



Land Rights and Governance »

The world, and particularly sub-Saharan Africa, has witnessed a rise in the prevalence of large-scale land acquisitions. There is growing documentation of a number of cases whereby foreign investors are able to acquire large amounts of land, particularly those above 1,000 hectares and as high as several hundreds of thousands of hectares. These land transactions have been commonly referred to as 'land grabs', and while they may contribute to investment in African countries such as Zambia, they also pose a considerable risk to those who derive their livelihoods from the land.

The 1995 Lands Act states that the President shall not alienate any land situated in a district or area where land is held under customary tenure without consulting the Chief or local authority, or without consultation of other people whose interests might be affected, and if the applicant has not received prior approval from the chief or local authority. However, in practice this does not always happen. It is in this gap that investors have been able to acquire land in ways that alienate local communities. Multinationals or investors often work with government bodies, such as the Zambian Development Agency (ZDA), to acquire land through the conversion of land to statutory land or with the consent of local authorities. These mechanisms have allowed for the transfer of large amounts of land into the hands of investors, without any consultation with local communities.

While Zambia is a democracy, there are weaknesses in its democratic structures, particularly at the local level, where there are few opportunities for meaningful participation in decision-making over land and natural resources. There is a gap in decision making regarding land distribution between local authorities, chiefs, village heads and villagers, and land is often allocated with little or no meaningful consultation. Chiefs often give out land without consulting community members. Local authorities issue out land without involving local communities or traditional leaders. Investment agreements are signed between central government and multi nationals and investors without fully consulting other stakeholders. All these processes occur within a complex system of localised customary land administration and a statutory policy framework, which does not protect poor and marginalized people. The lack of documentation on land ownership and unclear boundaries in the country has compounded problems can lead to disputes and conflict within communities.

It must also be recognized that allocated lands may not only be for residential and agricultural purposes, but may also serve as a communal resources for water, grazing and other informal agricultural and ecological uses for current and future generations. These investments in land or large scale land allocations often results in displacement of local people from their homes and livelihoods and standards for resettlement and compensation are not standard neither are they adequate. In some cases, people have not been resettled or are resettled in places that cannot support their livelihood and without secured tenure. Some land investments have come with negative environmental consequences such as land degradation and pollution. If not checked, these large-scale acquisitions can propagate land tenure insecurity and threaten both local and national food security and income generation.

Women in Zambia are generally not regarded as landowners and any presumed rights are subsumed as those of their male kin. Worse still women, still do not form the majority decision makers over land transactions and the whole land governance sector. These practices reduce women's opportunities for them to access and own land, or have control over it. Any individual has the legal right to apply for land and a title deed; women are not discriminated against in the process of acquiring land. The National Gender Policy even contains a positive discrimination provision of allocating at least 30% quota of providing women (and other vulnerable groups). While, this is being achieved in some districts (such as Chipata), a lack of centralised and available statistics means it is difficult to see if these targets are being achieved. In addition, the cost, bureaucracy and time required to acquire title deeds mean that it is unlikely that the poorest women, particularly those living outside of Lusaka are able to acquire a title deed. In addition, research shows that the majority of women are unaware of their rights and the policies put in place by government to protect them.

Besides women not having equal opportunities to access, own, control and make decisions over land, several other groups of society face similar challenges. Youths, people living with HIV and AIDS and disabilities are also disadvantaged in trying to access, own and control land. Most youths are looked at as still being under the guardianship of their parents or legal guardians and cannot make the right decisions over land and property. Guardians in most cases are tasked with managing the affairs of the estate particularly of the deceased until the children reach a certain age. Customarily, children are also expected to continue living with their parents to assist them with farm work until the time they have attained a certain age or when his or her family believes the child or youth is able to leave independently.

People living with disabilities have also faced several challenges in trying to access and own land. Some of the buildings such as the Ministry of Lands Head Office in Lusaka does not provide facilities for the physically challenged people. In addition, information on procedures for acquiring land or even facilities for applying for land are not available in formats that is user friendly. For instance people who are visually impaired will need information written on brail paper and should be provided with opportunities to fill in application forms on brail paper. People living with HIV and AIDS may also be sidelined if their status is known when they are trying to access land.



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