

**LANDS DISPUTES IN ZAMBIA: A CASE STUDY OF GARDEN HOUSE AREA,  
LUSAKA**

**BY**

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**CERTIFICATE OF APPROVAL**

This dissertation has been approved as partial fulfilment of the requirement for the award of the degree of Master of Science in Peace, Leadership and Conflict Resolution of the Zimbabwe Open University in collaboration with University of Zambia.

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**AUTHOR'S DECLARATION**

I, PHILLIS KAMITONDO, do declare that this dissertation represents my own work and that it has neither in any part nor in whole, been presented as substance for award of any degree at this or any other University. Where other people's work has been used, acknowledgement has been made.

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## **DEDICATION**

This work is dedicated to my late father Mr Kamitondo Susiku and my mother Mrs Theresa M Kamitondo for encouraging me to pursue further studies. It is unfortunate that Dad had to go and be with the Lord just when I was about to finish these studies but I still hope he has gone a proud father.

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## **ABSTRACT**

This study investigated land disputes in Zambia taking a case study of Garden House area. Land ownership in Zambia is becoming increasingly a contentious issue. This is because land is more than just an economic asset or factor of production. Land ownership invokes a sense of security, a sense of identity and a sense of pride. In this vein the report investigated the types of land disputes taking place in Garden House area and the causes of land disputes in the area.

Furthermore, it inquired on the challenges faced by residents in acquiring legal land title in the area as well as the effects of land disputes on the residents. Additionally, the study investigated the mechanisms deployed by Government and other stakeholders in resolving land disputes in Garden House area. The research strategy for this study combined both the exploratory and descriptive approach. The study used qualitative research method.

The sample size was 43 consisting of 40 residents from Garden House area and three officers from the Lands Tribunal, Lusaka City Council and Ministry of Lands. From the 40 residents, 40% were male while 60% were female. The main types of conflicts established were conflicts between or among residents over land boundaries, conflicts relating to two or more claims made to one piece of land and also encroachment of personal land by most especially political cadres. These are mainly caused by lack of a proper system for land selling and distributions in the area as there is no proper organisation that appears to be in charge of this mandate. Moreover, this study established that most of the people in this area do not possess title deeds in the first place and find the procedure somewhat difficult and long. Several interventions have been made by government agencies and other stakeholders to minimize land conflicts including: sensitisation campaigns on land issues, mediation, and engagement of traditional leaders, enhancement of regulation and as well as strengthened enforcement of land laws. The majority of residents however believed these measures were largely ineffective.

The study recommends the need to establish a single government entity to regulate the sale or allocation of land; to create a central data base for keeping land records ensuring these records are easily accessible. Increased sensitisation programmes on the Land laws in addition to stronger accountability and transparency in land management were also recommended. It also recommends that the law needs to be reformed to establish a single unified system of land tenure.

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**TABLE OF CONTENTS**

APPROVAL..... i  
AUTHOR’S DECLARATION..... ii  
COPYRIGHT DECLARATION..... iii  
DEDICATION..... iv  
ABSTRACT..... v  
ACKNOWLEDGEMENT..... vi  
TABLE OF CONTENTS..... vii  
LIST OF FIGURES..... viii  
LIST OF TABLES..... ix  
ABBREVIATIONS..... x

**CHAPTER ONE: INTRODUCTION**

1.0 Overview..... 1  
1.1 Background to the Study..... 1  
1.2 Statement of the Problem..... 2  
1.3 Purpose of the Study..... 2  
1.4 Study Objectives..... 2  
    1.4.1 General Objective..... 2  
    1.4.2 Specific Objectives..... 3  
1.5 Research Questions..... 3  
    1.5.1 General Question..... 3  
    1.5.2 Specific Questions..... 3  
1.6 Significance of the Study..... 3  
1.7 Scope of the Study..... 4  
1.8 Definition of Key Terms..... 4  
1.9 Limitations of the Study..... 5  
1.10 Ethical Considerations..... 5  
1.11 Summary of Chapter One..... 5

**CHAPTER TWO: LITERATURE REVIEW**

2.0 Overview..... 6  
2.1 Empirical Review..... 6  
    2.1.1 Land Disputes: The Global Context..... 6

2.1.2	Land Disputes In Africa.....	8
2.1.3	Conflict Analysis Of Land Disputes In Zambia And Lusaka.....	10
2.2	Research Gap Identification For The Present Study.....	15
2.3	Theoretical Framework.....	16
2.3.1	Marxist Conflict Theory.....	16
2.3.2	Social Movement Theories (Smts).....	18
2.3.3	Reflection.....	19
2.3.4	Rationale.....	20
2.3.5	Conclusion.....	22
2.4	Summary of Chapter Two.....	22

### **CHAPTER THREE: METHODOLOGY**

3.0	Overview.....	23
3.1	Research Design.....	23
3.2	Research Location.....	23
3.3	Target Population .....	23
3.4	Sample Size.....	24
3.5	Sampling Procedures.....	24
3.6	Data Collection Instruments.....	25
3.6.1	Questionnaire.....	25
3.6.2	Interview.....	25
3.7	Data Collection Procedures.....	25
3.8	Data Analysis Instruments and Procedure.....	26
3.9	Summary of Chapter Three.....	26

### **CHAPTER FOUR: PRESENTATION OF THE RESEARCH FINDINGS**

4.0	Overview.....	27
4.1	Demographic Characteristics Of The Sample.....	27
4.2	Types Of Land Disputes In Garden House area.....	28
4.3	Causes Of Land Disputes In Garden House area.....	30
4.4	Challenges Faced In Acquiring Legal Land Title.....	33
4.5	Negative Effects Of Land Disputes On Residents.....	34
4.6	Mechanisms Deployed By Government And Other Stakeholders In Resolving Land Disputes.....	36

4.7	Summary of Chapter Four.....	37
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**CHAPTER FIVE: DISCUSSION OF THE FINDINGS**

5.0	Overview.....	38
5.1	Discussion.....	38
	5.1.1 Types of land disputes taking place in Garden House area.....	38
	5.1.2 Causes of land disputes in Garden House areas.....	40
	5.1.3 Challenges faced by residents in acquiring legal land title in Garden House area.....	41
	5.1.4 Effects of land disputes on the residents of Garden House areas.....	42
	5.1.5 Mechanisms deployed by Government and other stakeholders in Resolving Land disputes in Garden House area.....	42
5.2	Summary of Chapter Five.....	43

**CHAPTER SIX: CONCLUSIONS AND RECOMMENDATIONS**

6.0	Overview.....	45
6.1	Conclusions.....	45
6.2	Recommendations.....	46
	REFERENCES.....	47

**APPENDICES**

	APPENDIX I Questionnaire.....	50
	APPENDIX II Interview Guide for Key Informants.....	55
	APPENDIX III Workplan.....	56
	APPENDIX IV Budget.....	57

## **LIST OF FIGURES**

Figure 1: Conceptual Framework.....	21
Figure 2: Types of Land Disputes.....	28
Figure 3: Organisations Responsible for Land Distribution/Selling.....	30
Figure 4: Negative Impacts of Land Disputes.....	35

**LIST OF TABLES**

Table 4.1 Residents Responses to Experience or Witness of Land Disputes.....	28
Table 4.2 Measures for Securing Land.....	31
Table 4.3 Knowledge of Laws Governing Land.....	33
Table 4.4 Resident’s Ownership of a Land Title Deed.....	33

## **ABBREVIATIONS**

DDCC	-	District Development Coordinating Committee
FBO	-	Faith Based Organization
LCC	-	Lusaka City council
NGO	-	Non-Governmental Organisation
SMTs	-	Social Movement Theories
UNDP	-	United Nations Development Programme
USAID	-	United States Agency for International Development

## CHAPTER ONE

### INTRODUCTION TO THE STUDY

#### 1.0 Overview

Land disputes in Zambia like in many parts of the world are on the increase. This study investigated the occurrence of land disputes in Zambia. The study was conducted in Lusaka's garden house area and was based on the experiences, perceptions and opinions of residents in the area. The study moreover, obtained insights from key informants from the local authority and the Ministry of Lands on the subject matter. This chapter gives the background information, statement of the problem, research objectives and research questions, scope of the study, significance of the study as well as definition of key terms.

#### 1.1 Background Information

Land conflicts often have extensive negative effects on economic, social, spatial and ecological development. This is especially true in developing countries and countries in transition, where land market institutions are weak, opportunities for economic gain by illegal action are widespread and many poor people lack access to land. Land conflicts can have disastrous effects on individuals as well as on groups and even entire nations (Wehrmann, 2008).

Land ownership in Zambia is becoming increasingly a contentious issue. This is because land is more than just an economic asset or factor of production. Land ownership invokes a sense of security, a sense of identity and a sense of pride. Since the liberalisation of Land markets in Zambia, competition for land has been on the rise. This competition has been driven by increased economic activity, the rise in the indigenous population, especially in urban areas together with the influx of foreign nationals seeking settlement and investment in Zambia (Deininger and Castagnini, 2005).

Therefore, land is not only an essential source of livelihood in urban Zambia – but also a possession that is important and people struggle for it - and more generally, a central element in the varied and complex social relations of production and reproduction within which conflict between individuals and groups are bred. Land combines strong economic and

emotional values, to the extent that “people’s behaviour in relation to land mirrors the general state of interaction among members of society” (Sanjak, 2000).

Although the conflict literature points to the importance of resolving contradictions and tensions of all kinds (political, economic or social) so as to build long-term peace, it does not say much about the specific role of land dynamics in the outbreak or persistence of violence. The study involved exploration of land conflicts as they occur in an urban environment such as Lusaka City. The peculiar features of urban land disputes were explored taking into account the experiences, opinions and attitudes of those who were directly affected by these disputes.

## **1.2 Statement of the Problem**

Despite all efforts to reform land administration in Zambia, and other various interventions such as punishment of perpetrators and ensuring that land owners have rightful and legal ownership of land, land disputes have been on the increase. Moreover forms of Land disputes have moved from being those between two parties to more serious cases such as illegal distribution of Land and Land Ownership. Therefore there is need to ascertain why despite many interventions to improve land management and administration, land disputes continue to persist and worsen. As such research is necessary to ascertain the underlying causes and the various dynamics driving the increase in these conflicts.

## **1.3 Purpose of the Study**

The purpose of this study was to investigate the various issues related to the occurrence of land disputes in garden house area and intervention that have been made to minimise the occurrence and effects of these disputes.

## **1.4 Study Objectives**

### **1.4.1 General Objective**

- i) To conduct an investigation on land disputes in Zambia taking Garden House area as a case study.

### **1.4.2 Specific Objectives**

- i) To find out the types of land disputes taking place in Garden House area.
- ii) To establish the causes of land disputes in Garden House area.
- iii) To find out the challenges faced by residents in acquiring legal land titles in Garden House area.
- iv) To find out the effects of land disputes on the residents of Garden House area.
- v) To investigate the mechanisms deployed by Government and other stakeholders in resolving land disputes in Garden House area.

## **1.5 Research Questions**

### **1.5.1 General Question**

- i) What are the dynamics pertaining to land disputes in Zambia?

### **1.5.2 Specific Questions**

- i) What are the types of land disputes taking place in Garden House area?
- ii) What are the causes of land disputes in Garden House areas?
- iii) What challenges are faced by residents in acquiring legal land title in Garden House area?
- iv) What are the effects of land disputes on the residents of Garden House areas?
- v) What mechanisms have been deployed by Government and other stakeholders in resolving land disputes in Garden House area?

## **1.6 Significance of the Study**

This investigation was done so as to provide policy makers with the information necessary for them to revise the national land policies relating to reform of land tenure system, dispute resolution, indigenisation of land ownership, gender mainstreaming in land policies and so on.

The information may furthermore enable central government, local government, investors, political parties and residents improve their mechanisms for conflict prevention and dispute resolution with respect to land ownership and management.

Additionally, the findings of this investigation would be of interest to other researchers conducting studies on a related topic. In this respect, it would serve as a part of their literature review helping to refine, and focus their studies effectively. The results and conclusions would also serve as a starting point for further research on the subject matter and for making comparisons with the findings of future research projects.

### **1.7 Scope of the Study**

This study was only focused on the types of conflicts, the causes, the perpetrator/victims as well as the effects of land conflicts. Only matters related to land conflict were discussed and only residents and stakeholders involved in land dispute or land dispute resolution were involved.

### **1.8 Definition of the Key Terms**

#### **Conflict**

In this study, was understood as a dispute between two or more parties on the basis of differences over interests, goals, social status, power or access to resources. It results in either violent or non-violent aggression or both (Baatar, 2007).

#### **Land**

This research conceived land as any ground, soil, or earth whatsoever; as meadows, pastures, woods, moors, waters, marshes, fuzzes, and heath. The word “land” was taken to include not only the soil, but everything attached to it, whether attached by the course of nature, as trees, herbage, and water, or by the hand of man, as buildings and fences (Pons-Vignon and Lecomte, 2004).

#### **Land Dispute**

The conception of land dispute in the current study is when two separate entities feel like they both have a legal claim to a piece of property. This may be a disagreement about property lines, a bank foreclosure, or even a clerical error that created two rightful owners (Baatar, 2007).

## **1.9 Limitations of the Study**

This study encountered the following limitations. There was unwillingness by respondents to give information due to suspicion of the research being politically motivated. Another challenge that was faced in data collection was the process of making appointments with the key informants. The process required the appointments to be cleared by higher offices like the office of the Permanent Secretary in the case of Ministry of Lands. This process took long thus delayed the whole research process.

## **1.10 Ethical Considerations**

This investigation employed a number of standard ethics. Confidentiality was maintained in that numbers rather than respondents' names were used to identify the respondents. Also, the data obtained was treated with strict privacy and only served academic purposes. The investigator additionally obtained informed consent from each subject. Thus the nature and purpose of the research were explained to participants and they were allowed to freely decide whether or not to take part (Fieldmann, 2000). The standard of voluntary participation was adhered to in that no participant was forced to take part in the research and participants were free to withdraw from the research at any stage. To maintain objectivity, each answer was judged without bias, moralistic judgments and irrespective of the researcher's own opinions on the issue (Fieldmann, 2000).

## **1.11 Summary of Chapter One**

This chapter provided background information on land disputes in Zambia. The chapter also discussed the statement of the research problem, objectives, and research questions of the study, significance of the study and operational definitions or terms used in the study. The next chapter will review literature relevant to the study.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.0 Overview**

This section provides secondary information relevant to this study. Secondary information consists of publications, official reports as studies generated by other commentators and organisations on the study under investigation. This information was used to identify the gap in knowledge to be filled by the present investigation. It also forms a basis of comparison for the findings and discussions from the current study. The chapter first gives an empirical review indicating the Global, African and Zambian situational context. The chapter then outlines the theoretical review where the two theoretical paradigms deployed in the study were the Marxist and Social Movement Theories. In each case, the chapter explains how the theories will be deployed in the current study. It also points out the knowledge gap that this study was meant to fill.

#### **2.1 Empirical Review**

##### **2.1.1 Land Disputes: The Global Context**

Land disputes are becoming more intense the world over. However, it should be understood that land dynamics are context specific and rapidly changing, and conflicts related to them do not systematically escalate into violence. The consequences of this conflict are far reaching and multidimensional and include extensive negative effects on economic, social, spatial and ecological development.

Globally, disputes over land manifest in different forms. One form involves conflicts between single parties (such as boundary conflicts between neighbours), inheritance conflicts between siblings and disputes over the use of a given piece of land. In another situation there are conflicts that include numerous parties such as group invasions or dislodgments of whole settlements ( Prosterman and Hanstad, 2003). But by far the most complex land conflicts are those that include corrupt land administration and state capture. For instance, in the Brazilian State of Amazonas, it is suspected that fully one third of its land area has been illegally appropriated (Brazilian Ministry of Agrarian Development, 2001).

For generations, most of the land has been owned by Indian tribes. However, white newcomers to the land are using the judicial system to try to evict the Indians who have been living there for generations from part of the reservation. Seizing advantage of bureaucratic indifference, these people, led by powerful rice growers and ranchers, have persuaded judges to order Indians to leave the land (Pons-Vignon and Lecomte, 2004).

This case indicates that land conflicts are driven by powerful economic interests. When state institutions appear to collude in such injustices, the victims are rendered powerless to resist. Such a scenario can induce them to seek alternative ways of fighting for their interests such as violent armed struggle against the state and its clients. The present study may yet reveal possible collusion between corrupt or weak state institutions and powerful commercial interests in instigating the displacement of entire households and communities from their land.

In various countries, native people have been expelled or live at risk of being rendered homeless because they are ignorant of their rights or because the state /traditional rulers take these rights away from them. The loss of these rights makes it easy for their land to be privatised by the state or by their own traditional rulers.

The majority of countries the world over have adopted land liberalisation policies. Yet because the land markets are poorly developed, land liberalisation has generated more problems. Attempts by the state to privatise land or the lack of strong institutional structures to assure fair land distribution or to assure secure land rights create a conducive atmosphere for conflict to flare up.

To illustrate, Baatar, (2007) reports that the privatisation of urban land in Mongolia has resulted in disputes based on multiple allocations of land. This has occurred because of illegitimated claims and ineffective, inefficient land administration agencies whose staff is partly lacking capacity, partly open for inappropriate practices. The resolutions of these conflicts lack transparency and generally favour the well-off applicants possessing informal connections to respective decision makers (Baatar, 2007). This situation is common in many

parts of the developing world and makes land liberalisation a social evil rather than a social good.

However, even in countries where land has not been liberalised, and where the state tightly owns and controls it, the potential for conflict still remains high. The state is run by politicians who may be corrupt or may have partisan interests to protect. Bureaucrats and politicians can use land to increase their power. The situation is exacerbated in situations where there is no unified land tenure system. The case of China demonstrates this situation. As China develops there is a contradiction of securing fertile agricultural land and providing construction land for the ever increasing cities. China is a country where land has not been fully liberalised and the state has tight control. At the same time there is an alternative collective ownership system of land tenure (Gar-on Yeh, 2005; Wehrmann, 2008).

Due to this dual urban land market and the quite complicated procedures required to formally convert collectively owned agricultural land first into urban state land and then into either allocated land use rights or granted land use rights for private use, there are quite a number of options for illicit practices which circumvent state policy. As a shortcut, collectively owned land is often sold by the village leader who, while supposed to act on behalf of the entire village community, is acting on his own. This results in a decrease of agricultural land for the village community, illegal conversion of agricultural land into construction land and the enrichment of the village leader. In the cities, public officials are also tempted by profit to illegally lease and sell land use rights on state land (Ma, 2007).

The case demonstrates that state corruption, state inefficiency and the lack of land tenure system can increase the chances of land disputes in many parts of the developing world. The present research will attempt to identify the role played by these factors in creating land disputes in Zambia.

### **2.1.2 Land Disputes In Africa**

In Africa, land-related violence often has its origins in historical grievances from the pre-colonial and colonial era. The historical grievances have produced hostilities that threaten the

peace of post independent Africa. An example of this scenario is evident in the case of Kenya.

Many indigenous communities were deprived of their rights to traditional lands when the British privatised land holdings. After independence, Kenya's first President Joseph Kenyatta, initiated a land redistribution programme. Nevertheless, this programme was biased as most of the fertile land was allocated to his Kikuyu tribesmen. In a later backlash, many Kikuyu were pushed off their pastures. This created ethnic land grievances that have inspired violence during Kenya's elections since the 1990s (Moore, 2010).

As such, it can be argued that land conflicts on the continent derive their origins from historical injustices. Groups believing themselves to have been unjustly treated, attempt to revenge or rectify that injustice. They may do this either through political organisation (as in South Africa), or under the leadership of a populist champion (such as Robert Mugabe in Zimbabwe). In many cases, the attempt to rectify this injustice has resulted in violent aggression over land.

A further factor is the scarcity of land created due to increased economic activity or population growth. Resentment and economic hardship related to land scarcity in Rwanda are often cited as contributing factors to the 1994 genocide (USAID, 2012). Scarcity has induced increased competition for land that arouses violent emotions. The fight for land has created a survival of the fittest mentality where the fittest are those with the greatest physical strength, political and economic power. Aggression is deemed the best way of defending the land one owns or securing more land for oneself. Failure to fight and secure land may mean reduced chances of survival and increased vulnerability to destitution and poverty. The scarcity of land has thus created a situation where fighting for land is not just about economic empowerment, but also about ensuring the survival of individuals, households and groups. Landlessness has become an existential threat.

Another key source of land related disputes in Africa is insecurity of tenure. When land users fear that they may be forced off their land, insecurity of tenure can create a response that, in

combination with the threat of eviction, can generate conflict. Fear of loss of land and livelihoods is a potentially powerful political mobilising factor (Huggins and Ochieng, 2009). For instance, the conflict that started in the parts of northeast Congo over grazing pasture for cows in 1999, where Hema herders dispossessed Lendu farmers after buying their land. Eviction grievances led both tribes to armed struggle. The struggle then evolved and spread until it became a national crisis resulting in the loss of over 5 million lives (Moore, 2010).

As identified above, the lack of secure tenure in a liberalised market leaves many communities vulnerable to dispossession. The clash between customary land tenure and the statutory system is rife in many African countries and increases this insecurity. Colonial divisions of land as crown/state, public and customary types, and their continued, only partially transformed, existence into the postcolonial period are deeply implicated in contemporary patterns of allocation, use and conflict (Prosterman and Hanstad, 2003; Wehrmann, 2008).

Disputes over land on the continent are further instigated as various groups struggle for the control of valuable resources. Controlling such resource may entail more income, more wealth and thus more power. When these resources are situated in regions where tenure regimes are non-existent, land disputes are likely to result. Therefore, in situations where local people have insecure tenure over valuable assets, predatory actors (public and private sector) often struggle for control of these assets. This is the case in the East Kivu region of the Democratic Republic of Congo where conflicts over land and minerals are widespread (Pons-Vignon and Lecomte, 2004; Rocha, 2011; USAID, 2012).

### **2.1.3 Conflict Analysis Of Land Disputes In Zambia And Lusaka**

Land ownership remains a contentious issue in Zambia. Competition for land, especially in urban and peri-urban areas, has intensified over the past three decades manifesting as disputes between countries, Chiefdoms, institutions and individuals. These disputes have often been over boundaries and ownership of certain pieces of land. This struggle for land in the country has resulted in various degrees of violent and non-violent conflict. Yet the root causes of these land conflicts are still a subject of constant debate.

## **Legal framework for Land Administration in Zambia**

From pre-colonial times, land in Zambia has been under customary tenure. When the country became a British colony, the freehold and leasehold tenure systems were introduced (Ministry of Lands, 2006). The primary legislation governing land in Zambia is the Lands Act of 1995. Under this law, land is vested in the President on behalf of all Zambians and is administered by the Commissioner of Lands. The law also establishes two types of land tenure namely customary land and state land systems of tenure (Mudenda, 2006).

Customary land has been administered based on traditional practices which varied from one part of the country to another. In other words each tribe has had its own system of administering traditional land without interference from the state. Generally speaking the land is owned by the community rather than the individual. The traditional leaders are the custodians of this land which they administer on behalf of the community. This system facilitates “periodic redistribution of at least part of the land among community members depending on population growth to provide a social safety net to prevent the emergence of a class of permanently landless individuals” (Ministry of Lands, 2006:3).

According to the Lands Act of 1995, all land that is not situated or located in a customary area is designated as state land (Mudenda, 2006; Ministry of Lands, 2006). Most of the land under this tenure is found in urban areas, particularly those along the line of rail. This land is administered by the Ministry of Lands as well as the Local authorities. Title is granted once documentation and requisite surveying has been fully processed or completed (Machina, 2002; Ministry of Lands, 2006).

Section 3(6) of the Act nevertheless has a provision for allowing other forms of tenure. In explaining this Machina, (2002:4) explains that:

The President can give land in special circumstances to a person for any period exceeding hundred years, which by implication is another way of preserving the freehold tenure and other categories of land not explicitly provided for in the Act.

## **Lusaka City Urban Profile**

The city of Lusaka is one of the most rapidly growing cities in sub-Saharan Africa. After independence the urban population grew rapidly since restrictions on movement were lifted. Lusaka being the capital experienced an unprecedented rise in population. Lusaka city dominates the country's urban system and accounts for 32 percent of the total urban population in the country (Kayense, 2006).

The annual population growth rate in the city was 4 percent in the 1990 - 2010 periods. The population of Lusaka is diverse and consists of people from all the ethnic groups found in Zambia, as well as a small proportion of people of European and Asian origin. In Lusaka, there is a direct link between income levels and population density: higher residential densities are located on the outskirts of the city and lower densities (where most of the urban facilities are situated) are located in the inner city (UN-Habitat, 2012).

Migration trends have led to high population growth in the urban areas, without accompanying improvement in infrastructure for service provision. The situation is worsened by high internal population growth, especially among low-income groups. The high population growth rate, coupled with increasing urbanisation, tends to outstrip the supply of land for development. The available housing has been inadequate and unplanned settlements mushroomed all over the city (UN-Habitat, 2012; UNDP, 2013).

Planning for Lusaka has been inadequate due to insufficient resources at the Lusaka City Council (LCC). Major problems in the city include the lack of serviced land, speculation on land, complex procedures and poor record keeping regarding land ownership and land use, inadequate human resources, the slow pace in issuing security of land tenure, the failure of master planning, an increase in illegal settlements, and political interference in land allocation (UN-Habitat, 2012).

The study was an attempt to explore how these weaknesses can be a trigger for the various land disputes in Garden House area. The review conducted in this section served to provide initial insights on how land disputes are induced in an urban /peri urban area. The findings

generated at the end of the study were compared to what has been identified/ discussed in the literature review above.

### **Risk Factors Stimulating Land Disputes**

The system of land tenure above is not efficient and presents multiple possibilities for conflict. It is modelled on outdated English laws and does not fully meet the needs of modern Zambia. Though in theory land in ownership has been liberalised, this liberalisation is against the back drop of poorly developed land markets and dysfunctional laws and institutions.

This results in several problems that ultimately increase the chances of conflict. Firstly, there is the problem of chaotic land allocation. This problem arises from the time when one acquires the land in the first place. In this respect, there are some tenants that acquire land but the process of getting a title deed takes long and is often riddled with excessive bureaucratic delays and even corruption (The Oakland Institute, 2011; Chooma, 2014).

There are also situations where two or more tenants are given the same pieces of land, all owning legal documentation to prove ownership. Such multiple allocations tend to be a result of both mismanagement (such as poor record keeping, erroneous valuation, inaccurate surveying, and lack of proper land planning) and corruption and create conflict (Machina, 2002; Chooma, 2014). It is further exacerbated because in Zambia there are multiple institutions involved in the allocation of land including the local authority, the Ministry of Lands and even political parties in power.

This situation has created widespread insecurity. One may not be truly certain that they own the land or that they are well protected from arbitrary dispossession by new buyers, party cadres and others. In a situation of such insecurity, where well land administration system is lacking, a situation akin to Darwin's survival of the fittest is likely to result. Often times, the "fittest" are not those who own legal documentation such as title deeds, but rather those with political connections, those with financial power and even those with the greatest ability to

use force. This chaos represents ideal conditions for persistent land conflicts as experienced in different parts of Lusaka.

Secondly, land in Zambia is not just an economic asset but a political asset. In these respect political parties, especially the ruling party has strong vested interests in the allocation of land and how that land is distributed to their supporters. As already pointed out, land is a symbol of political power and a means of rewarding supporters. It is a way of incentivising people to support a given political party. Ideally, good governance prescribes a separation between the party in power and the government/state. State resources are supposed to be treated as separate from party resources. Land is a state resource and is supposed to be equally accessed by all its citizens irrespective of political affiliation.

Yet in Zambia the party is the state. The ruling party tends to see land as its resource, to be distributed to those it favours. The party in power often attempts to usurp the institutions of state in the allocation of land. Its cadres possess a false sense of entitlement where they believe they have more right than non-cadres or members of the opposition to own land. They also believe they are even superior to the institutions governing land management in Zambia such as the Ministry of Lands, the Courts of Law, and Law Enforcement Agencies and so on. Against this backdrop, land conflict in Zambia and particularly in Lusaka is instigated by political party cadres from the ruling party.

Thirdly, there tends to be conflict due to the contradiction inherent between customary land administration and the policy of Land liberalisation. What happens when land held under customary tenure is sold to a private individual or entity? A conflict arises in this scenario because the rules of liberal land markets are not compatible with the rules of customary land administration.

Liberalisation of land has not produced harmony in the way customary land is administered. Instead it has created more opportunities for exploitation of the poor, displacement of people from their ancestral land and inevitably conflict. The key effect of land liberalisation is that it runs counter to the dictates of customary land administration. The spirit of customary land

administration is that land is owned by the community where as liberalisation dictates that land can be privately owned. Customary tradition dictates that land must be distributed in accordance with the needs of the members of the community where as liberalisation involves selling land at a price to the highest bidder. A liberalised land market requires formal, written legal frameworks governing land administration and these are not available in the customary land tenure.

The traditions of customary land governance are unwritten and are arbitrary. They are applied at the discretion of the traditional leader (Mudenda, 2006). This scenario is explained in a report by the Oakland institute which argues that "...the gradual erosion of customary land rights, the numerous incentives offered to investors and the lack of regulations... [has complicated the administration of customary land in a liberalised market]" (The Oakland Institute, 2011:2).

This analysis is relevant when one considers land conflicts in peri-urban or fringe areas of the city of Lusaka. As the city of Lusaka expands, land is increasingly being allocated in the outskirts of the city where customary rules persist. Thus privatisation of customary land has been a major source of land disputes in the outermost parts of the city. The new owner may have paid the price for it, and obtained authorisation from the authorities, but that is not a guarantee that they will commence to settle and develop the land without conflict. It is not a guarantee that the tenants already settled there will be justly treated and compensated during the whole transaction. Consequently, the tenants who were already established there, sometimes for many years, may resist attempts at being displaced or relocated by the new owners and such resistance often times involves violence.

## **2.2 Research Gap Identification For The Present Study**

To address land-related conflict, it is essential to correctly identify the roles played by land in the conflict. The literature cited above has explained land disputes as they occur in other parts of the globe and in other African countries. Relatively little has been published on land conflict in Zambia. Furthermore, some of the literature has produced logical explanations and conclusions without providing actual empirical evidence. The arguments are sound, but where is the evidence?

This study will attempt to systematically analyse these causes and trace the mechanisms by which they trigger actual conflict, backed by empirical evidence. Some of the key considerations will be reflected in the following questions: What factors create vulnerability to land conflict, heighten unproductive competition, and exacerbate tension? Are these factors the primary cause of conflict, or are there other contributing factors? Why have past attempts to curb land conflicts failed? How has the duality of Land Tenure in Zambia exacerbated Land conflict? Liberalisation of land has occurred rapidly, yet the required legal and institutional reforms have been slow. How has this contributed to increased land conflicts? *Zambian* citizens lack adequate information with respect to how to ensure land ownership, ensure security of tenure, and their rights as citizens to own land. How does this lack of knowledge fuel land disputes?

## **2.3 Theoretical Framework**

Land administration in Zambia has been liberalised. This entails that market forces now play a key role in the way land is distributed and the use to which land is put. The liberalisation of land management in Zambia was as a result of the country adopting market reforms based on neoclassical economic theory. Neoclassical economic theory does not deny conflictual or antagonistic interests caused by scarcity. These antagonisms revolve around competition for ownership of land as well as conflictual activity involving the use of land. Thus the theories appropriate to analyse land conflicts in Zambia will be the Marxist Conflict Theory as well as the Relative Deprivation Theory, Resource Mobilisation and Political Opportunity theories. Relative Deprivation Theories, Resource Mobilisation and Political Opportunity theories belong to the broader class of theories known as the Social Movement Theories.

### **2.3.1 Marxist Conflict Theory**

#### **a. Historical Background**

Karl Marx (1818-83) was a 19<sup>th</sup> century philosopher; social scientist and historian who sought to explain conflict in terms of the struggle between classes for the control of the means of production. Though mostly ignored by academics and the political establishment in his generation, his social, economic and political theories attained widespread recognition in the socialist movement generations following his death. Until quite recently, almost half the population of the world lived under regimes that claim to be Marxist. This very success,

however, has meant that the original ideas of Marx have often been modified and his meanings adapted to a great variety of political circumstances. In addition, the fact that Marx delayed publication of many of his writings meant that it has been only recently that scholars had the opportunity to appreciate Marx's intellectual stature.

### **b. Key Arguments of the Theory**

The Marxist analysis considers the role played by power held by different groups in society. In addressing this issue, the Marxist analysis confines itself to power at a national level in a capitalist society. Marxists tend to divide Capitalist society into two related spheres of influence designated as the Economic Base (or infrastructure) and the Political and Ideological Superstructure. Those who own and control the means of production (the economic infrastructure) are powerful in that society because they are able to use wealth to enhance and expand their power (Heller and Fromm, 1989).

Marx focused on the causes and consequences of class conflict between the bourgeoisie (the owners of the means of production and the capitalists) and the proletariat (the working class and the poor). Conflict is analysed with respect to the economic, social, and political dynamics taking place in a capitalist society. According to this perspective, capitalist society is premised on the existence of a powerful minority class (the bourgeoisie) and an oppressed majority class (the proletariat). There is a conflict between the two classes because the interests of the two were at odds, and resources were unjustly distributed among them.

In explaining this system, Crossman (2016:78) explains as follows:

Within this system an unequal social order was maintained through ideological coercion which created consensus--and acceptance of the values, expectations, and conditions as determined by the bourgeoisie. Marx theorized that the work of producing consensus was done in the "superstructure" of society, which is composed of social institutions, political structures, and culture, and what it produced consensus for was the "base," the economic relations of production.

The theory additionally argues that the socio-economic conditions worsened for the proletariat, they would develop a class consciousness that revealed their exploitation at the hands of the wealthy capitalist class of bourgeoisie, and then they would revolt, bringing about a change in economic political and social structure of society.

### 2.3.2 Social Movement Theories (Smts)

Social movements are large informal groups made up of individuals and organisations. They are dedicated to specific political or social issues and aim at resisting social change, instigating social change or even undoing a particular social change. Social protest movements have the power to shape society - its political, social and economic arrangements. The ongoing interactions between challengers and the world around them determine not only the immediate outcomes of a social movement but also its development and potential influence over time.

**Social movement theory**, which began in the late nineteenth century, refers to the study of social mobilisation including its social, cultural, and political manifestations and consequences. Social movement scholarship is often motivated by a desire for social change and may integrate scholarship and activism (Turner, 2012). Special attention is given to the role played by Grievance, Resources and Political opportunity. These three perspectives of the social movement theory are discussed below.

**The Relative Deprivation Theory** was conceived by Ted Garr (1970). It contends that conflict in society starts when a class of people experience a sense of frustration. Once this frustration builds up and persists for a prolonged period of time, it leads to anger, political mobilisation and violence. Garr argues that the frustration arises due to relative deprivation. Relative deprivation is the sense of a group's members that there is a gap between what they have and what they feel they deserve.

**The Resource Mobilisation Theory** focuses on the role played by resources in the formation and activities of social movements. It is contended that groups are made up of actors who are rational and who pursue economic goals (money, power, social goods), while being bounded by resources and organisational limitations (like the free rider problem). Resources include: knowledge, money, media, labour, solidarity, legitimacy, and internal and external support from power elite.

The foundation of resource mobilisation theories lies in economic theory. As a result, the resources referenced in the theories typically include access to funding and/or an established market or corporation. The theories hypothesize that protests are more likely to occur when there is an organisation in place that has the resources for bringing people together to form collective action (Turner, 2012).

**The Political Opportunity Theory** incorporates the ideas of the Relative Deprivation and the Resource Mobilisation Theory. To these ideas it includes the notion of political opportunity. As such it is held that when a group has grievances, it will take steps to mobilise resources to address those grievances. Once it has the resources it will more likely fight for its interests by violent means where necessary. However, for them to engage in violence they must deem it politically opportune to do so. This political opportunity will be detected when the group notices a weakness amongst their opponents or on the part of the state (Dunaiski, 2015).

### **2.3.3 Reflection**

According to Marxist theory, power is a key feature of the structuring relations of society. Power in society is held by those who own the economic resources of society. Accordingly, dominant power is largely in the hands of those who own and control the means of life-including land. Those who do not control the economic resources are the subordinate class and are in essence powerless. Thus land is not just a natural resource but it is a symbol of power. At the same time, land is a source of power, meaning that those who control it have control over individuals and groups who do not own land. For Karl Marx, conflict results from a fight over resources may inevitably lead to revolution. Hence the fight for land is also a struggle for power.

Power influences development of land and the way that land is distributed. This power is channelled at various levels including local or communal power structures, national and international governance systems, geopolitical influence of particular nations (for instance regional). Those with the most power will determine the pace and characteristics of any land development and allocation process.

However, this economically powerful class has to translate this power into political power through control over the State, Machinery of Government and so forth. This power would also have to be converted into ideological power - the ability to control over how people think about the nature of the social world, capitalist society and so forth. The economically powerful will then use political power to secure more wealth for themselves and to increase their control of the means of production. The issue of land dispute in Zambia will therefore be analysed with respect to how elite groups attempt to secure more land for themselves and how they utilise political power as a means of increasing their control over land ownership.

Thus the theory seems to suggest that economic power (which in this context is symbolised by land) increases the chances of securing political power. On the other hand those with political power can in turn increase their economic power (that is by acquiring more land or by distributing it to their supporters). This suggests that land is a political asset as well as an economic asset.

The Marxist theory as discussed above is hinged on how the powerful elites use power and economic dominance to secure more land and more economic privileges and then more power. Therefore, the theory is centred on Land Conflict from the point of view of the powerful. How about those who are weak? What drives the weaker groups of society to fight for land using violence where possible? The SMT is a more suitable theory in addressing this aspect. It provides more details on why and how the marginalised classes mobilise themselves and fight for their land rights. Unlike Marxism which uses the vague concept of "Class consciousness, the SMTs identify more concrete factors that cause marginalised groups in Zambia and these are grievance, resources and political opportunity.

#### **2.3.4 Rationale**

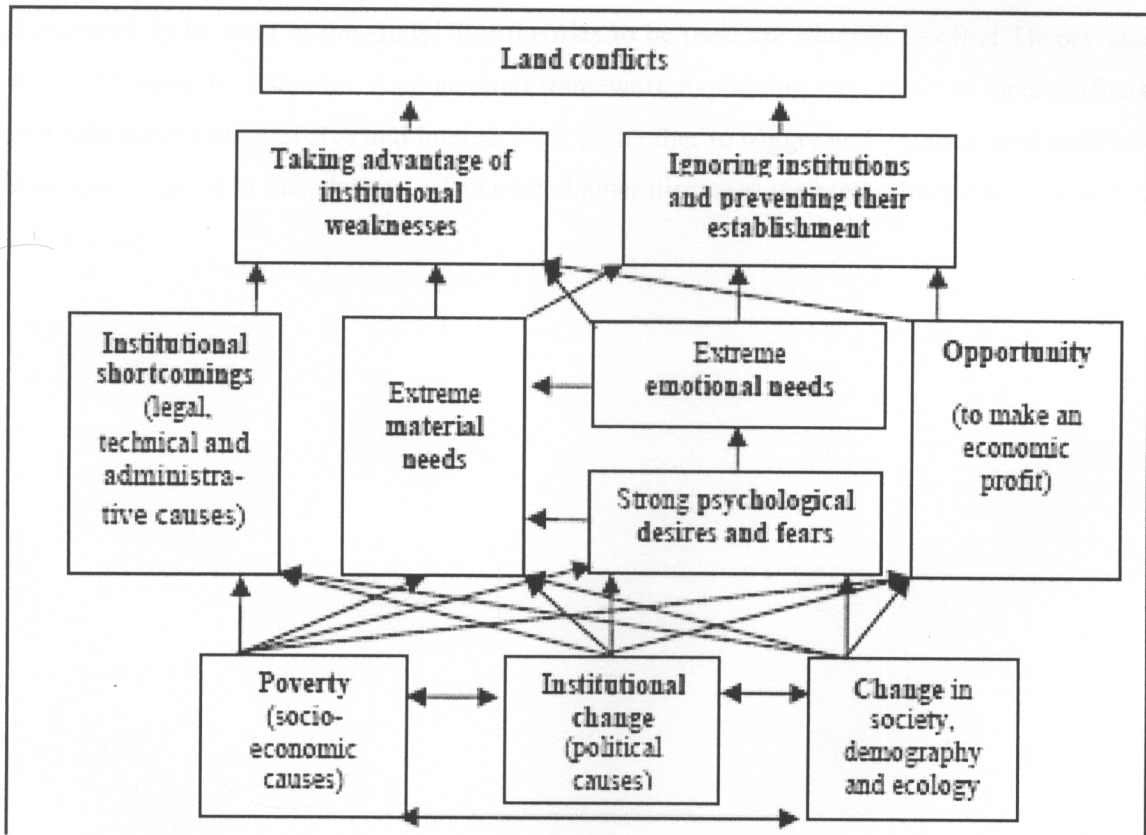
Both perspectives will be useful for the present study. Understanding the dynamics of land conflict in Zambia requires one to analyse it from the point of view of the elites such as political leaders, commercial elites, foreign investors and traditional leaders. All these hold power of one form or another and have a significant influence on land conflict in Zambia.

The study will also need to analyse the land disputes from the perspective of powerless members of society. They are powerless as individuals, but once they organise themselves

under various political movements such as political parties, community vigilantes, cooperatives or associations or just as a neighbourhood mob, they become a powerful force playing a key role in land conflict. They may play a role in challenging the elites, the state, or challenging groups they see as threatening their ability to own land.

The conceptual framework outlining land disputes is summarised in Figure 1 below. This framework summarises issues discussed in the Conflict and Social Movement Theories and will thus be ideal for this study. As indicated in Figure 1, land conflicts have the causes categorised as poverty, institutional changes and change in society. This study attempted to identify these causes. It moreover attempted to elaborate on how these causes evolve and interact with each other to trigger and escalate land conflicts in Garden House area.

**Figure 1: CONCEPTUAL FRAMEWORK**



Source: (Wehrmann, 2008)

### **2.3.5 Conclusion**

The theories above are just tentative explanations that may help the investigator to understand the factors responsible for the increase in land related disputes in the city of Lusaka. The researcher will attempt to analyse whether the findings of the present study conform to the theories above or whether there are any aspects of the findings that deviate from the theories above. It may turn out that the findings may yet result in the generation of a new theory altogether.

### **2.4 Summary of Chapter Two**

This Chapter reviewed literature relevant to the subject under discussion. The Chapter covered detailed past related studies from global, regional and local perspectives on land disputes. The chapter also identified the research gap for the present study and the theoretical framework to be used in the study. The theories to be used are Marxist Conflict Theory and Social Movements Theories. A conceptual framework explaining the causes of land conflicts and how these causes evolve and interact with each other to trigger and escalate land conflicts was also included in this chapter. The next chapter discusses the methodological approaches to the study.

## **CHAPTER THREE**

### **METHODOLOGICAL APPROACHES TO THE STUDY**

#### **3.0 Overview**

This section describes the methods and techniques that were used during the investigation. It presents the overall research design and the technique for selecting the sample. Furthermore, it outlines how the primary data was collected and analysed as well as the ethics that were followed during the course of the study.

#### **3.1 Research Design**

The research strategy for this study combined both the exploratory and descriptive approaches. A descriptive research intends to present facts concerning the nature and the status of the situation, as it exists at a time of the study and to describe the present conditions, events or systems based on impressions or reactions of the respondents of the research. The exploratory approach on the other hand seeks in-depth explanation as well as previously unknown insights into the topic at hand. Qualitative methodology of data collection was employed. This study was concerned with the experiences, perceptions, opinions and practices that exist with respect to land administration, land ownership and land disputes. The exploratory approach was idiographic in that it highlighted some aspects of employee motivation peculiar to the situation in Garden House area.

#### **3.2 Research Location**

The study was conducted in Garden House area, located 5Km West of Lusaka Central Business District. This area is a mixed settlement made up of low income high density households as well as middle income medium density households. This area was chosen because it has experienced persistent land based disputes which seem to worsen rather than abating.

#### **3.3 Target Population**

The population for this study consisted of all the residents of Garden House area. It also included Government officials at the Ministry of Lands, and other Stakeholders involved in

Land Administration in the city of Lusaka namely the Lusaka City Council and the Lands Tribunal.

### **3.4 Sample Size**

The total sample size for this study was 43, divided into Target Group A and B. Target Group A consisted of 40 residents of Garden House area. Individual households were sampled because it was easy to locate them and a sample size of 40 was suitable owing to the qualitative nature of the study and such a number would enabled the researcher to achieve the point of saturation. Moreover, this sample size ensured that the research was conducted within the stipulated time frame.

On the other hand, Target Group B consisted of three (3) key informants from the Lusaka City Council, Ministry of Lands and the Lands Tribunal. These key informants were selected to offer expert opinion in the study because they are involved in Land Administration and are also directly responsible for mediating and arbitrating in land disputes. Thus they were able to give first-hand information on the subject.

### **3.5 Sampling Procedures**

Cluster sampling was used to select Target Group A. This involved dividing the area into four clusters corresponding to the four subdivisions of the compound, namely Sections 1, 2, 3 and 4. Ten (10) households were randomly selected from each cluster. Cluster sampling was used due to the dense and disorganised pattern of the residences in the area. It was also chosen because the size of the total population of the compound is unknown.

For Target Group B Purposive sampling was used to select this sample in that the researcher used personal judgment in choosing suitable participants. This means the selected individuals were those perceived by the researcher as having adequate information relevant to the study. They individuals were more likely to provide accurate, up-to-date officially sanctioned information on land related conflicts in Lusaka City and Garden House area in particular. The advantage of using this method was that it saved time as the researcher went straight to those people who were relevant to the study.

### **3.6 Data Collection Instruments**

The study collected qualitative primary data from selected participants. The researcher used a Self Administered Questionnaire and a Semi-Structured Interview Guide to collect data.

#### **3.6.1 Questionnaire**

Brown (2001) defines a questionnaire as any written instruments that present respondents with a series of questions or statements to which they are to react either by writing out their answers or selecting from among existing answers. In this study, a self administered questionnaire was used to collect data from the residents of Garden House area (Target Group A).

#### **3.6.2 Interview**

An interview according to Harrell and Bradley (2009) are discussions, usually one-on-one between an interviewer and an individual, meant to gather information on a specific set of topics. In this study, an interview guide was used to collect data from the three (3) key informants from Ministry of Lands, Lusaka City Council and Lands Tribunal (Target Group B). In-depth interviews are useful in getting detailed information on research topic. The ability to get deep insight into the subject matter is a key advantage of this tool. Another benefit is that, researcher could have a chance to ask for further explanation where they are not clear. Additionally, the interviewer could probe for more information on any new aspect arising during the interview.

### **3.7 Data Collection Procedure**

In the collection of data from target group A, a questionnaire was administered by the investigator to the respondents who were left to give answer on the questions that were contained in the questionnaire. Such an approach allowed respondents to answer in a language of their own choice. Since they could use either English or vernacular, this approach eliminated the language barrier. This was also suitable for respondents who were not literate in the English language as clarifications could moreover be made on certain questions by the respondents, while the interviewer clarified on the responses.

The questionnaire consisted of both open and closed ended questions. Closed ended questions were used to capture background information. Nevertheless, open ended questions were used

to capture the rest of the data owing to the fact that the research was qualitative. These type of questions were chosen because of their advantage of being able to capture in greater detail opinions and experiences of participants on the subject matter.

On the other hand, an interview guide was used to collect data from the target group B. The guide consisted of Semi-structured questions that were meant to help in soliciting information. The interview was done on a one to one basis and the researcher took note of the responses and recorded some conversations where it was possible. In-depth interviews were useful in getting detailed information on the research topic. The ability to get deep insight into the subject matter was a key advantage of this tool. Another benefit that was accrued from the use of the interview guide was that it allowed the researcher to have a chance to ask for further explanation where she was not clear. Additionally, the interviewer probed for more information on new aspects that arose during the interview.

### **3.8 Data Analysis Instruments and Procedures**

In this study, data was analysed qualitatively. The answered questionnaires were checked for uniformity, accuracy and completeness. Thematic analysis of open ended questions involved reading through all responses to the questions and grouping them into common categories called themes. The general pattern of the themes was then analysed to identify what the common views were on each question and also what the minority views were. This way, each different opinion was given due consideration. Finally, the researcher reviewed and analysed the data collected through the in-depth interviews. These were analysed by thematic analysis as described above. The responses to open ended questions and the interviews were reported in narrative form.

### **3.9 Summary of Chapter Three**

This chapter discussed the methodology that was used for the study. The researcher employed Qualitative Research Method. A case study design was adopted in order to allow the researcher gain an in-depth understanding of the subject under study. Self Administered Questionnaires and Semi-Structured interview guides were used in data collection. A sample size of 43 respondents was drawn. Data collection and data analysis procedures were also explained in this chapter. The next chapter is a Presentation of the Research Findings.

## **CHAPTER FOUR**

### **PRESENTATION OF RESEARCH FINDINGS**

#### **4.0 Overview**

This study's findings are constructed on the primary data obtained through the questionnaires as well as personal interviews. These findings as well as conclusions were arrived at through grouping of responses from questionnaires into themes used in qualitative data analysis. This chapter is divided into six sections outlining the demographic characteristics of the sample, the types of land disputes taking place in garden house area, the causes of land disputes in garden house area, the challenges faced by residents in securing title deeds, the effects of land disputes on residents and finally the mechanisms used by government and other stakeholders in resolving land disputes in Garden house area.

#### **4.1 Demographic Characteristics Of The Sample**

Findings in this category are reported in accordance to the responses obtained per attribute under study. The study was based on a sample of 40 residents who were administered through questionnaires with three key informants making it 43. From the 40 residents, 40 % were male while 60 % were female. Of this sample, the majority i.e. 68% percent were aged between 29 and 40 while the remaining 32% were aged between 41 and 68. Also, 60 % of the respondents were married and the remaining 40% were either single, divorced or widowed. Furthermore, 68% of the respondents had secondary school as the highest education attained while 25% represented primary level education. Tertiary and No-formal Education were each represented by 5% in the sample. Finally, 60% percent of the respondents were private business owners, while 25% were unemployed. On the other hand, only 15% were in formal employment.

Hence the results show a wide margin of females and also most of the respondents had secondary education as the highest attained level of education. Also, most of these respondents are not formally employed but engage in private businesses. 3 keys informants were used consisting of one female from the Ministry of Lands and two males from Lands Tribunal and Lusaka City Council.

## 4.2 Types Of Land Disputes In Garden House Area

When asked on whether or not they have experienced land disputes, respondents gave a range of answers as tabulated in Table 4.1

**Table 4.1 Residents Responses to Experience or Witness of Land Disputes**

RESPONSE	FREQUENCY	PERCENTAGE
YES	32	80
NO	8	20
<b>TOTAL</b>	<b>40</b>	<b>100</b>

The study revealed that a good number of the respondents, at percentage of 80 had witnessed or experienced land disputes in their area. On the other hand, 20% had never witnessed or experienced land disputes since they moved to the area.

When asked on the types of land disputes common in the area participants gave several reasons summarised in Figure 2.

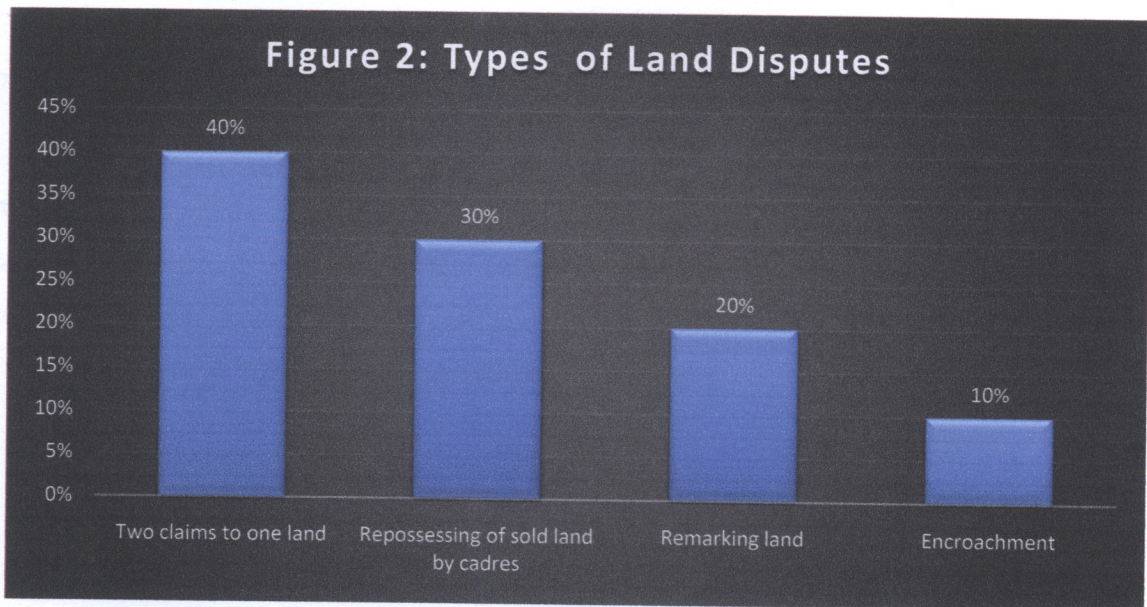


Figure 2 indicates that disputes resulting from conflict over ownership of a piece of land by two or more parties were alluded to by 40% of the respondents. These conflicts occurred when two or more parties produced apparently valid documents claiming ownership over a piece of land. About 30% of the respondents said the most land disputes instigated by cadres

was the repossessing of sold land. It was found that cadres after selling land, had a tendency of re-possessing it without refunding people their money especially in an instant where the owner of the land delayed in putting up a structure on the land to show ownership.

Describing one such incident, one of the participants narrated that after buying land worth K20 000 from a named cadre, and while preparing to erect a building a month later they were suddenly attacked by machete and stone wielding cadres. In the ensuing scuffles, one of his workers was badly injured and had to be hospitalised. Attempts to seek redress from the police proved futile allegedly because the officers were afraid of antagonising the cadres. Thus despite losing a substantial amount of money, the respondent complained that they were still landless and had lost hope in recovering their money or receiving alternative land.

On the other, 20% of the residents sampled explained that cadres and other unnamed persons were in the habit of remarking the boundaries for their land and this often times led to conflict over land boundaries or land dimensions. This was especially so in situations where the land in question had remained undeveloped for a prolonged period of time or if the person involved believed they had powerful connections to the party in power or a given councillor or member of parliament.

A further 10% of the residents sampled explained that there were instances where illegal squatters encroached on farms or land earmarked for other development like industrial or commercial uses. In such cases the conflict manifested as one between legal owners of land and illegal squatters who attempted to take the land by force.

### 4.3 Causes Of Land Disputes In Garden House Area

Respondents were queried on the organisations responsible for selling land in Garden house area and their answers are summarized in Figure 3 below.

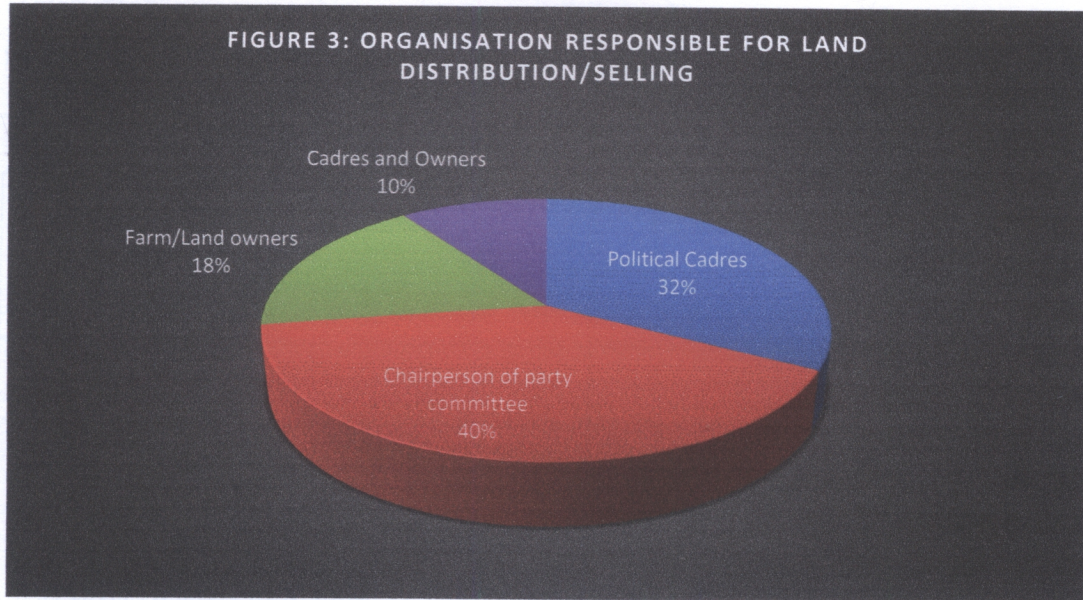


Figure 3 above shows the respondents responses as to what organisations were responsible for selling or distributing land in their area. 40% of the responses said that land selling and distribution in Garden House area was done by the Chairperson of the party committee. This party means the political party in power. On the other hand 32% had bought their land from political cadres who were also responsible for land allocations once the payments were made. 10% had bought from cadres and owners of the plots. Finally, 18% had acquired their land from former farm or land owners that sold part or all of their land. These land or farm owners also personally distributed this land to their customers.

According to residents and key informants, land conflicts are on the increase in the area because there are too many agents and entities selling and allocating land. It was pointed out by one of the participants that if there was more than one agency/agent allocating land, there was a high likelihood that there would be more than one set of valid documents and this triggers conflicts over ownership. Another participant explained that with so many entities empowered to allocated land there was an increased likelihood of corruption and other forms of illegality since it becomes more difficult to hold anyone accountable.

Participants also identified lack of knowledge on how to secure land through legal tenure (legal ownership of land) and also the deployment of inappropriate measures of physical security to protect their land as a reason for land conflicts in the area. Residents were asked to explain the mechanisms they used to ensure their land was secure and how this predisposed them to conflict. Table 4.2 summarises the responses.

**Table 4.2 Measures for Securing Land**

RESPONSE	FREQUENCY	PERCENTAGE
NO ESTABLISHED RULES	5	12.5
RULES SET BY PARTY CHAIRPERSON	5	12.5
PAY CADRES FOR SECURITY	5	12.5
PERSONAL SECURITY MEASURES (Fence, House, Poles, Flowers, Beacons)	21	52.5
TITLE DEEDS	4	10

From Table 4.2 above, it could be deduced that the results established that majority of the respondents used personal security measures to avoid loss of the land. These measures included building a house as soon as the land was acquired, putting up a fence, flowers, poles or beacons around the house to signal ownership and also as an indication of demarcations. There were also those who hired party cadres to provide security at an agreed fee.

Yet as several respondents explained sometimes even these personal security measures did not always guarantee that the land will not be repossessed or the property demolished. A resident pointed out that sometimes the very act of putting up a structure invited more land disputes especially if there was no valid legal documentation to prove ownership of a piece of land. The resident said that:

Without legal title, the structures can be demolished or the beacons removed rendering this measure merely cosmetic in nature.

One of the resident who used party cadres said that sometimes the cadres demanded more money in exchange for security and if not paid, they would stir up violence in an attempt to recover the money or even reposes the land. Sometimes the cadres hired for protection would switch their loyalty if someone offered them a higher sum of money.

There were also participants who said that there were no established rules on the procedures for securing land, while others indicated that their security of tenure was guaranteed by rules set by the Party Chairperson. However it was highlighted by one participant that:

The chairperson was susceptible to corruption or nepotism and this induced them to authorise land to be grabbed illegally by those they had decided to favour.

Another resident pointed out that:

When a new chairperson takes over from an old one, they may have some people they want to reward or they may simply refuse to offer the same guarantees as their predecessor. This situation would thus trigger a new conflict the land in question.

Some participants asserted that they believed having legal title to land was not always a guarantee that there land would be secure. They explained that poor record keeping at the Council or Ministry of Lands, the duality of land tenure and the incidence of corruption meant that there would be conflict arising from dual land allocation or due to missing records at the Ministry or the Council.

The lack of or poor level of knowledge of laws pertaining to land administration, land tenure and land rights among various parties was also seen as another reason for persistent land disputes.

With regard to the level of knowledge on laws governing land ownership and administration, respondents gave different answers as indicated in Table 4.3. The table reveals that 70% of respondents had no knowledge of any Laws governing land administration in Zambia. From the study, the remaining 30% who knew that there existed a Law did not really know for sure what the Law stated and what it covered or even how they were protected. Others just knew that they had the right to a proper and descent living environment and equal opportunity to land ownership.

**Table 4.3 Knowledge of Laws Governing Land**

<b>RESPONSE</b>	<b>FREQUENCY</b>	<b>PERCENTAGE</b>
NONE	28	70
YES (But Not Accurately)	12	30
<b>TOTAL</b>	<b>40</b>	<b>100</b>

Further causes indicated by the respondents were the general scarcity of land especially as the population of the city increases and as the amount of economic activity around the city multiplies. The shortage of land induced many persons or entities to use all means possible to secure land for themselves. As explained by one of the key informants:

There is no more unused or unowned land within the city of Lusaka. In spite of this the demand for land is on the rise. This scenario propagates a scramble for land where only the most aggressive are able to secure it. The price of land in the city is also high such that those who feel unable to pay for it resort to violence as a means of grabbing land by force. Political cadres, speculators, conmen take advantage of this scramble for land by posing as sellers of land, thugs for hire or as peddlers of influence who can help a client to secure land with no questions asked. The scarcity of land in the city has created tense emotions ranging from frustration, anger, desperation, greed or fear all of which may increase the likelihood of conflict.

#### **4.4 Challenges Faced In Acquiring Legal Land Title**

Participants in this study were queried on whether or not they possessed a title deed. Table 4.4 tabulates the responses.

**Table 4.4 Resident's Ownership of a Land Title Deed**

<b>RESPONSE</b>	<b>FREQUENCY</b>	<b>PERCENTAGE</b>
YES	2	5
NO	38	95
<b>TOTAL</b>	<b>40</b>	<b>100</b>

The study established that the majority of the respondents had no title deed to the land they were possessing. Only 5% of the respondents agreed to be in possession of these deeds. A number of challenges were faced in acquiring these deeds. Some respondents stated that they have never tried to apply or acquire a title deed for their land but simply built their houses. There were also others who found the procedure of acquiring title deeds long and difficult and hence either gave up along the way or simply did not start the process at all.

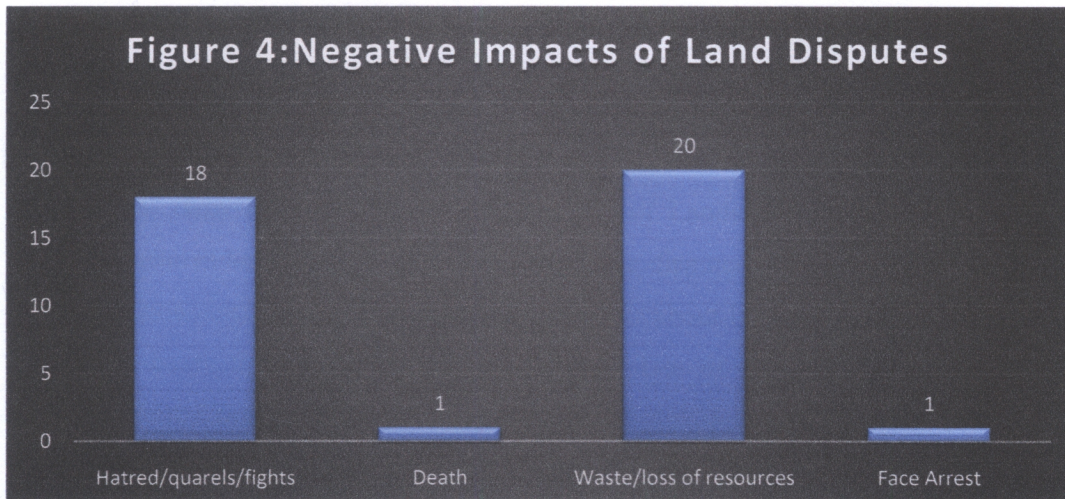
There were also respondents who could not continue the process of acquiring the deed in that either the Council or the Ministry of Lands rejected the application with reasons that the land was not under the ministry or that it was illegal and was not entitled to any title deed. Lack of knowledge on the procedure for getting a title deed and the other that wrangles with Political Cadres made acquiring the deed rather impossible due to lack of surety to ownership of land.

There were also complaints that the price of buying land was too high and the process of selling and buying land was often times riddled with corruption. In explaining the situation, one respondent said that she was swindled out of K50,000 by conmen who claimed to represent the Council. Due to that experience the respondent lost a significant amount of money and was left in so much debt. The respondent thus complained that there were very weak mechanisms for combating fraud in the sale of land and this discouraged most people from buying land in the area.

#### **4.5 Negative Effects Of Land Disputes On Residents**

The researcher endeavoured to find out residents' views and experiences on the impacts of land disputes. No positive impacts were given. The residents only perceived land conflicts as having entirely negative impacts. The study hence established that land disputes mainly resulted in loss of resources such as money, time and other material resources. The main effects are given in figure 4.

Figure 4: Negative Impacts of Land Disputes



Of the 40 residents asked on the negative effects of land disputes, 20 alluded waste and loss of resources. As one of the residents pointed out:

Such disputes have led to loss of money used to buy the land especially on the person losing out. If they have built any structure on the land it may at times be demolished and there is no compensation.

It was moreover narrated that conflicts were often violent such that they resulted in injury or damage to property, these entailed additional expenditure of money to seek medical treatment or to repair damaged property. Resources were also lost in hiring guards to protect the property from potential encroachers.

The loss of resources was also identified in situations where one was defrauded by unscrupulous persons purporting to be selling land. Even when the people were arrested and prosecuted, it was rare that the money lost would be recovered. Money was also lost in form of legal fees as the parties to a dispute engaged lawyers to take up their cause. The loss was further incurred in situations where an aggrieved party attempted to bribe some officials to ensure a case was ruled in their favour.

Also, about 18 of the respondents said such disputes resulted in quarrels, fights and hence hatred between and among fellow residents. Sometimes these hostilities would involve members of the same family. The study also found that these disputes resulted in the loss of life, together with arrest and legal prosecution for some perpetrators mostly youths.

#### **4.6 Mechanisms Deployed By Government And Other Stakeholders In Resolving Land Disputes**

The study sought to find out what steps have been taken to resolve land conflict in Garden House area. Key informants from the Ministry of Lands and the Council explained that various measures had been put in place to minimise disputes in Lusaka's Garden House area. These measures included: Sensitisation of the public about land procedures; Mediation by the tribunal in cases that are not really court cases; Use of ward structures to monitor land administration; Council collaboration meetings with stakeholders by Lusaka City Council and the Ministry of lands; Creation and deployment of the task force on land. Representatives from the Ministry of Lands further hold talks with traditional leaders and councils to discuss issues pertaining to land disputes in their respective areas and to come up with solutions to curb them.

To support these views, about 55% of the residents agreed to having seen some sort of intervention by various stakeholders. These steps included: Projects by NGOs and FBOs in the area advocating human rights especially for those who are victims of land grabs and land related violence/injustice. These organisations also conduct periodic awareness and sensitisation campaigns on the importance of peaceful dispute resolution as well as on the laws and procedures governing land administration and ownership.

The executive committees of the ruling party in the area also set up regulations on how land should be sold and distributed and also settled some disputes in the area, taking the role of arbitrators. They have also set up special rules to protect farmers in the area from land encroacher. A police station has also been set up in the area to provide security to residents and to provide quick response whenever a violent land dispute arises in the area.

By contrast about 45% of the responses to this query were of the view that nothing had been done to mitigate this issue and that such conflicts were actually on the increase

When residents were asked on the effectiveness of civic leaders such as the area Councillor and MPs in resolving land conflicts in Garden house area, about 80% of the respondents said these leaders were non effective. Some of these respondents said they had never seen or heard

their MP or Councillor say anything about this issue. Approximately 20% however had seen their Councillor and political party committees on several occasions negotiating with victims and reasoning with cadres and believed such interventions were effective.

Furthermore, in terms of interventions of the courts and how effective they have been, the study results indicate that all respondents did not find the court effective in handling issues of land disputes in their area. Reasons were that cadres seemed to be above the law and hence respondents were reluctant in following up or reporting issues relating to unfair distribution of land. Moreover, respondents said other complaints died out as they were told the land they bought was illegal and hence they had no legal claim to it. This was especially so for residents in the area immediately behind garden house hotel.

#### **4.7 Summary of Chapter Four**

This chapter was a presentation of the research findings on the Land Disputes in Garden House area of Lusaka. The findings were presented according to the research questions. From the findings, it was established that the main types of conflicts in the area were conflicts between or among residents over land boundaries, conflicts relating to two or more claims made to one piece of land and also encroachment of personal land by most especially political cadres. The findings also established that these conflicts were mainly caused by lack of a proper system for land selling and distributions in the area as there was no proper organisation that appeared to be in charge of this mandate. The study also established that most of the people in Garden House area do not possess title deeds and that they find the procedure to be difficult and long. The findings also established that there were several interventions that have been made by government agencies and other stakeholders to minimize land conflicts in Zambia. But the majority of residents believed these measures were largely ineffective. The next Chapter is a discussion of the research findings presented in Chapter Four.

## **CHAPTER FIVE**

### **DISCUSSION OF RESEARCH FINDINGS**

#### **5.0 Overview**

The study successfully achieved its objectives and hence answered all its research questions. The study investigated land disputes in Zambia using Garden area as a study area. In so doing, it sought to find out some of the causes of land disputes in this area and, the effects that such disputes had and how effective the law was in curbing such conflicts. Hence, a study was carried out on residents in the area and also data was collected from 3 key informants from the Ministry of Lands, Lusaka City Council and Lands Tribunal so as to gain a balanced view of the findings and to acquire a learnt or professional opinion on the subject matter. In this chapter, the study discusses the findings in relation to theory and literature.

#### **5.1 Discussion**

##### **5.1.1 Types of land disputes taking place in Garden House Area**

Land disputes in Garden House area are almost inevitable and residents each have either witnessed or experienced land disputes and conflict. In the same vein, theories cited in this study postulate that conflicts of this nature are inevitable for as long as there exist various classes of people in society (Crossman, 2016). Types of land disputes cited in literature is widely conflict within families related to inheritance issues and lack of agreement within families on land shares. Other types of conflict cited relate to liberalisation and how the control of land and property by market forces have resulted in exploitation and hence conflict.

These and more types of land disputes in Garden House area, poor land allocations and markings are among the main causes of conflict. There is no proper plan and hence procedure on how this should be done. The plan of the area is not properly looked into and as such, certain areas are divided in such a way that they do not leave room for a proper road network but is simply houses clustered at one point. This causes conflicts among residents themselves on who is on the wrong. In the same realms, lack of consensus on the land markings has resulted in quarrels and fights in the area.

Asides from this, two or more claims to one piece of land has been on the increase since land began to be sold in the area. Many victims have lost out in that land they bought was sold to someone else and in some cases, no proper compensation is given. Authorities have also cited types of conflict as being between government and residents in an instance where residents are relocated to other areas to leave land for public projects. In Zambia, this is no news and happens all the time as residents are relocated so that land is used for developmental projects such as roads, hydro-power stations and other development infrastructure. Such conflicts are such that the government has an upper hand and the land occupants have a zero say on the matter. Zambia's 1991 Constitution (as amended 1998) recognises property rights and protects individuals against the deprivation of property unless authorised by law. On the contrary, the state can violate individual property rights if it is acting in the course of implementing a comprehensive land policy.

Further, land disputes also come in the form of illegal settlement on land. Lusaka City Council has on several occasions demolished houses and other property built on illegal land.

All in all, the main type of land dispute arising from this study is that which is politically inclined. This study cited literature that suggested that, land in Zambia is not just an economic asset but a political asset. In these respect political parties, especially the ruling party has strong vested interests in the allocation of land and how that land is distributed to their supporters. As already pointed out, land is a symbol of political power and a means of rewarding supporters. This land is mainly distributed by political cadres of the ruling party. However, what has not been established is whether conflicts resulting from political intervention are also part of the mandate of the ruling party. That is if they have chosen to pay a deaf ear to the conflicts that their party cadres have continued to instigate. Information from authorities stated that in most instances, task force is reluctant in persecuting these political cadres in an instant where they go against the law. The 1995 Land Act vests all Zambian land in the President at that time who is also the leader of the political party.

To stretch it further, in some instances, the land that political cadres distribute is land that has been encroached from personal owners and not really belonging to the Government. Many

victims in the area and throughout the country have fallen prey to this act as their land is without permission and proper legal procedure taken away and sold out.

### **5.1.2 Causes of land disputes in Garden House Area**

The types of land disputes mentioned above are exacerbated by numerous causes. To begin with, Lusaka city for instance has been subjected to an increasing number of immigrants leaving the rural settlements to pursue economic opportunities in the capital. This has resulted in scarcity of land, let alone affordable land in the capital. Scarcity of land as cited in literature is among the top causes of land as people tend to fight for limited resources each with a motive of winning. Even where land is available, people cannot afford it, hence crowd in areas that they can afford.

Asides from that, lack of proper enforcement power by the relevant authorities has seen a reluctance on the perpetrators to distribute land in accordance with the law. None of the political cadres seem to be visited by law enforcers and hence have continued to illegally sell and distribute land based on their own terms. Information from the interviews revealed that on professional terms, the political cadres have no established role whatsoever and are not supported by any law to sell and distribute land hence making their actions illegal. The Lands Act of 1995 as earlier mentioned holds that all land that is not situated or located in a customary area is designated as state land (Roth et al., n.d; Mudenda, 2006; Ministry of Lands, 2006). On most instances, land under this tenure is found in urban areas, particularly those along the line of rail. This land is supposed to be administered by the Ministry of Lands as well as the Local authorities and title is granted once documentation and requisite surveying has been fully processed or completed. However, information on the ground especially in Garden House area has not been the case

Greediness on the part of land owners has also been viewed as a possible cause to land disputes. Once land has been bought, people are usually not satisfied with the demarcations or in some instances, for other personal reasons may try to enlarge their allocations by tempering with the markings. This hence results in disputes with their neighbours.

Still on demarcations, this conflict could also be as a result of proper markings by the people in charge of distributing land. What arose from the findings was that in some case, land distributors re-mark the land and make adjustments to the measurements even after the payments have already been made based on previous markings.

Moreover, there is also a lack of a proper system for land selling and distribution in the area. For instance, others buy their land from farm owners, others from political cadres while others buy from the chairperson of the party committee in the area, this signifies a lack of proper system and procedure of land allocations, hence, it is highly possible that the same piece of land could be sold to more than one person by both the party cadres and the party chairperson.

### **5.1.3 Challenges faced by residents in acquiring legal land title in Garden House Area**

Establishing challenges in acquiring of title deeds in the area was somewhat cumbersome considering that majority had never even tried to acquire a title deed. This is a very interesting factor in that it sort of signifies a lot of issues. The study did not establish the reasons but could be attributed to ignorance on the importance of land title, others may just be too relaxed considering that they have achieved the difficult task of acquiring land in the first place, let alone building on it. Furthermore, others seem not to understand the significance of a title deed once their house or property has been built. Distributors of land in the area also assured the buyers that title was not necessary for as long as they had purchased and built on the land. This finding is something new to the literature in this study as none of the theory or other literature has sought to establish reasons as to why people do not try to apply for a title deed.

Nevertheless, some challenges land owners face in acquiring land titles are that the procedure is long and difficult. There are many consultations and many offices that one has to visit with various requirements before they can acquire a title. Information from the interviews cited lack of decentralisation in the entire system making the procedure vague.

On the other hand, the area in question Garden House area seems not to be under the Ministry of lands catchment, in this case, others that have tried to acquire title were told they were

settling on illegal land that has not been released for distribution. In such a case, they were not entitled to any titles whatsoever.

#### **5.1.4 Effects of land disputes on the residents of Garden House Area**

In any area that disputes exist, negative impacts are inevitable as there is always someone losing out. According to the USAID (2012) cited in this study, failure to fight and secure land may mean reduced chances of survival and increased vulnerability to destitution and poverty. In this area, there is much more than that.

Certain disputes have resulted in hatred and continuous fights among neighbours, or between people whose land was repossessed and the political cadres that did so. All in all, all this in the end has resulted in loss of resources for the victims. The victim in this case is the person whose final decision of the land works against. Huge sums of money, time and lots of resources such as building materials are wasted especially in cases where land is repossessed. Loss of resources has also happened in land disputes such as when people built on illegal land and the Lusaka City Council demolished these houses or property.

Not only that, conflicts that could not be resolved have resulted in loss of lives especially in cases where victims fight amongst each other.

#### **5.1.5 Mechanisms deployed by Government and other stakeholders in resolving land disputes in Garden House Area**

Theory asserts that intervention in this situation is of no significance as people in power work to the advantage of the means of production. Hence, there intervention is only to cushion the victims and in this case those aspiring to acquire land. Furthermore, the political realm own the land and hence in this case where their political cadres are the ones in charge of distributing land and instigating conflicts. Therefore, there is no way that they can bring these people to book.

In the same way, no significant intervention has been made to curb these conflicts and victims merely sort them out on their own. There are a few posters in the area advocating human and property rights but residents have not witnessed any substantial enforcement. This

is indisputable in that to this date, people not part of Ministry of Lands or Lusaka City council or simply the mandate to distribute land continue to do so on their own terms.

However, information from interviews was that all three informants were trying their level best to ensure that land disputes and their causes were curtailed. The Ministry of Lands engages in talks with the Councils and also private citizens on how the root causes to land disputes could be mitigated. DDCC meetings at the chamber are constantly held to find ways to control the situation.

Even civic leaders that are expected to play leading roles in ensuring that their people are free from conflict have never been seen or heard. For that matter, residents do not even know who they are.

In their defence, the Lands Tribunal and the Ministry of Lands face a number of challenges to implement any measures. To begin with, their offices are visited by too many people with complaints which is overwhelming on their part to be able to handle all conflict cases amidst the vastness of their work.

There is also a lack of coordination between the Ministry of Lands and the Councils hence making intervention strategies fail.

Finally, information from interviews was that people lack knowledge on the stipulated way to acquire land and titles hence they have conflicts among themselves.

## **5.2 Summary of Chapter Five**

This Chapter has presented the discussions of the findings of the study using objectives as subheadings. All in all, the main type of land dispute arising from this study is that which is politically inclined. This study cited literature that suggested that, land in Zambia is not just an economic asset but a political asset. In these respect political parties, especially the ruling party has strong vested interests in the allocation of land and how that land is distributed to their supporters. As already pointed out, land is a symbol of political power and a means of rewarding supporters. This land is mainly distributed by political cadres of the ruling party. Information from authorities stated that in most instances, task force was reluctant in

persecuting these political cadres in an instant where they would go against the law. The 1995 Land Act vests all Zambian land in the President at that time who is also the leader of the political party.

Moreover, there is also a lack of a proper system for land selling and distribution in the area. For instance, others buy their land from farm owners, others from political cadres while others buy from the chairperson of the party committee in the area, this signifies a lack of proper system and procedure of land allocations, hence, it is highly possible that the same piece of land could be sold to more than one person by both the party cadres and the party chairperson.

Establishing challenges in acquiring of title deeds in the area were somewhat cumbersome considering that majority had never even tried to acquire a title deed. This is a very interesting factor in that it sort of signifies a lot of issues. The study did not establish the reasons but could be attributed to ignorance on the importance of land title, others may just be too relaxed considering that they have achieved the difficult task of acquiring land in the first place, let alone building on it. Furthermore, others seem not to understand the significance of a title deed once their house or property has been built. Distributors of land in the area also assured the buyers that title was not necessary for as long as they had purchased and built on the land. This finding is something new to the literature in this study as none of the theory or other literature has sought to establish reasons as to why people do not try to apply for a title deed.

Theory asserts that intervention in this situation is of no significance as people in power work to the advantage of the means of production. Hence, there intervention is only to cushion the victims and in this case those aspiring to acquire land. Furthermore, the political realm, own the land and hence in this case where their political cadres are the ones in charge of distributing land and instigating conflicts. Therefore, there is no way that they can bring these people to book.

In the same way, no significant intervention has been made to curb these conflicts and victims merely sort them out on their own. The next Chapter is a presentation of the conclusions and recommendations made by the researcher.

## CHAPTER SIX

### CONCLUSIONS AND RECOMMENDATIONS

#### 6.0 Overview

This chapter will make conclusions based on findings and make recommendations where gaps in knowledge are identified.

#### 6.1 Conclusions

Land disputes in Zambia have remained a contentious issue. Competition for land, especially in urban and peri-urban areas, has intensified over the past three decades manifesting as disputes between countries. Hence, this study sort to investigate Land disputes in Zambia while identifying the types of conflicts, causes of these conflicts and their effects, the challenges that citizens face in acquiring titles to their land and also the measures put in place by relevant authorities to curtail the prevalence and incidence of land disputes in the country. This was done with the aid of Garden House Area as a case study.

Among the main types of conflicts established were conflicts between or among residents over land measurements, conflicts relating two or more claims made to one piece of land and also encroachment of personal land by most especially political cadres. These are mainly caused by lack of a proper system for land selling and distributions in the area as there is no proper organisation that appears to be in charge of this mandate. Hence, lack of this proper system has resulted in other non-formal organisation taking up the task illegally which has exacerbated conflicts in the area. Moreover, this study established that most of the people in this area do not possess title deeds in the first place and find the procedure somewhat difficult and long. Interestingly, some have not even tried to begin the process while others do not have an idea of how it is done. Lack of title deeds give a weaker position in land disputes and hence has resulted in loss of land and resources.

Also more interestingly is that people are not aware of any laws related to land acquisition and administration, hence are easily exploited.

Finally, there has been a lack of legal intervention in the area. The relevant authorities and informants have only held talks with other stakeholders such as the Councils and even the people themselves but no practical solution has been implemented to curtail these disputes. Hence, there is need for more practical interventions and also a system to monitor selling and distribution of land in the area.

## **6.2 Recommendations**

- There is need to establish only a single government entity to regulate the sale or allocation of land so as to ensure there are no duplication of efforts, conflicts of allocation and corruption.
- There is need to create a central data base for keeping land records to as to ensure more efficient and secure keeping of such records and also so as to ensure these records are easily accessible.
- There is need for sensitisation programmes to educate people on the Land laws and the importance of the acquisition of title deeds for any property or land they acquire to reduce misunderstandings.
- There is also need for stronger accountability and transparency in land management coupled with strict enforcement of the law against illegal distributors of land and any perpetrators of land conflicts.
- The land tenure system needs to be more rationalised as a way of promoting efficiency. In this respect the law needs to be reformed to establish a single system of land tenure rather than the current arrangement where there are two contradictory systems of tenure.

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APPENDICES

**APPENDIX I: QUESTIONNAIRE FOR GARDEN HOUSE RESIDENTS**

**SECTION A: RESPONDENTS' BACKGROUND INFORMATION**

**1. Respondents' sex?**

Male [ ]      Female [ ]

**2. How old were you at your last birthday? .....**

**3. What is your marital status?**

Married [ ]      Single [ ]      Divorced/Separated [ ]  
Widow/widower [ ]

**4. What is the highest level of education you have attained?**

Primary Education [ ]      Secondary [ ]      Tertiary [ ]  
No Formal Education [ ]

**5. Monthly Income**

None [ ]      Less Than K 100 [ ]      K101-500 [ ]      K501-K1000 [ ]  
K 1001-K5000 [ ]      Above K5000 [ ]

**6. Occupation**

Formally Employed [ ]      Private Business [ ]      Unemployed [ ]

**SECTION B: MANIFESTATIONS OF LAND DISPUTES IN GARDEN HOUSE**

**7. Do you have a title deed to your land?**

Yes [ ]      No [ ]

**8. Do you have a title deed to your land?**

Yes [ ]      No [ ]

9. Which organization(s) are responsible for selling/distributing land in your area?

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10. What is the procedure for securing land in your area?

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11. What laws are you aware of that protect your right to land and govern land administration in Zambia?

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**12. What challenges are faced when securing title deed for land in your area?**

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**13. Have you witnessed or experienced land disputes in your area?**

Yes [ ]                      No [ ]

**14. If yes, describe the incident?**

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**15. In your opinion what causes these land disputes?**

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**16. How do political party cadres instigate land disputes in your area?**

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**17. What are the negative effects of land disputes in your area?**

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**18. What steps have been taken to resolve land disputes in your area?**

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**19. Are the courts of law effective in resolving land disputes in your area?**

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**20. Are civic leaders (e.g. the area Councillor, M.P) effective in resolving land disputes in your area?**

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**THANK YOU FOR YOUR PARTICIPATION**

## **APPENDIX II: INTERVIEW GUIDE FOR KEY INFORMANTS**

- 1 Describe some of the land disputes that are common in the city of Lusaka?**
- 2 What factors exacerbate land disputes in the city of Lusaka?**
- 3 What is the role of political party cadres in inciting land disputes in Lusaka?**
- 4 What measures have your organisation taken to minimize land disputes in Lusaka?**
- 5 How does your organisation collaborate with other stake holders such as the community, civil society traditional leaders and political parties in minimizing land disputes in Lusaka?**
- 6 What specific reforms can you recommend to the legal and institutional framework to minimize land disputes in Zambia?**
- 7 What is the role of the private sector in land marketing and distribution in the city of Lusaka?**
- 8 Are land markets in Lusaka well developed enough to ensure land prices are fair and affordable?**
- 9 What challenges are faced by your organisation in ensuring efficient land administration?**