

# **Women's Land Rights in Zambia: Policy Provisions, Legal Framework and Constraints**

**By**

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## Introduction

I wish to start my presentation by stating what our Zambian Government has said on land and human life. In its current Land Policy document, the Government states thus:

*“Land is the biggest asset and forms the basis for all human survival in terms of social and economic development” (GRZ, 2002).*

Fundamental as land may be to all humans, and despite being the majority among land users, women in Zambia do not enjoy the same rights to land as men. Women are the major producers of the nation’s food, yet they are the majority among the poor. Women, particularly those *voiceless* ones, based in remote rural areas have consistently been left out in legal and policy formulation processes, let alone in implementation, both historically and to the present. Women’s realization of land rights, whether in rural or urban Zambia, is further hampered by male dominated patriarchal structures and mechanisms which, unfortunately, might take some substantial time to change. The current Zambian land policy, laws and administrative systems are yet to demonstrate their usefulness to the average woman.

Out of the estimated 10,285,631 people in Zambia, 50.7% are female while 49.3% are male (GRZ, 2000). It is therefore clear that females are the majority in Zambia. As a result of men’s migration patterns over the years, women have been estimated to comprise about 65 per cent of the rural population (CSPR, 2001). Women, more than men necessarily provide the bulk of labour in subsistence agriculture and generate an estimated 70 per cent of the unpaid labour on small-scale farms. Women’s work also tends to be more continuous throughout seasons, unlike that of men.

Yet, despite this and the fact that most women’s livelihoods and that of their families depends on land, insecure land tenure and limited access to land continues to characterize the legal relationship of most women. In Zambia, even in areas where women may access land, they are confronted with short-term problems of input supply and animal traction (Smith, 2001). Women’s rights to land have been perpetuated by the social and traditional customs prevailing in our society. Both the Zambian Government and civil society have not taken adequate measures to ensure that women, who are part of our society, have adequate access, ownership and control over land.

In this paper, we regard women’s rights to land from the view that women must *access land* for use at any time they want it. Access to land provides access to both individual and family socio-economic development. Land is the most fundamental resource in any society and is the basis for survival for all human beings. Land also provides the safety-net for families in times of crisis, whether financial, political or otherwise.<sup>1</sup> From that point of view, we consider land as a right to women because land is the basis of life, and because *“Land is Life”*.

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<sup>1</sup> Adapted from (Estermann, *et al*, 2002).

## **BACKGROUND TO LAND TENURE ARRANGEMENTS IN ZAMBIA**

Tenure is one of the principal factors determining the way in which resources are managed and used, and the manner in which the benefits are distributed (Rehoy, 1998. Cited in Mbaya and Ngaru, 2002). It is the way in which people hold, individually or collectively, rights to land. The control of the land and all or part of the natural resources upon it is described as the tenure system. During colonial days, there have been three main types of land tenure in Zambia. First, “reserve land” was set aside by colonialists for African residents, with communal rights administered under customary law by the tribal chiefs. The land was jointly owned by all persons tracing ancestry to a particular village. The system worked in accordance with dictates of patrilineal and or matrilineal tribe. These arrangements accounted for about 36 per cent of the country’s 752,000 square kilometer land area. To ensure that Zambians (or Africans) did not lose their land to speculators, the law prohibited people from acquiring certificates of title in native reserves. Second, “trust land” was also set aside for Africans but was settled under non-tribal basis, with some land set aside for public purposes and with limited land grants available for non-Africans. This was also administered by chiefs and comprised 58 per cent of all land. Third, about 6 per cent of the country was “state land”, administered under English law, with freehold or leasehold titles (GRZ, 1996).

It should be noted that Zambia was not a settler colony. The country was declared a Protectorate by the British Government in the early 1920s. One of the major characteristics of “Protectorate status” was that land was held in “trust” for Zambians. For this reason, much of Zambia did not experience ‘land grabbing’ to the same extent as other countries in the Southern Africa region (Munalula, 1998).

During the immediate post-colonial period, the United National Independence Party () government implemented land reforms part of which in 1975 saw the vestment of land in the President for and on behalf of the people. The President therefore retains the ultimate authority over land tenure arrangements.

## **POLICY AND LEGAL REFORMS IN THE 1990s**

In 1991, Zambia experienced a change of government, which saw the Movement for Multi-Party Democracy (MMD) party take over power through a landslide electoral victory. The new government embarked on a massive economic liberalization programme. This included change of land policy and law in line with this programme.

### **Legal Framework**

The main land law in Zambia is the Lands Act of 1995. This law abolished the various categories of land and replaced them with only two namely:-

- a) State land, and
- b) Customary land

It is important to note however, that the Lands Act itself in section 3 (6) leaves open the possibility of other categories. The President can give land in special circumstances to a person for any period exceeding hundred years, which by implication is another way of preserving the freehold tenure and other categories of land not explicitly provided for in the Act.

#### **a) State Land**

State land, as defined by the Lands Act of 1995, is that land which is not situated in customary area. It is governed by English law and is said to cover about 6 per cent of the total land area in Zambia.<sup>2</sup> State land consists of mostly land in urban areas along the line of rail rich in nutrients and mineral deposits, and was tsetse-fly free during colonial times. For one to obtain land in state land, one approaches local authorities that are supposed to advertise such land to the public. They then have to apply for the land and approach the Commissioner of Lands in the Ministry of Lands, acting on behalf of the Republican President, for a title deed. A title is given after finalizing documentation and necessary surveys.

#### **b) Customary Land**

Customary land on the other hand is held under customs and traditions governing land use and ownership in a given area. These differ from place to place and are usually not written. However, there are common features in the various forms of customary tenure. To obtain a title deed in customary areas, one identifies land through a Village Head or Chief. The identified land is sketched and endorsed by the Chief and accompanied by his/her hand written letter to the local council in the area where the land is. Once the council has approved the application, the applicant then approaches the Commissioner of Lands for a title deed.

#### **Strengths of the 1995 Lands Acts**

Some of the strengths of the Act are:

- To some extent, the Act limits the President's power to alienate customary land to consultation with the chief and local councils. This allows some limited democracy in alienating land.
- The Act provides for the conversion of customary land tenure to leasehold tenure. Whereas previously, no one could acquire title deeds (except under special provisions) in “customary areas”, today anyone can obtain a title deed from such areas provided they followed laid down procedures. This is good provided that

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<sup>2</sup> In terms of size, customary land is still referred to be 94 per cent of all land in Zambia while state land is said to be 6 per cent. However, this is based on old estimates taken before the 1964 political independence. It could be much different if new measurements were taken today. Note that more and more people have today been obtaining title deeds to customary land in addition to what is being granted to non-Zambians. The State has also been getting large chunks of land from customary areas for such purposes as state farms, rural reconstruction centres, resettlements, and other public purposes without land converting back to customary tenure (Hansungule, 2002).

- the chiefs were democratic institutions who practiced their chiefly roles democratically.
- Controlling settlements, methods of cultivation and utilisation of land in order to preserve natural resources.
  - Provides for consent of the state for all land transactions.
  - The Act also surrenders all council land to the Commissioner of Lands in the Ministry of Lands to allow for a standard system of land tenure to develop and to eliminate discriminatory systems of land holdings in councils.
  - The Lands Act also allows for continuation of customary tenure for those who want to continue with that system.
  - The Act establishes the Lands Development Fund in Section 8 (1), for the purposes of council authorities to improve land for allocation to land seekers.
  - The Act establishes a Lands Tribunal to decide on all issues relating to land. This provision is good as long as the Tribunal is accessed by poor rural communities.

### **Civil Society's Concerns about the Lands Act of 1995**

Despite the above strengths, the Lands Act has a number of weaknesses that civil society organisations are concerned about. Some of them include:

- Continuing with vestment of all land absolutely in the President for and on behalf of the people of Zambia. This may open land administration to abuse.
- Section 2 of the Lands Act of 1995 defines land as “any interest in land whether the land is virgin, bare or has improvements, but does not include any mining rights as defined in the Mines and Minerals Act in respect of any land.” Under this definition, a person or company is not required to go through the Chief or local people before starting to mine in customary areas. This definition works against the poor whose land is currently being used by small and large-scale miners. This is a problem especially in North-western and Copperbelt provinces where people have been mining and abandoning such mines leaving holes that have become an environmental hazard to local communities.
- The Lands Act does not have enough safeguards to prevent abuse in land administration. Numerous cases of abuse in land administration have been reported on, among others, people obtaining title deeds to land in customary areas without consulting chiefs and local councils.<sup>3</sup> In some cases, poor small - holder farmers have complained that their traditional leaders and local bureaucrats are now allowing Zambians and foreign investors to buy the land where they and their ancestors have lived for generations (Keller, 2001).
- Section 8 – The approval of land applications by one person (a chief) for land conversion from customary tenure to a 99 year leasehold is not adequate and is open to abuse in that it ignores people in the area and the fact that in customary law, the chief does not actually own land. He/she simply holds it on behalf of the people.
- In terms of implementation, the Land Development Fund, is usually inaccessible by the councils and rural people.

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<sup>3</sup> See also the *Zambian Sunday Mail* (27<sup>th</sup> March 2002), the *Zambia Daily Mail* (1<sup>st</sup> April 2002), the *National Mirror* (29<sup>th</sup> Dec. – 4<sup>th</sup> Jan 2002).

- Section 9 – Provision on illegal occupation of vacant land gives no option to those occupiers who have occupied the land throughout their lives and lives of ancestors even when land has been alienated without regard to the interests of such people<sup>4</sup>
- Section 3(4a) of The Lands Act of 1995 states that The President shall not alienate any land situated in a district or an area where land is held under customary tenure “without taking into consideration the local customary law on land tenure WHICH IS NOT IN CONFLICT WITH THIS ACT.” This means that the Act considers customary land tenure inferior to modern or statutory tenure and therefore renders those holding land under customary tenure at risk of losing land.

Furthermore, in theory, the Lands Act does not discriminate against women. Women in Zambia can apply for any land in any part of the country, just like their male counterparts. The law however, ignores the long historical reality of an unequal society in which women have not had access, ownership and control over land. It assumes that there is gender equality in land. Hence the law has no gender sensitive framework under which this imbalance could be checked and corrected.

Above all, the Lands Act of 1995 stems from the Government’s land reform programme embarked on in the early 1990s. The draft land policy then, and the draft Lands Act of 1994, were not formulated in a participatory manner. Many stakeholders including traditional rulers, the church, rural communities and NGOs expressed resentment to these documents and called for their review. This however, could not yield much fruit as the Government and Parliament went ahead to enact the draft Lands Act into law, while ignoring the people’s concerns. It should be noted that the process of formulation of a piece of legislation is as important as the law itself. Therefore, despite some of its strengths listed above, Zambia’s Lands Act does not cater for the concerns of major stakeholders in land and therefore raises critical questions of its ownership. It is a law of the rich who can afford to use it to their advantage.

The poor, especially most rural women who cannot afford land administration costs and legal costs in case of disputes, remain not only at a disadvantage but also at risk of losing their land to the rich. For example, cases have been reported where wealthy people have acquired large parcels of land along major rivers and have fenced it, leaving villagers and their domestic animals deprived access to water resources. In other cases, the poor, voiceless people have been evicted from their land to pave way to the rich who have acquired such land through money oriented administration system. In Chongwe district of Lusaka Province for example, 15 families had their houses burnt after a court order was issued (see the Zambia Daily Mail, 27<sup>th</sup> August 2001). In 1997, 89 families were bitten up by the police and court bailiffs, and evicted from the land which was formerly theirs because an individual had acquired title to about 2,000 hectares of land in Choma district of Southern Province. In these cases, women have tended to be the most disadvantaged. Lamenting her ordeal a 64 year old widow from Siachoobe village had this to say:

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<sup>4</sup> For example, the squatters who are settled or have been farming on mine land on the Copperbelt province of Zambia.

“I was evicted from my village in Siachoobe, beaten by Court Bailiffs as if I am a young person. Coming here I was just given this small portion, which they claimed is 12 hectares. My son whom we were beaten together with was denied a plot here at Harmony settlement. He is now married with two children and has no land of his own.”

The widow continued her narration saying:

“Here we are squeezed and we have to share this small piece of land. Even our cattle have no enough land to graze from since other people who do not want our cattle to graze from their plots surround us. Where will our children be in future? From the time we were evicted from Siachoobe, hunger entered our home and it has never left. We cannot even grow enough food to feed our children because of not having enough land,” she questioned amid anger. Other people who did not even come from Siachoobe were given good and big plots.” “We are suffering because of what *ibantu ba nguzu* (powerful people) can do” (NLA, 2001).

### **Policy Framework**

The land policy initiated in about 1993 is said to have been finalised only in 2000. The Policy recognizes the need to increase women’s access to land. It states that “while current laws do not discriminate against women, women still lack security of tenure to land in comparison with their male counterparts.” The policy goes ahead to blame customary and traditional practices for the problem. The Government therefore commits itself to “redress the gender imbalances and other forms of discrimination in land holding by providing an enabling environment for women.....” (GRZ, 2002) The Policy also recognizes the important role that civil society institutions should play in land issues in Zambia.

However, although the policy mentions gender, it does not comprehensively address gender inequality in access to and ownership of land. For example, while there was a policy pronouncement in 1999 by the Ministry of Lands, to the effect that 10 per cent of all advertised plots of land should be given to women, the final policy document actually did away with that step of affirmative action by omitting the 10 per cent provision. This raises questions as to how serious our Government is in enabling women realise their land rights.

Further, the land policy has a market orientation based on neo-liberal reasoning that land reform was more likely to result in poverty reduction if it was implemented in accordance with the operation of existing land markets. But while it may be necessary for poor people to acquire title deeds for their land, as emphasized by both the policy and the Lands Act, a title to a poor, voiceless, remotely based woman, may not necessarily be a means to accessing wealth. Possession of a title deed may not necessarily mean that one is going to use it. Therefore, this approach tends to marginalize women, most of whom cannot access the markets because of lack of resources among other constraints.

Sometimes, government policy encourages the dispossession of land from those who hold it under customary tenure in order to convert it to state leaseholds and thereby make it

available for leasing on the state market. Government policy believes that holding land under customary tenure is an inefficient way of owning land and one that must be discouraged at all costs. This is why in both the law and policy on land tenure, there is no provision or mechanism for converting leasehold land back to customary tenure even when it is necessary. According to government policy implication, progress is marked through converting land from customary system to modern leasehold system. This ignores the fact that development may be achieved where land is held under customary tenure and that insecurity may not necessarily be a problem (see Smith, 2001).

## **LANDS TRIBUNAL**

At this point, it is worth commenting on the Lands Tribunal, which was established by the 1995 Lands Act. The idea of the tribunal was to find a cheaper and efficient means of settling disputes that arise in land. Courts are congested with workloads and it is very expensive to pursue cases in courts. Most people that generally face evictions are desperately poor to mobilise funds to hire lawyers to argue their cases for them. This is why the law provided for the Tribunal (Hansungule, 2002).

But the Act is discriminatory of the poor, in a number of respects. It provides, for instance, in Section 25, that a person may appear before the Tribunal either in person or "through a legal practitioner at his own expense". The right to legal representation in the constitution is a basic human right. Given that most disputes are between individuals and the State, it is very unfair for the Act to deny the individual the right to be represented before the Tribunal at the expense of the State.

But even more, the idea of a Tribunal as a middle-course justice system has been destroyed by the Act itself. As pointed out, the idea was to have a cheap, simple and efficient mechanism for the resolution of disputes. But in practice, the Tribunal has become even too technical to allow easy participation by lay persons, which was the original intention. Consequently, many people that have disputes feel intimidated to appear before the tribunal because it has become another court (Hansungule, 2001).

Section 23 (5) provides that, "the Tribunal shall not be bound by the rules of evidence applied in civil matters". But the practice shows that the Tribunal Secretariat insists on properly drawn forms and affidavits before the matter can be entertained. This is a violation of the letter and spirit of the Act and constitutes discrimination against the poor. Similarly, it is not clear how far the tribunal has reached the poor. When asked, the Registrar could not release such information, arguing that "such information is not necessary for an assignment like yours." It has however been stated elsewhere that the tribunal's operations have been restricted to only major centres such as Lusaka and the Copperbelt. This discriminates against rural people and makes the Tribunal an alien institution in the eyes of the poor, and women in particular.

Furthermore, from the time the male dominated committee of the tribunal was established in 1996, it did not involve traditional rulers, NGOs or religious representatives, even

though the law provided a way for that.<sup>5</sup> And information is difficult to access from the Secretariat of the tribunal. Statistics are not available for public use and are not gender disaggregated.

## **WOMEN'S CONSTRAINTS IN CUSTOMARY LAND**

As already pointed out, according to the law, women enjoy the same rights in land as men under customary tenure. However, far few women than men hold land in their own right whether in rural or urban Zambia. This is due to traditional and cultural structures, patriarchal attitudes,<sup>6</sup> women's submissive attitudes to male domination, lack of knowledge on land rights and economic constraints (WLSA, 2001:29). In rural and urban areas, and whether educated or not, women do not have equal opportunity to access, inherit and buy land by comparison with men.

Article 23 of Zambia's Constitution of 1991, amended in 1996, forbids laws that discriminate on the basis of sex/gender. At the same time, however, the constitution explicitly excludes from this provision, personal law - such as that concerning inheritance of property - and the application of customary law. In the past, customary law provided some safeguards to protect women's access to (though not control over) land. However, these safeguards rarely operate today. As Bonnie Keller (2000) points out, although there are ethnic differences in bodies of customary law and these have changed through time, an over-riding commonality is that women are treated as minors who are subordinate to men - fathers, uncles, brothers and husbands.

In rural areas, married women have access to land for farming through their husbands. In the event of divorce or widowhood, they may be permitted to continue to use the land, but under customary law they will hardly inherit control of this land. Most divorce or widowed rural women return to their natal families, where they are dependent upon male kin for access to land. The local chief may allocate a plot to a single woman, particularly if she has children, but it would be unthinkable to allocate a plot to a married woman in her own right. Most rural women do not yet challenge their unequal positions under customary law. Female chiefs do not act differently from their male counterparts in administering land to the disadvantage of women.

In those matrimonial societies such as parts of North-Western Province where marriages are generally uxorilocal, i.e. the husband moves to live at his wife's village, a woman may have had a small garden cleared for her by her relatives before marriage. After the marriage, the family of the wife would give the newly married couple more land to cater for her and her husband's needs. The husband then acquires only contingent rights for the

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<sup>5</sup> Recently, the Minister of Lands announced the dissolution of the Committee of the Lands Tribunal partly because the committee had been in existence for six years instead of the three years as legally mandated. The dissolution was necessitated by the need to make the tribunal more effective and representative of a wider majority of people (Zambia Daily Mail 20<sup>th</sup> May 2002).

<sup>6</sup> Patriarchy is a system of social structures and practices in which men dominate women. This happens in almost all spheres of life including law, commerce, education, political or village leadership, etc.

duration of the uxorilocal marriage. In the event of divorce or death, of the husband, the widow will retain the land or such part of it as she wishes.

On the other hand, in virilocal marriages, i.e. where the wife moves to her husband's village, she will only have the use of her husband's land at the latter's pleasure and in the event of a divorce or husband's death, she will usually return to her own relatives. She acquires no rights of her own in her husband's land. In such a case, few women have fields cleared for them to hold in their own right. Widows however are regarded sympathetically. Often, they have land cleared for them by other men and over such land they can claim undisputed rights even though it is in the land of a deceased husband. This is particularly the case where the widow had children with the deceased spouse. Where a woman has been living in a virilocal marriage and is widowed but chooses to continue living at the village of her late husband, she will normally be allowed to continue using the land which belonged to her late husband for as long as she wishes (Hansungule, 2001). Nevertheless, the fact that women are women is an obstacle to holding land in many cases. But with change of societal values over time due partly to economic hardships and the devastating effects of HIV/AIDS, family ties have tended to loosen and have rendered such type of support services to widows inaccessible.

### **Impact of HIV/AIDS**

Like in much of sub-Saharan Africa HIV/AIDS has affected many in Zambia. With an average of 19.7 per cent of Zambia's population aged between 15 and 45 years being infected with AIDS, women have particularly faced severe impacts. With regard to land, women have to spend much of their time looking after the sick and therefore reducing their productivity. In many cases, women are victims of loss of land rights upon the death of a husband since they have to relocate to their maternal home where their access, control and ownership of land is also uncertain.

### **Land Alienation and Women's Constraints**

Land alienation under leasehold tenure entails the way land is granted to an applicant for various uses such as residential, commercial, industrial or agricultural, upon annual ground rent and conditions on which land is to be held. In customary areas, alienation is governed by rules known by the community where land is situated. The holder has rights to use or to dispose of use-rights. These rights are not normally recorded in writing.

However, the way in which land is administered (i.e. determining, recording, and disseminating information about ownership, value and use of land, payment of ground rent, land surveyors, application forms from the council and the Ministry of Lands, and constant checks with these institutions) militates against women's equal access. Officials of district councils, which act as agents for the Commissioner of Lands in processing applications for land titles, are often biased, accept the traditional subordination of women and apply this bias in executing their responsibilities (Keller, 2001). For example, at least until very recently, it was common to ask a married woman to present evidence of her husband's consent in her application for land. Although half of adult

women are illiterate, councils advertise the availability of plots in newspapers. The bureaucracy associated with the acquisition of land is costly, cumbersome and lengthy, requiring the applicant to repeatedly visit council offices, as well as men, who have far greater demands on their time, are therefore disadvantaged (Keller, 2001).

### **Inheritance and Women's Constraints**

Succession in Zambia is primarily governed by English law (statute). Statute prescribes the making of wills, including the conditions governing testamentary dispositions. Similarly, statute determines the course of action to take in the absence of an intestate. A statute governing intestates is like a will by statute in the absence of a will. English law presupposes an identifiable estate as well as the possibility of identifying an individual who shall succeed to property.

Besides allocation of land according to customary law and through purchase, land is also acquired through inheritance. In areas under customary tenure, a wife hardly inherit land or other property from her husband. Inheritance of rights of access to land and control of other property is the prerogative of the deceased's kin, usually male.

When a person dies without a will, which is usually the case, the Intestate Succession Act (1989) is supposed to protect the interests of the surviving spouse and children. The Act allows the surviving spouse to inherit 20 per cent of the deceased's estates and, together with the children, the house.

However, land under customary tenure is excluded and cannot be inherited under the Intestate Succession Act. In other words, though there is now a statutory framework for the distribution of an estate of a person who dies intestate, it does not apply to customary land. The deceased man's relatives typically grab his property, including 'his house'. Female relatives of the deceased man usually participate in property grabbing, not understanding that they are likely to suffer from the practice themselves in the future. Non-enforcement of the Intestate Succession Act, the exclusion of land under customary tenure and property grabbing are such serious problems in Zambia that these are long standing issues on the agenda of the women's movement.

If the deceased had title to land or owned a house, the administrator of his estates, appointed by his relatives, often tries to get ownership transferred to himself, rather than acting as a trustee for the widow and surviving children as the law intends. This illegal practice can be challenged in land administration agencies or in courts, only if officials are knowledgeable about the law and the rights of women and children. Local courts often make decisions based on customary law, whether it applies to a particular case or not. Many widows accept the loss of property, a share of which is rightfully theirs, because the emotional costs of challenging in-laws is too high. Because women do not have equal rights to property ownership, widowhood usually means loss of the right of access to fields where their labour has been invested and to their homes. Widows are among the poorest Zambians.

## WOMEN'S CONSTRAINTS IN ACCESSING URBAN LAND AND HOUSING

### Women's Invisibility in National Statistics

Statistics and indicators on the situation of women and men in all spheres of society are an important tool in promoting gender sensitive development process. Gender statistics have an essential role to play in policy formulation, monitoring progress and eliminating stereotypes. In Zambia however, there is no law or policy to compel relevant institutions to desegregate data into gender. Hence, for instance, the Ministry of Lands does not desegregate data into gender. Some old information from the Ministry of Lands indicates that women obtaining title deeds consisted of 11 per cent in 1988. This rose to 19 per cent in 1993 but dropped to 13 cent in 1996 (ZARD/SARDC, 1998:25).

### Women's Access to Urban Land/Housing

Although increasing numbers of single- and a few married-women buy plots/stands of land in their own individual right, joint titling of plots by married couples is very rare. In 1996, there was a Presidential directive to sell government and council houses in order "to empower Zambians". Many sitting tenants have benefited from this move. However, statistics were not gender disaggregated to give a clear picture of the proportion of women benefiting from the scheme. Some statistics pulled out of the Lusaka City Council files indicate that out of 2,346 housing units sold from three (3) of the seven suburbs of Lusaka (Chelstone, Libala and Kaunda Square), women consisted of only 25 per cent of the beneficiaries. The remaining 75 per cent were male beneficiaries.

**Table 1 Beneficiaries of Sale of Council Houses in Lusaka<sup>7</sup>**

Suburb	Women	Men	Anonymous	Joint	Total
Chelstone, Kaunda Square and Libala	586 (25%)	1230 (52.4%)	518 (22.1%)	12 (0.5%)	2346 (100%)

Source: Lusaka City Council, Finance Department (17/05/02).

It is worth to note that the records indicating house ownership are not updated. According to the Chief Housing Officer at the Council, some people could not afford to pay the required amount of money required upfront to meet the deadline. Such people then sort loans from elsewhere to purchase a house only to resell it the lender and buy a lower value house usually in a squatter settlement. The council holds that at least three quarters of the buyers have actually sold out their houses to third parties. Since women tended to have more problems raising money to purchase the houses (WLSA, 2001:26), it is most likely that the percentage of women owning houses from the scheme is much lower than that.

<sup>7</sup> The names of beneficiaries were not arranged according to men and women. Therefore, these statistics were computed on the basis of names that clearly belonged to a particular gender such as "Grace" to fall under female and "John" under male. Gender neutral names were regarded as "anonymous". Note that since most of the houses were owned by men, it is possible that most of the houses bought by this category actually belong to men.

Women have not benefited equally with men in the housing empowerment scheme partly because of limited income to purchase the houses. Additionally, the houses were sold to sitting tenants who were mostly men that could afford to rent a council house. As sitting tenants, women also opted to register the house in their husbands' names and so were not offered to buy the houses when time came. Very few opted to register the newly acquired houses jointly with their husbands. Out of the 2,346 houses referred to above, a husband and wife jointly owned only 12 or 0.5 per cent in the three suburbs.

Where a house is not registered jointly, then the wife has to depend on the goodwill of the husband. Otherwise upon divorce most likely the wife loses her rights to the house. With the advent of HIV/AIDS, single registration of a family house leaves the widow at the mercy of property grabbers. The Lusaka city Council has faced many of such cases.

Statistics on government houses that have just been sold under the same scheme are not arranged according to women and men. Officers talked to at the Ministry tasked to sell the Government houses (Ministry of Works and Supply), women are less than a quarter of the beneficiaries of this policy. And among those women beneficiaries, especially those based in Lusaka, about three quarters of them only bought flats, which are of lower value than detached houses. This stems from long period of patriarchal marginalisation of women. When allocating houses for occupation by employees, the male dominated institutions allocated smaller houses (or flats) to women while men were given bigger and high value houses. Thus when the policy of selling houses to sitting tenants was announced, women had no choice but to buy those low value flats.

### **Some Government Efforts to Promote Women's Access and Control Over Land**

To some extent, the Government acknowledges the gender imbalances in land access, ownership and control. In seeking to address these, the Government in March 2000, adopted a National Gender Policy formulated after consultations with civil society representation. Among other things, the National Gender Policy provides for 30 per cent of all land available for distribution to be allocated to women, harmonizing customary and statutory laws on land, awareness raising, providing credit facilities to women for land development and legal reform. However, to date the Gender policy is yet to be implemented.

It should also be noted that Zambia is a signatory to a number of international instruments including the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the SADC Gender and Development declaration of 1997 and the 1995 Beijing Declaration. In so doing, Zambia committed itself to undertake measures that would ensure women's equal treatment in land and agrarian reforms as well as in land resettlement schemes. The Zambia National Land Alliance has been working with partners including some government departments to ensure that women realise their land rights. This involves training of communities and traditional leaders on women and gender in land matters. However, there is still need for more efforts by both government and civil society to make this a reality.

## **Conclusions and Future Challenges**

In conclusion, it should be noted that women's lack of access to land and insecurity thereof, illiteracy, inaccessibility to information, lack of necessary capital to develop land, labour shortage, etc., are but symptoms of a major problem. The main problem is patriarchal tendencies which exhibit themselves in attitudes that encourage marginalisation of women in all the above. It is no wonder that while most traditional rulers will allocate small sized pieces of land to female-headed households in rural areas (see Lyanda, 1998:30), urban authorities will by all means "give" small plots or houses to women simply because they are women. This therefore does not just call for "*women to take up the challenge*". It calls for change of attitude and rethinking our status quo as men dominating the various sectors of the land discourse. It calls for personal sacrifice and understanding that women's advancement, whether in commerce, agriculture, politics and indeed land and housing ownership, is advancement of our society and advancement of us men. It is estimated that in Zambia, if women enjoyed the same overall degree of capital investment in agricultural output, including land, as their male counterparts, output could increase by up to 15 per cent (World Bank, 2001).

Men whether in industry, business, agriculture, law making and implementation, need to consider women as partners in the development process. Men should realize that women's achievement of their rights will in fact benefit us all. What we need to do is to stop regarding women as "others" in society. That is, we usually refer to women as a remote category of people out there. We need to re-examine our attitudes and start looking at women as "my wife", "my daughter", "my grand mother", "my mother," "my relative", etc.

## **Legal and Policy Recommendations**

Since "land is life", a commodity cardinal to all Zambian and non-Zambian women and men, it is necessary that the Government initiates an extensive review of the current land policy and the Lands Act of 1995 to enable it explicitly spell out the position of poor peasants, especially women. The review process should involve all stakeholders such as rural communities, NGOs, the church and traditional rulers.

The policy and law should have a provision to compel the Ministry of Lands, the Lands Tribunal, the City Councils, and other stakeholders in land to desegregate data according to gender and disseminate such data to the public.

Further, there is need to simplify land administration system and shorten it to lessen costs so that poor people, especially women access titles to land. In those areas where such people would like to have title deeds to land but cannot afford the costs, Government should provide free title deeds to such people.

## **Role of Civil Society**

Civil society needs to strengthen its networks on land and build capacity of men to ensure they appreciate women's land rights. This should involve campaigns to change attitudes towards women. Policy advocacy should also be stepped up, backed by systematic gathering of information, monitoring progress while recognising that women are not a homogeneous category but differ with their experiences, religious, political and social orientation and status.

Civil Society Organisations also have challenges such as, lack of capacity - both financial, technical and structural realities in dealing with complex land issues. The structural limitations are often a lack of proper accountable systems of registration of title deeds, or mechanisms to ensure the implementation of these if they are violated.

Civil society organisations should engage in partnership with the formal political structures and negotiate with government departments and other government structures. Another important task is to be proactive and participate in the preliminary works of legislations and government decisions. In so doing, it is important to have clearly defined roles, working in partnership with Government while recognising need for independence.

Finally, while acknowledging their strengths and limitations, civil society should maintain their role of the watchdog to ensure that rights of women in land are realised.

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