

# Land Governance in an Interconnected World

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## CUSTOMARY LAND GOVERNANCE IN ZAMBIA: INERTIA, CONFUSION & CORRUPTION

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### INTRODUCTION

The need for a "good" governance structure on customary land in Zambia is now more urgent than ever before. High demand by multinationals, local investors, urban elites, local bureaucrats and politicians, is putting pressure on customary land to reform or commercialise. And yet the State has opted to "move more slowly" on reforms affecting customary land. With limited administrative knowledge and tools, traditional authorities have found themselves grappling on how to manage this resource. This article argues that inertia to reform on customary land has a long history, starting with the establishment of "African" reserves in 1928..

### MATERIALS | METHODS

This paper adopts a historical perspective. It reviews critical land governance documents beginning with Orders in Council of 1928 and 1947, which established Reserve and Trust lands, to the Land Act of 1995 (the current law, in which customary tenure is said to be legally recognised). It further reviews the 2015 draft of the National Land Policy document in order to understand the thinking towards resolving challenges relating to the governance of customary land.

### RESULTS

A review of institutional reforms on customary land clearly revealed inertia, confusion and corruption in relation to governance of customary land: **Inertia** – Inaction or inertia with regards to customary land governance in Zambia has taken some form of path dependence (North, 1990). Besides the reclassification of reserve and trust lands to customary land in 1995, no serious attempt has been made to resolve tenure issues within customary areas at State level. Largely de jure rules have remained stagnant as provided by the 1928 Orders in Council, although there is evidence that de facto rules keep evolving (Munshifwa et al 2017). This reluctance by the State to undertake any reforms on customary land has resulted in confusion and corruption in the governance of customary land.

**Confusion** - Inaction on customary land has also created tenure insecurity from three risks: a predatory leasehold system, misadministration by some traditional authorities and conflict between registered and customary systems (Roth, 1995). For instance, despite the legal recognition and reclassification of formerly reserve and trust lands, the balance of power and responsibilities in these areas have remained largely unresolved. On one hand, the vesting of land in the President means that all governance responsibilities on customary land should fall under the President who then delegates these powers and responsibilities. On the other hand traditional leaders also see themselves as custodians of customary land through ancestral inheritance. In the meantime conversion of customary land to statutory leaseholds continue apace.

**Corruption** – A number of media reports show illegal acquisition of land in customary areas, disregard for the few procedures meant to protect villagers and forced displacements. Although the 1985 guidelines only allow traditional authorities to allocate up to 250 hectares, evidence shows that in many parts of the country investors have acquired up to 10,000 hectares or more of customary land which is latter put on title. This rush for customary land has resulted in all means of corrupt activities in these areas

### CONCLUSIONS

The article concludes that:

- There is urgent need to relook at how customary land is governed in Zambia.
- Traditional authorities are not adequately equipped to handle land governance challenges on their own; however taking away land through a predatory leasehold system is not a solution. There is need therefore to find a middle ground between the State and traditional authorities.
- Devolution of responsibilities is needed. The proposal in the 2015 Draft National Land Policy on the establishment of the Lands Commission, District Land Boards and Customary Land Committee could be one solution. However completion of the National Land Policy to allow implementation of its provision has taken almost 20 years.

### LITERATURE CITED

- GRZ (1975) Land (Conversion of Titles Act  
GRZ (1995) Land Act  
GRZ (1985) Administrative Circular No.1 on Alienation of Land  
GRZ (2015) Constitution of Zambia (Amendment)  
GRZ (2015) Draft National Land Policy  
Munshifwa, E.K., Chileshe, R.A., & Jain, N (2017) Urban influences, customary land tenure systems and livelihood. Washington, DC: USAID/Tetrattech  
North, D.C (1990) Institutions, Institutional Change and Economic Performance. New York: Cambridge University Press.  
Roth, M. and Smith, S.G., (eds.). 1995. *Land tenure, land markets and institutional transformation in Zambia*. Land Tenure Centre Research Paper No. 124. Madison: University of Wisconsin-Madison

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