

THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

I recommend that this Directed Research prepared under my supervision

by

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Entitled

Analysis of the Compatibility of Housing Laws and current Socio-Economics in Zambia

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

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Dedication

This dissertation is dedicated to my granny, my mum, my late dad and my siblings, Chongo, Mowa and Muleba.

To my granny Agnes Mandela, thank-you for the financial and moral support, the care and encouragement. I am almost there!

To you mommy, my mother and best-friend thanks for always being there for me. Thank-you for the sacrifices, the care and the encouragement you have given to me, it has made me achieve my one dream. Mum you always were the perfect fan.

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Legislation

Housing (statutory and Improvement Areas) Act, CAP 441 of the Laws of Zambia.

Lands Act 1995

Lands Acquisition Act

Public Health Act CAP 535 of the Laws of Zambia.

Town and Country Planning Act CAP 283

CHAPTER ONE

The History of Illegal Settlements.

1.1 Introduction

Housing is a basic social need after food and clothing. Zambia has a large task in housing issues. The country lacks a delivery system, which is effective.

“A glance at the urban landscape reveals a town centre of pleasant commercial housing and villas on tree lined streets in suburbia. Beyond that there are endless warren like shanty town of surpassing wretchedness, shack after shack, built of the most disparate bits of wood, tin or anything else that will offer shade and shelter, but uniform in their shabby inadequacy.”¹

These shabby inadequacies of shelter are said to be a result of poverty, injustice of economic inequality, current high levels of employment, malnutrition, illiteracy and the high birth rates.

Therefore, this study is intended as a contribution to the discussion of the housing problem in Zambia. This study is concerned with the legal aspects of housing and the public responses to the problem. Furthermore, it is also concerned with whether the legal aspects of housing are compatible with current changing socio-economics in Zambia.

¹ Siketele, Cecilia. 2000. Squatter settlements: a legal Analysis. Pg 6

The focus is on the effectiveness of housing laws in relation to current changing socio-economic factors in Zambia. The main thrust of the study is on the housing (Statutory and Improvement Areas) Act, The Town and country Planning Act and the Public Health Act. In order to fully recognise the problem an attempt is made to situate the law in its socio-economics context. This is so that it maybe considered in terms of its compatibility with socio-economics factors such as monetary, unemployment, poverty, and illiteracy and government policies dealing with housing laws.

In order to comprehend the study of housing laws and their compatibility with socio-economics factors, it is pertinent to consider the historical background of the efforts taken to curb the illegal settlements and the defiance of housing laws due to the economic and social conditions.

1.2 **Brief History of Illegal Settlements.**

Introduction

It is significant to explain how and why squatter settlements developed in Zambia, it is important to examine the initial policies and attitudes of the British colonial administration in relation to the social –economic conditions existing at the time. This chapter will briefly deal with the factors; the urban African housing situation and the colonial measures implemented by the British government administration to try to control urban influx of migrating Africans from the rural areas.

During the colonial era, the development of the urban system in Northern Rhodesia was closely related to the administrative mining interests. The land was divided into residential, commercial and industrial. The residential was further divided into European, Asian, coloured and African quarters with different service provision and standards for each race.²

It was noted that in towns, these were places where Europeans could live permanently. The Europeans employed Africans as domestic servants, who lived at the back of their employer's plots, which were referred to as servants quarters other Africans lived in labour camps. Europeans employed more Africans because they needed cheap labour, however, they had no accommodation for all the Africans. They therefore built their own houses. These compounds were almost devoid of social facilities and recreational amenities.³

Housing provision was tied to employment for employees. Once one is out of employment he was regulated to squatter settlements. The Africans had no security of tenure and their insecurity militated against making improvements.⁴

The British administrative system effected measures to control the influx. The predominant policy was that towns were not a permanent habitat for the Africans. The activities and movements of the African population were considerably restricted. The second measure was that Africans visiting towns were required to obtain visitor's passes

² Ibid.

³ Opcit pg 6

⁴ Kabungo, Kaleke.2003. Squatter Upgrading in Zambia: A Case of Lusaka. Pg 3

from the local authorities. Another measure was the provision of essential services only to Africans in formal employment only.

The post-independence urban situation was that on attaining independence in 1964, the government introduced a constitutional guaranteed freedom of movement, including the right to reside anywhere in Zambia.⁵ Therefore, it may be noted that segregation has contributed to the quality of housing and services.

The informal settlements sprung up in the 1960s especially after Zambia attained her independence from the British colonial rule. The new government relaxed the movement laws hence the migration of rural dwellers to urban areas in search of employment and perceived better working conditions. The towns had inadequate formal housing to cater for the large number of immigrants. The resulted in the mushrooming of illegal settlements where those without formal housing settled.

With this background, the main concern of the study is to analyse the various laws enacted with a view to establishing a solution or an attempt to regulate urban land tenure to avoid squatters. it is also concern of the study to look at the reasons why despite these measures these illegal settlements have continued to flourish. It also tries to assess whether the Acts, which are in place, are compatible with the current social economic in Zambia. It ends with the possible outline of the solutions and the recommendations.

⁵ Article 24 of the 1974 Constitution of Zambia.

The first chapter introduces the study by looking at the historical background of the initial development of slums and the control measures of the urban influx of the colonial period.

The second chapter considers the government policies towards the curbing of the illegal settlements and the various lands Acts that have been enacted to control urban land tenure and to prevent squatter settlers.

The third chapter looks at the factors that have contributed to continued mushrooming of these squatter settlements.

The fourth chapter looks at whether Acts controlling urban land tenure are effective. It assesses the effectiveness of the laws.

The fifth chapter concludes the study with recommendation and possible solutions.

CHAPTER TWO

Background to Curb Informal Housing and Illegal settlements

2.1 Introduction

This chapter looks at the background to curb the informal housing and illegal settlements. The central issues discussed are the policies government (from the post independence to the present) has attempted to put in place to curb the informal and the illegal settlements. This chapter begins by describing what is an informal housing, illegal settlement and who is a squatter.

Informal housing maybe described as houses built without formal guidelines and outside the context of comprehensively conceived layout plans. Informal housing consists of three categories of houses namely: Squatter, upgraded squatter and traditional housing.

In circumstances where land delivery for formal housing development is slow, and not much is put in place to facilitate housing development, informal housing has been the inevitable vacuum filler with perhaps a more positive than negative impact on housing stocks. The following are the main characteristics of informal housing⁶:-

- a) Housing units are owner built and may not conform to any standard in design, construction materials and workmanship;
- b) Lack of security of tenure;

⁶ **National Housing Policy**, January 1996; Ministry of local Government and Housing, Lusaka Pg 12

In the town and country planning laws, public health regulations and building codes were found to be handy tools in the implementing of the squatter demolition campaigns.

2.2 Background to curb Informal Housing and Illegal settlements

Soon after independence in Zambia, demolition campaigns were a general trend as a response to the ever-increasing informal housing and illegal settlements. However, when it was established that the official conventional methods of providing housing would not solve the need for urban housing, the government decided to accept the existence of the informal housing in fact and reality.¹⁰

As early as 1968, the then ministry of local government and housing instructed local authorities to lay out a basic site and service scheme for the squatter settlements. In these settlements, the plots were to be demarcated and serviced with access to roads, drainage, piped water, and sewerage, electricity, schools, clinics, refuse collection and other services.¹¹

2.3 Developmental Plans

The Zambian government adopted the system of development plans to enable the channelling of resources towards certain socio-economic objectives.

The First National Development Plan was from 1966 to 1970 and it considered urbanisation as a particular aspect of the general imbalance between the urban and the

¹⁰ *ibid.*

¹¹ Mbao, M.L.M. 1983. Legal Aspects of uncontrolled and Unplanned settlements, Pg 89

rural sectors. The objective of this plan was to minimise this imbalance with a goal of raising the capacity of the rural sector for transferring resources into social and economic growth which included amongst others raising productivity of the rural population and the development of education and health services.

The policy change from the demolition campaigns was further strengthened when the second national Development plan authoritatively and clearly stated:

It recognised that although squatter areas are unplanned, they nevertheless represent assets both in social and financial terms.

The areas require Planning and services, and the wholesale

Demolition of good and bad houses alike is not a practical Solution.

The basic aim of the plan was to meet the housing needs of the low groups in the urban areas through the provision of the fully serviced sites in line with the overall policy of encouraging home ownership as opposed to the rental accommodation.

The first aim under the second national development plan, under the site and service scheme was to encourage self-help in an environment of secure land tenure was recognised, because public authorities had limited resources at their disposal. Furthermore, it was recognised that the existing building codes were too rigid, hence, the need for flexible regime securely formulated to meet the needs of the squatters.

Secondly, it was stated that the existing informal housing was to be upgraded through the provision of utilities and social services. The upgrading programmes were designed to enable those squatters who could not afford plots in site and service schemes, to acquire reasonable housing.

During the period 1992-2001, the government made a decision to empower citizens through home ownership schemes. The local authorities, the government and the parastatals sold houses to sitting tenants. In addition, the Presidential Housing Initiative (PHI) was introduced and the National housing policy was approved.¹²

Before the sale of government, parastatal and council houses was initiated, home ownership remained the privilege of a small percentage of the population. The sale of a considerable number houses has made a significant increase in home ownership.¹³

2.4 Acts in curbing informal and illegal settlements

In government's efforts to control informal housing and illegal settlements. A number of Acts are used.

2.4.1 The Town and Country Planning Act. CAP 475

One of the municipal responsibilities in Zambia regards the control of physical development using the development control process under the guidance of the Town and Country Planning Act. The Act forms the legal framework governing planning

¹² **Transitional National Development Plan** 2002-2003. Pg 207

¹³ Ibid. Pg 207

administration. It provides guidelines for development plans preparations and review, zoning, and subdivision regulations and clarifies developments, which must be approved before construction works begin. For example; all new developments and additions to existing buildings. Additionally the Act empowers municipalities to determine the use of land through development or zoning plans to ensure environmental protection and orderly city development. Town and country planning is defined as

“The exercise of such foresight as will promote the orderly and slightly development of a city and its environment along rational lines with due regard for health amenity convenience and for its commercial and industrial adjustment.”¹⁴

The concise dictionary, on the other hand defines it as;

“A system of controlling the use of land administered by the local authority.”¹⁵

The town and country planning act’s objectives are to preserve and enhance amenity. The pleasant features of the town and countryside. The preservation and enhancement of amenities is done through the control of development. For instance, the planning authority may give conditions designed to safeguard amenity.

Depending on the circumstances affecting the land, the developer must secure planning permission from the minister or the planning authorities. For example¹⁶, if the developer intends to build a house in an area that is zoned under the town and Country Planning Act

¹⁴ Section 22 **The Town and country Planning Act**, Cap 475

¹⁵ **A Concise Dictionary of Law**, 1991. Oxford: university press. Pg 416.

¹⁶ Sikatele, Cecilia.2000. **Squatter Settlements: A Legal Analysis of Lusaka**. pg20

for residential purposes only, he only has to secure the building permit under the Public Health act building regulations. However, where an area is not zoned for residential purposes, the developer has in addition to securing the building permit, to obtain the planning permission. In the case of **Bendela V Northern Planning Authority**¹⁷

the appellant was served with an enforcement notice by the planning authorities for constructing a building before planning permission was granted. A building permit authorises a developer to proceed with construction. Construction may not proceed until such permit has been secured in accordance with the Public Health (Building) Regulations. Under regulations 4, all applications must comply with the standard form and must include such particulars and be accompanied by such plans and drawings as indicated.¹⁸

Section 31 of the Town and Country Planning Act provides for the legal consequences for breach. The local authorities by this section are empowered to serve an enforcement notice requiring the owner or occupier of land or premises to remedy the situation. In the case of **Mumana Hotel**¹⁹

the applicant was pursuant to enforcement notice asked to demolish the hotel he had started building without planning permission. The notice may require demolition or alteration of any building or works carried out.

The law also provides for an occupier's interest. The local authorities are by law required with the laid down procedure in serving a notice of demolition. The failure to comply

¹⁷ Appeal No. TPT 06/12/1 21st August, 1972(unreported)

¹⁸ *ibid.* pg 20.

¹⁹ (1982) unreported.

with the laid out procedure may nullify or invalidate the actions of the local authorities.

In the case of **Ndola City Council V William Kasonso**²⁰

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

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

According to by law 67 of the Ndola municipal council laws Cap 480, it stipulated that where a person begins to erect a building without the necessary permit, the council is required to give written notice to such a person, to demolish or remove such a building within specified time the council will itself carry out such demolition.

If these provisions of demolishing unplanned settlements were to be enforced, all buildings and any other development carried in the squatter or unplanned settlements would be demolished. Once an illegal settlement or squatter settlement in any area of land within the jurisdiction of the council are declared an improvement area by the minister the Town and Country Planning Act cannot apply to this area.²¹ However, if a squatter settlement is not declared an improvement area the Town and Country Planning Act is applicable to that squatter settlement and all buildings and developments carried out may be demolished.

²⁰ 1995-97. Z.R 233 (SC)

²¹ Section 48

The Town and Country Planning Act has not been adequate in responding to the problem of squatter settlements except that of demolition. This power of demolition however, has been used sparingly due to the government's inability to resettle victims of demolition. According to case law, the government has no obligation to resettle victims of demolition. The case of Namung'andu V Lusaka City Council²²

established that a squatter is a squatter and unauthorised structures built without permission are at the squatters' own risk and such structures maybe demolished and the squatter loses, and the squatter cannot recover due to his want of title, which disentitles him to any remedy in a court of law.

2.4.2 The Public Health Act.

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

Section 74 of the Public Health Act goes on to state the prohibitions in respect of back-to-back dwelling and rooms without through ventilation. In section 74(b), it states the prohibition of erecting any room to be used as a sleeping or living or work room, which is

²² /1978/ Z.R.358./HC/

not sufficiently lighted by a window or windows of a total area of not less than one-tenth of the floor area, and sufficiently ventilated by two or more ventilation openings or by windows capable of being wholly or partly opened, such windows or openings so placed as to secure through or cross ventilation.

The development of land cannot commence without a building permit being issued in conformity with the public health (building) Regulations. The applicant must first secure development permission before acquiring the building permit.

2.4.3 Housing (Statutory and Improvement Areas) Act

The Housing (Statutory and Improvement Areas) Act was enacted in 1974. The government embarked on the process of improving squatter or informal settlements. Therefore, in this line the Housing (Statutory and Improvement Areas) Act was enacted to provide for the control and improvement of housing in certain areas; and to provide for matters connected or incidental there. This Act was necessary back-up legislation for the site and service schemes and the squatter upgrading programmes, which are vital to the housing policy.

“We strongly believe once the fear of forceful eviction has been removed, the inhabitants will improve their houses to unbelievable standards.”²³

Government’s aim was to provide for the security of tenure to the settlers so that they would become homeowners through self -help. The Act was drafted as a guide legal

²³ Hon. P. W. Montoka, then minister of local Government and Housing, Hansard, verbatim reports of daily parliamentary debates, 2 Aug 1974, Ser.36 576,577.

regime in the upgrading exercises, of squatter settlements and providing for the site and service schemes. The Act was to provide for administering the schemes by vesting power in the officials and for public participation through appropriate organs.

The principles guiding the upgrading of the squatter settlements were largely incorporated into the act. Not all dealings in land covered by the act are registerable at the Lands and Deeds Registry but at the District Registries established under the act; the Town and Country Planning Act and the Land Survey laws have been excluded in order to simplify transactions.²⁴

The act created two types of interest in land. First, the minister may declare land in the site and service schemes and of council housing estates as statutory housing areas.²⁵ The statutory housing Area plan indicates the area and dimension of each piece of land. Land in areas so declared maybe let out on such terms and conditions as approved by the minister. The landholder is given a certificate of title in respect of land used or occupied by the tenant or his bona fide dependants. The act restricts the letting of land to persons engaged in the business of buying, letting or developing property.²⁶ The former squatter settlers are issued with occupancy licenses. The licence grants the licensee the right of occupancy for a period not more than 30 years, with the possibility of being extended or renewed for a further period. The licensee occupies the land under an immediately adjoining the houses numbered in the improvement area plan. Subletting of owner

²⁴ Mbao, M. L. M. Pg .90.

²⁵ Section 4, **Housing (statutory and improvement areas) Act.**

²⁶ Mbao, M.L.M. pg 90.

occupied houses is not prohibited but needs approval from the council. If the licensee wants to sell his house, he has to request the transfer of the license to the proposed purchaser from the council.²⁷

The lands Act 1995 section 9(1) clearly states that:

“Any person who occupies land in contravention of section 9 sub-section(1) is liable to be evicted.”

Therefore it maybe said that squatters who are in contravention of these provisions are clearly liable to eviction under section 9 (2).But the continued flourishing of the many squatter settlements in Zambia is enough evidence of the fact that these provisions have not been effected or effective.

²⁷ Section 42. Housing and Statutory Improvement Act. Pg 90.

CHAPTER THREE

3. The Factors that Contribute to the Continued Existence of Informal and Illegal Settlements

In the previous Chapter it was considered or shown what measures have been taken to curb the illegal settlements springing up spontaneously or continuing to exist. This Chapter will concentrate on factors that contribute to the continued existence of informal housing and illegal settlements.

The provision of low-income housing is likely to remain a major challenge for sometime to come. There is currently, a huge backlog in the provision of housing. The demand for housing is ever increasing and the resources remain limited.

It has been noted that the site and service schemes and the up grading programmes are some of the housing strategies adopted by the government to tackle the problem of housing for the low-income group.

3.1. Poverty

In 1998, seventy-three percent (73%) of all persons in Zambia were deemed to be poor: fifty-eight percent were (58%) extremely poor, fifteen percent (15%) were considered moderately poor and leaving only twenty-seven percent (27%) out of the poverty brackets.²⁸

²⁸ "Living Conditions in Zambia". 1998. Central Statistics Office. Pg 53

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

The well being of individuals in society largely depends on their participation in gainful economic activities. The desire to attain and sustain a certain acceptable level of consumption of goods and services has led to individuals engaging in various economic activities. The engagement in these activities not only ensures a person's livelihood but also equips an individual with means of acquiring and sustaining the basic needs of life such as food, clothing and shelter.²⁹

In a developing country like Zambia it becomes imperative to constantly measure and monitor changes in levels of the economic activities overtime as fluctuations in the employment levels have serious poverty implications.³⁰

But what is poverty? In the village people sleep in huts or mud houses but own cattle and other farming implements is that poverty? Poverty is the lack of money or having little property, it is being impoverished, needy and destitute.

²⁹ Ibid. Pg 34

³⁰ opcit

The classification of persons as poor or non-poor is based on the total expenditure accruing to the household in which they are members. A fixed poverty line separates the poor from the non-poor. ³¹Poverty is further defined as a denial of opportunities and choices most basic to human development. It is a condition that reflects physical, social and political deprivation, as well as lack of assets and income. ³²

The question what is poverty arises because the trend in these illegal settlements is that there is a lot of sub-leasing and for a landlord to sub-lease a house there must be an alternative for the landlord. And where the landlord sub-leases a house he should be able to use the rentals to upgrade the infrastructure of the house. However, this is not the case due to unemployment and low-income levels the rentals charged in illegal settlements are minimal and cannot be used to upgrade the house. Furthermore, the landlord without an income uses these rentals to sustain himself and his or her family.

Another trend in these illegal settlements is that some, but not all houses are built using cement bricks. For an impoverished person to afford a bag of cement which costs about thirty thousand kwacha per bag rises the question is it really poverty that brings about illegal settlements. For a whole house to be constructed quite a number of cement bags would be used. Those that use mud and dagga it can readily be agreed that they are impoverished, they lack the money to find decent housing for themselves and their families and resort to the squatter settlements.

³¹“ **Living conditions in Zambia**”. 1998. Central Statistics Office. Pg59.

³² **Zambia Human Development report**. 2003. Pg 13.

Growing depths of poverty have rendered more and more households unable to afford decent accommodation whether rented or owned.

Additionally, the existence of these illegal settlements has continued because of declining manufacturing base. The poor performance of mining sector particularly copper mining which is threatening the livelihood of many people and the economic base; job losses and the limited creation of new employment opportunities in the formal sector which are contributing to poverty.³³ Subsequently those that find themselves impoverished, due to unemployment and cannot afford decent housing, they tend to settle in an illegal settlement and build shelter or housing without regard to the law provided in the Acts.

3.2. HIV/AIDS

The second factor which has contributed to the continued existence of illegal settlements is the HIV/AIDS pandemic. The high numbers in HIV/AIDS deaths has led to an increase in the number of orphans, reduced productivity and high dependency ratios.³⁴ About sixteen percent (16%) of the population aged 20 and below were orphans in 1998. Overall twenty percent (20 %) lost their mothers only, sixty one percent (61%) their fathers only and eighteen percent (18%) lost both parents³⁵

³³ **Transitional National Development Plan.** 2002-2005.

³⁴ Ibid.

³⁵ **“Living Conditions in Zambia.”** Central Statistics Office. Pg 9

HIV/AIDS remains a threat to the country's development efforts because of its adverse impact on the country's human capital and greatest resource that Zambia has.³⁶ For instance, in Ndola's Sinia Shanty compound, there is a large number of households consisting of orphans fending for themselves. These orphans become destitute when their parents die mostly of AIDS and consequently these children get together find housing in the illegal settlements. They find it easier to rent in the slums or build using mud and dagga. These orphans cannot afford to build their own houses in accordance with the existing building standards and the cost is too high and the unfortunate orphans opt for squatter settlements or informal housing which is cheaper.³⁷

3.3. Illiteracy and Ignorance

The lack of knowledge is one notable contributing factor to the continued existence of the informal housing and illegal settlements. Most people in Zambia are not aware of the existence of laws dealing in land alienation or ownership or any other laws in relation to land.

Most people in these settlements are not knowledgeable of the requirements in order to acquire land, the processes involved, the fees to be paid. They are ignorant of the requirements of building standards when constructing.

Furthermore, these people in squatter settlements are not aware of the existence of Acts such as the Lands Act 1995, Land Acquisition, Town and Country Planning Act, Survey

³⁶ **Zambia Human Development Report** 2003.pg 20.

³⁷ Kabwe Lutela An orphan living in Sinia Compound

Act, land and Deeds Registry Act, The Public Health Act, etc. The Town and Country planning Act, the Survey Act, the lands and Deeds Registry Act are not applicable to the squatter settlements but the Housing (Statutory and Improvement Areas) Act does become applicable when a squatter settlement is declared an improvement area by the minister.

The lands act is also applicable as section 9 provides that

- (1) "A person shall not without lawful authority occupy or continue to Occupy vacant land.
- (2) "Any person who occupies land in contravention of sub-section (1) is liable to be evicted."

The Lands Act 1995 is applicable because the squatters do contravene sub-section (1). Furthermore the Land Acquisition Act section 3 is applicable if the compulsorily acquisition of the land occupied by the squatters is in the public interest.

This lack of knowledge of the law was seen in the eviction of squatters in Linda compound. With most of them seemingly having little knowledge of legal bindings surrounding the whole matter, they look determined enough to defy all odds, just to win back what they claim to be their land. Some are said to have lived in the area for 40 years, the more reason they feel they cannot be removed from the land."³⁸

However, the illegal structures of these squatters were demolished because they had no title to the land because even their ancestors or forefathers had also been squatters and the

³⁸ Zambia Daily Mail. "Linda Residents Fight for Land" Tues, 18th November. 2003.

law states that ignorance of the law is no defence. Therefore, their ignorance of the law could not be used as a defence to let them stay on the land.

The squatters had never attempted to acquire title deeds, the structures constructed did not meet those of the required standards and their settlement was not within the Town and Country Planning Act stipulations or within the Country Planning of Ndola City Council. The squatter expressed ignorance and stated that they are not aware of the Acts. The squatters even argued that they had settled on bare land and their removal was unjust. In the case of **Raphael Namung'andu V Lusaka City Council**⁵.

The plaintiff erected a building on land belonging to the defendant. He had no permission to do so. The defendants demolished the building. Held: Squatters build on their own risk and if the owners of the house decide to demolish a structure built in the absence of any permission or lawful relationship, the Squatter loses.

This case went on to make clear that a squatter is a squatter and a person in mere adverse possession the position in law is that his want of title disentitles him to any remedy in the court of law to which only a person with a legally recognised proprietary or possessory right is entitled.

3.4. The Lack of Consultation when Making Legislation

Usually when enacting laws dealing with land, the people or the general public are not consulted or do not take part in formulating these laws.

⁵ [1978] ZR. 358 HC

For instance, the Rufunsa's Chimusanya Villagers claimed that there was no consultation between them and their area Member of Parliament. They did not accept the 1995 Land Act and threatened trouble.³⁹ Thus when people do not accept the law they will oppose it and not follow it and this acts as another contributing factor to increase in the number of squatter settlements. Therefore people need to be consulted when these laws are made, so that people get obliged to follow.

3.5. Migrations

Migration is defined as an individual or a household which moves from one clearly defined geographical area to another.⁴⁰ In Zambia investment policies and practices favour urban areas, with the most rural facilities having deteriorated beyond repair the quality of the socio-economic infrastructure the rural Zambia is not conducive for human development and the fall in the livelihood security in rural areas attributes to migration. The rise in Urbanisation is also attributed to these rural-Urban migrations.⁴¹

The sell of the mines, which the Zambian economy was dependent on, has brought about drastic economic changes, which has led to people leaving the mining areas (the Copperbelt) to seek for jobs in other urban areas such as Lusaka.

³⁹ **The Post**, Tues Aug 20, 1996.

⁴⁰: **Living Conditions In Zambia**". 1998. Central Statistics Office pg 10

⁴¹ **Zambia Human Development Report**. 2003. Pg 20.

These urban-wards migration within cities produces immense social problems the most of which is inadequate housing. Partly as a result of the size of the problem and partly as a result of the limitation of national and municipal resources and as a result of social system, which inhibit the equitable division of resource, little shelter is provided through formal and planned channels. The upshot is that the immigration population collects in extensive peripheral areas of settlements.⁴² These peripheral areas are usually squatter settlements. For example, Kitwe has twenty-two informal settlements, which are mostly situated in the peripheral of the city. These informal settlements sprung up in the 1960's especially after Zambia attained her independence from British Colonial rule. The new government relaxed the movement laws hence the migration of rural-urban dwellers to urban areas in search of employment and perceived better living conditions. The Kitwe City Council had inadequate formal housing to cater for the large number of immigrants. This resulted in proliferation of illegal settlement where those without houses settled.

3.6. The Dual Land Tenure System

It is an undeniable fact that pressure for land in Zambia is growing. This is not only evident in major urban centres of Lusaka and the Copperbelt but also in rural areas, such as Southern, Central, Western and Northern.⁴³ Only a tiny proportion of Land mass is subject to title deeds.

⁴² Kabungo, Kaleke, 2003. **Squatter Upgrading in Zambia**, pg 1

⁴³ Chanda, Alfred. 1998. **Analysis of Draft land Policy Document**, Pg 2

It has several times been stated that Customary Land is governed by customs and traditions. This is true in. However, to a great extent modern statutory law has interfered with custom. For example, all Land is vested in the President for and on behalf of the people of Zambia⁴⁴ and has been so since colonialism. But Chiefs and some of their subjects would not like to hear this because as far as they are concerned, tribal land is vested in the chiefs or communities on behalf of the residents of the community. This creates a problem.⁴⁵ In Zambia two systems of land alienation that is by the Customary and Statutory.

The fact that ninety four percent of Zambia's land is under Customary law and six percent is state land. The pressure for land is what creates the squatter settlements. The customary land tenure system is proving to be a policy, which is an obstacle and hinders access to land and therefore development.

The amount of state land has almost been exhausted. The lands Act 1995 in section 8 provides for the Conversion of customary land to modern title. But the consent of the chief must be attained. However, presently the chiefs are reluctant to grant consent for the conversion of customary land to leasehold because the Lands Act 1995 makes no provision for the conversion of a leasehold to customary land and once the land is converted to leasehold the chiefs lose control over that land. For instance, in the case of

Major Makwati V Senior Chieftainess Nkomeshya⁴⁶

Once title deeds were issued to Mr. Mapulunga the land

⁴⁴ Section 3. **1995 Lands Act**

⁴⁵ Hansungule, Michelo. 1998, **Land Law and Policy in Zambia**. Pg 2

⁴⁶ LAT/60/97

in issue ceased to be traditional land and the Chieftainess ceased to have control over it.

The loss of control over land by the Chiefs is considered as loss of control over their subjects and diminishes their powers.

Due to the reluctance of the Chief in consenting to the conversion of customary land to leasehold, it creates a shortage of land. Therefore, those not able to acquire land in the proper Zoned areas tend to take refuge in areas Zoned for other purposes, which creates these squatter settlements.

For instance, Lusaka is surrounded by customary land and is also surrounded by illegal settlements. Most of these illegal settlements are in areas, which were zoned for business or commercial purposes. For example⁴⁷,

The existence of two major settlements in the inner City of Lusaka that remains illegal. These are Misisi compound on the eastern side and Jack compound on the western side of Kafue Road about a Kilometre from the City Centre. The compounds have not been declared as improvement areas basically because they fall within the area earmarked for the expansion of the city centre (300 metres of either side of Kafue).

Since Lusaka is surrounded by customary land and the chiefs are reluctant to convert the customary land to leaseholds, it leaves no room for expansion in the land alienation. Thus people tend to resort to the illegal settlements. However, in the near future when the state

⁴⁷ Kabungo, Kaleke. 2003. Squatter Upgrading in Zambia. Pg7

land is exhausted those in need of land will set up illegal settlements on the customary land.

3.7. Financial Lending Institutions

Housing Finance is a problem and has also contributed to the flourishing of the squatter settlements. Housing finance has remained unattainable for the majority of the Zambian population. The high rate of interest and inflation rates have made borrowing unaffordable generally. The absence of reliable long-term finance in the light of inadequate national savings compounds the situation.⁴⁸ The issue of housing finance is one of the most important. The trends of financial intermediaries do contribute to the flourishing of illegal settlements. Housing finance may be discussed under three heads: the formal, public and private sources of housing finance.

3.7.0. Formal Sector

In the formal sector, in Zambia, the sources of housing private credit are the Zambia national Building Society. The Zambia State Insurance Corporation, Commercial Banks and the Super annuation funds and loan scheme.

The financial houses employ stringent lending policies, entailing complex security guarantees. They prefer lending to the least risky borrowers and on properties situated in middle and upper-middle-income low-density areas. Thus the housing finance from the

⁴⁸ **Transitional National Development Plan 2001 – 2005. Pg 208**

formal sector is concentrated on the relatively well to do home seekers. The majority of people who are in the informal and illegal settlements lack the requisite securities and have little understanding and appreciation of the notion of credit. Instead of aiming at providing reasonably equitable opportunities to home seekers, the lending policies reinforce existing inequalities of wealth and opportunity.⁴⁹

3.7.1. Public Sector

The Public Sector involves the central government, the National Housing Authority and the local authorities.

THE CENTRAL GOVERNMENT

It is the policy of the Zambian Government to provide 'shelter for all.' During the period of 1992 – 2001 the government made a decision to empower citizens through the home ownership schemes. Subsequently the government, local authorities and parastatals sold houses to the sitting tenants. The sale of housing units off loaded a considerable number of houses on the market.⁵⁰

However, since government is a major employer of the people, that is those it employed by it were given accommodation but with coming of the home ownership policy, the government withdrew tied housing. That is the government are not obliged by law to

⁴⁹ Mbao, MLM. **A. Legal Aspects of Uncontrolled and Unplanned Urban.** Pg 94

⁵⁰ **Transitional National Development Plan. 2002-2005**

provide housing to their employees. This has contributed to the Informal Housing because those who commence work or are on transfer have no accommodation and even though government is to pay, the employees housing loans or housing allowance because it is unable to provide them with accommodation, the amount of the allowance is not at economical rate and is usually paid late. Therefore, the people resort to take informal and illegal settlement as a cheaper source of accommodation.

THE NATIONAL HOUSING AUTHORITY (NHA)

The National Housing Authority was created in 1971 as the agency responsible for implementation of home ownership scheme and for the management and maintenance of housing. The housing authority has been involved in various housing schemes, notably the Kabwata Estates and Woodlands extension projects in Lusaka.⁵¹

However, the Authority's liquidity position makes it unable to meet the ever-increasing demand for housing. Further, despite the existence of authority, squatter settlements have not been curtailed. This is due to the investment policies of the authority. The applicants are required to make a down payment equivalent to ten percent of the selling price. Clearly only a few Zambians can afford such prices.

⁵¹ Mbaio, MLM. Legal Aspects of Uncontrolled and Unplanned Urban. Pg 97

Again as with lending institutions even the authority, which is intended as the anchor of home ownership seems to provide only for the well to do. The policy of home ownership to those in squatter settlements remains a 'mere pipe dream.'

THE LOCAL AUTHORITIES

The District Councils have been the traditional suppliers of housing for most of the urban population. The local authorities however, also sold off their housing units to the sitting tenants. They were to use the money from the sell of these houses to create more but this has not happened.

The sorry state of the Municipal finance in Zambia is well known. In some cases the councils cannot even meet their monthly salary bills.

The matter of the implementation of the sites and services schemes and the squatter upgrading is done by the local authorities. The local authorities are required to provide infrastructure and various social services, but this involves large expenditure on both the recurrent and capital accounts. For instance,⁵² the Ndola Urban District Council has for sometime now been desirous of resettling residents of Chipulukusu Shanty Compound on a new site. The Council has to find money to service the planned site and up to date this has not been done.

⁵² Mbao, MLM. Legal Aspects of Uncontrolled and Unplanned Urban. Pg. 93

For the services to be provided, it requires funds and these are usually from revenue income, grants from government, personal levies, licensing fees and charges. These sources are not enough to sustain the local authorities activities especially with the sell of housing units, which was a large source of income for the local authorities.

THE PRIVATE SECTOR

In situations which allow for capital accumulation through individual thrift and savings, home seekers may fall back on their own savings. If the capacity to exists, the sites and service schemes and the squatter upgrading programmes allow individual families to acquire plots of land and to build according to their timetable and financial capacity.⁵³

In Zambia the majority of the home seekers are either unemployed or at the lower end of the income scale. Thus with the ever increasing cost of living their low per capital income, the high building standards couple with high rates of inflation, limited resources mobility and the lack of grass root type of mortgage finance, the private housing finance is far in meeting the housing needs of the poor.

3.8. Political Interference

Political Interference is a major contributing element to the flourishing of the squatter settlements. The Town Country Planning Act has not been successful in dealing with the problem of squatter settlements.

⁵³ Ibid Pg. 97

The Act provides for the demolition of the Squatter Settlements but this power has been used with leniency. In the *Kabwe Urban* case⁵⁴,

The aggrieved Simbaya built a house illegally and at a site set aside for bus station in Kapatuta Shanty Township. The Kabwe District was torn on whether to demolish this house or not. At the meeting the then governor, Limonde, said that while the decision to demolish was within Council's Power, he could not bring himself to carry it out. He said,

“legally we should demolish this structure but morally I cannot bring myself to doing so. There are people going to be left homeless if we went ahead and in one way or another the council is bound to pay for the move.

Moreover, it is noted that politicians usually object to the demolition of these squatter settlements. These politicians have their own interests to serve, that of keeping the support in the squatter settlements who constitute the majority votes during the general elections.

The then Minister of Local Government and Housing Hon. Michael Mabenga, MP issued a statement on illegal structures in the urban areas, he stated that local authorities should not consider the demolition of illegal structures as an end in itself. Demolition is an enforcement, which should direct offenders to areas set aside by a local authority for

⁵⁴ May 24, 1984 before the Urban District Council Kabwe.

authorised housing development. Demolition of illegal structures with no alternative land will not on its own solve the problem of illegal structures.⁵⁵

Although the statement of the Minister has some truth in that demolition does not solve the problem of illegal structures. The issues of placing an obligation on the local authorities to give alternative areas for housing development contradict with the position of the law. For instance, it is contrary to the case law, which was established in Namung'andu V Lusaka City Council⁵⁶. It set out the principle that the squatter's losses are not recoverable.

Therefore, the local authorities are not under any obligation to relocate or compensate the squatter. Even in the case of the displaced Ng'ombe Squatters who were relocated and given title by the Minister of Lands Judith Kapijimpanga on 4th October 2003⁵⁷, the Government owes no such obligation to these Ng'ombe squatters but it was political move to win their support and this tends to encourage the setting up of illegal settlements.

In addition some politicians allocate land without consulting the planning authorities, which causes confusion. The political interference in allocation of land causes problems in the planning authority process.

⁵⁵ **Illegal Structures in Urban Areas**". 2nd December, 2002 PPH/103/512

⁵⁶ [1978] ZR 358 (HC)

⁵⁷ ZNBC News 19.00HRS.

Such major problems may be illustrated in a wrangle, which occurred between Gwilana Estates (farm number 2017, owner Francis Roland Duckett and some Squatter). The Squatters claimed to be the rightful owners of the 1,870 hectares farm and vowed not to leave.

Both parties blamed their area Member of Parliament Syamukayumba Syamujaye for the fanning trouble. The MP was quoted as initiating squatters to ignore a court order and the MP held to the squatters that Gwilana Estates had no title deeds.⁵⁸ Therefore, this issue was seen as politically motivated.

The current Minister of lands Judith Kapijimpanga stated that only the Ministry of Lands has the authority through the Commissioner of Lands to allocate plots. The commissioner has power to allocate land or plots through the Council as their agent. Councillors have no power to allocate land.⁵⁹

A similar statement was made by the Minister of Local Government and Housing, Sylvia Masebo, that the Local Government and Local Authorities that is the councils are not able to enforce law because of lack of police help who cite political interference as a

⁵⁸**The Post.** "Bailiffs destroy Choma Squatter families homes". September 9, 1996, Monday.

⁵⁹**NINETEEN HOURS, Main News** on Zambia National Broadcasting Corporation, 4th October, 2003

reason for not taking any action. There are Councillors allocating plots which they are not supposed to, that is to be in the past now.⁶⁰

It is well known that no Minister, Member of Parliament or Councillor should allocate land. Therefore people should report such misdeeds to allow the police and local authorities remedy this.

Another notable problem is the confusion among planning authority. The planning authorities are expected to consult each other in their functions but this is rarely done and as a result there is confusion. In the case of **Bendela V Northern Planning Authority**⁶¹ the tribunal observed,

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

In conclusion, it may be stated that there are a lot more factors contributing to the continued existence of the informal housing and illegal settlements. The factors discussed in this chapter are the dominant ones in the current socio-economic situation prevailing in Zambia.

⁶⁰ **Local Governance and the Law Programme** on Zambia National Broadcasting Corporation, T. V. Station

⁶¹ 1971/HP/407. Unreported

CHAPTER FOUR

4.0 The Assessment of the Compatibility of Housing Laws and the Continued Changes in Socio-Economics in Zambia

This Chapter analysis the town and Country Planning Act, the Public Health Act and the Housing (Improvement and Statutory Areas) Act. Having considered the history of Squatters and the laws enacted to deal with housing, it was discovered that most of these laws are premised on British Law which Zambia adopted, and have outlined their purposes and require extensive updating so as to condition them to the reality of the present Zambia.

The existing housing laws are outdated and not comprehensive. The laws have not kept pace with the dynamics of the population change, economic growth, social changes and political developments that have taken place. Subsequently the laws demonstrate a great deal of rigidity in their procedures.

4.1. Analysis of the Town and Country Planning Act Vis-À-Vis Squatter Problems

The African Urban environment legislation is a product of historical accidents and colonial remnant. Most of the developing countries in African region do not have comprehensive human settlement legislation. The Town and Country Planning Acts in

force are old, obsolete and not effective. They neither serve the present needs nor respond to changing conditions. In short the Town and Country Planning Legislation is linked to three factors; its British roots, it needs to be brought up to date and its necessity to be made relevant and responsive to the problems.⁶²

The Town and Country Planning Act is an Act, which forms the framework governing planning administration. The Zambian Act is a replica of the English model of the Town and Country Planning Legislation of 1947. This tends to pose a lot of technical difficulties regarding the administration of the Act.

The Zambian City Planners are trapped by essentially colonial regulations and legalistic definitions which have no bearing on the real needs of an independent urban population especially those in the low income group of which the majority are squatters.⁶³

For instance, in 1930 S. D. Adshead of University of London was commissioned to prepare a development plan for Lusaka. The major concerns in the Adshead Plan of 1930-33, was the distribution of land. This was based on allocation of different land, such as residential land for Europeans and Africans who were housed in separate locations and the control of other developments in Lusaka.⁶⁴ The enactment of the Town and Country Planning Act was intended to promote rationalised and systematic land development, protection of the environment and to address the needs of commerce and industry. The very existence of squatter settlements in areas demarcated for planned

⁶² Voyale, L. R. 1986. **A Paper for Planning Legislation for African Nations**

⁶³ Ibid.

⁶⁴ Mukuka, Phillip. 2001. **Land Development Control and Use in Zambia**. Pg 61

development is perceived as negative. The Town and country Planning Act has failed to respond to the problems of squatter settlements except that of demolition.

Furthermore, the Town and Country Planning Act provides for application for permission for construction that is all new developments and additions to existing buildings.⁶⁵ However, the manual processing of applications makes the response to client demands slow. The shortage of employees causes unbalanced distribution of tasks to available resources, which leads to work overloads, delaying the process of applications.⁶⁶

The Blue Print or Master Plan mode of planning has for a long time guided the development patterns in Zambia. The Town and Country Planning Act (CAP 283) master plan is to comprise of three maps. These should include the land utilisation, map showing existing land use, public utility map showing the existing infrastructure and a basic map showing to scale proposed future land use patterns at the end of the plan period of thirty years, accompanied by a written text made up of an analysis of existing needs and problems, projections and goals of future developments, a description of the basic map, indicating phasing and costing of development proposed for the first five years and a set of legal guidelines for the control of development. A provision is also given for declaration of areas suitable for comprehensive development and re-development.

⁶⁵ Section 22

⁶⁶ Daka, Lazarus. 2000. **Integrating Work Flow Management**. Pg 5

The plans are to be reviewed every five years. The Act therefore specifies, fairly rigidly the procedure for plan preparation and the content of the development plan.⁶⁷ It may be said that the Act does not provide an alternative development strategy. Thus those who cannot meet master plan go against the Planning Act and build Sub standard structures with no proper plans.

Furthermore, the Town and Country Planning Act does not make room for public participation in the process of plan preparation. However, some effort is made, in practice, at the evaluation of alternatives and consultation with the public bodies and local authorities.

Public participation in the Act is restricted to such participation as merely reacting against a proposal by the minister to have a plan drawn up for an area.⁶⁸ However, a considerable number of the population is still wholly or partially illiterate and those considered literate may not have technical skill to evaluate a complex development plan.⁶⁹ If anything most people in the low housing group do not even know of the existence of such rights.

This lack of public participation is a shortcoming in the Act. Planners have identified the slim growth, as one of the biggest obstacles to planned development of towns and cities. Yet very little has been done to reach and educate the people about the planning process.

⁶⁷ Kabungo, Kaleke. 2003. Squatter Upgrading in Zambia. Pg3

⁶⁸ Sections 19 and 29

⁶⁹ Mulimbwa, A C. 1980. Urban Land and Policy in Zambia. Pg. 22

Additionally, the approach in the master plan requires that development proceed according to the predetermined pattern. This process can be noted as being rigid when it comes to dealing with the informal settlements because these come up spontaneously or unplanned. Therefore, the informal settlements require evolving planning strategies, which involve the residents themselves.

4.2. The Analysis of the Public Health Act Viv-A-Vis Squatter Problems

The Public Health Act has regulations to ensure the safety of the occupants and users in terms of the structural stability and the suitability of building materials, adequate day lighting, ventilation, protection against damp, fire and noise, domestic water.

The building regulations in the Public Health Act are not only out of date but are also full of unnecessary technicalities. Building codes are required in the commercial sector to keep architects and contractors from cutting corners or endangering the public. But in the third world countries most new housing is built by households, individuals, artisans or small informal building firms.⁷⁰

The building standards laid out in the Public health Act are not compatible with current socio-economics prevailing in Zambia as at now. The building regulations would be compatible if the Act made provisions for alternative standards for those in the informal settlements. For instance, the building regulations in an area like Kabulonga in Lusaka would be much higher because most people in this area are able to afford, whilst those in

⁷⁰ Mukuka, Phillip. 2001. **Land Development Control and use in Zambia** pg. 36

area like Misisi must be of lower standard in other words the building standards must be simpler, cheaper but safe for those in informal settlements.

As at present the Public Health Act on building regulations is rigid because it does not offer an alternative for those who are poor, and are in the majority.

4.3. An Analysis of the Housing (Statutory and Improvement Areas) Act

The Town and Country Planning Act and the Housing (Statutory and Improvement Areas) Act are mutually exclusive. The Housing (Statutory and Improvement Areas) Act provides legal protection for unplanned settlements which otherwise would be illegal under the Town and Country Planning Act. The Housing (Statutory and Improvement Areas) Act was enacted in 1974 and provides for the security of tenure in site and service schemes and squatter upgraded areas.

The Act in section provides for the control and improvement of housing in areas declared by the minister as improvement areas. However, before a squatter settlement maybe upgraded, the council must submit a plan of the demarcated area giving details such as existing roads proposed to be constructed, existing areas for common user areas for common user and details of the area and dimensions to each piece of land identified by a serial number.⁷¹

⁷¹ Section 37(1)

The Act has for purposes of development in site and service areas specifically excluded the Town and Country Planning Act.⁷² The Housing Act should not have excluded the Act. While it is concluded that the standards are of building laid down by the present Town and Country Planning Act are too high, it must not be a ground for exclusion. The best solution would be to provide for building regulations under the Town and Country Planning Act, which can be followed by the low-income groups developing their land without undue hindrance of unaffordable high standards.⁷³ In line with the above the Planning Act needs extensive revision to cater for land developers in site and service schemes.

Furthermore, the Housing (Statutory and Improvements Areas) Act was envisaged to introduce a simplified system of land law for areas to which it applied. For instance, all the land dealings covered by the Housing Act are registerable but not with the Lands and Deeds Registry in the Ministry of Lands but at the City Council Deeds Registry.

Therefore, the Lusaka City Council has established a Deeds Registry with a view of catering for areas that were being declared either as Statutory Housing Areas or Improvement areas. However, the Deeds registry is under staffed and ill equipped to handle the transactions in the most expeditious and satisfactory manner.⁷⁴

⁷² Section 48

⁷³ Halupepe, Obed. 1993. **The Squatter Problem in Zambia**. Pg 40

⁷⁴ Mumpa, Musonda Rodney. 1995. **Land Registration and Land Title under the Housing (Statutory and Improvement Areas) Act**. Pg 51

A certificate of title is which is given under the Housing Act is seen as insecure title. This is, because there is no guarantee of renewal of an occupancy licence upon its expiry. Another reason for the reluctance of lending institutions is that in areas such as Chawama, which was declared an Improvement Area in 1975, a period of thirty years is running "close". Participants cannot benefit from the mortgage facility unless their occupancy licences are renewed. Therefore the majority urban poor, in improvement areas, have by law no access to major institutions in country, which lends money for development of housing.

Further still, considering that the Housing (Statutory and Improvement Areas) Act targets at low income groups, the procedures and language in which the documents are framed still remain technical enough to require the service and even assistance.

The aims of Housing Act are not wholly achieved in terms of time spent from the time the area is identified as eligible for declaration as either a statutory housing area or improvement area, to the time of issue of title. The procedure is long and cumbersome.

Additionally, the Act also requires a person upon breach of stipulations and conditions of the licence to vacate his premises and to remove his building and restore such land to its original state. No liability arises to the Council because they are empowered. This provision makes it hard to understand considering that among the aims of the Housing Act is the offer of security of tenure among squatters. Mulimbwa A.C commenting

against the provision stated that pulling down a house erected by a man's own resources and labour simply because some covenant has been breached does not appear to be the best solution.⁷⁵

In conclusion, it is clear from the foregoing that most of our law dealing with land development are a product of history and colonial remnant. The Acts lack comprehensive human settlement legislation and thus there is need to revise our law to make it compatible with the present needs and changing conditions.

⁷⁵ Mulimbwa, A. C. 1980. Urban Land Law and Policy.

CHAPTER FIVE

5.1. Conclusion

This study has identified the factors, which hinder the discovery of a solution to the squatter problems in this country. This chapter will provide recommendations for the amicable solution of the problem.

5.2. Recommendations

5.1.1. Review of the Legal Machinery

The laws that deal with housing are outdated and not compatible with the current social economics. The use of these outdated laws have frustrated access to titled land, shelter and low cost sanitary conditions by the targeted social economic groups. The Town and Country Planning Act which is fundamental in housing needs to be reviewed. It is premised on the English Planning Legislation of 1947 and fails to address the country's current needs. Therefore, it is submitted that there is need for planning to be indigenous so that the socio-economic and environment conditions prevailing locally are appreciated.

To achieve sustainable urban housing development in this country, it is essential to resolve the legal conflict between the Town and Country Planning Act and the Housing (Statutory and Improvement Areas) Act. The two Acts must be used concurrently in land development. In most cases, the government has been hastily declaring areas, as priority areas for site and services or upgrading without due regard to physical planning and the

end products are the predominance of land use conflicts. For example, Ng'ombe an area that was declared and is now an upgraded squatter area was partially zoned for general agriculture.⁷⁶

The other Housing law discussed is the Public Health Act, the building regulations. The standards stipulated in the Act are a hindrance to those land developers from a low-income group. The Act must provide affordable standards for the intending land developers in the low-income group. Furthermore, there is need for reform on the survey standards, because the building standards are too technical. It is submitted that the law should lower building standards, and still maintain that those with sufficient funds construct more durable and costly houses.

5.1.2. Codification of Land Legislation

At least, the laws relating to land are scattered in the various pieces of legislation. It would be of great benefit to everyone if these laws were reviewed, consolidated and harmonised. The laws are usually written in technical language, which makes it difficult for the ordinary person to comprehend. Therefore, it is of great importance that the final product be simple and user friendly to enable the average person understand it without help.

⁷⁶ Selwyn S. Davies. **An Integrated Strategy for Sustainable Shelter Development: A case study of Slum and Squatter Settlements in Zambia.** Pg 131

It is further submitted that to make people aware of the existence of laws in relation to land. There should be civic education that is through Television programmes, radio, pamphlets and notices on notice boards in councils.

5.1.3. Shortage of Land

The government acknowledges that customary tenure at the moment cannot be dispensed of. But there is need to come to a compromise over six percent state land and the ninety-four percent customary land. Either provision for conversion of state land to customary land must be enacted or the law should provide that were there is need the government may acquire land from customary tenure and use it as state land for housing development.

The need for an effective land delivery system is urgent as the low income groups have already demonstrated that they can effectively participate in housing system if given access to land, particularly when granted security of tenure.

The problem generated by the growth of squatter settlements cannot be solved unless adequate amounts of land are available. In order to prevent the formation of new squatter settlements, it is recommended that adequate land must be available as the need arises.

The locations of such settlements must be of prime consideration.

5.1.4. Financial Lending Institutions

The issue of cost recovery is crucial to the survival of any scheme on low cost housing development. The poor loan recovery has been a major contributor to the inability of site and service schemes to replicate themselves and to the general deterioration in the social and physical infrastructure.

The cost recovery is critical to the financial lending institutions, because of the high risk it involves in attending to the low-income groups. It is submitted that the following measures may prove conducive to effect and efficient cost recovery:

Proper appraisal of applicants, to ensure that individuals committed to the scheme are allowed to participate.

ii). Full understanding of the financial obligation of participants.

Adequate and appropriate sanctions against defaulters, backed up by especially political support and legislative measures

5. Economic Policy Formulation

The main constraints to the acquisition of affordable decent housing by the majority have been identified as declining levels of formal employment, real incomes and the national investment in housing. For future economic development policy, it is recommended that

the aim must be at raising the level of prosperity and decent housing conditions. The particular areas where actions must be taken are:

- i). The creation of conducive environment for mobilising the people's own material, financial and labour resources for shelter construction. This may involve:
 - a). the promotion of formation of House Saver's Association, self help Construction Co-operatives, neighbourhood and community development committees;
 - b). the provision of cash subsidies on building materials and rented shelter to extremely indigent households.⁷⁷
 - c). there must be a law legislated for concessionary credit rates for low-cost housing acquisition on behalf of contributors to the social and pension scheme.
- ii). The economic policy could encourage and promote the development of more self-employment opportunities in the informal service sector.
- iii). Additionally, the economic policy could encourage the development of more employment opportunities in the informal construction sector; potential employment opportunities exist in mining, processing and manufacturing of the building materials.

⁷⁷ Study: Low Cost Shelter on the Copperbelt: Zambia (The Social Recovery Project) 1994 pg. 87

- iv). Furthermore, the economic policy ought to provide for more national investment into the housing development.

5.1.6. Institutional Framework Policy

The present institutional framework is inadequate for the rapid promotion and development, which is urgently required for reasonable shelter by the low-income group.

The use of manpower is insufficient and does not respond to the quick need for decent shelter. Thus, it is recommended that in future the Institutional Framework Policy must aim at effectively and efficiently promoting and development of decent low cost shelter.

To achieve this practical change would entail that:

introduce effective public participation (especially women) in the formulation and implementation of shelter programmes. This can be attained by forming shelter building co-operatives, and community development committees.

they should use some of the excess unskilled labour for the low cost housing areas in manufacturing and retaining of local building materials and in construction of low cost shelter.

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