

# **Innovative Customary Land Governance in Zambia: Experiences, Lessons Learned and Emerging Impacts**

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**Key words:** Tenure Security, land governance, Indigenous communities, certificate of customary occupancy

## **SUMMARY**

Land is one of the most critical resource that have a bearing on the cultural, social, political and economic progression of societies. The management of this important resource is crucial to achieving food security, peace and sustainable development. Globally, land governance is mired in complexities due extensive vested interests among various stakeholders. Different land tenure systems are practiced world over, (statutory, customary, private, open access/common property etc.) and this has a bearing on how people enjoy their rights to land. For many indigenous communities, women and other disadvantaged groups in society, the right “to land is characterized by informality, insecurity and uncertainty. Women own less land and have less secure rights over land than men. Also, women make up on average less than 20 percent of the world’s landholders, yet an estimated 43 percent of the agricultural labor force comprise of women (UN Women, 2012).

This paper will demonstrate the experiences, emerging impacts and lessons learned on securing land rights of poor, women and vulnerable groups in the context of customary land governance in Zambia. It will describe the implementation of fit for purpose land administration approaches in empowering poor households in rural lands, particularly women. The paper will also endeavor to inform other stakeholders in similar contexts in Zambia and in other countries how best they can govern land in customary settings, with a focus on inclusive and participatory approaches, use of appropriate land tools, the importance of good leadership in land governance and the commitment to empower women and indigenous communities.

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Land is one of the most critical resources that have a crucial bearing on the cultural, social, political and economic progression of societies. The management of this important resource is crucial to achieving food security, peace and sustainable development. Globally, land governance is mired in complexities due extensive vested interests among various stakeholders. Different land tenure systems are practiced world over, (statutory, customary, private, open access/common property etc.) and this has a bearing on how people enjoy their rights to land. The different land tenure systems form a continuum, which provides for the different rights and different degrees of security that can be enjoyed by people. For many indigenous communities, women and other disadvantaged groups in society, rights “to land are characterized by informality, insecurity and uncertainty. Women own less land and have less secure rights over land than men. Also, women make up on average less than 20 percent of the world’s landholders, yet an estimated 43 percent of the agricultural labor force comprise of women (UN Women, 2012)

Formal registration of land rights through freehold titling has continued to elude women and many poor and indigenous communities owing to the expensive and bureaucratic nature of the processes and procedures involved. Currently only 30% of the land is captured in the conventional cadastre, (Bennett, Gils, Zevenbergen et.al 2013). There are many examples globally where the land use rights of informal settlement residents, slum dwellers, families and groups living under customary tenure, indigenous people, pastoralists, refugees etc. are not capable of being integrated into conventional land administration systems (Lemmen, Enemark, McLaren et.al, 2016). This can be attributed to the expensive and bureaucratic nature of the processes and procedures required to formalize rights to land. Consequently, this has led to more and more people not being able to enjoy secure tenure on the land they occupy or own and have triggered a debate on the need to develop pro-poor land governance approaches.

The above is against the backdrop of both local and international instruments that exclusively and explicitly underscore the importance of ensuring equity and equality in the administration of land, land related resources and territories. For instance, the collective rights of indigenous peoples to lands, territories and resources are firmly embedded in the United Nations Declaration on the Rights of Indigenous Peoples Articles 3 and 26, (Charters,2017) and in the International Labour Organization’s Indigenous and Tribal Peoples Convention No. 169 and

its predecessor Convention No. 107, (Yupsanis, 2010). Similarly, Article 17 of the United Nations Universal Declaration of Human Rights underscores the right for every person to own property either alone or in association with others and that no one should arbitrarily be deprived of their property, (May 2017). The adoption of the Sustainable Development Goals (SDGs) also emphasized the need for tenure security to eradicate poverty, hunger and promote gender equality and sustainable urban development (United Nations 2015). Although there have been numerous debates on the need for pro-poor land governance approaches and policies, gaps exist on the development of pro-poor land administration tools and methods, (Zevenbergen, Augustinus, Antonio, et.al 2013).

## **The Context**

In Zambia, security of tenure for indigenous communities <sup>1</sup>residing under customary land tenure settings has in recent years increasingly come under threat owing to the pressures of high rate of urbanization with projected figures of 62.4 % by 2050 (World Urbanization Prospects, 2018). Inadequate or total lack of reliable and up to date land records in customary settings has further exacerbated the uncoordinated and indiscriminate conversion of customary land to statutory tenure. The most affected by all this are women largely due to gender disparities and complexities surrounding the administration of land in customary areas. The greatest effects include forced displacements, land and property dispossession, and disinheritance among others.

Most of Zambia's rural landmass is managed by traditional authorities through an informal and undocumented land administration system, while the statutory system is largely absent in rural areas. Rural communities that depend on agriculture on the customary lands are threatened by increased demands for land from urban elite and foreign investors; the situation is aggravated by a lack of documentation on land rights in most customary areas. Customary land tenure is the least secure type of tenure because it is largely undocumented, i.e., there are no tenure documents which are issued to beneficiaries thus making inhabitants of customary land susceptible to forced displacements, and frequent land disputes among individual villagers, headpersons and even chiefs pertaining to boundaries. Statutory land is deemed by many local people and investors to be more secure than customary tenure (Veit, 2018). Women and girls suffer disproportionately from the short comings of customary land holdings due to the cultural and patriarchal nature of land administration in customary areas which has historically eroded women's rights to access, use and control land under customary land tenure. Since the enactment of the 1995 Land Act, about 10% of customary land has been converted (Veit 2018). The process of converting customary land into private leasehold

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<sup>1</sup> Indigenous Peoples at the UN; Indigenous peoples are inheritors and practitioners of unique cultures and ways of relating to people and the environment. They have retained social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live.

involves recognizing customary rules/laws and obtaining the approval of the chief after which the government officially registers the leasehold tenure.

In this context, the traditional leaders in Chamuka Chiefdom working with government authorities and other partners decided to undertake interventions towards issuance of customary land certificates using fit for purpose land administration tools and inclusive approaches with emphasis on empowering women and vulnerable groups. The initiative primarily aims to improve capacity of rural women, working in partnership with traditional leaders to map customary land rights. Secondly, it seeks to understand the power relations of both men and women when it comes to land by mapping the tenure relations of both gender to land, differentiating between the dimensions of who has access, use, ownership, decision making and control in order to nuance discussions about women's land rights and create an evidence base as regards the degree to which women are empowered or disenfranchised. Furthermore, the initiative sought to create an evidence base for the degree to which women are (dis) empowered vis-a-vis their land rights. In addition, the intervention aimed to strengthen the land rights of communities living under customary land settings by making visible their land rights through the collection of both spatial data and social economic data and issuance of certificates of customary land occupancy.

Participatory approaches such community led household enumerations, settlement profiles and mapping using the Social Tenure Domain Model (STDM), a fit for purpose land administration tool was pivotal in shedding light on the plight of different interest groups where customary land administration is concerned. The data collection approaches were able to inform the chiefdom and other stakeholders the status of women with regards their rights to land and land related resources.

### **Implementation of STDM in Chamuka Chiefdom**

Beginning July 2016, the STDM was piloted in Chamuka Chiefdom, Chisamba district by People's Process on Housing and Poverty in Zambia (PPHPZ) and its grassroots alliance partner the Zambia Homeless and Poor People's Federation, (ZHPPF) through the support of the Global Land Tools Network/UN-Habitat. This intervention was under the project, 'Support to customary land certifications interventions in Chamuka Chiefdom' and was coordinated by the UN-Habitat country office in Zambia. The project targeted 11 villages in the Chiefdom of His Royal Highness Chief Chamuka VI.

Chamuka chiefdom is located in Chisamba District, Central Province, about a 100km from Lusaka. It is one of the 7 Chiefdoms in the Lenje Establishment, which consists of 207 villages. Each village is headed by a village headperson. The chiefdom covers a spatial extent of approximately 300,000 hectares of land. It shares boundaries with the Chiefdoms of Mungule and Liteta in the south west and west respectively. To the northwest lies Chipopo

Chiefdom while Mukonchi Chiefdom lies in the north. In the south the chiefdom shares its boundaries with Nkomesha Chiefdom and to the east is Chembe Chiefdom. PPHPZ collaborated with His Royal Highness Chief Chamuka VI in the implementation of STDM to support customary land administration and the improvement of tenure security in the villages of Kaputula, Bulemu, Shipunga, Ndililwa, Mponge, Musumali, Chisaka, Mwanampaya, Chipembe, Kasheta and Mukobola. Specific objectives to the project were as follows: To support customary land administration and improving tenure security in ten villages in Chamuka chiefdom; to document lessons and experiences on the application of the STDM tool for land administration process in Chamuka Chiefdom, Zambia, and; to develop the capacity and autonomy of stakeholders of STDM committees at the local level.

As earlier mentioned, customary land in Zambia is administered by a Chief with the help of traditional leaders (locally known as the *indunas*). Thus, the first step to the STDM implementation in Chamuka was to establish a rapport with His Royal Highness Chief Chamuka and his Palace Committee to explain the importance of implementing STDM as a participatory land information tool capable of providing a digital database of all households the project area, the spatial extent of the village itself as well as the spatial extent of the land occupied by the people living in these lands. Chief Chamuka had picked interest of the STDM tool and process while its implementation was ongoing in a neighbouring village, Mungule chiefdom in 2015 when the STDM steering committee organized a consultative workshop with five (5) other chiefs from the Lenje Establishment. His Royal Highness was therefore very eager to welcome this process in his Chiefdom. Bringing together the traditional authorities in Chamuka, the local community as well as government officials from Kabwe municipality thus opened discussions on the STDM to better understand the tool and the process involved. The step endorsed the next steps for the implementation.

Next, an STDM steering committee was established. This team was responsible for rolling out and supervising project activities namely; profiling, enumeration, mapping, data entry and analysis in the 11 villages. The team comprised of members from PPHPZ and ZHPPF. In conjunction with village head persons the team was responsible for identifying and training community members who had volunteered their time to the project.

The second step was data collection which involved the profiling, enumeration and mapping of the project area. GLTN and partners incorporated participatory enumerations in data collection approaches to gather information required at household level. Count Me In – Surveying for tenure security and urban land management (UN Habitat, 2010), outlines how “participatory enumerations” - a data-gathering process, designed and conducted by the people being surveyed ensures the involvement of the locals from inception, design and management of the information from their settlements/villages. This tool provides, fosters transparency and builds trust which serves to improve the data as well as a self-empowerment

process where these communities come to own the whole process and as such the results. Participatory enumerations are also used as an effective tool to mobilize communities towards seeking locally engineered solutions to social problems. Several key activities were undertaken under data collection which included; training of community volunteers on STDM, actual data collection, data entry and analysis and validation/verification of the collected information. This paper will not delve into this process but rather the emerging outcomes and impacts registered following the process.

All the eleven villages were profiled, enumerated and mapped by the STDM steering committee. A total of 538 land parcels were surveyed and mapped across the 11 villages. Further, a total of 561 households were enumerated with a total population of 3,102. In terms of gender disaggregation, a total of 1,612 females or 52% of the population were captured, and approximately 1,490 or 48% males. From the project area, a total of 191 were female-headed households. In terms of land ownership, 286 of the 538 parcels surveyed are owned by men whereas females own approximately 97 parcels. About 155 parcels are jointly owned in the 11 villages.



Photo 1: Community members display one of the maps drawn from the data collection in Chamuka Chiefdom

### **Official Launch and Issuance of customary land certificates**

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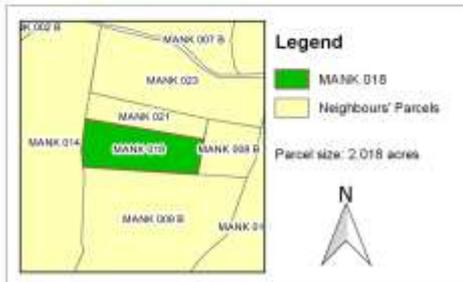
As mentioned earlier on in the paper, there is a growing awareness of the importance of providing indigenous communities with more secure rights to the land they depend on for their livelihood. The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security draw attention to the importance of providing more secure tenure to land and other natural resources to all, and especially to poor rural women and men (FAO 2012). It is however one thing to express the need for more secure tenure in principle, and yet another on how this could be realized in practice given the particular social, cultural, economic and political conditions that prevail in Sub-Saharan Africa. With increasing urbanization and migration pressures, customary institutions are evolving, some disintegrating, for instance where large areas of land are being converted to leasehold title and local populations getting displaced, while in other areas such as in Chamuka Chiefdom, the leadership is protecting the right of land for local people through customary land documentation and fair negotiation between communities and investors.

After the STDM process in Chamuka, the leadership, i.e. His Royal Highness Chief Chamuka VI and the village headmen together with the local community and PPHPZ held several consultative meetings to discuss the design of the customary certificates, modality of issuance, as well as the terms and conditions of the certificates. The discussed terms and conditions for the certificate were later adopted as illustrated in the sample certificate below.

# Certificate of Customary Land Occupancy



Mungule Chiefdom  
Chibombo District



The persons listed below are the bonafide occupants of parcel number **MANK 018** highlighted in the map above.

First Name	Last Name	Tenure Type	Signature
Beita	Nyeleti	Joint ownership with spouse	
Frank	Banda	Joint ownership with spouse	
Frezer	Banda	Child of owner	
David	Banda	Child of owner	

Issued on this day ...../...../.....at Kakoma Palace

.....  
**Chieftainess**

.....  
**Village Headperson**

.....  
**STDM Committee**

Disclaimer: This document is not a title deed. Title deeds are only issued by the President of the Republic of Zambia through the substantive office of the Commissioner of Lands. The rights cannot be transferred from the persons listed in this document. In case of any changes, this document will be rendered null and void, and a new certificate will need to be issued in consultation with the Chieftainess. The Village Act gives the Chieftainess the authority to issue this document.

Photo 2: A certificate sample issued in Chamuka

The issuance of certificates ceremony then followed. Two events have taken place since this process began in Chamuka; one in November 2016 in which residents of the pilot area (Bulemu village) were issued with the certificates for the first time in history; and in

September 2018 where ten additional villages received these important tenurial instruments. In both occasions, these issuance ceremony brought together high dignitaries from the Zambian government such as the Office of the President officials, Permanent Secretary Ministry of Housing and Infrastructure Development, Representatives from the Ministry of Lands and Natural Resources, Surveyors General Office Chairperson House of Chiefs, Director Chiefs Affairs- Ministry of Chiefs and Traditional Affairs, Royal highnesses from neighbouring Chiefdoms, Deputy Permanent Secretary for Central Province Zambia, local government officials from Chisamba District, and various headpersons from Chamuka Chiefdom. As such, these events have become platforms to drum up further support for the STDM at a national level.

### **Emerging Impacts**

The implementation of STDM as a fit-for-purpose land tool in Chamuka chiefdom has resulted in the enhancement of tenure security through the issuance of 530 certificates of customary land occupancies benefiting 3,584 people across eleven villages out of which 2,042 (57%) are women and 1,542 (43%) are men. The tenure documents have empowered the villagers and given them a voice over their land and protected their interests especially because they depend on these lands for their basic livelihood. In line with this, the community is now able to negotiate with investors regarding the development of their land. For instance, in Bulemu Village, seven families occupying a 103-hectare piece of land have negotiated a 25-year lease with an Israeli firm for a solar project. The families used the certificates of occupancy to act as proof of evidence of occupation. This agreement will see these households benefit from the solar energy at no cost for the next 25 years and each household will further benefit from sharing in the earnings of the solar project. Also, the local community will acquire skills on how to operate the solar.

In the same village, another community also through the guidance of Chief Chamuka and the government has negotiated with a Chinese investor for the compensation of their land in return for the setup of a manganese processing plant. To give way for the factory, five (5) families were relocated to a new area, where services and land to till was available. They relied on their newly acquired certificates of customary land occupancy to negotiate a compensatory package for their resettlement. The compensation to be received by the families, (both monetary and new land within the chiefdom where the families have been resettled) was agreed upon after lengthy negotiations between Chief Chamuka, the community and the government. The planned investment will occupy 92 hectares of land where the five families used to live.

It is projected that the two investments will directly create over 300 permanent job opportunities for the local people in the short term and the figure is expected to rise by over 50% thereafter. It is further envisaged that forward and backward market linkages will create

support industries such as transport, hospitality, housing, health and other services that will result to more economic activities and employment opportunities for the local communities.



Photo 3: Beneficiaries of customary land certificates during the handover ceremony in September 2018

Other ancillary services such as improved road network, education etc. are expected to develop to service both the workforce and general population surrounding the stated investments.

Yet another notable outcome from the documentation of tenure rights in Chamuka is that of development planning guided by the spatial and social economic information which has empowered the community to engage relevant stakeholders. With the government implementing the decentralization policy, communities in Chamuka are well equipped with information necessary to drive their own development. For example, the project implementation revived the debate on the rehabilitation of the Chisamba – Kabwe road through Chamuka Chiefdom which has now been upgraded.

The STDM process has provided invaluable information, profile and enumeration reports and spatial visualizations which are an empirical resource base to fully comprehend the developmental constraints and opportunities, which exist in the respective villages. Through

this community led process, the residents can articulate their priorities and the course of interventions they would want to pursue to develop Chamuka. The digital databases created can be easily manipulated for updating the information pertaining to individual land owners and land parcels.



Photo 4: His Royal Highness Chief Chamuka VI displays a joint certificate during the issuance ceremony in 2018

Closely related to the above, the STDM implementation in Chamuka has trained over 70 para-surveyors to ensure sustainability of the process in other villages of Chamuka and beyond. The process, being participatory in nature enabled community volunteers to be part of the seemingly “technical” tool. The GPS handling and computerized data entry were largely perceived as the sole preserve of professionals among many grassroots communities but not anymore. The Chieftdom is looking to expand this process and this team will act as ‘trainers of trainees’ to the new recruits in the quest to enumerate and map 207 villages spanning a spatial extent of approximately 300,000 hectares.

Enhanced security of tenure is enabling residents to make investments on their land with the objective to improve their livelihoods. A good example is that of local youth in Ndililwa village who has set up a fish farm on a seven (7) hectares of piece of land in which he has constructed three ponds to breed tiger fish for sale, an activity that has guaranteed him an increasing income of between USD 2,500-3,000 on annual basis. He is selling the fish in the local market of Chamuka. This has also been made possible by funds provided by the Ministry of Livestock and Fisheries where the government is supporting youth on aquaculture. Enhanced security of tenure provides land holders with great leverage to invest more on their land thereby improving household food security and livelihoods in general.

According to villagers in Chamuka who benefited from this intervention, boundary disputes which were rampant before the STDM enumeration and mapping processes are now a thing of the past. STDM allowed for the settling of boundary disputes in a peaceful manner. A total of 231 interfamily boundary disputes identified during the project were amicably resolved through community mediation channels. Approximately 103 intra-family land succession disputes were also resolved and all the eight (8) village boundary disputes identified were also amicably resolved by the headmen of these villages. Thus, the STDM intervention tool has become an instrument for dispute resolution and reconciliation in the Chiefdom.

Further the process as reported by PPHPZ has elevated the status of women by giving them a conspicuous role in spearheading data collection and facilitating discussions surrounding land rights with their headpersons and chiefs. Formerly, women were overlooked on issues pertaining to land governance. The STDM process provided a platform to initiate critical discussions such as how their land has been under siege from land speculators. Traditionally, it is unusual for women to speak about land matters, let alone lead processes regarding land. There is also a change in mind-set among the men who now see women as equal players in the land debate. Out of the 3,584 people who had their land tenure secured in the 11 villages, 57% are women. To ensure equity in the administration of land, His Royal Highness chief Chamuka has introduced a policy declaring that fifty (50%) percent of land to be allocated at any given time be reserved for women in all the 207 villages. Additionally, every village committee is required to have women representation to have women voices heard.

The information collected from Chamuka has been used to inform the submissions of Chamuka Royal Establishment on customary land administration in the National Land Policy draft which is at the consultative stage. The national land policy has been under development since 2006 and is now at its final stages. Specifically, the recommendation from Chamuka provided evidence on the practicality and versatility of fit-for-purpose land tools to enhance

tenure security on customary land for all. His Royal Highness has been also emphasizing the usefulness of the STDM tool as an all rounded approach to land administration especially because of its ability to capture both spatial and attribute data on land.

### **Lessons learned**

One of the key lessons from Chamuka is that the implementation of fit-for-purpose land tools (such as STDM) demonstrates the efficacy of community driven initiatives in strengthening customary land governance. Whereas the Lands and Deed Registry Act provides for the registration of land and issuance of certificates of title, the prescribed methodology makes it expensive and more difficult for poor and vulnerable groups, many who reside in customary settings to have their land secured. However, the employment of fit-for-purpose technology provides for quicker, less expensive and an all-inclusive approach to secure land tenure. In Zambia, it costs a minimum of 150 Kwacha (Zambia Development Agency, 2017) on average to acquire certificate of title notwithstanding the long period of time taken before certificates are issued. Further, the implementation of STDM has shown that it is possible to secure land for people in a quicker, less expensive and in a more equitable manner. The cost of acquiring the customary land certificate in Chamuka is USD 10. This amount as observed by His Royal Highness is affordable having been agreed upon by the locals themselves. The villagers pay this amount to the headman to cover transport charges and other logistical issues that might arise such as when the Chief Chamuka must travel to the village to settle boundary disagreements.

Secondly, experiences from Chamuka chiefdom show that it is possible to formalize and register land rights for people occupying customary land without taking away the power and authority of traditional leaders. The documentation of customary rights enhances traditional leadership the capacity to administer land in a more transparent, accountable and equitable manner thereby strengthening their power and authority. Also, the STDM process has provided evidence that fit-for-purpose land tools are essential in creating platforms for traditional authorities and their subjects to come together and engage in meaningful dialogue regarding matters of common interest. Credible information is now readily available to facilitate informed decisions about the welfare of both present and future generations.

### **Conclusion**

Land is widely considered as a source of capital that serves as a social safety net which consolidates wealth within families and communities and transfer wealth from one generation to the other. The need for secure land tenure in customary settings cannot be overemphasized in the face of stiff competition of this finite resource. The intervention in Chamuka chiefdom demonstrates that participatory approaches and fit-for-purpose tools ensure equitable and

gender responsive land governance that guarantees women's secure land tenure within the context of natural resources competition. Whereas conventional methods of registering land rights have widely proved unattainable by many poor communities particularly women, fit-for-purpose approaches have provided an alternative to reach scale and inclusiveness in a quicker, less expensive and equitable way. Fit-for-purpose land tools are less costly therefore affordable but more importantly security of tenure is guaranteed in much the same way as conventional methods.

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