

THE DICHOTOMY OF TENURE ARRANGEMENTS AND ITS EFFECTS ON LAND ACQUISITION AND COMPENSATION: EVIDENCE FROM ZAMBIA

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INTRODUCTION

Zambia, like many other African countries have a dichotomy of land tenure systems.

Statutory and customary tenure systems co-exist in the management and administration of land.

Valuation of land and property in statutory areas comprises the land and everything affixed to it while that of customary areas determines value only on improvements or infrastructure devoid of land. This approach, therefore presupposes that land under customary areas is of a lesser value compared to statutory land.

The study outlines the existing gaps in land acquisition and compensation on customary land since the statutory land in this case the sewer sanitation project is considered best practice because it involved well outlined transparent procedures.

MATERIALS | METHODS

This study adopts an exploratory comparative study approach stemming from two land acquisition and compensation projects undertaken on customary land for mining purposes and on statutory land for sewer sanitation purposes.

The land acquisition and compensation project for mining purposes involved a mining company in Shibuyunji district of central province, where five hundred (500) households were identified to be found in the proposed buffer zone for the iron ore mineral explorations by a local private company.

The process involved the administration of five hundred households drawn from three villages of Mululuma, Shichibangu and Nkotami. Each project affected person (PAP) identified was only going to be compensated for their affected structures without land except for agricultural lands situated far away from each village. In this project both temporal and permanent structures were included in the valuations.

The sewerage sanitation project on the other hand was conducted on statutory land where five areas comprising of hundred and fifty one (151) property affected persons were identified and drawn from Chawama, Chipata, Garden, Kanyama and Industrial areas.

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RESULTS

❖ The study reveals that the procedure for land acquisition and compensation for both urban and rural areas are the same but the valuation methodologies and elements of consideration differ due to the application of different laws and regulations.

❖ In addition the differences in social, political and economic conditions of the country necessitates the different valuation approaches.

❖ Land ownership under customary tenure is not backed by written legally recognized title/ownership documents because the chieftaincy is believed to hold land in lieu of their subjects.

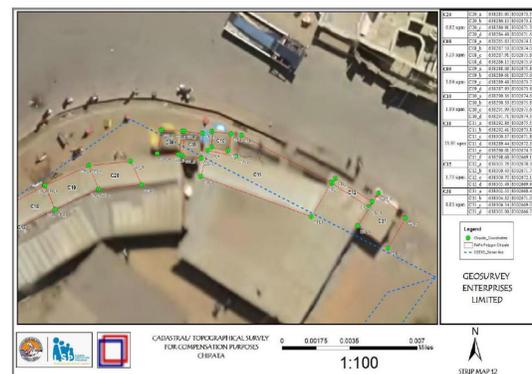
❖ The compensation on land acquisition projects on customary land is limited only to temporal and permanent structures and does not extend to land. The affected property owners only get compensated on the structures because the homestead land belongs to the community. Some affected property owners feel deprived of the income they should have been receiving on the homestead land which was allocated to them by the chief.

❖ The case is different for statutory land where the PAPs get compensated for both the improvements and land.

❖ Both valuations involved public disclosure meetings organised by Zambia Environmental Agency, which is mandated to carry out environmental impact assessments in the country.

❖ The valuation of statutory land involved full cadastral surveys of the affected structures which was not the case with customary land.

Figure 1: Cadastral Survey of affected structures in Chipata Compound, Lusaka, Zambia



CONCLUSIONS

The study has revealed that valuations carried out on both statutory and customary land adhere to the provisions of Section 12 of Part III (Compensation) of the Lands Acquisition Act Cap. 189 of the Laws of Zambia and the World Bank Performance Standard 5 on Land Acquisition and Involuntary Resettlement.

The sewer line project involved both temporal and permanent relocation of the PAPs, whilst the iron ore mine project involved permanent relocation of the PAPs.

In both projects the PAPs were all compensated in monetary terms.

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