

# **CAUSES FOR THE GROWTH OF UNPLANNED LAND SETTLEMENT IN ZAMBIA**

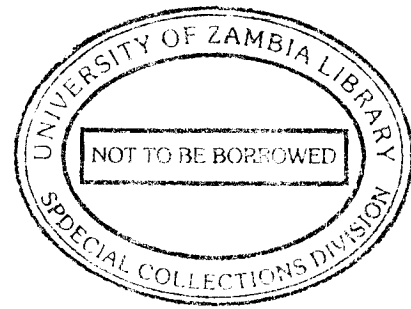
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**CAUSES FOR THE GROWTH OF UNPLANNED LAND  
SETTLEMENT IN ZAMBIA**

**By**

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**DIRECTED RESEARCH**

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**CAUSES FOR THE GROWTH OF UNPLANNED LAND SETTLEMENT IN  
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## **DEDICATION**

I dedicate this work to my late father Mr. Lingililani Lameck Banda and my mother Evelina Banda. The difficulties they faced to bring me up and send me to school have inspired my desire to attain the highest level of education.

I also dedicate this work to my dearest wife Esther, my two sons Madalitso an Sekelani for tolerating my absence as I under took this study and the entire LLB Degree programme. My prayer is that this shall be an inspiration to my children for greater academic achievement.

**DECLARATION**

**I Phillip Banda - Computer No. 21091218** do hereby declare that I am the author of this Directed Research paper entitle; Causes for the Growth of unplanned land settlement in Zambia, and confirm that it is my original work.

All the findings and opinions expressed in this report are my own. The opinions do not reflect those of the University of Zambia nor the supervisor. Acts and omissions therefore are entirely mine.

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## **ACKNOWLEDGEMENTS**

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My thanks go to the following:

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I would also like to thank all my friends who made my reading law at the University of Zambia an excellent and memorable experience.



## **ABSTRACT**

The problem of unplanned or squatter settlement is not new to Zambia. It has its origin in the country's political and socio-economic history. Unauthorized occupation of urban land is primarily a function of the discrepancy between supply and demand in the market for legal low-cost housing: squatting expresses unsatisfied demand, both qualitative and quantitative. The nature of demand for low-cost housing is analysed in terms of several aspects of 'migrancy' and poverty: Economic explanations of squatter settlement are supplemented by considerable emphasis upon political factors, which affect the control over urban land, the supply of public housing and the rate of rural urban migration.

## **TABLE OF LEGISLATION**

Town and Country Planning Act Cap 283

Housing (Statutory and Improvement Areas) Act Cap 194.

Public Health Act Cap 535.

## **TABLE OF CASES**

Bendela V Northern Planning Authority [1971]/HP/407

Ndola City Council V William Kasonso 1995-97 ZR 233 [SC]

Namung'andu V Lusaka City Council 1978 ZR 58 [HC]

# **CHAPTER ONE**

## **1.0. HISTORY OF SQUATTER SETTLEMENTS**

### **1.1 INTRODUCTION**

The problem of unplanned land settlement or squatter settlements have taken root in Zambia. It has a long history tracking back to the colonial era. Lusaka in 1957 was the capital city of a junior partner in the Federation with Rhodesia and Malawi administrative centre with even less to administer than when it first become the capital of the colony in 1932. It still had a role as an agricultural service centre for the rich European farming areas of Central Province, and there was also some light industrial and commercial activity. It was on the main railway line from the Copperbelt to Salisbury (now Harare) and the Port of Beira, as were many other small agricultural towns particularly in Southern Province but it did not have the additional advantage of being on the main road from Harare to Copperbelt which by-pass the Southern Province towns. Perhaps the most significant fact about Lusaka in 1957 and indeed in 1963 was that it was created by and for Europeans and other non-Africans who together comprised 14% of the population in 1957. A wholly European council had planned a sprawling 'garden suburb' type of city where distance was no object because the Europeans all had cars,

and separate residential areas for the different racial groups were kept firmly apart.

It was generally assumed that an African who was employed would be living in a council house or in 'employer's compound', and that an African who was not employed should not be in town at all. Self built houses were therefore 'unauthorised' and routinely demolished the percentage of the population living in such areas never rose above 16% between 1957 and 1963 and the percentage was even lower in Copperbelt towns where the mining companies helped to exert greater control.<sup>1</sup> The question is "who is a squatter"? or what is a squatter settlement? Simons H. J. defined a squatter as an unauthorised settler. The proper meaning of 'squatter' is a settler without right of title, or more rarely, a person who settles on public land with a view to acquiring title under government regulation.<sup>2</sup>

According to Tony Saymour the defining characteristic of squatter settlements is the illegality of the land tenure: Squatters are those who occupy land owned by others, without the land owners' consent. Squatter settlements are also illegal in the sense that they exist without the

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<sup>1</sup> Planned Urban Growth: The Lusaka Experience 1957-1973, Development Planning Unit School of Environmental Studies University College London April 1975. p19-21.

<sup>2</sup> H. J. Simons, T. Seymour, R. Martin and M. S. Multre, 1976, Slums or self reliance. Urban Growth in Zambia, Lusaka, University of Zambia p.18.

approval of the local authority, and infringe its regulations regarding land use and building standards.<sup>3</sup>

Colonial authorities in Zambia strongly disapproved of informal urban settlements though they flinched from the repressive measures of white minority regimes farther south, which hurry squatters, demolish their homes, expel people from towns or force them to live under bureaucratic surveillance in segregated towns.<sup>4</sup>

The break-up of the federation at the end of 1963, and independence, in October 1964, were national events which triggered a whole series of activities affecting all urban areas, but it was the capital city which was most affected. The control and management of the growing complexity of activities and services taking place in Lusaka was undertaken by a mixture of local government, parastatal and central government bodies. The divisions of responsibility, overlapping jurisdictions and day-to-day relationships between these agencies, especially Lusaka city council and the Ministry of Local Government and Housing, all influenced the de-jure planning and policy making under which the city expanded. The city council which had been entirely European in 1957 was very soon entirely Zambian reflecting the rapid decline in the population of non African in

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<sup>3</sup> Ibid

<sup>4</sup> Ibid

the city population. Virtually all the existing unrecognised settlements in 1974 legislation passed enabling legal tenure to be given to the majority of existing unrecognised settlers and in the same year the city council embarked on a major upgrading project, partly financed by IBRD loan, to provide basic services to the newly recognised settlements.<sup>5</sup>

During the first ten years of African self-government in Zambia a very rapid growth of squatter settlements took place in Lusaka, the capital city. Several years of anxious debate went by before Zambia rejected the colonial approach and decided to legitimatise squatter settlements. The new policy was included in the Second National Development Plan for 1972-76. Squatters' areas, the planners observed, represented social and financial assets. Since the demolition of houses, whether bad or good, was not a practical solution, the recommended remedy was to re-plan the settlements and give them essential services.<sup>6</sup>

## **1.2. FREEDOM OF MOVEMENT**

The constitution set the goal of legitimacy on what was virtually an accomplished fact, a social reality achieved through political struggle.

Article 24 of the constitution states that 'No person shall be deprived of

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<sup>5</sup> Planned Urban Growth: The Lusaka Experience 1957 – 1973 Development Planning Unit School of Environmental Studies University College London April 1975. p 19-21.

<sup>6</sup> H. J. Simons, T. Seymour, R. Martin and M. S. Multrer, 1976, Slums or self-reliance. Urban Growth in Zambia, Lusaka, University of Zambia.

his freedom of movement', defined as 'the right to move freely throughout Zambia, the right to reside in any part of Zambia, the right to enter Zambia and immunity from expulsion from Zambia.' Gone are the colonial pass laws, identification certificates, colour-bar covenants in title deeds, police raids and harassment of 'squatters' in unauthorised settlements.<sup>7</sup>

Some people questioned the wisdom of this freedom. A majority of those giving evidence before the Chona Commission of 1972 on the constitution 'expressed grave concern about the presence of squatter compounds and the concentration of unemployed persons in urban areas' which, they said, was responsible for the high incidence of crime. Placing the blame for urban instability on the uncontrolled movement of people from rural areas, they urged that unemployed persons of both sexes should be returned to their villages. 'Some further proposed that people should leave rural areas for urban areas only with the express permission of their Chiefs.

The commission approved of measures to repatriate 'illegal immigrants' and abolish 'illegal dwellings' in squatter compounds', but felt that restrictions on movement would infringe fundamental rights. Critics of

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<sup>7</sup> H. J. Simons, T. Seymour, R. Martin and M. S. Multrier, 1976, Slums or self reliance. Urban Growth in Zambia, Lusaka, University of Zambia p.15-16.



the open door policy have not failed to note the apparent inconsistency in these recommendations. If migration to the towns is free, it cannot be illegal and coercive attempts to stop the growth of squatter areas is not only tantamount to infringing the constitutional right of the citizen to reside where he wishes but is also like using a sieve to bail water out of a leaking boat.

Numerous past and ongoing initiatives have addressed the upgrading informal settlements in Lusaka and to a much lesser extent, Zambia's other cities. In more recent years, support agencies (i.e., donors and NGOs) have seemed to make more of an effort to work together or at least to keep each other informed on what is happening and to get some measure of consistency in upgrading programs. Because informal settlements in Lusaka are generally very large, a number of different donors and NGOs are at work therein, making this coordination and consistency critical.

The recently completed Lusaka Integrated Development Plan (LIDP) provides a good data base for Lusaka as well as a means for analysis, moreover it proposes many development strategies and mechanisms for their delivery. It also has a useful and interesting list of issues identified by community representatives. More specific initial tasks in the planning

for upgrading programs that reinforce a number of these strategies and proposals for their delivery included in the Lusaka Integrated Development Plan are set out below.

1. Policy for low income (Unplanned/informal/Peri-Urban) Communities.

A review of planning and housing policy and legislation and framing of proposals to better enable central government departments, local governments, utility undertakings and communities themselves to respond to community needs. Following this review, a policy for upgrading such area should be framed with concrete implementation strategies.

2. Declaration of settlements of the 37 informal settlements, 13 are still not “regularised” and are thus “illegal.” For all sites not considered to be hazardous, Lusaka City Council should request Ministry of Local Government and Housing to regularise and “declare” the settlements as improvement area under the relevant legislation.<sup>8</sup>

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<sup>8</sup> Upgrading of Low Income Settlements in Zambia, Country Assessment Report by World Bank, January 2002

It is evident from the foregoing that the problem of squatter settlement is a serious problem which needs practical and permanent solution.

### **1.3. UPGRADING PROJECTS AND PROGRAMS**

Various donors and NGOs, together with local administrations are attempting to address some of the problems related to upgrading in Zambia and are implementing a number of well-intentioned initiatives particularly in Lusaka and the community demonstration projects in the copperbelt. The World Bank financed Lusaka squatter upgrading and sites and services project, completed in 1981, supported what was probably the first upgrading scheme in Sub-Saharan Africa and provided more than 30,000 new and improved shelter sites in informal settlements in the city.

The granting of legal status to the participating compounds enabled them to become centers of economic activity on the other hand, because plots were allocated through the local authority system, political patronage became a major allocation criterion. This practice apparently has led to the removal of some counsellors in the Lusaka City Council (LCC) and the establishment of the land commission. The significance of

political issues came to bear and it was confirmed that any policy on plot allocation would need to be weighed against the advantage of council-created regulations, which are standardised and objective, against community agreed guidelines acceptable to residents and fitting local circumstances and in particular taking account of access by vulnerable groups.<sup>11</sup>

In the mid-1980s, a working group was established, driven by Irish Aid and comprising the National Commission for Development Planning, the Lusaka City Council, and CARE Zambia, which aimed to provide proposals for policy guidelines for urban upgrading schemes based on a study of interventions in the field up to that time. IN 1994, this working group produced an urban Upgrading Policy Guidelines Paper in response to a review of the Kamanga project. In 1998 an NGO donor forum was established to help coordinate and the efforts of donors, the government, local authorities and NGOs in supporting development particularly affecting the urban poor.

The World Food Programme (WFP) supported a Peri-Urban Self-Help (PUSH) project that initiated a food-for-work approach for infrastructure upgrading. The more comprehensive, integrated upgrading initiatives

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<sup>11</sup> Ibid

attempted in Kamanga and the PUSH initiatives because of their complexity, were apparently considered by some, to have continued the “top down” approach and to have achieved limited success. Thus a move to the planning and implementation of more sectoral initiatives appears to have been adopted.

## **CHAPTER TWO**

### **2.0. FACTORS THAT CONTRIBUTE TO THE GROWTH OF SQUATTER SETTLEMENT**

#### **2.1. INTRODUCTION**

This chapter will basically discuss the factors that contribute to the perpetual growth of unauthorised or squatter settlements.

The provision of low-income housing still remains a challenge. The demand for housing continues to grow. The government through donor support embarked on squatter upgrading programmes and site and service schemes as a way of tackling the problem of housing for the low-income group.

#### **2.2. POVERTY**

In 1998, seventy-three percent (73%) of all persons in Zambia were deemed to be poor: fifty-eight percent (58%) were extremely poor, fifteen percent (15%) were considered moderately poor and leaving only twenty-seven percent (27%) out of the poverty brackets.<sup>12</sup>

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<sup>12</sup> "Living Conditions in Zambia" 1998. Central Statistical Office p53

In Zambia the poverty rates are high. A large percentage of the population has limited resources available for land, housing and basic infrastructure and services. The government introduced privatisation and implemented the Structural Adjustment Programme which have brought about loss of employment through retrenchments and retirements. This has left a lot of Zambians unemployed and created an increase for the demand for employment and has subsequently contributed to poverty levels.

The well being of individuals in society largely depends on their participation in gainful economic activities. The desire to attain and sustain a certain acceptable level of consumption of goods and services has led to individuals engaging in various economic activities. The engagement in these activities not only ensures a person's livelihood but also equips an individual with means of acquiring and sustaining the basic needs of life such as food, clothing and shelter.<sup>13</sup>

In a developing country like Zambia it becomes imperative to constantly measure and monitor changes in levels of the economic activities

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<sup>13</sup> Ibid p 34

overtime as fluctuations in the employment levels have serious poverty implications.<sup>14</sup>

But what is poverty? In the village people sleep in huts or mud houses but own cattle and other farming implements is that poverty? Poverty is lack of money or having little property, it is being impoverished, needy and destitute. The classification of persons as poor or non-poor is based on the total expenditure accruing to the household in which they are members. A fixed poverty line separates the poor from the non-poor.<sup>15</sup> Poverty is further defined as a denial of opportunities and choices most basic to human development. It is a condition that reflects physical, social and political deprivation, as well as lack of assets and income.<sup>16</sup>

‘Urban poverty’ also affects the quality of demand for housing in several ways. First, the urban poor have relatively low incomes, particularly in relation to the rents charges for legal housing. Secondly, they are typically exposed to occupational instability and periodic unemployment.

Thirdly the shortage of stable urban employment opportunities emphasises the importance of self-employment. Among the urban poor

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<sup>14</sup> Opcit

<sup>15</sup> “Living conditions in Zambia.” 1998. Central Statistics Office. P 59

<sup>16</sup> Zambia Human Development Report 2003, p13.



self-employment is typically under capitalised and only marginally profitable.<sup>17</sup>

In view of the alarming proportions unemployment and underemployment have reached and the social problems which arise from this situation (for example growing criminality and over-crowding), it is imperative to limit the fast growth of urban centres. Urban centres have already out grown the rate at which essential services, such as housing, sanitary facilities and water supply can be provided. As a result, squatter settlements have mushroomed around the cities.<sup>18</sup>

### **2.3. MIGRATIONS**

The logic of the theory of over-urbanisation, in social science and public policies, begins with rural poverty. Rural poverty pushes people out of rural areas and has three consequences. Firstly this migration is premature because people enter towns where there are no jobs for them. Rather than expel their unemployed, the towns provide scarce facilities for them in order to persuade them not to become a nuisance and in order to improve their welfare which is low by urban standards.<sup>19</sup>

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<sup>17</sup> H. J. Simons, T. Seymour, R. Martin and M. S. Muller, 1976, *Slums or Self Reliance? Urban Growth in Zambia*, Lusaka, University of Zambia.

<sup>18</sup> Ibid

<sup>19</sup> Ibid p10

The present rural-urban income differential is large enough to guarantee a continuous flow of labour from the rural sector, even if wages were kept at the present level. It is necessary that measures be devised to minimise rural-urban migration and thus contain the growth of the supply of labour to the urban sector. Strict control of the flow of labour to the urban sector should be imposed. Such a measure may be unpopular, particularly so because it was widely used during the colonial regime to limit the growth of African population in Urban Centres of East Africa.<sup>20</sup>

Migrating villagers who settle in self-help suburbs have a reasonable prospect of improving their housing standards, the more so in towns whose councils allocate funds to servicing and upgrading shanty settlements. Houses built by owners on planned and serviced plots contributed one third of all approved urban dwellings constructed since 1966, when site and service schemes were first introduced. The council of Lusaka aided by a World Bank loan, added clinics, primary schools and community centres. Upgrading projects benefited about 25,000 households, one third of the estimated number of shanty houses in December 1974.<sup>21</sup>

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<sup>20</sup> J. M. Mwanza, *Modern Sector Employment Growth in East African (with Special Emphasis on Zambia)* P.HD 1923 p187.

<sup>21</sup> H. J. Simons, T. Seymour, R. Martin and M. S. Muller, *1976 Slums or Self-Reliance, Urban dwellings Growth in Zambia, Lusaka, University of Zambia.*

## **2.4. POLITICAL INDEPENDENCE**

Zambia's independence contributed to squatter settlement formation in three ways. First, it was associated with an acceleration of the rate of urbanisation through rural urban migration and thus with an increase in the quantitative demand for urban housing. Secondly, it had implications for the supply of low-cost housing by both private and public sectors. And thirdly, changes in the system of control over urban land reflected wider changes in the power structure and directly contributed towards squatting.

The acceleration of urbanisation in Zambia from 1963 was due partly to the widening gap between rural and urban economic opportunities and partly to the relaxation of colonial controls over rural-urban migration.<sup>22</sup>

The diminished power of expatriate landowners in Lusaka, the inability of the new African administrations to enforce control, and the active promotion of squatting by UNIP officials, constituted a fundamental change in the politics of urban land. It was a change which reflected both the transfer of power from Europeans to Zambian political elite, and the susceptibility of the Zambian leaders to pressure from the urban poor. The resulting squatter settlements originated in three different ways.

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<sup>22</sup> Ibid p 41

Firstly, almost all the former unauthorised compounds became squatter settlements when, after coming under the control of UNIP, they ceased to pay rent to their landowners. There are two special cases, however. In Marrapodi-Mandevu rent paying ceased, but the land was purchased by the Lusaka City Council in 1964-5, squatting was partially eliminated as the area was developed into a legal housing area. In Chawama, which was controlled by ANC, rent-paying continued until 1965 when the European landowner issued an eviction threat. Although the government bought the land in 1966 Chawama remained a squatter settlement, for as landowner the government accorded no more than temporary authorisation of settlement, at least until its new squatter policy was introduced in 1972

The second way in which squatter settlements originated in Lusaka was from former employers compounds. Even before 1963 some employers such as the construction company John Howard, had not prevented all building by non-employees within their compounds.<sup>23</sup>

After independence such employers virtually ceased to make any attempt at controlling the growth of poor quality housing on their land.

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<sup>23</sup> Ibid

In John Howard compound, for example, labourers whose employment with the construction company ended remained to form the nucleus of a squatter settlement.

Thirdly, some squatter settlements in Lusaka have been established on land not previously used for residential purposes, for example, Nguluwe. They city contains large area of unutilised bush, and some of these areas become available for squatting once changes in the politics of urban land occurred.<sup>24</sup>

## **2.5. THE POLITICS OF URBAN LAND**

The probability of squatting is greater when land is unutilised, and, in the case of private land, when owners are physically absent. Both these conditions were highly characteristic of the Northern Rhodesia situation, and become even more so after 1963.<sup>25</sup>

In Lusaka, much peri-urban land remained in the freehold ownership of Europeans and Asians. Even those who did not leave Zambia were less able than in the past to control settlement on their land. The constitutional and political structure after 1962 ‘not only ended whites’

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<sup>24</sup> Ibid

<sup>25</sup> Ibid p46

political power but undermined their authority in other roles as well. European landowners could no longer expect automatic government support against the African urban poor. The weakening of the power of landowners in Lusaka partly explains the fact that post-independence squatting in Zambia was most prevalent in the capital city. On the copperbelt much of the peri-urban land was owned by the mining companies, which retained the power to control settlement and were able to remove squatter on several occasions. But in Lusaka private landowners lacked the 'slightest power to remove squatter.' Recourse to the courts would have involved a complex procedure so that in practice landowners were dependent upon the Zambian Government and the Lusaka City Council.<sup>26</sup>

The reluctance of national and local governments to prevent squatting on both private and public land was a major factor in settlement formation from 1963. This reluctance was not due to any change in Zambian public policy. Colonial attitudes of hostility towards unauthorised areas were preserved and the intention of the Lusaka City Council was to continue the policy whereby it had successfully contained its unauthorised population since 1954. Rather, public authorities were unable to control

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<sup>26</sup> Ibid

the illegal occupation of land in Lusaka because of the promotion of squatter settlement by officials of national political parties.

Although the United National Independence Party (UNIP) emerged as much stronger political party in the 1962 general election, it was obliged to form a coalition government with African National Congress (ANC). This was a temporary expedient pending a fresh general election, at which UNIP hoped to obtain complete control of the government. As a result, the months from December 1962 to January 1964 were 'a stormy interlude of interparty rivalry and intrigue.' UNIP was particularly concerned to mobilise its support in marginal areas such as Lusaka where it had always been less successful than in the mining towns.

ANC had received a considerable support in Lusaka at the 1962 election and the intensity of interparty competition in the capital was expressed in violent conflicts just before the January 1964 election.<sup>27</sup>

The political allegiance of the urban 'masses' of Lusaka was therefore extremely important to UNIP during 1963 and afforded potential squatters real increase in power and new freedom to occupy vacant urban land. Moreover, from 1964 to 1972 UNIP attempted to achieve a one-

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Ibid

party state in Zambia by obtaining unanimous electoral support. Again, it was particularly important to attract the electorate of Lusaka away from ANC, who had received one third of votes in the capital in January 1964. Squatters in Lusaka were of considerable and increasing electoral significance before 1963 and 1973. Hence in spite of the formal opposition towards squatting of the UNIP controlled national and Local authorities during most of this period, UNIP officials established branches in all Lusaka's squatter areas, and local (branch and section) UNIP leaders allocated plots to illegal settlers.<sup>28</sup>

The contradiction between formal squatter policy and the realities of political party interests was reflected first in the Lusaka City Council and then at national level. By 1963 the council was obliged to abandon its containment policy owing to the attitudes of UNIP officials, both those who were resident in squatter settlements and those who had become councillors in 1963. In 1966 responsibility for all squatters in Lusaka passed to the government's squatter control unit (SCU), then in the ministry of lands. But the relationship between the SCU and UNIP was inherently uneasy, for while demolition of 'unauthorised' structure was the policy of the government it was an embarrassment to the party. The significance of squatters as base of political support therefore undermined attempts by the SCU to control 'unauthorised' settlement in Lusaka.

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<sup>28</sup> Ibid



In 1970 the demolition by the SCU of 571 houses in Nguluwe provoked evicted squatter to threaten that they would boycott the forthcoming local government elections. The District Governor quickly assured the squatters that UNIP had not been implicated in the demolition, and appealed to them not to make it a political issue. By 1972 Nguluwe had been allowed to grow again to at least its former size.<sup>29</sup>

The second illustration relates to 1972, a period of great tension in Zambian politics. On this occasion squatters in Chipata compound resisted a demolition attempt and threatened 'to quit UNIP on Masses' if it went ahead. The District Governor intervened in person and instructed the SCU (and riot police) to withdraw, within a week the head of the SCU was removed from office.

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<sup>29</sup> Ibid p49-50

## **CHAPTER THREE**

### **3.0. MEASURES TO CONTROL SQUATTER SETTLEMENTS**

#### **3.1. INTRODUCTION**

This chapter looks at the measures of controlling squatter settlements. The main issues discussed are the policies government has undertaken to control unplanned and squatter settlements.

In circumstances where land delivery for formal housing development is slow, and not much is put in place to facilitate housing development, informal housing has been the inevitable vacuum filler with perhaps a more positive than negative impact on housing stocks. The following are the main characteristics of informal housing.<sup>30</sup>

- a). Housing units are owner built and may not conform to any standards in design, construction materials and workmanship.
- b). Lack of security of tenure.
- c). Low levels of infrastructure and social services provision.

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National Housing Policy, January 1996, Ministry of Local Government and Housing, Lusaka. Pg 12.

The illegal settlements in Zambia are closely associated with urbanization because with the rise of urbanization comes the formation of the illegal settlements. Illegal settlements in the majority of cases have been built by the illicit invasion of private or public land. The land is illegally occupied or illegally subdivided. Those that occupy land illegally are referred to as squatters. Who is a squatter is the question, which may arise. The question may be answered as follows: It is a person who occupies land or premises without the legal right or consent from the landlord. Secondly, a squatter may be described as a person occupying land but without title deeds from the commissioner of lands.<sup>31</sup> These squatters build their own houses and establish their settlements wherever they can. They often resort to illegal water supplies-tapping nearby mains or digging illegal wells.

The illegal settlers cannot afford to build according to the official building codes. Their houses ignore health codes, zoning and building standards.<sup>32</sup>

Between the censuses of 1963 and 1969 the annual growth rate of Lusaka was 13.4 percent and that of squatters areas a massive 32.5 percent. From 1969-73 Lusaka grew at 8.9 percent per annum while the annual growth rate

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Mbao, M.L.M. 1983. Legal Aspect of uncontrolled and unplanned settlements pg 87.  
Ibid

for squatter settlement was 14.5 percent. By 1973 Lusaka had 166,000 squatters who comprises 45 percent of the city total of 368,000.<sup>33</sup>

Currently Lusaka's population is about 1.3 million with population densities of up to 1,500 persons per hectare and an average population density of approximately 150 persons per hectare<sup>34</sup>. Its total housing stock stands at approximately 300,000 units. Of this 10 percent, or 30,000 units is formal housing i.e. formal dwelling on individual stands, in blocks of flats, or on agricultural holdings accommodating 30 percent (340,000) of the city's population on about 80 percent of the residential land. The remaining 90 percent consists of squatter units, accommodating 70 percent of the city's population on less than 20 percent of its residential land. The informal settlements consists mainly of structures made of substandard materials. In the poor settlements, between 35 and 40 percent of the residents own houses, the remainder are tenants. There are 37 informal settlements in and around Lusaka, made up of 9 old sites and services settlements and 28 squatters settlements of which 13 have not been regularized (or "declared") to date<sup>35</sup>.

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<sup>33</sup> P. Ohadika, *Demographic perspective in Zambia, Rural-urban growth and social change*, Manchester University Press, 1981.

<sup>34</sup> *Upgrading of low income settlements in Zambia, country Assessment Report* by World Bank, January 2002.

<sup>35</sup> Cap 194 of the laws of Zambia.

### 3.2. GOVERNMENT POLICY ON SQUATTER SETTLEMENTS.

In 1974 the government enacted the Housing (statutory and improvement areas) Act to facilitate the upgrading of squatter settlements<sup>36</sup>. The former Minister of Local Government (Hon. P.W. Matoka)<sup>37</sup> as he introduced the Bill in Parliament then stated that, it is also recognized that at present the squatters are occupying land illegally, they live constantly under the fear of that any-day they may be forced to move. We strongly believe that once the fear of forceful eviction has been removed, the inhabitants will improve their houses to unbelievable standards. The government's aim was to provide security of tenure on the settlers in the hope that they would eventually mature into home owners through self-help. The guiding principles in the drafting of the Act were that a special legal regime was necessary for upgrading squatter schemes; that the regime was to be kept simple and straight forward and that provision was to be made for administering the schemes by conferring rights on individuals as well as powers on officials and also for public participation through appropriate organs. The principles were largely incorporated into the Act. Thus, all dealings in land covered by the Act are not registerable at the Lands and Deeds Registry but at Districts established under the Act. The Town and Country Planning and Land

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<sup>36</sup> Hansard, verbatim reports of daily parliamentary debates, 2 August 1974, Ser. 36, 576, 577.

<sup>37</sup> Section 11 of Cap 194 the Laws of Zambia.

survey Laws have been excluded in order to simplify transactions and provisions has been made conferring rights and powers on the parties<sup>38</sup>. Two types of interest in land were created under the Act. First, the Minister may declare land in sites service schemes and of council housing estates as statutory Housing Areas. Secondly, land in the squatter compounds may be declared improvement areas<sup>39</sup>. Former squatter settlers are issued with occupancy licences. The licence grants the licensee the right of occupancy for a period of not more than 30 years, with the possibility of being extended or renewed for a further period. The licensee occupies the land under and immediately adjoining the house numbered in the improvement Area Plan. Sub-letting of owner-occupied houses is not prohibited but needs approval from the council. If the licensee wants to sell his house he has to request the transfer of the licences to the proposed purchaser from the council<sup>40</sup>.

Since the late 1970s, when the first major scheme was enacted, Zambia has had a long history of initiatives to improve infrastructure, services, the environment, and the general quality of life in its unplanned/informal or “peri-urban” settlements. Many such programmes are on going, supported

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<sup>38</sup> Section 4 of the Act.

<sup>39</sup> Section 37 of the Act.

<sup>40</sup> Upgrading of low income settlements in Zambia, country Assessment Report by World Bank, January 2002.

by various donors and NGOs as well as by the central government (MLGH) and local authorities (Primarily Lusaka City Council). Most have been carried out in Lusaka, as it is the largest city with the most low-income settlements<sup>41</sup>.

The World Bank financed Lusaka squatter upgrading and sites and services project, completed in 1981, supported what was probably the first upgrading scheme in sub-Saharan Africa and provided more than 30,000 new and improved shelter sites in informal settlements in the city. It took a multi-sectoral approach to address housing related issue for the urban poor. However, it did not achieve financially sustainable operations no maintenance capacity was established and associated institutional reforms were not fully realized<sup>42</sup>.

In 1999, the Minister of Local Government and Housing declared 10 further informal urban settlements as “improvement areas”, under the terms of the Housing (statutory and improved areas) Act<sup>43</sup>.

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<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Section 22 The Town and Country Planning Act, Cap 283.

### **3.3 LEGISLATION FOR CONTROLLING SQUATTER SETTLEMENT**

Government's policy has been to improve the squatter settlements by facilitating the upgrading programmes. The enactment of the Housing (statutory and Improvement areas) Act in 1974 is an example of the government's efforts to provide a legal framework.

#### **3.3.1. The Town and Country Planning Act CAP 283**

One of the municipal responsibilities in the local authorities in Zambia regards the control of physical development using the development control process under the guidance of the Town and country Planning Act. The Act forms the legal framework governing planning administration. It provides guidelines for development plans preparations and review, zoning, and subdivision regulations and clarifies developments, which must be approved before construction works begin. For example; all new developments and additions to existing buildings. Additionally the Act empowers Municipalities to determine the use of land through development or zoning plans to ensure environmental protection and orderly city development. Town and country planning is defined as; "The exercise of such foresight as will promote the orderly and slightly development of a city and its



environment along rational lines with due regard for health amenity convenience and for its commercial and industrial adjustment<sup>44</sup>.”

The concise dictionary, on the other hand defines it as; “A system of controlling the use of land administered by the local authority<sup>45</sup>.”

The Town and Country Planning Act’s objectives are to preserve and enhance amenity. The pleasant features of the town and countryside. The preservation and enhancement of amenities is done, through the control of development. For instance, the planning authority may give conditions designed to safeguard amenity. Depending on the circumstances affecting the land, the developer must secure planning permission from the minister or the planning authorities. For example, if the developer intends to build a house in an area that is zoned under the Town and country Planning Act for residential purposes only, he only has to secure the building permit under the public Health Act building regulations. However, where an area is not zoned for residential purpose, the developer has in addition to securing the building permit, to obtain the planning permission<sup>46</sup>. In the case of Bendela

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<sup>44</sup> A concise Dictionary of Law. 1991. Oxford: University Press. Pg 416.

<sup>45</sup> Sikalele, Cecila, 2000. Squatter Settlements: A legal Analysis of Lusaka. Pg 20.

<sup>46</sup> Appeal No. T.P.T. 06/12/1:21<sup>st</sup> August, 1972 (Unreported).

V Northern Panning Authority<sup>47</sup>, the appellant was served with an enforcement notice by the planning authorities for constructing a building before planning permission was granted. A building permit authorizes a developer to proceed with construction. Construction may not proceed until such permit has been secured in accordance with the Public Health (Building) Regulations. Under regulation 4, all applications must comply with the standard form and must include such particulars and be accompanied by such plans and drawings as indicated<sup>48</sup>.

Section 31 of the Town and Country Planning Act provides for the legal consequences for breach. The local authorities by this section are empowered to serve an enforcement notice requiring the owner or occupier of land or premises to remedy the situation. The law also provides for an occupier's interest. The local authorities are by law required to comply with the laid down procedure in serving a notice of demolition. The failure to comply with the laid down procedure may nullify or invalidate the actions of the local authorities. In the case of Ndola City Council V William Kasonso<sup>49</sup>, the respondent applied for a building permit to commence

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<sup>47</sup> Ibid, Pg 20.

<sup>48</sup> [1995-97] ZR 233 (SC).

<sup>49</sup> Kateule M.B. C., An Analysis of the compatibility of the Housing Laws and The current socio-Economics in Zambia, obligatory Essay (2003) University of Zambia Lusaka.

building on his residential plot on which he had duly paid the necessary service charges. There was no response and five months later the respondent commenced building on the stand in question two months later received a letter from the appellant advising him to stop building as he had no building permit and consequently demolish the building.

The Supreme Court held that the council had breached its own by laws.

### **3.3.2. The Public Health Act Cap 535**

Development proposals are checked against these regulations to ensure safety of occupants and users in terms of structural stability and the suitability of the building materials, adequate day lighting, ventilation, and protection against damp, fire, and noise, domestic water and sewer connections, storm water disposal etc, section 73 deals with the demolition of unfit dwellings. It states that a dwelling so dilapidated, so defectively constructed, or so situated that repair to or alterations are not likely to remove the nuisance and make such dwelling fit for human habitation, the court may order the owner to commence to demolish the dwelling and other structures on the premises<sup>50</sup>.

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<sup>50</sup> Ibid.

Section 74 of the Public Health Act goes on to state the prohibitions in respect of back to back dwelling and rooms without through ventilation. In section 74 (b), it states the prohibition of erecting any room to be used as a sleeping or living or work room, which is not sufficiently lighted by a window or windows of a total area of not less than one-tenth of the floor area, and sufficiently ventilated by two or more ventilation openings or by windows capable of being wholly or partly opened, such windows or openings so placed as to secure through or cross ventilation.

The development of land cannot commence without a building permit being issued in conformity with the Public Health (building) regulations. The applicant must first secure development permission before acquiring the building permit<sup>51</sup>.

### **3.3.3. Housing (statutory and Improvement Areas) Act Cap 194**

The Housing (statutory and Improvement Areas) Act was enacted in 1974. The government embarked on the process of improving squatter or informal settlements. Therefore, in this line the Housing (statutory and Improvement Areas) Act was enacted to provide for the control and improvement of

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<sup>51</sup> Ibid.

housing in certain areas; and to provide for matters connected or incidental there. This Act was necessary back-up legislation for the site and services schemes and the squatter upgrading programmes, which are vital to the housing policy<sup>52</sup>.

### **3.4. WEAKNESSES OF LEGISLATION**

If these provisions of demolishing unplanned settlements were to be enforced, all buildings and any other development carried on in the squatter or unplanned settlements would be demolished. Once illegal settlement or squatter settlement in any area of land within the jurisdiction of the council are declared an improvement area by the Minister the Town and country Planning Act cannot apply to this area. However, if a squatter settlement is not declared an improvement area the Town and Country Planning Act is applicable to the squatter settlement and all buildings and developments carried out may be demolished. The Town and Country Planning Act has not been adequate in responding to the problem of squatter settlements except that of demolition. This power of demolish however, has been used sparingly due to the government's inability to resettle victims of demolition.

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<sup>52</sup> Section 48 of the Act.

The case of Namung'andu v Lusaka City Council<sup>53</sup> established that a squatter is always a squatter and unauthorized structures built without permission are at the squatters' own risk and such structures may be demolished and the squatter loses, and the squatter cannot recover due to his want of title, which disentitles him to any remedy in a court of law.

Mbao<sup>54</sup> observes that several issues call for discussion with this kind of legislation. First, the Act is silent on the details of the occupancy licence and the terms and the conditions in the certificate of title. Clearly, the Minister and Local Authorities are heavily favoured with this kind of arrangement. After all, urban land is a scarce resource, one that calls for stewardship by Public agencies who are able to balance short-term interests against long-term needs and balance the claims of one interest group against the other. On the other hand, it must be realized that because of the high stakes and economic significance of investments in land and buildings, the blanket powers given to the minister and Local Authorities may be susceptible to abuse. In situations where high standards of civil service competence and adequate salaries do not always exist, temptation for corruption and favoritism is great. Secondly, the principal aim of the Act

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<sup>53</sup> [1978] Z.R. 358 (HC)

<sup>54</sup> Gilbert Lungu, The upgrading of squatter settlements into improvement Areas: why the failure a case study of Bauleni and Kamanga squatter settlements in Lusaka, UNZA, 2004.

was to confer security of tenure on the settlers. But under the Act tenants in the two categories are treated differently. Is there any justification for differentiating between statutory Housing Area tenant and improvement Area tenants? McClain blames the problem on hasty drafting rather than on any clear intention.

Mbao laments that there is a lot to commend in McClain's observation. By failing to provide reasonably equitable opportunities to the two categories of tenants, the law re-enforces existing inequalities of wealth and opportunity in that tenants in statutory Housing Areas are able to use their certificate of title as collateral for mortgages from the Zambia National Building Society whereas an occupancy licence does not. Consequently, tenants in upgraded squatter areas are denied access to credit.

Thirdly and most importantly, the mere granting of security of tenure to the settlers only made them better squatters: Mbao, contends that essential conditions of living is the solution to the fundamental causes of squatting: By way of performance audit or evaluation, it is submitted that the Act has had little impact on the lot of squatter settlers. Today, almost twenty years since the Act was passed, the perimeters of our towns and cities are still

ringed by shanties and squatter compounds. Mbao alludes the failure of the Act to the following:

First, the efficiency of the Act depends upon the ability of Local Authorities to lay down the basic infrastructure for sites and service schemes and squatter upgrading programmes. Further, in the provision of serviced plots, local authorities may be required to compulsorily acquire and where the proposed sites are privately held. This requires a discussion of the law on compulsory acquisition of land for public purposes.<sup>55</sup>

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<sup>55</sup> Gilbert Lungu, The upgrading of squatter settlements into improvement Areas: why the failure a case study of Bauleni and Kamanga squatter Settlements in Lusaka, UNZA, 2004.



## CHAPTER FOUR

### 4.0. DATA ANALYSIS

This chapter analyses the squatter settlements in Lusaka, that is out Garden, Ng'ombe, Kalingalinga, Chipata and Chazanga.

Large settlements in modern Zambia owe their origin to British imperialism which sanctioned the migration of Europeans into central Africa.<sup>56</sup> According to personal interviews conducted by the researcher, with a cross-section of residents from various squatter settlements in Lusaka revealed that:

Lack of resources by the Local authority to build enough houses for people in the income category was one of the factors for the growth of squatter settlements.

Political interference is another factor, officials from the ruling party have been involved in illegal demarcation of land without following Town and country planning regulations.

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Helmuth Heister, *Urbanisation and the Government of Migration, Inter-relation of urban and rural life in Zambia*, London and Co. Ltd. 1974.

- (b). Slow delivery of land by the Ministry of Lands and the Local authority, for formal housing development in another cause.
- (c). Poverty is one of the contributing factor to the growth of squatter settlements.

#### **4.1. POPULATION SAMPLE**

Information obtained from central statistical office revealed that Lusaka has about 1.3 million people.<sup>57</sup> According to the 2000 census report of population and Housing seventy percent of the total population live in inform settlements. Five squatter settlements that is Garden, Ng'ombe, Chazanga, Kalingalinga and Chipata compound were considered for the study. The report also revealed that Garden is composed of six sections with a total population of 43,386 people and approximately with 9575 houses. Garden Luangwa has 3,241 people with 940 houses, while Garden Mutanyo has 4,013 people with 865 houses. Garden site and service with 3,618 people and 716 houses. Garden site 4 has 4,811 people with 1,130 houses. Old Garden has 20,348 people and 4,434 houses. Ng'ombe squatter settlement has a total of 27,993 people with 6,044 houses at he mercy of

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<sup>57</sup> 2000 census of Population and Housing Report.

squatters. This population includes 4143 people from the new Ng'ombe and a total of 927 house. Kalingalinga has the population of about 28,686 people with approximately 5,864 houses. Chazanga has the population of about 14,602 people with approximately 2,864 house. Chipata compound has a population of about 46,910 people with approximately 9,608 houses.

It was also revealed that for a long time the local authority has been unable to build formal housing units and provide land for building formal houses, while the population has been growing at not less than 6% per annum. It was further revealed that illegal developments became increasingly difficult to demolish as they assumed political acceptability, and as such defended by people in power.

**4.2. DATA PRESENTATION**

A number of officials from the Lusaka city Council were interviewed and question were put to them, as to the factors which has led to the growth of squatter settlements in Lusaka. They gave their opinion as to the causes for the growth of squatter settlements. The notable factors mentioned are

- 1. Low rate of provision of planned Housing by the government and the local authority.
- 2. Lack of serviced land.

3. Absentee landlords who have left land.
4. Illegal land allocation by the so called party officials and non punishment of dealer in such acts.

## **CHAPTER FIVE**

### **CONCLUSION**

This study has identified factors which contribute to the growth of squatter settlements in Zambia. In Zambia the poverty rates are high. A large percentage of the population has limited resources available for land, housing and basic infrastructure and services. The trend in these squatter settlements is that some but not all houses are built using cement bricks. For an impoverished person to afford a bag of cement which costs about thirty thousand kwacha per bag rises the question, is it really poverty that brings about illegal settlements. For a whole house to be constructed quite a number of cement bags would be used. Those that use mud and unburnt bricks, it can readily be agreed that they are impoverished, they lack the money to find decent housing for themselves and their families and resort to the squatter settlements.

The existence of these squatter settlements has continued because of declining manufacturing base. The poor performance of the mining sector particularly copper mining which is threatening the livelihood of many people and the economic base; job losses and the limited creation of new employment opportunities in the formal sector which are contributing to

poverty. Subsequently those that find themselves impoverished, due to unemployment and cannot afford decent housing, they tend to settle in squatter settlements and build shelter without regard to the law provide in the Acts.

Political interference, corruption poverty and slow land delivery by the local authority have been found to be among the contributing factors to the growth of squatter settlements. Population growth is another factor which has contributed to the rapid growth of squatter settlements. Migration has been found to be another factor.

## **RECOMMENDATIONS**

Review of the legal Machinery is important. The town and country planning Act which is fundamental in housing needs to be reviewed, as in its current state it does not apply to land which is in the jurisdiction of the council once it is declared by the minister as an improvement area. There is need to harmonise legislation as the two Acts i.e the Town and Country planning Act and Housing (Statutory and Improvement Areas) Act are in conflict.

Some of the loopholes the Act suffers are technical. For example, determination of planning criterion is not technical. The exclusively elected councils who are politicians but not technicians. The Act being technical needs technical decisions. Therefore, the composition of planning authorities and their functions need to be broader to include not only councillors but other members of the public.

Serious measure must be put in place to ensure that party officials are not allocating land illegally. Slow delivery of land for development by the local authority gives advantage to party officials to illegally demarcate and allocate land to desperate residents who cannot wait for the local authority to do so. Therefore, there is need for the local authority to improve on the land delivery system to avoid giving advantage to some corrupt party officials who allocate land in areas which have not surveyed.

The problem of poverty can only be solved by creating employment opportunities. The majority of the people living in squatter settlements are unemployed due to lack of employment.

As it has been discussed political interference is one of the major problem the local authorities are facing in enforcing planning laws. A good example is the statement made by the then minister of Local Government and Housing Hon. Michael Mabenga<sup>58</sup> MP, on illegal structures in urban areas, “he stated that local authorities should not consider the demolish of illegal structures as an end in itself. Demolition is an enforcement which should direct offenders to areas set aside by a local authority for authorized housing development. Demolition of illegal structures with no alternative land will not on it own solve the problem of illegal structures. This is interfering with the operations of the local authority. The local authority has no obligation to compensate squatters. The case of *Namung’andi v Lusaka City Council*<sup>59</sup> sets out the principle that the squatter’s losses are not recoverable.

As it has already been discussed that the Lusaka City Council lacks resources to build formal houses for people in low income category, it is the duty of the central government to come up with a deliberate policy constructing low cost houses. This can be done by adequately funding the Lusaka City Council.

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<sup>58</sup> Structures in Urban Areas” 2<sup>nd</sup> December, 2002 ppH/103/512.

<sup>59</sup> [1978] ZR 358 (HC).



Migration is another factor which has contributed to the growth of squatter settlements in Zambia and in particular Lusaka. This problem of migration can be controlled by taking development to rural areas. The government should encourage investment to the rural areas and in turn provide employment for the local people, so as discourage them from rushing to town in search of employment.

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