

# COMMUNITIES' VIEWS ON THE LAND POLICY

## Draft Land Policy Review Consultation Process in Zambia



Zambia Land Alliance



International Land Coalition

# COMMUNITIES' VIEWS ON THE LAND POLICY

## Draft Land Policy Review Consultation Process in Zambia

Published by:  
Zambia Land Alliance  
Godfrey House  
4<sup>th</sup> Floor, Longolongo Rd  
C/O ZCEA  
P/B RW 239X  
Lusaka

With

Support from:  
International Land Coalition  
IFAD, Via Serafico  
00142, Italy

© ZLA & ILC 2005

All rights reserved. No part of this publication may be reproduced or transmitted in any form or means, without prior permission from the publishers.

Cover Design: Joseph Mbinji  
Printed by: Associated a Printers

### Disclaimer

The views presented in this booklet are not a reflection of the opinion or position of the publisher or donor but that of the communities' consulted during the draft land policy consultation process

## **Acknowledgements**

Zambia Land Alliance (ZLA) would like to express gratitude to all who contributed towards the production of this booklet by giving their time, expertise and encouragement to the process. Of particular mention are the traditional leaders and the rural and urban community men and women throughout Zambia who gave their views to the Land Policy Technical Committee of the Ministry of Lands the views of which were compiled into this booklet.

Special mention is made of the contributions, through expert advice and commitment of Mr Raynold Moyo, and Mr Matongo Mundia and Mr Joseph Mbinji. The challenging task of simplifying this booklet was made a reality by Mr John Simwinga.

Further, we are greatly indebted to our partner the International Land Coalition for their belief in Zambia Land Alliance's vision and support towards the production of this booklet. We sincerely appreciate the efforts and valuable support by Mr George Kawatu, Permanent Secretary, Ministry of Lands and his team for his Ministry's partnership with civil society through the ZLA. Our sincere thanks go to our cooperating partners: Finnish Embassy, HIVOS, Oxfam, German Technical Cooperation (GTZ) and the Canadian Catholic Organisation for Development and Peace, for their financial support to the land policy review process.

Our final thanks go to the following members of the Civil Society Land Policy Committee for their input in the production of this booklet.

1. Zambia Land Alliance - Secretariat (ZLA)
2. Africa Renaissance Committee (ARC)
3. Catholic Commission for Justice, development and Peace (CCJDP)
4. Community Based Natural Resource Management and Sustainable Development (CONASA)
5. Environmental Conservation Association of Zambia (ECAZ)
6. Green Living Movement (GLM)
7. Integrated Rural Development initiative (IRUDI)
8. National Association for Peasant and Small-Scale Farmers (NAPSSF)
9. Operation Young Vote (OYV)
10. PANOS Southern Africa
11. Programme Against Malnutrition (PAM)
12. Steadfast Action Foundation (SAF)
13. Transparency International-Zambia (TIZ)
14. Women for Change (WFC)
15. Women in Law in Southern Africa (WLSA)
16. Zambia Alliance of Women (ZAW)
17. Zambia Association for Research and Development (ZARD)
18. Zambia Civic Education Association (ZCEA)

**Henry Machina**  
**National Coordinator**

## **Foreword**

Land is a primary resource that poor men and women in Zambia depend on for their livelihood. Land is a source of food, shelter, social status and power. Land is also a source of employment opportunities and security for the majority. This booklet is a compilation of views and recommendations made by rural and urban communities during the land policy review consultation process in Zambia from 2002 to 2005.

The idea of the booklet was initiated in 2002 when the Ministry of Lands announced that Cabinet had in principle approved that Draft Land Policy but directed the Ministry to hold further public consultations on the same. Civil Society through the Zambia Land Alliance realised the need for the poor rural and urban communities to participate in the review process to ensure that their interests and concerns are considered in the final national land policy.

Therefore, this booklet is targeted at rural and urban poor communities as a way of documenting and providing feedback on their views and opinions that they provided to the Technical Committee on the National Draft Land Policy consultations. It is also intended to inform national leaders and government officials, researchers, the donor community, various interest groups and the public at large, about the views of these communities on the land question in Zambia. More so, the booklet is a tool for lobbying the Zambian Government to ensure that the views of the poor are included in the final land policy document.

It is our hope that the booklet will not only enhance the sharing of information on land in Zambia but also help the Ministry of Lands and other stakeholders to come up with a pro-poor Land Policy.

**Judith M. A. Mulenga**  
**Chairperson, Zambia Land Alliance**

## **1. INTRODUCTION**

Over the last three years, the Government of the Republic of Zambia has been working on a new Land Policy. In order to carry out this task, the Government produced a Draft Land Policy Document which was made available to members of the public to discuss and state what they think about the document. This was done to make sure that the new Land Policy to be produced would be accepted by most of the people in Zambia. Over the last three years, the Government of the Republic of Zambia has been working on a new Land Policy. In order to carry out this task, the Government produced a Draft Land Policy document, which was made available to members of the public to discuss and state what they think about the document. This was done to make sure that the new Land Policy to be produced would be accepted by the majority of the people in Zambia.

To date, the committee has held public workshops and meetings in selected districts in all the nine provinces of Zambia with traditional leaders, rural and urban communities, civil society, non-governmental organisations and various government departments and other concerned groups. From these discussions as well as from the written information submitted to the committee, the committee has since produced a National Report from which will write another draft of the policy document for further discussion. Finally, there will be a national conference which will make final changes to the policy document.

In order to share ideas and views received from members of the public on the Draft Land Policy, the Zambia Land Alliance has produced this booklet. The booklet contains a simplified summary of the observations and recommendations made by communities and traditional leaders with whom the Technical Committee held discussions. Some of the technical terms which have not been simplified in the main text of the booklet have been explained in the glossary at the end. The purpose of the booklet is to document the views and ambitions of selected communities and traditional leaders on Zambia's Land Policy for the information of members of the general public. The booklet also seeks to provide feedback to the communities and traditional leaders who were interviewed in order to verify whether or not their views and concerns have been adequately reflected.

## **2. WHAT THE DRAFT LAND POLICY PROPOSES TO DO**

- 2.1 Continue to have all land vested in the President for and on behalf of the people of Zambia.
- 2.2 Make it easier for government to collect, keep and give out correct information on land that is available for distribution. This will be done by linking the land database at the Ministry of Lands Headquarters to the Regional, Provincial and District offices.
- 2.3 Make it easier for the Government to do the actual or physical planning on what to do with or how to use the available land and address the need for land by urban populations by establishing an inter-ministerial Co-ordination Committee which will bring together the many experts involved in the actual or physical planning of land.

- 2.4 Make sure that everyone obeys all the rules under which Zambians can own and use land. This will be done by studying and changing some of the laws that relate to land matters.
- 2.5 Make sure that every person in Zambia has the same chance to have land while bearing in mind that some types of land are owned by traditional leaders (under customary tenure) and others are owned by the Government, individuals and organisations (under leasehold tenure). This will be done by sensitising or informing the people of Zambia on how they can get certificates (title deeds) to show that they own pieces of land and the goodness of having such certificates.
- 2.6 Make sure that the Government begins to get more money from land. This will be done by ensuring that everyone who is renting land from Government pays the required rent.
- 2.7 Help Zambians as well as foreigners who need land for business activities to have it. This will be done by encouraging the setting up of business activities especially in the rural areas.
- 2.8 Maintain a clear actual or physical description of Zambia's international boundary with her neighbours. This will be done by surveying the land and putting beacons or sign-posts on the borders of Zambia and her neighbours.
- 2.9 Make sure that women and other disadvantaged groups that have been left out in the distribution of land in the past have land as other members of the Zambian society. This will be done by implementing the Ministry's policy of ensuring that thirty percent (30%) of land which is available for development is distributed to women and groups with special needs.
- 2.10 Make it easier for the Lands Tribunal to quickly and effectively deal with disputes or quarrels over land.
- 2.11 Ensure sustainable development by coming up with mechanisms for measuring, monitoring and preventing environmental degradation.

### **3. POLICY OBSERVATIONS AND RECOMMENDATIONS**

This section of the booklet presents observations and recommendations from communities and traditional leaders who expressed their concerns on land administration to the Technical Committee. These observations and recommendations are presented as they were deliberated with variation, and at times contradiction, from one viewpoint to the other.

It should further be made clear that the observations and recommendations contained in this booklet are not those of the authors, commissioning organisation or cooperating partners but were made by men and women, boys and girls who constituted the stakeholders consulted. A more detailed copy of the submissions is available and could be

obtained, if desired, from the Chairperson of the Land Policy Technical Committee at Ministry of Lands.

### **3.1 Vestment of land**

Some of the stakeholders felt that placing all land including customary land, in the care of the President to hold for and on behalf of the people of Zambia gave too much power to one person or office and made it difficult to distribute land equally. Others felt that placing land in the care of the President was acceptable citing the fact that the President takes an oath to protect the Constitution of the Land.

#### *Recommendations*

1. Land should be placed in the care of the traditional leaders;
2. State land should be placed in the care of the President and customary land in the care of traditional leaders;
3. State land should be placed in the care of an independent body which should be stated in the Laws of Zambia;
4. All land should be placed in the care of the House of Chiefs; and
5. All land should be placed in the care of the President as is the case at the moment.

### **3.2 Customary Versus Leasehold Tenure**

Some of the stakeholders did not favour the change of customary land to state land. They observed that the practice had resulted in the displacement of many people whose one and only resource and security had been the converted pieces of land. They observed further that the exercise would reduce the powers of the traditional leaders, which largely lay in the availability of land under their control. Others favoured the change of customary land to state land. They felt that leasehold was more secure because it made it possible for the leaseholder to have title deeds. They stated further that the conversion exercise was welcome provided that persons holding titles to their pieces of land would continue showing respect to the traditional leaders and not just to the Government. In addition, they observed that the land policy allowed the conversion of customary land to state land but not the conversion of state land to customary land. The stakeholders also observed that customary law, which communities applied in managing customary land, was not written.

#### *Recommendations*

1. Customary laws should be written and improved upon for better management of customary land;
2. Both customary and leasehold tenure should continue;
3. Before any more customary land is converted to state land, undeveloped or under-utilized state land should first be put to full productive use;
4. The powers of traditional leaders as well as those of Government over land should be clearly stated in the new policy;
5. The powers of traditional leaders over land should be stated in the Republican Constitution;



6. Both customary and leasehold tenure should continue with a provision to convert or return state land to customary tenure status instead of the present one-way conversion;
7. When land is re-possessed from titleholders, some of it should return to customary tenure status; and
8. All land in Zambia should be under the customary tenure system.

### **3.3 Land Administration**

It was observed that although customary land tenure is legally recognized, Government does not provide traditional leaders with resources for managing land. It was further observed that Government does not have land administration structures in many parts of the country. This had resulted in traditional leaders taking on the role of managing land (including disputes) on behalf of the Government.

#### *Recommendations*

1. Land administration services should be made available at community level;
2. Record keeping for land administration at national, district and community levels should be improved;
3. Traditional leaders should have committees to advise them on land issues. The same should be the case with the Commissioner of Lands;
4. The institution of chieftaincy should be recognized and provided with a clear structure and guidelines on land administration just as state land is provided for and managed by the local authorities and the Ministry of Lands; and
5. Traditional leaders should administer customary land with less interference from the State.

### **3.4 Fairness in Land Administration**

It was observed that there is unequal access to land between the rich and the poor, Non-Zambians and Zambians, women and men, youths and adults. It was further observed that people with disabilities and children were discriminated against in the allocation of land. Another observation made was that women and other vulnerable groups lack capacity to develop land and should therefore be protected. It was stressed that the population of Zambia mainly consisted young people and with the impact of HIV/AIDS young people were increasingly becoming household heads and thus needed to access land in their own right.

#### *Recommendations*

1. Every Zambian should have the right to own land;
2. Rural youths should work on the land with their parents, until they attain the age at which they become eligible or old enough to hold land on title;
3. The age at which one can hold land on title should be lowered from the current age of 21;
4. 15% of available land for distribution should be allocated to youths;
5. Committees which will take women's interests into account when allocating land should be set up at village level. Similar committees should exist at national level; and
6. Everybody should be able to access land and land should be shared equitably regardless of one's position in society.

### **3.5 Procedure in Land Distribution**

The stakeholders observed that Government had continued to overlook them when allocating land and carrying out development and other projects in their areas. They noted that it was too expensive and took too long for a common person to acquire or get land. It was further observed that individuals with title deeds in customary areas usually sold off their pieces of land without finding out from traditional leaders.

#### *Recommendations*

1. Permission to acquire customary or traditional land for any purpose should be sought from traditional leaders through village land committees;
2. Once permission has been given, the filled-in applications forms should be sent directly to the Ministry of Lands which will prepare and issue title deeds; and
3. The land policy should give clear guidelines on the roles of the Ministry of Lands and local authorities in land distribution in order to speed-up the process.

### **3.6 Squatters**

It was observed that there was an increasing trend in the establishment of illegal settlements. It was further observed that in some cases communities might have been squatting for good reasons for a long time. Often, such communities did not have any alternative land to which they could shift.

#### *Recommendations*

1. Local authorities should not allow the mushrooming of any illegal settlements;
2. Existing illegal settlements should be regularised and communities of illegal settlers must agree to have the land demarcated or divided and given title deeds;
3. Squatters should be made ordinary land owners after occupying land for 5 years or more;
4. The Lands Act of 1995 should be revised so that it does not describe a person as a 'squatter', instead a 'squatter' be referred to as an 'indigenous settler';
5. Councils should be provided with funds towards re-demarcation and up-grading of illegal settlements; and
6. Awareness campaigns should be conducted within communities, as most people do not know the dangers of settling anywhere and anyhow.

### **3.7 Land Surveying**

It was observed that the process of surveying of land was too expensive for the majority of Zambians. In addition, surveyors were not available to local communities.

#### *Recommendations*

1. The state should not charge survey fees;
2. Survey centres should be established in every district in order to make survey services accessible to communities; and
3. Traditional leaders should be present when the land is being surveyed.

### **3.8 Corruption in Land Administration**

It was observed that the problem of chiefs being bribed by investors to the disadvantage of the subjects had continued to be a great concern in the administration of traditional land. As regards the administration of state land it was observed that corruption arose from unclear and long procedures. It was also observed that land issues were characterised by political interference with political cadres, especially in urban areas, illegally allocating land. Another observation made was that there was lack of transparency, accountability, participation and publicity in the administration of land.

#### *Recommendations*

1. Land committees should be introduced in chiefdoms to avoid bribing of chiefs by investors;
2. Simpler procedures should be put in place which will ensure fairness in land allocation;
3. Communities should be encouraged to report cases of corruption, and title deeds for persons found to have acquired land through corruption should be cancelled;
4. Persons who report cases of corruption should be protected; and
5. When giving a present to the chief, such a gift should be given publicly for people to know what the chief has received from would be investors or settlers.

### **3.9 Land Disputes**

The stakeholders observed that disputes were frequent between traditional leaders and Government, among traditional leaders themselves, among villagers as well as between communities and leaseholders or investors. Most of the disputes arose from lack of clear boundaries and ownership claims due to inheritance or succession and other reasons. They also observed that Zambian laws did not recognize the authority of traditional courts and therefore did not respect decisions made under customary rules. Finally, it was noted that the majority of the people of Zambia did not know about the existence of the Lands Tribunal and its functions.

#### *Recommendations*

1. The Lands Tribunal should have offices at district level;
2. The Lands Tribunal should include traditional leaders, members of the civil society and other stakeholders in order to make its work more effective;
3. The presence and roles of the Lands Tribunal should be made known to communities to enable them utilise its services;
4. All land owners should be encouraged to obtain title deeds as proof of ownership;
5. No title deed should be issued on any piece of land without the permission of the relevant traditional leader or land committee;
6. There should be clear boundaries between chiefdoms as well as between customary land and state land;
7. Traditional leaders and communities should be given power by law to solve or settle disputes on customary land; and
8. Whenever there is a dispute between local communities and titleholders, the communities should not be disadvantaged.

### **3.10 Limit to Size of Land**

The stakeholders observed that there was a tendency by Government to give out large pieces of land without taking into account the possibility of shortage of land in future. It was further observed that the size of land traditional leaders are permitted to allocate is limited to only 250 hectares. It was noted that this limitation reduced the power and position of the traditional leaders. Some of the stakeholders felt that it would not be proper for traditional leaders to allocate more than 250 hectares. They observed further that traditional leaders did not physically check on the available land before allocating it. In addition, it was observed that there was no limit as to the number of parcels of land one can have.

#### *Recommendations*

1. Traditional leaders should be allowed by law to give out land in excess of 250 hectares per individual;
2. Traditional leaders should not allocate land in excess of 250 hectares without consultation;
3. The traditional leadership and local community should physically check the total land being allocated to an investor before the land is given out;
4. No title-holder should have more than 250 hectares in customary land;
5. No person should hold more than 50 hectares on title;
6. Councils should control the size of land allocated to individual applicants since they are the planners at district level and know how land availability relates to demand;
7. Equal sizes of land should be allocated to ensure that everyone has the same amount of land;
8. Limits to sizes of land a person can have should be periodically monitored and effectively controlled;
9. The number of parcels of land an individual can have should be limited; and
10. Government should not get back land below 35 hectares held by a Zambian who has failed to develop it.

### **3.11 Land Fees**

The stakeholders observed that Government made a lot of money from the land it obtained free from traditional authorities and yet the local communities did not benefit from the money. They also observed that the fees and charges were too high for ordinary citizens to afford.

#### *Recommendation*

1. A percentage of the land rent and rates collected by Government for land and other natural resources should go to traditional leaders and local communities in the respective areas;
2. Local communities should be involved in deciding land rent and rates;
3. Non-Zambians should pay higher land rent and rates than Zambians;
4. Local committees should be formed at Chiefdom and district levels respectively to collect and administer land fees; and
5. Land fees, royalties and some of the profit realised by investors should be ploughed back into the community.

### **3.12 Title Deeds**

Some of the stakeholders were not in favour of title deeds. They observed that title deeds in rural areas reduced the powers of the traditional leaders as they would have no control over land under title. In addition, the process of acquiring title was expensive and that the title itself was not necessary. Traditional leaders feared that most of their people would lose their pieces of land if they were held under title. They said that being poor, their people would not be able to develop or service the land. It was further observed that title holders on customary land had no respect for traditional leaders. In addition, it was stated that traditional titles were not recognised. However, others felt that title deeds were welcome in that title holders would be able to access loans for development.

#### *Recommendations*

1. Some settlements in customary areas should be under the control of traditional leaders. Such settlers should have freehold 'titles';
2. Everyone should have a title deed which should include specific conditions and agreements which the title holder must follow in relation to the traditional leaders and the communities in a particular area;
3. There should be legal recognition of 'traditional titles' ;
4. There should be no title deeds on customary land;
5. "Family titles" should be introduced. These titles should be different from statutory titles;
6. Titles should be encouraged in customary areas for people to be able to obtain loans for development;
7. Titleholders should continue to show respect to traditional leaders; and
8. Traditional leaders should maintain land registers for people with title deeds in their areas.

### **3.13 Term of Lease**

Some of the stakeholders observed that the 99-year leases were too long, while others said that the 99-year leases were acceptable and should thus be upheld. Non Zambians should not hold land on title for a period equal to that of Zambians, thus there should be a consideration to reduce leasehold tenure from 99 years to 50 years - especially to distinguish rights between Zambians and non-Zambians.

#### *Recommendations*

1. Non-Zambians should not hold land on title for a period equal to that of Zambians. There should be a consideration to reduce leasehold tenure from 99 years to 50 for non-Zambians;
2. Under customary tenure there should be no time limit as to how long one can hold rights to land;
3. Length of tenure should not exceed 10 years for non-Zambians;
4. The term for leasehold tenure should be reduced to at least 30 years, with a provision to renew, depending on the nature of development;
5. The lease period for both Zambians and non-Zambians should be restricted to 30 years for surveyed land while that for unsurveyed land should remain at 14 years; and
6. The tenure period should be restricted to 50 years or 20 years depending on the recommendation of the respective traditional leaders.

### **3.14 Land and Gender**

It was observed that women did not have access to land as much as the men despite traditional land being free because of biased traditional practices which worked against women. It was further observed that there were no clear guidelines on how to allocate at least 30% of available state land to women and other vulnerable groups as stated in the draft policy. In addition, it was observed that although women worked a lot harder on the land, they were not allowed to own land and were not even aware of the existence of the policy which states that women and other vulnerable groups should be allocated 30% of available land. It was observed further that the 30% policy provision was not enough to meet the demand for land by both women and other powerless groups. Some of the stakeholders spoke against the allocation of 30% of available land to women and other vulnerable groups stating that such a move would disadvantage the men.

#### *Recommendations*

1. The statement that 30% of available land should be allocated to women and other vulnerable groups should not apply in customary areas;
2. The policy should provide for the establishment of committees at community level to take women's interests into account;
3. Women should be sensitised on procedures of acquiring land;
4. Women should be sensitised on the 30% policy provision;
5. Women should be encouraged to take up decision making positions so that they can influence major decisions such as those involving land in their communities;
6. Land should be given to applicants on 'first come first served' basis and not by gender; and
7. Men and women should access land equally, that is to say, 50:50 quota allocations.

### **3.15 Land Inheritance**

It was observed that the tendency to dispossess and remove widows and orphans from family land upon the death of a husband/father was widespread.

#### *Recommendations*

1. Inheritance laws under customary tenure must be well arranged, documented and applied;
2. Children, whether male or female, should inherit land from their parents; and
3. When a landholder dies, the surviving spouse and children should inherit the land on which they cultivated together.

### **3.16 Displacements**

It was observed that people were being displaced or removed from their land because of a number of reasons such as allocation of occupied land, land use and inheritance. People should not be displaced from their land except if it is in the interest of the nation or if it's inevitable.

#### *Recommendations*

1. People should only be displaced if they are adequately compensated and taken to a different place where they should enjoy full community facilities; and
2. Before any displacement the community should be consulted.

### **3.17 Non-Zambians**

It was observed that non-Zambians were running away from their countries because they did not have enough land in their countries and that the local communities were afraid that one day there would not be enough land for the local communities and other Zambians. It was also observed that there was a weakness in the Investment Act where an investor is automatically entitled to land by merely producing an investment certificate without taking into account other factors. It was recognised, however, that local communities needed these investors because they had enough money to invest in the country and to create jobs for locals. In addition, it was felt that non-Zambian investors should be able to access land through their Zambian partners.

#### *Recommendations*

1. Investors should not be allowed to misuse and mistreat local communities;
2. Non-Zambians should not be given land when Zambians do not have land;
3. Traditional leaders should consult before allocating land to Non-Zambians. Both the chief and respective village headperson should sign for the land to be given to the non-Zambian;
4. There should be a limit on the number of properties that a Non-Zambian can have;
5. An investor should only be given land upon production of a well-prepared investment project proposal for determination of the amount of land to be given;
6. Communities should be involved in monitoring the usage of land given to investors;
7. Investors should pay both Government and local communities for land acquired for their investment;
8. Investors should be allocated land only if they agree to employ local people;
9. The investor should not displace locals and should participate in community development; and
10. Non-Zambian investors should have no right to hold land in Zambia.

### **3.18 Communal Land**

It was observed that individual ownership of land leads to instances where public access to communal grazing areas, for example, is restricted especially by investors who restrict locals' access to such facilities. It was also observed that in a number of cases, communal land was not marked out.

#### *Recommendations*

1. Communal property ownership on customary land should continue. However, if an individual wants a title for his piece of land his case should be considered on its own merit;
2. Investors should not be allocated land in common resource areas and should not be allowed to fence off and enclose communal areas; and
3. State protection of communal grazing areas through government gazette should be considered in areas such as the Kafue flats, where demand for grazing land is high.

### **3.19 Land Use**

It was observed that during the colonial period and immediately after independence all land use (including -customary land) was planned. Customary land was planned according to various uses such as communal grazing lands, burial sites and areas reserved for village development. Since the practice was discontinued there has been an increase in illegal structures and settlements as well as poor or under-utilization of land.

#### *Recommendations*

1. Land near dambos and rivers should not be used for growing crops and grazing animals;
2. Grazing land must be identified and reserved;
3. There should be no other land uses in the plains (especially Kafue Flat Plains) as they are for grazing cattle; and
4. The Republican Constitution should have a statement on reserving land for future generations.

### **3.20 Land Boundaries**

It was observed that Government and district councils continued to trespass into traditional land because of lack of clear boundaries between traditional land and state land. It was further observed that boundaries between chiefdoms were also unclear and that maps were either not available or outdated.

#### *Recommendations*

1. Village committees should be able to physically identify land boundaries and boundary beacons or marks in their locality;
2. Communities should not disturb or remove boundary beacons or marks once erected by the Government agents; and
3. There is need to mark boundaries between chiefdoms and provide updated maps to traditional leaders.

### **3.21 Idle land**

It was observed that some title deed holders had failed to develop the land they held. Others had resorted to sub-dividing the land and selling it. It was also noted that one cannot utilize all the land allocated to him/her at once (say for agricultural purposes) due to lack of equipment, machinery and inputs. Land is sometimes kept idle for children and/or members of the extended family.

#### *Recommendations*

1. Any land found lying idle or found to have been given in excess, wrongly utilised or abandoned, should be taken back and allocated to the landless with first consideration accorded to settlers; and
2. Traditional leaders should have power to take back land or reduce the land if it remains undeveloped five years after it was allocated as circumstances might warrant. Notification should be served on the absentee landlord and the piece of land should be advertised in the press to run for at least one (1) month.



### **3.22 Land Information**

It was observed that most Zambians do not have information on land application and allocation procedures, land ownership, land resources and land infrastructure. Equally, most communities do not have any idea about the land policy and the institutional and legal framework under which land is administered.

#### *Recommendations*

1. Sensitisation campaigns on land matters should be organised throughout the country;
2. Any meeting held on any matter should also include land issues;
3. All land that is available for allocation should be advertised and when allocating, priority should be given to local people; and
4. Information on the availability of land should be clear and well advertised to communities.

### **3.23 Sale of land**

It was observed that land issued or allocated to a person on title by Government was often sold by the same person it had been granted to, whereas traditional leaders allocated land at no cost and did not benefit from the sale of such land.

#### *Recommendations*

1. Owners of idle/bare land should not be allowed to sell;
2. Land should never, ever be sold; and
3. When titled land falling in a customary area is sold, part of the proceeds of the sale should be retained to benefit the local community.

### **3.24 Resettlement Schemes**

It was observed that there were few and in some cases no social amenities such as roads, schools, clinics and others in most resettlement schemes in Zambia. Most of these schemes had not benefited local communities in terms of allocation of plots. Politicians, retired workers and other urban persons were preferred as settlers to the disadvantage of local communities.

#### *Recommendations*

1. Government should introduce a specific policy directive to benefit local communities in resettlement schemes; and
2. Government should provide basic social and physical infrastructure such as schools, health centres, road network and dams before settling persons on the schemes.

### **3.25 Land under Security Establishments**

It was observed that hostilities or hatred had occurred from time to time between local communities and security agencies due to displacement of persons and conflict in the use of land in Zambia.

#### *Recommendations*

1. Government should select and reserve marginal and unsettled land, and not prime land for security establishments so as to reduce hostilities and avert social crises among local communities;
2. People should be made aware of land under security establishments to avoid trespassing and risks of being arrested or prosecuted;
3. Government should find suitable land and provide favourable compensation to communities residing near security establishments; and
4. Local communities should be consulted before any piece of land can be acquired for security establishments.

### **3.26 Environmental Issues**

The stakeholders observed that it was wise to protect land and other natural resources in order to avoid soil erosion, deforestation, drying up of rivers and other consequences. They recognised and stressed the fact that natural resources were a national heritage and a source of livelihood.

#### *Recommendations*

1. Village head persons should be given power to prosecute persons who endanger the sustainable use of natural resources by, for example, indiscriminately cutting trees;
2. No prospecting and mining activities should be undertaken in any given area without -permission from the respective traditional leaders;
3. The environment should be preserved by encouraging practices and land uses such as conservation farming, soil conservation and agro forestry (tree planting) and inorganic farming;
4. Applicants for farmlands and other activities that would have an impact on the environment should put in place appropriate environmental protection measures and their applications should be considered by the Council and later the traditional authority; and,
5. There is need to promote the formation of community based forest and natural resource management teams/groups.

### **3.27 Game Parks**

It was observed that animals do not develop the land but destroy it and that it was therefore better to designate more land for people than for animals. It was recognised, however, that game parks generate revenue for Government and create job opportunities such as game scouts, camp managers, tour guides and others.

#### *Recommendations*

1. There is need for proper control of animals because they destroy people's crops;
2. All revenue from game parks and Game Management Areas (GMAs) should be ploughed back into the community;
3. Game parks and land in general should not be leased to individuals or private organisations, instead the communities that live with the wildlife should own the game parks;

4. All illegal settlers in game parks should be evicted and local communities should work hand-in-hand with government to conserve and manage the game parks; and
5. If an animal wanders into someone's field, the Government should compensate the owner of the field.

### **3.28 De-gazetting of Forest Areas**

The stakeholders had two divergent views on de-gazetting of protected areas: one view supported de-gazetting and legalizing informal settlements existing in protected areas due to high population pressure and demand for fertile land while the second view supported the conservation of land and the protection of the environment and natural reserves.

#### *Recommendations*

1. With the aid of land use planning and monitoring, portions of land should be gazetted and reserved and remain unused for future generations, under customary tenure;
2. State land, which is idle, should be de-gazetted and allocated to people for settlement;
3. Once de-gazetted, the land which was customary and gazetted as a protected area should return to customary tenure;
4. Before land is gazetted or de-gazetted, the respective traditional leaders should be consulted;
5. Forest reserves that are no longer serving the reason for which they were created should be de-gazetted and given back to respective traditional leaders for re-allocation to their subjects; and
6. Where there is a lot of pressure for land by local people, Government must set clear rules for de-gazetting and allocating land to people, otherwise gazetted land must be protected for the purpose it was intended.

### **3.29 Institutional framework**

It was observed that the different roles of institutions involved in land administration, especially the role of traditional leaders and councils, were not clearly defined. It was further observed that the Draft Land Policy did not even mention the need to strengthen traditional institutions, such as the Royal Establishments, which dealt with land.

#### *Recommendations*

1. Land administration procedures should be clearly spelt out in both customary and state land, defining roles of traditional leaders, the councils and the Ministry of Lands;
2. The Land Policy should provide for support and strengthening of traditional institutions;
3. The various laws of water, fisheries, mines and minerals and forestry be changed and put together into the land law which should be called the Lands and Natural Resources Act to improve co-ordination; and
4. There is need to have an institutional framework that is inclusive of communities, chiefs, local authorities and other government agents.

### **3.30 Land Policy Review Process**

It was observed that some people had 'rejected' the Draft Land Policy because it did not address their concerns. They argued that placing all land in the care of the President, for example, made traditional leaders uncomfortable as guardians of customary land because it reduced their powers. They further stated that the process to develop the Draft Land Policy document did not involve many people. They argued further that the document was written in a language that an average Zambian could not easily understand and thus could not make meaningful contributions to the review process. The formulation of the Draft Land Policy document should not have been based on old information such as the 1993 National Conference. They also observed that in the past traditional leaders had made positive recommendations with regard to land affairs, which they felt were still worth referring to, but Government had not considered those recommendations.

#### *Recommendations*

1. The policy document should be translated into local languages and distributed widely;
2. All previous submissions by traditional authorities should be taken into account during this consultative process; and
3. Resources should be made available to the local authorities to facilitate the provincial meeting of all the traditional leaders to initiate the Drafting of the Land Policy as resolved by the National *Indaba* of 2003.

### **4.0 CONCLUSION**

From the amount of interest and debate that some aspects of the land administration system in Zambia received it is clear that the same should be changed for the better if the Land Policy is to be anything that even begins to be a public document. Vestment of land remains one of the major issues which require careful consideration. Though the submissions and accompanying arguments have been many and varied, it is very clear that some quarters of our society do not want to see land vesting in the President.

The other major issue relates to land administration procedures. Many stakeholders are of the view that the current system is long, not transparent and costly. In general, people are asking for a streamlined land administration system possibly with something like a 'queuing system', that is to say, applications should be considered following the dates on which they were submitted.

The third aspect of the land policy that has been debated relates to fairness. It was observed that there was lack of fairness in land distribution in that the system did not take into consideration socio-economic issues when allocating land. For instance, women and youths do not have the money (proof of capacity to develop land) which is one of the major factors used when distributing land. Secondly, an average Zambian is too poor to compete for land with a non-Zambian on an open market. This stresses the need for a policy that gives power to Zambians considering their state of poverty. There is, further, need to bridge the gender disparities in as far as access and control over land is concerned. The 30% affirmative action has in some cases been said to be self-discriminatory, but generally it has been endorsed. There have been cases where some

people have asked for a 50:50 quota system in as far as land distribution between men and women is concerned.

The land administration system should be made more transparent and participatory with approvals and other decision-making processes involving the people instead of the leadership alone. This is the case the traditional leadership and with the functions of the Commissioner of Lands. In this regard, it has been recommended that a committee system be adopted.

## **GLOSSARY OF TERMS**

<b>Access to land</b>	Being allowed to have or use land.
<b>Affirmative action</b>	Action or steps taken correct differences in men and women's accessing and owning land.
<b>Alienate</b>	Transfer of ownership of property from one person to another e.g. from state to a person.
<b>Applicant</b>	Person making formal request to be granted land.
<b>Boundary</b>	Either the physical objects marking the limits of a property or an imaginary line or surface marking the division between two legal estates.
<b>Land Survey</b>	Defining or determining the location and boundary of a piece of land.
<b>Communal Land</b>	Land or other resources to which people in a particular community can use together.
<b>Consent</b>	Allowing an applicant to get title deed for a piece of land.
<b>Conversion</b>	Changing the way one holds land from customary to leasehold tenure or vice versa.
<b>Customary land</b>	Land under the control of traditional authorities and where customary tenure is exercised (formerly Reserve and Trust Land)
<b>Demarcation</b>	Mark or fix the limit or boundary of a land parcel.
<b>Dispute</b>	Argument, quarrel, controversy between persons over a land matter e.g. boundary dispute.
<b>Ground rent</b>	Payment by tenant (lessee) to landlord (state) for temporary lease of land, in accordance with lease agreement. Person holding land under lease agreement are obliged to pay ground rent to the state.
<b>Investor</b>	A local or foreign person or company who commits money and/or other resources to develop land for useful gain or profit.
<b>Land administration</b>	Functions involved in implementing land management policies.

<b>Land policy</b>	A set of principles and guidelines for land administration.
<b>Land tenure</b>	The way people hold rights in land – either following customary rules or national laws.
<b>Lands Tribunal</b>	An informal court (as opposed to formal courts under the judiciary) appointed by the Minister of Lands to settle land disputes.
<b>Land use</b>	The manner in which land is used, including the resources upon its surface.
<b>Land Use Planning</b>	Identification and setting aside of land for different uses.
<b>Leasehold</b>	Holding land by means of a lease or agreement.
<b>Property rights</b>	Rights and duties held by people that include individual or collective rights, duties and regulations.
<b>Plot</b>	A piece of land or land parcel with defined boundaries.
<b>Rate</b>	Tax on land and buildings paid by property owners to local authorities.
<b>Repossess</b>	Legal repossession of rights to land under statutory lease by the state. Regaining possession of property/land by the state.
<b>Resettlement</b>	A newly planned piece of land where the state relocates and settles special groups of persons i.e. under privileged, vulnerable or displaced persons such as retirees and unemployed youths.
<b>Resolve</b>	Solve or settle a land problem between two or more persons e.g. boundary dispute, inheritance claims.
<b>Right of Occupancy</b>	Legal land right guaranteed by a local authority to a person in statutory improvement or housing areas
<b>Royalties</b>	Money, goods or services given to authorities in appreciation.
<b>Squatter</b>	Someone who occupies land illegally.
<b>State land</b>	Land where people have title deeds.
<b>Transparency</b>	State of conducting land business in a clear, unmistakable and accountable manner.

**Vestment of land**

To give power of control over land to someone e.g. the President on behalf of the people of Zambia.