



## ZAMBIA LAND ALLIANCE

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*"Land is Life"*

# NATIONAL CONSULTATIVE MEETING ON LAND POLICY RECOMMENDATIONS FROM ATTENDEES

## Group Five (Land and Investors)

### Recommendations

1. We recognize the need for investment in land by both Zambians and non-Zambian investors
2. Land Act should be more generous to local investors in terms of access to land in comparison to non-Zambians
3. Non-Zambians should pay a higher percentage value of 50% in acquiring land for investment at market value
4. Foreign investor's leasehold to land should only be up to 20 years subject to renewal in line with value of investment
5. All applications should be handled by the Commissioner of Lands not the President; however there must be provision for appeal to the President
6. Provision should be made to ensure that the ZDA assists both local and foreign investors to acquire land expeditiously but through the Commissioner of Lands
7. There should be provision for compensation when locals are displaced by investors of compulsory acquisition of land by the President.
8. There should be restrictions in acquisition of residential land in both urban and rural areas by non-Zambians
9. The Chief's Act should spell out the role of chiefs and council of elders in the allocation of customary land to investors to protect the integrity of traditional leaders to enhance transparency and good governance.
10. We recommend that there should be provision for land which was converted from customary to state land to revert back to customary tenure.

## **Group Eight (Persons with disabilities, able-bodied youth and Land)**

### **Observations**

1. Document doesn't outline on special procedures for land acquisition for the able-bodied youths (preferential treatment were allocating land)
2. The document doesn't outline means of protection for those who are below the contractual age who might have obtained land by virtue of hereditary.
3. The document hardly mentions a way in which youths might easily access land.

### **Recommendations**

1. Fair and equitable distribution of land especially the youth they constitute the largest portion of Zambian population.
2. The policy should be harmonized with other policies that are inter-related with it. i.e. Citizen's Empowerment Act, National Gender Policy 2000 & FNDP and Vision 2030.

### **Observations**

1. The 10% in the document of PWD is misleading as it is universal (WHO projection)

### **Revision of Sentences**

1. Public buildings whose land administration services are provided should be accessible to PWD.
2. Involve PWD in land management decision-making process for proper representation.

### **Recommendations**

1. In line with, among others, conversion on the rights of PWD & PWD Act, the term PWD should be consistently be used.
2. Emphasis should not be on stigma, rather on rules and laws affecting PWD.
3. ZLA needs the compilation of recommendations from various stakeholders should also consider a position paper submitted by ZAMDHARP which I present to the chairperson.

## **Group Two (Title Deeds)**

### **Recommendations**

1. Issuance of title should be decentralised and this should be done at district level country wide.

2. Long tenure period of 99 years should be shortened. This move will trigger faster development of land on title and also allow making timely adjustments to land where need be.
3. There is need to categorize various types of leaseholds, therefore the length of tenure will depend on the category.
4. There should be a limit to the number of titles an individual can hold.
5. Wide consultation with the local people should be held before a piece of land in customary tenure is converted into leasehold. Interests of the local people should be upheld.
6. Wider consultation should also be made at renewal of titled in case of large scale establishments such as farms, ranches, etc.
7. No title should be given for any large scale development before approval of environmental and social impact assessment reports are done as required in EIA regulations of 1997.
8. Title acquisition procedures should be simplified and the cost be made pro-poor. To this effect title deed fees and other land related fees or rates should be categorized classes to allow vulnerables access land.
9. The title of Zambia's land should not be vested in one person (President) as this is prone to abuse instead it should be enshrined in all the indigenous Zambian people.
10. Zambians should have shares for every title issued to foreigners
11. Royalties for natural resources should accrue to local communities hosting a large scale investment. This aspect should be one of the conditions for issuance or renew of title.
12. MoL should work in collaboration with district authorities and chiefs for them to tally data on the land in Zambia.

## **Group 1 (Dual Land Tenure)**

### **Definition at conceptual level**

- The law governing is two hold
- In reality they are more

### **Implications**

- No regulatory clarity
- No/security
- Cost of ownership (bureaucratic)
- Lack of co-ordinated developments

Numerous certifications (multiplicity of regulations)

### **Best Practices**

1. Loss of land by chiefs
2. Loss of revenue
3. Loss of authority
4. Lack of reversal mechanisms in land allocation/landlessness
5. Lack of transparency
6. Guidelines of eligibility not clear
7. Vulnerability of women and orphans

Lease = Rent

Tenure = Period

### **Lease implications**

1. Land rates to the state
2. Property rights (as security)
3. Financial institutions discriminate against rural
4. Mixed interest
5. For Zambians OK, but foreigners 14 to 30 years renewable

### **Best Practices on Dual Tenure**

1. Foreigners should partner/co-lease with local investors
2. Choice of tenureship
3. Incentive provision to the chiefs
4. Standardized certification for a period
5. Perpetual succession through a family line
6. Development of reversal mechanism
7. Equal power and share of resources
8. Control the convention and strengthening customary land
9. Strengthen the dual tenure
10. Application and reinforcement of usufruct right

### **Recommendations**

1. Actual figures (jurisdiction)
2. If customary land is converted to leasehold it should be reverted back to the customary ownership
3. Customary land administration should be strengthened
4. Should have right to charge rates and levies
5. Institutional mechanism to promote transparency and accountability (land allocation)
6. The rates collect should benefit local communities collected from
7. Have regular land allocation and utilization audits
8. Promote decentralized land allocation and management (state land)
9. Powers on land management should be moved to decentralized institutions
10. Reserve land category should not be implemented but subject to further debate and consultations from members of Parliament, the chiefs and the citizens
11. Avail all stakeholders with necessary documents in good time for perusal

## **Group Nine (Land and Decentralization)**

### **Issues**

1. Lack of implementation of decentralization policy (2002)
2. Role of chiefs and village headpersons not identified as elements of decentralization
3. Lack of capacity and infrastructure to support decentralization
4. Lack of information/knowledge on land acquisition procedure and processes
5. Lack of political goodwill on the overall decentralization policy implementation

### **Challenges**

1. Decentralization of land within a highly centralized system
2. Framework of information flow on land issues across the board
3. Decentralization policy very slow in implementation poses a challenge in the delivery of land
4. Defining roles of the key players in decentralization especially in the dual system
5. Delivery framework of decentralization including HR capacity

### **Recommendations**

Policy measures in the document have not taken into consideration the broad issues regarding land decentralization as spelt above. We therefore recommend that this Chapter be thought through, restructured and re-written. In addition the actions that must precede the land and decentralization must take place first e.g.

- Decentralization policy implemented
- Awareness raising measures
- Survey people's views

## **Group Six (Land Registration)**

### **Recommendations**

1. Decentralization and modernization of land registry offices should be in all the districts
2. There should be efficiency and employ a system that will avoid slow and tedious systems of registration of land and title
3. The manual and computerized systems should be used to enhance efficiency in all districts
4. Registration of land and other properties should be registered within the timeframe
5. There must be a uniform type of system to address the major concerns of the chiefs in customary land administration to equalize the rights of all citizens

### **Gaps**

1. There hasn't been much sensitization to the citizens on their rights to own land
2. Information meant for the public consumption has been kept confidential

3. Land issues have been associated with corruption at all levels
4. It has taken too long for the government to implement the decentralization policy

## **Group Seven (1995 Lands Act)**

### **Recommendations**

1. Act must be written in simple and clear language
2. Must be made available in local languages
3. Decentralization of the delivery system
4. The act must respect ownership rights
5. Statutory instrument to support the act must be put in place
6. There must be a provision to change statutory land to customary tenure
7. The Tribunal mechanism must cater for land disputes under customary tenure
8. Lands Tribunal must be decentralized for accessibility sake.
9. Land must be vest in the state on behalf of the people of Zambia
10. Procedures to acquire title deeds must be simple and easy to follow
11. Procedures on how to access state land must be made available
12. The local people and traditional leaders must give consent to the alienation of any land
13. The Act must provide an alternative to displaced citizens to avoid destitution
14. The Act must also provide limitations to foreigner ownership of land
15. The Chiefs role as custodians to customary land must be made clear
16. The Act must provide for the registration of rights of landholders under the African customary tenure and this could be created at district level
17. The Act must indicate and show that customary tenure has value
18. The procedures on how to sell land must be made available

## **Group ()**

### **Chiefs Present:**

- ✚ Senior Chief Nalubamba
- ✚ Chief Mwata Kashiba
- ✚ Chief Jumbe
- ✚ Chief Chamuka
- ✚ Chief Chibesakunda
- ✚ Senior Chieftainess Nkomensha Mukamambo II

### **Proceedings:**

The question is where Chiefs adequately consulted on Draft Land Policy? The general view by all Chiefs present at this consultative meeting is that Chiefs were not adequately consulted in the preparation of the Draft Land Policy. That even the Chiefs (if any), that were consulted, their views are not reflected in this Draft Land Policy. In light of these difficulties

the Chiefs reject the policy document as it stands because if encouraged, it threatens the existence of Chieftaincy in Zambia and the Chief's further demand that the whole issue on Land should be dealt with in a much more holistic manner and that there should be broader consultation that will include Government, Chiefs with fair regional representation, Civil Society and the general citizenry.

However, as Chiefs present at this august meeting we submit as follows:

Section 4.3.2 of this Draft Land Policy seems to suggest that since the land is vested in the President, it is an encumbrance for the Chief to be consulted before alienation. This is not correct because consultation and consent provides the necessary checks and balances. The Chiefs further feel that alienation of land ACTUALLY erodes the powers of Chiefs, but do not agree with the assertion and argument that Chiefs give land to foreign investors and urban elite without consulting the local people. The truth is that the majority of Chiefs are not practicing this and as for the isolated cases where this practice may be true capacity must be put in place to discourage and put an end to this practice

Further, the chiefs present were of the view that they have not refused conversion of customary land to state land. In the case of Senior Chieftainess Nkomensha Mukamambo II, she has lost a huge part of her chieftom which is now Lusaka City. This land was taken arbitrary without consultation and consent from the Busoli Royal Establishment. This has happened in many other parts of Zambia

## **Challenges**

Their Royal Highnesses were of the view that:

A, was true.

B, was true to an extent, but that there is also need for sensitisation on the implications of conversion of customary land to leasehold tenure.

The suggestion in Section C that there are differences in the nature and form of customary land tenure is misleading because customary land tenure is the same everywhere you go in Zambia. Further differences, if there were any would not be a challenge.

Section D should also acknowledge the fact that instead of the traditional authorities and local authorities complimenting each other in land administration there is a conflict as most local authorities seem to over look traditional authorities.

Section E, was said to be true.

Section F, was said to be true.

Section G, lack of popular participation: Their Royal Highnesses are of the view that it's unrealistic to involve everyone to participate in land administration. Actually, as the case with the Commissioner of Lands is he makes land grants in secret and thus the traditional system is more participatory than the state system.

Section H, yes there is under utilisation which is as a result of A i.e. customary land being unrecognized by financial institutions.

Section I, in terms of procedure there is no conflict between rather the conflicts is on who should have authority over customary land.

### **Land should be vested in the people of Zambia.**

#### **Policy Measures**

- a. Registration of rights: this is problematic, what does registration mean? It might mean issuance of title. Clans are not defined geographically and also that one can belong to more than one clan. The registration of clan land rights simply does not work.
- b. creation of credit associations is problematic.
- c. Is draconian, the measure does not fit in our current set up. Unifying land administration and management might mean the state taking over the role of traditional leadership.
- d. The policy should recognize the role of traditional leaders. Setting maximum land size for traditional leaders is liking a headmaster telling pupils 'so far and no more!'.</li><li>e. & f. These two measures are contradictory. Giving land to anyone regardless of especially origin is risky.</li><li>g. Title cannot be revoked, thus the statement is not true.</li><li>h. This need further consultation.</li><li>i. This is the current status.</li><li>j. The final grant of customary land should go to the chief; the Commissioner of Lands should not take pre-eminence over customary land. In fact, traditional leaders should also have a say over the administration of land in what was previously customary land. Land held under leasehold should revert to customary land status?</li></ol></div><div data-bbox="142 616 647 635" data-label="Text"><p>The role of a chief is to protect the people and not displace them.</p></div><div data-bbox="142 669 495 691" data-label="Section-Header"><h2><b>Group 10 (Justice in Land Law)</b></h2></div><div data-bbox="142 708 240 726" data-label="Section-Header"><h3><b>Challenges</b></h3></div><div data-bbox="142 726 767 828" data-label="List-Group"><ol style="list-style-type: none;"><li>1. Disputes of boundaries between chiefdoms</li><li>2. Displacement of people as a result of investors</li><li>3. Squatters and unplanned settlements</li><li>4. Multiple claims of ownership of a piece of land</li><li>5. Non-involvement of chiefs in land dispute resolution</li><li>6. Exceptions customary land from application of Intestate Succession Act (1989)</li></ol></div><div data-bbox="142 844 304 861" data-label="Section-Header"><h3><b>Recommendations</b></h3></div><div data-bbox="142 861 623 896" data-label="List-Group"><ol style="list-style-type: none;"><li>1. Extend mandate of Lands Tribunal to cover customary land</li><li>2. Decentralize Lands Tribunal up to district level</li></ol></div>

3. Create/strengthen local leadership in land dispute resolution chairpersons, chiefs
4. President, chiefs, should not have the power to override the will of the people when allocating land to investors
5. Policy framework to accommodate displaced people
6. Clearly marked boundaries of chiefdoms
7. Conduct awareness programmes of existence and working of Lands Tribunal
8. Linkage between local courts, the chiefs and Lands Tribunal, they should be complementary

## **Group Four (Gender, HIV/AIDS and Land)**

### **Recommendations**

The current draft doesn't address the real issues on gender

#### For example

In what ways can women accessing land be encouraged?

- Through empowering women economically (i.e. loans)
- To develop confidence in women so that they can freely compete in land acquiring with men
- To include women in decision-making at all levels; that is in land distribution and administration

1. The draft policy is bias towards women since women are the most vulnerable
2. Local government should standardize the fares of accessing land country-wide and land must be accessible by both women and vulnerable people
3. The 30% is discriminatory hence 50% land distribution should strongly be recommended in this land policy
4. No discrimination towards people living with HIV/AIDS concerning land distribution  
The policy should have a monitoring and provision plan to avoid it just being a document
5. New Constitution should capture more on women access and control of the land
6. National Gender Policy is more represented then what has been included in Draft
7. Local Government and the citizens of Zambia must be aware that land is not for sale here in Zambia. Hence if it is for sale small groups of selfish individuals will have all the land
8. Mechanisms should be put in place to protect ownership of land by women, orphans, and vulnerable women and men, and HIV/AIDS infected persons
9. The Government must support the needs of the vulnerable (orphans, women) in order not to abandon the land in search for financial needs (e.g. food, shelter)