

Learning Workshop on Women, Land and Housing Rights:

Assessing the impacts of dispossession

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Lusaka, Zambia

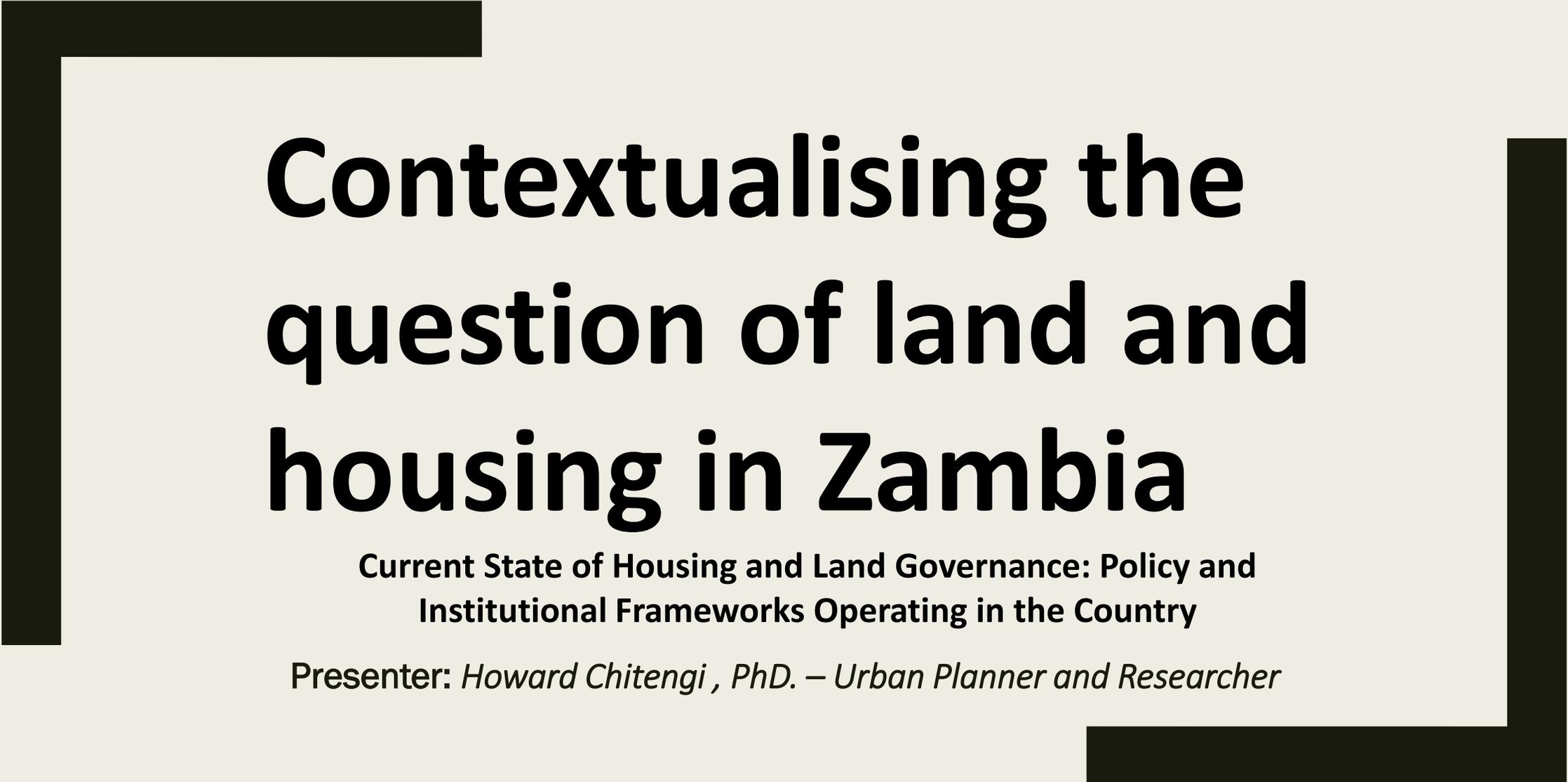


Civic Forum
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Contextualising the question of land and housing in Zambia

**Current State of Housing and Land Governance: Policy and
Institutional Frameworks Operating in the Country**

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Urbanisation and Housing Conditions

- Zambia is one of the fast-urbanising countries in sub-Saharan Africa
- The most-negative aspect of this urban growth is the condition of housing for the majority low-income households whom towns and cities are unable to provide with affordable housing and related municipal services.
- The inability of the towns and cities to adequately provide shelter results in people using own initiatives to provide shelter. This usually involves squatting.

Urbanisation and Housing Conditions

- Successive governments have devised policies and programmes aimed at providing housing and preventing the growth of informal settlements.
- Of particular interest are the former public (rental) housing and the current private-sector-driven housing-delivery policies.

Public (Rental) Housing (1964–1991)

- Rapid urbanisation and a big proportion of low-income populations were the main reasons for public-housing provision.
- The policy was influenced by socialist thinking such that the virtue of housing as a social good, making it impossible to be provided by the private-sector adequately.
- Housing was provided through direct production by the state and provision of subsidies to state agencies, mainly local authorities.
- Some documented difficulties include irretrievable building costs to the public sector and low production volumes to meet demands.
- The policy suffered a targeting error: The houses, in most cases, tended to end up in the hands of party functionaries and other privileged groups.

Private-sector-driven Housing Delivery Policy

- Public housing policy failure prompted the MMD government to adopt a neo-classical market model, influenced mainly by the World Bank, which emphasised the role of the market.
- The argument has been that the private sector is more efficient, competitive and responsive to consumer demands, than direct provision by the state.
- Since 1992, the outlook on housing as a social good to be provided by the state has changed.

Private-sector-driven Housing Delivery Policy

- All rental public houses were sold with the motive of empowering sitting tenants and to generate a housing market by this means to enhance the construction of new houses.
- State participation in the provision of housing has been removed and limited to provision of housing allowance.
- Government disengagement from housing production pushes many low-income public workers (e.g., nurses, teachers and police officers) to the informal housing sector, where they can afford housing.

Private-sector-driven Housing Delivery Policy

- Research shows most women shun mortgages, due to high interest rates and experiences of seizure of houses upon default.
- Most financing institutions do not offer loans for housing. Instead they give 'personal loans' that customers can use to purchase houses.
- To access these loans, the lending institutions ask for collateral in the form of land with title deeds, which are not easily obtained. This makes the majority low-income women to be perpetual residents of informal settlements.

Land Governance Institutional Framework

- Zambia is a land-abundant country, but people have difficulties in accessing land in urban areas.
- This problem, more severe in Lusaka, contributes to informal housing developments where 70% of the population lives.
- This problem is attributed to the existing land governance structure, composed of a dual customary and statutory land-tenure system.

Land Governance Institutional Framework

- Statutory, private land titling is modelled on the English land law doctrine of tenures and estates, which vests absolute ownership in the monarch.
- The difference with the Zambian situation is that absolute ownership is vested in the republican president. Through the provisions of the leasehold doctrine, the state offers persons up to 99-year exclusive possession of land in return for periodic rent.
- Customary land-tenure system vests stewardship in traditional leaders (chiefs), who give subjects unrestricted use rights, without title deeds. This tenure system does not tolerate exclusive rights to land, as the land belongs to the community.

Land Governance Institutional Framework

- Brief historical background: Prior to colonialism, land was communally owned and governed by chiefs who did not tolerate private ownership.
- Colonialism brought with it a (statutory) land-governance system based on formal planning and individual ownership, which applied to areas used by European settlers (known as crown lands); i.e., mainly urban areas.
- The rest of the land was left for the indigenous African communities as customary areas.

Land Governance Institutional Framework

- Land reserved under customary law was excluded from the planning system because the underlying land tenure system was seen to be inimical to the way in which a 'modern' planning and land titling system worked.
- This type of governance, which permitted chiefs to exercise authority over customary areas, has continued in post-colonial era with implications on land access and affordable housing delivery.

Land Governance Institutional Framework

- This land-tenure structure, skewed to customary ownership, creates artificial land scarcity, though geographically land is available, but not accessible for urban expansion, which includes more housing and supportive infrastructure development.
- The inability to expand contributes to densification with the consequent problems of high-accommodation rentals that compel those HHs priced out of the formal housing market to turn to the informal housing sector.
- Also the customary land access problem generates excessive demands for scarce state land and pushes up prices, compelling low-income groups to squat, contributing to the consolidation and densification of informal settlements.

Land Governance Institutional Framework

- In view of the unmet and increasing demand for state land, government recently enacted new planning legislation (Urban and Regional Planning Act of 2015) aimed at, among others, incorporating customary areas in spatial planning.
- To achieve the aim of accessing customary lands, planning agreements seen to offer access have been prescribed in the legislation.
- These agreements are supposed to be entered into between a local authority and one or more chiefs responsible for the area to facilitate the implementation of local-area development plans.

Land Governance Institutional Framework

- However, the planning agreement provision has no strategies for improving access and securing tenure.
- This inadequacy affects actualisation of the planning agreement so much that, since the enactment of this legislation, no agreements have been made.
- The actualisation failure has pointed to the need for developing a research-informed strategic framework for providing access to peri-urban lands under customary law for private commercial low-income housing.

Making Planning Agreements Work

- Research proposes public private partnership (PPP) – *a formal body for collaborations between public and private interests* – as the best option for effecting the planning agreements.
- PPP as the best vehicle for delivering land under communal tenure, because it preserves the land rights of customary authorities.
- When customary land is acquired for small- or large-scale enterprises, buyers convert it to statutory holding to secure tenure.

Making Planning Agreements Work

- This action changes the ownership status from communal to private ownership.
- The statutes on which conversions are predicated do not have provisions for reconversion, a state of affairs that permanently weakens customary authority and cessation of communal rights.
- When customary land is converted to statutory, the law starts to exercise a legal-binding power by protecting the private rights of the new owners and turns inhabitants into squatters.
- These negative aspects of conversion discourage chiefs from providing land.

Making Planning Agreements Work

Second, most low-income developers opt for the affordable informal sector. Bringing private, civil society or governmental institutions to work with customary authorities for the purposes of financing, or building affordable housing and providing support infrastructure is a very significant feature of PPP.

See the PPP conceptual framework in:

Howard S. Chitengi, “Providing access to land for low-income groups in sub-Saharan African cities: using a partnership model and good governance principles to improve customary land allocation in Lusaka, Zambia,” *International Journal of Urban Sustainable Development* (2020), at: <https://doi.org/10.1080/19463138.2020.1728763>.