

## OXFAM GB COMMUNIQUÉ

### LAND TENURE INSECURITY ON THE ZAMBIAN COPPERBELT

3 December 1998

A *Report on Land Tenure Insecurity on the Zambian Copperbelt* was released at a workshop at Andrews Motel in Lusaka on 3 December. Among the speakers was the Deputy Minister of Lands, the Honourable Gilbert Mululu, Caroline Sande-Mukulira, the Director of Oxfam GB in Zambia and the authors of the report: Dr Robin Palmer, Dr Michelo Hansungule and Patricia Feeney. The meeting was attended by representatives of the diplomatic community, officials from the Agriculture and Forestry Departments, the Zambian Privatisation Agency, the Commissioner of Lands, the Lands Tribunal and the Town Clerks of Kitwe, Chingola and Mufulira District Councils. Also participating were members of the Land Alliance and community-based organisations working on the Copperbelt.

The report is the outcome of an investigation commissioned by Oxfam GB into the impact of the privatisation of the mines on land tenure arrangements on the Copperbelt. Oxfam wished to review its long-standing programme on the Copperbelt in an attempt to make it more effective and to find ways of measuring its impact more accurately. An important initial stage was the extensive PRA (participatory rural appraisal) research that Oxfam conducted during the first half of 1998 among Copperbelt communities in Chingola, Mufulira and Kitwe. The research revealed considerable anxiety and insecurity over land tenure. As a result of those expressed anxieties, and with the support and encouragement of many of those interviewed, it was agreed to undertake a fact-finding mission into land tenure insecurity.

#### Background

Access to land is the most critical asset for agricultural production but in the Copperbelt towns, it is one asset over which communities have the least security. Although only 17 per cent of arable land in the province is utilised, for small holder and emergent farmers, security of tenure remains elusive. The Oxfam PRA research showed that less than 5 per cent of farmers in selected settlements have leasehold title for their land. The rest depend on access through a variety of legal or illegal arrangements. Some pay annual rent to title holders or enter into sharecropping arrangements. Others are squatters on council, ZCCM, forestry or private land. Land tenure is compounded by the monumental complexity of the acquisition procedures.

The Copperbelt is undergoing a period of acute economic and social uncertainty. There is nervousness about the future and there is growing and visible poverty. Liberalisation of the economy, changes brought about by the Lands Act and, above all, the sale of ZCCM, is transforming people's lives. The rapid completion of the sale of ZCCM is regarded as essential not only for ensuring the rapid rehabilitation of the mining sector but for revitalising the whole economy.

- ZCCM is the second largest landholder in the country after the State. As such, as its assets are sold off, the issue of what is going to happen to people living on mine land, either on short term tenancy agreements or in the mushrooming informal settlements, takes on the utmost urgency.
- Pressure for land is increasing in every district - as miners are laid off, local industries dependent on ZCCM decline, and the informal sector is saturated - people see small-scale agriculture as one - perhaps the only - means of survival.
- If significant numbers of people now living on ZCCM land are displaced - without adequate planning - it will simply exacerbate the problem of squatters that local councils and the Agriculture and Forestry Departments are already trying to grapple with.

#### Numbers of People Affected

A major problem is the absence of reliable statistics about the number of people who may be displaced which will make planning extremely difficult. In some areas there are major discrepancies in the figures provided by ZCCM compared to those provided by the councils.

- In Chingola, for example, according to ZCCM there are 3,873 people living in illegal settlements on mine land. But this figure is regarded by the council as a serious underestimate. They believe the number of affected people is around 15-20,000.
- In Kitwe, according to the council in one settlement, Kamakonde, there are over 15,000 people living on ZCCM land, yet according to ZCCM's survey there are only 4,794.
- According to ZCCM's survey overall 44,556 people would be affected who live on mine land in Nchanga, Mufulira, Nkana, Luanshya, Konkola and along the high voltage transmission line wayleave around Ndola, now owned by the Copperbelt Energy Consortium.

But these figures need to be treated with great caution. A proper survey is required which also takes into account the different circumstances of individuals and their families. The World Bank, in line with its mandatory guidelines on involuntary displacement, should be asked to undertake a full assessment of the resettlement problem.

- The official ZCCM statistics also exclude people who have short-term tenancy agreements, which in the event of the sale of a mine may be terminated.
- Dominic Mwenya, a 68-year old former miner, has been farming on ZCCM in the Valley Dam area of Mufulira mine, since his retirement 12 years ago. He is now extremely worried about his future. Without warning ZCCM have informed him that his tenancy agreement will not be renewed after this growing season. Like many retired miners, his family is dispersed and he has lost all contact with his village.

#### **Absence of a Coordinated and Planned Approach**

- During 1997 ZCCM held meetings with the Town Clerks and other officials of all the affected Copperbelt towns to discuss how the problem might be addressed.
- ZCCM estimated that K 200 million would be required to fund water supply, site preparations, transport to encourage squatters to leave. It noted that compensation for improvements people had made to their homes and to the land was 'a critical and sensitive aspect of the programme.' If compensation was included ZCCM estimated that the resettlement costs would be in the region of K 415 million.

But the attempt at a coordinated approach collapsed towards the end of 1997. In the councils' view ZCCM was being unrealistic in trying to rush the process because of the impending sale. It pointed out that councils lacked the means and capacity for executing a major resettlement programme. For its part ZCCM feels that there was a lack of cooperation from politicians and local government. It has since taken the position that removal of informal settlements is no longer its problem but one for the new owners. Certainly in its present financial crisis ZCCM might not have felt able to meet the costs of the resettlement programme. ZCCM was also frustrated by the fact that even where it had found settlers an alternative resettlement site on council or state land, they refused to stay.

#### **Difficulties with the Demarcation and Titling Process**

The investigation showed that there was widespread confusion and lack of clarity about the current legislation regulating land transactions and land tenure not only among settlers who were attempting to acquire legal title to their plots, but also on the part of officials.

- As all land is vested in the President there is a great responsibility and potential to ensure that land is administered and controlled 'for the use or common benefit, direct or indirect, of the people of Zambia' (Section 5 Lands Act, 1995).
- At present people with customary rights, insecure tenure or who are struggling to obtain security of tenure on State land are at a severe disadvantage. No adequate provisions exist in the Lands Act or the Mines and Minerals Act to protect the interests of long-term, informally settled people.
- People living in customary areas do not even have to be consulted before mining operations are authorised. They are largely unaware of the possibility of contesting decisions on land disputes before the Lands Tribunal.
- Attempts by the Agriculture Department to demarcate areas as agricultural units were hampered by the fact that they were often not aware of who owned the land. ZCCM did not provide them with maps or clear information.
- There is a confusing array of titles which confer varying degrees of land security which are not always clearly understood by the holders. It would appear that both 14-year provisional certificates of title (given by councils when land has not yet been surveyed) and the Land Record Cards (given to council tenants in urban Improvement Areas) are almost useless - credit institutions certainly do not accept them as collateral.
- Aspects of current legislation, particularly the Lands Act (1995) and the Mines and Minerals Act (1995), if implemented without regard for the social consequences of displacing poor settled communities from land which they have tried - with their own limited resources - to improve, could not only lead to great injustice but possibly also to a backlash from the destitute.

#### **Demarcation procedures**

Having a secure title deed issued through the Registrar and Commissioner of Lands is the only formal basis for going ahead and developing the land. Yet many people on the Copperbelt have been waiting for years for demarcation, caught up in the legal quagmire of the land tenure system. Often settlers have paid money to government departments for demarcation expenses but no progress is made.

- In Chandamali Forest, for example, near Mufulira, a group of settlers first arrived in 1978 as charcoal burners. They realised that what they were engaged in was not sustainable and have struggled since 1982 to be settled on agricultural land. In 1994, with support from the Mufulira Peri-Urban Development Framework, a local NGO, they were offered new land in a de-gazetted forest area. The 66 families struggled to raise K 840,000 to cover the costs of demarcation of the new de-gazetted plots. But since then, despite having paid the money, there has been little progress.

### **Need for Gender Sensitivity**

An issue which appears to have been neglected is the gender dimension of land insecurity. The findings of Oxfam's PRA showed that very few women own land because they are unable to raise funds or credit. The research found that most women interviewed were either poor or extremely poor and dependent on the support of their children for their survival. They engage in piece work because they do not produce enough for their own subsistence. In cases where a family has been able to acquire land, the husband will pass it to his sons or brothers.

On the Copperbelt, where ZCCM housing and housing allowances are allotted to the predominantly male employees, wives get access to housing only through their husbands. Widows are normally given one month to vacate mine houses after their husbands die. Most have had no opportunity to purchase mine houses.

Women's rights to security of tenure are equally precarious in formal resettlement areas.

- Lita Beni, a 62 year old widow, has occupied her plot of land in Kakolo, near Kitwe, since 1970. It was designated a resettlement scheme, but when the plots were allocated her plot was assigned to a more recently arrived male settler.

### **Compensation**

People whose occupation of mine land has been tolerated or even actively encouraged by ZCCM or local authorities should receive proper compensation for any improvements that they have carried out to the land (such as construction of houses, business and churches). In cases where a mine has been sold, then the new owners have a responsibility to provide fair and reasonable compensation.

- At Kansanshi mine, Solwezi District (in North-Western Province), which was the first ZCCM package to be sold, former miners were evicted by the new owners, Cyprus Amax, from the mine compound with inadequate notice. They were only offered repatriation to their original areas. They had been offered and then denied the opportunity to purchase mine houses in Kansanshi (or other areas) and the local Catholic church (which had been given permission to build by ZCCM in 1991) invested K7-8 million in constructing a chapel to service the wider community. In August 1998 demolition of mine houses and the chapel began. People are extremely bitter that virtually no compensation was paid.

### **Conclusion**

In the final analysis it would be an abdication of duty for the Government to protect private property rights without a serious effort to address the issue of equitable land distribution. But for this to happen, particularly in the prevailing economic circumstances, support from the donor community will be required. In particular the World Bank has an obligation to implement its resettlement policy; ZPA could take a much more active role in monitoring the social impacts, particularly the gender dimension, of the privatisation programme. The Government and councils needs to reassess why people are reluctant to move to designated resettlement areas, whether these are on State land or council land. Properly managed agricultural resettlement schemes are clearly one part of the solution to the land security problems on the Copperbelt but by no means the only one. The private sector clearly has a role to play. It will be in its interests to retain a skilled and motivated workforce which is ready to respond to new opportunities. But, in the absence of adequate services, with no transport to market, no provision for health and education, formal resettlement schemes as currently envisaged offer people very few opportunities for sustaining themselves and their families in dignity. Finally, given the deliberate and commendable efforts that Government has made to provide people with affordable housing, surely a similar effort should be made to give Zambia's rural and peri-urban population access to land?