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External Donors, Domestic Political Institutions and Post-Colonial Land Reform: A Comparison of Zimbabwe and Namibia.

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Chapter 1: Introduction

> Land reform is often viewed in moral and political terms, as a necessary means by which land may be redistributed, for example to the landless poor to help alleviate poverty, as reward for struggles for liberation, and to help redress population-land imbalances. What is generally crucial is that land should not only address issues of equity, but also productivity.[1]

The Zimbabwean socio-political and economic crisis is not only restricted to its own borders. It has brought the land issue to the top of the political agenda in the Southern African region. It was a sobering "wake up call" to neighbouring countries that are dragging their feet and undertaking piece-meal land reforms.[2] The disruption of the agricultural economy in Zimbabwe and the violence that went with it culminated in demonisation of the Zimbabwean government. This was an act of proponents of the market-based land reforms within the rule of law namely, the World Bank, international financial institutions, non-governmental organizations, the European Union, the Commonwealth and others.

Some leaders, especially those in the Southern African Development Community (SADC), have seen Robert Mugabe as a victim of colonial injustices. Mugabe's rhetoric has thus evoked images of liberation wars in people like Sam Nujoma of Namibia, Benjamin Mkapa of Tanzania and Thabo Mbeki of South Africa among other presidents. Liberation wars were fought to correct the colonial land imbalances inter-alia. The Southern African region clearly has recurrent land problems whose

[1] T.A.S. Bowyer-Bower and C. Stoneman, "Land Reform's Constraints and Prospects Policies, Perspectives and Ideologies in Zimbabwe Today," In: T.A.S.Bowyer-Bower/Colin Stoneman (eds.), Land Reform in Zimbabwe: Constraints and Prospects, Aldershot, Ashgate, 2000, pp. 1-14.
[2] L.M.Sachikonye, Inheriting the Earth in Southern Africa, Catholic Institute for International Relations publication, London, 2004, p. 3.

roots are embedded in the colonial era.[3] However as evident in the first citation above land reform can be very damaging if done outside the rule of law.

1.1 Research Question and hypothesis

This paper examines post-colonial land reform in Zimbabwe and Namibia. At issue is a critical examination of whether land reforms are pursued according to some legitimate set of rules or alternatively through the discretionary state power to confiscate. The crux of the matter is under what conditions are governments likely to embark on land reform within the rule of law. The approach taken in turn has an effect on government-donor relations with regard to land reform. This is situated in the context of national and international law with regard to property rights. The paper also assesses the effects of domestic political institutions on donor-government relations.

A premise of this paper is that inasmuch as land reform is necessary it is not likely to be successful if it does not take place within the rule of law. The hypothesis is that the major causes for abandonment of rule-governed post-colonial land reform are decisions by the political elite as a means for political survival. The government takes advantage of the land issue to further its own interests. Most institutions and international conventions have legal requirements for expropriation and limitations to government authority to expropriate land, but they are not binding. International law seeks to place limitations on government's discretionary powers in this regard but enmeshed in the principle of self-determination.

[3] J.Gerring and J. Mahoney, "Colonialism and its legacies: A Comprehensive Dataset," 2004, p. 2.

Ownership of land in both Zimbabwe and Namibia is a major source of antagonism that must be addressed or it can be used as a shield by politicians who want to hide their own incompetence. Legislations such as the 1930 Land Apportionment Act in the then Southern Rhodesia and the 1920 Land Settlement Proclamation in the then South West Africa alienated Africans to areas that were not suitable for productive agricultural activities. These were areas that were dry, sandy and had very poor rainfall patterns. Both external donors and governments in Zimbabwe and Namibia agree that land reform must take place. Mohammed Sufian accordingly noted that both Zimbabwe and Namibia are legitimate members of the global village thus they are subject to international standards and its consequent pressures.[4]

1.2 Research Rationale

The land acquisition process in Zimbabwe and Namibia enabled the minority white settler population to officially assign and take the most productive areas for them to occupy. This triggered a cycle of forced resettlement, resource exploitation and degradation. Paradoxically many years after attainment of independence, until about five years ago the white minority continues to occupy these lands. Its intrusion into the present has had a bearing on donor-government relations especially when it comes to land expropriation subject to the rule of law. The land issue has thus become complicated and difficult to resolve.[5]

Land reform in Southern Africa as a whole has been complicated by the colonial history of racial segregation. Henning Melber accordingly noted that "gross inequalities in access to and possession of land are still today a reflection of historic

[4] H.B.Sufian, In: R.Nalisa, "Politics-Namibia: Criteria Needed for Expropriations of Farmers,"http:www.n-today.ndtildd.co.uk/mfor.htm, p. 3.
[5] P.Okigbo, "The Future Haunted by the Past" in Adebayo Adedeji (ed), Africa Within the World, Zed Books, London, 1993, p. 31.

injustices committed by the agents and beneficiaries of colonialism."[6] The problem that is an outgrowth of this system is that land ownership became one of the deficits that were carried forward from the past. According to Bill Freund neo-colonialism can be defined as "the continuation of practices of domination after independence by the old colonial powers."[7] The process of decolonisation and transfer of power has been one of controlled change as a result of internally and externally negotiated settlements. The independence bargain invariably contained formal promises of upholding property rights ensuring continuity of imperial economic requirements.[8] This is an issue with settler colonies; an example is that of Ghana which had very little property owned by non-Ghanaians.

When Zimbabwe in 1980 and Namibia in 1990 attained independence, they upheld the extractive institutions that had been excluded the general populace. In Zimbabwe the Lancaster House agreement made certain that there would be a constitutional continuity that safeguarded the minority rights for the settlers for the first ten years. In Namibia, a western contact group during the 1980s adopted constitutional principles that benefited the settlers. This is what was adopted at independence. In both instances, constitutions served the purpose of maintaining the status quo at independence.

The post-colonial governments have a problem of how to make restraints self-enforcing once in power. According to Paul Collier,

[6]H. Melber, "Contested Territory: Land in Southern Africa-The case of Namibia," Journal of Namibia Scientific Society, Vol.50, 2002, p. 2.
[7] B. Freund, The Making of Contemporary Africa, Macmillan Education Ltd, London, 1984, p. 235.
[8] J. Herbst, State Politics in Zimbabwe, University of Zimbabwe Publications, Harare, Zimbabwe, 1990, p. 42.

> agents of restraints are institutions which protect public interests from depletion, prevent inflationary money printing, prevent corruption, protect socially productive groups from exploitation and enforce constraints, for such agencies to work they must be protected from the pressure they are designed to check, the executive, Legislature and the Judiciary.[9]

Susan Booysen contends that in the domain of land and political power is the legacy of colonialism that is directly challenged through both land seizures and legitimate discourses of pan-Africanism and anti-colonialism.[10] "The law of the land" and the need for political justice in Zimbabwe is used to largely legitimise forceful, coercive and unconstitutional actions that worsen relations between the government and the external donors. The process of land reform in Southern Africa has been considered by the landless as painfully slow. Racial conflict over land becomes spiral and cancerous hence it is now haunting not only Zimbabwe and Namibia but, the Southern African region as a whole.[11]Abraham submits that the relationship between power, discourse and political institutions and practices makes a lot of contributions to the study of African politics.[12]

The research report examines the applicability of domestic political institutions and policies and actions of external donors being characterized as "independent variables" obstructing adherence or abandonment of a rule governed-land reform. A comparative case study of Zimbabwe and Namibia is a very significant point of departure,

[9] P. Collier, "Africa's External Economic Relations: 1960-1990," African Affairs, Vol. 90, 1991, p. 339.
[10]S. Booysen, "The Dualities of Contemporary Zimbabwean Politics: Constitutionalism versus the Law of Power and the Land, 1999-2002." African Studies Quarterly, Vol. 7, No.2&3: (online) URL: http://web.africa.ufl.edu/asq/v7/v7i1.htm, p. 2.
[11] P.Bond, "Transition Dangers and the Opportunities for Zimbabwe's Economy and Society," Institute of Security Studies, 17 June 2003, p. 36.
[12]R. Abraham, In: H.Melber, Introduction: Limits to Liberation in Southern Africa, Namibian Institute for Democracy and the Legal Assistance Centre, Namibia, July 2002, p. XV11.

Zimbabwe on one hand is undergoing a crisis: an outgrowth of its radical farm invasions that overtook the legal processes.

Zimbabwe once “a darling” of the donor community is now an outcast. The very same external donors who had lined up with offers of aid now regard as worthless, mock and ostracize Zimbabwe. This research report therefore attempts giving an explanation why donors were not willing to provide financial assistance in the 1990s or how the domestic political environment in Zimbabwe created stronger temptations to abandon law-governed land reform straining the Zimbabwe government-donor relations. An analysis on whether violent farm invasions were a result of the two factors above will also be made. On the other opposite end of the spectrum is Namibia, which is pursuing a market-based land reform within the rule of law similar to the one that was discarded in Zimbabwe.

Paradoxically, in Namibia the “wind of change” is blowing, there is pressure from the landless people and some members of the SWAPO elite to radicalise land reform. This is gathering momentum. The report gives an insight into whether land invasions may become part of the Namibian equation in resolving the land problem. An assessment of the Namibian prospects to embark on violent farm invasions or not is premised on consideration of similar factors used in the Zimbabwean context.

Land acquisition and dispossession in many parts of Africa was embedded in the political institutions that were established during the colonial era. According to Ibbo Mandaza, “as a geo-political construct and concept, Southern Africa is no more than a

reflection of the historical and socio-economic forces that almost succeeded in molding it into a white dominion similar to Australia, Canada and New Zealand."[13]

Mandaza went on to argue that the "historic compromises" reached during decolonisation in Southern Africa were very much determined by the interests of white settler colonialism on one hand and its Cold War imperatives on the other. Substantiating his point of view, he pointed out that the settler colonial interests were to ensure that the independent African states would abide with rules and regulations of international capital. It is in this guise that independent constitutions are an expression of the compromise.

He argues that constitutions "constitute the virtual guarantee-especially through the Bill of Rights for economic continuity in the maintenance of the old social relations of production, and even a "formal blessing" of property ownership established under white settler colonialism."[14] The interests of the whites were land and minerals. This was achieved and consolidated by legislation. The law was the vehicle of perpetrating racially biased land ownership and this continued after independence.[15] However Douglas North and Barry Weingast argue that constitutions are essential in controlling governments to respect and enforce rules, thus constitutions must be self enforcing and difficult to change so that they can not be manipulated for selfish purposes by those in power.[16]

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[13] I.Mandaza, "Southern African Identity: A critical Assessment,"http://www.ipacademy.org/PDF_Reports_s_%20 Africa. PDF, p.135.
[14] Ibid. p.137.
[15] E.Lahiff, "The Regional Implications of the Crisis in Zimbabwe: Rationale and Principles of Regional Support for Land," Programme for Land and Agrarian Studies, University of Western Cape, p. 46.
[16] D.C. North and B.R. Weingast, "Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth-Century England," Journal of Economic History, Vol.49, No.4, 1989, pp.803-807.

It must be stressed that Southern Africa is in some ways unique from other parts of Africa. A comparison with what happened in Kenya and Algeria denotes that Southern Africa is the only part of the continent that experienced large scale settler-colonialism. What is unique is that the dual economy survived relatively undisturbed during the transition to independence. A dual agricultural economy is made up of a large scale intensive sector that produces commodities for both internal and external markets. In such instances the small scale sector produces mainly food crops for domestic consumption. It survived relatively undisturbed during the transition to independence and with it survived the highly inequitable land and agricultural opportunities created under colonialism.[17]

Though unequal land distribution is not unique to southern Africa, what is unique is that in Zimbabwe and Namibia, prime land much less than five years ago was concentrated in the hands of a racial minority. The white minority is thus characterised as unsympathetic to the broad liberation agenda that is the core of the contemporary political and economic discourse.[18] On the other hand external donors are emphasizing on good economic and political governance as a prerequisite of obtaining funds for land reform programmes.

Land reform is based on both equity and efficiency on political and economic grounds. The brutal expropriation of land at the advent of colonialism is a strong political argument used by politicians to justify radical land redistribution to the historically disadvantaged. Contrary to this ideological point of view is the economic

[17] Ibid.
[18] D.C. North and B.R Weingast, Op. Cit. p.47.

argument. Enmeshed in this economic viewpoint, are the repercussions of confrontations with commercial farmers that lead to loss of investor confidence and foreign exchange earnings. Confrontations can also affect national food security. Accordingly, Edward Lahiff posits that the post-colonial governments nurtured the dual economy and with it the severe inequalities of land holding.[19]

This research is relevant to those engrossed in academic studies, researchers and government policy mentors in the whole of Southern Africa especially SADC member countries. The manner in which land reform is treated will albeit determine whether it will be a region with a future based on hope and dignity where donors are willing to assist or a future torn apart by conflicts.

Land was used as a mobilising vehicle for national liberation struggle in Zimbabwe, Namibia and South Africa. Whites are therefore treated as a homogeneous category that has always exploited the African inhibitors of Southern Africa. This research is also meant to highlight the fact that land reform in Southern Africa is a necessity. Insufficient political will on the part of the ruling elite and commitment by all parties involved for example commercial farmers, civil organisations and the donor community will presumably result in violent land invasions, as was the case in Zimbabwe.

[19] Ibid.

1.3 Theoretical Framework

Melber contends that colonialism in Namibia was about land dispossession. It was because land was the basis of their mode of production that laws were enacted to control property and ownership rights in the interest of colonialists.[20] He argues that it is because of this historic injustices perpetrated by the agents and beneficiaries of colonialism that the land problem still exists.

The fundamental importance of land in Africa was clearly articulated by Jomo Kenyatta, an African nationalist who submitted that land is an important factor in the social, political, religious and economic life of Africans. As agriculturalists, it gives them the material needs fulfilling their spiritual and mental needs. Land thus is analogous to a mother who feeds a child through lifetime. Even after a person has died it is again the soil that nurses the spirit of the dead for eternity.[21] Land reform conflicts pose a serious threat to the socio-economic and political stability of the Southern African region if allowed to continue unabated.

Land ownership was the cornerstone of the colonial governments' development policy. This meant that the legacy of the colonial era entailed giving political and economic control to the colonisers. This resulted in a land policy that alienated indigenous people from much of the land.

Through a system of divide and rule, the colonial rulers employed a system of political and economic co-optation in their endeavor to make African nationalism for

[20] H. Melber, "Economic and Social Transformation in the Process of Colonisation: Society and State Before and During German Rule." In C.Keulder (ed.), State, Society and Democracy. A Reader in Namibian Politics, Gamsberg Macmillan, 2000, p. 36.
[21] J. Kenyatta, Facing Mount Kenya, Heinemann Books Ltd, London, 1938, p. 21.

continued settler and by extension capitalist domination. Educational privileges divided society; hence colonialism affected the relations between different groups that were hierarchical and essential for colonial and post-colonial regimes. They were designed to preserve the integrity of colonial settler state. It is logical to submit that settler colonialism has "positive" and "negative" effects on contemporary former settler colonial states.

Acemoglu, Johnson and Robinson argue that former settler colonies are less likely to give rise to "predatory" post colonial governments. Substantiating their argument they pointed out that settler colonies tended to have some form of representative institutions that made governments more responsive and accountable to the settler population. They suggest that, after independence, these representative institutions can be made more inclusive as the case with South Africa giving rise to better governance. The contrast is with non-settler colonies, where the colonial state, they argue, mainly served to facilitate the "predatory" extraction of resources and wealth.[22]

Samuel Huntington also supported the argument that settler colonialism may leave a "positive" legacy. He categorically stated that "western colonialism has been the most important means of diffusing democratic ideas."[23] He posits that for democracy to exist it is a result of the fact that the ruling elite in an authoritarian system or those who come in after the collapse of an authoritarian system see it advantageous to introduce democratic institutions.[24]Tom Lodge also pointed out that post-colonial states in Southern Africa are "notable for their relative administrative capacity in

[22] D. Acemoglu, S. Johnson and J.A. Robinson, The Colonial Origins of Comparative Development: An Empirical Investigation, The American Economic Review, Vol.91, No.5, 2001, pp.1370-1374.
[23] S.P. Huntington, "Will more Countries become Democratic?" Political Science Quarterly, Vol. 99, No.2, 1984, p.206.

contrast with other parts of Africa. Settler colonialism helps to explain the degree of modern state effectiveness in this region."[25]

Domestic political institutions and the policies and actions of external donors as independent variables, determine whether to pursue a rule-governed land reform or not. North and Weingast as cited earlier, argue that there have to be political institutions for those in power to respect property rights. However this is determined by the willingness of those in power to commit them to respecting property rights and this can be a result of two factors. Firstly, a ruler may show commitment to establish rules that are consistently enforced. Secondly a ruler may be constrained to abide with a set of rules that do not give him the freedom to renege his commitment.[26]The importance of the constitution and other political institutions is to act as "checks" so that rulers do not behave "irresponsibly."[27]

Frantz Fanon argued that post-independent governments tended to be predatory and less democratic. He observed that the spirit of nationalism and independence created a momentary alliance between the western educated class and the majority of the general populace. This alliance later proved to be temporary and fragile. He argued that "no sooner had the politics of take over been exhausted, the national bourgeoisie lapsed into extreme political lethargy, motivated only by private greed and vanity. With no historic mission they did not bother to try and take the people with them, they became comprador bourgeoisies.[28] He also criticised the misuse of power by the

[24] S.P. Huntington, Op. Cit. p.214.
[25] T. Lodge, "The Southern African Post-Colonial State," Journal of Commonwealth and Comparative Politics, Vol.36, No.1, March 1998, p.21.
[26]D.C. North and B.R. Weingast, Op. Cit. p.804.
[27] Ibid.
[28] F. Fanon, The Wretched of the Earth, Penguin, Hammonds Worth, 1963, p. 36.

party. The ruling elite do not want the general populace to participate in affairs of running the state but strictly controls them to make them become aware that what is only required of them is obedience and discipline.[29]

The land reform problem therefore can arguably dismantle restraints inherited at independence. The economic status quo was left intact no matter how unequal or unsustainable. Such transitions replaced the repression of politicians with neo-liberal policies, explaining why the ruling elite of "democratic politicians" either went for the ride, at times complaining a bit or bought into the Washington consensus.[30]

Because of their small size, the elite benefited more, thus despite objectionable political rhetoric they supported the existing institutions for they were also investing in physical capital hence they spent time and effort enforcing property rights.[31] Melber quoting Tocqueville contends that, it became similar to the French revolutionaries who in the process of establishing the structure of the new system retained the mentalities, habits, and ideas of the old state yet their aim was to destroy it. "They built on the ruble of the old state to establish the base of the new society."[32]

Lodge and others contend that colonial economies developed in conjunction with colonial hierarchies. Underprivileged classes were not involved. Lodge argues that if there are contestations erupting as a result of the settler colonial legacy then that would be a reflection of dissatisfaction of the classes marginalised by the capitalist

[29] Ibid. p. 132.
[30] P. Bond, Op. Cit. p.38.
[31] D. Acemoglu-et.al, Op. Cit. p. 15.
[32] H. Melber, Introduction: Limits to Liberation…., Op. Cit. p.XV11.

social order.[33] The postcolonial ruling elite used the state instruments of oppression namely the army, police and the "law" to intimidate and suppress any revolts or resistance by the peasants.

Lodge argues that revolts are mainly a result of marginalisation. There is increased occupational marginalisation, which culminates in poverty. In such instances land shortage and restraints to political rights begin to be questioned. In that context revolt may be in the form of a leadership struggle between dominant and emerging elite. Insurrection also encompasses a combination of "different communal struggles, united in an ideological sense than an organizational one"[34]. Ideology then will be a model and determinant of historical action and political behaviour. Ideas adopt new meanings and outgrow the importance and content attached to them by their original advocates.

George Ayittey, Suzaine Danserau, and others contend that Africans inherited democratic political institutions like the executive, judiciary and legislature but have destroyed them. Misguided leadership, corruption, capital flight and economic mismanagement inter-alia have exacerbated the situation.[35]

It can logically be argued that effective land reform and good governance are potentially two sides of the same coin in ex-settler colonies. In this sense land reform and the rule of law will regularly be intertwined. During the 1990's external donors put a lot of emphasis on good political and economic governance. Prior to the end of

[33] T. Lodge, Resistance and Ideology in Settler Societies, Southern African Studies, Vol. 4, Ravan Press Ltd, Johannesburg, 1986, p. 1.
[34] T. Lodge, Resistance and Ideology, Op. Cit. p.4.

the cold war, donors had assisted leaders such as Mobutu Sese Seko, Daniel Arap Moi, Robert Mugabe and others with a disproportionate share of aid despite poor policy regimes. Donor strategic interests influenced the allocation of aid to client countries so that they would not support the Soviet bloc.

The end the cold war thus freed the donors. They begun calling for conditions of good governance as part and parcel for aid disbursement. In a nutshell, the end of the cold war broadened governance-related concerns in the donor endeavor to promote democracy.[36] Rod Alence strongly contends that the "Strongest temptation for governments to jeopardise their own countries' developmental prospects are rooted in political insecurity."[37] This in the long run exacerbated the relations between some governments and the donor community resulting in demonisation and counter-demonisation. There is absolutely no doubt that farm invasions in Zimbabwe continue to have effects across the African continent given its highly political nature and disregard for the rule of law.

1.4 Methodology

The research is empirical in nature. While undertaking the research, I used the qualitative method as a means of collecting data. I used provisions that are put forward in international law, especially on property rights to show that land invasions are unconstitutional if they do not abide to national and international laws. This therefore strains the relationship of respective governments and the donor community.

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[35] S. Danserau, "Liberation and Opposition in Zimbabwe," Journal of African Studies, Vol. 21, No.2, May 2003, p. 146.
[36] R. Alence, "Political Institutions and Developmental governance in Sub Saharan Africa," Journal of Modern African Studies, Vol. 42, No.2, 2004, p. 166.
[37] Ibid. p.167.

The research is positioned in the realm of how the international and national laws examining why land reforming societies are at times undertaken within the rule of law and sometimes not. Requirements by both the donor community and the governments concerned thus determine donor-government relations. Constitutions and political institutions can be used as restraints to make governments behave "responsibly" though it is the government itself that eventually decides whether to stick to the rules or not.

I considered bilateral donors like, Britain, USA and other countries that are involved in financing land reform programmes. Other donors considered in this research are the World Bank, the IMF, the European Union and the United Nations because they are very much involved in development policies that are taking place in former settler-colonial states. The importance of considering such donors is that they contend that land reform is a necessity but must conform to national and international laws of countries involved. They are also the ones that provide the financial backing for such land reform programmes.

The emphasis of the donor community is that the land reform process must be transparent and benefit the disadvantaged rather than the ruling elite. I conducted interviews in Zimbabwe of some personal contacts including resettled peasants, some war veterans and others. I asked their views on why governments at times adhere to a rule-governed land reform and at times abandon it culminating in the deterioration of government-donor relations as was the case in Zimbabwe, how they view land reform in Namibia and whether farm invasions are likely to occur as was the Zimbabwean situation. I conducted e-mail interviews from some Namibian members of

organizations relevant to my topic. To substantiate my research I also made use of primary sources like Newspapers secondary sources like books and journals.

1.5 Limitations of existing literature

The topic of land reform is a topic of much heated debate that is far from being exhausted. It is a complex issue that has a lot of factors at play and requires critical examination. John Gering contends that topics that have something to do with settler colonialism suffer from simultaneous promiscuity and neglect.[38] Contemporary social conflicts are always blamed on settler colonialism and conclusions have always been obvious especially to those who subscribe to the dependency theory. Huntington, Acemoglu and others posit that political institutions established during colonialism survived as they had been after the attainment of independence. They contend that these institutions are more likely to promote democracy.

Another school of thought propounded by Lodge and others argue that social conflicts like that over land reform are a result of inequity. The postcolonial independent elite exploited the political institutions established during colonial rule for their own benefit.[39] Fanon, Ayitteyi, Danserau and others contend that Settler-Colonialism resulted in the establishment of predatory states that are not democratic.

It must be noted that though the colonial settler legacy cannot be ignored in explaining contemporary social conflicts, there are a lot of factors that influence outcomes. Some occurrences that catalyse and mould occurrences might be ignored altogether. An example is how the role played by the government that manipulate issues for political survival may be undermined. Another conflicting aspect is that of

[38] J. Gering and J. Mahoney, Op. Cit. p. 4.
[39] T. Lodge, Resistance and Ideology, Op. Cit. p. 3.

donor emphasis on issues of governance when they feel that "regime change" is overdue in a particular country. Reductionism thus led to some factors being ignored.

It can logically be submitted that radical land reform conflicts and subsequent invasions by the landless is a recent occurrence. This is radical land invasion is arguably new to Southern African region. Land conflicts were in existence during the colonial period; this explains why it was a major force for mobilisation to engage in liberation wars in Southern Africa. The existing literature does not explain the role of national and international law in determining government-donor relations to make land reform sustainable. It also does not explain how globalisation has a bearing on current existing occurrences and how it determines donor-government relations to undertake land reforms.

As for theory, I applied that of Africa in the international system to substantiate the donor-government relations in international relations. Christopher Clapham emphasizes how the domestic political vulnerability of African states affects their behaviour in the international arena, for example in their relations with donors and international institutions. He accordingly noted that states in Sub-Saharan Africa are subordinate because of poverty and that they are weak.[40] He noted that international politics affect these states and people in ways that often differ from the manner in which it affects the people and governments of more powerful states. He submits that rulers of states in Sub-Saharan Africa use formal statehood "merely as a façade, behind which to conduct what became essentially personal survival strategy."[41]

[40] C. Clapham, Africa in the International System, Cambridge University Press, Great Britain, 1996, p. 3.

Paul Mosley also argues that one aim of Africa rulers is that they are very much interested in personal political survival especially in their dealings with foreign governments and institutions. This becomes cyclical in that towards elections they renege on their promises with international institutions especially if their perceived policies are disadvantaging the poor majority who vote them into office. If they win the elections they are also more likely to go on with prescribed programmes by international institutions.[42]

However by and large Clapham argues that the outside world is likewise changing in the way they operate in Africa. This became very noticeable after the fall of the Soviet Union. The effects of such developments were that it made African leaders vulnerable. It became difficult for them to manipulate international support as a means of sustaining their states and their personal power since the international community now give aid as reward for those adhering to good political and economic governance and are being accountable to those whom they rule.

This view is consistent with my case as government-donor relations became bad when they did not agree on how to undertake land reform programmes. The external donors realised that land reform programmes are used by some African leaders as a vehicle of enhancing their political survival as a shield to governance crisis. Such countries are thus refused financial assistance. I used the theory to analyse how the Zimbabwe and Namibian governments behave especially when reviewing their relations with the donor community in trying to address the issue of land reform in their countries.

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[41] Ibid. p.5.
[42] P. Mosley, J. Haggard and J. Toye, Aid and Power, Routledge, London, 1991, p. 65.

1.6 Structure of the rest of the report

Chapter two gives an overview of land expropriation under the institutional political framework established during colonial rule and independent constitutional agreements in both Zimbabwe and Namibia. This is followed by an analysis of the international law on property rights and how it is applied in conjunction to national law on land expropriation. It also assesses the importance of law and the Constitution in restraining governments' discretionary power to confiscate.

Chapter three gives a review of the relationship between the Zimbabwean and Namibian governments and the donor community with regards to land distribution.
An assessment is made on whether land reform was being done with adherence to the rule of law. The period being reviewed is from 1980-1990 in Zimbabwe and 1990-2004 in Namibia. The assumption is that the period 1980 to1990 in Zimbabwe is analogous to the period 1990 to 2004 in Namibia were both governments adhere to land reform within the rule of law.

Chapter four explores the deteriorating relationship between the Zimbabwean government and the donor community between 1990 and 2004 and why the Zimbabwean government decided to abandon undertaking land reform within the rule of law. An explanation is also given on how democratic rule is entrenched as a result of the antagonistic relations between the external donors and the Zimbabwean government.

The external donors insist on land reform with adherence to the rule of law while the government ended up encouraging land invasions and expropriation of farms without

compensation as a means for political survival. Paradoxically the Namibian government is adhering to land reform within the rule of law but during election time there is increased land rhetoric threatening invasions purporting politicization of land reform issues for political survival.

Chapter five critically analyses land reform in Zimbabwe and Namibia. An assessment is made to explain why donor-government relations in Zimbabwe deteriorated whereas in Namibia this is not the case. This chapter attempts to succinctly explain what really changed in Zimbabwe. It also gives an insight on whether there are prospects to witness another Zimbabwean experience given that landless Namibians are calling for a radical land reform exercise. This is followed by chapter six which is a conclusion on discussions made in the paper.

Chapter 2: The historical background of Land expropriation in Zimbabwe and Namibia

This chapter gives a brief historic overview of land expropriation in Zimbabwe and Namibia during the colonial period. It shows how the political institutional framework was set up in tandem with land expropriation that benefited the settler communities in both Zimbabwe and Namibia. This is followed by an exploration of how independence constitutions were structured culminating in the adoption of skewed land policies that did not benefit the majority. A discussion on what the international law says on property rights and the importance of constitutions and the rule of law is made though it is up to the government concerned to abide to the rules in order to render the process of land reform lawful.

Zimbabwe and Namibia share a history of land dispossession through colonial conquest. It must be noted from the onset that while Zimbabwean independence was a result of bilateral agreement between Britain and Zimbabwe, Namibian independence was a result of multilateral process that involved the United Nations.[43] It must be borne in mind that Zimbabwe and Namibia experienced the most heatedly debated negotiations over the land issue. Though the two processes have notable similarities they also had significant differences that led to different norms and institutional arrangements.

[43] R. Abraham, In: H. Melber, Op. Cit. p. XV11.

2.1 ZIMBABWE

Zimbabwe was colonised by the British South African Company in 1890. When the company realised that there were no abundant gold mines in Southern Rhodesia, it shifted its interests from mining to agriculture. Blacks were thus evicted from their land into areas created for African settlement known as reserves. These were areas with poor rainfall patterns, dry arid areas that Ndebele referred to as cemeteries.[44] This was also a way of trying to force the Africans to provide labour. In the early 1900s about 50 per cent of Africans in Mashonaland were living in reserves while 35 per cent did so in Matabeleland.[45]

In 1930 the Land Apportionment Act was passed. Land was divided on racial lines. Twenty million hectares were reserved for whites. According to Robin Palmer, the 1930 Land Apportionment Act set aside 51 per cent of land in Southern Rhodesia to less than 3,000 white European farmers. Blacks were not allowed to occupy and own land in the areas reserved for Europeans and yet most of the lands in the white-held areas were being under utilised.[46] Evictions of Africans from white land gathered momentum after World War Two. Terrence Ranger contends that this was because of the boom in ranching. About 85 000 African families were forcefully resettled in already overcrowded reserves.[47]

The 1950s saw the enactment of another law; the Land Husbandry Act. Africans resented this act for among other things it restricted the number of cattle that Africans

[44] For more information on this see, T.O. Ranger, The Past and Present Zimbabwe.
[45] P. Stiff, Cry Zimbabwe: Independence-Twenty Years on, Galago Publishing, Alberton, Cape Town, p. 285.
[46] R. Palmer, Land and Racial Domination in Rhodesia, Heineman, London, 1977, p. 132.
[47] T. Ranger, Peasant Consciousness and Guerrilla War in Zimbabwe, Zimbabwe Publishing House, Harare, 1985, p. 103.

had to posses.[48] James Barber et al, argues that the significance of land in Southern Rhodesia was not very much embedded in inequalities but that inequalities of land were accompanied by growing overpopulation, landlessness, land degradation and growing poverty whilst land in white areas was not being fully exploited.[49]

A demanding task that was experienced by the British mediators at the Lancaster House Conference was to secure a proposal that would entail equitable land redistribution. This was supposed to benefit the landless but at the same time not destroy the pivotal role played by the agricultural sector in sustaining the Zimbabwean economy. John Stedman noted that during the Lancaster House Conference, the land issue was the most difficult thing to deal with.[50]

Herbst contends that the Lancaster House Agreement was a compromise by warring parties in the Rhodesian civil war. The liberation forces did not win the war and the last settler government would not have given in if they were unsure of the future of the white commercial farmers.[51] The Lancaster House Agreement was therefore absolutely necessary to bring the warring factions to the negotiating table. It must be borne in mind that constitutionalism was bestowed on many African countries in the form of their independence constitutions. It is now logical to consider how the conference dealt with the issue of land.

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[48] H. Wiseman, From Rhodesia to Zimbabwe, Pergamon, New York, 1981, p. 32.
[49] Ibid.
[50] J.S. Stedman, Peacemaking in Civil War: International Mediation in Zimbabwe, 1974-1980, Lynne Rienner, Boulder, 1991, p.42.

2.2 The Lancaster House Conference and the Land issue.

One of the thorny issues that the Lancaster House arbiters tried to address was that of land. Appropriation of land by the white settlers guaranteed economic domination and impoverishment of Africans during the colonial period. The British government was viewed as having, deliberately made up a constitution that favoured the interests of the minority white farmers.

Herbst submitted that Mugabe repeatedly pointed out that the acute land hunger in Zimbabwe was not supposed to be ignored.[52] However as a result of pressure from Zambia and Mozambique the Patriotic Front leaders agreed to the provisions of the Lancaster House agreement.[53] The postcolonial government would purchase land on a willing seller, willing buyer basis. Carrington pledged that the British would assist with some of the expenses to purchase land. The United States of America also made similar promises.[54] The Lancaster House Agreement stipulated that,

> every person will be protected from having his property compulsorily acquired except when the acquisition is in the interest of…The development or utilisation of that… Property in such a manner as to promote the public benefit, or in case of under-utilised land, settlement of land for agricultural purposes… Its acquisition will be lawful only on condition that the law provides for the prompt payment of adequate compensation and where compensation is contested, that a court order be obtained. A farmer whose property is so acquired will be guaranteed the right of access to the High Court to determine the amount of compensation… Compensation will within a reasonable time be remitted in the currency of any country outside Zimbabwe, free from deduction, tax or charge in respect to its remission.[55]

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[51] J. Herbst, State Politics…, Op. Cit. p.46.
[52] J. Herbst, "The Dilemmas of Land Policy in Zimbabwe," In: S. Baynham (ed.), Zimbabwe in Transition, Almqvist & Wiksell International, Stockholm, 1992, p. 131.
[53] For more information on this see Meredith M's Robert Mugabe: Power, Plunder and Tyranny in Zimbabwe.
[54] L. Zunga, Farm Invasions in Zimbabwe: What Lessons for Democracy in Africa, Truth House Publishing, Randburg, South Africa, 2003, p. 14.
[55] P. Stiff, Op. Cit. p. 258.

Peter Stiff points out that the British government agreed to assist on the pretext that the land reform programme would always be transparent and land would be purchased on a willing seller, willing buyer basis.[56] This was the Lancaster House constitution that the government would adhere to during the first decade after attaining independence. Susan Booysen accordingly noted that other authors and politicians agree, for example Emerson Mnangagwa, a Zimbabwean politician, noted that the new constitution was made up in a way that it contained certain entrenched provisions which ensure that some policies could not be tampered with until a certain time framework.[57] According to the Human Rights Watch report, the post-colonial Zimbabwean government was to be bound by the "sunset clauses" in the Lancaster House agreement that protected the Zimbabwean commercial farmers.[58]

2.3 NAMIBIA

As is the case of Zimbabwe, Namibia has a history of land dispossession through colonial conquest. Formal colonial rule began in 1884 but it was only after the rinderpest of 1897 that land grabs by German settlers in Namibia commenced seriously.[59]

Topographically, Namibia has three main regions namely, the Namibian Desert, the Central Plateau and the Kalahari Desert. According to Wolfgang Werner, those mostly affected were the Ovaherero, Nama and Damara pastoral communities. They

[56] Ibid.
[57] S. Booysen, Op. Cit. p. 3.
[58] B. Manby and D. Miller, "Fast Track Land Reform in Zimbabwe", Human Rights Watch, Vol.14, No.1 (A), March 2002, p. 6.
[59] K. Awolabi and H. Tijpuya, Land Reform in Namibia, Ministry of Lands, Resettlement and Rehabilitation publication, p. 1.

inhabited the area that came to be referred as the Police Zone.[60] These were areas close to main roads and rail forms of transportation.

Just like the 1896-97 Chimurenga in Southern Rhodesia, the Nama and Herero resisted German colonialism in a war that took place in 1904. German colonial forces' victory led to inequalities in access to and possession of land. Laws were enacted in 1906 and 1907. The laws empowered the Germans to expropriate land and forcefully remove original owners of such land. Nearly all the land of the Herero and Nama was taken by the colonial authorities. During World War 1, German troops in South West Africa were defeated by soldiers from the Union of South Africa who became the new colonial regime. The South African colonial government started setting up, "native reserves" where Africans in the Namibia Police Zone would have racially structured access to land in Namibia.

Werner noted that at independence the new Namibian government inherited a distorted land distribution. About 36.2 million hectares of land continued to be under the commercial farming sector and this constituted about 57 per cent of the agriculturally usable land[61]. It must be pointed out that, as was the case with Zimbabwe, Namibia's process of decolonisation and transfer of power was via a negotiated settlement. In Namibia the accepted compromise served the purpose of maintaining the status quo at independence.[62] Melber noted that the principles agreed upon prior to the elections in Namibia (1989) were requirements of establishing a

[60] W. Werner, "Land Reform in Namibia: Motor or Obstacle of Democratic Development," Paper presented at Friedrich Ebert Foundation, Berlin, 28 May 2003, p. 2.
[61] Ibid. p.4.
[62] H. Melber, "Contested Territory, The Case of Namibia," Journal of Namibian Scientific Society, Vol.50, 2002, p.2.

conflict resolution process. It also served as the basis of the independent state authority.[63]

Martin Adams posits that when the SWAPO government took over the reins of power in 1990, it agreed to a constitution that protected the property of citizens. Land would not be taken without just compensation.[64] Article 16 of the Namibian constitution provides everyone the right to acquire, own and dispose off property, alone or in association with others and to bequeath such property.[65] Article 16(2) of the Namibian constitution addresses the issue of property expropriation. It empowers the state or a competent body with the right of law, to expropriate property in the public interest, subject to payment of just compensation and in accordance with requirements and procedures to be determined by an act of parliament. Purchase would be done under the willing seller, willing buyer formula.

It is apparent that in both Zimbabwe and Namibia existing property rights were protected in both independence constitutions. Against such a background of a racially skewed land ownership, it therefore is not surprising that land reform is a necessity in the two countries.

The legitimate independent governments were required to honour the rule of law rooted in the then existing property relations. It must not be taken for granted that the issue of land reform involves visceral feelings. It encompasses long-term processes of social and economic change, with open and hidden contestations. It is therefore

[63] H. Melber, "Debates from Liberation Movements to Governments: On Political Culture in Southern Africa," Journal of African Sociological Review, Vol.6, No.1, 2002, p. 4.
[64] M. Adams, Land Reform in Namibia, November 2000, p. 2.

logical to briefly discuss the stipulations of international law as regards property rights.

2.4 Public interest under International Law

International law can be defined as the "body of legal rules and norms that regulates activities carried out outside the legal boundaries of states" anything from relationships between states, between people or between states and people. According to Christina Treeger, the right to own property is a fundamental right of the individual under international law. Article 17 of the 1948 Universal Declaration of the Rights and Duties of man stipulates that each person has the right to have property and this cannot be arbitrarily taken away.[66] Dispossession of property rights can thus be granted by the law and only on justifiable grounds.[67]

In 1962, the United Nations General Assembly made a resolution on Permanent Sovereignty over Natural Resources.[68] It stipulates that expropriation "shall be based on grounds or reasons of public utility, security or the national interest which are recognised as overriding purely individual or private interests, both domestic and foreign. In such cases the owner shall be paid just compensation in accordance with the rules in force in the state taking such measures in the exercise of its sovereignty and in accordance with international law", expropriation would be a right inherent in Sovereignty.[69]

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[65] C. Treeger, Legal analysis of farmland expropriation in Namibia, Konrad Adenauer Stiftung, Windhoek Namibia, May 2004, p. 2.
[66] Ibid. p. 3.
[67] H. Klug, Constituting Democracy: Law, Globalism and South Africa's Political Reconstruction, Cambridge University Press, U.K, 2000, pp. 1-17.
[68] General Assembly Resolution 62, paragraph 4.
[69] General Assembly Resolution of 1962, 13 International Comparative Law Quarterly, 1964, p. 400.

In Sporring and Lanroth vs. Sweden, the European Court of Human Rights stated that an equitable balance must be struck between the demands of the general interest and the obligation that the individual's fundamental rights are respected.[70] The International case law also stipulates that lawful expropriation must not be discriminatory, in the sense of it being intentionally directed against the nationals of only one state.[71] According to Andreason,

> The message from the West to the global South has been fairly consistent over the last two decades. If reforms are pursued along lines prescribed by Western governments and IFIs, then economic development can follow and democracy can take root, even so the basic promise of the Washington consensus remains despite marginal reformulations over the last decade.[72]

2.5 The importance of the rule of law

According to Jose Maria Maravall and Adam Przeworski, the rule of law is crucial in that it curtails arbitrary power and becomes a safe-guard for an orderly society. It is because of the rule of law that the ruling elite becomes principled and accountable to its citizens.[73] Laws are thus indicators to citizens to be on guard against rulers who try to monopolise power and act unconstitutionally.

Weingast posits that "if a government acts in ways that are not predictable from the constitution, citizens have a reason to treat these acts of governments as particularly undesirable"[74] and mete out punishment. Citizens can therefore vote such rulers out of power during an election. People become aware of the consequences of their actions because of the rule of law hence they are able to plan their lives.

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[70] European Court of Human Rights, Vol. 52, 1982, pp. 56-75.
[71] M.N. Shaw, International Law, Grotius Publications Ltd, Cambridge, 1986, p. 435.
[72] S. Andreasson, "Economic reforms and Virtual Democracy in South Africa and Zimbabwe: The Incompatibility of Liberalisation, Inclusion and Development," Journal of Contemporary African Studies, Vol.21, No.3, September 2003, p.1.
[73] J.M. Maravall and A. Przeworski (eds.), Democracy and the Rule of Law, Cambridge University Press, UK, 2003, pp.1-4.
[74] D.C. North and B.R. Weingast, Op. Cit. pp.804 - 806.

Laws can restrain governments so that they cannot behave as they please. However Maravall and Przeworskin contend that the law cannot be treated as an exogenous constraint on actions. Laws can only have substance if those in power consistently apply the rules.[75] Douglas North and Barry Weingast argue that political institutions are essential to commit the rulers to respect property rights.

Using the case study of England in the Seventeenth Century they ascertained that governments can behave "responsibly" by being constrained to obey a set of laws that do not allow freedom for violating commitments.[76] According to Larry Diamond in the absence of "credible restraints" on the rulers regimes remain corrupt and unable to guarantee basic civil liberties.[77] In such instances rulers will be standing above the law instead of being subject to it.

According to Collier restraints on colonial governments were imposed directly by the imperial power for it had direct formal authority over colonial governments. However when these African colonies became independent, these "externally enforced" restraints failed to operate. This resulted in economic malfunction, corruption and poor human rights records among other things. Domestic "self enforcing" restraints abolished during the decolonization era have not been adequately replaced.[78]

He noted that the IFIs imposed macroeconomic restraints on African governments as a restraining agent for governments to behave "responsibly" but this was a fiasco. He

[75] J.M. Maravall and A. Przeworski (eds.), Op. Cit. p.1.
[76] D.C. North and B.R. Weingast, Op. Cit. pp.805-807.
[77] L. Diamond, M.F. Plattner and A. Schedler (eds.), The Selt Restraining State: Power and Accountability in New Democracies, Lynne Rienner Publishers, 1989, p.1.

posits that donors can only be effective agents of restraint in exceptional cases when they offer rewards for compliance or penalties for non-compliance. It was because of this that property rights are still insecure. He argues that what are needed are self restraints than macroeconomic constraints.[79] It is now logical to explore how land reform was undertaken in Zimbabwe from 1980 to 1990 and in Namibia from 1990 to 2004.

[78] P. Collier, Op. Cit. p.349.
[79] L. Diamond et al, Op. Cit. p.10.

Chapter 3: Zimbabwe 1980-1990

> If yesterday I fought you as an enemy, today you have become a friend with the same national interest, loyalty, rights and duties as myself…We must draw a line through the past to achieve reconciliation…Oppression and racism must never find scope in our social and political system… An evil remains an evil whether practised by white against black or black against white.[80]

When Zimbabwe attained independence in 1980, it was a country that was greatly admired by both developing and developed countries. It was a beacon of hope on the African continent. Emerging from an armed struggle, Zimbabwe sought a pragmatic way forward that even Ian Smith who had denounced Mugabe as an "apostle of Satan"[81] could not help seeing him as an icon. Robert Mugabe called for reconciliation and a cessation of past hostilities between blacks and whites evidenced by Mugabe speech quoted above. The 1979 constitution made provision for the retention of the then existing land patterns. It must be pointed out that the Lancaster House Agreement as has already been observed protected white Zimbabweans for the first ten years of independence.

When leaders of the Patriotic Front agreed to be bound to the stipulations of the agreement, it entailed that they would not engage on any compulsory land acquisition process and would promptly pay adequate compensation for any property acquired. Robert Mugabe categorically stated that land expropriation would be under the terms of the Lancaster Agreement. This would be observed for its full period of ten years. Many commercial farmers who had been the backbone of Ian Smith's Rhodesian Front thus supported Mugabe. Martin Meredith, Jeffrey Herbst, Robin Palmer among

[80] M. Meredith, Robert Mugabe, Power Plunder and Tyranny in Zimbabwe, Jonathan Ball, Johannesburg, 2002, p. 15.
[81] Ibid

others noted that white farmers received favourable attention during the 1980s because they played a pivotal role in the Zimbabwean economic welfare.

Some government officials noted that allegiance to the Lancaster House Constitution was essential for Zimbabwe's future. Dr. Bernard Chidzero assured both the Zimbabwean white population and the international community that the government would strictly respect property rights. In an interview he said,

> We have a constitution that guarantees property rights. It is watertight as any constitution you can ever imagine. We can therefore not expropriate or nationalise without compensation, and if we do, it requires changing the constitution and it is not very easy to change the constitution. We have accepted the constitution and we live by it. Therefore we respect property rights.[82]

Robert Mugabe as Prime Minister like a ship steward steered Zimbabwe to embrace capitalism. Kagwanja noted, Robert Mugabe did not nationalise companies or seize private property to avoid the Mozambican disaster. He gave the Soviet Union a cold shoulder. His moderate behaviour enabled Zimbabwe to be accorded star status by the international community. Many countries offered to assist the new Zimbabwean government so that its land reform programme among other things would be orderly and sustainable.

In 1980 the Zimbabwean government began a process of redressing land imbalances. It embarked on a programme that would resettle 18,000 families on about 1, 1 million hectares of land at a cost of about $Z60 million. In 1982 it announced that it hoped to settle 162,000 families between 1983 and1985.[83] This would be determined by financial availability. Britain financed the commencement of land redistribution

[82] J. Herbst, In: S. Baynham (ed.), Zimbabwe in Transition, Op. Cit. p. 136.
[83] Ibid. p. 134.

programme. Zimbabwe was given 44 million pounds. Mugabe was busy cementing his relationship with his former colonial master. Other western countries also donated money. The U.S provided Zimbabwe with US$225 million over a three-year period.

In March 1981 a donor's conference was held. Donors pledged more than US$1, 8 million to help Zimbabwe undertake development programmes, with some of the funds being allocated for land purchases and resettlement. The World Bank contributed about one quarter of the contributed amount. Zimbabwe got promises of about 636 million pounds. The total pledges were about nearly nine hundred million in just one year.[84]

The number of people, whom the Zimbabwean government hoped to resettle by 1985, was 162,000 families. This entailed buying about 9 million hectares of land. Purchasing all this land would require about $Z570 million. Britain considered this as highly ambitious for neither the money nor the land was available.[85] In 1985 the Zimbabwean government passed the Land Acquisition Act. The government was now accorded the mandate of first refusal to any farms in the rural vicinity being sold. The government was now guaranteed control over land supply.

A Derelict Lands Board was set up. This enabled the government to take abandoned land. The commercial farmers' leverage on government on land for resettlement was reduced. The government did not commit itself to acknowledging the land it wanted

[84]M. Meredith, Op. Cit, p. 47.
[85] P. Stiff, Op.Cit. p. 289.

for resettlement purposes well before hand.[86] The government however remained cautious in its dealings with commercial farmers. It is clear that during the first decade of having attained independence, the Zimbabwean government strictly adhered to observing property rights in a bid to arouse interest and be assured of aid from external donors.[87]

Jonathan Moyo noted that during the first decade after Zimbabwe's attainment of independence, the government to a certain extent succeeded in steering a course that benefited peasants, aspiring indigenous black entrepreneurs and white farmers.[88] Paradoxically, by 1990 only fifty two thousand peasant families had been resettled. What is crucial at this juncture is to make a brief discussion on why the Zimbabwean government failed to reach their target in land reform despite sound external donor-government relations. Reasons for failure to reach target are important in that this failure was determinant in shaping the Zimbabwean donor-government relations pertaining to land reform in the future.

3.1 How failure to reach target in the 1980s strained relations between the Zimbabwean government and the donor community.

According to the Zimbabwean government, the main reason that led to its failure to redistribute land in the 1980's was the constraints of the Lancaster House constitution. It protected a skewed land holding system that was advantageous to the small white commercial farms. According to Sachikonye, the Lancaster House Constitution was a handicap to governmental efforts to resettle people for it was limited to buying poor

[86] B.H. Kinsey, "Forever gained: Resettlement and land policy in the context of National Development in Zimbabwe," In: J.D.Y. Peel and T. Ranger (eds.), Past and Present in Zimbabwe, Manchester University Press, Manchester, 1983, p. 104.
[87] J. Peron, Zimbabwe: The Death of a Dream, Amagi Books, Johannesburg, South Africa, 2000, p. 3.

quality land that commercial farmers offered.[89] He went on to argue that even if the new government of Zimbabwe was committed to implementing a comprehensive reform programme, the inhibiting cost would put it out of reach of the government. When the Zimbabwean government from 1990 tried to enact land legislations to redress these colonial injustices the external donors did not support this. It inevitably led to frustrations among the land hungry peasants who begun occupying commercial farms.

Another Lancaster House constraint that later strained relations between Zimbabwe and the external donors was that the external donors maintained that they would never assist a Zimbabwean government resettlement programme outside the willing seller, willing buyer provision. Because of financial constraints and the unwillingness of some donors (e.g., Britain) to unconditionally fund the land reform, the Mugabe government considered it unfair for Zimbabweans to pay for land stolen from their forefathers.

On the other hand external donors argue that they are willing to assist land reform in Zimbabwe but this was impeded by internal factors in Zimbabwe. Herbst pointed out that the Zimbabwean given targets in land reform, were not realistic and sustainable. An example is the 162, 000-resettlement figures that were given without consideration of the actual situation on the ground.[90] The land and money to fund such a resettlement programme was not available. This then shows that government plans were just ideological rhetoric.

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[88] J. Moyo, "State Politics and Social Domination in Zimbabwe," Journal of Modern African Studies, Vol.30, No.2, 1999, p. 329.
[89] L.M. Sachikonye, Op. Cit. p. 5.
[90] J. Herbst, In: S. Baynham (ed.), Zimbabwe in Transition, Op. Cit. p.104.

In the absence of significant political pressure from the land hungry Zimbabweans, the government technocrats did not commit themselves to a successful and sustainable land reform programme. Coupled to this was a large and inefficient bureaucracy that lacked the capacity to put in place land redistribution measures and was corrupt. Many farms purchased by donor funds were thus given to members of the ruling elite, top government civil servants and cronies.

When external donors came to grips with what was happening, some tightened their financial lending whilst others pulled out. This created tensions and greatly influenced donor-government relations in relation to land reform in Zimbabwe. The remainder of this chapter focuses on land reform in Namibia and its relations with the donors from 1990 to 2004.

3.2 Namibia 1990-2004.

As pointed out earlier on, the process of decolonisation was a result of negotiated settlements. In Namibia a western contact group structured constitutional principles that would guide development in post-colonial Namibia. Though they were a compromise between outgoing and "would be" incoming regimes the constitutional principles upheld the status quo at independence: existing property rights were protected in the new constitution.

Upon attaining independence the SWAPO government made it known that it wanted to redistribute land to the land-hungry majority. It swore its allegiance to the independence constitution in which the property of citizens would not be taken without just compensation. A consultative forum on land was made. It must be

pointed out that in Namibia unequal access to land ownership and poverty can be viewed as two sides of the same coin. In 1990 about 36, 2 million hectares, making up 44 per cent of the total land area, that is 52 per cent of the agriculturally usable land was in the hands of commercial farmers. The commercial farmers numbered about 4000.[91]

In 1991, as a point of departure for a viable land reform implementation the Namibian government held a land conference. This was a unique event in that it had a significant bearing on the low profile that land reform has received in past years in Namibia.[92] Political and ethnic tensions were experienced at the Windhoek conference. Political groups that represented minority ethnic interests (Herero, Nama, and Damara) were arguing for the restitution of their ancestral land. In the end it was agreed that this was not feasible as claims overlapped.

It was agreed that land redistribution would be determined by need. Despite this those dispossessed off their ancestral lands continued to be bitter about this. Despite minority opposition it was also agreed that communal areas were to be retained as they were and would be developed and extended if necessary. However wealth stockowners were not permitted to fence land, illegal fences thus had to be removed.[93] The major thrust behind this was the reduction of poor environmental management and degradation when farmers would realise that their lives would be entirely dependent on their plots. It was also recommended at the conference that foreigners

[91]K. Owolabi and H. Tjipueja, Land Reform in Namibia, Ministry of Lands Resettlement & Rehabilitation, Windhoek, Namibia, p. 8.
[92]B.de Villiers, Land Reform: Issues and Challenges, A Comparative Overview of experiences in Zimbabwe, Namibia, South Africa and Australia, Konrad Adenauer Foundation, Johannesburg, April 2003, pp. 28-42.
[93] M. Adams, Op. Cit. p.5.

were not permitted to have farms, land belonging to absent landlords should be expropriated and ownership of enormous farms or more than a single farm by an individual had to be forbidden.

According to paragraph 9, on "Consensus of the conference" a Technical Committee was set up. It would evaluate the facts regarding under-utilised land, absentee ownership, viable farm sizes in different regions and ownership of more than one farm. It would make appropriate recommendations for the acquisition and reallocation of such land identified, and to assess possible forms of taxation on commercial farmland and the economic units to which taxation should apply.[94]

Land reform is to be guided by a policy and legal framework. This is composed of: The Constitution of the Republic of Namibia; the Agricultural (commercial) Land Reform Act, 1995, White Paper on Resettlement, 1997; National Land Policy, 1998, and the Communal Land Reform Act, 2002.[95] According to the stipulations of the Land Reform Act, the Government has the mandate to purchase land from commercial farmers on a willing seller, willing buyer basis. Market related compensation would be given on all acquired land. The Act sets up a Lands Tribunal to solve possible disagreements over prices between sellers and the government and also provides how the farms that are bought will be subdivided. Land will accordingly be allocated to Namibians who were socially, economically or educationally deprived by past discriminatory practices.

[94] Ibid.
[95] W. Werner, Land Reform in Namibia: Motor or Obstacle of Democratic Development, Fredrich Ebert Foundation, Berlin, 28 May 2003, p. 6.

The White Paper on Resettlement has a more specific definition of those who are to benefit from land reform policies. It includes those with no access to land, those without any means of production and those unemployed. The cut-off point is determined by the affirmative action loan scheme administered by Agribank, which is accessible only to people with one hundred and fifty or larger stock units. Some observers have praised these flexible selection criteria as strong point of land redistribution in Namibia.[96] The major objective of the redistributive land reform and resettlement is part of a poverty reduction strategy. The government is obliged to support the newly resettled people for five years after which they become responsible for their own welfare.

The Draft Land Tenure Policy of 2002 states that the rights of settlers will be subject to a number of limitations. Though the 1995 Act grants a ninety nine year leasehold rights and the possibility to purchase an allocation after five years, the 2002 land tenure policy gives the minister power to change agreement with settlers and to even withdraw a lease if holder breaches terms and conditions. An amendment was made. There was no longer the option of buying an allocation after five years. Such land has to be reserved for potential future farmers.[97]

As has been shown, since independence, the SWAPO government has been part and parcel of addressing land hunger. The government-donor relations have been good since it embarked on land reform within the rule of law. The Agricultural Land Reform Act was used to gain possession of farms for resettlement. About 480 000

[96] W. Werner Motor or Obstacle, Op. Cit. p.6.
[97] Ibid. p.8.

hectares (110 farms) have been purchased.[98] However Weiner strongly contends that this does not really depict governmental determination to redistribute land. He maintains that "even this tiny slice of the cake all too often benefited the haves than the have-nots, as of the state owned land was utilised by those holding top positions in the Namibian government and state apparatus."[99]

It must also be noted that different models of resettlement were designed to provide for the different requirements of the land hungry people. The SWAPO government also gained external donor favour because of its commitment to the policy of land use management. It thus sought to assess and develop communal areas over a five-year period.

However, it must be noted that land redistribution has been going well in Namibia. Though the pace of land reform has been viewed as too slow, in the National development Plan 1, the Namibian government has surpassed its targets by far. However the willing seller, willing buyer strategy seems not to be working speedily enough to the satisfaction of the general populace. Land reform has thus progressed at a glacial pace. Following the land crisis in Zimbabwe in 2000, the Namibian government announced that land reform has to be greatly accelerated. Melber argues that,

> The socio-political system in Namibia has translated from controlled change into changed control. Basing its legitimacy on its liberation past, SWAPO as an agency for post-colonial emancipation and development has an increasingly authoritarian tendency while spawning new elite which offers less in the way of meaningful socio-

[98] K. Owolabi, and H. Tijpuena, Op. Cit. p. 10.
[99] W. Weiner, "Agriculture and Land," In: H.Melber (ed.), Namibia-A Decade of Independence 1990-2000, The Namibian Economic Policy Research Unit, Windhoek, pp.32-40.

> economic transformation than the colonised majority was made to expect.[100]

The land hungry people have threatened farm invasions the Zimbabwe style. It must be pointed out that the behaviour of the SWAPO government has been autocratic despite having free and fair elections. Those in power developed militant notions of rewarding or excluding some citizens. It has shown very little commitment to democratic principles and is not accountable to its citizens. Melber accordingly observed that "the new Namibian society has carried with it authoritarian elements of the colonial era, reproduced them and have applied them in the post-colonial era."[101]

[100] H .Melber, Introduction: Limits to Liberation in Southern Africa, Op. Cit, and pp. X1V-XV1.
[101] Ibid. p. XIX.

Chapter 4: The Zimbabwe-donor relations from 1990 to 2004

> Our view in the party and government is that nothing must stand in our way to the acquisition of any land we identify and designate for resettlement. Whilst we concede the principle of fair and reasonable compensation, we cannot brook any contentious arguments or disputes in court on the subject[102] R. Mugabe.

> The Land Legislation flies in the face of all accepted norms of modern society and the rule of law.[103] Chief Justice Enock Dumbutshena.

The Zimbabwean government was released from the constraints of the Lancaster House Agreements in 1990. It now had the power to amend the constitution regarding property rights. An early constitutional amendment that addressed some of the land concerns was the authorisation in 1990 (Act 11) of the acquisition of land for resettlement. However it culminated in the development of redistribution programmes that were not very successful and land actions that superseded legal and constitutional frameworks. David Blair posits that legality in this context denotes actions that have the stamp of the law.[104]

The peasants in Zimbabwe were already feeling a sense of betrayal by the ruling elite who showed lack of commitment to post-colonial land redistribution. The Zimbabwe Unity Movement (ZUM) that contested the 1990 elections against Zanu-P.F criticised Zanu-P.F for corruption.[105] During the first decade (1980-1990) Zanu-P.F politicians had been busy acquiring farms for themselves. Patrick Bond noted that farms were

[102] M. Meredith., Op. Cit. p. 18.
[103] P. Kagwanja, Blood and Soil: Land, Politics and Conflict Prevention in Zimbabwe and South Africa, Institute of Global Dialogue, South Africa, p. 46.
[104] D. Blair, Degrees in Violence: Robert Mugabe and the Struggle for Power in Zimbabwe, Continuum Books, London, 2002, p. 36.
[105] Edgar Tekere was a former Secretary General of Zanu PF; He was sacked away from the party when he condemned the members of the ruling party. He thus formed the Zimbabwe Unity Movement to challenge Mugabe in the 1990 presidential elections.

being purchased and given to government officials and cronies.[106] However, much of the land occupied by Zanu P.F officials and cronies remained idle or had very little activity taking place.

Donor fatigue had begun to be noticeable. The Zimbabwean government kept on making unrealistic figures for example, resettling 162 000 families on about nine million hectares of land, that the British government regarded as unrealistic. The Zimbabwean government also failed to come up with a viable land reform plan that could be easily implemented. It usually took a long time than necessary, for example to undertake land resettlement, the process involved about 25 ministries hence things easily got bogged down in the process.

It became complex as it took longer to provide infrastructure like roads, clinics, schools, training of newly resettled farmers etc to make the resettlement programme a success. To exacerbate the situation some of the money for land reform easily found themselves in private pockets or was channelled for other things. Brian Kagoro noted that "corrupt activities entrench the political inner circle's resistance to democracy and accountability, while the Access to information Act now inhibits disclosure of any information particularly regarding these shady deals."[107]

Sam Moyo observed that "the land reform policy, especially since 1984, had produced outcomes which were inequitable, undemocratic, inefficient and unsustainable."[108] Bronwen Manby and Darlene Miller pointed out that "in the face of government

[106] P. Bond, Uneven Zimbabwe, for more information read Chapter 10.
[107] B. Kagoro, The Zimbabwe Crisis: Can apples be reaped from a thorn tree? Paper presented in Harare, 2002, pp. 4-6.

failure to deliver, grassroots land occupations were already taking place in the 1980s and 1990s; in many cases government security forces then removed people from land with some brutality.[109]

4.1 The 1990 Land Law

Once the Lancaster House constraints on property rights expired in 1990, the Zimbabwean government hastened to enact a land legislation that would empower it to vigorously embark on land reform. Amidst jubilation and singing the parliament in December passed the 1990 Land Act. To the government the Act was the much anticipated breakthrough. The Government now had the right to take any land they needed for resettlement purposes, it also had the power to fix the price it would pay. What was really contentious was that the act denied the right to appeal to court for just compensation.

The Land Act eroded the security that the commercial farmers had been assured in the past and had enjoyed under the provisions of the Lancaster House agreement. Among critics of the legislation were Chief Justice Anthony Gubbay and Chief Justice Enock Dumbutshena who reiterated that, for the first time property rights were in doubt.

The external donors were also sceptical of the new land legislation. In February 1991 the IMF advised that the new legislation was scary to investors. The World Bank and other bilateral donors also criticised the Act.[110] Witness Mangwende, the minister of Land, Agriculture and Rural Development addressing farmers who wanted to seek

[108] S. Moyo, Land reform under structural adjustment in Zimbabwe. Land use change in Mashonaland Provinces, Nordic Africa Institute, Uppsala, 2000, p. 14.
[109] People who had resettled at Churl farm by Ndabaningi Sithole are an example of people who were forcefully removed by the Zimbabwean government; the farm was taken by the government.
[110] T.W. Allen, "World Bank Resident Representative in Zimbabwe, Structural Adjustment in Zimbabwe: The World Bank's Perspective," Resource paper, 1999, p. 7.

clarification on this act pointed out that, "The land policy is not negotiable. The only useful debate that government is willing to entertain about the resettlement programme is on the implementation of modalities".[111]

Mugabe also maintained that the government would go ahead in identifying and designating land for resettlement. Whilst they promised that they would not confiscate land from "productive" farmers and payment of "reasonable" compensation the government would not tolerate any arguments or disputes over land in courts. It became apparent that confrontation over property rights would be inevitable and this would definitely have a bearing on donor-government relations. The United Kingdom was already showing signs of frustration. The bureaucratic impediments that would vitiate land reform and had existed in the past ten years were still there.

Blair observed that the "village collectives" along Chinese agrarian socialism failed to yield desired requirements culminating in newly resettled people abandoning farms, some sought work in nearby farms while others returned to their original homesteads. From the 47 million pounds that the British government had released for land reform 3million pounds was returned unspent, showing the government was not taking land reform seriously despite occasional rhetoric.[112]

An assessment made by the United Kingdom showed that the Zimbabwean government did not have the administrative capacity and ability to implement a sustainable land reform.[113] One diplomat noted,

[111] M. Meredith., Op. Cit. p. 123.
[112] D. Blair, Op. Cit. pp. 178-179.
[113] R. Palmer, "Robert Mugabe and the Rules of the Game," Oxfam GB, July 2000, p. 2.

> We have a problem where government capacity to implement the programme has deteriorated. Here we are looking at the capacity to plan or effectively appraise projects in the programme and management of actual implementation.[114]

Not surprisingly international financiers began pulling out. The commercial farmers argued that the government had to first use government land that had not yet been forwarded for resettlement purposes, unproductive land including black elite farms that lay idle. The Commercial Farmers' Union (C.F.U) also proposed the formation of land boards that would arbitrate and establish precisely, land to be bought for resettlement. The court would be an arbiter on compensation to be paid to farmers. Given the fact that commercial agriculture was the backbone of the Zimbabwean economy and that the farms were used as collateral for bank loans; haphazard acquisition without proper compensation would be disastrous.

This would maliciously mar Zimbabwean image abroad and would be against both the national and international law on property rights. Robert Mugabe and his government remained tenacious and would not give an ear to court decisions. Mugabe stubbornly pointed out that he would never allow himself to be dragged to court by a settler. The Land Acquisition Act was passed. The government would take land compulsorily.

The process was long and awkward, for example, first, a farm to be taken had to be listed under section 5 followed by a notification to the owner under section 8. The matter would be heard in Court after which the farmer would be given a three months notice to vacate.[115] The whole process would take something like one or two years. This would have disastrous effects of disrupting farming activities for the farmer

[114] J. Herbst, State Politics…, Op. Cit. pp.47-52.

would not be aware of the Court outcome hence it disturbed plans for the following farming season.

These unfolding events in Zimbabwe that had racial connotations brought external donors into the fold. The United Kingdom, the United States of America, the World Bank, the IMF, the EU and the others defended the rights of the white farmers. Acting as external agents of restraint they warned that if the Zimbabwean government failed to guarantee property owners fair compensation then it risked vital aid packages.[116]

When the Land Acquisition Bill of 1992, was presented in parliament, an amendment was made. They deleted from the Act, the paragraph that stopped the courts from reversing a governmental assessment of farms taken on the grounds of unfair compensation. The government was conditioned to "behave responsibly" because of the fear of losing financial assistance to continue on the projects they had started in the 1980s and also as a result of influence from technocrats like Bernard Chidzero the then finance Minister.

The Government categorically stated that it targeted land not being utilised, people with more than one farm and land owned by absentee landlords. The Commercial Farmers Union thus agreed to work with the government to promote land reform. Contrary to governmental assurances the government continued to confiscate productive farms and those that belonged to opposition politicians. The Zanu P.F elite continued to be beneficiaries of the land programme that was secretive and obviously

[115] D. Blair, Op. Cit. pp. 179-180.
[116] C. Stoneman, "The World Bank Demands its Pound of Zimbabwe's Flesh," Review of African Political Economy, No. 53, 1992, pp. 94 – 96.

not benefiting the land-hungry peasants. Mismanagement and corruption continually plagued the programme.

Kagwanja noted that in 1994 the Daily Gazette revealed names of ministers and senior government officials as having benefited from land redistribution. An example is that of Bath farm in Hwedza. Michael Von Mermety bought it after independence but it was given to Minister Witness Mangwende. There was no proper accountability of properties purchased with funds from donors. Margaret Dongo the president of ZUD publicised a list of 413 farms, amounting to about 457 428 hectares parcelled out to Zanu P.F cronies.

Farmers challenged the legality of the land designations. Farmers were being stripped of their rights to property. Once a farm was designated the farmer could not sell or lease his property. The farmer also had no rights to approach the court or appeal to an impartial body but the minister. Mugabe maintained that the government would not entertain any ideas of legality or constitutionality[117] Later on Mugabe was to remark, "Forget what the constitution says. If it does not indicate that we take the land, then it will be changed."[118] This show that Mugabe was not prepared to endure autonomous centres of power. He was thus doing away with domestic agents of self restraint culminating in poor human rights record and economic malfunction.[119]

This justifies Kenneth Good's observation that the dominant party systems in Southern Africa that was developed in the 1990s depict the non-accountability of ruling elites, interested on the retention of power. He went further to argue that

[117] P. Wakatama, Think Again, Weaver Press, Avondale, Harare, Zimbabwe, 2002, p. 10.
[118] J. Peron, Op. Cit. p. 10.

"singularly and collectively, the ruling elites of Southern Africa have shown that their chief-self interest is retention of power and constitutionalism counts for little."[120]

In 1996, Kenneth Clarke passed through Harare on his way from South Africa to Britain. (He was Chancellor of the Exchequer in John Major's administration; Mugabe told him that the British were supposed to fulfil their Lancaster House promises of supporting land reform.) They discussed the land issue. Clarke emphasised that land should only be expropriated with full compensation being given to farmers.[121] He also advised Mugabe that failure to do so would discourage foreign investment.

In June 1996, Baroness Lynda Chalker, minister for Overseas Development, held a plebiscite with Kumbirayi Kangayi, the Zimbabwean Minister of Lands and Water, in Harare. The plans for a second resettlement phase had to be made. The British were adamant that land redistribution had to alleviate poverty rather than creating black commercial farmers. The Zimbabwean government now with sweeping powers to possess land expected that the British would release money to buy land even that compulsorily acquired. The British like the World Bank refused to waver from the market-based land reform of willing seller, willing buyer within the rule of law.

The British government proposed a conference that would expedite discussions on land reform. Another aim was to include others donors as a means of easing financial and political pressure on Britain. The proposed document stipulated that it was unlikely that donors would provide money for compulsory land acquisition. The

[119] P. Collier, Op. Cit. pp. 339-341.
[120] K. Good, In: H.Melber, Introduction: Limits to Liberation in Southern Africa, Op. Cit. p. XVII.

United Kingdom and other donors would negotiate on funding at the conference. Implementation would be done over a projected period of about five years.[122] The Zimbabwean government agreed to the British proposals as a significant point of departure for a donor conference. The British aid officials discussed the preparatory phases with donors who were willing. However, the donors doubted the Zimbabwean ministries capacity to undertake a real resettlement program. It was proposed that assistance and commencement of implementation would be in July 1997.

4.2 1997-1998 Land Seizures

By 1997, Zimbabwe was in the throes of an exacerbating economic and political crisis. The year 1997 ushered in a new era in the Zimbabwe-United Kingdom relations. The May 1997 elections culminated in Tony Blair's Labour Party coming into power. Clare Short became the new secretary for international development. The new Labour Party government purported that, in its dealings with Zimbabwe it would consider a policy of offering development assistance geared at poverty alleviation.[123] This policy would guide its support for land reform in Zimbabwe.

In October 1997 President Mugabe while addressing a rally pointed out that his government was now going to acquire land for redistribution from commercial farmers without compensation. This was followed by a governmental publication of about 1503 farms amounting to over 5 million hectares for compulsory acquisition. The Government would only pay for infrastructure on the farms and not the land.

[121] P. Kagwanja, Op. Cit. p. 49.
[122] Ibid. p. 52.
[123] L.M. Sachikonye, Op. Cit. p. 6.

In that same month, Mugabe went to Edinburgh to attend a Commonwealth Heads of Government Meeting (CHOGM). Mugabe met Blair over the land issue.[124] Mugabe sought about $250 million for land acquisition. Blair maintained that any acquisition would have to be "open and transparent." The resettlement programme had to target the peasants as a way of alleviating poverty, Blair also added a new criterion of good governance."[125] He maintained that Mugabe's proposal did not meet the criteria. The Zimbabwean government approach would damage the economy, weaken investor confidence and would not alleviate the suffering of the poor. Mugabe remained adamant that Britain had to release money to compensate white commercial farmers.

In response Clare Short wrote a letter to Kumbirayi Kangayi, the then Zimbabwe minister of agriculture. Part of the letter read:

> I should make it clear that we do not accept that Britain has a special responsibility to meet the costs of land purchase in Zimbabwe. We are a new Government from diverse backgrounds without links to former colonial interests. My own origins are Irish and as you know we were colonised and not colonisers. We do, however, recognise the very real issues you face over land reform. We believe that land reform could be an important component of a Zimbabwean programme designed to eliminate poverty. We would be prepared to support a programme of land reform that was party of a poverty eradication strategy but not on any other basis.[126]

The letter also stated the importance of schemes that would be economically justifiable; the process would also have to establish a proper land register among other things. Mugabe's reaction to this was furious. Though land seizures by government did not occur in early 1998, some peasants settled themselves onto some white owned farms as squatters. Mugabe came under intense international pressure to stop this. Donors and international financial institutions said that events unfolding in Zimbabwe coupled with Mugabe's acquisition rhetoric had negative impacts on the economy and

[124] B. Ankomah, "The Conservatives would never have done that," New African, No.415, IC publication, February 2002, pp. 49-55.
[125] Ibid. p. 50.

deterred investors. The IMF in August 1998 delayed a balance of payment support because of concerns over Mugabe's land policy and its effects on investment.

4.3 The 1998 Donor's Conference

In September 1998 an International donors' conference was convened in Harare. The Zimbabwean government sought pledges to acquire 5 million hectares over a five year period to resettle about 150 000 families. This would cost about $U.S.9 billion. There were representatives from more than twenty countries. The IMF, World Bank and the E.U. also sent persons to participate in the negotiations. Stan Mudenge, the Zimbabwean Foreign Minister, chaired the meeting. Mugabe informed the donors about the Phase 2 land reform and resettlement programme. All participants including the Zimbabwean government agreed to principles that would direct how the resettlement would take place.

Good noted that institutions that would increase the quality of transparency and objectivity in the redistribution process had to be established. Implementation of the programme was to be done legally with broad stakeholder participation.[127] The UNDPTSU would help in the carrying out of the inception phase. This would witness the resettlement of rural landless peasants on under-utilised farms owned by the government.

The Inception Phase would be followed by an Expansion Phase embedded on lessons learnt during the Inception Phase. The programme had to be "implemented in a transparent, fair and sustainable manner, with regard for the rule of law." However

[126] B. Ankomar, Op. Cit. p. 52.
[127] K. Good, "Dealing with Despotism: The People and the Presidents," In: H.Melber, (ed.), Zimbabwe's Presidential Elections, Discussion Paper 14, Nordiska Afrikainstitutet, Uppsala, 2002, p. 13.

it must be pointed out that though no funds were actually pledged at the conference relations between the external donors and Zimbabwe seemed better. Paradoxically Mugabe continued to make rhetoric threatening new land seizures. This endangered donor support.

In early 1999, the World Bank promised $U.S.5 million for resettlement of poor peasants. The United States also promised some money. France, Japan and others also later joined the pledging fold. The IMF lifted its balance of payments suspension but maintained that the resettlement had to be transparent with fair compensation being given to farmers. It is during this period that the MDC came into the political fold as a result of economic and political mismanagement by the ZANU-PF government. Temptations for abandoning rule-based land reform heightened as the opposition pointed out the government's failures.

A titanic struggle for power was commencing as workers, students and civil organisations were calling for regime change. For the first time in independent Zimbabwe commercial farmers seized being political bystanders hence it came as no surprise that Mugabe resorted to his pre-independence rhetoric as a way of trying to reincarnate his waning popularity.[128] A referendum was held in February 2000. In the proposed constitution, government had included a clause that empowered it to compulsorily acquire farms without compensation. The people of Zimbabwe rejected the draft constitution. Arguably the people were realising the dangers of an executive

[128] D. Blair, Op. Cit. p.180.

president with unlimited powers because the Constitutional Assembly acted as an "eye opener" when they campaigned for a people centred constitutional rewriting.[129]

The Zimbabweans rejected the Constitution because they realised that the proposed constitution was part of a plan by Mugabe to enhance his political survival. The president retained sweeping powers and would be allowed to contest for re-election twice more. Farms would be taken without compensation and Britain would pay for it and yet the farmers were Zimbabweans. Mugabe pointed out that people were not supposed to celebrate. After the governmental defeat of the referendum he later retorted "we will take the land; make no mistake about that because the land question has not been resolved."[130]

Despite promises by Britain to provide about $57 million for resettlement and its promise to mobilise support from the International community, Mugabe heightened the land seizure drive. Mugabe addressing a rally said that white owned land had to be taken away, as for whites who failed to cooperate; the Zanu P.F party would assist by showing them the various ways they could leave the country. It is thus not surprising that land invasions commenced in February 2000 led by war veterans and Zanu P.F supporters. Mugabe was furious with the Blair government's refusal to unconditionally fund his land redistribution programme.

[129] Author participated in explaining to the people on the government proposed constitution when I was still a Teacher in the Mashonaland East Province.

4.4 The Fast Track Land Reform

According to a Human Rights Watch report, between February 2000 and June 2000 2706 farms were gazetted for compulsory expropriation. President Mugabe vowed that he would do all that he could to correct the liberation war unfinished business. Zanu-PF campaigned for the June 2000 parliamentary elections on the slogan "Land is the Economy; the Economy is Land."[131] Commenting on the invasions that were taking place, Jerry Grant, the deputy Director of the CFU noted that this was pay-back time for the February 2000 constitutional defeat. The CFU reacted by referring the issues to the Courts. The then Home Affairs minister, Dumiso Dabengwa in a press statement said,

> The War Veterans have broken the law; I have therefore decided to instruct War Veterans to withdraw from farms with immediate effect. I recognise that farm owners enjoy as much rights to protection as any other citizen in this country.[132]

Farm invasions continued unabated as white farmers were labelled as enemies of the state. In March 2000, Mr Paddington Garwe, a High Court judge declared farm invasions illegal and issued a decree that all occupying commercial farms had to leave that land within 24 hours of the making of the order. More farms were invaded. Mugabe launched verbal attacks on Britain, the U.S.A, E.U, IMF, World Bank and other external donors. The United States condemned violent attacks directed to commercial farms. Strobe Talbott said that though the United States was willing to assist land reform in Zimbabwe it would not do so in a "climate of violence, lawlessness and intimidation".[133]

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[130] Ibid. p. 68.
[131] B. Manby and D. Miller, Op. Cit. p.10.
[132] D. Blair, Op. Cit. p.75.
[133] W. R. Copson, "Zimbabwe: Current Issues," CRS Issue Brief for Congress, April 25 2001, p. 11.

In March 2000, President George Bush invoked the International Emergence Economic Powers Act (IEEPA) to impose sanctions against Mugabe and his close associates.[134] The US State Department publicised a demonising report on Mugabe for "reducing a once promising nation with a bright future to a state of ruin, desolation, and isolation."[135] In June 2000 the U.S senate passed the Zimbabwe Democracy Act of 2000 which criticised the Zimbabwean government and imposed some sanctions. The IMF, World Bank and other donors also stopped financing land reform in Zimbabwe.

When High court and Supreme Court declarations were obtained ordering removal of illegal occupiers, the executive and police took no action to implement orders. Mugabe as the leader decided not to act as a domestic agent of restraint. If he had instructed the police to carry out the court order then he would have risked being unpopular with the masses, the War Veterans and some members of his executive.

In November 2001, President Mugabe used his "presidential powers" and amended the Land Acquisition Act. Under the new rules a farmer would be jailed if he ignored the three months eviction notice. The Zimbabwean government passed the Rural Land Occupiers (Protection from Eviction) Bill. This entails that power was being monopolized by the government. Law was being used as an instrument of the sovereign and yet it was not bound by it.

[134] J. Cooke, J.S. Morrison, and J. Prendergast, "Averting Chaos and Collapse in Zimbabwe: The Centrality of South African and U.S. Leadership," Centre for Strategic and International Studies, No.15, www.csis.org, April 2003, p. 2.
[135] Ibid.

The Zimbabwean government rushed bills through Parliament. It was infringing individual rights, expropriating property and redistributing land in the name of the majority.[136] Enacted laws were being used as a political weapon to further the interests of the ruling elite namely political survival. The US responded by approving the Zimbabwe Democracy and Economic Recovery Act of 2001 which sought to pressure Mugabe to improve human rights, respect the constitution, restore good political and economic governance.[137]

President Mugabe sanctioned illegal land seizures and in his defence he shrewdly asked where the law was when the land was taken by the Rhodesians. David Blair commenting on this submits, "Ghosts of the pioneers justified an act of plunder, he was choosing to take his moral standards from Cecil Rhodes. What was good enough for the greatest robber baron of the nineteenth century was apparently good enough for Mugabe."[138] The president openly scorned property rights and killed investment in Zimbabwe. A typical feature of the post independent period in Zimbabwe has been intense levels of repression by the government. K.P.Yap argued that,

> Whilst power relations in Zimbabwe had changed, perceptions of power had not changed. The layers of understanding regarding power relations, framed by socialization and memory, continued to operate…..actors had changed, however, the way in which the new actors executed power in relation to opposition had not, as their mental framework remained in the colonial setting. Patterns from colonial rule of "citizens" ruling the "subjects" were repeated and reproduced.[139]

[136] J.M. Maravall and A. Przeworski (eds.), Op. Cit. pp.3, 265.
[137] S. Booysen, Op. Cit. p.12.
[138] D. Blair, Op. Cit. p. 180.
[139] K.P. Yap, In: H.Melber, Introduction….Op. Cit. p.XV.

This was the direct opposite of the stipulated donor requirements of giving aid for economic and political development from the 1990s. Governments were required to promote good political and economic governance. They had to respect the rule of law and that human rights are sacrosanct with citizens being given a chance to participate in their own welfare and development.

Chapter 5: Critical Analysis

This paper has explored why land reform programmes are necessary in both Zimbabwe and Namibia since independence. It has also documented how land reform was undertaken after independence with regard to the rule of law. The period 1980 to 1990 in Zimbabwe is analogous to the period 1990 to 2004 in Namibia. In both cases governments adhered to land reform governed by the rule of law.

This chapter examines why the Zimbabwe government-donor relations deteriorated whereas in Namibia this is not yet the case. The crux of the analysis is, under what conditions are governments likely to find it in their own political interests to pursue land reform within the rule of law as was the case in Zimbabwe from 1980 to mid 1990s. This contrasts the period 1997 to 2004 when the government decided to abandon land reform within the rule of law. This chapter attempts giving an insight on whether we will witness another land invasion experience in Namibia given that the landless Namibians are already calling for radical land redistribution the Zimbabwean way.

As pointed earlier on in the report, in Zimbabwe and Namibia, the existing settler colonial property rights were protected in both independence constitutions. Though legitimate sovereign governments were obliged to respect the rule of law enshrined in the then existing property relations, this was not because external actors had authority over these governments when they became independent.

Herbst argued that an analysis of events in Africa over the last 25 years show that constitutions were abandoned immediately after attainment of independence.[140] If the Zimbabwean and Namibian governments had wanted to violate the constitutions of their respective countries they could have easily done so. Political costs of reneging were considered too great. Melber argues that though independent ruling governments were "handicapped" by the negotiated independent constitutions in both Zimbabwe and Namibia independent governments should have sought adopting alternative land reform policies to enhance a more egalitarian agrarian system.[141]

It must be pointed out from the onset that acceptance of the "rule of law" or violation is determined by the potential benefits or consequences of adhering to rule-governed land reform. North and Weingast contend that this can be explained by the modern game theory, "the long arm of the future provides the incentives to honour agreement" so as to retain the opportunity for financial assistance in future.[142] It now sounds plausible to examine why Zimbabwe during 1980 to 1990 adhered to rule-governed land reform and abandoned it in the 1990s worsening government-donor relations in the process.

5.1 Zimbabwe

As has already been shown earlier on in the report, Zimbabwe started land reform shortly after independence. It received a stardom status because of the policies they were pursuing. The Zimbabwean government adopted a reconciliatory policy and vowed to promote economic, educational, health growth and land reform in accordance to the stipulations of the Lancaster House Agreement. Zimbabwe was the

[140] J.Herbst, State Politics in Zimbabwe, Op. Cit. p.238.
[141] H.Melber, "Contested Territory: Land in Southern Africa-The Case of Namibia," Op. Cit. p. 2.

[142] D.C. North and B.R.Weingast, Op. Cit. p.807.

"jewel of the African continent" as Julius Nyerere, the former president of Tanzania referred to it in 1980.[143] It is logical to point out that the Lancaster House Constitution partly acted as a way of constraining the government to behave "responsibly" in return for financial assistance from the donor community.

Okello asserts that the constraints of the Lancaster House Agreement in the end pushed Mugabe to abandon rule-governed land reform. He contends that Mugabe was made to pay for land that had been taken through military conquest and payment had to be market driven.[144] Though Britain and the US came forward with money to purchase farms, Mugabe's hands were tied for he was not able to redistribute land as he had anticipated. Countries that had pledged money for resettlement took their time and it was in this guise that Britain was not able to fulfil their Lancaster House Conference vows. Land hungry peasants were indirectly being told to wait, synonymous to being told "it will never happen." Mugabe complained that, peace would not be guaranteed unless the peasant population was satisfied given land.[145]

It was thus in the government's own interests to abide to the constitution. Many donor countries gave financial assistance as the government was building an enabling environment for development. Meredith accordingly noted that Mugabe was aware of what was taking place and sought to take advantage of this. While addressing the white commercial farmers he quoted saying, "we are the darling of the world…..honeymoon don't always last too long, we aught to take advantage of it."[146]

[143] M. Meredith, Op. Cit. pp.15-17.
[144] O. Okello, Op. Cit. p.1.
[145] J. Herbst, In: Manby, Zimbabwe in Transition, Op. Cit. p.131.
[146] Ibid. p.46.

The Zimbabwean government was therefore bent on attracting foreign investment. It had won the 1980 elections and there was no immediate threat to its hold on power.

Mugabe gave the Communist bloc a cold shoulder and continued along capitalist lines. His government in a quest to gain favours did not disown the Rhodesian debt. Loans from the donor community were channelled into paying the debt.[147] It is logical to submit that Mugabe was not prepared to lock horns or frustrate potential donors. Mkandawire correctly noted that the Zimbabwean government was keen to establish its credentials with the financial world.[148] Mandaza also observed that since independence international finance capital controlled the Zimbabwean economy.[149]

Expropriation of farmland was in line with national and international law. Relations between the Zimbabwean government and the donor community gradually started being bad in 1990 when the government passed the 1990 Land Act that was criticised by Chief justices Enock Dumbutshena and Anthony Gubbay among others.

The Act was passed arguably because the government had failed to reach its resettlement target of resettling one hundred and sixty two thousand families by 1985. It is also logical to point out that it was a way of campaigning for the 1990 Parliamentary elections.[150] It is this that brewed hostility and demonisation between the Zimbabwean government and the external donors and when thus politicised as a means for political survival culminated in the fast-track land reform. For land reform

[147] P. Bond and M. Manyanya, Op. Cit. p. 24.
[148] T.Mkandawire, "Home Made? Austerity Measures: The case of Zimbabwe," Paper presented at a seminar on Austerity Policies in Africa under IMF Control, Dakar, Senegal, June1984, p.43.
[149] I. Mandaza, "The Post-white settler colonial situation," In: I.Mandaza (ed.), Zimbabwe: The Political Economy of Transition, 1980-86, Dakar, Codesria, p.53.

to be sustainable it is potentially a combination of political will and favourable internal and external conditions.

The squatter problem had already started during the 1980s. As has been pointed out temptations to pass the 1990 land law was a way of winning peasant support in the 1990 elections which Zanu-PF contested against one of its own critics, Edgar Tekere. In 1992 because of "frustration" at the slow pace of land reform the government passed a bill that allowed them to seize land from white farmers. In response to this, the United States, Sweden, Norway, Holland came forward with offers of funds. What is disturbing is that in the end the money promised never came.

According to Ankie Hoogvelt, because of the end of the Cold War, there was no longer need to continue pleasing Mugabe. Before the end of the cold war, aid was given despite poor economic and political policies.[151] However the 1993 Land Designation Act was "skewed" because it was not in conformity with the World Bank and the IMF. Okello posit that the IMF and World Bank forced Mugabe's government to accept a loan with its strings of conditionality.[152] A more appealing argument by Herbst notes that the Zimbabwean government was not forced, it was because of its extravagant expenditure that it was left with no option.[153] The Reserve Bank of Zimbabwe and the Ministry of finance had failed to act as effective domestic agents of restraint.

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[150] In 1990 the Zanu-PF government was challenged by Edgar Tekere's ZUM. T he opposition was campaigning against government for failing to stamp out corruption and failing to fulfil there pre-independence vows.

[151] A. Hoogvelt, Globalization and the postcolonial world: the new political economy of development, Macmillan Press, Basingstoke, 1997, p.177.

Globalisation also contributed in worsening the Zimbabwe government-donor relations. Bond pointed out that by 1989, Mugabe had realised that there were a group of powerful technocrats who championed the idea of international finance and were opposed to socialist principles. This group was made up of the Finance Minister Bernard Chidzero and other ministers, Kumbirai Kangayi, and Tichaendepi Masaya among others. Inability to integrate successfully into the global economy thus paved the way for abandonment of rule-governed land reform.

Joseph Stiglitz a former chief economist of the World Bank noted that under SAPs "…. Taxation and its adverse effects are on the agenda, land reform is not. There is money to bail out banks but not to pay for improved education and health services."[154] SAPs resulted in untold sufferings as workers were retrenched and there was a fall in purchasing power. Rok Ajulu observed that "…as a result of the Structural Adjustment Policies, the stage was set for a confrontation between Zanu P.F and its urban dwellers."[155]

As a result of the negative results of SAPs on workers and rural peasants "the West now had Mugabe cornered. The wrath of Mugabe's landless people was to be used against him."[156] The people now began questioning his leadership because of the lack of progress in land reform. To worsen the matter, in 1997 the Blair government reneged in inheriting Britain's Lancaster House obligation.

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[152] O. Occuli, "The Zimbabwe Elections: Western Bacteriological Genocide and A.Mazrui," http://ipsnews.net/interna.asp?idnews=22620, p.1.
[153] J. Herbst, State Politics…, Op. Cit. p227.
[154] J. Stiglitz, "Why Africa Should fear the IMF/World Bank," The New African, No.415, February 2003, pp.35-37.

David Husluck who was director of the ZWFCU, in an interview with Baffour Ankomah (editor: New African Magazine) blamed Tony Blair's government for failing to recognise the colonial wrongs over land acquisition in Zimbabwe.[157] He maintained that the British were responsible for Mugabe's abandonment of a rule-governed land reform. He noted that things started going bad in 1995, Mugabe having realised the slow progress in land reform took the land issue out of the legal institution and made it a party issue because Mugabe was becoming unpopular with the workers and the general populace.

Hasluk did not realise that this was because of the 1995 parliamentary and 1996 presidential elections that were to be held, land rhetoric was becoming cyclical especially when nearing an election. While it can be logically submitted that the Zimbabwean government tried to maintain a balance of embarking on land reform within the rule of law during the first ten years after attainment of independence, Lodge accordingly noted that a close examination of developments in Zimbabwe since 1997 depict that land reform policies were done as a vehicle for personal accumulation.[158]

It must be pointed out that despite the Harare 1998 donor conference, donors pledged money but did not release money before they saw capacity to implement the land reform programme. The courts, external donors all vetoed any forced acquisition in 1998. Hasluk also maintained that it was Clare Short (the British International Development Minister)'s letter to Kumbirayi Kangayi cited earlier on in the paper,

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[155] R. Ajulu, "Zimbabwe at the Cross Roads: What next?" Institute of Global Dialogue Policy Brief, Johannesburg, South Africa, 2001, p. 2.
[156] O. Okello, Op. Cit. p. 2.
[157] D. Hasluk, Interview with B. Ankomah, Op. Cit, p. 53.

that was a catalyst to land invasions. The letter became the spark that precipitated Mugabe's conviction that the British government was reneging on its obligation, to fund the land reform exercise.

Mugabe realised that social frustrations "engineered" by the West, the IMF, World Bank and other external donors would cost him electoral support in both the rural and urban areas. To him and his apologists, the West was "bent on stampeding him out of power" through electoral politics and economic warfare. Rok Ajulu noted that, patronised by national and international forces that supported the new opposition party, the Movement for Democratic Change, there existed a formidable challenge to the Zanu PF party. Thus land reform to the landless only became a reality in 2000 when the land invasions and fast-track land resettlement became a reality.[159]

Mugabe skilfully situated the land question within the discourse of colonial land injustice. In September 2002, in South Africa, he was applauded when he skilfully captured the mood of most developing countries world leaders. He shrewdly defended his fast-track land reform as a continuing struggle against colonialism. He astutely argued,

> This land, this Zimbabwe, is a sacred inheritance from our forefathers; it was the casus-belli of our armed national liberation struggle. It cannot, therefore that: we have to beg a foreign power for and we say: hands off Britain! Hands off Britain … We are not Europeans. We have not asked for an inch of Europe, any square inch of that territory, so Blair keep you're England and let me keep my Zimbabwe.[160]

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[158] T. Lodge, "The Southern African Post-Colonial State," Op. Cit. p. 23.
[159] R. Ajulu, Op. Cit. pp.5-7.
[160] I. Phimster, "Mugabe, Mbeki and the Politics of anti-imperialism," Review of African Political Economy, Vol. 31, 101, September 2004, pp.385-400.

Contrary to the above view some authors like Phimster, Palmer, Chan and David Blair among others contend that the real causes of deterioration of relations between the Zimbabwean government and external donors was caused by the Zimbabwean government.[161] They note his authoritarianism, economic mismanagement, corruption, prioritising other things like intervention in the DRC instead of solving the effects of SAPs, and embarking on an unsustainable land reform among other things.[162]

It can be logically argued based on evidence discussed earlier on that the land issue now viewed by many to be at the centre of the Zimbabwean crisis, was only used as a political tool to fend off growing discontent and anger from workers, the poor, the black middle class and sectors of the white population.[163] The government's political authoritarianism and economic incompetence frustrated the people. Despite rhetoric especially towards or during election time, Mugabe depicted little interest in land redistribution for the landless peasants.

Though Mugabe argues that no sufficient funds were released to accelerate land reform, no effort was made to redistribute land that lay idle that was already in state hands. Most of the land that was purchased through donor funds was "redistributed" to Mugabe's ruling elite and cronies. As has already been pointed there was lack of capacity to implement successful land redistribution.

[161] D. Blair, Op. Cit. pp.174 – 177.
[162] D. Blair, Ibid.
[163] T. McKinley, "The Crisis in Zimbabwe and Lessons for the Workers," http://www.cosatu.org.za/shop/shop0902-05.html, p. 2.

In an effort to stabilize the economy the Zanu-PF government had reinforced SAPs. When workers tried to resist they were intimidated and harassed. Mugabe and his cronies willingly embraced capitalism and at the same time pretended to be progressive nationalists. There was increased class oppression by Mugabe and his ruling elite hence apart from occasional rhetoric; there was lack of political will to undertake land reform. Bond contends that,

> Zanu's subsequent record has been one of entrenched inequality and political repression. These fierce tools of repression and political institutions were inherited from white Rhodesia. The Zimbabwean situation therefore is a potent cocktail of dashed hopes, taking the interlocking forms of social hopelessness, ruling party political degeneracy and the failure to successfully integrate into the global economy.[164]

The Zimbabwean government was unable to improve the lives of the masses. It is apparent that beneficiaries of the farms were wealthy politicians ahead of land hungry peasants. The ruling elite was not committed to land redistribution for it was an arduous task that required enormous resources, support structures, administrative staff than were budgeted and planned for. It can not be disputed that government propositions on land reform were grandiose and unsustainable for Britain alone to fund. Britain was being logical when in 1997 they said they were willing to support a land reform programme that was transparent, would benefit the peasants, was sustainable and had adherence to good political and economic governance.

Arguably the mid 1990 years spelt disaster for the Zanu-PF leadership. People publicly questioned Mugabe's leadership and even some parliamentarians like Dzikamai Mavhaire said that the president had to retire.[165] Apart from lack of

[164] P. Bond. and M. Manyanya, Zimbabwe's Plunge: Exhausted Nationalism, Neo-liberalism and the search for social justice, University of Natal Press, 2002, p.59-60.

[165] Mavhaire lost his Parliamentary seat after he had raised it in Parliament that the President had to retire; he was supported by Eddison Zvobgo who was in turn demoted to Minister without Portfolio.

progress in land reform, the negative effects of SAPs left a majority of the peasants and workers worse off. It was terrible for the unemployed war veterans. Neither had they money to buy basic necessities like food and clothing nor could they afford having a decent home.

The War Veterans decided to confront the Zanu-PF leadership for they had been betrayed by their patron, President Mugabe. Mugabe succumbed to their demands and as pointed out earlier on in the report gave them lump sums further damaging the already ailing economy. The Zimbabwean dollar lost value and this triggered a series of strikes from civil servants who demanded salary increments so that they could cope with the cost of living. The situation was exacerbated by Zimbabwe's participation in the DRC war. The above developments depict weakness of "self enforcing restraints" for the Reserve Bank of Zimbabwe had lost control of expenditure. The President without parliamentary approval sanctioned disbursement of funds to War Veterans and Zimbabwe's participation in the DRC and all this was not budgeted for.[166] Despite the donor conference of 1998 the Zimbabwean government went ahead with land expropriations for the IMF and World Bank were refusing to release funds to ease the Zimbabwean economic collapse.

The IMF refused to bail the government out. The people's anger manifested in them supporting the formation of an opposition party which blamed the government for lack of good economic and political governance. The catastrophe occurred when the people rejected the proposed draft constitution in February 2000. He had lost support

[166] The author participated in the 1998 Civil servants strikes against the Zimbabwean government decision to pay War Veterans and participation in the DRC. It was then that the parliament said it had not been consulted on payments and disbursement of soldiers in the DRC.

in the government proposed draft constitution that would have given the government power to compulsorily acquire land without compensation.

The people wanted him out of power. For the first time since independence he was under intense threat from the newly formed MDC opposition party. Those who anticipated that Mugabe was going to retire since it were clear that he was out of touch with the Zimbabwean masses thought wrong; he would not just go without a fight. Those who had anticipated Mugabe's exit from the political scene, were not only like people waiting for a plane that would never arrive but were people standing in the wrong station altogether. He was now tempted to go against a rule-governed land reform for it gave him leverage to engage opponents to his rule head on. Zanu-PF had to win the 2000 parliamentary and 2002 presidential elections at whatever cost.

Battle lines were drawn, Mugabe knew pretty well that his authoritarian rule was being criticised by both Zimbabwean nationals and the international community. The land question was thus the last card used for political survival. He carefully situated the land question within the discourse of redressing colonial injustices. Herbst in 1992 had correctly assumed that, the Zanu-PF government could always defend itself by arguing that the externally imposed Lancaster House Constitution had barred it from instituting any true land reform programme that would have benefited the poor.[167]

Now, that criticism was directed on property rights, human rights and disregard of the rule of law he crafted an alternative debate: the need for renewed liberation struggle support to fight against continued neo-imperialism. This exacerbated the already

[167] J. Herbst, in S.Manby (ed.), Zimbabwe in Transition, Op. Cit. p.135.

strained external donor-government relations. The IMF suspended loaning funds to the Zimbabwean government. The USA also passed the Zimbabwe Democracy and Economic Recovery Bill. The European Union introduced targeted sanctions against key members of the Zimbabwean government. To Mugabe the political costs of domestic and external restraints were too much hence he did not abide to them. External agents of restraints failed to trigger improvements in Zimbabwe in respect to stopping human rights abuse, respect of the rule of law and respecting property rights.

Addressing a Zanu-PF conference before the Presidential elections he categorically stated that Zanu-PF had to strike fear in "the heart of the white men, our real enemy", this included farm workers and opposition supporters.[168] To borrow Jose Miranda's phraseology, this showed a culture of injustice and of the crushing of men carried to extreme perfection and refinement. It was the capacity for reabsorption that it is able to co-opt and assimilate.[169] Zimbabwe was suspended from the Commonwealth when its government failed to adhere to the September 2001 Abuja agreement. Despite this farm invasions continued. It showed the weakness of external agents of restraints on sovereign governments.

Mugabe's rhetoric that Zimbabwe is determined to defend its hard won independence entailed that violence was sanctioned. Violence had become his faith, enkindled by the proclamation called land gospel. It ensured that violence would be unleashed, not in fantasy but in reality. Property rights violations went hand in glove with human rights violations.

[168] For more information see, C. Buckle's Beyond Tears: Zimbabwe's Tragedy and African Tears.

War veterans and associated Zanu PF militia occupied farms. Commercial farm owners and workers, who were allegedly supporters of the opposition party were intimidated, assaulted and farm property was vandalised. Those who were unfortunate were murdered in cold blood, as was the case of David Stevens, a Macheke farmer.[170] Ajulu observed that the land issue "became a double-edged sword used to dictate terms of discourse of the Zimbabwean crisis while mobilising the rural vote behind."[171]

Zimbabwe has experienced a lot of consequences because of the fast-track land reform. It has experienced food crises. Zimbabwe once considered the bread basket of SADC is now surviving on food imports and food hand outs from neighbouring countries and donors. There is lack of employment and acute economic deterioration. There is lack of basic commodities that many people in Zimbabwe are going to neighbouring countries to purchase groceries to consume at home.[172] There are also recurrent fuel shortages and an influx of refugees and emigrants to Zimbabwe's neighbours and overseas. All this point out that the socio-economic situation is bad and the Zanu PF party no longer care of what happens, the only important thing that they cherish is political survival, thus they are prepared to go down with the country.

Edison Zvobgo (the former Zanu PF secretary for legal affairs) agreed with the courts that the farm invasions were illegal. Mugabe defied the courts and unleashed a wave of violence and lawlessness, which until now is threatening the survival of the

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[169] J. Miranda, Marx and the Bible: A Critique to the Philosophy of Oppression, Orbis Books, New York, 1971, p.8.
[170] For more information on true accounts of land invasions see, Catherine Buckle's two novels, (1) African Tears: The Zimbabwean Land Invasions, (2) Beyond Tears: Zimbabwe's Tragedy.
[171] R. Ajulu, Op. Cit. p.5.

nation.[173] Wakatama concluded that "Zimbabwe's handling of the land issue depict that it has been infected by a madness virus."[174] Kagoro contends that it is indefensible to violently seize farmlands in contravention of the constitution.[175] One of my contacts argued that,

> Though Mugabe is lauded as a champion of Pan-Africanism and wields a lot of support from peasants in SADC countries, land invasions had been done at the expense of Zimbabwe and its people. Though it can be argued that he had out-witted Tony Blair and George Bush Juniour. Land invasions are disastrous. Professionals and Academics have left Zimbabwe and eviction of farmers has resulted in the collapse of the economy. Food shortages were arguably a result of the new farmers who are either briefcase or cell phone farmers.[176]

Even Teachers interviewed pointed out that the relation between the donor community and the Zimbabwean government had been maliciously marred by the Zanu PF Government that took advantage of the peasant need for land for their own political survival. Another contact noted that,

> Land was given to Zanu-PF supporters who have a Zanu-PF party card. Giving an example of Shiro farm, he pointed out that new settlers who were hoodwinked into illegally invading the farm had been told to leave. When they refused, the Riot police was set on them and it was disheartening that some came back to their villages without any of their possessions. Others had arrived with pots and plates that had not been washed. Rumours had it that the farm has been taken by one Zanu-PF Politburo member.[177]

One commercial farmer, now residing in Harare speaking on condition of anonymity said that,

> He could not believe that the police destroyed homesteads leaving children crying in the sun. It had looked like Vietnam with the fires. Though he had a rough time, he no longer knew what is legal or

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[172] From my stay in South Africa as a student I have observed that many Zimbabweans come to South Africa to purchase groceries and not luxuries clearly showing that there is lack of basis necessities in Zimbabwe, or that it is easier to purchase them outside Zimbabwe.
[173] Ibid.
[174] P. Wakatama., Op. Cit. p. 68.
[175] B. Kagoro, Op. Cit. p. 6.
[176] Anonymous, interview with author, Harare, 24th January, 2005.
[177] Anonymous, interview with author, Mrewa, 27 December 2004.

> illegal. The Assistant Commissioner Wayne Bvudzijena said that the people did not have permission to be there but the farm was not given back to him.[178]

As pointed out earlier on in the paper, judges were forced to resign while those who are pro-government were appointed. This shows an inordinate desire by the ruling elite to remain in power. It must be pointed out that the donor community could not help intervening to try and let the Zimbabwean government adhere to good political and economic governance.

External restraints by the donor community to make the Mugabe government behave "responsibly" have arguably not worked. The Zanu-PF government refused to respect property rights and the rule of law. As has been noted Mugabe increasingly became authoritarian. As a result of the constitutional amendments that had been made, He was no longer answerable to the Parliament and was above the Judiciary. Makumbe thus commented that the President now wielded enormous powers that he could run the country on his own.[179] The constitution was amended more than thirteen times; it had become an instrument of authoritarianism in the hands of an authoritarian government.

Constitutional amendments were therefore meant to preserve indefinitely Zanu-PF's ruling. For the relations between the Zimbabwean government and the donor community to become bad was inevitable. Brian Raftopoulos observed that "friction developed in the context of declining liberation movement that had drawn a lethal distinction between a violence driven, "anti-imperialist" project centred on the land

[178] Anonymous, interview with author, Harare, 24th January 2005.
[179] S. Booysen, Op. Cit. p.10.

question and the politics of human rights which Zanu-PF characterised as an imposition of global imperatives."[180]

Shivji accordingly noted that many of the land actions go against new constitutionalism in Africa, the 2000 election slogan quoted earlier on, "The land is the Economy, the Economy is the Land," came to epitomise the convergence between contemporary economic crisis, electoral threats to Zanu-PF and the electoral will to allow the liberation movement government the chance to resurrect itself."[181]

Mugabe started making rhetoric about land reform and demonising external donors and international financial institutions that had refused to bail his government out. He argued that bilateral donors like Britain and the United States of America and financial institutions like the IMF and World Bank were bent on "instituting regime change" in Zimbabwe.

Donors thus lost faith in the Zimbabwean government. Despite the agreement made at Abuja in September 2001, Zimbabwe continued with its fast track land reform and ignored calls from donors and the Commonwealth Heads of governments to embark on a land reform process within the rule of law. Land reform continued to be carried out haphazardly, short circuiting legal procedures. The government defied Court orders and the police and army instead of being apolitical became active participants in vandalising and occupying private property.

[180] Ibid.
[181] S. Booysen, Op. Cit. p. 10.

Supreme Court judges like Chief Justice Gubbay and others were forced to resign. The judiciary was attacked by Zanu-PF "gurus."[182] The late Chenjerai "Hitler" Hunzvi threatened the removal of the entire Supreme Court bench. Zacharia Ziyambi a Zanu-PF member of parliament said, "when we are at this state of pursuing our revolution, they (judges) need to also play the tune…they also need to bend down and do what the revolution requires us to do."[183] The Minister of Justice Patrick Chinamasa retorted that judges had to be politically correct, while in a parliamentary session he said, "If they behave like unguided missiles, I wish to emphatically state that we will push them out."[184]

To the Zanu-PF ruling elite the Judiciary was in conflict with other arms of government and in their eyes it was synonymous to the opposition party. Judges were removed and the rule of law was grievously eroded in Zimbabwe. The Judiciary was relegated to a subservient status and judges became agents of the executive and legislature.[185] This clearly supports Robert Jackson's argument that for many African rulers "seamanship often matter more than navigation: staying afloat becomes more important than going elsewhere."[186] This confirms Alence's earlier cited argument that governments can only endanger developmental progress in their countries if their political positions are being threatened. They were replaced with judges who are parrots of the ruling party. Land still continued to be redistributed on a partisan basis.

[182] Anonymous, "Clinging to power at any cost," The Zimbabwean, www.thezimbabwean.co.uk, p.23.
[183] Anonymous, The Zimbabwean, Op. Cit. p.23.
[184] Ibid.
[185] J.M.Maravall and A. Przeworski (eds.), Op. Cit. p.13.
[186] R. H. Jackson and C.G. Rosberg, Personal Rule in Black Africa: Princes, Autocrat, Prophet, Tyrant, California University Press, Berkeley, 1982, p.18.

5.2 Namibia

Namibia's independence came about as a result of multilateral negotiations that involved the United Nations.[187] The 1991 land conference and other legislations were put in place as a way of enhancing equitable land redistribution. However unequal land ownership that is a threat to political stability in Namibia is still existent. This explains why the land question in Namibia is highly emotive and resembles a political maze. Namibia's programme of land reform started in 1990. As was noted earlier, the programme is made up of four main components. These are; The Redistributive land reform; Tenure reform; Development of unutilised communal land and the Affirmative action land scheme.

A policy and legal framework was put in place to guide land reform and this is made up of, the Constitution of the Republic of Namibia, Agricultural (Commercial) land reform Act of 1995, the White Paper on resettlement of 1997, the National land policy of 1998 and the Communal land reform Act of 2002.From the onset in Namibia as was the Zimbabwean case during the first decade of having attained independence its relations with the donor community are good.

The Namibian constitution served the purpose of maintaining the status quo at independence. Article 16 (2) of the Namibian constitution gives mandate to the state or a competent body authorised by law, power to expropriate property in the public interest. However there is no clear definition of exactly what constitutes "public interest."[188] Apart from this the Agricultural (commercial) land reform act of 1993 was made to provide an expropriation policy in accordance to Article 16 of the

[187] H. Melber, "Re-examining Liberation in Namibia. Political Culture Since Independents," Nordic Africa Institute, Uppsala, 2003b, p.34.

Namibian constitution. It permits compulsory acquisition of agricultural land regarded as under-utilised, excessive or acquired by a foreign national or of land where the application of the willing-seller, willing-buyer has failed. It must be noted that failure of the willing-seller, willing-buyer principle is not a precondition for expropriation, but rather an independent category of justified expropriation.[189]

The Namibian government decided to embark on a rule-governed land reform because it wanted legitimacy and recognition from the international community since its independence was a result of a negotiated settlement. It also wanted to attract foreign investment and show that it was committed to good political and economic governance since it attained its independence after the post-Cold War politics. Apart from being a new democracy in 1990, the constitution also served as a self restraining mechanism for good governance. The Namibian government decided that it would not persecute past atrocities that had taken place during the war of liberation. The past had to be forgotten and life begun on a new page.[190]

Expropriation in Namibia can be in terms of mistreatment of workers. However this is problematic. Despite that the rationale of this is protection of farm workers. This policy that envisages protection of farm workers from abusive employers with the aim of distribution of land through expropriation, fails to distinguish between two politically and legally distinct and unrelated fields.[191] Government should strengthen labour laws that protect workers than solving labour disputes through land

[188] C. Treeger, 0p. Cit. p.4.
[189] Ibid.
[190] J. Saul, Lubango and After: "Forgotten History" as Politics in Contemporary Namibia, Unpublished Paper, 2000.
[191] W. Weiner, Land Reform in Namibia, Op. Cit. p.7-8.

expropriations. This gives room for arbitrary seizure of farms and it becomes a punitive measure.

Having highlighted some of weaknesses of some sections of the Namibian constitution or acts to guide land reform in Namibia, it is logical to analyse how land reform has taken place with respect to the rule of law and how the donors responded to this. Namibia through its independence constitution agreed to a market-based land reform through a market based willing-seller, willing-buyer approach. The government had to honour the rule of law and respect the existent property rights.

Melber posits that, despite coming from such a restrictive point of departure, the postcolonial ruling elite in Namibia paid little attention to find solutions that would have accelerated land redistribution. They as realists, thought of what was advantageous to them, thus they acquired land for themselves. One informant argued that,

> Ruling governments in Africa were the same. When rulers came to power they enriched themselves and when people begun asking they shifted the blame elsewhere. Nujoma like Mugabe used the land rhetoric to scare white commercial farmers in Namibia and that explains why he is nicknamed "Mugabe." Arguably Nujoma had not done much to alleviate the suffering of the peasants. It was now up to the incoming president Pohamba not to let peasants take the law into their own hands and invade farms. However if many people continued to be unemployed it would only be a matter of politicizing the issue and all hell would break loose as was the case of Zimbabwean.[192]

Adams criticising the Namibian government said that, "land reform in Namibia took place during the early 1990s."[193] This was because; top government officials and bureaucrats of the new elite already had farms through access to land given by the

[192] Anonymous, interview with author, Harare, 24th January 2005

state. Lack of government commitment to land reform is evident in those ten years after having attained independence, the Ministry of Lands, Resettlement and Rehabilitation had only acquired 54 farms amounting to about 341 thousand hectares. Melber noted that the above figure shows that the government is not committed.[194] Political office bearers benefited rather than the ordinary peasants. Government cronies acquired land that had been bought by the government. These were people with influential positions in government and state apparatus.

The Namibian government is not very much interested in land reform because during colonial rule land expropriation only took place in the central and southern parts of Namibia. Paradoxically, the SWAPO government's power base in Ovamboland was never dispossessed off their land and cattle. K. Kanra noted that the SWAPO government does not feel the urgency to expedite land reform.[195] This is evident in Melber's observation that the Namibian legislature is taking its time to enforce the land tax and yet this would have been "a tool for social transformation by land redistribution within the country's legal framework."[196] Sachikonye accordingly observed that the SWAPO ruling elite are aware of the weakness of the Namibian agrarian base to improve the lives of the Namibian majority.[197]

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[193] M. Adams. and J. Howell, Redistributive Land Reform in Southern Africa, Natural Resources Perspectives, No. 64, Overseas Development Institute, London, 2001, p. 8.
[194] H. Melber, "Contested Territory…," Op. Cit. p.3.
[195] K. Kanra, In: R. Palmer, "Mugabe's "Land Grab" in Regional Perspective," 2000, pp. 1-2.
[196] H. Melber, "Contested Territory…," Op. Cit. p.5.
[197] L.M. Sachikonye, "Land reform in Namibia and Zimbabwe: A comparative perspective," In: J Hunter (ed.), Who Should Own the Land? Analysis and Views on Land Reform and The Land Question in Namibia and Southern Africa, Namibia Institute for Democracy, Windhoek, 2004, p.74.

The UNDP noted that the agrarian contribution to the Namibian GDP is less than eight per cent.[198] They noted that about 8 per cent of the territory in Namibia is suitable for dry land cropping; about 69 per cent are classified as semi-arid and about 28 per cent as arid; in such an environment land ownership becomes less important as compared to other countries.[199] Melber also noted that the average white commercial farmers are also not contributing much hence there is speculation that if land tax is enforced some commercial farmers will desist there agricultural activities.[200] In such a scenario if the Namibia government has to promote black commercial farmers it has to be prepared to continually subsidize the farming activities. He also pointed out that both the Namibian Poverty Reduction Strategy of 1998 and the Poverty Reduction Action Programme for 2000-2005 do not mention land reform as part of poverty reduction.[201]

This then entails that the ruling elite despite their occasional rhetoric is using the land issue as a political weapon. In 1995, the Agricultural (Commercial) land reform act was hurriedly passed through parliament, arguably as a way of luring peasant support. Prior to the recent elections that were held in November 2004, the government threatened land expropriations and has said that they are going to accelerate land acquisition and redistribution.

The land issue is arguably a political electoral survival tactic. Kanra writing on the Namibian situation noted, though it can be applauded that land reform in Namibia is continuing with observance of the rule of law, the government is still not committed

[198] UNDP with UN Country team, Namibian Human Development Report, Windhoek, 1998, pp. 44 - 45.
[199] Ibid. p.46.
[200] H. Melber, Unpublished paper, Op. Cit. p.3.

and lacks the capacity to implement a successful land reform. He posits that the farms that were purchased are not being utilised, being allowed to go to rack and ruin.[202] In an e-mail interview one of my Namibian contacts noted that some farms were being used as dumping grounds for the landless city and town inhibitors and did not have any farming experience. He was optimistic that the Namibian commercial farmers after witnessing the Zimbabwean land invasions were willing to sell their farms to the government but the government was just dragging its feet, possibly to continue using land as a means for political survival.[203]

The government allocated only $N20 million per annum for land reform. The irony of it all is that in 2002 purchased a private jet and in 2003, there were reports that the outgoing Namibian President was building a million-dollar mansion. In an interview with Thomas Knemeyer, a German southern African journalist, Nujoma took umbrage that his purchase of a private jet had been made public knowledge. In his defence he said, "We are entitled to travel by jet just like other people. If you go to Germany you find all over jets, even private people have them, and therefore the Republic of Namibia cannot buy a jet? That is arrogance, arrogance."[204]

What is perplexing then is that he is one of the people who blame external donors for not discharging enough money to implement land reform in Namibia and yet argues that it is noble to use public funds to buy a private jet. The land reform conference concluded that restitution to ancestral lands in full is impossible. This has led critics to point out that this was a crafted plan that would benefit those in power. According to

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[201] Ibid. p.5.
[202] K. Kanra, In: R. Palmer, Mugabe's Land Grab….," Op. Cit. p.4.
[203] Anonymous, internet interview with author, 8th February 2005.

Werner there is an ambivalence that suggests the emergence of a new dimension of conflict and dispute between the most disadvantaged citizens and the state over land issues.[205] This can arguably be viewed as a potential crack that may in the end lead to land invasions.

The conclusion above was reached on the premise that, government officials have been reluctant to accept restitution claims. State authorities show little respect towards the notion of ancestral lands. An example is of the plans to move the Osire refugee camp with an estimated number of about twenty thousand people into Bushman land would end the San groups' mode of production and hence their means of survival.[206]

In 2003, the Namibian government passed a Land Reform Act that empowered the government to acquire properties in public interest. However there is still contestation on what the government really mean by "public interest." According to the Agricultural (commercial) Land Reform Act, "public interest" includes the possibility of title being transferred to other private individuals. The government can therefore generally exercise the power of expropriation for its resettlement and agrarian reform scheme.

Land reform in Namibia is taking place at a very slow pace and demands for land are increasing. Despite this, commercial farmers and international donors are encouraging the Namibian government to continue to adhere to a willing-seller, willing-buyer

[204] Editor, The Laughing stock of Africa, Guardian Newspapers Limited, 16 February 2003, p. 2.
[205] W. Werner. And P. Vigne, "Resettlement Co-operatives in Namibia: Past and Present," Division of Co-operative Development, Windhoek, 2000, pp. 4-7.
[206] H. Melber, Contested Territory, Op. Cit. p.4.

approach. The constitutional self restraining mechanisms are still existent and the Namibian government still wants financial assistance from the donor community. The Namibian government still has little choice of where to direct resources. Natalia noted that in Namibia there is still lack of clear criteria for farm expropriations.[207]

Namibia is continuing to embark on land reform within the rule of law because of the self restraining mechanisms in Namibian. Nujoma unlike Mugabe and did not temper around with the constitution because the legislature is a positive check to the leader's powers explaining why Nujoma could not stand for another term as president in November 2004. However though the Namibian Prime Minister, Theo-Bin Gurirab (February 2004) said that white owned farms would be expropriated to accelerate the process of land reform they still have financial constraints that cannot permit wholesale land acquisitions which they are not prepared to subsidize.

In April 2004 Jonathan Moyo, the then Zimbabwean Minister of information with an entourage of six experts went to Namibia to assess land reform and expressed satisfaction when the government pointed out that letters of intent had been sent to fifteen white farmers so that they make an offer to sell their properties.[208] It is logical to submit that this was done to gain support ahead of the November 2004 election that the government was now actually doing something. It can logically be submitted that after an election a government is more likely to adhere to external agencies of restraint for they will be in power until the next election.[209]

[207] R. Natalia, Op. Cit. p.2.
[208] H. Melber, Unpublished paper, Op. Cit. p.2.
[209] Author's observation on why governments abandon economic reform programmes shortly before elections, Unpublished Honours dissertation, 2003.

Jan de Wet, president of the commercial farmers union said that the Prime Minister's remarks had greatly disturbed the farming community. He pointed out that the government had to be clear with their selection criteria and let it be known to those who will be affected.[210] Failure to be transparent would breed unrest. Banks would also refuse to give and guarantee loans on the pretext that it would be risk to regard farms as surety.

The Prime Minister, Gurirab said, the commercial farmers and the land hungry peasants had to work together and not engage in unlawful actions. This shows that the Namibian government despite its land rhetoric does not want to engage in an "irresponsible behaviour" and be ridiculed by the donor community. The willing-seller, willing-buyer policy would continue alongside expropriations. Members of the opposition parties in Namibia critiqued the Prime Minister. They submit that this land rhetoric was a ploy to gain favours for the government ahead of the November 2004 Presidential elections. However the opposition in Namibia is still weak and cannot pose a very big political threat to the SWAPO government as was the case of the MDC to Zanu-PF rule in 2000 and 2002.

Melber argues that, there are indeed great chances for the land issue to be used as a political tool for political survival. To substantiate his argument he pointed out that President Nujoma threatened Commercial farmers in Namibia in a 2004 May Day speech. President Nujoma is recorded issuing a warning to "minority racist farmers" that "steps will be taken and we can drive them out of this land…as an answer to the insult to my government."[211] Melber observed that the SWAPO government embraces

[210] The Editor, The Star, " Commercial Farmers in Namibia under threat, 1st May 2004
[211] H. Melber, "Land and Politics in Namibia," Unpublished Paper, July 2004, pp.4 -5.

the "strategies of populist rhetoric to cover own policy failures, the land issue is tempting for manipulation and social engineering."[212]

Unlike in Zimbabwe, SWAPO ex-combatants want the government to make provisions for employment rather than demanding land. Moore noted that the land issue could be a vehicle and weapon to channel conflict over unresolved issues.[213] Undeniably if this is politicised then there is indeed room for garnering support from the disadvantaged and a possibility of violence being unleashed on the so-called enemies. As in the Zimbabwean case such calculated populism works.

An example is that in Namibia, a certain bureaucrat and trade union leader made his way into the SWAPO National Assembly in 1999. Because he is a crony of the party's leadership he is always a Member of Parliament from time to time. The Namibian daily newspaper reported that this politician has support because of his radical land expropriation views. He is supported by those excluded from the government and those lost their land. The Nama, Damara, San and others contend that the SWAPO government is not doing enough; hence land must be taken without proper compensation.[214] However it is logical to submit that they cannot violently confront the SWAPO government because of their backwardness and their low literacy level.

However the then Minister for Higher Education condemned this opportunism that begun to take root in the late 1990s. He wrote an article in the government newspaper

[212] Ibid.
[213] D. Moore, "Is the Land the Economy and the Economy the Land? Primitive accumulation in Zimbabwe," Journal of Contemporary African Studies, Vol19, No.2, pp. 255-257.
[214] H. Melber, "Contested Territory," Op. Cit. p.7.

the "New Era" he advised that "those who want to use the land issue as a scapegoat for shredding the Constitution should look elsewhere for their project."[215] If there continue to be man in Namibia who is prepared to stick to the Constitution then this will be a positive check and restraint to the executive misuse of power.

5.3 Are there possibilities of land invasions in Namibia?

It is beyond dispute that there is need for land reform in both Zimbabwe and Namibia. However it must be recognised and acknowledged that land redistribution is just an iota in the land reform process. It must have long term benefits and avoid future problems of those left out of the land redistribution exercise as in the Zimbabwean case. One Namibian "personal contact" commented,

> It would be a shame if the Namibian government fail to solve the land issue in a fair and transparent manner and go it the Zimbabwe way. He pointed out that SADC had to lobby this with the donor community so that Namibia would undertake a sustainable land reform that will benefit both Namibia and the region as a whole. He argued that it did not make sense just dishing out land as a way of political posturing so that rulers remain in power.[216]

In both Zimbabwe and Namibia, the ruling elite showed lack of commitment to accelerate land reform that would benefit the landless peasants. Melber noted that the Namibian president paints a misleading picture when he lays the blame on Westerners for impeding land redistribution in Namibia.[217] Nujoma like Mugabe employed conspiracy theories in defence of his authoritarianism.

It must be noted that one significant thing about Namibia that differentiate it from Zimbabwe is that, it got its independence just when the Cold War was ending. External donors were calling for democratisation. There was no room for rewarding

[215] N. Angula, Constitution and the Land Question, in: Southern African Political and Economic Monthly, vol. 13, no.7, April 2000, p. 11.
[216] Anonymous, interview with author, Harare, 8th February 2005

bad economic and political policies like what happened in Zimbabwe. Despite the slow pace of land reform in Namibia, just like Zimbabwe during the first decade of independence; it is embarking on land reform with the rule of law.

Namibia must be commended for being the only SADC country to have held a National Land Conference. Its land reform has thus been backed by law. Primarily domestic and global forces, such as commodity prices, climatic conditions and aid flows drive the economic performance of Namibia. Namibia also still has got a small population of about over a million and it also gets a lot of money from offshore diamonds unlike the Zimbabwean economy that is mainly driven by agricultural activities. Namibia is presently enjoying a stable economic growth.

Namibia also does not yet have a strong opposition to challenge its rule that it can use the land issue as its last card for political survival. Recently Hifipukinje Pohamba has taken over from Sam Nujoma as the president of Namibia. Though it is likely that Nujoma can continue to influence decisions it is unlikely that the government will embark on compulsory land acquisition without compensation. Pohamba served as the Minister of Agriculture in the Nujoma government so it is very unlikely that there will be dramatic change of policy. Coupled to this there are some in the government just like the Minister of Higher Education during Nujoma's time who have already started criticising those who might want to politicise issues to come into power. If it is assumed that politicians want to maximise their tenure of office citizens can safeguard them by voting rulers out of office and through institutions, legal constraints provided by democracy and the rule of law.[218]

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[217] H. Melber, Unpublished paper, Op. Cit. p.7.
[218] J.M.Maravall and A. Przeworski. Op. Cit. p.259.

Learning from hindsight through observation of what has happened in Zimbabwe; it is not likely that the Namibian authority is prepared to endure the disturbances that Zimbabwe is going through. There is also not yet a leadership crisis in Namibia like in the Zimbabwean case. Festus Mogae the President of Botswana pointed out that in Zimbabwe there is a crisis of good governance.

A lot of pressure is also being exerted on the Namibian government to be more serious with land reform from, the Namibian civil society, commercial farmers and external donors so that they avoid a recurrence of the Zimbabwean situation. Germany is on the forefront of sourcing funds so that land reform in Namibia continues on a willing seller, willing buyer basis with just compensation being given. The donor community continue to advocate for respect of the rule of law and property rights.

Britain wants transparency in elections and arrangements to assist resettlement as British Prime Minister, Tony Blair's Africa plan. The EU is also using article 96 of the Cotonou Agreement that controls the EU's relations with the Africa-Caribbean-Pacific (ACP) group of countries. Article 96 integrates good governance and human rights issues as determinants of EU-ACP relations. The Commonwealth and the UN all concur that land reform must embrace the rule of law, respect human rights, be done in a democratic fashion and be geared towards economic growth. They also contend that land reform has to be credible and legal and require adequate compensation to those whose land is expropriated.[219] Huntington contends that

[219] "Annan criticizes Zim land grabs," SAPA, September 1, 2001.

"external influence may be of decisive importance in influencing whether a society moves in a democratic or non democratic direction for democratization is a result of diffusion rather than development."[220]

It must also be pointed out that a lot of work is being done by NGOs and seminars being undertaken by "think-tanks" like the Namibian Economic Research Unity and others. All these groups are pressurizing the Namibian government to be cautious with its land redistribution exercise and not go it the Zimbabwean way. They also clearly point out how the Zimbabwean economy has continually been cited by the UNDP as having one of the worlds' fastest shrinking economies. It is evident that despite rhetoric the Namibian government is prepared to be the bulwark between the commercial farmers and the land less peasant.

The Namibian government's power base was not particularly heavily affected by colonial land expropriation. As long as the government continue to believe in land reform within the rule of law then that will be a positive check to arbitrary land seizures. As shown in the report there are also some ministers who are committed to protect the constitution from being manipulated by the executive. With pressure from the civil society, the donor community and with continued peer pressure from the AU it is less likely that land invasions will take place in Namibia. A positive development is that Nujoma agreed to relinquish power unlike in the Zimbabwean case were Mugabe has not done so.

[220] S. Huntington, Op. Cit. p.204.

5.4 Recommendations

It must not be overlooked that land reform is vulnerable to politicisation. The Namibian government might be tempted to go against constitutional restraints if it fails to execute a poverty reduction strategy aimed at alleviating the lives of the rural folk namely providing them with employment among other things. It must also be noted that though most SADC leaders have not condemned Mugabe's land seizures in public they have not done so in their own countries and as mentioned earlier on in Mozambique, Malawi and South Africa are welcoming Zimbabwean white commercial farmers. Land and power are therefore arguably two sides of the same coin. The Namibian government must accelerate the pace of land redistribution and be aware that land reform requires a consensus and support from the state, commercial farmers, the civil society and external donors.

Instead the Zanu-PF party and SWAPO must try to be more accommodative and desist practising patronage politics as a way of rewarding their cronies with farms purchased by donor funds. Both party leaders masquerade as torch bearers of the oppressed and yet when they assumed power they became crocodile liberators. They must promote the development of effective domestic agents of restraints so that their countries become more democratic and stop regarding the past as more important to justify the present excesses in terms of their heroic past. Kadalie observed that it is unfortunate but true that those who had been oppressed make the worst democrats.[221]

Accordingly the term "national interest" in both Zimbabwe and Namibia is now based on the rulers self beliefs and those opposed to such beliefs are labelled

[221] R. Kadalie, In: H.Melber, Introduction…, Op. Cit. p. XVI.

unpatriotic and are excluded. Both Zanu-PF and the SWAPO must stop embarking on politics of exclusion for it is this that will make the executive corrupt and not accountable to its citizens. National interest thus must not be used as the basis to justify all types of authoritarian practices waged against those characterised as enemies of the state.[222]Maravall and Przeworski observed that "elected governments in the name of the majority can infringe individual rights and expropriate property."[223] Huntington observed that some countries are unlikely to move in a democratic direction because of the violence in their politics and level of economic growth[224] and Zimbabwe is such an example.

What is apparent in both cases is that land rhetoric becomes really pronounced especially towards an election and thereafter reference to land inequalities becomes occasional. Politicians must have the political will to adhere to rule-governed land reform for it is only then that land reform can be sustainable. Agricultural development and growth must be a result of cooperation between white commercial farmers who have the farming experience and money and the new settlers who do not have these.

Domestic agents of restraint must always be there so that those in power are accountable for their actions. The international donor community should try to generously give enough financial assistance for a sustainable land reform. The AU must exert peer pressure on Zimbabwe and Namibia to join the AU/NEPAD Peer Review Mechanism. This will give leverage to members of the PRM panel to see whether peasants and civil organisations are given a chance to contribute so that their

[222] H.Melber, "Debates from Liberation Movements to Governments…," Op. Cit. p.5.
[223] J. M.Maravall and A. Przeworski, Op. Cit. p.263.

will be a fair and sustainable land reform process that will benefit the Southern African region as a whole. The AU and SADC must also develop a land reform policy that must be adhered to by countries that want financial backing for land reform processes.

So far however, despite a low profile in the policy debate, the official government position continues to confirm respect for constitutional principles and a commitment towards the "willing seller, willing buyer approach." Melber accordingly submits that "it remains a festering wound on neither the body politic of post-liberation Southern Africa that will be healed neither through neglect nor the palliative of de-racialising commercial agriculture. Radical surgery is required, but, as Zimbabwe demonstrates so clearly, this must not threaten the life of the patient.

[224] S. Huntington, Op. Cit. pp.204, 216.

Chapter 6: Conclusion

This paper has explored and examined land inequalities during and after independence in Zimbabwe and Namibia. It has shown that post-colonial political institutions were not changed at independence and acted as restraints to make the governments undertake land reforms within the rule of law.

Basing on evidence in the report it sounds plausible to conclude that in Zimbabwe the "negatives" and "positive" legacies of settler colonialism pushed the government in opposing directions. The Judiciary and initial policy framework traceable to a greater extent to the colonial legacy favoured land reform within the rule of law. It was in the mid 1990s because of the negative effects of SAPs, bad political and economic governance that life became unbearable for the common people in the streets and rural areas. The government came under intense pressure to deliver from its citizens and it increasingly became authoritarian. Social inequities of land ownership patterns created incentives for the Mugabe government to dismantle institutional restraints on its discretionary authority especially after losing the constitutional referendum in 2000.The Zanu-PF government used the land issue as the last card for political survival as a means of winning support from the majority rural peasants.

As for Namibia, from independence up to now it has embarked on a land reform programme within the rule of law. Though the land hungry people in Namibia are calling for a radical land reform programme it is less likely that a Zimbabwe style collapse of the rule of law will occur. As evidenced by the discussion on Namibia in the report, the government is aware of the small percentage that the agriculture sector is contributing to the Namibian GDP. This is also supported by the fact that land

redistribution is not part and parcel of the Namibian 2000-2005 Poverty Reduction Strategy. The Namibian economy is still doing very well and with continual good economic and political governance people will not turn to land. Offshore diamonds are also contributing much to the Namibian economy.

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