

Evaluation of Pro-poor Land administration from an End-user Perspective: a Case-study from Peri-urban Lusaka (Zambia)

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Key words: land administration, pro-poor, peri-urban, tenure security, informal tenure, legalization

SUMMARY

Peri-urban areas in Africa are usually dynamic with respect to land tenure. Statutory, informal and customary tenure systems often co-exist and interfere with each other. This disclosure of legal pluralism often leads to lower levels of tenure security, especially for people with low incomes. Pro-poor land administration tools have been designed to cater for the poor. The question arises whether these tools have the desired impact. This question is answered by confronting the existing tenure regimes with the pro-poor land administration tools.

A case-study has been carried out in Chazanga, a neighborhood in Lusaka, the capital city of Zambia. A qualitative approach has been applied to evaluate the ways in which people access land and how they perceive security of tenure with reference to land administration. Their perceptions are confronted with the legal and institutional framework.

In terms of tenure, Chazanga turned out to be highly dynamic. The area is contested to be public land under control of Lusaka City Council (LCC) and customary land under the Traditional Authority. Most lands are accessed through a variety of informal and customary ways. Besides that, some lands are registered under the Lands Act. LCC has started a legalization exercise, applying the Housing (Statutory and Improvement Areas) Act (HSIA) of 1975. Plots will be surveyed and occupancy licenses issued upon payment of a monthly ground rent. People who are aware about the legalization in general did favor the exercise, although some people feared that LCC will grab the land from them.

Regularization will clarify the legal situation concerning land in Chazanga and increase the perceived levels of tenure security. However, the inhabitants will experience less freedom towards their land. Additionally, the legal security as provided through the occupancy license is rather weak. Furthermore, it will be argued that the HSIA is not specifically pro-poor. On the other hand, it offers a framework for the implementation of a simple land administration system to regularize unplanned settlements in Zambia.

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1. INTRODUCTION

This paper discusses the findings of a case-study carried out as part of a research project on pro-poor land administration in peri-urban areas in Sub-Saharan Africa. Changes in land use and population density are obvious characteristics of peri-urban areas. One less visible, but important, characteristic is their dynamics with respect to land tenure. Tenure systems might have different origins, like customary systems inherited from the past and statutory systems gradually expanding from the town center. In addition, informal tenure is emerging in peri-urban areas, as people do not manage to access land through formal ways. From a legal perspective, this is referred to as legal pluralism: it can be defined, with respect to land law, as the simultaneous existence of multiple normative constructions of property rights in a social organization (Dekker, 2005).

The existence of multiple tenure systems contributes in general to lower levels of tenure security (Fitzpatrick, 2005). Tenure security is defined as the degree of confidence held by people that they will not be arbitrarily deprived of the land rights enjoyed and/or of the economic benefits deriving from them. Tenure security cannot be determined easily; it contains both objective and subjective elements, or legal (de jure) and factual dimensions (Kanji et al, 2005). This paper distinguishes between legal and perceived tenure security. The existence of multiple tenure systems results in diverging land claims, with varying levels of legal validity. A continuum of land rights will be used to relate the existing land rights to tenure security (Payne, 2001).

This paper focuses on poor people, as they resort to informal tenure as access to formal land is often limited for various reasons. This results in squatting and the emergence of informal settlements. Generally speaking, people with low incomes suffer from tenure insecurity; they may get evicted or are not able to reap the benefits from their investments. Land administration is a possible tool to formalize their property rights, leading to higher levels of tenure security. In turn, improved tenure security should lead to more investment and contribute to the improvement of their livelihoods. However, there are only a few examples where land administration has delivered its benefits to the poor. Wealthy people, often better informed, have in general easier access to land and more opportunities to bring land under formal tenure and consequently enjoy the economic benefits from it (Fourie, 2002). Secondly, history has learned that massive land registration projects did not have the intended results and that in most cases the poor did not benefit at all (Payne et al, 2007). Therefore, pro-poor land administration has been suggested, specifically aimed at improving tenure security for the poor. The main question is whether these pro-poor tools will provide for improved tenure security.

The conceptual model where the relations between urbanization, land tenure, land administration and tenure security are visualized, is given in figure 1. The ellipse visualizes the focus of this paper.

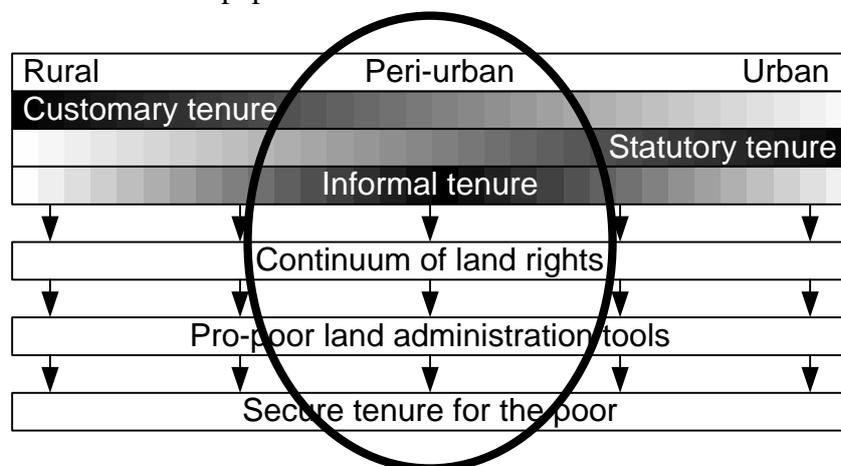


Figure 1 Conceptual model

This paper will first describe the research methodology applied. It continues to describe the field study area (Chazanga, a neighborhood within Lusaka, capital city of Zambia) and the results of the fieldwork, after which the legal and institutional framework is described. The reality on the ground will be described through the multiple tenure regimes in Chazanga and the land tenure related activities of Lusaka City Council (LCC). The framework will be confronted with the reality on the ground and conclusions drawn from that.

2. RESEARCH METHODOLOGY

The research is carried out along the lines of case study methodology as described by Yin (1994) and Hutjes and Van Buren (1992). The case study consists of two parts:

- Perceptions and experiences on land administration of inhabitants and local leaders;
- Legal and institutional framework.

The questions which have to be answered are:

- what kind of pro-poor land administration tools are implemented?
- how do people access land in Chazanga?
- how do they perceive their tenure security?
- what are the results and effects of pro-poor land administration?

Data was collected through the following methods: literature review, interviewing experts and stakeholders at national and local level, and interviewing local inhabitants. All interviews were held in August/September 2009. This case study focuses on the perceptions of inhabitants. They have been captured through semi-structured interviews. An interpreter was involved as most interviews were held in local languages (Nyanja, Bemba).

3. LEGAL AND INSTITUTIONAL FRAMEWORK

In this section, only those parts of the legal and institutional framework which are relevant for Chazanga are discussed. The main tenure regimes in Zambia are defined under the Land Act of 1995:

- Customary Areas under customary tenure, covering 94% of Zambia's surface;
- State Land under statutory tenure, covering 6% of the country.

Informal settlements are not recognized in the Land Act. Section 3.3 will discuss the Housing (Statutory and Improvement Areas) Act, which deals with these settlements.

3.1 State land

Although the smallest in coverage, most people and most economic activities (urban areas, commercial farms) are located on State Land. Land interests on State land have to be registered under the Lands and Deeds Registry Act (Cap 185). Zambia employs a system of deeds registration that has been influenced by South African cadastral surveying practices.

The Lands and Deeds Registry Act applies for land allocation, transfers and subdivisions on State land and the conversion of customary land into leasehold. On land allocation, the Commissioner of Lands can issue Certificates of Titles, which normally cover leases of 99 years. In such a case, an approved Survey Diagram has to be produced beforehand (Mulolwa, 2002).

The Land Act ended the legal fiction from the past that land has no value and restored a land market. The land market is however still restricted, as the Act does not allow freehold tenure and continues the existing leasehold tenure system. The third draft Land policy also states that in spite of restrictions on the land market, land sales are common in most parts of urban Zambia (Republic of Zambia, 2006).

3.2 Customary tenure

There are 73 tribes living in the Customary Areas under a hierarchy of around 250 chiefs, senior and paramount chiefs (Chileshe, 2005). Chiefs and headmen have an important role to play in land matters (Mvunga, 1982). They are not the owners of the land, they merely exercise interest of control and regulation of the acquisition and use of land while their subjects have beneficial interests in land (Mudenda, 2007). Clearing of virgin bush is the main channel for original land acquisition (Mvunga, 1982). Mvunga (1982) explains that sale of bare land is not possible under customary tenure: "Economic pressures due to scarcity of land will no doubt be forthcoming, but as of now the impact of such pressure has not resulted in recognition of bare land as being a saleable commodity." However, the concept of sale of land under Zambian customary law has not been satisfactorily resolved (UN Habitat, 2005).

There is a formal way of conversion of customary land into statutory tenure: the Land Act facilitates conversion of customary land into leasehold. This is a voluntary procedure and can be applied by any occupant of customary land (Mulimbwa, 1997). The Act requires the

President's consent, he may not alienate customary land without first considering local customary law; therefore permission must be obtained through consultations with the appropriate chiefs and the local authority, and persons whose interests could be affected must also be consulted. According to UN Habitat (2005), chiefs can, however, issue a letter of consent, without prior demarcation and without a thorough check. As the leasehold has to comply with the Lands and Deeds Registry Act, the land has to be demarcated and surveyed according to the prescribed standards. When all steps are taken, the Commissioner of Lands will issue a 99 year lease.

3.3 Housing (Statutory and Improvement Areas) Act (HSIA)

The inheritance from the colonial history combined with the costly and cumbersome procedures concerning land acquisition on state land resulted in the development of informal settlements around urban centers. As a response to these housing problems, the HSIA was enacted in 1975. It provides a system for legalizing and upgrading informal settlements through:

- Planning and development of Statutory Housing Areas;
- Provision of services and regularization of land tenure in existing informal settlements through Improvement Areas.

The Minister may declare any area held by a council as a Statutory Housing Area or Improvement Area, under the condition that the land is held under the Council and that a plan has been approved. As Chazanga will be declared an Improvement Area, Statutory Housing Areas will not be discussed in this paper.

Improvement Areas are declared in order to formalize informal settlements and to facilitate the process of upgrading, so that roads, water and other infrastructure can be incorporated in the planning for the area. In order to create space for the construction of the proposed roads, some residents may have to be relocated to so-called overspill areas. Residents are issued with 30-year occupancy licenses (UN Habitat, 2005). An occupancy license can only be issued, when there is a building on the plot. The license describes the property as "the land under and immediate adjoining House or Shop Number ... in Improvement Area ..." (Nordin, 1998). The plots are not demarcated, the license does not indicate the dimensions of the plot. Although UN Habitat (2005) mentions the possibility of replacement of the occupancy license by a council certificate of title, this is denied by officials from LCC.

The most important legal consequences of the declaration of an Improvement Area are:

- It is forbidden to occupy land within the Area without a license;
- Not more than one occupancy license shall be issued to any person;
- No dealing with land without the Council's consent (subletting and transfers require approval).

Matibini (2002) claims that the occupancy license does not confer tenancy to the occupant. He adds the following weaknesses:

- the local authority may revoke an occupancy license with three months notice when the

licensee failed to comply with any of the conditions;

- the license is not accepted as collateral through the main housing financier in Zambia;
- the local authority has the right to enter the land and install or erect any works thereon, if it is in the general interest of the area or its occupants.

He therefore concludes that, although well intended, the license does not provide security of tenure.

Although many settlements have been declared Improvement Area over the years, it turned out that few people took the effort to collect their occupancy license. Nordin (2004) describes the experiences in Chaisa, an informal settlement where ownership had to be formalized and the transfer of occupancy licenses to the community to be increased. Before the start of the project, it was estimated that 10% of the inhabitants had collected their licenses, at the end of the project this number was increased to 40%, a positive result which is also reported in the Habitat Good practices database². The same database also reports on the increase in the number of residents willingly paying ground rent to the Council after being assured of being granted an occupancy license by the Council. Even though there has been an increase of applicants for occupancy licenses, the increase has not been as high as expected (Nabanda et al, 2001).

On the adjudication procedure, Nordin (2004) described the house to house visits and subsequently the registration for the license. The house to house visits were carried out by two LCC-officials and one representative from WDC. She also described the verification and dispute resolution stage, but added that this was not implemented because the process was not in line with the legislation.

Within the same project, Nabanda et al (2001) carried out an assessment on the occupancy licenses in Chaisa. They concluded that security of tenure was optimized through the possession of occupancy papers. It provided security against any possible conflict over ownership both from local authorities and/or community members and relatives. In addition, the possibility of using the license as collateral (as opposed to Matibini) was mentioned and the fact that communities with people having occupancy licenses are developed in a more orderly way.

4. CHAZANGA: PERCEPTIONS ON TENURE SECURITY

Before perceptions on tenure security will be discussed, first a short description of Chazanga is given. This unplanned settlement is located at the northern part of Lusaka, at the eastern side of the Great North Road. It used to be farmland and urbanized during the last 40 years (Van den Berg, 1984). It is now a residential area, where building density increases towards the south (towards Lusaka centre) and Great North Road. The population of Chazanga is estimated at 50,000 (more than 10,000 households), more than half is estimated to be tenants. Most buildings are permanent brick structures, very few are mud houses. Chazanga is chosen as a case-study because it is contested to be public land by LCC, or customary land under the

² <http://www.bestpractices.org/database/> (accessed July 10th, 2009)

Traditional Authority of Chieftainess Mungule in the area of Chibombo District. There are three headmen located in the area. Secondly, the area is under the process of regularization by LCC, which introduces a simplified system of land administration (Matibini, 2002).

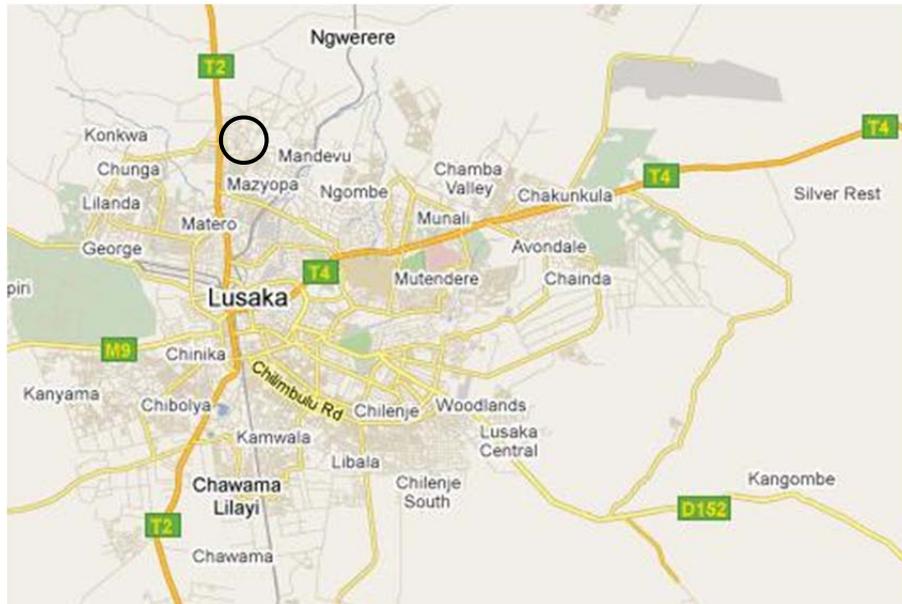


Figure 2 Location of Chazanga, indicated with the circle (source © Google Maps)

Politically, Chazanga is represented through a Member of Parliament (representing Mandevu constituency) at national level and an area councilor at the local level (representing Chazanga Ward, an area within Mandevu constituency). The councilor is elected within the ward and is constitutionally the legal officer. He or she is a member of the Council Meeting of LCC and takes responsibility for the overall development of the ward. Resident Development Committees (nowadays called Ward Development Committees) evolved as a tool for local level organization and as way of channeling community needs to the local authority level (UN Habitat, 2005). LCC has recruited volunteers in the area to form a Ward Development Committee (WDC). Chazanga is subdivided into 30 zones³, each of them consisting of more than 150 households. A zone leader represents the zone and chairs the Zone Development Committee (ZDC). All zone leaders form the WDC, which is administered by the area councilor. Officially, there is no role for the area councilor concerning land transfers. It is the WDC and ZDC who oversee the development in the ward and look into problems concerning water, sanitation, tenure security and land issues. The land issues relate to boundary conflicts, inheritance issues and abandoned land encroached by others. According to the area councilor, land is still transferred through individuals (from the traditional leader or others, buying or subdividing). People are subdividing and selling land to supplement their income: the ones who got farmland under customary norms decades back can now sell portions of ‘their’ land as residential plots at market price.

³ The 30 zones cover a larger area than the regularization area, when having the interviews it was not known whether the respondent was staying within or outside the regularization area.

In a letter dated December 6th, 2006, from the Director of City Planning to the Area Councilor, LCC informed about the details of the regularization of Chazanga. The area would first be surveyed, preparation of a layout and numbering of the structures, all done by the Department of City Planning. The Department of Housing and Social Services would then register all households, after which the Legal Department would issue an Occupancy Certificate. All residents were advised to pay a survey fee of K 220,000 (46 U\$). This amount is significant, when considering the average monthly income per household of the extremely poor: K 323,087 (Republic of Zambia, 2005). After regularization, occupants are obliged to pay a ground rent of K 8,000 (1.6 U\$) monthly. According to a LCC-official, the northern part of Chazanga will be regularized at a later stage.

4.1 The respondents

Access to and selection of respondents was mainly provided through members of the WDC, as we were accompanied by them when walking through the settlement. In total, 28 respondents were interviewed; 5 of them were zone-leaders, resident in the zone they represent. As the availability of ‘ideal’ respondents was limited, some spouses and renters were interviewed as well. Secondly, not all people in Chazanga can be regarded as poor, the same accounts for the respondents. Some could be classified as non-poor (having a formal job or having a well-developed house). On the other end of the spectrum, there was a family living in a mud house and a family renting an unfinished house.

The year of settlement on their current plot of the people interviewed varied from 1953 to 2009 (see table 1). The area used to be vacant land (bush) with a few smallholder farms, where the number of farmers increased over the years. Most farmers subdivided their land and sold plots for residential development. Table 2 shows the previous place of residence of the respondents. The majority originated from Lusaka (including Chazanga itself). They did choose Chazanga as they consider the settlement as quiet and peaceful, it is not crowded and the plots are big, compared to other compounds in Lusaka.

Year of settlement	No
2000-2009	14
1990-1999	10
1980-1989	
1970-1979	2
1960-1969	1
1950-1959	1
Total	28

Former place of residence	No
From Chazanga	3
From Lusaka	18
From outside	6
Unknown	1
Total	28

Table 1 Year of settlement

Table 2 Former place of residence

4.2 Final authority over land

The controversy over the final authority over land was reflected through the respondents. Final authority over the land was considered to be in the hands of the traditional authority (headman or chief), the WDC (WDC chairperson or zone-leader) or LCC, others responded

with a combination or didn't know. As one respondent (4) said: "I am not too sure about the council, some say LCC, some say Chibombo. There is even a wrangle between the Members of Parliament of Mandevu and Chibombo constituencies fighting over Chazanga." When asked whether the situation concerning the final authority had changed over time, some responded that it didn't change at all, some said that it did move from the traditional authority to LCC. Even one zone leader (respondent 17), was in doubt: "The land is under chief Mungule..... Government, LCC has the final authority, especially when it is legalized."

Most respondents were aware of the legalization exercise:

- Respondent 4: "At the local office of LCC in Chazanga, there is a ground rent pay sign at the window. Some people made payments early this year; K 220,000 in total or K 10,000 per month, however, the officers never came back."
- For one respondent (20), the planned legalization was specifically attractive for settlement: "In Chazanga, most of them were farm plots, so I just wanted to buy in Chazanga, because LCC has not yet legalized this place."

4.3 Perceptions of tenure security

Perceptions of tenure security were discussed and considered at different points during the interview: when talking about land access and tenure security about using the land, when discussing eventual fear of eviction and how land issues were discussed within the community and family. In some cases, responses did not seem consistent throughout the interview. Apparently, similar questions did trigger some people to consider other perceptions.

4.3.1 Access to land

The following ways of access have been mentioned:

- land delivered by the District Commissioner (during colonial times);
- given by a relative (with or without informing the headman and/or WDC);
- through consulting the headman or chief;
- buying (a subdivided plot), with consulting the chairman, zone leader of WDC or area councilor;
- buying (a subdivided plot), without consulting anyone.

Additionally, some people have upgraded their land claim to a title deed; through the conversion of customary land to title deed (see section 3.2). Respondent 2: "I registered at the Ministry of Lands and got a title deed in 1990. It was traditional land. I got permission from chief Mungule in 1990." Respondent 15 didn't manage: "I wanted to get papers from the Ministry of Lands, I was send back to go to Chibombo, from 1992, the title deeds haven't been issued, I gave up to go to Chibombo District, because I heard that Chazanga is going to be legalized by LCC."

In most dealings, a sales agreement was written and signed. When the sale was done with

consultation of WDC, the WDC-official acted as witness of the sale. When the headman was consulted, he registered the changes in his land register.

In most cases, people did not pay any fee for staying on the land. A few paid land rent for the title deed to the Ministry of Lands (MoL). One respondent paid monthly ground rent to the headman, which seems to be unusual. Some were aware that they should pay ground rent to the Council within the near future, nobody actually did.

From	To	No
Rent	Ownership	12
Staying with family	Ownership	5
Unknown	Ownership	4
Ownership	Ownership	3
Customary	Ownership	1
Unknown	Rent	1
Family	Rent	1
Rent	Rent	1
Total		28

Table 3 Tenure changes of respondents

Table 3 shows the changes of tenure as realized by the respondents. The majority managed to upgrade their tenure status to ownership, although ownership has to be taken with care, as the legal status of this ownership is not clear yet (see section 3.2).

4.3.2 Perceptions of tenure security

Most people felt secure and comfortable owning the land. They referred to the time they have occupied the land and on the sale agreements or title deed they have. The fact that transactions were witnessed by either WDC-members or representatives of the traditional authority, contributed to their feelings of security. Some typical answers relating to tenure security, categorized by the way of land access were as follows:

Transactions witnessed by WDC:

- Respondent 9: “We are not secure, there are a lot of rumors that politicians will grab the land from the tenants in Chazanga because we don’t have proper papers from the council.....What we are looking forward to is that this land in Chazanga is registered with the council and given proper title deeds to show the land is fully ours and that we should start paying for land rates.”
- Respondent 24: “I have never been worried before, because I have the rightful papers. Sometime back, people came, claiming to be from LCC, telling me to sell part of my land, because it was quite big. I took them to the police. I was told that they just wanted to steal the land.”

Transactions witnessed by the traditional authority:

- Respondent 11: “We consulted the headman, he registered names in the book that we saw. ..He wrote the measurements of the plot (50x40 meters)...I feel comfortable and secure,

because I followed the right procedures buying this land, and I have all the documents proving that the land is mine.”

- Respondent 16: “I consulted the chief when getting the land...I don’t have any paper, I only signed in the book, I wasn’t given any papers...I am not comfortable and secure, because I don’t have any papers. I fear being evicted when the council comes.”

Transactions not witnessed:

- Respondent 10: “We did not consult anyone. We just signed papers between the owner of this land and us...The paper is important to us, somebody might come in future trying to grab the land from us, it will be proof to us that we bought this land, that we are the rightful owners...We feel very secure owning this land, because we got papers.”

In general, the sale agreement is perceived to be important relating to perceptions of tenure security. The following advantages of such a paper have been mentioned: nobody can grab the land, it is proof in case of selling, it is proof against reclaim, to pass the land on to children in case of inheritance, proof of ownership and to get title deeds in the future.

4.3.3 Probability of eviction

The respondents either didn’t know about any eviction in Chazanga or mentioned evictions in solitary occasions, like cases of illegal or double sales, inheritance, or defaulting payment of rent. According to these stories, the evictions were ordered through the chairman of the WDC, a court or LCC. There were no reports of massive evictions or relocations. As already indicated in the previous section, fear of eviction by LCC has been articulated by some respondents:

- Respondent 10: “I have been worried when there were rumors that Chazanga was going to be legalized by the City Council, because I don’t have title deeds. There were some rumors that they want to upgrade this road here, so that it should connect to Kasangana road... They told me that it may come into the yard or they may be breaking the house.”
- Respondent 19: “I am worried, if I am evicted where can I go? That fear is there, as of now, I don’t have the proper document. That fear is still there. It is the government you hear from people their land has been taken by government to be sold to somebody. They have been evicted, their houses demolished. That, to me, it gives me fear.”
- Respondent 23: “I am worried that we don’t have legal papers from LCC. I think I am on the safe side, because I think I bought from the rightful owners of the plot. This land is not for the LCC, it is Chibombo District.”

The majority of the respondents did not fear eviction. The ones who feared, it was largely based on the regularization exercise. It is not the weak title they fear, but that they will be evicted to create space for infrastructure. Despite that, they welcomed land administration, as they believe they will receive a stronger title providing more security. Regularization is therefore both welcomed and feared at the same time.

4.3.4 Discussions

Respondents were asked if they discussed land issues within the community and/or the family. Community meetings have been reported, but the reported frequency varied. Items discussed during community meetings were: water, roads, how to acquire land as it is expensive, how to secure land, how to get a title deed, inheritance.

Respondent 16: “Most of the land in Chazanga that used to given out by the chief freely has finished. The only land available is the one that has been given some time back and are dividing and selling it out. There is no land for free, just for sale. If you don’t have money, you can’t get land. Land has become expensive, it is like 5 million Kwacha⁴ and upwards.”

The people discussing land issues within the family also touched upon the ways of accessing land. In addition, some also discussed the individual plot situation:

- Respondent 10: “How the land has been subdivided to us from the one we bought from. So we should know how the land is demarcated, in case somebody wanted to come into our plot.”
- Respondent 26: “Within the family, we discuss the issue of the land that we own, so that we know the demarcation of the land and that we are the rightful owner and no one should grab the land from us. My late husband had two ex-wives, he had other children from the same wives, I told my children that those other children should not come and grab the land from them. Because when the husband bought the plot he was with me.”

The fact that people discuss their plot boundaries within the family show that they have a strong sense of ownership and are vigilant towards any encroachment into their plot.

5. EVALUATION OF TENURE SECURITY IN CHAZANGA

As discussed in section 4.3.1., there are different ways of access to land in Chazanga:

- pre-independence: delivery through the colonial authority;
- extra-customary: sale or gift overseen by traditional authority;
- extra-statutory: sale or gift overseen by WDC-members;
- extra-legal: sale or gift not overseen by anyone.

In addition, people may have converted the land into a statutory lease. These five categories constitute the continuum of land rights in Chazanga.

The level of legal security for each category is difficult to assess. First of all, the land is both claimed by LCC and the traditional authority. If the land is under LCC, then the people in Chazanga are merely unlawful occupiers, they never went into a legal agreement with the council. Even the transfers which are overseen by WDC-members, being volunteers from LCC, do not have a legal backing. In case the land is held under customary tenure, legal security can only be considered higher in those cases where traditional authorities were

⁴ Around 1040 US\$.

involved in allocations and transfers. The situation is only clear for the statutory leaseholders, they enjoy the highest level of legal security.

Generally speaking, people perceive sufficient security of tenure in Chazanga, because they are in the possession of a sale agreement witnessed by the WDC or accessed land through the traditional authority. Fears are articulated towards the planned regularization of Chazanga: people fear to be relocated to create space for infrastructure. In some individual cases, people perceive lower levels of security because of lack of any proof of ownership. People who converted the land into a statutory lease feel most secure.

Although the regularization has not been implemented yet, the effects on tenure security can be predicted. The effects on legal security are once again difficult to access, as the starting point is blurred. Most important, regularization will clarify the tenure situation in Chazanga and it will recognize the occupants. The adjudication process does not seem to distinguish between the various rights along the continuum, only the statutory leases have to be taken out of the Improvement Area. Most probably the representative of the WDC has an important say during the adjudication. He or she will have local knowledge, having witnessed land transfers within the area. Although legal security will increase, legal security for occupancy licenses remains rather weak as pointed out by Matibini (2002).

Based on the reports on Chaisa and the responses given during fieldwork, perceptions of tenure security are expected to increase because of the issuance of occupancy certificates. People do welcome the regularization exercise and during the interviews there were no complaints raised towards paying ground rent.

The HSIA is not specifically pro-poor. It is only implemented in areas where people with lower incomes tend to have settled. During recent years, the high prices for land on the informal market might have restricted the poor to settle in Chazanga. Additionally, the survey fee and to a lesser extent the ground rent, might be a financial burden for people with no or little income. As the case of Chaisa showed, this may result in non-collection of licenses and arrears in paying ground rent. This is a risk for both LCC and the residents.

Furthermore, although people did not consider it during the interviews, they might experience loss of freedom related to land transfers. Before regularization they could deal with land freely, when having an occupancy license they have to acquire consent from LCC in all land dealings. Secondly, their perceived right to a dimensioned plot will be exchanged with a right to an undefined area. Finally, few individuals might lose their claim as they have occupancy licenses in other compounds.

6. CONCLUSIONS

After regularization through the HSIA, the current continuum of land rights will be replaced by two land rights rooted within statutory tenure:

1. Occupancy license for 30 years, for the majority;
2. Leasehold for 99 years.

Although the regularization is welcomed, it also brings fear of relocation in order to create space for infrastructure. Secondly, although the legal situation will improve, the inhabitants might experience loss of freedom towards their land. Thirdly, the level of legal security of an occupancy license is considered to be low and there are no options for an occupant to improve. The ones who converted their land claim before the regularization into a statutory lease enjoy uncontested high levels of perceived and legal security. The challenge for LCC will be to recognize these areas at an early stage as they have to be taken out of the Improvement Area.

The HSIA is in principle an adequate tool to regularize unplanned settlements. It provides for a framework to set up a simple land administration system and delivering occupancy rights towards the inhabitants. As explained in this paper, it is not specifically pro-poor and is both risky for the council and the inhabitants with low incomes. Currently, the legal framework concerning land and planning is under review in Zambia and a Urban and Regional Planning Bill is being discussed. It is hoped that the good experiences of HSIA are built upon and improved with the recommendations given.

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