The case for Private Conveyancing: Innovative Approaches for Land Tenure Documentation — Lessons from Zambia

21 June, 19.30-21.00
STUDY BACKGROUND

• The aim of the study was to understand the application of innovative data collection methods for tenure documentation
• Workshop with 27 Participants from local, National and NGOs within the Zambian land sector
• Case Studies presented by stakeholders at Workshop
• Visiting 2 Project sites – Chief Chamuka Chiefdom and Kanyama
• Study funded under the Network of Excellence on Land Governance Africa (NELGA)
• Coordinated by NUST and Habitat for Humanity Zambia
SYSTEMATIC LAND TITLING PROCESS

National Land Titling Project
- Title 5 mill. plots from 2017-2021
- Manual developed for upscaling
- 2 pilot projects to test the manual
- Slow progress
SYSTEMATIC LAND TITLING PROCESS

- High standards
  - Boundaries surveyed by licensed surveyor
  - Layout plans and survey diagrams
  - Cadastral standard applied
  - Complex regulatory framework

- Systematic registration is complicated by
  - Secretary-General, Commissioner of Lands and Chief Registrar must approve data
  - Min. 20% payment upfront
  - Reluctant residents

- Ambitious goals
  - Fails to achieve the set goals
  - Too high standards
  - High cost
  - Reconsider standards
  - Make registration mandatory
OCCUPANCY LICENSES IN KANYAMA WARD 10

Largely sited on state land with leasehold tenure
- Encroachment by informal settlers
- STDM used to record rights
- Systematic data collection
- Enumeration and mapping by community members
- Occupancy licenses issued by local authority

Adopted from Enemark, McLaren & Lemmen (2016)
OCCUPANCY LICENSES IN KANYAMA WARD 10

- All departments at local authority can access the data
- Data integrated into deeds registry
- Used for collection of ground rates
- Approach is enshrined in legal framework
- Rights are recognised at national and regional level
- Challenges to obtain financing for upscaling
CUSTOMARY LAND TENURE CERTIFICATION IN SANDWE CHIEFDOM

USAID Project

- Five chiefdoms
- Existing imagery used for data acquisition
- No physical markers collected
- Initial registration can take place without identification documents
CUSTOMARY LAND TENURE CERTIFICATION IN SANDWE CHIEFDOM

- Chief and village head person is the authority for land administration
  - Need for training of community members to maintain data
  - Recordation incomplete
  - Willingness by financial institutions to give loans based upon the rights
PARCEL CERTIFICATION AS A MEANS FOR LAND RECORDATION

- By private organisation - Medeem
  - Operating in rural and urban areas
  - Identification of parcels
  - Socio-economic data collected
  - Testimony on how land was acquired
  - Sporadic and systematic registration
  - Transfers/sub-divisions updated
PARCEL CERTIFICATION AS A MEANS FOR LAND RECORDATION

• Medeem keep data for chiefdoms until they are ready to manage it themselves
  • Data management set up for the Chiefdom’s needs
• Councils keep and manage data for urban areas
  • Council digitises spatial data
  • Council issues occupancy licenses
• Resistance from community members and headpersons
• Political interference and lack of commitment by local authorities
LAND RECORDATION AND CERTIFICATION OF CUSTOMARY LAND IN CHAMUKA CHIEFDOM

- Medeem project in 2017 to formalise land rights:
  - Certificates are recognised by the Ministry of Lands and Natural Resources and financial institutions
- STDM project with UN-Habitat/GLTN
- Informal land registration
  - Community participation
  - Boundaries surveyed and adjudicated
  - Map is kept by headmen and in Chiefs’ palace to ease management
- Certificate of customary land occupancy
LAND RECORDEATION AND CERTIFICATION OF CUSTOMARY LAND IN CHAMUKA CHIEFDOM

- Banks require title deed to give loans
- Paradigm change
  - Empowerment of women
  - Women are allocated land rights in their own name
  - Communities see value in their land
- There is a concern that land could be used as collateral and eventually be lost

Conversion of customary land to leasehold is encouraged to empower locals because foreigners do the same
- Need to standardise recordation system
NON-SPATIAL LAND RECORDATION AND CERTIFICATION OF CUSTOMARY TENURE RIGHTS

- Chiefs issued letters or land rights to community
  - Absence of state system caused boundary conflicts and replacements
- Petauke District Land Alliance project (2016-2018) to improve that system
NON-SPATIAL LAND RECORDATION AND CERTIFICATION OF CUSTOMARY TENURE RIGHTS

• Project did not issue land certificates but offers secretarial support
• Support traditional authorities to systematically document village boundaries and support comprehensive yet simple system for long-term spatial data management
  • Community involvement
  • Identify boundaries of chiefdom
  • Identify villages and land under leasehold title
  • Mapping of communal resources
  • 8,600+ certificates issued
  • 18,000 parcels demarcated
RECOMMENDATIONS

• **Integration of digital technologies in the legal system** – currently, the laws prohibit the use of electronic signatures on titles

• **Decentralisation of the lands registry** – the system currently is not fully devolved, the signing off on titles ends up in one way or another at the headquarters with the Commissioner of Lands

• **Standardisation** - There are currently 5 institutions advancing fit for purpose approaches. However, each institution has its own product, i.e. certificate of land occupancy. So the issue at hand is to have a standard format for the certificates

• **Para surveyors** – the laws currently only accommodate registered surveyors to undertake cadastral surveys, but there are only 46 of them, in a country that is close to 765,000 km²
RECOMMENDATIONS

• Set achievable requirements to accelerate provision of tenure security
• Set flexible and relaxed standards for data
• Involve community members in data collection
• Ensure compatibility of data from various projects
• Register all types of rights in one registry
• Include Digital signatures in land certification process
• Challenge with maintenance of data and registry – calls for capacity building
• Need for evaluation of the various projects and agree on common minimum standards to ensure the best use of data
• Coordinating role by Ministry of Lands and Natural Resources
Thank you for your attention!
CONTACT DETAILS

Namibia University of Science and Technology, Department of Land and Property Sciences:
• Åse Christensen: achristensen@nust.na
• Royal Mabakeng: rmabakeng@nust.na
• Elina Teodol: eteodol@nust.na

Habitat for Humanity Zambia:
• Farai Shumba: FShumba@habitatzam.org.zm