

Training Manual and Toolkit

Zambia Land Alliance



2013

Training Manual and Tool Kit for Policy Makers and Investors:

Land Governance, Advocacy Techniques and Community
Engagement

Submitted to

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Submitted by

Beyond Research

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Dedication

This training manual and toolkit is dedicated to every Zambian girl, boy, man and woman who is struggling to have secure land rights. In a country where land grabbing, disinheritance and displacements are a horrid reality, the need for a tool that can empower our citizens cannot be overemphasised.

Dear Zambian girl, boy, man and woman, ZLA urges you to read, learn, apply, forge ahead and claim that which is duly yours – your land, your life.



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ABBREVIATIONS

CBT	Computer Based Training
CORDAID	Catholic Organisations for Relief and Development Aid
COT	Certificate of Title
DANIDA	Danish International Development Agency
DDC	District Development Committee
DWA	District Women's Association
FAO	Food and Agriculture Organisation
GIDD	Gender in Development Division
GPS	Global Position System
GSCLT	Gender Sensitive Customary Lands Tribunal
GSDRC	Governance and Social Development Resource Centre
HIVOS	Humanist Institute for Development Cooperation
ILC	International Land Coalition
ISA	Intestate Succession Act
JIT	Job Instruction Technique
JWOP	Justice for Widows and Orphans Project
LAG	The Land for All Group
LRF	Legal Resources Foundation
MCLT	Mobile Customary Lands Tribunal
M&E	Monitoring and Evaluation
MoE	Ministry Responsible for Education Affairs
MoJ	Ministry Responsible for Justice Affairs
MoLNREP	Ministry Responsible for Land Affairs
MoLGH	Ministry Responsible for Local Government and Housing Affairs
NGOCC	National Governmental Organisation Coordinating Council
NGOs	Non- Governmental Organisations
OSISA	Open Society Initiative for Southern Africa
PNF	Programme National Foncier
SULTS	Sustainable Livelihoods through Land Tenure Security
TOT	Training of Trainer(s)
UNCIEF	United Nations Children International Education Fund
UNDP	United Nations Development Programme
USD	United States Dollar
VG	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
WFC	Women for Change
WLRP	Women and Land Rights Project
ZACSMBA	Zambia Chambers of Small and Medium Business Associations
ZARD	Zambia Association for Research Development
ZAWA	Zambia Wildlife Authority
ZFAWIB	Zambia Federation of Associations of Women in Business
ZLA	Zambia Land Alliance
ZLDC	Zambia Law Development Commission

1.0 Introduction

Renowned Professor Mvunga said this in 1980:

Land tenure systems are not static, they respond to changes in society. They are modified, redefined or restructured in response to many factors such as population growth and density, conflicts of interests or changes in the political and economic organisation of society. The fact that human livelihood depends upon the land necessitates having a defined land tenure system which regulates rights and interests in the land (Mvunga, 1980:1).

Today there are many challenges surrounding access to and ownership of customary land in Zambia. These are well documented (ZLDC, 2013, WLRP, 2011 and ZLA, 2009). They include lack of a clear land policy governing allocation of customary land; lack of a clear legal framework regulating customary tenure; limited security of tenure and associated problems of displacement coupled with unsatisfactory resettlement and inadequate compensation. As Sichone correctly notes:

It is therefore inevitable that we redefine the land tenure system in line with the political and economic changes of our time. In addressing the challenges of customary tenure, we need to think of an ideal system of land law which is simple, cheap and which is adapted to the needs of the country (Sichone 2008:13).

The problem which this training manual and tool kit seeks to address is this:

How can we as ZLA equip the community and enable them to engage with policy makers; and ensure that the challenges which they face regarding customary tenure are addressed?

The aim of this training manual and tool kit is therefore to empower the community, Non State Actors (NSAs) and other key players with knowledge and skills that will enable them to successfully engage with policy makers.

This document is divided into three parts. Part I gives a summary of the relevant laws, challenges regarding customary land tenure, and the recommended solutions to address those challenges. Part II outlines in detail the various tools that can be used by the community to engage with policy makers to address the identified challenges. Some of these tools are currently being used as land advocacy and engagement techniques on land by communities (both in Zambia and abroad); and by other stakeholders. Lastly, Part III sets out the training techniques that each Trainer should use when training the community and empowering them with the requisite knowledge and skills.

Ultimately, the goal of this training manual and tool kit is for the community to participate in the much-needed transformation; and to contribute to the creation of a Zambia with secure customary land tenure, which is well regulated and has checks and balances that protect all, including the poor and vulnerable in our society. The training manual also needs to assist in addressing the challenges associated with conservation and environmental protection.

PART A: SUMMARY OF RELEVANT
LAWS, CONTENTIOUS CUSTOMARY
LAND ADMINISTRATION ISSUES
AND RECOMMENDED
SOLUTIONS

2.0 Legislation and Policies concerned with the Administration of Customary Land

Legislation is an Act of Parliament and a Policy is a law passed by a Minister. Legislation is the second most superior source of law in Zambia.¹ Both Legislation and Policies are binding. In this section we will look at legislation and Policies that regulate or impact on customary land.

2.1 The Lands Act of 1995

This Act is the main law regulating land in Zambia. It provides in sections 3 and 7 that Zambia has two systems of land tenure: one for customary land (customary land tenure) and another for State land (leasehold tenure). Section 8 permits the conversion of customary into leasehold tenure. Section 3 allows the President to alienate both customary and State land to Zambians as well as foreigners. Section 3(4)(c) demands that any person or body whose interest might be affected by the grant or conversion of customary land should be consulted. Section 3(4)(d) provides that the applicant for leasehold title in a customary area must obtain prior approval of the local authority. When allocating land, all traditional leaders must follow the above procedure. This was emphasised in the case of *Chenda and Another v. Phiri and Another*.

2.2 The Chiefs Act of 1994

This Act provides for the President to recognise Chiefs (section 3). It also permits the President to revoke such recognition (section 4). Furthermore Chiefs and Deputy Chiefs are paid in order to assist them in the discharge of their functions (section 8). Chiefs must discharge their functions under customary law provided that such functions are not contrary to the Constitution, written law, or not in line with natural justice or morality (section 10).

2.3 The Mines and Minerals Development Act of 2008

This Act states that all minerals and rights associated to these minerals are vested in the President (Section 3). It is unlawful to mine without a prospecting licence (Section 11). The occupier of a piece of land in which a licence has been granted still has the right to access water and grazing land provided that he or she does not interfere with the operations of the mine (Section 129).

2.4 The Lands Acquisition Act of 1994

When minerals are found on a piece of land, they are held by the President on behalf of the State (section 3). The State can acquire such a piece of land from anyone even if a person objects to it (section 3). The State must compensate the person(s) whose property has been acquired in this manner (section 10).

2.5 The Water Resources Management Act of 2011

The Act was enacted in order to preserve, maintain and protect the water resource. Section 3 states that all water vests in the President, while section 5 goes on to say that no entitlement to water shall be granted unless as specified by the Act. Section 42 states that the Resources Management Authority is obliged to ensure that recognised traditional practices in customary areas are taken into consideration in the management of water resources.

¹The Constitution is the supreme law in Zambia

2.6 The Forest Act of 1999

The Forestry Act vests all forests in the President, and any unlawful felling or burning of protected trees is prohibited. The Act provides for the Zambia Forestry Commission, which aims to adopt and promote methods of sustainability of local forests and open areas. It also aims to partner with local communities and other stakeholders in order to develop management plans for local forests.

2.7 The Zambia Wildlife Act of 1998

This Act provides that the Minister can declare a game animal protected or not (Section 30). Part VII allows for the issuance of hunting licences; but the use of poisons, traps, fire and others are disallowed. It does however allow for people to kill wild animals in self-defence.

2.8 The Registration and Development of Villages Act of 1994

Section 6 of this Act establishes village productivity committees, which shall be composed of not less than twenty households. Section 11 provides that there shall be a ward council and such a council will discuss the problems affecting the ward. Furthermore Section 17 grants Chiefs powers, some of which include encouraging productivity, togetherness and all projects that will contribute to the betterment of their chiefdom.

2.9 The Local Government Act of 1991

This Act is designed to establish administration of the nation at the lowest local level. A council must have at least two representatives of the Chiefs from the district (section 6). In addition to this section 71 empowers councils to make by-laws for the good of its areas.

2.10 The Town and Country Planning Act of 1995

The Minister of Lands may prepare a regional plan for the development of all land including customary land areas (section 44). The Minister can also appoint a regional planning committee to submit a regional plan to him or her (section 45).

2.11 The Land Policy of 2006

The Land Policy, which is currently in its draft form, has been in existence since 1993. It takes into account both rural and urban land management. In 2008 Sichone commented that:

In a quest to administer land for poverty reduction and economic growth, Government has decided to come up with a Land Policy that would take into account the following policy measures:

- (a) Recognise the rights of land users by defining these rights through formal survey and registration so that everyone, irrespective of social status, gender or origin can have similar rights to land;
- (b) Ensure that non-citizens and foreign companies are regulated in acquiring land in customary areas;
- (c) Continue to sensitise the public on the advantages of individual ownership of land through leasehold or customary tenure to improve the security of investments;
- (d) Ensure that land is alienated on the basis of capability and use;
- (e) Introduce measures to encourage leasing land by foreign investors and residents and
- (f) Encourage Zambians to go into joint ventures with foreign investors as they will be contributing land towards such ventures (Sichone: 2008, 11).

2.12 The National Agriculture Policy of 2004-2015

The main goals of this Policy are: to provide adequate food security through post-harvest management, to develop a commercial agriculture with small and large scale farmers allowing them to export their produce. Another goal is to have a sector that utilises natural resources in a sustainable way.

2.13 The National Forestry Policy of 1998

The main aims of this Policy are as twofold: it aims to develop the potential within the sector by aligning it with the current forestry trends. Secondly it aims to promote community based participation, such as granting traditional leaders powers to deal with forestry misdemeanours in their jurisdiction.

2.14 The Wildlife Policy of 1998

This Policy is based on community participation and as such, it has two features in place. The first is that it provides for community based involvement in the planning and management of parks. The second is that it establishes a community wildlife management institution.

2.15 The National Decentralisation Policy of 2002

The government plans to decentralise some of its functions to the districts. The councils will raise a portion of their own revenue, but they will also have support from NGOs and the central treasury.

GROUP DISCUSSION

- What weaknesses do you see in Zambia's land laws?
- What do you think the possible solutions are?

3.0 The Contentious Issues in Administration of Customary Land

The majority of Zambians are poor; and they live in rural areas on customary land. Most of Zambia's land is customary land. Traditionally, customary land cannot be purchased, but rather people acquire it by asking for it from their traditional leader, who then allocates a portion to them (Customary land can also be acquired through inheritance).

There are many problems surrounding the administration of customary land. By 'administration' of customary land, we mean:

- The way customary land is allocated;
- How it is organised or structured;
- And the manner in which it is governed or managed.

The word 'contentious' in the context of this document means:

- Very sensitive;
- Highly debatable;
- Current; and
- Real.

To identify the contentious issues on administration of customary land, a thorough desk study was conducted. This included some of the most recent publications, e.g. the two publications from the Zambia Law Development Commission (ZLDC) entitled *Addressing Challenges in the Administration of Customary Land in Zambia (May 2013)* and the *Project for the Development of Legislation to Enhance Security of Tenure for Customary Land: Instructions to the Draftsman (June 2013)*.

Below is a brief outline of the findings of the desk study. In addition, some information was gathered through consultations during the ZLA training of trainers workshop in July 2013; and the ZLA Workshop on Addressing Challenges in the Administration of Customary Land in June 2013.

3.1 The Division between Customary Land and State Land

The current official statistics show that 94% of land in Zambia falls under customary tenure, while 6% is under leasehold tenure (Mudenda, 2007:377). One of the contentious issues is that these statistics have remained static since independence and yet some customary land has been converted into leasehold tenure. It is argued by some that such conversion means that the size of customary land has decreased and that of State land has increased. Others maintain that converting customary land to leasehold tenure does not make customary land State land but that, it merely gives one the security of a title deed. Such categorisations of land can only be changed by provisions of law (Miti, 2013).

3.2 Land Shortage

Despite it being unlawful, some traditional leaders have been selling customary land (ZLDC, 2013:14). Unauthorised selling of customary land is creating an artificial shortage of arable land.² The reduction of arable land creates a problem of insufficient land on which livestock can be fed. Also, communal access to resources like firewood, medicines and fruits is greatly affected by such shortage of land. The consequence of land shortage is that it denies the future generation adequate access to customary land.

Additionally, there is a genuine decrease in customary land due to the many investment activities (especially foreign) that are taking place under customary land. Government is busy engaging traditional leader to release more land for this purpose and inevitably, the latter are losing control over customary land. Customary land, once converted to leasehold tenure, cannot revert to customary tenure for re-allocation, hence the decrease.

3.3 Land Degradation

Many people engage in unsound environmental practices and destructive traditional land use methods (ZLDC, 2013:13). They do not recognise sensitive habitats and that their conduct leads to serious environmental consequences. Examples of these acts include deforestation and dumping of non-biodegradable substances on open land or water bodies.

3.4 No Written Rules

Generally, customary land administration system is unwritten. This means that no written rules exist for allocating land under customary law. The lack of written rules creates uncertainty with regard to the rights associated with customary land. This is so even though people living on customary land have the right to use the land in various ways, and these rights are generally respected (ZLDC, 2013:14).

The lack of written rules regulating allocation and record keeping of customary land entitlements has resulted in insecurity of customary tenure. Evidence abounds of thousands of people being displaced from their land and homes due to large scale land acquisitions, which do not respect customary land rights (Royal Highnesses, 2010:1).

3.5 No Perceived Benefits from Title Deeds

Some people living on customary land are reluctant to obtain title to their land. This is so because once land has been converted, they will be subjected to paying ground rent and they will also be subject

²The term 'arable land' means land that is not cultivated but is left un-tampered and a natural habitat for trees and animals.

to leasehold conditions. 'Breach of these conditions would invariably lead to repossessions and may render the majority of villagers landless' (Sichone: 2008, 12). In addition, the process of obtaining title deeds is long, tedious and costly (ZLDC, 2013: 6). For these reasons, many do not see the benefit of obtaining title especially that they are required pay.

3.6 Dual System

As noted above Zambia has a dual system of land alienation. There are several challenges with this state of affairs. To begin with, the question of who owns customary land in Zambia is not clearly addressed in law (ZLDC, 2013:6). In the case of *Mwiinda v. Gwaba*, the court ruled that customary land is held by Chiefs on behalf of their communities. In other words, the Chief is not the 'landowner' but rather, acts as custodian for the community. The implication here is that it is the community that owns the land.

However, the Constitution vests all land in Zambia (both State and customary land) in the Presidency. It is argued that this vesture is also on behalf of the people. Hence the Lands Act presupposes that the President cannot alienate land in a customary area without the Chief's approval (Sichone, 2008:12). Despite the court decision mentioned above and the provisions in the Lands Act, there have been instances when the President or the State has allocated customary land without the permission of the Chief, let alone the affected community. This creates conflict between the President and the Chief.

Furthermore, Chiefs have the right to alienate land based on the delegated authority from the Presidency. The fact that a Chief can so easily relocate a community means that there is no real security of tenure as is the case with titled land. Such relocations often lead to conflict between the Chief and the community.

3.7 Lack of Knowledge and Capacity

Many people in rural areas, including traditional leaders, are unaware of the written laws and policies (ZLDC, 2013:39), e.g. the Lands Act and the Land Policy. Also although some villages have village land registries, many villages do not have the capacity to establish and manage the system of village land registries. Such a system needs man power, and the people involved must be enlightened and compensated for their labour. Presently, there is no provision for training and compensating Village Councils for the added responsibilities of land administration and management. This state of affairs presents a conducive environment for village councils to adopt a *laissez faire* attitude towards record-keeping of land rights.

3.8 Gender Discrimination

Women constitute 60% of Zambia's small scale farmers; and they provide about 70% of the labour force in food production and processing (WLRP, 2009:18). Despite their vital contribution to agriculture, women are marginalised in accessing, owning and controlling land. Most policies, practices, traditions and laws relating to land in Zambia are either silent on women's disadvantaged status or they are gender biased against women.

One of the ways in which women can get to own land is through inheritance from their deceased fathers and husbands. Unfortunately, research reveals that to date, it is common for a traditional leader or the relatives of the deceased husband to ask the widow to leave the land which was previously used by her husband and family (ZLDC, 2013:42). Equally, many women lose their access to land after going through a divorce. In many cases, this kind of discrimination against women leads to destitution. Clearly, the issue of gender sensitivity in relation to customary land is yet to be well addressed.

3.9 Institutional Linkage

There are weak institutional links between the government and traditional authorities in that there is lack of a common approach between the two (ZLDC, 2013:6).

Some Chiefs have complained of interference from the government in customary land administration, e.g. by-passing Chiefs or using undue influence in offering land or granting lease agreements for large scale land acquisitions.

Similarly, where there is a conflict between the Chief and the Local authority in the area on a matter of land alienation, the Act is silent as to whose interest or authority should prevail (Sichone, 2008:12).

Further, the Chiefs have noted that they are not adequately consulted and involved in formulating and reviewing land related policies and laws, as was the case with the draft Land Policy of 2006 and the Lands Tribunal Bill of 2010 (Royal Highnesses, 2010:1).

Similarly, there are inadequate consultations between Chiefs and their subjects with respect to granting consent to large scale land acquisitions. The process lends itself to corrupt tendencies and the poor are victimised through displacement (Royal Highnesses, 2010:1).

3.10 Eligibility

While it is clearly known under customary law and practice who can or cannot be allocated land, this criteria is not documented. Also it differs from chiefdom to chiefdom; and the process followed by community members is different from that of people coming from outside the community and foreigners. The lack of a written eligibility criteria fuels inconsistency in land allocation.

3.11 Lack of National Guidance

Zambia currently does not have a comprehensive Land Policy and Law. This leads to lack of guidance for administration of customary land. The vacuum has given rise to variations in customary land administration, especially because Zambia has 73 ethnic groups, with different customary laws, traditions and practices (Royal Highnesses, 2010:1).

3.12 Loss of Customary Land

Despite the argument made in section 1.1.1 above, traditional leaders contend that there is a net loss of customary land, and there are no corresponding benefits to local communities. This is because once customary land is converted to leasehold tenure, the land does not revert to customary tenure at the expiry or cancellation of the lease (Royal Highnesses, 2010:1).

3.13 Unlawful Practices by Traditional Leaders

During its 2013 nationwide study on customary land, the Zambia Law Development Commission found that some traditional leaders engage in the following practices, all of which are not in line with the law:

- Selling customary land;
- Displacing villagers without adequate resettlement and compensation;
- Giving land over 250ha without government's consent;
- Alienating land to non- Zambians;
- Getting into a land agreement with an investor;
- Giving the Chief's consent through a letter instead of the prescribed form;
- Placing wrong date stamps on consent forms and site-plans; and
- Allocating land and yet one is not a gazetted Chief.

3.14 The Current Community – Investor Relationship

During the training of trainers workshop organised by ZLA at Acamm's Lodge in July 2013 each of the twenty trainers pointed out that the greatest challenge regarding land rights in the areas where they work is the displacement of local communities when customary land is alienated to foreign investors. 'While the government of Zambia is encouraging land allocation for investment in customary areas, it is cognisance of the rights of the indigenous people' (Sichone, 2008:11). Unfortunately because of the unlawful practices mentioned above and other technicalities, indigenous peoples' rights are not always protected. See for example these two case studies:

A mining firm acquired surface rights for a project in Solwezi in 2011. There was an agreement between the firm and the Senior Chief of the area which required the firm to pay about USD 250,000 for the acquisition and conversion of the land. These funds included compensation for the communities that were displaced. Once the firm began its operations the communities that were displaced complained because they were not compensated. Furthermore it was agreed that the firm would eventually acquire a 99 year leasehold upon completing the legal requirements of conversion of tenure. The firm completed its payments but it was not given the promised title deed.

There are plenty of potential benefits for local communities when an investor decides to do business in a rural area. These include the creation of employment and gaining an income which one can use to improve his or her own land. However there have been challenges which have arisen along with some of the potential benefits as illustrated below:

A foreign European national (the investor) sought to invest in the Chipepo area of Gwembe district by opening a game ranch. He acquired a title deed for the land in question from the Commissioner of Lands in Lusaka without consulting the relevant traditional leaders of the Chipepo and Munyumbwe communities. The investor fenced off the land thus restricting access to the forest and lake. In 1988 three locals were shot and killed for trespassing on his land and the traditional leaders confronted him but he was dismissive of them. Chief Munyumbwe brought the matter to the attention of the Commissioner of Lands and other authorities in Lusaka. Unfortunately they dismissed the matter due to the fact that the investor had already acquired a title deed. The game ranch still operates today.

3.15 Unclear Boundaries of Customary Land

One of the most common problems is that the boundaries of customary land are unclear.

As correctly noted by Sichone:

Disputes relating to boundaries among chiefdoms ... have become common because land is becoming scarce and economically valuable. There is evidence of increase of these disputes in the country (Sichone, 2008:12). For example:

Between 2008 and 2009 a land boundary dispute between Chieftaness Nkomeshya and Chief Shakumbila arose. The two leaders had argued over the boundary in the Mwembeshi area with Chief Shakumbila alleging that his chieftom reached as far as the railway line, but Chieftaness Nkomeshya disputed that. Their dispute was so heated that Chief Shakumbila used inflammatory language towards the Chieftaness that was captured and reproduced in print media. Chief Shakumbila later apologised for his choice of words.

The undefined boundaries of chiefdoms are a serious emerging problem, fuelled by the non-survey of customary areas. Disputes and threats of bloodshed are now being heard among traditional leaders. All these boundaries may lead to internal divisions among Zambians if they are not addressed timely (Sichone, 2008:12).

3.16 Resolution of Customary Land disputes

Customary land disputes are settled in accordance with customary law. Even the Intestate Succession Act, the main law governing inheritance in cases where the deceased does not leave a will, categorically says the Act does not apply to land held under customary tenure (section 2(2)(a)).

More often than not, customary land disputes are settled by the Traditional Court. Research reveals that when disputes come before the Local Court, it is common for the Local Courts to refer these matters to the Traditional Court. The problem here is that Traditional Courts are not recognised in law. This means that these decisions are not binding and people can choose to go against them. Also, because they are not recognised, Traditional Courts are not regulated by the State. Consequently, it is possible for them to pass decisions which may go against the provisions in written law.

Furthermore, in cases where the Chief has relocated a community against their will and without consulting them, the victims might not feel comfortable to bring their matter before the Traditional Court, because the offender is also the presiding officer in matter. This raises concerns of whether or not such a presiding officer would be fair and objective in his or her ruling.

SELF REFLECTION:

- What challenges do people in your area face concerning land?

4.0 The Recommended Solutions to Address the Challenges

4.1 Security of Tenure

Land ownership should be evidenced by a document indicating that a person owns the land in issue. The documentation should be processed by the traditional leaders in collaboration with the council because the former are the custodians of the land. The council should be restricted to providing only technical support. The land in issue should remain customary land and not “converted” to State Land. Land rights for women should be strengthened so that they are able to own land. Proposed legislation should oblige traditional leaders to allocate land to the physically challenged in easily accessible areas.

4.2 Procedure for Allocation

There should be a standard procedure for acquiring customary land across all the chiefdoms. The ZLDC proposes that applications for land should start with the Land Allocation Committee, Ward Village Councils, District Chief’s Council and finally, Provincial Chief’s Council (ZLDC, 2013:11). All land allocations should be made only with the consent of the community members either directly or through their representative structure. This is in line with the Supreme Court decision in *Still Waters Farms Limited v. Mpongwe District Council and Others* which provides that land held under customary tenure can only be alienated if consent is obtained by the Chief from those whose interest may be affected by such allocation. Failure to consult renders the allocation or grant null and void.

Local Authorities should have the mandate to carry out land audits and updated records of who owns what land. Land in issue should be demarcated and surveyed prior to issuance of legal documentation. The Office of the Commissioner of Lands should be decentralised to District level (ZLDC, 2013:11).

4.3 Conditions for Allocation

The ZLDC proposes that the law should provide for the right of use and occupancy for 15 years in relation to unsurveyed land and 50 years for surveyed land. It proposes further that for a local inhabitant to be allocated land, he or she should have occupied the land for a minimum period of 15 years; be in possession of the Green NRC; be a registered resident in the village register and should have a valid transfer letter from the village of origin. For foreigners, the ZLDC proposes that the eligibility criteria should be consistent with the Lands Act provisions (ZLDC, 2013:12).

4.4 Resolution of Disputes

Government should to avail chiefdom maps to avert boundary disputes between chiefdoms. Government should consult traditional leaders when creating new districts. The Traditional Courts should be given legal recognition as part of the judicature in Zambia. Appeals from the Traditional Courts should lie to the High Court. Chiefs should not be involved in resolving disputes over land to avoid conflict of interest. River frontages should be kept as communal resources and curb the arbitrary conversion of river fronts into private property (Miti, 2013).

4.5 Environmental Protection

The operations of ZAWA should be streamlined so that the local people can effectively participate in wildlife conservation and safari hunting business. Graves and shrines should be protected since they form part of the heritage for local people. People in rural areas should be given alternatives in order to give up activities leading to environmental degradation. Increase sensitisation of the rural population on the dangers of environmental degradation. Local Councils to strictly reinforce the 50metre rule to avoid water-fronts becoming private properties (Miti, 2013).

4.6 Other Proposed Solutions

- There should be documentation of customary land. Documentation refers to the need to have Village Land Registers that will record information on the size of parcels of land, the ownership of land by gender and the dates when such land was allocated.
- The government should formulate a customary land law that should guide administration of customary land and provide for strengthening of customary land rights holders.
- In chiefdoms where it is necessary, there should be issued Certificates of Title to all customary land holders.
- Where community members provide land for large scale investment, investors should sign a Memorandum of Understanding with the communities, where proceeds from the investment should also benefit the community.
- The government should speed up implementation of the Decentralisation Policy so as to promote local participation in land administration of customary land. This will ensure efficient and quick land allocation (ZLA, 2013:3).
- Parliament should create stiff punitive measures for culprits who sell customary land. It should also standardise the regulation of customary land.
- Zambia must introduce standard documents relating to customary land tenure.
- The concerns regarding resolution of customary land disputes can be resolved by the law recognising Traditional Courts and regulating them; thus bringing a measure of accountability to them

Security of Tenure:

In order for individuals and families to have security of tenure of customary land, there must be:

- Documentary evidence of ownership of land;
- This document must be processed in collaboration with the Council and Chieftaincy;
- Customary land should remain so and not be converted to State land;
- Women's land rights need to be strengthened;
- Traditional leaders should be compelled by law to allocate land to physically challenged people;
- Develop administrative mechanism to enable land users have proof of rights of use acceptable as collateral to financing institutions;
- Proof of rights will reduce displacements and ensure compensation where needed;
- It is recommended that legislation be developed through the Administration of Customary Land Bill;
- Objectives include among others review law relating to customary land alienation, revise procedure, provide security of tenure, provide equitable gender treatment, community participation and transparency and establish Customary Land Development Fund;
- Establish ward village councils, district chiefs' councils and provincial chiefs' councils;
- Nature and duration of right should be 15 years for un-surveyed land and 50 years for surveyed land;
- Promote security of tenure for customary land in the rural areas by introducing land record cards to define the rights of occupants;
- Prevent displacement of local communities by the urban elite or foreign investors in rural areas;
- Eradicate inequalities among interest groups in gaining access to land in order to cater for the less privileged in districts;
- Harmonisation of the principles of customary law and statutory law;
- Establishment and recognition of Traditional Courts under traditional rulers as the first level court below the local court in the judicial hierarchy;
- Introduction of Ward Village Councils, District Chiefs' Councils and Provincial Chiefs' Councils to ensure a link in the public service governance system below the District Councils and active involvement of the traditional authorities in the public governance system;
- Review the Local Government Act and the Chief's Act;

- Develop written guidelines;
- Making people aware;
- Develop clear and aligned/harmonised guidelines/related to mandates;
- Strengthening coordination across institutions with relevant/related mandates;
- Land Policy should be put in place to guide the nation;
- Government should review the amount of land owned and its use and land lease period should be reduced from 99 years to 50 years;
- To ensure tenure security on customary land, Chiefs certificate of customary land ownership should be recognized by government and honoured by government and land allocated in such a manner should not be dispossessed;
- Government should increase support to chiefs and people's contribution to maintenance of chiefs should not be seen as promotion of corrupt tendencies;
- Government should conduct land audit to determine extent of statutory and customary land;
- Issuance of title deeds should follow laid down procedures and government should not by-pass traditional authorities where such has happened the title deed should be rendered invalid;
- Unclear boundaries-One such improvement is the creation of land records of who owned/used what land. These records could include more accurate estimates of pieces of land that individuals owned. The piece of land being allocated has to be defined on all sides (including naming the holders of the pieces of land surrounding the piece in question), and here technologies such as handheld Global Position System (GPS) receivers could help make the records a lot more correct and unchanging;

5.0 Mapping of Challenges, Solutions, Tools and Training Techniques

The diagram below is a map or visual aid that summarises the challenges surrounding customary land tenure; and in a training kit, the map shows the tools that can be used to effect the suggested solution to a particular challenge. Also, before a training session by the trainer to equip the community with the necessary knowledge and skills; in order for the community to a

Challenges

Proposed Solutions

Lack of security of tenure as some people are displaced from their land due to large scale land acquisitions without regard to their land rights.	Introduce land record cards to define the rights of occupants. Chiefs' certificate of customary land ownership should be recognised and honoured by government.
Faced with harsh realities of displacements.	Issue customary land holding certificates as proof of rights thereby reduce displacements and ensure compensation where needed.
Unclear boundaries and field encroachments.	Create village land registers to record of who owned/used what land. These records could include more accurate estimates of pieces of land that individuals owned. The piece of land being allocated has to be defined on all sides (including naming the holders of the pieces of land surrounding the piece in question). Customary land should be mapped according to chiefdoms so as to reduce inter-chiefdom disputes. This means revising colonial maps and come up with updated chiefdom maps, as the current situation begs the question. In addition, community land use planning should take place even at chiefdom level.
Land ownership arrangements not very well defined.	Government should conduct land audit to determine extent of statutory and customary land. Must use technologies such as handheld Global Position System (GPS) receivers to help make the records a lot more correct.
No written rules exist for allocating land under customary law (including no eligibility criteria).	Document guidelines and harmonise with existing legislation and guidelines.
No written policy relating to customary land.	Expand legislation or issue Statutory Instrument.
No perceived benefits for title or right to land by rural residents.	Make people aware of their rights and responsibilities.

and the solutions that have been proposed by various scholars and institutions. Because this document is a tool because this document is a training manual, the map below links a couple of training techniques that can be used to achieve the desired solution to the problem.

Tool

Training Technique

Creation of a village lands registry book.	Lectures Discussions Case Studies
Creation of a village lands registry book.	Lectures Discussions Case Studies
Creation of a village lands registry book.	Lectures Discussions Case Studies
Land audit. Equipment simulators	Discussions
Legislative proposals.	Computer Based Training Lectures Discussions Case Studies
Legislative proposals.	Computer Based Training Lectures Discussions Case Studies
Sensitisation and training programmes on land rights.	Story telling. Focus group discussions. Role play. Games and Simulations.

Gender blind alienation system-women hardly own the land and lose it at death of husband or divorce.	Review and prohibit customary law practices that discriminate against women's ownership of land.
Lack of land use planning of land under customary land (only Municipal Councils are planning authorities, district Councils fall under the Provincial Planning Authorities).	There is need to include customary land in the Town Planning Act. Introduction of Ward Village Councils, District Chiefs' Councils and Provincial Chiefs' Councils to ensure a link in the public service governance system below the District Councils and active involvement of the traditional authorities in the public governance system.
Lack of legal recognition of Traditional Courts.	Establishment and recognition of Traditional Courts under traditional rulers as the first level court below the local court in the judicial hierarchy.
Dual systems in land administration which leads to conflict.	Harmonisation of the principles of customary law and statutory law.
Lack of capacity (skills/literacy) on the part of land administrators under customary land.	There is need to build capacity for the traditional leadership and ensure that the composition of the leadership has an embedded capacity building mechanism. Specified institutions should be given mandate to reach out to communities to enhance capacities and skills. Existing structures in the chiefdoms and residents should undergo capacity building on land administration and land use.
Weak institutional links between central government and traditional authorities.	Institute traditional land committees in each chiefdom that will be responsible for land allocation.
No institutional arrangements.	Strengthening coordination across institutions with relevant/related mandates.
Land shortage due to unauthorised selling of land because of inadequate regulatory framework.	Review the Local Government Act and the Chief's Act.
Loss of customary land converted into State land as it does not revert to customary tenure at the expiry or cancellation of the lease. This means that there is a net loss of customary land without corresponding benefits to local communities.	Customary land that is converted to State land should revert to customary land at the expiry of the purpose for which it would have been converted to State land or if it is repossessed. Government should review the amount of land owned and its use and land lease period should be reduced from 99 years to 50 years.
Interference by central government in customary land administration such as bypassing chiefs or use of undue influence in offering land or granting lease agreements for large scale land acquisitions.	Where land is provided to investors for large scale investment, investors must sign Memorandum of Understanding with the communities so that the proceeds from the investment benefit the community.

<p>Establishment of Women's Groups in Rural Areas. Promotion of Joint Tenure: Hope for Married Women. Formation of a Women's Land Rights Lobby Group. Advocacy for a Gender Sensitive and Decentralised Lands Tribunal.</p>	<p>Story telling. Focus group discussions. Role play. Study circle.</p>
<p>Partnerships. Village council. Mobile customary lands tribunal.</p>	<p>Computer Based Training Demonstrations Discussions Case Studies</p>
<p>Village council. Mobile customary lands tribunal.</p>	<p>Business Games Role Play Case Studies</p>
<p>Legislative proposals.</p>	<p>Computer Based Training Lectures Discussions Case Studies</p>
<p>Sensitisation and Training Programme on Land Rights.</p>	<p>Ice breaker during training Demonstrations Role play Business games Games and Simulations.</p>
<p>Village council. Mobile customary lands tribunal.</p>	<p>Business Games Role Play Case Studies</p>
<p>Partnerships.</p>	<p>Computer Based Training Business games In-Basket technique</p>
<p>Legislative proposals.</p>	<p>Computer Based Training Lectures Discussions Case Studies</p>
<p>Village council. Mobile customary lands tribunal. Legislative proposals.</p>	<p>Business Games Role Play Case Studies Computer Based Training Lectures Discussions Case Studies</p>
<p>Village council.</p>	<p>Case Studies Lectures Discussions</p>

<p>Lack of information on existing land policy, laws and administrative systems by the general public as a result, people have been taken advantage of.</p>	<p>Develop administrative mechanisms and document policies.</p>
<p>Lack of recognition of sensitive habitats leading to environmental consequences.</p>	<p>Amendment and harmonisation of all pieces of legislation governing environmental policy to reduce inter--sectoral conflicts in environmental management. Improvement in conservation and management of forest reserves Control of deforestation through sustainable agricultural methods by both commercial and small scale farmers.</p>
<p>Most farmers rely on government funded agriculture subsidies because they cannot use land as collateral to get credit finance - no formal documentation proving right of use and extent of land held. This results in mono crop syndrome and stunt growth in agricultural sector.</p>	<p>Develop administrative mechanism to enable land users have proof of rights of use acceptable as collateral to financing institutions.</p>

Legislative proposals.	Computer Based Training Lectures Discussions Case Studies
Legislative proposals.	Computer Based Training Lectures Discussions Case Studies
Legislative proposals.	Computer Based Training Lectures Discussions Case Studies

PART B: TOOL KIT – TOOLS TO
EFFECT THE RECOMMENDED
SOLUTIONS

6.0 Tools to Effect the Recommended Solutions

A tool kit is a set of tools, utensils or instruments. Together they form a complete and ‘integrated’ group that can be used to achieve a particular objective. We say they are ‘integrated’ because it is difficult to arrive at the desired goal with one in the absence of the other tool. For example, when a carpenter wants to build a table, the tools that he will need include a hammer and a cutter. Unless the wood is already cut, it will be difficult for him to build the table using the hammer alone.

Similarly, as a trainer in land rights, you will need to use several tools to help the community appreciate and act upon the complex problems surrounding customary land tenure. Some of the tools that can help you achieve this important objective are:³

6.1 Introduction of a Standard Nationwide Certificate of Title (COT)

What it is

A COT is a document which shows that one is the lawful inhabitant of a specific piece of land. Presently, different traditional leaders have different documents that they give voluntarily to families that want land. As ZLA, we propose that there should be one nationwide standard COT which can be used to identify the owners of various pieces of customary land and the demarcations of such land (Machina, 2013).

Advantages

The consequence of granting a COT is that once a traditional leader has allocated land to a family or an individual, such land cannot be taken away unless it is in line with the law.⁴ As a form of punishment, Chiefs sometimes evict people who have committed serious crimes such as murder from their villages. But with a COT, not even the Chief will have such powers. While people must be punished for committing crimes, punishment must be lawful; and it must not violate other rights such as the right to own property. A COT protects one’s right to a specific piece of land. The COT would advance the cause of providing security of tenure in community areas, so long as the people included in the certificate have the right to the land. The problem of not having a COT was shown in the Supreme Court’s decision in the case of *Simale and Others v. Simale*. In this case the youngest of a group of brothers acquired a title deed that converted half of his late father’s land, which was held under customary land in the Nakonde area. His brothers sued him because they felt that the land belonged to the entire family and he could not acquire title over it, without their permission. The Court ruled that all the sons of the deceased should be included on the title deed, as they had the right to the land.

Possible challenges

- There may be some people who might want to convert their customary land to State land or leasehold tenure. A holder of a COT will not be able to use it for such conversion.
- A COT cannot be used to access financial sources of credit or loan facilities.
- In order to run the system efficiently, every village will need a village register and a village lands register. This will call for financial support from the government

³This section is informed by the various tool kits on land administration in Zambia, used by other stakeholders. In particular, most of the tools have been adopted from the WLRP Tool Kits of 2011 and 2012.

⁴For example the law provides that if people are living on a piece of land with minerals underneath it, they can be moved to another location provided they are compensated accordingly.

Where it has worked

The Chiefs in Nyimba and Petauke Districts in Eastern Province have issued COTs to at least 4,000 families. For example, the following case is recorded in (ZLA, 2011: 16):

A lady from Petauke in the Eastern Province of Zambia lost her piece of land in 2007 when her step father died. Most of the people in Eastern Province are patrilineal, thus their customary laws dictate that a piece of land will always go back to the husband or father’s family when the landholder dies before his wife or children can be given an opportunity to inherit it. This particular lady did not want to give up the fight for her land that easily. She went to the headman to complain. He decided she should share the land with her step father’s family. She wasn’t very happy with that decision. She ended up going to the Victim Support Unit of the Police. They referred her to Petauke District Land Alliance (PDLA). PDLA mediated in the case and eventually she got all of her land back. She has also been given a written letter by the Chief, which proves her right to the plot.

Below is a sample of a standard COT

CHIEF NDAKE ROYAL ESTABLISHMENT
Lwezi Palace
P.O. Box 570052 NYIMBA

“Msili ni Cuma” “Hand to Land for Prosperity”

TRADITIONAL LAND HOLDING CERTIFICATE
Republic of Zambia

THIS Certificate, dated the..... day of
20..... under the hand and seal of His Royal Highness
Chief Ndake, in the Republic of Zambia WITNESSETH that
..... of Village whose next
of Kin is....., is given customary
right to own, occupy, use and exercise any such other right (subject to such
reservations, restrictions, encumbrances, conditions and interests as are notified
and underwritten or endorsed hereon) of and in ALL that (*Insert description of
land*).

.....
.....
.....
.....
.....

TO which the aforementioned agrees and declares to observe, follow and abide
by the said reservations, restrictions, encumbrances, conditions and interests as
are notified and underwritten or endorsed hereon.

.....
.....

Village Headperson/Nduna
Chief Ndake

Official Stamp

6.2 Creation of a Village Lands Registry Book

What it is

Customary land is not titled. Nonetheless, in some districts, when the Chief (through the village headman) allocates land to an individual or family, it is recorded in a lands registry. Unfortunately, these records are not consistent, meaning that while some land allocations are registered, others are not. Also not every chieftdom maintains a lands registry. Further, when ownership of customary land passes from one person to another; or when one converts his customary land to State land, the lands registry is hardly ever (if at all) updated so as to reflect these changes.

Advantages

- With an up to date registry, there will be no or few intra – boundary disputes because as soon as one arises, it will easily be resolved by the parties referring to the Registry. In the absence of a Lands Registry Book, it is one party's words against another. And until the matter is resolved judicially, one cannot develop that land.
- A Village Lands Registry Book could be used to establish how much land is owned by women, the disabled, and other vulnerable groups in society. This information could then be used to advocate not only for these groups' access to land but also their acquisition and control of it.

The need for every village to have a Lands Registry Book, and to update it regularly, cannot be overemphasised. The absence of a Lands Registry Book exacerbates uncertainty, hinders progress and the administration of justice; and it leads to violations of people's land rights. As Golub says "poor land records ... often lead to disputes over land, which can significantly reduce the time that the poor need to spend on productive endeavours" (Golub, 2010:225).

Possible challenges

- Maintaining an updated Lands Registry Book for every village will require finances. In particular, there will be a need for stationery and personnel who will update the registry. There will also be a need for transportation so that the personnel can easily go to a site and verify. Assuming this registry is kept at the Chief's palace, the kapaso (i.e. the Chief's Retainer) can be tasked with updating it.
- People will need to be sensitised and encouraged to go before the palace and register their ownership. Unfortunately, some villages are very far away from the Chief's palace, thus some people may not manage to travel to and from the palace. To address this concern, government could set aside funds for officials from the Ministry responsible for Lands Affairs (MoL) and from the Chiefs palace to go round the villages and register the land.

Where it has worked

Many countries in Africa and Asia have introduced and begun implementing legislation to legally recognise customary land rights. Examples of such countries include Cote d'Ivoire, Ethiopia, Ghana, Madagascar, Mozambique, Namibia, Niger, Tanzania, Uganda, India, Nepal and the Philippines (Golub, 2010: 238–242).

Below is a sample of a Village Lands Registry:

S/No.	NAME OF LANDHOLDER	SEX	AGE	STATUS	NAME OF SPOUSE	NAME OF NEXT OF KIN	NAME OF DEPENDANTS	WARD	VILLAGE	SIZE OF LAND	LAND USE	DATE OF RESIDENCE	DATE OF APPLICATION	DATE OF ISSUANCE	CERTIFICATE No.

6.3 Sensitisation and Training Programme on Land Rights

What it is

This is a tool that is used to impart knowledge on human rights, and in this case, land rights in particular. In order to address the challenge of lack of information, it is important that all community members and traditional leaders are sensitised on every Zambian's right to land. Everyone needs to know how land is accessed in Zambia; the formal and traditional procedures of acquiring land; and the benefits that would flow for the individual, family and community, if all adults were allowed to own and control land. The sensitisation should occur:

- Jointly, i.e. among all the groups named above; and
- Separately, i.e. among men only; women only; children only; and traditional leaders only.

There are two reasons why it is important to have separate sensitisation programmes. First, this will give each group an opportunity to air their concerns and challenges that they may not comfortably share in the presence of other groups. For example, women often find themselves in such a position. Second, this will enable you as the trainer to address the specific needs of a group – e.g. one may need to spend more time convincing men that they too would benefit if women were to be allowed to own land; and men may not feel comfortable with this being done in the presence of women.

It is difficult to address a community problem when not all members of the community see it as a problem. Thus, the importance of joint sensitisation lies in the following: it will enable each group to learn about the other group, see the other group's needs, respect those needs, and together they can decide what role each group can play in order to attain the desired change. That way, as a community, the different groups will acknowledge the challenges surrounding land rights, and learn to work together to overcome them.

Men must be sensitised about the need to acquire land outside the clan so that when they die, the land will not be considered as family property, and therefore must be returned to their brothers, sisters and other extended family members. This has proved to be a big problem countrywide for millions of widows and orphans. Land that is acquired outside the clan can become the property of widows and orphans, thereby safeguarding their interests and sustaining their livelihoods. Further, during the sensitisation programme, married women should be urged to ask for customary land from their traditional leaders; and their husbands should be encouraged to support their wives' requests so that the leaders are comfortable to give the land to the woman herself. The same applies to other vulnerable groups such as the disabled people.

As a ZLA land rights trainer, you have been taught the provisions of the law. You should use these provisions of law together with the training methods in Part III of this document (i.e. demonstrations, role plays, focus group discussions, etc.) to sensitise all people on their land rights.

Advantages

- A sensitisation programme helps people gain a deeper understanding of a problem, and appreciate the challenges that others may face, which was earlier not appreciated when one was not sensitised.

Possible challenges

- Ignorance of the local community: Most of the people within the community are unaware of their rights. Sometimes, the very group in need of protection does not see the harm in the

current status-quo. In such cases, it is difficult to sensitise them as they do not realise or know their entitlements.

- In areas where the Chief and/or other groups in the community are strongly against empowerment of all members of the community regardless of age or sex, legal enlightenment might not be welcome, hence you as the trainer may face opposition and hostility.

Where it has worked

Sensitisation and training programmes have worked successfully in many communities in Zambia. Organisations such as the Legal Resources Foundation (LRF) and the Justice for Widows and Orphans Project (JWOP) have trainers and paralegals who conduct sensitisation programmes in the communities. Even though they are not reaching all the communities that need their services, the LRF and JWOP are making a much needed and positive difference in the rural communities of Zambia.

The following is a classic example of a community in need of a sensitisation programme:

The Mbonge community is located within Chief Kapigimpanga's area and his people reside on customary land. The members of the community enjoyed access to natural resources prior to the arrival of Kansanshi Mines Plc. The mining firm acquired land in the area for the construction of a housing complex for its employees, resulting in the displacement of 500 households. In addition to this Kansanshi set aside a portion of land for dumping chemical waste and this resulted in the yield of the local crop suffering. The local community is working with their leaders in order to get adequate compensation for the displaced families, but they lack the knowledge of their rights. For example, what is compensation? Who is entitled to it? How much is adequate compensation? And how soon must it be paid after one is displaced? All these and more are questions that you would address in a sensitisation programme on the land rights of displaced persons.

6.4 Establishment of Women's Groups in Rural Areas

What it is

The objective of Land Rights Groups in rural areas is to have an ever present body that will continue the sensitisation process in the community and speak out against violations of all land rights. Whether formally registered or not, such a group could be called the 'Land for All Group (LAG). The LAG would speak out against land grabbing; advocate for equal treatment among all who qualify to be allocated land by the Chief; and campaign for vulnerable groups such as widows, so that their right to continue accessing their deceased husbands' land, for as long as they do not want to go back to their original families.

The SULTS can train the members of LAG so as to equip them with legal knowledge, resources and contacts; and empower them with the ability to speak out, even in the face of opposition. Further, in order to expose them even more to land rights issues, the SULTS would do well to affiliate groups such as LAG to organisations such as the District Women's Association (DWA). Such an affiliation would enable the female members of LAG to have access to services that are availed to other women who are members of the association – e.g. access to grants, training and subsidised agricultural inputs. Most certainly, an affiliation such as this would encourage a bottom-up approach to problem-solving in that widows and other women in rural areas will present problems that they face in terms of land access, acquisition and control and receive assistance. Even more, associations such as the DWA could act as representatives of these women in decision-making fora that influence policy change. Thus through an affiliation such as this, LAG would not only be helping solve land rights problems, but also enhance economic empowerment of a vulnerable group in society. It could do this for all vulnerable groups for which it has links with associations that could help the group.

The LAG should have a branch in every ward or section.⁵ The different branches should meet every now and again to compare notes and exchange ideas on their achievements, challenges and strategies. These meetings should be held voluntarily, and the members need not be paid for attending. The outputs of such a group would have far-reaching consequences on the rights and wellbeing of all who live on customary land.

Advantages

- You as a trainer, as well as paralegals from other organisations, engage in sensitisation programmes only for a while, yet there is a dire need for the sensitisation to be on-going in the communities. This is more so because of negative customary laws, practices and beliefs that are so entrenched and thus they take a long time to change. The LAG would meet that need as an ever-present body promoting land rights for all. Further, its various branches in different wards or sections would act as watchdogs for the respect of the right to land. They would then share current information of what is happening on the ground with the SULTS, which could take further action to help redress the issues.
- Furthermore, since membership of this group will comprise of the people living on customary land, it is more likely that the impact of their efforts will be greater than that of ZLA trainers or any other change agent, for the simple reason that LAG members and other people close to them are the affected group or the primary beneficiaries of the intervention. Because they are affected, the LAG members would feel the need for change. As a result, they will not view the programme as imposed on them but rather they will consider the programme as their own. Thus they will feel that sense of ownership of the programme, especially because their engagement would be throughout the intervention period, unlike that of ZLA trainers law or other organisations that would participate only for a certain period.

Possible challenges

- The biggest challenge that a group such as LAG could face is opposition from the traditional leaders. Without their consent and support, it would be difficult for the group to function, thrive, and achieve its goal.
- The existence of traditional beliefs and practices that are inimical to community participation in land matters; and to recognition of all inhabitants of customary land as equal beings. Those who hold such beliefs and engage in such practices will try to hinder LAG.
- Lastly, it is possible for members of a group such as LAG to consider themselves more enlightened, powerful and above others; and thereby antagonise those who should come to them for help, as well as those who may know of violations that the organisation is not aware of. Nonetheless, these challenges can be addressed and curbed through training and legal literacy.

Where it has worked

Although it is not focused on land only, the JWOP in Zambia has assisted widows to form groups in rural areas. The JWOP sensitises women on the Intestate Succession Act so that they can also educate other women including men in the community. The project does not end at sensitising; it further helps the women to venture into income generating activities. Examples include the successful widows' support groups in rural areas such as the 'Monze Widows and Orphans Group' which keeps goats; and the 'Kafue Widows and Orphans Group' which is into poultry (Mr. Felix Kunda, JWOP: 22nd February, 2010).

Another example is in Latin America, particularly in Nicaragua, where the 'International Land Coalition' (ILC) and the 'Grupo Tierra' supported exchange experiences among women groups from established farming organisations with a focus on building awareness on the social and economic roles that they play (ILC, 2009:6). Through these organisations, women acquired knowledge in agriculture, production,

⁵This is a political system of area demarcation that is used in Zambia. A ward comprises of several neighbourhoods; and a section is made up of several wards.

micro-credit as well as the commercialisation network that has significantly improved their living conditions.

It is worth noting here that women who took part in the Nicaragua experience indicated that lack of access to land impeded their desire to improve food security and nutrition for their families. This realisation resulted in women prioritising the need to claim land rights in their agenda – be it at an individual or collective level – especially where local institutions were usually not responsive to women’s demands. Most importantly, the ILC reported that the majority of the women who participated in the Nicaragua experience have been able to lease and buy land.

6.5 Lands Committee

What it is

A Lands Committee is a group of people responsible for the management of customary land in a local community. It can be composed of headmen, elders and other respected people in the community. The difference between a Lands Committee and a Land Rights Group is that the Committee only begins its work after the community has been sensitised about its rights regarding land. The Committee exists to manage customary land when the community members are knowledgeable on land matters.

Advantages

- Community members are involved in the key decision making and management of their land

Possible challenges

- It might be a challenge for a Chief to accept a reduced role with regards to administration of customary land

Where it has worked

Lands Committees exist in the South Pacific Ocean in countries like Papua New Guinea, New Zealand and the Cook Islands. In post-colonial times the governments of these countries have not enacted legislation to control the manner in which such land is administered. The committees have carried out administrative duties and continued to practice customary law. (<http://www.paclii.org/journals/fJSPL/vol05/7.shtml>). Furthermore the Malawian parliament has drafted the Customary Land Bill of 2012. It aims to create customary land committees which are to administer land that is not under leasehold tenure (sections 4 and 5).

6.6 Promotion of Joint Tenure: Hope for Married Women

What it is

It is noted in Part I above that one of the major challenges is gender discrimination. This challenge can be addressed by promoting joint tenure between husband and wife. The two would be seen as equals as they would have an equal say over the land in question.

People should have a right to receive a joint tenure land permit, meaning that brother and sister can own customary land jointly; and so can husband and wife. This introduces what is called *jus acrecendi* (i.e. the right of survivorship). The importance of a right of survivorship is that when one party dies, the surviving one automatically becomes the heir to that property.

Advantages

- A joint land permit would make husband and wife partners in economic ventures, thus the woman would be involved in decision – making processes concerning the land. Should the husband pre – decease the wife, the wife and children of a man who holds a joint tenure land permit with his wife will be protected from eviction and land-grabbing.

Possible challenges

- The 2010 WLRP Baseline Survey reveals that it is harder for married women to access and control of customary land than it is for single and widowed women (WLRP, 2010:21). This is because married women need the permission of their husbands before the Chief can give them land. Unfortunately, some husbands withhold their permission for fear that their wives would become too powerful and independent of their control; and thereby stop respecting them. Others even argue that ‘an attempt to empower women especially the married women with own land would destabilise rural households and eventually lead to break up of marriages’ (GIDD, 2005:68). These are deep-rooted and widespread cultural beliefs, and they are a challenge. This challenge however can be dealt with through awareness rising amongst men; making men understand that just like them, women too have the right to own land.
- Additionally, men will have to be helped to understand how women could contribute to improving the living conditions of the entire family once empowered.
- Another possible challenge might be opposition from the man’s siblings and extended family against a joint tenure land permit between husband and wife. Some might argue that the joint tenure should be among the siblings instead so as to keep the land within the family even after the death of a husband. To address this concern, the land could be sub-divided among the siblings so that the joint tenure land permit could be issued only for the piece of land which the husband, wife and children occupy, minus the shared family fields. Although subdividing land devalues it and may deprive younger generations of access to their traditional family land, in the absence of a customary system that caters for the needs of married women and widows, a joint tenure land permit is the only way to adequately protect married women, widows and their children against forced evictions and land-grabbing.

Where it has worked

In Ethiopia, there are women who own land jointly with their husbands; and there has been a noted improvement in their conditions of living (GSDRC, 2010:3).

There are at least three examples in Zambia worth mentioning: First, during the Women’s Land Rights Workshop for Chiefs and Parliamentarians, Chief Chitina of Mkushi District told participants that as a strategy to empower women with land and ensure that they still own it even after death of their husbands, he issues joint tenure permits to land in his chiefdom (Consortium of Civil Society, 2010:4).

Second, the Gender in Development Division (GIDD) discovered through a 2005 Baseline Survey that some Zambian men willingly allocated land to their wives and supported their decisions made on land use and on the use of income generated from the land (GIDD, 2005:68). Men in Chikupi community in Kafue District indicated to GIDD that in the Goat Scheme Loan given to women by Keeper Zambia, husbands supported the day to day requirements for the livestock (GIDD, 2005:69). Furthermore, the report noted that in the marketing of livestock, couples collectively agreed on when, how and at how much to sell. Because they worked together, the proceeds belonged to both of them. However, when the proceeds were used to purchase cattle or any movable property, it was deemed to belong to the woman for she was the initial beneficiary of the Goat Scheme Loan.

The third example comes from the Zemba settlement in Chadiza District. One farmer there (Mr Phiri) informed GIDD that he had given land to his wife to grow barley and virginia tobacco. She apparently harvested tobacco worth K2, 000,000 gross, of which K1, 400,000 was her profit. Mr Phiri told GIDD that the exercise had been running for three years (GIDD, 2005:69).

The above examples show that clearly, men’s positive attitudes towards their wives can promote women’s economic empowerment.

6.7 Study Circle

What it is

A study circle is a small group of 7 – 16 adult people who during a certain period repeatedly meet and carry out planned studies under the leadership of an accepted leader. In the study circle, work is built around the participants' search for knowledge according to their own needs and interests. The participants want to learn about a solution that will help them solve problems affecting their daily lives at home and in the community. Work is characterised by democratic values where individuals' exchange of experiences and analysis are the guiding factors (Swedish Cooperative Centre, 2012:11). Studies depend on the active contribution of the participants in the planning and implementation of the work.

A good study circle is made up of four basic factors:

- Good guidance from a study circle leader: a good study circle will be kept in focus by good guidance from the study circle leader. The study circle leader will also ensure equal and active participation by all group members
- A study material: while group members will bring rich knowledge and experiences to the study circle about their life situation, a study material comes in to support the study group with factual information to further enrich their knowledge and the learning process
- A good study plan: a good study circle will have a study plan to provide guidance to members, for example, what topic to study, who shall be the study circle leader, when to meet, where to meet, duration of the meeting, what study material to use and
- Participants' willingness to share knowledge and experiences with others in the group: a study circle comes to nothing if participants are not active and willing to share what they know with other group members. The richness of a study circle lies in sharing knowledge and experiences from which learning comes. Nobody joins a study circle to just go and listen but they can also learn from their failures and successes through sharing their experiences.

The popularity of study circles lies in the opportunity to provide a participatory environment to all for social and community development to help communities at local level solve problems, improve relationships, provide training and engaging in dialogue that address their needs. As local people continue participating in study circles, they gain knowledge necessary to engage in public issues, understand how society works, control their own lives and master the tools to change their conditions of living, including their right to land. This way they feel empowered for democratic participation, personal development, and engagement in matters of land governance. The most important and probably most interesting point about study circles is that they are voluntary and encourage full participation of members of the study group.

Study circles provide an alternative means of addressing educational, advocacy and information needs of community members.

The study circle method promotes group work, interaction, participation and continuity at community level.

Study circles could be used to motivate people and empower them in such a way that they are able to make demands for security of land and delivery of certain services. Study circles also empower participants with knowledge through exchange of ideas and experiences.

Advantages

The advantages of using study circles are to:

- Develop a sustainable community-driven, owned and managed mechanism of adult learning;
- Facilitate dialogue and learning among community members facing common problems of land insecurity;

- Promote the culture of cooperation among community members in solving their common problems; and
- Facilitate community members' access to new information about land policy, regulations and rights of citizens.

Possible challenges

- Some people may not be willing to participate.

Where it has worked

The District Land Alliance in Mansa, Chipata and Solwezi have all successfully used the study circle.

6.8 Mobile Customary Lands Tribunal (MCLT)

What it is

The MCLT is a body of community members who will be given the task of going round the villages in their district and resolving the customary land disputes there. The MCLT will be run by the community members themselves in order to promote a sense of ownership.

The MCLT will include both men and women, able bodied and disabled. That way, it will have the support of everyone in the community, and it will encourage everyone to participate in the proposed MCLT activities. By having members of vulnerable groups such as women and the disabled, it is hoped that these members will be able to identify with and adequately address the challenges faced by their fellow vulnerable people in the community. Also, their presence on the MCLT will make the vulnerable who are victims of land disputes feel more comfortable to approach the MCLT. All members serving on the MCLT will be empowered with knowledge of how to deal with customary land matters from a non-biased perspective.

The MCLT will seat in the presence of witnesses and assessors to determine a dispute. Most importantly, Chiefs and village headmen will be invited to attend the deliberations so that they do not feel as though their powers over customary land are being taken away. The MCLT shall refer cases that it may fail to resolve to the Gender Sensitive and Decentralised Lands Tribunal (GSCLT), which is outlined later in this tool kit.

Advantages

- The MCLT will be more easily accessible to the rural people as the people will not be required to follow the justice provider, for justice will be brought to their doorsteps instead.
- The members serving on the MCLT will be empowered with relevant legal knowledge and the ability to settle customary land disputes from a gender sensitive perspective.

Possible Challenges

- At present in Zambia, customary land disputes are decided by Traditional Courts, which are presided by Chiefs. The major challenge that the MCLT may face is lack of support from some Chiefs, for fear that they may lose some of their powers over customary land.
- Another challenge may be resources in the form of:
 1. Human capital that will have to move from one village to another settling land disputes; and
 2. Utilities such as vehicles, stationery, etc.
- One other possible challenge is the lack of a good communication structure that will enable the MCLT to become aware of disputes in the communities.
- Some traditional leaders are corrupt, hence illegal land sales and forced relocations are a reality. Such traditional leaders might make it difficult for the MCLT to function effectively for fear that

they may have to appear before it.

Where it has worked

The concept of a mobile land tribunal has worked successfully in the Philippines (<http://balita.ph/2010/05/29/pdea-seeks-conversion-of-saranganis-mobile-tribunal-into-special-drugs-court/>). A similar concept which is working well in Zambia is that of a mock tribunal. Mock tribunals have been conducted by JWOP in the following districts in Zambia: Monze, Choma, Chipata, Chingola, Solwezi, Kabwe and Chibombo. These mock tribunals have been used to assist widows and orphans get justice in inheritance disputes over their husbands' and parents' property.

The difference between a mock tribunal and the MCLT is that the former comprises of professionals (e.g. a police official, magistrate and a lawyer); while the latter is made up of ordinary community members who have received little training to aid them solve their problems. The similarity is that both bodies do not pass binding decisions. They merely comment on the case and offer advice on how the parties should proceed in line with what the law provides

6.9 Village Council

What it is

Most villages already have a structure called a Village Council, which may or may not be similar to what is envisaged here. In this tool kit, a Village Council is a committee of certain members of the village, who are chosen by the village assembly (Presidential Commission of Inquiry into Land Matters, 1994:124). A village assembly comprises of all members of the village who are 18 years old and above.

In line with the recommendations of the SADC and AU Protocols, it is here proposed that half of the Village Council membership must be women. The Chairperson of the Village Council could be the village headman; and its Secretary could be the induna (Chief's advisor). A Village Council must always sit in the presence of the Chief. The three responsibilities of the Village Council will be:

i) To conduct a general assessment of community issues:

To conduct a general assessment of community issues: The Village Council will be responsible for ensuring that community problems are tabled before the traditional leaders and key community members for resolution

ii) To promote the entire community's participation in the development of customary law:

The Village Council will bring together the traditional leaders and members of the community for the sole purpose of reviewing the prevailing customary laws in that particular community. Each individual, be it a man or woman, will be given an opportunity to express his/her views so that the current laws that will be retained and the new ones that will be formulated, will all be based on the people's general consensus. It is hoped that this process will help eliminate customary laws and traditions that hinder access to and control of land.

iii) To facilitate an annual social dialogue forum between vulnerable groups and traditional leaders:

The Village Council will organise an annual event where women, the disabled, etc. will have an audience with the Chief, indunas and village headmen; and be given an opportunity to present their concerns regarding customary land. Only a number of such vulnerable people with customary land issues (e.g. 50) will be allowed to present their cases directly to the Chief during this forum. Before proceeding with the next year's annual forum, the previous year's agenda will be reviewed in order to assess progress made with regard to implementation of the Village Council's resolutions on the land rights of vulnerable members of society.

Advantages

- The fact that both men and women will be present during the discussions on development of

customary law means that the latter will take into account issues that affect both parties. With time, Zambia's customary laws will reflect and cater for the interests of all – men, women and children.

- The Village Council will allow members of the community to solve their own problems without external influence. This will promote a sense of ownership of community initiatives and resolutions.
- The advantage of having a dialogue forum in which vulnerable groups present their issues is that the Chief provides feedback on all issues presented before him on that particular day. The vulnerable are also presented with an opportunity to follow up their cases with the village headman.
- Both on the day of the annual dialogue forum and the day of the customary law development discussions, the Chief gives wisdom and direction to the women, community leaders, men and children in that community.
- Should the Village Council fail to resolve a dispute due to limited legal knowledge or authority, it can transfer such a matter to the GSCLT, which is discussed later in this tool kit. The advantage of bringing a matter before the GSCLT is that it will be resolved by persons who are gender sensitive, possess legal knowledge, and the GSCLT's decision will be binding.
- By receiving complaints and addressing them, the Village Council will lessen the pressure on other fora such as the GSCLT.

Possible Challenges

- Due to deep-rooted cultural beliefs, women, the disabled and other vulnerable groups may choose not to participate in the process of developing customary law, and not to table their concerns during the annual social dialogue forum. This may be because of many reasons, e.g. some women may actually believe that men alone are to make decisions in society. Those who may choose to attend may keep quiet throughout the dialogue as a sign of respect.
- The failure of women and other vulnerable groups to speak up could cause some people to advocate for the retention and maybe even creation of customary laws that will discriminate against these groups. However, this challenge can easily be resolved through capacity building so that women and the disabled have the confidence to stand up for their rights.
- The success of the type of Village Council outlined above depends on how sensitive the traditional leaders of that particular area are to the needs of all members of their community. If they do not support the idea of promoting equality for all, most of the cases will be decided in favour of certain groups only. One way to address this is to capacity build members of the Village Council on gender, disability rights, children's rights and property rights as all these concepts should be borne in mind when addressing land matters.

Should it be suspected that a member of the Village Council is engaged in one or other corrupt or retrogressive activities, the village assembly should hold an extra – ordinary meeting in which such suspicions are addressed.

Where it has worked

In Zambia, Chief Munyumbwe of Gwembe District holds a yearly meeting in which men and women are allowed to voice out their concerns regarding customary laws, thus they contribute towards its development (Mr. Nchimunya Chiyombwe, ZLA:10th February, 2011). The concept of Village Councils is also working efficiently in Tanzania (Presidential Commission of Inquiry into Land Matter, 1994:124).

6.10 Advocacy for a Gender Sensitive and Decentralised Lands Tribunal

What it is

The *Zambian Lands Tribunal Bill* has many laudable provisions, the main one being the extension of the tribunal's jurisdiction to include customary land. Others include the fact that its decisions will

be binding; and that the members will include one who qualifies to be a judge of the High Court, a representative of the Attorney General's office, a representative of the House of Chiefs, a land surveyor, a planner and members of the public and private sector. Should parties be dissatisfied with the decision of the lands tribunal, section 16 stipulates that they will have a right to appeal to the Supreme Court of Zambia.

That notwithstanding, the Lands Tribunal Bill is silent on several matters which are pertinent to the protection of rural women's land rights. To begin with, it makes no mention of gender sensitivity yet a tribunal dealing with customary land must be gender sensitive because of the many customary laws, traditions and beliefs that work against women's human rights. Thus gender sensitivity has to be emphasised in the composition and qualifications of the members of the tribunal; as well as the procedure to be followed by the tribunal. Also, the members of the tribunal must be trained in children's rights and disability rights in order for them to appreciate the challenges faced by these vulnerable groups and therefore protect their rights.

Also, the Bill will not create a different lands tribunal, rather it provides for the continued existence of the current one. This is made clear in the long title as well as section 3 of the Bill. One of the weaknesses of the current tribunal is that it only has an office in Lusaka. In order to adequately address the challenges faced by vulnerable people in rural areas, the lands tribunal must have a permanent office in every provincial capital so that it is more accessible to the people.

Additionally, the Bill does not say who will appoint the members of the tribunal, it merely states that their appointment will be done in consultation with the Judicial Services Commission. It is important that non – State agents who are interested in the realisation of land rights of vulnerable people are given an opportunity to participate in the appointment process of members of the tribunal.

In light of these gaps in the Bill, the ZLA and its partners are urged to advocate for the following additions to the Bill, that:

- The tribunal must be sensitive to the needs of women, children and the disabled;
- The tribunal must be decentralised and therefore have offices in all provincial capitals; and
- Non – State agents such as the ZLA and its partners should be given an opportunity to participate in the appointment process of members of the tribunal.

Furthermore, in connection to the tools suggested in this tool kit, the tribunal should:

- Play a monitoring and evaluation (M&E) role of the MCLT as well as the Village Council;
- Review decisions of the MCLT and the Village Council and declare them binding, if they are legally correct and requested by either party; and
- Give audience to dissatisfied parties who appeared before the MCLT and/ or the Village Council. Thus the tribunal will hear matters that are brought to it directly as well as those that will come like 'appeal' cases from the MCLT and the Village Council.

As a body created and structured by statute, the government will provide funding for the lands tribunal. There is, however, room for partnering with civil society organisations in terms of funding, implementation and monitoring. In fact, the greater the role played by the ZLA and its partners in such a joint venture, the more say they will have in its composition and operation.

Advantages

- As a gender sensitive lands tribunal, the tribunal will not be gender biased even though it will apply customary law. This is because it will also respect the provisions in the Constitution, legislation and international human rights treaties.
- Having an office in every provincial capital will contribute to the decentralisation of the formal land administration system; and it will enhance rural women's access to justice.
- The lands tribunal will record all cases of customary land dealt with. This will help put in place an M&E system that will collect, analyse and disseminate information on customary land to

decision makers, Chiefs, ordinary citizens as well as other stakeholders.

- If those who are in the forefront of promoting land rights of all vulnerable groups are given an opportunity to participate in the appointment process of the members of the tribunal, they would ensure that the best candidates for the job are indeed appointed.
- The decisions of the lands tribunal will be binding and enforceable as though passed by the High Court. This will reduce the pressure on the judiciary, meaning the latter's caseloads will also be lighter.

Possible challenges

- Traditionalists may not be in favour of a 'gender sensitive' tribunal because it will go against certain customary law provisions e.g. the principle of male primogeniture. Male primogeniture is a system of inheritance that permits males only to inherit – e.g. the sons, brothers, uncles, etc of the deceased.
- Customary land disputes are among the top five types of cases heard by the Chiefs in Zambia. As such, some Chiefs may be against the lands tribunal as it will be adjudicating on matters that they currently deal with. This concern could be dealt with by informing the Chiefs of the need to have a legally binding tribunal that shall record proceedings in order to bring about change other than having land disputes decided only by a traditional court that is not recognised by law.

Where it has worked

Land tribunals are being used in other countries to address customary land matters. In Vanuatu for example, a customary land tribunal has been used to settle customary land disputes, although it is not necessarily gender sensitive (<http://www.un.org/disarmament/convarms/SALW/Docs/AV-MemberStatesViews/Vanuatu-E.pdf>).

6.11 Legislative Proposals

What it is

It is well known that customary land is not regulated by legislation, but rather falls under the domain of customary law. The land on which most Zambians live and have access to is customary land. There is therefore need for closer monitoring of how customary land is administered, in order to ensure that rights to land are respected.

Given the high levels of poverty, low levels of income, and exorbitant cost of living, the most feasible way in which a person in Zambia can have access to and control of land is if he or she inherits it from the father or husband. However, the Intestate Succession Act (ISA) of Zambia does not regulate inheritance of customary land (Intestate Succession Act 5 of 1989, Chapter 59 of the Laws of Zambia: S2 (2) (a)). This tool kit does not advocate for the use of the ISA to regulate the devolution of customary land. In a country where the majority are extremely poor, it is in the best interest of the people that land is owned and devolves customarily. But in light of the many challenges surrounding customary land allocation and administration, there is a dire need for Zambia's written and unwritten laws to be reviewed and developed as recommended in the first section of this document.

Advantages

- Amending the legal framework would have great benefits for all. It means that all people would have the right to challenge discriminatory customary land law and seek redress before the courts, should they be victims of it.
- Amending the Constitution, the ISA, and the Lands Act would better protect the land rights of all Zambians who live on customary land.
- There are many statutes that already have positive and progressive provisions as shown in the summary of laws above, e.g. the provisions on the protection of natural resources and the

- ones encouraging foreign investment which leads to job creation and advancement of the local community. For these laws, what is needed is simply enforcement.

Possible challenges

- Some of the members of Parliament may not be ready and willing to change some of the current provisions in law, e.g. the vesting of all land in the Presidency, and the subjection of customary law to the Constitution. Without the support of Parliamentarians, it may be difficult for the above proposed amendments to be effected.
- Amending the law is one thing; implementing it is another. It is possible that people will still not respect written law and continue following their discriminatory customary laws.
- The legal terminology in Acts of Parliament makes it difficult for many ordinary people to understand the law. Most poor people cannot grasp the complex language used in the Acts of Parliament.
- There are too many pieces of legislation that directly regulate or indirectly touch on customary land. This could lead to confusion among the local communities whom they are meant to benefit.
- One of the major complaints out there about written law is that the laws appear to be in favour of the wealthy rather than the poor because of the high cost of acquiring land, coupled with the lack of decentralisation of power with regards to land administration. If legislative reform is to work efficiently, it must be coupled with sensitisation and putting in place other measures so that all Zambians, including the poor who live far out in the rural areas, can directly benefit from having these laws in place.

Where it has worked

Legislative change, backed by civil society and other bodies or organisations, has occurred before in Zambia. A perfect example is the introduction of the ISA in 1989. The Bill was debated for many years, but eventually, it was passed. Despite some people not following it, it is clear that widows and orphans today are in a much better position than they were in prior to 1989 when property – grabbing was not prohibited by law. The ISA has certainly reduced the number of property – grabbing cases in Zambia.

6.12 Formation of a Land Rights Lobby Group

What it is

The purpose of a Lobby Group on land rights is to bring together various stakeholders in society who acknowledge the need to protect land rights and wish to work collectively and contribute towards the realisation of their rights. The members of the Lobby Group will work together to influence decision – makers to ensure that policies, programmes and projects initiated and implemented are for the good of all. This will be spearheaded by the ZLA and its partners. NOGs such as JWOP and research institutions such as the ZLDC are potential stakeholders of the Land Rights Lobby Group.

Advantages

The Lobby Group will:

- Push for change in discriminatory laws (both written and customary) that prevent any ordinary Zambian's ownership and control of land;
- Advocate for the formation of a more decentralised land tribunal as proposed in the section dealing with the GSCLT (Golub, 2010:239); and
- Represent the voiceless vulnerable groups in rural Zambia in fora capable of bringing about change that will improve their livelihood.

Possible challenges

- It may be difficult for members of the Lobby Group to organise themselves and completely agree on the agenda; and
- Some members of the Lobby Group may have ulterior motives for joining the group which may be against the best interests of the ordinary people living on customary land.

Where it has worked

An example of a successful Lobby Group is the Zambia National Women's Lobby. Its activities include training women who want to stand for political office and other decision making positions, and disseminating information aimed at improving women's position in society.

Today it is one of the leading women's rights groups in Zambia (www.womenslobby.org.zm).

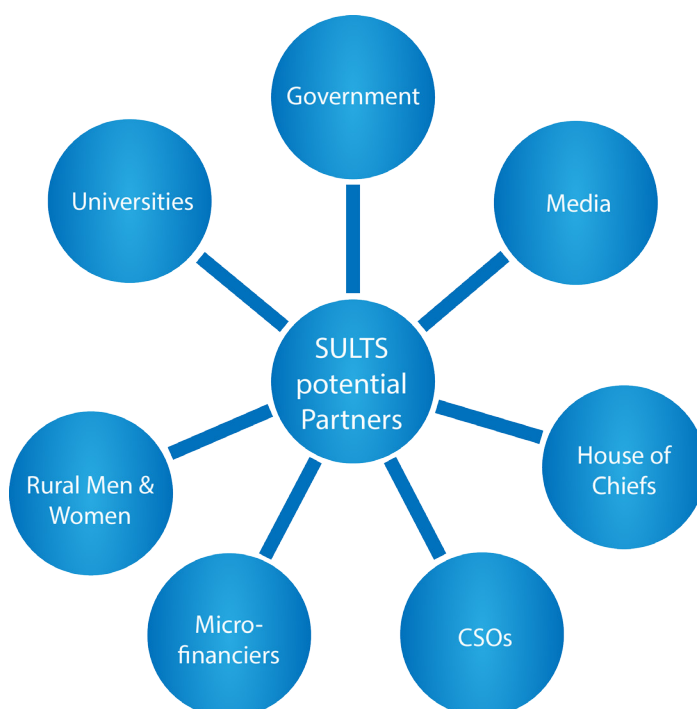
6.13 Partnerships

What it is

The issue of land rights in customary areas is multi-dimensional issue; hence a multi-pronged strategy has to be adopted. Such a strategy must include focusing on:

- Economic empowerment – as this would help alleviate poverty and subsequently, many of the problems that people in rural Zambia face; and
- Changing cultural attitudes and beliefs – through literacy programmes on one hand and strict enforcement of national and international law on the other hand.

Clearly, it is impossible for a single organisation to adequately address the problem of administration of customary land tenure. ZLA needs to collaborate with different stakeholders; and they each must agree to use their comparative advantage. The stakeholders must agree on how customary land rights could be promoted. Each stakeholder must identify their stake and roles to be played; then commit to deliver. It is therefore recommended that the ZLA, under SULTS, enters into partnerships with various organisations in order to adequately address the challenges surrounding customary land rights through a multi-pronged strategy. It is here proposed that the ZLA considers forming some or all of the following partnerships:



1. Government

(a) Ministry Responsible for Land Affairs (MoL)

The ZLA could submit its proposals on legislative reform to the MoL. This partnership would ensure that these proposals are tabled in Parliament.

(b) Ministry Responsible for Education Affairs (MoE)

The ZLA could recommend to the Zambian MoE that the curriculum for the following subjects be revised so as to include a component on land rights:

- ‘Social Studies’ in lower and upper primary school;
- ‘Civics’ in lower secondary school; and
- ‘Civic Education’ in upper secondary school.

Furthermore, the ZLA and the MoE could run a programme on radio and television on land rights. The concept for the Taonga Market Programme (This is an educational programme that is aired on Zambian radio) could be used here.

(c) Ministry Responsible for Local Government and Housing Affairs (MoLGH)

An important body under the MoLGH is the District Development Committee (DDC). The DDC ‘provides a responsive administration at the district level’ (http://dcnortheast.delhigovt.nic.in/district_development_committee.htm). In Zambia, the DDC is a meeting of different stakeholders, headed by the municipal council. It focuses on developments in the district, especially with regard to land. The DDC in Zambia deliberates at length on land matters. It is mandated to repossess undeveloped land; and it has the authority to administer customary land that has been converted to State land. The DDC can prevent a person from developing land that is acquired illegally. This minimises delays on account of the municipal council as the DDC ‘provides a single window approach to the public with regard to various problems being faced by them’ (http://dcnortheast.delhigovt.nic.in/district_development_committee.htm). As such, the ZLA could partner with the DDC; and together they could help affected people in rural areas have their complaints looked into speedily; and realise their land rights.

2. The Media

In a joint venture with the ZLA, the role of the media would be to work closely with the MoE and MoL in the dissemination of information on land rights, challenges that ordinary Zambians face and how they can be resolved. The dissemination strategy could include focus group discussions, drama and role-plays by community members themselves that could be presented on radio stations and television where possible. Once the media embarks on this initiative, there is a high possibility that more stakeholders may want to come on board to contribute to the realisation of women’s land rights.

3. A Body of Traditional Leaders

In Zambia, an example of such a body is the House of Chiefs. Customary land in Zambia is controlled by the Chiefs, and so any development intervention has to win their support if it is to be successful. The role of Chiefs therefore would be to allocate land to vulnerable groups; protect them against unlawful displacements; be part and parcel of the sensitisation of their people on land rights as well as participate in models such the Village Council.

4. Civil Society Organisations

(a) Faith Based Organisations

These organisations are very instrumental in the promotion of social justice on the ground. In the partnership with the ZLA, the focus of faith based organisations would be to appeal to people’s consciences by speaking of fairness and equal treatment in the promotion of land rights.

(b) NGOs that Fight for Women's Rights and Empowerment

Organisations such as Women for Change have been promoting women's rights for many years in Zambia. In partnership with the ZLA, the two could lobby for the removal of discriminatory laws that are preventing women from owning land.

(c) Business Associations

The Zambia Association of Chambers of Small and Medium Business Associations (ZACSMBA) is an umbrella body for small businesses in Zambia. The ZACSMBA and the ZFAWIB could provide the beneficiaries of the ZLA SULTS programme with training in agriculture; and also link them to organisations that provide affordable farming inputs – e.g. irrigation pipes costing USD 4.

5. Target Groups in the Community

In order to promote a sense of ownership, community members have to be responsible for something other than just being recipients. In addition to the roles they will play in the models suggested above, community members could also contribute by committing their time and skills to the building of a shelter where various meetings (e.g. the sensitisation meetings) will be held. Furthermore, they could provide information based on their experiences that will help the ZLA build a good and feasible intervention project. Additionally, some of them could become trainers who could be trained by ZLA to sensitise their communities on land rights. Having said this, it is important for the ZLA to target specific groups and ensure that all are on board:

(a) Women

Women are not a homogenous group, thus their needs cannot be generalised. Each category in the population of women is affected differently by a specific problem. For instance the land rights problems faced by married women can be addressed by the promotion of joint tenure outlined above. But that is not necessarily a solution for young women or those living with HIV and AIDS. Thus ZLA's response must be tailor made for each category of women. For example:

(i) Young Women

There is need to work closely with young women in Zambia. Many of them lack economic opportunities due to poverty, discriminatory customary land laws, etc. Additionally, countless young women lack the necessary motivation, mentoring and guidance that they need to succeed in life. This perpetuates poverty as many young women have no dreams to achieve more. The ZLA SULTS programme could design a special intervention programme aimed at liberating and empowering these young women.

(ii) Widowed

ZLA could work closely with JWOP to ensure that land is not grabbed from women after the death of their husbands.

(iii) Women Affected by HIV and AIDS

It is important for ZLA to work with other organisations that give care and support to people infected and affected by HIV and AIDS. Doing this could reduce poverty levels among women; and insecurity of land due to illness.

(b) Men

Research shows that many men are against the idea of women owning land. They must be enlightened about women's land rights, and the benefits of women owning land, e.g. when their wives income increases, they too gain. Making men in the community understand the benefits of women's land rights would encourage them to:

- Contribute their labour in the promotion of women's economic empowerment;
- Co-operate in the process of women's empowerment; and
- Support their wives and daughters who would be either beneficiaries of the process or actively involved in helping others.

(c) The Youths

There is need to sensitise young people on land rights and their surrounding challenges. They must be aware of and engaged in land rights issues so they are able to take action when they ought to. The ZLA should therefore partner with youth organisations and ensure that youths know their entitlements, and how they can realise them.

Advantages

- Partnerships save resources.
- When different stakeholders come together for a common goal, the impact of the intervention is more because they all commit to deliver on a specific issue, which can be done in a more reasonable period than if one organisation takes on the task alone.
- Partnerships promote learning of best practices. Stakeholders can share information on what strategies have worked and which ones have not.
- Joint ventures prevent duplication of efforts. Working together allows organisations to know what has been done to avoid repetition of efforts and re-invention of wheels.

Possible challenges

- Managing various stakeholders is not easy. Some stakeholders may not be willing to cooperate with others for fear of their interests not being achieved.
- Failure by some stakeholders to deliver their part within the agreed period may affect other aspects of programme, thereby having a negative effect on the whole project.
- Should the partners fail to fully define the scope, schedule and budget of the intervention, there is a possibility that the partnership may lead to the project's failure, despite having so many and powerful stakeholders on board.

Where it has worked

Partnerships have worked well in many countries worldwide. For example, in Zambia, the Non-Governmental Organisation Coordinating Council (NGOCC) runs a basket fund that is used to improve the living standards among rural women. In this regard, the NGOCC works in collaboration with organisations such as OSISA, DIAKONIA, HIVOS, CORDAID, USAID, UNDP, UNCIEF, NORAD, DANIDA etc. (http://www.ngocc.org.zm/index.php?option=com_frontpage&Itemid=1).

PART C: TRAINING MANUAL –
TECHNIQUES FOR EMPOWERING
THE COMMUNITY AND ENABLING
THEM TO ENGAGE WITH POLICY
MAKERS

7.0 Techniques for Empowering the Community and Enabling them to Engage with Policy Makers

7.1 The Role of a Trainer

Your task is to train the members of the community and enable them to use the tools discussed in Part II. You therefore play a very critical role in the realisation of a transformed customary tenure system in Zambia. Without your training, the community might not be able to engage effectively with Policy Makers. In other words, YOU hold the key that could unlock the door to an improved system of administration of customary tenure:



In summary, it is your place and responsibility to:

- Create a conducive learning environment for the people whom you will train;
- Facilitate individual and team learning;
- Stretch and challenge participants as leaders; and
- Ensure that every participant is fully participating in the training programme (HSBC Facilitator's Guide, 2009:10).

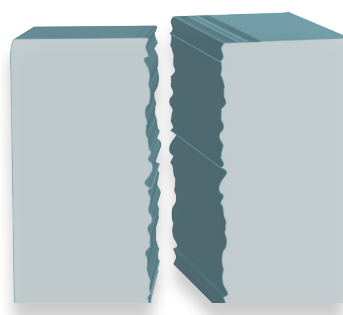
GROUP DISCUSSION

Which training methods can be used to teach the community on how to use the different tools?

7.2 Your Communication Skills

As a trainer, it is of utmost importance that you are a clear, confident, audible, approachable and moderately-paced speaker. If not, your goal of empowering the community members may not be realised. As such, always look for new and creative ways to communicate. And remember, communication is not only verbal but also non-verbal, i.e. body language. Thus the way we look at people, whether we smile or frown, how we use gestures, etc. communicates a lot to those who are watching us. In fact, research shows that non-verbal communication is far much more powerful than verbal communication.

7.3 Ice Breakers During Training



Always begin your presentation with an ice breaker. The purpose of an ice-breaker is:

- To encourage all participants in breaking down and discarding status, prestige, authority, structured attitudes and behaviour habitually employed in day-to-day activities (“ice” here is slang for rigid formality);
- To encourage all participants to relax and enjoy themselves and each other as persons (not limited to roles or status holders) in preparation to becoming more open and open-minded towards the substantive training to follow;
- To encourage participants to interact with each other and get to know each other in non-orthodox and untraditional contexts;
- To soften up participants before they face the core material of the training; and
- To improve the training process of the overall training workshop by preparing the participants as above

7.4 This Manual’s Approach and Methods of training

An ‘approach’ is a way of dealing with something. This training manual uses a two pronged approach which you can apply. Firstly, it takes the learner-centered approach:

In the learner-centered approach, trainers acknowledge and respect the fact that learners, too, have expertise and talents of their own which must be given the scope for expression. Only then can they truly function as partners in development (UNDP, 1990:24).

ZLA recognises and respects the fact that it is impossible to improve the administration system of customary tenure without the input and participation of the learner, i.e. the individuals on live on customary land.

The learner-centered approach is acclaimed for its effectiveness in helping community members take greater control of their lives and environment by developing their skills in problem-solving and

resource management (UNDP, 1990:24).

Secondly, this training manual uses the participatory approach. The term ‘participation’ is defined as:

A democratic right to take part in what affects one or the organised efforts or group actions to achieve a common goal. In this case, the goal is [improved administration of customary tenure]. Participation means to share, to decide and to be part of collective action. It embraces the following attributes:

- To control;
- To be represented;
- To benefit; and
- To contribute (CERED, 2008: 4).

Participatory training is two-way training. It is a partnership between the trainer and the trainees. Through it, the trainees discover their own strengths and develop problem-solving skills. Together, the trainer and trainees play a more effective role in reforming the administration of customary land and tenure (UNDP, 1990:24).

As a trainer, you need to be mindful that sometimes people may not actively participate during the training due to the following reasons:

- Fear of speaking up in group meetings or in the presence of authority;
- Low self-esteem;
- Distrust of the motives of those in power;
- Reluctance to take risks;
- Fear of economic consequences or social loss of face;
- Fear of criticism for overstepping customary roles;
- Factional differences;
- A sense of powerlessness;
- Lack of experience in working with groups; or
- Lack of skills in planning and problem-solving (UNDP, 1990:24).

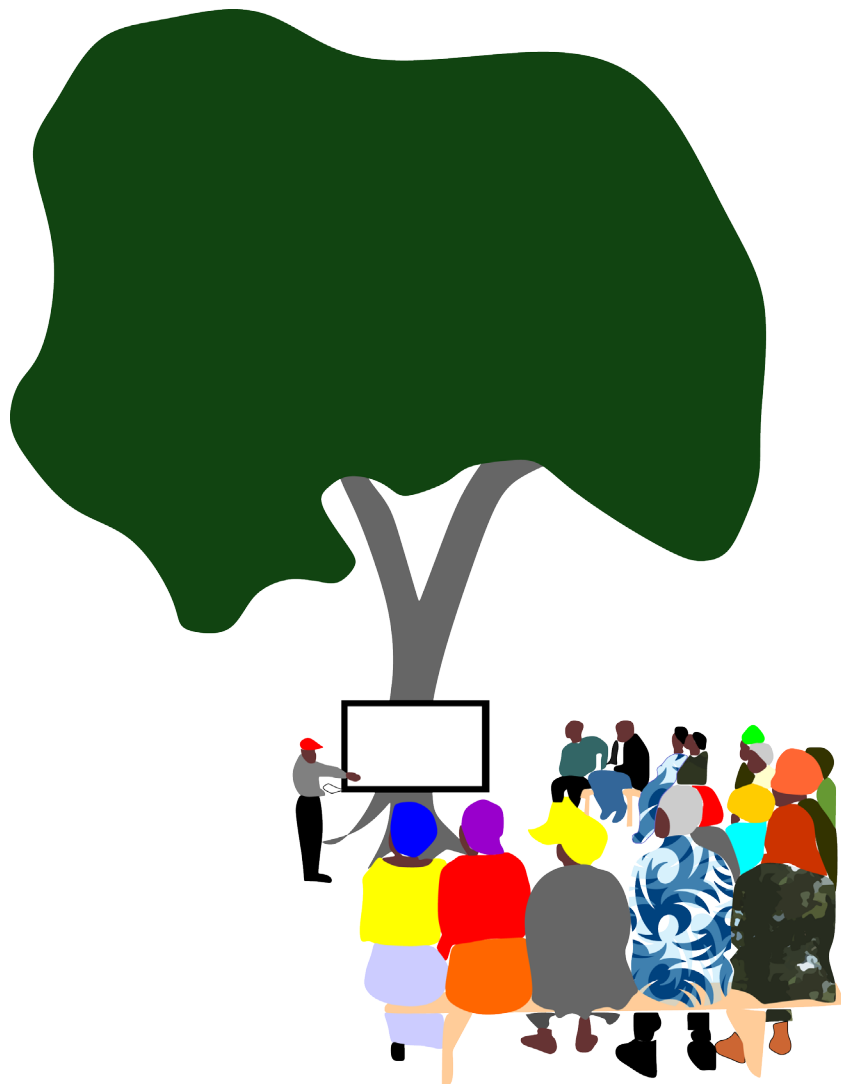
It is your responsibility as a trainer to do everything possible to make the environment comfortable and conducive for all to freely participate. Remember that when your participants are encouraged to participate (as opposed to just watching or listening) they are likely to pay more attention, retain more information, and are encouraged to build up their self-esteem and self-confidence.

A training method is the process, style or technique that you as the trainer should use in communicating information to the trainees. There are many different methods of training. Scholars divide these into cognitive and behavioural methods. As a trainer, you need to understand the advantages and disadvantages of each method, and its impact on your trainees. You must keep their background and skills in mind before giving training and when choosing which method to use

7.5 Cognitive Methods

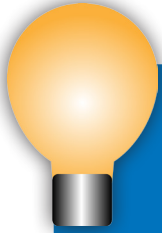
Cognitive methods are more of giving theoretical training to the trainees. The various methods under cognitive approach provide the rules for how to do something, written or verbal information, demonstrate relationships among concepts, etc. These methods are associated with changes in knowledge and attitude by stimulating learning. The methods you can use include:

7.5.1 Lecture



This is one of the oldest methods of training. To lecture is to tell someone about something. It can be in printed or oral form. You can use lectures to create an understanding of a topic or to influence behaviour and attitudes. As a trainer, you give lectures to enhance the knowledge of your trainees or to give them the theoretical aspect of your topic. There are some variations in the way you can conduct lectures for example, some of your lectures can be interactive while others are not.

Basically, training is incomplete without a lecture. When you begin the training session by stating the aim, goal, agenda, processes or methods that will be used in training, it means that you are using the lecture method. A good lecture therefore consists of an introduction of the topic, purpose of the lecture, priorities and preferences of the order in which the topic will be covered.

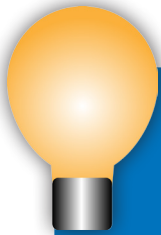


As a trainer, you can use the lecture method when for instance disseminating information on how to create a village lands registry book; or when explaining the legislative proposals on customary tenure

7.5.2 Demonstrations



This method is a visual display of how something works or how to do something. As a trainer, you must show your trainees how to perform or how to do the tasks of the job. By doing so, you help them to focus their attention on the critical aspects of the task



Demonstrations can be used during sensitisation and training programmes on land rights. You can also use demonstrations during a village council and the MCLT. Partnerships are another tool in which demonstrations can be used.

7.5.3 Discussions



This method uses you as a trainer to provide your trainees with context that is supported, elaborated and expanded on through interactions. The interactions include those among the trainees and those between you and your trainees. Discussions are a much more effective and powerful method compared to lectures because of the interaction and the communication between the trainer and trainees. When this method follows the proper sequence which includes a lecture, discussion and questioning, you can achieve a higher level of knowledge objectives such as problem solving and principle learning.

This method consists of a two-way flow of communication i.e. knowledge in the form of a lecture is communicated to the trainees, and then an understanding is conveyed back by trainees to you. Understanding is conveyed in the form of verbal and non-verbal feedback that enables you to determine whether the material is understood. If the feedback is positive, then definitely it would help out the trainees to implement it at their workplaces. If it is negative, it means you may need to spend more time by presenting the information again in a different manner.

Questioning can be done by both you and your trainees. When the trainees ask questions, they explain their thinking about the content of the lecture and when you ask questions, you stimulate their thinking capacity on the content of the lecture. Asking and responding to questions is beneficial to trainees because it enhances understanding and keep them focused on the content.

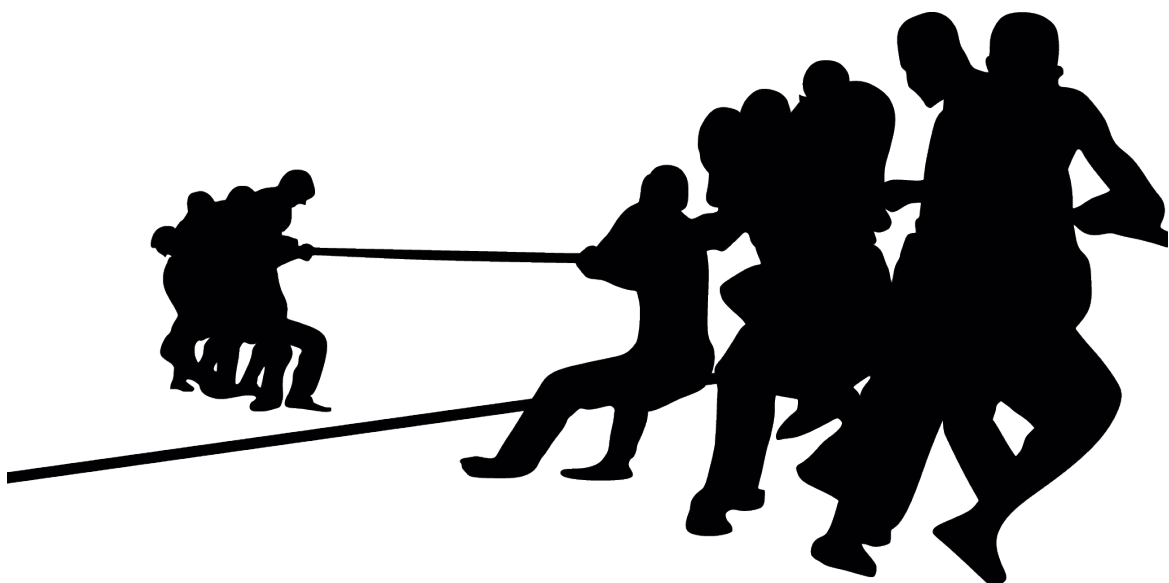


Discussions are a widely used method of training. As a trainer, you can use discussions when in connection with the following tools: Village Lands Registry Book, legislative proposals and sensitisation and training programmes on land rights. Other tools where discussions can be used include establishment of women's groups in rural areas, formation of a Land Rights Lobby Group promotion of joint tenure; partnerships, during a Village Council and MCLT. Lastly, you can use discussions through advocacy for a GSCLT.

7.6 Behavioural Methods

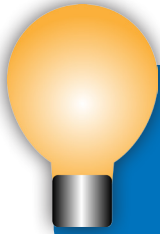
Behavioural methods are more of giving practical training to the trainees. The various methods in this allow the trainee to behave in a real fashion. These methods are best used for skill development. Some of the behavioural methods you can use include:

7.6.1 Games and Simulations



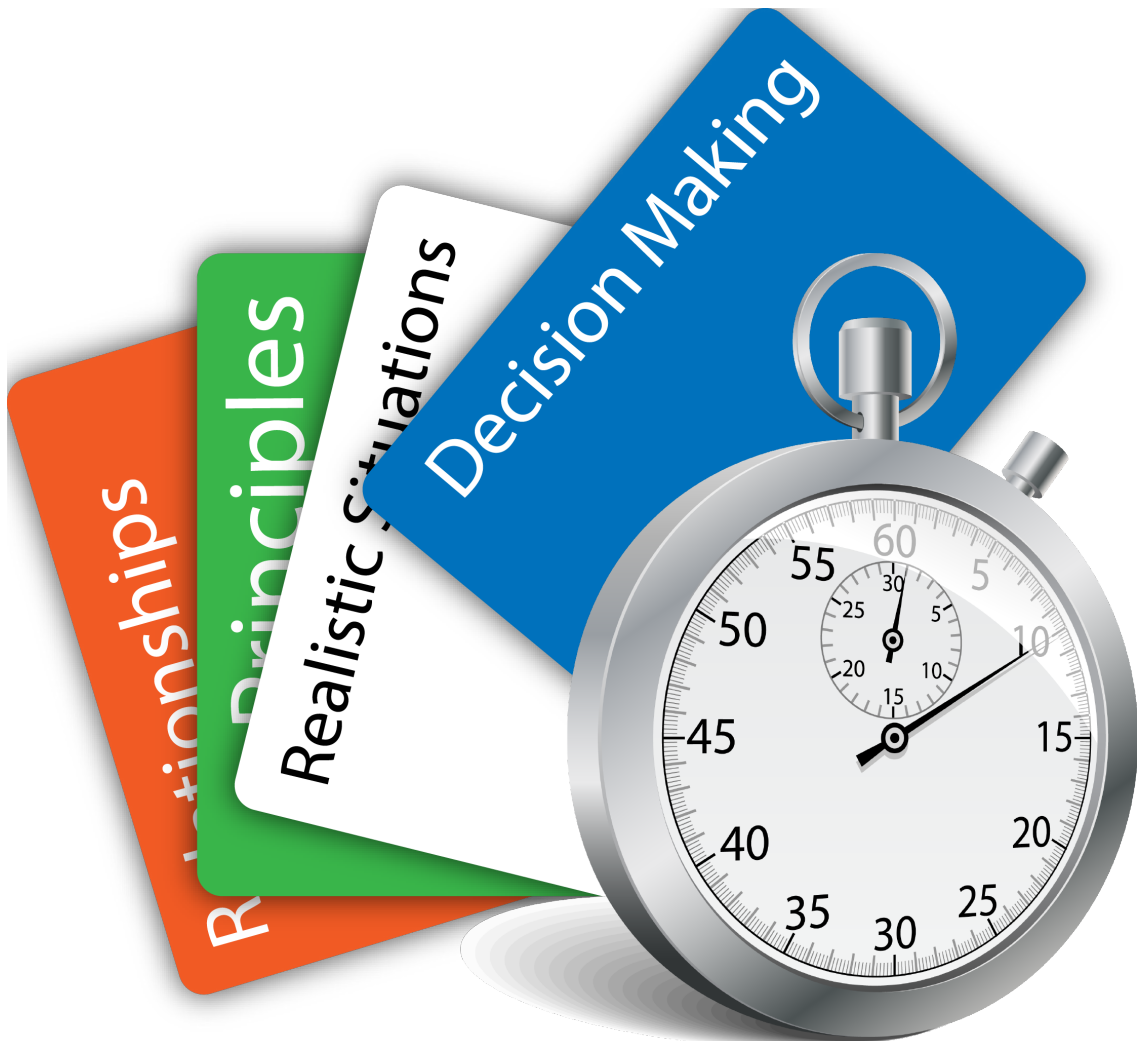
A game is fun activity or exercise in which trainees compete with each other according to the defined set of rules. Simulation is about imitating, making judgment or giving an opinion on how events might occur in a real situation.

Training games and simulations are different from work as they are designed to reproduce or simulate events or circumstances that take place in the trainees' work environment. You can use games and simulations, either structured or unstructured, as an educational tool.



As a method of training, you can use games and simulations during sensitisation and training programmes on land rights.

7.6.2 Business Games



These are based on rules, procedures, plans, relationships and principles derived from research. In business games, you are required to give your trainees some information that describes a particular situation and then ask them to make decisions that will best suit them depending on the given situation.

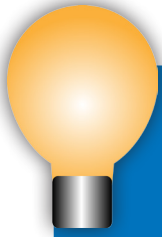


Business games are a method that you can use as a training method in connection with the following tools: sensitisation and training programmes on land rights, Village Council, partnerships and MCLT.

7.6.3 Role Play



Role play is a simulation in which each participant is given a role to play. As a trainer, you give a general description of the situation and the problem that each one of the trainees faces. After the trainees read their role descriptions, they must act out their roles by interacting with one another.



As a trainer, you can use role plays through sensitisation and training programmes; and when advocating for the establishment of land rights groups in rural areas, promotion of joint tenure, and the formation of a Land Rights Lobby Group. Role plays can also be used in connection with advocacy for GSCLT, Village Council and MCLT.

7.6.4 In-Basket Technique



Like in a role play, as the trainer, you are required to give the trainees some information about the role to be played including, a description, responsibilities and the general context about the role. But in addition, you must give the trainees the 'log of materials' that make up the in-basket, in other words the tools they will need to do the job. The trainees must respond to the materials within a particular time period. After all the trainees complete the in-basket, you must have a discussion with the trainees.



As a trainer, you can apply the in-basket technique in connection with partnerships, the lands registry, the Village Council and the MCLT.

7.6.5 Equipment Simulators

Equipment simulators are often used in giving training to people such as taxi drivers, telephone operators, maintenance workers, and airline pilots.



In the case of land rights, equipment simulators can be used when training people who will conduct land audits.

7.6.6 Case Studies

As a trainer in land rights, it is useful to give your trainees some written material and some complex situations of a real or imaginary situation which the trainees will have to study. That is called a case study.



Case studies can be used when creating of a village lands registry book. They can also be used in connection with legislative proposals and partnerships. Lastly, they can be used when explaining the tools of a Village Council and MCLT



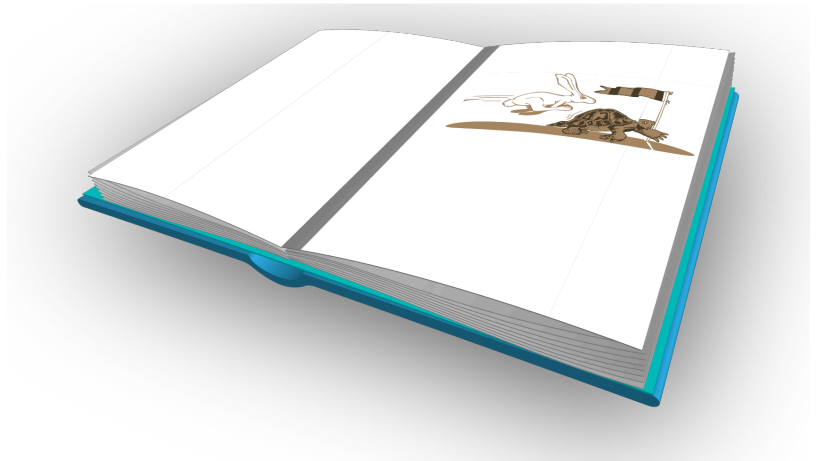
As human beings, we all have an innate inclination to observe others in order to discover how to do something new. When this is used in training, it is called behaviour modelling.

The way in which you use this method is that you as the trainer either come to the training with a video or you videotape some behaviour during the training. That video is then watched by your trainees. You must encourage the trainees to first observe the behaviour modelled in the video and then reproduce the behaviour on the job.



This method is often used in combination with some other techniques. So you could for instance include role play or the games and simulation methods so that after the trainees see the videotape, they can practice the behaviour through role plays or games and simulation techniques

7.6.8 Story Telling



Story telling is a popular method of training that is used to emphasise need and illustrate a principle. For instance, one of the recommended solutions is for all holders of customary land to be issued with COT. To achieve this, both the leadership and the people living on the land, have to be enlightened on the advantages of having such a system. After enlightenment, the people need to be mobilised so that they can get up and pursue the process of acquiring a COT.

As the trainer, you must choose a story that illustrates the point you want to make in a clear and honest manner. Remember you are there to mobilise and not to entertain! A good example of story – telling is:

One day, a small opening appeared on a cocoon; a man sat and watched for the butterfly for several hours as it struggled to force its body through that little hole.

Then, it seems to stop making any progress. It appeared as if it had gotten as far as it could and it could not go any further.

So the man decided to help the butterfly; he took a pair of scissors and opened the cocoon. The butterfly then emerged easily. But it had a withered body; it was tiny and shrivelled wings.

The man continued to watch because he expected that, at any moment, the wings would open, enlarge and expand, to be able to support the butterfly's body, and become firm.

Neither happened! In fact, the butterfly spent the rest of its life crawling around with a withered body and shrivelled wings. It never was able to fly.

What the man, in his kindness and his goodwill did not understand was that the restricting cocoon and the struggle required for the butterfly to get through the tiny opening, were God's way of forcing fluid from the body of the butterfly into its wings, so that it would be ready for flight once it achieved its freedom from the cocoon.

Moral of the story: the moral of the story is that struggles are not always negative. If they are seen from the correct perspective, they can be a catalyst for positive and long lasting change.

Story telling in this instance can be used through the sensitisation and training programmes on land rights. You can also use story telling through establishment of women's groups in rural areas and promotion of joint tenure: hope for married women.

REFLECTION

With regard to access to and control over land, what challenges have you faced and how did you overcome them?

As a person who has struggled with access to land, or who has suffered due to negative or discriminatory cultural practices, what can you do to contribute to positive change?

Tips for the Trainer:

- Use a flip chart to record the responses;
- Pass on the information to ZLA for harnessing of lessons learned and documentation of best practices.



Coaching is a good training method for leaders. As a Land Rights trainer, you can use coaching in communities where there is a Women's Lands Committee or traditional leader who is engaged in works that contribute positively to the administration of customary land, but could do more to improve the administration. Thus coaching is used in cases of inadequate performance. It is the best training method for leaders because:

- It is a one-on-one interaction;
- It can be done at the convenience of the leader;
- It can be done on phone, meetings, through e-mails, etc.;
- It provides the leader with an opportunity to receive feedback from you; and
- It helps in identifying weaknesses and focus on the area that needs improvement.

Often we think that the leader knows it all, and might not appreciate advice or help. Many at times that is not the case: some leaders are not trained or guided adequately enough for them to perform their tasks; and others are 'lonely at the top', and have no one to turn to for answers. As a Coach, you can be the medium of communication by passing on their questions and concerns to the relevant ZLA officials, and taking back the feedback to them. You are therefore the Expert that they can interact with every so often.

The procedure of coaching must be mutually decided upon by you and the leader. Also, it must focus on definite needs and improvement. Lastly, it ought to be followed by successive counseling and meetings between you and the leader; at the leader's convenience. Remember to:

- Understand the leader's job, level of knowledge and skills, attitudes, and resources required to meet the desired expectation.
- Meet the leader and together agree on the objective that has to be achieved.
- Mutually arrive at a plan and schedule.
- Show the leader how to achieve the objectives, evaluate the leader's performance and give feedback.
- Repeat step 4 until performance improves.

7.6.10 Sensitivity Training



Sensitivity training is about making people understand both themselves and others. It is done by developing in them ‘social sensitivity’ and ‘behavioural flexibility’. Another word for social sensitivity is empathy. It is the ability of an individual to sense what others feel and think from their own point of view. Behavioural flexibility is the ability to behave suitably in light of understanding.



Sensitivity training is an important method of training when dealing with gender discrimination issues

In every social interaction, there is a motivation provided by one person and a reaction to that motivation given by another person. This motivation-reaction relationship between two persons is a transaction.

The way in which it is used as a training tool is that you as the trainer give the trainees an opportunity to analyse and understand the behaviour of others. Through this in-depth transactional analysis, there is a lot of learning that takes place in the person conducting the analysis. From the understanding gained, the trainees are able to come up with solutions they may have not thought of had they not analysed the transaction. Thus this method of training provides trainees with a realistic and useful method for analysing and understanding the behaviour of others.



Transactional training can be used when explaining the challenges that surround customary land tenure, e.g. the investor-community relation, gender discrimination issues, etc.

SELF REFLECTION

What methods do you prefer to use when training? Why do you prefer these methods?

8.0 CONCLUSION

Ponder on this question for a minute: ‘Can We Really Make Poverty History?’ Salil Shetty, former Director of the United Nations Millennium Campaign says: “we can if we all put in our all” (Shetty, 2006). Similarly, we can reform Zambia’s customary tenure system for the better. Security of tenure of customary land can become a reality. We can create a system which is orderly, transparent and protects both people and the environment. The negative traditions and practices that taint the customary tenure system can become a thing of the past. What is required is simply that “we all put in our all”.

9.0 REFERENCES

9.1 Books

Galdos S. et al, (2008) Guide for Training Community Leaders to Improve Leadership and Management Practices, Management Sciences for Health, Cambridge.

Golub S, (2010) Legal Empowerment – Practitioners Perspectives, International Development Law Organisation.

McQuoid- Mason D, (1987) Street Law – Practical Law for South African Students, Book 2 Criminal Law and Juvenile Justice, University of Natal.

Metcalf S, (2005) Landscape Conservation and Land Tenure in Zambia – Community Trusts in the Kazungula Heartland, African Wildlife Foundation.

Mudenda F.S, (2007) Land Law in Zambia – Cases and Materials, University of Zambia, Lusaka.

Mvunga M.P, (1980) The Colonial Foundations of Zambia's Land Tenure System, The Historic Association of Zambia, Lusaka.

9.2 Cases

Chenda and another v. Phiri and another – LAT/80/98

Mwiinda v. Gwaba (1974) ZR 188

Siwale and others v. Siwale (1999) ZR 84

Still Waters Farms Limited v. Mpongwe District Council and others SCZ No. 90/2001

9.3 Conference and Workshop Presentations

Miti A, (2013) Addressing Challenges in the Administration of Customary Land, Workshop organised by the ZLA at Grand Palace Hotel.

Sichone F, (2008) Land Administration In Zambia With Particular Reference to Customary Land, Paper presented at a Seminar Organised by the Zambia Land Alliance, University of Zambia Senate Chamber.

Shetty S, (2006) Lecture presented at the Cambridge University Student Alliances Millennium Development Goals Speaker Series – ‘Can We Really Make Poverty History?’ The Judge Business School, Cambridge, UK .

9.4 Interviews

Interview with Chief Chipepo of Gwembe and Siavonga, Addressing Challenges to Land under Customary Tenure – Response from Traditional Leadership/ Chiefs, 13th March 2013.

Interview with Mr. Nchimunya Chiyombwe, ZLA 10th February 2011.

Interview with Mr. Felix Kunda, JWOP 22nd February 2010.

9.5 Online Databases

<http://balita.ph/2010/05/29/pdea-seeks-conversion-of-saranganis-mobile-tribunal-into-special-drugs-court/>. (Accessed on 14th January 2011).

<http://www.un.org/disarmament/convarms/SALW/Docs/AV-MemberStatesViews/Vanuatu-E.pdf>. (Accessed on 14th January 2011).

http://dcnortheast.delhigovt.nic.in/district_development_committee.htm. (Accessed on 25th April 2011).

http://www.ngocc.org.zm/index.php?option=com_frontpage&Itemid=1. (Accessed on 14th January 2011).

www.womenslobby.org.zm. (Accessed on 17th January 2011).

<http://www.paclii.org/journals/fjspl/vol05/7.shtml>

9.6 Publications by International Organisations

Center for Research on Information Technology and Organizations, (2005) *Methods of Training in the Workplace*, by Danziger. J & Dunkle. D.

GSDRC, (2010) *Helpdesk Research Report – Promoting the Economic Participation of Women*, by Broadbent E.

GIDD, (2005) *Final Research Report – Baseline Survey on Women’s Access to Agricultural Land in Zambia*

HSBC, (2009/10) *Facilitator’s Guide-Leadership is doing what is Right When No One is Watching*, HSBC Next Generation Development Programme IV , by Valkenburg V. G.

ILC, (2009) *Women’s Access to Land – The Role of Evidence-Based Advocacy for Women’s Rights*.

Swedish Cooperative Centre, (2012) *Study Circle – Implementation Manual for Land Rights Advocacy*, by Sekeleti M.

The Presencing Institute, (2001) *The Self as an Instrument – A Cornerstone for the Future of Organisation Development*, VOL. 33, NO. 3, by Cheung-Judge Mee-Yan.

The Presencing Institute, (2001) *Organisation Development, Improving Organisational Health and Effectiveness by Building the Capabilities of Leaders and Senior Managers at all Levels of any Institution. Organisation Development, Module 1 – Leadership and “Use of Self” in Organisation Development Work*.

UNDP, (1990) *Tools for Community Participation – A Manual for Training trainers in Participatory Techniques*, by Srinivasan L.

9.7 Publications by NGOs

CERED, (2012) *Agroforestry Technologies Manual – Trainer’s Guide*.

CERED, (2012) *Livelihood Assessment Manual – A Trainer’s Guide*, By Matakala P.W.

CERED, (2009) *Monitoring and Evaluation Manual*, By Matakala P.W.

CERED, (2009) Training and Learning Resource Materials for CBNRM ShortCourse at the Zambia Forestry College, by Matakala P.W. & Mwitwa J.P.

CERED, (2008) Participatory Forest Resource Assessment Training Guide – Training Manual for WWF-SARPO Songwe River Trans boundary Catchment Management Project (SRTCMP), By Kasubika R. & Matakala P.W.

Consortium of Civil Society, (2010) Report – Women’s Land Rights Workshop for Chiefs and Parliamentarians in Zambia.

WLRP, (2012) Tool Kit – Women’s Access to Customary Land, By Matakala L.

WLRP, (2011) Tool Kit – Innovative Participatory Models for Promoting Women’s Land Rights in Customary Areas, By Matakala L.

WLRP, (2009) Report – Baseline Survey on Women’s Land Rights in Six Selected Districts of Zambia’ Lusaka, by Kalungu J.S.

ZLA, (2013) Developing Models for Securing Customary Land – Options Paper for the Administration of Customary Land.

ZLA, (2012) Information Manual – Land Administration in both Customary and Statutory Land Tenures.

ZLA, (2012) Land Rights – A Study Circle Material.

ZLA, (2011) Training Manual for Community and Traditional Authorities in Land Administration.

9.8 Reports and Government Publications

Agreement for the Acquisition of Surface Rights within the chiefdom of Senior Chief Musele for the Trident Project of approximately 518 square kilometres, (2011) between Senior Chief Musele and Kalumbila Minerals Limited (KML), a subsidiary of First Quantum Minerals Limited.

Kalra R & Bhatia M., Training – Concepts and Methods, Ansal Institute of Technology

Ministry of Lands, Housing and Urban Development, (1994) Report of the Presidential Commission of Inquiry into Land Matters – The United Republic of Tanzania.

Presidential Commission of Inquiry into Land Matters, (1994) Report – Land Policy and Land Tenure Structure (Volume 1).

The Royal Highnesses, (2010) A Communique on Customary Land Administration in Zambia.

ZLDC, (2013) Report – Addressing Challenges in the Administration of Customary Land in Zambia.

ZLDC, (2013) Instructions to the Draftsman – Project for the Development of Legislation to Enhance Security of Tenure for Customary Land.

ZLDC, (2004) Report to the Minister of Justice on the Restatement of Customary Law Project.

9.9 Statutes and Policies

Chiefs Act of 1994.

Forest Act of 1999 .

Intestate Succession of 1989.

Lands Act of 1995.

Lands Acquisition Act of 1994.

Land Policy of 2006.

Local Government Act of 1991.

Mines and Minerals Development Act of 2008.

National Agriculture Policy 2004-2015.

National Decentralisation Policy of 2002.

National Forestry Policy of 1998.

Registration and Development of Villages Act of 1994.

Town and Country Planning Act of 1995.

Water Resources Management Act of 2011.

Wildlife Policy of 1998.

Zambia Wildlife Act of 1998.

Customary Lands Bill of 2012 of Malawi.