


Chapter 7

Land, Rights, and Tenure Insecurity on Customary Land in Zambia: Protecting “Thyselfes”

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ABSTRACT

Land is a key asset in the lives of village communities in Zambia. It is thus at the centre of their livelihood strategies as it provides social, economic, and financial benefits to these communities. The paradox though is that despite acknowledging its importance in the lives of village communities, tenure on this land is poorly protected by the state resulting in high insecurity for its occupants. In many instances, there are no clear regulations on its use and alienation while traditional authorities are also ill-equipped for the task of administering this land. The question then that emerges is: In this perceived absence of state protection, how are village communities protecting themselves from threats of dispossession by foreign investors, urban elites, and the state’s own actions? This study found that village communities are using various means to protect themselves, including issuance of local land holding certificates.

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INTRODUCTION

Customary tenure is under threats of extinction in modern societies. One of the major reasons contributing to this vulnerability is the State's own view of customary land, which is often treated as reserves for statutory tenure (Munshifwa et al., 2020) or simply seen as "permissive occupancy" (Wily, 2011 p. 458). In many instances, there are no clear regulations on its use and alienation while traditional authorities are also ill-equipped for the task of administering the land. However, village communities are fighting back through a number of innovative ways to secure their rights. The objective of this chapter is to examine how village communities protect themselves from dispossession by foreign investors, urban elites and the State's own actions in an environment perceived to lack State protection.

The chapter first discusses the various sources of insecurity on customary tenure in Zambia before reviewing literature on the link between land, rights and tenure insecurity. The chapter then goes further to review various initiatives in Zambia on documenting customary land rights through local "bottom-up" mechanisms. The chapter then concludes by noting the gaps in local initiatives with a recommendation that countries should strive to achieve a working mix between "top-down" Land Administration Domain Model (LADM) and "bottom-up" approaches, such as the Social Tenure Domain Model (STDM), in the governance of customary land.

BACKGROUND

Land is an important asset for rural livelihood strategies in customary areas in Zambia. Like in other developing countries, it provides social, economic and financial benefits to village communities (Hanstad et al., 2004; McAuslan, 2007). It is also a basis for political power in a number of communities (Hanstad et al., 2004). Studies estimate that at least 40% of the Zambian population depend on subsistence farming for their survival, emphasizing the critical role land plays in rural livelihood strategies. Much of this subsistence farming is done under customary tenure which is estimated to cover 51-54% of Zambia's land mass. Despite its importance in the survival of these rural communities, rights on this land is often insecure due to a number of factors, which include a growing cash economy, commoditization of land, increased demand by foreign investors and urban elite, etc (Moyo, 2007). The result has been pressure on customary land to convert or formalise to some western-type property rights system, increasing tenure insecurity and threatening village communities with dispossession and involuntary displacement.

SOURCES OF INSECURITY ON CUSTOMARY TENURE IN ZAMBIA

In order to appreciate the need for increased tenure insecurity on customary land in Zambia, it is important to step back and examine threats to this form of land holding. Literature revealed a number of factors as being responsible for insecurity on customary tenure; however, this chapter isolates four such sources due to their scale and impact, namely large-scale agricultural development, large-scale mining projects, state farm block programmes and multi-facility economic zones. Each of these is discussed in the sections which follow.

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