

Getting Agreement on Land Tenure Reform: The Case of Zambia

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Background

Zambian postindependence land reforms have mainly focused on land repossession from absentee landlords to the state and conversion of titles through the Land (Conversion of Titles) Act of 1975, improving the land administration system, and regulating and liberalizing land markets. This brief reviews the approach and challenges of the latest land reform efforts that begun in 1993. The aim of current land policy reforms is to modify land policy and law review to achieve the following:

- improve efficiency in land administration and land disputes resolution
- decrease land tenure insecurity in both customary and state land
- increase equitable access to, ownership of, and control of land resources
- convert more customary land to state land to address increasing demand for land

The Process of Land Policy Review

The government that came into power in 1991 planned to liberalize the economy and encourage local and foreign investment in mining, agriculture, and tourism. To facilitate such developments, land policy needed to be reviewed. Before the new government came to power, land in Zambia could not be bought or sold like a commodity. The new government proposed through its land bill to privatize land and develop land markets. However, traditional leaders, civil society, and other key stakeholders rejected the bill, arguing it would disadvantage the majority poor people and undermine the authority of traditional leaders with regard to administration of customary land. However, the government quietly proceeded to make the bill law in 1995 (the Lands Act). Since then, however, the heated debates and controversy have made it difficult for government to implement the new land law.

In 2000 the Ministry of Lands drafted the land policy, which was approved by the cabinet in principle. However, the cabinet directed the ministry to subject the draft policy to further public consultations. In 2001 the ministry initiated a countrywide draft land policy review consultation process with various key stakeholders. Unfortunately, the consultations did not adequately provide for the participation of the poor, women, youth, and other disadvantaged groups who largely depend on land for their livelihoods.

Getting the Process Right

To effectively participate in the land policy review process, civil society in Zambia formed an alliance, the Zambia Land Alliance (ZLA). The alliance aimed to advocate for fair land policies and laws that would protect the interests of poor communities and marginalized social groups. The alliance worked to coordinate civil society participation and facilitate popular participation and advocacy on the land policy reforms. To begin the process, civil society undertook countrywide sensitization programs in communities about the draft land policy and the 1995 land law. In 2001, ZLA lobbied government to let it join the Technical Committee that was spearheading the land policy consultations. Civil society is currently represented on the committee by four organizations.

Due to limited resources to undertake a countrywide consultation process, the process stalled for some

time. Concerned by the possible lack of wide consultation and to push the process forward, the ZLA began negotiations with the Ministry of Lands to form a partnership and undertake the consultations jointly with civil society, which would contribute financial and human resources to the process. In this arrangement, civil society influenced the approach of consultations into a broad-based consultative process that involved the poor and ordinary citizens. The earlier approach had not provided for the active participation of poor people and ordinary citizens in the villages that would be directly affected by land policies. The previous

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approach was instead aimed at the provincial level and involved heads of government departments and representatives of NGOs and churches. Civil society lobbied for community-level workshops and debates; workshops with traditional leaders; and meetings of representatives of various government and nongovernmental organizations. They also wanted to include targeted consultations with interest groups such as women, youths, people with disabilities, people living with HIV/AIDS, etc.

ZLA compiled the views and recommendations of communities during the consultations in form of a booklet for transparency, community feedback, and further advocacy. ZLA also collected and documented land cases and problems affecting communities for use as evidence in its advocacy campaign.

In addition to coordinating civil society participation in the land policy, ZLA coordinated participation in the Republican Constitutional Review

Process, where it made numerous proposals on land issues aimed at securing land rights of the poor and disadvantaged. These proposals are reflected in the draft republican constitution.

Key Recommendations to Improve Land Rights for Development in Zambia

- Allow the current dual nature of the tenure system to continue and to develop into systems that provide better security of tenure and access to land.
- Establish registration of individual and/or communal rights to land such as “traditional titles” in customary areas; this will improve security of tenure and access to financial and other resources.
- Introduce and register simple, affordable, secure “certificates of title,” to be issued by traditional authorities under customary tenure to benefit rural communities.
- Add an explicit clause to the Zambian Constitution providing that land rights are a fundamental human right.
- Enhance governance in the administration and management of land through democratic structures that are easy to access and close to the people.
- Raise awareness and enlighten traditional leaders and communities on the procedures of processing title deeds.
- Maintain mandatory and affirmative action to ensure that at least 30 percent of land available for distribution is allocated to women and that women can also compete for the remaining 70 percent of land.

Challenges, Experiences, and Lesson

- The pace of the land policy review process has been slow for a number of reasons, such as inadequate financial resources and political will to speed up and finalize the process.
- Although civil society was supposed to be an equal partner in the process, it was not considered to be so by the Ministry of Lands; therefore, civil society had only limited influence on the pace and process.
- Countrywide consultations revealed a large information gap between government officials and communities on land policies and laws. Most communities were not aware of the consultation process and provisions of the land laws and policy.

- Public sensitization is an important component in any policy review process, as it enables greater and more meaningful participation.
- There was a general limited capacity of civil society to effectively engage in the policy review process.
- There is a need to broaden representation of stakeholders in the Technical Committee spearheading the consultation process.
- The active participation of civil society in the reform process enabled the poor and other marginalized groups from remote areas to freely participate, debate, and present their views on the land policy. This also enabled greater participation of other key actors such as the traditional leaders, community-based organizations, farmer groups, the private sector, professional associations, and other government institutions.
- The civil society–governmental partnership created a sense of confidence, transparency, and accountability.
- Since the process is ongoing, civil society and government have agreed that the final product of the process should be adopted at a national conference of stakeholders.

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