

The unresolved land question in Zimbabwe: reparations for colonial injustices versus compensation to white farmers

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ABSTRACT: The land question in Zimbabwe formed an integral part of the struggle for independence. It is from that historical background that section 72 of the Constitution of Zimbabwe empowers the state to compulsorily acquire land for redistribution. A three-tier compensation regime is imposed by the Constitution, where indigenous Zimbabweans and former white farmers, covered by inter-state bilateral agreements, are compensated for both land and improvements. On the other hand, former white farmers who are not covered by bilateral agreements are only entitled to compensation for improvements made to their land. The Government of Zimbabwe established a constitutional provision stating that Britain is accountable for providing land compensation to these farmers. This request, based on the necessity to rectify historical injustices resulting from the colonisation of Zimbabwe, raises the issue of reparations payment by the British Government as the former colonial power. More than twenty years after the acquisition of most of the formerly white-owned farms, the issue of compensation remains outstanding. In 2020, the Government signed a compensation agreement with former white farmers, valued at US\$3.5 billion. It has now been five years since the signing of the agreement, and no significant progress has been made in compensating these former white farmers. Adopting a qualitative approach to analyse the issues of reparations to the indigenous people and compensation for the former white farmers, the article argues that these issues should be addressed in a holistic manner that aligns with the rule of law.

TITRE ET RÉSUMÉ EN FRANÇAIS

La question foncière non résolue au Zimbabwe: réparations pour les injustices coloniales contre compensations pour les agriculteurs blancs

RÉSUMÉ: La question foncière au Zimbabwe fait partie intégrante de la lutte pour l'indépendance. C'est dans ce contexte historique que l'article 72 de la Constitution du Zimbabwe autorise l'État à acquérir de force des terres en vue de leur redistribution. La Constitution du Zimbabwe impose un régime d'indemnisation à trois niveaux, où les Zimbabweens autochtones et les anciens agriculteurs blancs, couverts par des accords bilatéraux interétatiques, sont indemnisés pour les terres et les améliorations apportées. En revanche, les anciens agriculteurs blancs non couverts par des accords bilatéraux n'ont droit à une indemnisation que pour les améliorations apportées à leurs propriétés. Le gouvernement du Zimbabwe a prévu une disposition constitutionnelle stipulant que la Grande-Bretagne est responsable du versement d'indemnisations foncières à ces agriculteurs, et cet appel repose sur la nécessité de

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corriger les injustices historiques causées par la colonisation du Zimbabwe. Ceci soulève la question du paiement des réparations par le gouvernement britannique, ancienne puissance coloniale. Plus de vingt ans après l'acquisition de la plupart des fermes autrefois détenues par des Blancs, la question de l'indemnisation demeure en suspens. En 2020, le gouvernement a signé un accord d'indemnisation avec les anciens agriculteurs blancs, d'une valeur de 3,5 milliards de dollars américains. Cinq ans se sont écoulés depuis la signature de cet accord, et aucune avancée significative n'a été réalisée dans l'indemnisation de ces anciens agriculteurs blancs. Par conséquent, cet article adoptera une approche qualitative pour analyser la question des réparations aux populations autochtones et de l'indemnisation des anciens agriculteurs blancs. Il soutient que ces questions doivent être traitées de manière globale, dans le respect de l'État de droit.

TÍTULO E RESUMO EM PORTUGUÊS

A Questão controversa e não-resolvida da Terra no Zimbabuê: Reparações pelas Injustiças Coloniais vs. Compensação para Agricultores Brancos

RESUMO: A questão da terra no Zimbabuê é parte integrante da luta pela independência. É neste contexto histórico que o Artigo 72 da Constituição do Zimbabuê permite ao Estado adquirir à força terras para redistribuição. A lei fundamental impõe um esquema de compensação em três níveis, onde os indígenas zimbabueanos e os antigos agricultores brancos, abrangidos por acordos interestaduais bilaterais, são compensados pelas terras e lhes são dadas garantias de melhoria. Em contraste, antigos agricultores brancos não abrangidos por acordos bilaterais só têm direito à compensação pelas melhorias feitas às suas propriedades. O governo do Zimbabuê tem uma disposição constitucional que determina que a Grã-Bretanha é responsável pelo pagamento de compensações pela terra a estes agricultores, e este apelo baseia-se na necessidade de corrigir as injustiças históricas causadas pela colonização do Zimbabuê. Isto levanta a questão do pagamento de reparações pelo governo britânico, a antiga potência colonial. Mais de vinte anos após a aquisição da maioria das quintas anteriormente pertencentes a brancos, a questão da compensação permanece por resolver. Em 2020, o governo assinou um acordo de compensação com antigos agricultores brancos, no valor de 3,5 mil milhões de dólares americanos. Passaram cinco anos desde a assinatura deste acordo e não houve progressos significativos na compensação destes antigos agricultores brancos. Por isso, este artigo adotará uma abordagem qualitativa para analisar a questão das reparações aos povos indígenas e da compensação aos antigos agricultores brancos. Defende que estas questões devem ser tratadas de forma abrangente, em conformidade com o Estado de direito.

KEY WORDS: reparations; land; Constitution; compensation; Zimbabwe; colonialism

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'For those that support it, Zimbabwe's land reform programme will eternally be framed as one of the most iconic revolutions in African history. To those who oppose it, the scheme is immortally etched in their minds as notoriety of epic proportions.'¹

1 INTRODUCTION AND BACKGROUND

Reparations can be defined as compensation imposed on a country for the damages and losses it caused during a conflict, often involving the return of property or the payment of monetary compensation.² The Fast-Track Land Reform Programme (FTLRP) was initiated as a means of compensation through the redistribution of white owned commercial farms to black Zimbabwean farmers. One of its main objectives was intended to address historical racial inequalities in land ownership.³ Zimbabwe attained its independence on 18 April 1980. In the initial decade following independence, the Government of Zimbabwe employed the approach of 'willing buyer, willing seller' for land redistribution.⁴ This approach allowed individuals to purchase land from private owners using government loans.⁵ However, this method was criticised as being slow.⁶ The Land Acquisition Act was enacted in 1992 to authorise the Government of Zimbabwe to compulsorily acquire land.⁷ By the year 1999, an estimated 71 000 black families had been resettled.⁸ Further, the FTLRP was constitutionalised in 2005 through the amendment of Section 16(a) and Section 16(b) of the Lancaster House Constitution. Section 16A and 16B of the Lancaster House Constitution gave the Government of Zimbabwe the right to compulsorily acquire land without safeguards which guaranteed due process, adequate compensation and protection from arbitrary

¹ *Bowers & Anor v Minister of Lands, Agriculture, Fisheries, Water and Rural Settlement and 7 Others* (72 of 2023) [2023] ZWHHC 72 (3 February 2023) (HH 72/23) (*Bowers*).

² United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly Resolution 60/147) https://legal.un.org/avl/pdf/ha/ga_60-147/ga_60-147_ph_e.pdf (accessed 25 May 2025).

³ G Mkodzongi & P Lawrence 'The fast-track land reform and agrarian change in Zimbabwe' (2019) 46 *Review of African Political Economy* 1-13; S Moyo & others *Land and agrarian reform in Zimbabwe beyond white-settler capitalism* (2013) 10.

⁴ D Shriver 'Rectifying land ownership disparities through expropriation: why recent land reform measures in Namibia are unconstitutional and unnecessary' (2005) 15 *Transnational Law & Contemporary Problems* 419-433.

⁵ Shriner (n 4) 422.

⁶ See again, Shriner (n 4) 447 who quoted Namibia's then Prime Minister who emphasised that the willing seller, willing buyer method was overly cumbersome to achieve the land reform programmes' ultimate goal.

⁷ The Land Acquisition Act [Chapter 20:10] (Land Acquisition Act).

⁸ J Shirley 'The role of international human rights and the law of diplomatic protection in resolving Zimbabwe's land crisis' (2005) 15 *Transnational Law & Contemporary Problems* 161-162.

application of the law.⁹ The then Section 16A of the Lancaster House Constitution placed an obligation upon Great Britain to compensate white land owners for expropriated land. The rationale for this approach was premised on the notion that Great Britain colonised Zimbabwe and during the process dispossessed legitimate owners of land by enacting and enforcing racist laws, therefore, the obligation to compensate lied with it.¹⁰ Section 16B of the Lancaster House Constitution removed the right to access the courts for seeking redress concerning issues related to land that had been compulsorily acquired by the Government of Zimbabwe.¹¹ Thus, it ousted the jurisdiction of courts and eliminated the notice requirement for land redistribution. The execution of the FTLRP infringed upon multiple human rights, such as the right to property, adherence to the rule of law, and international investment laws.¹² A rule of law approach to reparations demands that redress for harm caused by wrongful actions be done consistently and fairly, based on established procedures and principles.¹³

One of the methods used to achieve a rule of law approach to reparations is compensation. This article examines the polarised opinions between those advocating for redress of colonial racial land distribution in favour of farmers through compensation and those opposed to this objective and the attendant processes and procedures.¹⁴ The issue of compensation has been characterised by conflicts between the Government of Zimbabwe and former white farmers whose land was forcibly taken.¹⁵ The glaring points of contention include the methodology and criteria to be used for compensation. The white farmers impacted by the FTLRP wanted to receive compensation for both the land and the improvements made to it. The question of compensation was answered by the Constitution of Zimbabwe, which was enacted in 2013.¹⁶ It provides for compensation for both land and improvements to indigenous black Zimbabweans

9 Section 16A(1)(a)-(c) of the Lancaster House Constitution of 1979 (as amended by Act No.5 of 2005) lists the rationale for the land redistribution by providing that (1) The Zimbabwean people were unjustifiably dispossessed of land during the colonial era (2) Zimbabwe regained its independence through war and (3) In order to regain ownership of land and reassert their rights, Zimbabwe has earned the right to compulsorily acquire land without compensation.

10 C Shay 'Fast track to collapse: how Zimbabwe's fast track land reform program violates international human rights protections to property, due process, and compensation' (2012) 27 *American University International Law Review* 1-40.

11 Sec 16(B) Lancaster House Constitution.

12 Human Rights Watch 'Fast track land reform in Zimbabwe' <https://www.hrw.org/reports/2002/zimbabwe/ZimLando302.htm> (accessed 12 May 2025); International Work Group for Indigenous Affairs 'Implementation of historic African court ruling' <https://www.iwgia.org/en/kenya/3281/implementation-of-african-court-ruling.html> (accessed 25 May 2025).

13 United Nations Basic Principles and Guidelines (n 2).

14 L Cliffe & others *Outcomes of post 2000 fast track land reform* (2013) 4; PB Matondi *Zimbabwe's fast track land reform* (2012) 12.

15 P Moyo 'Contested compensation: the politics, economics and legal nuances of compensating white former commercial farmers in Zimbabwe' (2021) 48 *Review of African Political Economy* 630.

16 Amendment (No 20) Act, 2013 (Constitution of Zimbabwe).

impacted by the FTLRP.¹⁷ Additionally, it provides for compensation for both the land and improvements to any individual whose agricultural land was forcibly acquired and whose rights were at that time safeguarded or assured by an agreement made between the Government of Zimbabwe and the government of another nation. Furthermore, it also provides compensation for improvements only to former white farmers impacted by the FTLRP.¹⁸ Thus, it provides a triple compensation regime that is determined by the race and nature of land ownership.

As indicated above, the racial categorisation imposed by the Constitution of Zimbabwe affects the nature of compensation awarded. The Government of Zimbabwe argues that there is a need to strike a balance between reparations and upholding a rule of law approach by compensating former farm owners.¹⁹ A Global Compensation Deed was signed in July 2020 by the Government of Zimbabwe and representatives from organisations of former farm owners, such as the Commercial Farmers Union.²⁰ The agreement has been the bone of contention, as will be demonstrated later.

The article examines the legal framework for managing compensation, as specified in section 295(4) of the Constitution of Zimbabwe, which provides that compensation should be regulated by an Act of Parliament. To that end, the principal Act of Parliament on compensation is the Land Acquisition Act, which provides for claims, assessment, and payment of compensation.²¹ This article demonstrates that the Government of Zimbabwe has not directly utilised the Land Acquisition Act to compensate former farm owners. Instead, it has used the Global Compensation Deed that sets out processes and procedures not provided for in the Land Acquisition Act. This has ignited political controversy to such a degree that an individual named Joseph Chingwa, a war veteran from the liberation struggle, submitted an application to the High Court contesting the constitutionality of the Global Compensation Deed.²² This article contends that reparations are essential, however, they must be implemented within the parameters of the rule of law, which requires fairness, accountability, and transparency. One approach to accomplish this is for all involved parties to adhere to the provisions of the Land Acquisition Act. Should there be any legal gaps regarding this matter, the legislature should make the necessary amendments to the applicable law.

¹⁷ Sec 295(1) Constitution of Zimbabwe.

¹⁸ Sec 295(2) and 295(3) Constitution of Zimbabwe.

¹⁹ S Nyoka 'Zimbabwe makes first compensation payments to white farmers over land grab' *BBC* (Harare) 10 April 2025, <https://www.bbc.com/news/articles/cq5wwp5eelxo> (accessed 12 May 2025).

²⁰ P Paradza, J Awoamim Yacim & B Zulch 'Benchmarking Zimbabwe's Global Compensation Agreement against the provisions of existing laws guiding compensation for expropriated properties' *African Real Estate Society (AFRES)* <https://ideas.repec.org/p/afr/wpaper/2022-058.html> (accessed 20 May 2025).

²¹ Secs 16-29 Land Acquisition Act.

²² <https://www.zimlive.com/war-veterans-challenge-us35-million-compensation-for-white-farmers/> (accessed 12 May 2025).

2 REPARATIONS AND THE RULE OF LAW

This part discusses the legal framework regarding compensation for compulsorily acquired land in Zimbabwe. It demonstrates how the law, beginning with the Constitution of Zimbabwe and then the Land Acquisition Act, establishes the nature of compensation to be effected in Zimbabwe in respect of former farm owners affected by the FTLRP. Section 295(1)-(3) of the Constitution of Zimbabwe explicitly outlines the persons who are eligible for compensation. Further, section 295(4) of the Constitution of Zimbabwe stipulates that the compensation owed under subsections 1-3 must be evaluated according to an Act of Parliament. Therefore, these provisions are the focus of the discussion in this section.

2.1 The Constitution of Zimbabwe

The enactment of the ‘new’ Constitution in Zimbabwe in 2013 was perceived by many as the ushering in of a new era in respect of application of the rule of law. 12 years later, there are significant signs of the lack of respect and non-adherence to the values and principles embedded in the Constitution. It is essential to recognise the importance of the provisions regarding the supremacy of the Constitution of Zimbabwe, which provide that it is the highest law of the land, and any law or practice that contradicts it is rendered null and void.²³ The principles and values of constitutional consistency and validity demonstrate that the constitution acts as a standard that any other law or practice authorised by it must conform to. This position was articulated in the case of *Magurire and Others v Cargo Carriers International Haulers (Pvt) Ltd T/A Sabot*,²⁴ where the court had to demonstrate the supremacy of the constitution by highlighting that it acts as a benchmark upon which every other law must abide.

Section 3 of the Constitution of Zimbabwe emphasises the fundamental values and principles that underpin the Constitution. Among these principles is the rule of law which encompasses wide-ranging concepts, and its doctrine signifies a system of governance where all institutions, individuals, entities, both private and public, are accountable to laws that are uniformly enforced, publicly announced, and adjudicated independently, as well as laws that align with internationally accepted standards and norms.

2.2 Categories of persons entitled to compensation

As highlighted in the introduction, the Constitution of Zimbabwe provides for a three-tier compensation regime for those who lost their land through the FTLRP. These are indigenous Zimbabweans, farmers

²³ Sec 2 Constitution of Zimbabwe.

²⁴ CCZ 15/16.

who are protected under bilateral agreements between Zimbabwe and other states, and the former white commercial farmers who are not included in any bilateral agreement. Thus, the compensation regime under each category, along with its justifications, is considered separately in this part.

2.2.1 Indigenous Zimbabweans

The Government of Zimbabwe, driven by a desire to rectify past land redistribution injustices, incorporated section 295 into the Constitution of Zimbabwe, which offers categorical guarantees of compensation for the acquisition of agricultural land that took place during the FTLRP. Section 295(1) provides as follows:

Any indigenous Zimbabwean whose agricultural land was acquired by the State before the effective date is entitled to compensation from the State for the land and any improvements that were on the land when it was acquired.

Consequently, the Constitution of Zimbabwe explicitly ensures that the state provides compensation for both land and improvements to indigenous Zimbabweans whose agricultural land was taken during the FTLRP prior to the Constitution's effective date. In accordance with the literal rule of interpretation, this section explicitly excludes white former commercial farmers whose land was acquired during the FTLRP.

The Constitution of Zimbabwe does not define who is considered an indigenous Zimbabwean. However, there exists legislation that governs other spheres, which has clearly defined indigenous populations in Zimbabwe. For instance, section 2 of the Indigenous and Economic Empowerment Act²⁵ defines an indigenous Zimbabwean as:

Any person who, before the 18th of April 1980, was disadvantaged by unfair discrimination on the grounds of their race, and any descendant of such person, and includes any company, association, syndicate, or partnership of which indigenous Zimbabweans form the majority of the members or hold the controlling interest.

An analysis of section 295(1) of the Constitution of Zimbabwe, in conjunction with section 2 of the Indigenous and Economic Empowerment Act, shows that, concerning agricultural land, white Zimbabwean citizens, whether by naturalisation or birth, are not considered indigenous Zimbabweans.²⁶ The legal implications of these provisions are to deny white former commercial farmers the right to compensation for both land and improvements. This stance aligns with the principle of *expressio unius est exclusio alterius*, which signifies that the explicit mention of one or more items serves to exclude others of the same category that are not mentioned. In the case of *Nkomo & Anor v Attorney General & Others*,²⁷ Gubbay CJ, as he then was, illustrated the effect of this maxim by noting:

²⁵ [Chapter 14:13] (Indigenous and Economic Empowerment Act).

²⁶ Moyo (n 15) 632.

²⁷ 1993 (2) ZLR 422 (SC) 434.

This is no more than an application of the rule embodied in the maxim ‘expressio unius exclusio alterius’. It draws attention to the fairly obvious linguistic point that in many contexts the mention of some matters warrants an inference that the other cognate matters were intentionally excluded.

It, therefore, follows that the intention of the legislature was to exclude white Zimbabwean citizens either by birth or naturalisation from benefiting from compensation in respect of both land and improvements. Most of the indigenous Zimbabweans who fall within the category of section 295(1) purchased farms after 18 April 1980 and acquired title deeds.²⁸ An estimated 80% of indigenous Zimbabweans used their resources to buy farms.²⁹ Unfortunately, indigenous Zimbabweans who owned farms during this period were not spared when the FTLRP was implemented. They too suffered the drastic effects of being unexpectedly stripped of their property rights.

The above position was demonstrated in the case of *Bowers and Anor v Minister of Lands, Agriculture, Fisheries, Water and Rural Settlement*.³⁰ In the *Bowers* case, the applicant and her late husband, both indigenous Zimbabweans, had acquired a farm in Gweru, soon after independence. In pursuit of the FTLRP, the farm was compulsorily acquired by the government. It is noteworthy to mention the foundation of the assertion made by the applicant, which was grounded in the conviction that the law did not allow for the compulsory acquisition of land owned by indigenous Zimbabweans. To exercise her property rights, the applicant submitted an application to the Harare High Court to have the farm delisted, arguing that it was owned by indigenous Zimbabweans. The Court ruled against the applicant’s presumption premised on the unwarranted belief that compulsory acquisition of land was not applicable to indigenous Zimbabweans. Mutevedzi J clearly demonstrated his understanding of whose land can be compulsorily acquired by the state by quoting the case of *Naval Phase Farming (Private) Limited and Others v Minister of Lands and Rural Resettlement and Others*,³¹ and he held:

I am unable to agree that either the former or the current Constitution entrenches a policy that agricultural land must not be taken away from a black African Zimbabwean and given to another black African Zimbabwean.

The above statement by the Judge illustrates the fact that all Zimbabweans, black or white by birth or naturalisation, were subjects of the FTLRP. However, regardless of being subjected to the same programme, the manner in which compensation is to be administered differs under the Constitution of Zimbabwe.

²⁸ W Shaw “They stole our land”: debating the expropriation of white farms in Zimbabwe’ (2003) 41 *The Journal of Modern African Studies* 76.

²⁹ L Sachikonye ‘From “growth with equity” to “fast-track” reforms: Zimbabwe’s land question’ (2003) 30 *Review of African Political Economy* 227.

³⁰ *Bowers* (n 1).

³¹ HH 765/15.

The issue whether the mandatory acquisition of land under the FTLRP contravened section 23 of the Lancaster House Constitution was resolved and concluded in the case of *Campbell (Pvt) Ltd & Others v Minister of National Security, Responsible for Land Reform and Resettlement & Anor*.³² In this case, the Court clarified the interpretation of section 16(B)(a)(i) of the Lancaster House Constitution, asserting that the land acquisition programme did not contravene discrimination laws on the basis that it applied to all races in Zimbabwe. It is proposed that the Court's views in the *Campbell* case represent the correct legal position. The *Naval Phase Farming* case and the *Campbell* case buttress the fact that both white and black Zimbabweans were affected by the compulsory acquisition of land. However, the nature of compensation applicable is racially categorised to the extent that, indigenous Zimbabweans are compensated for both the loss of land and the improvements that were on the land, whereas, white Zimbabweans are compensated only for loss of land except those that fall within the bracket of section 295(2). The compensation applicable to indigenous Zimbabweans under section 295(1) of the Constitution of Zimbabwe was once derived from the Land Commission (Gazetted Land) (Disposal in Lieu of Compensation) Regulations³³ as opposed to the Global Compensation Deed.³⁴ Candidates who identified as indigenous Zimbabweans had to submit their applications for the restoration of title to land that was previously acquired by the Government.³⁵ These applications were reviewed by the Government and if circumstances warranted the restoration of title, it was granted.³⁶ If the farm had been reallocated, the Government revoked the offer letters for resettled farmers and provided them with alternative land elsewhere.³⁷ On the other hand, if restoration of the former farm was no longer possible, the Government offered alternative land.³⁸ The Minister of Lands, Agriculture, Water, and Rural Settlement was responsible for overseeing the process.³⁹ It should be noted that the Land Commission (Gazetted Land) (Disposal in Lieu of Compensation) (Repeal) Regulations, 2024, repealed these Regulations.⁴⁰ The rationale behind the repeal was that section 295 of the Constitution of Zimbabwe requires an Act of Parliament to provide for compensation, rather than relying on Regulations. The Government ought to have

32 2008 (1) ZLR 17(S) (*Campbell*).

33 Statutory Instrument 62 of 2020 (Land Commission (Gazetted Land) (Disposal in Lieu of Compensation) Regulations, 2020) (Regulations, 2020).

34 As above.

35 Regulations, 2020 (n 33) sec 4.

36 According to section 7 of the Regulations, 2020, the application was reviewed by a committee and recommended for approval to the Minister. The committee took into account various factors, including, whether the State on its own discretion, prefers to pay compensation in respect of the acquired agricultural land in question and whether the Applicant in question is in occupation of the farm or a part of it, to mention but a few.

37 Regulations, 2020 (n 33) sec 8.

38 As above.

39 As above.

40 Land Commission (Gazetted Land) (Disposal in Lieu of Compensation) (Repeal) Regulations, 2024 (SI 135 of 2024).

amended the Land Acquisition Act to clarify the process of compensation in accordance with the Constitution of Zimbabwe, rather than implementing unlawful Regulations.

2.2.2 Compensation for former farm owners protected by bilateral trade agreements

To start with, section 295(2) of the Constitution of Zimbabwe provides as follows:

Any person whose agricultural land was acquired by the State before the effective date and whose property rights at that time were guaranteed or protected by an agreement concluded by the Government of Zimbabwe with the government of another country, is entitled to compensation from the State for the land and any improvements by that agreement.

This category is entitled to compensation for both improvements and land, as per the respective agreement, known as either a Bilateral Investment Treaty (BIT) or a Bilateral Investment Protection and Promotion Agreement (BIPPA). It does not discriminate along racial lines, and the only factor considered is the existence of a bilateral treaty or agreement between Zimbabwe and the person's country of origin. Bilateral investment agreements or treaties are agreements that two countries or governments enter into to facilitate investments.⁴¹ These are guided by international investment law, which serves as a benchmark for providing laws, rules, regulations, and ethical standards that parties to the bilateral agreements must adhere to. Zimbabwe is a party to various bilateral agreements and treaties with different countries. During the FTLRP, Zimbabwe had bilateral agreements and treaties with Switzerland, Denmark, the Netherlands, Iran, China, Serbia, and Kuwait, among others.⁴² The agreements and treaties that Zimbabwe entered into with other countries created contractual obligations that Zimbabwe ought to have respected.

In order to reinstate property rights to persons whose agricultural land was forcibly taken and whose rights were at that time safeguarded or assured by a treaty established between the Government of Zimbabwe and another nation's government, the Constitution of Zimbabwe provides for compensation for both the land and any improvements made to it.⁴³ Similar to compensation under section 295(1) of the Constitution of Zimbabwe, compensation under Section 295(2) was also derived from the Land Commission (Gazetted Land) (Disposal in Lieu of Compensation) Regulations.⁴⁴ The Government of Zimbabwe has demonstrated a partial commitment to paying

⁴¹ Norton Rose Fulbright 'The application of bilateral investment treaties to international joint ventures' <https://www.nortonrosefulbright.com/en/knowledge/publications/c917cd24/the-application-of-bilateral-investment-treaties-to-international-joint-ventures> (accessed 28 May 2025).

⁴² T Musarurwa 'Govt rectifies violated BIPPAS' Herald Online (Harare) 13 October 2019, <https://www.heraldonline.co.zw/govt-rectifies-violated-bippas/> (accessed 28 May 2025).

⁴³ Sec 295(2) of the Constitution of Zimbabwe.

⁴⁴ Regulations, 2020 (n 33).

compensation to former farm owners, despite the existence of a legal framework governing compensation. For instance, it compulsorily acquired properties and farms owned by Border Timbers Limited. This was a violation of the investment protection and promotion agreement between Zimbabwe and Germany, which was entered into in 1995.⁴⁵ Further, Zimbabwe had an obligation to protect farms owned by Germans from compulsory acquisition.⁴⁶ Consequently, in 2010, Border Timbers Limited approached the International Centre for Settlement of Investment Disputes (ICSID) to seek contractual remedies against Zimbabwe.⁴⁷ An award of USD \$125 million was granted in favour of Germany in 2015. Zimbabwe appealed to have the award nullified, but it was dismissed by the ICSID in 2018.⁴⁸ Border Timbers Limited successfully applied to register the arbitral award in the High Court in England for the purposes of enforcing it. The Government of Zimbabwe did not give up easily. It further unsuccessfully challenged the registration of the arbitral award in the High Court of England, based on its immunity from the jurisdiction of United Kingdom courts, as provided for in the English State Immunity Act.⁴⁹

Zimbabwe has not yet provided full compensation to former farm owners who were protected by bilateral agreements or treaties and whose property rights were infringed upon during the FTLRP. Further, it is willing to seek further legal remedies to challenge the award.⁵⁰ The challenge of the award by the Government of Zimbabwe shows that it is not forthcoming in addressing the deprivation of property rights caused by the FTLRP. The Attorney General's attitude towards the dismissal of Zimbabwe's appeal is evident enough as she stated the following:⁵¹

The court still granted us leave to appeal, which we are still considering, as we were still within the time limit, so there is no victory to record. Saying so is a misrepresentation of the facts.

As indicated earlier, the Constitution of Zimbabwe stipulates that payment of compensation should be guided by an Act of Parliament, rather than Regulations, contracts, or statutory instruments. However,

45 <https://jusmundi.com/en/document/decision/en-border-timbers-limited-timber-products-international-private-limited-and-hangani-development-co-private-limited-v-republic-of-zimbabwe-decision-on-annulment-wednesday-21st-november-2018> (accessed 28 May 2025).

46 As above.

47 <https://jusmundi.com/en/document/other/en-border-timbers-limited-timber-products-international-private-limited-and-hangani-development-co-private-limited-v-republic-of-zimbabwe-second-declaration-of-agmos-moyo-on-zimbabwean-law-friday-14th-march-2025> (accessed 28 May 2025).

48 <https://jusmundi.com/en/document/other/en-border-timbers-limited-timber-products-international-private-limited-and-hangani-development-co-private-limited-v-republic-of-zimbabwe-second-declaration-of-agmos-moyo-on-zimbabwean-law-friday-14th-march-2025> (accessed 28 May 2025).

49 W Ruzvidzo 'We've legal options in border timbers dispute' Herald (*Harare*) 24 January 2024, <https://www.heraldonline.co.zw/weve-legal-options-in-border-timbers-dispute/> (accessed 28 May 2025).

50 As above.

51 As above.

the Government of Zimbabwe opted to compensate former farm owners whose rights are provided for in sections 295(1) and 295(2) through implementation of provisions in Regulations. This position was challenged in the case of *Mhondoro v The Minister of Lands, Agriculture, Water and Rural Resettlement and Anor*.⁵² In this case, the applicant applied for a declaratory order at the High Court, challenging the constitutional validity of the Land Commission (Gazetted Land) (Disposal in Lieu of Compensation) Regulations.⁵³ The aforementioned Regulations were promulgated by the Minister of Lands in line with section 17 of the Land Commission Act.⁵⁴ The Applicant's claim was based on the assertion that the Regulations infringed upon his constitutional rights to property, to be heard, and to administrative justice. It was noted that the Regulations contradicted section 295 of the Constitution of Zimbabwe, as the Constitution mandates that compensation must be provided through an Act of Parliament rather than through Regulations. The applicant was allocated a farm on 13 October, 2005, by the then Minister of State for National Security, Land Reform, and Resettlement. The farm was once owned by Broxfield Enterprises (Private) Limited. It was subsequently compulsorily acquired by the state under the FTLRP. The shareholders of the company were indigenous Zimbabweans, which meant they fell within the category specified in section 295(1) of the Constitution of Zimbabwe and were eligible to apply for compensation for both the land and improvements under section 4 of the Regulations. The legal principles established in this case, including the provision that indigenous Zimbabweans are entitled to compensation for land and any improvements made to that land, are equally applicable to acquisitions under section 295(2) of the Constitution of Zimbabwe, which also provides for compensation for both land and improvements.

The applicant believed that if Broxfield (Private) Limited made such an application, he could lose the farm. He further alleged that the objective of the FTLRP was to address past colonial injustices, therefore, in line with that endeavour, the Government of Zimbabwe was not required to provide compensation to former farm owners. It was further illustrated that the Minister did not have the authority to make regulations that provided for the disposal or alienation of agricultural land outside the confines of section 293 of the Constitution of Zimbabwe. Section 293 of the Constitution explicitly addresses the alienation of agricultural land by the state, stipulating that the procedures must be outlined in an Act of Parliament.⁵⁵ The court noted

52 HC 2773/20 (*Mhondoro*).

53 Regulations, 2020 (n 33).

54 [Chapter 20:29].

55 It reads as follows: '(1)The State may alienate for value any agricultural land vested in it, whether through the transfer of ownership to any other person or through the grant of a lease or other right of occupation or use, but any such alienation must be by principles specified in section 289. (2) The State may not alienate more than one piece of agricultural land to the same person and his or her dependents. (3) An Act of Parliament must prescribe procedures for the alienation and allocation of agricultural land by the State, and any such law must be consistent with the principles specified in section 289.'

that it was impractical to divorce matters of alienation and procedure since alienation of land did not occur in a vacuum, instead, it was supposed to be carried out through a well-defined procedure set out in an Act of Parliament to prevent chaos.

According to section 293(3), as read with section 295(4) of the Constitution of Zimbabwe, the process for the allocation and alienation of agricultural land is required to be established by an Act of Parliament, rather than through Regulations. In that regard, the judge made the following remarks:⁵⁶

Having determined that the procedure for alienation and amendment of the allocation of agricultural land by the State must be prescribed through an Act of Parliament and not through regulations, it follows that the regulations are unconstitutional as they are inconsistent with Section 293, read with Section 289, of the Constitution.

The Court concluded that the regulations were *ultra vires* section 293 of the Constitution of Zimbabwe, as read with sections 17 and 21 of the Land Commission Act to the extent that allocation of land must be done through an Act of Parliament.⁵⁷ Consequently, the Land Commission (Gazetted Land) (Disposal In Lieu of Compensation) Regulations were repealed in terms of the Land Commission (Gazetted Land) (Disposal in Lieu of Compensation) (Repeal) Regulations, 2024⁵⁸ as previously discussed under compensation to indigenous farmers.⁵⁹

2.2.3 Compensation for former white commercial farmers

Section 295(3) of the Constitution of Zimbabwe provides for the third category entitled to compensation as follows:

Any person, other than a person referred to in subsection (1) or (2), whose agricultural land was acquired by the State before the effective date is entitled to compensation from the State only for improvements that were on the land when it was acquired.

This section covers former white farmers from Zimbabwe whose agricultural land was compulsorily acquired during the FTLRP. These former white farmers are eligible for compensation solely for improvements made to the land. This stance diverges from sections 295(1) and 295(2) in that it restricts compensation exclusively to improvements. This provision enables the Government of Zimbabwe to rectify historical injustices experienced by indigenous black Zimbabweans before independence. Compensation as stipulated in section 295(3) originates from the Global Compensation Deed, which was executed in July 2020 by the Government of Zimbabwe and former white farmers whose land was taken by the state. The aims of the Global Compensation Deed encompass upholding the rule of law and addressing land disputes between the Government of Zimbabwe and

56 *Mhondoro* (n 52).

57 As above.

58 Regulations, 2024 (n 40).

white former farmers whose land was appropriated during the FTLRP.⁵⁹

Funds for compensation through the Global Compensation Deed are being raised through a resource mobilisation committee that encompasses members from the Government of Zimbabwe, individual farmers, representatives from organisations of white former farmers, such as the Commercial Farmers Union, through a thirty-year bond.⁶⁰ The bond is being financed through various sources, including multilateral, bilateral, and international sources.⁶¹ In accordance with the provisions of the agreement, fifty percent of the specified amount was to be paid within a year from the date of signing. Nevertheless, this payment was not executed, showing that the Government of Zimbabwe violated the terms of the agreement. Half of the amount stated in the deal is yet to be paid to the white former farm owners. The President of Zimbabwe claims that this agreement demonstrates the Government's commitment to rectifying past land redistribution injustices and restoring the rule of law.⁶² In that regard, he made the following comments:

The process that has brought us to this event is equally historic, as it reaffirms the irreversibility of land, while also serving as a symbol of our commitment to constitutionalism, respect for the rule of law, and property rights.⁶³

Andrew Poscoe, the head of the Commercial Farmers Union, also said, 'as Zimbabweans, we have chosen to resolve this long-standing issue'.⁶⁴

Similar contentions raised in the case of *Mhondoro v The Minister of Lands, Agriculture, Water and Rural Settlement & Anor*⁶⁵ have also been raised in this instance to the effect that the Global Compensation Deed is unconstitutional. As alluded to earlier, according to section 295(4) of the Constitution of Zimbabwe, compensation must be made in terms of an Act of Parliament, not through implementation of the provisions of a legal instrument such as an agreement or a deed. The Government of Zimbabwe, however, is opting to compensate former white farmers guided by the Global Compensation Deed, whose procedures are not clearly stated in the Land Acquisition Act. A press statement was released on April 9, 2025, by Professor Mthuli Ncube, the Minister of Finance, Economic Development, and Investment

59 Moyo (n 15) 634.

60 F Mupanedemo 'President clears air on land, SA envoys' *The Sunday Mail* (Harare) 13 September 2020, https://www.pressreader.com/zimbabwe/the-sun-day-mailzimbabwe/20200913/281487868765001?srstid=AfmBOoqouvLSrsuce6qzNf6bFzyI__r_DAXbybxTVRRHef3IBbfwvW3i (accessed 28 May 2025).

61 As above.

62 C Mavhunga 'Zimbabwe to pay displaced, foreign white farmers' <https://www.voanews.com/a/zimbabwe-to-pay-displaced-foreign-white-farmers/7972468.html> (accessed 28 May 2025).

63 As above.

64 As above.

65 *Mhondoro* (n 52).

Promotion.⁶⁶ In his address, he stated that the Government of Zimbabwe had made significant progress in fulfilling the terms and conditions of the Global Compensation Deed. He highlighted that 740 farms had been approved for compensation by the delegated authority, the Land Compensation Committee. Consequently, the Government of Zimbabwe allocated USD\$3.1 million intended for the initial batch, which includes 378 processed farms. Furthermore, it was claimed that this amount represented 1% of the cash claim, with the remaining balance to be settled through USD\$ denominated Treasury bonds featuring a 2% coupon and maturities ranging from 2 to 10 years.⁶⁷ The said bonds have various features, including prescribed asset status, transferability, and tradability, as well as liquid asset status and tax exemption.

Furthermore, as stated by the Minister of Finance, the Government designated USD \$10 million in the 2025 National budget for compensation to former farm owners in accordance with the Global Compensation Deed. He further stated:

The payment will continue. We are very serious about this. By settling our arrears, we can access long-term capital, which is essential for infrastructure development and other significant investments. This is not just crucial for the Zimbabwean Government; it also impacts our private sector, which faces restrictions from creditors due to these arrears. Lifting these caps will facilitate access to foreign capital, making it easier to obtain financing to support our industries and create meaningful jobs for our citizens.⁶⁸

The statement made by the Minister of Finance, on behalf of the Government of Zimbabwe, shows how the Government of Zimbabwe acknowledges that the FTRLP negatively and drastically affected various sectors of the economy. In light of that, and judging from the first payment that was made, it is submitted that, on the face of it, the Government is making an effort to abide by the terms and conditions of the Global Compensation Deed as a means to uphold the values and principles of the Constitution of Zimbabwe, including the rule of law.

The Government of Zimbabwe is required to raise USD 3.5 billion for compensation, as stipulated in the Global Compensation Deed, but it is challenging to raise that amount due to its known propensity for defaulting on foreign debt obligations and its low credit rating.⁶⁹ The compensation of former farm owners represents a crucial achievement in Zimbabwe's efforts to clear arrears and resolve debt. In February 2025, the Government allocated the first USD 20 million for compensating individuals classified under section 295(2), which applies to former farm owners impacted by the FTRLP and safeguarded

66 Online Reporter 'Stakeholders commend Zim's commitment to debt resolution' *Herald* (Harare) 26 May 2025, <https://www.heraldonline.co.zw/stakeholders-commend-zims-commitment-to-debt-resolution/> (accessed 28 May 2025).

67 As above.

68 Online Reporter 'Stakeholders commend Zim's commitment to debt resolution' *Herald* (Harare) 26 May 2025, <https://www.heraldonline.co.zw/stakeholders-commend-zims-commitment-to-debt-resolution/> (accessed 28 May 2025).

69 Moyo (n 15) 634.

by bilateral investment trade agreements.⁷⁰ These milestones represent essential actions undertaken by the Government in its pursuit to reestablish debt sustainability, eliminate arrears, and obtain new concessional external financing to fulfil its development objectives.

The Chairperson of the Compensation Steering Committee and former president of the Commercial Farmers Union, Andrew J. Pascoe, confirmed the receipt of payments and characterised the developments as yet another significant milestone by stating that:

On Monday, 24 March 2025, the first US Dollar Cash payments due under this plan were made to the signed-up former farm owners. On 29 July 2020, at State House, when I signed the Global Compensation Deed on behalf of the former farm owners, I highlighted the enormity of the achievement. After almost 20 years, we, as Zimbabweans, had been able to put aside our differences and, in an atmosphere of mutual respect and trust, negotiated an agreement that laid the foundation for the payment of compensation for improvements on farms that had been acquired by the Government of Zimbabwe under the Fast Track Land Reform.⁷¹

The Government of Zimbabwe, along with representatives from the former white farming community appear to be in consensus that the Government is making significant efforts to pay its arrears and restore the rule of law. Regardless of the aforementioned consensus, it does not diminish the political concerns that have been raised by war veterans to the effect that compensating former farm owners reverses the ideals of the liberation struggle.⁷² Five war veterans of the 1970s bush war, leading to Zimbabwe's independence, filed an application at the High Court challenging the constitutionality of the Global Compensation Deed.⁷³ Allegations of a lack of transparency in the deal have also been raised, and the method used to calculate the amount due to each farmer has been questioned.⁷⁴ The applicants in this case contended that the Global Compensation Deed was biased as it favoured former white farmers whose agricultural land was taken during the FTLRP. Manyangadze J dismissed the applicants' case and ruled in favour of the Global Compensation Deed. He noted that:

It is, therefore, not correct that the Global Compensation Deed violates section 295(4) of the Constitution. In the circumstances, the application to have the deed declared invalid and set aside cannot succeed.

The Judge buttressed the fact that section 295(3) of the Constitution of Zimbabwe permitted compensation to be awarded for improvements

⁷⁰ Zimbabwe Newspapers Network 'Government of Zimbabwe delivers on commitment: Compensation of former farm owners under the Global Compensation Deed commences' <https://zimpapersnetwork.co.zw/2025/04/09/government-of-zimbabwe-delivers-on-commitment-compensation-of-former-farm-owners-under-the-global-compensation-deed-commences/> (accessed 12 May 2025).

⁷¹ As above.

⁷² Moyo (n 15) 638.

⁷³ Staff Reporter 'War veterans challenge USD\$3.5 billion compensation for white farmers' *ZimLive* (Harare) 9 May, 2025, <https://www.zimlive.com/war-veterans-challenge-us35-million-compensation-for-white-farmers/> (accessed 28 May 2025).

⁷⁴ Zimnow 'From land seizures to compensation: Is Zimbabwe turning the page?' <https://zimbabweenow.co.zw/articles/14991/from-#> (accessed 28 May 2025).

only, unless exceptions applied. The court further clarified the allegations made by the applicants and various authors that the Global Compensation Deed contravened section 295(4) of the Constitution of Zimbabwe, which requires compensation to be made through an Act of Parliament. The Court stated:⁷⁵

The Global Compensation Deed is valid in that it will be implemented in terms of the Land Acquisition Act. The constitution mandates the government of Zimbabwe to compensate the white former farmers for improvements; this is what they have set out to do, and they are doing so within the legislative framework available.

Consequently, the application was rejected. In addition to the Constitution of Zimbabwe, the Land Acquisition Act serves as the other legislative framework that allows for compensation. Part V of this Act outlines the procedures for claims, as well as the assessment and disbursement of compensation. Section 16 of the Act establishes a duty for the acquiring authority to provide fair compensation to the landowner affected by the FTLRP within a reasonable timeframe. Furthermore, section 20 of the Act specifies the factors that must be considered when determining the value of compensation, which include the applicant's rights, public interest, land value, and considerations related to its location, nature, quality, and any other relevant factors influencing its value. Section 22 of the Act provides for the procedure for applying for compensation. Despite the existence of a current legislative framework on compensation, the issue remains a contentious one. As indicated by Manyangadze J, the Government was of the view that the compensation being granted is equitable and consistent with the existing legislative framework. In contrast, former farm owners believe that the current legislative framework on compensation does not meet international best practices.

Valuations done by the Government and those done by private valuators differ.⁷⁶ Moyo observes that there was an approximately 800% disparity between the privately estimated values and the values estimated by the Government.⁷⁷ The valuation gaps in compensation are a result of the ambiguous legal frameworks guiding compensation. In accordance with the compensation guidelines established by the Food and Agriculture Organisation (FAO), the valuation of property for compensation purposes should encompass the total of the valuation of improvements, the land's value, and the disturbance allowance.⁷⁸ Property valuation for expropriation falls within the statutory valuation

⁷⁵ As above.

⁷⁶ R Mpofu 'An investigation of the valuation methodology for compensation of former white owned farms in Zimbabwe. A case study of Seke and Goromonzi District' unpublished BSc dissertation, University of Zimbabwe, 2019.

⁷⁷ S Moyo 'A failed land reform strategy in Zimbabwe. The willing buyer willing seller' (2014) 2 *Public Policy and Administration Review* 69.

⁷⁸ <https://cfuzim.org/wp-content/uploads/2020/06/faocomp-1.pdf> (accessed 19 June 2025).

class.⁷⁹ The valuator is guided by legislative frameworks on how to calculate the compensation value. The legislative frameworks must be unambiguous to avoid misinterpretation.

In light of FAO regulations, it is asserted that the issues brought forth by the war veterans are legitimate. The Constitution of Zimbabwe stands as the highest law of the land, and any practice, agreement, or custom that contradicts it is rendered null and void.⁸⁰ Section 295(4) of the Constitution of Zimbabwe is explicit and unequivocal. Compensation must be enacted through an Act of Parliament, not through an agreement or contract. The Global Compensation Deed does not disclose how the value of compensation was determined. It is vague and ambiguous. The absence of provisions in the Land Acquisition Act regarding the implementation of the Global Compensation Deed highlights the deficiencies in transparency and accountability within the compensation process. This is against the intention of section 254(4) of the Constitution of Zimbabwe. However, despite concerns raised and court applications lodged, the Government has already begun disbursing funds to former farm owners.

2.3 Liability for Compensation of the Land Value under Section 72 of the Constitution of Zimbabwe

The Constitution of Zimbabwe places a duty on the British Government, as the former colonial authority, to provide compensation to former white Zimbabwean farmers for agricultural land that was compulsorily acquired during the FTLRP.⁸¹ Compensation for agricultural land as stipulated in section 72(7)(c)(i) of the Constitution of Zimbabwe should be administered through a fund. Nevertheless, this provision is contingent upon the condition that if the colonial authority (Britain) does not fulfil its obligation to compensate for the land, then the government of Zimbabwe is not required to do so. Zimbabwe excluded itself from compensating white farmers for land through a constitutional provision. The rationale for this approach is couched in the wording of section 72(a) and (b) of the Constitution of Zimbabwe. It emphasises that during the colonial period, the people of Zimbabwe were wrongfully deprived of their land and other resources without any form of compensation, consequently, they had to go to war to regain political sovereignty and land. The United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law notes that victims of such abuses have a right to adequate, prompt and effective reparation.

⁷⁹ P Paradza & others 'A critical review of property valuation for expropriation in Zimbabwe' The 19th AfRES Annual Conference, University of Pretoria.

⁸⁰ Sec 2 Constitution of Zimbabwe.

⁸¹ Sec 72(7)(c) Constitution of Zimbabwe.

Sources of international law regarding reparations encompass the principles of customary international humanitarian law, specifically Rule 150, which provides that the state accountable for breaching international humanitarian law must provide full reparation for the damages or injuries inflicted.⁸² Considering Zimbabwe's history, it justifies the application of Rule 150, which states that Britain violated international humanitarian law. Therefore, it follows that the British Government must bear the responsibility to compensate white former farmers for land expropriated during the FTLRP. This rule is applicable to both non-international and international armed conflicts. It was demonstrated in the *Chorzow Factory* case,⁸³ wherein it was determined that a fundamental principle of international law requires the payment of reparations for breaches of international law to 'wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if the act had not been committed.'

Reparations are meant to restore the *status quo ante*. It therefore follows that they ought to consist of a restitution in kind, or if this is impossible, payment of a sum that is equivalent to the value as compensation. In the case of Zimbabwe, reparations were done through the FTLRP. It was designed to restore land to black Zimbabweans that had been expropriated from them through colonisation by the British government. This perspective provides a rationale for section 295(3) of the Constitution of Zimbabwe, which makes a racial distinction between black Zimbabweans and white Zimbabweans, providing that black Zimbabweans have the right to receive compensation for both land and improvements. In contrast, white Zimbabweans are only entitled to compensation for improvements on the land. In terms of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.⁸⁴ It is an established norm that the colonisation of African countries, including Zimbabwe, was accompanied by violations of international humanitarian law.

3 CONCLUSION

This article finds that the fast FTLRP violated a plethora of human rights, including property rights. Farm owners, including black and white Zimbabweans, were stripped of their agricultural land. Agricultural land was redistributed amongst black Zimbabweans. The justification for the programme was premised on repairing historical injustices perpetrated upon black Zimbabweans during the colonial era. The colonial era was characterised by white farmers owning vast

⁸² ICRC 'International Humanitarian Law Databases' <https://ihl-databases.icrc.org/en/customary-ihl/v1> (accessed 29 May 2025).

⁸³ International Court of Justice 'Series A: Collection of Judgments (1923-1930)' <https://www.icj-cij.org/picj-series-a> (accessed 28 May 2025).

⁸⁴ United Nations Basic Principles and Guidelines (n 2).

and fertile lands in Zimbabwe. This position exposed the majority of black Zimbabweans to barren and small pieces of agricultural land. The FTLRP had devastating effects upon Zimbabwe, including the imposition of sanctions from Western countries due to how the programme was carried out.

This article further finds that, for Zimbabwe to rectify the violations of property rights perpetrated against victims of the FTLRP, section 295 of the Constitution of Zimbabwe categorically guarantees compensation to indigenous Zimbabweans for both land and improvements. Section 295(2) ensures compensation for both land and improvements to former farm owners impacted by the FTLRP who were covered by bilateral agreements, while section 295(3) provides compensation solely for improvements to former white farm owners. The racial categorisation imposed by the Constitution of Zimbabwe affects the nature of compensation awarded. It has been demonstrated that this racial classification is warranted due to the Government of Zimbabwe's efforts to rectify historical injustices in land distribution that were inflicted upon black Zimbabweans. This has international backing as international humanitarian law provides for compensation to victims of gross human rights violations.

Furthermore, it has been demonstrated that section 295(4) of the Constitution of Zimbabwe requires that payment of compensation be guided by an Act of Parliament, which should outline clear procedures for calculating compensation. The relevant Act of Parliament is the Land Acquisition Act. However, the Government of Zimbabwe has initiated compensation for former farm owners through the Global Compensation Deed, which was signed by representatives of the former farm owners and the Government. This position has had a double-edged sword effect. On the one hand, the Government of Zimbabwe has been commended for honouring its obligations to compensate former farm owners; on the other hand, it has been criticised as acting *ultra vires* the Constitution of Zimbabwe, considering that compensation must be done through an Act of Parliament and the Land Acquisition Act has not complied with in the processes leading to compensation.

The article additionally examined section 72(7)(c) of the Constitution of Zimbabwe, which establishes a duty for the British Government to provide compensation for agricultural land that was compulsorily acquired during the FTLRP. Compensation for agrarian land under section 72(7)(c) should be done through a fund. Nevertheless, the provision is contingent upon the condition that if the colonial power (Britain) does not provide compensation for the land, then the government of Zimbabwe is under no obligation to fulfil this requirement. Thus, the Government of Zimbabwe exonerated itself from compensating white farmers for land through a constitutional provision.

To strike a balance between compensation to former white farmers and reparations to the indigenous farmers, it is recommended that the Government of Zimbabwe must first and foremost abide by the provisions of the Constitution of Zimbabwe, which, among other things, mandates that all issues of compensation should comply with provisions of an Act of Parliament. In the absence of a particular

provision, the necessary amendments must be effected. Secondly, it must allocate the resources needed to ensure that all matters related to compensation are finalised within a reasonable timeframe. Thirdly, the Government of Zimbabwe should not merely impose a constitutional obligation to compensate former white farmers for their land in Zimbabwe without engaging in serious negotiations with the United Kingdom for the eventual compensation of these farmers. Moreover, the Government of Zimbabwe should not impose a blanket exemption from compensating all former white farmers and transfer the obligation to Britain, as some of the farmers acquired their land long after colonisation, and such acquisitions were legitimate. Imposing a blanket categorisation would do injustice to such former farmers who, in most cases, are Zimbabwean citizens.