

Are Former Commercial Farmers in Zimbabwe Satisfied with the Global Compensation Agreement?

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Abstract

Zimbabwe's new administration indicated its willingness to end the compensation dispute, which lasted for two decades with former commercial farmers (FCFs), by signing the global compensation agreement (GCA). In the agreement, the Government of Zimbabwe (GoZ) offered to pay the sum of 3.5 billion, United States Dollars (USD) to the FCFs for their expropriated farmlands. A study carried out by the Valuation Consortium (Valcon) before the GCA signing revealed that most of the FCFs accepted the compensation offered by the expropriating authority. Thus far, no study has been done to assess the level of satisfaction of the affected FCFs, with the GCA provisions. Therefore, this study evaluated the views of FCFs and members of the Compensation Committee (MsCC) on this subject. Data were collected through a questionnaire survey which was mailed directly to the Chairperson of the FCFs, who sent it to other members to respond to issues raised. The study found mixed views by the FCFs on their levels of satisfaction with the GCA. Thus, the study concluded that compensation offered was not entirely

satisfactory because it did not include accruals for delayed payment, professional fees, and a detailed breakdown of the compensable heads of claim.

Keywords: Compensation, Expropriation, Farmers, Offer, Satisfaction, Zimbabwe

1. Introduction

In July 2020, the GoZ and FCFs signed a historic GCA that was meant to end a compensation dispute that spanned two decades. This new development was celebrated as a key to unlock investment in Zimbabwe, especially in the public media. According to Ncube (2020), parties to the GCA reached a consensus on a global compensation value of 3.5 billion USD. The compensation was to be paid over five years with an initial deposit of half of the total compensation amount payable within a year after the GCA signing. Ncube (2020) further stated that both the GoZ and FCFs were to work together to raise the required US\$3.5 billion from the international community.

The success of this new development was, however, hinged on the level of satisfaction of the affected FCFs. Thus, if their level of satisfaction was high, it created investor confidence, and the opposite was true if they were dissatisfied with the GCA. Before signing the GCA, a survey was done by the Valcon and the Compensation Steering Committee (CSC) (representatives of the FCFs to the GCA) to assess if FCFs accepted the offer. The results showed that the majority of the FCFs (94.5%) were in support of the proposal (Valcon, 2020). However, it can be argued that accepting the offer cannot be translated to mean that FCFs were satisfied with it. The chances are that FCFs accepted the offer simply because they wanted to get something instead of losing everything.

2. Background

Zimbabwe (formerly known as Southern Rhodesia) is a former colony of Britain. The land dispute in Zimbabwe can be traced to 1890 when Britain colonised the Southern African country (Pazvakavambwa & Hungwe, 2009; Nyandoro, 2012; Njaya, 2013). This land dispute culminated into fifteen years of war (1964–1979), which was ended by the signing of the Lancaster House Agreement of 1979 (United Nations Development Programme (UNDP), 2002; Magaisa, 2010; GoZ, 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 leading to Zimbabwe's independence. However, according to Magaisa (2010), no lasting solution has been found to resolve land contestation issues in Zimbabwe decades after independence.

Many scholars indicated that discriminatory laws of Zimbabwe were structured to give vast tracts of productive land to the minority white settlers, while indigenous Africans were relegated to unproductive 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). Unfortunately, this skewed land tenure system was not addressed even after the attainment of independence in 1980 (UNDP, 2002; De Villiers, 2003).

To remediate some of the imbalances, the Zimbabwean government repealed and replaced all discriminatory laws (UNDP, 2002; Shaw, 2003; Pilosof, 2012). During the first decade of independence, compulsory land acquisition in Zimbabwe was guided by the Lancaster House Agreement of 1979. One of the conditions of this agreement, which was incorporated into Section 16 of the first supreme law of Zimbabwe, popularly known as the *Lancaster House Constitution (LHC)* of 1980, was the requirement for a prompt and adequate compensation for

expropriated properties based on market value (Palmer, 1990; UNDP, 2002; Moyo, 2006; Njaya & Mazuru, 2010; Moyo, 2011a; Dabale, 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 prices (UNDP, 2002; Pazvakavambwa & Hungwe, 2009).

Soon after the expiry of statutory provisions of Section 52 of the *LHC* of 1980 in the early 1990s, the government amended Section 16 of the *LHC* of 1980 and repealed the *Land Acquisition Act (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 of the enacted laws that denied affected people the right to challenge land expropriation and compensation in a court of law. Because of the foregoing discussion, it can be noted that issues of land compensation disputes in Zimbabwe remained unresolved for decades.

There is a considerable number of studies on the satisfaction of the expropriation and compensation processes. These include among others, Alemu (2013), Workiner (2017), Agegnehu and Mansberger (2020) in Ethiopia; Uwayezuand de Vries (2019) in Rwanda; Liu and Zhao (2011), and Wang (2013), and Li (2018) in China. Also included are Kakulu (2008), Oladapo and Ige (2014), Olukolajo (2017), Omar and Ismail (2009) in Malaysia, Rao, Tiwari and Hutchison (2018) in Australia, and Rao, Hutchison and Tiwari (2020) in Scotland. Although these studies shared a similar objective of unravelling the satisfaction of the displaced persons relative to expropriation and compensation, different circumstances, contexts, and research focus

necessitated this study. To the knowledge of the researchers, there is currently no known study that was conducted to establish the level of satisfaction of the FCFs with the GCA provisions.

Given the above-mentioned gap, this paper aimed to identify and close the gap by seeking the views of FCFs and MsCC. This paper focused on the overview of the tenurial arrangements and land markets in Zimbabwe, the fundamentals of the subject matter under discussion, literature review, research methodology the results of the study and discussion of the results.

3. The Land Market and Tenurial Arrangements in Zimbabwe

Zimbabwe occupies 390 757 km² between Limpopo and Zambezi rivers and has an estimated population of 13 061 239 (Zimbabwe National Statistics Agency, 2012). The country's economy is based on agriculture and mining (<https://www.sadc.int/member-states/zimbabwe/>). Currently, Zimbabwe's economy is dominated by the informal sector (UNDP, 2020), and it is slowly recovering after two decades of retardation (United Nations (UN), 2020; United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), 2020; <https://www.worldbank.org/en/country/zimbabwe/overview>).

On the social side, the Southern African country is characterised by rampant unemployment with approximately 49% of the total population living in absolute poverty (<https://www.worldbank.org/en/country/zimbabwe/overview>). The poor state of the Zimbabwean economy became noticeable in the real estate land market aside from other sectors. According to Tome (2020), before dollarization in 2009, citizens in the diaspora were the main buyers of property because of the relatively low price in real terms. However, this was short-lived as local property prices skyrocketed in real terms after 2009, crashing the diaspora market. The high cost of construction coupled with government levied fees and taxes were contributory to the increase

in property prices. These, among others, are reasons for high demand as against short supply for properties in the Zimbabwean property market (Cardinal Corporation, 2018; Zhanda, 2020).

The land market and tenurial arrangement in Zimbabwe are classified into four segments including (1) private land, (2) state land, (3) council land, and (4) communal land (Scoones, Marongwe, Mavedzenge, Murimbarimba, Mahenehene & Sukume, 2011).

(1) Private landholders have freehold property rights that are registered in terms of Section 10 of the *Deeds Registries Act (Chapter 20:05)* of 1959 (GoZ, 1959). Holders of freehold properties have the rights to use and enjoy, subdivide, alienate and inherit the land. Freehold properties in Zimbabwe can be expropriated and compensated for if the land and improvements are taken from an indigenous person (legal or natural). In addition, if freehold properties are expropriated from foreign persons who are protected by the bilateral investment agreements with Zimbabwe, compensation is paid in line with the provisions of the bilateral agreement.

(2) State land is owned by the state and registered in the name of the president. Beneficiaries of state land have lease rights in terms of Section 17 of the *Land Commission Act (Chapter 20:29)* of 2017 (GoZ, 2017). These lease rights (which span 99 years with an option for renewal) can be inherited. However, the privileges do not confer on the holder the power to sublet or cede their rights. Additionally, they cannot subdivide or alienate any part or the whole of the property. Thus, when state land is expropriated, affected people are compensated only for improvements on the land.

(3) Like state land, communal land is registered in the name of the president in terms of Section 4 of the *Communal Land Act (Chapter 20:04) (CLA)* of 1982 (Thondhlana, 2015). Beneficiaries of communal land have usufruct rights (Mutema, 2003; Thondhlana, 2015). These rights confer

on the people the power to use and enjoy their property(ies), and the same rights can be inherited. In terms of Section 8 of the *CLA* of 1982, with Section 26 of the *Traditional Leaders Act (TLA)* (Chapter 29:17) of 1998 and Section 4 of the *Communal Land Forest Produce Act (Chapter 19:04) (CLFPA)* of 1987, communal land can be used for agricultural and residential purposes (GoZ, 1982, 1987, 1998). Holders of usufruct rights of communal properties cannot subdivide lease or alienate their rights. When communal land is expropriated, expropriatees are compensated for only improvements on the land and where alternative land is available, this is provided as compensation.

(4) Council land is owned by the local authorities in terms of Part 2 of the *Urban Councils Act (Chapter 29:15) (UCA)* of 1997 (GoZ, 1997). It can be sold or leased to the public as guided by Part X of *UCA* of 1997. Beneficiaries have leases with different lease terms. They also have the power to cede, sublet and the same rights can also be inherited. However, the beneficiaries cannot subdivide or sell the property since it belongs to the council. When council land is expropriated, compensation is paid to affected people for improvements on the land and the remaining lease term, while compensation for land is made to the council.

Of all the tenurial arrangements in Zimbabwe, only the private freehold rights confer on holders more privileges than the other segments. Thus, the attractiveness of these rights breeds vibrancy to the Zimbabwean land markets (rural and urban). However, the lingering challenges between the FCFs and the GoZ have been a negation not only to the land markets, but other sectors of the country. The focus of this study is on private freehold agricultural land. Therefore, it is imperative to note that agricultural land is defined by Section 72(1) of the *Constitution of Zimbabwe (CoZ)* of 2013 as the land used or suitable for agriculture, but it excludes communal and council land.

4. Acceptance Versus Satisfaction – A Discourse

The term acceptance is derived from the word "accept", which is defined as consent to receive something offered. In property valuation for expropriation, compensation can be classified as accepted if the affected people agree to receive it. In addition, the satisfaction derived from the word "satisfy" is attained if the compensation offered meets the displaced people's expectations, needs, or desires. The chances are that affected people might accept the compensation offered without being satisfied due to various circumstances. Although Rao (2019) explained the concept of acceptance (possible zone of agreement) in land transactions, this can be used to illuminate the subject under consideration. The Venn diagram in Rao's study was used to shed some light on the matter.

As shown in Figure 1, Rao (2019) used an example of negotiations between a private property developer and a landowner. The circle to the left in the Venn diagram shows the offer, which the developer is prepared to pay, and the right circle indicates the amount which the landowner is ready to accept. Comparing the two circles shows that the developer strives to deliver as little as possible in the negotiation, and the landowner negotiates a much higher value. There is, however, a zone where both the developer's offer and what the landowner asks for, meet, which is termed the zone of possible agreement (ZOPA) (Samsura, van der Krabben, Van Deemen & Van der Heijden, 2015; Rao, 2019). The same Venn diagram can be used to explain acceptance and satisfaction in compensation for expropriation, where the private property developer will be replaced by the expropriating authority (government).

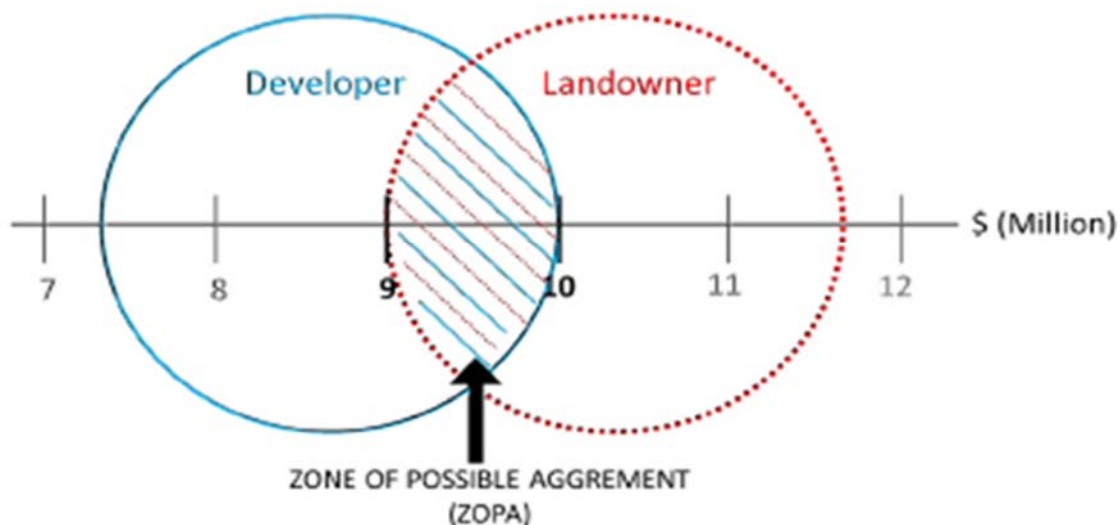


Figure 1: Acceptance in Land Transactions

Source: Rao (2019:187)

In Figure 1, assuming that the currency of compensation is USD, the expropriating authority is prepared to pay between US\$7.4 and US\$10 million. In contrast, the landowner or user (expropriatee) is ready to accept between US\$9 and US\$11.6 million. Therefore, within the ZOPA, affected people will be less satisfied with the far-left at US\$9 million and more satisfied with the far-right at US\$10 million. The case in Zimbabwe opened a crucial discourse on this subject. The FCFs have been denied compensation by the previous administration for more than two decades. Explaining this scenario using Figure 1, it means that what GoZ was offering and what was desired by FCF was on the left side of the ZOPA; that is why there was no agreement.

The circumstances surrounding the lingering crisis were such that many of the FCFs had lost their means of livelihood, migrated out of Zimbabwe, and some were deceased (Hammar, 2010; Hammar, McGregor & Landau, 2010; Musanga, 2015; BBC, 2019). Thus, while the farmers

were not under "duress" to sign the GCA, there are chances that the agreement was signed under "undue influence". "Undue influence" occurs not only when a party to a contract take advantage of the other party and sign an agreement in a skewed bargaining process, but when an uncommon circumstance leads to disenchantment and disconnection from realities of life (Bigwood, 1996; Harrison, 2019).

The truism of the assertion that when a person or a group of people are impoverished, any amount offered might be plausible, even when satisfaction is missing or limited. Since the new administration expressed willingness to bring the lingering crisis to finality, even though the legal framework might not completely guarantee satisfaction for the FCFs, the new government's intention must be applauded. This study's rationale is to use Zimbabwe's case and unravel the extent to which acceptance might or might not necessarily mean satisfaction.

5. Literature review

The issue of adequacy of compensation offered for expropriated properties has opened the floodgates for scholarly and policy debate over the past decades (Trojanek, 2010; Marboe, 2014). If adequacy in compensation for expropriated properties is not addressed on 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 (Lin, 2018; Kwarteng & Botchway, 2019). The term adequacy is derived from the word adequate, meaning satisfactory or acceptable (Smith, 2001). Satisfaction is a psychological term that refers to 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 real compensation value (Qu, Heerink & Xia, 2015; Ndjovu, 2016; Lin, 2018).

Alemu (2013), Workiner (2017) as well as Agegnehu and Mansberger (2020) conducted studies on the level of satisfaction of affected persons with the compensation offered for expropriated properties in Ethiopia. They concluded that most people were not satisfied with the expropriation and compensation process. It was noted that dissatisfaction was caused mainly by a lack of transparency and failure to benefit from the development project. Besides, the affected people were not being consulted by the expropriation authority and the compensation was alternative resettlement land of less value as compared to the expropriated property. The studies also found low compensation as well as delayed or non-payment of compensation as reasons for lack of satisfaction.

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

Studies to measure the level of satisfaction of affected people were also conducted in China by Li (2018) and Liu and Zhao (2011). They concluded that if affected people are involved in the expropriation process, they tend to have a high level of satisfaction. This conclusion 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 authors also concluded that farmers' level of satisfaction in Luyang, China was deficient, and the standard of compensation used impacted satisfaction levels.

Wang (2013) assessed the level of satisfaction of people affected by expropriation in China and concluded that satisfaction is affected by the amount of compensation as well as the compensation procedure and model. In a related study in China, Qu, Heerink, Xi and Guo (2018), concluded that satisfaction increases as the compensation amount increases. Therefore, if the compensation amount is high, there will be high satisfaction, and if the compensation amount is low, the level of satisfaction will be less. They also noted that farmers compensated with social security (land, jobs, business ownership) were more satisfied than those who received cash compensation. Similarly, Zhao (2017) and Li, Shu, Shian and Zhu (2017) did a study in Nanjing, China and concluded that compensation based on social security increased the level of satisfaction of affected people. Li et al. (2017) also noted that amendments to the expropriation policies were also associated with an increase in the level of satisfaction of affected people.

In Nigeria, inadequate compensation (Olukolajo, 2017) and inefficient expropriation process (Kuma, Fabunmi & Kemiki, 2019) caused dissatisfaction among displaced people resulting in disputes between the government and affected people. Kakulu (2008) is one of the pioneer scholars to research into factors influencing the level of satisfaction on the amount of compensation offered for expropriation in Nigeria. She concluded that statutory and policy

issues, compensation levels and standards are chief factors that influence satisfaction levels. Another study in Nigeria conducted by Oladapo and Ige (2014) assessed the level of satisfaction of affected persons in Ondo State. The study found 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 that influence and affect people's satisfaction levels. If the variance is low, the level of satisfaction is most likely to be high, and the opposite is true. Ige, Akintomide and Adiola (2016) in a Nigerian study on the same subject concluded that an inclusive expropriation and compensation process could improve the satisfaction levels of affected people.

Walters and Akujuru (2016), and Olukolajo (2017) studied the level of satisfaction with compensation for oil-polluted land in the Niger Delta region of Nigeria. The studies concluded that affected people's compensation level is influenced by the accurate capture of all affected properties. If some of the affected properties are not considered for compensation, then affected people's satisfaction tends to be less. Dankani and Halidu (2017) concluded that affected people are dissatisfied if the expropriation and compensation process is shrouded in obscurity, marred by corruption, and not-inclusive of sources of livelihoods of the affected people among compensable heads of claim. A recent study by Kuma, Fabunmi and Kemiki (2019) in Abuja, Nigeria, concluded that lack of transparency and inefficiencies in implementing expropriation and compensation by government agencies are chief causes of dissatisfaction among displaced people.

In Malaysia, Omarand Ismail (2009) assessed the causes of satisfaction levels among people affected by expropriation. They pointed out that affected people were not satisfied because of non-consultation during the expropriation process, delayed payment and inadequate compensation for land with and without improvements. The study also noted that displaced

persons were satisfied by the expropriating authority's move to allow them to engage a private valuer of their choice. It was noted that the total cost of hiring a private valuer was paid for by the expropriating authority. However, most who were not satisfied did not appeal as they were discouraged by the long appealing process and the payment of a named amount as a deposit.

Utami, Nurcahyanto and Sudibyanung (2021) did a study on the impact of expropriation on the displaced people in Indonesia. The study found that the exercise led to a decrease in community income, loss of jobs or increasing unemployment, decrease in the ownership of community assets, and increasing costs of living. These among others are leading causes of dissatisfaction of the displaced people. As noted elsewhere in this study, findings are sometimes localised due to the contextual settings. For instance, in contrast to Utami et al. (2021), an earlier study of Rowan-Robinson and Hutchison (1995), concluded that what caused dissatisfaction was expropriation authority's failure to compensate for the loss of opportunity and bank charges incurred by the displaced people. Dissatisfaction was also caused by delays in the expropriation and compensation process, which caused uncertainty induced anxiety.

Studies by Rao, Hutchison and Tiwari (2020) in Scotland, Shukla (2021) in India and Rao, Tiwari and 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 and low accountability of the expropriating authority's actions. In addition, there is dissatisfaction if property valuers involved in assessing the compensation amount and the appeal process are biased. According to Rao (2019) and Rao, Hutchison and Tiwari (2020), the issue of satisfaction in expropriation goes beyond the fairness of the compensation offered. The studies emphasised the importance of

procedural fairness. In this regard, even if fair compensation is paid from an unfair process, then there might be legitimacy issues.

It is crucial to note that participation and fair negotiation forms the foundation for an environment conducive to create satisfaction in compensation for expropriation (Lavers and Webster, 1994; Li and Walker, 1996; Healey, Purdue, and Ennis, 1996; Black and Diaz III, 1996). Samsura, et al. (2015) stressed that negotiating parties must have access to relevant information if compensation negotiations are to yield satisfactory results. Past studies coined procedural fairness principles that include but are not limited to representativeness, neutrality, accountability, consistency, correctability, and grievance management (Vu, 2017; Rao, 2019; Rao, Hutchison and Tiwari, 2020; Shukla, 2021).

Table 1 summarises key reasons for dissatisfaction of people whose land were expropriated from existing literature. The results of previous studies were categorised according to location, including Ethiopia, Nigeria, Rwanda, China, India, Malaysia, and Australia. In Table 1, where there is an x symbol, it means that none of the existing studies noted the subject factor among the ones influencing the level of satisfaction of displaced people. Where the factor was noted, the symbol \checkmark is used.

With reference to Table 1, eleven categories of contributing factors were identified and categorised. It can be noted that all reviewed studies concluded that the amount of compensation is a contributing factor affecting the levels of satisfaction of expropriatees. This is followed by the lack of participation of affected people during decision making. However, this is not to say that a factor noted in 1 of the 6 locations is less important than the one that appears in all the 6 locations. Therefore, the eleven categories of factors influencing satisfaction were used as an entry point when analysing this study's results.

Table 1: Factors influencing the satisfaction levels of displaced people.

Factors influencing the level of satisfaction	Past studies by location					
	Ethiopia	Nigeria	Rwanda	China	Malaysia	Australia
Appealing process & cost	x	x	√	x	√	√
Limited notice period.	√	x	X	x	X	X
Cost of engaging professionals	x	x	X	x	√	X
No compensation	√	x	X	x	X	X
Level of compensation	√	√	√	√	√	√
Method of compensation (cash/alternative land)	x	x	X	√	X	X
Failure to benefit from the development project	√	x	X	x	X	x
Delayed compensation	√	x	X	x	√	√
Expropriation & compensation process	√	√	X	√	X	√
No consultation/representation	√	√	X	√	√	√
Unethical behaviour by expropriating authorities (Corruption/bias)	x	√	X	x	X	√

Sources: Omar and Ismail (2009), Liu and Zhao (2011), Alemu (2013), Oladapo and Ige (2014), Walters and Akujuru (2016), Olukolajo (2017), and Workineh (2017), Rao, Tiwari and Hutchison (2018), Li (2018), Kuma et al. (2019), Uwayezu and de Vries (2019), Agegnehu and Mansberger (2020), and Shukla (2021).

In Zimbabwe, several studies were done on satisfaction with the expropriating authority's compensation (Marungwara, 2014; Konyana & Sipeyiye, 2015; Thondhlana, 2016; Vengesai & Schmidt, 2018; Mavhura, 2020; Gukurume & Nhondo, 2020). However, besides the existence of vast literature on the level of satisfaction of displaced people with the compensation offered/paid

by the expropriating authority in Zimbabwe, no known study was done to establish the level of satisfaction of FCFs with the GCA provisions, since this study was concluded in the year 2020.

6. Methodology

A case study approach was adopted for this paper. The population was made up of 2 thematic groups, including (1) the FCFs who were once given a compensation offer and rejected it between 2009 and 2019 before the GCA, and (2) the MsCC. The FCFs were selected because their views were needed to ascertain whether the GCA was more satisfactory than the previously declined compensation offers. Before the GCA, there was a hostile environment between displaced farmers and the previous administration as there was no room for negotiated compensation for the expropriated properties. However, the new administration in 2017 made a policy shift from an aggressive approach into a consensus-based payment for farms expropriated in Zimbabwe. This paradigm shift resulted in the signing of the GCA in July 2020.

An electronic questionnaire was sent to the leadership of the Commercial Farmers Union (CFU) for onward transmission to the FCFs. It was established 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. In contrast, fifty-five were owned by natural persons (physical human beings which are not a creation of law) across eight of the ten provinces of Zimbabwe, as shown in Table 2.

Table 2: Ownership of farms valued by the CC before the GCA

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%

Source: Research findings, (2020).

As noted earlier, most of the valued farms were owned by companies (see Table 2). There was also evidence of multiple farm ownership. For example, one company owned three farms in Midlands Province, and six farmers owned two farms each in Mashonaland West, Mashonaland East, Midlands, and Matabeleland North Provinces. It was essential to ensure that there were no multiple participants. Therefore, even those with numerous farms were given an equal chance of being selected as part of the study sample. To achieve this, during sampling, the researchers considered just one farm from multiple farm owners. As such, a total of 150 FCFs were considered (see also Table 3).

Table 3. 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)

The MsCC thematic group consisted of eleven members established by the LAA of 1992 to estimate land expropriation compensation for agricultural purposes. Accordingly, a summary of the total population is shown in Table 4.

Table 4: Composition of the Total Population

Thematic group	Sample size	Percentage of the total sample
Members of the Compensation Committee	11	6.8%
Displaced commercial farmers	150	93.2%
Total	161	100%

Source: Research findings (2020)

A 5% margin of error was adopted at a 99% confidence level and 50% response distribution, resulting in a sample size of 131 (120 FCFs and 11 MsCC). Electronic mails were used mainly because of the restriction occasioned by the COVID-19 pandemic. Out of the 11 questionnaires sent to MsCC, only eight were answered and returned, representing a seventy-three (73) per cent response rate. Out of the 120 questionnaires sent to FCFs, just sixty-eight were completed and returned, representing a fifty-seven per cent response rate. However, two questionnaires were not valid. As such, sixty-six questionnaires from the FCFs were considered during data analysis. Results of the case study followed a 2-step thematic analysis. The first step of the analysis focused on the views of MsCC, and the results are presented in Section 5.2. The second step of the analysis, which focused on the opinions of FCFs, is shown in Section 5.3. This was done to capture and present both thematic groups' perceptions systematically and comprehensively.

Computer-aided data analysis was done using Atlas.ti⁸ to create comments, memos and networks which relate to 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. During data analysis, selected quotations from participants were used to augment the researcher's interpretation of the research findings as recommended by Morrow (2005).

7. Results

The results of the study focused on compensable heads of claim as prescribed in the *LAA* of 1992, the *Acquisition of Farm Equipment and Machinery Act (AFEMA) (Chapter 18:23)* of 2004 and the *CoZ* of 2013. In addition, the views of MsCC and perceptions of FCFs on their satisfaction levels with the GCA were discussed.

7.1. Compensable Heads of Claim

Compensable heads of claim for compulsory land acquisition depends on whether the land is for agricultural purposes 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 related to the expropriation.”*

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 of 2013* reads:

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

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

For expropriated farms that 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 were just for improvements on the land and excluding the land itself. Section 72(7) of the *CoZ of 2013* narrates the 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.

7.2. Events Leading to the GCA

It was established that there was a wide gap between the compensation initially offered by GoZ and the compensation claimed by FCFs. Although initially, GoZ offered a global compensation amount of US\$1.2 billion, FCFs (through their representatives) claimed US\$5.2 billion for the same properties (CSC, CFU & Valcon, 2020). This presents a valuation difference of US\$4 billion, representing a 77% difference.

A team of expert valuers was invited from other countries to present their opinion on the disputed compensation value. The team estimated the value of the same properties at US\$2.7 billion (Ncube, 2020; Valcon, 2020). In view of the foregoing discussion, it can be noted that the compensation estimate by expert valuers was more than double the amount offered by GoZ and just above half of the compensation claimed by the FCFs. However, Orphanides (2020) pointed out that the US\$2.7 billion estimated by expert valuers was the value of infrastructure on land, excluding the value of biological assets and land clearing. In this case, if biological assets and land clearing were to be factored in, the figure was going to be more than US\$2.7 billion.

However, it is difficult to conclude if this figure was going to be in the same range as the US\$5.2 billion claimed by FCFs.

After protracted negotiations, GoZ and FCFs ended up agreeing on a global compensation of US\$3.5 billion. Thus, the claim by Orphanides (2020) might be valid given that the GoZ agreed to pay US\$3.5 billion that was more than double its initial offer, as well as more than the US\$2.7 estimated by expert valuers, but less than the US\$5.2 billion claimed by FCFs.

7.3. Views of the MsCC on the Level of Satisfaction of FCFs with the GCA

Most of the MsCC provided brief responses that indicated if the FCFs were satisfied or not without giving more detail. Fifty per cent (50%) of the MsCC believed that displaced people were not satisfied with the compensation offered, mainly due to the delays in property valuation for compensation and the compensation amount. One member who gave detailed information (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."

Of the remaining 50%, 37% believed that the affected farmers were satisfied, and 13% were hesitant to answer the question.

7.4. FCFs' Perspective of their levels of satisfaction with the GCA

Seventy-two per cent (72%) of FCFs pointed out that they were not satisfied with the compensation offered because the amount did not breakdown the compensable heads of claim; instead, they were just given a single compensation figure. According to one FCF:

"Only a single overall figure was given without breakdown. It is not clear how the compensation was calculated."

Seventy per cent of the FCFs were not satisfied because a uniform method of calculating compensation for different types of agricultural properties was used. This method ignored the impact of location on value and differences in agricultural activities carried out on each farm. For example, one FCF pointed out that the acquired property had two running streams passing through it and was very close to the capital city (Harare), but all these factors were ignored when compensation was calculated. Some FCFs were not satisfied because the GCA did not include items they felt were supposed to be compensated. 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."

All FCFs were not satisfied because the GCA did not pay interest for delayed compensation, reasonable professional fees, and the cost of appeal in a court of law. Some FCFs doubted if the GoZ was committed to paying the compensation. According to FCF18:

"The Government of Zimbabwe seems to be committed to pay compensation for the expropriated farms. This is because it is under pressure and wants to re-engage with international finance sources."

Most of the farmers (90%) were satisfied with the agreed compensation amount in terms of the GCA. Still, some (10%) 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 practices. Worth mentioning are the sentiments of FCF32, who stressed that:

" 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."

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

8. Discussion

Given the foregoing results, it can be noted that Rao (2019)'s concept of acceptance in land transactions applies to compensation for expropriation, as illustrated in Figure 2.

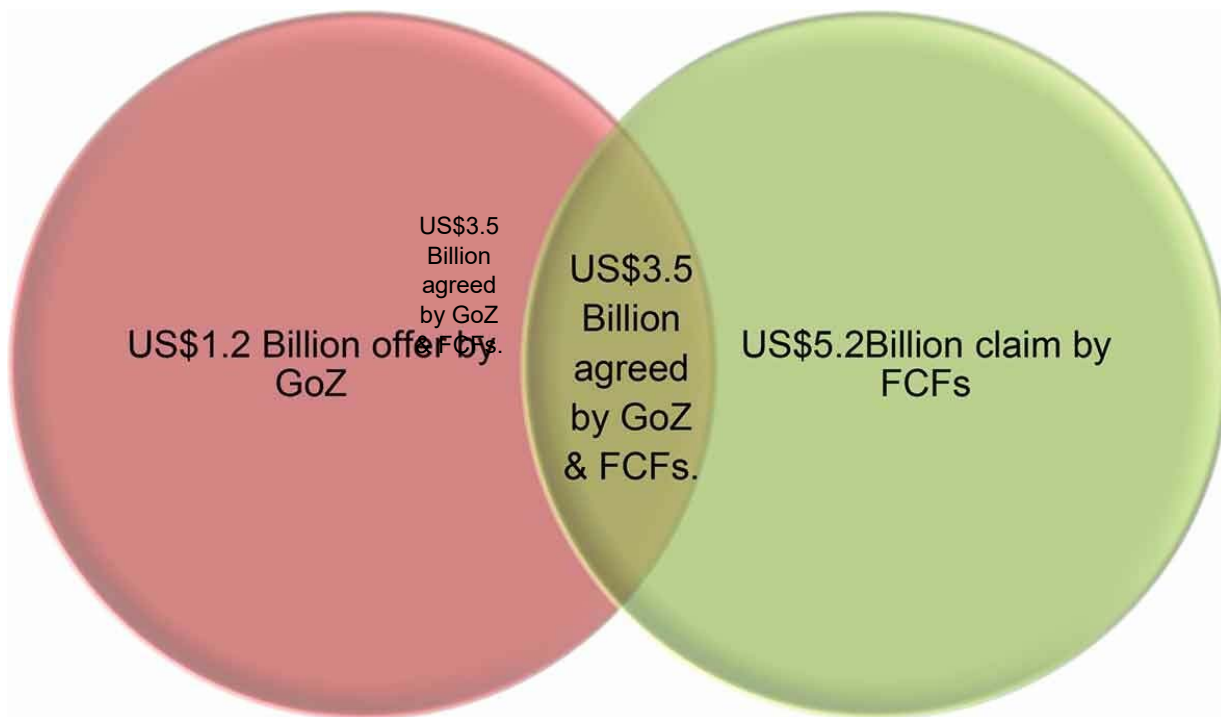


Figure 2: Acceptance in compensation for expropriation

Source: Adopted and modified from Rao (2019:187)

As shown in Figure 2, it can be inferred that the US\$1.2 billion offer was the minimum compensation that GoZ was prepared to pay, whilst the US\$5.2 billion claim was the maximum compensation that the FCFs were prepared to accept. In this case, both parties gave an allowance for adjustments during the negotiations, notably, adjustments upwards by the expropriating authority and downwards by the displaced people. This was done in a give and take process during the negotiations as they compromised to reach a consensus. Therefore, the US\$3.5 billion, which was finally agreed as the global compensation amount was within the ZOPA.

One might be tempted to conclude that, the fact that FCFs agreed to the US\$3.5 billion and signed the GCA is a clear testimony that they were satisfied. If this is the case, then Zimbabwe might be moving in the right direction in finding a lasting solution to the two-decade-long compensation dispute. Satisfaction of the FCFs is critical in creating investor confidence, a fundamentally important factor in revitalising the once-thriving agricultural sector.

Despite the above mentioned, there is evidence from the results of this study that some FCFs were not satisfied due to what is termed procedural fairness by Vu (2017), Rao (2019) as well as Rao, Hutchison, and Tiwari (2020). Firstly, both FCFs and MsCC agreed that compensation delays were among the leading causes of dissatisfaction of the displaced commercial farmers. This supported Omar and Ismail (2009) findings, which concluded that delayed compensation is a crucial factor influencing affected people's satisfaction.

Secondly, it can be noted that the results of this paper showed that some of the MsCC had a preconceived perception that affected people will never be satisfied with the form of compensation which is not their expropriated property. Preconceived perceptions go against neutrality because chances are very high that the concerned MsCC might be biased, thereby

disadvantaging the affected people. In such a scenario, Rao (2019) rightfully noted that there is no legitimacy in the complete expropriation and compensation process.

Thirdly, another issue raised by FCFs was limited involvement before the GCA negotiations, which is also against the principle of representation. The expropriating authority needs to consult the FCFs as recommended in studies by Ige, Akintomide and Adiola (2016), Omar and Ismail (2009), Li (2018) as well as Liu and Zhao (2011). Consultations and honest negotiations can help both parties to understand each other and clear any preconceived perceptions. However, the issues of lack of representation raised by the FCFs relate to what happened before the GCA. They confirmed that their interests were well represented by Valcon and CFU during the negotiations leading to the GCA signing. In this case, it can be noted that FCFs did not separate issues of satisfaction that emanated from the GCA and events which happened before the GCA. It can be understandable because the GCA cannot be divorced from the lingering issues which stemmed from the FTLRP. Essential to this discussion is that the GoZ seems to have admitted that what used to happen before was not satisfactory. Thus, it appears to be committed to coming up with an acceptable compensation amount and an adequate procedure following a precedent set by the GCA.

The other issue relates to compensable heads of claim. This is supported by some of the FCFs who were of the view that the GCA failed to provide compensation for items such as (1) two decades of delayed compensation, (2) goodwill, and (3) human rights abuses during the FTLRP. Furthermore, failure to indicate the value of each compensable head of claim for each farm was raised instead of just stating a global figure.

It is important to note that the issues raised are not provided for as compensable heads of claim in the existing laws discussed in Section 7.1. This is a typical example of a lack of procedural

fairness. Thus, the results support the findings of Rowan-Robinson and Hutchison (1995), Workiner (2017) as well as Agegnehu and Mansberger (2020), who noted the effect of compensable heads of claim on the level of satisfaction of affected people. Therefore, it can be concluded that besides the level of compensation, the structure and composition of the compensation offer can also influence the level of satisfaction of affected people. In this case, the compensation amount/offer must be comprehensive and must capture all relevant details to be considered satisfactory.

In addition to the above-mentioned issues, there is evidence that some dissatisfied FCFs were influenced by a lack of trust in the sincerity of the expropriating authority when signing the GCA. Some of the FCFs were of the view that the GoZ has not signed the GCA with clean hands as they believed that the government wanted to use them as bait to lure foreign investors and re-engagement with the global community. Those who supported this view also felt that the FCFs signed the GCA not because they were satisfied but simply because they believed that half a loaf is better than nothing. In this case, it was better to get at least something even if the compensation amount was not satisfactory than lose everything.

Lastly, it can be concluded that the challenge of dissatisfaction of displaced people is not unique to Zimbabwe. Evidence from related literature reviewed in Section 5 shows similar evidence in different countries. For example, studies in Ethiopia (Alemu, 2013; Workiner, 2017; Agegnehu and Mansberger, 2020), Rwanda (Uwayezu and de Vries, 2019), China (Liu and Zhao, 2011; Wang, 2013; Li, 2018) all found dissatisfaction of the displaced people. Similarly, studies in Nigeria (Kakulu, 2008; Oladapo and Ige, 2014; Olukolajo, 2017), Malaysia (Omar and Ismail, 2009), Australia (Rao, Tiwari and Hutchison, 2018) and Scotland (Rao, Hutchison and Tiwari, 2020) also had analogous findings.

Though varied cause(s) of dissatisfaction exists among studies, relative to contexts, findings are confirmation that if the process leading to expropriation and compensation is not followed in line with requisite laws; nowhere in the world would people be satisfied. Thus, there is a need for a paradigm shift from making expropriation and compensation laws that negate natural justice to those that promote harmony between government and the governed. Results of this study showed that no matter how long a skewed legal framework exists, it would eventually be overthrown if peaceful co-existence is going to be achieved.

9. Conclusion and Recommendations

Ascertaining the level of peoples' satisfaction in any field or subject is a herculean task. This is because of the relativity and subjectivity characterising human judgment on a particular subject(s). Thus, what might be termed satisfaction in one jurisdiction may not be termed the same in another jurisdiction, which is the reason for a proliferation of studies on peoples' level of satisfaction concerning expropriation and compensation. Nevertheless, the experience in independent Zimbabwe remains unresolved for so long that recent development leading to the signing of GCA between the GoZ and FCFs in 2020 is worthy of examination. The purpose, therefore, was to unravel the FCFs satisfaction with the contents of the GCA so that finality could be attained in the age-long compensation disputes in Zimbabwe.

Two research subjects were targeted, including MsCC (a creation of the law on expropriation and compensation matters) and the FCFs (a party to the dispute). The paper concluded that the FCFs have mixed views regarding their satisfaction with the GCA. Most of them were satisfied with the amount of compensation offered. Still, some felt that the GCA could have been satisfactory if it included payment for delayed compensation, professional fees and provided a detailed breakdown of the compensable heads of claim.

Given the above-mentioned scenario, it remains to be seen if the two parties will raise the agreed compensation amount. This is because the GoZ has made it clear that it does not have the compensation amount, and the responsibility of raising it is shared with FCFs. As of now, details about a prospective international investor who is willing to finance the GCA is still a guarded secret. One might be justified to argue that it is too early to judge whether the international funding community was convinced or not with the GCA conditions and are willing to provide the much-needed funding or not.

Also, even if the compensation will be availed from international sources, compensation for land was left hanging since the GoZ was clear that it is not compensating for land taken from its people without compensation. The British government has not committed to paying compensation for the same land. If this whole process is to see daylight, it might require the cooperation of the former colonial masters, colonial expropriation victims, the GoZ and FCFs. Bringing the above-mentioned players to the discussion table might be a daunting task given the hostile relationship between the GoZ and its former colonial master. Hence, there might be a need for mediators to bring the two governments to the negotiating table.

It is also imperative to note that the issue of fair compensation for expropriation is complex, especially in relation to former colonies that might be working on reversing the racial ills of colonialism. As such, it need not be overemphasised that the fairness of compensation for farms expropriated for land reform in Zimbabwe goes beyond just the satisfaction of displaced former commercial farmers. Fair compensation, in this case, must also consider the historical background of the land expropriation over centuries. In this case, fairness is only possible if compensation is provided for expropriation victims going back to expropriation made by the former colonial masters. Hence, there is a need for the government to create a balance between

promoting access to land for most Africans who were formerly displaced off their land without compensation and paying compensation which is considered satisfactory by displaced farmers.

It is recommended that further study must be done after the expiry of the GCA to establish if the level of satisfaction of the FCFs remains unchanged. It is also recommended that there is a need for further study on the level of satisfaction of Africans who were displaced during the colonial era with the provisions of the GCA. They are equally interested parties to the compensation dispute, and their views are also important.

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