

Traditional Leaders Contribution to the Zambia Land Alliance “Civil Society National Consultative Meeting on Land Policy 21st – 22nd August 2007 at Cresta Golf View Hotel in Lusaka”.

Chiefs Present:

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

Proceedings:

The question is where Chiefs adequately consulted on Draft Land Policy? The general view by all Chiefs present at the consultative meeting is that Chiefs were not adequately consulted in the preparation of the Draft Land Policy that is currently being debated today. 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 as it threatens the existence of Chieftaincy in Zambia and demand that the whole issue on Land should be dealt with in a much more holist manner and that there should be broader consultation that will include Government, Chiefs with fair regional representation, Civil Society and the general citizenry and that the Draft Land Policy

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 to the urban elite. 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 Chieftainess Nkomesha, she has lost a huge part of her chieftdom which is now Lusaka City.

Challenges

Their Royal Highnesses were of the view that:

A, was true.

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

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 in 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 conflict 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 like a headmaster telling pupils 'so far and no more!'

e. and f. These two measures are contradictory. Giving land to anyone irregardless of especially origin is meaningless, what about someone from Mars?

g. Title cannot be revoked, thus the statement is not true.

h. This is subjective.

i. This is the current status.

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. Should land for which a consent was granted not be held on title it should revert to customary land status.

The role of a chief is to protect the people and not displace them.