LAND ADMINISTRATION IN ZAMBIA

Current Land Policy On Customary Land Administration In Zambia

by

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Current Land Policy On Customary Land Administration In Zambia

The Government policy on Customary Land administration is not in one constitutive document but found in several laws, Presidential decrees, and Ministerial Circulars and Cabinet circulars. The Policy can be summarised as follows:

- All Land in Zambia is vested in the Republican President. Section 3 of the Lands Act.
- What is classified as Customary Land today has its genesis in 1928 and 1947 respectively. Customary land is a combination of what used to be Native Reserves and Native Trustlands created by Orders in Council of 1928 and 1947 respectively. Effectively the categorization of what is today known as customary land was a result of the colonial Government classifying land based on their policy of segregation which isolated the native population.
- Over the Years only the names have changed in terms of what it is called but the boundaries remain exactly the same.
- Historically No land has ever been vested in a Chief from the coming of the colonial Government to Zambia in 1889. Before independence, the Native Reserves and Native Trustlands were vested in the Secretary for Territories (An equivalent of the Minister) where as Crownland was vested in the King at the time.
- At independence in 1964, the vestment was transferred from the Crown/King and the Secretary for Territories respectively to the President of Zambia.
- All Native reserves and native Trustlands were now vested in the president as at 1964. Owing to the fact that Barotse land was neither a Reserve Nor a Trustland under the 1928 and 1947 laws, all land except Barotse land was vested in the President. In 1970, a law called the Western Province(Land and Miscellaneous Provisions) Act declared former Barotseland (Western Province)as a Reserve under the Zambia (Reserves) Order 1928 to 1964 Act. Effectively all land was now vested in the President.
- Over the years, Customary Tenure has been recognised but no formal documentation is available that is officially recognised by government.
- Section 8 of the Current lands Act allows for conversion from Customary to Leasehold Tenure.
- The circulars that have been issued over the 50 years of independence have been about limiting the size of land that can be alienated by a Chief but have never given guidelines on how customary tenure can be best administered without the need to convert to leasehold tenure.
Customary tenure is uncoded or unwritten making it difficult to define as it differs from Chiefdom to Chiefdom.

Chiefs are expected to Grant Consent whenever customary land is offered to be converted to leasehold tenure. Consent was introduced by the White colonial Government which worked in such a way that the white settlers were given a further window to acquire land outside the Crown land. In that situation there was a requirement for the White person to seek the Consent of the local Chief. The circumstances of present day Zambia have drastically changed, the Urban dwellers are not foreign but local. The procedure for consent application has been maintained from 1928.

The status quo on the application of Consent from the Chief is that a Black Zambian in urban areas or outside a chiefdom is treated the same was by law as the white settler.
Land Tenure System In Zambia

- Zambia has a dual land tenure system. The 2 systems are customary tenure and leasehold tenure. Section 7 of the Lands Act 1995 recognises the existence of customary tenure in Zambia. There been no development in Customary tenure comes with user rights but in most chiefdoms does not provide the holder a defined right that is reduced on some paper.

- The Zambian Government has recognised this shortfall and the Late President Michael Chilufya Sata directed that Security of Tenure for Customary Land shall be provided. In the 50 years of Zambia’s Independence there has never been a Government that has made a commitment to look into the plight of the Vulnerable villagers who usually have no voice. As the Land policy development process takes shape, the issues are that there is need to look at how the 2 land tenure systems (i.e. Customary and leasehold) can comfortably be harmonised, if possible.
**Customary Tenure in Zambia: Challenges and opportunities**

- With the Government officially announcing a desire to provide security of Tenure to all customary land, there is a window of hope for all customary land settlers, who hitherto have not been able to access loans and other funds available on the market.

- The land Policy development process in Zambia is therefore taking the shape where a key question is to be resolved “How can security of tenure be provided for Customary Areas without disregarding Customary tenure?”The harmonisation of Leasehold tenure and Customary tenure remains the No. 1 focus of the reform process.

- Hitherto Foreign investors have come to Zambia expecting to invest and employ Zambians as labourers. This is quickly changing with Villagers and Traditional Authorities advocating Equity Share in the investments proposed. Although the arrangements have not been formalised, it is a development model that seeks to encourage Private Public Partnerships (PPP).
The Bangla Mutambe Agri Farms Business Model

- In post colonial Zambia, successive Zambian Governments have faced an enduring challenge of how to provide development to the people in the rural areas. The problem has simply been that, they have failed to mobilize adequate and appropriate financing to fund rural development projects that will ultimately position the ordinary citizen to be empowered for purposes of production, circulation of goods and capital.

- However in an effort to reverse this problem, the current Zambian government has come up with a different development approach which places emphasis on the individual Zambian citizens within Chiefdoms as operation structures for development administration and delivery. Under the new policy, the vision is that each individual Chiefdom comes up with strategies and operational programmes that would improve the quality of the individual.

- That is why each Chiefdom has to identify an agricultural project(s), industrial value adding project(s), mining project(s), and/or tourism project with a substantial ownership by local people for the Zambian and international market.

- Against this background, and in the quest to pursue the realisation and actualisation of the above strategy and development policy, His Royal Highnesses Imfumu Chibesakunda of Shiwa Ng’andu District in Muchinga Province has come up with a development model through the creation of the Mutambe Harvest Plc, the first community driven Public Limited Company in Zambia. The Plc is Special Purpose Vehicle that has gone in a Joint Venture with a Bangladesh and Zambian influenced company called Bangla Africa Agritech Limited to create Bangla Mutambe Agri Farms Limited as the Joint Venture Company. This projects has been approved by 5 Ministries in Bangladesh and the Zambia government.
The Bangla Mutambe Agri Farms Business Model

OBJECTIVE:

“The primary objective of Mutambe Harvest Plc is to become the vehicle through which to undertake and deliver economic and social transformation and development to the Mutambe Community of Imfumu Chibesakunda”.

- Mutambe Harvest Plc is a Public Limited Company which is seeking to bring together all the members of Mutambe to achieve equitable and sustained development in the Mutambe area while at the same time deal with the issue of ownership and benefit sharing with the express agenda of working together to bring economic and social transformation within the project catchment’s area.

- Mutambe Harvest (MH) Plc has the following unique features:
  1. Community members defined as those citizens registered under the Village and Development Act have the right to subscribe to the Articles of Association of the MH Plc by virtue of conversion of their labour value, human capital value and direct monetary subscription.
  2. The company’s ownership is predominantly community based while incorporating any other citizen who may not reside in and outside the locality.
  3. The operational thrust is vested in the company laws and governance rule of the country.
  4. As much as MH Plc is community based, the company has an inbuilt capacity to enter into strategic local and international corporate partnerships that will enhance their technological prowess for increased productivity and sustainability.
The Bangla Mutambe Agri Farms Business Model

The broad, and at the same time, core agenda of the MH Plc is to both work towards and, ultimately achieve rural development through the following fundamentals:-

1. To jump start accelerated development within the target area. (Aim: To achieve Community Economic Mobilisation);

2. To develop and entrench managerial and organisational competence of a rural community within the project area, based on their traditional leadership structures, and to strengthen and bring them in line with the company’s overall Rural Development Objectives. (Aim: To achieve Organisational Development and advancement);

3. To familiarise Members of the Chiefdom and the Mutambe community with potential investment requirements and characteristics, in line with the inherent economic potential of their Chiefdom and community area. (Aim: Ignite and achieve appreciation of investment and development potential of their area thereby move the Chiefdom towards Rural Socio - Economic Emancipation);

4. Undertake and actually implement Production and Commercial investment programmes and projects at community level. (Aim: To Target and Achieve enhanced Rural Community Production and Investments); and

5. Develop and institutionalise firm linkages (backward and forward linkages) to industrial and commercial processes of the Agricultural, Commercial and Industrial Sectors for rural development programmes and projects. (Aim: Achieve Rural Enterprise Development generally and specifically facilitate ‘Rural-Urban Private Sector Partnerships’).
The Bangla Mutambe Agri Farms Business Model’s Motivation

“Finding a lasting and sustainable solution to development” has driven Imfumu Chibesakunda of Shiwa Ng’andu District in Muchinga Province in Zambia and his Mutambe community through their Public Limited Company; the Mutambe Harvest Plc (Zambia’s first Community Public Limited Company) to enter into a smart partnership with Bangla Africa Agritech Limited, a Bangladesh and Zambian influenced company headed by Mr. Mizanur Rahman Azad, Chief Executive Officer of Bhati Bangla Agritech of Bangladesh to create Bangla Mutambe Agri Farms Limited. The strategy is to secure farming land of a minimum 250 hectares and maximum of 5,000 hectares, mobilise members of the Mutambe community and start growing foodstuffs, adding value and marketing them in Zambia, the Southern African Sub Region and Bangladesh including other international markets.

In this partnership Mutambe Harvest Plc will take up 51% equity and their contribution to the partnership is land, labour and the hosting of the Agro experts from Bangladesh, while Bangla Africa Agritech Limited’s contribution of 49% is the technology, inputs, expertise, supervision and management logistics outsourcing from Bangladesh together with some money in cash. The strategy is to produce Vegetables, Rice, Oil Seeds like Soya Beans together with other pulses and Sunflower, Fruits, Beef, Milk, Mutton, Silk and other agro products in a labour intensive and integrated organic based agricultural method with very little use of chemical fertilisers and pesticides. Thus all project sites are designed as integrated and composite farms placing a lot of emphasis on environmental sustainability.
Structure

Bangla Africa Agritech Limited

Bangla Africa Agritech Limited is 50% Zambian and 50% Bangladesh ownership.
Structure Cont’d

Mutambe Harvest Plc Shareholding Structure

1. Preferential Shares amounting to 40% of the value of the Company from time to time at a par value of ZMK1,000 and shall include the intellectual property holders of the Company, contributing and serving members of the Mutambe Royal Establishment.

2. Class B Shares amounting to 20% of the value of the Company from time to time at a par value of ZMK1,000 per share and shall be open to corporate institutions, friends and sympathisers of Mutambe together any Zambian citizen with a National Registration Card and or registered in a village of that specific community in accordance with the Village Registration and Development Act responding to a Private Placement Memorandum to issued from 60 days after the registration of the Company.

3. Ordinary shares amounting to 40% of the value of the Company from time to time at a par value of ZMK0.1 and shall be open to registered members of that particular community in accordance with the Village Registration and Development Act.
Structure

THE JOINT VENTURE OWNERSHIP STRUCTURE

Bangla Mutambe Agri Farms Limited

Shares

Chipepo Harvest Plc 51%

Bangla Africa Agritec Ltd 49%
ECONOMIC AND CROSS SECTORAL APPRAISALS

A number of economic and cross sectoral appraisal strides will be attained following the successful implementation of this project, among which will be:

- Increased knowledge, understanding, skills, sharing of experiences and capacity to effectively access, manage, use and benefit from natural resources.
- Increased Community based Enterprise Development and Capacity Building combined with Community Based Organizations Capacity Building
- Increased sustainable and diversified agriculture production for food and non-food crops.
- Improved and sustainable land use, environmental and farming practices.
- Localised community based marketing environment that will promote and build community capacity to collect, analyse and disseminate market information to their members within the project’s catchment’s area.
- Strengthened food and income security base of the community that will ensure improved nutrition and resource availability at all times.
- Self managing chiefdom structures that will be gender sensitive, participatory and development focused.
- Expanded synergies with traditional, local NGOs and Government extension systems.
- Improved access and ownership of community trust land managed by the chiefdom on behalf of the people.
- Strengthened community access and utilization of civic, social and development information.