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ZAMBIA

I. LAND TENURE SYSTEMS

(A) Dynamics and Direction of Change in Agricultural Land Tenure

Zambia's tenure system is characterized by a marked dichotomy between a traditional tenure sector known as Trust and Reserve Land and a sector in which land is held only on lease from the State, the State Land. The origins of this dichotomy lie in the colonial period. Trust and Reserve Land is the land not taken for white settlement by the colonial power, which remains under traditional land tenure systems. The distinction between Trust and Reserve Land is historical and formal, with no significant consequences today. Since 1975 the Zambian State has asserted a State title in these lands but has done little to alter the tenure situation of holders.

In the State Land sector the State exercises direct control over land allocation. This sector had its origin in colonial land confiscations. Prior to independence, this land was held by white settlers on lease from the Crown or granted in freehold. In 1975 the State converted freehold and pre-existing leases to uniform 100-year leases.

Table A below indicates the distribution of land among basic tenure categories:

TABLE A
AREAS UNDER VARIOUS TENURE TYPES*

<u>State Land</u>	<u>Hectares</u>
Alienated in Freehold**	1,015,791
Alienated in Leasehold**	1,284,788
State Land under Tribal Occupation	509,396
Unalienated State Land	125,102
Inundated by Water	216,250
Forest Reserves	546,570
Protected Forest Areas	382,750
	<u>4,080,547</u>
<u>Reserves</u>	
(Including 689,691 ha. Protected Forest Areas)	27,314,000
<u>Trust Land</u>	
(Including 4,250,889 ha. Protected Forest Areas and 29,153 ha. Forest Reserves)	38,977,530
<u>National Parks, etc.</u>	5,826,300
	<u>76,198,377</u>
	TOTAL

* International Rural Development Division, Swedish University of Agriculture, Forestry and Veterinary Medicine, Zambia Sector Study, Preliminary Report, paragraph 3.1.1 (Uppsala, mimeo, April 1976).

** The land in these first two categories is now under 100-year leaseholds.

(B) Private Tenure

1. Customary Tenure:

Zambia's pre-colonial land use was characterized by slash and burn cultivation in a situation of relative land plenty. In spite of significant variety in tenure as between ethnic groups, this pattern of land use tended to give most traditional tenure systems some common characteristics. The act of clearing the land usually conferred secure tenure for the duration of the cultivation, but rights to the land lapsed when it returned to bush fallow. Usually there was only a modest degree of social control of access to land. Holdings were not allocated by chiefs in any systematic fashion. Rather, a farmer anxious to clear new land would select an apparently available area to farm and only consult the chief to ensure that no rights were maintained by others in the land and that no one had already spoken for it. The cultivation of the Zambezi floodplain by the Lozi was a major exception. This limited, exceptionally fertile land gave rise to a more complex, hierarchical system of land tenure. Some traditional tenure systems involved patrilineal, others matrilineal inheritance systems; a few, like the Lozi, involve bilateral inheritance. These inheritance patterns were initially developed for roles and personal property, and in most cases became applicable to land only during the colonial period.

In over 80 percent of Zambia's land area, the Trust and Reserve Land, these traditional tenure systems continue to operate and evolve. The surge into urban areas (over 40 percent of Zambia's population is now urban) has prevented a buildup of population pressure on land in most areas. Colonial land policy left tenure in areas not expropriated for white settlers largely untouched, except for the influx into those areas of the former inhabitants of the areas which were expropriated. It is in the areas of Trust and Reserve Land in southern and eastern Zambia near expropriated areas that pressure on land has been most intense and is now beginning to generate demands for tenure change.

Since 1975, when the Zambian State asserted a state title in these Trust and Reserve Lands, its only change in their administration has been to introduce fourteen-year leases for aspiring commercial farmers, with the chief's consent.

2. Freehold and Leasehold

There is no freehold in Zambia. In 1975 the Land (Conversion of Title) Act converted all freehold titles to long-term leaseholds from the State at nominal rents (about \$.10/hectare as of 1981), with terms of 100 years from July 1, 1975. All the former Crown Land, now the State land, is thus held on lease from the State. Such land may not be sold for value, but may with consent of the State be transferred with buildings or other improvements for a price based on the value of improvements.

Table B below shows the distribution of such leaseholds:

TABLE B*
LEASES OF STATE LAND BY TYPE OF LESSEE

Type of Lessee	# of Leases	Total Area Leased, by Type (ha.)	Area Leased, by Type, as % of Total Leased Area	Average Size of Leasehold (ha.)
Private	1,674	1,232,987	60.5	737
Governmental	502	541,902	26.5	1,079
Settlement Schemes	61	62,241	31.0	1,020
Cooperatives	10	6,580	-	658
Religious/ Educational	69	45,677	2.3	662
Vacant	74	44,387	2.3	608
Non-agricultural	<u>228</u>	<u>107,500</u>	<u>5.4</u>	<u>471</u>
All types	2,618	2,041,274	100.0	780

* John W. Bruce and Peter P. Dorner, Agricultural Land Tenure in Zambia: Perspectives, Problems and Opportunities, Land Tenure Center Research Paper No. 76 (Madison, 1982), p. 11.

(C) State Land

The State Land sector has its origin in colonial land confiscations. The areas expropriated, the Crown Lands, were only a little more than five percent of Zambia's land area. They are nonetheless of exceptional importance to Zambian agriculture. The bulk of this land lies along the "line of rail" from the Copperbelt south to Lusaka and beyond, a line laid through a tsetse-free area of exceptional agricultural potential.

In the wake of independence, many white farmers left Zambia for Rhodesia and South Africa. Government had to move rapidly to reallocate farms and keep land in commercial production. State lands were leased to Zambian farmers, corporations, parastatals, settlement schemes, and other entities. About one-third of productive State Land is believed to now be managed directly by the State. As noted earlier, all such land allocated to private individuals, corporations, parastatals and projects, including previous freeholds, is now held on 100-year leaseholds from the State.

(D) Urban Land Tenure

All urban land, including former urban freehold, is now State Land by virtue of the 1975 Act. It is leased and transferred on the same basis as leaseholds of State Land which is agricultural.

(E) Distribution of Types by Region or Ecological Zone

The map on the following page indicates the distribution of State Land and Trust and Reserve Land.

II. LAND ADMINISTRATION SYSTEM

(A) Current Administrative System

The Minister of Lands and Natural Resources has overall authority over the system of State Land leaseholds. Holdings of State Land listed in the schedule of the Agricultural Land Act, 1960, are administered by an Agricultural Land Board appointed by the Minister. The Board makes new leases of scheduled land and must also approve any dealings with leaseholds of such land, such as assignments, subleases and mortgages. The Commissioner of Lands reviews the Board's decisions and executes them on behalf of the President. There are in addition leases of State Land not scheduled in the 1960 Act, which includes all urban land and some areas of agricultural land as well. Here the Agricultural Land Board has no role. Leases and dealings in leaseholds are administered by the Commissioner of Lands, acting under a delegation of Presidential authority.

Leases of State Land and dealings in such leases must be registered under the Lands and Deeds Registry Act or they are null and void. Almost all State Land is registered, but keeping the registers up to date is difficult. Registration requires a survey which complies with the rigorous standards of the Land Survey Act. This is costly, and the Ministry of Lands lacks adequate survey staff. Land survey has become the major bottleneck in issuance of new leases and leasehold transactions. Recent practice permits provisional registration of a lease of not longer than fourteen years if the application is accompanied by a sketch plan. When a survey is finally obtained, a 100-year lease is granted. The legal basis for such leases is unclear.

While a complex and fairly sophisticated system for administration of State Land is in place, no such system exists with respect to Trust and Reserve Lands. Presidential authority over these lands has been delegated to the Commissioner of Lands. As noted earlier, fourteen-year leases are granted. This is done in response to a request from a particular applicant, usually an aspiring commercial farmer, for a particular piece of land and results in many scattered leaseholds rather than any systematic conversion of tenure in the area. Consent of the chief and the District Council must be obtained before a lease is approved by the Commissioner. No figures are available on the volume of such leasing, but the Commissioner of Lands's Office was in 1981 receiving half a dozen applications for such leases each week, and a conservative estimate is that there are at least a thousand such leases subsisting.

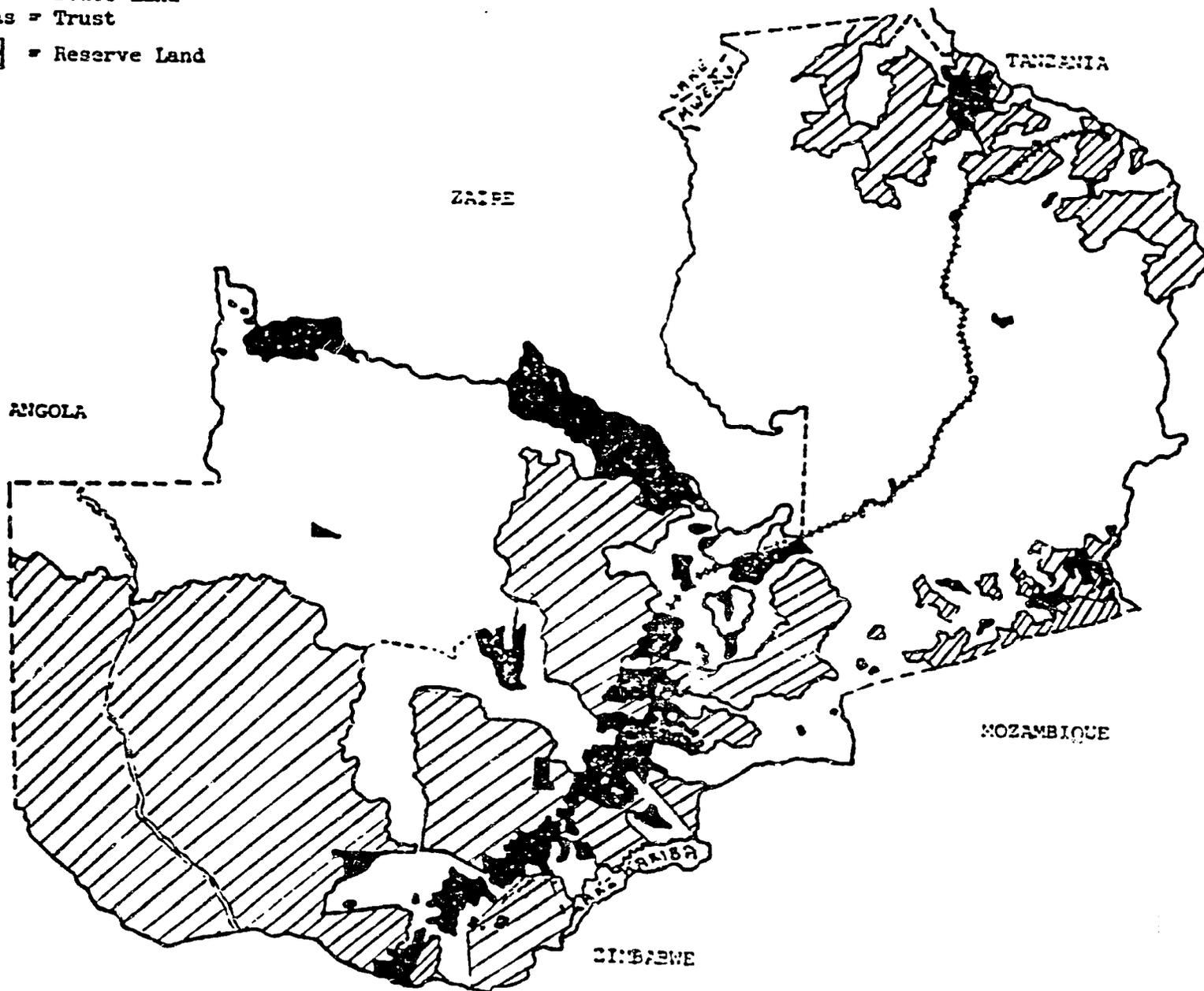
The Commissioner's office has no institutional linkage with traditional land administrators, who still control the use of the vast majority of Reserve and Trust Land. Complaints about their performance of their duties are processed administratively by the Ministry of Interior.

MAP OF REPUBLIC OF ZAMBIA LAND TENURE

Black areas = State Land

White areas = Trust

 = Reserve Land



(B) Pressures for Change in Legislation and Administration

There do not appear to be any major shifts in land policy planned by the Zambian government at the moment. There are two areas of official concern, however. In 1981-82, a commission was sitting on land scarcity in Southern Province. Its establishment was due to increasing pressure for re-tribalization of State land in Southern Province. At the same time, the Law Reform Commission was considering the appropriateness of reform of customary inheritance rules. There is clearly some popular pressure for change of these rules by modern-sector property holders, including women. To the best of our knowledge, no new policies or legislation have so far been generated by the work of these commissions.

III. LAND TENURE ISSUES IN CURRENT AGRICULTURAL DEVELOPMENT

(A) Critical Tenure Issues in National Policy

As regards State Land, the current system of long-term leasehold appears to provide reasonably secure tenure. It has also apparently been fairly successful as regards one of its prime objectives: equitable distribution of State Land. The competition for access to State Land through bureaucratic processes favors those who understand such processes and have connections in government, but on the other hand, government officials and others advantageously positioned do not appear to have accumulated extensive holdings. The major policy issue facing government over the next several years is whether traditional cultivators will be given access to State Land in areas where Reserve and Trust Land under serious population pressure border less intensively used and less degraded State Land. The alternative is to retain such State Land for commercial production and projects. A further issue, the impact of the "land without value" policy on production, is discussed later.

There are also several issues of an administrative nature. The substantive law of leaseholds needs revision--it is the law as it existed in England in 1911. Because surveying represents the administrative bottleneck in most transactions in land, a relaxation of strict land survey standards has been called for in a number of reports. More specifically, adoption of the British system of general boundaries has been recommended. Land use planning for State Land has yet to be seriously initiated. It is difficult to see how this or other measures for more effective land administration can be undertaken until the staff of the Office of the Commissioner of Lands is expanded and decentralized, with representatives in provincial offices. Any such expansion would imply a major training program.

As regards the Trust and Reserve Lands, there is a policy vacuum. There is evidence that commercial production under traditional tenure, at least in some areas, is complicated significantly by the farmer's need to appease chiefs, who allocate land and who often view with distrust the emergence of a new class of "big men" outside the traditional hierarchy. Concern has also been voiced concerning matrilineal inheritance systems, which pass the farm to the farmer's nephews rather than his children, and the impact of such systems on the development of the family farm. To a lesser extent, the issue of land security for loans has been raised.

Little has been done in a systematic way to provide a substitute for traditional land tenure systems. The sporadic granting to aspiring commercial farmers of fourteen-year leaseholds, the legal status of which is not clear, is not an adequate response to the tenure problems in the more densely populated areas. The situation in those areas where there is substantial pressure on and competition for land calls for more comprehensive solutions. There are two fundamental options: (1) a more systematic tenure conversion to State-administered individual leaseholds, focused in areas of the greatest need; or (2) a rationalization of traditional tenure systems which leaves local communities with responsibility for land administration. The Reserve and Trust Land (Adjudication of Titles) Act, 1962 would have provided a legal framework for a systematic tenure conversion, but was repealed after independence.

(B) Land Tenure and Agricultural Production

The major production issue as regards State Land concerns the policy of "land without value." State Land is leased, and leases transferred, for a consideration based on the value of improvements and not of the land itself. Land's value is seen as a product of inherent quality differences and proximity to facilities created by the State, a value which ought not to accrue to landholders. One of the major resource inputs, land, thus has little cost to the individual. It has been suggested that (1) this permits inefficient, land-extensive use strategies on a uniquely valuable land resource; and (2) it is not equitable for such a resource to be rationed to a privileged few at virtually no cost. The issue could be addressed through a system of differential rents, but there has been no indication that Government is seriously considering such a change.

As regards land under customary tenures, there has been a clear failure in the years since independence to significantly increase production for the market on these lands. There are a number of tenure factors which may have contributed to this: (1) tensions between emergent commercial farmers and the traditional land administration hierarchy; (2) matrilineal inheritance; and (3) inability of emergent farmers to provide land security for loans. The limited security given by the 14-year leases introduced since independence does not appear sufficient to encourage investment and commercial production. There is a dearth of studies, however, which gauge the extent of the impact of these factors on production. Nor have there been studies which establish the relative importance of tenure factors and non-tenure factors, such as untimely delivery of inputs by the extension system; lack of infrastructure; questionable viability of input packages for small farmers; and the out-migration of labor force and the increasing number of female-headed households in the traditional sector. One cannot be confident that an effort to address tenure issues in this sector in isolation would produce major increases in production.

(C) Implications for Project Design

Projects directed at leaseholders on State Land would benefit from basic reforms to impose a greater cost on landholding and thereby encourage intensification of production. On the whole, however, the existing tenure regime provides adequate security of tenure, and tenure-related problems on projects in this area should not be serious.

In the Trust and Reserve areas, under traditional tenure, projects will need to be carefully framed to avoid negative interactions with existing land tenure systems. Some potential sources of difficulty have been noted above, but because there is considerable variety among traditional tenure systems the nature and seriousness of the impacts cannot be generalized. They are potentially greater for project initiatives involving significant long-term farmer investments of capital and labor, such as fencing, wells and irrigation, terracing, or tree-planting. For any project involving such initiatives, land tenure should constitute an important element in project feasibility studies.

IV. SUGGESTED READING

1. John W. Bruce and Peter P. Dorner. Agricultural Land Tenure in Zambia: Perspectives, Problems and Opportunities. Land Tenure Center Research Paper No. 76. Madison: Land Tenure Center, 1982.

2. Robin Palmer. "Land in Zambia." Zambia Land and Labour Studies, edited by R. Palmer, Vol. 1, pp. 56-66. Lusaka: National Archives of Zambia, 1973.

3. Jurgen Schultz. Land Use in Zambia. Munich: Westforum Verlag, 1976.