

**OXFAM GB (ZAMBIA)**

**COPPERBELT LIVELIHOODS IMPROVEMENT PROGRAMME**

**Governance and Capacity Building Sub-Programme**

**COPPERBELT LAND WORKSHOP**

**Mindolo Ecumenical Foundation, Kitwe.**

**3<sup>rd</sup> to 5<sup>th</sup> October 2002**

**REPORT OF THE PROCEEDINGS**

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**Rapporteur: John Kangwa (Copperbelt University)**

## 1.0 INTRODUCTION

The Zambian Copperbelt has historically been the source of the country's mineral wealth since the discovery of copper ore deposits in the region in the early 1900's. Since the start of the mines privatisation programme in 1997, the Copperbelt has suffered a decline in economic fortunes with the result that many Copperbelt residents now face an uncertain future. This has been compounded by the decision by Anglo American in February, 2002 to withdraw from their investments at Konkola, which site had held out hope for the revitalisation of the Copperbelt economy with the promise of more than \$700m worth of investments at the proposed Konkola Deep Mining Project.

The resulting changes in the livelihoods of Copperbelt residents, a large majority of whom were employed as miners, has left many households without the benefit of the social support systems that had evolved over many years and become an integral part of the life of the Copperbelt mining communities. This state of affairs poses a grave danger as many households face increasing deterioration in their circumstances as poverty levels continue to rise.

In 1998, Oxfam carried out PRA studies that revealed that there was increasing pressure on land as former miners and other retrenched from the parastatal sector resorted to farming as an alternative survival strategy. Later, a land tenure study to establish the extent of the tenure insecurity problem on the Copperbelt confirmed the findings of the PRA studies. These were closely linked to the impact of the privatisation process on the Copperbelt communities. One of the findings was that many people that historically came from various parts of the country now consider the Copperbelt as their home and village. The interesting aspect of this is that the status of their current villages differs from that of their villages in the place of origin. In this new set-up security of tenure is critical for meaningful livelihoods.

The studies however established that less than 5% of the people settled on the land had title. The majority are squatters according to the current Land Act 1995. This has rendered many potential small-scale resource-poor farmers to be less productive and innovative in how they can enhance their livelihoods using agriculture as an alternative means of survival.

In 1999 when CLIP launched its programmes on the Copperbelt, one of the issues for advocacy was mass community sensitization through selected partners to highlight the provisions of the current Land Act of 1995, the administrative procedures involved in land acquisition and the

implications of being a squatter. Various strategies developed following various land issues existing in the Oxfam operation areas, which include encroachments in forests, absentee landlords, Council and Mine land. There has been some success achieved in certain areas especially in Mufulira as regards land belonging to the Council, absentee landlords and mine land.

Currently, there is an on-going debate about diversifying the Copperbelt economy and agriculture has taken centre stage in the discussions. This no doubt will have implications on land matters especially for the Copperbelt where agriculture has traditionally taken a back seat in preference to mining and where there are now large numbers of squatters. Government is considering and focusing more on increasing commercial farmers. This is dangerous for poor households who may end up as cheap labour on the big commercial farms – especially the women. There is a window of opportunity now for communities to arise and influence the mind of government in empowering the landless resource-poor farmers. Knowledge of the current land policy and legal provisions and possible areas for amendment will be key in this process.

Oxfam has an opportunity to work with its partners by mounting a huge community campaign and also support ideas to develop a forum that would act as a think tank to help with ideas and solutions to Copperbelt land matters.

## **2.0 WORKSHOP OBJECTIVES**

The workshop which forms the basis of this report was organized with the view of achieving the following objectives:

- To examine the current land policy in the light of administrative (land application) procedures, key stakeholders and implications for the poor.
- Highlight areas from the policy that may need to be focused on for review advocating for amendments and make possible suggestions for the same.
- Develop a Copperbelt Civil Society Position Paper on land.
- Discuss ideas around developing a Copperbelt Land Forum.

### **DAY ONE**

## **3.0 OFFICIAL OPENING OF THE WORKSHOP**

As part of the opening ceremony, the Mutende Cultural Ensemble performed a sketch concerning land ownership among the poor in

Zambia's peri-urban areas. The sketch depicted a situation in which a ruling party ward chairman had given out land to a couple and a councillor from the local council comes to the area and demands that the couple vacate the land because it doesn't belong to them. A conflict arises because the party ward chairman has to protect the couple's interest otherwise he would lose face in their eyes as he had already claimed that he had final say on all land matters in the area.

The ward chairman calls a community meeting at which he emphasizes that no one else in the area has authority to allocate land except himself, and when the question of women's rights to land arises, he quashes this as of no consequence because he is relying upon traditional norms of authority to guide him.

At the end of the community meeting, the group resolve that no one should be allowed to evict them from the land they occupy as they are the rightful owners of the soil and no one has the right to take the land away from them.

The essence of the conflict portrayed in the sketch is the difference between legally constituted authority and how that authority is communicated to the poor and the illiterate. The group feels that they have a right to the land because it belongs to them as a birthright; however, the law says they are squatters because they are in occupation of land that is not legally theirs and are therefore liable to eviction.

The sketch characterized the fact that, most ordinary people have little or no understanding of the bureaucratic procedures that relate to land alienation and ownership and that the systems set up to allocate land are too elitist and serve the interests of a small sector of the society.

The sketch ended with a plea from the group to government to simplify the procedures for gaining access to the land so that security of tenure can be made more widely available to the greater mass of the people.

### **3.1 Deputy Minister's Opening Remarks**

The Honourable Deputy Minister of Lands, Mr. Dalton Sokontwe, officially opened the workshop on the morning of 3rd October 2002.

In his opening remarks the Minister emphasized the importance of ensuring that land was made available for the future growth and development of the nation. He pointed out that the government is trying to find ways of diversifying the economy on the Copperbelt and for this to happen required that land be made available especially for agricultural purposes.

The Minister commended Oxfam for the initiative to bring together their partners and stakeholders in order to seek a common understanding of how land matters are being handled in Zambia. Given current economic conditions, the government was focusing on agriculture, which has

implications for land access and land use. Ideas from the workshop would therefore provide the basis for inputs to the proposed land policy review exercise. The workshop was therefore an ideal vehicle to provide useful insights to the Diversification Task Force Consultative process by providing information on linkages between land, agriculture and livelihoods, which are closely linked.

Demand for land in rural areas is not a big issue at the moment but in all urban areas the mushrooming of illegal settlements has put pressure on available urban land. This has come about mainly due to the fact that little consideration has been given to the development of land in rural areas.

Traditionally, the Copperbelt has provided a home to many Zambians from all parts of the country. Many of those who have settled here have made the Copperbelt their home but the region's very popularity means that many have had to make do with life in illegal settlements. This continues to pose a challenge to government as many of those who are settled in illegal settlements continue to occupy gazetted forest areas and institutional and private land.

There are, therefore, pockets of land problems in these areas on the Copperbelt where people in search of survival have settled in forest areas and on other private land. The workshop needs to come up with concrete proposals on how these problems can be resolved.

The Ministry of Lands has embarked on a consultative process to review the 1995 Land Act in cognizance of public concerns over the same. The government is determined to develop a policy on land with broad-based input from a wide section of society, as land is an important resource for both poor and marginalized groups in society. The voice of the poor must be an integral part of this process of review, as all views need to be heard and considered. There is therefore need for the creation of a think-tank on land issues composed of people from all walks of society. This workshop must generate concrete suggestions for land access, security of tenure and livelihoods improvement. The government on its part will give due consideration to the position paper that emerges from this workshop.

### **3.2 Response to the Deputy Ministers Speech**

After the Deputy Minister had delivered his opening remarks, the Convener requested a limited response from participants on the issues raised. Participants raised the following issues in response:

#### **3.2.1 Operational Efficiency of the Ndola Regional Lands Office**

The operations of the Ndola Regional Office of the Lands Department were queried over the fact that the office had been in operation for

sometime but officers from Councils on the Copperbelt were still travelling to Lusaka in order to have land matters attended to.

In reply to this query, the Deputy Minister indicated that the low level of operations encountered at the Ndola Regional Lands Office was principally due to inadequate funding and the absence of a direct computer link up to the Lusaka Headquarters. The government has yet to complete the linking of computer systems between Ndola and Lusaka which process will expedite the handling of applications on the Copperbelt. It is expected that these logistical measures will be completed by next year by which time it is expected that the office will be fully operational.

### 3.2.2 Land Allocation Procedures

A second issue concerned the allocation of land to members of the public which process did not seem to favour all citizens in the same way.

On the issue of land allocation, the Deputy Minister indicated that there is a general shortage of state land available for allocation particularly in the urban areas as only 4% of the total land area in Zambia is State land. The government is currently consulting chiefs to release part of their customary land holdings to increase the stock of state land. The state is working with councils in the process of land allocation and it is up to this workshop to come up with ideas as to how land allocation procedures can be improved upon for the benefit of all citizens.

### 3.2.3 Land Policy Review Process

A third issue was raised concerning the Land Review Policy Committee set up by government whose composition only included two civil society organizations while there were more than fifteen government agencies involved.

On the Land review process, the Deputy Minister indicated that the government is working out ways to deal with the issue of the Land Policy Review process and is therefore seeking inputs from civil society on how to compose the review committee. The government will therefore listen to any submissions from the civil society sector.

## **4.0 PANEL PRESENTATIONS - CURRENT LAND ALIENATION PROCEDURES**

### **4.1 Current Land Alienation Procedures at Kitwe City Council - Mrs. I. Mundia, Director of Legal Services – Kitwe City Council**

#### **4.1.1 Introduction**

Land development in Council areas is directed by District Development Plans. These plans set out the zoning patterns which have to be followed by each Council in allocating land. In situations where priority needs are identified, areas may be re-zoned to meet these needs but in such cases the law requires that an application be made to the Minister for Local Government to approve such modification.

#### **4.1.2 Land allocation procedures**

Before land is allocated it must be serviced and surveyed. However, due to various constraints it is not possible for these conditions to be met at all times. Two routes are followed depending on the type of land that is being allocated. For land that is already numbered and surveyed, the applications received go on a file created specifically for that plot in the Council Registry. For unsurveyed plots, all applications received go on a general file.

Members of the public applying for plots are generally required to fill in a form that asks for all the relevant personal details. They are also expected to attach relevant supporting documents such as bank statements and other proof of ability to develop the plot applied for.

The relevant forms for this purpose are Annexure 'A' for all types of land and Annexure 'C' for agricultural land.

#### **State Land**

For applications on state land, the Commissioner of Lands normally prepares a letter of offer after the recommendation of at least three applicants from the relevant local authority. Council's only act as agents of the central government in respect of allocations on state land.

#### **Statutory Housing Areas**

Under provisions of the Housing (Statutory and Improvement Areas) Act, 1974, Councils are given a head lease from the Commissioner of Lands and they in turn have the right to allocate plots to applicants by giving a 100-year lease. Only one plot can be allocated to any one individual in a statutory housing area so as to avoid the danger of 'down raiding' in which more affluent members of society get two or more adjoining plots

and consolidate them to make one large plot thus depriving the poor of access to land.

#### **4.1.3 Allocation Mechanisms**

In the past Councils conducted interviews for applicants but this procedure has been discontinued because it proved too expensive in terms of the time taken to interview all applicants. Instead applicants are now asked to fill in a form and attach supporting documents as indicated above.

Once application forms are received, a Public Works committee initially processes them before they are sent to the full Council Meeting. The full Council then approves the applications as recommended by the Public Works committee. Usually, three applicants are recommended for each plot available and these names are then forwarded to the Commissioner of Lands with a copy of the relevant extract of council minutes approving the applicants.

Before they can commence building activity, they must have a letter of offer from the Commissioner of Lands. Once this is obtained, the applicant has six months within which to put up a slab on their plot and 18 months in which to complete the building.

#### **4.1.4 Problems and Constraints faced by Councils in Land Alienation**

- Insufficient land;
- Servicing is a problem because of a lack of funds;
- Communities not well educated on land allocation procedures;
- Double allocation of plots due to poor record keeping;
- Abuse of land allocation systems by Council employees and others who frequently obtain land only to resell it.

### **4.2 ZCCM Investment Holdings Surface Lease Areas - Acquisition and Alienation of Mine Land - Mr. F.L. Mwiya, Consultant-Property Management, ZCCM-Investment Holdings Plc**

#### **4.2.1 Introduction**

From the inception of the mines in the late 1920's, the mining companies operating in the then Northern Rhodesia acquired big tracts of land for mining and other associated interests. Since then, acquisition of land on a large scale was accepted and maintained by the successor companies.

The mining industry normally commences with prospecting work to determine the availability of minerals in any given area. Once the prospecting exercise is completed and the results are favourable, a mining license is then obtained. Thereafter, there is need to ensure protection of such areas from unauthorized surface development that would interfere with future mining activities e.g. squatting, charcoal



burning etc. This entails the obtaining of certificates of title from the state for periods of 99 years.

#### **4.2.2 Land Ownership after ZCCM Privatization**

Following the privatization of ZCCM and indeed with the availability of all the geological and prospecting data, it was unlikely that the new owners would want to continue owning large tracts of land that had no potential for future mining. This is the land that has now remained with ZCCM and part of it has been assigned to retrenched miners who had volunteered to go into farming. These individuals have, however, faced a problem. They are unable to take vacant possession of the portions of land assigned to them because as soon as the illegal charcoal burners who were burning charcoal in these areas heard that the land was on offer by ZCCM to retrenched miners, they began claiming ownership to the areas where they were burning charcoal. This has created a big problem to both ZCCM and the rightful assignees. Currently, the ex-miners who were formally offered the land in dispute have opted to seek legal action through the courts.

The land currently occupied by illegal settlers also includes:

- Surface Rights Areas transferred to NFC African Mining Plc, and
- The land transferred to Chambeshi Metals Plc.

#### **4.2.3 Income Generating Activities on ZCCM Land**

The economic activities of population's in the affected areas have been assessed. From the assessment, it has been established that 90% of them depend mostly on illegal charcoal burning and brewing of illicit beer (Kachasu). The rest (10%) are seasonal farmers growing maize, groundnuts and vegetables on a very small scale. This is so because these people have no financial capacity to complement their farming activities. They live on subsistence farming. On the other hand, the retrenched miners have the capacity to develop these areas offered using their terminal retirement benefits.

It was established that in certain cases, MMD Ward Chairmen sold to some unsuspecting settlers, pieces of land at a fee. In some cases, the illegal settlements received the backing of Kalulushi DA's office.

The situation is worse in the land ceded to NFC African Mining Plc and within Subdivisions 3-5 and 8-24 of Lot 542/M which have already been sold to ex-miners. Legally, the office of the DA has no jurisdiction in the allocation of ZCCM land. Similarly, it has no powers to assume responsibility of land delivery to anyone within the areas where land title is already registered under a particular entity e.g. land legally sold to retrenched miners and that transferred to NFC African Mining Plc.

#### **4.2.4 Finding Solutions to the problem of squatting on ZCCM Land**

The solution, therefore, would require resettling the illegal settlers elsewhere and avoid legal battles between the ex-miners and the illegal settlers. The company has surface rights over Lot 1312/M. This is a massive chunk of land, which can accommodate the existing illegal settlers in this area and those occupying land sold to ex-miners and that, which belongs to NFC African Mining Plc. What is required is for ZCCM to make immediate arrangements for the surrender of the Surface Rights it owns to the state and let Kalulushi Municipal Council re-demarcate the whole area into suitable small holdings to cater for everyone illegally settled on mine land mentioned above. In fact, most of the squatters indicated their willingness to shift to a place where they can obtain legal title to the land that they own if authorities worked out such a scheme.

In fact there are no permanent structures set up within the illegally occupied land yet; most of the settlers commute on a weekly basis from Kitwe, Mufulira and Chambishi during the rainy season to cultivate cash crops like maize, groundnuts, sweet potatoes and cassava. All structures in which people live are of a makeshift – thatched huts.

The charcoal burners are fully aware of the illegal nature of their stay and are willing to move out of the area provided necessary logistical support is rendered. This is the area that this workshop should try and find a solution to. Both the illegal settlers and the legally offered ex-miners have to survive.

### **4.3 Forestry Policy in Zambia - Mr. J. Mulombwa, Provincial Forestry Officer, Forest Department, Ministry of Tourism, Environment and Natural Resources**

#### **4.3.1 Introduction**

Forests, woodland and trees are some of the nation's most extensive natural heritage resources, which should be judiciously managed and developed. They constitute a renewable asset whose continued availability depends upon our actions.

Forests play a vital role in peoples livelihoods. They are major sources of traditional medicine, wood fuel, food and building materials. They also play a vital role in both the carbon and hydrological cycles. The forests are key factors in watershed and soil conservation.

#### **4.3.2 Pressure on Forest Resources**

This forest resource is, however, under pressure from deforestation, encroachment and uncontrolled bush fires. This degradation is primarily as a result of inappropriate policies that tend to discourage forest conservation and appears to favour other land use types at the expense of the forests. In deriving benefits from these resources, it is incumbent upon us to ensure that biological diversity, soil and water conservation

are not compromised. If properly managed and harnessed, the forest sector can generate substantial employment and revenue for the nation and continue to play its critical role in environment and ecosystem preservation upon which the sustenance of life depends.

#### **4.3.3 Task and Vision of Forest Department**

Our task and vision is to turn the forest sector into a dynamic and vibrant one whose value everyone appreciates and whose sustainability is a concern of everyone. Against this background, Zambia has put in place a National Forestry Policy which aims at increasing the country's forest cover and simultaneously meet the growing local needs for wood fuel, timber and minor forest products.

The forestry policy encourages the practicing of Participatory Joint Forest Management (PJFM) Systems with the active involvement of the local communities in the protection, management and utilization of the forest resources.

### **4.4 The Role of the Ministry of Agriculture and Cooperatives (MACo) in Land Alienation - Mr. S. Mungalaba, Senior Field Services Coordinator, Ministry Of Agriculture and Cooperatives**

#### **4.4.1 Introduction**

The Ministry of Agriculture and Cooperatives has four departments comprising of Human Resources and Administration, Field Services, Research and Specialist Services, Planning, Marketing and Cooperatives Development.

The Department of Field Services (DFS) is divided into three branches - Technical Services Branch (TSB), with Farm Power and Mechanization, Irrigation and Land Husbandry as sub-programs or sections; Fisheries Extension Branch and Agricultural Extension Branch.

The Land Husbandry sub-programme or section (LHS) being one of the three sections in TSB has its National Headquarters in Mulungushi House, Lusaka. Offices are maintained in all the provinces at Provincial Agricultural Coordinator's (PACO) office under the Senior Field Services Coordinator's office. District staff are attached to District Agricultural Coordinator's (DACO) office.

At Provincial level, an Agricultural Specialist (Land Husbandry) is responsible for all land husbandry activities in the province under the TSB forming a core team with other Agricultural specialists in the other two sections within the branch. The core team supports the professional and technical staff at field level to implement field activities. The Copperbelt has three field teams namely Luanshya with Ndola, Masaiti

and Mpongwe; Chingola with Kitwe, Mufulira and Chililabombwe; and Kalulushi with Lufwanyama Districts.

#### **4.4.2 Distribution of Land Categories on the Copperbelt**

Land categories and their distribution on the Copperbelt as elsewhere in Zambia bear the background of colonial rule when land was apportioned into Crown Land, Native Reserves and Native Trust Land. Crown Land was generally more favourable and was allocated to European farming interests and urban and industrial development. The areas falling under the mining towns (Chililabombwe, Chingola, Kalulushi, Kitwe, Luanshya, Mufulira and Ndola urban) were in Crown Land. All areas of Mpongwe, Masaiti and Lufwanyama were under Native Trust Land or Native Reserves. Native Reserves were apparently set aside for the exclusive use of the inhabitants and native trust land was for the common benefit, direct or indirect of the natives of Northern Rhodesia. Consequently, most agricultural land (80%) is in traditional hands. This means that for more agricultural investment, land must be sought from our chiefs in Copperbelt rural.

#### **4.4.3 The role of MACo**

The Land Husbandry section performs the following broad tasks:

- Conduct land resource surveys;
- Carry out catchment-based physical planning;
- Promote good land management practices;
- Periodic monitoring and Evaluation of land utilization; and
- Maintaining a record of relevant agricultural data.

#### **Specific roles**

In a more specific way, the Land Husbandry section does the following:

- Identification and assessment of agricultural resources for agricultural development by carrying out land potential capability assessment surveys and analysis;
- Preparing physical farm plans and farm layout designs;
- Planning and implementing regional catchment conservation plans/agricultural projects and agricultural settlement schemes;
- Demarcating and mapping farms and other agricultural land parcels;
- Carrying out natural resource and socio-economic surveys through participatory approaches;
- Maintaining inventories of natural resources, socio-economic data and agricultural lands/land use data;
- Promoting soil and water conservation activities on agricultural lands to enhance productivity of such land, and
- Developing rural and farm infrastructure such as farm roads, bridges, water furrows, water wells, soil conservation structures, dams, weirs, fencing etc.

#### **4.4.4 Land Demarcation and Mapping**

After a land parcel has been allocated to an individual or otherwise by the Chief or the Council, the Ministry of Agriculture and Cooperatives moves in to plan and demarcate that piece. The Mapping and Remote Sensing sub-section then produces maps, which in case of traditional land are endorsed by the Senior Field Services Coordinator, whereas if the land is state land the Council signs first followed by the Provincial Permanent Secretary and the Senior Field Services Coordinator. After this process is exhausted the papers are then submitted to the Lands Department in the Ministry of Lands for the issuance of title to the particular land. This is for a 14-year lease. The Ministry keeps record of all maps for future consultations in cases of disputes or future developments.

#### **4.5 Role of the Survey Department in Land Use Planning, Allocation and Resettlement - T.L.Mwanalushi, Assistant Surveyor General (Cadastral), Survey Department, Ministry of Lands.**

##### **4.5.1 Introduction**

The Survey Department is the national survey and mapping authority providing professional services and advice to the government, private sector and the general public on all matters related to surveying and mapping. Its role is defined under the Land Survey Act. The general objectives of the Department are as follows:

1. Examination and approval of cadastral survey records, diagrams and general plans.
2. Digitizing and revision of topographical database;
3. Acquisition of up to date aerial photography;
4. Capacity building within Ministry of Lands.

The Surveyor-General heads the Department, which has a dual role being both an authority which makes the technical decisions necessary for the registration of title, national geodetic networks and for the official national mapping programme and a service organization providing surveying and mapping services for other agencies.

The Survey Department has three branches through which it executes its mandate. These are:

1. The Cadastral Branch;
2. The Mapping Branch;
3. The Survey Services Branch.

An Assistant Surveyor-General who reports to the Surveyor-General heads each of these branches.

#### **4.5.2 Land Use Planning, Allocation and Resettlement**

In the process of Land Use Planning, Allocation and Resettlement, the Department occupies a strategic role in that it facilitates speedy alienation of earmarked parcels of land by providing timely and accurate surveys. Below is a précis of what can be expected from the Department.

#### **4.5.3 Survey Services Branch**

The main functions of the branch consist of the provision of control surveys, monumentation, maintenance of technical records and stores. The branch is charged with the custody of the GPS equipment which land surveyors in the section use to extend the control network into remote areas where there was previously no control. After control has been established, the control network is then “reduced” by Least Squares methods to ensure conformity to stipulated standards of accuracy. Based upon this network, surveys can be performed for earmarked properties.

#### National Geodetic Control Network

- Framework for spatial referencing: What is where? And Where is what?;
- Relative positions of different features can be established or compared;
- Basis for developing base mapping, cadastre, and land information systems;
- Over 10,000 monuments in Zambia established in planimetric and/or height coordinates at various orders of accuracy (primary, secondary and tertiary networks);
- Need for accelerated maintenance and selective densification of the control infrastructure in support of increased spatial referencing demands;
- Need to re-adjust and transform the fragmented networks in Zambia into one geodetic reference system.

#### **4.5.4 Cadastral Survey Branch**

The Cadastral Survey Branch carries out cadastral surveys, draughting of diagrams and plans and maintenance of survey records. Cadastral survey activities are directed from Headquarters in Lusaka through regional offices in Livingstone, Lusaka, Kabwe, Ndola, Kasama, and Chipata. In addition to preparing survey instructions to initiate cadastral work, the Headquarters is responsible for the examination and approval of all surveys. The Real Property Register is the basic register of real properties and hence it is imperative that the Survey Department has a complete knowledge about real properties, their location and boundaries. The Cadastral Branch provides the much needed speedy examination and

approval of surveys and plans that are required to support the registration process for immovable properties.

#### Cadastral Survey Procedure

Cadastral survey procedure begins with the receipt of an application from a member of the public to lease a parcel of land. Upon receipt of the application, the relevant planning authority draws out a layout plan, which is sent to the Commissioner of Lands for the purpose of scrutiny, approval and request to the Surveyor-General to number and arrange/authorize survey of this piece of land. The Surveyor-General further scrutinizes the plan and if found correct, numbers it and issues instructions to execute the survey. After survey, records are lodged for examination and diagrams approved by the Surveyor-General. The diagrams are released to the Commissioner of Lands to draw up a lease in favour of the applicant. The lease is subsequently lodged and registered with the Registrar of Lands and Deeds following which a certificate of title is issued to the lessee.

#### National Cadastre

- Consists of textual and spatial land records at the Land and Survey Departments of the Ministry of Lands;
- Up to 350,000 parcels of land are registered for 99-year title in Zambia to-date (these include residential, commercial and agricultural land uses);
- Technical records of the parcellation of land are derived from cadastral surveys;
- Authoritative documentary records of a fiscal and proprietary nature are organized in associated computerized land registers;
- The first Land Information System (LIS) containing the cadastre (textual and land records) coded in COBOL and running on a WANG operating system was successfully developed and installed in 1986 (with assistance from Swedesurvey) and operated for over 15 years at Lands and Survey.
- A new ORACLE based LIS operating on a UNIX server network has been developed and was commissioned last year.

#### **4.5.5 Mapping Branch**

The Mapping Branch provides mapping services in aerial photography, photogrammetry, cartography, reprography, maintenance of map records, an air photo library and map sales.

This branch is responsible for:

1. Revision of maps, planning and supervision of aerial photography;
2. Digitizing and maintenance of digital databases;
3. Formulation, development and coordination of national GIS policy;
4. Provision of specialized services, such as scanning and vectorizing of maps and other geographic documents;
5. Provision of professional advice on mapping, GIS and remote sensing.

Fully employed, the branch can play a significant role in the development of land use plans for commercial and communal land which can lead to equitable, stakeholder conscious and environmentally friendly resettlement plans.

#### National Topographic base mapping

- Standard national 1:50,000 scale mapping series containing ground detail and relief is the official base map and is designed for general use by the public;
- The series is produced directly from ground and aerial surveys and may on rare occasions be compiled from existing maps at larger scale;
- Ninety-percent of Zambia is mapped at 1:50,000 scale with the remainder at 1:100,000 largely in areas with fewer detail;
- The 1:50,000 map series consists of up to 860 sheets portraying general geographical features such as roads, settlements, boundaries, water courses, elevations etc.
- Smaller scale topographic and thematic maps at scales of 1:250,000, 1:500,000, 1:1,500,000 are compiled from 1:50,000 base maps;
- Standard specifications for the production of 1:50,000 map series are well established;
- A Geographical Place Names Gazetteer exists but needs to be revised.



## **5.0 ISSUES ARISING FROM PANEL PRESENTATIONS**

Following the panel presentations, the following issues were raised for discussion:

### **5.1 Forest Management**

- The location of Forest Department offices in the Kitwe town centre was criticized as not conducive to operational efficiency when their area of operations is in the outskirts where the forests are located.
- There is a lack of consultation among government agencies and local government which hinders effective communication in the areas of land and forest resource management even where similar or complementary functions are being performed.
- The issuing of charcoal burning permits by the Forestry Department is meant to discourage the indiscriminate destruction of forests, however, it has been found difficult to enforce the permits system as the Department is inadequately resourced. In the past, the Department depended upon Forest officers living in camps in the Forest areas to enforce the permits system. These have since been phased out.
- Participatory Joint Forest Management (PJFM) is a new concept that is yet to be tested as a way of sustainably managing forest resources in conjunction with communities.
- The Forest Department needs to sensitize charcoal burners when they buy permits on the need for forest conservation practices (sustainable forestry) and also give them an understanding of the importance of water catchment areas and the need to respect them as this has a direct effect on the sustainability of water resources.
- There is a need to safeguard forestry resources by way of sustainably managing the existing resources. This can be achieved by sensitizing communities on the importance of adopting forest conservation measures such as re-planting of trees where charcoal burning has taken place and charcoal production from short cycle wood as possible interventions.
- The root cause for charcoal demand needs to be addressed as an energy issue particularly as this is more prevalent in the mushrooming illegal settlements. The provision of alternative livelihoods for charcoal burners can also help mitigate the rate of forest loss to charcoal burning.
- The quantification of how much charcoal is produced from the number of permits issued needs to be addressed;
- Accurate information is needed with regard to areas where timber processing firms operate and how much forest resource is being lost to commercial logging.

- Government must respond to the need for sustainable timber production in view of the many areas of the country where timber harvesting is taking place.
- Settlers in forest areas who have been allowed to stay and cultivate must be given ownership rights to the land they are cultivating. In such cases the land concerned must be de-gazetted and demarcated to allow for conversion of tenure to individual title.

## **5.2 Land Husbandry**

- The training of land husbandry officers needs to be dynamic to cope with the changes taking place.
- The identification, planning and demarcation of land that has agricultural potential should be treated as a priority by Ministry of Agriculture and Cooperatives.
- The issuing of papers purporting to be legal land alienation documents by land Husbandry officers to members of the public must be dealt with promptly so as to stop the practice.
- A need exists for linkages between Land Husbandry officers in the Ministry of Agriculture and Cooperatives and Councils in order to determine what land is being used for agricultural purposes and who owns it.
- Budget allocations are inadequate and government departments are unable to fulfill their obligations. Government should adopt a bottom-up approach in the budgeting process for provincial government departments to avoid situations where officers do not have proper logistical support to enable them carry out their duties effectively
- Commercial farming is responsible in large measure for loss of large areas of forest, even more so than charcoal burners.
- Farmers in cooperatives want to get individual title and not have to depend upon group title. The Ministry of Agriculture and Cooperatives needs to treat the issue of title for cooperatives as a priority.
- Short-term leases (14 years) tend to discourage development and therefore the need to ensure that all who want title get long term leases.

## **5.3 Land Survey, Titling and Resettlement**

- The Land Policy Review process has been left too late in the year as a result many people may be hampered from participating in the process due to the onset of rains as the process is beginning.
- Cadastral surveys provide the legal basis for all land registration procedures in the country. For one to practice as a land Surveyor they need to pass a Law Examination and a Trial Survey. The shortage of Licensed land Surveyors is due to poor remuneration in the profession

which causes some Surveyors to forego the licensing process. By the same token most Council surveyors are unlicensed and cannot therefore perform the duties carried out Government Surveyors in Survey Department.

- The titling procedure is a legacy of the colonial era and ways must be found to make it more user-friendly.
- Many home owners in former mine townships are still waiting for their title long after they were sold the houses. The process of surveying the properties has proved to be a significant hindrance in the process of acquiring title.
- Survey Department is not sufficiently well equipped to deal with the need for surveys around the country.
- On positive gender discrimination and women's access to land, the Ministry of Lands requested Councils in 1996 to deliberately allocate more land to women. At the national level a policy of allocating 10% of all land to women applicants has been operating though it has not been made fully public.
- A further hindrance to women's access to land arises from the traditional norms practiced even at Council level where Councillors will argue against a woman's application if her husband has already been allocated land.
- The Department of Resettlement in the Office of the Vice President needs to coordinate their activities with the respective area Councils so that their recommendations are the same.

## **6.0 Small Group Discussions**

Following the general discussion, Small group discussions were facilitated to respond to the panel presentations covering the areas of Agriculture, Forestry, Surveys and Resettlement and Local Authorities. Each group was asked to respond to a specific problem raised in the presentations. Following is a record of the Small Group deliberations followed by a response to some of the issues raised in the small groups by Prof. Hansungule.

### **DAY TWO**

## **6.1 Small Group Presentations**

### **6.1.1 Agriculture Group**

The Agriculture Group considered the issuing of false documents purporting to be title deeds to members of the public and land alienation procedures under the Ministry of Agriculture and Cooperatives. The following problems/issues were identified:

- Lack of awareness among communities of land alienation procedures and who issues documents;
- Inability of Agricultural officers to take their services to the people due to inadequate logistical support;
- Lack of integration between MACo and Councils leading to misunderstandings regarding roles;
- Sketch plans provided by agricultural planning offices are meant for agricultural planning and not cadastral purposes;
- Procedures in alienation of agricultural land are too complex for the ordinary person to follow through, thus a need for communities to be sensitized.

### 6.1.2 Forestry Group

The Forestry Group considered the problems of sensitization among the public in the use of forest resources, charcoal burning and the problem of poor funding for government departments. The following problems/issues were identified:

Problem	Intervention	Actors
Sensitization and lack of funding	<ul style="list-style-type: none"> <li>• Lobby for funding from stakeholders;</li> <li>• Training of Forest Officers;</li> <li>• Joint management of forestry resources;</li> <li>• Gender balance in extension work;</li> <li>• Promotion of deliberate policies empowering communities to negotiate with investors.</li> </ul>	GRZ, Donors, Private Sector, Local Communities, NGO's
Charcoal Production	<ul style="list-style-type: none"> <li>• Provision of alternatives to wood fuel e.g. coal briquettes;</li> <li>• Promotion of alternative technologies to use of wood fuel/charcoal;</li> <li>• Lowering of electricity tariffs to make electricity more affordable;</li> <li>• Promotion of carbon stocking projects (reforestation/afforestation) and introduction of appropriate species;</li> <li>• Woodlot establishment (agroforestry) and incentives for participants;</li> <li>• Alternative income generating activities for charcoal burners e.g. Beekeeping; to enhance food security;</li> <li>• Strengthening of Charcoal Producers Association's through financial assistance.</li> </ul>	GRZ, Donors, Private Sector, NGO's

### 6.1.3 Local Authorities Group

The Local Authorities Group discussed the issue of illegal settlements, political interference and establishment of local land tribunals. The following problems/issues were identified:

- The need to improve on existing policing arrangements to prevent illegal land occupation;
- Sensitization of Councillors, Council officials and communities with a view to eliminating political interference and self serving attitudes among officials and uplifting integrity in public life;
- Transparency in procedures and their enforcement;
- The development of rural areas for reversal of rural-urban drift;
- Establishment of local land tribunals to deal with local problems.

### 6.1.4 Survey and Resettlement Group

The Survey and Resettlement Group considered the issue of the land policy review, personnel in the Survey Department and house sales and title. The following problems/issues were identified:

- Draft Land Policy dissemination workshops;
  - Start of process delayed by late release of funding
  - Request has been made to MOFED to withhold funding to next dry season to allow for wider dissemination
  - Circulate draft widely starting with Chiefs and Cooperative leaders wherever necessary
  - Circulate post-dissemination questionnaire to evaluate effectiveness of workshops.
- Inadequate personnel at Survey Department;
  - Staff shortage is due to frustrations caused by inadequate logistical support, emoluments.
- Mine Houses and Title;
  - Legal impediment caused by ZCCM's inability to pass on individual titles on top of its own block title;

## **7.0 Response to Small Group Presentations by Prof. K.M. Hansungule**

### **7.1 Introduction**

Land in the African context is as important as technology is to the western world and because it is so intertwined with livelihoods, land should be regarded as a human rights issue. The Constitutional debates that have been going on in Zambia give impetus to the consideration of land in this manner as it impinges upon the rights of every Zambian.

#### 7.1.1 Local Government Level

At the level of local government, it is important to see that the land issue is essentially one of local context politics. The ownership, use and enjoyment of land is intrinsically connected to local political administration. Councillors have an important role to play here in bringing an understanding of the operations of local government to their communities as well as to take Council decisions to their wards.

In the Zambian context, political interference in land issues has been very prevalent almost at all levels. There are many examples of areas in our cities where residents have built homes without reference to the land alienating authority in the country, which is the office of the Commissioner of Lands. Examples abound of areas where ruling party Ward Chairmen have allocated land to residents who are unable to produce any proof of title to the land upon which they have built their homes. In almost all these cases it can easily be proved that the land in question was allocated on the basis of a promise to vote for the party represented by the Chairman.

The use of Land Record Cards as a form of title in Statutory and Improvement Areas essentially discriminates between different citizens on the basis of status. A need exists to have a uniform system of title that applies to all regardless of status. One minimum standard should be made to apply to all citizens. At the same time, such documents must be made to suit the needs of the indigenous people by being translated into the languages most commonly spoken by all. This ties in to the issue of lack of awareness of the procedures related to land alienation. Most poor people do not understand these procedures because those who can read are not able to understand the language in which official documents are written. Land alienation procedures must be updated and made user friendly so that they are capable of being understood by all because it is their right and their heritage and not that of the privileged few who can understand the legal systems and their language.

#### 7.1.2 Office of the Commissioner of Lands

The office of the Commissioner of Lands needs to recognize where problems of illegal land allocation and occupation are occurring so as to react to them appropriately and in good time. The country has been plagued by poor political leadership where decisions have been taken to serve partisan interests without due consideration to the national interest. As a country, we need to move away from a focus on partisan or individualized interests to politics based upon the growth of strong and stable legal frameworks and institutions because these generally outlive individuals who come and go.

Since colonial times the office of the Commissioner of Lands has administered land in Zambia. From this background all land administration has essentially been bound up in this one office. The idea that it is a "Commission" that administers the land implies that more

than one person is given the legal powers to carry out the administration. However, this has not been the case in Zambia since before independence. The idea that so much power should be concentrated in one office is in itself not conducive to democratic governance since it concentrates too much power and authority over the lives and livelihoods of others in just one person. The Commissioner of Lands exercises powers delegated to him by the Republican President in whom the law vests all land in Zambia in perpetuity on behalf of the Zambian people. The day-to-day administration of land matters devolves upon the Commissioner but the President has authority to sign alienation certificates only when it involves the alienation of land to a foreign investor under the terms of the Investment Act. In order to allow for broader participation in the administration of land matters, local authorities should come up with resolutions that will require the government to change this aspect of the law.

### 7.1.3 Illegal Settlements

The concept of squatting in so far as it relates to land is not easily understood by many of our people who do not see themselves necessarily as squatters but as land occupiers. However, the term is used in the law that applies to land in this country and therefore has to be applied until it is changed. There is a need to re-phrase terms used in the law in such circumstances so as to preserve the integrity and dignity of the people since the law should serve the needs of the people rather than being an instrument of oppression.

In South Africa, the ANC government has declared that no one should be regarded as an illegal settler if they have lived on the same piece of land since 1996. In cases where they have to be removed, alternative land must be provided as well as the resources to effect the removal in the most humane way. It is clear in this context that only a very high level of political will can achieve this level of integration.

It is quite clear that our people in Zambia, particularly the poor, do not understand the meaning of eviction orders. There is a clash between the order imposed by English Law and the respect that one expects to be accorded in African law and custom. There is therefore a need to find the right balance between these two opposite positions so that community and individual human rights are protected.

### 7.1.4 Conflict Resolution and Local Land Tribunals

The establishment of the Lands Tribunal under the Land Act of 1995 has not significantly helped the poor. This is because the Tribunal operates in a manner that furthers the interests of the bureaucracy and those who can afford the services of the legal fraternity in presenting their cases before the Tribunal.

To assist the less privileged, it is important to understand how conflict resolution works at the level of the ordinary person and to then codify these structures into local Land Tribunals and allow them to continue to operate on behalf of the poorer members of society. This will ensure that methods of conflict resolution are available which meet the needs of the poor and are flexible, easy to understand and use at minimal cost.

#### | 7.1.5 Survey Services

The issue of block titles in the former mine townships does not relate to the legal provisions but the cost of obtaining survey services. As the legal entity that owned the land under block title, ZCCM should have paid for the cost of the surveys and deducted the same from the terminal benefits of the beneficiary tenants. This would have expedited the issuing of title deeds and done away with the problems being faced by many house sale beneficiaries who have not yet got title to the properties they were sold, as they have to arrange surveys on their own.

The delays experienced in obtaining title are symptomatic of the fact that the issue of house sales to sitting tenants was not thought through clearly before embarking on the process. A prior assessment of the process would have identified the need for such a process and the modalities required to deliver the houses at least cost to all concerned and in a manner that would have been agreeable to all concerned parties.

The issuing of 14-year leases as an interim measure has only enhanced the lack of security of tenure offered under this arrangement, as financial institutions do not accept these documents as collateral for loans and hence the sense of frustration felt by many who find themselves in this position.

The objective of empowering people with property was a noble one because owning property is one way of protecting people's livelihoods. However, there was need to de-mystify the whole concept of land and property ownership so that everyone could understand their rights and obligations under this new regime. As it is, many of the house sale beneficiaries were not even aware of the fact that they would become eligible for payment of homeowner's rates.

#### 7.1.6 Forest Resources

Community involvement is important in the management of forest resources. It is worth remembering that indigenous methods of forestry have been practiced for many centuries and yet it is only in our modern day that these resources have begun to suffer massive depletion that threatens the livelihoods of many communities that have depended upon these resources for a very long time.



The absence of a clear energy policy has meant that only 20% of Zambia's urban areas use electricity. The cost of transmitting electricity to homes in Zambia is quite minimal but the problem relates to a lack of political will to effect the necessary changes to ensure that the majority of homes are connected to the electricity grid. There is therefore a clear need for policy direction and active implementation in this area as well.

## **8.0 Land as a Concept and the Governing Framework; A Commentary on the Land Situation in Zambia - Prof. K.M. Hansungule**

### **8.1 Introduction**

Land is the most important resource that Zambia has. No other resource approaches the land in importance because the land creates the country and sustains the life of the country. Life comes from the land and every life-sustaining article that we care to think of is derived from the land. Without land it is not possible to have life. Our life cycle as human beings is intimately connected to the land.

### **8.2 Land Administration and Livelihoods**

The systems of land administration in Zambia should be so conceived as to enhance the quality of life of its citizens. The western countries emphasize the adaptability of technology over and above our emphasis on access to land. This is because the west has reached a level of sophistication where everything is conceived in terms of technology. In the African context and more so in our own Zambian context, access to advanced technology cannot solve our immediate problems of hunger and poverty and therefore emphasis rightly needs to be placed upon basic access to the land. Thus, our land law, our land policy and our land administration must all facilitate access to the land. If they do not do so they become a hindrance to the development of a quality of life that is conducive to human progress. We in Zambia, therefore need a clearly defined system of land ownership and land use that is productive and capable of sustaining livelihoods.

### **8.3 History of Zambia's Land Tenure System**

Zambia's land tenure system is a product of our colonial history, which dates back to the coming of the British South Africa (BSA) Company and eventual British Crown administration.

The BSA Company created freehold titles for the best areas of the country and customary tenure for the natives. In 1924 Zambia and Zimbabwe were sold to the British Crown for 2 million British Pounds thus ushering in British administration to the territory.

In 1928 Orders in Council divided land in Zambia into two. The best soils and mineralized areas comprising 6% of the land area became Crown Land. In geographical terms, a 6-mile swath on either side of the railway from Livingstone to the Copperbelt was converted to Crown Land. In addition certain pockets referred to as Charter lands in Mbala and Chipata were also designated as Crown Land.

Africans were liable for eviction on Crown lands and were therefore moved to native reserves. African land was divided between the different tribes and in these areas Africans could own land exclusively and in perpetuity. Some land however remained as un-alienated land. In 1947, a decision was made to introduce Native Trust Land to cater for the category of unalienated land. Orders in Council were duly promulgated. This land could now be alienated to non-Africans provided they could show that its use was for the common good of the Africans.

Individual Africans could also be accorded title in the Trust Lands as long as they met the necessary conditions.

In 1948 because of the building of the Kariba Dam, the Gwembe Native Trust Land Orders in Council were created to provide for the removal of the Gwembe Valley Tonga from their original reserves to other areas. All the orders subsequent to 1890 were enacted with exception to Barotseland.

In 1962 the Constitution of Northern Rhodesia guaranteed the rights of Barotseland and the British Crown was duty bound to respect the terms of the 1890 Treaty, which set out the special conditions relating to Barotseland. However, at Independence in 1964, it became necessary for the country's new leader Kenneth Kaunda, to negotiate with the then Litunga, Sir Mwanawina to include Western Province in the new state of Zambia. This resulted in the new Barotseland Agreement of 1964, which dissolved the 1890 Treaty. In this Agreement the Litunga negotiated the right to continue administering land tenure under customary law. The Treaty also made provision for compensation to the Barotse Royal Establishment. In 1970, the Western Province Act converted the whole of Barotseland into the Western Province Reserve in line with the 1964 Agreement. Under this Act, land in Western Province as elsewhere in Zambia was vested in the President.

After Independence, the orders continued to have effect as before except for a change in names, however the structure of land ownership with respect to freehold land could not be altered unless compensation was paid. In 1968, a referendum was held by the Zambian government to change the constitution and the entrenched provisions, which guaranteed the rights of freeholders. As a consequence the Lands Acquisition Act was enacted enabling the Zambian government to acquire land compulsorily and to provide for the assessment of compensation.

In July 1975 at the UNIP National Congress at Mulungushi, President Kaunda brought about measures to vest all land in Zambia in the President and to discontinue freehold titles. The vesting of land in the President continued a colonial concept that had begun in 1928 when all land was vested in the British Crown. The concept has both negative and positive implications. It is positive in that it creates a unitary state under the President but negative in that too much power is made to reside in the Presidency. Holders of the office are only human and can be subject to unilateral tendencies.

The Lands Acquisition Act was followed by enactment of the Land (Conversion of Titles) Act 1975 which abolished all freehold titles and converted them to statutory leaseholds of 99 years. In 1985, the Land (Conversion of Titles) Act was amended to provide for conditions under which foreign investors could hold land in Zambia.

#### **8.4 The MMD Manifesto and the Land Act 1995**

The MMD Manifesto called for a complete change to Zambia's land tenure system by advocating for a market mechanism in land transactions by doing away with KK's system under which land had 'no value'. The majority of Zambians who voted the MMD into power did not question the MMD free market concept in land administration and its implications for the future as stated in the MMD Manifesto.

The Land Act of 1995 came into being from a background of increasing World Bank pressure for land reform. The government was given conditionalities for access to further Bank funding which included the issue of land reform. When the Bill was first introduced, no provision was made for Chiefs to be consulted but after protests from the public this was amended and a provision included. However, the manner in which the Act was passed through Parliament was not entirely without question. The Act continues the leasehold system but abolished the two categories of Reserves and Trust Lands and merged them into one category of Customary Land.

#### **8.5 Need for Commission of Inquiry and a Comprehensive Land Policy**

In order to resolve issues of land tenure, equity and equality of access to land and its use, water rights and resource conservation, a Commission of Inquiry on land is long overdue. At the moment, our people are faced with situations that give rise to poverty when this has not been the case in the past. For a significant departure from poverty, there is need for a system of land ownership that favours access to the land for the poorest of the poor so as to increase food security and improve livelihoods.

In the period that Zambia has been an independent republic, we have not been able to evolve a comprehensive policy on land. The issue of a comprehensive policy is vital for the future development of our land

resource. However, it must be clearly stated that a policy of such magnitude needs to be defined by the people themselves. This is too important an issue to be left to an administrative committee of government. It is important that all stakeholders are brought on board before drawing up such a policy. The usual bureaucratic concept of consultation is to go to the Districts and Provinces, but this concept needs to be re-worked so that the lowest echelons of our society at village level are included in formulating this policy. It is at village level where daily survival depends on access to the land and where the majority of food producers are the women but only 5% of women in Zambia have access to the land. The gender implications of access to the land are important and the women who produce most of the food need to be allowed security of ownership. At the moment they do not have this security and yet they produce most of the food.

In traditional society, it is not accepted for women to have dominance over men and this has transmitted itself into the area of land ownership. But in order to improve food production women need to have security of tenure over the land upon which they grow food. An effective land policy will be one that caters for this vulnerable proportion of the population.

For the land policy to translate into a workable reality, the policy formulators must go down to the 'grassroots' and find out from the people themselves what their problems are. This will mean that the people's own concepts of land ownership and land use are understood within their specific contexts and translated into policy taking account of the differences of practice and tradition that obtain across the nation. In other words the people must 'own the concept' in as far as the eventual land policy of this country is concerned.

It is important that this process is handled correctly so as to come up with a comprehensive land policy from which can emerge a comprehensive land law upon which a comprehensive and all-inclusive system of land administration can be based.

## **9.0 Small Group Discussions**

Small Group discussions were facilitated to respond to the issues raised in Prof. Hansungule's presentation. Each group was tasked to discuss and report back on one major issue raised in the main presentation on land issues in Zambia. The following is a record of the issues discussed and the points raised by each of the groups in the plenary report-back session:

### **9.1 Implications of Title deeds on State land, Customary land and Squatters**

- State Land
  - Lease hold for 99 years;

- Require consent to transfer;
  - Enhances security of tenure;
  - Full access and control;
  - Administration by the state;
  - Accessibility costly and procedures too technical.
- Customary Land
    - May restrict access by communities;
    - Requires Chief's approval;
    - Chiefdoms may not remain exclusive for natives;
    - Possibility of cultural dilution.
- Squatters
    - Risking their economic efforts;
    - May not get title;
    - Insecurity;
    - No access to services;
    - Unplanned settlement;
    - Difficulties of administration.
    - On ZCCM squatting became a problem after privatization due to phasing out of Land Rangers who guarded against squatting.

## 9.2 Land Alienation Procedures

- State land Plots
  - Stands recommended for alienation by relevant Council;
  - Applications sent in by interested parties;
  - Council recommends favourable applicants to Commissioner of Lands;
  - Commissioner considers and makes offers to applicants advising they apply for planning permission;
  - Upon approval of planning permission Council advises the Commissioner of lands on minimum building clause to be inserted in lease;
  - Certificate of Title issued by Commissioner of Lands.
  
- Unscheduled Agricultural Land
  - Any such land notified to Commissioner of Lands for status and availability;
  - Upon satisfaction of Commissioner of Lands, Department of Agriculture together with District Council requested to plan area into suitable agricultural units;
  - Layout plans submitted to Commissioner of Lands for numbering and survey;

- Procedures under State Land Plots shall all follow;
- No planning permission allowed without receipt of letter of offer and payment of lease charges.

➤ Customary Land

- Identify and apply to the Chief;
- Consents of Chief and District Council are basis for approval of application;
- Application to Commissioner of Lands accompanied by the following:
  - Written consent of the Chief under his hand;
  - Extracts of the Council minutes of Committee responsible for land matters signed by chairperson and District Executive Secretary;
  - Extracts of Full Council minutes signed by chairperson and District Executive Secretary.

### 9.3 Implications of Vesting of Land in the President

Positive	Negative
<ul style="list-style-type: none"> <li>• Protects sovereignty of state under his hand;</li> <li>• Gives him sense of authority;</li> <li>• Enables him to regulate and coordinate development activities;</li> <li>• Provides for the benefit of all citizens if authority used positively.</li> </ul>	<ul style="list-style-type: none"> <li>• Contradicts democratic principles by concentrating too much power in one individual;</li> <li>• Deprives ordinary citizens of a voice over land issues;</li> <li>• Leaves room to manipulate situations to benefit himself or those that are in his favour.</li> </ul>

### 9.4 Mainstreaming Gender in Land Ownership and Administration

➤ Education

- Promote girl-child education so as to give females a competitive edge in later life;
- Include land issues in school curriculum;
- Simplify land alienation procedures and make them more user-friendly and in addition procedures must reflect African culture especially in favour of women so that they are not made to feel intimidated.

➤ Personal development

- Encourage women to be more independent with regard to assets;
- Encourage joint ownership;
- Sensitize men to be more respectful towards women’s land rights;

- Build confidence in women so that they are able to stand out and articulate their thoughts on land issues.

## 9.5 Security of Tenure under Customary and Leasehold systems

Customary Tenure	Leasehold Tenure
<ul style="list-style-type: none"> <li>• Perpetuity of tenure guaranteed by relations;</li> <li>• Not uniform due to different customs (weakness);</li> <li>• Subject to manipulation by traditional rulers;</li> <li>• Security guaranteed by Traditional rulers for their subjects.</li> </ul>	<ul style="list-style-type: none"> <li>• Written and state guaranteed;</li> <li>• Greater recourse to appeal and compensation;</li> <li>• Can be used as collateral to secure loan finance.</li> <li>• Insecure upon failure to satisfy mortgage conditions.</li> </ul>

### Day Three

## 10.0 CHARTING THE WAY FORWARD

### 10.1 Introduction

This section is a summary of all the issues raised and is presented in an attempt to draw out the major issues that need to be focused upon in the future as attempts are made to resolve the land problems on the Copperbelt. Prof. K.M. Hansungule presented the following summary, as a digest of the major issues arising from the two-day's deliberations:

### 10.2 Widespread Squatting on the Copperbelt

Under the terms of the 1995 Land Act, squatting is illegal and punishable by forced removal. From a legal perspective, violations of Section 9 of the current Land Act are widespread on the Copperbelt. This has come about mainly because a lot of people came to the Copperbelt in search of work on the mines. The privatization and restructuring process has left many without jobs and incomes leading to a high level of squatting.

Under these circumstances, government through the Ministry of Lands should impose a moratorium on all evictions covering existing squatters only so as not to give opportunity for new ones to settle. This should be for a specific period while working out long term measures to deal with all the land related problems that have arisen as a direct result of the privatization and restructuring process. The moratorium can be given effect by a government statement to the effect that no evictions will take place from forestry, copper mining areas, state land, private land and council land until further notice. Such action will be consistent with the

Zambian Constitution, which guarantees the dignity of all citizens because evictions, though they may be the legal mechanism to deal with problems of squatting are a violation of basic human rights.

This will then give government the opportunity to document comprehensively where the squatters are located, who they are and what land they occupy. Such a comprehensive land audit will provide the data upon which further future planning can be based. The issue of squatter's rights is essentially a human rights issue as well as a food security and livelihoods issue. It is an issue that should not be trivialized nor politicized because people's lives are at stake.

### **10.3 Alternatives for Resolving squatter problems**

The idea of a moratorium on evictions has been used with some success in South Africa since the end of apartheid in 1994. In the South African case, a moratorium was put into effect to allow for the drafting of a new constitution, which came into effect in 1996. In view of the foregoing, the following measures can assist in resolving the problem of widespread squatting on the Copperbelt:

#### **10.3.1 Immediate regularization of land holdings**

A fast track programme of land regularization for squatter communities which will require the setting aside of the normal land allocation procedures and can be treated as a form of affirmative action in favour of the poor should be instituted. In forest areas as well as on Council and state land where there are squatters, political will is necessary to ensure these objectives are carried out.

#### **10.3.2 Simplification of application procedures**

Procedures for applying for land are too complex and tied down to a heavily centralized bureaucratic system that does not favour the poor. The conditions that require land applicants to travel to Lusaka and in particular to Mulungushi House are elitist and intimidatory for poor peasant farmers. Application procedures need to be simplified and codified in the local languages spoken and understood by the ordinary person on the street. At present, conditions for navigating the maze of corridors at Mulungushi House favour the literate and those who live in Lusaka and know how the system operates. Simple pamphlets in local languages must be developed that make clear the procedures necessary to obtain land anywhere in Zambia. The procedures themselves must be made user-friendly particularly for the poor and the illiterate.

#### **10.3.3 Dissemination workshops**

The areas most affected by these problems must be the focus of any major intervention measures meant to solve these problems. This can be



accomplished by a series of workshops in the affected areas targeting the communities that need this information most urgently.

#### 10.3.4 Integrated approach to land alienation

Implementation of an integrated approach to the process of land allocation particularly where agricultural land and land in customary areas is concerned. Such an approach must bring together all the institutions connected with land allocation and in customary areas must include the participation of all adult members of the community concerned. This will have the effect of building transparency into the land allocation procedures as well as allowing local people a voice in what is happening in their communities. Bringing together the government institutions concerned will have the effect of clearly defining the roles played by each in the land allocation process. This should make possible the integration of both procedures and documentation for state land, customary land and council land. Tribal Land Boards have been used with some success in the administration of customary land in Botswana.

#### 10.3.5 Sporadic versus Systematic adjudication

The current approach to land alienation in customary areas is sporadic and thus does not afford land use planners the opportunity to measure accurately how much land has been allocated and what it is being used for. To optimize land use, government must declare a moratorium on allocations of land in customary areas until a comprehensive audit is carried out to determine what land has been allocated and where it is located. This procedure will enable land use planners to have a clear picture of what land resources are still available and where.

#### 10.3.6 Cooperatives and Resettlement Schemes

A study must be undertaken to determine the true needs of the cooperative sector in Zambia. In the past the cooperative concept has been driven from the top down. In order to maximize gains from this sector, the needs of the cooperators must be understood fully so that they can be met adequately.

#### 10.3.7 Titling on Council and Mine Land

The multiplicity of titles on council land must be discontinued so as to revert to one form of documentation for all landowners. The various types of title make the land allocation system bureaucratic and causes confusion in the minds of many, particularly the poor and illiterate. Titles conferred under the Housing (Statutory and Improvement Areas) Act, 1974, do not confer the same measure of security as those under the Lands and Deeds Registry Act. One method of land ownership across the

country should be the ideal minimum standard so that all land rights are protected in the same way.

The issue of block titles on mine land should be resolved in line with the requirements of the Lands and Deeds Registry Act. Funds required for survey services must be sourced from HIPC funding and from the Anglo departure settlement since the matter is connected to privatization.

## **11.0 POSITION PAPER AND RECOMMENDATIONS**

**We, the participants** coming from various organizations public, private and community attending the workshop on Land held at Mindolo Ecumenical Foundation from 3<sup>rd</sup> to 5<sup>th</sup> October in the year 2002 acknowledged the importance of land and how closely connected it is to our everyday survival and that of every Zambian citizen.

Having deliberated and examined the current Land policy document and Land Act of 1995, we recognize that Land is a life matter. It is, for us in Zambia, what technology is to the Western world; a symbol of advancement, dignity and security for every man and woman across all

divides - a critical and key component of our most important development goal - reducing poverty.

And further recognizing that major conflicts in society have a connection to land, we the participants can not agree more with the new deal government's stance to review the existing Land policy and the wish to have all people participate and be owners of the process. A transparent and democratic consultative process without being unduly hurried to change things for the sake of changing will help avoid potential conflicts in future.

In view of the enormous obstacles faced by poor people and particularly disadvantaged groups such as women in accessing land resulting in tremendous reductions in food production and security - we note with concern how such an unequal ownership of land could erode people's rights to life and security and ultimately threaten political stability and therefore the need for affirmative action.

Considering the rapid social and economic deterioration on the Copperbelt in spite of the privatization of the mining industry in particular and the market economy in general and now the emphasis on diversification,

**We, therefore** make the following Recommendations and Resolutions

#### **A. SHORT TERM**

In view of the state of high insecurity obtaining on the Copperbelt among people on ZCCM lands, land belonging to other private land owners, forest land, state and council lands etc., Government should **impose** an immediate **moratorium** on all evictions of illegal settlers on the Copperbelt in order to create a conducive environment for resolution of conflicts.

#### **FOR LOCAL AUTHORITIES (Council/State land)**

- Land allocation procedures that are not well known by local residents be simplified and translated in the local languages and ensure that they are publicly disseminated especially through the Councillors who represent them.
- Government must make available HIPC funds for capacity building in local authorities and also ensure regular disbursement of council grants to enable councils reorganize their systems to promote

- transparency and accountability and carry out regular land audits which must be made available to the DDCC's and public.
- Councils are made accountable by publicizing available land before allocation irrespective of the number of plots involved and also publicize names of applicants who have been allocated land. That 30% of plots be put aside for women applicants and priority is given to setting aside productive areas for allocation to the poorest of the poor and the vulnerable.
  - Government must ensure that Councils adopt an integrated approach at district level embracing and supported by all the relevant stakeholders - state and traditional agencies involved in land allocation so as to make Council's a 'one stop shop' for land allocation.
  - Councils facilitate the establishment of local land tribunals or committees from a cross section of society for rapid conflict resolution of local problems and to act as watchdog against potential abuse among Council employees.
  - The collection of service charges should only be effected where Councils have provided the services and that in some cases Councils relax the 30 day period requiring payment of service charges before offers are withdrawn particularly for the poor and vulnerable.
  - GRZ must make it mandatory for all Council surveyors to be licensed to improve the land delivery system at local level.

#### **FOR ZCCM LAND**

- ZCCM should work with government and the communities to carry out a comprehensive squatter audit using funding available for the Copperbelt Environmental Management Project (CEMP) from World Bank
- ZCCM should work to unblock the block titles affecting the mine townships to enable residents acquire individual titles. Funding for this can be sourced from the CEMP funds.
- ZCCM to be more socially conscious and engage in dialogue to find alternatives for squatter problems. Evictions violate human rights and people must be given viable alternatives for re- settlement before they are evicted.

#### **NEW MINE OWNERS.**

- Government should in public interest facilitate publication of the clauses on land in the Sales and Purchase Agreements so as to allay any public misunderstandings and conflicts.

- Government should facilitate negotiations between communities and new mine owners in line with internationally accepted norms of corporate social responsibility and in particular those that apply in their countries of origin.
- Government should declare to the public its intentions on how the \$30m exit fee from Anglo is going to be used. This arrangement provides a unique opportunity for GRZ to disburse part of it to resettle those squatters located on mine land and to improve the livelihoods of the squatter communities by providing the services that are lacking in these communities.
- In the ongoing dialogue on diversification, recommend that GRZ together with new mine owners create a social fund that can be tapped by communities to utilize the idle human and natural resources for ventures in agriculture, tourism etc to improve local livelihoods.
- Continuous dialogue, negotiations and joint site visits with the local residents (squatters) be encouraged and where possible government with NGOs to facilitate the process.

#### **FOR MINISTRY OF AGRICULTURE AND COOPERATIVES (MACO)**

- The Ministry of Agriculture must ensure that the Participatory Extension Approach (PEA) is used to strengthening grassroots structures and consider the need to mainstream land alienation procedures into local languages.
- Government through Surveyor Generals' Office should take a deliberate move to Preparation of sketch plans by Land Use Branch of MACO. This must be coordinated with Survey Department and local councils.
- HIPC funding be made available for settling of poor households and resolving outstanding issues land issues in resettlement schemes.
- In the formation of Cooperatives, underlying and generally accepted principles of the cooperative movement must remain uppermost. GRZ should use these local structures in enabling access to land acquisition for poor households.

#### **FOR FORESTRY DEPARTMENT**

- Department of Forestry embarks on a cost effective sensitization of local civic leaders with respect to de-gazetting procedures of local forest reserve areas.
- Government ensure speedy implementation of the recommended approaches in managing our natural resources as encapsulated in

the Forestry policy but nonetheless not provided for in the Forests Act 1999.

#### **GENDER (WOMEN AND CHILDREN)**

- This is a crosscutting issue and all land stakeholders must take affirmative action to ensure access of women to land and forestry resources as provided for by the existing gender policy.
- Government should support land owners and agents with programmes aimed at empowering women with access to land and space for business.
- Government should consider holding land in trust by Department of Social Services with approval of the community for child headed households to avoid the problem of family administrators going behind the backs of the benefactors and selling the land/property without their knowledge and consent.
- With the current wave of deaths as a result of HIV/AIDS, we strongly recommend for a review of the current Intestate Succession Act, 1989 to provide protection for families including households that are becoming child headed.

#### **VICE – PRESIDENTS OFFICE (RESETTLEMENT SCHEMES)**

- Office of the Vice-President should come up with a fast track programme to issue titles to all resettlement areas. Adjudication for titles can be carried out on site to determine boundaries and ownership before issuing title in conjunction with all relevant government agencies.

#### **TRADITIONAL AUTHORITIES**

- Traditional authorities should be made an integral part of the land alienation procedures and be provided with adequate means of discharging their functions.
- Government must ensure that once land has been converted from communal to state land a consideration be returned to the local communities as a benefit.

#### **LAND POLICY REVIEW PROCESS**

- The establishment of the Land Policy review process is greatly appreciated but in view of its make up strongly recommend that

- government discontinues the current reform committee as it is a top to bottom means of assessing people's views and against governments' own current pronouncements and declaration of encouraging participation as cardinal for development.
- That once the Land Policy review has been finalized, the Land Act review process must be kick started and thus a need for a commission of inquiry on land.
  - Ensure that current land administration system must be reviewed in favour of the poorest of the poor and vulnerable.

## **MINISTRY OF LANDS**

- Take the plight of people in the resettlement schemes as priority in providing them with titles.
- Strengthen relationships with its land agents and streamline ways of operating to avoid double allocations.
- Engage in joint sourcing and utilization of funds such as HIPC to facilitate resettlement of poor and vulnerable households.

## **LONG TERM MEASURES**

In the view that there are strong intensions by government to review the constitution in which is enshrined the bill of rights that protects every citizen, we suggest that it strongly pulls out matters on land and in the interest of long term measures strongly recommend

- A commission of Inquiry on land: Given the seriousness of the problems affecting land ownership, land alienation, land access, administration and management, the commission of inquiry would be the proper means of inquiring on the people's interests on land and how best to secure those interests.
- Government to consider the above point seriously and initiate dialogue with all stakeholders on the desirability of instituting an inquiry given the last time such a measure was resorted to was in 1982(Sakala Land Commission in Southern Province) and 1965 Land Commission.
- That the inquiry discusses issues on vestment of land that is vested in the President that vesting it in the State would a better arrangement.
- That Land administration offices help find solutions/measures for the problem of multiple plot ownership and the ease with which the poor dispose of their land to unscrupulous buyers especially for agricultural development.

We as participants are ready to continue dialogue with government as partners in development over these matters. And whilst we make these

demands, we also pledge our support towards every effort that will promote the dignity and the livelihoods of the poor and vulnerable.

Present - Oxfam, CARE, World Vision, DECOP, Councilors, Council Officers, Mufulira Land Alliance, Maposa Land Committee, Kakolo Land project, KADENE, Luano Land Alliance, CCJP, Mopani PLC, ZCCM Holdings PLC, MEF, Zambia National Land Alliance, ASAWA, MACO, Forestry, Ministry of Lands, Former Miners Association, Copperbelt University.

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