



INNOVATIVE CUSTOMARY LAND GOVERNANCE IN ZAMBIA

Experiences, Lessons Learned and Emerging Impacts

¹David Katungula, ²Danilo Antonio, ²Hellen-Nyamweru Ndungu ³Moonga Chilanga

¹People's Process on Housing and Poverty in Zambia, david.katungula@pphpz.org, Lusaka, Zambia

²UN-Habitat (Land and GLTN Unit), danilo.antonio@un.org, Nairobi, Kenya

²UN-Habitat (Land and GLTN Unit), hellen-nyamweru.ndungu@un.org, Nairobi, Kenya

³UN-Habitat Country Office, Moonga.chila@undp.org, Lusaka, Zambia

ABSTRACT

In Zambia, security of tenure for communities residing under customary land tenure settings has in recent years increasingly come under threat owing to the pressures of high rate of urbanization, speculation, subdivision and conversion to state land, which effectively excludes marginal populations from accessing resources for their land. While customary land is a major resource for most Zambians, the inadequacy or total lack of documentation leads to tenure insecurity, making people susceptible to forced displacements, and frequent land disputes. This paper demonstrates the experiences, lessons learned and emerging impacts of securing land rights of the rural poor, women and vulnerable groups in the context of customary land governance in Zambia. It further reiterates that tenure security empowers poor households, particularly women, and describes the participatory approaches adopted, and the use of fit for purpose land administration approaches.

Keywords

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Sustainable development

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1. INTRODUCTION

In Zambia, security of tenure for communities residing under customary land tenure settings has in recent years increasingly come under threat owing to the pressures of high rate of urbanization, speculation, subdivision and conversion to state land, which effectively excludes marginal populations from accessing resources for their land. While customary land is a major resource for most Zambians, the inadequacy or total lack of documentation leads to tenure insecurity. Although the constitution recognizes the existence of customary tenure, it does not provide for the registration of ownership rights, but only the protection of use and occupancy rights (Loenen, 1999). As such, there are no legal tenure documents issued to people residing on customary lands thus making them susceptible to forced displacements, and frequent land disputes among individual villagers, headpersons and even chiefs pertaining to boundaries and ownership. Statutory land is deemed by many people and investors to be more secure than customary tenure. This has seen the rise in the number of transactions where customary land has been converted into statutory tenure. The situation is more prevalent in communities living close to major cities and towns. For instance, Mungule chiefdom, which lies in the northern peripheries of Lusaka with an approximated total coverage of 3503km², has over 800km² of land already urbanized (Silumbe, 2010). Women and girls suffer disproportionately from the shortcomings of customary land holdings due to the cultural and patriarchal nature of land administration, which has historically eroded women's rights to access, use and control of land under customary tenure. Since the enactment of the 1995 Land Act, about 10% of customary land has been converted into state land (Veit, 2019).

Traditional authorities through an informal and undocumented land administration system manage most of Zambia's rural landmass. The statutory system is largely absent in rural areas. Despite the 1995 Land Act vesting all Zambian land in the President, traditional authorities (chiefs, village headpersons) exercise nearly exclusive power over customary land administration. Due to this, there have been reported cases of overlapping allocations of land and arbitrary reallocation within the chiefdoms (USAID, 2017). Also, some chiefs have been involved in the conversion of large blocks of customary land to state land raising corruption concerns. Overlapping allocation and reallocation of land is a major cause of complex land conflicts especially where land is taken from residents and given to international investment companies.

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3. THE CONTEXT

According to World Urbanization Prospects (2018), it's projected that 62.4% of Zambia's population will be living in urban settings by 2050. Zambia has one of the highest levels of urbanization in Africa, with an urban population of approximately 43.5% of total population in 2018, estimated at 16,445,079 (CIA 2019). With an average annual growth rate of 4.3% (World Urbanization Prospects 2018), there's a possibility of the urban population sprawling beyond the projected 62.4% by 2050. As a result of the increasing population, rural communities are threatened by increased demand for land, which constitutes a significant source of tenure insecurity. There is a danger of commercialization of customary land owing to the high demand from urban elites and local and multinational investment firms. Corruption and inertia have also contributed to an unresponsive customary land administration system. For instance, Administrative Circular No. 1 of 1985 only allows Chiefs to allocate up to 250 hectares, but reports show that in some parts of the country, investors have acquired up to 10,000 hectares of customary land which is later converted to statutory leaseholds (Munshimfwa, 2018). Administrative loopholes resulting from legislative and cultural weaknesses are seen as a vehicle through which communities residing in customary settings are increasingly getting deprived of their land and related resources. Inadequate or total lack of reliable and up to date land records has further exacerbated the uncoordinated and indiscriminate conversion of customary land to statutory tenure. Thus, customary land tenure is considered the least secure type of tenure because it is largely undocumented. This situation makes inhabitants of

customary land susceptible to forced displacements, and frequent land disputes among individual villagers, headpersons and even chiefs pertaining to boundaries. The most affected are women largely due to gender disparities and complexities surrounding the administration of land in customary areas. The greatest effects include forced displacements, land and property dispossession, and disinheritance among others.

In this context, the traditional leaders in Chamuka Chiefdom working with government authorities, civil society organizations, grassroots communities and other stakeholders decided to undertake interventions towards issuance of customary land certificates using fit- for- purpose land administration tools and inclusive approaches with emphasis on empowering women and vulnerable groups. The initiative primarily aims to improve capacity of rural women, working in partnership with traditional leaders to document customary land rights. Secondly, it seeks to understand the power relations of both men and women by mapping the tenure relations of both gender to land, differentiating between the dimensions of who has access, use, ownership, decision making and control in order to nuance discussions about women's land rights and create an evidence base as regards the degree to which women are empowered or disenfranchised. In addition, the intervention sought to strengthen the land rights of communities living under customary settings by making visible their land rights through the collection of both spatial and social economic data and the issuance of documentation to support occupancy on customary lands. Participatory approaches which included community led household enumerations, settlement profiles and mapping using the Social Tenure Domain Model (STDM), a fit for purpose land administration tool, were pivotal in shedding light on the plight of different interest groups where customary land administration is concerned. This data collection approaches were able to inform the chiefdom and other stakeholders the status of women with regards their rights to land and related resources.

4. IMPLEMENTATION OF STDM IN CHAMUKA CHIEFDOM

Beginning July 2016, STDM was piloted in Chamuka Chiefdom, by People's Process on Housing and Poverty in Zambia (PPHPZ) and its grassroots alliance partner the Zambia Homeless and Poor People's Federation, (ZHPPF) through the support of the Global Land Tools Network (GLTN) of the UN-Habitat. This intervention was under the project, 'Support to customary land certification interventions in Chamuka Chiefdom' and was coordinated by the UN-Habitat country office in Zambia. The project targeted eleven villages in the Chiefdom of His Royal Highness Chief Chamuka VI.

Chamuka chiefdom is located in Chisamba District, Central Province, about 100 kilometres from Lusaka. It is one of the seven Chiefdoms in the Lenje Establishment and consists of 207 villages. Each village is headed by a village headperson. The chiefdom covers a spatial extent of approximately 300,000 hectares. It shares boundaries with the Chiefdoms of Mungule and Liteta in the south west and west respectively. To the northwest lies Chipepo Chiefdom while Mukonchi Chiefdom lies in the north. In the south, the chiefdom shares its boundaries with Nkomesha Chiefdom and to the east is Chembe Chiefdom. PPHPZ collaborated with Chief Chamuka in the implementation of STDM to support customary land administration and the improvement of tenure security in the villages of

Kaputula, Bulemu, Shipunga, Ndililwa, Mponge, Musumali, Chisaka, Mwanampaya, Chipembe, Kasheta and Mukobola.

Specific project objectives were as follows: To support customary land administration and improving tenure security in 11 villages in Chamuka chiefdom; to document lessons and experiences on the application of STDM tool for land administration processes in Chamuka Chiefdom, and; to develop the capacity and autonomy of stakeholders at the local level.

The process began by establishing rapport with the Chamuka Royal Establishment, which includes His Royal Highness Chief Chamuka and his Palace Committee, to explain the importance of implementing STDM as a participatory land information tool, capable of providing a digital database of all households in Chamuka chiefdom. A series of meetings were held which also involved local government officials from Kabwe municipality, the capital of Zambia's central province where Chamuka is located. Bringing together the traditional authorities in Chamuka, the local community as well as government officials opened discussions on the STDM to better understand the tool and the process involved. These exchanges amounted to the identification of the eleven aforementioned villages for project implementation. This activity served to endorse the next steps for the implementation. The establishment of the STDM committee responsible for rolling out all project activities followed thereafter. The committee comprised PPHPZ, ZHPPF and local volunteers.

The second step was data collection, which involved the profiling, enumeration and mapping of the project area. GLTN and partners incorporated participatory enumerations in data collection approaches to gather information required at household level. The application of this tool fosters transparency and builds trust which serves to improve the data collected as well as being an effective tool to mobilize communities seeking locally engineered solutions to social problems. Several key activities were undertaken under data collection which included; training of community volunteers on STDM, actual data collection, data entry and analysis and validation/verification of the collected information. This paper will not delve into this process but rather the emerging outcomes and impacts registered following the process.

A total of 538 land parcels were surveyed and mapped across the 11 villages. Further, 561 households were enumerated with a total population of 3,102 people. In terms of gender disaggregation, 1,612 females (52%) of the population were captured, and approximately 1,490 (48%) males. A total of 191 were female-headed households. In terms of land ownership, men own 286 parcels whereas females own approximately 97 parcels. About 155 parcels are jointly owned.

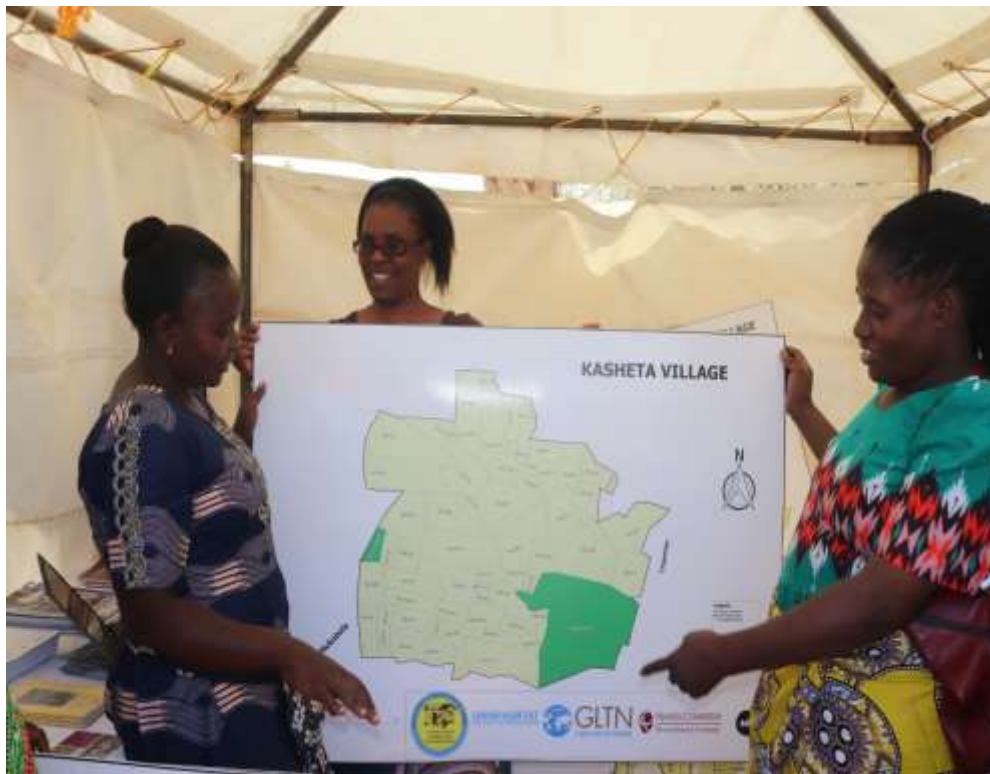


Photo 1: Community members display one of the maps drawn from the data collected in Chamuka Chiefdom.

Official Launch and Issuance of customary land certificates

After the STDM process in Chamuka, the leadership, i.e. His Royal Highness Chief Chamuka VI and the village headmen together with the local community and PPHPZ held several consultative meetings to discuss the design of the customary certificates, modality of issuance, as well as the terms and conditions of the certificates. The discussed terms and conditions for the certificates were later adopted as illustrated in the sample certificate below.



Photo 2: A sample certificate of a beneficiary and her dependents

The issuance of certificates ceremony then followed. Two events have taken place since this process began in Chamuka; one in November 2016 in which residents of the pilot area Bulemu village, were issued with the certificates for the first time in history; and in September 2018 where beneficiaries from the ten additional villages received these important tenure instruments. On both occasions, the ceremonies brought together high level dignitaries from the Zambian government such as the Office of the President, Permanent Secretary Ministry of Housing and Infrastructure, representatives from the Ministry of Lands and Natural Resources, Surveyors General Office, Ministry of Chiefs and Traditional Affairs, Royal highnesses from neighbouring Chieftdoms, Deputy Permanent Secretary for Central Province Zambia, local government officials from Chisamba District, and various headpersons from Chamuka Chieftdom. As such, these events have become platforms to drum up further support for the STDM at a national level.

5. EMERGING IMPACTS

The implementation of STDM as a fit-for-purpose land tool in Chamuka chieftdom has resulted in the enhancement of tenure security through the issuance of 530 certificates of customary land occupancies benefiting 3,584 people across eleven villages out of which 2,042 (57%) are women

and 1,542 (43%) are men. The tenure documents have empowered the villagers and protected their interests on these lands, which they depend on for their basic livelihoods. The community is now able to negotiate with investors regarding the development of their land. For instance, in Bulemu village, seven families occupying a 103-hectare piece of land have negotiated a 25-year lease with an Israeli firm for a solar project. Using the certificates as proof of occupation. This agreement will see these households benefit from the solar energy at no cost for the next 25 years. Each household will further benefit from sharing in the earnings. Also, the local community will acquire skills on how to operate the solar.



Photo 3: Beneficiaries of customary land certificates and stakeholders pose for a photo during the handover ceremony in September 2018

In the same village, another community also through the guidance of Chief Chamuka and the government has negotiated with a Chinese investor for compensation in return for the establishment of a Manganese processing factory. To give way for the factory, five families were relocated to a new area, where services and land to till was available. They relied on their newly acquired certificates of customary land occupancy to negotiate a compensatory package for their resettlement. The compensation to be received by the families (both monetary and new land within the chieftom for resettlement) was agreed upon after lengthy negotiations between Chief Chamuka, the community and the government. The planned investment will occupy 92 hectares of land where the five families used to live.

It is projected that the two investments will directly create over 300 permanent job opportunities for the local people in the short term and is expected to rise by over 50% thereafter. It is further envisaged that forward and backward market linkages will create support industries such as transport, hospitality, housing, health and other services that will result to more economic activities and employment opportunities for the local communities. Other ancillary services such as improved

road network, education etc. are expected to be developed to service both the workforce and general population surrounding the stated investments.

Another notable outcome is of the emergence of development planning guided by the spatial and social economic information that has empowered the community to engage relevant stakeholders. With the government implementing the decentralization policy, communities in Chamuka are well equipped with information necessary to drive their own development. The STDM process has provided invaluable information, profile and enumeration reports and spatial visualizations that are an empirical resource base to fully comprehend the developmental constraints and opportunities, which exist in the respective villages. Through this community led process, the residents can articulate their priorities and the course of interventions they would want to pursue. The digital databases created can be easily manipulated for updating the information pertaining to individual landowners and land parcels.



Photo 4: His Royal Highness Chief Chamuka VI displays a 'joint certificate' during the issuance ceremony in 2018

Closely related to the above, the STDM implementation in Chamuka has trained over 70 Para-surveyors to ensure sustainability of the process in other villages of Chamuka and beyond. The process, being participatory in nature enabled community volunteers to be part of the seemingly “technical” tool. The GPS handling and computerized data entry was largely perceived as the sole preserve of professionals among many grassroots communities, but not anymore. The Chieftdom is looking to expand this process and these trained volunteers will act as ‘trainers of trainees’ to the new recruits in the quest to enumerate and map remaining villages. .

Enhanced security of tenure is enabling residents to make investments on their land with the objective to improve their livelihoods. A good example is that of local youth in Ndililwa village who has set up a fish farm on a seven (7) hectares of piece of land in which he has constructed three

ponds to breed tiger fish for sale, an activity that has guaranteed him an increasing income of between USD 2,500-3,000 on annual basis. He is selling the fish in the local market of Chamuka. This has also been made possible by funds provided by the Ministry of Livestock and Fisheries in which the government is supporting youth on aquaculture. Enhanced security of tenure provides landholders with great leverage to invest more on their land thereby improving household food security and livelihoods in general.

According to villagers in Chamuka who benefited from this intervention, boundary disputes that were rampant before the STDM enumeration and mapping processes are now a thing of the past. STDM allowed for the settling of boundary disputes in a peaceful manner. A total of 231 interfamily boundary disputes identified during the project were amicably resolved through community mediation channels. Approximately 103 intra-family land succession disputes were also resolved, and all the eight village boundary disputes identified were amicably resolved.

Further the process has elevated the status of women by giving them a conspicuous role in spearheading data collection and facilitating discussions surrounding land rights with their headpersons and chiefs. Formerly, women were overlooked on issues pertaining to land governance. Traditionally, it is unusual for women to speak about land matters, let alone lead processes regarding land. This project therefore provided a platform to initiate critical discussions on land where women freely shared and interacted with other villagers including the leadership of the Chieftdom and the local government. There has also been a change in the perception of women by men; many men in Chamuka now view women as equal players in the land debate. Out of the 3,584 people who had their land tenure secured in the 11 villages, 57% are women. To ensure equity in the process, His Royal Highness chief Chamuka has introduced a policy declaring that fifty (50%) percent of land to be allocated at any given time be reserved for women in all the 207 villages. Additionally, every village committee is required to have women representation to ensure women voices are heard.

Further, the information collected from Chamuka has been used to inform the submissions of Chamuka Royal Establishment on customary land administration in the National Land Policy draft, now at the consultative stage. Specifically, the recommendation from Chamuka provided evidence on the practicality and versatility of fit-for-purpose land tools to enhance tenure security on customary land for all. His Royal Highness has been also emphasizing the usefulness of the STDM tool as an all rounded approach to land administration especially because of its ability to capture both spatial and attribute data on land.

6. LESSONS LEARNED

The implementation of fit-for-purpose land tools (such as STDM) in Chamuka demonstrates the efficacy of community driven initiatives in strengthening customary land governance. Whereas the Lands and Deeds Registry Act (Amended) of 1994 provides for the registration of land and issuance of certificates of title, the prescribed methodology makes it expensive and more difficult for poor and vulnerable groups, many who reside in customary settings. However, the employment of fit-for-purpose technology provides for quicker, less expensive and an all-inclusive approach to secure land tenure. In Zambia, it costs a minimum of US \$150 (Zambia Development Agency, 2017) on average

to acquire certificate of title notwithstanding the lengthy processes before certificates are issued. It is now possible to secure land for people in a quicker, less expensive and in a more equitable manner. The cost of acquiring the customary land certificate in Chamuka is USD 10. This amount as observed by His Royal Highness is affordable having been agreed upon by the locals themselves. The villagers pay this amount to the headman to cover transport charges and other logistical issues that might arise such as when the Royal Establishment travels to the villages to settle boundary disagreements.

Secondly, experiences from Chamuka show that it is possible to formalize and register land rights for people occupying customary land without taking away the power and authority of traditional leaders. The documentation of customary rights enhances the traditional leadership's capacity to administer land in a more transparent, accountable and equitable manner thereby strengthening their power and authority. Also, the STDM process has provided evidence that fit-for-purpose land tools are essential in creating platforms for traditional authorities and their subjects to come together and engage in meaningful dialogue regarding matters of common interest. Credible information is now readily available to facilitate informed decisions about the welfare of both present and future generations.

Thirdly, the role of 'male gender champions' in recognizing women's inherent value to development and their associated right to land and resources is key in achieving improved tenure security for all, and especially for the marginalized such as women and youth. Traditional leaders like Chief Chamuka VI, whose passion for protecting the land rights of his subjects, including women, is a trademark of his leadership, has helped facilitate women's land rights across his chieftom. Working with all stakeholders, his leadership has helped to change mind-sets around women's rights to land and has influenced both local and national government, other Chiefs and village headmen, and supported local and international interest groups in their empowerment endeavors.

7. CONCLUSION

Land is widely considered as a source of capital that serves as a social safety net, which consolidates wealth within families and communities and transfer wealth from one generation to the other. The need for secure land tenure in customary settings cannot be overemphasized in the face of stiff competition of this finite resource. The intervention in Chamuka chieftom demonstrates that participatory approaches and fit-for-purpose tools ensure equitable and gender responsive land governance that guarantees women's secure land tenure within the context of natural resources competition. Whereas conventional methods of registering land rights have widely proved unattainable by many poor communities particularly women, fit-for-purpose approaches have provided an alternative to reach scale in a quicker, less expensive and equitable way. More importantly security of tenure is now within reach for those at risk of being left behind, the poor and marginalized, including women and youth.

8. ACKNOWLEDGEMENTS

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9. REFERENCES

- CIA (2019), https://www.cia.gov/library/publications/the-world-factbook/goes/print_z.htm
24th July 2019
- Enemark, S., McLaren, R., & Lemmen, C. (2016). Fit-for-purpose land administration: guiding principles for country implementation.
- Munshimfwa, E.K. (2018, March). Customary Land Governance in Zambia: Inertia, Confusion And Corruption. Paper presented at the Land & Poverty Conference, Washington, USA.
- Silumbe, R., (2010, June). Monitoring the Impact of the Global Financial Crisis on Poverty in Zambia. Paper presented at the 8th General PEP Meeting, Dakar, Senegal.
- United States Agency for International Development (2017). Zambia Customary Land Documentation Tenure Assessment; Tenure and Global Climate Change Program.
- Van Loenen, B. (1999). Land Tenure in Zambia, Orono: University of Maine, Department of Spatial Information.
- Veit, P. (2019). Custom, law and women's land rights in Zambia. *Gates Open Res*, 3.
- World Urbanization Prospects, 2018. Urbanization Around the World. <https://www.un.org/development/2018-revision-of-world-urbanization-prospects.html>, 18th July 2019.
- Zambia Development Agency (2017); Cost of Doing Business in Zambia, 6th Edition.

10. DEFINITION OF KEY TERMS

Land rights - refer to access, use, control and occupancy of land.

Tenure security – refers people’s ability to manage and control land and related resources.

Corruption – refers to the abuse of entrusted power for personal motives

Sustainable Development – refers to development that meets the needs of thee present without jeopardizing the ability of future generations to meet their own.

Gender - refers to the socially constructed characteristics of women and men