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OBLIGATORY ESSAY L 410

SQUATTER SETTLEMENTS : A LEGAL ANALYSIS
(LUSAKA AS AN EXAMPLE)

BY

CECILIA SIKATELE

Being a Final Year dissertation submitted to the University of Zambia,
Faculty of Law in Partial fulfilment to the conditions for the award of the
Bachelor of Laws (LL.B) degree.

Supervisor: MR L N KALUNDE
University of Zambia
Date: 5th may, 2000.

THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

I recommend that the obligatory essay prepared under my supervision

by
CECILIA SIKATELE
ENTITLED

**SQUATTER SETTLEMENTS: A LEGAL ANALYSIS
(LUSAKA AS AN EXAMPLE)**

Be accepted for examination. I have checked it carefully and I am satisfied that it fulfils the requirements relating to the format as laid down in the regulations governing obligatory essays.

Date: 9th May, 2000

Supervisor 

MR. L.N. KALINDE

Dedication

This dissertation is a dedication to my Mum and my late Dad.

To you Mum, you are always there for me. I thank you for having made it possible for me to reach this far. Your wonderful friendship and encouragement has made me achieve my one dream. Thank you.

To you Dad, I owe you more than I can possibly express. Though you're gone forever, the friendship we shared, your encouragement and indeed your words of wisdom still and will forever lead me.

Dad, I thank you for having built a strong foundation for me.

To Dad, may your soul rest in peace.

To mum, may your soul forever breathe.

Thank you again.

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ABSTRACT

Squatter settlements in Zambia are increasing at a rapid rate and this has brought about a serious problem of how to control the development of such settlements. The problem of squatting sets in as ^a result of vast population increase as against housing shortage and the fact that house renting in Zambia is too expensive that it is unaffordable by the ordinary Zambian.

Squatter settlements exist worldwide but in Zambia we see vast increase from the colonial era to the post colonial era. A look at squatter settlements points a sad picture. Firstly they lack residential infrastructure and secondly they exist in conditions of poor water supply, sewer drainage and garbage disposal. Moreover the squatters are at risk of eviction and their shelters demolished owing to insecure land tenure. Further more under these pathetic conditions transmitted diseases like cholera, dysentery are inevitable.

Government is aware of this problem and it has over the years come up with certain programmes to control this problem. An example can be given to site and service and the upgrading programmes. However, these have not worked to expectation. It is the concern of this study to look into the obstacles hindering government and other stakeholder ^{to} implement their programmes.

With this background, the research will proceed as follows:-

CHAPTER ONE

Is an introductory one. It looks at squatter settlements in the colonial era and legislation present then, which controlled the African urban influx.

CHAPTER TWO

Looks at the post-colonial era and the various Acts dealing with planning and development in our country.

CHAPTER THREE

Mainly considers government's and other stakeholder reactions to this problem. It centers on what government is doing to control the mushrooming of these structure.

CHAPTER FOUR

Concludes the study with recommendations and possible solutions.

CHAPTER ONE

1.0 Historical Development of Squatter Settlements

1.1 Introduction

In order to fully understand the study of Squatter Settlements and its problems, it is pertinent to consider and fully examine the historical background of squatter settlements in Zambia. This chapter therefore will look at various colonial policies on housing and the attitudes of the British colonial administration in relation to the social-economic conditions prevailing at the time. Further, this chapter will bring out the factors which led to the development of squatter settlements and will also consider the scenario of the Urban African housing in the colonial era. The chapter concludes with some of the colonial measures taken by the British Government Administration that tried to control the urban influx of migrating Africans from the rural areas

1.2 Urbanisation

Urbanisation in simple terms is the migration of people from the rural areas into the urban areas for various reasons which in most cases are related to the social-economical conditions prevailing in the rural areas at the time. Squatter

settlements in Zambia is closely associated with urbanization in the sense that with the rise of urbanisation comes the formation of squatter settlements.

Urbanisation in Northern Rhodesia came with the Discovery of copper deposits on the Copperbelt and the construction of the rail line from the south to the Copperbelt in 1905(1). The period between 1924 and 1930, Northern Rhodesia saw a rise or growth of the mining industry. This is attributed to the fact that around this time there was a dramatic rise in world consumption of Copper (it doubled between 1913 and 1929) and with it the price of Copper also arose as it was used extensively in the burgeoning electrical, automatic and armament industries.(2) The discovery of the mines on the Copperbelt provided a new market within the territory for migrant labour. The European needed more and more cheap labour and the Africans provided this unskilled labour. The Africans therefore migrated to the urban areas in search of employment in the mines, on the farms and in the railway stations. In addition, recruiting agents were engaged to recruit more and more Africans.(3).

The whites managed to compel the Africans to leave their villages by introducing tax payments. The Africans were required to pay tax (poll and hut tax) and as a result, thousands of villagers were forced to leave their homes to look for employment from which they expected to earn money to pay tax. The burden of paying this tax bore no relation to the capacity of the villagers to pay because the amount demanded was far beyond the earning power of indigenous people.(4)

1.3 The Demand For Urban Wage Employment

As earlier noted, Industrialisation of Northern Rhodesia was a predominant factor for the rural-urban drift as many able-bodied men left the villages to go and work in the mines. With the commencement of the copper mining in the late 1920's and 1930's, the newly discovered mines became the country's economic center of gravity and magnet for rural-urban migration. In most cases, it was not the Africans desire to work but they were compelled by some social-economic factors obtaining during the colonial era. We now look at some of the main factors, which contributed to the urban drift.

A measure of economic compulsion started with the imposition of taxation in North-Eastern Rhodesia in 1900 and North Western Rhodesia in 1905.(5). Previously, cash for the Africans was a seasonal need. However as earlier alluded to the imposition of tax meant that cash became a regular demand for the Africans. Initially Hut and Poll tax were payable in kind but their conversion to cash payments drove more than half of the able-bodied male population into wage labour. Roberts points out that "for nearly all Africans in Northern Rhodesia, the only way of obtaining cash was to engaged in wage labour outside the territory. There was very little demand for marketed foodstuffs and in any case, the produce of settler farmers was given preference. Robinson summed up the point in this way;

"Having nothing else to sell the native had sold himself. The need to find the money to pay his taxes and to buy the products of the store, has led him to seek work in the towns and on the farms, at the mines both in Northern Rhodesia and the surrounding countries"(6)

Secondly, the wish for freedom from the social constraints of life in tribal society; curiosity about places of which so many stories were told by returning migrants; prospects of enhanced social status; the bright-light theory and belief that life was more exciting in towns and communication factors resulting from improved transport. Hall had this to say.

“As new towns sprung up, Africans are drawn from the bush by the ~~the~~ lure of money, bright light and excitement. The young men are leaving the villages and their small plots of land to the care of women and the old folk. Africans are by nature great wanderers and adventurers. In pre-European days they were held in their villages by superstition. Now they are bursting out eager to make up for the lost time.”(7)

Thirdly, two alternatives were open to rural dwellers: migration and cash cropping. Cash cropping was not rewarding for Africans because the policy at that time was ambivalent concerning the African participation in cash cropping and instead favoured migration. The peasant village farmers were no match for the white settler farmers whose products sold far much more than the peasants. The white farmers had a powerful lobbying hand that held virtual monopoly on the sale of maize.(8) Simmon, a noted sociologist makes the following observation;

“In buying maize grown by settler owned farms rather than maize grown on village land, the mines discouraged the improvement of village

agriculture and encouraged villagers to sell their labour instead of their produce”(9)

The result of the monopoly in agriculture products was that rural poverty set in and the only option therefore was to sell their labour. The last contributing factor though not on a large scale included the need to find employment to pay debts to traders and the impact of missionaries who also needed cheap African labour in their mission stations. This however, was most prevalent in Eastern, Northern and Luapula Provinces and on a smaller scale in North-Western Province.(10) In one way or another Africans were drawn into the capitalist market system.

From the foregoing, it is clear that industrialization of Northern Rhodesia and the consequent search for employment was the main reason for the rural-urban drift in the colonial era. Tony Seymour who carried out research in the shanty area of Ng'ombe came up with the results showing that 87% of the total people he interviewed had migrated from the rural areas to the towns in search of employment.(11) The next part of this chapter looks at the African Housing situation in the urban areas and the consequent development of squatter settlements.

The Urban African Housing Situation : The Development Of Squatter Settlement

The Development of the urban system in Northern Rhodesia was closely related to administrative mining interests . During the colonial era land was divided into three main categories and these are residential ,commercial and industrial. Residential areas were further subdivided into European ,Asian, coloured and African quarters with different

levels of service provision and standards for each race.(12) European residential areas represented the ultimate in luxury as they were generally provided with the necessary social facilities and amenities . The predominant concept in urban development was that towns were places where whites could live permanently.

Therefore, apart from those employed as domestic servants, (who lived at the backs of their employer's plots called servants ^{quarters}) africans lived in separate housing called labour camps. The Europeans needed more and more cheap labour ~~and~~ hence they kept on employing more and more Africans but had little or no accommodation for all of them .The compounds were not adequate to accommodate the many Africans who came to the urban areas .They therefore built their own houses . The houses consisted of a single room . These compounds were almost devoid of social facilities and recreational amenities save for beer halls and football grounds.

J. Merle Davies, for example writing of pathetic conditions of a shanty compound in Ndola, in 1933 Sated that;

“It had a population of about 4,000 living in 1700 huts spaced 12 feet apart. Huts were infested with mice and vermin, 50 communal latrine pits behind grass screens saved the needs of the inhabitants and were gradually filled to overflow.(13)

Hence this residential segregation has contributed to the quality of Housing and Services, a feature exacerbated by the development of squatter areas.

Another contributing factor to squatter settlements was the concept of absentee landlords who in most cases were British citizens not living in Zambia on their Crownland. This necessitated fast growth of squatter settlements on the unprotected

land. George compound in Lusaka for example, was created on crown land. Most squatter settlements sprang up in the same way and in consequence this greatly affected town planning in the country. Towards the 1940's the population of Lusaka had rapidly grown causing housing problems which made the colonial masters swing into action. Throughout the 1930's and early 1940 there was a continuing debate on the desirability of stabilizing the African labour force .(14) The Europeans incurred huge costs on circular migrations, recruitment and transport while their workers remained unskilled and inefficient. They decided to adopt the policy in the Belgian where miners worked continuously for long periods under long term contracts, under better condition of services with improved housing and social amenities provided.(15) The policy of balanced stabilization meant the creation of African towns on the Copperbelt to accommodate ex-miners and self employed such as craftsmen, traders and artisans. In order to implement this policy, the urban African housing ordinance(16) was enacted in 1948. Under section 3 of the ordinance, employers were required to provide housing to their African employees and their wives or in default pay the rent where such employees were housed in council housing. Local authorities were also required to establish one or more African housing areas for the accommodation of Africans. However, even though this was an improvement on the employment of native ordinance 1929.(16) housing remained a privilege and closely tied to employment. For most Africans loss of employment meant automatic forfeiture of their houses and automatic reversion to the mud-huts. Moreover the local authorities were expected to shoulder the housing duties but they did not have the requisite resources to meet their obligations. The funding was almost entirely from

welfare grants from the central government and profits from municipally run beer halls.(18)

Given the rapidity with which the African population was growing, an ever increasing building and material costs and the number of related services, it soon became clear that local authorities did not have the financial resources to meet their obligations. They therefore paid the natives a small allowance to shoulder their housing duties. Construction companies simply allocated sites on which their employees erected huts.(18) This type of housing greatly contributed to the development of squatter settlements. Further employees who failed to acquire housing found their alternative to house themselves by illegal invasion and subdivision of crown or private land. They built pole and ^{data (wind)} dagga shelters and sun baked brick huts. Public authorities responded to the squatter problem by sending in bull dozers and demolishing the 'offending' structures. However, this failed to solve the problem as most squatters simply moved elsewhere to start all over again. The authorities then began to adopt benign approach, turning a blind eye to the proliferation of squatter settlements while at the same time withholding municipal services to them in the hope that if conditions in the settlements worsened the settlements would fail to attract new settlers and the flow would cease.(20) Good

However this was not the case and in the end squatter settlements increased.

The urban African Housing Ordinance(21) was enacted with the objective of providing for control of African housing within the urban areas. However it is submitted that the inclusion of section 28 was a shortcoming.(22). This section provided for

temporarily accommodation in African housing areas .Temporary accommodation was provided in view of the reason already mentioned that Africans were generally regarded as temporary workers in towns. All that employers did, was to arrange with land owners for workers to be allowed to build themselves houses or hut in the so called compounds. .It was a shortcoming as it encouraged the Africans to build ‘shacks’ in urban areas thereby aggravating the situation which the ordinance sought to rid. Further the town and country planning Ordinance.(23) of 1923, which set down regulations meant to be strictly followed did not help to diminish this problem as the regulations and standards provided were clearly flouted as evidenced from the haphazard growth of structures in the shanty compounds and the mediocrity in the way they were built. As a result by 1963 Lusaka had an African population of 110,000, less than half (52,000) of which lived in municipal townships and the rest being distributed among private and government compounds(12,000).the other12,000 lived in unauthorized settlements and more than half of these African dwellings in the capital had only one or two rooms.(24)

1.5 The Control Measures Of African Urbanization Influx

(Industrialization Without Urbanization)

The British Administrative system had as early as 1929 effected measures to control urban influx .The predominant concept in urban development policy was that towns were not a permanent habitant for the Africans .In line with this thinking,towns in Northern Rhodesia developed within a political and administrative frame work in which the movements and activities of the African population were

considerably restricted.(25) Under the native registration ordinance ~~ordinance~~ 1929,(26). africans over the age of sixteen were required to be in possession of identification certificates commonly known as 'chitupa' or 'situpa (in vernacular) which was issued at the holders home village. It was a punishable offence with a fine or imprisonment for an African to be found without an identification certificate.(27)

Another measure was that Africans visiting the towns were required to obtain 'visitors' passes from the local authorities to enable them to remain in town. Enforcement of these regulations were carried out by fierce Police who often carried out mid-night raids and searches for passes . Those found living in towns illegally were brought before the courts and on conviction could either be fined imprisoned or 'deported' to their home areas. In addition under section 11(1) of the vagrancy ordinance, 1929(28) unemployed africans found in the urban areas could be arrested as vagrants or rogues and vagabonds and upon conviction, repatriated to their home areas.

Another urban influx control measure was to provide essential services only to those Africans in formal employment. Under section 45 of the Employment of natives ordinance, 1929, employers were obliged to provide housing and rudimentary services to their African employees, though this did not extend to the employees' dependants . The Europeans believed in circular migration which allowed for Africans to migrate from the villages to work in the towns for short periods of time and migrate back to their villages. Later the villager would migrate back to the towns and again work for short periods. This system enabled employers to house their workers in barracks style

of accommodation and paying them paltry wages for they believed that substantial improvement in urban living conditions would encourage mass influx into the urban areas.

CHAPTER TWO

INTRODUCTION

In the last chapter, we looked at the development of squatter settlements in the colonial era. In this chapter, we look at the urban situation in the post-independence era and analyse some factors which have contributed greatly to the present urban housing structure in Zambia. The second part of this chapter looks at the law concerned with planning and development acknowledging the importance that this bears on our study.

THE POST-INDEPENDENCE URBAN SITUATION

On attaining independence in 1964, the government introduced a constitutional guaranteed freedom of movement, including the right to reside anywhere in Zambia. Article 24 (1) of the 1973 constitution guaranteed this freedom. It provided that:-

“No person shall be deprived of his freedom of movement and for the purpose of this Article, the said freedom means 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.”(1)

The new government brought an end to the pass system, the colour-bar covenants in the title deeds that prohibited the lease or sale of land in some suburbs to Africans and above all the colonial harassment of homeless urbanites who quietly settled on public or private land in disregard of municipal and building regulations had also gone with the colonial order.(2) This meant that women and children in the villages whose movement were restricted during the colonial era flocked to the urban areas. It was indeed a general feeling among the many villagers that the urban areas were the best places to enjoy the

fruits of independence. The villagers therefore flocked to the urban areas, ^{ir}regardless of whether there was a chance of getting a job or a house. This movement aggravated the problem of housing shortage and consequently huge shanty townships sprang up, ^{eating} any empty open space available irrespective of their suitability for development.

Mary JACKMAN, a researcher who attended a workshop at the university of Zambia gave figures of the gain and loss of population between the census years of 1963 and 1969 through migration. The biggest gains were Lusaka, Kabwe Urban, Chingola, Ndola Urban, Kitwe, Kalulushi, Mufulira, Luanshya and Livingstone.(3) The gain ranged from 10 to 50%.(4) The biggest losses ranged from 10 to 30% which included among other small towns, Samfya, Mansa, Isoka, Kasempa, Kalomo, Lundazi and Serenje.(5) This information shows the migration of people from peripheral towns to bigger or industrial towns of the Copperbelt and Lusaka. This migration resulted in an increase in population in the big towns. Lusaka for example had an increase of squatter population from 16,000 in 1957 to 60,000 in 1973 or expressed in percentage form from 22% to 42% of the City's population.(6)

DEVELOPMENT PLANS

The Zambian government also adopted the system of development plans in order to channel resources towards certain socio-economic objectives. However, there was no comprehensive urban development policy until the Third National Development Plan. For instance, under the First National Development Plan (1966 – 1970), urbanisation was considered only as a facet of the general imbalance between the urban and rural sectors. One ^{of} ~~of~~ ^{the} ~~this~~ ^{plan} therefore was to minimise this imbalance with a view to raising the capacity of the rural sector for transferring resources

into social and economic growth which included inter alia raising productivity of the rural population and development of education and health services.(7)

The second National Development Plan (1972-1979) emphasized rural development in the hope of reducing rural urban migration generally by improving the living standards through the provision of better services and communications inter-alia. It was hoped that in this way rural areas would therefore be enabled to absorb larger proportions of their population and labour force and that this combined with the lack of employment opportunities and increasing cost of housing in the urban areas would discourage rural-urban migration.

The Third National Development Plan (1979 –83) made a more elaborate statement of urban development strategy and priorities. Other measures had to do with identifying areas with the greatest potential for development and investing in existing growth regions through a variety of schemes like rural settlement aimed at resettling people in villages and rural reconstruction centers aimed at attracting unemployed youths 'back to the land.'(8) However, these development plans proved to be futile. Governments' attempts at improving services proved to be a colossal exercise and costly failure. Failure to translate its planning objectives into concrete programmes, ineffective coordination among the authorities, monitoring and expediting of plan implementation are among other factors which contributed to the ineffectiveness of these development plans. Other writers have submitted that from the beginning, policy formulation was quite unrelated to the means of implementation. The policies outlined in these development plans on paper looked a little bit too ambitious considering the handicapped machinery of implementation.

EMPHASIS ON INSTITUTIONAL HOUSING

The emphasis on institutional housing dates back to the colonial era and it was not until the early 1970s that the country saw a departure from this trend. This was envisaged under the Second National Development Plan. What then is institutional housing and how did this contribute to the development of squatter settlements. The term 'institutional' is used in this context to mean slavish reliance on institutions such as local authorities to provide formal housing to the residents in their respective areas. This somehow discourages individual initiative at housing.

The First National Development Plan (1966-70) laid emphasis on the provision by local authorities of low cost houses for rent. The National Housing Authority Act established the National Housing Authority (N.H.A.).(9) The N.H.A. was vested with the whole responsibility for various aspects of housing in addition to an express duty to provide housing.(10) As local authorities had to provide housing, they were thus empowered to raise loans for the construction of houses. The local authorities under the local Authorities Act could acquire loans, land and construct approved schemes within its jurisdiction.(11) However, this system has not worked to expectation and the following are the main reasons for this failure:-

- i) Government has had difficulty in raising sufficient funds to finance housing. The funds allocated to this kind of housing were far from sufficient and the rent costs were too high for most workers. People started to build houses on crown land or on private land outside the towns. Large squatter settlements developed all around Lusaka during those years.(12)
- ii) Further, the inability of most local authorities to open up and service new housing areas over the past two decades has encouraged the growth and proliferation of informal settlements. As a result, illegal settlements currently dominate the housing scene. In 1993, for example, housing not in compliance with the legalised building standards in Zambia stood at 57

per cent of the total housing stock.(13) Today, the proportion should be slightly higher and is bound to get even larger unless more land is opened up and serviced and access to secure land tenure is improved. Insecurity of tenure in squatter settlements discourages high investment on housing. As a result, development in informal settlements takes place without the benefit of building standards and health regulations.

RAPID POPULATION INCREASE

The fast rate of urban population growth since independence has made it impossible for local authorities to meet their legal obligations,. Local authorities, due to the inadequacy of funds, have been unable to operate, maintain or expand the capacities of their public utilities and amenities to match recent population and settlement growth pressures. Many settlements existing now were designed and constructed many years ago for much smaller populations. The demand for housing is ever increasing and the resources remain limited.

The 1980 population and housing census of Zambia revealed that housing development in the country was lagging behind the population growth. Housing units increased by 28.9% annually during the inter-censal period (1969-80).(14) Over the same period, population increased by 42.4 percent at the rate of 3.3 percent per annum.(15) Similarly, the number of households increased by 31.8 percent.(16)This discrepancy between available housing and the population dynamics is reflected by the growth of large unplanned settlements. Attention therefore as envisaged under the Second National Development Plan (SNDP) was focused not so much on formal provision of housing accommodation by local authorities but rather on the provision of sites or plots of land on which individuals could construct their own houses.(17) However, this was only available to the privileged few who could afford the costs of building their own

houses in accordance with existing building standards and left the unfortunate ones to resort to squatter settlements. The failure by the local authorities to satisfy the housing need in their respective areas has worsened the housing problem. This is a clear indication that the emphasis on institutional housing from its inception was a grave miscalculation.

POVERTY

The issue of poverty is another factor which has contributed to a decline in housing standards. The incidence of poverty in Zambia is too high. It tended to grow especially in the years when the country adopted and begun to implement structural adjustment programmes (SAPS). In 1993, for instance, 76% of all persons in Zambia were deemed to be “extremely poor”, while 8% were considered to be ‘moderately poor’, leaving only 16% of the population outside the poverty bracket.(18) Growing depths of poverty have rendered more and more households unable to afford decent accommodation whether owned or rented.

A research carried out on low cost shelter on the copperbelt shows that ~~that~~ in 1993 for instance, the medium annual household income for Zambia was US \$315, while the annual rent was US \$162.(19) Thus from this information, the rental constituted about 50% of household incomes, which left an ordinary family with inadequate means to meet other household expenses.(20) These ratios become larger as the quality of housing improves. This information shows that an ordinary Zambian household cannot afford the price of decent housing and hence most Zambians have opted to live in dwellings whose conditions and quality are compromised.

PUBLIC EXPENDITURE ON ENVIROMENTAL INFRASTRUCTURE

Government's expenditure on infrastructure services in particular housing is very low. As a result, most infrastructure in Zambia is crippled. For example, following the Habitat 1 Conference in 1976 held in Vancouver, the Zambian government adopted as its housing policy for implementing the Third National Development Plan (TNDP), the execution of the following strategies:-

- a. to maximise minimum shelter standards adopted for the habitat 1 conference;
- b. promote home ownership through personal savings and long institutional credit;
- c. to give highest priority to housing for the low-income socio-economic groups (LISEGS) and to establish a housing bank specially for LISEGS.
- d. implement more flexible cellular housing integrated human Settlements, and to promote rural housing.(21)

The subsequent review of the performance of the TNDP Housing Policy revealed that the implementation of Strategies adopted after Habitat I conference fell short of it's targets.(22) For instance, nearly 75 percent of public and institutional Investment in housing was diverted into the development of medium and high cost houses, and only 5.5 percent of the targeted low-cost houses were developed.(23) The housing Bank for LISEGS was not established. Furthermore, no funds have been set aside for supporting

housing development in recent Public Investment Programmes formulated by the Government between 1991 and 1996.

In concluding on this part, it can be stated that the inability of the Government to implement comprehensive economic reform programmes provides many underlying explanations for today's major social sector problems, not only in the condition of human Settlements but also in other Sectors like education, health just to mention a few.

The second part of this chapter looks at Principal Acts dealing with land and development and analyses their effect vis a vis the squatter problem.

1. **Town and Country Planning Act, Cap 283 of the Laws of Zambia**

We look at its salient features vis a vis land development as they are particularly relevant to this discussion. Town Planning as being defined as;

“the exercise of such foresight as will promote the orderly and slightly development of a city and its environs along rational lines with due regard for health amenity convenience and for its commercial and industrial adjustment”.(24)

Indeed, one of the objects of town and country planning is the preservation and enhancement of amenity, that is, the pleasant features of town and country side. This is achieved partly through control of development. For example the planning authority may refuse permission for development which would be detrimental to amenity or they attach conditions designed to safeguard amenity. In addition to this general power of control, planning legislation provides a number of special forms of control which are mainly concerned with preserving or improving the pleasant features of the town and country.(25)

With the above back ground we proceed and look at the salient features of the Town and Country planning Act.

1. The Requirement of permission

Having acquired land, the developer must secure planning Permission from the Minister or planning authorities depending on circumstances affecting that land.(26) For instance if he intends to build a house in an area that is Zoned under the Town and Country Planning Act for residential purposes, he only has to Secure the Building permit under the Public Health (Building) Regulations. But in cases where the area is not Zoned for residential purposes, the developer has, in addition to securing the Building Permit, to obtain the Planning Permission. A building permit therefore authorises a developer to proceed with the construction of a dwelling house. No construction may proceed until such a permit has been Secured in accordance with the Public Health (Building) Regulations. The Securing of the Building Permit is dependant on the applicant having Secured development permission. 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 in the form.

BREACH OF PLANNING PERMISSION

A System of enforcement is required to deal with cases in which development is carried out without planning permission or in breach of conditions or limitation attaching to a grant of planning permission or in breach of conditions or limitations attaching to a grant of planning permission.(27)The legal consequence for breach is

covered under section 31 of the Act, Which empowers the local authorities to serve an enforcement notice requiring the owner or occupier of land or premises to remedy the situation. The notice may require demolition or alteration of any building or works carried out on land. In the Mumana Hotel Case,(28) the applicant was, pursuant to an enforcement notice, asked to demolish the hotel he had started building without planning permission.

The law however also carter for the occupiers' interest. It requires that local authorities in serving such notices must comply with the laid down procedures or failure to this the notice may be a nullity or invalid. For example in the case of Ndola City Council vs. William Kasonso.(29) The Supreme Court held that the Council had breached its own By-laws. The facts of this case are that the respondent applied for a building permit to commence 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, he received a letter from the appellant advising him to stop building as he had no building permit and consequently the appellant demolished the building.

By-law 67 (2) Stipulates that “where a person begins to erect any building without the necessary permit, the council is required to give written notice to such person, to demolish or remove such building within a time to be specified in the said notice. The council is further required to notify the person that in the event of failure to comply with the requirement within the specified time, the council will itself carry out such demolition. The court held that the appellant had demolished the building without following their own By-laws 67, and that the letter received by the respondent did not

amount to notice as required by By-law 67, there was no written notice specifying a period within which the plaintiff had to demolish the building, nor was there written notice that if he did not comply, it would enter the premises and carry out the demolition, the council had therefore, breached its own By-laws. The appeal was dismissed with costs.

It can be concluded therefore that if the provision of demolishing unplanned settlements was to be enforced, all buildings and any other development carried out in squatter or unplanned settlements would be demolished.

Public Participation

Section 19 (2) of the Act provides that once a development plan is submitted to the minister, then the planning authority gives public Notice that the said development is open for inspection. Under Section 19 (2), the public notice calls upon any interested person to make representation in connection or objection to the development plan to do so to the Minister in not less than twenty eight days after the date of the first publication of the notice.

Evaluation of the Town and Country Planning .

1. Public Participation.

This connotes that people who are to be affected by a planning decision must be given an opportunity to contribute to the formulation of these plans. Planners must seek maximum involvement of people in their communities, in order to effectuate plans. However, to date, public participation is limited to the recording of objections to development plans. Even then, most of the objectors represent sectional interests especially business communities. The ordinary person hardly participates in planning. Clearly, the Act fails to make provision for active participation by the people in the

planning process. Public participation remains theoretical and this is attributed to the fact that a considerable number of the population is unaware of this provision. Those with knowledge do not take the step and make representations as most of them lack the technical skill to evaluate a complex development plan.(30) Worse still, people in the low housing group are most ignorant as to the existence of such rights. Non-effective public participation is a short coming in the Act.

There is need therefore to address this short coming and this can be done through effective means of communication such as holding public meetings before drawing up the intended development plan. In the Kalingalinga upgrading project, for example, the planners concluded that community leaders involvement and residents participation were of vital importance to planning and community organisation.(31)

Planning Permission

The Town and Country Planning Act has failed to adequately respond to the problem of squatter Settlements except that of demolition. However, even this power of demolition has only been used sparingly because of government's inability to resettle victims of demolition. Selwyn S. Davies(32) noted that with regard to squatters, the planning Act has fallen into disuse. According to him, the provision effecting demolition could not be evoked because politicians in many instances intervened, arguing that such moves were not only immoral, but also inhuman. For instance, in the Kabwe Urban District case.(33) the aggrieved Simbaya built a house illegally and at a site set aside for a bus station in Kapatula Shanty township. The Kabwe District Council was split on whether to demolish this house or not. At the meeting, the then governor, Limonde, said

that while the decision to demolish was within the council's power, he could not bring himself to carry it out.

He said;

“Legally, we should demolish this structure but morally I can't bring myself to doing so. There are people going to be left homeless if we went ahead and in one way or another, the council is bound to Pay for the move.”

It has also been observed that politicians by objecting to demolition have their own interests to serve; that of keeping the support of people in compounds who constitute the majority of voters during general elections.

Confusion among the planning authorities is another major problem in the planning authority process. Planning authorities are expected to consult each other in their functions but this is rarely done and it results in confusion. One reason is that their functions usually overlap. In the case of Bendela v Northern Planning Authority,⁽³⁴⁾ the tribunal observed that;

“there appears to be a regrettable lack of co-operation or communication between the planning authority and the local authority the result appears to be that there have been very many instances of unauthorised development permitted by the local authority without reference to planning authority.....’

It is evident therefore from the foregoing that the existing planning legislation is outdated and not comprehensive. It has not kept pace with the dynamics of population changes, economic growth, social changes and political developments that have taken place. As a result, the plans demonstrate a great deal of rigidity in their procedures for preparation under the existing town and country planning legislation. MC Auslan noted that

“Although land use controls are seen to be a necessary part of Urban land policy, they are neither efficient nor equitable in their operation in third world countries.(35)

We therefore submit that the Act should be revised so as to cater for coordination and simplicity. Simplicity applies to land use control regulations. If legislative is complex, detailed and rigid, it is ignored by the public, abused by the developers and misapplied by officials. The question therefore should be “What are our most pressing urban problems and how can planning controls assist in solving them”(36)

The other Acts that affect Squatter Settlements are the Lands Act, 1995, the Lands and deeds Registry as well as the Building Regulations

Under the Public Health Act.

The lands Act, Section 9 (1) provides that

“Any person who occupies land in contravention of sub-section (1) is liable to be evicted.

Clearly these Sections show that Squatters are in contravention of these provisions and are liable to be evicted under Section 9 (2) of the Lands Act, 1995. However, the undisturbed existence of many Squatters Settlements in this Country is evidence of the fact these provisions have not been effected. The Courts, however are not hesitant to declare lack of title. In the case of Humane .vs. Chinkuli(38) the plaintiff was seeking possession of land allegedly allocated to him by a local UNIP Chairman from the defendant who in turn alleged that he had bought it from another person. The Court ruled that between the two parties neither had a better life. Scott J ruled;

“The whole matter is extremely unsatisfactory in that both the plaintiff and the defendant are Squatters and the defendant had no more rights to be on the land than the plaintiff claims he had.”

The lands and deeds Registry Act requires the registration of every document “purporting to grant, convey or transfer land Every document presented for registration under ^{this} section must be accompanied by a diagram as defined in the Land Survey Act and such diagram must be approved by the Surveyor-General.

Most commentators have pointed out the high cost of survey under the Zambian System. Therefore the cost of Surveying is likely to be an expensive venture thus adding to the overall cost of housing construction.

Finally under the Public Health (Building) Regulations no development of land may begin until a building permit has been issued in accordance with the Public Health (Building) Regulations. The Securing of the building permit is dependant on the applicant having secured development permission.

Since a building permit can only be issued after planning permission has been granted, this causes unnecessary delay. At present, in cases where development permission is not necessary, the grant of a building permit may take one to two months from the time the application is lodged.

It is difficult to appreciate the rationale for the grant of a building permit being dependent on Securing Planning permission. It would be more convenient to the developer if applications for Planning Permission and building permit could be lodged simultaneously so that both applications are considered by the responsible authorities at the same time.(39)

In conclusion, it is clear from the foregoing that most of our law dealing with land development is a product of historical ‘accidents’ and a colonial remnant. The Acts lack

comprehensive human settlement legislation and thus there is need to revise our law to make it compatible with the present needs and the changing conditions.

CHAPTER THREE

GOVERNMENT POLICY VIS A VIS THE SQUATTER SETTLEMENTS

INTRODUCTION

In the last chapter we looked at some of the most important factors that have greatly contributed to the rise of squatter settlements and which in consequence have shaped the present urban housing structure in Zambia. It also shed light on the various enacted laws that deal with land allocation, development and maintenance. We discovered that most of these laws being premised on the British law, which Zambia adopted have outlived their purpose and requires extensive updating so as to condition *(it)them* to the reality of present Zambia.

This chapter therefore concentrates on Government 's policy towards the squatter problem. It brings out government's solution towards this problem and the law pertaining to the same. The chapter therefore opens with the disadvantages of a squatter settlement which in all reason requires quick response by the government to remedy the situation.

DISADVANTAGES OF A SQUATTER SETTLEMENTS

A Squatter Settlement being an unplanned settlements lacks the necessary facilities that go with planned settlements like roads, school, hospitals, educational

centres only to mention ^{but} a few. This in consequence requires the habitants in these areas to walk long distances in order to have access to these social services.

Another predominant feature of these areas is that of over-crowding. This inevitably leads to easy transmission of water-borne disease such as cholera, typhoid and dysentery. It is indeed a notorious fact that most cholera cases reported in the past years have been recorded in the shanty areas. Preventive measures are rarely or never taken at all and local authorities as already noted move in when the actual epidemic breaks out.

Environmental cleanness paints a sad picture in the squatter areas. Garbage and rubbish is always scattered almost everywhere. The sewer system is poor and water shortages are the order of the day. The laws of hygiene and sanitation are simply ignored.

Another negative feature is with regard to the poor state of most houses. These houses are irregularly built using material of very inferior quality thus making them susceptible to destruction by heavy rains or strong winds. The Kanyama disaster of 1977 is a good example to cite in this respect. In that year torrential rains destroyed several houses and five people were reported dead under the weight of the collapsed houses leaving another 20,000 people homeless.(1) The main reason given for the collapse of houses in the area was that most of them were built out of weak materials. On the same disaster, Coleridge T.S. wrote about the pathetic environment in the following words:-

“..where once stood a commercial ablution block, human waste floated like buoys at sea. Billions of green flies had taken to the plants that once used to beautify the houses... water there, water here, yet there was no drop to drink.”(2)

However, despite the repeated occurrence of these disasters, local authorities continue to display laxity and negligence in the welfare of squatters. Squatter settlements

are still being built with authorities being unaware. What then is Government's reaction towards these settlements.

GOVERNMENT'S REACTION TO THE SQUATTER PROBLEM

The advent of independence was not followed by a radical change in housing policies in Zambia. The UNIP government adopted the rental housing policy. The objective of this plan was that local authorities continue to construct as many housing units of accommodation as possible. This was envisaged under the FNDP (1966-1970) which placed emphasis on the provision of low-cost houses for rent by local authorities.(3) Under the plan, government allocated K8.4 million each year for low-cost housing.(4) However, the demand for housing exceeded by far the available housing. It soon became clear that the nation's resources could not sustain rental housing and moreover targets for rental units were never met. For example, the demand for housing in Lusaka between 1963 and 1974 was 56,700 but Lusaka City Council only managed to provide 6,934 rental units.(5) Faced with these realities councils were directed to stop building houses for letting and instead to promote homeownership through the aided self-help housing scheme. The UNIP government's policy towards the scheme was envisaged in the 4 development plans, but a more elaborate system was provided under the SNDP (1972-1976).

By the beginning of the 1970's there was a growing recognition that squatter settlements were providing affordable housing in sufficient quantities to absorb Lusaka's population increase and that the population of those areas were not the unemployed criminals and foreigners of popular migration, but significant contributors to the city's economy and even to the labour force of the formal and public sectors.(6) It was also

recognised that it did not justify their being labeled as 'slums', that self-built housing represented considerable investment.(7) It was further recognised that these areas required planning and services. Demolition therefore was not considered the best solution.

The SNDP therefore phased out rental housing and replaced it with a more elaborate, comprehensive policy to assist self-help housing through site and service schemes.(8) The SNDP comprised 4 main strategies:-

1. channeling funds primarily to the provision of 70,000 plots in urban areas;
2. a policy of the upgrading of selected squatter areas was adopted, based on the acquisition of land in which they had developed strict control over further development and the provision of infrastructure and community facilities;
3. removal of subsidies for housing on all income groups;
4. emphasis on home ownership, based on making available unsubsidised loans for house reconstruction or purchase.(9)

IMPLEMENTATION OF THE SELF-HELP HOUSING POLICY

Government's reaction to the housing problem for the low-income groups has been the implementation of the self-help housing policy which involves the execution of two types of projects and these are:-

- i. upgrading existing squatter or unplanned settlements;
- ii. creation of site and service scheme.(10)

UPGRADING THE EXISTING SQUATTER SETTLEMENTS

Prior to the SNDP (1972-1976) squatter settlements were considered as temporary housing units. As earlier noted, government's policy prior to the SNDP was to provide as many housing units as possible. It was hoped that all the inhabitants in these areas would be settled in official low-cost housing areas or site and service schemes. As a result, unauthorised settlements were very rarely provided with permanent utilities and services. Upgrading of unplanned settlements entails the progressive development of a basic dwelling through the injection of essential services, particularly piped water, water-borne sanitation, education and health services and refuse collection, and the provision of security of tenure introduced by the Housing (Statutory and Improvement) Areas Act, of 1994.(11) The rationale was that the security of tenure would stimulate the settlers to build good houses for themselves or to improve them to acceptable standards.

Squatter upgrading was accepted as the final resort to the quest for a solution to the housing shortage, as it became clear that site and service scheme was not able to contain the rapid growth of settlements. The policy strikes a balance between two options, one being demolition and the other formal recognition. The option to demolish, if exercised, would have left a number of families homeless. In the absence of alternative accommodation owing to the inability of the local authorities to cope with the housing problem, the displaced families would rebound in another locality and await demolition. The tug-of-war therefore between the government and squatters would go on ad infinitum. Therefore, demolition in the absence of readily available accommodation is an ineffective solution.

The idea of squatter upgrading is to dislocate as few people as possible and they would be so dislocated if their dwellings got in the way of improvements and moved to what is called 'over-spill' areas where serviced sites were to be made available.(12) Since the basic aim is to upgrade in situ, upgrading programmes are supposed to lower costs for both the public and the individual concerned.

IMPLEMENTATION OF SQUATTER UPGRADING

Although the government had accepted squatter upgrading as a model for dealing with the shelter needs of low income urban dwellers, the source of money was not yet determined owing to high declines in the price of copper on the world market. Fortunately at this time the World Bank had adopted a policy of tending money for squatter housing upgrading and was looking for suitable projects.(13) The project for squatter upgrading was set up as a department of the LCC housing Project Unit (HPU).(14) The project was designed to improve four major settlements viz Chaisa, Chawama, George and Chipata with a population of about 150,000.(15)

The implementation of the Lusaka squatter upgrading commenced in 1974 and it comprised the following components:-

- i. it comprised the provision of services to approximately 17,000 dwellings in the major squatter settlements;
- ii. preparation and servicing 7,000 plots in adjacent over-spill areas to accommodate households whose houses were affected by upgrading;
- iii. preparation and servicing of 3,200 full-serviced site and service plots, that is, individual water supply and sewer connections;
- iv. 1,200 plots with communal water supply and pit latrine sanitation;

- v. infrastructure for the provision of water supply, improved sanitation, refuse disposal, street lighting, road access and drainage;
- vi. community services which included centres, clinics, markets and primary schools.(16)

Assistance in terms of financial aid and technical assistant was provided to participants. For example, in terms of technical assistance, alternative house plans as well as advice on improved construction techniques and the use of alternative building materials was provided.(17) Financial assistance was also provided in terms of essential resettlement loan to those who had to give way to services such as roads, drainage and water pipes, loans were also given in form of credit at the building material stores within the settlements. The upgrading of the four major squatter settlements began in 1974 to the year 1980.(18)

Under the Third National Development Plan (TNDP) (1979-1983) no major projects were undertaken in respect of upgrading but the Lusaka District Council supported by German Technical Assistance, continued to implement a major integrated upgrading scheme in Kalingalinga.(19) In 1985, for instance, European Units of Accounts (EUA's) equivalent to K14 million were spent largely on the installation and up-grading of water and sewerage infrastructure at Chipata, Kafue, Monze, Choma, Kalomo and Livingstone.(20) In 1983, squatter upgrading figures showed that a total of 60,692 squatter units were in upgraded areas while 9,000 units were yet to be upgraded (Lusaka was however excepted from these figures).(21)

Pursuant to the powers given in Section 37 of the Housing (Statutory and Improved Areas) Act, the Minister may declare an informal urban settlement as an improvement area and issue occupancy licences to the habitants in these improvement areas.

Before the 16th February, 1999, the date on which the then Minister of Local Government and Housing the late B.H.W. MWIINGA approved the declaration of 10 urban settlements as improvement areas.(22) Occupancy licences were applicable only to the following areas:-

- | | |
|------------|-----------------|
| 1. George | 4. Kalingalinga |
| 2. Chipata | 5. Chawama |
| 3. Chaisa | 6. Mtendere(23) |

Adding onto the list the latest upgraded areas consist the following. (They were approved by the Honourable Minister of Local Government and Housing on the 10th day of February, 1999 and printed in the Gazette dated the 11th March, 1999 and provided under Statutory Instruments Nos. 30 to 39 shown below against the name of each township)

	Name of Settlement	Statutory Instrument No of 1999
1.	Bauleni	30
2.	Chainda	31
3.	Chazanga	32
4.	Garden	33
5.	Old Kanyama	34

6.	Chibolya	35
7.	Marapodi/Mandevu	36
8.	Kamanga	37
9.	Ng'ombe	38
10.	Kalikiliki	39.

SITE AND SERVICE

The primary objective of this housing strategy is to provide building plots with supporting services. The construction of the houses is left to the participants, either individually or in groups.(23) In these areas, local authorities demarcate plots called sites and provide rudimentary services such as roads, water drainage, piped water supply, security lighting, building materials, loans and technical assistance with building. In addition, schools, health centres, markets and plots for small-scale trading and manufacturing activities have been provided.(24)

Individual developers of plots in these schemes called participants do their own construction of houses. They are however assisted with technical advisers and some loans for building materials and roofs though this is rarely done in practice.(25) In Zambia, the scheme is fully backed by the Government as one method by which housing shortage can be eliminated. Indeed, the FNDP and S NDP did not define any role that financial institutions should play in site service sheme. However, the T NDP defined the role of certain selected financial institutions namely the Zambia National Building Society, Local Authorities Superannuation Fund, Zambia State Insurance Corporation, the Zambia National Provident Fund.(26) The first three were urged to make available for conventional borrowers a total of K32 million primarily for conventional housing but

also to a limited extent for self-help housing.(27) The ZNPF is to encourage people withdrawing their benefits to take up home ownership.

The site and service housing strategy therefore has the following advantages:

- i. a greatly increased supply of building plots with urban infrastructure and services
- ii. creation of new townships with more efficient Urban development patterns
- iii. much better physical living conditions than are available in squatter settlements
- iv. increased scope for self-help construction providing dwellings at minimum cost while stimulating non-monetary savings and income.(28)

The Minister of local Government and Housing by the powers given to him in Section 4 of the Housing (statutory and Important Areas) Act may by statutory order declare any area to be a statutory housing area and certificates of title are applicable to these areas which grant a lease of 99 years.

- i. Kamwala Kabwata
- ii. Kaunda Square Stage 1
- iii. Kaunda Square Stage 2
- iv. Chawama West
- v. Chilenje South
- vi. New Chilenje
- vii. Libala, Stages 1,2,3, and 4A
- viii. Kabanana

- ix. Emmasdale Bank Houses
- x. Matero
- xi. New Kamwala
- xii. Libala Stage IV.B
- xiii. Emmasdale Site and Service
- xiv. Matero East Source:- Lusaka City Council, Pen-Urban

Section. Areas like New Kabwata, Chelston and Kamwala South are yet to be declared under Statutory Housing Areas.

The Housing (Statutory and Important Areas) Act, Cap 194

The official regulation of unauthorised settlements in SNDP was followed by the conferring of security of tenure to the tenants and occupants in site and service areas and upgraded squatter settlements respectively.(30) This was achieved through the enactment of the Housing (Statutory and improvement Areas) Act of 1974. The Act provides for two kinds of interests in land namely:-

- a. Leasehold in areas declared as statutory housing areas
- b. Occupancy licences issued to occupants in areas declared as improvement areas.(31)
- i. Leasehold.

The Council issues Council Certificates of title to habitants in Statutory housing areas. The lease is entered into between a tenant and the Council for a period of 99 years. At the expiration of this period, the lease may be renewed if the covenants of this period have not been breached.(32)

- ii. Occupancy Licences

Occupancy licences are issued to occupants in areas declared as important areas and it is valid for a period of not more than thirty years.(33) However, it is renewable after expiration thus encouraging Investment in housing construction.

In addition to regularising tenure, the Act introduced a simplified system of land law for areas to which the Act applies. For instance, all dealings in land covered by the Act are registrable not with the lands and deeds registry, under the Ministry of Lands, Water and Natural Resources, but at the District Councils Deeds Registry. The Act therefore specifically excludes the application of the following Acts to Statutory Housing Areas and Improvement Areas.

- i. Lands and Deeds Registry Act (Cap 185)
- ii. The land Survey Act (Cap 188)
- iii. The Rent Act (Cap 206)
- iv. The Town and Country Planning Act (Cap 283).(35)

The ultimate objective of the Housing (Statutory and Improvement Areas) Act is to make land transaction in these areas as easy, affordable and time saving as possible, but at the same time retaining the benefits of the system of registration.

PERFORMANCE OF SITE AND SERVICE SCHEME AND THE UPGRADING STRATEGY

Site and Service strategy has not been replicated and scaled up to the level that they will serve the great majorities of home seekers. The number of plots actually

serviced and allocated has always been substantially below targets as is shown from

Table 1 on the following page:

Table 1 REPUBLIC OF ZAMBIA: PROGRESSIVE IN SELF-HELP HOUSING SCHEMES (1981 – 1984)

	1981	1982	1983	1984
No. of plots planned				
Large councils...	69,229	40,653	40,653	40,969
Small Councils...	6,344	7,094	7,094	7,637
Total	<u>75,573</u>	<u>47,747</u>	<u>47,747</u>	<u>48,606</u>
.....				
No. Of Plots Service				
Large Council	52,300	30,705	30,705	31,021
....	2,811	4,901	4,901	5,460
Small Councils	<u>55,111</u>	<u>35,606</u>	<u>35,606</u>	<u>36,481</u>
...				
Total	45,519	26,421	26,421	27,363
.....				
No. of Plots Allocated				
Large Council	2,811	4,736	4,736	5,197
....	<u>48,471</u>	<u>31,157</u>	<u>31,157</u>	<u>32,560</u>
Small councils				
Total				

SOURCE: GRZ, NC.D.P. ECONOMIC REVIEW AND Annual Plan

1986, P 192.

The actual rate of housing construction and development fall short of the increasing demands. Home owners^{Ship} remains the privilege of a small percentage of the people partly due to the high costs in building and difficulties in obtaining loans from credit facilities. Government on the other hand is unable to make available sufficient funds to support the various housing schemes. It is therefore not surprising to note that between the years 1978 and 1987, squatter units still greatly outnumbered those in upgraded and Site and Service areas. The table below provides evidence for this fact.

	NUMBER OF DWELLINGS	0/0	NUMBER OF DWELLINGS	0/0
	1978		1987	
Traditional Squatter Units	819,300	59.4	903,500	65.0
.... Upgraded Squatter Units	280,800	20.4	143,170	10.3
..... Site and Service	36,000	2.6	52,820	3.8

SOURCE: NATIONAL HOUSING AUTHORITY(REPRODUCED IN FNDP. P288)

The above data shows that despite squatter upgrading and Site and Service Schemes being carried out, squatter Settlements on the other hand continued to proliferate faster than the authorised housing areas. This shows inefficiency on the part of the authorities who are involved in this scheme. The ability by the council to carry out

their obligations of servicing plots available declined each year. For instance, during the TNDP only 13, 162 units were recorded to have been upgraded against the target of 110, 900.(36)

What we have endeavored to explain as the solution to the housing problem was the UNIP's Government's formulated policy which has been basically carried over by the Movement for Multi-Party Democracy (MMD) government as witnessed in its manifesto which in part reads;

“MMD shall aim at promoting the instruction of adequate and suitable housing for all with water and sewerage services and where practicable electricity. Existing Squatter Compounds shall be systematically upgraded and where necessary resisted.”(37)

The manifesto further provides for the establishment of a special housing fund to enable progressive construction of houses for all either acting individually or through membership of relevant organisations to be created under the MMD government.(38) It is also a policy for the MMD Government to create an enabling environment where all Zambian will have areas to Financial resources to build a house or develop.

However, very little has been done to realise these policy aims. For instance, no special fund has been set up to enable people borrow and build their own houses.

However, the MMD Governments ^{policy} toward the housing problems has been the sale of all council houses as qn emphasis on home-ownership to the people. Indeed, the extension of the deadline for the sale of these houses is seen as dedication on the part of Government to enable more and more Zambians acquire their own homes and thus reducing the housing problem, as most of these occupants resort to Squatter Settlements upon retirement.

Finally, new on the scene is the Presidential Housing Initiative (PHI). This is an initiative from the MMD government. It is basically a project embarked by the government for the construction of hundreds of houses. The project targets all the income groups as it caters for low-cost, medium cost and high cost houses. It is indeed hoped that this project will spread to other provinces of the country like the copperbelt also experiencing housing shortages. Whether the vulnerable groups in society will actually benefit from this project is a question of time. However, one indisputable point is that the Presidential Housing Initiative will help reduce the housing shortages in Lusaka as we envisage that the problem of housing shortages cannot be eradicated completely against massive population growth in Zambia.

CHAPTER FOUR

CONCLUSION:

This study has revealed that the rise of Urbanization brought with it the housing shortage and in consequence Squatter Settlements set in. The rural urban migration was the main cause for population growth in the urban areas. The discoveries of the copper mines on the copperbelt, the introduction of tax payments as well as the socio-economic differences existing at the time between the Rural and Urban areas are some of the biting reasons for this movement.

More and more Africans migrated to the Urban areas in search of employment. However, there was no comprehensive Urban Housing Policy during the colonial period. Housing during this period was tied to employment meaning that only those in formal employment could have access to housing. The provision of basic infrastructure and amenities to Urban Africans was not a priority issue in the colonial^{era} implementation of this policy has contributed to the present Urban Housing Structure. This meant that those with no accommodation resorted to Squatter Settlements.

In chapter two, we saw that the advent of independence was not followed by a radical change in housing policies in Zambia. The new government continued to implement the rental housing policy with local authorities as the main actors. It was pointed out however that during this period the demand for housing increased so much as

to reduce the effectiveness of Local authorities to discharge their functions under the policies inherited from the colonial government. The emphasis on institutional housing therefore failed as these institutions failed to cope with the high housing demand.

We also discovered that the negative economic conditions beginning in the early 1970's made it impossible for the government to implement basic infrastructure programmes. The declining economy has led to other adverse effects like high margins of unemployment and poverty which has made it impossible for most workers to afford decent housing and end up living in shelters whose conditions are compromised.

Therefore, faced with these realities councils were directed to stop building houses for letting and instead to promote ownership through the aided self-help housing scheme which comprise site and service scheme and the upgrading of squatter settlements. The emphasis now is on quantity rather than quality. Despite the recognition of squatter upgraded areas under the housing (statutory and Improvement Areas) Act,(1) these settlements continue to develop even faster than the upgrading process.

Faced with these problems, the next part will provide recommendations for the amicable solution of the problem.

RECOMMENDATIONS

1. Review of the Legal Machinery

The use of outdated shelter and infrastructure development laws have frustrated access to titled land, shelter and low-cost sanitary conditions by the targeted social economic groups. It is recommended that existing legislation touching on land, shelter, infrastructure, housing finance and manpower and institutional

arrangements be reviewed. Specific areas of action would include upgrading town planning laws and to simplify land survey and registration procedures. The town and country planning Act is modelled on the English Planning Legislation of 1947 and is irrelevant to our country's planning needs. It is therefore submitted that planning should be indigenous so as to appreciate the socio-economic and environmental conditions prevailing locally.

There is need also to resolve the legal conflicts between the Town and Country Planning Act and the Housing (Statutory And Improvement Areas) Act. The two Acts should be used concurrently in land development to avoid conflicts. For instance, government has hastily declared areas as priority areas for Site and Services or Upgrading without due regard to physical planning and the result has been predominance of land use conflicts. For example, Ng'ombe an area which was declared and is now an upgraded squatter area was partially zoned for general agriculture, while Chainda, also now upgraded is partially a first reserve zone.(2)

The hostile provisions under the land and Deeds Registry as well as the land (Conversion of Titles) Act against Squatter Settlements must be repealed their being unenforceable. This is important for the housing market to work.

The same goes for very high building standards under the public Health Act.(3) Even though these standards are never enforced in practice, they are a potential hinderance to intending land developers of the low income group. Provision for affordable standards must be a priority for self-help housing schemes to work effectively.

Urgent reform is also needed in respect of survey standards. The building standards are too technical. The suggestion is therefore that the law must lower the

present building standards, but at the same time permit those with sufficient funds to construct more costly and durable homes.

ECONOMIC POLICY FORMULATION

Declining levels of formal employment, real incomes and national investment in shelter have been identified as the main constraints to the acquisition of affordable decent Shelter by the majority of Zambians. It is recommended that future economic development policy should aim at raising the level of prosperity and affordable decent shelter conditions. Specific areas of action could include:

- (i.) to redirect more national investment into shelter developments
- (ii.) to encourage and promote the development of more self-employment opportunities in the informal service sector among the targeted social economic groups.
- (iii.) to encourage the development of more employment opportunities in the informal construction sector; potential employment opportunities exist in the mining, processing and manufacturing of building materials;
- (iv.) privatise financial support on low-cost home-ownership schemes; supporting measures may include:-
 - (a) the implementation of "mixed" land use activities and cross-subsidisation of low-cost residential plots from profits accruing from selling high-cost plots;
 - (b) the establishment of a low-cost shelter development bank from the proceeds of selling low cost local authority houses.
- (v) to create a conducive environment for mobilising the people's own material, financial and labour resources for shelter construction. This could involve the following:-
 - (a) to promote the formation of House Savers' Associations, self-help shelter construction co-operatives, housing groups, neighborhood and community development committees;

- (b) to legislate for concessionary credit rates for low-cost shelter acquisition on behalf of contributors to social security and pension schemes by organisations such as The National Pension Scheme Authority and Zambia State Insurance Corporation;
- (c) to provide cash subsidies on building materials and rented shelter to extremely indigent households.(4)

INSTITUTIONAL FRAMEWORK POLICY

The existing institutional arrangements and manpower utilisation methods are inadequate for the rapid promotion and development of urgently required decent shelter by the low-income groups. It is therefore, recommended that the future manpower and institutional arrangements should aid the efficient promotion and development of decent low cost shelter. Practical changes would therefore include:-

- (a) encouraging the use of abundantly available unskilled labour from low-cost housing areas in resource recovery ventures, the mining, processing, manufacturing and retailing of local building materials and in the construction of low cost shelter development;
- (b) to advance effective citizen participation (including women) in the formulation and implementation of shelter and infrastructure development programmes which may be achieved for example through the formation of house savers' associations, shelter building co-operatives, neighborhood and community development committees.(5)

The responsibilities of the National Housing Authority and the Local authorities over-lap. So it is necessary that their activities should be co-ordinated. Planning authorities, public health enforcement agencies, surveyors, housing financiers, NGOs must co-operate with the National Housing Authority as the overall body

responsible for housing. The activities of the National Housing Authority must be expended into low-cost shelter development and must also decentralize its operations to provincial and district levels.

STRATEGY FOR IMPLEMENTATION OF THE SELF-HELP HOUSING POLICY.

There are certain factors that must be looked into for this scheme of self-help housing policy to work effectively to promote home ownership to the low income groups. institutional arrangements should provide flexible borrowing arrangements. This will be an added incentive to development of the self-help housing sector as opposed to squatting, hitherto favoured by the majority of the poor. Once this financial constraint is removed, the second step is to reduce standards which as already noted are unrealistically too high. Local communities on the other hand should be encouraged to participate in planning and building to ensure that their needs are satisfied.

Another important factor would be to shift the burden of funding these settlements largely on the government to other stake holders like NGOs. Government with this limited sources should be more involved with the duty of co-ordinating and over-seeing the performance of the private sector.

On the issue of occupancy licences, the nature of the interest conveyed in occupancy licences is not defined. The act merely states that the holder of an occupancy licence has rights and obligations as prescribed. In this connection, we concur with MVUNGA MP who observed that the term occupancy licence is misleading as in strict legal sense the term 'licence' imparts the absence of any estate or interest in the property it relates to.(6)

For site and service schemes, there should be development of private and enforcement rights of residents as this will create an incentive to develop land.

Finally, there is an urgent need for the government to formulate a comprehensive national shelter policy which should include the shelter needs of all socio-economic groups.(7) This role should be spearheaded by the Ministry of Local Government and Housing in conjunction with appropriate research units of the two universities as well as other relevant institutions like the National Housing Authority (N.H.A.).

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