervision of a valuer and engaged for that period in the valuation of immovable property.
- (2) Employment outside Zimbabwe in such occupation and for such periods considered by the Council to provide substantially similar post-qualification experience as that required in Zimbabwe, coupled with at least six months' experience in a valuer's office in Zimbabwe in the valuation of immovable property:

Provided that the Council may, under special circumstances, waive the requirement of six months' experience in the case of a person in the service of the Government of Zimbabwe or local authority.

Source: Government of Zimbabwe (2006)



With reference to Box 5.1, it can be noted that the requirements for one to be registered as a professional valuer in Zimbabwe include age, professional qualifications, and work experience. In contrary, there are no such requirements for one to be appointed as a DVO. In fact, there is a law that restricts the Minister to appoint from the serving members of the civil service people who are under the age of eighteen years and without relevant academic qualifications and adequate work experience.

5.2.4. Compensable Heads of Claim

Compensable heads of claim for compulsory land acquisition depends on whether the land is agricultural or not. In terms of Section 20 of the *LAA of 1992*, where the land is not required for resettlement, compensable heads of claim include:

“a) the loss of the land; and

(b) any actual expense or loss which has been or may reasonably be incurred or suffered directly as a result of the action taken by the acquiring authority and which has not already been taken into account, directly or indirectly, in assessing compensation for the loss referred to in paragraph (a):

Provided that, in relation to any damage to any area of land or any building or structure thereon, compensation for such damage shall not exceed the value of the area of land, building or structure, as the case may be.”

It can be noted that the existing provisions on heads of claim are not detailed, it is not very clear if items like solatium, home loss and disturbance allowance are compensated. If they are compensated under Section 20B of the *LAA of 1992*, how are they calculated? What is clear though, is that compensation for losses cannot be more than the compensation for the acquired property. Section 29C (5) of the *LAA of 1992* state that:

“Compensation payable in terms of subsection (1) shall not extend to compensation for loss suffered or expense incurred by the owner or occupier of the agricultural land arising out of—

(a) any investigation conducted by or on behalf of the acquiring authority in terms of section eleven; or



- (b) the removal or eviction of the owner or occupier from the land concerned in terms of section nine; or*
- (c) his inability to conduct any activity on the land concerned, whether as a result of a notice in terms of subsection (3) of section five or otherwise; or*
- (d) any other circumstances incidental to the acquisition of the land concerned.”*

Exclusion of compensation for disturbances and losses in terms of Section 29C (5) of the LAA of 1992 can be unfair, especially with losses directly related to the expropriation. It might be prudent to compensate for all limitations to the use and enjoyment of property rights that occur because of the expropriation exercise.

Compensable heads of claim for land expropriated for resettlement is prescribed by Section 72 of the CoZ of 2013 read together with Section 20 of the LAA of 1992. Section 72 of the CoZ 2013 reads:

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

More detail on the issue of compensation for expropriated agricultural land is given in Section 295 of the CoZ of 2013. This section elaborates on compensation for agricultural properties that were expropriated before the commencement date of the 2013 Constitution. Most of the properties that were expropriated before the commencement date of the CoZ of 2013 are former commercial farms that were acquired during the FTLRP of early 2000. In terms of Section 295, if the land was expropriated from an indigenous person, then compensable heads of claim include the land and improvements.

For expropriated farms which were expropriated from foreigners coming from countries with bilateral agreements, the compensable heads of claim are determined in terms of the provisions of the bilateral agreement. However, for all foreign nationals whose farms were not protected by bilateral agreements, the compensable heads of claim include improvements on the land and exclude the land. Section 72(7) of the CoZ of 2013 gave a historical background of how the land was expropriated from Africans without compensation during the colonial era and stated that the former colonial masters must pay



for compensation of the land. Figure 5.1 is a summary of major statutory provisions guiding compensation for expropriated properties in Zimbabwe.

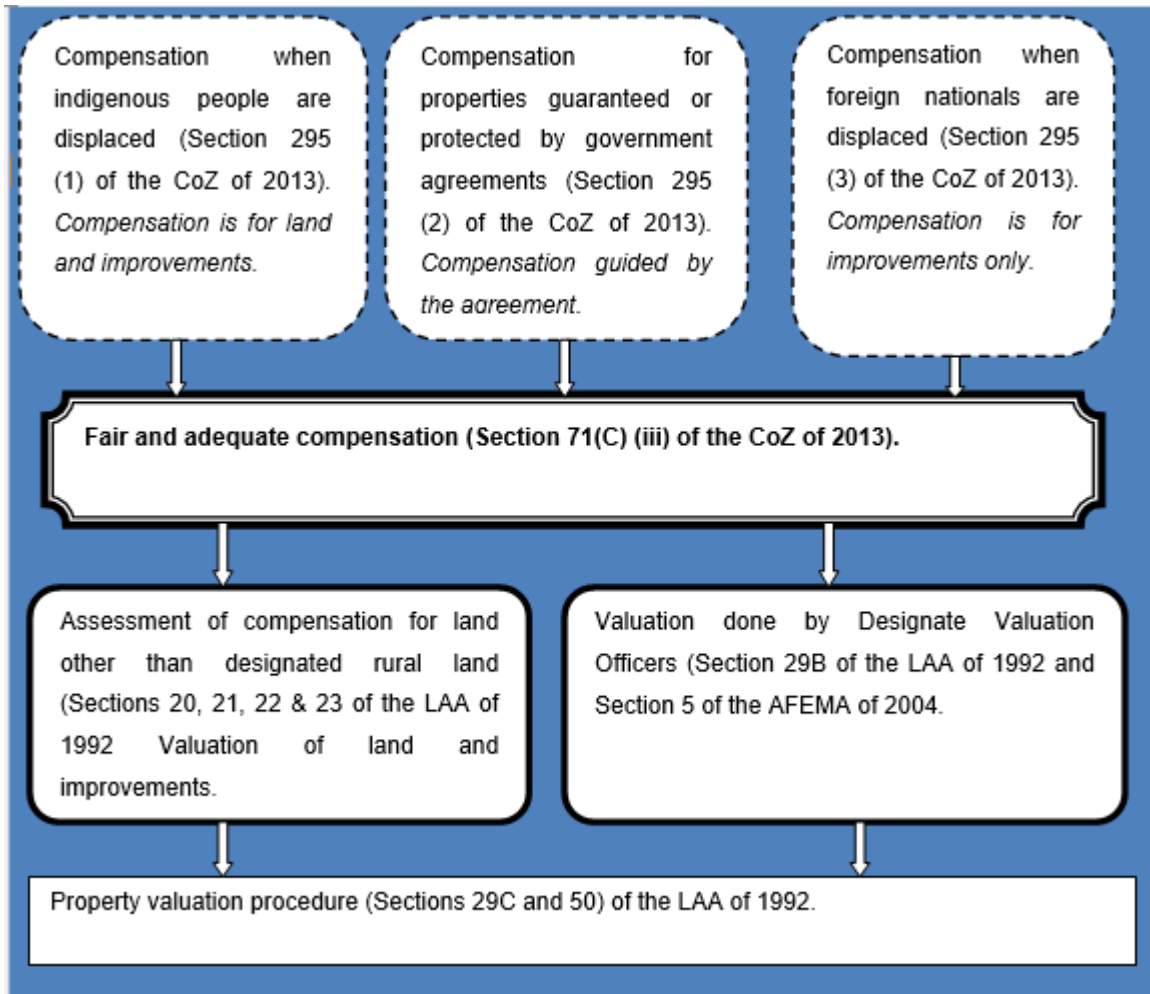


Figure 5-1: Laws Guiding Compensation for Expropriated Properties in Zimbabwe

Source: Author's formulation from Government of Zimbabwe (1992, 2004, 2013)

As shown in Figure 5.1, before one attempts to estimate the compensation value of an expropriated property, he/she must establish the nationality of the displaced persons. More details on property valuation for compensation of expropriated properties are laid down by the provisions of the *LAA of 1992* and the *AFEMA of 2004*. The property valuation procedure for agricultural properties acquired for agricultural properties in terms of Sections 29 and 50 are shown in Table 5.1.



Table 5-1: Guidelines for valuation for improvements as provided by Sections 29 and 50 of the LAA of 1992

Type of improvement	Guiding valuation principle
Buildings	<ul style="list-style-type: none"> - The quality of their construction shall be assessed according to standards set by the Ministry responsible for housing standards for the types of building concerned. The age and condition of the buildings shall also be considered.
Grazing veld	<ul style="list-style-type: none"> - Compensation shall be payable for dams, dips, spray races, fencing and other improvements enhancing its value for grazing purposes. - Grazing veld shall be valued according to its carrying capacity for livestock; the highest values may be given only to fully equipped pastures with good water supplies, dips and well-fenced paddocks. - The same amounts shall be payable for improved pastures as for grazing veld of the same carrying capacity.
Irrigated land	<ul style="list-style-type: none"> - Compensation shall be payable for dams, boreholes, canals, irrigation equipment embedded in the ground and other improvements enhancing its value for irrigation purposes. - Land may not be classified as irrigable for the purpose of valuation unless— - (a) it is capable of being placed under full year-round irrigation; and - (b) where it can be irrigated only in terms of rights granted under the Water Act [Chapter 20:24], such rights have, in fact, been granted.
Valuing perennial or plantation crops, such as coffee, tea, fruit, timber and sugarcane	<ul style="list-style-type: none"> - Regard shall be paid to the potential yield of such crops and their marketability, but only where the crops are maintained in a satisfactory condition and are well-pruned, fertilised and sprayed.
Valuing tobacco curing facilities	<ul style="list-style-type: none"> - Tobacco curing facilities, such as tunnels, chongololos and Dawson systems shall be valued at a rate comparable to the values given to conventional tobacco barns of equivalent output.
Valuing fencing	<ul style="list-style-type: none"> - (a) lower values shall be placed on fences that are not erected to standards prescribed in terms of the Fencing Act [Chapter 20:06] or with pressure-treated poles; - (b) for boundary fences, only half the values shall be paid.
Valuing electrical installations	<ul style="list-style-type: none"> - The costs of installing any mains electricity supply and connection points on the land shall be taken into account. - The value of the land shall be regarded as enhanced by the availability of a mains electricity supply and regard shall be paid to the number of connection points on the land.
Valuing land	<ul style="list-style-type: none"> - The following factors shall be considered— - (a) the soil types to be found on the land; and - (b) the extent of cultivation carried out on it; and - (c) the use to that non-arable parts of the land are being or may be put. - For the classification of soil types, Agricultural Extension Department (AGRITEX) soil classification maps shall be used, and these soil types shall be linked to the natural regions as shown on the appropriate maps that are available for inspection at the offices of the Ministry responsible for lands. - When valuing cleared virgin land, consideration shall be given to the costs of clearing the land.
Valuing dip-tanks and spray races	Additional compensation may be paid where the handling facilities are good.

Source: Government of Zimbabwe (1992)



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

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

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

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

Section 71, subsection 3C paragraph (ii) of *CoZ of 2013* states that the compensation must be paid before the property is acquired or within a reasonable time after the expropriation, but it does not define what constitutes a reasonable time. Section 29C (3) of the *LAA of*



1992 states that the compensation period can be fixed by the Minister of Lands and approved by the Minister of Finance as follows:

“Provided that—

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

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

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

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

Compensation for expropriated communal land is guided by Section 12, subsection 1(i) of the *CLA of 1982* that provides for compensation through alternative land. In the spirit of fairness, at least the alternative communal land that government offers as restitution to displaced communities is supposed to be of comparable quality and size or even better than the land taken.

The *CLA of 1982* states that the right to use or occupy alternative land will be availed to displaced persons as “...*far as is reasonable and practicable...*” In this case, the *CLA of 1982* is not specific on the compensation period that might leave a room for manipulation by the expropriating authority. Being specific on the compensation period, (like indicating that the right of occupation or use of alternative land must be offered, and agreed to, by affected people before their displacement) can help in holding the expropriating authority



to account for any delayed compensation. Any delayed offer to the occupation or use of alternative land ought to be treated like any compensation delay that must attract interest.

Section 12, subsection 1 (ii) of the *CLA of 1982* also specifies what must happen if there is no alternative land as follows:

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

In this case, Part V of the *LAA of 1992* that provides a statutory guideline on the assessment of compensation is expected to provide a detailed procedure on a property valuation of improvements on expropriated communal land. In most cases, unique improvements are found on communal properties that are different from improvements found on other rural properties like commercial farms such as on traditional rondavels and granaries. However, there is not even a single mention of communal land in the entire Part V of the *LAA of 1992*. Details of property valuation for two different classes of land are provided in Part V of the *LAA of 1992* as follows:

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

The *LAA of 1992* does not define the land that is not agricultural land required for resettlement purposes, but it defines agricultural land required for resettlement purposes as:

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

Part V of the *LAA of 1992* does not provide a detailed procedure on the assessment of property valuation of improvements and other losses on expropriated properties. More detail is provided in Sections 29C and 50 of the *LAA of 1992*. Notably, both Sections 29C and 50 of the *LAA of 1992* are specific that property valuation procedures provided are specifically for assessment of compensation for improvements on agricultural land needed for resettlement purposes. Since communal land is not agricultural land, Section 72(1) of



the CoZ of 2013 (see Section 1.8.3) seems to be a missing link between the provisions of the *LAA of 1992* and the *CLA of 1982* in relation to the procedure followed when valuing expropriated communal properties. This study established that, currently, there is a dearth of a statutory guide on the procedure to be followed when valuing expropriated communal properties in Zimbabwe for the purposes of compensation.

5.2.5. Interest for Delayed Compensation

Section 29 of the *LAA of 1992* and Section 2 of the *AFEMA of 2004* provide for payment of interest when compensation is delayed. In terms of these 2 sections, a prescribed interest rate is used when calculating interest for delayed compensation. The *LAA of 1992* (Section 29) defines the prescribed interest rate as the rate prescribed in terms of the *Prescribed Rate of Interest Act (Chapter 8:10) (PRIA) of 1985*. Section 7 of the *PRIA of 1985* states that the prescribed interest rate is determined by the Minister of Justice and approved by the Minister of Finance. It is not clear whether this prescribed rate is market related or not.

5.2.6. Appeal and Dispute Resolution Mechanisms

If there is a compensation dispute, the *CoZ of 2013* allows any of the disputing parties to approach a competent court of law for the determination of a fair compensation value as provided by Section 71(3) of the *CoZ of 2013* which state that:

“...(iii) If the acquisition is contested, to apply to a competent court before acquiring the property, or not later than thirty days after the acquisition for an order confirming the acquisition

71(3)(d) the law entitles any person whose property has been acquired to apply to a competent court for the prompt return of the property if the court does not confirm the acquisition; and

71(3)(e) the law entitles any claimant for compensation to apply to a competent court for the determination of –

(i) the existence nature and value of their interest in the property concerned;

(ii) the legality of the deprivation and



(iii) the amount of compensation to which they are entitled; and to apply for an order directing the prompt payment of any compensation.”

Even though the *CoZ of 2013* does not define a competent court, Sections 7, 24, 29D and 42 of the *LAA of 1992* and Section 8 of the *AFEMA of 2004* are specific that appeals are presided over by the Administrative Court. In this case, it can be inferred that the Administrative Court is a competent court that is referred to in the constitution. Another provision that is worth mentioning is Section 73(3) of the *CoZ of 2013* that restricts courts from presiding over any dispute relating to compensation for agricultural land required for land reform and resettlement.

Section 73(3) states that:

“where agricultural land or any right or interest in such land is compulsorily acquired for the purposes referred to in subsection (2) –

(1) 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;

(2) no person may apply to court for the determination of any question relating to compensation, except for compensation for improvements effected on the land before its acquisition and no court may entertain such application.

(3) the acquisition may not be challenged on the grounds that it is discriminatory in contravention of Section 56.”

With reference to Section 73 of the *CoZ of 2013*, there is no compensation for agricultural land that is expropriated for resettlement and courts cannot preside over cases on compensation for land.

5.3. Comparison of Zimbabwe’s Legal Frameworks on Expropriation and Compensation with some Selected Countries and International agencies’ guidelines

In this section, the existing legal framework that guides expropriation and compensation practice in Zimbabwe is compared with FAO, FIG and WB as well as similar statutes from



selected countries that were discussed in Chapter 3. This was done in two subsections; the first part is a comparison of expropriation and compensation laws of Zimbabwe with the guidelines of international agencies in subsection 5.3.1. The second part is subsection 5.3.2 which contains the document analysis of the Zimbabwean laws with those of other countries.

5.3.1. A Comparison of Laws Guiding Property Valuation for Compensation in Zimbabwe with WB, FAO and FIG Guidelines

Table 5.2 is a comparative summary of the provisions of the *LAA of 1992* and WB, FAO and FIG guidelines.



Table 5-2: A comparison of the LAA of 1992 and WB, FIG and FAO Guidelines

Section of the LAA of 1992	Current provisions of the LAA	WB guidelines	FAO guidelines	FIG guidelines
Section 5: Notice	A notice of intention expropriate is published once in a GG and a newspaper circulating in the area. It is silent on the language to be used.	-	Local language must be used when serving a notice of intention to expropriate.	Newspapers, letters and mobiles centres are recommended media when serving a notice.
Section 16: manner and period payment of compensation	To be paid within a reasonable time.	-	Substantial amount to be paid before possession of the subject property.	Once-off payment to be paid in due course.
Sections 29 and 50: Valuation of improvements	Depreciation is subtracted from the estimated replacement value of improvements.	Depreciation is not supposed to be subtracted from the estimated replacement cost of improvements.	-	-
Section 29B: Valuation date	It does not give a specific date; it simply states that the valuation must be done as soon as possible.	-	The valuation date is supposed to be the same as the notice date.	The valuation date is supposed to be the same as the notice date.

Source: Adopted from GoZ (1992); WB, (2004); FAO (2008); FIG, (2010)

As shown in Table 5.2, the FAO (2008) and FIG (2010) guidelines state that before the land is expropriated, a notice of intention to expropriate must be sent to displaced people using local media and a language that can be understood by affected people. The recommended media of communication include local newspapers, letters and mobile centres. Section 5 of the *LAA of 1992* provides for a preliminary notice that must be sent to displaced persons before expropriation. However, the *LAA of 1992* only states that the notice is gazetted once by government and published twice in the local newspaper. It is silent on the language to be used when publishing the preliminary expropriation policy.

The second critical issue addressed by the FAO and FIG guidelines is that of the valuation date that is supposed to be specified in statutes. It is recommended that the date of notice must be the same as the valuation date (FAO, 2008; FIG, 2010). However, Section 29B of the *LAA of 1992* that deals with the date of valuation simply states that the designate valuer is supposed to compute the compensation quantum as soon as possible. This provision sounds vague, and one might be justified to ask how soon is soon?

Still on property valuation for compensation, the WB (2004) recommends that depreciation is not supposed to be deducted from the estimated value of the expropriated properties. However, in terms of Sections 29 and 50 of the *LAA of 1992*, when replacement value is estimated for the purposes of compensation, depreciation is supposed to be deducted. FIG (2010) recommends that the law must consider the issue of valuation inaccuracy. This is done to make sure that the expropriating authority will take responsibility of taking all necessary measures so that the estimated compensation is accurate. If it is proven that the estimated value was inaccurate due to negligence or any other avoidable factors, the law, in this case, can provide room for recourse. However, the existing statute in Zimbabwe is silent on the issue of valuation accuracy. There is no statutory requirement to hold the expropriating authority accountable for valuation accuracy.

FAO (2008) recommends that affected people are expected to be given a chance to estimate and justify their compensation claim for negotiation with the expropriating authority. If the displaced people are not satisfied with either the expropriation process or compensation offered, the law must guarantee the right to appeal in a court of law (FAO, 2008; FIG,



2010). Section 22 of the *LAA of 1992*, states that people whose properties are expropriated are given a chance to submit their compensation claim. Application for appeal is done at the Administrative Court in terms of Sections 24 and 29 of the *LAA of 1992*.

The FAO (2008) guideline recommends that the appeal is supposed to be done either at a very low cost or free of charge. According to FIG (2010), reasonable costs of appeal are supposed to be paid by the expropriating authority. The term ‘reasonable’ as used by FAO (2010) can be interpreted to mean that if an appeal is made without justifiable grounds, then the affected person will have to meet the cost. The *LAA of 1992* seems to be closer to the recommendations of FIG (2010) on payment of the reasonable cost of an appeal. Section 46 (2) of the *LAA of 1992* states that if the appeal is unreasonable, the applicant will be made to pay for the cost of appeal. This provision applies to both the expropriation authority and displaced people. It looks like this provision was crafted to discourage unnecessary appeals that can waste the time of the courts and delay the expropriation process.

Statutes are expected to be specific on when exactly compensation is supposed to be paid. FAO (2008) recommends that a substantial amount of compensation is supposed to be paid before the expropriated property can be possessed. The recommendations by FIG (2010) are that a once-off payment of compensation must be paid in due time and most preferably in cash. As provided by Section 16 of the *LAA of 1992*, compensation is paid at a reasonable time, and Section 29C provides the Minister with the power to fix the period that compensation must be paid.

If payment of compensation is delayed, FAO (2008) recommends that interest must be paid on the compensation amount. Calculation of interest on any unpaid compensation amount is supposed to start from the date of possession. Section 29 of the *LAA of 1992* is structured in line with this guideline as it stipulates that interest on any money that is delayed is supposed to be paid to the displaced people based on a rate to be specified by the *PRIA of 1985*.



5.3.2. A comparison of Zimbabwe's Expropriation and Compensation Laws with Similar Laws from Other Countries

A comparison of provisions of laws guiding expropriation and compensation in Zimbabwe and provisions of similar statutes from other countries is presented in Table 5.3.



Table 5-3: A Comparison of Zimbabwean Expropriation Laws with similar Laws of Other Countries

Variable	Statutory Provisions	
	Zimbabwe	Lessons from Other Countries
Expropriation decisions	Section 3 of the <i>LAA of 1992</i> , the executive makes the expropriation decision without the involvement of the judiciary and the legislature.	The executive's intention to expropriate to be approved by the judiciary (Section 1 of the CA of 1988 of the USA; Section 34 of the <i>Planning and Building Act of 1985</i> of Norway; Section 7 of the <i>State Acquisition of Lands Act of 1940</i> of Fiji; Article 35 of the <i>Constitution of Russia of 1993</i> and Article 55 of the <i>Land Code (No. 136-FZ) of 2001 of Russia</i>).
Methods of notifying affected people	Section 5 of the <i>LAA of 1992</i> , the expropriating authority to give notice of intention to expropriate in the GG (once a week for two consecutive weeks), in the newspaper circulating in the area as well as in any other manner that the expropriating authority seems fit.	Use of government Website (Section 13 of the <i>LAJTCA of 1991 of the UK</i>). Notification by electronic mails (Section 170 of the <i>LAA of 1997 of New South Wales</i>). Use of registered mail (Sections 3 and 8 of the <i>EA of 1985</i> of Canada). Use of public meetings (Section 11 of the <i>RFTLARRA of 2013 of India</i>), Use of notice boards, service of a notice on the owner <i>LAJTCA of 1991 of New South Wales</i>).
Notice period	Section 5 of the <i>LAA of 1992</i> prescribes a 30 days' notice period.	90 days (Section 13 of the <i>LAJTCA of 1991</i> of the UK). at least 1 year prior to the date of expropriation (Article 63 of the <i>LC of Russia of 2001</i>).
Social impact assessment and rehabilitation of affected persons	No provision for social impact assessment and rehabilitation of affected persons.	Social impact assessment to be done by independent institutions before the expropriation (Section 7 of the <i>RFTLARRA of 2013</i> of India). Rehabilitation of affected persons (Section 31 of the <i>RFTLARRA of 2013</i> of India).
Valuation date	Section 29B of the <i>LAA of 1992</i> simply states that the designate valuer is supposed to estimate the value of the expropriated property as soon as possible.	Valuation date to be the same as the notice date (Section 14 the <i>LAA of 1947</i> of Jamaica). Valuation date to be before the notice date (Section 43 of the UK's <i>Land Acquisition Just Terms Compensation Act of 1991</i>).
Public participation	No provision for public participation.	Public engagement during property valuation (Article 316(4) of the <i>Civil Code of 2002</i> , of Republic of Moldova).
Heads of claim	In terms of Section 20 of the <i>LAA of 1992</i> heads of claim include the loss of land as well as any loss incurred because of the compulsory land acquisition.	Heads of claim include the market value of the subject property, disturbance allowance, financial loss and a solatium of 10% of the market value but not more than ten thousand Rand (Section 12 of the <i>Expropriation Act (No. 4780) of 1975</i> of SA). Heads of claims include market value, severance, injuriously affection, relocation allowance and legal fees (Section 12 of the <i>State Acquisition of Lands Act of 1940</i> of Fiji). Heads of claim are comprised of market value, a solatium (equivalent to 100% of the market value), injurious affection, disturbance allowance and any business loss (Sections 28 - 30 of the <i>RFTLARRA of 2013</i> of India). Heads of claim include the market value of the subject property, disturbance allowance, transport allowance, loss of profits or accommodation, cost of acquiring or getting the subject land and any other loss or capital expenditure incurred to the development of the subject land (Part 2 of the <i>LA (No. 5) of 1999</i> of Tanzania) Heads of claim include loss of occupational rights, loss of land, loss of structure, loss of business, relocation costs, loss of goodwill, costs of professional advice, nuisance, loss or reduction of tenure or disturbances if it is not too remote and is a natural and reasonable consequence of the disposition of the land (Section 9 of the <i>LA (No. 16) of 2016</i> of Malawi).
Compensation	Section 16 of the <i>LAA of 1992</i>	Compensation to be paid before the displacement of affected persons as a one lump sum (Section 8 of the



period	stipulates that compensation is paid within a reasonable time.	<i>Lands Acquisition (Amendment) Act (No.9) (LAAA) (2017)</i> of Malawi). Compensation to be paid 14 days after adoption of the expropriation decision (Articles 128-135 of <i>REMA of 1997</i> of Poland) Compensation is paid 15 days after publishing the notice (Section 19 of the <i>LEA of 2000</i> of Taiwan).
Interest for delayed payment	In terms of Section 29 of the <i>LAA of 1992</i> , interest on delayed interest cannot be less than interests set by the <i>PRIA of 1985</i> .	Interest rates for delayed payment to be determined by a court of law (Section 28 of <i>ALA of 1967</i> , of Queensland).
Penalties for omission or negligence done by the expropriating authority	No provision that criminalises acts of omission and negligence by the expropriating authority.	Section 87 of the <i>RFTLARRA of 2013</i> of India.

Source: Research Findings (2020)



Expropriation and compensation for land and the unexhausted improvements in several countries reviewed in this chapter brought to the fore strengths and weaknesses of this practice. While some countries have well-defined statutes on compensation practice that provides a balance between the state (acquiring body) and the displaced person(s), others do not. To this end, consideration is given in this section to highlight areas where the Zimbabwean government and practitioners could learn from positivity in other countries and strengthen their laws.

Firstly, the *CoZ of 2013* and the *LAA of 1992* might need to include a provision that requires the expropriating authority to seek a court order before it can acquire any property. This provision is in the statutes of Russia, Fiji, the USA and the UK. Currently, in Zimbabwe, the courts are only involved when there is a dispute, but they do not give an expropriation order.

Another issue that might need to be strengthened is the notice period as provided by Section 5 of the *LAA of 1992*, which provides affected people a month's notice period. Within this notice period, affected people are expected to make objections, if any. Lessons can be learnt from Section 13 of the *LAJTCA of 1991* of the UK that provides for 90 days' notice period or Article 63 of the *LC of Russia of 2001* that provides for at least one year before the acquisition. The period can only be shorter when affected people are consulted and agree to accept a shorter period. A longer notice period (3 – 12 months) can allow most interested people and/or their representative(s) ample time to raise their objections and engage with the expropriating authority.

Another critical aspect in the publication of the expropriation notice is the use of multiple media as is done in the UK, New South Wales, Tanzania and India. Section 5 of the *LAA of 1992* might need to be amended to increase the media used to notify affected people to include hand-delivered mail, public meetings, registered mail, government websites, television, radio, social media and electronic mails. This is most likely to increase the coverage of the notice and compounded with a review of the notice period can create an inclusive environment where affected people can participate in the expropriation and compensation process.



Another key issue that is currently missing in the *LAA of 1992* is the valuation date. Zimbabwe can adopt the notice date as the date of valuation as in the case with Section 14 the *LAA of 1947* of Jamaica. Alternatively, the date that the decision to expropriate was approved can be adopted as the date of valuation following the provisions of Section 43 of the UK's *LAJTCA of 1991*. If the date when the decision to expropriate is adopted as the valuation date, then the compensation offer can be included in the notice.

Besides the issue of who estimates the compensation value and valuation date, the existing framework guiding property valuation for compensation needs to be strengthened when it comes to compensable heads of claim as provided by Section 20 of the *LAA of 1992*. To strengthen Section 20 of the *LAA of 1992*, lessons can be drawn from other countries where compensable heads of claim are clearly stated and include: market value of the expropriated property, value of standing crops, loss of occupational rights, financial/business loss, disturbance allowance, transport/relocation allowance, solatium, severance, injurious affection, professional fees and loss of goodwill. These compensable heads of claim are provided in SA, Fiji, Tanzania, Botswana, Malawi, the UK, Canada and Netherlands.

The duration that the expropriation authority can take without payment of compensation is another area where Zimbabwe can learn from other countries. Lessons can be drawn from Poland where compensation must be paid within 2 weeks of deciding to expropriate or from Taiwan, where the compensation is paid within fifteen days of the post notice period. In the cases of Moldova, Russia and Ethiopia, the law state that compensation is paid prior to compulsory acquisition of the subject property.

The *LAA of 1992* can be amended in line with Section 8 of the *Lands Acquisition LAAA of 2017* of Malawi, which prescribes that compensation must be paid as one lump sum. In this case, the expropriation authority is required to pay compensation as a once-off payment to be made before, on or soon after the date of expropriation. A statutory requirement for lump sum compensation can make rational decisions and expropriate only when it is crucial to do so.



Section 29 of the *LAA of 1992* that provides for payment of the use of prescribed interest rates can be amended to allow independent institutions, like courts, to determine the interest to be paid for delayed payment as in the case with Section 28 of *ALA of 1967*, of Queensland. In this case, the courts might decide a fair rate for example, based on market rates so that the affected people will not lose from the delay due to time value of money.

In India, the expropriation authority is supposed to do a social impact assessment prior to compulsory purchase. This element is missing in the existing expropriation and compensation legal framework in Zimbabwe. A social impact assessment can help in designing a compensation framework that takes into consideration the social and cultural values of affected people.

Lastly, there is a need for a statutory provision that holds the expropriating authority accountable for any omission or act of negligence done by its employees or agents during the expropriation process. Currently, the *LAA of 1992* only provides for penalties for offences by affected people that include vandalising the gazetted property or refusing to vacate the acquired property. Lessons can be learnt from Section 87 of the *RFTLARRA of 2013* of India where the expropriating authority is held accountable for offences committed by its officers while on duty. There are also penalties in the *RFTLARRA of 2013* of India for breaching any provisions of the law by the expropriating authority.

5.4. The Level of Consistency in the Approaches that Valuers used to Estimate Compensation on Land and Improvements in Zimbabwe

In this section, compensation rates used during the Chiyadzwa and Tokwe-Mukosi property valuation for expropriation, court cases on property valuation for expropriation and the reports on the GCA published on the public domain were analysed. This section is further structured into three subsections as follows: Section 5.4.2. discusses results on consistency and uniformity of the compensation rates used for the Chiadzwa and Tokwe-Mukosi valuation for compensation projects. Section 5.4.3. discusses the consistency and uniformity of the compensation values used during the GCA and estimated by PVs and



DVOs. The last section (Section 5.4.4.) presents data on court cases on property valuation for expropriation in Zimbabwe.

5.4.1.1. *Consistency of Property Valuation Practice: The case of Chiyadzwa and Tokwe-Mukosi*

An assessment was done to establish if DVOs were consistent in the way they value similar properties in different compensation projects. Valuation for compensation for the Chiyadzwa and Tokwe-Mukosi projects were done by DVOs in 2009 and 2013, respectively. In both cases, people were displaced from communal land to pave the way for mining (Chiyadzwa) and dam construction (Tokwe-Mukosi). As discussed in Section 5.2.4, no law details how property valuation for compensation of communal properties is supposed to be done. Against such background, this study also established that there is no government policy document that guides property valuation for expropriated communal properties. The cost approach was adopted in both valuation projects, and this section analyses the consistency of the valuation rates that were used when estimating the compensation value of different types of improvements.

5.4.1.2. *Approved Compensation Rates for Houses*

As shown in Table 5.4, there are wide differences between valuation rates that were used to calculate compensation for houses in 2009 and the ones adopted for similar improvements in 2013. The differences ranged between 58% and 78% depending on the type of house.



Table 5-4: Approved Rates for Compensation of Houses

Improvement	Description	Approved Rate (US\$/m ²)		Percentage Difference
		Chiyadzwa 2009	Tokwe-Mukosi 2013	
Rondavel	Pole and dagga, earth floor, thatch	80	18	-78%
	Dagga wall, earth floor, thatch	80	25	-69%
	Pole and dagga, cement screed floor, thatch	100	35	-65%
	Brick wall, earth floor and thatch, plastered and painted	150	55	-63%
	Brick wall, cement screed floor and thatch, plastered and painted	180	75	-58%
Main house	Cement block wall, rendered internally and externally, timber beams with corrugated asbestos sheets and granolithic floor	540	200	-63%
	Brick wall, rendered internally and externally, timber beams with corrugated iron sheets and granolithic floor	500	140	-72%
	Brick wall, rendered internally and externally, treated gum beams with corrugated asbestos sheets and granolithic floor	450	180	-60%
	Not plastered brick wall, granolithic floor under corrugated iron sheets	400	100	-75%

Source: Research Findings (2020)



5.4.1.3. *Approved Compensation Rates for Storage Facilities*

When it comes to property valuation for storage facilities, compensation rates that were lower as compared to the ones used in the Chiyadzwa valuation project in 2009 were approved and used in 2013 during the Tokwe-Mukosi valuation project. As shown in Table 5.5, the rates that were used ranges between 40% and 73% less as compared to the rates used when estimating the compensation value of similar properties during the Chiyadzwa project.

Table 5-5: Approved Rates for Compensation of Storage Facilities

Improvement	Description	Approved Rate (US\$/m ²)		Percentage Difference
		Chiyadzwa 2009	Tokwe-Mukosi 2013	
Granary	Pole and dagga, thatched and suspended	80	25	-69%
	Brick wall, suspended under thatch	150	40	-73%
	Crop drying rack with mesh wire	150(maximum)	80(maximum)	-47%
	Dara suspended poles (grain)	100(maximum)	60(maximum)	-40%

Source: Research Findings (2020)

5.4.1.4. *Approved Compensation Rates for Ablution Facilities*

The same trend of lower compensation rates as compared to the Chiyadzwa compensation was also noted in the valuation rates approved for and used during the Tokwe-Mukosi project. Rates that were adopted in 2013 for the Tokwe-Mukosi valuation exercise ranged between 50% and 75% lower than the ones used in 2009 during the Chiyadzwa project, as shown in Table 5.6.

Table 5-6: Approved Rates for Compensation of Ablution Facilities

Improvement	Description	Approved Rates (US\$/m ²)		Percentage Difference
		Chiyadzwa 2009	Tokwe-Mukosi 2013	
Pit latrine	Not plastered, brick wall, granolithic floor without a roof	400	100	-75%
Blair Toilet	Standard	550	250	-55%
Bathroom	Plastered	350	100	-71%
	Not plastered	300	80	-73%
	Utensil stand	40	20	-50%
	Washing sink, brick/concrete	80	40	-50%

Source: Research Findings (2020)



5.4.1.5. *Approved Compensation Rates for Water Facilities*

An analysis of water facilities showed that the percentage of compensation differed between rates approved and used in 2009 and 2013 and ranged between 0% and 46%. Compensation rates for protected and unprotected wells were reduced by 33% and 25% respectively. The rate for bush pumps was the same for the two valuation projects at \$200/pump. However, the compensation rate for water tanks was reduced at a rate of between 33% or 46% depending on whether the tank is not mounted or mounted on a steel stand, respectively. The compensation rate for boreholes was increased from \$3,000 in 2009 to \$4,000, as shown in Table 5.7.

Table 5-7: Approved Rates for Compensation of Water Facilities

Improvement	Description	Approved Rate (US\$/m)		Percentage Difference
		Chiyadzwa 2009	Tokwe-Mukosi 2013	
Well	Protected	30	20	-33%
	Unprotected	20	15	-25%
	Bush pump	200/pump	200/pump	0%
Borehole	With casing	3000	4000	33%
Water tank	PVC 5000 - 6000 litres	600	400	-33%
	Water tank steel stand	650	350	-46%

Source: Research Findings (2020)

5.4.1.6. *Land clearing and Contouring*

Unlike the case where different rates were used to calculate compensation for improvements between 2009 and 2013, there was consistency in the rates used for land clearing and contouring, as shown in Figure 5.2.

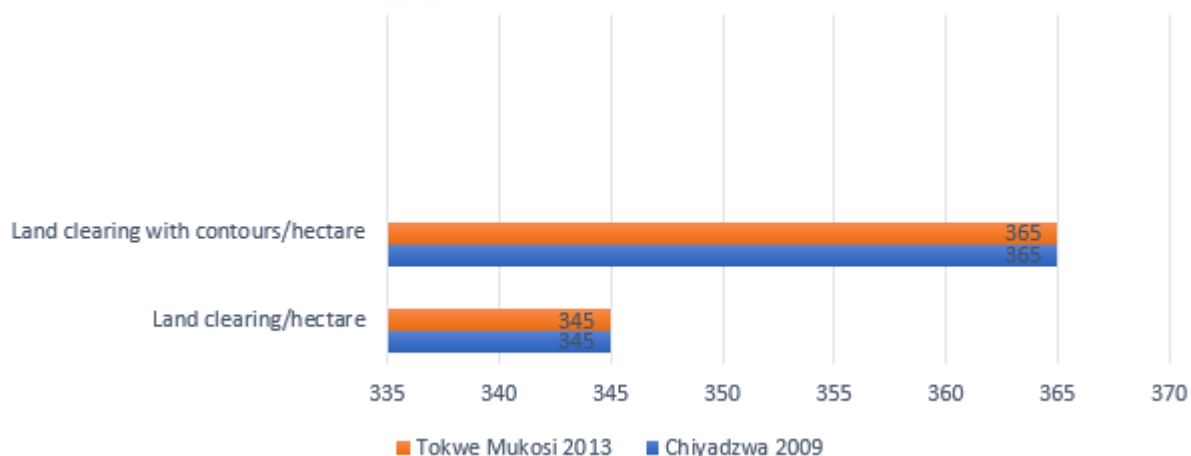


Figure 5-2: Compensation rates for land clearing and contouring

Source: Research Findings (2020)

As shown in Figure 5.2, the rate of USD345 per hectare was used for cleared land, and the same rate was used in both cases. If the affected person went on to do contouring after clearing, the compensation rate increases by USD20 (from USD345 to 365).

5.4.1.7. *Approved Compensation Rates for Fences*

Uniform rates were also adopted for most of the fencing improvements except for bush fencing that was reduced from a maximum of US\$100 to US\$25 maximum, as shown in Table 5.8.

Table 5-8: Approved Rates for Compensation of Fences

Improvement	Description	Approved Rate (US\$/m)		Percentage Difference
		Chiyadzwa 2009	Tokwe-Mukosi 2013	
Security fencing	1.8 metres high	20	20	0%
	2.0 metres high	22	22	0%
	2.4 metres high	23	23	0%
Barbed wire	Single strand	0.50	0.50	0%
Bush branches	Boundary fencing	100(maximum)	25(maximum)	-75%
	Garden fencing	100(maximum)	25(maximum)	-75%

Source: Research Findings (2020)



5.4.1.8. *Plantations and Orchards*

Uniform rates were also maintained when valuing plantations and orchards. The only difference was that there was no rate for compensation of indigenous trees in 2009 that were provided in 2013, as shown in Table 5.9. Compensation for indigenous trees is commendable given the fact that some if not all rural people derive their livelihoods from natural resources (trees included).

Table 5-9: Approved Rates for Compensation of Plantation/Orchard

Improvement	Description	Approved Rate (US\$/m)		Percentage Difference
		Chiyadzwa 2009	Tokwe-Mukosi 2013	
Mango	Mature	30	30	0%
	Immature (not transferable)	8	8	0%
Guava	Mature	21	21	0%
	Immature (not transferable)	8	8	0%
Orange	Mature	30	30	0%
	Immature (not transferable)	8	8	0%
Mulberry	Mature	21	21	0%
	Immature (not transferable)	8	8	0%
Nartjies	Mature	30	30	0%
	Immature (not transferable)	8	8	0%
Gum tree	Mature	42	42	0%
	Immature (not transferable)	17	17	0%
Apples	Mature	30	30	0%
	Immature (not transferable)	8	8	0%
Peaches	Mature	30	30	0%
	Immature (not transferable)	8	8	0%
Lemon	Mature	30	30	0%
	Immature (not transferable)	8	8	0%
Banana	Mature	5	5	0%
	Immature (not transferable)	2	2	0%
Avocado	Mature	21	21	0%
	Immature (not transferable)	6	6	0%



Pawpaw	Mature	30	30	0%
	Immature (not transferable)	8	8	0%
Granadilla	Mature	30	30	0%
	Immature (not transferable)	8	8	0%
Grape	Mature	30	30	0%
	Immature (not transferable)	8	8	0%
Indigenous trees	Mature	-	2/plant	

Source: Research Findings (2020)

5.4.1.9. *Approved Depreciation Rates*

The depreciation rates for the Chiadzwa scheme of 2009 were absolute fixed figures while the rates for the Tokwe-Mukosi scheme of 2013 were given as ranges, as shown in Table 5.10. An analysis of the two schemes shows that the absolute rates for 2009 fit well within the ranges provided for 2013. The 2009 depreciation rates were just an average of the rates used in 2013. In this regard, the inconsistency between the 2 is not much about the figures but the methodology. Adoption of a range of depreciation in 2013 was more of an improvement from the limitations of using a fixed depreciation rate as was done in 2009.

The valuers under Tokwe-Mukosi had clear guidelines for limits of each description of the condition (very good, good, fair etc.) while under the Chiadzwa rates, the single figures provided an allowance for valuer's discretion meaning that valuers could end up overlapping the different classifications under the Chiadzwa scheme. For example, under improvements that are very good in 2009, a fixed depreciation rate of 15% was used, but the limitation of using a fixed rate is that even if improvements say buildings are very good, there might be a difference within the very good class. Two new buildings might differ due to the quality of workmanship and other factors. This might be the reason why the 2013 scheme made use of the range system as an improvement from the 2009 pitfalls.



Table 5-10: Approved Depreciation Rates

Valuation project	Year	Approved rates %				
		Very good	Good	Fair	Poor	Very poor
Chiyadzwa	2009	15%	30%	50%	70%	90%
Tokwe-Mukosi	2013	0 %-20%	21% - 40%	41% - 60%	61% - 80%	81% - 100%

Source: Research Findings (2020)

From this data, it can be inferred that for some improvements, there was consistency in the rates used to calculate compensation. Examples of such improvements where the compensation rate was not changed for similar properties include biological assets like orchards and plantations and some types of fencing. However, there are glaring differences in compensation rates approved and used for most improvements. Lower compensation rates were used during property valuation for compensation for the people displaced by the Tokwe-Mukosi valuation project in 2013 as compared to the rates used for the similar properties in 2009 during the Chiyadzwa valuation project.

It is not clear how the compensation rates were computed, for example, there was no clear formula or pattern used on the reduction of 2009 compensation rates in 2013 compensation rates. Funding for compensation of people displaced by the Tokwe-Mukosi project came from the GoZ, therefore one might suspect that political pressure resulted in the application of a lower rate. In contrary, funding for compensation in the Chiyadzwa mining project came from private mining companies; hence one will be justified to suspect that DVOs used higher rates since no government money was used.

Several factors that might have caused these differences in approved compensation rates include the time difference between the 2 projects (4 years). In as much as this view cannot be ignored, it is important to note that the Zimbabwean economy experienced stability during the period of government of National Unit (GNU) of 2009 to 2013. During this period that came after years of hyperinflation, prices of goods and services were stable such that slight changes if any were expected in the compensation rates used during the same period.



5.4.2. Consistency of Property Valuation Practice: The Case of Valuation for FTLRP

It was established that there was a wide gap between the values estimated by DVOs and those done by the PVs. Initially, DVOs estimated the expropriated properties at US\$1.2 billion, while PVs estimated the same properties at US\$5.2 billion (Compensation Steering Committee (CSC), Commercial Farmers Union (CFU) & Valcon, 2020). This presents a valuation difference of US\$4 billion that is translated to 77% difference. In as much as valuations done by two or more different valuation, surveyors are not expected to be identical, but at least they must be within the same range, a 77% difference is a cause for concern.

Expert opinions were sought from independent valuers (IVs) invited from the WB, Zambia, as well as Namibia and valued the same properties at US\$2.7 billion (Ncube, 2020; Valcon, 2020). It can be noted that the compensation estimate by IVs was more than double that of DVOs and just above half of the estimates by PVs. However, Orphanides (2020) points out that the US\$2.7 billion estimated by IVs was for just infrastructure without considering the value of biological assets and land clearing. In this case, if biological assets and land clearing was going to be factored in, the figure was going to be more than US\$2.7 billion. However, it is difficult to conclude if their estimated value was going to be in the same range with the US\$5.2 billion estimated by PVs.

The claim by Orphanides (2020) might be true especially given that the GoZ agreed to pay US\$3.5 billion that was more than double the value that was estimated by DVOs as well as more than the US\$2.7 estimated by IVs. The agreed US\$3.5 billion global compensation figure can be interpreted to indicate that GoZ accepted that DVOs undervalued and an admission by FCFs that PVs overvalued the subject property. This does not take away the fact that a negotiation is a give and take process where parties involved compromise so that a consensus can be reached.

It was also established that the agreed figure was based on data collected by PVs as DVOs admitted that their data were inaccurate. As a result, the valuation by PVs, DVOs and IVs was based on the same data that was on the PVs' database (CSC, CFU & Valcon, 2020; Valcon, 2020). The *LAA of 1992* does not give room for the use of data collected by PVs



when calculating property valuation for compensation; neither does it provide for the use of IVs.

The GoZ and FCFs agreed that the initial payment of 50% of the global compensation figure was to be paid within a year from the date of the agreement and the remainder to be cleared over a 4-year period (CSC, CFU & Valcon, 2020; Ncube, 2020; Orphanides, 2020). Again, there was a slight deviation from the provisions of Section 29C of the *LAA of 1992* that states that the initial payment must be a quarter of the total compensation. If the initial payment is treated as the same whether during or after expropriation, then the government would have offered double of the initial compensation that is provided at law.

5.4.3. Consistency of Property Valuation Practice: Evidence from Court Cases

An analysis of court cases from the Administrative Court of Zimbabwe shows that very few cases on property valuation for compensation of expropriated private properties were brought before it. The only court case brought before the Administrative Court during the multi-currency period that was relevant for this study was the *Interfresh Limited and AARDCOR Limited versus the Minister of Lands and Rural Resettlement* (the Interfresh case) of 2015. Two compensation appeals were settled by institutions outside Zimbabwe the Southern African Development Tribunal (SADCT) as well as ICSID. *The Mike Campbell (Pvt) Ltd. and William Michael Campbell and 77 others versus the GoZ* (the Campbell case) was settled by the SADCT in 2008. Also, a compensation dispute of *Bernadus Henricus Funnekotter and others versus GoZ* (Funnekotter case) was settled by the ICSID in 2009. The next sections discuss these cases in detail.

5.4.3.1. *Interfresh Limited and AARDCOR Limited versus the Minister of Lands and Rural Resettlement*

In 2015, the Interfresh Limited and AARDCOR Limited (the appellants) appealed against the compensation offered by the Minister of Lands (the respondent) in the Administrative Court of Zimbabwe. The dispute emanated from a compensation value for 7 plantation assets that were expropriated by the respondent from the appellants. Both parties used the



DCF method to value the biological assets but arrived at different compensation figures (Administrative Court of Zimbabwe, 2015).

On one hand, the appellants valued their 7 plantations at twenty-seven million, seventy-four thousand eight hundred fifty United States of America Dollars and two cents (US\$27 074 840.02). On the other hand, the respondent valued the same plantations at five million, twenty-five thousand one hundred and twenty United States of America Dollars and twenty-eight cents (US\$5 525 120.28). This presents a difference of twenty-one million, five hundred and forty-seven thousand, seven hundred and nineteen United States of America Dollars and seventy-four cents (US\$21,549,719.74) (Administrative Court of Zimbabwe, 2015).

The court noted that the wide difference emanated from the discounting process. The respondent discounted the income at the end of the investment period (present value of the US\$). In contrast, the applicants discounted its income annually (current value of the US\$ per year). In its ruling, the court agreed that the appellants clearly demonstrated how they calculated their compensation value, but the respondent failed to do so. As such, the appellants won the case (Administrative Court of Zimbabwe, 2015).

5.4.3.2. *Mike Campbell (Pvt) Ltd. and William Michael Campbell and 77 others versus the Government of Zimbabwe*

In the Campbell case, the displaced farmers Mike Campbell (Pvt) Ltd. and William Michael Campbell and 77 (applicants) others challenged the decision of the GoZ (respondent) to acquire farms without payment of compensation before the SADCT (Case number 2/2008). The dispute was on the heads of claim, and the applicants argued that fair compensation for the expropriated properties should include the value of land and improvements. However, the respondent counter-argued that Section 16B of the *CoZ of 2013* states that compensation is only for improvements on the land and placed the responsibility of compensation for land to the former colonial masters.

The Tribunal ruled out that payment of compensation is the respondent's obligation at international law, and the respondent cannot use its local statutes to avoid its obligation



provided by international law. In its final ruling, the Tribunal ordered the respondent to pay fair compensation for the expropriated properties (including land and improvements) SADCT (2008).

5.4.3.3. *Bernadus Henricus Funnekotter and others versus Government of Zimbabwe*

Bernadus Henricus Funnekotter and twelve others (applicants) applied for arbitration against the GoZ (respondent) at the ICSID in June 2003 (case number ARB/05/6). The applicants were of Dutch and Italian nationalities whose farms were expropriated by the respondent during the FTLRP. However, their investments were under the protection of an investment agreement (the treaty) signed between the respondent and Netherlands on the 11th of December in 1996 and entered into force on the 1st of May in 1998. Like in the Campbell case, both parties agreed that the respondent was supposed to pay compensation, but the dispute was on the compensation quantum (ICSID, 2009). There were wide differences between the compensation quantum asked by the applicants and the ones offered by the respondent, as shown in Table 5.11¹.

¹ Valuation figures for this case were presented in Euros as they are in the ICSID (2009). The current exchange rate of Euro to United States Dollars as at 10/10/2020 was 1 Euro: 1.18 United States Dollars.



Table 5-11: Valuation Differences between the Applicants and the Respondent

Property/farm	Applicant(s) asked value (Euros)	Respondent's offered value (Euros)	Difference (Euros)	Percentage difference
Warren farm	1,050,000	261,964	788,036	75%
Anwa farm	1,070,000	51,507	1,018,493	95%
Bimi Estate farm	940,000	99,168	840,832	89%
Warren A farm	780,000	109,329	670,671	86%
Faroe Estate farm	1,030,000	52,819	977,181	95%
Farways farm	1,130,000	20,157	1,109,843	98%
Chiripiro farm	680,000	36,917	643,083	95%
Springdale Farm	770,000	52,819	717,181	93%
Ruia Ranche farm	640,000	45,000	595,000	93%
Roscommon farm	550,000	45,716	504,284	92%
Preston Estate farm				
Rio Dora farm	910,000	51,000	859,000	94%
Whindale ranch	1,410,000	46,551	1,363,449	97%
Total	10,690,000	872,947	9,817,053	92%

Source: Adopted from ICSID (2009:40)



An analysis of valuation in Table 5.11 shows wide differences in property values estimated for compensation by the applicants' valuer and respondent's valuer. The ICSID observed that these wide variations emanated from the use of different valuation methods. A direct comparison method was used by the applicants' valuer, whereas the respondent's valuer used the depreciated replacement cost method. The ICSID's position was that the most appropriate method that was supposed to be used in this case was the direct comparison method and not the depreciated replacement cost method. Therefore, the valuation figures that were estimated by the applicants were considered with adjustments (ICSID, 2009). Table 5.12 compares the difference between the applicants' estimated property values and the adjusted compensation values by the ICSID.



Table 5-12: Valuation Differences between the Applicants and ICSID

Property/farm	Applicant(s) asked value (Euros)	ICSID value (Euros)	Difference (Euros)	Percentage difference
Warren farm	1,050,000	690,000	360,000	34%
Anwa farm	1,070,000	700,000	370,000	35%
Bimi Estate farm	940,000	620,000	320,000	34%
Warren A farm	780,000	510,000	270,000	35%
Faroe Estate farm	1,030,000	680,000	350,000	34%
Farways farm	1,130,000	740,000	390,000	35%
Chiripiro farm	680,000	450,000	230,000	34%
Springdale farm	770,000	500,000	270,000	35%
Ruia Ranche farm	640,000	420,000	220,000	34%
Roscommon farm	550,000	360,000	190,000	35%
Preston Estate farm				
Rio Dora farm	910,000	600,000	310,000	34%
Whindale ranch	1,410,000	930,000	480,000	34%
Total	10,690,000	7,200,000	3,760,000	35%

Source: Adopted from ICSID (2009:42)



With reference to Table 5.12, it is evident that there are also notable differences between the property values estimated by the applicant and the ones approved as fair compensation by the ICSID although they used the same valuation method. This is an indication that PVs also over-value expropriated properties as valuers for the expropriating authority under-value the same properties. For example, PVs estimated a disturbance claim of USD40,000 but the ICSID's position was that USD20,000 was enough and PVs estimated interest for delayed payment at 10% per month, while the ICSID used 10% compounded bi-annually (ICSID, 2009).

It was established that the GoZ lost all cases on compensation that were reviewed in this study. In the Campbell case, the court concluded that failure to compensate for land by the expropriating authority was against the international best practice (SADCT, 2008). Also, in the Funnekotter case, the conclusion was that the government used an inappropriate valuation approach (ICSID, 2009). Lastly, in the Interfresh case, the court ruled that the DVs used an appropriate valuation method (the Discounted Cash Flow Method) but failed to apply it appropriately. They discounted using the present value of the US\$ without any justification instead of the current value of the US\$ per year which was used and justified by PVs (Administrative Court of Zimbabwe, 2015). These cases paint a picture of an incompetent government valuation office.

5.4.4. Consistency of Government Policy and Practice with Laws Guiding Property Valuation in Zimbabwe

Government of Zimbabwe's policy documents that were adopted between 2009 and 2019 shows a change in the government's stance towards compensation for expropriated properties. Since 2018, the Government of Zimbabwe's has been stressing its commitment towards finalising compensation for expropriated properties. Before 2018, policies that were adopted, including the Zimbabwe Short-Term Strategy (2009), Medium Term Plan (2010 – 2015) and the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (2013 – 2018), were silent on compensation for expropriated properties. The Valcon (2016) lamented about the hostile stance of senior government officers in the following statement:



“The Minister of Lands, Douglas Mombeshora and his Permanent Secretary Grace Mutambiro have both made it clear that Farmers will not be part of the process until after the CC has made an award when a limited appeal process is available. This is broadly in line with the LAA.”

Currently, the law does not provide for the involvement of displaced people when estimating compensation. There is no statutory provision that requires affected persons or their representatives to be present during an inspection by DVOs for purposes of estimating compensative values. A graphic presentation of the institutional framework for property valuation for expropriation in Zimbabwe as provided by Section 29 of the *LAA of 1992* is provided in Figure 5.3.

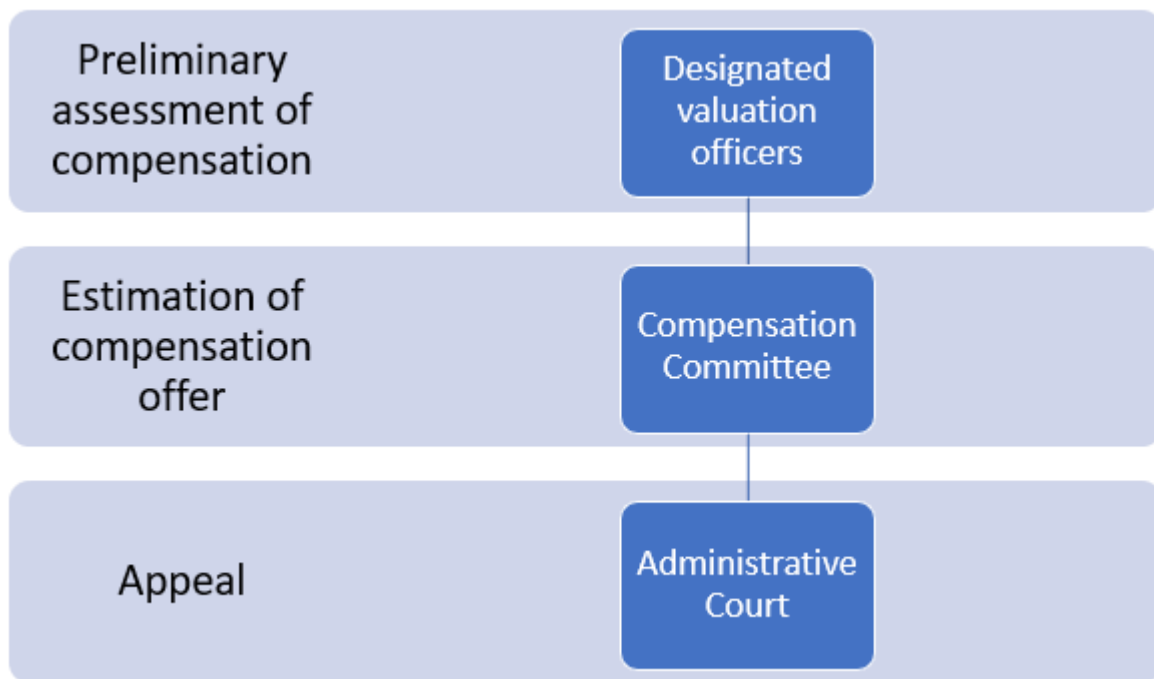


Figure 5-3: Institutional Framework for Property Valuation for Expropriation in Zimbabwe

Source: Adopted from GoZ (1992)

As shown in Figure 5.3, a preliminary property valuation for compensation for expropriated properties is done by DVOs, who then submit their estimates to the CC for further considerations. The CC is an Inter-Ministerial Committee established by Section 29 of the *LAA of 1992* to determine the values of compensation to be paid for expropriated

properties. It has the powers to review the preliminary compensation estimated by DVOs. Figure 5.4 shows the composition of the CC.

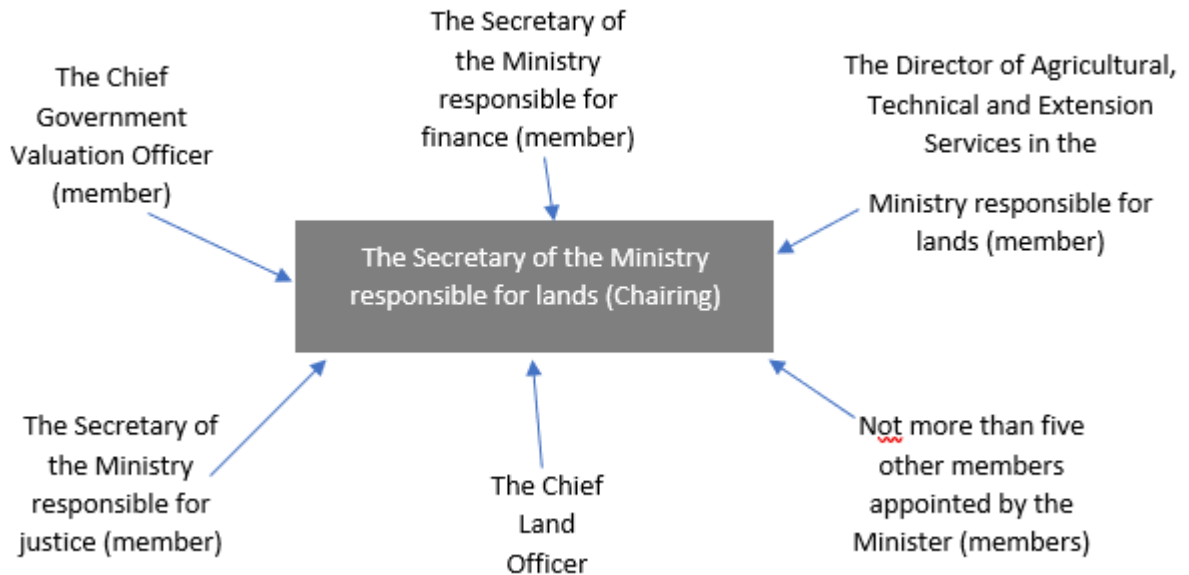


Figure 5-4: Composition of the CC in terms of Section 29 of the LAA of 1992

Source: Adopted from (Government of Zimbabwe, 1992)

As shown in Figure 5.4, the CC is comprised of senior civil servants, but it does not include politicians like Cabinet Ministers. Maybe it is because their mandate is more technical; hence it requires technocrats. This study established that institutional frameworks different from the one provided in the *LAA of 1992* were adopted after the year 2016, as shown in Figure 5.5.

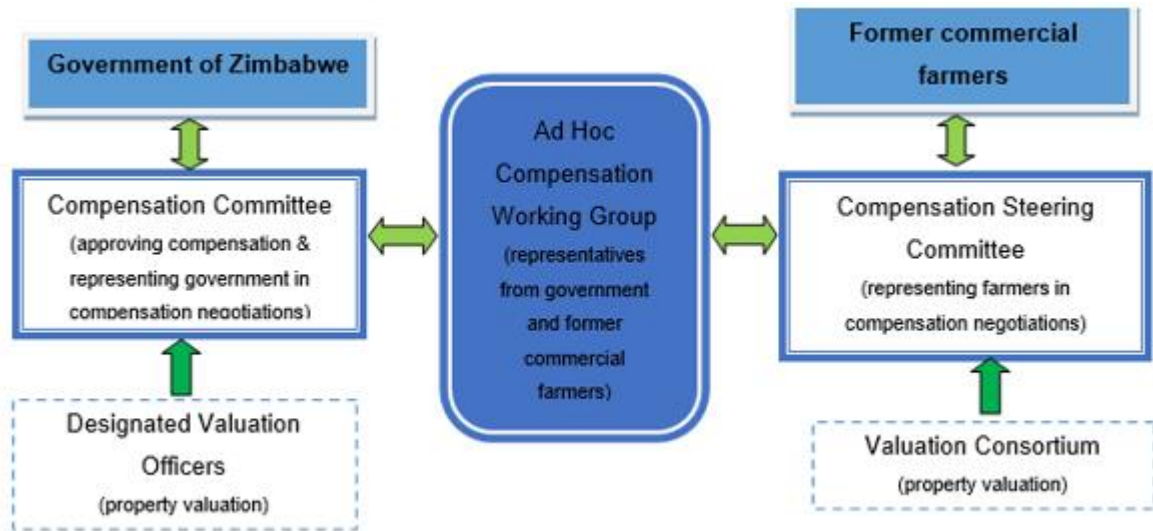


Figure 5-5: Institutional Framework for Property Valuation for Compensation Adopted in 2016

Source: Adopted from Valcon (2017; Mnangangwa, (2018b); Valcon (2020)

As shown in Figure 5.5, the Ad Hoc Compensation Working Group (AHCWG) was established to deal with technical issues of the compensation and make recommendations to GoZ and FCFs. The GoZ was represented by the CC in the AHCWG while FCFs were represented by the Compensation Steering Committee (CSC). The CSC is a creation of the CFU, and its mandate was to deal with political and diplomatic issues of compensation as it represented the interest of FCFs (Valcon, 2015, 2017). A framework presented in Figure 5.5 was later modified and broadened to include more government institutions and officials, as shown in Figure 5.6.

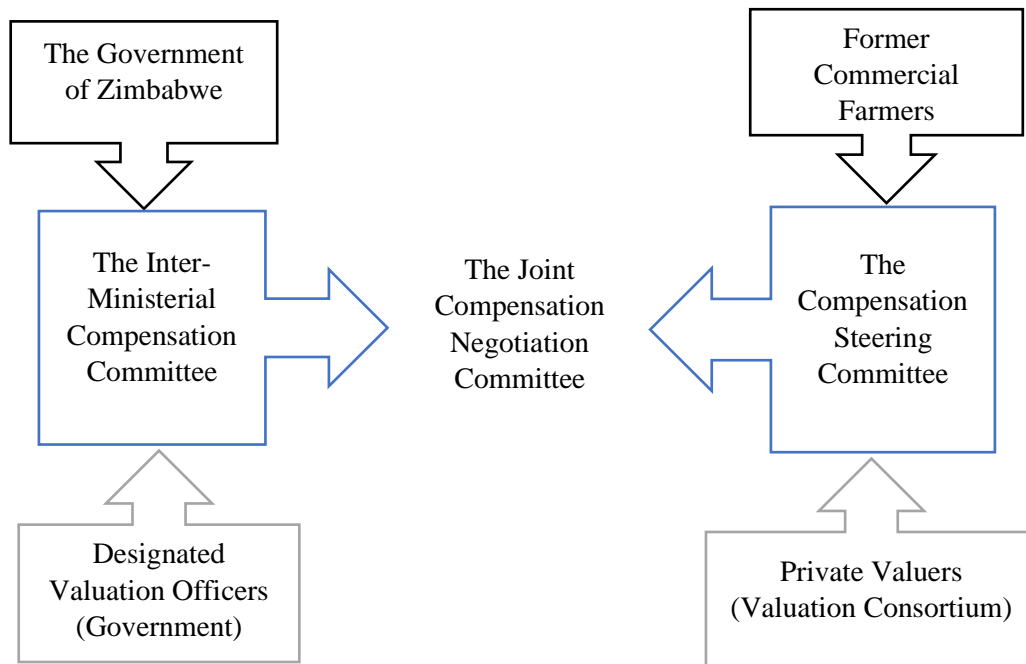


Figure 5-6: Institutional Framework for Property Valuation for Expropriation Adopted in 2018

Source: Adopted from Ncube (2020)

As shown in Figure 5.6, the difference with a framework shown in Figure 5.5 is that the AHCWG was replaced by the Joint Technical Negotiation Compensation Committee (JTNC). GoZ representatives in the JTNC also increased to include senior government officers from the Office of the President and Cabinet to the members presented in Figure 5.6. The inter-Ministerial Compensation Committee (IMCC) used to deal with compensation for farms expropriated during the FTLRP was different from the one provided by Section 29 of the *LAA of 1992* as presented in Figure 5.6 as it was now chaired by one of the government's vice presidents instead of the secretary of the ministry responsible for lands.

This study also established that compensation for farms expropriated during the FTLRP was a policy item in the Transitional Stabilisation Programme (2018 – 2030). Of interest in the Transitional Stabilisation Programme of 2018, are paragraphs 982 to 985, that state that:



“982. The New Dispensation has taken the decision to finalise compensation to all former farmers affected by the Land Reform Programme, in accordance with the country’s Constitution and Zimbabwe’s obligations under bilateral agreements.

983. A Working Group, comprising Government officials and representatives of former farm owners, is working towards providing a Consensus-Based Compensation Framework for evaluating obligations to such former farmers.

984. The work of the Working Group will be expedited to enable Government and former farm owners, in conjunction with cooperating partners, to progress towards the closure of the land issue.

985. Cognisant of the reality that a large number of farmers are still to be compensated, given the limited annual budget capacity, Vision 2030 envisages engagement of bilateral partners over assistance to mobilise the requisite resources in order to finalise the compensation process” (see Mnangangwa, 2018b).

A similar message of government’s commitment to engage and compensate displaced commercial farmers is also carried in Sections 1.8(a) and 1.9(b) of the investment guidelines and opportunities in Zimbabwe. This policy strategy was published in 2018 (see Mnangagwa, 2018a; Government of Zimbabwe, 2018). Furthermore, Zimbabwe has reiterated its commitment to meet its obligation of paying compensation to affected FCFs in some of its national budget statements. For example, the 2013 National Budget reemphasised the need to finalise compensation for expropriated properties and stated that:

“only 215 farmers were fully compensated out of a total of 6 214 farms that were gazetted” (Biti, 2012).

A compensation fund was established in the 2015 National Budget to raise money to compensate affected farmers. Government planned to raise compensation money from beneficiaries of the FTLRP (Chinamasa, 2014). Again the 2017 National Budget reiterated GoZ’s committed to meet its obligation of paying affected farmers. It further stated that between 2009 and 2016, a total of fifty-six million and eight hundred thousand United States of America Dollars was paid towards compensation of expropriated properties (Chinamasa, 2016). GoZ further reiterated its commitment to compensate affected farmers



in its 2018 National Budget. The 2018 National Budget also stated that the government was willing to rectify compensation breaches made through bilateral investment agreements (Ncube, 2017).

In the 2019 national budget, GoZ reiterated its commitment to pay compensation for all affected people and allocated fifty-three million United States of America Dollars towards payment of a relief compensation (Ncube, 2018). Valcon (2019) confirms that affected farmers received interim compensation from the government but in Zimbabwean Dollars and not United States Dollars as stated in the 2019 national budget. Valcon (2020) points out that payment of the relief compensation was marred with hiccups as it was not well planned. Valcon (2020) and Ncube (2020) note that the government has limited resources and indicated the need to raise the money needed for compensation from the international community.

5.4.5. Views of DVOs on the Consistency of Property Valuation for Expropriation Practice in Zimbabwe

This section discusses views of DVOs on the consistency of laws guiding property valuation for expropriation and consistency of property valuation practice in Zimbabwe.

5.4.5.1. *Consistency of laws Guiding Property Valuation for Expropriation in Zimbabwe*

Views of DVOs on the consistency of laws guiding property valuation for expropriation in Zimbabwe are summarised in Table 5.13. A scale of 1 (strongly disagree (SD)), 2 (Disagree (D)), 3 (Somehow agree (SHA)), 4 (Agree (A)) and 5 (strongly agree (SA)) was adopted during data analysis as well as a mean score (MS) ranging from 1 to 5.



Table 5-13: DVOs' Perspective of the Consistency of Existing Expropriation Laws in Zimbabwe

Consistency of legal provisions guiding expropriation and compensation	Frequency					
	SD	D	SHA	A	SA	MS
The existing law is clear on the procedure for compulsory land acquisition.	0 (0%)	1 (17%)	0 (0%)	2 (33%)	3 (50%)	4.2
The existing law clear on when and how the expropriation notice is supposed to be served.	3 (50%)	0 (0%)	0 (0%)	0 (0%)	3 (50%)	3
The existing legal framework is clear on the valuation date when estimating property values for compensation purposes.	0 (0%)	1 (17%)	2 (33%)	2 (33%)	1 (17%)	3.5
The law is clear on who determines the compensation quantum.	0 (0%)	0 (0%)	1 (17%)	3 (50%)	2 (33%)	4.1
Existing statutes are clear on the property valuation method to be used when calculating compensation.	1 (17%)	0 (0%)	3 (50%)	1 (17%)	1 (17%)	3.2
Existing laws are clear on how to appeal when one is not satisfied with the compensation offered.	0 (0%)	0 (0%)	0 (0%)	4 (67%)	1 (17%)	4.2
There is consistency in laws guiding compulsory land acquisition and compensation in Zimbabwe.	1 (17%)	1 (17%)	1 (17%)	2 (33%)	1 (17%)	2.7
There is harmony between the land tenure pattern and the prescribed methods of valuation for compensation in Zimbabwe.	1 (17%)	0 (0%)	3 (50%)	1 (17%)	1 (17%)	3.2
You are aware of the WB guidelines on property valuation for compensation.	2 (33%)	0 (0%)	1 (17%)	0 (0%)	1 (17%)	1.7
You are aware of the Food and Agriculture guidelines on compensation for expropriation.	2 (33%)	0 (0%)	1 (17%)	0 (0%)	1 (17%)	1.7
You are aware of the International Federation of Surveyors' compensation guidelines.	2 (33%)	0 (0%)	1 (17%)	0 (0%)	1 (17%)	1.7
The existing legal framework guiding property valuation for expropriation in Zimbabwe is in line with the FAO, FIG and WB Guidelines.	0 (0%)	1 (17%)	3 (50%)	1 (17%)	1 (17%)	3.3
Property valuation for expropriation and compensation framework in Zimbabwe is consistent with international best practice.	2 (33%)	2 (33%)	2 (33%)	0 (0%)	0 (0%)	2

Source: Research Findings (2020)

It can be inferred from Table 5.13 that DVOs somehow agreed that existing laws are clear on the notice of intention to expropriate as well as on the valuation date to be used as shown by an MS of 4.2. It can be noted that the general view of DVOs about the clarity of the law on the valuation does not support what was observed in Section 5.2.3 of this study. This is an indication that DVOs might have limited knowledge about statutory provisions that guide their work.

With a MS of 3.2, DVOs somehow agreed that the existing statutory provisions guiding expropriation are clear on the valuation method to be used. There is consistency in provisions of different existing statutes as well as consistency of existing laws with the current land tenure systems. Figure 5.7 is a graphic presentation of the general perception of DVOs on the consistency of existing expropriation laws in relation to the expropriation procedure, notice, valuation date, valuation methods as well as with existing land tenure.

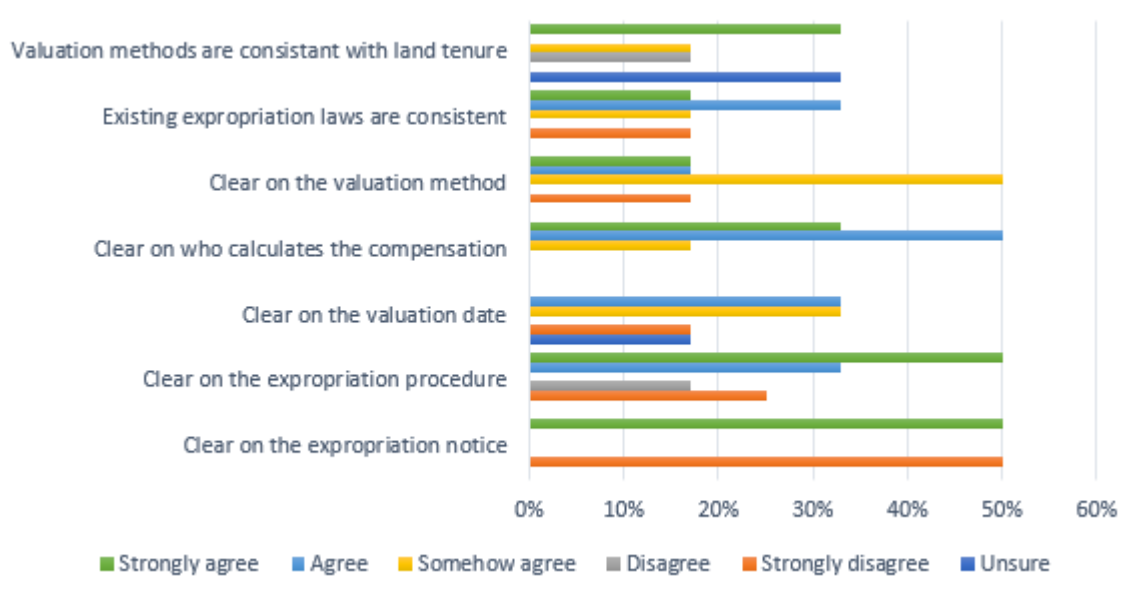


Figure 5-7: Views of DVOs on the Clarity of Existing laws

Source: Research Findings (2020)

Generally, DVOs agreed that existing laws are clear on how to appeal when one is not satisfied with the compensation offered as shown by a MS of 4.2. Figure 5.8 is a graphic presentation of the general views of DVOs on the clarity of existing law when it comes to compensation appeal.

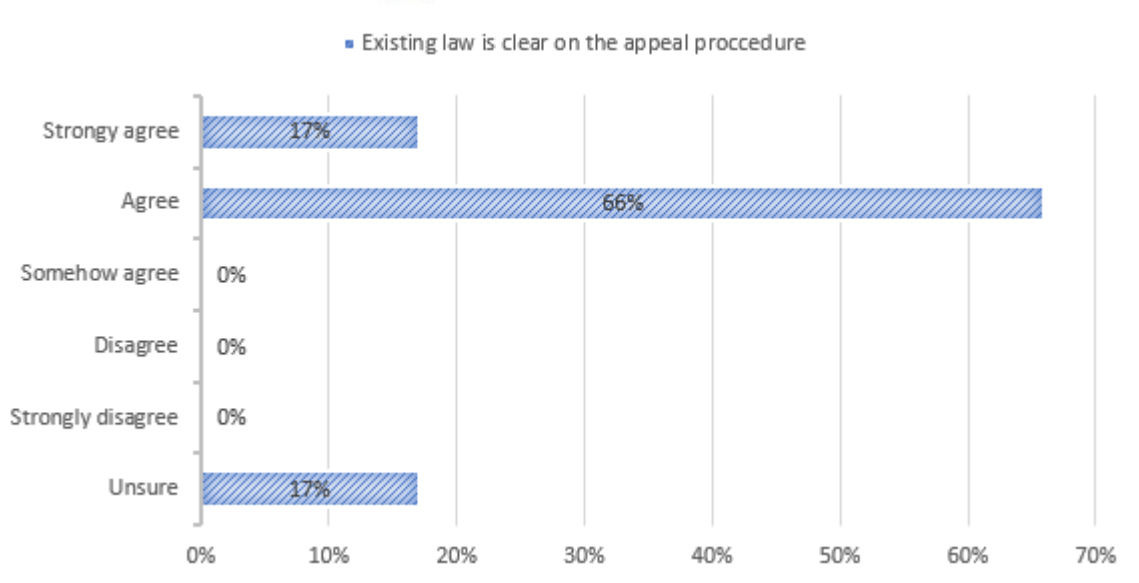


Figure 5-8: Views of DVOs on the Clarity of the Appeal Provision

Source: Research Findings (2020)

It can be inferred from Table 5.13 that DVOs generally disagreed that they know guidelines by the WB, FAO and FIG as supported by a MS of 1.7 which can be rounded off to 3. They (DVOs) also generally disagreed that existing expropriation and compensation laws in Zimbabwe were consistent with the above mentioned three guidelines as evidenced by a MS of 2. However, it seems as if the DVOs’ assessment of the consistency of existing expropriation and compensation laws with the WB, FAO and FIG guidelines was uninformed since in a previous question their general response was that they were not aware of the 3 guidelines.

It can be inferred that if they were well versed with the provisions of the WB, FAO and FIG guidelines, they might have given a different answer to the same question. Also, DVOs disagreed that existing expropriation and compensation laws were consistent with international best practice as indicated by a MS of 2. Figure 5.9 summarises the views of DVOs on the consistency of Zimbabwean laws with the provisions of the WB, FAO and FIG guidelines as well as with international best practice.



Unsure Strongly disagree Disagree Somehow agree Agree Strongly agree

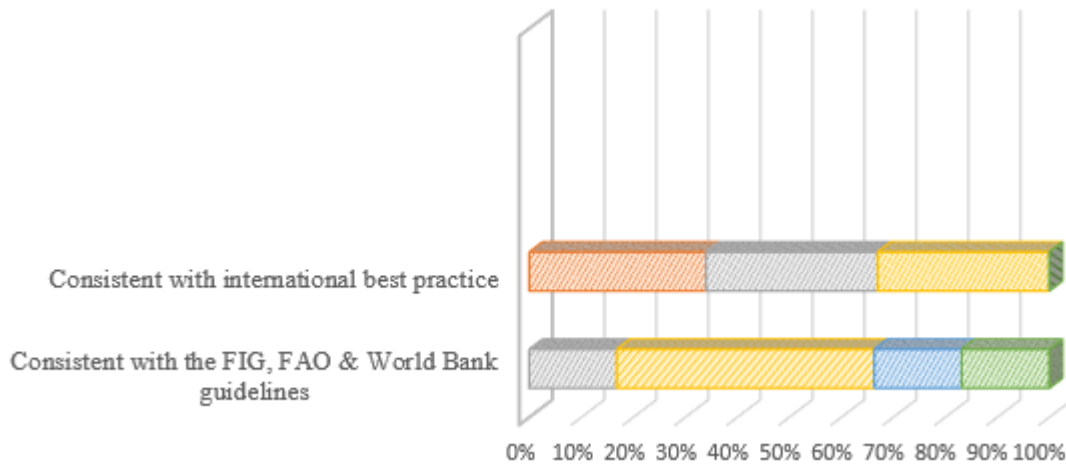


Figure 5-9: Consistency of Existing Laws with Guideline of International Agencies

Source: Research Findings (2020)

5.4.5.2. Consistency of Property Valuation for Expropriation Practice in Zimbabwe

Responses of DVOs on the consistency of property valuation for expropriation practice in Zimbabwe are summarised in Table 5.14.

Table 5-14: DVOs' Views on the Consistency of Property Valuation for Compensation Practice in Zimbabwe

Consistency of current property valuation for compensation practices	Frequency					
	SD	D	SHA	A	SA	MS
The current property valuation for compensation is consistent with the existing legal framework in Zimbabwe.	0 (0%)	1 (17%)	3 (50%)	1 (17%)	1 (17%)	3.3
The compensation quantum estimated between 2009 and 2019 can be regarded as fair and adequate in term of Section 71 of the <i>Constitution of Zimbabwe of 2013</i> .	2 (33%)	1 (17%)	2 (33%)	0 (0%)	0 (0%)	2
The Valuers' use of subjective judgement account for the disparity in values amongst valuers representing various interests in land acquisition.	0 (0%)	1 (17%)	1 (17%)	3 (50%)	1 (17%)	3.7
Differences in competencies between PVs and DVOs account for the disparity in values.	0 (0%)	1 (17%)	1 (17%)	1 (17%)	3 (50%)	4
The use of different data sources, including valuation rates accounts for differences in estimated values between PVs and DVOs.	0 (0%)	0 (0%)	1 (17%)	2 (33%)	3 (50%)	4.3
Valuers representing landowners tend to over-value their interests.	1 (17%)	2 (33%)	2 (33%)	1 (17%)	0 (0%)	2.5
Valuers representing acquiring authorities tend to under-value the interests of the landowners.	1 (17%)	3 (50%)	2 (33%)	0 (0%)	0 (0%)	2.2
The client's pressure on the Valuers' opinion-of-value in valuation for compensation account for the disparity in values amongst valuers representing various interests in land acquisition.	1 (17%)	2 (33%)	3 (50%)	0 (0%)	0 (0%)	2.3

Source: Research Findings (2020)

As shown on Table 5.14, with a MS of 3.3, it can be inferred that DVOs somehow agreed that the current property valuation for compensation is consistent with the existing legal framework in Zimbabwe. Also, generally, DVOs disagreed that the compensation quantum estimated between 2009 and 2019 can be regarded as fair and adequate in term of Section 71 of the *Constitution of Zimbabwe of 2013* as supported by a MS of 1.7.

DVOs were in general agreement with the statements that the valuers’ use of subjective judgement, differences in competencies between PVs and DVOs and the use of different data sources including valuation rates account for differences in estimated values between PVs and DVOs. This is shown in Table 5.14 by MS of 3.7, 5 and 4.3, respectively.

To add more, DVOs generally somehow agreed that valuers representing landowners tend to over-value their interests and disagreed that valuers representing acquiring authorities tend to under-value the interests of the landowners as indicated by MS of 2.5 and 2.2, respectively. Figure 5.10 summarises the views of DVOs on the consistency of property valuation for compensation practice in Zimbabwe.

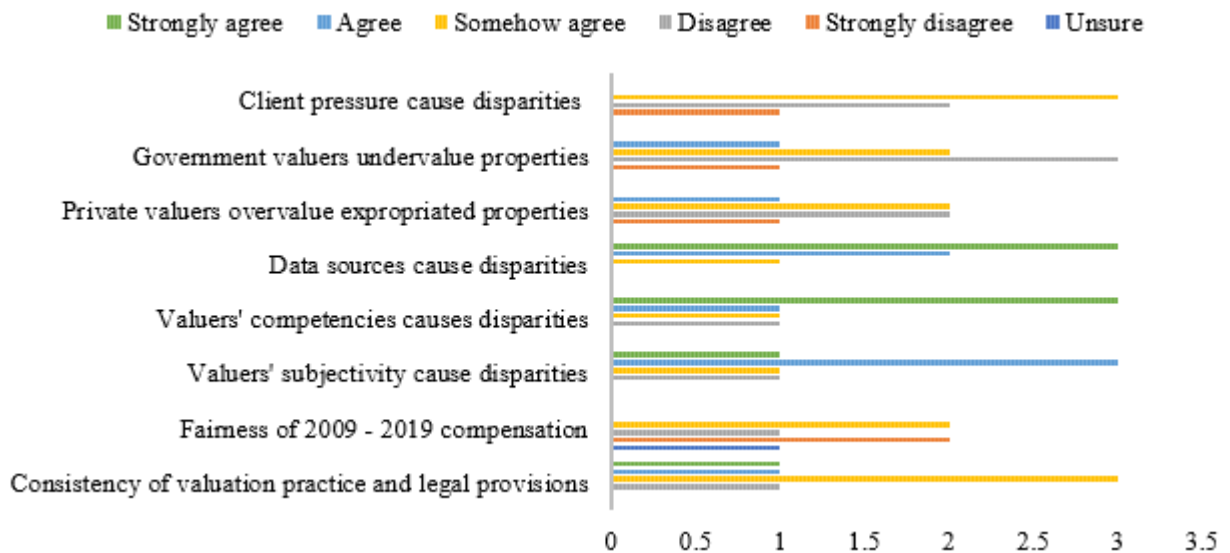


Figure 5-10: Views of DVOs on the Consistency of Property Valuation

Source: Research Findings (2020)

Furthermore, to the above mentioned, all DVOs listed lack of reliable data, competencies of valuers and ambiguous laws, 83% listed political interference and corruption, 17% listed use of different valuation rates as other key factors that lead to wide differences in property

valuation for expropriation in Zimbabwe. A summary of their views is provided in Table 5.15.

Table 5-15: Factors Causing Wide Differences in Property Valuation for Expropriation

Pressing Issue	Frequency	Percentage (%)	Rank
Ambiguous laws	6	100%	1
Valuer incompetence	6	100%	1
Unrealisable data	6	100%	1
Corruption	5	83%	2
Political interference	5	83%	2
Different valuation rates	2	33%	3

Source: Research Findings (2020)

5.4.6. Views of MsCC on the Consistency of Property Valuation for Expropriation in Zimbabwe

When asked to comment on the consistency of the *CoZ of 2013*, the *LAA of 1992* and other laws that guide property valuation for compensation of acquired properties in Zimbabwe, all MsCC were of the view that existing laws are consistent. This view of MsCC does not support gaps noted in statutes, especially where the constitution provides for fair and adequate compensation while the LAA provides for fair compensation and only defines fair compensation for expropriated properties.

All MsCC concurred that existing laws are in line with international best practice. This contradicts results from literature survey where this study noted weak areas that need to be strengthened for the existing legal framework guiding property valuation for expropriation in Zimbabwe to meet international best practice.

There were mixed views when MsCC were asked to comment on the consistency of valuations done by PVs to those done by DVOs. Twenty-eight per cent of the MsCC were of the view that there is inconsistency, the other 38% indicated that there is consistency and 24% declined to comment, as shown on Table 5.16.

Table 5-16: Views of MsCC on the Consistency of Valuations done by DVOs and PVs

Pressing Issue	Frequency	Percentage
There is inconsistency	3	38%
There is consistency	3	38%
No comment	2	24%
Total	8	100%

Source: Research Findings (2020)



MsCC were also asked to comment on the consistency of current property valuation for expropriation practice with the provisions of the *LAA of 1992* and the *Acquisition of Farm Equipment or Material Act*. All of them believed the current practice is done in line with the existing laws. On another question, MsCC were asked to comment on the consistency of the compensation quantum approved by the CC between 2009 and 2019 with fair and adequate compensation that is prescribed by the *Constitution of Zimbabwe*. Sixty-three per cent of the MsCC were of the view that the compensation value estimated by the CC was done in line with the provisions of the existing law and the remainder (37%) declined to comment.

5.4.7. Views of PVs on the Consistency of Property Valuation for Expropriation Practice in Zimbabwe

This section presents the views of PVs on the consistency of the laws and practice of property valuation for expropriation in Zimbabwe.

5.4.7.1. Consistency of laws Guiding Property Valuation for Expropriation in Zimbabwe

The views of PVs on the consistency of laws guiding property valuation for expropriation in Zimbabwe are summarised in Table 5.17.

Table 5-17: PVs' Perspective of the Level of Consistency of Existing Expropriation Laws in Zimbabwe

Consistency of legal provisions guiding expropriation and compensation	Frequency					
	SD	D	SHA	A	SA	MS
The existing law is clear on the procedure for compulsory land acquisition.	0 (0%)	0 (0%)	0 (0%)	4 (100%)	0 (0%)	4
The existing law clear on when and how the expropriation notice is supposed to be served.	0 (0%)	0 (0%)	4 (100%)	0 (0%)	0 (0%)	3
The existing legal framework is clear on the valuation date when estimating property values for compensation purposes.	2(50%)	2(50%)	0 (0%)	0 (0%)	0 (0%)	1.5
The law is clear on who determines the compensation quantum.	0 (0%)	0 (0%)	0 (0%)	3 (75%)	1 (25%)	4.25
Existing statutes are clear on the property valuation method to be used when calculating compensation.	0 (0%)	0 (0%)	4 (100%)	0 (0%)	0 (0%)	3
Existing laws are clear on how to appeal when one is not satisfied with the compensation offered.	4 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	1
There is consistency in laws guiding compulsory land acquisition and compensation in Zimbabwe.	1 (25%)	3(75%)	0 (0%)	0 (0%)	0 (0%)	1.75
There is harmony between the land tenure pattern and the prescribed methods of valuation for compensation in Zimbabwe.	1 (25%)	3 (75%)	0 (0%)	0 (0%)	0 (0%)	1.75
You are aware of the WB guidelines on property valuation for compensation.	0(0%)	0 (0%)	0 (0%)	0 (0%)	4 (100%)	5
You are aware of the FAO guidelines on compensation for expropriation.	0 (0%)	0 (0%)	0 (0%)	0 (0%)	4 (100%)	5
You are aware of the FIG's compensation guidelines.	0 (0%)	0 (0%)	0 (0%)	0 (0%)	4 (100%)	5
The existing legal framework guiding property valuation for expropriation in Zimbabwe is in line with the FAO, FIG and WB Guidelines.	4 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	1
Property valuation for expropriation and compensation framework in Zimbabwe is consistent with international best practice.	4 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	1

Source: Research Findings (2020)

From Table 5.17, it can be deduced that PVs generally agreed with the statements that: the existing law is clear on the procedure for compulsory land acquisition and it is also clear on who determines the compensation quantum. This is supported by MS of 4 and 4.25, respectively. Generally, PVs strongly agreed that they were aware of the WB, FAO and FIG guidelines as indicated by MS of 5. Table 5.17 also shows that in general terms, PVs somehow agreed that: the existing law clear on when and how the expropriation notice is supposed to be served, and existing statutes are clear on the property valuation method to be used when calculating compensation. This is supported by MS of 3 in both statements.

It can be noted that generally, PVs disagreed that: the existing legal framework is clear on the valuation date when estimating property values for compensation purposes as well as the consistency of valuation practice with the existing laws and land tenure systems. This is evidenced by MS of 1.5 and 1.75 that can be rounded off to 2. PVs strongly disagreed that existing laws are clear on how to appeal when one is not satisfied with the compensation offered and property valuation for expropriation and compensation framework in Zimbabwe is consistent with international best practice and the FAO, FIG and WB Guidelines as shown by a MS of 1. Figure 5.11 is a graphic presentation of the views of PVs on the consistency of property valuation for expropriation and compensation in Zimbabwe.

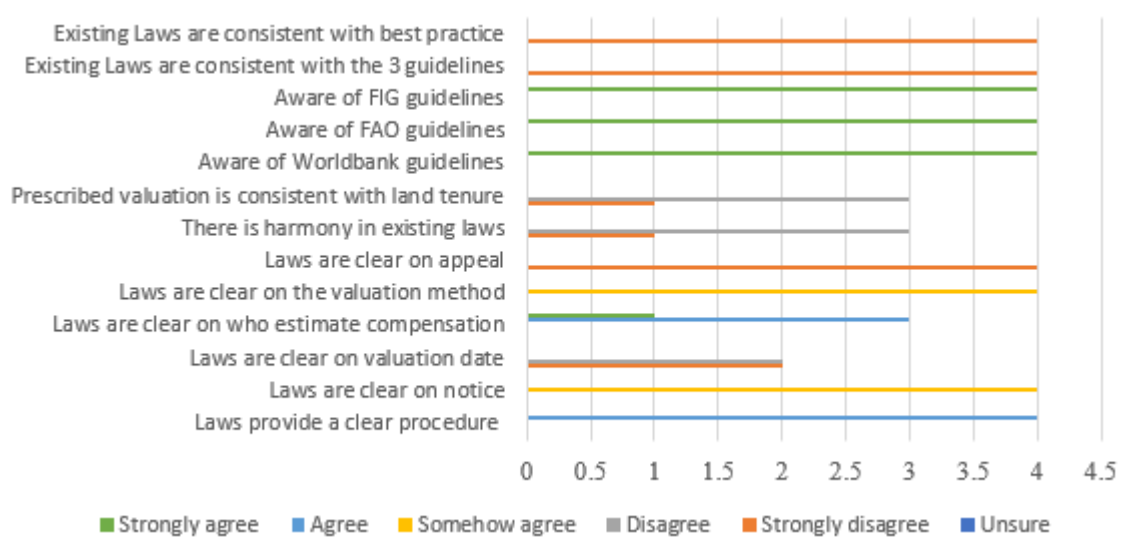


Figure 5-11: Views of DVOs on the Consistency of Property Valuation

Source: Research Findings (2020)



Box 5.2 details the views of one of the PVs on the consistency of existing laws with international best practice.

Box 5-2: Views of PVI on the Consistency of Zimbabwean Property Valuation for Expropriation Laws with Guidelines by International Agencies

In terms of gaps between international best practice and the methods being used in this case, there are huge discrepancies, and a study of the Zimbabwe LAA will show this. However, Valcon decided to work within the limited parameters of the Act and tried to make the best of it, rather than try to change the law that would require the acceptance of a political hierarchy who refuse to consider the value of land that is considered to be the liability of the previous Colonial Power. Thus, instead of using Market Value for assessment of acquired land, we must value improvements only by the DRC method. This brings up its own problems and there are still many areas where values will be unacceptable especially to farmers who owned ranches for instance where improvements are only about 10% of market value. Many of the normal compensation heads are excluded that is unfortunate. We have a database of all the improvements on about 4,800 farms that are the subject of compulsory acquisition. Because there has been more than 15 years in most cases between acquiring and valuing by the Ministry of Lands, we have availed them of our inventories that include Google images of improvements as they were when the farm was taken as opposed to what one might find now due to vandalism lack of maintenance etc.

Source: Research Findings (2020)



5.1.1.1. Consistency of Property Valuation for Expropriation Practice in Zimbabwe

Views of PVs on the consistency of property valuation for expropriation practice in Zimbabwe are summarised on Table 5.18.



Table 5-18: Views of PVs on Consistency of Current Property Valuation for Compensation Practice in Zimbabwe

Consistency of current property valuation for compensation practices	Frequency					
	SD	D	SHA	A	SA	MS
The current property valuation for compensation is consistent with the existing legal framework in Zimbabwe.	4 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	1
The compensation quantum estimated between 2009 and 2019 can be regarded as fair and adequate in term of Section 71 of the <i>Constitution of Zimbabwe of 2013</i> .	4 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	1
The Valuers' use of subjective judgement account for the disparity in values amongst valuers representing various interests in land acquisition.	0 (0%)	0 (0%)	0 (0%)	3 (75%)	1 (25%)	4.25
Differences in competencies between PVs and DVOs account for the disparity in values.	0 (0%)	0 (0%)	0 (0%)	4 (100%)	0 (0%)	4
The use of different data sources including valuation rates account for differences in estimated values between PVs and DVOs.	0 (0%)	0 (0%)	0 (0%)	1 (25%)	3 (75%)	4.75
Valuers representing landowners tend to over-value their interests.	4 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	1
Valuers representing acquiring authorities tend to under-value the interests of the landowners.	0 (0%)	0 (0%)	0 (0%)	2 (50%)	2 (50%)	4.5
The client's pressure on the Valuers' opinion-of-value in valuation for compensation account for the disparity in values amongst valuers representing various interests in land acquisition.	0 (0%)	4 (100%)	0 (0%)	0 (0%)	0 (0%)	2

Source: Research Findings (2020)

With reference to Table 5.18 it can be inferred that PVs strongly agreed that: the use of different data sources including valuation rates account for differences in estimated values between PVs and DVOs and that valuers representing acquiring authorities tend to undervalue the interests of the landowners. This is supported by MS of 4.75 and 4.5, respectively. It can be noted that PVs generally agreed that subjective judgement and valuers’ competencies account for the disparity in values amongst valuers representing various interests in land acquisition as shown by MS of 4.25 and 4, respectively.

It can be inferred from Table 5.18 that generally PVs disagreed with the statement that the client's pressure account for the disparity in values amongst valuers representing various interests in land acquisition as shown by a MS of 2. Lastly, as shown by MS of 1, it can be generalised that PVs strongly disagreed with the statements that the current property valuation for compensation is consistent with the existing legal framework in Zimbabwe. The compensation quantum estimated between 2009 and 2019 can be regarded as fair and adequate in term of Section 71 of the *Constitution of Zimbabwe of 2013*. In addition, valuers representing landowners tend to over-value their interests. A summary of the PVs views on the consistency of property valuation practice in Zimbabwe is shown in Figure 5.12.

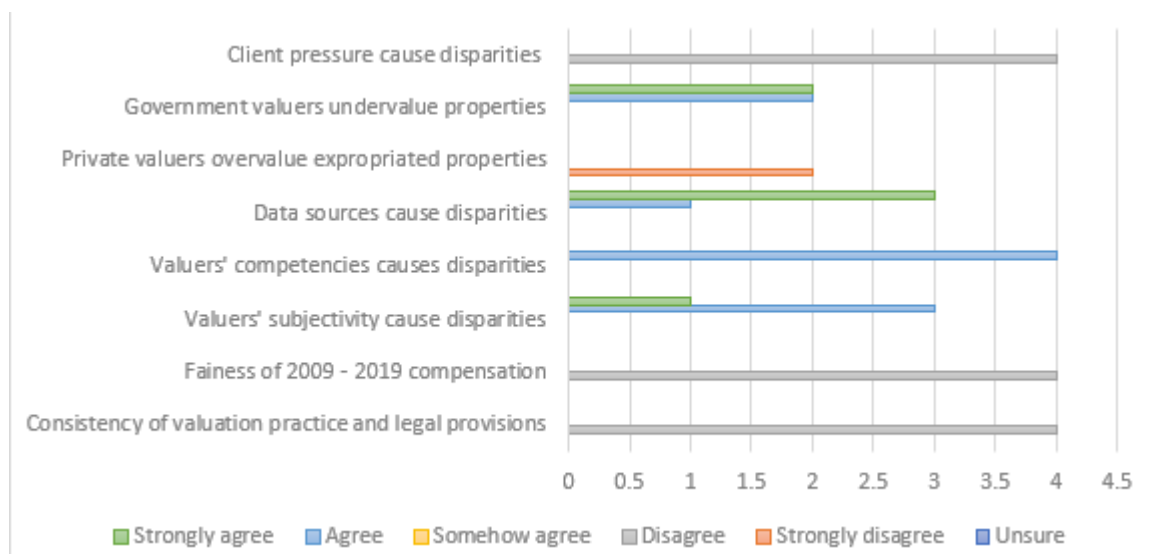


Figure 5-12: Views of DVOs on the Consistency of Property Valuation

Source: Research Findings (2020)



5.2. Fairness and Adequacy of Compensation Paid for Expropriated Properties in Zimbabwe in Terms the Provisions of Section 71 of the CoZ of 2013

As discussed before, currently, there is no clear definition of fair and adequate compensation in both the *CoZ of 2013* the *LAA of 1992*. Without a standard yardstick, it was difficult to measure if the compensation offered and/or offered by GoZ was fair and adequate in terms Section 71 of the *CoZ of 2013*. The researcher sought the views of DVOs, PVs, MsCC and FCFs on the fairness and adequacy of compensation offered/paid by the GoZ and their responses are presented in the sections to follow.

5.2.1. Views of DVOs on Fairness and Adequacy of Compensation Paid for Expropriated Properties

Views of DVOs on the fairness and adequacy of compensation paid for expropriated properties are presented in this section. Half (50%) of the DVOs were of the view that the current compensation for expropriated land is not fair and adequate, 33% were unsure while 17% were of the view that the existing compensations are fair and adequate, as provided at law. DVO1 explained as follows:

“The reason why I think that the compensation that is currently paid is not fair and adequate is that most if not all people displaced from their communal land complained because of compensation that according to them is not fair and adequate. Also, the reason why FCFs were disputing compensation offered by the government is that they felt that what was offered by the government was neither fair nor adequate. In my thinking, we need to revise our compensation framework taking into consideration lessons learnt from previous expropriation and compensation experiences.”

5.2.2. Views of MsCC on Fairness and Adequacy of Compensation Paid for Expropriated Properties

Sixty-three per cent of MsCC were of the view that compensation offered by the Government of Zimbabwe to FCFs was fair and adequate as provided by Sections 71, 72



and 295 of the *CoZ of 2013* and the remaining 37% did not comment. The general view of MsCC was that the provisions of the existing law should be used as a yardstick to measure fairness and adequacy of compensation offered or paid by GoZ.

MCC5 explained that:

“The process is very fair, and it provides for the involvement of the former owner of the property. The value is not imposed on the owner, but there is a dialogue that allows input from the owner who can even involve a private valuer of his/her choice. The input from the private valuer will be considered, and this has been the practice for a long time without much change.”

Also, MCC8 was of the view that when assessing the fairness and adequacy of compensation that is paid for land acquired for resettlement purposes, it is important to have a historical background of the land issue especially during years of colonial rule. In the words of MCC8:

“Any debate that ignores that during the colonial era the land was expropriated without compensation will be biased. In your study on fairness and adequacy of compensation paid for land acquired during the FTLRP, you need to read widely on compensation for expropriation before independence. For your own information, people were forced to leave their productive land without compensation for the land and its improvements, including crops and animals. If you have this bigger picture, you will appreciate that what is provided for at law is more than fair and just compensation. Most of the FCFs if not all, benefited from stolen land directly or indirectly. What is fair is for former colonial masters to compensate victims of colonialism, and this might also include victims of the slave trade.”

All MsCC agreed that fair and adequate compensation include land and improvements when properties are expropriated from indigenous Zimbabweans or foreigners from countries with investment agreements with Zimbabwe. When properties are expropriated from people who are neither indigenous Zimbabwean nor foreigners protected by bilateral



agreements, fair and adequate compensation is just for improvements on the land. MCC1 stressed that:

“Sections 72 and 295 of the constitution are clear that compensation for indigenous Zimbabweans is for both land and improvements, whereas compensation for affected foreigners is divided into 2. Suppose the expropriated property is owned by a foreign national who is from a country with an investment agreement with Zimbabwe. In that case, the compensation is done in terms of the provisions of the agreement protecting that investment. On the other hand, compensation for properties owned by foreigners who are not nationals of countries with investment agreements with Zimbabwe, fair and adequate compensation is just for improvements on the land.”

MCC4 explained that:

“Improvements include hard infrastructure like buildings, roads, dams and irrigation infrastructure to point just 4. Furthermore, improvements on agricultural land include land clearing and biological assets like plantations, orchards and many more. Different valuation methods are used to calculate fair, and adequate compensation for improvements on the land and the commonly used methods are the depreciated replacement cost method, the direct comparison method and the investment methods (income and DCF).”

5.2.3. Views of PVs on Fairness and Adequacy of Compensation Paid for Expropriated Properties

All PVs believed that the compensation offered for expropriated properties was not fair and adequate. In their view, fair and adequate compensation is an international principle that goes beyond the provisions of national laws. Most PVs were of the view that the exclusion of land on compensable heads of claim under certain circumstances makes the current compensation to be unfair and inadequate. PV4 underscored that:

“Exclusion of land values where the landowner is white is basically racist and seeks to right a colonial wrong for that most white farmers were not directly



responsible that is 70% of white farmers bought their land after independence and financial support from the Agricultural Finance Cooperation. The Zimbabwean LAA and the constitution placed responsibility for land compensation on Britain as the past colonial master, however, Britain cannot be bound by another country's constitution."

Furthermore, 75% of the PVs pointed out that there is no fairness because the CC is given the sole mandate to estimating the fair compensation without the involvement of affected people. PV1 was of the view that:

"The CC is by law required to assess compensation value with advice from the Minister of Lands and Minister of Finance. The committee is one-sided and has no PVs and farmer representation."

According to PV2:

"The Act specifies the composition of the CC, that include Secretaries of various ministries, the Chief Lands Officer, The Government Valuation Officer and five others to be appointed by the Minister. In the past, this has included members of the private sector valuation profession representing those whose land is being expropriated; however, this is no longer the case. With the current legal provisions, the owner of the acquired land can only appeal on the basis that the CC has operated outside the principles of Section 21 and 29C."

Fifty per cent (50%) believed the violent nature of the FTLRP and delayed payment of compensation makes the whole expropriation process unfair. PV3 underscored that:

"When the FTLRP started, farms were supposed to be valued at the time of acquisition. This did not happen, leading to problems with verification of assets 17 years later. Some of the assets were vandalised during the violent farm invasion, while others were rundown due to misuse or lack of maintenance after the acquisition."



5.2.4. Views of FCFs on Fairness and Adequacy of Compensation Paid for Expropriated Properties

This study established that the general view of FCFs is that compensation offered and paid for expropriated properties is neither fair nor adequate. According to FCF1:

“The issue of fair compensation goes beyond just the figure that is offered, but it must include the whole acquisition process. For your own information, FCFs are traumatised by the horrific nature of the land invasions. Some of us were gruesomely murdered, and some have permanent injuries sustained during the farm invasion. Perpetrators were not arrested, and neither were the victims compensated.”

Another FCF narrated that:

“It is rather traumatic to wake up one day with a notice in the newspaper saying your property is now state property and you have no recourse! There was no policy consistency.”

Another FCF who narrated a similar story as follows:

“No responses were ever received to written objections. The police assisted the beneficiary of our home to break in and take possession. This took place even before any legal clarity had been reached.”

All the FCFs believed that there was no transparency during the expropriation and compensation process as the FTLP was more of a political move used by the ruling party to gain a political mileage and regain its dwindling support base. One of the FCFs explained why some farmers like him view the compensation as unfair as follows:

“I had bought the property 3 years before with a certificate of 'No Present Interest' and let it for 3 years. It was smaller than the minimum size of 400 hectares and never actually been farmed, being just indigenous bush and granite outcrops, a place of scenic beauty. During the initial stages of farm invasion, we were assured that single farm owners would not be affected as the programme was targeting



multiple farm owners and absentee landlords, derelict and land adjacent to communal land. However, our only farm was later acquired, which I objected but never got a response.”

Lack of fairness was also evidenced in delays in handling court judgements on farm invasions and as such, farmers also lost some of their farm produces that are not considered during the compensation debate. FCF4 narrated that:

“We had to vacate the property immediately and took three months for the High Court to permit us to return. By then the person allocated the property had moved his staff into the accommodation and had cows and sheep in the garden area, that demolished the garden.”

Besides raising the issue of unfair expropriation process, all farmers were of the view that the compensation offered by the government was inadequate. FCF30 supported this view as follows:

“I was not involved when the government inspected my property for the purposes of assessment of compensation. I was offered payment, but it was a small fraction of the valuation done by professional farm valuers. The offer was changed several times but was never realistic or acceptable.”

FCF15 explained that:

“If the money spent on purchasing the property was invested at reasonable rates, it would have accumulated to at least four times the offered compensation.”

FCF22 pointed out that:

“I know there are many farmers who had to move into rented accommodation and had to live like paupers.”

More than half of the FCFs (60%) decried that they were violently evicted from the farms they bought after independence, without notice of intention to expropriate and they lost more than just improvements on the land as they were not allowed to take any of their farm belongings including movables. Worth noting is the story of FCF40 who narrated that:



“The expropriation of my farm was not done legally. Farms were settled before the farms were gazetted. I was allowed to complete the grading of the tobacco crop but was not allowed to remove any equipment from the farm. Subsequently, I got a High Court order to be able to remove my equipment, but when presented to the settlers, the police threatened to arrest me if anything was removed. We never recovered any of the equipment. The property was bought after 1980 with Certificates of No present interest from the government (1987 and 1991).”

Also, FCF2 shared a similar story as follows:

“Government took an inventory in 2004 or thereabouts I have received two compensation offers in the past, but I do not recall the dates specifically. The first offer was equivalent of the price of a 2nd hand pickup. We rejected this. I received another offer only two months ago that would not buy a house in Harare. The second offer did not have any value for the land itself since Government only considers improvements.”

All farmers lamented that the current laws do not include land as a compensable item. Compensation for land in terms of the Zimbabwean law is the responsibility of the former colonial powers (Britain). However, FCF10 underscored the fact that unfortunately, the British government never accepted the responsibility for the compensation of land that left FCFs on their own with no recourse for the expropriated farms. Half of the FCFs were of the view that it was going to be fair if the Zimbabwean government transfer the responsibility of compensation for land that was acquired during the colonial era to the former colonial masters and takes responsibility of compensation of all land that was acquired after independence.

“I, for one did not benefit from land that was unjustly acquired during the colonial period. I am a Zimbabwean by birth who bought my only farm in mid-90s. I happen to be a victim just because of my race. Like any other Zimbabwean, I deserve fair and just compensation for my lost investment.”

As one of the FCFs elaborated:



“Expropriation has undergone various legal changes over time. The current legislation that is covered in the constitution of 2013 alters the conditions that pertained at the time most farmers, I included, purchase their properties. They discriminate against non-indigenous Zimbabweans. Effectively whites, regardless of when their properties were purchased are regarded as foreign but do not have the same rights as foreigners covered under BIPPAS or as locally born blacks who have the same rights as foreigners! The narrative is at odds with the truth that a good portion of commercial farmland was purchased post-independence with Government of Zimbabwe’s consent. Only improvements will be compensated for, and this is at odds with best international practice.”

Seventy-two per cent (72%) of FCFs pointed out that the compensation offers were not fair simply because they did not clearly specify in a breakdown format how much was paid for each compensable head of claim, instead they were just given the final compensation figure in the offer by GoZ.

According to one FCF:

“Only a single figure was given overall with no breakdown. It is not clear how the compensation was calculated. In my thinking, the compensation amount was arrived at arbitrarily without any scientific justification and intentionally made low so that the government would not pay more.”

Seventy per cent of the FCFs were of the view that the offer by the CC just used a uniform method of calculating compensation for different types of agricultural properties, ignoring the issues like the location on value and differences in agricultural activities carried in each farm. One FCF pointed out that the acquired property had 2 running streams passing through it and was very close to the capital city (Harare), but all those factors were ignored when the compensation was calculated. Some FCFs were of the view that thump sucking was used by DVOs when coming up with depreciation rates. In the words of FCF30:



“There was no compensation for movable assets, goodwill of my lodge and its assets and depreciation was based on generalised figures as the effective age of improvements was not considered.”

Also, all FCFs were of the view that failure to pay interest for delayed compensation is unfair and makes the compensation offered inadequately. To add more, ninety per cent of the FCFs felt that existing laws deviated from international best practice as they were amended to unfairly dispossess them from their farms by closing all avenues for recourse. According to FCF10, a law was passed that gave anyone whose property was listed for expropriation 45 days to vacate the same, disregarding any court order reversing the acquisition. The gazetted law was specific that any farmer who fails to vacate within the stated time would face a 2-year jail sentence. Also, FCF19 narrated that:

“The amendments made to the LAA simply extinguished our rights without recourse.”

Another FCF explained that:

“A number of laws made in Zimbabwe, especially regarding land, are at variance with the internationally accepted principles of law-making. The first relates to discretionary powers. Bingham states that: “Questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion.” Yet, under Zimbabwean law, the president has been granted wide discretionary legal powers.”

Furthermore, forty per cent of the FCFs were of the view that there is no fairness in the expropriation and compensation process in Zimbabwe because of the selective application of the law. As explained by one FCF:

“The laws and reality are at odds. The laws are still being changed, and essentially the distinction between foreign, indigenous and white citizens has a different impact on the process. The laws seem to be made up as they go along and are applied selectively and after the event. International rulings are ignored except where external pressure is brought to bear. The whole thing is politically driven especially



since the High Court instructed the Zimbabwe Republic Police to assist in evicting the workers that were put on the property that we lived alongside for 4 years. The police refused to comply with the court order as I was told it was a political matter. Then after 4 years watching beautiful indigenous trees being cut down, traps being put on it to capture game (But killed one of our favourite pets) and obviously instructed to make as much noise from early morning to late at night to annoy us.”

In the words of another FCF:

“We were prosecuted and went to court 7 times before the case was dropped around 2 years after we had vacated the property.”

Some FCFs also felt that the expropriation process was not fair due to conflict of interest of those involved in the acquisition, valuation and appeal processes. FCF10 explained that:

“If you do your research, you will establish that government officials, including DVOs, MsCC and even those in the judiciary benefited from our expropriated farms. Do you think these people will be impartial when handling our issues when they have interests in the same issue?”

According to FCF1, most of the initial offers done by the CC prior to the GCA of 2020 (including the ones done during the multi-currency period) were very low and, as a result the offers were rejected by the farmers. Farms with previous offers were also included in the list to be compensated under the GCA of 2020. Most (90%) of the farmers were satisfied with the compensation agreed, but there were some (10%) who felt that the agreed figure was just a fraction of what they were supposed to get if property valuation was done in line with international best practice. Worth mentioning are the sentiments of FCF32 who stressed that:

“Do we have much option? We are nearly dead and buried since we have lost half a lifetime already. The GCA compensation figure did not include all the losses that should be included in compensation matters. If we consider all the losses from disruption to looting to selling equipment for a pittance, then the GCA



compensation figure is probably 70% of what the value should be. If we are lucky to get external compensation for the land, then this percentage might increase.”

One of the FCFs thought that the issue of satisfaction of the farmers with the compensation offered in the GCA is an academic exercise since, currently, the Government of Zimbabwe neither have the funding to pay the compensation amount nor external sources where it can raise the agreed US\$3.5 billion.

All FCFs were of the view that reasonable costs of engaging professional valuers and any reasonable cost of appeal in a court of law should have been paid by the expropriating authority. According to FCF18:

“The Government of Zimbabwe seems to be committed to pay compensation for the expropriated farms because it is under pressure since it wants to reengage with international finance sources.”

5.3. Levels of Satisfaction of FCFs with the Compensation for Expropriation Practice in Zimbabwe

This section discusses views of both MsCC and FCFs on the level of satisfaction of previously displaced persons with the current compensation for expropriation practice in Zimbabwe. It is structured into 2 subsections as follows: Section 5.6.1 focuses on views of MsCC followed by a discussion on views of FCFs in Section 5.6.2.

5.3.1. Views of the MsCC on the Level of Satisfaction of Displaced People with the Compensation

Fifty per cent of the MsCC were of the view that displaced people were not satisfied with the compensation offered mainly due to the delays in property valuation for compensation as well as the compensation amount. MCC5 stressed that:

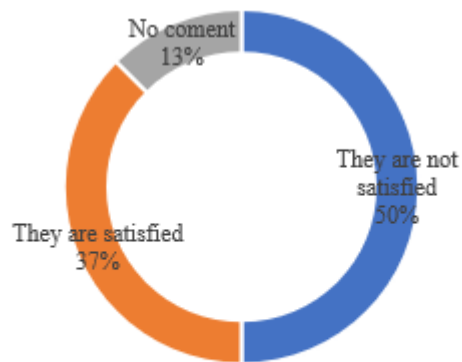
“Naturally, people who are forced from a place that they claim ownership cannot be satisfied with any offer since what they want is their property; hence no amount of compensation can satisfy them. This is evidenced by the number of offers that were rejected by the former farm owners who are mostly white.”

The other 37% were of the view that the affected farmers were satisfied, and 13% was hesitant to answer the question as shown on Table 5.19 and in Figure 5.13.

Table 5-19: MsCC Views on Satisfaction Levels of FCFs

Response	Frequency	Percentage
They are not satisfied	4	50%
They are satisfied	3	37%
No comment	1	13%
Total	8	100%

Source: Research Findings (2020)



■ They are not satisfied ■ They are satisfied ■ No comment

Figure 5-13: Views of MsCC on Satisfaction of FCFs with Compensation Offered

Source: Research Findings (2020)

5.3.2. Levels of Satisfaction of Previously Displaced Persons: FCFs’ Perspective

All the FCFs were dissatisfied with the expropriation and compensation practice in Zimbabwe. Dissatisfaction emanated from the way they were violently evicted without following the legal process. FCF40 asked a question:

“How would you feel if you were told to leave all your possessions, your livelihood, your way of life, your community, leaving 200 people out of work, your country within six months?”

Most FCFs (75%) were not satisfied with the way the data that was used in property valuation for compensation by DVOs were collected. Besides the fact that the data were collected in the absence of affected people, there was also a delay in data capturing. In the words of FCF8:



“Government did not have sufficient information as most farm valuation visits took place many years after the farms were taken over.”

This view was supported by FCF25, who explained that:

“Most of the Government of Zimbabwe valuations or inventories were collected many years after the farms were taken over, most data was only captured between 2015 and 2019 by DVOs. The values Government of Zimbabwe was using were completely historical and were only adjusted recently.”

Furthermore, FCFs were of the general view that there were not satisfied with the current expropriation and compensation process in Zimbabwe since the provisions of the law were not explained to them by the expropriating authority. Also, the government acquired their properties without following the provisions of the existing law. According to FCF 20:

“Proper laid down procedures has rarely been followed. Acquisition of movable assets are covered by different legislation, but as the process was political and police would not assist, much equipment was not possible to recover at the time. No government authority was prepared to assist in verifying an inventory of equipment we could not remove.”

Another FCF explained that:

“I was given no prior notice and did not expect the property to be taken as it was not within the criteria promulgated.”

Another farmer who shared the same view asked a rhetorical question:

“What is the rule of law?”

And went on to answer the same question as follows:

“Anthony Gubbay, Zimbabwe's former Chief Justice (1990 - 2001), sees it as a celebration of individual rights and liberties. It recognises the supremacy of the law, equality before the law, accountability to the law and fairness in the application of the law. A fundamental tenet of the rule of law is the separation of powers. Because an independent judiciary constrains and regulates executive



power, it is the bedrock of constitutional democracy. It means that rulers cannot pick and choose those laws or courts they wish to obey. They cannot set one standard for themselves and another for the people they govern. Another key principle of the rule of law, according to Bingham, the former Lord Chief Justice of England and Wales, is the protection of fundamental human rights and a state's obligations in international law.”

All FCFs were dissatisfied with lack of consultation or participation during the compulsory acquisition and property valuation of the acquired properties by the government. To them, the way the farms were taken was more of confiscation than expropriation, and they were not given a chance to verify the data that was captured by DVOs in their absence and later used to estimate the compensation values. One of the FCFs narrated that:

“I tried to question the decision at all levels, but no one was prepared to commit themselves and suggested I go to a higher level. This would have ended up at the presidential level with no chance of a change of mind.”

The other FCF believed affected farmers could have been satisfied if the expropriation and compensation processes were transparent, and their views were considered. In cases where it was not possible to accommodate their views at least, an explanation was given by the expropriating authority. The same FCF believed that active participation of farmers during the expropriation and property valuation process could have minimised the protracted compensation disputes that ended up crippling the whole economy. In the words of FCF11:

“The flawed process for compensation payment has resulted in very few legal challenges to payment. The regional SADC Tribunal was shut down when it ruled in favour of displaced Zimbabwean farmers, and this has resulted in lack of recourse.”

Another FCF asserted that:

“Few compensation appeals cases have been dealt with by local courts. Rulings on compensation appeals made in regional courts were generally found in FCFs’ favour, however, the judgements have not been enforced, and Government of



Zimbabwe remains in contempt. These have been more effective, and although it has taken time, applicants have been able to assert their rights. Regrettably, such avenues are only available to BIPPA protected investors.”

5.4. Suggestions on areas of the Existing Property Valuation for Expropriation that need to be aligned with Guidelines of International Agencies

This section presents proposals from DVOs, MsCC, PVs and FCFs on areas that need to be strengthened in the existing legal framework for property valuation for expropriation in Zimbabwe in order to align with international best practices. Proposals from DVOs are discussed in Section 5.7.1, and proposals from MsCC are discussed in Section 5.7.2. Sections 5.7.3 and 5.7.4 focuses on suggestions by PVs and FCFs, respectively.

5.4.1. Areas on Existing Laws that need to be strengthened as Aligned to Guidelines of International Agencies by DVOs

The main areas that were proposed by DVOs include representation of affected people, registration of DVOs by the Valuers’ Council of Zimbabwe (VCZ) a statutory requirement for all valuation for expropriation to meet international property valuation standards. DVO4 suggested that the *LAA of 1992* must provide a clause that requires the expropriating authority to engage affected people or their representative at all levels of expropriation and compensation. DVO2 was of the view that there is a need for a guaranteed professional representation of affected people by valuers, lawyers and any other relevant professionals. In addition, all reasonable costs must be paid by the expropriating authority.

DVO1 proposed that there is a need to insert a statutory requirement for all designated DVOs to be appointed from registered valuers. Lastly, DVO3 recommended that the *LAA of 1992* must be amended to make it mandatory for property valuation for expropriation to be done in line with the international property valuation standards. The data collected from MsCC are discussed in the next section.



5.4.2. Areas of the Existing Law that need to be Aligned to Guidelines of International Agencies as Suggested by the MsCC

All MsCC believed that there is no need to amend existing laws as they are already inline with guidelines of international agencies.

5.4.3. Areas of the Existing Law that need to be aligned to Guidelines of International Agencies as Suggested by PVs

Key issues raised by all PVs include reverting back to compensation based on market value that is a standard globally. One of the PVs highlighted that:

“Moving away from the market-based compensation was simply moving away from international best practice, and as a result, Zimbabwe invited the challenges of compensation disputes through this move.”

Also, all PVs suggested that there is a need to clearly provide compensable heads of claim. In the word of PV3:

“All common compensation heads should be included that include interest for non-payment, loss of earnings, disturbance allowance, trauma and movable assets.”

The other common suggestion from PVs was that as a way of promoting good governance in expropriation and compensation, the law must provide for a transparent process with mandatory participation of affected people or their representatives.

All PVs were of the view that the law should make it mandatory for compensation to be agreed upon before the acquisition, with proper provision for fair and equitable arbitration where a dispute arises. Lastly, all PVs proposed that there should be a legal mechanism for an independent assessment of the degree to which the proposed use meet the requirements for public purpose/use so that expropriation will not be used for political expediency. PV1 emphasised that:

“The Zimbabwean Constitution is deficient in one regard, it looks to right the racial wrongs of the past by excluding white ownership of land, but that will affect the



future if not a lasting solution is adopted. The Constitution of Zimbabwe states that all citizens are equal but then contradicts that when it comes to land ownership. It allows that indigenous people can own agricultural land but does not describe who an indigenous person is. Is a black Malawian who was born in Zimbabwe of Malawian farmworker parents a Zimbabwean now? Unfortunately, the Land Acquisition has affected indigenous farmers as their title has been cancelled in favour of the government. He who controls the land controls the voter!”

PV4 underscored that:

“Exclusion of land values where the landowner is white is basically racist and seeks to right a colonial wrong for that most white farmers were not directly responsible that is 70% of white farmers bought their land after independence and financial support from the Agricultural Finance Cooperation. The Zimbabwean LAA and the constitution placed responsibility for land compensation on Britain as the past colonial master, however, Britain cannot be bound by another country’s constitution.”

PV2 proposed that:

“It is a fundamental of International Human Rights to allow an aggrieved person to have his day in court to query the quantum of his compensation. The Act does not allow this. The CC has no farmer representation, and most members of the committee are beneficiaries of the Land Reform Program and are therefore not impartial.”

5.4.4. Areas of the Existing Law that need to be aligned to Guidelines of International Agencies as Suggested by FCFs

Most FCFs (75%) were of the view that FAO guidelines should be used as a reference point if the existing law is to be aligned to international best practice. FCF10 suggested that:

“There is need to follow FAO guidelines and have independent institutions, root out corruption and de-politicise district land committees and courts etc. FAO provide suitable guidelines. If these were followed and payment was timeous, it



would assist. Given the government has so little chance of raising the money it should consider restitution to bona fide citizens who purchased property post-independence. They should also allow willing seller willing buyer to sort out some of the mess. The FTLRP was always more about politics than due process. If the latter had been followed, likely we would not be in a mess. For now, a more inclusive and pragmatic solution is required to deal with the macroeconomic and social problems facing the country. Government is reluctant to do such. One of the primary challenges has been the retrospective implementation of the law that effectively turns legitimate investors into criminals and absolves the state from its liability to pay. There is a clear reluctance by government to transfer liability to beneficiaries.”

FCF25 proposed that:

“There are three other principles of law-making that the government has consistently broken. The first is that laws should not be made retroactively because it legalises an action that was unlawful when it was committed. It is rather like a blanket pardon, condoning wrongdoing. The second is that laws should uphold the principle of natural justice. This simply means that every person has the right to a fair hearing in a court of law if it affects their rights or legitimate expectations. And, to avoid any impression of bias, a judge must recuse himself from hearing any matter in that he has an interest, such as seized land.³ The third is that domestic law should reflect international customary law, such as respecting human rights, paying fair compensation for property compulsorily acquired and honouring treaties.”

5.5. Proposed Framework for Property Valuation for Compensation in Zimbabwe

Having identified gaps in existing laws guiding property valuation for expropriation and inconsistencies in practice in the previous sections, this section proposes a property valuation framework that can be used in Zimbabwe. The proposed framework is in two parts. The first part closes gaps in the existing legal framework that guide property



valuation for expropriation as summarised in Table 5.4, by proposing amendments to sections of the *CoZ of 2013*, the *LAA of 1992* and the *AFEMA of 2004*. The other part of the proposed framework focuses on an institutional and operational framework that can bring consistency and fairness in property valuation for expropriation in Zimbabwe.

Table 5.20 is a summary of the proposed amendments to the existing legal framework.



Table 5-20: Proposed Amendments to the Existing Zimbabwean Laws in line with the Guidelines of International Agencies and Selected Countries

Statute	Section	Statutory provisions	Proposed changes to the existing statutory provisions
<i>CoZ of 2013</i>	71	The expropriating authority to give reasonable notice, pay fair and adequate compensation before or at a reasonable time after expropriation.	Define fair and adequate compensation, reasonable notice and reasonable time.
<i>LAA of 1992</i>	2	Defined fair compensation as the compensation determined by the CC.	There is a need to use the term fair and adequate compensation that is provided by Section 71 of the <i>CoZ of 2013</i> . Also, there is need to define fair and adequate compensation as guided by international best practice, including the international property valuation standards.
<i>LAA of 1992</i>	5	No need to apply for a court order prior to compulsory acquisition on property.	The expropriating authority to apply for a Compulsory Acquisition Order at the Administrative Court before publishing a notice of intention to acquire the property.
<i>LAA of 1992</i>	5	One month's notice period.	One year's notice period.
<i>LAA of 1992</i>	5	Silent on the language to be used in a notice of intention to expropriate.	The notice of intention to expropriate to be in a language that can be understood by affected people.
<i>LAA of 1992</i>	5	The notice is published in the GG and the newspaper circulating in the area.	Use of specific multiple media to publish the notice that can include hand delivery, notice boards, public meetings, registered mail, government website, electronic mails and social media.
<i>LAA of 1992</i>	29B	The value of the expropriated property to be assessed as soon as possible.	The valuation date to be the same as the date the notice of intension to expropriate was adopted by the government, approved by the Administrative Court or the notice date.
<i>LAA of 1992</i>	29B	DVOs to be appointed by the Minister from Serving Civil Servants.	To include a statutory provision that requires DVOs to be registered by the Valuers' Council in terms of the <i>VA of 1996</i> .
<i>LAA of 1992</i>	29A	Compensation Value is fixed by the Compensation Committee.	Amend Section 297 of the <i>CoZ of 2013</i> and transfer the responsibility of approving preliminary compensation value from the CC to the Land Commission.
<i>LAA of 1992</i>	20	Compensable heads of claim include the loss of land and any loss incurred due to expropriation.	More detail needs to be provided on loss incurred due to the expropriation to include the value of standing crops, loss of occupational rights, financial/business loss, loss of goodwill, disturbance allowance, transport/relocation allowance, solatium, severance, injurious affection and professional fees where applicable.
<i>LAA of 1992</i>	16	Compensation to be paid within a reasonable time after expropriation.	Define reasonable time say a month after acquiring the property. This provision needs to be aligned to a definition to be provided by Section 71 of the <i>CoZ of 2013</i> . It might be prudent for compensation to be paid as a one-off lump sum.
<i>LAA of 1992</i>	PART III	No section provides for social impact assessment.	Need to add a new section that makes it a statutory requirement for social impact assessment prior to compulsory acquisition.
<i>LAA of 1992</i>	PART III	No Section holds the expropriation authority liable for acts of omission or act of negligence	Need to add a new section with penalties for any acts of omission or act of negligence done by the expropriating authority during the



<i>AFEMA of 2004</i>	5	done by its employees or agents during the expropriation process. Designate valuer to be appointed from serving civil servants.	expropriation process. To include a statutory provision that requires DVOs to be registered by the Valuers' Council in terms of the <i>VA of 1996</i> .
----------------------	---	------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------

Source: Research Findings (2020)



Since this study established that there is no legal framework guiding property valuation for expropriated communal properties, a guiding framework for the same as shown in Box 5.3 is hereby designed. This framework can be adopted as a section in the LAA of 1992 especially under the schedules on Sections 29 and 50 of the same statute.

Box 5-3: A Proposed Property Valuation for Expropriated Communal Properties in Zimbabwe

a. Valuation of Land

- The existing law does not provide for monetary compensation of expropriated communal land but affected people can be compensated through alternative land.
- In the interest of fairness valuers need to access the alternative land which is offered to ensure that it is comparable to the expropriated property. If there are wide differences in terms of size, shape, soil characteristics, climatic conditions, and other attributes, it is prudent for the valuation officer to recommend compensation for the difference in the form of monetary compensation so as not to disadvantage the displaced people.
- Compensation for improvements to include the estimated average cost of land preparation for cultivation (land clearing, levelling, contouring etc) per hectare.

b. Valuation of Structures

- “structure” includes any wall, fence, dam, earthwork, well, borehole or other permanent improvement on or to land as defined by the LAA of 1992.
- The contractor’s method should be used to estimate the compensation value of structures. It is important for the compensation rates to reflect the rates charges in the local environment. As such the valuers must do adequate research and come up with a bill of quantities of different types of improvements found in the area.
- In determining the replacement value of materials used to construct traditional building structures in communal areas, the Valuer shall disregard the element of depreciation.
- The valuers must work closely with the local leadership and any other representatives of affected groups when coming up with compensation rates. Only fair compensation rates agreed with affected people must be used, where dispute, at least one independent property valuer must be engaged to give her/his expert opinion of the disputed compensation rates,
- Information about the agreed compensation rates must be made public, including the method used to come up with the same rates. Where say the cost of construction locally is too low, then comparable cost of construction from other areas can be used. The idea is for the affected people to be able to construct a similar property after resettlement. However, for the sake of transparency, the valuer must motivate the deviation from the use of compensation rates derived from the local market.

c. Valuation of Crops and Trees

- The valuer must take into consideration the level of maturity crops of trees.
- No compensation is paid for annual crops which can be harvest before displacement of affected people. If harvesting if not possible then the market rate of the crop as guided by the Department of Agricultural Extension (AGRITEX) shall be used. In valuing mature perennial crops such as coffee, tea and sugarcane the valuer must consider potential yield of such crops crop per hector and its market price as guided by the Department of Agricultural Extension (AGRITEX).
- When valuing mature orchards and plantations (including indigenous and exotic trees) regards shall be given on the potential fruit or timber yield per hector and the current market price as guided by the Forestry Commission of Zimbabwe and/or AGRITEX.
- The investment methods shall be used when valuing unharvested mature crops and trees and the cost approach shall be used for immature crops and trees.

d. Valuation of Graves and Sacred improvements

- When estimating the replacement cost of graves and other sacred improvements like shrines, the cost approach shall be used taking into consideration the cost of exhumation and reburial (for graves) and relocations for improvements like shrines. The valuer must also take into consideration any social and cultural norms including rituals that may be required when compensating such improvements, hence, there it is important to consult the local leadership.

e. Valuation of other losses

- The valuer shall also consider other losses as provided by Section 20 of the LAA of 1992 and these can include but not limited to loss of profit from non-farm business including rental income, loss of employment, severance and injurious affection, disturbance allowance, loss of family ties, loss of access to natural resources.

Source: Adopted and modified from Government of Namibia (2009) and Uganda. Ministry of Lands, Housing and Urban Development (2017)



The success of the proposed framework on property valuation for compensation of communal properties as presented in Box 5.3 is hinged on active involvement of the affected people and/or their representatives. These must take part in decision making throughout the expropriation and compensation processes and any disputes must be handled by independent bodies timeously. The affected people must establish a strong representative committee which shall work together with property valuers at an early stage of the valuation project. The representative committee and property valuers shall demarcate the area affected by the project, come up with an asset inventory (marking affected properties using spray paint), record ownership and come up with an aerial map of the affected project area which captures affected properties prior to valuation process.

The proposed amendments for the existing laws, as shown in Table 5.20 and the property valuation for compensation of communal properties as shown in Box 5.3 might not bring the desired results if they are not supported by an instructional and operational framework. Most of the issues raised especially with FCFs were related to lack of good governance in existing institutions that are involved in property valuation for expropriation and compensation. Therefore, a new institutional and operational framework for property valuation for expropriation and compensation, as shown in Figure 5.14 is proposed.

Like in the current framework, in the proposed framework, the Minister initiates the expropriation process, but the difference is that two types of notices are used. The initial notice is sent to all affected people using multimedia, giving them details of the intention to expropriate. All necessary details should be given especially on the purpose of expropriation and when the GoZ intent to acquire the subject property.

Unlike the case with the existing framework where affected people send their objections to the same Minister who initiated the expropriating authority, the proposed framework proposes that objections are to be handled by an independent institution like the Human Rights Commission that was formed in terms of the *CoZ of 2013*. A suggestion to consider the Human Rights Commission as the independent institution is because its mandate is to handle human rights issues and expropriation is one issue that qualifies under human rights. The independent institution will receive objections during the notice period as proposed in



Table 5.20, and after the expiry of the notice period, it will proceed to do a social impact assessment. A recommendation will then be submitted to the president by the independent institution based on the results of the social impact assessment, objections from affected people and responses by the responsible Minister.

Upon receiving the recommendation of the independent institution, the president then approves or disapproves the Minister's intention to expropriate and issue the notice in the GG. In cases where the president approves the intention to expropriate, and some affected people want to appeal against the decision of the president, this will be done at that Constitutional Court. Expropriation is a constitutional issue since both protection of private property rights and eminent domain powers are provided for in the *CoZ of 2013*.

In the proposed framework, the Minister will proceed to issue the second notice of intention to expropriate either when no one appealed against the presidents' approval for the intention to expropriate or if the Constitutional Court ruled in favour of the president's decision. The purpose of the second notice is to inform affected people about the dates that the DVOs will be conducting property inspection for the purposes of valuation for compensation.

Property inspections for compensation are to be done in the presence of affected individuals/communities or their representatives who must sign to confirm all details necessary for the calculation of the compensation value. Inspection of subject properties will then be used by DVOs and PVs to estimate the compensation value as guided by the provisions of the new legal framework as proposed in Table 5.20.

Affected people and the GoZ will then use estimates by DVOs and PVs to agree on the compensation amount. If there is a disagreement, the Administrative Court will settle the compensation dispute, and IVs should be engaged to give their expert opinions.

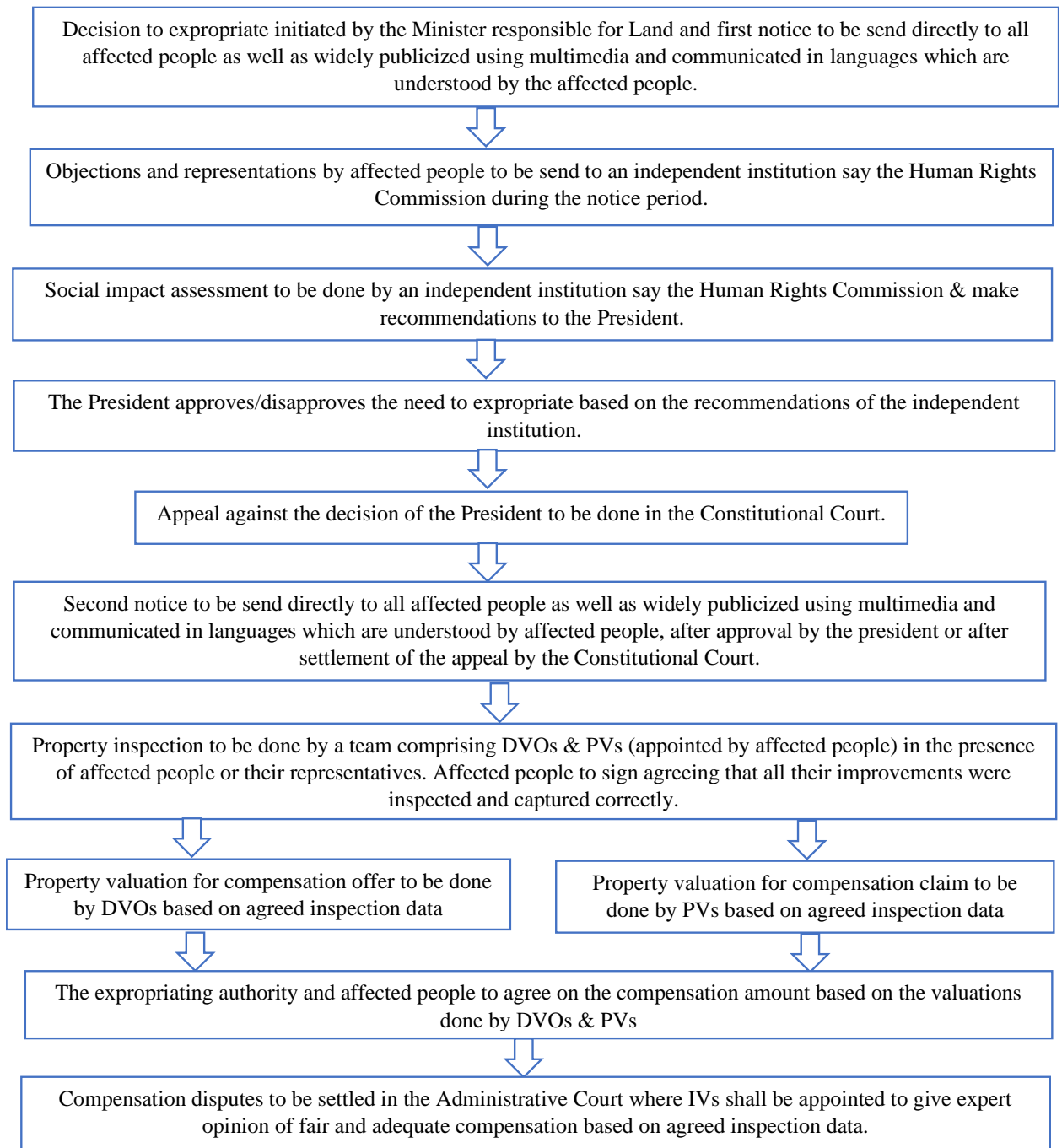


Figure 5-14: Expropriation and Compensation Framework (ECF) for Zimbabwe

Source: Author's formulation (2020)

Legal frameworks proposed on Table 5.20, together with an institutional and operational framework proposed in Figure 5.14, are expected to bring consistency in property valuation for expropriation in Zimbabwe. Consistency will be brought by laws that will be

harmoniously addressing the expropriation and compensation issues. Also, consistency in the legal framework will bring consistency in property valuation for expropriation and compensation practice. The institutional and operational framework in Figure 5.14 sets the roles of different players in the expropriation and compensation process clearly. The proposed framework promotes separation of roles, hence bringing in transparency and accountability, and most importantly, promoting the participation of affected people during expropriation and property valuation for compensation. When affected people are actively involved, they are most likely going to be satisfied with both the expropriation process and the compensation paid.

5.6. Chapter Summary

In this chapter, the results of this study were presented and analysed as guided by the research objectives. Identified gaps from existing laws and views of DVOs, PVs, MsCC and FCFs were discussed, and a legal framework was proposed to close gaps on existing laws. Also, an institutional and operational framework was proposed to replace the existing practice and bring a more inclusive and transparent environment in property valuation for expropriation and compensation in Zimbabwe. The next chapter (Chapter 6) provides the overall conclusion as well as the recommendations for this study.



CHAPTER 6 - CONCLUSIONS AND RECOMMENDATIONS

6.1. Introduction

This last chapter provides a general summary of the whole study and is structured into seven (7) sections. This introductory section is followed by Section 6.2, which discusses the extent to which the study realised the research objectives as discussed in Chapter 1. Section 6.3 provides the general conclusion of the research, while Section 6.4 discusses the contribution of this study to science. Section 6.5 provides recommendations for the study, and Section 6.6 discusses the limitations of this research. Lastly, Section 6.7 suggests possible areas for future research.

6.2. Realisation of Research Objectives

This study was premised on two related research problems which are inconsistencies in property valuation for expropriation as identified in the literature (UNDP, 2002; Moyo, 2006; Moyo, 2011a; Kaseke, 2016; Nemukuyu, 2018), and dissatisfaction of displaced people with the low compensation offered/paid for the expropriated properties (Mutema, 2019; Mpofu 2019; Gukurume & Nhondo, 2020). Some of these problems can be attributed to gaps in existing laws guiding property valuation for expropriation in Zimbabwe (UNDP 2002; Dhlakama, 2017). Therefore, the aim of this study was to identify and close gaps in the regulatory and legislative frameworks guiding property valuation approaches when land is expropriated in Zimbabwe. The main research question of this thesis was: to what extent does the Zimbabwean laws on expropriation deals with consistency and fairness of compensation of land and its unexhausted improvements? A case study of properties whose compensation offer was estimated between 2009 and 2019 was adopted. The study asked questions which were centred around the extent to which existing laws provide for consistency and adequacy of compensation paid for expropriated properties. Subsequent subsections are structured into 5 parts in line with the research objectives, as discussed in Chapter 1.



6.2.1. Evaluate the process of property valuation for expropriation and measure the level of consistency in the approaches that valuers used to estimate compensation on land and improvements in Zimbabwe.

The existing process of property valuation for expropriation and compensation as provided by the *CoZ of 2013* and the *LAA of 1992* was evaluated. Literature and questionnaire surveys were employed to measure the level of consistency in valuations approaches used by DVOs and PVs. Court judgements, compensation rates and compensation amounts were compared. Also, questionnaires were sent to MsCC, DVOs, PVs and FCFs seeking their views on the consistency of approaches which are currently used when calculating the compensation amount. Inconsistencies were identified in the provisions of the law and the existing property valuation for expropriation practice as well as the practice by DVOs and PVs.

6.2.2. Compare the legal frameworks of Zimbabwean expropriation and compensation with some selected countries, and agencies, to ascertain the degree of conformity

This objective was realised. The statutory provisions of the *CoZ of 2013*, and the *LAA of 1992*, which are principal laws guiding expropriation and compensation in Zimbabwe were compared to the guidelines of FAO, WB and FIG, as well as similar legal provisions from selected countries.

6.2.3. Assess if the compensation paid for expropriated properties in Zimbabwe is fair and adequate as dictated by Section 71 of CoZ of 2013

An assessment of compensation offered for compensation was done, and it was noted that there is no clear definition of fair and adequate compensation in the *CoZ of 2013*. Also, the *LAA of 1992* provides a skewed definition of fair compensation and is silent on the adequacy of the compensation.



6.2.4. Ascertain from previously displaced persons the level of satisfaction with the amount of compensation paid and government policies regarding expropriation in Zimbabwe

This objective was realised by administering questionnaires to FCFs. Without a fair legal provision which can be used to measure fair and adequate compensation, FCFs were of the general view that the compensation offered was neither fair nor adequate.

6.2.5. Develop a framework for expropriation and compensation for land and its unexhausted improvements in line with similar laws from some selected countries, and guidelines by international agencies.

Having identified gaps in existing laws guiding expropriation and compensation in Zimbabwe, a framework was developed based on lessons from similar laws in the selected countries, and guidelines by international agencies. The proposed framework is structured into 2. The first part of the framework proposed amendments to specific sections of the *CoZ of 2013* and the *LAA of 1992* and the second part proposed an institutional and operational framework for expropriation and compensation in Zimbabwe. General conclusions of this study are discussed in the next section.

6.3. General Conclusion of the study

Expropriation of land and its attendant improvements for overriding public purposes or interests have become part of growing and grown societies. Similarly, payments of compensation for the expropriated landed property assets are not uncommon practice in most societies. However, challenges normally occur when equity and natural justice are jettisoned by the acquiring authorities, leading to discontentment and myriads of court cases on the part of the displaced people. This unsavoury scenario has been a protracted case in the independent Zimbabwe that prompted or birthed this study. Thus, the main motivation in this research was to develop a framework that could address all limitations within the extant Zimbabwean laws, to form the basis for decision making by new government.



Several objectives including comparing local laws with selected countries, consistency and adequacy of approaches, relative satisfaction of displaced person with the process and compensation values were among others followed to address the above motivation. By reviewing provisions of existing Zimbabwean statutes, this study has shown that to the greater extent, they do not effectively deal with consistency and fairness of compensation for expropriated properties. This was supported by evidence of wide gaps in valuation estimates by DVOs and PVs as well as high levels of dissatisfaction of displaced FCFs resulting into decades of compensation disputes. Furthermore, the majority of FCFs, DVOs and PVs have decried the inadequacy of the current Zimbabwean laws in dealing with several contemporaneous issues relative to expropriation and compensation.

The findings reveal the need for significant reform in the provisions of expropriation and compensation laws in Zimbabwe. This will bring a lasting solution to current compensation disputes and provide guidance to future compensation exercise that will lead to improvement in the satisfaction level or wellbeing of affected people. Thus, as a way of reinforcement to the current Zimbabwean expropriation and compensation laws, this study draw lessons from similar laws in other countries as well as guidelines of FAO, FIG and WB. Several discrepancies in the Zimbabwean expropriation laws relative to those of other countries and guidelines by international agencies were observed.

Therefore, to bring Zimbabwean laws closer to guidelines of international agencies and better provisions of selected similar laws from other countries, this study proposed alterations to the existing Zimbabwean laws and proposed a new ECF for Zimbabwe. By so doing, this thesis has contributed to theory and practice as discussed in the section to follow.

6.4. Contributions of the Study

This section is structured into 2 sections. The first section (Section 6.4.1.) provides the contribution of this study to science and the second section (Section 6.4.2) provides the significance of this study in practice.



6.4.1. Contribution to knowledge/theory

While several studies were done on expropriation and compensation in other countries, and they proposed specific areas which needed to be strengthened in existing statutes, their results could not be generalised to reflect the Zimbabwean situation. This is due to differences in constitutions and laws guiding expropriation and compensation. Therefore, this study has extended what was known on laws guiding expropriation and compensation by providing results based on empirical evidence from Zimbabwe. If considered in line with previous findings from other countries, a general conclusion on the state of laws guiding expropriation and compensation across the world can be arrived at.

To the best of the researcher's knowledge, this is the first study to identify gaps in existing laws guiding property valuation for expropriation in Zimbabwe, compare the same laws with similar statutes from other countries as well as guidelines from international agencies. Existing studies on compensation for expropriation in Zimbabwe focused on the level of satisfaction of affected people, the history of expropriation and the politics behind expropriation.

At regional and international levels, previous studies including Kakulu (2008a, 2008b), Alemu (2013), Ambaye (2013b), Du Plessis (2014) identified gaps in existing statutes and proposed amendments to close the identified gaps. The common gaps identified by previous studies which were also supported by the findings of this study include issues like unclear legal provisions and lack of good governance during expropriation and compensation. However, none of the existing studies designed an ECF to operationalise their proposed legal amendments. Besides proposing statutory amendments, this study therefore, went further to develop an ECF which is expected to bring transparency and consistency in property valuation for expropriation in Zimbabwe as well as improve the level of satisfaction of affected people.

6.4.2. Practical/contextual implications

Results of this study came at the most appropriate time, given the fact that the GCA has just been signed and is about to be implemented. Furthermore, the time can be considered



ripe since the Parliament of Zimbabwe is currently working on aligning existing statutes with the 2013 constitution. Therefore, adoption and implementation of the ECF proposed in this study can bring confidence in the land market and help revive the agricultural land market, which was once vibrant prior to the implementation of the FTLRP. While the new Zimbabwean government is making appreciable progress, it is hoped that the contributions made in this study towards finding a lasting solution would suffice. The proposed framework presented on Table 5.19 could be a readily accessible document that can help create statutory provisions on expropriation that meets international best standards. This will also help in building investor confidence and attract the much-needed FDI into the country.

This study made policy recommendations for amendments of existing laws; hence policymakers in Zimbabwe can use results of this study as a reference point during the ongoing process of aligning existing laws with the *Constitution of 2013*. Amendments proposed by this study will bring harmony in laws which guide expropriation and compensation in Zimbabwe. Furthermore, proposed amendments will also align existing Zimbabwean statutory provisions on expropriation and compensation with guidelines by international agencies as well as similar statutes of selected countries. This will bring confidence in property valuation practice and more importantly create the much-needed investors' confidence for the revival of the crippled agricultural sector, which is believed to be the backbone of economic recovery.

Also, human rights activists and the civil society can use the proposed framework in future to pressure the GoZ to align existing laws with guidelines by international agencies and similar provisions from selected countries.

The results of this study can be adopted with modifications in some developing countries which are currently working on expropriation for land reform and resettlement, especially South Africa and Namibia or even in Africa at large. Modifications might be necessary to reflect on statutory and institutional differences between Zimbabwe and any other country which can adopt the ECF.



6.5. Recommendations of the Study

If the new administration manages to deal with the compensation dispute amicably, it will be the genesis of a mammoth task to create and maintain investor confidence. Gaps in existing laws, as noted in this study are an indication that a lot of work is yet to be done. A statutory provision which makes it mandatory for a social impact assessment to be done is required, and in addition to providing fair and just compensation, rehabilitation and resettlement is also needed. When the compensation dispute related to expropriation for the FTLRP is dead and buried, this study recommends that legal reforms be given a priority by the GoZ. All weak areas of existing statutes as highlighted in Chapter 5 of this study need to be given adequate attention so that existing laws will be aligned to guidelines by international agencies and better structured provisions of similar statutes from other countries.

It is also recommended that there is need for a code of conduct for all individuals involved in the expropriation and compensation process. Of critical importance is a conflict-of-interest check prior to the engagement of all individuals to participate in the expropriation and compensation exercise. If the allegations of some members who are in positions of authority being beneficiaries of the same expropriated properties are true, then the whole process might be compromised. At least if a prior conflict of interest check is done and corrective measures are taken in writing there are chances of improved fairness.

It is recommended that the Minister appoint DVOs from serving civil servants who are registered by the Valuers Council, having met all the statutory requirements on qualifications and experience as provided by the *Valuers' Act of 1996*. This is most likely going to improve the quality of work done by DVOs and narrow the gaps between valuations done by DVOs and PVs. If there is consistency in property valuation practice, there are high chances that the compensation disputes will be minimum and displaced people's level of satisfaction will increase.

It is also recommended that an independent commission be set to address compensation issues which were left out by the GCA. As raised by FCFs, perpetrators of human rights



violation committed during the FTLR were not arrested, and the GCA is silent about compensation for victims of the human rights abuses and compensation for lost movable assets. Also, to be addressed by this independent commission are grievances of people who lost their land during the colonial era and this include human rights abuses. The independent commission is to dig to the core of the complex compensation dispute which has been in existence for centuries. Any shortcuts in finding solutions might not bring a lasting solution.

6.6. Limitations of the Study

This study, like many other studies was not without its limitations. The major limitation of this study was that data collection coincided with the COVID-19 induced lockdowns. As a result, the researcher could not travel to do face-to-face interviews as planned. As a result, respondents took time to complete and return their completed online questionnaires.

Data collection was done during the time when farmers and the government of Zimbabwe were negotiating the GCA. Therefore, the researcher failed to assess valuation reports for individual properties as they were treated as confidential by both parties. Both FCFs and GoZ did not want to jeopardise the promising compensation negotiations by sharing valuation reports with the researcher against the conditions of the compensation negotiations.

Further to the above mentioned, relevant authorities declined to give permission for the researcher to seek the views of people displaced from Tokwe-Mukosi and Chiadzwa. As such, the results of this study were based on opinions of FCFs who were displaced from private farms collected through an online questionnaire.

It is imperative to note that the other limitation of the prepossessed ECF is that it might not be used in other countries without modifications. This is so because as mentioned before, results are based on a case study rooted in provisions of national laws of Zimbabwe.



6.7. Areas for Further Research

For future study, empirical analysis of displaced persons in some of the selected countries used in this study might bring to the fore the levels of satisfaction, with the expropriation and compensation processes in those countries. This would justify the need for wholesome legal and institutional reforms in Zimbabwe. Also, future studies can do a socio-economic impact assessment of expropriation on affected people, especially in cases where payment of compensation is delayed. In addition, there is a need for further follow-up research on the FCFs' level of satisfaction with the compensation paid after the expiry of the 5-year period of the GCA.

Kakulu (2008a, 2008b) points out that there is death of a globally acceptable property valuation for expropriation standards. It is sad to note that more than a decade later, nothing has changed, this study further recommends that there is still a need for a detailed study to come up with international property valuation for expropriation standards. The IVSC, RICS and FIG can take a leading role in this study. At least existing compensation guidelines by the WB, the FAO and the FIG can be used as a point of departure. Further studies can also be done on the people whose land was expropriated before the independence in 1980 to seek their views on the most appropriate compensation mechanism for past land acquisitions.

There is also need for a detailed study to come up with a model which can be used to deal with the issue of compensation for land expropriated without compensation during the colonial era. From this study it can be noted that there are still unresolved grievances which goes as far back as the arrival of colonial rule in Zimbabwe in 1890. This shows that the expropriation and compensation of land in Zimbabwe and other former colonies is a political issue which need a political solution. This political solution obviously requires political will from both former colonial masters and former colonies to work together and come up with a lasting solution. With the current poor relations between Zimbabwe and its former colonial masters, chances of the lingering issues being resolved is slim. However, academics can play their part by doing more research in this area to inform policy and propose models which might be adopted in future.



REFERENCES

- Abubeker, M.H. 2018. Land expropriation for cooperative housing in Amhara Region, Ethiopia: Process and impacts on the peri-urban farming communities. *International Federation of (FIG) Congress 2018*. 6 – 11 May, Istanbul: Turkey.
- Adams, M. & Howell, J. 2001. Redistributive reform in Southern Africa. London: Overseas Development Institute.
- Adebayo, M.A. & Oladapo, R.A. 2014. Towards the highest and best use of residential lands in low and medium density estates in Lagos. *Academic Journal of Interdisciplinary Studies*, vol. 3, no. 6, pp. 21-26.
- Adekunle, M.U., Bello, H.T., Jibril, S.I. and Idris, I. 2020. Landholders' Satisfaction with Compulsory Acquisition and Compensation Process in Bauchi, Nigeria. *Path of Science*, vol. 6, no. 12, pp. 2007-2011.
- Admasu, W.F., Van Passel, S., Minale, A.S., Tsegaye, E.A., Azadi, H. & Nyssen, J., 2019. Take out the farmer: An economic assessment of land expropriation for urban expansion in Bahir Dar, Northwest Ethiopia. *Land Use Policy*, vol. 8, pp. 1-11.
- Agegnehu, S.K. & Mansberger, R. 2020. Community involvement and compensation money utilization in Ethiopia: Case studies from Bahir Dar and Debre Markos peri-urban areas. *Sustainability*, vol. 12, no. 11, pp. 4794.
- Ajibola, M.O., Osota, T.O. & Oloyede, S.A. 2012. An examination of contemporary methods for assessing compensation in Nigeria. *Business and Social Sciences Review*, vol. 1, no. 9, pp. 4-65.
- Akujuru, V.A. & Ogbonda, U.J. 2016. Rationalising the contemporary issues in the valuation of land for infrastructural development in Nigeria. *Donnish Journal of Research in Environmental Studies*, vol. 3, no.1, pp. 01-07.
- Akujuru, V.A. & Ruddock, L. 2014. The determination of compensation payable in the Niger Delta for compulsory Acquisition and the need for a sustainable practice. *Journal of Sustainable Development in Africa*, vol. 16, no. 2, pp. 102-114.



- Alemu, B.Y. 2012. Expropriation, valuation and compensation practice in Amhara National Regional State (ANRS) -The case of two cities (Bahir-Dar and Gonder). *Nordic Journal of surveying and Real Estate Research*, vol. 9, no.1, pp. 30-58.
- Alemu, B.Y. 2013. Expropriation, valuation and compensation practice in Ethiopia: The case of Bahir Dar city and surrounding. *Property Management*, vol. 31, no. 2, pp. 132-158.
- Alemu, B.Y. 2014. *Expropriation, valuation and compensation in Ethiopia*. Unpublished PhD thesis. Royal Institute of Technology (KTH).
- Alemu, G.T. 2015. Land expropriation and compensation payment in Ethiopia: Review. *Journal of Economics and Sustainable Development*, vol. 6, no. 13, pp. 93-97.
- Alias, A. & Daud, M.N. 2006. Payment of adequate compensation for land acquisition in Malaysia. *Pacific Rim Property Research Journal*, vol. 12, no. 3, pp. 326-349.
- Alias, A., Kamaruzzaman, S.N. & Daud, M.N. 2010. Traditional lands acquisition and compensation: The perceptions of the affected Aborigin in Malaysia. *International Journal of the Physical Sciences*, vol. 5, no. 11, pp. 1696-1705.
- Ambaye, D.W. 2009. Land valuation in Ethiopia: Valuation methods and adequacy of compensation. *The 7th the International Federation of Surveyors (FIG) Regional Conference*. 19 – 22 October 2009. Vietnam: International Federation of Surveyors.
- Ambaye, D.W. 2013a. The History of Expropriation in Ethiopian Law. *Mizan Law Review*, vol. 7, no. 2, pp. 283-308.
- Ambaye, D.W. 2013b. *Land rights and expropriation in Ethiopia*. Unpublished PhD thesis. Stockholm, Royal Institute of Technology (KHT): Sweden.
- Ambaye, D.W. 2014. Compensation for expropriation in Ethiopia and the UK: A comparative analysis. *The International Federation of Surveyors (FIG) Congress*. 16-21 June 2014. Kuala Lumpur: International Federation of Surveyors, pp. 1-25.



Andrew, G. 2008. *Analysing data using SPSS: A practical guide for those unfortunate enough to have to actually do it*. Sheffield: Hallam University.

Andrew, A., Pitt, M., Murning, I., Harper, S. & Jones, S. 2012. Refreshing the Scottish compulsory purchase system. *Journal of Facilities Management*, vol. 10, no. 4, pp. 317-323.

Anim-Odame, W.K. 2011. Compulsory acquisition and compensation in Ghana: Principles & Practice. *The American Real Estate Society Conference*. 13 – 16 April 2011. Seattle-Washington: American Real Estate Society Conference, pp. 1-12.

Arifin, W. 2018. A web-based sample size calculator for reliability studies. *Education in Medicine Journal*, vol. 10, no. 3, pp. 67-76.

Arul vikram, M. & Murali, K. 2015. A critical review on land acquisition and valuation process across the world. *Journal of Mechanical and Civil Engineering*, vol. 12, no. 5, pp. 09-14.

Asiama, K.O., Bennett, R., Zevenbergen, J. & Asiama, S.O. 2018. Land valuation in support of responsible land consolidation on Ghana's rural customary lands. *Survey Review*, vol. 50, no. 361, pp. 288-300.

Asian Development Bank, 2007. *Capacity building for resettlement risk management: compensation and valuation in resettlement: Cambodia, People's Republic of China, and India*. Philippines: Asian Development Bank.

Barrows, P. 1991. Compensation for compulsory acquisition. *Land Economics*, vol. 1, pp. 49-63.

Beale, T. 2019. An economic analysis of compulsory acquisition in selected Caribbean states. In: Plimmer, F. & McCluskey, W. (eds.). 2019. *Routledge handbook of contemporary issues in expropriation*. New York: Routledge, pp. 397-416.

Belay, A.A. 2016. Expropriation, valuation and payment of compensation: The law and the practice in Addis Ababa City, Ethiopia. *International Review of Humanities and Scientific Research*, vol. 1, no. 2, pp. 24-47.



- Bell, A. & Parchomovsky, G. 2007. Taking compensation private. *Stanford Law Review*, vol. 59, pp. 871-906.
- Belling, F. 2008. *Case study of the changing interpretations of land restitution legislation in South Africa*. Dissertation (Masters). Pretoria: University of South Africa.
- Biti, T. 2012. *The 2013 national budget statement*. Harare: Ministry of Finance.
- Bonarjee, M.B. 2013. Three decades of land reform in Zimbabwe: perspectives of social-justice and poverty alleviation. The *Bergen Resource Centre for International Development Seminar*, 24 October 2013. Bergen: Bergen Resource Centre for International Development, pp. 1-35.
- Boone, H.N. & Boone, D.A. 2012. Analyzing likert data. *Journal of Extension*, vol. 50, no. 2, pp. 1-5.
- Boshoff, D. 2011. The development approach to valuation. *Essays Innovate*, vol. 6, pp. 84 – 89.
- Boyd, T. & Iron, J. 2002. Valuation variance and negligence. The importance of reasonable care. *Pacific Rim Property Research Journal*, vol. 8, no. 2, pp. 107-126.
- Burdsal, N. 2005. Just compensation and the seller's paradox. *Brigham Young University Journal of Public Law*, vol. 20, no.1, pp. 79-102.
- Buzu, O. 2019. Expropriations of immovable property in the Republic of Moldova: The relevance of expropriations for a socially useful purpose. In: Plimmer, F. and McCluskey, W. 2019. *Routledge handbook of contemporary issues in expropriation*. New York: Routledge: pp. 94 -117.
- Cassim, L. 2011. *Postgraduate toolkit*. Cape Town: Layla Cassim ERC consultants CC. [CD-ROM].
- Cernea, M.M. 2008. Compensation and benefit sharing: Why resettlement policies and practices must be reformed. *Water Science and Engineering*, vol. 1, no.1, pp.89-120.



- Chan, N. 2003. Land acquisition compensation in China: problems and answers. *International Real Estate Review*, vol. 6, no.1, pp. 136-152.
- Chan, N. 2006. Recent reform of China's rural land compensation standards. *Pacific Rim Property Research Journal*, vol. 12, no. 1, pp. 3-21.
- Chang, Y. 2010. An empirical study of compensation paid in eminent domain settlements: New York City, 1990–2002. *The Journal of Legal Studies*, vol. 39, no. 1, pp. 201-244.
- Chang, Y.C. 2016. *Eminent domain law in Taiwan: New law, old practice? Public Law and Legal Theory Working Paper No. 570*. Chicago, University of Chicago.
- Chazireni, E. & Chigonda, T. 2018. The socio-economic impacts of dam construction: Case of Tokwe Mukosi In Masvingo Province, Zimbabwe. *European Journal of Social Sciences Studies*, vol. 3, no. 2, pp. 209-218.
- Chimbetete, I.H. 2016. *Final report for capacity needs assessment for the valuation of immovable improvements on acquired farms*. Harare: United Nations Development Programme.
- Chimhowu, A. 2019. The 'new' African customary land tenure. Characteristic, features and policy implications of a new paradigm. *Land Use Policy*, vol. 81, pp. 897-903.
- Chinamasa, P.A. 2014. *The 2015 national budget*. Harare: Ministry of Finance and Economic Development.
- Chinamasa, P.A. 2016. *The 2017 national budget*. Harare: Ministry of Finance and Economic Development.
- Chirisa, I. & Dumba, S. 2012. Spatial planning, legislation and the historical and contemporary challenges in Zimbabwe: A conjectural approach. *Journal of African Studies and Development*, vol. 4, no. 1, pp. 1-13.
- Chivandi, E. Fushai, F. & Masaka, J. 2010. Land ownership and range resources management in Zimbabwe: A historical review. *Midlands State University Journal of Science, Agriculture and Technology*, vol. 2, no. 1, pp. 13-24.



- Chishanga, O. S. 2014. *The civil protection unit and the 2014 Tokwe Mukosi flood disaster in Chivi district, Zimbabwe*. Dissertation (Masters). Gweru: Midlands State University.
- Cliffe, L. Alexander, J. Cousins, B. & Gaidzanwa, R. 2011. An overview of fast track land reform in Zimbabwe: editorial introduction. *Journal of Peasant Studies*, vol. 38, no. 5, pp. 907-938.
- Compensation Steering Committee, Commercial Farmers Union & The Valuation Consotium, 2020. An explanation of the proposed compensation agreement between the government of zimbabwe and representatives of commercial farmers. Harare, Valcon.
- Creswell, J.W. 2003. *Research design qualitative, quantitative and mixed methods approach*. Second edition. California: SAGE.
- Creswell, J.W. 2007. *Qualitative inquiry and research design: Choosing among five approaches*. 2nd edition. New Delhi: SAGE.
- Creswell, J.W. 2009. *Research design: qualitative, quantitative and mixed method approaches*. Los Angeles: SAGE.
- Creswell, J.W. 2014. *Research design: qualitative, quantitative, and mixed methods approaches*, 4th edition. New Delhi: SAGE.
- Dabale, W.P. Jagero, N. & Chiriga, C. 2014. Empirical study on the fast track land reform programme (FTLRP) and household food security in Zimbabwe. *European Journal of Research and Reflection in Management Sciences*, vol. 2, no. 2, pp. 37-44.
- Daniel, M.M., Nkup, J.T., Samson, O.O. & Wuyokwe, N.G. 2020. Land acquisition and compensation in public-related projects in Jos, Nigeria: Perspective of acquiring agencies. *Journal of Environmental Sciences*, vol.20, no.1, pp. 30-50.
- Dankani, I.M. & Halidu, R.M. 2017. Consequences of compulsory land acquisition on the livelihoods of the urban poor in Sokoto Metropolis, Nigeria. *Zaria Geographer*, vol. 24, no. 1, pp. 100-117.

- Daud, D., Raji, F., Samsudin, S., Ismail, W.I. F.W., Mohd, N.J. & Omar, I. 2019. Compulsory land acquisition in Malaysia. In: Plimmer, F. and McCluskey, W. eds. 2019. *Routledge handbook of contemporary issues in expropriation*. New York: Routledge, pp. 282-297.
- Deeyah, C.L. & Akujuru, V.A. 2016. Assessing the effectiveness of the Nigerian compulsory acquisition practice in road infrastructural provision in rivers state. *Asian Journal of Social Sciences & Humanities*, vol. 5, no. 4, pp. 77-88.
- Deeyah, C.L. & Akujuru, V.A. 2017. Investigating the sufficiency of paid compensation for compulsory acquisition in road infrastructural provision in Rivers State. *Research on Humanities and Social Science*, vol. 7, no. 2, pp. 20-27.
- Denyer-Green, B. 2014. *Compulsory purchase and compensation, 10th edition*. London and New York: Routledge.
- De Villiers, B. 2003. *Land reform: Issues and challenges. A comparative overview of experiences in Zimbabwe, Namibia, South Africa and Australia*. Johannesburg, Konrad-Adenauer-Stiftung.
- Dhlakama, T. 2017. *Legal, policy and institutional frameworks for community land rights in the wake of developmental projects in Zimbabwe: challenges and way forward*. Harare: Zimbabwe Environmental Law Association.
- Ding, C. 2007. Policy and praxis of land acquisition in China. *Land Use Policy*, vol. 24, 1, pp. 1-13.
- Drescher, K., Henderson, J. & McNamara, K. 2001. Farmland prices determinants. *The American Agricultural Economics Association Annual Meeting*. August 5-8, Chicago: American Agricultural Economics Association, pp. 1-14.
- Du Plessis, W.E. 2009. *Compensation for expropriation under the constitution*. Thesis (Doctor of Law), Stellenbosch, Stellenbosch University.



- Du Plessis, W.E. 2015. Valuation in the constitutional era. *Potchefstroomse Elektroniese Regstydskrif (PER) / Potchefstroom Electronic Law Journal (PELJ)*, vol. 8, no. 5, pp. 1726-1759.
- Dziro, P. 2014. *The effects of development induced relocation on livelihoods: The case of people moved from Chiadzwa to Arda Transau*. Dissertation, (BSc). Gweru, Midlands State University.
- Egbenta, R. & Udo, G.O. 2013. Using contingent valuation to value non-use goods for compensation in Nigeria. *Wulfenia Journal*, vol. 20, no. 8, pp. 473-489.
- Egbenta, I.R. & Udoudoh, F.P. 2018. Compensation for land and building compulsorily acquired in Nigeria: A critique of the valuation technique. *Property Management*, vol. 36, no. 4, pp. 446-460.
- Emuze. F.A. 2011. *Performance improvement in South African construction*. Thesis (PhD). Port Elizabeth, Nelson Mandela Metropolitan University.
- Erlingsson, C. & Brysiewicz, P. 2017. A hands-on guide to doing content analysis. *African Journal of Emergency Medicine*, vol. 7, no. 3, pp. 93-99.
- Famuyiwa, F. & Omirin, M.M. 2011. Infrastructure provision and private lands acquisition grievances: Social benefits and private costs. *Journal of Sustainable Development*, vol. 4, no. 6, pp.169-180.
- Flyvbjerg, B. 2006. Five misunderstandings about case-study research. *Qualitative Inquiry*, vol. 12, no. 2, pp. 219-245.
- Food and Agriculture Organisation. 2002. *Land tenure and rural development. FAO Land Tenure Studies 3*. Rome: Food and Agriculture Organisation of the United Nations (FAO).
- Food and Agriculture Organization. 2008. *Compulsory acquisition of land and compensation: Land tenure studies 10*. Rome: Food and Agriculture Organisation of the United Nations (FAO).



Food and Agriculture Organisation, 2012. *Voluntary guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security*. Rome: Food and Agriculture Organisation.

Food and Agriculture Organisation, 2017. *Valuing land tenure rights: Governance of tenure technical guides 11*. Rome: Food and Agriculture Organization of the United Nations (FAO).

Friese, S. 2014. *ATLAS.ti 7 user guide and reference*. Berlin: ATLAS.ti Scientific Software Development GmbH.

Friese, S. 2019. *Qualitative data analysis with ATLAS. ti*. SAGE Publications Limited.

Gebremichael, B. 2016. Public purpose as a justification for expropriation of rural land rights in Ethiopia. *Journal of African Law*, vol. 60, no. 2, pp. 190–212.

Ghimire, S. Tuladhar, A. & Sharma, S.R. 2017. Governance in land acquisition and compensation for infrastructure development. *American Journal of Civil Engineering*, vol. 5, no. 30, pp. 169-178.

Government of Zimbabwe. 1984. *Zimbabwe 1:1 000 000 natural regions and farm areas (Second Edition)*. Harare: Government Printers.

Government of Zimbabwe, 2018. Towards an upper-middle income economy by 2030: “New Dispensation Core Values”. *The Africa’s Shame and Opportunity meeting*. 19th of April 2018. Washington DC: Cato Institute.

Grover, R. 2014. Education briefing compulsory purchase. *Journal of Property Investment and Finance*, vol. 32, no. 5, pp. 518-529.

Grover, R. 2019. Compulsory purchase in developing countries. In: Plimmer, F, and McCluskey, W. eds. 2019. *Routledge handbook of contemporary issues in expropriation*. New York: Routledge, pp. 1-29.



Guba, E.G. & Lincoln, Y.S. 1994. Competing paradigms in qualitative research. In: Denzin, N.K. & Lincoln, Y.S. eds. *Handbook of qualitative research*. Thousand Oaks, CA: Sage. pp. 105-117.

Gukurume, S. & Nhondo, L. 2020. Forced displacements in mining communities: politics in Chiadzwa diamond area, Zimbabwe. *Journal of Contemporary African Studies*, vol. 38, no. 1, pp. 39-54.

Gumindoga, W., Chikodzi, D., Rwasoka, D., Mutowo, G., Togarepi, S. & Dube, T. 2014. The spatio-temporal variation of the 2014 Tokwe-Mukosi floods: A GIS and remote sensing-based approach. *Journal of Science, Engineering & Technology*, vol. 1, no. 2, pp. 1-10.

Hassan, A. 2019. Land acquisition for public purpose under Fiji Law. In Plimmer, F. & McCluskey, W. 2019. *Routledge Handbook of Contemporary Issues in Expropriation*. New York: Routledge, 247-261.

Hobma, F. & Wijting, W. 2007. Land-use planning and the right to compensation in the Netherlands. *Washington University Global Studies Law Review*, vol. 6, no. 1, pp. 1-25.

Holtslag-Broekhof, S.M., Van Marwijk, R., Beunen, R. & Wiskerke, J.S.C. 2016. Perceived (In) justice of public land acquisition. *Journal of Agricultural and Environmental Ethics*, vol. 29, no. 2, pp. 167-184.

Holtslag-Broekhof, S., Beunen, R., Marwijk, R.V. & Wiskerke, J.S. 2018. Exploring the valuation of compulsory purchase compensation. *Journal of European Real Estate Research*, vol. 11, no. 2, pp.187-201.

Hordijk, A. & Van de Ridder, W. 2005. Valuation model uniformity and consistency in real estate indices. *Journal of Property Investment & Finance*, vol. 23, no. 2, pp. 165 – 181.

Hoops, B & Tagliarino, N.K. 2019. The legal boundaries of ‘public purpose’ in India and South Africa: A comparative assessment in light of the voluntary guidelines. *Land*, vol. 8, no. 154, pp. 1- 21.



Ifediora, C.O. 2015. A theoretical approach to overcoming the challenges valuing agricultural property (Asset) for various purposes in Awka Anambra State, South-eastern Nigeria. *International Journal of Latest Research in Engineering and Technology*, vol. 1, no. 6, pp. 31-35.

Ige, V.O. Akintomide, A.J. & Adeola, T.O. 2016. Compulsory land acquisition and compensation in Nigeria: Coastal communal perception. *Ethiopian Journal of Environmental Studies and Management*, vol. 9, no. 5, pp. 545-553.

Ige, V.O. & Oladapo, R.A. 2018. Variation in compensation for compulsory property acquisition: Ondo State, Nigeria experience. *Pacific Rim Property Research Journal*, vol. 24, no. 2, pp.139-148.

International Federation of Surveyors. 2010. *Compulsory purchase and compensation recommendations for good practice (FIG Publication No 54)*. Copenhagen: International Federation of Surveyors (FIG).

International Soil Reference and Information Centre, 2005. *Atlas of SOTER-derived maps of Zimbabwe: Impact of desertification on food security*. Wageningen: ISRIC – World Soil Information.

International Valuation Standards Council. 2013. *International valuation standards: Frameworks and requirements*. London: International Valuation Standards Council.

International Valuation Standards Council. 2017. *International valuation standards*. London: International Valuation Standards Council.

International Valuation Standards Council. 2019. *A roadmap to valuing agricultural properties (including biological assets). IVSC Perspectives Paper Tangible Assets/Business Valuation Issue 1*. London: International Valuation Standards Council.

Iyanda, S.A. 2014. Communal land acquisition and valuation for compensation in Nigeria. *International Journal of Scientific and Research Publications*, vol, 4, no. 11, pp. 1-7.

Jamieson, S. 2004. Likert scales: How to (ab)use them?. *Medical Education*, vol. 38, no. 12, pp. 1217-1218.



Johnson, C. & Chakravarty, A. 2013. Re-Thinking the role of compensation in urban land acquisition. *Empirical evidence from South Asia. Land*, vol. 2, no. 2, pp. 278-303.

Joubert, J.C.N. & Cloete, C.E. 2011. Methodology to determine the value of a poultry farm. *Agrekon: Agricultural Economics Research, Policy and Practice in Southern Africa*, vol. 50, no. 4, pp. 45-74.

Kabanga, L. & Mooya, M.M. 2017. Assessing compensation for customary property rights in Malawi: The case of Mombera University project. *African Journal of Rural Development*, vol. 2, no. 4, pp. 483-496.

Kabanga, L. & Mooya, M.M. 2018a. Compensation theories and expropriation of customary property rights: A critical review. *Journal of African Real Estate Research*, vol. 3, no. 2, pp. 87-106.

Kabanga, L. & Mooya, M.M. 2018b. Expropriation, compensation and impoverishment of project affected people: Case of Mombera Public University project in Malawi. *The Commonwealth Association of Surveying and Land Economy (CASLE) Conference*. 29th November – 1st December. Lusaka: The Commonwealth Association of Surveying and Land Economy, pp. 12-22.

Kakulu, I.I. 2008a. *An Analysis of processes and methods in compulsory land acquisition and compensation in Nigeria*. Thesis (PhD. Reading. University of Reading.

Kakulu, I.I. 2008b. Issues in valuation for compulsory acquisition of land in Niger Delta region of Nigeria. *The Nigerian Journal of environmental Sciences*, vol. 2, no. 1, pp. 12-25.

Kalabamu, F.T. 2019. Land tenure reforms and persistence of land conflicts in Sub-Saharan Africa: The case of Botswana. *Land Use Policy*, vol. 81, pp. 337-345.

Kalbro, T. & Lind, H. 2007. Compulsory purchase: Reasonable and fair compensation. *Nordic Journal of Surveying and Real Estate Research*, vol. 4, no. 1, pp.7-22.

Karasek-Wojciechowicz, I. & Brzeski, W.J. 2019. Regulatory framework for expropriation of real property in Poland. In: Plimmer, F. & McCluskey, W. 2019. *Routledge handbook of contemporary issues in expropriation*. New York: Routledge, 158-170.



- Kaseke, K. 2016. Compensation for Zimbabwean commercial farmers. *Newsletter Number 5*. Harare, Kanokanga and Partners.
- Kotaka, T., Callies, D. & Guth, H. 2001. Taking land: compulsory purchase and the regulation of land in Asia-Pacific countries. *Asia Pacific Law Review*, vol. 9, no. 2, pp.103-132.
- Kavanagh, J. & Plimmer, F. 2015. Valuation of unregistered land what's the problem? In: *proceedings of the 2015 World Bank Conference on Land and Poverty*. 23-27 March 2015. Washington DC: World Bank, pp, 2-8.
- Keith, S., McAuslan, P., Knight, R., Lindsay, J., Munro-Faure, P., Palmer, D. & Spannenberg, L., 2008. Compulsory acquisition of land and compensation. In FAO, 2008. *FAO Land Tenure Studies, 10*. Rome: Food and Agriculture Organisation, pp. 7-16.
- Komu, F. 2014. Conceptualizing fair, full and prompt compensation: The Tanzanian context of sustaining livelihood in expropriation projects. *Journal of Land Administration in Eastern Africa*, vol. 2, no. 2, pp. 252-267.
- Kori, E. 2014. Unpacking ecological remnants of Zimbabwe's land reform using the ecological footprint tool. *Journal of Human Ecology*, vol. 48, no. 2, pp. 313-319.
- Kosareva, N.B. Baykova, T.K. & Polidi, T.D. 2019. Real estate expropriation in Russia: Statutory regulation and enforcement. In: Plimmer, F. and McCluskey, W. eds. 2019. *Routledge Handbook of Contemporary Issues in Expropriation*. New York: Routledge, pp. 298-320.
- Kothari, C.R. 2004. *Research methodology, methods and techniques, second revised edition*. Delhi, New Age.
- Kucharska-Stasiak, E. 2008. Uncertainty of valuation in expropriation processes: The case of Poland. *Nordic Journal of Surveying and Real Estate Research, Special Series*, vol. 3, pp. 83-92.

- Kuma, S.S., Fabunmi, F.O. & Kemiki, O.A. 2019. Examining the effectiveness and challenges of compulsory land acquisition process in Abuja, Nigeria. *FUTY Journal of the Environment*, vol. 13, no. 2, pp. 1-13.
- Kwarteng, A.H. & Botchway, T.P. 2019. State responsibility and the question of expropriation: A preliminary to the “land expropriation without compensation” policy in South Africa. *Journal of Politics and Law*, vol. 12, no. 1, pp. 98-107.
- Lai, L.W.C. 2019. A fable and dialogue on taking the property of another under constitutional capitalism Hong Kong. In: Plimmer, F. and McCluskey, W. 2019. *Routledge handbook of contemporary issues in expropriation*. New York: Routledge, pp. 262-272.
- Langford, M. and Halim, U. 2008. Path of least resistance: a human rights perspective on expropriation. *Land Reform/Réforme Agraire/Reforma Agraria*, vol. 1, pp. 32-45.
- Larbi, W.O. 2008. Compulsory land acquisition and compensation in Ghana: Searching for alternative policies and strategies. *The FIG/FAO/CNG International Seminar on State and Public Sector Land Management*. 9-10 September 2008. Verona: FIG, FAO and CNG, pp. 1 - 21.
- Li, N.H. 2018. Analysis on the farmers’ satisfaction with reform experimentation of rural land expropriation system: An empirical analysis for Liuyang. *Open Journal of Social Sciences*, vol. 6, no. 1, pp. 152-164.
- Li, Y., Shu, B., Shi, X. & Zhu, Y. 2017. Variation of land expropriated farmers’ willingness: A perspective of employment and inhabitance. *Sustainable*, vol. 9, no. 7, pp. 2-18.
- Lin, T.C. 2009. The protection of property rights through compensation: Observations from Taiwan. *Nordic Journal of Surveying and Real Estate Research*, vol. 6, no. 2, pp. 37-46.
- Liu, X. & Zhao, Y. 2011. Empirical analysis on farmers’ willingness to accept compensation whose land is expropriated. *Asian Agricultural Research*, vol. 3, no. 9, pp. 26-30.



- Mabikke, S.B. 2016. Historical continuum of land rights in Uganda: A review of land tenure systems and approaches for improving tenure security. *Journal of Land and Rural Studies*, vol. 4, no. 2, pp. 153-171
- Madebwe, C., Madebwe, V. & Mavusa, S. 2011. Involuntary displacement and resettlement to make way for diamond mining: the case of Chiadzwa villagers in Marange, Zimbabwe. *Journal of Research in Peace, Gender and Development*, vol. 1, no. 10, pp. 292-301.
- Madhuku, L. 1999. A survey of constitutional amendments in post-independence Zimbabwe (1980-1999). *The Zimbabwe Law Review*, vol, 16, pp. 82-107.
- Mack, L. 2010. The philosophical underpinnings of educational research. *Polyglossia*, vol. 19, pp. 5-11.
- Mahalingam, A. & Vyas, A. 2011. Comparative evaluation of land acquisition and compensation processes across the world. *Economic & Political Weekly*, vol. 46, no. 32, pp. 94-102.
- Makathimo, M.K. 2019. Valuation of unregistered community land in Kenya – addressing the fundamentals. *The 19th African Real Estate Society Annual Conference*, 10 -13 September. Arusha: African Real Estate Society, pp.319-335.
- Makupa, E.R. & Alananga, S. 2018. Compulsory land acquisition and good governance. *African Journal of Land Policy and Geospatial Sciences*, vol. 2, pp. 18-31.
- Makupa, E.R. & Alananga, S.S. 2020. Implications of compulsory land acquisition on socio-economic conditions of project affected people. The case of Kipawa Airport expansion project in Dar es Salaam City, Tanzania. *African Journal on Land Policy and Geospatial Sciences*, vol. 3, no. 3, pp. 82-96.
- Magaisa, A. 2010. The land question and transitional justice in Zimbabwe: law, force and history's multiple victims. *Oxford Transitional Justice Research*. [Online]. Oxford University. Available online from: <https://www.law.ox.ac.uk/research-subject->



[groups/oxford-transitional-justice-research/past-debates/justice-zimbabwe](#) [Accessed 30 September 2020].

Mangioni, V. 2008a. Just terms compensation and the compulsory acquisition of land. A paper presented at the Fourteenth *Pacific Rim Real Estate Conference*. Kuala Lumpur, 20 – 23 January 2008, pp. 20-23.

Mangioni, V. 2008b. The epistemology of value in the assessment of just terms compensation. In: Food and Agriculture Organisation, 2008. *Land Reform: Land Settlement and Cooperatives*, Rome, Food and Agriculture Organisation, pp. 47-55.

Mangioni, V. 2009. Privatizing the public purpose rule in compulsory acquisition. *The State of Australian Cities Conference*, Perth, 24 – 27 November 2009, pp. 1-19.

Mangioni, V. 2010. The evolution of the “public purpose rule” in compulsory acquisition. *Property Management*, vol. 28, no. 2, pp. 93-103.

Mangioni, V. 2017. Evaluating the impact of the land acquisition phase on property owners in megaprojects. *International Journal of Managing Projects in Business*, vol. 11, no. 1, pp. 158-17.

Mangioni, V. 2018. Evaluating the impact of the land acquisition phase on property owners in megaprojects. *International Journal of Managing Projects in Business*, vol. 11, no. 1, pp. 158-173.

Manjengwa, J., Hanlon, J & Smart, T. 2014. Who will make the ‘best’ use of Africa’s land? Lessons from Zimbabwe. *Third World Quarterly*, vol. 35, no. 6, pp. 980-995.

Marboe, I. 2014. Compensation and damages in international law and their relevance for the valuation of expropriated Armenian property. *International Criminal Law Review*, vol. 14, no. 2, pp. 407-426.

Marongwe, L.S., Nyagumbo, I. Kwazira, K. Kassam, A. & Friedrich, T. 2012. Conservation agriculture and sustainable crop intensification: A Zimbabwe Case Study. *Integrated Crop Management*, 17. Rome: Food and Agriculture Organization of the United Nations.



- Marungwara, W. 2014. *The plight of internally displaced communities: Case of Tokwe-Mukosi in Zimbabwe*. Dissertation (BSc). Gweru, Midlands State University.
- Mashingaidze, T.M. 2013. Beyond the Kariba Dam induced displacements: The Zimbabwean Tonga's struggles for restitution, 1990s–2000s. *International Journal on Minority and Group Rights*, vol. 20, pp. 381-404.
- Masiwa, M. & Chipungu, L. 2004. Land reform programme in Zimbabwe: Disparity between policy design and implementation. In: Masiwa, M. ed. 2004. *Post-independence land reform in Zimbabwe: Controversies and Impact on the Economy*. Harare: Friedrich Ebert Stiftung and Institute of Development Studies, University of Zimbabwe, pp. 1-25.
- Mavhura, E. 2020. Dam-induced displacement and resettlement: Reflections from Tokwe-Mukosi flood disaster, Zimbabwe. *International Journal of Disaster Risk Reduction*, vol. 44: doi: 10.1016/j.ijdrr.2019.101407.
- Mengwe, D. 2019. Compensation for expropriation in Botswana: Issues and transformative suggestions. In: Pimer, F. and McCluskey, W. eds. 2019. *Routledge Handbook of Contemporary Issues in Expropriation*: New York: Routledge, pp. 352-378.
- Meysamie, A., Tae, F., Mohammadi-Vajari, M.A., Yoosefi-Khanghah, S, Emamzadeh-Fard, S & Abbassi, M. 2014. Sample size calculation on web, can we rely on the results? *Journal of Medical Statistics and Informatics*, vol. 2, no. 3, pp. 1-8.
- Middelberg, S.L. 2014. Agricultural land valuation methods used by financiers: The case of South Africa. *Agrekon: Agricultural Economics Research, Policy and Practice in Southern Africa*, vol. 53, no. 3, pp. 101-115.
- Miles, M.B. & Huberman, A.M. 1994. *Qualitative data analysis (2nd Edition)*. Thousand Oaks, London and New Delhi, Sage.
- Mills, J.P. & Boardley, I.D. 2016. Expert Premier League soccer managers' use of transformational leadership behaviours and attitude towards sport integrity: An intrinsic case study. *International Journal of Sports Science and Coaching*, vol. 11, no. 3, pp. 382-394.



- Mnangagwa, E.D. 2018a. *Investment guidelines and opportunities in Zimbabwe*. Harare: Government of Zimbabwe.
- Mnangagwa, E.D. 2018b. *Transitional stabilisation programme reforms agenda (October 2018 – December 2020): Towards a prosperous and empowered upper middle-income society by 2030*. Harare: Government of Zimbabwe.
- Morrow, S.L. 2005. Quality and Trustworthiness in Qualitative Research in Counselling Psychology. *Journal of Counselling Psychology*, vol. 52, no. 2, pp. 250-260.
- Moyo, B. 2016. *Rethinking Zimbabwean agricultural land expropriation laws in light of the Funnekotter Case*. Mini-dissertation (LLM). Pretoria, University of Pretoria.
- Moyo, D. 2020. *Introduction to SPSS for beginners*. A virtual workshop for Postgraduate students held by the Graduate Support Hub, Department of Research and Innovation. 20th – 23rd July 2020. Pretoria, University of Pretoria.
- Moyo, S. 2000. The political economy of land acquisition and redistribution in Zimbabwe 1990-19999. *Journal of Southern African Studies*, vol. 26, no. 1, pp.5-28.
- Moyo, S. 2005. Land policy, poverty reduction and public action in Zimbabwe. *ISS/UNDP Policy Paper Number 11*, pp. 1-29.
- Moyo, S. 2006. The evolution of Zimbabwe's land acquisition. In: Rukuni, M., Tawonezvi, P., Eicher, C., Munyuki-Hungwe, M. and Matondi, P. eds. 2006. *Zimbabwe's agricultural revolution revisited*. Harare: University of Zimbabwe Publications, pp. 143-164.
- Moyo, S. 2011a. Three decades of agrarian reform in Zimbabwe. *The Journal of Peasant Studies*, vol. 38, no. 3, pp. 493-531.
- Moyo, S. 2011b. Land concentration and accumulation after redistributive reform post-settler Zimbabwe. *Review of African Political Economy*, vol. 38, no. 128, pp. 257-276.
- Mpofu, R. 2019. *An investigation of the valuation methodology for compensation of former white owned farms in Zimbabwe: A case study of Seke and Goromonzi District*. Dissertation (BSc). University of Zimbabwe.

Mudau, J., Mukonza, R.M. & Ntshangase, B.A. 2018. A comparative overview of land reform experiences in Zimbabwe, Namibia and South Africa: A lesson that South Africa can learn from. *Journal of Public Administration*, vol. 53, no. 2.1, pp. 580-601.

Mugandani, R., Wuta, M. Makarau, A. & Chipindu, B. 2012. Re-classification of agro-ecological regions of Zimbabwe in conformity with climate variability and change. *African Crop Science Journal*, vol. 20, no. 2, pp.361-369.

Mugisha, J. 2015. Compensation for land expropriation in Rwanda: The need for conventional approaches to valuation. *Journal of Land Administration in Eastern Africa*, vol. 3, no. 1, pp. 296-306.

Mulhall, T. & Kavanagh, J. 2017. Compulsory acquisition powers: Essential for emerging economies. *The World Bank Conference on Land and Poverty*. March 20-24. Washington, DC: The World Bank.

Muriithi, J.M. 2013. *Land acquisition for selected road projects in Kenya*. Dissertation (Masters). Nairobi, University of Nairobi.

Mutema, M. 2003. Land rights and their impacts on agricultural efficiency, investments and land markets in Zimbabwe. *International Food and Agribusiness Management Review*, vol. 6, no. 2, pp. 50-64.

Mutema, M. 2019. The valuation profession and compulsory acquisition and compensation in Africa with special reference to Zimbabwe. In: Plimmer, F. and McCluskey, W. eds. *routledge handbook of contemporary issues in expropriation*. New York: Routledge, pp. 379-397.

Ncube, M. 2017. The 2018 national budget. Harare: Ministry of Finance and Economic Development.

Ncube, M. 2018. *The 2019 national budget*. Harare: Ministry of Finance and Economic Development.

Ncube, M. 2020. *Communique on the agreement between the government of Zimbabwe and former farm owners as detailed in the global compensation deed for improvements on*



farms compulsorily acquired for resettlement during the land reform programme. Harare: Ministry of Finance and Economic Development.

Ndjovu, C. 2016. Understanding causes of dissatisfactions among compensated landowners' in expropriation programs in Tanzania. *International Journal of Scientific & Technology Research*, vol. 5, no. 01, pp. 160-172.

Nemukuyu, D. 2016. Government ordered to pay Interfresh 27m compensation. *The Herald*, 13 June 2018. [Online]. The Herald. Available at: <https://www.herald.co.zw/govt-ordered-to-pay-interfresh-27m-compensation/> [Accessed 19 November 2018].

Ng'ong'ola, C. 1992. The post-colonial era in relation to land expropriation laws in Botswana, Malawi, Zambia and Zimbabwe. *The International and Comparative Law Quarterly*, vol. 41, no. 1, pp. 117-136.

Nikiema, S.H. 2013. *Compensation for expropriation. Best practices series, International Institute for Sustainable Development.* Manitoba: International Institute for Sustainable Development.

Njaya, T. & Mazuru, N. 2010. Land reform process and property rights in Zimbabwe: Constraints and future prospects (1980 – 2002). *Journal of Sustainable Development in Africa*, vol. 12, no. 4, pp. 164-185.

Norman, G. 2010. Likert scales, levels of measurement and the “laws” of statistics. *Advances in Health Sciences Education*, vol. 15, pp. 625-632.

Nsoh, W. 2018. The legal status of customary land tenure systems and the protection of communal property in Cameroon. In: Xu, T., and Clarke, A. eds. *Legal strategies for the development and protection of communal property. Proceedings of the 216 British Academy.* 23 May 2016. Sheffield: Oxford University, pp. 102-126.

Nyambara, P.S. 2001. Immigrants, 'traditional' leaders and the Rhodesian State: the power of 'communal' land tenure and the politics of land acquisition in Gokwe, Zimbabwe, 1963–1979. *Journal of Southern African Studies*, vol. 27, no. 4, pp. 771-791.

- Nyandoro, M. 2012. Zimbabwe's land struggles and land rights in historical perspective: The case of Gowe-Sanyati irrigation (1950-2000). *Historia*, vol. 57, no. 2 298-349.
- Nyandoro, M. 2019. Land and agrarian policy in colonial Zimbabwe: Re-ordering of African society and development in Sanyati, 1950-1966. *Historia*, vol. 64, no. 1, pp. 111-139.
- Nyarko, M.G. 2014. *The right to property and compulsory land acquisition in Ghana: An analysis of the laws and policies towards greater protection*. Dissertation (LLM). Pretoria, University of Pretoria.
- Nyarko, M.G. 2019. The right to property and compulsory land acquisition in Ghana: a human rights perspective. *African Journal of International and Comparative Law*, vol. 27, no. 1, pp. 100-125.
- O'Connor, L.A. 1983. The international law of expropriation of foreign-owned property: The compensation requirement and the role of the taking state. *Loyola of Los Angeles International and Comparative Law Review*, vol. 6, pp 355-425.
- Odiase-Alegimenlen, O.A. & Garuba, O.J. 2015. Taking with the right hand and giving out with the left: Government acquisition of public land for private sector use in Nigeria. *South East Asia Journal of Contemporary Business, Economics and Law*, vol. 8, no.4, pp. 38-48.
- Oladapo, R.A. & Ige, V. 2014. Assessment of claimants' satisfaction to variation in compensation paid for compulsory land acquisition in Ondo State, Nigeria. *The International Federation of Surveyors (FIG) Congress*. 16-21 June 2014. Kuala Lumpur: The International Federation of Surveyors, pp. 1-15.
- Olanrele, O.O., Alias, A., Said, R. & Bello, N.K. 2017. Towards global uniformity and sustainable compensation valuation for compulsory land acquisition. *Journal of Design and Built Environment, Special Issue*, vol. 17, pp. 27-37.
- Olaniyi, M.A. & Shafiu, E.A. 2020. Landowner's perception on issues of compulsory land acquisition of land in Igabi and Kaduna North Local government area of Kaduna State,



Nigeria. *International Journal of Environmental Design and Construction Management*, vol. 18, no. 4, pp. 282-292.

Olima, W.H.A. 2019. Emerging issues on compulsory land acquisition in Kenya - land governance or politics? *The 19th African Real Estate Society Annual Conference*, 10 -13 September, Arusha: The African Real Estate Society, pp. 405-423.

Olukolajo, M.A. 2017. Monetary compensation for oil spill damage in Niger Delta region, Nigeria: A question of adequacy. *Oil and Gas Business*, vol. 5, no. 5, pp. 138-154.

Omair, A. 2014. Sample size estimation and sampling techniques for selecting a representative sample. *Journal of health specialties*, vol. 2, no. 4, pp.142-147.

Omar, I. & Ismail, M. 2009. The economics of land acquisition using Kataka's model in land acquisition to provide land for infrastructure development in Malaysia. *Annals of the University of Petroni, Economics*, vol. 9, no. 4, pp. 121-134.

Onuoha, R.A. 2016. An exposition on the concept and legality of compulsory acquisition without compensation under Nigerian law. *Sacha Journal of Policy and Strategic Studies*, vol. 5, no. 1, pp. 1-14.

Onyejiaka, C.J. & Emoh, F.I. 2014. adopting the best practices for the valuation of agricultural properties in Nigeria. *Journal of the Nigerian Institution of Estate Surveyors and Valuers*, vol. 39, no. 1, pp. 57-65.

Onyije, I.R. & Akujuru, V.A. 2016. Appraising the equity of Nigerian compensation practice. *International Journal of Development Research*, vol. 06, no. 11, pp. 10408-10412.

Orphanides, H. 2020. Panel discussion with Hodges, A. Unpacking Zimbabwe's agreement with former commercial farmers. [Online]. ZTN. Available online from: <https://www.youtube.com/watch?v=CGLJC852YOM&t=2243s> [Accessed 02 October 2020].

Otubu, A. 2012. Private property rights and compulsory acquisition process in Nigeria: The past, present and future. *Acta Universitatis Danubius Juridica*, vol. 8, no. 3, pp. 5-29.



- Pai, A. & Eves, C. 2016. Valuation and equity concerns in customary land takings compensation: the case in Papua New Guinea. *The 22nd Annual Pacific-rim Real Estate Society Conference*. 17-20 January 2016. Queensland: Pacific-rim Real Estate Society, pp. 1-15.
- Palmer, R. 1990. Land Reform in Zimbabwe, 1980-1990. *African Affairs*, vol. 89, no. 355, pp. 163-181.
- Paradza, P., Yacim, J. & Zulch, B. 2019. A critical review of property valuation for expropriation in Zimbabwe. *The 19th African Real Estate Society Conference*, 10-13 September 2019. Arusha: The African Real Estate Society, pp. 424-449.
- Park, M.M. 2003. *The effect of adverse possession on part of a registered title land parcel*. Thesis (PhD). Melbourne, University of Melbourne.
- Parker, D. 2019. Compulsory acquisition compensation issues in Australia. In: Plimmer, F. and McCluskey, W. eds. 2019. *Routledge handbook of contemporary issues in expropriation*. New York: Routledge, pp.321-340.
- Pazvakakavambwa, S. & Hungwe, V. 2009. Land redistribution in Zimbabwe: 5th edition. In: Binswanger-Mkhize, H.P., Bourguignon, C. and van den Brink, R. eds. 2009. *Agricultural land redistribution: Toward greater consensus*. Washington, DC: World Bank, pp. 137-168.
- Pilossof, R. 2012. *The unbearable whiteness of being: farmers voices from Zimbabwe*. Harare and Cape Town, Weaver Press and UCT Press.
- Pilossof, R. 2016. Possibilities and constraints of market-led land reforms in Southern Africa: An analysis of transfers of commercial farmland in postcolonial Zimbabwe, 1980–2000. *Journal of Agrarian Change*, vol. 16, no.1, pp. 32-49.
- Qu, S., Heerink, N. & Xia, Y. 2015. Farmers' satisfaction with compensations for farmland expropriation in China: Evidence from micro-level data. *The 29th International Conference of Agricultural Economics*. 8-14 August 2015. Milan: The Italian Association of Agricultural and Applied Economics, 1-25.



- Qu, S., Heerink, N., Xia, Y. & Guo, J. 2018. Farmers' satisfaction with compensations for farmland expropriation in China: Evidence from micro-level data. *China Agricultural Economic Review*, vol. 10, no. 4, pp. 572-588.
- Radvan, M. & Neckář, J. 2019. Expropriation from the wider perspective in the Czech Republic. In: Plimmer, F. & McCluskey, W. 2019. *Routledge handbook of contemporary issues in expropriation*. New York: Routledge, pp. 71-81.
- Rahman, M. 2013. *Compulsory purchase procedure in Bangladesh*. Dissertation (Masters). Stockholm, KTH University.
- Rao, J. 2019. A 'capability approach' to understanding losses arising out of the compulsory acquisition of land in India. *Land Use Policy*, vol. 82, pp. 70-84.
- Rao, J. Hutchison, N.E. & Tiwari, P. 2020. Analysing the process of compulsory acquisition of land through the lens of procedural fairness: evidence from Scotland. *Journal of Property Research*, vol. 37, no.1, pp. 62-84.
- Rao, J. Tiwari, P. & Hutchison, N.E. 2017. Capability approach to compulsory purchase compensation: evidence of the functionings of land identified by affected landowners in Scotland. *Journal of Property Research*, vol. 34, no. 4, pp. 305-324.
- Rao, J. Tiwari, P. & Hutchison, N.E. 2018. No way to say no: Stakeholder analysis for compulsory purchase for public infrastructure project in Australia. *Property Management*, vol. 36, no. 1, pp. 37-66.
- Reed, L.L. 2009. *A reinterpretation of the value attributes of agricultural land for the valuation of farms bought for lifestyle purposes*. Thesis, (PhD). Stellenbosch, Stellenbosch University.
- Roib, V.A. 2013. Aspects regarding the best use of land in expropriated real estate valuation. *RevCAD Journal of Geodesy and Cadastre*, vol. 14, pp. 125-128.
- Rowan-Robinson, J. & Hutchison, N. 1995. Compensation for the compulsory acquisition of business interests. *Journal of Property Valuation and Investment*, vol. 13, no. 1, pp. 44-65.



- Rowley, J. 2002. Using case studies in research. *Management Research News*, vol. 25, no. 1, pp.16-27.
- Royal Institution of Chartered Surveyors, 2019. Valuation of rural property: RICS guidance note (3rd edition). London, Royal Institution of Chartered Surveyors.
- Ruguwa, M. 2017. *Land, displacement and coping strategies': A Social history of the Marange people, Eastern Zimbabwe, 1960s-2015*. Dissertation (Masters). Peterborough, Trent University.
- Scoones, I., Marongwe, N., Mavedzenge, B., Murimbarimba, F., Mahenehene, J. & Sukume, C. 2011. Zimbabwe's land reform: challenging the myths. *Journal of Peasant Studies*, vol. 38, no.5, pp. 967-993.
- Serkin, C. 2005. The meaning of value: Assessing just compensation for regulatory takings. *Northwestern University Law Review*, vol. 99, no. 2, pp. 677-742.
- Sevelka, T. 2005. Expropriation claims for increased development costs and loss of profit. *The Appraisal Journal*, vol. 73, no. 4, pp. 385-390.
- Sevelka, T. 2008. Expropriation appraisal review. *The Appraisal Journal*, Spring, vol. 76, no. 2, pp. 155-167.
- Shaw, W.H. 2003. 'They stole our land': Debating the expropriation of white farms in Zimbabwe. *The Journal of Modern African Studies*, vol. 41, no. 1, pp. 75-89.
- Sheehan, J.B. 2002. Towards compensation for the compulsory acquisition of native title rights and interests in Australia. A paper presented at the *FAO/USP/RICS Foundation South Pacific Land Tenure Conflict Symposium*. 10-12 April 2002. Suva, FAO, USP and RICS, pp. 1-46.
- Sheehan, J. 2009. Native title holders as vulnerable publics: conflict between spatial planning and native title law in Australia. *Geography Research Forum*, vol. 29(Spec. Issue), pp. 132-140.



Simons, H. 2009. *Case study research in practice*. Los Angeles: SAGE.

Siltan, D. 2019. Land expropriation and compensation process among development induced displaced households: The case of Dejen Woreda Rural Kebeles. *International Journal of Social Work*, vol. 6, no. 1, pp. 18-32.

Smith, T. 2001. *Concise English Dictionary (tenth Edition)*. Oxford: Exford University Press.

Soratto, J., Pires, D.E.P.D. & Friese, S. 2020. Thematic content analysis using ATLAS.ti software: Potentialities for researches in health. *Revista Brasileira de Enfermagem*, vol. 73, no. 3, pp. 1-5.

Sounders, M.N.K., Lewis, P. & Thornhill, A. 2019. *Research methods for business students*. 5th edition. Harlow: Pearson.

Sullivan, G.M. & Artino Jr, A.R. 2013. Analyzing and interpreting data from Likert-type scales. *Journal of Graduate Medical Education*, vol. 5, no. 4, pp. 541-542.

Sumrada, R., Ferlan, M. & Lisec, A. 2013. Acquisition and expropriation of real property for the public benefit in Slovenia. *Land Use Policy*, vol. 32, pp. 14-22.

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

Tanrivermiş, H. & Aliefendioğlu, Y. 2017. Principles of land acquisition, expropriation, and compensation calculation for infrastructure projects in turkey and an analysis of key issues. *The World Bank Conference on Land and Poverty*. 20-24 March 2017. Washington, DC: The World Bank.

Tanrivermiş, H. & Aliefendioğlu, Y. 2019. Legal and institutional fundamentals of expropriation and compensation issues in Turkey. In: Plimmer, F. and McCluskey, W. eds. 2019. *Routledge handbook of contemporary issues in expropriation*. New York: Routledge, pp. 118-157.



Tembo, E. & Simela, J. 2004. Improving land information management in tribal lands of Botswana. *The Expert Group Meeting on Secure Land Tenure: 'New Legal Frameworks and Tools'*. 10-12 November 2004. Nairobi: UN-Gigiri, pp. 1-14.

The Law Commission, 2003. *Towards a compulsory purchase code: compensation final report. A report presented to the Parliament of the United Kingdom by the Lord High Chancellor*. London: The Law Commission.

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

The Valuation Consortium, 2016. *August Newsletter*. Harare: Valuation Consortium.

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

The Valuation Consortium, 2019. *October Newsletter*. Harare: Valuation Consortium.

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

The South African Property Education Trust. 2004a. *Advanced property valuation*. Sandon: The South African Property Education Trust.

The South African Property Education Trust. 2004b. *Property valuation for expropriation and special purposes*. Sandon: The South African Property Education Trust.

Thomas, N.H. 2003. Land reform in Zimbabwe. *Third World Quarterly*, vol. 24, no. 4, pp. 691-712.

Thorne, S. 2000. Data analysis in qualitative research. *Evidence Based Nursing*, vol. 3, no. 3, pp. 68-70.

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

Tom, T. & Mutswanga, P. 2015. Zimbabwe fast track land reform programme (FTLRP): A transformative social policy approach to Mupfurudzi resettlement (Shamva District, Zimbabwe). *Journal of Humanities and Social Science*, vol. 20, Issue 8, no. 1, pp. 51-61.



Tomson, A. 2009. Key issues of mass valuation for compensation within the land restitution process in Albania. *Nordic Journal of Surveying and Real Estate Research*, vol. 6, no. 1, pp. 40-59.

Trojanek, M. 2010. The process of acquiring rights to properties with regards to realisation of public investment projects: Selected problems. In: Zrobek, S. ed. 2010. Scientific monograph: Some aspects of compulsory purchase of land for public purposes. Olsztyn: *Polish Real Estate Scientific Society*, pp. 33-44.

Ty, P., Van Westen, A. & Zoomers, A. 2013. Compensation and resettlement policies after compulsory land acquisition for hydropower development in Vietnam: policy and practice. *Land*, vol. 2, no. 4, pp. 678-704.

Uganda. Ministry of Lands, Housing and Urban Development. 2017. *Guidelines for compensation assessment under the Land Acquisition*. Kampala: Ministry of Lands, Housing and Urban Development.

United Nations, 1948. *Universal declaration of human rights. General resolution 217(III)*. New York: United Nations.

United Nations, 1974. *Charter of economic rights and duties of states. GA Res. 3281(xxix), UN GAOR, 29th Session Supp. No. 31 (1974) 50*. New York: United Nations.

United Nations, 2012. *Expropriation. UNCTAD Series on Issues in International Investment Agreements II*. New York and Geneva: United Nations.

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

Utete, C.M.B. 2003. *Report of the presidential land review committee on the implementation of the fast track land reform programme 2000 – 2002*. Harare: Government of Zimbabwe.

Uwayezu, E. & de Vries, W.T. 2019. Expropriation of Real Property in Kigali City: Scoping the Patterns of Spatial Justice. *Land*, vol. 8, no. 23, pp. 2-29.



- Vaughan, D. & Smith, L.C. 2014. An introduction to compulsory purchase valuation principles spanning 150 years. *Journal of Building Survey, Appraisal & Valuation*, vol. 3, no. 2, pp. 184-189.
- Vengesai, S. & Schmidt, C. 2018. *Challenges to relocation and compensation of rural communities displaced by development projects in Zimbabwe*. Harare: Centre for Conflict Management and Transformation.
- Vig, Z. & Gajinov, T. 2016. The development of compensation theories in international expropriation law. *Hungarian Journal of Legal Studies*, vol. 57, no. 4, pp. 447-461.
- Viitanen, K. 2002. Just compensation in expropriation? *International Federation of Surveyors (FIG) XXII International Congress*. 19-26 April 2002. Washington, D.C: International Federation of Surveyors, pp. 1-8.
- Viitanen, K. & Kakulu, I.I. 2009. Global concerns in compulsory purchase and compensation processes. 14-19 June 2009. *The International Federation of Surveyors (FIG) working week*. Stockholm: International Federation of Surveyors, pp. 1-16.
- Wahyuni, D. 2012. The research design maze: Understanding paradigms, cases, methods and methodologies. *Journal of Applied Management Accounting Research*, vol. 10, no. 1, pp. 69-80.
- Walacik, M. & Zrobek, S. 2010. Chosen principles of land acquisition for public purposes and just compensation determination in Poland. In: Zrobek, S. ed. 2010. *Scientific monograph: Some aspects of compulsory purchase of land for public purposes*. Olsztyn: Polish Real Estate Scientific Society, pp. 19-32.
- Walters, D.N. & Akujuru, V.A. 2016. Reflecting stakeholders' perspective in compensation assessment. *International Journal of Science and Research*, vol. 5, no. 11, pp. 1225-1232.
- Walters, L. 2019. The United States' experience with expropriation and the lessons yet to be learned. In Plimmer, F. McCluskey, W. eds. 2019. *Routledge Handbook of Contemporary Issues in Expropriation*. New York: Routledge, pp. 417-433.



- Wang, X. 2013. Measurement of peasants' satisfaction with the compensation for land acquisition in the Chinese Mainland in the last thirty years. *Chinese Studies*, vol. 2, no. 01, pp. 68-76.
- Webley, L. 2010. Qualitative approaches to empirical legal research. In: Cane, P. and Kritzer, H. M. 2010. eds. *The oxford handbook of empirical legal research*. Oxford: Oxford University Press.
- Williams, R.G. 2008. *Agricultural valuations: A practical guide (4th Edition)*. London, EG Books.
- Wong, P.W. 2014. A snapshot on qualitative research method. *Academic Journals*, vol. 9, no. 5, pp. 130-140.
- Worby, E. 2001. A redivided land? New agrarian conflicts and questions in Zimbabwe. *Journal of Agrarian Change*, vol. 1, no. 4, pp. 475-509.
- Workineh, B.A. 2017. Expropriation and compensation challenges for road construction in Yeka Sub City, Addis Ababa, Ethiopia. *International Journal of Scientific and Research Publications*, vol. 7, no. 10, pp.: 600-607.
- World Bank, 2004. *Involuntary resettlement sourcebook planning and implementation in development projects*. Washington, DC: World Bank.
- Zainal, Z. 2007. Case study as a research method. *Jurnal Kemanusiaan*, vol. 5, no. 1, pp. 1-6.
- Zimbabwe Environmental Law Association, 2018. *Community guide on development induced displacement and resettlement in Zimbabwe*. Harare: Zimbabwe Environmental Law Association.
- Zimbabwe National Statistics Agency. 2012. *Zimbabwe population census*. Harare: Zimbabwe National Statistics Agency.



Zhao, J. 2017. *Evaluate landless farmers' life satisfaction under the compensation system for land acquisition: A case study of suburban Nanjing, China*. Unpublished Master's thesis. University of Waterloo.

Zohrabi, M. 2013. Mixed method research: instruments, validity, reliability and reporting findings. *Theory and Practice in Language Studies*, vol. 3, no. 2, pp. 254-262.

Zrobek, R. & Zrobek, S. 2008a. Expropriation as an exceptional tool of acquisition of land for public purposes. *Geomatics and Environmental Engineering*, vol. 2, no. 1, pp. 85-94.

Zrobek, S. & Zrobek, R. 2008b. Is the amount of compensation for real estate expropriation just? Current state and proposals for change. *Nordic Journal of Survey and Real Estate Research, Special Series*, vol. 3, pp. 190 – 199.

STATUTES

Government of Botswana. 1955. *Acquisition of Property Act (Chapter 32:10)*. Gaborone: Government of Botswana.

Government of Botswana. 1966. *Tribal Land Act (Chapter 32:02)*. Gaborone: Government of Botswana.

Government of Canada, 1985. *Expropriation Act (with amendments)*. Ottawa: Government of Canada.

Government of Ethiopia, 1960. *Civil code of the empire of Ethiopia (Proclamation No. 165)*. Addis Ababa: Government of Ethiopia.

Government of Ethiopia. 1975. *Public ownership of rural lands proclamation (No. 31/1975)*. Addis Ababa: Government of Ethiopia.

Government of Ethiopia, 2005. *Expropriation of land holdings for public purposes and payment of compensation proclamation (No. 455/2005)*. Addis Ababa: Government of Ethiopia.

Government of Jamaica. 1947. *Land Acquisition Act*. Kingston: Government of Jamaica.



Government of Kenya. 2012. *The Land Act (No. 6)*. Nairobi: The Government Printer.

Government of Fiji. 1940. *Land Act*. Suva: Government of Fiji.

Government of Ghana, 1962. *Administration of Lands Act (No. 123)*. Accra: Government of Ghana.

Government of India. 2013. *The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (No. 30)*. New Delhi: Ministry of Law and Justice.

Government of Malawi. 1970. *Lands Acquisition Act (No.21)*. Lilongwe: Government of Malawi.

Government of Malawi. 2016. *Land Act (No. 16)*. Lilongwe: Government of Malawi.

Government of Malawi. 2017. *Lands Acquisition (Amendment) Act (No.9)*. Lilongwe: Government of Malawi.

Government of Malaysia. 1960. *Land Acquisition Act (No. Act 486) (with amendments)*. Kuala Lumpur: The Commissioner of Law Revision.

Government of Government of Moldova. 2002. *Civil Code*. Chisinau: Government of Moldova.

Government of Namibia. 1995. *Agricultural (Commercial) Land Reform (No. 6)*. Windhoek: Government of Namibia.

Government of Namibia. 2014. *Agricultural (Commercial) Land Reform Amendment (No. 5428)*. Windhoek: Government of Namibia.

Government of New South Wales. 1991. *Land Acquisition (Just Terms Compensation) Act (No 22)*. Sydney: New South Wales Parliamentary Counsel's Office.

Government of Nigeria. 1990a. *Land use Act (Chapter 202)*. Abuja: Federal Government of Nigeria.



Government of Nigeria. 1990b. *Oil Pipelines Act (Chapter 338)*. Abuja: Federal Government of Government of Nigeria.

Government of Nigeria. 2007. *Nigerian Minerals and Mining Act (No. 20)*. Abuja: Federal Government of Nigeria.

Government of Queensland. 1967. *Acquisition of Land Act (with amendments)*. Brisbane: Government of Queensland.

Government of Russia, 1994. *The Civil Code of The Russian Federation*. Moscow: Government of Russia.

Government of Russia, 2001. *The Land Code of the Russian Federation (No. 136-FZ)*. Moscow: Government of Russia.

Government of Rwanda. 2007. *Law (No 18) on expropriation for reasons of public utility*. Kigali: Government of Rwanda.

Government of South Africa, 1975. *Expropriation Act (No. 4780)*. Cape Town: Government of South Africa.

Government of South Africa. 2014. *Property Valuation Act (No. 17)*. Cape Town: Government of South Africa.

Government of South Australia, 1969. *Land Acquisition Act*. Adelaide, Government of South Australia.

Government of Taiwan. 2000. *Land Expropriation Act*. Taipei City: Government of Taiwan.

Government of Tasmania. 1993. *Land Acquisition Act (with amendments)*. Hobart: Government of Tasmania.

Government of Tanzania. 1967. *The Land Acquisition Act (Chapter 118)*. Dar es Salaam: Government of Tanzania.

Government of Tanzania. 1999. *Land Act (No. 5)*. Dar es Salaam: Government Printers.



Government of Uganda. 1965. *The Land Acquisition Act (Chapter 226)*. Kampala: Government of Uganda.

Government of Uganda. 1998. *The Land Act (Chapter 227)*. Kampala: Government of Uganda.

Government of United Kingdom, 1965. *Compulsory Purchase Act (Chapter 56)*. London: Government of the United Kingdom.

Government of United Kingdom, 1973. *Land Compensation Act (Chapter 26)*. London: Government of the United Kingdom.

Government of United Kingdom. 1981. *Acquisition of Land Act (Chapter 67)*. London: Government of the United Kingdom.

Government of United Kingdom, 1991. *Land Acquisition (Just Terms Compensation) (Act No. 22)*. London: Government of the United Kingdom.

Government of United States Government. 1970. *Uniform Relocation Assistance and Real Property Acquisition Act (Chapter 6)*. Washington, DC: Government of the United States.

Government of United States. 1988. *Condemnation Act (CHAP. 728)*. Washington, DC: Government of the United States.

Government of Victoria, 1986. *Land Acquisition and Compensation Act (No. 121)*. Melbourne: The Parliament of Victoria.

Government of Western Australia. 1997. *Land Administration Act (with amendments)*. Perth: Government of Western Australia.

Government of Zambia. 1970. *The Lands Acquisition Act (Chapter 189)*. Lusaka: Government of Zambia.

Government of Zimbabwe. 1959. *Deeds Registries Act (Chapter 20:05)*. Harare: Government Printers.

Government of Zimbabwe. 1976. *Regional Town and Country Planning Act (Chapter 29:12)*. Harare: Government Printers.



Government of Zimbabwe. 1982. *Communal Land Act (Chapter 20:04)*. Harare: Government Printers.

Government of Zimbabwe. 1985. *Prescribed Rate of Interest Act (Chapter 8:10)*. Harare: Government Printers.

Government of Zimbabwe. 1987. *Communal Land Forest Produce Act (Chapter 19:04)*. Harare: Government Printers.

Government of Zimbabwe. 1992. *Land Acquisition Act (Chapter 20:10)*. Harare: Government Printers.

Government of Zimbabwe. 1997. *Urban Councils Act (Chapter 29:15)*. Harare: Government Printers.

Government of Zimbabwe. 1998. *Traditional Leaders Act (Chapter 29:17)*. Harare: Government Printers.

Government of Zimbabwe. 2013. *Constitution of Zimbabwe Amendment (Number 20)*. Harare: Government Printers.

Government of Zimbabwe, 2017. *Land Commission Act (Chapter 20:29)*. Harare: Government Printers.

Government of Zimbabwe, 2020. *Land Commission (Gazetted Land) (Disposal in Lieu of Compensation) Regulations*. Harare: Government Printers.

CASES

INTERFRESH Limited and AARDCOR Limited vs Minister of Lands and Rural Resettlement [2015] (Administrative Court of Zimbabwe Case Number LA 8/15, Judgement Number AC34/15).

Bernardus Henricus Funnekotter and others vs Republic of Zimbabwe [2009] (ICSID CASE NO. ARB/05/6).



UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Mike Campbell (Pvt) Limited and William Michael Campbell and others vs the Republic of Zimbabwe [2008] (Southern African Development Community Tribunal Case SADC (T) No. 02/2008).




CHAPTER 7 APPENDICES

Appendix 1: Approval letters

Appendix 1a: Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement


All correspondence should be addressed to
"THE SECRETARY"
Telephone: 706081/9
Fax: 734646
Telex: ZIM AGRIC: 22455 ZW



**MINISTRY OF LANDS,
AGRICULTURE, WATER, CLIMATE
AND RURAL RESETTLEMENT**
Ngungunyana Building
1, Borrowdale Road
Private Bag 7701
Causeway
Harare

REF:

04 November 2019
Mr. Partson Paradza
Department of Construction Economics
University of Pretoria
Attention: Mr Partson Paradza




**REQUEST FOR CLEARANCE TO COLLECT DATA FOR A RESEARCH PROJECT: MS
TATENDA CHARMINE MUDZINGANYAMA: MR PARTSON PARADZA: PhD REAL
ESTATE: UNIVERSITY OF PRETORIA.**

Reference is made to the above subject matter.

This letter serves to inform you that your request to carry out a research in the Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement has been approved.

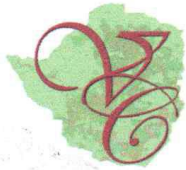
Furthermore you are advised to use the information that you obtain for the research project only and avail a copy of the project research to the Ministry upon completion.


R. J. Chitsiko
**SECRETARY FOR LANDS, AGRICULTURE, WATER, CLIMATE AND RURAL
RESETTLEMENT**

Cc Secretary for Public Service Commission,
Chief Director Human Resources
Director Human Resources
Director Land Management and Administration.



Appendix 1b: The Valuation Consortium



The Valuation Consortium

Telephone +263 (4) 482039 / 482049 Email: admin@valconzim.com
Director (A.N. Purkis) 0712202159 director@valconzim.com

6th November 2019

To Partson Paradza;

I hereby give my permission for the abovementioned P. Paradza to enter into dialogue with the following members of the Valuation Consortium on matters concerning Zimbabwe commercial farmers compensation in general terms on the understanding that individual farmer's information may be withheld for security reasons;

A.N.Purkis
J.Ridley
S.Bester (IT support)

Email addresses as above.

A.N.Purkis FRICS, AREIZ, MRAC.

DIRECTORS: G.C. MULLETT FRICS, FEI, DIP Ag. (GWEBI); G.R.L. FERNANDES, AEI;
I.BURGOYNE, FEI; A.N. PURKIS FRICS, AEI; D.C. FRIEND, AEI;
M. REDFERN FRICS, FEI; C.K. HOLLAND, FEI; K.M. HIGGINS, FEI.



Appendix 1c: Valuers' Council of Zimbabwe





Appendix 1d: Ethics clearance



Faculty of Engineering, Built Environment and Information Technology

Fakulteit Ingenieurswese, Bou-omgewing en
Inligtingsteun / Lefapha la Boetsenere,
Tikologo ya Kago le Theknoloji ya Tshediso

Reference number: EBIT/202/2019

Mr P Paradza
Department: Construction Economics
University of Pretoria
Pretoria
0083

Dear Mr P Paradza

FACULTY COMMITTEE FOR RESEARCH ETHICS AND INTEGRITY

Your recent application to the EBIT Research Ethics Committee refers.

Approval is granted for the application with reference number that appears above.

1. This means that the research project entitled "Property valuation for expropriation and compensation in Zimbabwe" has been approved as submitted. It is important to note what approval implies. This is expanded on in the points that follow.
2. This approval does not imply that the researcher, student or lecturer is relieved of any accountability in terms of the Code of Ethics for Scholarly Activities of the University of Pretoria, or the Policy and Procedures for Responsible Research of the University of Pretoria. These documents are available on the website of the EBIT Research Ethics Committee.
3. If action is taken beyond the approved application, approval is withdrawn automatically.
4. According to the regulations, any relevant problem arising from the study or research methodology as well as any amendments or changes, must be brought to the attention of the EBIT Research Ethics Office.
5. The Committee must be notified on completion of the project.

The Committee wishes you every success with the research project.

Prof K.-Y. Chan
Chair: Faculty Committee for Research Ethics and Integrity
FACULTY OF ENGINEERING, BUILT ENVIRONMENT AND INFORMATION TECHNOLOGY



Appendix 2: Interview Guide

Department of Construction Economics
Tel: +2712-420 4972
Fax: +2712-420 3598

Dear Sir/Madam

I am Partson Paradza, a PhD Real Estate student in the Department of Construction Economics, University of Pretoria. I am doing a research entitled: Property Valuation for Expropriation and Compensation in Zimbabwe. The aim of my study is to identify gaps or inconsistencies in the regulatory and legislative frameworks guiding property valuation approaches when land is expropriated in line with the current international best practice.

I would be appreciative if you could spare 30 minutes of your time to share your invaluable knowledge and experience through a face-to-face interview. Your participation in this study is voluntary, you can decide to or not to participate any time. I guarantee that information provided will be treated confidentially and shall be used for academic purposes only.

Should you have any queries please do not hesitate to contact me or my supervisors; Dr Joseph Yacim at joseph.yacim@gmail.com or Prof Benita Zulch at benita.zulch@up.ac.za .

Thanking you in anticipation of your response.

Partson Paradza
PhD Student
(+263773232125/+26777147109)

How did land expropriation and compensation valuation develop in Zimbabwe since independence in 1980?

.....
.....
.....
.....
.....
.....

Is there a clear and uniform guideline of law on how to fix the amount of compensation?

.....
.....
.....
.....
.....
.....

What are the factors to be considered in relation to valuation of the amount of compensation?

.....
.....
.....
.....
.....

What is your comment on the fairness of the compensation offered when real estate is expropriated in Zimbabwe?

.....
.....
.....
.....
.....



.....
.....
What is your comment on the adequacy of the compensation offered to displaced people in Zimbabwe?
.....
.....
.....
.....
.....

.....
.....
Can the affected people appeal against the administrative decisions on the mode and amount of compensation?
.....
.....
.....
.....
.....

.....
.....
Do you think the current property valuation for expropriation practice in Zimbabwe is done in-line with the provisions of the existing law?
.....
.....
.....
.....
.....

.....
.....
Do you think displaced people are satisfied with the compensation which they are offered by the expropriating authority?
.....
.....
.....
.....
.....
.....
.....
.....
.....

.....
.....
What is your comment on reviewing the existing legal framework guiding property valuation for expropriation and compensation in a Zimbabwe in line with guidelines by international agencies and similar laws from other countries?
.....
.....
.....
.....
.....

Thank you for sparing your time despite your tight work schedule!



Appendix 3: Questionnaire for former commercial farmers

Department of Construction Economics

Tel: +2712-420 4972

Fax: +2712-420 3598

Dear Sir/Madam

My name is Partson Paradza, a PhD student at the University of Pretoria. I am doing a research entitled: property valuation for expropriation and compensation in Zimbabwe. I guarantee that information provided shall be treated confidentially and shall be used for academic purposes only. This academic study has nothing to do with Valcon, the CFU, the CSC and any organisation related to them.

Should you have any queries please do not hesitate to contact me or my supervisors; Dr Joseph Yacim at joseph.yacim@gmail.com or Prof Benita Zulch at benita.zulch@up.ac.za

Thanking you in anticipation of your response.

Partson Paradza

PhD Student

(+263773232125/+26777147109)

A QUESTIONNAIRE TO SEEK THE VIEWS OF DISPLACED COMMERCIAL FARMERS ON EXPROPRIATION AND COMPENSATION IN ZIMBABWE

Instructions to respondents

- a. This questionnaire is structured into 5 sections with 24 questions,
 - b. Please answer all questions,
 - c. You can change answers if there is need to do so.
 - d. To ensure anonymity, please do not write your names on this form.
- Thank you for your time.

SECTION A: EXPROPRIATED PROPERTY DETAILS

1. When did you receive a notice of expropriation?
 - 1.1. Please give any further comments on your answer for question 1.
2. When was your farm valued for compensation?
 - 2.1. Please give any further comments on your answer for question 2.
3. Was the whole farm or a portion of the land expropriated?
 - 3.1. Please give any further comments on your answer for question 3.
4. Which heads of claim were included in your compensation offer?
 - 4.1. Please give any further comments on your answer for question 4.

SECTION B: LAWS GOVERNING PROPERTY VALUATION FOR EXPROPRIATION IN ZIMBABWE

5. What is your comment on the explanation given by the expropriating authority (if any) on statutory provisions guiding expropriation and compensation in Zimbabwe?
 - 5.1. Please give any further comments on your answer for question 5.
6. In your opinion, are existing laws on expropriation and compensation in Zimbabwe clear?
 - 6.1. Please give any further comments on your answer for question 6.



SECTION C: THE CURRENT EXPROPRIATION AND VALUATION PROCESS IN ZIMBABWE

7. What is your comment on your level of satisfaction with the media used to notify you about government's intention to expropriate your property?
 - 7.1. Please give any further comments on your answer for question 7.
8. What is your comment on your level of satisfaction with the language used in the notice of intention to expropriate?
 - 8.1. Please give any further comments on your answer for question 8.
9. What is your comment on your level of satisfaction with the period given for you to respond to the notice of intention to expropriate?
 - 9.1. Please give any further comments on your answer for question 9.
10. What is your comment on your level of satisfaction with the way you were consulted and participated during the expropriation and compensation processes?
 - 10.1. Please give any further comments on your answer for question 10.
11. What is your comment on your level of satisfaction with the valuation date which was used when calculating property valuation for compensation?
 - 11.1. Please give any further comments on your answer for question 11.
12. What is your comment on your level of satisfaction with the way data relevant for calculation of property valuation were captured?
 - 12.1. Please give any further comments on your answer for question 12.
13. What is your comment on your level of satisfaction with the way you verified the captured compensation details?
 - 13.1. Please give any further comments on your answer for question 13.
14. What is your comment on your level of satisfaction with the compensation value offered by the expropriating authority?
 - 14.1. Please give any further comments on your answer for question 14.
15. What is your comment on your level of satisfaction with the currency used in the offered compensation?
 - 15.1. Please give any further comments on your answer for question 15.
16. What is your comment on the way government compensated former farm workers?
 - 16.1. Please give any further comments on your answer for question 16.
17. What is your comment on your level of satisfaction with the assistance you were given by private property valuers?
 - 17.1. Please give any further comments on your answer for question 16.
18. What is your comment on your level of satisfaction with the assistance you were given by private lawyers?
 - 18.1. Please give any further comments on your answer for question 18.
19. What is your comment on your level of satisfaction with the period taken to pay full compensation?
 - 19.1. Please give any further comments on your answer for question 19.
20. What is your comment on your level of satisfaction with the interest paid/offered for delayed compensation?
 - 20.1. Please give any further comments on your answer for question 20.

SECTION D: THE CURRENT APPEAL FOR COMPENSATION PROCESS IN ZIMBABWE

21. What is your comment on your level of satisfaction with the way the appeal procedure was explained to you by the expropriating authority?



- 21.1. Please give any further comments on your answer for question 21.
- 22. What is your comment on your level of satisfaction with the way courts (local, regional and or international) handle compensation appeals?
- 22.1. Please give any further comments on your answer for question 22.
- 23. What is your comment on your level of satisfaction with the costs incurred when appealing against the compensation offered by government?
- 23.1. Please give any further comments on your answer for question 23.
- 24. Please make any suggestions which might help to strengthen existing statutes on expropriation and compensation in Zimbabwe inline with guidlies of international agencies and similar laws from other countries.
- 24.1. Please give any further comments on your answer for question 24.

Thank you for sparing your time despite your tight work schedule

Source: Adapted and modified from Kakulu (2008a) and Ndjovu (2016).



Appendix 4: Questionnaire for valuers

Department of Construction Economics

Tel: +2712-420 4972

Fax: +2712-420 3598

Dear Sir/Madam

I am Partson Paradza, a PhD Real Estate student in the Department of Construction Economics, University of Pretoria. I am doing a research entitled: Property Valuation for Expropriation and Compensation in Zimbabwe. The aim of my study is to identify gaps or inconsistencies in the regulatory and legislative frameworks guiding property valuation approaches when land is expropriated in line with the current international best practice.

I kindly request you to please complete the questionnaire below, which is needed for data analysis in this study. Your participation in this study is voluntary, you can choose to or not to participate at any time. I guarantee that information provided will be treated confidentially and shall be used for academic purposes only. This questionnaire will take you approximately 5 to 10 minutes to complete.

Should you have any queries please do not hesitate to contact me or my supervisors; Dr Joseph Yacim at joseph.yacim@gmail.com or Prof Benita Zulch at benita.zulch@up.ac.za.

Thanking you in anticipation of your response.

Partson Paradza

PhD Student

(+263773232125/+26777147109)

QUESTIONNAIRE QUESTIONS FOR VALUERS

PROPERTY VALUATION FOR EXPROPRIATION AND COMPENSATION IN ZIMBABWE

Instructions to respondents

- | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>a. This questionnaire has 5 Sections with 9 questions on 7 pages.</p> <p>b. Answer all questions.</p> <p>c. Add more answering space where necessary</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|

SECTION A: LAWS GUIDING PROPERTY VALUATION FOR EXPROPRIATION IN ZIMBABWE

1. List any **three (3)** statutes (in order of their importance) which guide property valuation for expropriation in Zimbabwe. (**Write your answer in the table provided below**).

a)
b)
c)

2. On a , of U (**unsure**), 1 (**strongly disagree**), 2 (**disagree**), 3 (**somehow agree**), 4 (**agree**) to 5 (**strongly agree**), rate the extent to which the following statements true about provisions of the laws guiding compulsory land acquisition and compensation in Zimbabwe? (**Tick your answer in the table below**).

Provisions of the law	Unsure	Strongly disagree	Disagree	Somehow agree	Agree	Strongly agree
The existing law is clear on the procedure for compulsory land acquisition.	U	1	2	3	4	5
The existing law clear on when and how the expropriation notice is supposed to be served.	U	1	2	3	4	5



The existing legal framework is clear on the valuation date when estimating property values for compensation purposes.	U	1	2	3	4	5
The law is clear on who determines the compensation quantum.	U	1	2	3	4	5
Existing statutes are clear on the property valuation method to be used when calculating compensation.	U	1	2	3	4	5
Existing laws are clear on how to appeal when one is not satisfied with the compensation offered.	U	1	2	3	4	5
There is consistency in laws guiding compulsory land acquisition and compensation in Zimbabwe.	U	1	2	3	4	5
There is harmony between the land tenure pattern and the prescribed methods of valuation for compensation in Zimbabwe.	U	1	2	3	4	5
You are aware of the World Bank guidelines on property valuation for compensation.	U	1	2	3	4	5
You are aware of the Food and Agriculture guidelines on compensation for expropriation.	U	1	2	3	4	5
You are aware of the International Federation of Surveyors' compensation guidelines.	U	1	2	3	4	5
The existing legal framework guiding property valuation for expropriation in Zimbabwe is in-line with international guidelines.	U	1	2	3	4	5
Property valuation for expropriation and compensation framework in Zimbabwe is consistent with international best practice.	U	1	2	3	4	5

SECTION B: EVOLUTION OF PROPERTY VALUATION FOR EXPROPRIATION IN ZIMBABWE

3. List any **five (5)** notable changes which were experienced in the practice of property valuation for compensation in Zimbabwe since independence in 1980. (Write your answers in the table below)

a)
b)



c)
d)
e)

4. Explain how the changes you listed in 3 have influenced property valuation for expropriation in Zimbabwe. (Write your answers in the space provided below)

- a)
- b)
- c)
- d)
- e)

SECTION C: CURRENT PRACTICE OF PROPERTY VALUATION FOR EXPROPRIATION IN ZIMBABWE

5. In general, on a scale of **U (unsure)**, **1 (strongly disagree)**, **2 (disagree)**, **3 (somehow agree)**, **4 (agree)** to **5 (strongly agree)**, rate the extent to which the following statements are true about current valuation for expropriation and compensation practice in Zimbabwe? (Tick your answer in the table below).

Current property valuation for compensation practices	Unsure	Strongly disagree	Disagree	Somehow agree	Agree	Strongly Disagree
The current property valuation for compensation is consistent with the existing legal framework in Zimbabwe.	U	1	2	3	4	5
The compensation quantum estimated between 2009 and 2019 can be regarded as fair and adequate in term of Section 71 of the <i>Constitution of Zimbabwe of 2013</i> .	U	1	2	3	4	5
The Valuers' use of subjective judgment account for the disparity in values amongst valuers representing various interests in land acquisition.	U	1	2	3	4	5
Differences in competencies between	U	1	2	3	4	5



Private Valuers and Designated Valuation Officers account for the disparity in values.						
The use of different data sources including valuation rates account for differences in estimated values between Private Valuers and Designated Valuation Officers.	U	1	2	3	4	5
Valuers representing landowners tend to over-value their interests.	U	1	2	3	4	5
Valuers representing acquiring authorities tend to under-value the interests of the landowners.	U	1	2	3	4	5
The client's pressure on the Valuers' opinion-of-value in valuation for compensation account for the disparity in values amongst valuers representing various interests in land acquisition.	U	1	2	3	4	5

SECTION D: CHALLENGES IN THE CURRENT PRACTICE OF PROPERTY VALUATION FOR EXPROPRIATION IN ZIMBABWE

6. List in order of importance what you consider as the **three (3)** most pressing issues in valuation for compensation of private land acquisition in Zimbabwe today. (Write your answers in the table below)

a)
b)
c)

7. List in order of priority what you consider as the **four (4)** most important factors responsible for the lack of uniformity in Valuers' approach to valuation for compensation in Zimbabwe. (Write your answers in the table below)

a)
b)
c)
d)

8. List in order of priority, any **five (5)** major challenges faced by valuers when estimating the compensation value of private property in Zimbabwe. (Write your answers in the table below)

a)
b)
c)
d)



e)

SECTION E: PROPOSED CHANGES ON THE EXISTING PROPERTY VALUATION FOR EXPROPRIATION FRAMEWORK

- 9. Suggest any areas of improvements in the existing Zimbabwean legal framework guiding property valuation for compensation in line with international best practice.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Thank you for sparing your time despite your tight work schedule
Source: Adapted and modified from Kakulu (2008a)



Appendix 5: Fieldworker Declaration



Fieldworker Declaration

Hereby I, in my capacity as a field worker, declare that I will:

1. Take reasonable steps to ensure my own safety in the field,
2. First explain the study to participants and obtain voluntary consent,
3. Handle information confidentially,
4. Not engage in any form of data falsification or distortion.

Signed:

Date:

Appendix 6: Researcher Declaration

Researcher Declaration

Hereby I, Partson Paradza in my capacity as a PhD student, that

- 1 Research subjects will be informed, information will be handled confidentially, research subjects reserve the right to choose whether to participate and, where applicable, written permission will be obtained for the execution of the project (example of permission attached).
- 2 No conflict of interests or financial benefit, whether for the researcher, company or organisation, that could materially affect the outcome of the investigation or jeopardise the name of the university is foreseen.
- 3 Inspection of the experiments in loco may take place at any time by the committee or its proxy.
- 4 The information I furnish in the application is correct to the best of my knowledge and that I will abide by the stipulations of the committee as contained in the regulations.

Signed:

Date:



Appendix 7: Informed Consent Form

(Form for research participant's permission)

1. Project information

1.1 Title of research project: **Property valuation for expropriation and compensation in Zimbabwe.**

1.2 Researcher details: **Partson Paradza, Department of Construction Economics, University of Pretoria; u13099770@tuks.co.za.**

1.3 Research study description: The main aim of this study is to identify and close gaps in the regulatory and legislative frameworks guiding property valuation approaches when land is expropriated in Zimbabwe in line with the current international best practice. The specific objectives of the study are to:

- investigate the evolution and consequences of the provisions of the existing laws governing property valuation for expropriation in Zimbabwe;
- evaluate the process of property valuation for expropriation and measure consistency in the approaches that valuers used to estimate compensation on privately held land in Zimbabwe;
- ascertain from previously displaced persons the level of satisfaction with the existing practice of expropriation and compensation in Zimbabwe;
- assess the fairness of the value of compensation paid to displaced persons during expropriation in Zimbabwe; and
- propose a framework in line with international best practice for expropriation and compensation of unexhausted improvements on land.

Findings of this study will be used solely for academic purpose. These will be presented in conferences and published in journals. Respondents will be asked to either complete a questionnaire or respond to the interview questions. There are no known risks to the participants. The researcher shall make sure that the research is done in a safe and healthy environment.

2. Informed consent

2.1 I, hereby voluntarily grant my permission for participation in the project as explained to me by,

2.2 The nature, objective, possible safety and health implications have been explained to me and I understand them.

2.3 I understand my right to choose whether to participate in the project and that the information furnished will be handled confidentially. I am aware that the results of the investigation may be used for the purposes of publication.

2.4 Upon signature of this form, the participant will be provided with a copy.

Signed: _____ Date: _____

Witness: _____ Date: _____

Researcher: _____ Date: _____



Appendix 8: Declaration of Professional Edit



DECLARATION OF PROFESSIONAL EDIT

RTC Professionals

13 November 2020

To Whom It May Concern

This serves to confirm that the thesis titled "Property Valuation for Expropriation and Compensation in Zimbabwe" by Partson Paradza was submitted to me for proofreading and language editing.

I declare that I have edited and proofread this thesis. My involvement was restricted to language usage, grammar, spellings, completeness and consistency from cover page to references. I did no structural re-writing of the content and did not influence the academic content in any way.

Although I have suggested various changes, I cannot guarantee that these will be implemented, nor can I take responsibility for any other subsequent changes or additions that may have been made. All suggested changes must be implemented by the candidate in consultation with the Supervisor.

Yours faithfully,

R. Tembo (*Dip. Proofreading & Copy Editing; Mcom: Mon & Prog Eval; Mtech: BIS; Bsc. Agric Econ. Honours; PG Dip: HIV/AIDS Mgt; Prince2[®] Practitioner Proj. Mgt*)



Rachael Tembo
Associate Member
Membership number: TEM001
Membership year: March 2020 to February 2021
065 975 2816
rtcpprofessionals@gmail.com
www.editors.org.za

Quick Turnaround Time is Our Promise

RTC Professionals
"Redefining Perfection"

