

Investigating the Problems of Managing Zambian State Lands

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ABSTRACT

This paper examines the challenges of state land management in Zambia. In particular, the paper examines the status of the elements of state land management which include land use planning, cadastral surveying, land allocation, land registration, and land occupation. Based on primary and secondary data, this paper argues that the current state land management is weak. Land management is characterised by weak land use planning, cadastral surveying, land allocation, land registration and land occupation. These lead to high frequency of conflicts on state land such as invasion of idle or undeveloped private or public land, illegal allocation of land by some politicians and government officials, illegal land acquisition by political cadres, boundary conflicts, double or multiple allocations of land, eviction by private landlords, and eviction by government agencies. Subsequently, the high incidence of conflicts on state land leads to a high degree of tenure insecurity. In light of the foregoing, the paper provides recommendations on how the management of state land can be improved so as to minimize conflicts on state land, to enhance tenure security.

Keywords: *Land tenure, Land management, Land conflicts, Lusaka, Zambia*

Introduction

Land is arguably the most fundamental natural resource of any country. This is because people need the resource to grow food, for investments, for housing as well as to build towns, cities and villages. Many scholars argue that the foregoing activities cannot easily be undertaken in some African countries due to land conflicts and tenure insecurity caused by weak land management (see for example, Arko-Adjei, 2011; IFAD, 2006; Mwesigye, 2014). In turn, land conflicts and tenure insecurity adversely affect social and economic development in some African countries (Arko-Adjei, 2011; LRRRI, 2009; Mwambashi, 2015; UN-Habitat et al, 2015). The foregoing shows that some research

works have been undertaken on the African platform regarding land management. Despite the research works on the subject (land management), not much research has been conducted in this area in Zambia. It is from this background that this paper examines the challenges of state land management in Zambia. In so doing, the paper answers key questions which are:

- i. What is the present status of state land management in Zambia?
- ii. What can be done to improve state land management in Zambia?

Understanding Land Management

Land management is the process by which land is put to good effect (UN-ECE, 1996). It covers all activities concerned with the management of land as a resource which include land use planning, cadastral surveying, land allocation, land registration and land occupation. Firstly, land use planning involves the identification of available land, preparation of the layout plan (that is, showing which part of land is to be used for residential, industrial, commercial, agricultural or other urban uses and which parts are to be retained as open spaces), and provision of services such as water, roads, electricity and sewers. Secondly, cadastral surveying entails determining for each land parcel its location, the extent of its boundaries and surface area and to indicate its separate identity both graphically on a map and physically on the ground (Republic of Zambia, 2006). Thirdly, land allocation is the process of selection of the person to whom an area of land is to be allocated or allotted for the specific purpose of development for a particular and identified use (Kinyungu, 2007). Fourthly, land registration is the process of recording recognised interests in defined land units (Lamba, 2005).

The basic elements of land registration are the registrable land unit, that is, the land object, the legal person to whom rights are assigned [that is, the legal subject] and the relationship between the land and the legal person [the land rights] (Henssen, 1995). Finally, land occupation is when a person exercises physical control over land (Mushinge, 2017a). For instance, a person may put up buildings. Thus, the occupant of land is in occupation of it as long as he/she has the power of entering into and staying there at pleasure, and the power of excluding all other persons from the use of it. Magel (2015), states that the whole is more than the sum of the parts. Therefore, land management should be understood as a system comprising elements which include land use planning, cadastral surveying, land allocation, land registration, and land occupation. These components should work as a whole and not as separate or independent elements. Where the elements are weak, the system of land management is also weak and this has consequences which can be quite dramatic, for instance land conflicts and tenure insecurity. Reducing land conflicts so as to enhance tenure security requires effective land management. Effective land management means having effective land use planning, cadastral surveying, land allocation, land registration, and land occupation.

Land Tenure Categories in Zambia

Zambia's land tenure is classified into two categories namely customary and statutory tenure. Figure 1 below is illustrative.

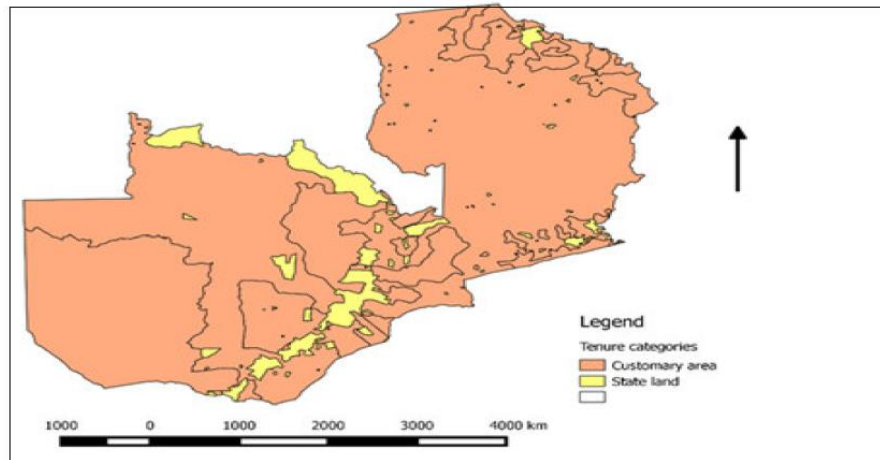


Figure 1: Land Tenure Categories in Zambia

Source: Mulolwa, 2016

Land under customary tenure is known as customary land while land under statutory tenure is known as state land. Customary land only guarantees use and occupancy rights without the registration of ownership rights (Mushinge, 2015). All members of a community have free access to land under customary tenure (Mushinge, 2015), and traditional leaders manage land under customary tenure. On the other hand, statutory tenure entails formal registration of land ownership as provided for in the Lands and Deeds Registry Act of 1994. State land is managed by the government, through the Ministry of Lands and Natural Resources in conjunction with municipalities. Here, prior to land occupation, land has to be planned, surveyed, allocated and registered. Zambia covers a land area of 752,614 square kilometres. It is estimated that state land covers about 10% of the country while customary land covers the remaining 90% (Republic of Zambia, 2017). Although both customary land and state land have been discussed, the focus of this paper is state land.

Methodology

The study is based on both primary and secondary data. Primary data were collected using semi-structured interviews. Respondents were purposively selected from Municipalities; Ministry of Lands and Natural Resources; Lands Tribunal; civil society organisations which include Zambia Land Alliance and Civic Forum on Housing and Habitat; Urban and Regional Planning and Geomatics academicians; and practicing cadastral surveyors. A total of 13 respondents were interviewed. Secondary data were collected from six types of documents: theses, peer reviewed journal articles, books, technical reports, newspapers, and Zambia National Assembly debates.

Results and Discussion

Status of State Land Management

Land Use Planning

The study intended to establish the effectiveness of land use planning in Zambia. Findings on this issue were that there were instances where a number of land parcels had been created and allocated to individuals, without access roads, thereby making it difficult for the land owners to access their properties. Furthermore, in several cases, land use planning did not take into account the already existing facilities such as underground water and sewer pipes and in some cases electrical and communication cables. Consequently, some buildings had been erected on top of these facilities. Arising from the foregoing, some property users had to suffer the misfortune of having their structures demolished to free the service lines. Indeed, the foregoing situations had in the past lead to conflicts among property owners, property owners and the authorities who in this case included the public and private organisations, local and central government. Thus, the ineffective land use planning had impacted negatively on land management in Zambia, and had escalated land conflicts. Mention must be made here that poor land use planning had been blamed on lack of capacity by municipalities to effectively plan, monitor and control land development due to lack of equipment, inadequate trained staff, scarce financial resources and lack of political will (UN-Habitat, 2007).

The study also set out to find out whether or not the land use plans were a product of a participatory planning process. Literature shows that that land use planning was non participatory. According to literature, local authorities do not adequately communicate whenever there was land use planning or replanning. For example, Mulolwa (2016), blamed inadequate public participation on lack of clear communication strategy and community awareness vis-à-vis development planning; and that public agencies had not fully taken advantage of technologies such as internet and participatory Geographic information Systems (GIS) to make information on land use plans available to the public. Limited or lack of participation of local people in the production of land use plans does not inspire the people to participate in their implementation.

Cadastral Surveying

Research findings show that cadastre coverage for the entire state land in Zambia is less than 40%. Due to the foregoing, it is very unlikely that cadastral surveys could provide accurate information for management of state land in Zambia. Furthermore, evidence gathered from interviews and documents indicate overwhelmingly that cadastral surveying in Zambia was facing challenges such as ineffective cadastral surveying and inadequate storage infrastructure. On the one hand, there was a Service Charter on the Ministry of Lands and Natural Resources web-site which states that survey diagrams for surveyed land were supposed to be issued within seven working days while lodging and approval of survey records were supposed to be completed within five to twenty one working days. However, research findings show that the foregoing time frames were rarely adhered to. Often cadastral surveying involved long waiting periods (Chitonge and Mfunne, 2015), extending beyond several months, or even years.

For instance, the approval of the survey diagrams was a lengthy process taking up to two years (UN-Habitat, 2012). This is caused by among other factors shortage of staff. For example, at the Survey Department (Ministry of Lands and Natural Resources) only 1/4 of the required positions (that is, Land Surveyors, Cartographers, Photogrammetrists, Examiners, Draftsmen and so on) are filled leaving a deficit of ¾ (Mushinge, 2017a). The unpredictable delivery period had caused dissatisfaction of clients who applied for cadastral services at the Survey Department (Chileshe and Shamaoma, 2014). On the other hand, the manual lodgement of cadastral records demanded a lot of storage room and the existing storage infrastructure was inadequate (Chileshe and Shamaoma, 2014). This study established that the manual survey records were so many such that they could no longer fit in the storage room, confirming what Chileshe and Shamaoma found out earlier. Due to inadequate space coupled with misfiling and general poor record management, locating records of interest could take days.

Land Allocation

State land allocation procedure was tedious and opaque (Mushinge and Mwango, 2017). On the one hand, the land allocation process was lengthy, as it had the potential of extending beyond several months, or even years (Musole, 2007). Yet, the Service Charter provided by the Ministry of Lands and Natural Resources web-site was quite clear on the time frame within which land allocation activities should be achieved. For instance, an offer letter was supposed to be issued within 30 working days after approval of application, and a lease was supposed to be prepared within 10 days after acceptance of the offer, and submission of survey diagram. However, issuing of offer letters and preparation of leases involved long waiting periods (Mushinge, 2017a). It should be pointed out that the delay in generating letters of offer and preparation of leases by the Lands Department had led to the congestion or piling up of files and this had in one way encouraged corruption (Sikazwe, 2005). The delay in disposing of files at the Lands Department could be attributed to many factors, inter alia shortage of skilled staff and the available staff charged with the responsibility of dealing with files did not work on them with the urgency and efficiency required (Sikazwe, 2005). On the other hand, allocation of state land is not transparent (Mushinge, 2017a). Even if municipalities advertised land for allocation, the allocations were sometimes conducted long before the advertisements, and land was in many instances allocated to close associates (Mushinge and Mwango, 2017). Hence, advertisements were just meant to convince the public that land allocation was being done in transparent manner.

Land Registration

According to Republic of Zambia (2017), there were about 200,000 land parcels registered with the Lands and Deeds Department at the Ministry of Lands and Natural Resources, representing about 9 per cent of properties on title in the country in 2016. The study established three main reasons for this. The first reason is that the majority of land users do not register their land because it is too expensive for them. The second reason is that many land users do not know the registration procedure. And the third reason is that

the registration process is complicated. For example, anybody who had dealt with the Ministry of Lands and Natural Resources and Municipalities knows that land registration was not only time consuming, but was laborious, and it involved many agencies that had to deal with planning, numbering, surveying, advertising, interviewing and finally allocation of the land to the successful applicant (Mushinge, 2017a). Moreover, since land registration is an activity undertaken after land use planning, the weaknesses in cadastral surveying and land allocation, affects land registration. In addition, the Service Charter provided by the Ministry of Lands and Natural Resources web-site is quite clear on the time frame within which land registration should be achieved. For instance, a certificate of title was supposed to be issued within 7 days after joint signature of lease by the applicant and the Commissioner of Lands. However, the time frame stipulated in the customer service standards as regards the issuing of certificates of titles was rarely achieved. The process involved long waiting periods, that is, beyond several months, or even years.

Land Occupation

Although access to land is an undeniable right bequeathed to all citizens regardless of status and place in life, the current land distribution system is characterised by inequitable state land allocation that give too much power to the rich and disadvantage the poor (Mushinge, 2017). For instance, for an applicant to be considered for an interview to acquire land, municipalities require him/her to produce copies of certified bank statements for the period of three months. This implies that people without bank accounts are not eligible to acquire land through municipalities. Thus, many people especially those in the low income group ended up invading any vacant private or public land (Mushinge and Mwango, 2017). The consequence has been that 70% of the urban population in Zambia live in illegal settlements (CFHH, 2015). These settlements offer a life of dispossession to decent shelter, clean water, good sanitation, access roads and in most cases secure tenure (CFHH, 2015).

Effects of Weak State Land Management

It will be recalled from the preceding section that the management of state land in Zambia is weak. Considering this, the big, ineluctable question must therefore be; what are the effects of weak state land management? According to interviews and literature, the prevailing land management lead to a high incidence of conflicts on state land. The types of conflicts include but not limited to invasion of idle or undeveloped private or public land, illegal allocation of land by some politicians and government officials, illegal land acquisition by political cadres, boundary conflicts, double or multiple allocations of land, eviction by private landlords, and eviction by government agencies. Some examples of the foregoing types of land conflicts are provided below:

- “Property on Stand Number 37881, Chinika Area, Lusaka District has a land area of 9999 square metres. This is private land which stayed vacant for some time and some people invaded it in 2013. These invaders built various structures thereby hindered the development by the owner” (Interview with Lands Tribunal Employee, 2018).

- The then Minister of Local Government and Housing (Stephen Kampyongo) said his tour of the municipalities revealed rampant illegal land allocation perpetuated by some of the elected councilors and officers from municipalities (Mushinge, 2017b).
- “Between 2014 and October 2016, numerous cases of land grabbing had been reported to the Task Force against Illegal Land Allocation. Land had been grabbed in areas such as Lusaka West, Obama Area, New Kasama, Foxdale Area, Chalala, Makeni, Chinika, Chilanga, and Lilayi. This was land belonging to individuals. Whenever owners tried to evict these land grabbers, they raised sticks, axes, picks, machetes, slashers, used tyres, shovels and stones saying they were ready to die for land” (Interview with Ministry of Lands and Natural Resources Employee, 2018).
- “Boundary conflicts occurred when land was allocated and occupied without provision of roads. Here, land owners who needed access to their properties made their road(s) and in the process encroached on other properties in the subject area” (Interview with Municipality Employee, 2018).
- Cases of double or even multiple land allocation were common on state land in Zambia (Chitengi, 2015; KCC, 2012; Republic of Zambia, 2012; UN-Habitat, 2012).
- “Over 35 families in Chinika area (Lusaka District) were left homeless after the title holder executed a court order to remove them from the land and demolished houses in May 2015. The property number is LUS/12923 and has an area measuring 11, 963 square metres. When this land was allocated to the private firm in 2011, the firm left it undeveloped for some years. Thus, squatters invaded the land and built houses. Thus, the firm went to court and the court ordered for an eviction. The eviction was conducted by a team from the Office of the Sheriff of Zambia and Zambia police” (Mushinge, 2017b).
- “The Patriotic Front [PF] (ruling political party) leadership in Lusaka Province was annoyed over the demolition of over 800 houses in Lusaka West area. PF Province Chairlady, Margaret Mumba said it was unfortunate that the Police went ahead to demolish the houses of innocent Zambians. Ms Mumba claimed that at the time the demolition exercise was carried out she asked for the Court Order but was not given the document” (Lusaka Times, 15 December 2015).

Subsequently, the high incidence of state land conflicts leads to a high degree of tenure insecurity. Conflicts on state land have grave repercussions such as loss of life and damage to property, high litigation costs, decreased food production, denied the government an opportunity to raise revenue, and hindered investment (Mushinge and Mwango, 2017).

Conclusion and Recommendations

The findings of this research showed that the management of state land had serious weaknesses. Particularly, land management was characterised by weak land use planning, cadastral surveying, land allocation, land registration and land occupation. The

foregoing predicament leads to high frequency of conflicts on state land and consequently high degree of tenure insecurity. In light of the presence of weak land management, the research suggests that the government should consider strengthening land management through improving:

- Land use planning through providing services such as roads, water, sewers and electricity on land before allocation to would be developers. Land use plans should also take into account already existing facilities such as underground water and sewer pipes to avoid allocation of land where there are services. In order to inspire the people to participate in the implementation of land use plans, municipalities should ensure that adequate public participation in land use planning through community awareness.
- Cadastral surveying through employing more specialised staff at the Survey Department and migrating to digital system archiving and management of cadastral survey information.
- Land allocation through employing more specialised staff at the Lands Department and ensuring transparency in land allocation.
- Land registration through reducing registration costs and adequate dissemination of information to the public on registration procedure.
- Land occupation through ensuring even distribution of land.

It should be borne in mind that if management of state land is not improved, the problem of conflicts and tenure insecurity on state land will remain unresolved or become worse.

References

- Arko-Adjei, A. (2011). Adapting Land Administration to the Institutional Framework of Customary Tenure: The Case of Peri-urban Ghana. PhD Thesis. Delft University of Technology, Delft.
- CFHH (2015). Zambia Housing Symposium Report 2015: Housing at the Centre of Urbanisation. Lusaka: Civic Forum on Housing and Habitat.
- Chileshe, R.A. & Shamaoma, H. (2014). Examining the challenges of cadastral surveying practice in Zambia. *South African Journal of Geomatics*, 3 (1), pp. 53 – 63.
- Chitengi, H. S. (2015). Deriving Lessons for Urban Planning and Housing Delivery from the Resilience of Informal Housing Systems in Zambia. PhD Thesis. University of Dundee, Dundee.
- Chitonge, H.& Mfune, O. (2015). The urban land question in Africa: the case of urban land conflicts in the city of Lusaka, 100 years after its founding. *Habitat International*, 48, pp. 209-18.
- Henssen, J. (1995). Basic principles of the main cadastral systems in the World. FIG Commission 7 Annual Meeting and Seminar on Modern Cadastral Innovations, Delft, 16 May.

- IFAD (2006). Land Tenure Security for Poverty Reduction in Eastern and Southern Africa. Workshop report, Kampala, 27-29 June 2006.
- KCC (2012). 2012-2016 Strategic Plan. Kitwe: Kitwe City Council.
- Kironde, J.M.L. (2009). Improving land sector governance in Africa: the case of Tanzania. Paper prepared for the “Workshop on “Land Governance in support of the MDGs: Responding to New Challenges” Washington DC, March 9-10 2009.
- Lamba, A.O. (2005). Land Tenure Management Systems in Informal Settlements: A case Study in Nairobi. Master Thesis. ITC, Enschede.
- LRRRI (2009). The changing terrain of land use conflicts in Tanzania and the future of a small producer. Paper prepared by the Land Rights Research and Resources Institute for presentation to the Commonwealth Association of Surveying and Land Economy (CASLE) on 29 June 2009 at White Sands Hotel in Dares Salaam, Tanzania.
- Lusaka Times (15 December 2015). PF leadership in Lusaka upset by demolition of 800 illegal houses. Available <https://www.lusakatimes.com/2015/12/15/pf-leadership-in-lusaka/>. (October 22, 2016).
- Magel, H. (2015). Land management in support of SDG: About surveyors role and profile [online]. Available https://www.bole.bgu.tum.de/fileadmin/w00brh/www/PDFs/News/201510_01_A_egypten_Magel.pdf. (October 17, 2016).
- Mulolwa, A. (2016). Improving Land Governance in Zambia: Implementation of the Land Governance Assessment Framework. Lusaka: University of Zambia.
- Mushinge, A. (2015). Land tenure security in Zambia. In UN-Habitat, GIZ, TUM and GLTN (eds) Land Tenure Security in Selected Countries. Nairobi: United Nations Human Settlements Programme.
- Mushinge, A. (2017a). Assessment of the lands tribunal in resolving state land conflicts in Zambia. Research on Humanities and Social Sciences, 7 (18), pp.16-23.
- Mushinge, A. (2017b). Role of land governance in improving tenure security in Zambia: towards a strategic framework for preventing land conflicts. PhD Thesis. Technical University of Munich, Munich, Germany.
- Mushinge, A. and Mwango, N.C. (2017). Assessment of land governance system in preventing state land conflicts in Zambia. Research on Humanities and Social Sciences, 7 (12), pp.1-10.
- Mwambashi, E.R. (2015). Assessing the Impact of Land Conflict between Farmers and Pastoralists in Tanzania: A Case of Ulanga District Council. Master’s Thesis. Mzumbe University, Tanzania.

- Mwesigye, F. (2014). An Inquiry into the Evolution of Land Institutions and its Implications for Land Tenure Security, Land Transactions and Agricultural Productivity: Evidence from Rural Uganda. PhD Thesis. National Graduate Institute for Policy Studies, Tokyo.
- Republic of Zambia (2006). Draft Land Administration and Management Policy. Lusaka: Ministry of Lands.
- Republic of Zambia (2012). Report of the Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs on the Report of the Auditor-General on the Implementation of Gender Mainstreaming activities in Zambia. Lusaka: National Assembly of Zambia.
- Republic of Zambia (2015). Draft National Land Policy. Lusaka: Ministry of Lands, Natural Resources and Environmental Protection.
- Republic of Zambia (2017). Draft National Land Policy. Lusaka: Ministry of Lands and Natural Resources.
- Sikazwe, F.M. (2005). Land Administration in Zambia: An Appraisal of the Efficacy of the Lands Act No. 20 of 1995. Master of Law Thesis. Lusaka: University of Zambia.
- UN-ECE (1996). Land administration guidelines, with special reference to countries in transition. United Nations Economic Commission for Europe. Geneva.
- UN-Habitat (2007). Zambia: Lusaka Urban Profile. Nairobi: United Nations Human Settlements Programme.
- UN-Habitat (2012). Zambia Urban Housing Sector Profile. Nairobi: United Nations Human Settlements Programme.
- UN-Habitat, GIZ, TUM and GLTN (2015). Land Tenure Security in Selected Countries. Nairobi: United Nations Human Settlements Programme.