



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## TITLE OF THE PAPER

**Zambia's Land Policy formulation pitfalls-points of divergence**

**VERONICA MWICHE AND EMMANUEL TEMBO**

Department of Planning & Information, Ministry of Lands and Natural Resources, Zambia  
Veronica.Mwiche@MLNR.GOV.ZM

**Paper prepared for presentation at the  
"2019 WORLD BANK CONFERENCE ON LAND AND POVERTY"  
The World Bank - Washington DC, March 25-29, 2019**

*Copyright 2019 by author(s). All rights reserved. Readers may make verbatim copies of this document for non-commercial purposes by any means, provided that this copyright notice appears on all such copies.*



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## **Abstract**

Zambia's attempts to land policy formulation after the return to multi-party politics started in 1993 with a National Conference on Land Policy Reform in the Third Republic which led to the enactment of the Lands Act of 1995. Ever since then attempts to formulate an overarching and consistent Land Policy for the country have proved futile. This has largely been because of divergent views from traditional authorities and other stakeholders who have perceived government intention in the policy to be one of usurping all powers over land to itself.

This paper will discuss the points of divergence especially from the chiefs and the current state of play in the draft land policy with the view to see how these can be harmonized in order to reach consensus. The views of Civil Society Organizations and all stakeholders will be weighed against the standard of what could be considered best practice in Land administration.

The paper recognizing that while they might be divergent views leading to emotive debates on what is supposedly the right form and content that a National Land Policy should take, it will show that these views can be converged and are not insurmountable. A give and take dialogue are required to allow for the long yearned final promulgation of a Land Policy which Zambia so much deserves.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## **Key Words:**

Consensus

Dialogue

Divergence (divergent)

Harmonize

Perception (perceived)

Stakeholders



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## **INTRODUCTION**

Stakeholders to land in Zambia are multiple and diverse, with varying needs, interests and levels of influence. The stakeholders range from individuals, groups, including special interest groups such as women, youth and differently abled, the farming community (commercial/large scale and subsistence), to Mining firms and interests, traditional leaders, civil society and government, with each of these exercising different, but strong levels of influence.

Civil society has been one of the very significant streams of influence that citizens have used to channel demands and aspirations, hence making the voice of the “demand side” audible and causing the “supply side” which is government in this case to take note and ensure that a participatory approach ensues. Traditional leaders too play a significant role in land administration and management and wield a considerable level of influence on the policy development process and outcome of the same.

The land policy development process has also seen cooperating partners offering technical, financial and other forms of support come on board. This is welcome, but in some instances fraught with suspicion of these partners attempting to drive their own agendas. From the standpoint of the government, particularly the Executive arm, there are demands to meet revenue targets through measures such as mass and systematic title regularization progressively on all land categories using a multiplicity of means. It is expected that the land policy should provide policy measures to help undertake this.

The process of harnessing all this into an outcome of a National Land Policy which responds to the different aspirations requires an approach that is consultative and participatory with stakeholders understanding their role and coming out with a perception of having been heard and willing to engage in partnership with government to implement the policy because, at the end of the day, the greater good should stand to benefit.

## **THE ZAMBIAN EXPERIENCE TO LAND POLICY DEVELOPMENT**

The land policy development process goes as far back as 1993. This was a consultative process that culminated into the development of the Lands Act of 1995, the principle legislation governing land administration. Various other pieces of legislation related to land administration and management supervised by different central and local government functionaries were developed and continue to be developed. However, the absence of a comprehensive and overarching framework defining the set of



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



principles and desired rationale outcomes in the land sector continued to stand out as gap which was contributing to poor governance and the negative consequences thereof in the land sector. Coupled with the Government's commitment to instruments such as the AU Framework and Guidelines on Best Practice in Land Policy Development, the impetus to move forward with the development of a land policy centered on consultation was further bolstered. The significant phases of the process are 2002-2006, which culminated into the draft Policy of 2006. Due to the Constitutional making process and the need to align to the contents of the revised Constitution, the policy remained a draft from 2006. In January 2016, the revised Constitution was assented to and passed, hence unlocking that barrier and giving way to the Ministry of Lands and Natural Resources to pick things up from where they had stalled. Despite the processes undertaken since 2016, the national land policy document remains a draft and has triggered a fresh wave of concern, frustration and disdain among all stakeholders. A road-map with timelines was developed and implemented, consultations undertaken, but what went wrong?

## **THE CONSULTATION PROCESS**

Stakeholder consultation was organized and conducted in line with the policy development guidelines promulgated by the Cabinet Office. Consultations were undertaken with specialist or subject matter experts in order to obtain expert views on a specific subject matter in policy, Traditional Leaders as custodians of customary land administration were consulted separately through their representative structures in order to ensure that their views and concerns were taken into account, provincial consultations in the ten (10 ) administrative provinces were convened with representatives from the general public, civil society, private sector, provincial/district and local government, as well as traditional leadership participating as the delegates to the provincial consultation process. In addition, select Committees of Parliament were also exposed to the draft national land policy and consulted in order to obtain input from that level of decision making. This was considered an important intervention as Parliamentarians bring in experiences from their interaction with their Constituencies and their role as legislators and members of Cabinet as the case may be. Cooperating partners in the land sector were also consulted to bring to the table technical expertise and the wealth of experiences from other jurisdictions.

In terms of the process, workshops and round-table discussions were the main form of consultation. Written submissions were solicited, and steps were made to make the draft land policy document accessible on the Ministry's website. This was employed as a means to capture a wider audience, especially of younger people/the youth who are in the majority and have often expressed concerns about being left out in important processes and discussions.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## CONTENTIOUS ISSUES AND POINTS OF DIVERGENCE AMONGST THE STAKEHOLDERS

Points of divergence were centered on *process* and *content*, while issues that were felt to be contentious were on the contents of the draft policy document. This divergence of views polarized the various stakeholders, hence bringing the process to a standstill. Questions such as the following were being (and continue to be) asked, further casting the process into doubt:

- Is the lead Ministry serious and are the staff assigned competent to drive the process;
- Does the government mean well? Is this an attempt to cause key stakeholders such as traditional leaders to endorse a document that appears to be in opposition of their views and concerns;
- We are not being heard despite our various representations. Is anybody listening to us;
- Why is the government in a hurry? On the other hand, why has the process taken too long;
- In whose interest are the contents of the draft document, is it based on stakeholder consultation or simply copied from another country which has completely different context;
- Why have consultations been limited to a select few of a large stakeholder group;
- Do the traditional leaders mean well to continue to reject the document;
- What is intended to be achieved by some of the seemingly radical measures proposed in the document, what are the implications on economic development?

The Ministry of Lands and Natural Resources which is the lead Ministry coordinating the whole process was caught in the middle of this situation. The finalization of the national land policy was (and remains) a major target in the Country's Seventh National Development Plan and the pressure was on to finalize the document and submit it for approval in the 2018 budget year. Resources under the 2018 budget had been expended, but the target not met. The question now was how to move forward, salvage the process, bring the key stakeholders back to the dialogue table, get the process back on track while considering important factors such as the availability (or lack thereof) of financial resources and a reasonable timeframe. With the extent of divergence over the process and content, it was deemed very critical to employ strategies to harmonize the opposing views without the government being perceived as "digging in its heels" and refusing to listen. This is the current task at hand, to dialogue and come to a point of convergence on the content of the draft policy and the process of finalizing it.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## CONVERGING THE VIEWS

As the lead Ministry providing technical facilitation to the process, we see our role as that of helping the stakeholders think things through by providing correct and well researched information. The Country's development planning frameworks must be well explained to the stakeholders so that discussions that ensue on content of the land policy are to a large extent aligned to the desired development trajectory that has been set. For instance, the Seventh National Development Plan (2017-2021) which is aligned to the Vision 2030 and the Sustainable Development Goals (SDG's) has a vision of accelerating development efforts towards Vision 2030 without leaving anyone behind. Land sector reforms are key to this, making the development of a comprehensive national land policy a priority. Therefore, how can we manage the stakeholders to also analyze the issue from these lenses? Converging the divergent views requires some pre-conditions such as:

- Restoring trust and removing the perception that the other party has a hidden agenda and is using stakeholders as a rubber-stamp;
- Sharing information;
- All parties be willing to listen to each other in a respectable and non-confrontational manner;
- Offer solutions and be willing to discuss and give in where need be;
- Consensus and dialogue; and
- Be willing to see the greater good in what is being done.

The Ministry of Lands and Natural Resources is now at this critical juncture of bringing about convergence and harmonization so that there can be consensus on both the content and the process. Submissions and representations from all stakeholders are being acknowledged and responded to with clear communication on the proposed next steps and the role expected to be played by the stakeholder (s). This is to ensure that the lines of communication remain open and perceptions of concealment are dispelled. The Traditional who have come out strongly raising concerns about the contents of the document and their subsequent refusal to support it in its current form provided (for a second time) a comprehensive submission of recommendations having convened their own internal Chiefs forum in May 2018. This submission was critically analyzed and responded to with clear explanations on which submissions were acceptable and why and equally which submissions were not acceptable and why. Where there already consensus, acknowledgement is being



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



made. This is to ensure that the reasoning is very clear, and submissions are just not being dismissed or ignored.

## THE ROAD MAP

A road-map has been articulated to move the policy development process with a time line of finalization by September 2019. The idea is to ensure that in September, when the budget for 2020 is being prepared, the policy would have been finalized so that there is no need to tie resources in the budget to development of a land policy. It is desirable that in 2020 resources are expended on development and review of legislation, sensitization and dissemination of the policy.

Some of the key activities in the road-map are:

- Reconstitution of the Technical Committee on Land Policy Development to include more representatives of the Traditional Leaders. This was one of the requests from the Traditional Leaders and government was not averse to it, especially if it would help the traditional leaders to have faith in the process (focus here is on dispelling negative *perceptions* of mistrust that have lingered along the way);
- Courtesy meeting between the Ministry's political and policy leadership and the Chairperson of the House of Chiefs (focus is to talk, exchange information, clarify issues following the response to the comprehensive submission from the House of Chiefs. This is for purposes of seeking *consensus* on some content and procedural issues and setting the stage for further *dialogue* with the rest of the House of Chiefs);
- Roundtable discussions with specific stakeholders on specific contentious issues for purposes of concluding on them (focus is to *harmonize* the *divergent* views based on a critical analysis of issues considering the desired contribution of a national land policy to the socio-economic development of the country. This is also to ensure that stakeholders feel they have participated, and attempts have been made to hear them out, and government has equally had an opportunity to explain issues and substantiate the reasoning behind the issues that are eventually to be reflected in the policy);
- Reviewing and amending the draft by the Technical Committee after *consensus* on the contentious issues;
- Stakeholder validation in line with the policy development guidelines;
- Submission to Cabinet for consideration and furtherance.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## CONCLUSION

The process has indeed been fraught with pit-falls. Lessons have been learnt on how to handle complex and diverse stakeholders with a multiplicity of interests over a complex and emotive subject such as land. It is very evident that the process really matters. The various stakeholders are committed to having a land policy in place. The development of a land policy has proved not to be straightforward and simple as other policies due to its nature. It is therefore the role of the Ministry of Lands and Natural Resources to get the process right and most likely the content shall follow.