

Lessons Learned from CSO-led Systematic Registration of Customary Land in Zambia

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ABSTRACT

Since 2014, USAID has been supporting the Chipata District Land Alliance (CDLA), a local civil society organisation (CSO) in the Chipata District of Eastern Province, to work with four chiefdoms to carry out systematic documentation of landholdings in 138 villages as part of an impact evaluation on the adoption of climate-smart agricultural practices under the Tenure and Global Climate Change (TGCC) project. Over 18 months, the CDLA has followed a replicable, deliberate and rigorous process that relies on multiple visits, broad community engagement, and trust-building with chiefs and traditional leaders. This paper presented by the Chipata District Land Alliance explores the lessons learned from the implementation of this process related to establishing dialogue among chiefs, government and CSOs, and the associated benefits and challenges of implementing systematic registration through CSOs. The paper will track the how the systematic registration work in these trial chiefdoms has informed government processes, including the forthcoming National Land Audit and National Land Titling Program.

Key Words: Civil Society Organisation (CSO), customary land, land demarcation, village land committee (VLC).

INTRODUCTION

Land in Zambia is held under a dual tenure system of state land, which is composed of land under title, within municipal boundaries and in National Parks and forest reserves; and customary land, which is administered by traditional chiefs and their village headpersons. Since the enactment of the Lands Act of 1995, there has been a steady progression of conversion of customary land to leasehold title and estimates vary widely as to the extent of land still under the control of chiefs. Disputes among chiefdoms over boundaries are ubiquitous and the only official maps are clearly outdated from colonial times. The public discourse among chiefs and government over land administration is tense, with government frequently accusing chiefs of selling land to investors, while traditional authorities perceive government's push to covert customary land to leasehold title as an approach to undermine the authority and power of the chiefs. Recent discussions around land within the draft constitution have also caused some unrest with chiefs.

There are a variety of agents driving transfer of customary land to statutory tenure though there are no reliable statistics on conversion. Both international and Zambian investors have sought conversion of substantial areas for commercial agriculture, as well as for the development of factories and other business infrastructure. Middle and upper class Zambians are also acquiring plots of land for personal farms. Retired civil servants are returning to their villages following retirement and seeking to secure property. Alternatively, some youths who have migrated to Lusaka are reportedly pressuring their families to seek more secure tenure through leaseholds. However, among these groups, there are reportedly few rural smallholder farmers striving for this statutory security, due to relatively high costs associated with land transfer, aversion to paying taxes on statutory land, and because chiefs are likely to be reluctant to consent to land transfers for their own subjects.

The agricultural development policy in Zambia is geared towards promoting commercialisation in both the state and customary tenure categories. Commercialisation itself favours the conversion of customary lands to statutory tenure in order to promote security of tenure for large-scale commercial farming. Historically the United National Independence Party (UNIP) government maintained customary tenure and chiefly authority as part of a broader political strategy at promoting national unity and harmony through allowing relative tribal and clan authority over land. UNIP allowed a limited number of conversions from customary to statutory tenure, and then mostly along the high capability ecological zones. The subsequent Movement for Multi-Party Democracy (MMD) government introduced the 1995 Land Act with the express intention of streamlining the conversion of customary land to leasehold as part of a conscious privatisation drive, which included promoting the commercialisation of land and creating a market in land titles. There is no formal market in

customary land, indeed the sale or rental of customary land is not permitted, and hence the need to convert the legal status of the land in order to create formal market in land. Since 1995, there appears to have been a significant increase in the rate and amount of land conversions, as evidenced by the increasing number of land related conflicts, driven by a multiplicity of causes and contestants, and of organisations that are designed to respond to these conflicts and insecurities. These conversions are a major source of insecurity especially for the poor and marginalised.

Rural and peri-urban populations are caught in the middle of this struggle as municipalities acquire large areas of customary land for township expansion, and as small farmers in many areas feel threatened by investors with money. Despite the Lands Act's acknowledgement of customary land rights, there are few provisions in Zambian law to protect the rights of individuals on customary land. Households and families lack documentation of their customary land holdings and knowledge of their rights. Additionally, chiefs have few tools or guidance with which to administer their vast territories. Chiefs admit to commonly being unaware of the precise boundaries of land allocated to their subjects. Instead, most rely on village headpersons to delineate boundaries, yet chiefs remain the ultimate arbitrators of significant disputes. Land allocations and subsequent administration appear to be highly un-transparent and centralized in chiefs and headmen.

It is within this context of increasing pressure on customary land, there has been a movement in Zambia for chiefs to document landholdings through customary land certificates, which do not confer a permission to convert land to leasehold title, but provide the holders' and their families with documentation of their rights. A number of Civil Society Organizations (CSO) have supported this work at a small-scale with chiefs and local communities using non-spatial methods and varying levels of technical support. Civil society advocacy is important for creating change in laws and policies and for seeing through their implementation by reminding governments of their responsibilities. Indeed, to date it has been primarily these CSO partnerships with chiefs that have provided Government with a potentially replicable model to improve customary land administration.

CUSTOMARY LAND MANAGEMENT

Customary and statutory lands are managed through separate governance systems, which have long operated in parallel. However, as perceptions of land scarcity of statutory and some customary land increases, as domestic and international investors seek to secure long term rights to land, and as sustainable land management becomes a priority for government, the strengths and weaknesses of this dual system in promoting secure smallholder farmer livelihoods and spurring investment in agricultural productivity have been drawn into focus. Neither the existing statutory or customary system is providing adequate tenure security for smallholder farmers or investors (Adams, 2003).

Since then there has been some progress in formulating a land policy that will improve land administration on both statutory and customary land with the first draft produced in 2006 and currently consultative workshops and discussions are on-going in various provinces of the country before coming up with a final draft that will be presented before Cabinet for approval. Indeed, the discussion over the future of customary land is a proxy for a debate on the role of chiefs and traditional institutions in Zambia's future.

The management of customary land is extremely decentralized through traditional authorities. The local chiefs administer customary land by granting use, and occupancy rights, regulate transfers of land, control use of communal land and hear disputes. The chiefs exercise their authority through their headmen representing each village within their chiefdom and are advised by a council of indunas. At the local level, land allocations are often made by the headmen who have direct authority over the villages within their domain, and allocations are symbolically formalized by the chief in return for a small token of appreciation (such as a chicken) from the beneficiary.

As a result there is a common perception within chiefdoms that land "belongs" to the chief. Although the Zambian Constitution and the Land Act legally vest all land in the president, in practice the traditional authorities exercise nearly exclusive power over customary land administration (except potentially in cases of conversion from customary to state land). The consideration of vestment has been one of the most controversial pieces of the Zambian constitutional reform process, and it has been sidelined for future discussion/decision in the recent ratification of a new constitution. This creates a complicated relationship between government, the chief and his/her subjects with respect to land tenure security, where subjects largely claim to feel secure because the land is managed by the chiefs who largely protect their land rights.

Customary lands are not registered with the government and the owners of these plots of land do not hold title or typically any documentation as proof of ownership. These lands are largely regulated outside the statutory and official realm of the Zambian government.

Transactions in land titles, as well as leasing, are forbidden by law on customary land. Informal leases are permitted only when these do not involve payment of lease fees. Nevertheless, land rental does occur both within communities and with non-residents. Land transactions are not permitted on customary land, as all Zambians have a right to land to cultivate. As a result, there is no formal land market in the customary tenure sector. However, according to Sitko (2010) illegal and clandestine, land markets are active on customary land and the land sales in Zambia are now far more common on customary land than on state land. This is because the land speculators are able to navigate through

the conversion process where they obtain customary land with intentions of titling it in order to increase its value.

From the foregoing, the relationship of customary land administration to the formal governmental decentralization process still remains ambiguous. At the district level, the Ministry of Chiefs and Traditional Affairs is responsible for engaging with chiefs and headpersons, but their authority related to land are largely limited to on-demand conflict mediation, as opposed to supporting broader land administration challenges.

PROBLEMS RELATED TO LAND ADMINISTRATION INSTITUTIONS

It is common knowledge that the current customary system does not support the elements of a functioning land administration system – either in design or in practice because it operates in a void and is not guided by policy or legislation. The current discourse of drafting a new land policy should embrace socially acceptable and legally binding rules at both state and chiefdom/village level. Land administration systems have to be put in place to make security of tenure rules operational and enforceable and the rules and practices governing such systems will define how land tenure rights are accorded and managed by both state and traditional authorities.

Zambia's forthcoming land policy has the potential to establish a land registration system that considers the necessities of the poor and vulnerable groups in terms of language, accessibility, cost and recording of rights. Some have proposed a unifying state and customary land documentation under a uniform leasehold title, however, increasingly there is discussion about a customary title, which would have certain benefits, such as little to no tax liability, but also limitations related to the scale of commercial development that could be applied on such land.

Regardless of the approach that Zambia ultimately takes, there are a number of challenges facing land documentation and customary land administration in Zambia, including:

- Limited capacity by CSOs and Government to manage the written records and a digital data base to an adequate standard coupled with poor network and internet connectivity;
- Administrative or bureaucratic inefficiencies linked to lack of necessary staffing and state resources, lack of political will, and other institutional obstacles to carry out large-scale systematic processes;

- Communities with weak social cohesion may not be able to successfully complete the complex process of documenting community land claims;
- Land tenure conflicts have been as a result of a vast range of structural and contextual factors, but often tied to unequal balances in power relationships between chiefdoms and villages and the existing social issues within villages between men and women. These include land grabbing, lack of security of tenure, forced evictions and displacements, lack of legal recognition for collective and community-based property rights and land concentration;
- Lack of formally recognized administrative mechanisms to resolve indigenous land claims;
- Resistance to open sharing of data among government and traditional authorities;
- Collection of land related information tends to privilege the use of information technology and communications and to ignore participatory methodologies which affect local communities. In the worst cases, these technologies which are difficult to control for local communities could be captured by powerful actors;
- There are usually no tools or mechanisms in place to monitor security of tenure, and there is a lack of statistics and other disaggregated data on issues linked to security of tenure.

Despite the above challenges, it is clear that customary land documentation is inevitable. But what is more important is how and when it should be carried out and by who? In order to carry out a successful customary land certification programme, the role of the CSOs, traditional leaders and Government should be clearly spelt out.

LEGITIMACY OF LOCAL CSOS

In Zambia CSOs are governed by the Non-Governmental Act No. 16 of 2009. Court, et al (2006:1), state that “CSOs play a critical role in development, they provide humanitarian relief and basic services, innovative service delivery, build capacity and advocate with and for the poor.” Several NGOs (international, national and local), funded by donors, have stepped in with programmes targeted at promoting land rights especially in rural areas. Most of these programmes which are in line with the ongoing land reforms have been spearheaded by Zambia Land Alliance (ZLA) which is a national umbrella organization representing eight District Land Alliances (DLA) in different provinces of Zambia.

ZLA since its formation in 1997 has established its credibility with government and the international community. Since its inception has been advocating for equal access to land by both women and men. Due to the credibility of ZLA, the legitimacy of all DLAs in Zambia is recognised.

CSOs INVOLVEMENT WITH CHIEFS IN CUSTOMARY LAND CERTIFICATION PROCESSES

Although Section 7 of the Lands Act 1995 recognises the existence of customary tenure in Zambia, land held under this tenure is in most cases deemed insecure because communities, families and households are unaware of their rights and frequently have no documentation to support their claims. Most families and individuals have private use rights that pass from generation to generation. Many of Zambia's ethnic groups are matrilineal, with land passing through the female line to male family members who generally control land use. This has prompted Chiefs recognize that they cannot effectively administer their territories without updated records and access to spatial tools, but at the same time a single uniform system could undermine the diversity of customary practices in Zambia.

It is due to these myriad of problems affecting customary lands that prompted CSOs to begin working closely with traditional authorities in order to explore options for customary land certification, which would give households, chiefs, and community's documentation of customary rights to land, as well as increase transparency in land allocation and management. Equally important to documenting household rights in Zambia is the establishment of jurisdictional boundaries and community resource rights.

There have been various CSOs spearheading this work at both chiefdom and village level. Petauke District Land Alliance (PDLA) which is part of the ZLA network is believed to be the 'inventor' of the Traditional Land Holding Certificate (TLHC). TLHCs carry the name of the landowner, the relevant head person, and the area chief's signature and official stamp; they also have a field or property site plan attached and details of conditions under which the TLHC will operate. These TLHCs have been recognised by local courts as evidence of ownership and land owners have also been able to access loan facilities with Banks.

PDLA was the first land alliance to pilot the use of Global Positioning System (GPS) technology to demarcate plot boundaries. Other DLAs have replicated this work within the communities where they work generally at a small scale due to lack of funds.

The involvement of CSOs in land reform programs facilitates dialogue with the government and it is essential in order to put pressure on the effective implementation of these reforms. While CSOs may participate alone in this endeavor, the common practice is that the CSOs partner with other organisations with a stake in policy dialogue, particularly donor agencies. Collaboration between CSOs and donor community is justified in that CSOs often possess deep, locally relevant development expertise, with very good social proximity which makes it easier for them to adapt to local needs. Furthermore, CSOs are often considered to be more innovative in the application of participatory approaches to land policy processes, as they have they have the opportunity to work with stakeholders to pilot new and creative approaches, which may be able to inform government approaches going forward. Additionally, local CSOs often have greater national influence and access to the media than donors or international development partners. As a result they can be very good at advocacy and at influencing the national agenda. These attributes make the CSOs more likely to make interventions that are more responsive to the evolving needs of the local communities.

CSOs are flexible in their implementation modalities and are conscious of prevailing local traditions and circumstances apart from being cost-effective in service delivery. The operating procedures for CSOs are often flexible and easily adapt to local circumstances. This may not be the case with the government which in most cases uses national programs governed by rigid formal bureaucratic rules and operating procedures.

Yet local CSOs can often retain this flexibility and enhance their impact through partnership with donor agencies, since aid to CSOs has become an increasingly important part of the development agenda. CSOs through the funding they receive from donors have been able to champion programs on poverty reduction, promoting human rights and equal access to land for both men and women. In most of these programmes CSOs have performed the mediating roles in communities far much better than any international organizations or any other organizations initiated and controlled by the state could due to the social networks which they have built based social norms and social trust of the local communities.

CSOs have momentum to meet local community needs based on their long term engagement in such areas where they provide advocacy and other development related services. They have the capacity to provide long-term consistency services which are beyond the life cycle of a standard project. This is achievable because CSOs and communities are closely united by bonds of trust and networks of mutual assistance.

CDLA INVOLVEMENT IN LAND DEMARCATIONS AND REGISTRATION

By partnering with donor agencies, the CSOs benefit in a number of ways, including access to resources particularly funding, scaling up their operations and earning enhanced recognition. It is in this regard, that Chipata District Land Alliance (CDLA) with funding support from USAID embarked on a customary land demarcation programme in 138 villages randomly selected from four chiefdoms of Maguya, Mkanda, Mnukwa and Mshawa of Eastern Province. CDLA was integral in this process because of the trust that they have built over the years working with villages. This work has been done in different stages in order to strengthen community participation and get necessary feedback at each stage.

The Zambian case represents perhaps the largest systematic land documentation pilot ever undertaken by a grassroots local CSO. Prior to this activity, the CDLA was a four person team that primarily provided legal aid and advocacy around individual cases of land disputes. Taking on customary land documentation helped the CDLA move from a demand-based advocacy organization one delivering a proactive service focused product. The CDLA tripled in size by bringing four additional staff members who included two new Community Facilitators (CFs), one information technologist and one GIS focused staff to manage data in the Chipata office.

It was very crucial for CDLA in the initial stages of the customary land documentation process as it required building trust of the chiefs and local communities through existing relationships. Community participation was key in the whole process in ensuring that the CDLA use this local legitimacy to achieve impact of their work. Through this work the CDLA has built on existing relationships with each of the Chiefs in the district and were able to use this local legitimacy to achieve immediate impact of clarifying, mapping and certifying of customary lands. CDLA not only received funding support from USAID but also skills development through various workshops and training programmes at various stages of the customary land certification programme.

Since community participation is an integral part of the mapping technology, CDLA developed a participatory methodology which combines the use of open source technology in order to build knowledge and strengthen the capacity of Village Land Committees (VLCs) to support dispute resolution. The VLCs as a village-level land administration unit work closely with the chiefs through the village headmen in an attempt to document existing resource rights that have been negotiated by community members, village leaders and chiefs. This means that community members are being given an opportunity to give feedback to CDLA at every stage of the process during the mapping of their land rights. The CDLA process allows local institutions to have chance to verify claims and give input where corrections are justifiable.

In order to implement the TGCC project work, the CDLA adopted a two-phased approach. In phase one the CDLA engaged each of the 138 participating villages in Phase One over the course of at least two months, with meetings separated by at least two weeks. The number of meetings/visits to complete this process per village ranged from three to five (depending on village size).

The first village meetings were organised where the village-level mapping and documentation of governance rules on customary practices around land-use and land allocation in 138 villages within a period of ten months. In these meetings the villagers drew their land use village map with all the physical features including communal resources and neighbouring villages.

The first village meetings were followed by second village meetings where the jurisdictional boundaries were determined by the CFs who were trained in the use of mobile phones installed with an ODK collect form and GPS units for taking co-ordinate points.

DOCUMENTING COMMUNITY GOVERNANCE RULES AND COMMUNAL RESOURCES

The most important innovation in tenure governance initiatives is the elaboration of rules and regulations governing access to and use of the resources (Roe *et. al*, 2009). These rules are developed for application by the local institutions in governing land and natural resources. In discussions with various local authorities, it emerged that the rules and policies governing the allocation and use of customary land are informal and undocumented. However, CDLA trained staff supports authorities that have shown interest in developing rules and regulations. Despite documentation, rules remain informal, ad hoc and in many cases apparently deliberately ambiguous. Addressing key dimensions of power relations and culturally defined meanings is often more important than rules. Tenure security is achieved and secured not through law and administration, but through open-ended, ongoing processes of negotiation, adjudication and political manoeuvre.

It is worth noting that systematic land documentation has a distinct risk of resulting in land grabbing of community and shared resources. As a result, the CDLA focused substantial efforts on mapping community resources like, forest, wetlands and grazing areas, as well as documenting the rules associated with the management of each of these areas in about 138 villages. This documentation of customary governance rules will be further discussed among chiefdoms to develop a more common approach to customary land governance approaches.

The communities in each village documented the rules that will govern their land and communal resources during the first village meeting working closely with support from the eight CFs from CDLA. This was achieved through a participatory process in order to ensure community ownership of

the rules in order for them to be effectively implemented. This element might be lacking if a similar project was to be undertaken by the government or an international organisation with no contact with the rural communities. It should be noted that mapping of governance rules and communal resources is not just about producing maps for the villagers but should reflect the social relationship between people and land.

The government and international organisations often times use conventional approaches where local people do not participate fully in influencing decisions that affect their lives. The projects are based on what both feel the people need for their development and little effort is made to ask the people what they feel is needed. Such imposed projects makes local people lose confidence in their ability to deliberate on important decisions and this ushers in a dependency syndrome on them towards solving problems affecting customary lands.

CSOs have been very committed to learning and responding to specific contexts. It is harder for government to come into a community to learn from them and respond to their needs. The dialogue is important in this process in order to win confidence of the traditional leaders and local communities.

In light of these concerns raised, Government as well as traditional authorities in collaboration with CSOs should do much more to be responsive to affected people, and to give them a more meaningful voice in its decision making as far as land administration is concerned in Zambia.

The key rules/norms/values are determined to traditionally govern communal resources in rural areas. Although the rules are traditionally recognised and acknowledged to be important, their enforcement is only guaranteed through the formation of VLCs in each village. The VLCs comprise of a chairperson, secretary and other members and the village headman is allowed to attend VLC meetings as an ex-parte member. The composition of VLCs differ from one village to another depending on size of village. Some bigger villages comprise of eight to ten members whilst the smaller villages comprise of a maximum of six members. The VLCs help in documenting governance rules and communal resources. These rules can further be strengthened through the formulation of a pro-poor land policy that recognises the legitimacy of customary land governance structures.

CLARIFYING JURISDICTIONAL BOUNDARIES

The CDLA only began documenting household boundaries after an extensive process of clarifying existing village boundaries. Jurisdictional boundaries in Zambia are poorly mapped, and villages, though recognized by law, are only represented by a point on local maps. Recognizing that village boundary disputes were among the most contentious issues resulting in land conflict, the CDLA spent

months organizing village boundary walks with local communities and their neighbours, to ensure that the boundaries of villages were clear before households began demarcating land. This was a daunting task for CDLA because in some instances the neighbouring villages could not be present on the agreed day for the boundary walk, hence leading to unnecessary postponements. However, this did not deter the process as CDLA through their expertise were able to convince these villages to participate in the boundary walks.

The village boundaries were only determined in the presence of neighbouring villages adjacent to the village under consideration. The determination of village boundaries involved the collection of GPS co-ordinate points which were mapped through Quantum Geographical Information System (QGIS) and village maps were produced. The process of determining boundaries was possible due to a long term relationship that CDLA has built in the four chiefdoms. The time frame for this work was shortened due to the subsequent sensitisation meetings held with the local communities.

The village maps were important for third village meetings for verification of the boundaries by the villagers. The CDLA, through the Community Facilitators (CFs) facilitated these meetings and identified any changes that would be made to the maps before finally producing final village maps agreed upon by all the villagers and assented to by the headman.

In order to get people to do boundary walks, it requires their trust in intentions. People's understanding of government intentions on land (for better or worse) are often related to taxation, or acquisition for mines or other developments that could result in displacement. While some communities and households were distrustful of the CDLA and the motives of customary land documentation, neither government nor an external contractor could have built the trust of local communities without the long-term local experience of the CDLA. This shows that the use of CSOs could sooth this concern and reflect the idea that there is someone looking out for the community.

CDLA has been able to build their professional capacity by training a total number of 16 CFs and 24 CSs through the use of low cost, open source mobile technology on readily available GPS enabled tablets and mobile phones to map boundaries and record people's rights and claims to the land.

CDLA not only trained their staff but also engaged Chiefs M nukwa, Mshawa, Maguya and Chieftainess Mkanda and their senior advisors in Customary Land Tenure Strengthening Activity Updates and next steps to examine the initial boundary maps produced by their villages. Aerial village maps with all village boundaries and shared resources were produced and presented. The Chiefs reflected on natural and negotiated boundaries and the histories of village establishment within each

Chiefdom with much excitement since many of those traditional leaders had never seen a map of the communities they served. The Chiefs have welcomed the program and administrative support for land management.

The Chief's advisors were also introduced to methods and technologies that are intended to support customary land administration, such as Global Positioning Systems (GPS), Mobile Data Collection devices, mapping technologies and aerial photos. It was from such a meeting that the chief's advisors made their commitment to improve the chiefdom land use and management and help their neighbors understand the devices and methods that they were trained in.

Being recognized at both local and district levels, CDLA is able to engage stakeholders (Traditional leaders, government civil society and community) in long-term programmes through networking and partnerships. The formation of local structures such as VLCs, Study Circle groups and involvement of community surveyors at village and chiefdom levels, creates a platform for local people to continue engaging in activities beyond the life of a standard project. The use of village registers as a means of storing implementation data at village level will help keep track of their activities. Documentation of customary rights is just one portion of land administration which provides an opportunity to expand the evidence base on the role of secure customary rights in the adoption of sustainable land management. The project aims at equipping traditional leaders with abilities (tools) to continue the process of documenting and updating changes to land within their jurisdiction taking cognisance of the fact that land administration activities are not just about technical and administrative processes but also about social aspects related people and their rights to land.

The longer term challenge is working with communities and chiefs to see that the tools are used and to support the process in a low-cost but effective approach. Lack of accurate documentation and clarity over rights and responsibilities impacts on the management of communal resources impedes the ability to develop more sustainable land use plans.

ROLE OF TRADITIONAL AUTHORITIES IN CUSTOMARY LAND DEMARCATION RESOLVING CONFLICTS PRIOR TO HOUSEHOLD DEMARCATIONS

Community mapping initiatives can invariably contribute to conflict, especially when boundaries in the past have been contested, undeclared, overlapping, fuzzy and permeable. As a result boundary disputes within customary managed lands are reportedly becoming more common and land is frequently taken from one farmer and re-allocated to another, particularly when one household is not actively cultivating the land. Individual smallholders commonly have no documentation of their claims to right to land, resulting in complex land disputes over boundaries, defense of rights in the

event of divorce, death of a family member or arbitrary re-allocation of land by chiefs or headmen. It is expected that clarifying chiefdom and village boundaries through participatory process that involves neighbouring chiefdoms and villages could significantly reduce the risk of boundary conflict over time and lead to more sustainable land management practices within customarily managed lands.

Conflict resolution is important prior to carrying out field demarcations and registration of household parcels. The processes described above relating to establishing and vetting community boundaries and documenting customary resources were important to bring up latent conflicts between households, communities and chiefdoms. Importantly by doing these early at the village to village level, CDLA avoided bringing conflicts between individual households and neighboring villages. The CDLA created space for chiefs to communicate and for villages to attempt to resolve disputes. This might have been a different scenario if the Government was involved because they are always seen as deciders by the local communities and not mediators. The perception of the local communities is that even in the case where Government was to mediate the end result might be biased. The CSO position is really about creating dialogue and building trust among communities (even when there may be winners and losers).

The steps adopted by CDLA above were important to ensure that disputes/conflicts were resolved prior to field demarcation because a single dispute/conflict could hold up days of work for the whole community.

The major types of land disputes/conflicts identified were as follows:

- Succession and inheritance disputes;
- Boundary disputes between farmers;
- Allocations of land already claimed or used by others to new users;
- Boundary conflicts between headmen;
- Boundary conflicts between chiefs;
- Disputes between farmers and investors over conversions of land tenure and status; and

- Disputes between farmers regarding livestock grazing on crop/trees.

Due to the increasing number of these disputes/conflicts, both traditional leaders and village members are increasingly attuned to a need for some form of documentation to assist in arbitration. The whole essence of carrying out field demarcations is to help resolve or reduce the number of disputes/conflicts pertaining to customary land in this context. Most conflicts on land were resolved prior to field demarcations by the villagers themselves with CDLA playing the role of facilitator while the role of mediator was for the chief. There is limited fear that a CDLA with an existing relationship is going to come in and grab land, whereas that fear does exist for government or private international companies. Since CDLA as a CSO is also seen as an impartial facilitator, the trust they bring to the land certification process is crucial.

It is expected that clarifying chieftom village boundaries done through participatory process that involves neighbouring chieftoms and villages could significantly reduce the risk of boundary disputes/conflicts over time and lead to more sustainable land management practices.

FIELD DEMARCATIONS OF HOUSEHOLD PARCELS AND COMMUNAL RESOURCES

The second phase of the project brought about recruitment of 24 community surveyors from the four chieftoms where CDLA has been working. These community surveyors were trained in map reading, the use of tablets and glo garmins in order for them to carry out demarcations of household parcels and map out communal resources.

The field demarcations of household parcels and communal resources were preceded by drama performances in order to sensitise the local villages on its importance. Field demarcations is a process carried out by the community for the community. It aims at expanding the breadth of knowledge and experience within communities, in order to empower them and develop their capacity to deal with a variety of issues and problems as they develop workable solutions for themselves.

The field demarcations process allowed for families to demarcate land as “shared family land” in addition to “household land”. This process also made provision for registering multiple joint-landholders with equal rights as the primary landholder, which is particularly important in cases of shared family land.

GENDER SENSITIVITY

Secure property rights for women in the context of climate change and population growth, with greater pressure on scarce natural resources is inevitable. This is because women's livelihoods depend upon these resources.

There is an increasing body of literature that points to a closer link between secure rights to land for women and household food security. It is believed that when women have direct control over assets like land and the income from those assets, they are more likely than men to spend the income on the next generation.

However, the existing traditional institutions in rural areas do not necessarily explicitly address gender issues and as such women do not have direct access to both household and clan land. They tend to remain outside the associated decision-making processes.

Sikor and Lund (2009) view property and access to natural resources as intricately bound up in the exercise of power and authority. This power is mostly practiced in political economies of countries dominated by the men folk and Zambia is no exception to this. Women rights to land and property are systematically denied because laws give women fewer or less rights than men underpinned by discriminatory social attitudes and inheritance practices under customary tenure. Literature posits that Zambia settlement and resettlement areas in rural areas have both women and men rights to land, but applications and offers of land are almost always in the name of men (Machina 2002; GOZ GIDD 2005; Keller 2000). This suggests that women enjoy less tenure security than men as they only enjoy usufruct rights in their various capacities as wives, daughters or nieces.

The Lands Act is silent on gender issues. However, both a gender policy, passed in 2000, and a draft land policy from 2002 and 2006 tried to redress what was considered to be a gender imbalance in land access by stipulating that 30% of the land should be allocated to women. The ongoing consultation process on the land policy has been supplemented by the drafting of a new constitution which the President assented to this year on 5th January. These processes have meant in effect that no fully fledged land reform has taken place.

Since the enactment of the 1995 Lands Act, several programmes implemented by NGOs (national and international) and civil-society organisations have focused entirely on women's land rights. These programmes have met some challenges, despite registering some positive outcomes in rural areas. The mechanisms to enhance the accountability of land administrators on both customary and state land are lacking coupled with some technical and financial issues, it has been observed that changes with regard to land tenure are slow to be institutionalised. All these initiatives are taking place at a time

when the government through the Ministry of Lands, Natural Resources and Environmental Protection is holding consultative workshops with various stakeholders in order to strengthen the existing legal and institutional framework that are aimed at codifying customary law and enhance tenure security on customary land.

The CDLA in their work have managed to bridge the gap that exists in land ownership between men and women. Although women land rights are enshrined in the constitution of Zambia, customary practices have frequently been criticized for relegating women to the background in as far as participation in land matters at chiefdom/village level is concerned.

Participation of women in VLCs was encouraged in order to empower them in village level decision making processes. This was seen as an avenue towards helping women gain access to secure land rights. Effective land administration requires women's participation at both policy formulation and implementation level on an equal footing with men in order to ensure gender-equitable land tenure system. The CDLA in their work has created space for change and initiated dialogue in this area. Since it is dialogue based and not a forcing matter, women themselves have volunteered to serve as members of the VLCs and men who own land have decided to register their wives as joint landholders. Some men who own more than one parcel of land have decided to register their wives at least on one parcel. The CDLA process allows landholders to choose who should be their joint landholder because of diversity in cultural backgrounds and due to the openness of the process.

The work done so far reveals that a substantial number of women have been registered as land owners either as joint land holders with their husbands or as individual land owners.

TRANSPARENCY AND ACCESS TO INFORMATION

Transparency and accessibility to information are critical components of a well-functioning customary land administration. As in most countries in sub-Saharan Africa, land is a central means of production in Zambia, where agriculture remains a source of livelihood for most people in rural areas. Despite experiencing some economic growth in recent years, Zambia is still a country with challenging poverty levels, especially in rural areas (GRZ 2011: 9; DfID 2012). The Sixth National Development Plan lists limited access to land as one of the five constraints on economic growth and poverty reduction. Land administration and land management are seen as problematic due to unreliable land information management systems and the lack of decentralization and collaboration among different stakeholders (GRZ 2011: 7).

Transparency when in place can encourage civic engagement and stakeholders' accountability by rendering the public decision making arena more accessible. The ultimate result is increased confidence in existing traditional authorities. Many of the general governance principles related to transparency appear to be highly relevant to customary land administration.

Effective transparency mechanisms make information available to citizens in ways that the information can influence their political, social and cultural choices. They provide complete information about activities and options before key decisions are made, and in local languages, culturally appropriate formats, and in ways that are readily accessible and affordable. The CDLA envisions that participatory mapping of land rights could be an important safeguard, ensuring that the system of land mapping is transparent and also that the knowledge and information regarding landholdings is recorded and accessible to all. CDLA has translated most material into local Chewa language because the local communities understand this language better than English.

The CDLA structures extend up to village level as evidenced in the training of 24 community surveyors from the villages and further training of Chiefs and their Indunas. The CDLA has built mutual trust with traditional institutions which feel comfortable to work with the CSOs as opposed to the Government. They are generally not comfortable to work with the government for fear of losing their land. Government has often times imposed projects on local communities whilst CSOs have lobbied to work in these communities. However, in the long-run CSOs will be responsible for creating bridges with the traditional structures.

Due to the legal recognition of CSOs and their operations, they have won the trust of the community and traditional authorities through the use of participatory approaches from design to implementation of the project. The CDLA now envisages Chiefs and their indunas to replicate this work immediately after the pilot phase.

LESSONS LEARNT FROM THE SYSTEMATIC LAND REGISTRATION

CSO participation in projects has been shown to significantly improve project design, quality of service and public support, it also increases transparency and accountability in decision makers, while improving relationships between citizens and their public agencies. Overall, it leads to better outcomes, lower risks and increased developmental effectiveness (AfDB, 2012).

The use of “fit for purpose” mobile technology tools have enhanced full community participation in the exercise as 24 community surveyors were selected from the participating villages to carry out field

demarcations in the second phase. This denotes a paradigm shift from the approach of demarcating land parcels which is the preserve of certified land surveyors on statutory tenure.

Community mapping and land demarcation has enhanced good governance at village level through the established local structures. Women;s land rights have been strengthened, land conflicts have been proactively resolved, conservation and sustainable natural resource practices have been promoted.

The CDLA has worked towards the promotion of low cost participatory approaches to customary land demarcation through the use of open source data and software systems. These systems mean that once a community has successfully documented its land claims, the hope is that it may then work hand-in-hand with government agencies and civil society organisations to leverage its lands for local-driven development, prosperity and human flourishing.

These systems operate on both paper and electronic registers. CDLA has a well-established data management team that will work with the Chiefs and their indunas in preparing maps after re-demarcations and new demarcations. CDLA will provide a computer which will be connected to their server and a printer to each of the four Chiefs. This network will provide an ideal land information system that will enable the local communities participate and manage data flow. In addition all the 138 villages have been supplied with District Health Information System (DHIS2) enabled mobile phones. This software is linked to a website managed by CDLA which will enable villagers to record every VLC monthly meetings, request for mapping support, record any land disputes identified. This is one of the areas the local communities have been incentivised.

The local institutions should be able to engage in the longer term, as land administration will be led by local leaders who adopt and use the system. In this regard, capacity building should be promoted in systematic registration processes based on low cost participatory approaches supported by villagers trained in mapping and paralegal working in collaboration with CDLA who will be offering institutional support to all the 138 villages.

BENEFITS AND CHALLENGES OF IMPLEMENTING SYSTEMATIC REGISTRATION OF LAND BY CSOs

The systematic registration of land has brought about tangible benefits as well as facing some numerous challenges prior to its implementation. This CDLA approach faced a lot of challenges in both phase one and two. The project during its first phase faced challenges from some unwilling villages to carry out the process. The second phase ushered in field demarcations and registration of land claims in about 135 villages out of the anticipated 138. The reduction in the number of villages

was due to some unresolved chieftom to chieftom and village to village conflicts at the time the field demarcations were been carried out.

The process of demarcations brought along some resistance from some communities who were suspicious about the exercise and who had influence over others who were willing to have their fields demarcated. This meant that the community surveyors had to revisit some villages more than once in order to have the fields demarcated. The delay was based on the villagers' assumption that the field demarcations was a strategy to grab land from them. However, after observing that the project had nothing to do with "land grabbing" and the neighbouring villages had successfully completed the parcel demarcations and registration of land claims, they requested for this work to be replicated in their villages as well.

The CDLA openness about the customary land certification process right from inception and at every stage has fostered stronger ties with the traditional leaders and the local communities. The CDLA has delivered based on the timelines set which were well disseminated to the communities.

In some instances the communities remain fearful that registration of their land parcels might be the first step towards paying taxes to government, although this projects work was not designed for such purposes. The government on the other hand through their National Titling Program as per the draft land policy aims at collecting taxes by promoting customary land registration. Other community members have said that they appreciate the CDLA's support of village boundaries, but would prefer to continue to manage their fields through undocumented customary norms. This is because most of these parcels are non-contiguous and some community members have rejected the prospect of registering land under another village (e.g. if their parcel falls within the boundaries of a neighbouring village).

Apart from the identified challenges, the field demarcation exercise in 135 villages was successfully concluded within a period of five months. The field demarcation exercise culminated into the systematic registration of household parcels and communal resources. The communities have received substantial benefits through the protection of common property resources vested in the community. The rights of women and young people have been enhanced as joint landholder ownership was encouraged.

DIALOGUE AMONG CHIEFS, GOVERNMENT AND CSOs

USAID has been supporting local civil society organizations to increase the rigor of their processes and to introduce systematic registration approaches that could ultimately be consistent with the

national government spatial planning and land administration information. Such an approach does not advocate for a particular long-term land administration approach, but creates flexibility and improves opportunities for customary and state land administration to communicate with one another. USAID, CSOs and government have been weighing the important investment in local governance and strengthening of institutions alongside the process of demarcation to develop a low-cost approach to documentation and administration of village, communal and household land in Zambia.

CDLA engaged with government and CSOs from other parts of Zambia while carrying out field demarcations of over 8,000 parcels associated with customary land documentation processes in Chipata. During this period, two government staff from the Ministry of Lands, Natural Resources and Environmental Protection in the office of the Surveyor General visited CDLA in Chipata to learn about CDLA's field work which was going on in Mshawa Chiefdom at the time. The goal of this visit was to learn the process of customary documentation, tools and methodologies used, and see how the process could feed into the National Titling Programme which government intends to carry out countrywide.

There have been several forums for meetings that aims to bring together government, CSOs and traditional authorities to discuss land tenure related issues at district and provincial levels. Recently Government, traditional authorities and CSOs have been meeting to discuss and give input to the draft land policy as well as the situations arising from emerging issues, such as climate change impacts on land and the impacts on local land rights arising from the international rush for African land for agriculture, wildlife conservation and agricultural fuels in which Zambian land has not been spared.

TRACKING HOW THE SYSTEMATIC REGISTRATION WORK HAS INFORMED GOVERNMENT PROCESSES

The early success of the CDLA engagement with customary land documentation has raised the interest of government. While some of the government goals associated with the titling program contradict the goals of the CDLA, which seeks to secure customary land without conversion to title, the increased interest of government and other CSOs across Zambia, indicates momentum toward clarifying and documenting the land rights in Zambia. Over the coming two years, the CDLA will work with chiefs and their advisors to improve long-term administration of these land certificates, and will support greater communication between government and chiefdoms on land-use planning.

Through implementation of CDLA's work, it was noted that traditional authorities allocate land, but there is no communication with the state system. As land becomes more constrained and villages lack land for expansions, conflicts increase. It is believed that documentation of land allocations will lead

to improved land use planning at the village and chiefdom levels and can contribute to longer-term land administration in the chiefdoms.

This resonates with the government of Zambia's agenda which through MLNREP has been consulting with various actors and stakeholders to come up with a comprehensive land policy that enhances the contribution of land administration towards achievement of the national development objectives of poverty reduction, strengthening good governance, and the rule of law and accountability in land administration and society at large. There is a clear need to increase transparency of these decision making processes on customary lands to reduce conflicts.

CONCLUSION

The paper has recognized the important role that CSOs play in systematic land registrations processes because of their long term involvement with traditional authorities and local communities. CSOs have been involved in customary land certification programmes at a smaller scale due to the rapporteur they have created with the traditional authorities and local communities. The CDLA land certification project is the largest to be undertaken by a single CSO in Zambia. This has been achieved due to the long term plan CDLA has in working with the local communities and through dialogue have built a strong relationship with the traditional leaders and local communities. Not only has CDLA dialogued but they have built capacity by imparting skills training to the traditional leaders and the communities by training them in participatory land use planning methodologies and the use of low cost GPS-enabled mobile phones and tablets for mapping customary lands.

Although the paper has outlined that systematic land registrations have been mainly carried out by CSOs in Zambia, synergy with the Government and traditional leaders can yield far more tangible results. This is evidenced in the Government's recognition of constructive engagement and collaboration with CSOs, which is an important ingredient to achieving better land governance and improved land administration.

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